Rule of Law Experts in Afghanistan: A Socio-Legal History of the First Afghan Constitution and the Indo-Ottoman Nexus in Kabul, 1860-1923

by

Faiz Ahmed

A dissertation submitted in partial satisfaction of the

requirements for the degree of

Doctor of Philosophy

in

History

in the

Graduate Division

of the

University of California, Berkeley

Committee in charge:

Professor Beshara Doumani, Chair
Professor Rebecca McLennan
Professor Wali Ahmadi
Professor Laura Nader

Spring 2013

Rule of Law Experts in Afghanistan: A Socio-Legal History of the First Afghan Constitution and the Indo-Ottoman Nexus in Kabul, 1860-1923

© 2013

by Faiz Ahmed

Abstract

Rule of Law Experts in Afghanistan: A Socio-Legal History of the First Afghan Constitution and the Indo-Ottoman Nexus in Kabul, 1860-1923

by

Faiz Ahmed

Doctor of Philosophy in History

University of California, Berkeley

Professor Beshara Doumani, Chair

This dissertation provides the first transnational genealogy of the individuals, ideas, and institutions that culminated in the adoption of Afghanistan's first constitution in 1923. Based on archival research in Afghanistan, Turkey, India, and Britain, the study uncovers the *longue durée* history behind the text, including the genesis of its drafting commission, its multinational contributors from Constantinople to Qandahar, and the challenges they overcame in producing the pioneering charter. Drawing on records and manuscripts in Ottoman Turkish, Persian, Arabic, and Urdu, the study first traces the burgeoning tripartite ties between Ottomans, Afghans, and Indians from the aftermath of the 1857 Sepoy Rebellion to World War I. While historians of Pan-Islamism have tended to focus on radical ideologues and militant jihads, the emphasis on confrontation with the west has overlooked more subtle internal processes, such as the surge in students and scholars—as well as texts and ideas—traversing between the Ottoman and British empires at this time. Challenging conventional tropes of warring tribes and barren frontiers, I locate Afghanistan as a crucial juncture for such transnational social networks, and a center of debates about law, citizenship, and what it meant to be a modern Muslim. The dissertation culminates with the convergence of three simultaneous developments of profound historical impact in the greater Middle East: the collapse of the Ottoman empire, Afghanistan's independence from Britain in 1919, and the Indian Khilāfat Movement of 1919-1924. Amidst this dramatic backdrop of revolutionary politics and Pan-Islamic activism, I draw attention to an untold juridical history: the ensuing competition between Ottoman lawyers, Afghan administrators, and Indian jurists who converged in Kabul to market their expertise to the world's only fully-sovereign "Islamic state." It was the synthesis of these legal actors and the diverse juridical histories they represented, I conclude, that ultimately produced Afghanistan's first constitution between 1919 and 1923.

In unearthing the social and cultural origins of Afghanistan's first constitution, the dissertation contributes a long overdue corrective to the scarce scholarly literature on Afghan legal history. The study also problematizes literature on the modern Middle East that silences the non-Ottoman "periphery" as passive objects caught between the colonial rivalry of Britain and Russia. Such works, I show, ignore the contributions of other independent rulers in the

region such as the Bārakzai dynasty in Kabul, including the Afghan monarchs Amir ʿAbd al-Raḥmān (1880-1901), Amir Ḥabīb-Allāh (1901-1919), and Amir Amān-Allāh (1919-1929) in particular. By examining the Afghan court's patronage of scholarly networks from Damascus to Delhi, I argue that this unique constitutional project cannot be reduced to European mimicry and obeisance, nor an identity politics of Pan-Islam triggered at the behest of the Ottomans. In this manner, the dissertation enriches Afghanistan studies beyond the confines of the Great Game, Cold War, or recent literature on "failed states." Instead, the study persuades us to rediscover Afghanistan with a different past—when Kabul represented a center of debates, cosmopolitanism, and contested visions of reform in the region.

The dissertation's focus on emergent transnational Islamic legal cultures—or juridical Pan-Islamism—between the late Ottoman empire, British India, and Afghanistan illustrates how modern notions of law, administration, and statecraft transcended politically-bounded territories. More specifically, the study sharpens our understanding of how urban centers within the vast socio-cultural zone stretching from the Balkans to Bengal came to be increasingly linked through specific networks, institutions, and processes of expertise associated with Islamic legal modernism. In tracing the social and institutional genealogy of the first Afghan constitution (1923), the dissertation examines how modern Muslim legal practices developing in Istanbul, Kabul, and greater Delhi in the long nineteenth century could simultaneously overlap, intersect, and co-evolve into distinct Ottoman, Afghan, and Indian juridical fields. Finally, as a socio-legal history it shows how a diverse cast of actors—Turks and Arabs, Indians and Persians, but most of all, Afghans—shaped the fields of constitutional law and politics in the greater Islamic world.

Dedication

Besmeleyle • **به نام خدا**

To:

Mahbub Ali Khan (b. 1896), Qazi A.R. Rashid (b. 1943) and Yusuf M. Almadani (b. 2011)…

And their generations.

For:

all daughters and sons of Afghanistan…

And the world.

– • –

Human beings are but members of one whole,
Created originally from a single essence and soul.
If even one member is afflicted with pain,
Aching and restless shall every other member remain.
O you who have no regard for another's pain,
The name of human you shall not retain.

Saʿdī (d. 1291)

بنی آدم اعضای یک پیکرند
که در آفرینش ز یک گوهرند.
چو عضوی به درد آورد روزگار
دگر عضوها را نماند قرار.
تو کز محنت دیگران بی غمی
نشاید که نامت نهند آدمی.

سعدی

rule of law. 1. A substantive legal principle. **2.** The supremacy of regular as opposed to arbitrary power. **3.** The doctrine that every person is subject to the ordinary law within the jurisdiction. **4.** The doctrine that general constitutional principles are the result of judicial decisions determining the rights of private individuals in the courts.

- *Black's Law Dictionary* (2001), 618-19

Following the example of leaders of Islam, I enacted a set of *nezam-nama* as a guideline, because the only way to free the oppressed is through **the rule of law**. I am hopeful that government officials and individual Afghans will observe its provisions.

- Amir Amān-Allāh Khan, ʿĪd address, 1923. Senzil Nawid, *Religious Response to Social Change in Afghanistan* (1999), 72

[T]he **rule of law** is only another mask for the rule of a class.

- E.P. Thompson, *Whigs and Hunters* (1975)

[W]e should label legal transformations in the long nineteenth century not as the rise of **the rule of law** but as an iterative cultural politics centering on rules about law.

- Lauren Benton, *Law and Colonial Cultures* (2002), 264

[F]ar from being neutral, law is often politically active, created by and for groups in power. This realization often separates anthropologists from development lawyers, who even today may still believe that '**the rule of law**' creates a level playing field that works out in practice.

- Laura Nader, *The Life of the Law* (2002), 6

For many Muslims today, living in corrupt autocracies, the call for Shariah is not a call for sexism, obscurantism or savage punishment but for an Islamic version of what the West considers its most prized principle of political justice: **the rule of law**.

- Noah Feldman, *New York Times* (March 16, 2008), MM46

[T]here is a vast difference between the academic conception of **the rule of law** and the intentions and the effects of the actions carried out in its name.

- Antonio De Laura, "Legal Reconstruction in Afghanistan" (2010), 4

[T]here is no **rule of law** in this country yet.

- United Nations Special Envoy Lakhdar Brahimi, speaking in Kabul after the Afghan transitional government approved a new constitution. "Afghans endorse new constitution," *BBC News* (Jan. 4, 2004)

– • –

TABLE OF CONTENTS

Abstract **1**
Dedication **i**
Table of Contents **iv**
Acknowledgements **vi**
Notes on Translation, Transliteration, Names, and Dates **xiv**
Abbreviations **xviii**

Introduction - At the Crossroads of Three Empires: Modern Afghanistan between History, Anthropology, and Law **1**
I. Overview of the Study 9
II. Situating the Study: Towards a Socio-Legal History of Modern Afghanistan 17
III. Periodization and Terminology 36
IV. Disciplines as Empires: On Methodology and Sources 40

Chapter One − The Power of Precedent: Islamic law and expert authority from Madīna to early modern, 622-1675 **50**
I. Historicizing Sharīʿah, Theorizing Law: Islamic Law and Juridical Fields 56
II. Islamic Legal History from Theory to Praxis: Ottoman and Mughal Juridical Fields in the Early Modern Era 80
III. Order in the Court! Islamic Codes and Constitutions from *Ṣaḥīfat al-Madīna* to the *Fatāwā Hindīyah* 100
Conclusion 111

Chapter Two − Turks, Afghans, and Hindustanis: Tripartite relations and juridical fields from early modern to Muslim modern, 1453-1876 **113**
I. Early Episodes in Pan-Islamic Outreach 116
II. From Afghans to Afghanistan 124
III. (Re-)Starting Within: Indian Ulama and Islamic Revival after the Mughals 138
IV. Muslim Moderns in the Indo-Juridical Field: Deoband, Aligarh, and the Quest for "Islamic State(s)", 1858-1876 166
V. A Belief in Better: Ottoman Juridical Transformation before and after the Tanzimat 183
VI. Young Ottomans: Muslim Modernism meets Constitutionalism 199
Conclusion 224

Chapter Three − A Tale of Three Cities: Istanbul, Kabul, and Greater Delhi in Juridical Contact, 1877-1901 **227**
I. The Ottoman Road to Kabul: Sultan Abdülhamid selects an envoy —to Afghanistan, 1875-77 233
II. The Extraordinary Mission of Ahmed Hulusi Efendi (1877-78): A Juridical Perspective 242
III. A New Beginning: Indo-Ottoman Relations after the Russo-Ottoman War 255
IV. Inside the Iron Amirate: Experts and Administrative Exchange in the Court

of ʿAbd al-Raḥmān Khan, 1880-1901 291
V. Damascus to Dehradun: Two streams of exiles from Kabul 342
Conclusion 350

Chapter Four − Cosmopolitan Afghanistan: Young Turks, Indian Revolutionaries, and Returning Refugees in Kabul, 1901-1918 352
I. Siblings from a Distant Shore: The Return of Afghan Exiles to Kabul 356
II. Illuminations at Agra: Amir Ḥabīb-Allāh's Tour of India, 1907 374
III. The "Sultanis" of Kabul: Ottoman Émigrés to Afghanistan, 1902-1914 387
IV. The Hindustani Connection: Aligharians, Deobandis, and Indian Muslims in Kabul, 1901-1914 412
V. Pan-Islamism meets the Great Game: Ottoman, Afghan, and Indo-Muslim Trasnsnationalism during the Ḥabīb-Allāh Era 419
VI. A Battle for Herats…and One Mind: The Ottoman-German Mission to Kabul, 1915 439
VII. From Newcomers to New Players: Ottoman Officers and Indian Revolutionaries in Afghanistan after the War 464
Conclusion 483

Chapter Five − Networks to Nexus: A Constitutional Confluence of Afghan Jurists, the Last Ottomans, and Indo-Afghans during the early reign of Amir Amān-Allāh, 1919-1923 486
I. Amir Amān-Allāh's Court: Afghan 'ulamā' meet the Young Afghans in Power 497
II. The Last Ottomans: Turkey's War of Independence and an Ottoman Triumverate in Kabul 509
III. The Hindustani Crescent: Indian Muslims, Transborder Afghans, and the Birth of Khilāfatism 564
IV. In the Name of a Law: The First Afghan Constitution and the Niẓāmnāmā Codes in Socio-Legal Perspective 604
V. *Où sont les Français?* The Curious Question of French Legal Experts in Afghanistan during the Amānī Era 635
Conclusion 650

Conclusion − Relics of Rupture: Afghanistan's First Constitution and the Indo-Ottoman Nexus between History, Memory, and Oblivion 654
Post-Script: 1924-1929 660
Closing Thoughts 678

Appendices (A-N) 685

Bibliography 704

ACKNOWLEDGEMENTS

One who has not thanked people,
has not thanked God.

– Ḥadīth (Abū Dāwūd and Tirmidhī)

Not so different from the transnational subject at the heart of this study, this dissertation was enabled by the unquantifiable support of innumerable individuals and institutions across the world. From the lifelong support of family members, to years of enduring friendship, to a stranger's random act of kindness, I am as daunted by the possibility of overlooking any one of them, as I am inspired to name every one of them. But countless as the stars are, for millennia humanity gazed upward at them, guided their worldly travels by them, and even named them. So shall I do the same for my world's stars here.

I begin by thanking my dissertation committee: Beshara Doumani, Laura Nader, Wali Ahmadi, and Rebecca McLennan. While each of them contributed in their own unique ways, which I will return to shortly, together in the span of nearly a decade they helped render my ideas into a project, my project into a process, and ultimately, with their autographs, that process into a product. I could not have asked for a more brilliant and supportive team of scholars to have helped frame my project, enrich the process, and adorn the product.

I would also like to early on thank the following scholars who took the time to read portions of my dissertation in progress, attend a paper presentation drawn from it, and/or provide me with insightful feedback on my project at different points of my graduate student career: Hamid Algar, Huricihan İslamoğlu, Baki Tezcan, Barbara Metcalf, Munis Faruqui, Salim Tamari, Janaki Nair, George Bisharat, Saba Mahmood, Charles Hirschkind, Stefania Pandolfo, Lena Salaymeh, Louis Segal, Cihan Tuğal, and Robert Chester. From the early modern Ottoman empire to British India and Qajar Iran, and from the Indo-Afghan borderlands to the Mexican-American border, the knowledge they shared and careful scholarship they exhibited as legal historians, anthropologists, and sociologists while I pursued this project expanded my horizons—and challenged my arguments—in ways that one could only expect from the scholarly, the learned, and the bona fide *experts*.

Next I would like to acknowledge the generous support of the following institutions for helping make my dissertation research in six countries possible. These include the Council and Library and Information Resources (CLIR) for its Mellon Fellowship for Dissertation Research in Original Sources, the American Research Institute in Turkey (ARIT) for its Dissertation Research Fellowship in the Humanities and Social Sciences, the Council of American Overseas Research Centers for its Multi-Country Research Fellowship (CAORC), the Social Science Research Council (SSRC) for its International Dissertation Research Fellowship, the Center for the Study of Law and Society (CLS) at UC Berkeley Law (Boalt Hall) for its Berkeley Empirical Legal Studies fellowship, the Center for Middle Eastern Studies and the Center for South Asia Studies at UC Berkeley for their generous Foreign Language and Areas Studies (FLAS) fellowship funding during my graduate years, and last but not least, the UC Berkeley Department

of History for supplemental funding for my research in Pakistan. Finally, and I know I am not alone here, I would like to thank New York University, the National Endowment for the Humanities, the Reed Foundation, the W.L.S. Spencer Foundation, and the Gladys Brooks Foundation for establishing the Afghanistan Digital Library. Beyond the prestigious names of these foundations (and my taxing overuse of their acronyms), I would like to especially acknowledge the exceptional assistance of Amy Lucko of CLIR, Monica Clark at CAORC, Sam Zief at SSRC, as well as Calvin Morrill and Rosann Greenspan at CLS. Professor Robert McChesney of New York University deserves special recognition for his contributions to establishing the Afghanistan Digital Library, a service that has and will continue to benefit scholars of Afghanistan for generations to come. Special thanks go to faculty sponsors Huricihan İslamoğlu and Selçuk Esenbel of Boğaziçi University, Peter Reinhardt, Nancy Leinwand and Antony Greenwood of the American Research Institute in Turkey (ARIT), Anwar Alam and Zafarul Islam of Aligarh Muslim University, Janaki Nair of Jawaharlal Nehru University, and Elise Auerbach and Purnima Mehta of the American Institute of Indian Studies (AIIS) for sponsoring and facilitating my research in Turkey and India.

Of course, arriving at the archives is only half the story. I would like to next acknowledge, therefore, the assistance of employees at the archives where I conducted research. To begin the long list, I would like to first thank the superb staff at the Başbakanlık Osmanlı Arşivi in Istanbul. There is a reason they are mentioned first—it was my profuse time there, from *Bâb-ı Âli* to the *bahçe*, and *biligisayar* to the *belgeler*, that formed the heart of this dissertation. Also in Istanbul, I would like to thank the very helpful staff at Beyazıt Devlet Kütüphanesi, İslam Araştırmaları Merkezi, and İslam Tarih, Sanat ve Kültür Araştırma Merkezi. Special thanks to Recep Bey, Halil İbrahim, and Ayten Hanım at the BOA, and Erdem Selçuk at the Beyazıt Devlet Kütüphanesi, for going so many extra kilometers, for a student who still thinks in miles.

In Ankara, I would also like to thank the very helpful staff of the Başbakanlık Cumhuriyet Arşivi (BCA), Türk Tarih Kurumu (TTK), Türk İnkilap Tarih Enstitüsü (TİTE), and Türk Kızılayı Arşivi. Special thanks to Mustafa Sönmaz and Tömer Yılmaz at TTK, Rıdvan Can Tangur at TİTE, and Mustafa Bey at BCA. I would also like thank the library staff, and the kind students as well, who many times directed me in the right direction at the following departments of Ankara University's sprawling urban campus: Dil, Tarih ve Coğrafya Fakültesi, Siyasal Bilgiler Fakültesi, and İlahiyat Fakültesi. Last but not least, a very special thank you to Türk Kızılayı—not only for granting me access to your promising new archive in Ankara, but your humanitarian assistance all over the world. It was my honor to be among your first foreign archival researchers.

In India, I would like to first thank the staff of the National Archives of India in New Delhi for their courtesy and efficiency which made doing so much possible, and pleasant. I would also grateful to the staff at the Maulana Azad Library of Aligarh Muslim University and the Dr. Zakir Husain Library of Jamia Millia Islamia University in Delhi. Special thanks to Mawlana ʿAbd al-Khāliq Madrasī, Vice Chancellor ʿAbd al-Qāsim, and Mawlana Wārith Mazharī, as well as the caretakers of the *Muḥāfiẓkhānah* and Library of the Dār-al-'Ulūm, for facilitating my research and stay at Deoband. In Pakistan, I thank the staff of the Library for Islamic History and the Dr. Mahmud Husain Library at the University of Karachi, as well as the

diligent staff of the Law Library of the High Court of Sindh Province. In London, I am grateful the staff of the British Library for their assistance, with a special thanks to Arlene at the India Office Records, for their rare blend of professionalism and courtesy that makes archival work that much more rewarding.

Finally, in Kabul, my research at the Arshīf-i Millī-yi Afghanistan would not have been possible without the assistance of Wali Ahmadi, Sara Asmatey, the American Institute of Afghanistan Studies, and the Afghanistan Consulate in Los Angeles. I would also be remiss if I did not thank the International Legal Foundation in New York, and their Legal Aid Afghanistan office in Kabul, for laying the earliest seeds of this project as early as 2004. Special thanks to Natalie Rea and Karim Khurram for taking in a young law student as their organization's first intern. I also owe an unquantifiable, and unpayable, debt to the many brave Afghan lawyers, judges, and law students I met and learned so much from in Kabul.

Moving on to the dissertation writing stage—I would like to thank my colleagues and participants in the 2010 Empirical Legal Studies fellowship at Berkeley Law, the 2011 Social Science Research Council International Dissertation Research Fellowship conference in Savanna, Georgia, and the Spring 2013 Berkeley Legal History Workshop for reading sections of the dissertation in different stages of its metamorphosis. From catching the occasional diacritical error to the boldest of suggestions for reconceptualizing the entire project, each and every comment was most welcomed and appreciated. If this caterpillar becomes a butterfly, you too shared in that process.

– • –

I would be remiss if I did not at least say a word on my last research trip to Afghanistan, following roughly a year of archival research abroad in Turkey, India, and Britain. As some of my readers are only too aware, I am referring to the night of June 28, 2011, which was close to being my last night, period. I am sometimes asked by friends and colleagues who are aware of the incident what I must have been thinking as I crouched, lay, and occasionally paced in the corner of a dark room of a building on fire, with machine gun-fire raging, bombs exploding, and glass shattering below, above, and on my own floor in the Kabul InterContinental. For those who heard or saw the real-time interviews after surviving the attack, they know the gist of my words then: here is a glimpse into the life of so many Afghans for over three decades.

But to state the unstated: when death brushed me on the shoulder several times that night, and so much of my life flashed before my eyes, that moment more than ever is when I realized how many people had helped me in my life—whether they are still with me, or have passed on; whether we were family, childhood friends, or university colleagues; whether we saw eye-to-eye, or we opened each other's eyes to a different way of seeing things.

If that unforgettable experience reminded me of the importance of gratitude, this once-in-a-lifetime moment has provided an opportunity to show it. And without further *adieu*, I intend to exploit it.

Thank you…

…To the Shibli family, the Yacoob family, the Akhtar family, the Asmatey family, the Vali Family, the Rasheed Family, the Najma Rizvi family, Hayatı, Savaş, Burak, and Hasan,

for helping make Istanbul, Ankara, Kabul, Karachi, Delhi, Washington D.C., New York, Princeton, and London home.

…To Saba Mahmood, Charles Hirschkind, Stefania Pandolfo, Lawrence Cohen, and Samera Esmeir,

for laying seeds from your scholarship, and magnanimity, each in your own way.

…To Rebecca McLennan, Munis Faruqui, Huricihan İslamoğlu, Baki Tezcan, Waldo Martin, Barbara Metcalf, Thomas Metcalf, Robert Brentano, Ronald Takaki, Paula Fass, Margaret Andersen, Nicholas Daum, Louis Segal, James Vernon, Kerwin Klein, Robert Chester, Abena Osseo-Asare, Armando Vargas, John Hayes, Sonia S'hiri, Prachi Deshpande, Salim Tamari, Janaki Nair, Shah Mahmoud Hanifi, Tamim Ansary, Irum Sheikh, Shaden Tageldin, Ebrahim Moosa, Ayşegül Komsuoğlu, Recep Şentürk, Mustafa Bilge, David Yaghoubian, Cihan Tuğal, Namık Sinan Turan, and Adil Baktıaya,

for your genuineness and kindness, matched by distinctive learnedness and erudition.

…To Mabel Lee, Barbara Hayashida, Leah Ferguson, Victor Rotenburg, Ed Garrett and Fleur Mezquita,

for your time, and ever-pleasant exchanges; and for not tiring of me.

…To my readers,

for your interest, your wonder, and your enthusiasm.
And for informing me of shortcomings, mistakes, and/or omissions—the only things in the world I can claim as my own.

…To my students,

for already allowing me to say that, in spite of my learning from you.

… To Sara Asmatey, Zabihullah Asmatey, Khawaja Argistani, Saleh Arghestani, Abdul-Rasheed Rashid, Ömer Tarzi, Farid Yoonas, and Gran, Rahel, and Wardak *sayb's*,

For treating me like a son and/or for the enriching Afghan oral histories, thereby making me *your* student.

… To John Haffner, Ricky Barlow, Amit Bakhshi, David de Pesaro, Adam Artunian, Kerem Yılmaz, Brian Kim, Frank Lee, Ryan Johnson, Brian O'Neil, Noam Lovinsky, Rahul Kushal, Sam Ehsan, Amir Hadjizedeh, the Soni family, Afzal Ahmed, Shadman Baig, Aatif Abdul-Qadeer, Nabil Sheikh, Shabib Sheikh, Imran Hussein, Arshad Hussein, Gavin Clifford, Gavin Lindstrom, Charles Clark, Jordan Roker, Seth Scartacini, Steven Moody, Stephen Miller, Megan Ybarra, Russell Voth, Mustafa Elfarra, Faisal Ghori, Al-Husein Madhani, Sadia Yacoob, Omar Ezzeldine, Munir Sheikh, David Boyk, Ajlai Basu, Sean Singh, Hilary Falb, Samantha Iyer, Nick Kardahji, Lale Can, Pablo Palomino, Giuliana Perrone, Brendan Shanahan, Camilo Lund-Montano, Kerima Lewis, Aaron Wilkinson, Shahab Razfar, Farid Senzai, Zerina Grewal, Hamada Hamid, Wafi Gran, Sami Ullah, Yasmeen Daifullah, Nura Hossainzadeh, Munir Jiwa, Judd King, Danyal Hashimi, Hakeem Naim, Shoaib Ghias, and Akbar Rahel,

for friendship, collegial respect, and/or your acts of kindness that spoke volumes.

… To Khalid Kadir, Osamah Khalil, Nora Barakat, Ahmed Barakat, Mansoor Nasir, Muhammad Sudani, Zoe Griffith, Sara Ludin, Adrian Wood-Smith, Lena Salaymeh, Murat Dağlı, Melanie Tanelian, Melissa Taylor, Heather Ferguson, Alan Mikhail, Riyad Koya, Adriana Valencia, Owais Khan, Ahmed Elshaer, Ahmed Ibrahim, Asif Alavi, Dan Fisher, Salman Alam, Aadil Maniar, Jawad Hashmi, Sabeen Nasim, Nigar Iqbal, Babar Iqbal, Aamir Shibli, Ambreen Shibli, Sadaf Shibli, Gadeir Abbas, Farah Sheriff, Omar Sheriff, Asim Sheriff, Zahida Jaffer, Abdul Basit Khan, Heba Khan, Saba Khan, Ali Siddiki, Nazia Khan, Azhar Sufi, Zachary Twist, Najeeb Hasan, Tarik Hasan, Masud Khan, Osman Umarji, Amin Venjara, Matthew Ingalls, Yusuf Azhar, Zain Yamani, Adnan Yamani, Abbas Rana, Munes Tomeh, Amir Kamil, and Muatasem Algheriani,

for reaching out, for solidarity, and for going an extra mile, kilometer, or *dönüm* out of your way.

…To Dan Brown, Helen Huntsburger, Cindy Vandemoortel, Cynthia Lamphier, Tom Borsuk, Nathan Arave, Burr Robinson, the Lindstrom Family, the Clifford Family, the Clark Family, Mike Nakaue, Dana Duenzen, Joan Malkin, and Joan Willett,

for believing in me.

…To Emad Bakry, Armando Vargas, Noha Radwan, Mona Kamel Hassan, Nadia Khalil Harb, Dalal Abo El-Seoud, Laila Ahmed, Raghda Essawi, Muhammad Siddiq, Aḥmad Ḥafiẓ ʿAjwah, Faraz Khan, and Ahmad Snobar,

for the *miftāḥ*.
Because *utlubū al-ʿilm min al-mahd ilā al-laḥd*… and for showing me, *man ṣabar ẓafar*.

…To Koorosh Angali, Jaleh Pirnazar, Wali Ahmadi, Yusuf Abdulfattah, and Mohammed Asem,

for the *kalīd.*
And because *dil-i khushbūye dar man asar kard*.

…To Aftab Ahmad, Ahtesham Ahmad, Raza Khan, and all the Lucknow *asātiza'* ,

for the *chābi*.
And because *dayr āya, durust āya*.

…To Receb Çelik, Mustafa Yıldız, Yusuf, Eda, Hayatı, Jason and Kristin,

for the *anahtar*.
And because *ne olursan ol yine gel*.

…To Ayla and Hamid Algar,

for yet more *anahtarlar*.
And for defining teaching, and scholarship, each in your own way.
And because *dünya iyi insanların başlarında duruyor*.

…To Receb Çelik (once more, though never enough),

for teaching a student, not with a lecture, but with a *belge*, tea, and time.

…To Hatem Bazian, Sherman Jackson, George Bisharat, Keith Wingate, Naomi Roht-Arriaza, Richard Boswell, Karen Musalo, Jo Carillo, Evan Lee, Radhika Rao, Reuel Schiller, Joel Paul, and Ugo Mattei, and most of all, Laura Nader,

for showing me the life of the law, in scholarship and action.

…To Laura Nader (once more, though never enough),

for showing me life after law school.

…To the exemplary constellations, Imams Zaid Shakir, Umar Faruq Abd-Allah, Mudassir Owais, Abdullah b. Hamid Ali, Yakub Koyuncu, Yahya Rhodus, Tahir Anwar, Muhammad Mendes, Faraz Rabbani, Faraz Khan, Sohail Hanif, Usama Canon, Alaeddin El-Bakri, and Dawood Yasin,

for *showing*, not saying; for celebrating mercy; and for remembering.

…To Waleed Rashid,

for climbing down; for answering; and for good cheer.

…To Qazi Abdur-Rasheed and the Rashid Family

for an unforgettable breakfast, tea, and dinner—each at a different part of the journey.
And for surviving, so we could all heal.

… Basim Elkarra, Tarek Ghanem, Ahsan Shaikh, Usama, Ubaid, and Sumair Mahmood, Zohaib Ghani, Zaakir Yoonas, Ebadur Rahman, Dustin Craun, Yasin Mohammad, and Ramy Elkinawy,

for being those to whom Emerson, too, would say "friend."

…To Wali Ahmadi,

for over a decade of subtle inspiration, and scholarship.
And for showing me,
Qatra qatra darya mesha and *tu harakat ko ka ma barakat kunum*.

…To Yalda Asmatey and the Asmatey family,

for always believing in me, and for your abiding respect—without which I would have never begun this journey, nor learned what a big heart really means.
And for showing me, *Khuda ka meda na me pursa ka bacha ki hasti*.

…To Beshara Doumani,

for a decade of learning, mentorship, and mutual respect.
And for saying over a decade ago to a fellow traveler, "One thing is sure…"
And for teaching by never condescending—to a stranger, student, or colleague.

…To my Khālas, Halas, Mumānīs, Aunties and Tías (pick your title)—Zahira, Nasreen, Sorayya, Azra, Maim, Fahima, Shehnaz, Rana, Yasmeen, Bilquis, Zarin, Nasreen Amjad, Sara, Nancy, and Clara,

for your *raḥmat* and *ʿināyat*.
And for teaching me the intangibles.

…To my Khālūs, Tayyas, Qaqās, Maʻmās, Amcas, ʻAmūs and Uncles (pick your title)—Wahid, Rafiq, Rahim, Shahnawaz, Walter, Sohrab, Altaf, Asif, Shaukat, Ainuddin Shaikh, Saulat, Anis, Amjad, Zaid, Hamīd, Zabihullah, Mustafa, Murtaza, Shabbir, Faruq, Frank, and the Elkarras,

for teaching me more intangibles.
And for yet more *raḥma*, because the power of mercy cannot be overstated.

…To my *dūsrī vāldayn*, Khalid and Yasmeen Rauf, and siblings, Ahmer and Sidra,

for your *first class* support that spoke not volumes, but archives and libraries.
For your inestimable *duʻā'*,
And unmistakable *ḍīyā'*.
For your priceless *naykī*,
And abiding *amānat*, *iḥtirām* and *roshnī*.

…To Maria, Mohsen, and Yuna,

for being there right in time.
For defining *la familia* (in five languages, so far).
For the kryptonite-melting smiles.
And for bringing Saeed with you.

…To Saeed Ahmed,

for letting me catch up. You did.
For your high spirits—as contagious, soaring, and consistent as your belief in me.
For your more hopeful rendering of 1984—in literature, and quite literally.
Orwell notwithstanding, if I was born with a choice for Big Brother, it would be you.

…To my mother and father, Aftab and Nazlı Ahmed,

for everything.
And to whom I owe, in *any* language:
every letter I've read,
every letter I've written.
every letter I've heard,
every letter to ingredients looked up and eaten.
every letter shared in sorrow,
every letter bubbled in laughter.
every letter in my name—which you chose,
and every letter thereafter.

…And finally, last but most—*Saman'a*,

For being you. *Sensiz,* I would never have completed this journey.

Nor any other after.

Faiz (Fayḍ • Feyz • فیض) Ahmed

Fremont, California
7 Rajab 1434
27 Sawr/Ğwayay 1392
May 17, 2013

NOTES ON TRANSLATION, TRANSLITERATION, NAMES, AND DATES

Drawing on sources in Arabic, Ottoman Turkish, Persian, and Urdu, readers will find the dissertation text hovers in the borderlands between a virtual candy shop for Middle Eastern language enthusiasts, occasionally perilous terrain for non-specialists, and a logistical nightmare for those seeking orthographic uniformity. Purists (or nationalists) in any one direction are likely to find much to grovel at. In an attempt to construct a bridge, howsoever rickety, between these disparate worlds of reading, I developed the following standards to systematize my practices of translation and transliteration in the text.

Translation

I have opted to neither translate nor use diacritics/italics with Arabic, Persian, or Turkish words and proper names commonly found in the Meriam-Webster dictionary today (e.g., Afghanistan, amir, imam, Kabul, khan, madrasah, shah, sultan). Two exceptions are the Ottoman titles *paşa* (pasha) and *efendi* (effendi). I otherwise introduce foreign words with italics when used for the first time in a chapter or sub-chapter.

Transliteration

As a general rule, I have employed modern Turkish transliteration style for all manuscripts, archival records, newspaper articles, and books in Ottoman Turkish (e.g., *Vakıt*, instead of *Waqt*; *Mecelle-i Ahkam-ı Adliye*, instead of *Majellat al-aḥkām al-ʿadliyya*). For items in all other Middle Eastern languages—Arabic, Persian, Pashtu, and Urdu—Arabic transliteration style is used following the *International Journal of Middle Eastern Studies*.

For individuals whose birth and death occurred within the temporal and geographic span of the Ottoman empire (1299-1923), I have transliterated their names and titles according to Turkish rather than Arabic convention (i.e., Süreyya, instead of Thurayyā; Mehmed Ali Paşa, instead of Muḥammad ʿAlī Pasha; Ahmed Hulusi Efendi, instead of Aḥmad Khulūṣī Effendī; Sultan Abdülmecid, instead of Ṣulṭān ʿAbd al-Majīd). My primary objective in this somewhat novel style is to maintain consistency with archival catalogues in Turkey. The relatively recent transliterative practice in Turkey of using "t" for the Arabic letter "د"/(d), however, has not been adopted for Ottoman subjects (e.g. for Ottoman subjects, "Ahmed" is used instead of "Ahmet" or "Aḥmad"; "Abdülhamid" instead of "Abdülhamit" or "ʿAbd al-Ḥamīd"). The exception is with Ottoman Turks who survived into the Republican period (thus "Fakhr al-Dīn" becomes "Fahrettin" and not "Fahreddin").

For non-Ottoman Arab, Iranian, Afghan, and Indian names and titles, I have employed standard Arabic transliteration (e.g., Aḥmad Shāh; Maḥmūd Ṭarzī), irrespective of their different pronunciations in Persian, Pashtu and Urdu. Notably, this results in the retention of the original

Arabic "ض"/(ḍ) instead of the typical (z) in the spelling of several Persian, Pashtu, and Urdu names (e.g., فیض becomes Fayḍ, instead of Fayz, Feyz, or Faiz). Similarly, with respect to Islamic terminology, for purposes of consistency and comparative study I generally employ modern standard Arabic transliteration irrespective of geographic context (e.g., *Sharī'ah*, instead of *Şeriat* or *Sharia*; madrasah, instead of *medrese*; *qāḍī*, instead of *kadı* or *qazi*; waqf/*awqāf*, instead of *vakıf/evkaf*). With respect to plural nouns, I employ the English suffix "s" rather than the original Arabic-derived plural (e.g., waqfs, instead of *awqāf*; madrasahs, instead of *madāris*). Three notable exceptions are *'ulamā'* (Islamic scholars), fatāwā (Islamic juristic opinions), and *niẓāmnāmā* (legal and administrative codes), where I have retained the original Arabic plural form given their prevalence in Middle Eastern and Islamic historiography. Finally, the names of authors of works in English have not been transliterated, regardless of linguistic origin.

The following pronunciation/transliteration guides are provided for readers' reference.

Distinctive Turkish Letters

â	a, as in *basket* (generally used in Ottoman transliteration only)
c	j, as in *jasmine*
ç	ch, as in *charity*
ğ	unvocalized in most Ottoman dialects; lengthens preceding vowel
ı	as i in *bird* or *cousin*
î	ee, as in *tree* (generally used in Ottoman transliteration only)
ö	as the German *ö* or as *eu* in the French word *deux*
ş	sh, as in *shine*
ü	as the German *ü*, or as *u* in the French word *tu*
û	oo, as in *zoo* (generally used in Ottoman transliteration only)

Long Vowels in Arabic

ā	a, as in *basket*
ī	ee, as in *tree*
ū	oo, as in *zoo*

Distinctive Arabic Orthography

(dh) for the Arabic letter ذ

(ḍ) for the Arabic letter ض

(ḥ) for the Arabic letter ح

(ṣ) for the Arabic letter ص

(ṭ) for the Arabic letter ط

(ẓ) for the Arabic letter ظ

(ʿ) for the Arabic letter ع (*ʻayn*)

(ʾ) for the Arabic glottal stop ء, or *hamza*

(al-) for the Arabic definite article ال

Additional Notes on Names, Surnames and Titles

For authors commonly known by an Arabic *nisba* (surname indicating ancestral village, town or country), I have alphabetized them in the bibliography accordingly while omitting the Arabic definite article *al-* (e.g., Fayrūzabādī, instead of al-Fayrūzabādī). Individuals more commonly known by their *naṣab*, or patronymic title indicating father or other ancestor's name, have been written and alphabetized accordingly (e.g. "Ibn ʿĀbidīn", "Ibn Manẓūr" and "Ibn Khaldūn"). Similarly, dashes are inserted between Arabic compound names (*iḍāfa*, e.g., Amān-Allāh, instead of "Amān Allāh" or "Amānullāh"; ʿAbd al-Raḥmān, instead of ʿAbdul Rahman or ʿAbdulrahman; Dār al-ʿUlūm, instead of Dārululūm).

Following Hanioğlu's model of orthography, Turkish authors are alphabetized by last name (surname) if he or she survived into the Republican period and the passing of the Turkish Surname Law of June 21, 1934. This law required all Turkish citizens to adopt a family name by January 1, 1935 (e.g. "Orbay, Hüseyin Raüf" instead of "Raüf Bey"; "Türkkan, Fahrettin" instead of "Fahrettin Paşa"). Modern Turkish historiography has generally followed this system ever since. Otherwise, I have alphabetized Ottoman Turkish authors by their most commonly used name followed by honorary title (e.g. "Cevdet Paşa, Ahmed" instead of "Ahmed Cevdet"; "Hamdi Efendi, Ahmed" instead of "Ahmed Hamdi").

Similarly, I have alphabetized authors with Persian, Urdu, and Pashtu names according to their commonly-known last names, with honorary titles in parentheses and not considered with respect to alphabetization, e.g., "Muḥammad (Kātib), Fayḍ," instead of "Fayḍ Muḥammad Kātib"; "Tarzi, (Serdar) Maḥmūd" instead of "Serdar Maḥmūd Ṭarzī"; "Iqbāl, (ʻAllāma)

Muḥammad" instead of "'Allāma Iqbāl"; "Ḥasan, (Mawlānā) Maḥmūd", instead of Mawlānā Maḥmūd al-Ḥasan.

Dates and Calendars

As with language enthusiasts, those with an appreciation for *kalandae* pluralism will find in the pages that follow a delightful feast. Four calendars are used in the dating of documents researched in this study: Hijrī (Islamic lunar), Gregorian (CE), Ottoman Rūmī, and Persian Jalālī. The Hijrī calendar is the Islamic lunar calendar dating to the migration (Hijra) of the Prophet from Mecca to Madīna in 622 CE. The Ottoman Rūmī calendar is a solar version of the Hijrī calendar based on the Roman Julian calendar. Persian Jalālī is the official calendar of Iran and Afghanistan, and is also a solar version of the Hijrī calendar.

To maintain precision, where a Hijrī, Ottoman Rūmī, or Persian Jalālī year is listed for the original date of publication, I have written that date first followed by the corresponding Gregorian year in brackets, e.g. "1334 [1916]." With respect to the Persian calendar, Afghan Dari month names have been used rather than Iranian.

ABBREVIATIONS

Archives

ADL	Afghanistan Digital Library. http://afghanistandl.nyu.edu/index.html.
ANA	Arshīf-i Millī-yi Afghanistan (Afghanistan National Archives). Kabul, Afghanistan.
BCA	Başbakanlık Cumhuriyet Arşivi (Prime Ministry Republican Archives). Ankara, Turkey.
BOA-	Başbakanlık Osmanlı Arşivi (Prime Ministry Ottoman Archives). Istanbul, Turkey.

BEO	Babiali Evrak Odası
DH.KMS	Dahiliye Nezareti: Kalem-i Mahsus Evrakı
DH.MKT	Dahiliye Nezareti: Mektubi Kalemi
DH.SN-THR	Dahiliye Nezareti: Sicill-i Nüfus İdare-i Umumiyesi
DH.TMIK.S	Dahiliye Nezareti Evrakı
DUİT	Dosya Usulü İradeler Tasnifi
EV.VFK	Evkaf Evrakı
HR.HMŞ.İŞO	Hariciye Nezareti
HR.İM	Hariciye Nezareti: İstanbul Murahhaslığı
HR.SYS	Hariciye Nezareti: Siyasi Kısım
HR.TO	Hariciye Nezareti: Tercüme Odası
HSD.AFT	Ali Fuad Türkgeldi'nin Mirasçılarından Satın Alınan Evrak
HSD.CB	Prof. Dr. Cavit Baysun'un Terekesinden Satın Alınan Evrak
İ.AZN	İrade Adliye ve Mezahib

İ.DH	İrade Dahiliye
İ.HB	İrade Harbiye
İ.HR	İrade Hariciye
İ.HUS	İrade Hususi
İ.MBH	1310 Sonrası İrade Mâbeyn-i Hümâyun
İ.ML	1310 Sonrası İrade Maliye
İ.TAL	1310 Sonrası İradeler Taltifat
İ.TKS	1310 Sonrası İrade Tekaüd Sandığı
MF.MKT	Maarif Nezareti Evrakı
MV	Meclis-i Vükela Mazbataları
MVL	Meclis-i Vâlâ
ŞD	Şura-yı Devlet Evrakı
Y.A.HUS	Yıldız Sadaret Hususi Maruzat Evrakı
Y.A.RES	Yıldız Sadaret Resmi Maruzat Evrakı
Y.EE.KP	Yıldız Esas Evrakı: Sadrazam M. Kâmil Paşa'nın Evrakı
Y.MTV	Yıldız Tasnifi: Mütenevvî Maruzat Evrakı Bölümü
Y.PRK.ASK	Yıldız Tasnifi Perakende Evrakı: Askerî Maruzat
Y.PRK.AZJ	Yıldız Tasnifi Perakende Evrakı: Arzuhal ve Jurnaller
Y.PRK.AZN	Yıldız Tasnifi Perakende Evrakı: Adliye ve Mezahib Nezareti Maruzatı
Y.PRK.BŞK	Yıldız Tasnifi Perakende Evrakı: Mabeyn Başkitabeti
Y.PRK.DH	Yıldız Tasnifi Perakende Evrakı: Dahiliye Nezareti Maruzatı
Y.PRK.EŞA	Yıldız Tasnifi Perakende Evrakı: Elçilik ve Şehbenderlikler Tahriratı

	Y.PRK.MF	Yıldız Tasnifi Perakende Evrakı: Maarif Nezareti Maruzatı
	Y.PRK.MK	Yıldız Tasnifi Perakende Evrakı: Müfettişlik ve Komiserlikler Tahriratı
	Y.PRK.PT	Yıldız Tasnifi Perakende Evrakı: Posta ve Telgraf Nezareti Maruzatı
	Y.PRK.TKM	Yıldız Tasnifi Perakende Evrakı: Tahrirat-ı Ecnebiye ve Mabeyn Mütercimliği
	Y.PRK.ZB	Yıldız Tasnifi Perakende Evrakı: Zabtiye Nezareti Maruzatı
	ZB	Zabtiye Nezareti
IOR-	India Office Records. London, UK.	
	L/PS	Political and Secret Department Records, 1756-1950
	R/12	Afghanistan: Kabul Legation Records, 1923-1948
NAI-	National Archives of India. New Delhi, India.	
	FD/EXTL/A	Foreign Department External Branch A
	FD/EXTL/B	Foreign Department External Branch B
	FD/FRNT/A	Foreign Department Frontier Branch A
	FD/FRNT/B	Foreign Department Frontier Branch B
	FD/GNL/B	Foreign Department General Branch B
	FD/GNL/B/SUP	Foreign Department General Branch B Supplement
	FD/INTL	Foreign Department Internal Branch
	FD/JUD	Foreign Department Judicial Branch
	FD/SEC/E	Foreign Department Secret Branch E
	FD/SEC/F	Foreign Department Secret Branch F
	FD/SS	Foreign Department Secret Supplement

FP/EXTL	Foreign and Political Department External Branch
FP/FRNT	Foreign and Political Department Frontier Branch
FP/INTL	Foreign and Political Department Internal Branch
FP/SEC	Foreign and Political Department Secret Branch
FP/SEC/E	Foreign and Political Department Secret Branch E
FP/SEC/F	Foreign and Political Department Secret Branch F
FP/SEC/WAR	Foreign and Political Department Secret War Branch
H/JUD	Home Department Judicial Branch
PD/SEC	Political Department Secret Branch

TİTE Türk İnkilap Tarih Enstitüsü Arşivi (Archive of the Institute for the History of the Turkish Revolution). Ankara, Turkey.

TKA Türk Kızılayı Cemiyeti Arşivi (Archive of the Turkish Red Crescent Society). Ankara, Turkey.

Academic Journals

AHR *American Historical Review*

CSAME *Comparative Studies of South Asia, Africa, and the Middle East*

IJMES *International Journal of Middle Eastern Studies*

IJTS *International Journal of Turkish Studies*

ILS *Islamic Law and Society*

IRS *Iranian Studies*

LHR *Law and History Review*

MAS *Modern Asian Studies*

OA *Osmanlı Araştırmaları (Ottoman Studies)*

Islamic Month Abbreviations in Ottoman Turkish (Arabic in parentheses)

M	Muharrem (Muḥarram)
S	Safer (Ṣafar)
Ra	Rebiülevvel (Rabīʿ al-Awwal)
R	Rebiülahir (Rabīʿ al-Ākhir)
Ca	Cemaziyelevvel (Jumādā al-Ūlā)
C	Cemaziyelahir (Jumādā al-Ākhira)
B	Recep (Rajab)
Ş	Şaban (Shaʿbān)
N	Ramazan (Ramaḍān)
L	Şevval (Shawwāl)
Za	Zilkade (Dhū al-Qaʿda)
Z	Zilhicce (Dhū al-Ḥijja)

At the Crossroads of Three Empires

Modern Afghanistan between History, Anthropology, and Law

> The last closed country shall be opened to western civilization and provided with railways and mines. A people consisting of a corrupt upper class and a mass of wild barbaric tribes, who are often stout enough fellows, shall be educated into law-abiding citizens in a modern state.[1]
>
> - British Indian Foreign and Political Department, Internal Memorandum on Afghanistan (1923)

> Prudence, made weak and powerless,
> succumbs to heavy chains.
> Even with all our knowledge,
> we are no less unwise.[2]
>
> دست و پای عقل در زنجیر شد
> با همه دانش جنون داریم ما.
>
> - Khalīl-Allāh Khalīlī (1907-1987), Afghan poet, historian, and ambassador

– • –

***In the spring of 1919, a newly crowned king in Afghanistan led a motley campaign of irregular troops and tribal levies against the British Raj's imperial army, and stunningly, they succeeded. After ousting the last British garrisons from Afghan territory, the young Amir Amān-Allāh Khan (1892-1960) declared his kingdom to be "an unconditionally free and independent" state. Soon thereafter the Kabul-based government signed treaties of recognition and trade agreements with a host of countries across Europe, Asia, and a region that only decades earlier had come to be known as "the Middle East." Afghanistan would eventually become the first Muslim-majority state to join the League of Nations.

After securing Afghanistan's sovereignty abroad, Amir Amān-Allāh turned his attention inward, and launched an ambitious reform program with the goals of reordering his kingdom into a constitutional monarchy. Within a year of his rise to power Amān-Allāh Khan commissioned an elite team of Afghan, Ottoman, and Indian Muslim jurists with a singular mandate: to lay the juridical foundations for a modern state. By 1923, Amir Amān-Allāh had promulgated over

[1] NAI-FP 1923 636-F 1-70 ("Foreigners other than ex-enemy aliens in Afghanistan").

[2] "Majsameh-i Bāmyān," in Khalīl-Allāh Khalīlī, *Dīvān Khalīl-Allāh Khalīlī* (Tehrān: Intishārāt 'Irfān, 1378/1999), 311. I am grateful to Professor Wali Ahmadi for introducing me to Khalili and his poignant opus, analyzed in depth in Wali Ahmadi, *Modern Persian Literature in Afghanistan: Anomalous Visions of History and Form* (New York: Routledge, 2008).

seventy legal and administrative codes known collectively as the *Niẓāmnāmā*, or "Regulations."[3] The most prominent among these, however, was the *Niẓāmnāmā-yi asāsī-yi dawlat-i ʿalīyah-i Afghanistan* in Persian (*Asāsī niẓāmnāmah dalūṛ dawlat da Afghanistan* in Pashtu). Promulgated on April 9, 1923, the document translates as Afghanistan's "Basic Law", but more is commonly remembered as the country's first constitution.[4] In addition to this pioneering

[3] The Afghanistan National Archives, together with the combined work of New York University's Afghanistan Digital Library project and the Arthur Paul Afghanistan Collection at the University of Nebraska at Omaha, have done a phenomenal job of digitially preserving the over 200 copies of *niẓāmnāmā* legal and administrative codes published during the Amān-Allāh era alone (1919-1929). Many of these documents are handwritten in blue, black and occasionally red ink, and include occasional lithographic reprints and secondary or terciary editions. Professor Robert McChesney of New York University deserves special recognition for his contributions to establishing the Afghanistan Digital Library, a fantastic service that has and will continue to benefit scholars of Afghanistan for generations to come.

[4] On this landmark document, Ludwig Adamec, one of the leading American historians of Afghanistan from the mid-twentieth century writes,

> The first written document dealing [with] the perogatives of the ruler and the rights of the ruled was the Afghan constitution promulgated by King Amān-Allāh in [1923]. It consisted of 73 articles which enumerated the rights and perogatives of the King, presented a 'bill of rights' of Afghan citizens, and outlined the duties of ministers and government officials. It authorized the establishment of an advisory committee and provisional councils, half of whose members were to be elected by the people, and established a supreme court *(divan-i ali*).

Ludwig W. Adamec*, Afghanistan, 1900-1923* (Berkeley: University of California Press, 1967), 58. Here Adamec mistakenly conflates the Afghanistan's Code of Adminstration (*Niẓāmnāmā-yi tashkīlāt-i asāsī*), also of profound significance for establishing the bureaucratic organization of ministries and promulgated in October 1921, with the first Constitution of Afghanistan (*Niẓāmnāmā-yi asāsī*) of April 1923. This confusion was likely induced by the two documents' extremely close-sounding names in Persian. On the document being a "constitution", Leon Poullada, author of the first academic study on the Amān-Allāh era in a western language, cites the charter's provision of a nation-wide "juridical skeleton" for the first time in the country's history. Writing in the early 1970s at the height of modernization theory's reign in the American academy, Poullada even marshals the commentary of a prominent German constitutional lawyer to weigh in on the matter, as follows,

> [E]ven if Amān-Allāh had done nothing else, the juridical base he provided for Afghanistan was of considerable importance since it gave the country the skeleton of the government it was eventually to develop. In this sense the 1923 Constitution was unquestionably a landmark document. Joseph Schwager, a recognized authority on constitutional law… states that the dates of its compilation and its coming into force are not known. He notes that in some versions the document is designated as a *qanun* or law. The Appendix copy, however, was labeled as a Niẓāmnāmāh or regulation, presumably in deference to the usage which reserves the term *qanun* for Shari'a (religious law). Schwager states that 'in spite of the designations as a *Qānūn* or a *Niẓāmnāmāh*, there can be no doubt that it was in substance a judicially valid constitutional law, which by its provisions for legislation was designed to lead to an autonomous development of secular law-making and to show the way to the separation of secular from canonical jurisprudence.'

Leon Poullada, *Reform and Rebellion in Afghanistan: King Amān-Allāh's Failure to Modernize a Tribal Society* (Ithaca: Cornell University Press, 1973), 92-93. For Schwager's contemporaneous (1932) study of state-building in Afghanistan and the country's foreign relations from the University of Leipzig, see Joseph Schwager, *Die Entwicklung Afghanistans als Staat und seine zwischenstaatlichen Beziehungen* (Leipzig: Abhandlungen des Instituts für Politik, Ausländisches öffentliches Recht und Völkerrecht an der Universität Leipzig, 1932). As an aside, we will address some of the common conceptual confusion and erroneous terminology—such as the false binaries and collapsed categories concerning "Sharia" and "Qānūn" in the above passage—in Chapter One of the dissertation. Both Poullada and Adamec's points here are well taken, nonetheless, that the *Niẓāmnāmā-yi asāsī* of

constitutional document, the Niẓāmnāmā codes also included supplementary civil, criminal, and commercial law statutes, incorporating sweeping plans for a centralized network of courts with newly trained judges salaried by Kabul, a national army raised through conscription, and an individuated tax system that abolished exemptions for powerful Pashtun tribes. The Niẓāmnāmā also mandated universal primary education, including schools for girls and young women.[5]

The resemblance to reconstruction policies being formulated in Afghanistan today has led many observers and even some historians to describe Amir Amān-Allāh Khan as "progressive," "secular", "ahead of his time", "pro-Western modernizer," or even "Afghanistan's Justinian." What these readings often elide or ignore, however, was the monarch's resolve that Afghanistan's constitutional reforms comply with the sacred Islamic law (Arabic: *Sharīʿah* / Persian: *Sharīʿat* / Turkish: *Şeriat*). As stated in Articles 4, 16, and 21 of Amir Amān-Allāh's 1923 Constitution, the king and his courts were to "rule in accordance with the principles enunciated in the Sharīʿat."[6]

The romanticization of Amir Amān-Allāh as a tragic hero in western scholarship on Afghanistan has also overlooked crucial historical developments taking place in the country beyond the Kabul government's ratification of codes and constitutions. Behind the auspicious rhetoric and meticulous legalese of the codes, an intense political battle was brewing in Afghanistan over what it meant to be both a "modern" and "Islamic" state in practice. At one level, the Niẓāmnāmā pitted the king's reformist elite against powerful Pashtun tribes in the provinces wary of Kabul encroaching on their autonomy, each employing the discourse of Islam to promote their views of the good society. Yet even closer to home—and here far more research is needed—acute divisions emerged between the Turkish and Indian-trained members of the Niẓāmnāmā commission, heightened by differences over Turkey's transition to a secular republic at exactly the same time. Without an operational bureaucracy, police, or army to enforce his laws, Amān-Allāh's government collapsed as a conflagration of tribal revolts converged on Kabul, deposing the king in 1929. It was the last time an Afghan government imposed reforms of such broad scale until the communist coup d'état of 1978 and ensuing decade of Soviet occupation.

April 1923 should be considered a modern "constitution." To be clear, in this dissertation my use of the term "constitution" coincides with the definition offered in Black's Law Dictionary, as "The fundamental and organic law of a nation or state, establishing the conception, character, and organization of its government, as well as prescribing the extent of its sovereign power and the manner of its exercise." Bryan A. Garner, ed., *Black's Law Dictionary, Second Pocket Edition* (St. Paul: West Publishing Co., 2001), 135.

[5] On what contemporary observers might describe as the "progressive" accomplishments of the 1923 constitution, Adamec notes,

> The constitution promised civil rights to all, abolished slavery, granted non-Muslims religious freedom (but missionary activity was forbidden), and declared the homes of citizens immune from forcible entry. A number of later statutory enactments (*nizam-nama*) further defined the powers and composition of parliament, which was housed in a new building just completed in Darul aman. Social reforms, such as the emancipation of women and free compulsory education, were decreed.
>
> Adamec*, Afghanistan,* 58.

[6] Articles 4, 7, 10, 13, 16, 21, and 72, *Niẓāmnāmah-i Asāsī-yi dawlat-i ʿalīyah-i Afghanistan* (Constitution of Afghanistan) (20 Ḥamal 1302 [April 9, 1923]).

Focusing on Amān-Allāh Khan's overthrow at the hands of violent tribal revolts that shook portions of southeastern Afghanistan in the late 1920s also falls too easily into conventional frameworks of the Afghanistan as the world's failed state *par excellence*. What these commonplace and uncritical perspectives ignore is that Amir Amān-Allāh Khan's Niẓāmnāmā project laid the foundation for one of Asia's most stable Muslim states in the first half of the twentieth century. By promulgating the Niẓāmnāmā codes Amir Amān-Allāh sought a "modernized" Sharīʿah, a sacred law instrumentalized to fulfill the prerogatives of sovereign power—maintaining civil order, supervising officials, subjects, and markets, and settling property disputes—while being sensitive to prevailing cultural norms in Afghanistan, or as flexibly stated in the constitution itself, "in light of actual living conditions of the people and the exigencies of the time."[7] Beyond the language of its articles, the premium Amir Amān-Allāh placed on promoting a simultaneously "modern" and "Muslim" identity for the Afghan state is evident in the composition of the Niẓāmnāmā drafting commission, as well as prominent officials in his cabinet—an eclectic group which included jurists, politicians, and military officers not only from Afghanistan's two largest cities, Kabul and Qandahar, but as far as Istanbul, Damascus, Cairo, Baghdad, and Lahore. The story of how I arrived at these conclusions makes up the fabric of this dissertation.

– • –

In 2004 after my first year of law school I interned at a New York-based non-profit law firm known as the International Legal Foundation, Ltd. (ILF). In coordination with Afghanistan's Ministry of Justice and Kabul University School of Law, in 2003 the ILF established a project in Kabul to train public defenders for the legal representation of indigent Afghans accused of crimes.[8] While I admired the bold spirits of my American and British attorney colleagues who came to Kabul to contribute in a pro-bono capacity to the legal development of Afghanistan, at the same time, my eyes were opened to the complex dynamics of a multi-billion dollar foreign aid and development industry and a politics of experts that seemed to be rooted in ignorance of Afghanistan's own legal and constitutional history.

When I returned to the United States and during my last two years of law school, I began researching the judicial "reconstruction" of Afghanistan in more depth. Putting pen to paper, I wrote a series of law review articles on the intersecting themes of Islamic law, Afghan customary law, and Afghanistan statutory law during the twentieth and twenty-first centuries.[9] In

---

[7] Article 72, Constitution of Afghanistan, 1923 (*Niẓāmnāmā-yi asāsī-yi dawlat-i ʿalīyah-i Afghanistan*, 20 Ḥamal 1302 [April 9, 1923]).

[8] The organization has since expanded, currently housing legal aid offices in Nangarhar, Uruzgan, Helmand, Herat, and Balkh. More information on the ILF–Afghanistan office can be found at the ILF website at http://theilf.org/our-programs/ilf-afghanistan. The ILF's report on customary law in Afghanistan which I contributed to in Kabul can be found at http://theilf.org/news/publications.

[9] Faiz Ahmed, "Afghanistan's Reconstruction, 5 Years Later: Narratives of Progress, Marginalized Realities, and the Politics of Law in a Transitional Islamic Republic," *Gonzaga Journal of International Law* 10 (2007): 269-314; Faiz Ahmed, "Shari'a, Custom, and Statutory Law: Comparing State Approaches to Islamic Jurisprudence, Tribal Autonomy, and Legal Development in Afghanistan and Pakistan," *Global Jurist* 7 (2007): 1-56; Faiz Ahmed, "Judicial Reform in Afghanistan: A Case Study in the New Criminal Procedure Code," *Hastings International and Comparative Law Review* 29 (2005): 101-141.

researching these articles I kept coming across the utter lack of information, and awareness, about the country's own legal history. I then began to pour through a somewhat limited secondary literature on Afghan legal history and found myself being drawn to the somewhat romanticized era of Amir Amān-Allāh Khan, the reformist king who ruled Afghanistan from 1919-1929 and oversaw the promulgation of Afghanistan's first constitution. Having just witnessed the ratification of a new constitution with heavy foreign involvement in 2004, I honed in on this remarkable era of Afghanistan's history that few in academic circles seemed to be aware of in the United States, except a few select works heavily infused with modernization theory from the mid-1960s to early 1970s. After scouring through what these books had to say on this relatively unknown constitutional project, the following is what I found.

In researching the secondary literature on the first constitution promulgated by the Afghan king Amir Amān-Allāh Khan between 1919 and 1923, I repeatedly came across references to "French experts" and occasionally Turkish influence as preponderant in the constitutional drafting process. *An Introduction to Law in Afghanistan* (2009), a textbook published by Stanford Law School states on the origin of the charter, "The 1923 Constitution was influenced by many sources including the Turkish constitution under Kemal Ataturk and the French legal system."[10]

Lest we conclude this is an isolated error in a practitioner's textbook—and to avoid pitting blame on the noble intentions and tireless efforts of an American student-led initiative to provide valuable educational material for Afghan law students today—the scholarly historiography of the Amānī era and the first constitution of Afghanistan is primarily responsible for overemphasizing "French legal influence" in Amān-Allāh's court.[11] Leon Poullada, in his

---

[10] Alexander K. Benard, Jason T. Berg, Benjamin G. Joseloff, Anne Stephens, and Eli Sugarman, *Introduction to the Law of Afghanistan, Second Edition* (Online Publication, 2008, Afghanistan Legal Education Project at Stanford Law School), available at http://alep.stanford.edu/. The Mission Statement of this important initiative, founded by Stanford law students and Professor Erik Jensen, Director of Stanford's Rule of Law Program, reads,

> The Afghanistan Legal Education Project (ALEP) at Stanford Law School develops innovative legal curricula to help Afghanistan's universities train the next generation of lawyers and leaders. ALEP's principal focus is researching, writing, and publishing high-quality, original legal textbooks.
>
> "Our Mission," Afghanistan Legal Education Project, available at http://alep.stanford.edu/.

[11] Not to be overlooked, Harvard Law School had already established a more research-oriented intitiative on Afghanistan entitled the "Afghan Legal History Project" in 2002. Founded by the Director of the Islamic Legal Studies Program at Harvard Law and Islamic law specialist, Professor Frank Vogel, and as stated in the institute's literature, the inititative was inspired by Dr. Vogel's visit to Kabul in the fall of 2002,

> where he immediately recognized that reconstruction efforts were crippled by a lack of understanding of numerous issues concerning the role of law in Afghanistan. Sensing the urgent need for knowledge of the Afghan legal system, not only through organizing readily available facts, but also through putting together a nuanced understanding of the complex history of the legal system, he inspired the creation of the Afghan Legal History Project.

To date, the inititative has produced three important articles on Islamic law, Afghan customary law (Pashtunwali), Islamism, and the Afghan state legal system from 1964-1979. To the extent of my knowledge, however, there have been no studies on the origins of the first constitution of 1923. To the initiative founders' credit, however, the program literature also disclaims, "Final academic judgments that one would expect only from more ambitious monographic treatments would also not be attempted." This rare and commendable act of humility

classic study of Afghanistan during the Amānī era, for example, writes, "Amān-Allāh employed some French advisers in his legislative program."[12] Amazingly, Poullada provides no references or evidence to support his contention of "French experts" working on the first Afghan constitution and supplementary Niẓāmnāmā law codes. Yet, the above contention of French legal experts in Afghanistan continues to be reproduced uncritically, and is widespread in other works on the era, not only from the United States, and not only from historians. Pakistani constitutional lawyer Nighat Mehroze Chishti, for example, similarly writes in *Constitutional Development in Afghanistan* (1998), "Amir Amān-Allāh Khan employed some French advisors to help him in the legislative programme," and cites the very same passage from Poullada above as the source.[13] Similarly Daniel Balland, one of Europe's foremost experts on Afghanistan's administrative history during the twentieth century, writes,

> The first Afghan constitution… defined the general legal frame for an unprecedented revolution in administrative, judiciary, military, and fiscal affairs. With the aid of French and Turkish experts, more than seventy ordinances (*neẓām-nāma*) were published over a period of nine years.[14]

When I followed the footnotes of these assertions and similar ones made in the work of Afghanistan scholars Vartan Gregorian, Rhea Stewart, and Senzil Nawid, again, I found no references to primary source evidence of French subjects in Afghanistan helping write the first constitution, nor any elaborations of the "Turkish" role in Afghanistan's early twentieth century

---

on the subject is matched by an equally wise and admirable aspect of the project's founding principles, and an approach to scholarship on Afghanistan which I would heartily agree with,

> By taking a few steps back from policy, illuminating terminology, paying sustained attention to the aforementioned neglected issues [Islamic legal history in Afghanistan], patiently facing academic complexities, and underscoring the relevance of history to today's unfolding events, the group developed a level of discernment that will help to clarify and prioritize the relevant issues.

"Afghanistan Legal History Project," Islamic Legal Studies Program at Harvard Law School, available at http://www.law.harvard.edu/programs/ilsp/research/alhp.php.

[12] Poullada, *Reform and Rebellion*, 93-94. To his credit, Poullada does acknowledge a role was played by "Turkish jurists led by a 'Young Turk,' Badri Bey," but provides no biographical information or even references to this individual. His only comment on the matter is to generally state, "Badri Bey drew heavily on the Turkish codes, which were in turn based on the Code Napoleon," again, with no references to primary source material to corroborate this claim. More problematically, the assumption of simply borrowing and mimicing French legal codes as the inspiration for the Afghan Niẓāmnāmā, or the Ottoman legal modernism for the matter, elides a rich history of internal debates, contestations, and negotiations by Muslim juridical actors in the long nineteenth century—themes which make up the mainstay of this dissertation.

[13] Nighat Mehroze Chishti, *Constitutional Development in Afghanistan* (Karachi: Royal Book Company, 1998), 21. The "French expert connection" allegation may be due to confusion over the Ottoman Tanzimat drafters complex relationship with the Code Napoleon, a document some may have taken for the aesthetic motivation for compiling ordered codes citing simple rules of law, as was the case with the *Mecelle* for example. Needless to say, it is a totally different contention to say that this means "French experts" helped draft the Afghan Niẓāmnāmā. It is even a baseless contention to hold that Bedri Bey relied on the Code Napoleon or French juridprudence in general, as there is no evidence to support this conclusion.

[14] Daniel Balland, "Afghanistan x. Political History," *Encyclopaedia Iranica*, Vol. I, Fasc. 5 (1983): 547-558.

juridical field. What I did find was secondary and tertiary references to Ottoman jurists consulting copies of the Code Napoleon in the Tanzimat reforms of the nineteenth century over seventy years earlier. Apart from the blatant historical errors—the Turkish republic was not established until *after* the ratification of the first Afghan constitution, and Mustafa Kemal Ataturk's famous "secularizing" legal reforms were not launched until firmly consolidating his power over the Ottoman ʿulamāʾ class and sufi orders in 1924-1926—this thesis suffered from a one-dimensional view of foreign, outside forces invading a territory and "influencing" it. It also leaves little room for transcending passive notions of the "adoption" of foreign texts, ideas, and administrative or legal models, rather than more nuanced conceptual frameworks, such as Dilip Parameshwar Gaonkar's notion of *creative adaptation*.[15]

The root cause of these shortcomings, however, seemed to be the dearth of knowledge on the actual "socio-legal" history of the charter. By socio-legal history, I am not referring to the document's mere drafting history, i.e. when the constitutional commission was officially formed, when various drafts were submitted for approval by the king, etc., though those questions are also important. Rather, by socio-legal history I mean a comprehensive social, intellectual, and political history of individuals, ideas, and institutions that created the conditions for its promulgation—a *longue durée* history of the constitutional text, so to speak. Ninety-years after the adoption of the charter, the paucity of scholarship addressing these questions was startling. On the *Niẓāmnāmah-i Asāsī* (20 Ḥamal 1302/April 9, 1923), Poullada himself admits,

> The history of this document is obscure. It was apparently approved by a Loyah Jirgah held in the Eastern Province and the original draft was in Pashtu. Later it was translated into Persian but apparently no English version was ever made. After Amān-Allāh's overthrow the Constitution sank into oblivion. Though its provisions were extensively copied in the 1931 Constitution drawn up under Nādir Shah, no mention of the 1923 one was made and the document itself was found only after an extensive search in the Kabul booksellers' bazaar.[16]

---

[15] I am indebted to Wali Ahmadi's perceptive application of Gaonkar's theory of creative adaptation to the context of modern Persian *literature* in Afghanistan, which shares parallels to my application of the idea to modern *law* in Afghanistan during the Amir ʿAbd al-Raḥmān, Amir Ḥabīb-Allāh, and especially Amir Amān-Allāh Khan eras. Ahmadi summarizes Gaonkar's notion, integrally linked to a broader conceptual framework of "alternative modernities," as follows,

> In elaborating 'alternative modernities' Dilip Paramesh Gaonkar introduces the idea of 'creative adaptation,' which he astutely considers to be a distinctive reflection of the 'manifold ways in which a people question the present… where people 'make' themselves modern, as opposed to being 'made' modern by alien and impersonal forces, and where they give themselves an identity and a destiny.

Ahmadi, *Modern Persian Literature in Afghanistan,* 20. That a "codification craze" was not limited to imperial settings at this time is also evident in codification and constitutional projects in eighteenth and nineteenth century Latin America. For fascinating comparisons of "creative adaptation" of French legal codes in a non-Middle Eastern context, see Minow, Matthew C., "The Power of Codification in Latin America: Simon Bolivar and the Code Napoleon," *Tulane Journal of International and Comparative Law* (2000); "Borrowing Private Law in Latin America: Andrés Bello's Use of the Code Napoléon in Drafting the Chilean Civil Code," *Louisiana Law Review* 61 (2001) 291-329; "The Code Napoleon: Buried But Ruling in Latin America," *Denver Journal of International Law and Policy* 33 (2005): 179-194.

[16] Poullada, *Reform and Rebellion,* 93.

The above passage, written exactly four decades ago, speaks to one of several gaps in the secondary literature that exists until this day, and led me to embark on this dissertation. Poullada's comments above also speak to the central inquiries at the heart of my dissertation, questions whose answers have yet to be established in Afghanistan historiography until now.

The over-arching question of the dissertation can be summarized as follows: What is the socio-legal history behind the first Afghan constitution of 1923? More specifically, what is the genealogy of Amir Amān-Allāh's cosmopolitan team of Muslim jurists who sought to build a modern state in Afghanistan through law, espousing constitutional rule and a commitment to upholding the Sharīʿah at the same time? To begin with, my research poses some basic factual questions that, remarkably, have yet to be established in Afghanistan historiography, and can divide the broader dissertation question into the following smaller constitutive strands of inquiry. When did the Niẓāmnāmā drafting process begin, and when did it end? Who served on the drafting commission? What were their educational backgrounds, qualifications, and sources of jurisprudence? What were the major ideological, political, or professional alliances, tensions, and rivalries among the commission members? To what extent was the Niẓāmnāmā constitutional commission independent of, or a product of, diverse political influences and movements generating in Kabul, Istanbul, or Delhi, at exactly the same time?
Second, beyond biographical information on the commission members, this dissertation seeks to unearth the intellectual, institutional, and legal genealogy of the Niẓāmnāmā constitutional and codification project. In light of the participation of Turks and Indian Muslims on the Niẓāmnāmā constitutional commission, what is the history of Ottoman and Indian juridical influence in Afghanistan—before and up to the adoption of the first Afghan constitution in 1923? What jurisprudential sources did the commission members draw from in pursuing the monumental task of codification from *within* an Islamic legal tradition? What was the extent of French influence in the drafting process, so often assumed to be determinative in existing scholarship on Afghan legal history? Does the Niẓāmnāmā project challenge conventional narratives of the rule of law as an exclusively secular-liberal tradition, Western import, or colonial transplant? [17]

---

[17] Though a common term used by both domestic politicians and international legal analysts to refer to constitutional legal orders, "rule of law" is often presumed to describe objective social and political conditions and therefore to be a value-neutral term. In practice, the term has attracted significant controversy and debate both in and outside the United States and Europe (and as the opening epigraphs in the front matter to the dissertation reveal). For example, as legal anthropologist Laura Nader has observed,

> Research on law and state power illustrates that, far from being neutral, law is often politically active, created by and for groups in power. This realization often separates anthropologists from development lawyers, who even today may still believe that 'the rule of law' creates a level playing field that works out in practice.

Laura Nader, *The Life of the Law: Anthropological Projects* (Berkeley: University of California Press, 2002), 6. Comparative law scholar Ugo Mattei has also observed the Eurocentric usage of the term in contemporary itnernational legal discourse, noting,

> Most less developed countries do not share either one or both of the basic legal assumptions of the rule of law as understood by the more developed countries that compose the Western legal tradition. In many countries... the political process and the legal process overlap. In others… the domain of law and that of religious beliefs overlap.

Mattei, Ugo. *Comparative Law and Economics* (Ann Arbor: University of Michigan Press,1998), 227. This disseration defines "rule of law" not as a concrete or even tangible political or legal condition, nor a political

While historiography on Afghanistan conventionally tributes Amir Amān-Allāh for laying the foundations of a modern state though his promulgation of the 1923 Constitution and subsequent Niẓāmnāmā law codes, there has been little to no analysis of these codes as *modern Islamic juridical processes in action*. Nor have I encountered a systematic analysis of Turkish and Indian Muslim influence in the project, including how late Ottoman technocrats such as Bedri Bey negotiated reforms with Afghan ʿulamāʾ and the burgeoning intelligentsia of Kabul. This gap in the historiography—including important questions pertaining to the authors and jurisprudential models at the heart of the Niẓāmnāmā project—reveals that histories of modern Afghanistan have for too long viewed Amir Amān-Allāh's reforms as a "*sui generis* outcropping," to use Şerif Mardin's term, rather than a product of complex historical processes at work in Afghan society since the last quarter of the nineteenth century, and even earlier in the Ottoman and Indian cases.[18] Furthermore, the dissertation aims to challenge a persistent tendency in Middle East historiography, and contemporary discourse on the Middle East, to attribute the most cutting-edge ideas and state-building projects in the region to an abstract, ubiquitous "Western influence." The persistence of Eurocentrism is particularly acute in the historiography of modern judicial reforms and legal thought in the Middle East and greater Islamic world. Too many studies of constitutionalism in the region boil down to the arrival of European codes and experts—legal transplants, in other words—rather than being generated by a "complex background of more subtle, elusive, and subterranean processes which laid the basis for changes in ideology," to quote Mardin's notable exception.[19]

Focusing on emerging debates and transformations rather than Amān-Allāh's so-called "failure," a socio-legal history of the first Afghan constitution codes and the commission that authored it offers promising avenues to understanding the complexity of Afghanistan's legal history at a defining moment of internal peace and stability in the country. But as much as this dissertation is about Afghanistan, I also aim to provide a window into the cosmopolitan (and still largely unexplored) world of modern Muslim transnationals after the pivotal ruptures of World War I. In this manner, my research seeks a rare, non-colonial glimpse into the shared struggles of a diverse cast of scholars and politicians to build strong states rooted in homegrown and competing visions of constitutionalism and "the rule of law" on their own terms.

I
OVERVIEW OF THE STUDY

This dissertation is divided into five chapters and a conclusion. In Chapter 1, "The Power of Precedent", I present a brief background of Islamic constitutional theory and history

---

system based on Western notions of liberal democracy, but as a conceptual goal in which all members of a society (regardless of wealth or status) normatively abide by publicly known limits, and face legally-sanctioned punishment for transgressing them. For a particularly insightful discussion of "rule of law" concepts in post-conflict or transitional justice contexts, see Rama Mani, *Beyond Retribution: Seeking Justice in the Shadows of War* (Cambridge: Polity Press, 2002), 25-31.

[18] The dissertation in this sense shares similarities with Şerif Mardin's social and intellectual history of the Young Ottoman movement and the first Ottoman Constitution (*Kanun-ı Esasi*) of 1876. See Şerif Mardin, *The Genesis of Young Ottoman Thought: A Study in the Modernization of Turkish Political Ideas* (Syracuse: Syracuse University Press, 2000), 6.

[19] Mardin, *Genesis of Young Ottoman Thought,* 7.

from the early classical period (seventh century) to the early modern period (seventeenth century), beginning with the *Ṣaḥīfat al-Madīna,* also known as the Constitution of Madīna (622 CE), to the *Fatāwā-yi ʿĀlamgīrī* (1675) of the last truly sovereign Mughal emperor, Aurangzeb ʿĀlamgīr (1618-1707). Here I establish my theoretical framework for the dissertation, incorporating Pierre Bourdieu's concept of the "juridical field," Laura Nader's "user theory" of law, and Christopher Tomlins' notion of "legalities" into Islamic legal history. Rather than treating law as a sterile, unchanging, and autonomous field of texts, I approach Islamic legal history as a social space of competition between Muslim rulers and palace elites, institutions of expertise from the scholarly classes (*ʿulamāʾ*) and law schools (*madhhhabs*) to the military, and from provincial notables to everyday people. I also sort through some confusing terminology that has unfortunately accrued in the field of Islamic legal history which has imposed false dichotomies on Islamic law on the one hand, and collapsed important conceptual boundaries on the other. This clarification of terminology is important not only for non-specialists, but for Islamic legal historians to recognize the subtle processes of continuity undergirding the history of the three greatest projects of Islamic legal codification in the early modern and modern era: the late Mughal empire's *Fatāwā-yi ʿĀlamgīrī* (1669-1675), the late Ottoman empire's *Mecelle-i Ahkam-ı Adliye* (1869-1876), and early twentieth century Afghanistan's *Niẓāmnāmā-yi Amānīyya* (1919-1923)—also known as the first Afghan Constitution and supplementary Niẓāmnāmā codes of Amān-Allāh Khan.

Shifting gears from jurisprudential history to political history, in Chapter 2, "Turks, Afghans, and Hindustanis", I trace the ebbs and flows of tripartite relations between Turks, Afghans, and Indian Muslims (or, to use a less anachronistic term, Hindustanis) from the Turkic ruler Muḥammad Ghaznawī's (Mehmet Ghaznawī) incursions into medieval India and the establishment of the Delhi Sultanate, to history's first and only Ottoman-Afghan war in 1726. Finally I close with the tepid response of Ottoman and Afghan rulers to invitations to join hands with Indian rebels in the largest revolt the British empire ever faced in its history: the Sepoy Rebellion (Mutiny) of 1857. In the process I show that not only has there been no singular, long-standing relationship between these three broad, internally heterogeneous and considerably fragmented geo-social categories of mostly Sunnī Muslims, but rather their "Pan-Islamism" should be characterized as a series of interrupted, always incomplete, and seasonal friendships, even more rare alliances, and occasional hostilities.

While the dominant historiographical trend in studies of global Islam is in one sense correct that "Pan-Islamism"—defined as a loose set of transnational ideologies promoting the strengthening of relations between Muslims across *fixed* political boundaries—is a relatively recent phenomenon, the emphasis on the late nineteenth century and Hamidian era (1876-1909) in particular erases or ignores earlier episodes, often where the Porte was not an active contributor to initiating such transnational contacts. Moreover, I argue, current scholarship on Pan-Islamism largely ignores educational and juridical ties between the Ottoman empire and Muslim peoples who never lived under the rule of the Sultans of Istanbul, focusing instead on episodes of violent anti-Western confrontation and militancy from the so-called "Crimson Sultan" Abdülhamid II (1842-1918) to radical ideologues like Sayyid Quṭb (1906-1966) of Egypt or Abū-al-Aʿlā Mawdūdī (1903-1979) of Pakistan. It goes without saying that this popular ahistorical emphasis on forging "geneaologies of Islamic extremism" to the most confrontational, most radical ideologues from the late nineteenth to mid-twentieth centuries has been exacerbated with contemporary political climate concerning the post-September 11, 2001 "war on terror", a multi-billion dollar industry of pundits cashing in on their "expertise", and of course, the horrific

crimes of a tiny but loud and lethal minority of extremists and terrorists. Meanwhile, we are left with precious little understanding of legal and social history in modern Muslim societies—late Ottoman Turkey, British India, or Afghanistan under the Bārakzai Amirs—before the ravages of the first world war, the disintegration of the Ottoman empire, Indian Partition, and the Cold War.

By highlighting these historiographical problems, I set the stage for Chapter 2 and 3's discussion of the long nineteenth century's most robust strains of juridical and cultural Pan-Islamism in the Muslim world at large, and in Afghanistan in particular: an Ottoman *étatisme* and legal modernism embodied in the Tanzimat reforms and Mecelle Civil Code from the west, and the north Indian "Deobandi" Islamic revivalist movement from the east. These would be the two most powerful intellectual and social streams of Muslim modernism that would compete for influence in the court of the Bārakzai Amirs of Kabul and Afghanistan's juridical field during the last quarter of the nineteenth century.

In this way our narrative of the first constitution of Afghanistan begins in Istanbul during the mid-nineteenth century, when an embattled Ottoman empire faced an increasing number of revolts and separatist movements from within and an ever-present threat of Russian expansionism from without. Complicating matters further for the Porte, the Istanbul-based Ottoman government faced the additional hurdle of rapidly escalating debt to British and French creditors from a series of expensive military and infrastructural reform projects beginning in the late eighteenth century, and continuing into the grand administrative and legal reorganization schemes of the mid-nineteenth century famously known as the "Tanzimat" reforms. It was in this context that the Porte came under mounting pressure to codify their legal system to meet European norms of modern finance, contractual law, and even civil law in general. It is also in this context that thought and work of Ahmed Cevdet Paşa (1822-1895), arguably the late Ottoman empire's greatest jurist, becomes especially important.

Cevdet Paşa was a brilliant polymath, who wrote works in jurisprudence, theology, education, sociology, and history. After an outstanding performance in Istanbul's elite Hamidiye Madrasa, he quickly rose through the ranks of the Ottoman bureaucracy until landing the powerful position of Minister of Justice in the 1860s, having by that time already served on several Ottoman law code drafting committees including the 1858 Ottoman Land Code and the 1864 Provincial Reorganization Code. When pressured to implement the translation of the Code Napoleon as the Ottoman empire's official civil code, however, he refused. Instead, he assembled a commission to produce one of the most groundbreaking law codes in Islamic history: the *Mecelle-i Ahkam-ı Adliye* (Arabic: *Majellat al-Aḥkām al-ʿAdliyya*), or simply, the "Mecelle."

The *Mecelle* was the arguably the first, and definitely most famous, attempt to codify the civil law of an Islamic state, adopting and *creatively adapting* the external aesthetics and organization of European codes like the Code Napoleon in form, but drawing from Islamic jurisprudential texts of the Ḥanafī school of law for its substantive provisions. As a modern code of Islamic law, the *Mecelle* is also important for its long life well beyond the Ottoman empire, bearing lasting influence in most of the successor states, including from Bosnia-Herzogovina to Syria, and from Iraq to the British Mandate for Palestine and, later, Israel formally until 1984. The *Mecelle* also remains the basis of civil law in Jordan and Kuwait, and continues to be studied in Islamic law colleges across the world, including Malaysia, India, Pakistan, and Afghanistan. Most important for our purposes here, it was consulted in the drafting of the Afghan Niẓāmnāmā codes during the reign of Amir Amān-Allāh Khan. There is one more contribution Cevdet Paşa made to the late Ottoman juridical field that deserves acknowledgement here. In 1880, he

established the Ottoman empire's Imperial Law School (*Mekteb-i Hukuk Şahane*) in Istanbul. We return to the significance of that foundation in Chapter 5, when a subsequent graduate of that institution, the Istanbul lawyer Osman Bedri Bey (ca. 1880-1923), was appointed as director of the committee that eventually drafted the first constitution of Afghanistan.

In Chapter 3, "A Tale of Three Cities", I begin with the momentous visit of the first official Ottoman envoy to Kabul, Şirvanizade Sayyid Aḥmad Hulusi Efendi, in 1877-1878. In spite of the unprecedented nature of the mission, little is known about the background of the envoy and legacy of his expedition. As an elite Islamic judge, jurist and member of the *Mecelle* commission, I argue Hulusi Efendi brought more than talk of political alliance and the impending war against the Russians to his landmark meeting with the Afghan Amir and ʿulamāʾ of Kabul. I argue that Hulusi Efendi's juridical experience made a lasting impression on Afghan and Indian ʿulamāʾ present on his tour, and with the dialogues he initiated began a proliferation of Islamic legal modernism *alla turca* (as embodied in the Mecelle Civil Code) through the Afghan and Indian juridical fields. Then, I show how with the escalation of the Russo-Ottoman war of 1877-1878, Pan-Islamic ties between Istanbul and South and Central Asia intensified to an unprecedented degree. I trace the development of a new tripartite Turco-Indo-Afghan "Pan-Islamism", distinguishing the late nineteenth century version from earlier Pan-Islamic projects of the Ottomans, Safavids, and Mughals in the early modern era as discussed in Chapter 2. Far from the Orient's shahs and sultans conspiring with each other in glorious battle against an equally-imagined western Occident (or Other), a more sober analysis of administrative records and transcontinental correspondence reveals that the contours of relations between Turks, Afghans, and Indian Muslims in the Hamidian era were primarily defined not in blood, but in *ink*. Filling the pages of thousands upon thousands of administrative manuals, law books, and scholarly commentaries on a range of everyday issues, the fact that ink was far more pressing to monarchs and Muslim monarchs in the late Ottoman empire, Afghanistan and India in the late nineteenth century than launching Pan-Islamic conquests or even curbing European expansionism gives new life to the venerated adage, "the pen is mightier than the sword."

In the second half of the chapter, I explore how the new reigning autocrat in Kabul, Amir ʿAbd al-Raḥmān Khan (r. 1880-1901), began a relentless search for the administrative hardware and expertise to govern his country with an iron-fist. I argue that while small number of British, Indian and Russian experts no doubt enjoyed a presence in his court, ultimately, he looked to the Ottomans with admiration as a modern "Islamic state" *par excellence* for his greatest inspiration. Using Indian, British, and Ottoman archival documents, I trace the examples of Ottoman exchange and expertise with Amir ʿAbd al-Raḥmān, revising historiographical assumptions that the British and Russians were the sole experts in the court of Kabul.[20] The juridical significance

[20] A similar problem (and historiographical gap) exists with regard to administrative exchanges and dialogues between the Amirs of Afghanistan and the Qajar Shahs of Persia. This is a particularly glaring lacuna in light of the significant state-building campaign of Amir Kabir (1807-1852), chief minister to Naṣir al-Dīn Shah, in particular. In the latter's grand centralization project, especially the attempted (and failed) bureaucratization of the Iranian 'ulamā', there are parallels both to Amir ʿAbd al-Raḥmān's campaign, and of course, the Ottoman reforms before and during the Tanzimat. Nonetheless, with regard to Amir ʿAbd al-Raḥmān and the Qajar rulers of Iran, we do not see the same vigorous interest, robust literature, and to the extent of my research, documentary evidence, he displayed with Ottomans in the case of Iran. For an insightful overview of Amir Kabir's administrative reforms and centralization campaign which are not examined in this dissertation, see Hamid Algar, "Amir Kabīr, Mīrzā Taqī Khan," *Encyclopaedia Iranica* Vol. I, Fasc. 9 (1989): 959-963.

of Hulusi efendi's mission to Kabul is also evident here in the fact that only five years after the first Ottoman envoy's visit in 1877, the new Amir in Kabul ʿAbd al-Raḥmān Khan was publishing works drawing from the Ottomans for administrative and juridical inspiration and models. A representative example is the law code, *Asās al-Qāḍāt*, a manual for judges compiled in 1883-1884 by the Afghan legal scholar of Qandahar, Aḥmad Jān Khan ʿAlkuzai. This "code" is strikingly similar in some respects to the Mecelle, particularly in its vertical alignment of numbered articles, followed by a concise statement of the rule and brief mention of juridical source. As a code of civil procedure, it was the first attempt by the government of Afghanistan to extend a regularized judicial system over the whole of the country and to codify Islamic jurisprudence of the Ḥanafī school as the law of the state. The rules in *Asās al-Qāḍāt*, or the Fundamentals for Judges, were comprehensive, addressing details ranging from which opinions of the Ḥanafī school (and occasionally others) were to be determinative in a given type of case, to even where and how far apart the parties were required to sit in court.

While my research argues Amir ʿAbd al-Raḥmān was looking at the Ottomans for administrative and legal models, the "Iron Amir" (as he has been called by historians) was building stronger ties between Turkey and Afghanistan in ways he likely never intended: the forced exile of his enemies, many of whom proceeded to the land of not only Sultan Abdülhamid, but far more important for our story, the land of Cevdet Paşa: Ottoman Turkey. In the final section of the chapter, I describe two monumental developments that took place during the Second Anglo-Afghan War (1878-1880) and early ʿAbd al-Raḥmān eras, a twin pair of events in 1879 and 1881, respectively, that were hardly expected to have any significant consequences for Afghanistan at the time. This was the expulsion and forced exile of the reigning government in Kabul, based on personal vendettas or plain power politics, to banish two influential families from Afghanistan: the Yaḥya-khel (later, the Muṣāḥibān) to India and the Tarzi family to the Ottoman empire. While we introduce these events at the end of this chapter, these twin events would go on to have a profound and lasting impact on Afghanistan's political and legal history in the twentieth century. I return to the consequences of this decision for Afghanistan in the next chapter.

In the last two chapters of the dissertation, we delve into the complexity, the diversity, and the main factions within an Indo-Ottoman Pan-Islamic movement centered in Afghanistan between 1901 and 1923. In Chapter 4, "Cosmopolitan Afghanistan", we turn to the landmark shifts in domestic and foreign policy in Afghanistan following the death of the "Iron Amir" ʿAbd al-Raḥmān Khan, and the ascent of his son Ḥabīb-Allāh Khan to the Kabul throne. I begin by following the far-reaching impact of the return of Afghan exiles from two profoundly important intellectual, cultural, and professional streams connecting Kabul with the greater Islamic world: Ottoman Turkey from the west, and British India from the east. In particular, I trace the activities and contributions of the Tarzi family of Maḥmūd Ṭarzī, who returned to Kabul as an Afghan refugee from Ottoman Damascus, and the Yaḥya-khel clan of Nādir Khan, who returned to Kabul from Dehradun, India (a northern hill station and home to the British Raj's preeminent military academy). Significantly, these individuals did not just return to Afghanistan with their families, but with an expanded stream of experts from both empires soon following behind them.

Utilizing Ottoman, Indian, and British archives, I illustrate how each returning family sparked a torrent of professionals, including doctors, teachers, lawyers, journalists, and an array of mechanics and engineers as well as military officers from a host of countries, but mostly the Ottoman and British empires, all competing for the patronage and attention of Amir Ḥabīb-Allāh in Kabul. In light of the considerable numbers from the Ottoman empire and British India in

particular, I describe this period as the beginning of an Indo-Ottoman rivalry in Kabul, each side representing different modes of technical expertise, cultural identities, and of course, political loyalties. I also trace the role of Amir Ḥabīb-Allāh's ambivalent role towards both sides, paying much respect to the Ottoman Sultan-Caliph and the Turks in Kabul on the one hand, while courting British patronage at the same time on the other. The latter was evident in the Amir's tour of India in 1906-1907. During the latter trip, apparently Ḥabīb-Allāh Khan's only official travel outside of Afghanistan as Amir, he was quite impressed with the condition of Indian Muslim institutions such as the Muhammadan Anglo-Oriental College (now Aligarh Muslim University) in Uttra Pradesh province, Jamia Islamia in Lahore, but also the British-administered Mayo College at Ajmer. Meanwhile, almost simultaneously in Kabul, an Ottoman Arab colonel from Baghdad named Mahmud Sami Bey who had arrived in Kabul just a few years earlier established the *Mekteb-i Harbiye*, a military academy for Afghan princes and the children of other elites modeled on similar educational institutions established in the Ottoman empire during the Hamidian era. Beyond providing modern military training as exercised in Mahmud Sami's native Iraq, Afghanistan's Harbiye became a brewing ground for underground political parties and secret societies like the "Young Afghans" (*Jawānān-i Afghān*) and "Constitutionalists" (*Mashrūṭah-Khwāhān*), laying the seeds for a constitutional movement in the kingdom.

In the wake of increasing tensions between the Ottomans and British beginning in the last quarter of the nineteenth century and escalating through the early twentieth century, Amir Ḥabīb-Allāh found himself trying to maintain a precarious balance between two drifting boats—the Ottoman Sultan-Caliph of Turkey on one hand, and the British Raj, Afghanistan's patron state since the 1893 Durand Agreement, on the other.[21] This was only the situation on the foreign policy level, we might add. *Within* Afghanistan, Amir Ḥabīb-Allāh faced increasing tensions and rivalries between the pro-Ottoman factions led by Maḥmūd Ṭarzī, and pro-British factions within his very own court. Pressed for a consistent policy, he eventually let his cards show in two ways.

First, as mentioned, in 1906-1907 Amir Ḥabīb-Allāh visited India and lavished praise upon not only the generally pro-British Aligarh Muslim University, but British educational institutions and industry in general. Notably, he did not visit the preeminent Islamic *madrasah* of northern India, the Dār al-ʿUlūm college at Deoband. Secondly, when conflict in Europe spiraled and spilled into the first World War, and with the Ottomans eventually joining the Axis powers, Amir Ḥabīb-Allāh declared Afghanistan to be a neutral party in the conflict. While neutrality may seem like a balanced position from a distance, in the context of early twentieth century Afghanistan, it was widely seen as a betrayal of the close links and warming relationships Ottoman Turks had built with Afghans and Indians since Hulusi efendi's visit to Bombay, Kabul, and Delhi in 1877. Most importantly, it was taken as a clear affront to the vigorous activities of Maḥmūd Ṭarzī to build stronger ties with the Porte, and a message to the activities of nascent underground constitutionalist parties and societies he helped establish, including the "Young Afghan" party, whose familiar name served as yet another reference to

[21] This agreement, signed by Amir ʿAbd al-Raḥmān and Sir Mortimer Durand of British India guaranteed the Amir internal sovereignty over his amirate and an annual subsidy, in exchange for a fixed border in the Info-Afghan frontier (the so-called Durand Line) and relinquishment of control over Afghan foreign affairs to the British Indian government. The Agreement was (and continues to be) a source of immense resentment among Afghan, Pashtun, and Baluch nationalists due to the siphoning off nearly half of Afghanistan's Pashtun population, and the territories where they resided including the strategic frontier cities of Peshawar and Quetta, among others, to British India and later, Pakistan.

Maḥmūd Ṭarzī's close relationships with Young Turk activists in Damascus, Aleppo, and Istanbul.

Nonetheless, for the duration of the Great War, Amir Ḥabīb-Allāh would continue to play his cards cleverly, giving false pretenses to consecutive delegations of anxious Ottoman and British envoys, meanwhile maintaining Afghanistan's neutrality amidst the most brutal human war in history. This was an especially precarious balancing act given the successive waves of Indian volunteers and revolutionaries congregating in Kabul and the Indo-Afghan frontier to organize support for the Ottoman war effort. The radicalizing effects of the Great War generated unprecedented levels of pan-Islamic revolutionary activity and anti-British sentiment in Afghanistan which, as a politically neutral and geographically central country, served as an ideal gathering point for disparate political networks—including Ottoman military officers, Afghan nationalists, and Deobandi Islamic scholars from India—resulting in ambitious visions for a new *pax Islamica* which even the 1857 Mutiny did not witness. The intersection of these diverse Modern Muslim political networks from Edirne to Peshawar culminated most dramatically in Afghanistan in the 1915 Ottoman-German Mission (also known as the Hüseyin-Niedermayer expedition) to Kabul from the west, and the Indian "Silk Letters" movement from the east—two secret missions which sought to convince the Afghan amir to join the Central Powers, invade India, and thereby oust the British from India. Amir Ḥabīb-Allāh balked at these invitations as dangerous visions of utopia that had little to do with Afghanistan's domestic problems—and with echoes of Ahmed Hulusi Efendi's mission to Amir Sher ʿAlī in 1877—both expeditions to enlist Kabul's support for the Ottomans "failed" in that regard.

In the end, however, Amir Ḥabīb-Allāh's unpopular stance vis-à-vis the Ottomans and his perceived obeisance to the British caught up to him: he was mysteriously assassinated in the middle of the night while on a hunting trip near Jalalabad in February 1919. Notably, the tensions and rivalries operating in Kabul which led to the amir's assassination did not disappear with Ḥabīb-Allāh Khan's death; rather they continued to shape the social and political conditions that led to the first constitution under the assassinated king's son and successor to the throne, Amir Amān-Allāh Khan. This sets the stage for culmination of our story.

In the fifth and final chapter, "Networks to Nexus", we examine the convergence of the disparate court factions described above in producing a final juridical product—the 1923 Constitution of Afghanistan. We also discuss some of its outstanding features, and how the charter represents a counter narrative success story—a concept not usually associated with Afghanistan as a society or state. I begin the chapter with a step-by-step chronology of the conditions leading to an extraordinary tripartite juridical nexus in Kabul, beginning with post-Armistice Turkey and Afghanistan fighting simultaneous wars of independence, and the Indian Khilāfat movement emerging in full steam. The focal point of this tripartite nexus was again Kabul, but with very different results this time around. With Amir Amān-Allāh securing independence from Britain following the deceivingly brief Third Anglo-Afghan war in spring 1919, six months later the Muslim world had one of its only independent and fully-sovereign states. What followed was one of the most remarkable migrations in South Asian history; in an uncanny foreshadowing of the trauma and dislocations of Partition a quarter-century later, an estimated 60,000 to 100,000 Indian Muslims, mostly poor farmers from the Punjab, migrated to Afghanistan in the "Hijrat" movement of 1920-1921.

While historians of the early Turkish republic, modern Afghanistan, and late British India have tended to focus on each of these different national struggles on their own terms, and for good reason given their complexity, few have examined the *intersection* of all three in Kabul

during the early reign of Amir Amān-Allāh Khan between 1919 and 1923. Moreover, these scholarly works have tended to be preoccupied with the overt political dimensions of each of these three distinct national struggles. There was more than simply a convenient series of political alliances at play here, however, and the political nexus between nationalists in Turkey, India, and Afghanistan (and other "Eastern" or "Asian" nationalists) have been examined in the excellent work of Şükrü Hanioğlu, Azmi Özcan and Cemil Aydin from the perspective from late Ottoman/early Republican Turkey; Vartan Gregorian, Ludwig Adamec, and Senzil Nawid from the perspective of Afghanistan; and Gail Minault, Naeem Qureshi, and Mushiral Ḥasan from the perspective of the Khilāfat movement in British India.[22] Often left out in these discussions, however, are law, juridical connections, and the transnational negotiation of modern Muslim legal cultures at precisely the same time.

With this lacuna in mind, in the last chapter I focus on the previously unexplored *juridical nexus* of Afghan jurists, an Ottoman Turkish lawyer, Indian Muslim teachers and administrators, and Deobandi Indian ʿulamāʾ who formed the constitutional commission assembled by Amir Amān-Allāh Khan. Utilizing untapped Ottoman, Indian, Afghan and British archival documents, I offer insights into the individuals who served on the commission, their background and training, and overall professional habitus they brought to one of the first but most understudied projects of Islamic constitutionalism and codification of Islamic law in the twentieth century.

Finally, in the second half of the chapter, I provide an overview of the first Afghan constitution of 1923 and supplementary Niẓāmnāmā law codes themselves as a product and process of the Indo-Ottoman juridical nexus. I argue that by means of clearly enunciated, carefully crafted "Sharīʿah-compliant" codes, Amir Amān-Allāh sought the ever-elusive goal of reconstituting Afghan society in a manner conducive to the efficient administration of a centralized, territorial nation-state, all the while hoisting the modernist and populist banner of an "Islamic rule of law" in Afghanistan. That is to say, in promulgating the first Afghan Niẓāmnāmā codes, Amir Amān-Allāh sought a "modernized" Sharīʿah, a sacred law instrumentalized to fulfill the prerogatives of sovereign power—maintaining civil order, supervising officials, subjects, and markets, and settling property disputes. But unlike several of his contemporaries, Amir Amān-Allāh pursued these goals while attempting to be sensitive to prevailing cultural norms in Afghanistan, or as flexibly stated in the constitution itself, "in light of actual living conditions of the people and the exigencies of the time" (Article 72).

Taking a step beyond the language of its articles, the premium Amir Amān-Allāh placed on promoting a modern Muslim identity for the Afghan state in the Constitution of 1923 emerges from information I gathered about the composition of the drafting commission—an eclectic group of jurists and politicians that included liberal bureaucrats from the palace administration, conservative *mawlawīs* (Islamic religio-legal scholars) linked to Deobandi madrasahs in India,

---

[22] M. Şükrü Hanioğlu, *Preparation for a Revolution: The Young Turks, 1902-1908* (New York: Oxford University Press, 2001); M. Şükrü Hanioğlu, The *Young Turks in Opposition* (New York: Oxford University Press, 1995); Azmi Özcan, *Pan-Islamism: Indian Muslims, the Ottoman and Britain (1877 -1924)* (Leiden: Brill, 1997); Cemil Aydin, *The Politics of Anti-Westernism in Asia: Visions of World Order in Pan-Islamic and Pan-Asian Thought* (New York: Columbia University Press, 2007); Cemil Aydin, "Beyond Civilization: Pan-Islamism, Pan-Asianism and the Revolt against the West," *Journal of Modern European History*, 4:2 (Fall 2006): 204–223; Gail Minault, *The Khilāfat Movement: Religious Symbolism and Political Mobilization in India* (New York: Columbia University Press, 1982); M. Naeem Qureshi, *Pan-Islam in British Indian Politics: A Study of the Khilāfat Movement*, *1918-1924* (Leiden: E.J. Brill, 1999); Mushiral Ḥasan and Margrit Pernau, *Regionalizing Pan-Islamism: Documents on the Khilāfat Movement* (New Delhi: Manohar, 2005).

Pashtun notables of the influential Muḥammadzai tribe, and Ottoman legal advisors, including Osman Bedri Bey—an Istanbul lawyer who Amir Amān-Allāh appointed as the Niẓāmnāmā commission's director. Notably, this was at a time when most states relied on European advisors for judicial reform and state-building, underscoring Amān-Allāh Khan's references to the Turks as "elder brothers and guides" in charting alternate paths to modernization.[23]

In the conclusion to the dissertation, I discuss the post-script to the remarkable story of Afghanistan's first constitution and the Indo-Ottoman nexus that authored it. Here I also summarize the core contributions of the dissertation to an already limited historiography on Afghanistan's legal history, as well as Pan-Islamic relations between Ottomans, Afghans, and Indian Muslims. I argue that while Afghanistan historiography conventionally tributes Amir Amān-Allāh for laying the foundations of a modern state though his promulgation of the 1923 Constitution and subsequent Niẓāmnāmā law codes until this study, there has been little to no analysis of these codes as *modern Islamic juridical process in action*. Nor in my review of the scholarly literature to date have I encountered a systematic analysis of Ottoman and Indian Muslim influence in the first Afghan constitution of 1923, including how Ottoman technocrats such as Bedri Bey negotiated reforms with Afghan ʿulamāʾ and the burgeoning intelligentsia of Kabul. Focusing on emerging debates and transformations rather than Amān-Allāh's so-called "failure," this socio-legal history of the first Afghan constitution and the commission that produced it offers promising avenues to understanding the complexity of Afghanistan's turbulent constitutional history at a defining moment of internal peace and stability in the country.

As much as this is a dissertation about Afghanistan, however, I also aim to provide a window into the cosmopolitan—and still largely unexplored—world of modern Muslim transnationals in Afghanistan after the pivotal ruptures of World War I. In unearthing the intellectual, institutional, and legal genealogy of the Niẓāmnāmā codes, the dissertation also offers a rare, non-colonial glimpse into the shared struggles of a diverse cast of scholars, statesmen, and everyday subjects to build strong states rooted in home-grown and competing visions of the rule of law on their own terms.

II
SITUATING THE STUDY: TOWARDS A SOCIO-LEGAL HISTORY OF MODERN AFGHANISTAN

The Niẓāmnāmā constitutional and codification project of Amir Amān-Allāh Khan was not the first attempt by a Muslim monarch to pursue a modern state-building campaign with an emphatic commitment to upholding the Sharīʿah.[24] The Ottoman Tanzimat reforms of 1839-

[23] This phrase is taken from Amān-Allāh Khan's speech in Istanbul on May 19, 1928, hailing the fraternal ties between Afghanistan and Turkey. Poullada, *Reform and Rebellion*, 258.

[24] Defining "modern" is of course one of the most contested and elusive of tasks in the humanities and social sciences, and for good reason given the vast amalgam of complex processes and conditions it is held to describe. Rather than articulating a fixed and rigid definition, I draw in this dissertation from the work of scholars who have commented in far more depth on the unique conditions of modernity and modernity-making processes. In my use of the term I include the disciplinary technologies of modern governmentality and surveillance described so vividly by Michel Foucault, an enchantment (pun intended) in the power of the scientific method and empiricism (*not* materialism, however) by modern subjects as described in the classic work of Weber; but above all, an obsession among rulers to streamline administrative practice with the goal of re-ordering and remaking society in line with economic efficiency and central government control. Michel Foucault, *Discipline and Punish: The Birth of the Prison* (New York: Vintage Books, 1995); Michel Foucault, *Society Must Be Defended: Lectures at the*

1876, notably the 1858 Land Code, the *Mecelle* civil code (1869-1876), and the subsequent Constitution of 1876 (*Kanun-ı Esasi*) present the most outstanding precedents of Islamic legal modernism by a dynamic consortium of ʿulamāʾ and civil servants working in tandem under the aegis of a centralizing state.[25] Even earlier, the last truly sovereign Mughal emperor, Aurangzeb ʿĀlamgīr (r. 1658-1707), commissioned the *Fatāwā-yi ʿĀlamgīrī*, the eponymously-named collection of authoritative opinions from the Ḥanafī school of Islamic jurisprudence which the emperor sought to be applied in his courts, and which some historians have even called a complete "code" of Islamic civil law.[26] An early-modern *tour de force*, the compilation reflected a two-prong ambition to streamline administration of the empire, and a uniformizing "Islamicization" of state institutions to facilitate the centralization of power in Delhi—the very

---

College de France, 1975-1976 (New York: Picador, 1997); Max Weber, *Economy and Society: An Outline of Interpretive Sociology* (Berkeley: University of California Press, 1978). Combining aspects of these disparate genealogies of the study of modernity, Huricihan İslamoğlu has provided some of the best comparative work on identifying the emergence of shared histories of modernity across geographic and area studies borders. As an economic and legal historian, her illumination of the contestations and negotations between territorially-bound, centralizing regimes and competing actors in constitution of new property regimes has been particularly useful in shaping my understanding and framing of modern projects to codify Islamic law from the Mughal *Fatāwā Hindīyah* (1667-1675) to the Ottoman *Mecelle* (1869-1876), and ultimately, the *Niẓāmnāmā Amānīyya* (1919-1923) and first Afghan Constitution of 1923. See Huricihan İslamoğlu, ed. *Constituting Modernity: Private property in the East and West* (New York: I.B. Tauris, 2004); Huricihan İslamoğlu and Peter C. Perdue, eds, *Shared Histories of Modernity: China, India, and the Ottoman Empire* (New York: Routledge, 2009; Huricihan İslamoğlu "Modernities Compared: State Transformations and Constitutions of Property in the Qing and Ottoman Empires." *Journal of Early Modern History* 5 (2001): 353-386. To this eminent list of political theorists, sociologists, and historians we must also add Talal Asad for his incisive theorization of secularism, including modern societies' creation of "religion" before the "secular." Talal Asad, *Formations of the Secular: Christianity, Islam, Modernity* (Stanford: Stanford University Press, 2003).

[25] Nikki Keddie's classic 1972 volume offered a groundbreaking collection on comparative social histories of the ʿulamāʾ, including essays by Richard L. Chambers' The "Ottoman ʿulamāʾ and the Tanzimat," Afaf Lutfi al-Sayyid Marsot's "The ʿulamāʾ of Cairo in the Eighteenth and Nineteenth Centuries," and Hamid Algar's "The Oppositional Role of the ʿulamāʾ in Twentieth-Century Iran." Nikki R. Keddie, ed. *Scholars, Saints, and Sufis: Muslim Religious Institutions in the Middle East since 1500* (Berkeley: University of California Press, 1972). We must add to this group the prolific literature influenced by or concurrent with mid-twentieth century modernization theory, including Bernard Lewis's *The Emergence of Modern Turkey* (New York: Oxford University Press, 1968) Uriel Heyd's *Studies in Islamic History and Civilization* (Jerusalem: Magnes Press, 1961), Roderic Davison's *Reform in the Ottoman empire, 1856-1876* (Princeton: Princeton University Press, 1963), as well as Kemal H. Karpat's watershed article in 1972, "The Transformation of the Ottoman State, 1789-1908," *IJMES* (1972): 243-281. The literature on ʿulamāʾ' in oppositional politics, constitutionalism, and state-building in India and Pakistan is also prolific. For example, see Aziz Aḥmad, *Islamic Modernism in India and Pakistan, 1857-1964* (London: Oxford University Press, 1967); Muḥammad Qasim Zaman, *Custodians of Change: The ʿulamāʾ in Contemporary Islam* (Princeton: Princeton University Press, 2002); Ziya-ul-Hasan Faruqi, *The Deoband School and the Demand for Pakistan* (London: Asia Publishing House, 1963); Yohanan Friedmann, "The Attitude of Jamiʾyyat-i ʿulamāʾ-i Hind to the Indian National Movement and the Establishment of Pakistan," in Mushirul Hasan, ed., *Inventing Boundaries: Gender, Politics, and the Partition of India* (New York: Oxford University Press, 2000); Mushiral Hasan, "Religion and Politics in India: The ʿulamāʾ and the Khilāfat Movement," in his own *Communal and Pan-Islamic trends in colonial India* (1985); and Peter Hardy, *Partners in Freedom and True Muslims: The Political Thought of Some Muslim Scholars in British India, 1912-1947* (Westport: Greenwood Press, 1971). More recently, see Najeeb A. Jan, "The Metacolonial State: Pakistan, the Deoband ʿulamāʾ and the Biopolitics of Islam," Ph.D. Dissertation, University of Michigan, Department of History, 2010.

[26] Guenther, Alan M. "Ḥanafī Fiqh in Mughal India: The Fatāwā-yi ʿĀlamgīrī," in Richard M. Eaton, ed., *India's Islamic Traditions, 711-1750*, (2003).

same imperatives at work in later projects of "Islamic constitutionalism" in the nineteenth and twentieth centuries.

But the legacy of Islamic codifications and constitutionalism—what Noah Feldman has described as Islam's "rule of law"—was not exclusive to the Ottoman or Mughal empires.[27] Additional modern projects to codify Islamic law include the memoranda of Tunisian jurist Khayr-al-Dīn Pasha (Hayreddin Paşa) to codify and "constitutionalize" the Sharīʿah in the mid-nineteenth century, Egyptian lawyer Qādrī Paşa's Ḥanafī civil law manual *Murshid al-Ḥayrān* (1875), and the renowned civil law codes of Egyptian jurist Dr. ʿAbd-al-Razzāq Sanhūrī (1895-1971), subsequently adopted by several post-independence Arab states. As modern codes of law drawn from a rich Islamic jurisprudential tradition and implemented in sovereign and independent states, these texts are particularly useful for transcending outmoded, Orientalist readings of Islamic legal history that assumed a tenth-century "closing of the gates of *Ijtihād*" (juristic inquiry), presented Islamic law as an ossified and insular juridical tradition "stuck" in the medieval era, or considered the very idea of "modern Sharīʿah" to be a contradiction in terms.[28] Beyond documents and texts, the vigorous role of many prominent Iranian ʿulamāʾ in the 1906-1911 Persian Constitutional Revolution (*Inqilāb-i mashrūṭiyat*) also speak to the cosmopolitan and dynamic nature of members of even the most "conservative" of classes in the region at the turn of the twentieth century.[29] It is not accidental, after all, that Islamic legal modernism emerged at a transitional moment *worldwide*—the fall of empires and rise of new discourses of nation-states, constitutionalism, and international law.

Afghanistan and the Niẓāmnāmā, however, have yet to be included in this high-stakes discussion. Historiography on Afghanistan has been so colored by contemporary myopia on violence, terrorism, and civil war in the post-Soviet occupation era—as if these complex maladies were endemic to the country's history, while the alternating tropes of romanticization (read: noble freedom-fighter) and demonization (read: ruthless terrorist) both caricature Afghans as prone to violence, irrationality and rebellion. This has manifested in works on the Amānī era (1919-1929) as well, which have by and large have been more interested in Amir Amān-Allāh's spectacular rise and dramatic fall from power due to violent tribal rebellions, rather than the considerable administrative or jurisprudential legacy he built during the earlier and more stable half of his reign (1919-1923 in particular).

There are several factors contributing to the historiographical focus on these themes in Afghanistan studies. As Michel de Certeau has argued, the production of history is not a neutral act of scientific description but a subjective art of production influenced, if not determined by, the role of the historian's *problem-place*. "All historiographical research is articulated over a socioeconomic, political, and cultural place of production," notes De Certeau, concluding "it is

---

[27] Noah Feldman, *The Fall and Rise of the Islamic State* (Princeton: Princeton University Press, 2008).

[28] For a few concise (article-length) scholarly forerunners in this regard include Amr Shalakany's "Islamic Legal Histories," *Berkeley Journal of Middle Eastern and Islamic Law* 1 (2008): 1-82 and "Between Identity and Redistribution: Sanhuri, Genealogy and the Will to Islamise," *Islamic Law and Society* 8 (2001): 201-244; Nabil Saleh, "Civil Codes of Arab Countries: The Sanhuri Codes," *Arab Law Quarterly* 8 (1993): 161-67.

[29] See Hamid Algar's *Religion and State in Iran, 1785-1906: The Role of the Ulama in the Qajar Period* (Berkeley: University of California Press, 1969) and "The Oppositional Role of the 'Ulama in Twentieth Century Iran," in Nikki R. Keddie, ed., *Scholars, Saints and Sufis* (Berkeley: University of California Press, 1972). For a more recent study focused on the constitutional revolution in Iran, see Janet Afary, *The Iranian Constitutional Revolution, 1906-1911* (New York: Columbia University Press, 2005).

therefore ruled by constraints, bound to privileges, and rooted in a particular situation."[30] For De Certeau, as important as an individual historian's aesthetic style of writing, or even sources she uses, are the structural pressures shaping historians' efforts to reconstruct the past. De Certeau's theory of problem-space is instructive for our purposes of analyzing how a common narrative came to permeate historiography on Afghanistan, including the Amānī era. The common framework employed by historians covering this era reproduces narratives of an epic battle between "modernity" and "tradition," "progress" and "torpid, regressive habits," even "knowledge" and "ignorance." Applying Certeau's framework to Afghanistan historiography, a common narrative thread emerges from the particular problem-space of both Afghan nationalist historians and Western modernization theorists writing at the height of the cold war and decolonization movements in the "third world." Irrespective of their distinct disciplinary approaches and unique emphases in explaining the origins of tribal revolt that led to the downfall of Amir Amān-Allāh's regime, historiography of the Amānī era is largely rooted in modernization theory's dichotomous views of progressive modernity battling stubborn, "tribal" traditions. To illustrate the point, we now turn to the major classic works on modern Afghanistan in order of their publication.

The State of the Field: Historiographical Review

Afghanistan's preeminent historian from the twentieth century, Mīr Ghulām Muḥammad Ghubār (1897-1978), was the first scholar to give more than fleeting attention to the Amānī era. He was also the first academic historian to boldly argue the British orchestrated the revolution against Shah Amān-Allāh.[31] In his magnum opus, *Afghanistan dar masīr-i tārīkh* (1967) (Afghanistan through the Course of History), Ghubār argues British machinations were behind Amān-Allāh's fall by stirring religious discontent among the Pashtun tribes on both sides of the Indo-Afghan frontier, but especially on the Indian (and British-administered) side. In exploring causes for the failure of Amir Amān-Allāh's reforms, the covert and conspiratorial activities of a British Indian government hostile to Amān-Allāh Khan from the beginning of his reign therefore take center stage.

Not having access to British or Indian government files, Ghubār instead stresses British geostrategic *interests* in maintaining a weak Afghan government in Kabul and preventing a strong, independent government from taking root, speculating this led to involvement in the revolts that toppled Amān-Allāh. Apart from the methodological weaknesses of this argument without archival evidence, it is an ironic posture given Ghubār's declared goal of restoring agency to the Afghan masses in crafting a new, non-Eurocentric history of Afghanistan that restored historical agency to "the people of Afghanistan, who are the primary actors in driving

[30] De Certeau, Michel, "The Historiographical Operation," in Tom Conley, ed., *The Writing of History* (New York: Columbia University Press, 1988), 58. Describing the historical "operation" as a product of place, De Certeau goes so far as to analogize a historian's work as "akin to a car produced by a factory, [because] the historical study is bound to the complex of a specific and collective fabrication more than it is the effect of merely a personal philosophy or the resurgence of a past 'reality.'" Ibid, 64.

[31] Nawid, Senzil K. "Afghan Historiography in the Twentieth Century," paper presentation at "Great Games? Afghan History through Afghan Eyes" Conference. University of California, Los Angeles, November 22, 2011.

the historical evolution of their country" ("*mardum-i Afghanistan ke ʿāmil-i aslī takāmul-i tārīkhī kashwarānd*").[32]

When Ghubār does address internal events during the Amānī era, however, it is often to address the failure of Amān-Allāh's government to effectively balance the imperial rivalries of the British and Soviets off one another and thereby preserve Afghanistan's independence. These fallacies are then implicitly contrasted with British mastery—dependably thorough, invariably successful, and utterly complete—in accomplishing their strategic objectives in the region. British colonial conspirators thereby become the agents of Amān-Allāh's downfall, to the exclusion of internal or more long-term, structural factors. Ironically, the role of Afghans in bringing about the revolts—historical agents in their own right but in this narrative are presented as mere peons of foreign imperialism—constitutes a veritable "zone of silence" in Ghubār's work, to use Michel de Certeau's pertinent phrase. True, Ghubār admirably presents an avant-garde and sympathetic portrayal of Shah Amān-Allāh, describing him as a "revolutionary king" (*pādshāh-i inqilābī*) among other generally positive characterizations.[33] He also adopts a courageous historical stance by resuscitating and defending Amān-Allāh Khan's legacy at a time when the former king received scant attention in Afghan textbooks, historical societies, and "official" accounts of the country's modern history. By overemphasizing the plots and machinations of the king's foes across the border, however, in this particular juncture of Afghan history Ghubār still allots the lion's share of agency to the British, leaving Afghans as passive spectators in the unraveling of their destiny.

Nevertheless, Ghubār deserves much tribute for his magisterial overview of Afghan history, covering ancient to modern eras, and his contributions towards cultivating new social histories of the country that focused on "the Afghan people" or "public," as opposed to the conventional chronicles of kings and courtly life, or what he often described as the moralistic tales and "metaphysical" fables characteristic of classical Persian literary tradition. Ghubār's materialist approach no doubt stems from the influence of not only Marxist perspectives of history, but nationalist and post-colonial historiography popular in the 1960s as well. The positioning from such a historiographical problem-space is evident in his framing of a new approach to history that, in his own words, is "no longer restricted to the recording of dubious events and strange episodes in the lives of a few persons," nor "that era when man was enchanted by nature, plunged in the ocean of metaphysics."[34] Rather, per classic Marxist tradition, the "new" approach to history was to eschew culturalist and metaphysical explanations and examine human social conditions ("*sherāyiṭ-i ijtimā'ī*") for illumination "as they really are."[35]

---

[32] Mīr Ghulām Muḥammad Ghubār, *Afghanistan dar masīr-i tārīkh* (Qūm: Payām-i Muhājir, 1980), 2 (translation mine). In a passage from his discussion on the fall of Amān-Allāh Khan in the twelfth chapter, where Ghubār describes the British "enemy" as having complete mastery over Afghan civil and military society, stating "the enemy, whatever it desired to do, easily implanted it in the minds of soldiers and common person alike" ("*dushman har che meh-khāst be surʿat dar idhhān-i mardum waʿaskar meh-kāsht*"). Ibid., 823 (translation mine).

[33] Ghubār, *Afghanistan,* 813; M. Hassan Kakar, "Constitutional History of Afghanistan," *Encyclopaedia Iranica* VI (Oct 28, 2011): 158-162.

[34] Ghubār, *Afghanistan,* 1.

[35] Illustrating the author's Marxist problem-space, Ghubār's description of his "evolved" approach to history in his epic (and originally banned) text deserves quoting here:

Beyond his contributions to crafting a new genre of historical writing "*by* Afghans, *for* Afghans," perhaps Ghubār's greatest contribution to the Amānī era in his epic work *Afghanistan dar masīr-i tārīkh* is to re-center attention on the foundational achievements of Amir Amān-Allāh Khan. According to Ghubār, such achievements included Amir Amān-Allāh's path breaking vision of social reform for ordinary Afghans—particularly in the realms of education and women's rights, as well as the constitutional and administrative state structure subsequent Afghan monarchs merely grafted and built upon. This was no light historiographical breakthrough, we must add, for decades of censorship (state-imposed or self-induced) under the Muṣāḥibān dynasty of Muḥammad Nādir Shah (1929-1933) and his son Muḥammad Ẓāhir Shah (1933-1973) largely prevented any positive treatment of the dethroned Amān-Allāh Khan in the historiography of twentieth century Afghanistan, or at least relegated the "revolutionary king" to the margins.

While by far the most influential, Mīr Ghulām Muḥammad Ghubār is not the only Afghan historian writing in the twentieth century to have compiled an expansive overview of Afghanistan's past in Persian, nor was he the first. He was preceded by Aḥmad ʿAlī Kuhzād's *Tārīkh-i Afghanistan* (1946), and followed more recently in English by Amin Saikal's *Modern Afghanistan* (2006). In spite of their publication being several decades apart and utterly distinct historical junctures, or "problem-spaces", each of these works attempt to provide sweeping overviews of the country's modern history (from ancient times in the case of Kuhzād and Ghubār). As works of History with a capital "H", the author's attention is largely spent on crafting and sustaining splendid master narratives of Afghanistan's past-to-present rather than the textured and fine-grained analysis of primary source evidence that a closer study of a particular era would warrant and enable. By spanning the history of humanity, more or less, such ambitious texts also suffer from the additional weakness of overbroad framings of eras and events, as seen in the division of chapters and sub-sections in each of these works.

Nor is the aforementioned trend exclusive to Afghan historians, whether writing from within the country or among the global diaspora. The influential American anthropologist Louis Dupree's most famous work, *Afghanistan* (1973), Asta Olesen's *Islam and Politics in Afghanistan* (1995), and most recently, Thomas Barfield's *Afghanistan: A Cultural and Political History* (2010), each provide similar "textbook" accounts of Afghanistan that largely follow a similar narrative shared across the genre. Afghans begin their history, so the story goes, with the ancient nomadic Pashtuns (hailing from one of the lost tribes of Israelites, as common lore holds), the arrival of Islam with an early convert named Qays ʿAbd-al-Rashīd, a patchy commercial presence (especially involving horse-trading) in medieval Indo-Persian sultanates but also under short-lived Pashtun kingdoms in India, and finally, the establishment of an Afghan state in Qandahar by Aḥmad Shah Durrānī in the aftermath of Mughal and Safavid imperial collapse. What follows is largely a narrative of Kabul caught in a succession of "Great Game"

گرچه باسیر تکاملی جوامع بشری، طرز نگارش تاریخ هم تکامل کرده وامروز تاریخ نویسی برپایه های تحلیل وتعلیل همه جانبه قرار دارد، ودیگر تاریخ بضبط وقایع شگفت انگیز ونادرست وکارنامه های اشخاص معدودی مقید نیست. زیرا آن مرحله ای که انسان درمناظر ومرایای طبیعت واجتماع اعجاب وشگفتی جستجو کرده وبالاخر هم در دریای ناپیدا کنار ماورآی طبیعت ناپدید میگردید، گذشته است.

("In line with the evolutionary progress of human societies, the style of historical writing has also evolved, such that today historiography is based on rigorous interpretation and analysis. No longer is history shackled to the mere recording of dubious events and strange episodes in the lives of a few persons. Nor are we in that by-gone era when man was enchanted by nature, plunged in the ocean of metaphysics"). Ibid. (translation mine).

politics—first between Britain and Russia, followed by the U.S. and U.S.S.R., until the more recent imperial "free-for-all" between the neighboring states of Pakistan, India, China, and Iran, among others. Apart from their elegant prose and varying degrees of utility for a university instructor teaching a course on Afghanistan, one finds in these texts a familiar overview of the rise and fall of empires, the generic "role of Islam", and a familiar cast of characters that invariably boil down to tribes, ethnicities, mullahs, and of course, a good deal of despotic monarchs, with chapters almost universally neatly divided by the reigns of the latter.

Fortunately, with the increased interest in Afghanistan in recent decades there has been a simultaneously emergence—though less rare than the "textbook" genre described above—of more scholarly studies of particular eras in Afghanistan's modern history that employ the rigorous, fine-grained approaches of social and economic history also gaining ground in other fields of history also beginning in the late 1960s and 70s. These include, in order of publication, Ludwig Adamec's *Afghanistan, 1900-1923* (1967), Hasan Kakar's *Government and Society in Afghanistan: The Reign of Amir Abd al-Rahman* Khan (1979), May Schinasi's *Afghanistan at the Beginning of the Twentieth Century: Nationalism and Journalism in Afghanistan, A Study of Seraj ul-akhbar, 1911-1918* (1979), Robert McChesney's *Waqf in Central Asia: 400 Years in the History of a Muslim Shrine, 1480-1889* (1991), Christina Noelle's *State and Tribe in Nineteenth Century Afghanistan: The Reign of Amir Dost Muḥammad Khan, 1826-1863* (1997), and Shah Mahmoud Hanifi's *Connecting Histories in Afghanistan: Market Relations and State Formation of a Colonial Frontier* (2008). We must also add to these the unpublished but no less excellent dissertations of Ashraf Ghani and Amin Tarzi on the administrative state in Afghanistan during the ʿAbd al-Raḥmān Khan era, both of which I will be discussing in depth in Chapter 3 in particular.[36] Meticulously researched and largely drawing from rare primary sources, each of these works make nuanced contributions to the field of social and economic history of modern Afghanistan. With the exception of one, however, none of these works extend to the Amān-Allāh era (1919-1929). Adamec's work stops at 1923, which in and by itself is not so much as problem were it not for the narrow focus on diplomatic history. What is more, Adamec's work is almost exclusively based on British and American sources, a methodological weakness which is largely responsible for some erroneous assertions concerning the role of western experts in Afghanistan during the late nineteenth and early twentieth centuries, an issue we will examine in more depth in Chapters 4, 5, 7, and 8. As for the other mentioned works, they provide deeply insightful analyses of the foundational state structure built by Amirs Dost Muḥammad Khan (1826-1838/ 1842-1863) and ʿAbd al-Raḥmān Khan (1880-1901), and in Schinasi's case Amir Ḥabīb-Allāh (1901-1919), but with the obvious limit of not exploring the radical and transformative additions to (and in some cases, departures from) those state structures by Amir Amān-Allāh Khan and his Niẓāmnāmā reforms. By engaging in study that focuses on the latter project, this is the first gap in the historiography the dissertation addresses to aim. As such, I now turn to addressing the limited works of Afghan history that *do* focus on the Amānī era.

Rediscovering Afghanistan during the Amānī Era

[36] Ghani, Ashraf, "Production and Domination: Afghanistan, 1747-1901," Ph.D. Dissertation, Columbia University, 1982; Amin Tarzi, "The Judicial State: Evolution and Centralization of the Courts in Afghanistan, 1883-1896," Ph.D. Dissertation, New York University, Department of Middle East Studies, 2003. See also Ghani's "State-Building and Centralization in a Tribal Society: Afghanistan, 1880-1901," M.A. Thesis, American University of Beirut, 1977, for a skilled and perceptive analysis of rare provincial court records from Afghanistan.

Vartan Gregorian's *Emergence of Modern Afghanistan* (1969) remains the most meticulously researched work to date on the late Bārakzai dynasty of Amirs ʿAbd al-Raḥmān (1880-1901), Ḥabīb-Allāh (1901-1919), and Amān-Allāh (1919-1929). In the third of the book devoted to the Amānī era, the work specifically seeks to address and shed light on internal causes that brought about the revolt. In contrast to Ghubār's rather heavy emphasis on foreign intrigue in stirring the revolt, Gregorian prefaces his study with the astute observation that for ideological and political reasons, Afghan historians have ignored the internal factors of the revolt against Amān-Allāh. This is precisely because Afghan historians were writing in a sociopolitical context in which, as liberal reformists themselves, they were wary to portray the Afghan nation as incapable of progress or unready for modernization. On a related note, some nationalist historians did not want to focus on the British role because this might present Afghan ʿulamāʾ as puppets of foreign powers at a time when their support was crucial for legitimatizing change in the Afghan ruling dynasty.[37] The pivotal role of the historian's "place" in shaping his or her historical arguments emerges once again.

In response to the externalist thrust of nationalist historians, Gregorian strives to shed light on internal factors that produced the revolt. In particular, Gregorian focuses on Amān-Allāh's unpopular economic program, lack of a sound financial base, and failure to build a strong centralized army, police, and bureaucracy to implement his reforms. On the roots of the 1928 Shinwarī uprising, for example, Gregorian emphasizes the discontent arising from newly increased taxes placed on the peasantry.[38] Beyond exorbitant taxes and peasant discontent, Gregorian relates these institutional weaknesses to Amān-Allāh's broader problem of lacking a coherent and cohesive modernization *plan*. In this manner we get a sense of the interconnectedness of Amān-Allāh's reforms for the first time in Gregorian's work. For example, Gregorian notes, Amān-Allāh could not pursue a campaign against corruption when he was unable to pay his officers. His establishment of compulsory military service was accompanied by a special tax to cover the expenses of modernizing the army; this not only antagonized the provincial tribes, it also led to abuses where in a country with no central records or accurate census data existed, and district governors and local *māliks* were assigned the task of implementing provisions of the conscription law.[39] Gregorian alerts us to the fact that Afghan, French, and Soviet sources agree that the combined weight of taxation and administrative abuses encouraged brigandage amidst already depraved socioeconomic conditions in the countryside, including the Kohistan region directly north of Kabul, from where the brigand leader Ḥabīb-Allāh Kalakānī (derisively named "Bacha-yi Saqao", or the water-carrier's son, by his opponents and many historians) and ouster of Amir Amān-Allāh emerged in 1928-1929. Notably, the

---

[37] Vartan Gregorian, *The Emergence of Modern Afghanistan: Politics of Reform and Modernization, 1880-1946* (Stanford: Stanford University Press, 1969), 268.

[38] For example, note the following passage highlighting new economic pressures imposed on the peasantry and unleashed by the new administrative reforms,

> Amān-Allāh undertook no major socioeconomic programs, such as land reform, that might have won him the support of the peasantry. The majority of his measures dealt with urban problems. The Afghan peasants, already burdened with a variety of taxes, had to underwrite a large share of the cost of reforms that were of no real and immediate advantage to them.
>
> Ibid., 270.

[39] Ibid., 272.

interconstitutive nature of modern state-building reforms is a shared characteristic of the "nation-building" programs of Mustafa Kemal Atatürk of Turkey and Reza Shah Pehlavi of Iran. As Touraj Atabaki and Erik Zürcher have argued in their comparative study of Turkey and Iran in the same period,

> Although the original motive for the reforms was undoubtedly the desire to build an efficient European-style army, the modernization process soon spread well beyond purely military affairs. The rebuilding of the army brought with it a need for an effective centralized monopoly of power, for the development of new skills, for more efficient extraction of surplus resources, for population censuses and land registration.[40]

While Gregorian acknowledges the interconnectedness of modernizing reforms in Afghanistan, he ultimately centers his analysis on the economic failures of the Amānī regime. He pays particular attention to Amān-Allāh's haphazard spending on foreign missions and development projects that did not generate increased prosperity for Afghans in the provinces nor increased power for government officials, who often waited for instructions that never came.[41] Gregorian nonetheless assumes the *necessity* of Amān-Allāh's reforms, but criticizes his lack of an adequate plan in pursuing these goals. This can be summed up in Gregorian's point that though Amān-Allāh had a "progressive" agenda, his methods were tactless and amateur. "Only a small, enlightened elite," Gregorian asserts, "was committed to the ideal of a modern Afghanistan and to the Amir's ambitious, if nebulous, program for realizing that ideal."[42] By framing Amān-Allāh's reforms as suffering from a problem of *methods*—rather than an inherently violent extension of the state's central authority and social engineering from the top down—Gregorian still upholds the normative vision of an authoritarian, centralized state as the ideal manifestation of progress in Afghanistan. This is equivalent to assuming that *if only better methods were used*, then the recalcitrant and regressive members of Afghan "traditional" society—tribes, mullahs, and ethnic groups, we presume—would be guided to the light of modern progress. There is little questioning, in other words, of the presumption that the "progress" of highly-centralized modern state—taxing, disciplining and surveillancing subjects as Michel Foucault and James C. Scott have scrutinized from the birth of the modern prison in England and the United States to collectivization in twentieth-century Russia—might not be appreciated in areas outside Kabul and other major cities of Afghanistan.[43] The latter

---

[40] Touraj Atabaki and Erik J. Zürcher, *Men of Order: Authoritarian Modernization under Atatürk and Reza Shah* (London: I.B. Tauris, 2004), 3. The catalyzing effect of constructing a centralized army under brutally authoritarian "strong men" in nineteenth century modernization schemes is a consistent theme across and beyond the Middle East region. Khaled Fahmy's study monograph of Mehmed Ali's army in early nineteenth century Egypt, and Nile Green's study of Muslims in the British Indian army (including the crucial role of eastern Pashtuns, or "Pathans", therein) are some of the most prominent recent examples. Khaled Fahmy, *All the Pasha's Men: Mehmed Ali, His Army, and the Making of Modern Egypt* (New York: Cambridge University Press, 1997). Nile Green, *Islam and the Army in Colonial India: Sepoy Religion in the Service of Empire* (Cambridge University Press, 2009).

[41] Gregorian, *Emergence of Modern Afghanistan*, 272.

[42] Ibid., 273.

[43] Michel Foucault, *Discipline and Punish: The Birth of the Prison* (New York: Vintage Books,1995); Michel Foucault, *Society Must Be Defended: Lectures at the College de France, 1975-1976* (New York: Picador,

particularly describes the socio-legal conditions of historically autonomous and self-governing areas in the south and eastern frontiers of the country, regions that would hardly see the benefits of a strengthened relationship with Kabul, meanwhile sending their wealth to the central treasury and sons to the central army at unprecedented rates.

1973 was a watershed year for Afghanistan studies not only because of political events in the field—namely, Prime Minister Dāwūd Khan's coup and overthrow of King Muḥammad Ẓāhir Shah effectively ending the Bārakzai monarchy—but in the academy, with the publication of two major works focused on the Amānī era (1919-1929). The first, and more academic work, was Leon Poullada's *Reform and Rebellion in Afghanistan: King Amān-Allāh's Failure to Modernize a Tribal Society* (1973). Despite its adept and innovative use of British Indian archives, however, *Reform and Rebellion in Afghanistan* reflects a similar critique of Amān-Allāh's "failure*"* to build a modern secular-liberal state in Afghanistan, so evident in the work's title. Like Gregorian, Poullada shares a similar set of teleological prepositions characteristic of "Modernization Theory" in the 1960s. The work's impetus appears to stem from curiosity over Amir Amān-Allāh's "failure" to lead Afghanistan to the "next stage" of development that Afghan society is perpetually reaching for yet continually falls short: a strong, centralized, industrial state, governed by pronounced constitutional norms, also known as "the rule of law."

Unlike Gregorian's work, however, Poullada's work ups the ante of Modernization Theory's culturalist arguments in particular when it comes to explaining Amān-Allāh's fall. Instead of stressing economic weaknesses as in Gregorian's work, Poullada asserts the primary cause and blame for the rebellion—which he describes as "a tribal revolt in the classical pattern"—falls to Afghanistan's "tribal separatism and bellicosity."[44] Arguing Amān-Allāh's ill-fated modernization program "was more the victim than the cause of the revolution," Poullada's emphasis on Afghanistan's inherent "tribal society" relates to the author's larger theme of the ambitious leader's fall due to the dramatic clash between an essentialized binary of "stagnant tribal traditions" versus "modern forces of change."[45] In a representative passage on this theme, Poullada writes in his own description of the study,

> This book, then, should be of special interest to students of political modernization because its subject matter is the dramatic clash between a tradition-encrusted society, dominated by flinty and xenophobic codes of tribal politics, and an idealistic, uncompromising modernizer, whose ideas in many important respects preceded and overlapped those of better-known historical figures in neighboring countries, such as Ataturk of Turkey and Reza Shah of Iran.[46]

In making his argument, Poullada emphasizes that in both 1924 and 1928, the revolts began in the largely autonomous, tribally-governed regions of the south and east of the country, while urban areas generally did not rise in revolt, remaining loyal to the central government of Amān-Allāh khan. These are noteworthy observations that do speak to the social, political and

---

1997); James C. Scott, *Seeing Like a State: How Certain Schemes to Improve the Human Condition Have Failed* (New Haven: Yale University Press, 1998).

[44] Leon Poullada, *Reform and Rebellion in Afghanistan: King Amān-Allāh's Failure to Modernize a Tribal Society* (Ithaca: Cornell University Press, 1973), 158-159.

[45] Ibid., 159.

[46] Ibid.

ideological diversity of Afghanistan, and caution us from making generalizations about the characters of the rebellions against Shah Amān-Allāh, but they do not prove Poullada's ultimate thesis of an essentialized and ahistorical dichotomy between progressive modernists and "tradition-encrusted" Afghan society.

The second major work to be published in the same year on the Amānī era was by Rhea Stewart, a journalist by trade, whose voluminous account of the rise and fall of Amān-Allāh Khan in *Fire in Afghanistan, 1914-1929: Faith, Hope and the British Empire* (1973) provides an almost week-by-week chronology of Amir Amān-Allāh's reign that surpasses every other work on the Amānī era. It must be stated at the outset that some questions surround the authenticity of Stewart's account given the inclusion of verbatim private conversations between Amān-Allāh and his courtiers, sometimes without citation.[47] With this occasional caveat, Stewart draws from British archives and newspaper clippings in a unique and novel contribution in the level of day-to-day chronicling of events during the Amānī era and the only "micro-history" of the era in a western language. Fayḍ Muḥammad's incomplete *Tārīkh-i siyāsī-yi Afghanistan*, *Fayḍ-i fuyūḍāt*, and *Tārīkh-i ʿaṣr-i Amānīyah*, all published in Persian on select years of the Amānī era, would be the other exceptions.[48]

Rhea Stewart's work is unique in being the first major work of a non-Afghan historian to attribute ultimate blame for the fall of Amān-Allāh on British covert activities and alliances with anti-Amān-Allāh political activists. In a conspiratorial approach similar to Ghubār, early in her work Stewart draws the reader's attention to a statement made on June 4, 1919 by Sir George Roos-Keppel, the British High Commissioner in Baluchistan, who remarked "Aman-Allah has lit a fire that will take us a long time to put out."[49] In this manner Stewart prepares the reader for a narrative of British intrigue even before from the very onset of Amān-Allāh's rise to power. Theories of British conspiracy permeate Stewart's text to such a high degree that she goes so far as to cite British intrigue even behind Amān-Allāh's glamorous reception in London in 1927. The "real" reasons behind the warm welcome, Stewart argues, lay in the rumor that "the British, by making what one Briton called 'an unconscionable fuss' over Amān-Allāh, had deliberately puffed up his ego in order to speed him to his downfall."[50] She also tracks secret meetings and correspondence between Nādir Khan and the British while the former served as Afghan ambassador to France.[51] In chronicling the revolts themselves, Stewart takes note that in the wake of an armistice between Amān-Allāh and the Shinwarī rebels, one of the tribal demands was to "abolish all foreign legations except the British."[52] Stewart also notes that British surgeons reportedly treated the anti-Amān-Allāh brigand Ḥabīb-Allāh Kalakānī for wounds after

---

[47] Stewart nonetheless defends the accuracy of her study with confidence, stating in the prafce, "Everything in this book is fact. Every statement, every quoted remark can be documented and, with a few exceptions listed in my chapter notes, all are from primary sources. Rhea T. Stewart, *Fire in Afghanistan, 1914-1929: Faith, Hope and the British Empire* (Garden City: Doubleday, 1973), vii.

[48] Robert D. McChesney, *Kabul Under Siege: Fayẓ Muḥammad's Account of the 1929 Uprising* (Princeton: Marcus Wiener Publishers, 1999), 19-22.

[49] Stewart, *Fire in Afghanistan*, 1.

[50] Ibid., 399.

[51] Ibid., 428-30.

[52] Ibid., 434.

the latter sustained in battle,[53] and even casts doubt on the authenticity of the Shinwarī rebels' open letter declaring a *jihad* against Amān-Allāh, implying the "illiterate" rebels could not have written such eloquent prose in either Persian or Pashtu.[54]

In this way, similar in some respects to Ghubār, Stewart's treatment of the revolts during the Amānī era tends to focus attention on the British hand, without a careful consideration of internal factors and actors that led to the rebellions and ultimate overthrow of Amān-Allāh. In an introductory epigraph, she quotes Maḥmūd Ṭarzī—Amān-Allāh's foreign minister, personal mentor, and father-in-law—in his famous statement, "The ways of the British are inscrutable but they always seem to obtain their own ends without compromising their dignity or their honor."[55] In this manner, while critical of British imperial intervention in Afghan internal affairs, she nonetheless overstates British ability to shape historical events in that pivotal period of Afghan history. It overlooks the critical disagreements between London and Calcutta/Delhi, or the Foreign Office and India Office of the British government, on matters of policy vis-à-vis Afghanistan.

For the next two decades, including the volatile 1980s, Amir Amān-Allāh Khan and his legacy seems to have been largely forgotten in the western academy, with the notable exception of the renewed (and romanticized) Soviet interest in the reformist king, with Moscow anxious to find historical precedent for their own radical etatist agenda in the USSR's occupation of Afghanistan.[56] The next major historical work to emerge on the Amānī era was Robert McChesney's translation and commentary of Afghan court historian Fayḍ Muḥammad's account of the events leading to Amir Amān-Allāh's overthrow. In *Kabul Under Siege: Fayḍ Muḥammad's Account of the 1929 Uprising* (1999), McChesney provides a fine translation of one of Afghanistan's greatest historians, Fayḍ Muḥammad Kātib (d. 1931), and an elegant contextualization of Kātib's life, work, and prolific career as an Islamic scholar and historian. It also provides one of the most detailed and authentic accounts of a first-hand witness to the tumultuous events that toppled the Amānī regime, from the perspective of one of the late amir's most loyal courtiers. In analyzing Kātib's chronology of events, however, and this may be somewhat understandable given *Kabul Under Siege* is a translation of a primary witness account penned during the revolt, McChesney's occasional commentary dispersed through the text nevertheless produces a narrative of "culture clash" as an explanatory device in depicting Amān-Allāh's modernizing reforms as the source of the downfall of Amān-Allāh. McChesney in particular focuses on what he sees as Amān-Allāh's "failure to use and control the Islamic idiom."[57] In this way McChesney's analysis of the rebellion tends to dwell on the rhetorical field which Amān-Allāh presented his reforms, rather than addressing the political threat the Niẓāmnāmā codes constituted vis-à-vis the autonomy, legal pluralism, and independence of *different* modes of life in Afghan society outside of Kabul. For example, in another section of

---

[53] Ibid., 448-49.

[54] Ibid., 431-34.

[55] Maḥmūd Ṭarzī, on October 28, 1925, quoted in Ibid., v.

[56] For a representative Soviet history of Afghanistan from this era in translation see Urii Vladimirovich Gankovski, *A History of Afghanistan* (Moscow: Progress Publishers, 1982).

[57] McChesney, *Kabul Under Siege*, 11.

his commentary McChesney notes, that "in this *rhetorical* field, Aman-Allah's activist social policies seem particularly ill-advised" (emphasis mine).[58] The focus on Amān-Allāh's rhetorical skills tends to give the impression that the monarch lacked a meticulous knowledge of Islam or did not make frequent attempts to legitimize his reforms with Islamic idioms (or resorting to prominent ʿulamāʾ for legitimization for that matter). This culturalist approach not only tends to overlook the intense political conflicts at the heart of the revolt against Amān-Allāh's government, it also misses the dynamic rhetorical prowess of Amān-Allāh displayed when he addressed Afghan crowds en masse, as he did in the southern city of Qandahar for four consecutive weeks in autumn of 1925 for example.[59]

The most recent work to be published exclusively on the Amānī era is the Afghan-American historian Senzil Nawid's *Religious Response to Social Change in Afghanistan, 1919-29: King Aman-Allah and the Afghan Ulama* (1999). Framing her study as an examination of the understudied role of ʿulamāʾ in the revolts against Shah Amān-Allāh, Nawid's study is unsurpassed when it comes to the meticulousness and thoroughness of research using Persian and Pashtu manuscripts from the Afghanistan National Archives, India Offices records, and National Archives of India. She also deftly utilizes private family papers gathered as heirlooms and from the generosity of Afghan donors. Nawid's work argues that souring state-ʿulamāʾ relations and the determined opposition of "the religious establishment" to the reforms were the pivotal factors in Amān-Allāh's downfall. Nawid's notions of Afghanistan's "religious establishment" are problematic here given the monolithic and hierarchical connotations, a critique we will return to throughout the dissertation certainly not only referring to her work. Rather, in *Religious Response to Social Change in Afghanistan*, we are presented with a familiar progress-vs.-tradition binary and *telos* of modernization—displaying a genealogy to the aforementioned works by Ghubār, Gregorian, and Poullada—which permeates many parts of Nawid's otherwise highly informative text. At times, the narrative of an essentialized conflict between Islam and modernity is unmistakable. "Resistance to social change in the Middle East," she notes in one representative passage, "originates from the Islamic perception of law and order and epistemological view of the Qurʾan," a sweeping statement introduced in the very opening pages to the work.[60] Beyond commencing on this rather awkward note, what is more problematic is a reoccurring binary between progressive modernists and regressive "traditionalists" throughout the work, an especially problematic dichotomy given "the Afghan Ulama" are lumped, again quite universally, into the latter category.[61] This persistent binary is particularly salient in her overbroad characterization of modern Muslim movements, stating that from the mid-nineteenth century on "[e]fforts to change the medieval picture of Muslim societies

[58] McChesney, *Kabul Under Siege*, 11.

[59] See my forthcoming translation and commentary on Amir Amān-Allāh's four *khuṭbahs* (sermons) delivered in 1925, *Preaching the Rule of Law in Afghanistan: Amir Amān-Allāh Khan's Friday Sermons in Qandahar, Autumn 1925* (tentative title).

[60] Senzil K. Nawid, *Religious Response to Social Change in Afghanistan, 1919-29: King Aman-Allah and the Afghan Ulama* (Costa Mesa: Mazda Publishing Co., 1999), xvii.

[61] Here Nawid specifically refers to "The traditional groups—the ulama of the old school, the members of the sufi orders, and their mass following." Ibid.

have been met with resistance from traditional sectors, who fear the impact of change on the Islamic family structure and Islamic culture generally.[62]

In this fashion Nawid constructs a backwards monolithic Muslim bloc lagging behind the rest of the world, with progressive, western-oriented modernists leading the way forward against conservative, change-fearing "traditionalists" holding the pack back in past traditions. A progressive-regressive and modern-traditional dialectic is therefore central to Nawid's analysis of the Amānī era. As the most recent academic monograph devoted to the era, the work also speaks to modernization theory's stubborn persistence after over a half-century of historiography on the Amānī era.

New Voices, New Perspectives

Our discussion above has focused on the preeminent scholarly works on the Amānī era of Afghanistan's modern history. This is not an exhaustive list of the works on country's history as a whole, however. Notably I have omitted the recent surge in popular literature on Afghan current affairs amid the ongoing U.S. war in the country, nuclear tensions with Iran, and "drone-war" in Pakistan. Were one to even briefly scan the "Middle East" or even "Current Affairs" sections of a commercial bookstore—or browse those online—it would be difficult to miss the prolific literature generated on Afghanistan in recent years *not* discussed above. A majority of these works, generally journalistic or militaristic histories in nature, tend to dwell on the current U.S. war in Afghanistan, Osama bin Laden, Al Qaeda, and the terrorist attacks of September 11, 2001, the Taliban, and Afghanistan as the world's combined failed and narco state *par excellence*. The more historically-oriented works in this genre focus on the country's role as a site of proxy war during the Cold War, with the more critical contributions highlighting the covert U.S. role in arming and training anti-Soviet *mujāhidīn* ("freedom-fighters") in the Afghan national war of resistance following the Soviet invasion of 1979 and ensuing decade of occupation. The most famous of these works, from Steve Coll's *Ghost Wars* (2004) and George Crile's *Charlie Wilson's War* (2003) to Ahmed Rashid's *Taliban* (2001), while meticulously documented and researched, nonetheless represent a genre so focused on the recent decades of turmoil in the country and viewing Afghanistan's history through the lenses of the Cold War, that one gets the slight impression the country was founded in 1947, as opposed to 1747. (One also gets the impression that the Soviets began building the first centralized state administration in Afghanistan in 1980, as opposed to Amir ʿAbd al-Raḥmān Khan in 1880, as we will discuss in Chapter 3). More recently, literature on the rise of the Taliban (from movement, to government, to disparate movements) tends to present the former regime as the first to brutally impose an "Islamic Amirate" on the diverse population of Afghanistan in the 1990s, as opposed to, once again, Amir ʿAbd al-Raḥmān in the 1890s. Perhaps the single most widespread misconception that I encountered on contemporary literature in the field, however, was that Afghanistan's first constitution was drafted in 2003, as opposed to eighty years earlier in 1923.

If ahistorical and journalistic accounts of modern Afghanistan have lined the shelves of general audience bookstores, and Hollywood films we might add, the state of the scholarly field of Afghanistan history is not so bleak. A new generation of academic historians, anthropologists, and scholars of comparative literature have emerged to complicate, problematize, and enrich the country's historiography which has largely been grounded in

[62] Ibid., ix.

modernization theory from the 1950s to early 1970s. Nuanced and groundbreaking works such as Wali Ahmadi's *Modern Persian Literature in Afghanistan* (2008) and a forthcoming collection edited by Nile Green and Nushin Arbabzadah, *Afghanistan in Ink: Literature Between Diaspora and Nation* (2013), examine modern Persian and Pashtu literature in Afghanistan through the cutting-edge approaches of post-colonial studies, critical theory, and cultural studies. I wish to make a few remarks on Ahmadi's unique contributions in particular, and how this dissertation aims to build on the path breaking insights argued in his work.

Challenging the binary paradigm of a forward-looking modernism (read: Amir Amān-Allāh and his palace reformers) versus a stubborn, retrogressive traditionalism (read: the Afghan ʿulamāʾ) in epistemological and sometimes quite literal battle, Wali Ahmadi's work posits a more subtle portrayal of Afghan modernism and its historical agents through a series of nuanced readings of the poetry and prose of Afghan literati writing in Dari (Afghanistan's dialect of Persian) in the twentieth century. In the process Ahmadi displaces the excessive dialectical attention towards Afghan monarchs and their adversaries as the virtual engines of the country's history, opting instead for a more complex cast of characters, primarily Afghan intellectuals and literati of the twentieth century. He also identifies an ironic parallel between the literature of ethnocentric modernization theorists and the anti-colonial writers. "The study of modernism in non-Western literatures," notes Ahmadi, "often draws from an essentially binary perspective, from certain generalizations that insist on the dichotomous and inherently antagonistic relations between such abstractions as autochthonous (native) traditions and imported (Western) innovations, and assumes a view where either literary innovation irreversibly triumphs over various manifestation of *démodé* traditions, or indigenous heritage resists the penetration of some gratuitous novelty."[63] Significantly, the binary trope Ahmadi describes here is one that both modernization theorists, and the postcolonial authors writing against them in the mid to late twentieth century, largely shared in their approach to modernity in "third-world" societies such as Afghanistan. We have just discussed precisely this same binary in our review of the literature on the Amānī era.

In contrast to such binary perspectives to Afghan modernism (and its discontents), Ahmadi illustrates how Afghanistan's unique history as a non-colonial context—the modern Afghan state was not a colonial construct, nor was its government ever run by foreign administrators or native proxies until the Soviet occupation of the 1980s—rendered the already suspect binary approaches to modernity even less appropriate in the case of Afghanistan. By analyzing the uniquely modernist interventions in the literary field—and the *purposeful* union of aesthetics and politics—Ahmadi convincingly argues Afghan intellectuals in the twentieth century successfully evaded the "Manichean" paradigm of "foreign" versus "indigenous" that characterized the revolutionary thought of many other prominent anti-colonial writers and politicians in other third-world contexts in the twentieth century, from Franz Fanon to Mahatma Gandhi. Describing the limits and pitfalls of dualistic approaches to modernity, he critiques the commonplace postcolonial thesis that, if applied to Afghanistan, would hold Afghan literature to be "true" or "authentic" in so far as it was rooted in some imagined *pre-modern*, *pre-colonial*, *non-Western* self. The corollary of such a thesis, he notes, produces a one-dimensional conception of modernity, underscored by the notion that,

[63] Wali Ahmadi, *Modern Persian Literature in Afghanistan: Anomalous Visions of History and Form* (New York: Routledge, 2008), 5.

> Whatever is 'influenced' (i.e. diluted) by Western literary works and movements ought to be discarded as inauthentic and unoriginal. Since modernity is regarded as an imposed order that came about in conjunction with Western colonial encroachment and imperial domination, modernism and modernist aesthetics and poetics are also seen as alien, expressing the alienated selves of a few deracinated writers and poets who are intellectually disconnected from the masses, the vast subaltern classes, and their collective history, memory, and identity.[64]

Through a nuanced and incisive reading of the works of Afghan poets, novelists, short-story writers, and journalists writing in the twentieth century Wali Ahmadi ably demonstrates how Afghan literati, far from dualistic hybrids, lived "in a world of multiple determinations, not of single or predominant ones," effectively evading the dual polarities of anti-colonial (and postcolonial) Manichaeism.[65] Given the constraining conditions of the Cold War and the politics of polarization that beleaguered the overlapping Arab, Muslim, and "third" worlds, this was no marginal feat on the part of twentieth century Afghan intellectuals. It also partially explains Afghanistan's significant role in the non-aligned movement a few decades later in the century, a posture of "positive neutrality" that is usually attributed to the leadership of individual nationalist autocrats. The latter "great men" theories of modern history, for example, would have Afghanistan's last monarch, Muḥammad Ẓāhir Shah—and his more powerful uncles and *de facto* policy-makers, sardārs Muḥammad Hāshim Khan (1885-1953), Shah Maḥmūd Khan (1890-1959), Shah Walī Khan (1888-1977), and later Prime Minister Muḥammad Dāwūd Khan (1909-1978)—as the brave pioneers or brilliant architects of a more nuanced politics during the Cold War, joined of course by the other nationalist "father-figures" of nonalignment as Egypt's Gamal ʿAbd-al-Nasser, India's Jawaharlal Nehru, Yugoslavia's Josip Broz Tito, Indonesian president Sukarno, and Ghanian president Kwame Nkrumah. In contrast to such elite, top-down views of history, *Modern Persian Literature Afghanistan* de-centers the attention on kings and presidents to explore deeper social, cultural, and intellectual currents in Afghan society that go much further in explaining the unique historical emergence of a poetics and politics of not only non-alignment in twentieth century Afghanistan, but an intellectual cosmopolitanism and pluralistic approach to modernity by its intellectuals.

What explains Afghanistan's distinctions in this regard? Apart from the country's uniquely non-colonial features in the early twentieth century, Afghan literati averted the overt politicization and "official-conformist" co-optation of the literary field in Afghanistan by promoting, through literature, their own political visions and projects for the reformation of society that at times engaged, and other times radically critiqued—but rarely uncritically embraced—the modern Afghan state and its prescriptive reforms for society. Using Goankar's idea of "creative adaptation," or "the site where people 'make' themselves modern, as opposed to being 'made' modern by alien and impersonal forces," Ahmadi argues that a burgeoning Afghan intelligentsia from the Amir Ḥabīb-Allāh to Ẓāhir Shah eras "questioned and complicated the past heritage, explored alternative routes to cultural change, and positioned themselves as vanguards of modernity and modernization, was not along the exclusive lines of either assuming or rejecting a modern identity."[66] More specifically, through a complex process of appropriation,

---

[64] Ibid.

[65] Ibid., 6.

[66] Ibid., 20.

incorporation, and a multiplicity of visions of reform, he shows, "the main objective of the intellectuals was to reformulate a dynamic *cultural-political* agenda for a potential shift from coercive state domination to a more benign, more viable, more persuasive (and, therefore, more hegemonic) kind of infrastructural power of the modern, centralized national polity within the bounds of a civil society."[67]

In this way Afghan intellectuals, or the *rushan-fikrān* (luminaries) as they are reverentially known in Persian, promoted a sophisticated cultural-political agenda that contrasted with the brutally centralist state project of Amir ʿAbd al-Raḥmān Khan. In the process they laid the foundations of constitutionalism (*mashrūṭiyat*) in Afghanistan, the latter being defined as the goal of limiting, constraining, and regulating the highly arbitrary powers of the monarchy. By pointing to, underscoring, and cultivating pervasive consensual ties within society rather than consolidating and reinforcing the dominant state, Afghan literati and political martyrs to constitutionalism such as the early nineteenth century writer and journalist Muḥammad Sarwar Wāṣif galvanized the *rushan-fikrān* to avert the stifling "official-conformist" versus "resistance-oppositional" polarities that beleaguered so many other anti-colonial and postcolonial movements in Asia, Africa, and Latin America in the same century.[68] This dynamic and cosmopolitan class of modernist Afghan intellectuals in the early twentieth century would have lasting consequences for Afghan civil society not only by inspiring and engaging their peers and own generation of writers and political activists, but by unleashing the imaginative possibilities and ambitions of a range of students, including a young prince named Amān-Allāh Khan, and a number of other members of the Young Afghan constitutionalist party.

As we will explore in this dissertation, Wali Ahmadi's study of Afghan literati is a pioneering contribution to modern Afghanistan studies not only on its own terms, but for its contributions to inspiring the study of parallel movements and social networks forming in Afghanistan beyond the literary field. In relation to our present inquiry, my own study provides potential comparisons between the Afghan literati examined in *Modern Persian Literature in Afghanistan* and other intellectuals writing at the same period but who are *not* a focus of Ahmadi's innovative work—the jurists who participated in the Niẓāmnāmā lawmaking commission. When it comes to crafting a dynamic space of "creative adaptation", the jurists who participated in legal codification projects during the Ḥabīb-Allāh Khan but especially Amān-Allāh Khan eras share a core similarity with Afghan literati—primarily journalists, poets, and fiction-writers (including the newly emergent category of novelists) of in twentieth century Afghanistan. Indeed, in some cases as we will explore in this dissertation, the distinction between the two groups and social fields is not so obvious. Overlooking the significant and frequent overlap between both groups, the strongest parallel with the Afghan literati is evident in the jurists' resourceful, selective, and innovative pulling from a variety of models and sources for their own crowning achievement: the first constitution of Afghanistan and the over seventy associated Niẓāmnāmā codes they authored. While the jurists largely maintained a traditional South and Central Asian loyalty to the Ḥanafī school of *fiqh* (Islamic jurisprudence) which formed the legal substance of the codes, the organization, structure, and layout of the codes largely resembled Ottoman law codes such as the *Mecelle*. What is more, in spite of a robust Indian Muslim (and especially Deobandi-inspired) boycott of British judicial institutions in the

[67] Ibid., 28.

[68] Ibid., 30-31.

decades after the trauma of the 1857 rebellion in the nineteenth century, an argument can be made that the Anglo-Muhammadan "digests" of law compiled by British administrators in India with the assistance of English Orientalists but also some Muslim scholars beginning in the late eighteenth century, were also a source of comparison and reflection, if not so much inspiration, for the drafters of the Afghan Niẓāmnāmā.[69] As we will explore in Chapters 4 and 5, it is not inconceivable that the graduates of the Muhammadan Anglo-Oriental College (now Aligarh Muslim University) in Aligarh, India who served on Amān-Allāh Khan's constitutional commission in Afghanistan brought with them a thorough knowledge and awareness of, if not appreciation, of the "Anglo-Muhammadan" legal codifications used widely employed during the British Raj, albeit in decreasing frequency after the violent ruptures of the 1857 insurrection.

In this way, both groups of intellectuals—the literati and jurists, that is—shared parallels in their modernist interventions and attempts to form an authentic, modern expression of Afghan culture. Distinct in profession and habitus, they nevertheless operated in the overlapping social fields of literature and law, respectively, beginning in the Ḥabīb-Allāh era and continuing through the Amān-Allāh Khan era. At the same time, in spite of these parallels between the literati and the legal specialists, when it comes to fostering multiple modernities in Afghanistan, it must be stated that the accomplishments of Afghan writers of poetry, fiction, and journalism in the twentieth century largely superseded those of the jurists, however. That is to say, the jurists who participated in the Niẓāmnāmā constitutional and codification project—dynamic and heterogeneous as they were—were ultimately *not* as successful in averting the politicization of law and the Afghan juridical field, for a host of complex reasons. These include: the official-conformist nature of their appointments as employees of the king working on a project of state centralization, the ruptures associated with the Turkey's transition to a secular republic in 1923-1924, the sudden collapse of the Indian Khilāfat movement, and the politics of opposition in center-periphery relations in Afghanistan as well as Deobandi Islam, among other complex factors we will discuss in Chapter 5 and the conclusion.

– • –

On a broader, disciplinary level this dissertation seeks to further a de-Orientalization of Islamic law in the overlapping fields of legal history, anthropology and law and society scholarship. While Middle east and Islamic studies scholarship in recent decades has led to the shedding of the more crude, ahistorical and ideologically-driven perspectives of Islamic law as an antiquarian, medieval legal system (in the Weberian *"kadijustiz"* sense), legal scholars in the western world have still largely been reluctant, if not unable, to proceed with informative, critical, and insightful comparative analyses between Euro-American, i.e. "Western", and "Islamic" states. Arguably due to language barriers, but also fears of cultural

[69] For all the emphasis on the English "common law" tradition, British legal thinkers like Jeremy Bentham and others in the positivist school were in the forefront of novel and experimental codification projects, in no small relation to British imperial projects in India. David Lieberman, "Codification, Consolidation, and Parliamentary Statute", in John Brewer and Eckhart Hellmuth (eds.), *Rethinking Leviathan: the Eighteenth-Century State in Britain and Germany* (New York: Oxford University Press, 1999). Of course, the "codification craze" was not limited to imperial settings at this time is also evident in codification and constitutional projects in eighteenth and nineteenth century Latin America. For fascinating comparisons of "creative adaptation" of French legal codes in a non-Middle Eastern context, see Mirow, "The Power of Codification in Latin America," and "Borrowing Private Law in Latin America: Andrés Bello's Use of the Code Napoléon in Drafting the Chilean Civil Code."

incommensurability and plain disciplinary habitus, this "paper curtain" manifests most clearly in comparative law courses and textbooks where western legal scholars rarely incorporate Islamic jurisprudence into their conversations on comparative law in a manner that transcends the classic "Anglo-American common law" and "Roman civil law" dichotomy. The latter binary has been conventionally and uncritically grafted onto post-colonial Muslim states yet is one in which the complexities of diverse Islamic legal histories do not neatly fit.[70] This is especially the case when dealing with countries that did not undergo extensive colonial rule such as Afghanistan. Rather than asking the conventional question of, "Does Afghanistan follow a civil or common law tradition?," for example, a more discerning question might be to what extent does the Niẓāmnāmā project point to comparable juridical transformations taking place within a variety of nineteenth-twentieth century states—a great transformation from diffuse, flexible, collections of principles rooted in local practice to highly centralized, administrative states dispensing informal forms of justice? Studies of the rise of the administrative state in late nineteenth century French, German, and Anglo-American legal history—what Huricihan İslamoğlu and Peter Purdue have called shared histories of modernity—has not been sufficiently extended to Islamic polities undergoing comparable transformations at roughly the same time.[71]

While comparative constitutionalism is an enormous scholarly endeavor even within conventional boundaries and "area studies," this dissertation consciously limits itself to the problem of codification and constitutionalization in Afghanistan. In approaching these problems and the gaps in the literature described above, I employ a framework influenced by legal anthropologist Laura Nader and sociologist Pierre Bourdieu, one that approaches law as a profoundly political arena, in which social elites and ordinary people experience and shape legal meanings. Moreover, I am indebted to their sensitivity to issues of legal pluralism, multi-sited analyses of law creation (recognizing that what happened outside courtrooms matters just as much inside), and an eye for the politics, educational practices, and professional habitus that shape a society's law and juridical field.

Finally, this dissertation lays at the crossroads of three modern Muslim political movements of the early twentieth century: the north Indian Deobandi movement, the Young Turk revolution of the late Ottoman empire, and the underground constitutionalist activism of a highly politicized group of Afghan literati in Kabul beginning in the Ḥabīb-Allāh era (1901-1919), also known as the "Young Afghan" party. Scholarship exploring the origins and thought of these movements have offered rich but intra-national portraits of their early development in late-nineteenth century Turkey, India and Afghanistan, respectively.[72] As of yet, no work has

---

[70] This was largely my experience with the classic comparative law textbooks (or "casebooks") used in American law schools. See, for example, the coverage of Islamic legal traditions in Vicki C. Jackson and Mark Tushnet, *Comparative Constitutional Law* (2006), or Hans Schlesinger and Peter E. Herzog, *Comparative Law* (2001). The latter are two of the most popular casebooks used in comparative law courses at US law schools.

[71] Huricihan İslamoğlu and Peter C. Perdue, eds., *Shared Histories of Modernity: China, India, and the Ottoman Empire* (New York: Routledge, 2009). For a rare exception in this regard, see Huricihan İslamoğlu "Modernities Compared: State Transformations and Constitutions of Property in the Qing and Ottoman Empires." *Journal of Early Modern History* 5 (2001): 353-386.

[72] Barbara Daly Metcalf, *Islamic Revival in British India: Deoband, 1860-1900* (1982); M.U. al-Qasmi, *Dār al-ʿUlūm Deoband* (2005); Sayyid Mahbub Rizwi, *Tārīkh-i Dē'ōband* (1952); Feroz Aḥmad, *The Young Turks; the Committee of Union and Progress in Turkish Politics, 1908-1914* (1969); Selim Deringil, *The Well-Protected Domains: Ideology and the Legitimation of Power in the Ottoman empire, 1876-1909* (1999); M. Şükrü Hanioğlu, *Preparation for a Revolution: The Young Turks, 1902-1908* (2001); Elisabeth Özdalga, ed, *Late Ottoman Society:*

examined the transnational *nexus* of these currents in Afghanistan's nascent juridical field during the Niẓāmnāmā era of Amir Amān-Allāh's rule. In this manner the dissertation traces the transnational personalities and politics, the debates and negotiations, and above all, the contested visions of modernity at the heart of Amān-Allāh's Niẓāmnāmā, quite possibly the most understudied law reform project in the history of the modern Islamic world.

III
PERIODIZATION AND TERMINOLOGY

Afghanistan History Beyond Conventional Periodizations

As the historical anthropologist Eric Wolf famously critiqued in *Europe and the People Without History* (1982), classical historiographical convention—be it the chronicles of kings in the Western-European tradition, the *Sīyar al-Mulūk* in the Arabic-Islamic tradition, or the Persian *Shāhnāmā* epics—in the main tended to reduce human history to the palace lives of rulers, princes, and their family feuds. While nationalist historians writing in the late nineteenth to mid-twentieth century replaced "king" with a reified "nation", the reassessments by social historians in the late 1960s, and the interventions of cultural studies in the decades that followed, have had a profound impact on the direction of history as an academic discipline.

Yet, in 2013, with some notable exceptions, the case with Afghanistan historiography is still hardly different.[73] Most histories of Afghanistan continue to neatly splice up conventionally the country's past by ruler, beginning with the "grandfather" of Afghanistan Mīrwais Hotak Ghilzai (1673-1715) and his successful rebellion against the Safavids in 1709, the foundation of an Afghan state in 1747 by "father" of the Afghans Aḥmad Shah Abdālī/Durrānī (1722-1772), the long line of subsequent Durrānī and Bārakzai rulers until Prime Minister Dāwūd Khan's coup in 1973, on to the subsequent fragmentation of Afghanistan under the rival communist leaders Nūr Muḥammad Tarakī (1917-1979), Ḥafīẓ-Allāh Amīn (1929-1979), and Babrak Kārmal (1929-1996), and culminating with the post-Soviet presidency of Muḥammad Najīb-Allāh (1947-1996). While the Taliban's mysterious emir, Mullah Muḥammad ʿUmar (1959-?), and the current head of state, President Ḥāmid Karzai (1957-), have so far largely escaped this trend (perhaps a product of growing realizations in and outside Afghanistan that their influence is not so paramount after all), there is little indication it will be different once they, too, join the historiographical hallways of Afghanistan's "previous rulers." This scheme is especially

---

The Intellectual Legacy (2005); Wali Ahmadi, *Modern Persian Literature in Afghanistan: Anomalous Visions of History and Form* (2008), and May Schinasi, *Afghanistan at the Beginning of the Twentieth Century: Nationalism and Journalism in Afghanistan, A Study of Seraj ul-akhbar, 1911-1918* (1979).

[73] In addition to Wali Ahmadi's aforementioned work, notable exceptions in this regard include David B. Edwards, *Heroes of the Age: Moral Faultlines on the Afghan Frontier* (1996). Also see Ashraf Ghani, "Gulab: An Afghan Schoolteacher," in Edmund Burke, III and David N Yaghoubian, *Struggle and Survival in the Modern Middle East* (2006), for an exciting foray into the possibilities of writing new social histories of modern Afghanistan. Of course, any serious list of historical works on Afghanistan must also include monographs on the Indo-Afghan (and now Afghan-Pakistani) frontier. For two outstanding studies in the latter genre that also avert the conventional organization of history by Afghan rulers, see Sana Haroon, *Frontier of Faith: Islam in the Indo-Afghan Borderland* (New York: Columbia University Press, 2007), and Benjamin D. Hopkins and Magnus Mardsen, *Fragments of the Afghan Frontier* (New York: Columbia University Press, 2012).

common with historiography of the Bārakzai dynasty, with historical periods almost habitually divided into "the ʿAbd al-Raḥmān Era" (1880-1901), "the Ḥabīb-Allāh Era" (1901-1919), "the Amān-Allāh/Amānī Era" (1919-1929), and a brief "interreign" of the Kuhistani rebel Ḥabīb-Allāh Kalakānī in 1929, only to be resumed in full force by the return of the Muṣāḥibān dynasty of Nādir Shah (r. 1929-1933) and his son Muḥammad Ẓāhir Shah (r. 1933-1973).

This dissertation proposes a different scheme of periodization for modern Afghan history. In light of my research in Turkey, England, India, and Afghanistan, I am convinced a more appropriate periodization for a social and intellectual history of the Niẓāmnāmā codes and the transnational juridical nexus that authored them during the Amān-Allāh era is 1860-1923, rather than 1919-1929. The reason is that many of the sources I found in Turkey and India revealed a much earlier history of transnational legal connections being formed between India, Afghanistan, and Turkey as far back as the early 1860s (after the quelling of the Indian Rebellion of 1857), and which heralded what was to come when Amān-Allāh Khan finally declared Afghanistan's independence in 1919. The years 1924-1929, by contrast, trail the publication of the Niẓāmnāmā codes, and are marked by division, rupture, and eventual collapse of the multinational drafting commission that drafted them, rather than its continuation—even though the same ruler was in power to oversee these events.

Furthermore, by cutting across two conventional periods (the Ḥabīb-Allāh and Amānī eras), the dissertation seeks to blur these historical divisions that place excessive focus on the lives, deaths, and coronations of kings, and instead explores the *processes, networks,* and *continuities* at work in institutional projects such as the Niẓāmnāmā reforms that extended beyond the imposed boundaries of "royal time." As my research explores, the Niẓāmnāmā codes were not an invention of the Amān-Allāh court. They had earlier roots in the Ḥabīb-Allāh Khan and ʿAbd al-Raḥmān eras, with origins both in and outside Afghanistan proper. Though the culmination of the Niẓāmnāmā reforms was indeed the 1919-1923 period, the first half of Amān-Allāh's ten-year reign, the seeds were laid during the ʿAbd al-Raḥmān era.

In this manner this dissertation picks up where Amin Tarzi's excellent but unpublished study of the ʿAbd al-Raḥmān era left off. Tarzi explored the foundations of a "judicial state" in Afghanistan during ʿAbd al-Raḥmān's two-decade reign from 1880-1901, in particular the use of Islamic ideology, Sharīʿah courts, and ʿulamāʾ in his state centralization program. What Tarzi and other legal historians of Afghanistan have not explored are the more detailed and expansive Niẓāmnāmā codes drafted beginning in the Ḥabīb-Allāh era and which culminated (in scope and depth) during the first half of the Amānī era. Modeled off the Ottoman *Mecelle* and Mughal *Fatāwā Hindīyah* , the Niẓāmnāmā were in fact modern law codes—in the sense of ordered articles organized by subject area followed by the rules of law for that area of law, without lengthy juridical reasoning typical of earlier fatwā literature—that were based in Ḥanafī substantive law. Moreover, some of the most prescient questions posed by historian of Islamic law, Wael Hallaq, on modern Islamic law codes such as the Ottoman *Mecelle* and twentieth century constitutions (such as Egypt, Pakistan or Iran) have not been asked by Afghanistan historians with regard to the Niẓāmnāmā codes of Amir Ḥabīb-Allāh or Amir Amān-Allāh.

For example, to what degree do the Niẓāmnāmā codes reflect a confluence between the traditional role of the ʿulamāʾ and the new juridical professions of lawyers and state-appointed judges? What is the role, and extent, of qāḍī discretion in the Niẓāmnāmā codes? Do the Niẓāmnāmā employ *takhayyur*/*talfīq*, or eclecticism between the schools of Islamic law? How is the relationship between the central government and the administration of the *awqāf*, or Islamic charitable trusts, articulated in the codes? How is the Sharīʿah accommodated by the modern

state's monopoly of sovereignty and jurisdiction? Most of all, in the political epistemology of the Niẓāmnāmā codes, is the state subordinate to the Sharīʿah, or does the state sit on top of an in-effect dismantled Sharīʿah?[74]

As for closing the study at 1923, I am proposing a new periodization of the Amānī era that sees the 1901-1923 era as a period of continuity, with 1924 as a key turning point of rupture. 1901-1923 represents continuity because of the marshaling of a diversity of forces from Istanbul to Bombay in the name of a Pan-Islamic, anti-imperialist, modernist Eastern alliance against European imperialism. But 1924 was truly a watershed year. It included the abolition of the Caliphate in Turkey, the collapse of the Khilāfat movement in India, and the beginning of revolts in Afghanistan. The years after 1924 in Afghanistan represent the collapse of the Indo-Ottoman nexus, and Amān-Allāh's initial reconciliation with Deobandi forces in Afghanistan, only to turn courses and veer towards a Kemalist orientation in 1927, before being finally ousted in 1929. This dissertation focuses on the 1919-1923 era of the Amānī era because the 1924-1929 era represents a very different era, and one in which the Indo-Turkish, let alone Indo-Ottoman, nexus was no more.

My system of periodization is also making a historical argument about when Ottoman/Turkish assistance in Afghanistan actually began. Turkish historian Özlem Korkmaz has argued that that "Turkey's technical and educational assistance to Afghanistan began in the era of Emanullah Han."[75] As this dissertation will show, however, Turkish professional and "expert" aid to Afghanistan began earlier, though on a more individual and less systematic manner, during the late Ottoman period.

As a final note under this section, there is also a historiographical reason for the dissertation's specific temporal focus described above. After scouring the secondary literature collections at scores of American, British, Indian, and Turkish libraries, I learned that a much larger historiography exists—in English and Turkish—on Turk-Afghan relations *after* the establishment of the Republic of Turkey, and Mustafa Kemal's relations with Amān-Allāh Khan and Muḥammad Ẓāhir Shah in particular. These include a handful of books, articles and unpublished dissertations on the relationship between the leaders of these two countries from 1923 to the present.[76] This led me to conclude that we know far less about the early

---

[74] Wael Hallaq, *An Introduction to Islamic Law* (New Delhi: Cambridge University Press, 2009), 74, 101, 134-135, 141.

[75] Özlem Korkmaz, "Afganistan'a Türk Yardımı, 1920-1960." in Ahmetbeyoğlu, Ali, ed., *Afganistan Üzerine Araştırmalar* (İstanbul: Tarih ve Tabiat Vakfı Yayınları, 2001), 205. ("Türkiye'nin Afganistan'a yaptığı teknik ve eğitim yardımları Emanullah Han'ın zamanında başlamıştır.")

[76] See, for example, Bilal Şimşir, *Atatürk ve Afganistan* (Ankara: Avrasya Stratejik Araştırmalar Merkezi, 2002); Mehmet Köçer, *Emanullah Dönemi Afganistan (1919-1929)* (Istanbul: Manas Yayınları, 2009); Mehmet Saray, *Afganistan ve Türkler*. Istanbul: Edebiyat Fakültesi Basımevi, 1987; Behice Tezçakar, "Afgan Prensesi Naciye: Babam ve Atatürk Aynı Halayi Paylaştı ama İngilizler Bağımsız Afganistan İstemedi," *Atlas Tarih* 3 (Eylül 2010): 42-49; Salâhi R. Sonyel, "Kurtuluş Şavaşı Günlerinde Doğu Siyasamız: Nisan 1920-Mart 1921," *Belleten* XLI/164 (1977): 657-731; Nadire Safdari, "Atatürk ve Emanullah Han Devrinde Türk-Afgan Münâsebetleri," *Doğu Dilleri* III/4 (1983): 169-180; Akbaş, İsmail, "Afgan Kralı Emanullah Han'ın Türkiye Gezisi." *ÇTTAD* VII (2008): 311-333; Hamşioğlu, Oğuz. "Afgan Modernleşmesi ve Türkiye (1880-1933)." Ph.D Dissertation, Hacettepe Üniversitesi (Ankara), Atatürk İlkeleri ve İnkılap Tarihi Enstitüsu, 2006; Korkmaz, Özlem. "Turkiye'nin Afganistan'a Olan Yardımları (1920-1960)." M.A. Thesis, Istanbul University Edebiyat Fakültesi, Türkiye Cumhuriyeti Tarihi Anabilim Dalı, 2000; Musa, Farid Ahamad. "Atatürk Dönemi Türkiye-Afganistan Münâsebetleri ve Afganistan'ın Modernlesme Çabaları." M.A. Thesis, Süleyman Demirel Üniversitesi, Sosyal Bilimler Enstitüsü: İslâm Tarihi ve Sanatları Anabılım Dalı, 2004; Özmen, Süleyman. "Maḥmūd Ṭarzī'nin Hayatı,

development of an Indo-Ottoman juridical nexus (1857-1919) during the Amir ʿAbd al-Raḥmān and Ḥabīb-Allāh eras, and the earlier portion of Amān-Allāh's rule (1919-1923), the very eras which I will focus on in my dissertation writing.

Terminology, Historicized

On a related note, given the new periodization I am proposing of 1860-1923, I soon realized the word "Turkish" was a misnomer and anachronism in my original dissertation project title. A more historicized label would be "Ottoman," a term which stresses the centrality of the Ottoman Caliphate in the Indo-Afghan Khilāfat Movement and the repeated emphasis Indians and Afghans placed on this transnational Islamic institution in their zeal to work with their "elder brothers" from Istanbul. The Niẓāmnāmā commission's collapse following the abolition of the Caliphate in 1924—an which act which shocked so many Indians and Afghans after decades of collaboration with the Turks under the auspices of supporting the Caliphate—underscores this theory. Moreover, there are too many factions to be summed up under "Turkish", which does not speak to the diversity of actors who supported the Ottoman state and Caliphate. On the other hand, many if not most Muslims in India and Afghanistan supported the Ottomans as bearers of the Caliphate, not just fellow Muslims. There were other Muslims experiencing the depredations of colonial rule elsewhere (across Africa and Southeast Asia for example), that did not receive as much support because, apart from greater geographic distance, they did not represent the centrality of the caliphate in Indo-Afghan geo-religious consciousness. The importance of the caliphate in Indian and Afghan support for Turkey is visible in Article III of the Turco-Afghan Treaty of March 1921 and its controversial status after the Turkish Republic's abolition of the caliphate in 1924.

An even stronger case for "Ottoman" at this juncture is to be made. The titles, self-descriptions, and political identities of the "Turks" themselves working in Kabul at the time reveals a much closer affinity with being Ottoman than any ethnic "Turkishness" that was itself an embryonic concept being formed at this time and did not assume supremacy until after the Kemalist revolution years later. For example, several of the Ottoman "Turks" working in Afghanistan in the 1901-1924 were not ethnic Turks at all, including the Ottoman officer Mahmud Sami who moved to Kabul from Baghdad and became principal of the Harbiye military academy; he was an Arab from Iraq. Moreover, how are we to describe non-Turkish Ottomans in Afghanistan like ʿAbd al-Raḥmān Samdānī Peshāwarī, a Pashtun who settled in Ottoman Anatolia, or Zafer Ḥasan "Aybek," originally of Punjab, India, and a migrant to the late Ottoman state who eventually adopted Turkish citizenship after the establishment of a republic? Each of these figures, among others, illustrates the extreme fluidity and complexity of any categories we may try to label them with. Though no term fully captures the complexities of ethnic identity at this extremely fluid historical juncture, and the terms can sometimes be synonymous, the above observations have led me to utilize "Ottoman" and "Indo-Ottoman" as more historicized, less anachronistic term than "Turkish" and "Indo-Turkish" in the context of my dissertation.

İnkılapçılığı ve Faaliyetleri." Ph.D. Dissertation, Marmara University (Istanbul), Türkiyat Araştırmaları Enstitüsü. 2008.

IV
DISCIPLINES AS EMPIRES: ON METHODOLOGY AND SOURCES

(Inter)Disciplinary Approach

My findings in this dissertation shed light on the origins of Afghanistan's first constitutional commission, biographical information on its multinational members, and the sources of controversies their work generated—including debates stemming from the drafters' variant understandings of Islamic jurisprudence, social and institutional rivalries, and the politics of law in Afghanistan in the late nineteenth and early twentieth centuries. In approaching these problems, I employ theoretical frameworks of anthropologist Laura Nader and sociologist Pierre Bourdieu, viewing law as a political arena in which social elites and ordinary people experience, contest, and shape legal meanings through educational practices, professional habitus, and multiple sites of dispute resolution that together form a society's "juridical field."[77] I also employ Annelise Riles' analysis of the network "inside out" to explore the institutionalization of sacred knowledge in the social and legal history of Islam, in particular how knowledge of the law by authoritative experts—the ʿulamāʾ—is not only originated, shaped, and reified within particular societies, but also becomes a key means for the transnational circulation of Islamic juridical models across them.[78] All put together, the dissertation incorporates a two-prong approach of writing a social history of the personnel and institutions that formed the Indo-Ottoman nexus, and to a lesser extent, a doctrinal-jurisprudential history that formed the intellectual basis of the Niẓāmnāmā codes themselves. I discuss these respective theories and approaches to legal history as they arise in application in Chapters 1 and 5 in particular.

In this way the dissertation combines methodological and theoretical approaches of three disciplinary "empires": history, anthropology, and law. Within these three empires, the study specifically draws upon the "sub-disciplines" of social history, legal anthropology, and in the culminating chapter on the *Niẓāmnāmah-i Asāsī*, constitutional law. In short, the dissertation approaches legal history as *social* history. I am especially indebted in this respect to anthropologist Laura Nader's "user theory of law" and her work on juridical transformations from "face-to-face" to "face-to-faceless" societies, Pierre Bourdieu's theory of the juridical field, and Christopher Tomlins' concept of recurring social practices and norms as "legalities."[79]

---

[77] Here I am drawing from both Pierre Bourdieu's concept of the "juridical field" and Laura Nader's "user theory of law." Rather than viewing "the law" as an autonomous body of texts deduced by authorized experts, I combine these theoretical frameworks to approach law as a political arena in which social elites and ordinary people experience, contest, and shape legal meanings through educational practices, professional habitus, and multiple sites of dispute resolution that together form a society's "juridical field." Pierre Bourdieu (trans. Richard Terdiman), "The Force of Law: Toward a Sociology of the Juridical Field," *Hastings Law Journal* 38 (1987): 805-853 and Laura Nader, *The Life of the Law: Anthropological Projects* (Berkeley: University of California Press, 2002), esp. 16-17, 44-51, and 168-211. Equally important in our study is a recognition that the juridical fields of different states and societies are not markedly distinct nor self-contained, but allow for considerable (and constant) overlap, entanglement, and intertwining. As I argue in Chapter 3, this was increasingly the case with the Ottoman, Afghan, and Indian juridical fields following Ahmed Hulusi Efendi's historic Ottoman mission to Kabul in 1877-1878.

[78] Annelise Riles, *The Network Inside Out* (Ann Arbor: University of Michigan Press, 2004).

[79] Nader, *The Life of the Law*, esp. 11, 16-17, 44-51, and 168-211; Laura Nader, "Law and the Theory of Lack." *Hastings International and Comparative Law Review* 28 (2005): 191-204; Laura Nader, "Promise or Plunder: A Past and Future Look at Law and Development," *The World Bank Legal Review: Law, Equity, and Development* 2 (2006): 87-111; Bourdieu, "The Force of Law", 805-853; Christopher Tomlins, "The Many

Together, this eclectic approach is no doubt the result of gathering and synthesizing tools acquired during my long graduate training and journey, to form what legal historians, from early Americanists to late Ottomanists, have called the emergent genre of "socio-legal history."[80] As a socio-legal history, the dissertation adopts the theoretical and methodological point of departure that there is no autonomous "legal history" divorced from the lives of its agents, the tensions, the contestations as much as the conciliations, and the *messiness* that make up the life of the law in any human society. While the dissertation does incorporate aspects of intellectual history, particularly in the area of evolving doctrines within the history of Islamic law and thought, a greater emphasis is placed on the social and institutional aspects of Islamic law.

In pursuit of this socio-legal history, the design for this project comprised archival research, mainly in Turkey and India but also Afghanistan, Pakistan, England, and the United States. From 2007 to 2011, in non-consecutive periods, I completed archival and rare book library research in Afghanistan, Turkey, India, Pakistan, and Britain. The bulk of my research was spent in the Başbakanlık Osmanlı Arşivi in Istanbul, the National Archives of India in Delhi, and the India Office Records in London. My research in Afghanistan was greatly facilitated by New York University's digitization of several rare and dilapidating archival records for the years 1870-1930, which I supplemented with research in the Afghanistan National Archives in Kabul in 2011. In each of these locales I first cast a wide net, pouring through the catalogs for references to law commissions, administrative regulations, returning Afghan expatriates, and foreigners—of any nationality—who entered and exited Afghanistan between 1919 and 1923. What I uncovered in the archives, however—and a historian's perennial quandary —led me to begin our story much earlier than originally planned.

The multiple sites of research and Indo-Turkish focus arises from my focus on the transnational contributions of Ottoman Turks and Indian Muslims in the modern legal history of Afghanistan, from the aftermath of the 1857 Indian Mutiny to the promulgation of Afghanistan's

---

Legalities of Colonization: A Manifesto of Destiny for Early American Legal History," in Christopher L. Tomlins and Bruce H. Mann, *The Many Legalities of Early America* (Chapel Hill: University of North Carolina Press, 2001); *Law, Labor, and Ideology in the Early American Republic* (New York: Cambridge University Press, 1993).

[80] "Socio-legal" history is itself encompasses a broad range of approachs, from Marxist economic histories of law, most famously E.P. Thompson's *Whigs and Hunters*, to biographies of judicial personnel and administrators, to histories of the "judicial activism" (to rework a modern term) of ordinary people through examinations of urban or provincial court records. For some eminent works in the latter genre in the context of the early modern and modern Middle East, see Beshara Doumani's *Rediscovering Palestine: Merchants and Peasants in Jabal Nablus, 1700-1900* (1995) and his edited volume, *Family History in the Middle East: Household, Property, and Gender* (2003); Judith E. Tucker, *In the House of the Law: Gender and Islamic Law in Ottoman Syria and Palestine* (1998); Leslie Peirce *Morality Tales: Law and Gender in the Ottoman Court of Aintab* (2003); Boğaç A. Ergene, *Local Court, Provincial Society and Justice in the Ottoman empire: Legal Practice and Dispute Resolution in Çankırı and Kastamonu (1652-1744)* (2003). For a "socio-legal" history of the Ottoman Nizamiye courts in the late nineteenth century, see Avi Rubin, *Ottoman Nizamiye Courts: Law and Modernity* (2011).

For some of the finest examples of "socio-legal" history in the context of early American and U.S. history, see Christopher L. Tomlins and Bruce H. Mann, *The Many Legalities of Early America* (Chapel Hill: University of North Carolina Press, 2001), Peter Charles Hoffer, *Law and People in Colonial America* (Baltimore: Johns Hopkins Press, 2008); Ariela Gross, *Double Character: Slavery and Mastery in the Antebellum Southern Courtroom* (Athens, GA: University of Georgia Press, 2000); and for the nineteenth and early-twentieth century U.S., see Rebecca McLennan, *Crisis of Imprisonment: Protest, Politics, and the Making of the American Penal State, 1776-1941* (New York: Cambridge University Press, 2008). The latter study, in its magesterial history of the emergence of modern incarceration in the United States during the long nineteenth century, provides fascinating potential comparisons—and needless to say, contrasts—to the vast administrative, judicial, and "penal" state built by Amir ʿAbd-al-Raḥman in Afghanistan in the same period. We return to this theme in Chapter 3.

first constitution (and seventy-eight associated "Niẓāmnāmā" codes) under Amir Amān-Allāh Khan in 1923. It also stems from the primary source documents on Afghan legal history already in my possession from before even leaving the United States. A word is now in store on the types of sources utilized in the dissertation.

Rediscovering Afghanistan: The Hunt for New Sources

Following a quarter-century of nearly continuous and largely externally-driven conflict, plunder, and civil war, one would hardly expect Afghanistan's marvelously rich archaeological sites, artifacts, and historical archives to be an enviable condition when I first began conceptualizing this project in 2004. And they were not. In 2005, however, an auspicious development for Afghanistan studies took place when New York University launched the Afghanistan Digital Library (ADL) Project. With the generous support of the National Endowment for the Humanities, this particular project is a massive endeavor to digitize endangered collections in the Afghanistan National Archives (ANA) in Kabul.[81] This follows other archaeological and historical preservation projects launched by foreign governments and non-profit organizations, but also private entrepreneurs, in countries as diverse as France, Japan, India, China, Iran, and the United States.

Fortuitously, the ADL documents for the period I am focusing on—roughly 1870 to 1930—are voluminous, with much spared from the destruction, theft, and neglect of three consecutive decades of war. The original documents are divided between repositories in the ANA, the Bobst Library at New York University, and the Arthur Paul Afghanistan Collection at the University of Nebraska, Omaha—the largest repository of original documents from Afghanistan in the United States (and according to some, anywhere outside Afghanistan). The manuscripts for this period are copious and include civil and criminal law codes, commercial treaties, as well as a broad range of government-issued reports, including procedural manuals for judges, educational syllabi for school administrators, and detailed bureaucratic and military reforms. They are almost all handwritten manuscripts, elegantly drafted mainly in Dari (Persian) but occasionally Pashtu, with a handful in Arabic, Ottoman Turkish, and Urdu. Thanks to the fine work of the ADL project, nearly all these documents have been electronically scanned and are available to researchers anywhere in the world. These documents formed the initial basis of my dissertation research.

What we do not find in this fantastic archive, however, are documents shedding light on the social, institutional, and intellectual history of the Niẓāmnāmā commission, including biographical information on its members, their extensive links to educational or bureaucratic networks in India and Turkey, and personal writings pertaining to important debates of the time. These questions have led me to India and Turkey as the richest repositories of information not only on Afghanistan and the Niẓāmnāmā in the 1920s, but on the vibrant, transnational debates on "Islam and modernity" fomenting in the background of this formative juncture. As one of the only independent "Islamic states" after World War I, Afghanistan played an important role in elite policy debates and popular anti-colonial discourse alike across the Muslim world, but exceedingly so in late Ottoman Turkey, the early Turkish Republic, and British India.[82] With

[81] See the Afghanistan Digital Library project website, available at http://afghanistandl.nyu.edu/index.html.

[82] Among the numerous reasons for Afghanistan's prominence in the Indo-Turkish press during World War I, immediate aftermath, and especially during the early 1920s were several Ottoman delegations to Kabul (most

roots in the geopolitical shakeup following the 1857 Indian Rebellion and 1877-1878 Russo-Ottoman War, the making of an Indo-Ottoman nexus in Afghanistan took shape in the context of a reformulation of the Porte's late-nineteenth century foreign policy with regard to Asia and the greater Islamic world. What the roaming international ideologue Jamāl al-Dīn "al-Afghānī" (1839-1897) espoused in the literary and rhetorical fields with his message of Pan-Islamism, Ottoman Sultan Abdülhamid II (r. 1876-1909) attempted to implement in policy by forging more concrete links with mostly Muslims in Asia under Russian, but especially British rule. This "Indo-Ottoman" nexus peaked under the famous Khilāfat Movement of 1919-1924, when Indian Muslims launched a vigorous campaign against the Allied partition of Ottoman territory and mustered support for the Turkish war of independence, including via clandestine meetings and correspondence with Young Turk officers in Kabul.

Still unexplored, however, are the collaborations (and tensions) between Ottoman and Indian *juridical* between these two periods of time, and their dialectical relationship in shaping a rule of law in the newly independent Afghan state. For these reasons archival research in Turkey, England, India, and Afghanistan was crucial to mapping early Indo-Turkish influence in Afghanistan's constitutional development, as well as the vibrant, transnational debates of Islamic modernism generating at this formative time. What is more, it is only through cross-referencing these archives' holdings against each other that a more complete and balanced picture of transnational connections emerges. As such, I designed a multipronged research plan to gather sources from a variety of archives and perspectives.

Research Design, and Findings

In pursuit of these inquiries, from July 2010 to July 2011 I conducted archival research in Turkey, England, India, and Afghanistan with the generous support of the Social Science Research Council's (SSRC) International Dissertation Research Fellowship, the Council on Library and Information Resources' (CLIR) Mellon Dissertation Fellowship in Original Sources, the Council of American Overseas Research Centers' (CAORC) Multicountry Research Fellowship, and the American Research Institute in Turkey (ARIT)'s Dissertation Fellowship in the Humanities. I also benefitted from the support of the UC Berkeley Department of History who provided supplemental funding for my research in Pakistan, and the pre-dissertation support of the Berkeley Empirical Legal Studies fellowship from the Center for the Study of Law and Society at UC Berkeley School of Law.

The bulk of my research is based on records and manuscripts gathered from Istanbul, Ankara, and Delhi, followed by London, Kabul, and Karachi. The aim of my research abroad was to gather the primary sources for composing an unwritten history: the transnational role of Ottoman Turks and Indian Muslims in the drafting of the Afghan Niẓāmnāmā codes, a constitutional and administrative reform project commissioned by Amir Amān-Allāh Khan, king of Afghanistan from 1919-1929. The questions driving my research focused on identifying the members of the Niẓāmnāmā law commission, investigating their educational and professional

---

notably led by Cemal Paşa and Enver Paşa), over 60,000 Indian Muslims migrating to Afghanistan in the famous Hijrat movement of 1919-1924, and Turkish ties to anti-colonial politics in India via Kabul. See M. Naeem Qureshi, *Pan-Islam in British Indian Politics: A Study of the Khilāfat Movement* (1999); Diedrich Reetz, *Hijrat: The Flight of the Faithful, A British File on the Exodus of Muslim Peasants from North India to Afghanistan in 1920* (1995); R.K. Sinha, *The Turkish Question: Mustafa Kemal and Mahatma Gandhi* (1994); Kemal Oke, *The Turkish War of Independence and the Independence Struggle of South Asian Muslims (*1991).

backgrounds, and analyzing the doctrinal debates and controversies arising from their work. In pursuit of these inquiries, from July 2010 until late June 2011 I conducted fieldwork at eighteen archives and libraries in Turkey, England, India, and Afghanistan. On the whole, fieldwork was extremely productive and the results exceeded my expectations; documents I collected and examined are vast in scope as they are rich in detail. My findings shed light on the origins of Afghanistan's first constitutional commission, biographical information on its multinational members, and the intense controversies their work generated—including debates stemming from the drafters' variant legal training and understandings of Islamic jurisprudence, social and institutional rivalries, and the politics of law in Afghanistan at this time. What is more, the archival work has helped me unearth a deeper history of educational and juridical links between Ottoman Turkey, British India, and Afghanistan as early as the 1860s, which I argue laid the foundations for Amān-Allāh Khan's path breaking project decades later. Below is a review of the major findings in each locale where I conducted archival research.

Istanbul, Turkey

By far, the Prime Ministry Ottoman Archive (*Başbakanlık Osmanlı Arşivi*, or "BOA") in the Sultanahmet district of Istanbul hosted the richest collection of sources relevant to my research topic in Turkey. I began by casting a wide net, gathering documents even remotely relevant to a study of Ottoman and Indo-Afghan relations. Over time I honed in on administrative reforms, the codification of law, and all Turks who traveled to Afghanistan. In sum I accessed over 730 *belgeler*, or indexed files, each containing original manuscripts in Ottoman Turkish usually organized by a single theme, person, or event. The nearly 1200 documents I studied included Istanbul's diplomatic correspondence with Afghan rulers, reports from delegations to Kabul, sponsorship of itinerant scholars, sufis, and hajj pilgrims from Afghanistan, surveillance of Afghan princes' travels and intelligence on Muslim agitation against British rule in India, as well as original drafts of the 1869-1876 Ottoman *Mecelle* (Civil Code) Commission's work. The majority of documents I read were in Ottoman Turkish, with a handful in Persian, Arabic, and Urdu.

While I spent the majority of time in Istanbul at the BOA, I also made frequent research trips to the Centre for Islamic Studies (*İslam Araştırmaları Merkezi,* or "İSAM") in Üsküdar, the Research Centre for Islamic History, Culture and Art (*İslam Tarih, Sanat ve Kültür Araştırma Merkezi*) in Beşiktaş, and Beyazit State Library (*Beyazit Devlet Kütüphanesi*). İSAM was particularly useful for its excellent collection secondary sources in Turkish, Persian, and Arabic, as well a number of Young Turk memoirs. The highlight of this library, however, was its rare and voluminous collection of Istanbul Şeriat court records, dating as far as the fifteenth century and continuing until the early twentieth century.

Beyazit Library adjacent to Istanbul University provided the single best collection of Ottoman and early Republic newspapers in Turkey. Of particular value were articles on Indo-Afghan affairs from Ottoman newspapers *Sebîlürreşad*, *Şura-yı Ümmet*, *İkdam*, *Vakit* and *Takvim-i Vekayi*, each a primary source casting light on Ottoman official and public perception of events in these countries in a transformative moment and fluid political context.

Ankara ,Turkey

Though based in Ankara and containing mostly documents *after* the establishment of the Turkish Republic in 1923, to my surprise a number of Ottoman period documents surfaced in my searches at the Republican Archive (*Başbakanlık Cumhuriyet Arşivi,* or "BCA"), symbolically blurring the divisions between eras that historians have conventionally held to be so marked by radical rupture. This archive was also useful for my project in its coverage of Turk-Afghan relations during the early stages of the Republic.

Also in Ankara, the Turkish Historical Society (*Türk Tarih Kurumu,* or "TTK") contains two divisions, a public library and a private archive. The library contains an excellent collection of Turkish secondary literature on Turkey's relations with India and Afghanistan. Similar to TTK, the Institute of the History of the Turkish Revolution (*Türk İnkilap Tarih Enstitüsü,* or "TİTE"), is also divided into a library that houses secondary sources and a special archive holding original primary sources. The latter included letters of Mustafa Kemal, Enver and Cemal Paşas, and other Young Turk officers who visited Afghanistan. I also researched at the National Library of Turkey (*Milli Kütüphane*), reputed to be the largest in Turkey, primarily for its vast collection of secondary sources—a number of useful books and periodicals I found here I could not find anywhere else in Turkey, including copies of Kabul's *Amān-i Afghan* newspaper from the early 1920s.

Once I completed my research at the specialized research institutes above, I moved on to three eminent faculties on Ankara University's sprawling urban campus, each located in entirely different neighborhoods of the capital city. First, the Faculty of Languages, History and Geography (*Dil, Tarih ve Coğrafya Fakültesi***)** proved to have an exceedingly rich, and rare, collection of holdings of secondary and even primary sources on Afghanistan in the nineteenth and twentieth century. Among the latter was a rare book in Ottoman Turkish on the Anglo-Afghan war of 1919, a photo diary of the joint German-Turk delegation to Afghanistan during World War I, and the memoir of a nineteenth-century Ottoman emissary to India and Afghanistan. The second department I researched in at Ankara University was the Faculty of Political Science (*Siyasal Bilgiler Fakültesi*). Relevantly, this was the successor institution of the Ottoman *Mekteb-i Mülkiye Şahane* (Imperial School of Administration) founded in 1859 during the high tide of the Tanzimat reforms, and the *alma mater* of a large number of prominent Ottoman bureaucrats and reformers. As the Republican successor to the most prestigious institution for training late Ottoman bureaucrats in Istanbul, this trip proved worthwhile because near the director's office was a mini-museum with photos of the older school's campus in Istanbul, student grade reports, daily class schedules, and textbooks. These documents offer further insight into the training of Ottoman bureaucrats, including a graduate of a *Mülkiye* high school in Istanbul who later in his life traveled to Afghanistan and served on the Niẓāmnāmā commission in Kabul, and he was not alone in this respect. In this way, a study of the *Mülkiye* sheds light on the education and habitus Turkish judicial officers brought to the Niẓāmnāmā project in Afghanistan.

The third department I visited at Ankara University was the Faculty of Theology (*İlahiyat Fakültesi*), where I discovered a small number of Ottoman-era sources on the history of Afghanistan. As Ankara University was founded in the aftermath of Mustafa Kemal's staunchly secular and étatist revolution, I could not help but imagine what kinds of new visions for religion in society were articulated from these very classrooms, or were debated in the hallways, of this particular department a few decades short of a century ago. As for the books I found, given the friendly relations the Turks began to resume with the Afghans in the 1930s and 1940s after a temporary lull in mid-1920s, it was not surprising to find works on Afghanistan in this library. It

did leave me wondering, however, with what intentions, pre-conceptions, and motivations did young students of Theology in the early Turkish Republic approach a study of their co-religionists in Afghanistan.

Towards the end of my stay in Ankara I visited the recently-opened archive of the Turkish Red Crescent Society (*Türk Kızılayı Derneği*). Founded in 1868 as one of the world's first international humanitarian organizations, the Red Crescent Society (original name: *Hilal-i Ahmer Cemiyeti* in Ottoman Turkish) is the Turkish counterpart to the Red Cross. The documents I studies dealt with prisoner exchange negotiations between the Allies and Ottoman forces during World War I, including Red Crescent correspondence with British and French military authorities in Iraq, Egypt, and the Levant, but also India, where many Ottoman prisoners were being held. The Red Crescent Society was a key means Indians and Afghans demonstrated their support for the Ottoman state through material means, especially during the Balkan Wars, World War I, and on through the Turkish War of Independence. These sources document fundraising meetings and donations throughout major cities of India and Afghanistan, illustrating concrete transnational connections between Turkey, Afghanistan, and India at a pivotal moment of transformation in the histories of these states.

London, England

At the India Office Records division of the British Library in London, I explored British colonial records on Turkish and Indian links with Kabul during the reign of Amir Ḥabīb-Allāh (1901-1919) and Amir Amān-Allāh (1919-1929). I specifically searched for the activities of Indian intellectuals, journalists and political activists operating in Afghanistan during the Ḥabīb-Allāh and Amān-Allāh reigns, while also seeking a broader scope of the dynamic and ever-changing contours of Indian, Afghan and Ottoman relations during the early twentieth century. In particular, I focused on British Indian government files dealing with Afghan and North-West Frontier affairs, as well as Indian and British newspaper coverage on Young Turk and Indian Muslim activity in Afghanistan from 1919-1929. I also explored the British Library's collections of documents, including law codes, published by the Afghan government during the reign of Ḥabīb-Allāh and Amān-Allāh.

The documents I focused on during my research in London included original copies of Niẓāmnāmā law codes published from 1921-1926. Though I already have access to most, if not all, of the Niẓāmnāmā codes through the Afghanistan Digital Library as mentioned in my project proposal, examining these hard copies allowed me to cross-reference the codes listed in the digital archive with those held by the British Library, thereby indicating whether any codes were missing in the digital library. I also found documents on Indian and Indian-trained members of the Niẓāmnāmā commission, school textbooks issued during the rule of Amān-Allāh Khan, British intelligence on Indian Muslim and Turco-German activity in Afghanistan and the North-West Frontier (especially during World War I and immediately after), and British diplomatic correspondence with Amir Amān-Allāh's new government.

Delhi, Aligarh, and Deoband, India

While in India I devoted the majority of time to research at the National Archives of India in New Delhi, followed by the three of the most influential centers of north Indian Muslim

thought and activism from 1867-1924: Dār al-ʿUlūm Deoband in Saharanpur, Aligarh Muslim University in Aligarh, and Jamia Millia Islamia in Delhi.

The National Archives of India (NAI) was particularly useful for its British Indian Government files of the Foreign and Political Department on Afghan and Ottoman ("Turkish Arabia") affairs. Of reoccurring interest were British Indian records on Ottoman links with India and Afghanistan, travelers to Afghanistan, competing jurisdictional claims between the British and Ottomans concerning Afghans living or traveling outside Afghanistan, and Pan-Islamism. I first checked the annual indexes for years 1867-1924, and followed up with closer reads of all files pertinent to Afghan-Ottoman relations. In the Home Department records, I examined files on the elimination of qāḍī courts in the 1860s and the vigorous political activity of Indian Muslims struggling to maintain judicial autonomy thereafter.

The Mawlānā Azād Library at Aligarh Muslim University was undoubtedly the best library I visited in India. The organization of material was excellent, and library staff were extremely helpful. I gathered several sources on Indian Muslim and Afghan affairs for my period. Of particular value was an original yearbook from Dār al-ʿUlūm Deoband college, an unprecedented find until I visited Deoband itself the following week. At the historic Dār al-ʿUlūm Deoband college I focused on two departments: first, the Dār al-ʿUlūm Deoband Records Office (*Muḥāfiẓ Khāne*), where I read yearbooks (*Rū-dād-i Sālānah*) for the years 1336-1345 H (1917-1927 CE). These journals contained student records (attendance and grades!), highlights from the academic year, and community news. Secondly, I examined the Main Library's collection of Urdu works on the history of the college and Indian works on the Ottoman Caliphate in particular. The most memorable part of my stay here, however, was witnessing the bustling campus life of an institution that take pride in preserving a traditional curriculum that produced some of India and Afghanistan's most influential scholars of Islamic law, theology, and spirituality since its founding in 1866.

Kabul, Afghanistan

The documents I accessed at the National Archives of Afghanistan (ANA) included original copies of Niẓāmnāmā law codes, but these were already available to me at the Afghanistan Digital Library and in the India Office Records in London. In another section of the archive I examined the glass displays of original documents from the Amānī era, including letters and imperial *fīrmāns* of Amān-Allāh Khan. Most important, I was given a tour of the historic archival building, originally built in 1892, and in 1909 housed the *Mekteb-i Harbiye*—the Ottoman-styled military academy where Amān-Allāh Khan himself studied as a young prince and forged his first relationships with Ottoman instructors in Kabul. This is probably the most prominent example of a sparse but still-visible Ottoman architectural influence in Afghanistan, the other being the *Shah Do Shamshīra* mosque along the Kabul River in central Kabul, a grand edifice built during the Amān-Allāh Khan era and bearing striking resemblance to the late Ottoman-era *Ortaköy Camii* near the Bosphorus Bridge in Istanbul.

On a somber note, I do believe it would be callous and inhumane to introduce my dissertation and proceed to archival "findings" without mentioning the tragic circumstances surrounding my last trip to Kabul. As the last stop of my International Dissertation Research Fellowship, I had arrived to complete the final stage of my Social Science Research Council-sponsored research at the ANA in summer 2011. On the evening of June 28, the InterContinental hotel in which I was staying was attacked by heavily-armed militants. By the

end of the night, 21 people were killed, the majority Afghan civilians. I barely escaped alive to be doing anything today, let alone finishing a dissertation. No doubt these horrific events cast a shadow over my research in Afghanistan, and an otherwise extremely productive year of fieldwork in Turkey, India, and India, but more importantly—my ardent hopes for a stable, peaceful, prosperous and free Afghanistan—for Afghans, by Afghans. I could write volumes about this harrowing experience—my shock, my dismay, and other human emotions, but this is a topic for another forum and which I have briefly written about elsewhere.[83] Furthermore, rather than selfishly fixating on my own ordeal, it suffices to say here that these tragic and unjustifiable events reflect the unquantifiable losses, suffering, and trauma of far too many ordinary Afghans for the past three decades. In spite of premature assessments (and preparations) to the contrary, Afghanistan remained a war-zone when I first conceptualized this project as a law student interning for a judicial reform agency in Kabul in 2004, and alas, as I proceed to complete it as a doctoral dissertation eight years later.

– • –

Too often dismissed as a peripheral borderland of empires, states, and now area studies, Afghanistan was a center of transnational Islamic debates about constitutionalism, citizenship, and what it meant to be a modern Muslim in the 1920s. Challenging conventional narratives of the rule of law as an exclusively secular-liberal tradition, Western import, or colonial transplant, the dissertation examines the twentieth century's first movement to constitutionalize Islamic jurisprudence in a modern nation-state, establishing a bold precedent for Muslim modernism in power decades before the creation of the better-studied "Islamic Republics" of Pakistan and Iran, and the conservative Muslim monarchies of Saudi Arabia and the Gulf states, Jordan, and Morocco. As a "socio-legal" history of Afghanistan's first constitutional movement, the dissertation identifies and historicizes the social, political, and intellectual strands that formed not only the Young Afghan constitutional movement, but the diverse group of scholars and bureaucrats who attained prominence during Amir Amān-Allāh's Niẓāmnāmā reforms.[84] Because most historical works on the Amān-Allāh Khan period are based on British diplomatic records, or the observations of other European representatives in Kabul, such "internal" perspectives have been elusive in the historiography. As Mardin notes in his pioneering social and intellectual history of the Ottoman constitutional era, "such avenues of research have the obvious disadvantage of not bringing into relief the stresses and strains, intellectual, social and cultural, which throughout the change were felt by the Ottomans themselves."[85] As outlined in the above historiographical review, the same can be said for the Ottomans, Indians and—above all—Afghans who participated in building Afghanistan's juridical field during the "long" nineteenth century.

A driving motivation of this project is therefore to address an important lacuna in our understanding of Muslim modernism and the evolution of Islamic law in the nineteenth and

[83] Faiz Ahmed, "The Forgotten Anniversary: 10/7 and America's Longest War," *Jadaliyya* (October 2011).

[84] The dissertation in this sense shares similarities with Şerif Mardin's social and intellectual history of the Young Ottoman movement and first Ottoman Constitution of 1876. See Mardin, *Genesis of Young Ottoman Thought,* 3.

[85] Mardin, 5.

twentieth centuries, while cultivating more historical and transnational approaches to the emergence of modern constitutionalism, state-building and nation-building, and "rule of law" discourse in the Middle East, South Asia, and our world at large. If I have inspired other students and scholars of not only Afghanistan, the Ottoman empire, and South Asia—but also legal history, comparative constitutionalism, and the anthropology of law/law and society studies—to pursue further research in any of these overlapping and intertwining fields, then I will have at least partially succeeded in my endeavor already.

CHAPTER ONE

The Power of Precedent

Islamic law and expert authority from Madīna to early modern, 622-1675

> [T]he very concept of the rule of law underlying our own Constitution requires such continuity over time that a respect for precedent is, by definition, indispensable.[1]
>
> - Supreme Court of the United States of America (1992)

> [W]hile changes in customs and usages are things intrinsically difficult for people to accept, viziers and officials overstepped the Şeriat and plunged head over heels into European ways. They geared themselves to European life in all respects whether necessary or not, and the people were shocked by those excesses.[2]
>
> - Ahmed Cevdet Paşa (1822-1895), Ottoman jurist, historian, and Minister of Justice

> **social contract.** The express or implied agreement between citizens and their government by which individuals agree to surrender certain freedoms in exchange for mutual protection; an agreement for mutual protection; an agreement forming the foundation of a political society.[3]
>
> - *Black's Law Dictionary* (2001)

– • –

Between the sixteenth and eighteenth centuries three states ruled over vast swaths of the contemporary Middle East and North Africa, Central Asia, and South Asia: the Ottoman empire in the eastern Mediterranean, the Safavid empire in Iran, and the Mughal empire in India. Agrarian-based and structurally similar, for over two centuries these three Muslim dynasties of Turko-Mongolian origin ruled extremely diverse and heterogeneous territories with a combined population of between 130 and 160 million people.[4] What is more, together these three Muslim

[1] Justices O'Connor, Kennedy and Souter (jointly), *Planned Parenthood of Se. Pa. v. Casey*, 505 U.S. 833, 854 (1992).

[2] Ahmed Cevdet Paşa, *Tarih-i Cevdet, VIII* (İstanbul: Matbaa-i Osmaniye, 1309 [1891/92]), 147-148, quoted in Şerif Mardin, *The Genesis of Young Ottoman Thought: A Study in the Modernization of Turkish Political Ideas* (Syracuse: Syracuse University Press, 2000), 170.

[3] *Black's Law Dictionary*, *2d. pocket edition* (St. Paul: West Publishing Co., 2001), 651.

[4] Stephen F. Dale, *The Muslim Empires of the Ottomans, Safavids, and Mughals* (New York: Cambridge University Press, 2010), 1-2. For a concise overview of the shared Turko-Mongolian statecraft and fusion with

empires governed much of the twentieth and twenty-first century's most restive and conflict-ridden areas—from the Indo-Burmese frontier in the east to Algeria in the west, from the Balkans in the north to the Sudan in the south—under conditions of relative stability and civil order unmatched in scope and duration.[5] Yet, when it comes to the relations between these states and the diverse peoples within them—or Pan-Islamism, to use a conventional term—historiographical emphasis has largely been placed on grand military alliances and diplomatic correspondence between these three Muslim "super-powers" of the early modern era. Such narratives privilege the role of Ottoman, Safavid, and Mughal sultans or shahs, and their legions of subordinate—and often not so subordinate—princes.[6] Correspondingly, in the late nineteenth century and colonial eras, almost exclusive attention is devoted to radical ideologues and self-styled ambassadors, such as the Pan-Islamist politician and international extraordinaire, Jamāl al-Dīn "al-Afghānī" (1838-1897). Meanwhile, while recent decades have seen growing attention to social and cultural histories across the early modern Muslim empires—particularly the role of pilgrims, merchants, and sufi orders (*ṭarīqas*)—less scholarly attention has been devoted to the shared legal histories and jurisprudential worlds between these three Muslim empires.[7] Few studies have considered the question in depth, for example, how the famed Arab globetrotter extraordinaire Ibn Baṭūṭa (1304-1369) could travel from Morocco to China during the early Ottoman and Mamlūk periods, serving as a *qāḍī*, or judge of Islamic law, in distant lands he had never visited before, using only his knowledge of the Arabic language and Islamic jurisprudence

---

Islamic jurisprudence, see Cornell H. Fleischer's chapter "The Turkic and Mongol Heritage," in *Bureaucrat and Intellectual in the Ottoman empire: The Historian Mustafa Âli, 1541-1600* (1986), 273-292.

[5] Some may consider a fourth major Islamic empire contiguous to region to be the Uzbek khanates of central Asia. In comparison to the aforementioned three empires, however, the khanates can hardly be considered a singularized empire, but rather a federation of autonomous princely states. They also significantly differed in political and economic organization. See, e.g., Marshall Hodgson, *The Venture of Islam, vol 3: The Gunpowder Empires and Modern Times* (1974), 226-227 and Ira Lapidus, *A History of Islamic Societies* (1988), 784-815. For an in-depth study of Muslim sociopolitical movements, Pan-Islamism and Pan-Turkism under Czarist and Soviet Russia in nineteenth and early twentieth century, see Adeeb Khalid, *The Politics of Muslim Cultural Reform: Jadidism in Central Asia* (1998).

[6] For example, see the pioneering and meticulous transnational research of Azmi Özcan, who laid the scholarly foundation for Pan-Islamism as a historical field in *Pan-Islamism: Indian Muslims, the Ottoman and Britain (1877 -1924)* (1997). Özcan's study is one of the first to use Ottoman, British and Indian archives in conjunction, though the bulk of his documents are in Turkish. For Mughal-Ottoman relations in the early modern period, see Naimur Rahman Farooqi, *Mughal-Ottoman Relations: A Study of Political & Diplomatic Relations between Mughal India and the Ottoman empire, 1556-1748* (2009). Early twentieth century studies in Pan-Islamism have largely focused on Into-Turkish relations in the aftermath of the first world war, and in particular, the Indian Khilāfat Movement. See Naeem M. Qureshi, *Pan-Islam in British Indian Politics: A Study of the Khilāfat Movement*, *1918-1924* (1999); Gail Minault, *The Khilāfat Movement: Religious Symbolism and Political Mobilization in India* (1982); and A.C. Niemeijer, *The Khilāfat Movement in India, 1919-1924* (1972). For a broader lens focused on Muslims active in the Pan-Asian movement, see Cemil Aydin, *The Politics of Anti-Westernism in Asia: Visions of World Order in Pan-Islamic and Pan-Asian Thought* (2007).

[7] For a sample of insightful works in this field, see Suraiya Faroqhi, *Pilgrims and Sultans: The Ḥajj Under the Ottomans, 1517-1683* (1994); Dale F. Eickelman and James Piscatori. *Muslim Travelers: Pilgrimage, Migration, and the Religious Imagination* (1990); and Alexandre Papas, Thomas Welsford and Thierry Zarcone, eds., *Central Asian Pilgrims: Ḥajj Routes and Pious Visits between Central Asia and the Ḥijāz* (2012), especially Hamid Algar's chapter, "*Tarîqat* and *Tarîq*: Central Asian Naqshbandîs on the Roads to the Haramayn," 21-135.

along the way.[8] Even with our extraordinary technological advances in transportation and communications, modern notions of political sovereignty and ethno-nationalist chauvinism would render Ibn Baṭūṭa's juridical feats almost unthinkable today.

Nor should we be misled that the circulation of individuals, texts, and ideas was a product of modern advances in technology and communications (though as we will see in Chapters 4 and 5, they played a role in increasing the intensity and reach of traffic between Muslim states during the nineteenth and twentieth century). As Stephen Dale has noted, the circulation of people was part of everyday life in the early modern Ottoman, Safavid, and Mughal empires,

> Muslims in these contiguous empires jointly inherited political, religious, literary, and artistic traditions, and their shared inheritance was reinforced by the circulation of individuals along well-established and protected trade routes linking Istanbul with Isfahan and Delhi. Merchants, poets, artists, scholars, religious vagabonds, military advisors, and philosophers all moved with relative ease along the caravan routes and across political boundaries.[9]

Notwithstanding the extreme linguistic, cultural, and geographic diversity of the lands falling within the aforementioned empires, comparative social histories of these "Sharīʿah societies" would yield rich results by inverting the top-down attention on elite Muslim courts and palace life in order to learn more about the lives of ordinary people in cultural milieus as diverse as Morocco, the Balkans, Iran, and India. In the eloquent words of medieval historian Richard Bulliet, "the true central thread of Islamic history lies not in the political realm of the caliphs and sultans but in the social realm where the ʿulamāʾ served as the functioning heart of the historic Muslim community."[10] As historians of the greater Islamic world in all its diversity, we can debate where, when, and to what extent the ʿulamāʾ indeed held such roles in Muslim-majority societies—just as we can challenge notions of an ahistorical social class transcending time and space—but the social history point is nevertheless loud and clear.

In the past two decades the work of social historians of the early modern and modern Middle East have contributed to de-centering an early (though persistent) obsession in the historiography of Pan-Islamism with violent confrontation with the West and militant "*jihadis*" bent on global domination (no doubt exacerbated by our contemporary political context). Instead, using everyday provincial court records, or *sijjil*, the works of social historians like Leslie Peirce, Beshara Doumani, Judith Tucker, and Boğac Ergene, among others, have taught us much about the shared juridical worlds and the life of law experienced and shaped by ordinary people in these complex and diverse societies.[11] This also includes the "judicial activism"—to

---

[8] For an excellent work on Ibn Batuta and his globetrotting feats, see Ross Dunn, *The Adventures of Ibn Batuta: A Muslim Traveler of the Fourteenth Century* (2004). For other examples of shared worlds of Muslim travelers in the medieval to early modern age, see Dale F. Eickelman and James Piscatori. *Muslim Travelers: Pilgrimage, Migration, and the Religious Imagination* (1990).

[9] Dale, *The Muslim Empires,* 3.

[10] Richard Bulliet, *Conversion to Islam in the Medieval Period: An Essay in Quantitative History* (1979), 138.

[11] For a sample of works in this growing field in the context of the early modern and modern Middle East, see Beshara Doumani's *Rediscovering Palestine: Merchants and Peasants in Jabal Nablus, 1700-1900* (1995) and edited volume, *Family History in the Middle East: Household, Property, and Gender* (2003); Judith E. Tucker, *In the House of the Law: Gender and Islamic Law in Ottoman Syria and Palestine* (1998); Leslie Peirce *Morality Tales: Law and Gender in the Ottoman Court of Aintab* (2003); Boğaç A. Ergene, *Local Court, Provincial Society*

invert a modern term—of subaltern subjects like women, minorities, rural peasants and the economically disadvantaged who asserted their rights in Sharīʿah courts under Ottoman, Safavid, or Mughal rule. Notably, this was decades, and in some cases, centuries before the colonial ruptures and transformations of "modernization" wreaked havoc on Islamic legal praxis beginning in the eighteenth century but continuing well into the twentieth and current century.[12]

An in-depth examination of this immense and complex subject is beyond the purview of the present study. A brief background and some comparative remarks on the classical foundations of Islamic law and education, however, as well as the early-modern Muslim societies of Ottoman Turkey and Mughal India, are important for understanding the lost juridical worlds that thrived before colonial intervention in the case of British India (1757-1947), and modern transformations under the auspices of aggressive centralization programs in the Ottoman empire under Selim III (1789-1807) and Maḥmūd II (1808-1839). They are also crucial for understanding the complex legal history of Afghanistan. In particular, the Ottoman and Indian historical background will set the stage for the core subject of our study in Chapters 4 to 7 of the dissertation: the Indo-Ottoman juridical nexus that began taking shape in the late nineteenth century, with roots in the decades preceding it, but cresting in intensity and production in Kabul during the early Amānī era of Afghanistan (1919-1923). An account of the development of pre-modern Sharīʿah societies is therefore important for contextualizing the foundational and dramatic changes that befell Islamic law during the modern period.

In this chapter of the dissertation, I construct a precedential background for Islamic constitutions and codifications of the nineteenth century discussed in later chapters by first discussing the early roots of Islamic law and learning, including the formation of a scholarly class (the *ʿulamāʾ*) during the classical, Umayyad, and Abbasid periods. I then trace the historical evolution in the construction of juristic authority in Islam through the practice and proto-practices of legal "codification", from the "Constitution" of Madīna (*Saḥīfat al-Madīna)* in 622 to the *Fatāwā Hindīyah* (1675) of the late Mughal emperor, Aurangzeb ʿĀlamgīr. In the process, I establish my theoretical framework for the dissertation, incorporating Pierre Bourdieu's concept of the "juridical field," Laura Nader's "user theory" of law, and Christopher Tomlins' notion of "legalities" into Islamic legal history. Rather than treating law as a sterile, unchanging, and autonomous field of texts, I approach Islamic legal history as a social space of competition between Muslim rulers and palace elites, institutions of expertise from the scholarly classes (*ʿulamāʾ*) and law schools (*madhhhabs*) to the military, and from provincial notables to ordinary, everyday people.[13] I also clarify much confusing terminology in the field of Islamic

---

and Justice in the Ottoman empire: Legal Practice and Dispute Resolution in Çankırı and Kastamonu (1652-1744) (2003).

[12] For a concise articulation of these thesis, see Wael Hallaq, "'Muslim Rage' and Islamic Law," *Hastings Law Journal* 54 (2003): 1705-1719. For more depth, see *Sharīʿah: Theory, Practice, Transformations* (2009) and Abbas Amanat and Stanley Griffel, eds., *Sharīʿah: Islamic Law in the Contemporary Context* (2009). For transregional and global comparisons from an anthropological perspective, see Laura Nader, *The Life of the Law: Anthropological Projects* (2002).

[13] Pierre Bourdieu (trans. Richard Terdiman), "The Force of Law: Toward a Sociology of the Juridical Field," *Hastings Law Journal* 38 (1987): 805-853; Laura Nader, *The Life of the Law: Anthropological Projects* (Berkeley: University of California Press, 2002), esp. 16-17, 44-51, and 168-211; Christopher L. Tomlins, "The Many Legalities of Colonization: A Manifesto of Destiny for Early American Legal History," in Tomlins, Christopher L. and Bruce H. Mann, *The Many Legalities of Early America* (Chapel Hill: University of North Carolina Press, 2001), 2-5.

legal history that has imposed false dichotomies on Islamic legal history on the one hand, and collapsed important conceptual boundaries on the other. This is important not only for its own sake, but for understanding the legal and political history of the great projects of Islamic legal codification in the early modern and modern era: the late Mughal empire's *Fatāwā-yi ʿĀlamgīrī*, (or *Fatāwā Hindīyah*, circa 1667-1675), the late Ottoman empire's *Mecelle-i Ahkam-ı Adliye* (1869-1876), and early twentieth century Afghanistan's *Niẓāmnāmā-yi Amānīyya* (1919-1923).

This chapter seeks to better understand the nature of modern transformation in the Ottoman Middle East and British India—particularly in the juridical realms—by understanding what came before it. In pursuit of this goal this chapter will present some comparative remarks about law and society in the Ottoman and Mughal empires from the medieval to early modern eras (sixteenth and seventeenth centuries in particular). Accordingly, the chapter focuses on what I call a "The Islamic Juridical Triage": the *Sharīʿah* as a total social discourse, the *ʿulamāʾ* as a corporate body of legal personnel, and the *Waqf,* or charitable trust (with its associate institution of the *madrasah,* or law college) as a pivotal intersection of law and education in both Ottoman and Mughal societies.

It will be noted at the outset that Afghanistan will not be treated as a separate polity in this historical context, following our discussion of the founding of the territorial state of Afghanistan until the not taking place until the collapse of the Mughal and Safavid empires in the eighteenth century, and the emergence of an Afghan empire by Aḥmad Shah Abdāli in 1747. While this dissertation culminates in the promulgation of Afghanistan's first constitution in the early twentieth century, any study of the country's legal, political, and social history that is faithful to history without falling into nationalist narratives must recognize that the modern territorial state of Afghanistan emerged in stages. In particular, the jurisdictional limits of Afghanistan were not finalized until the reign of Amir ʿAbd al-Raḥmān Khan (1880-1901), the so-called "Iron Amīr," as Afghan historians often remember him by.[14] It was not until the late nineteenth century under the rule of Amir ʿAbd al-Raḥmān that the notion of Afghanistan as a fixed territory of all of the inhabitants who lived under the jurisdiction of the sovereign in Kabul, rather than a diffuse notion of the home of the Pashtuns, gradually found wide acceptance.[15]

Rather, at this point in history, "Afghans" were an extremely diverse and geographically dispersed group that included nomads ranging herds between eastern Persia and the Punjab; small-scale agricultural settlements and villages straddling the Hindu Kush mountain range,

---

I first encountered Bourdieu's notion through the excellent work of Samera Esmeir, first in her 2005 doctoral dissertation. Samera Esmeir, "The Work of Law in the Age of Empire: Production of Humanity in Colonial Egypt.," Ph.D. Dissertation (New York University, Institute for Law and Society, 2005). The meticulous research peformed in this study on late nineteenth century Egyptian law manuals and educational syllabi from Cairo University Law School also forms a major part of her recently-published book, *Juridical Humanity: A Colonial History* (Stanford: Stanford University Press, 2012). While drawing from Bourdieu's theory of the "juridical field", notably, Esmeir challenges the idea that legal knowledge and practices are confined to a juridical field, by citing how "meanwhile other hybrid non-juridical legalities continue to operate, and these [also] should be incorporated into the definition of the law." Esmeir, *The Work of Law*, 57.

[14] Amin Tarzi, "The Judicial State: Evolution and Centralization of the Courts in Afghanistan, 1883-1896" Ph.D. Dissertation (New York University, Department of Middle East Studies, 2003), 62.

[15] The various tribes of Afghanistan referred to here are, the Nuristanis, the Qizilbash, the Uzbeks, the Hazarahs, the Tajiks, and the Pashtuns. The ethnic diversity of Afghanistan is a long and complex topic, and this is not an exhaustive list, but refers to the overarching groupings used in common parlance. Tarzi, "The Judicial State," 125-132.

adjoining the Khyber Pass, and into the Swat Valley in the north and Quetta and Sind in the south; itinerant horse traders in the Punjab, Upper Doab around Delhi, and as far as Bengal. As Amin Tarzi has noted,

> What was generally considered to be the home of the Afghans comprised roughly the area south and east of the Hindukush mountain range, and north of the Indus River, inclusive of the Sulayman range and Qandahar. In the seventeenth century the term that was widely used for the country of the Afghans whom the Indians referred to as Ruhilla or Pathans, was Ruh, which corresponded to a specific geographic area that stretched 'from Swat and Bajaur in the north to Sibi and Bhakkar in Sindh, and from Ḥasan Abdal in the east to Kabul and Qandahar in the west.' By the middle of the 19th century, parts of the traditional lands of the Afghans including the city of Peshawar fell to the advancing Sikhs, while the territories of Bajaur and Swat, also known as Kuhistan, were autonomous.[16]

In addition to such geographic diversity, Afghans served as elite members of royal courts and military commands in Delhi, Lahore, and Hyderabad, as with the "*Rohillas*," or Afghans who had migrated to northern India in search of employment, commerce, and other forms of patronage from the Mughal court. The latter rulers often welcomed the Rohillas by granted them land in *jagir* holding first in and around Lahore, Delhi, and northern Hindustan.[17]

In some cases entirely independent Pashtun dynasties were established in Northern India, as with the Lodi Sultanate (1451-1526) and Suri Dynasty (1540-1557).[18] Though "Afghan" empires, both dynasties had their capitals in Delhi until the former were defeated by Babar's Mughal forces arriving, ironically, from Kabul and Central Asia, and the latter were defeated by a restoration of Mughal power by Humayun leading armies from exile in Persia. To my knowledge, no historians have ever considered these Pashtun kingdoms as constituting an autonomous state of "Afghanistan," but rather they make up two of the long list of dynasties in the history of India. Documents I found in the Ottoman archives confirm this view. The earliest Ottoman document discussing "Afgans" (*Afghanlar*/افغانلر, *Afganlar*/افگانلر, or *Afkanlar*/افکانلر in Turkish and Ottoman Turkish lexigraphy, respectively) I found dated to 1724/25.[19] The territorial term of "Afghanistan," the Land of the Afghans, does not emerge in the Ottoman Foreign Ministry's parlance until the late eighteenth and early nineteenth centuries, the earliest record I found using the term in the Ottoman archives being in 1790/91.[20]

Our discussion here does *not*, however, render the widely-cherished ideal of a homeland for the Afghans, or "Afghanistan," at this historical juncture to the realm of the ephemeral or

---

[16] Tarzi, "The Judicial State," 62-63. For the largely interchangeable terms of "Afghans", "Pashtuns", "Pathans", and "Rohillas" in the prenational era, see Jos J.L. Gommans, *The Rise of the Indo-Afghan Empire c. 1710-1780* (1995), 9-12.

[17] Barbara Daly Metcalf, *Islamic Revival in British India: Deoband, 1860-1900* (Princeton: Princeton University Press, 1982), 298.

[18] Hence Dupree's description, "Although the Afghans were not masters in their own land, neither were they completely subdued." Louis Dupree, *Afghanistan* (Princeton: Princeton University Press, 1973, 321.

[19] BOA-D.BŞM.d 40946 (1137) ("Seyyid Mehmed Sadık adlı Afgan elçisine verilen tayinatı gösterir defter"). The document describes an Afghan emissary (*elçi*) in communication with the Ottomans.

[20] BOA-A.DVN.DVE 191 (1205) ("Dubronik, Gürcistan, Afganistan, ve Hindistan" hakkında).

fictitious. One need only glimpse at the passionate, patriotic poems of the seventeenth-century Pashtun bard, Khushḥāl Khan Khattak (1613-1689), to readily observe this social reality.[21] Anthropologists and historians generally agree that what did unite these otherwise disparate and highly stratified populations at this time was first, the use of Pashtu as a common lingua franca and secondly, reference to an ancient customary law, known as *Pashtunwali*. Hence the generally synonymous usage of "Afghan," "Pashtun", and "Pathan"[22] up until the twentieth century, when "Afghan" began to refer to all inhabitants, regardless of ethnicity, who resided within the borders of modern-day Afghanistan the nation-state as defined by the Durand Line and British India in the east, Qajar Iran in the west, and Czarist Russia to the north. The role of Afghan Persian, or Dari, as a courtly language and second lingua franca of Afghans from Isfahan to Delhi must also be taken into account in this complex picture, as well as its eclipse of Pashtu as the dominant language of administration in nineteenth century Afghanistan.

To be sure, far more historical research is needed on the ancient history of Pashtuns, the etymology of "Afghans", "Pashtuns," and "Rohillas" as a people, and even Afghanistan as an early modern state in the eighteenth and early nineteenth century. On the contested question—who is an Afghan?—the best summation has been offered by Jos Gommans, who writes that,

> Designations like 'Afghan' or 'Afghanistan' have a meaning which depends on the time and place of the context in which they are used. Obviously, in 1500 the term Afghan denoted a more open category of peoples than [it] did in 1800. Similarly, in 1800, its meaning in Iran differed from that in India. Therefore, all such labels should be considered as fluid categories liable to fluctuations of the historical process.[23]

For our purposes, in order to avoid ahistorical anachronisms, "Afghanistan" will not be discussed as a separate polity at this point in the dissertation, but rather Afghans (broadly defined, including "Pashtuns", "Pathans", and "Rohillas") will be subsumed as a part of the diverse populations of the Safavid Persian and Mughal Indian empires. We will return to the emergence of Afghanistan as a territorial state during the nineteenth century in Chapters 2 and 3.

I
HISTORICIZING SHARĪʿAH, THEORIZING LAW: ISLAMIC LAW, LEGALITIES, AND JURIDICAL FIELDS

Theorizing Islamic law: nomocracy, discursive tradition, and juridical field

Recent decades have witnessed a surge in critical revisionist scholarship on Islamic law and legal histories in the classical, medieval and early modern eras, including works focused on the foundational eighth and ninth centuries, to the early modern Ottoman empire. Two

[21] While Khushḥāl Khan Khattak is most famous for his poetry in Pashtu, he also composed verses in Persian and Urdu.

[22] The latter term is probably an Anglo-Indian corruption of "Pashtun," but still widely adopted in India and Pakistan today to refer to Pashtu-speaking Afghans (and sometimes their descendants) living within the borders of modern nation-states India and Pakistan.

[23] Gommans, *The Rise of the Indo-Afghan Empire*, 12; Tarzi, "The Judicial State," 126.

prominent strands of modern scholarship in particular have taught us that not only was the *Sharīʿah* a living, dynamic, and constantly evolving socioreligous tradition, but the *Sharīʿah* encompassed much more than "law" in the contemporary sense. The first strand is represented in the work of legal historians Baber Johansen and Wael Hallaq, as well the aforementioned social historians. The work of these scholars have contributed much to revise the earlier Orientalist works on Islamic law—most notably that of Joseph Schacht and N.J. Coulson—which posited a "closing of the gates of *ijtihād*" (groundbreaking juristic debate) and subsequent fossilization of an already stagnant tradition.[24] The second strand of critical revisionist scholarship emerges from the sister disciplines of anthropology and sociology, most notably the work of Talal Asad and Brinkley Messick, whose work revised, criticized, and built upon the earlier foundations laid by twentieth century scholars as diverse as Max Weber and Michele Foucault.[25] Put together, we have learned that while the goal of law in the modern state law is to regulate and discipline while enjoying a monopoly on violence, the *Sharīʿah*—historically speaking—operated in an environment where juridical authority was diffuse, and the legal system operated with quite different objectives in mind. The latter is evident from a sampling of subjects all considered to be within the traditional scope of Muslim jurists' work.

That is to say, the aim of the Sharīʿah jurist is to establish legal norms for the entire range of human activity, thereby providing guidance to individuals and the collective seeking to order their lives in optimal fashion: along lines pleasing to God. The jurists recognized five such norms: *farḍ*/*wājib* (obligatory), *mustaḥab/mandūb* (recommended), *mubāḥ* (permitted without sanction), *makrūh* (discouraged), and *ḥarām* (forbidden). Contrasting with Foucault's analysis of the modern state, however, the purpose was not to control or discipline, but rather, in the words of Hallaq, "to foster living in peace, first with oneself, and second with and in society."[26] The goal of individual self-improvement is seen in the organization of chapters in the books of *fiqh* (jurisprudence). Beginning with ritual purity (*ṭahāra*) and prayers (*ṣalāh*/*namāz*), and proceeding with the remaining pillars of alms (*zakāt*) and pilgrimage (*ḥajj*), most fiqh manuals then move to discuss the building of moral character, as well as civic virtue and the upholding of public law and order. The consistent theme throughout is to bid individuals "to do the right thing, to the extent one can and wherever one happens to be."[27]

In this manner, while the modern state permits and forbids, punishing severely upon infraction, and ignoring what people do outside of its jurisdiction, the Sharīʿah, on the other hand, has an all-encompassing interest in the entire gamut of human actions. Organizing acts into the aforementioned categories ranging from the moral to the legal, the Sharīʿah does all this without agonizing over distinctions between the "moral" and the "legal," as in both the Anglo-American Common law and Continental civil law traditions. Rather, Islamic legal tradition instead poses an important distinction between the rights of people (*ḥuqūq al-ʿībād*) and the rights of God (*ḥuqūq Allāh*)—only the former requiring judicial action, while the latter often

---

[24] Baber Johansen, *The Islamic Law on Land Tax and Rent* (1988) and *Contingency in a Sacred Law* (1999); Wael Hallaq, *A History of Islamic Legal Theories* (1999).

[25] Max Weber, *Economy and Society* (1978); Michel Foucault, *Discipline and Punish* (1995); Bourdieu, Pierre, "The Force of Law: Toward a Sociology of the Juridical Field," trans. Richard Terdiman, *Hastings Law Journal* 38 (1987): 805-853.

[26] Wael Hallaq, *An Introduction to Islamic Law* (New Delhi: Cambridge University Press, 2009), 19.

[27] Ibid.

imposed no worldly penalties for conformance or non-conformance—the ultimate consideration being divine pleasure or punishment in the hereafter.[28] This aspect of comprehensiveness, harmony between the legal, moral, and social, is also characteristic of other non-industrialized contexts described by anthropologist Laura Nader as "face-to-face" societies.[29] The latter are societies where the alienating and isolating effects of modern industrialization have not become the norm. Such societies do not experience the alienating effects of corporations as "persons," who remain largely immune from the legal challenges of consumers buying their products in markets thousands of miles away. Rather, members of face-to-face societies directly bought and sold from each other, and sued each other in local "courts", without the barriers of modern bureaucracies, procedure, and lawyers. Put in the context of Islamic societies, the operation of Sharīʿah in Muslim societies from the Abbasid to early modern Ottoman empires were classic examples of "face-to-face" societies in action.

Following an adaptation of Alasdair Macintyre's theory of "tradition," Talal Asad has put forth a freshly innovative and dynamic way of capturing the dynamism of Sharīʿah in anthropological and historical terms as a *discursive tradition*. This term captures the philosophical, intellectual, and ideological debates at the heart of Muslim jurists attempts to interpret the Sharīʿah, rather than a stagnant collection of texts or rules. Describing the Sharīʿah as a discursive tradition, however, tends to gloss over the important distinctions between Sharīʿah and *Fiqh* (jurisprudence), a common error and conceptual collapsing of categories that we will return to in the next section. In this way Asad's notion of "discursive tradition" would seem to be a more accurate description of *fiqh*.

Alternatively, anthropologist Brinkley Messick has argued for representing Sharīʿah as no less than "a total discourse."[30] As elaborated by Muhammad Qasim Zaman, Sharīʿah as a total discourse conveys "a set of institutions and practices that pervaded and shaped varied aspects of people's lives in premodern Muslim societies."[31] This definition presupposes a "pre-modern" mold, however, and is based in the argument that the Sharīʿah was eviscerated and effectively dismantled with the ruptures of colonialism, nationalism, and modernization theory—an argument shared with the prolific work of Islamic legal historian, Wael Hallaq.

This dissertation proposes the use of a third alternative framework for theorizing the Sharīʿah: Islamic law as a juridical field. As mentioned earlier, rather than treating the Sharīʿah as a static, fossilized, and autonomous field of texts, I incorporate Bourdieu's concept of the "juridical field" into Islamic law, a social space of competition between state and provincial elites, and entrenched institutions such as scholarly classes and the military, who vie and struggle in promoting authoritative interpretations of the Sharīʿah with their own educational training, methodologies of interpretation, professional hierarchies (habitus), and varying conceptions of public interest, fueling different outcomes for the final product: "the law."[32]

---

[28] Ibid. For an elaboration of this concept in a contemporary (and probably familiar) context, see Sherman Jackson, *Islam and the Blackamerican: Looking toward the Third Resurrection* (2005), 150-151.

[29] Laura Nader, *The Life of the Law: Anthropological Projects* (2002), 11-12.

[30] Brinkley Messick, *The Calligraphic State: Textual Domination and History in a Muslim Society* (Berkeley: University of California Press, 1993), 3.

[31] Muḥammad Qasim Zaman, *The Ulama in Contemporary Islam* (2002), 6.

[32] Pierre Bourdieu, "The Force of Law: Toward a Sociology of the Juridical Field," trans. Richard Terdiman, *Hastings Law Journal* 38 (1987): 805-853.

Yet even here too much focus on the final product, or "the law", obscures the social history that produced it. In this sense the dissertation draws from Christopher Tomlins' conception of *legality*, rather simply law, as the staple of social historians interested in exploring the tensions, the contestations, the *messiness* underlying legal history.

From Law to Legalities

Christopher Tomlins, one of the preeminent socio-legal historians in the United States, has provided the following insightful articulation of the intention behind socio-legal history. In his pioneering legal history of early colonial North America, *The Many Legalities of Early America* (2001), Tomlins writes that do engage in socio-legal history is

> to counter what has always seemed to me law's enviable capacity to evade the historian's grasp by trumping critique with timeless and self-legitimating values—universality of application, singularity of meaning, rightness. Law tends always to slip through historicist clutches. Legality, in contrast, is a condition with social and cultural existence; it has specificity, its effects can be measured, its incarnations investigated....But legalities are not produced in formal legal settings alone. They are social products, generated in the course of virtually any repetitive practice of wide acceptance within a specific locale, call the result rule, custom, tradition, folkway or pastime, popular belief or protest.[33]

To unpack Tomlins's concept of legality for our own use in this dissertation, it is appropriate to begin with his definition of a not-so-straightforward term to define after all: *law* itself. In the introductory paragraphs to his work in *The Many Legalities of Early America* (2001), Tomlins cites John Phillip Reid for the latter's popular nineteenth century American definition of law as "vesting rights and imposing obligations."[34] Tomlins also highlights Reid's observation, however, that for many Americans at the time of his writing, law was not limited to the commands of a sovereign backed by force or threat of force, nor was it an abstraction discovered through appealing to natural or universally shared rules—thereby implying that a conventional, formalistic understanding of law should not be enough for legal historians either. Rather, in a more flexible definition revealing traces of anthropological ideas such as legal pluralism and recognition of unofficial, non-state-sanctioned law, Reid ultimately defines law in his study as "the taught, learned, and accepted customs of a people."[35] This is a superb definition of an ultra-elastic concept which I will employ for my use of "law" in this dissertation.

Nonetheless, for Tomlins, even this flexible, anthropological definition of "law" is not sufficient for grasping the tensions, ambiguities, and overall "murky" dynamics of early American legal history—a history defined more by a multiplicity of legal worlds colliding and interacting rather than the neat and clean progressive evolution of an "Anglo-American"

---

[33] Christopher Tomlins, "The Many Legalities of Colonization: A Manifesto of Destiny for Early American Legal History," in Christopher L. in Tomlins and Bruce H. Mann, eds., *The Many Legalities of Early America* (Chapel Hill: University of North Carolina Press, 2001), 2-3.

[34] Ibid., 3.

[35] Ibid.

common law. In order to unearth this "ambiguous, less audible, murkier" history of law in American society, Tomlins asserts, it is necessary to speak of "legalities."[36]

According to Tomlins, "legality" as a concept captures the sense of multiple contestations underlying legal history more adeptly than "law" because of the former's amenability to historicization, and "the law's" hegemonic status as an autonomous, virtually untouchable category in western historical writing.

> By talking of legality here rather than simply law, my intention is to counter what has always seemed to me law's enviable capacity to evade the historian's grasp by trumping critique with timeless and self-legitimative values—universality of application, singularity of meaning, rightness. Law tends always to slip through historicist clutches. Legality, in contrast, is a condition with social and cultural existence; it has specificity, its effects can be measured, its incarnations investigated.[37]

Here we have a curious statement. By coining the new expression of "legality" as a conceptual tool for socio-legal history, are we surrendering a carte blanche to more conventional, formalist legal historians who seem to presume the law develops neatly, cleanly, and autonomously within the "law-box" of formal judicial doctrine, procedure and institutions? One wonders whether legal historians can challenge the concept of law as endowed with "universality of application, singularity of meaning, [and] rightness" *head on*. When Tomlins proceeds to elaborate his concept of legality, he seems resigned to formalist notions of law, as in the following passage,

> [L]egalities are the symbols, signs, and instantiations of formal law's classificatory impulse, the outcomes of its specialized practices, the products of its institutions. They are the means of effecting law's discourses, the mechanisms through which law names, blames, and claims.[38]

Here Tomlins's articulates his distinction between "law" and "legality" more clearly. Law is framed as the formal process and institutions of adjudication, e.g. courthouses, casebooks, state judicial personnel actors like judges and attorneys, while legality represents the "grid of new imposed realities to which the law's institutional technology of recorded word, deed, and authoritative delivery could give real, if often brittle, effect."[39] Perhaps, however, by adopting a formalist definition of law Tomlins is merely setting up to expose a strawman paradigm: the application of legal formalism to legal history. In other words, the role of legality in the volume as an analytical tool serves to explore the *social constructedness* of law.

Applying the concept to social history, Tomlins explains how in contrast to "law," legalities are not produced in formal settings alone. Rather, "they are social products, generated in the course of virtually any repetitive practice of wide acceptance within a specific locale, call the result rule, custom, tradition, folkway or pastime, popular belief or protest."[40] This view of

---

[36] Ibid., 5.

[37] Ibid., 2.

[38] Ibid.

[39] Ibid., 2-3.

[40] Ibid.

legality contrasts the presumptions of legal formalism as understood, primarily but not solely, by legal practitioners and jurisprudents. With the focus on maintaining internally cohesive and logical arguments within a pre-established set of rules, the latter tend to present "the law" as a linear, coherent, and one-sided process that misses out on the multiple sites of contestation, complex power configurations, and exchanges that produce "the law" in a given historical context. Tomlins "legality" thus more subtly conveys the unique role of legal discourse in the making of new worlds, in a way that more traditional concepts in the humanities and social sciences—such as "epistemology," "culture," or "weltanschauung"—do not. While Tomlins, Mann, and their fellow contributors in *The Many Legalities of Early America* utilize the conceptual device of "multiple legalities" to unearth the legal pluralism and continuities between America's colonial and national legal history, my intention in this dissertation is to use the concept for historicizing the struggle between the centralizing states of the late Ottoman empire, British India, and Afghanistan in the long nineteenth century, vis-à-vis the thriving legal pluralism that existed on the ground in these diverse societies.

In sum, this dissertation approaches legal history as *social* history, a perspective that incorporates Laura Nader's theory of law in "face-to-face" societies, Pierre Bourdieu's theory of competition in the juridical field, and Christopher Tomlins' theory of repetitive social practices as "legalities," to form what more and more legal historians, from US to late Ottoman historians, have called "socio-legal history." As a "socio-legal history," the dissertation adopts the theoretical and methodological point of departure that there is no autonomous "legal history" divorced from the lives of its agents, the tensions, the contestations as much as the conciliations, and the *messiness* that make up the life of the law in any human society. While the dissertation does incorporate aspects intellectual history, particularly in the area of evolving doctrines within the history of Islamic law and thought, a greater emphasis is placed on the "social" aspects of Islamic law, a theme we following in the following discussion, after an important word on definitions.

– • –

Next, for conceptual clarity on my use of "Sharīʿah", or Islamic law, in this dissertation, it is necessary to define what I include as covered by the term from a socio-legal and historical perspective. In this dissertation I will discuss three bodies of law as collectively making up "Islamic law" and the juridical field of modern Muslim societies—in particular, the late Ottoman empire, Afghanistan, and British India from 1860 to 1923. Rather than representing distinct and autonomous spheres, in the daily practice of social life these juridical realms in fact constantly overlap, intersect, and intertwine. But so to not lose the utility of these distinctions in the first place, and in spites of the porous nature of these categories, . I do find them analytically useful, and I will employ this diagram occasionally to help us understand how modern Islamic juridical fields transform with the onset of constitutionalization and codification in the study. Rather than dwelling on the differences in substantive provisions of each category—an impossible task given their constantly evolving qualities—in this context of our study each body of law is best understood by the people, the personnel if you will, who administer and authoritatively interpret them.

The first body of Islamic law is Islamic Interpretive Law, or *Fiqh*. This is the body of non-centralized, non-codified law administered and interpreted by the ʿʿulamāʾ, or Islamic religious scholars trained in the classical sciences of Qurʾānic interpretation, Prophetic traditions,

theology, mysticism, and jurisprudence. A distinguishing feature of this juridical realm is its being non-codified—in the modern sense of the term (The Code Napoleon and the Ottoman *Mecelle* being prominent examples).

The second body of Islamic law is Custom or Customary Law, also known as *ʿĀda*, *ʿUrf*, or *Pashtunwali*. This body of law, like *Fiqh*, also non-codified. Unlike *Fiqh*, this body of law is primarily orally transmitted, extremely localized (relative to the transnational characteristics of the Ḥanafī school of jurisprudence, for example), and does not have a central or hierarchically body of textual interpreters. It is the most difficult to define in its diffuseness. *ʿĀda*, *ʿUrf*, and *Pashtunwali* includes customary norms from the appropriate amount of a wedding dowry, to the means of reconciling neighbors and restoring civil harmony not just in rural villages, but also in urban neighborhoods during times of war or the collapse of government authority. It is also a body of law that can more accurately be characterized as collectively held set of notions rather than the products of expert opinions.

The third body of Islamic law, and most crucial in our history of the first Afghan constitution and Niẓāmnāmā codes, is Statutory Law, also known as *Qānūn*. This is the body of law promulgated by a sovereign Muslim ruler, *with* the expert assistance of jurists who actually do the drafting, but the authority to issue the laws remains with the king, as with the power to enforce them through an army of not only soldiers and police, but more hegemonically, through a legion of bureaucrats, teachers, and of course, judges. The physical product of this body of law is *qānūn* codes, also known as *qawānīn*, *kanunnames,* and *niẓāmnāmā* (singular: *niẓāmnāmah*).

Sharīʿah from Nomocracy to Juridical Field

According to one theorist and historian of Islamic political science, the system of government which was the product of the teachings of the Prophet may be best described as a "nomocracy," meaning in Islam the law precedes the state and constitutes the principle guiding social cohesion.[41] Between the eighth and tenth centuries, as the state bequeathed by the Prophet and his four Rightly-Guided *khalīfas*, or successors, took a more concrete and less personalized shape, Muslim jurists in Syria and Iraq formulated and debated the earliest theories of Islamic governance, or the so-called "Islamic state." According to the predominant and majoritarian Sunnī understanding during the Umayyad and Abbasid states, the Muslim religious scholars—the "heirs of the prophets" according a widely-cherished prophetic tradition—through intense debates, contestations, and in some early cases, revolt, eventually negotiated a formula whereby the authority of Muslim rulers was held to be legitimate as long as the latter defended the homeland from foreign aggression and upheld the sacred law within it. As Muhammad Qasim Zaman has noted in his work on Islamic political theory during the Abbasid era,

> What emerges from this study is not a picture of the separation of religion and the state, however, but one which reveals the caliphs and the ʿulamāʾ in close mutual dependence. The religious scholars described here were not hostile to the regime, or convinced of its illegitimacy, or concerned only to save whatever they deemed precious from its contaminating touch. Rather, they were among the beneficiaries of the extensive, multifaceted patronage of the state and the

[41] Şerif Mardin, *The Genesis of Young Ottoman Thought: A Study in the Modernization of Turkish Political Ideas* (1962), 82-83.

> caliphs' support for the viewpoints they represented gave them definite stakes in associating with the Abbasid state, not in separating themselves from it.[42]

Monumental works from the Abbasid and Seljuk eras such as *al-Aḥkām al-Ṣulṭāniyya* of Abū al-Ḥasan ʿAlī al-Mawardī (972-1058) and *Naṣīḥat al-Mulūk* of Abū Ḥāmid al-Ghazālī (1058-1011) which upheld this view continued to be revered, critiqued, and expanded during the Ottoman era, as seen in works of the same genre of esteemed Ottoman jurist Abū al-Suʿūd (Ebussuud) Efendi (1490-1574). The occasional confrontations, but more commonly, continued *negotiations* between "secular" and "sacred" authorities is a theme in the work of the latter esteemed Ottoman legal thinker. As Irene Schneider has noted,

> The predominant interpretation of Ebussuud's "harmonization" of Ottoman secular and sacred law holds that under the expansionist rule of Ottoman sultan-caliph Süleyman I, the "Lawgiver", the preeminent Ḥanafī jurist Ebussuud Efendi launched a reorganization off Ottoman jurisprudence, with the net effect of bringing much of it under tighter governmental control. He achieved this through elaborating a juridical framework in which the *Sharīʿah* and the Ottoman administrative code (*qanun*) were joined. Under the previous system, Ottoman qāḍīs were relatively free to interpret the *Sharīʿah* as they saw fit, with little restraint or oversight. Ebussuud Efendi's framework empowered the Sultan though the means of qanuunnames, or legal-administrative regulations in which the judicial power was to be derived from the Sultan and which judges were required to follow in their application of the law.[43]

In this way, evolving interpretations of the just ruler in Islam by Muslim scholars became the cornerstone of rulers' constant quest for legitimacy and strategies of rule, be it from the Ottoman capitals of Bursa, Edirne, and Istanbul, the Mughal capitals of Agra, Lahore, and Delhi, or the Afghan capitals of Qandahar and Kabul. Ayesha Jalal has discussed the shared concept of Islamic sovereignty as expressed in the imperial *fīrmāns* of Mughal emperors. Her groundbreaking work on the formation of law, subjectivity, and the "Indian Muslim" as a social category in nineteenth century British India is foregrounded in a discussion of earlier, pre-colonial conceptions of sovereignty in Mughal India.

> Under Muslim rule, absolute sovereignty vested in Allah. In theory the ruler was not the master of the people but the humble servant of the Creator. As His vicegerent-or the 'shadow of God on earth' —the sultan's ultimate responsibility was to Allah. The administration of law and order, intrinsic to legitimacy, was vital to fulfilling that responsibility given the Qurʾānic emphasis on justice and equity or *adl*.[44]

---

[42] Muḥammad Qasim Zaman, *Religion and Politics under the Early 'Abbāsids: The Emergence of the Proto-Sunnī Elite* (1997), 208.

[43] Irene Schneider, "Ebussuud," in Michael Stolleis, ed., *Juristen: ein biographisches Lexikon; von der Antike bis zum 20. Jahrhundert* (2001), 192. Colin Imber has called several aspects of this narrative into account, however, though accepting the esteemed jurist did succeed in bring about such a harmonization between Sharīʿah and qānūn in the areas of feudal land tenure, taxation, investiture of the Sultan with the caliphate, and certain controversial aspects in the law of trusts. Colin Imber. *Ebu's-su'ud: The Islamic Legal Tradition* (2009), 269-270. See also Baber Johansen, *The Islamic Law on Land Tax and Rent* (1988), for an alternative perspective on Sharīʿah-Qānūn dialectics.

[44] Ayesha Jalal. *Self and Sovereignty: Individual and Community in South Asian Islam since 1850* (2000), 139-140.

In this way early European depictions of "Oriental despotism" often completely missed the place of the Muslim sultan in Islamic political theory and epistemology. Far from an absolutist ruler or possessor of divine right, Muslim rulers were subject to the law, and as we will discuss in a subsequent section, often to a law not even of their making. Similarly, with regard to the Islamic theory of sovereignty in the *Devlet-i ʿAliyye-yi ʿOsmaniyye*, or the Sublime Ottoman State, Islamic legal historian Wael Hallaq describes a parallel concept of divine sovereignty in the Ottoman framework of governance:

> God is the Owner of the Universe in both spheres, the here and the hereafter. . . [Therefore] Any human claim to earthly possession must thus be either metaphorical or a plain usurpation of the divine Kingdom. For a man to rule without incriminating himself in the irredeemable sin of usurpation he must act as the guardian and administrator of the Law, just as the caliphs had done earlier. They claimed to possess nothing of God's world, and stood as administrators of, and thus beneath, His Law.[45]

Such notions of "political theology" were not unique to the Ottoman context. Senzil Nawid, author of the most recent work on law, religion and politics in Afghanistan during the Amānī era (1919-1929), offers the following prevalent conception of sovereignty in the Sunnī political ideology of Afghanistan, arguing the legitimacy of government in Islam rests with the ruler's ability to act as a vicegerent for dispensing justice according to the divine commands and guidelines embodied in the Qurʾān and Prophetic example.

> In Islam, sovereignty belongs to God alone. The concept of the state is based on the *Shariat*, the sacred law of Islam, which determines not only the way of worship but also norms for daily living, principles of statehood, interactions between state and community, and relations among individuals. . . The Prophet's rule in Madīna, where the first community of believers was established, constitutes the model for government in Islam. The Prophet taught his followers that all that existed in the heavens and on earth belonged to God and that the community of Muslims as vice-regents of God held all things in trust for him. According to the Qurʾān and the tradition of the Prophet (*sonnat)*, which are the bases of the *Shariat,* authority is a sacred trust to be exercised by the members of the Muslim community for the enforcement of the will of God and the improvement of the community.[46]

In each of the descriptions offered above, the paradigm of divine sovereignty—though omitting substantial reinterpretations and modification according to historical context, ruler and locale—formed the foundation of the relationship between the ruling dynasties and the civilian populations they came to rule from the early Caliphs to the Ottoman and Mughal empires, and even twentieth century Afghan state.[47] While this was the system in theory, we must

---

[45] Hallaq*, An Introduction to Islamic Law,* 73.

[46] Senzil Nawid, *Religious Response to Social Change in Afghanistan, 1919-29: King Aman-Allah and the Afghan Ulama*. (1999), 2.

[47] Hallaq*, An Introduction to Islamic Law,* 73; Jalal, 139-140; Fleischer, Cornell H. *Bureaucrat and Intellectual in the Ottoman empire: The Historian Mustafa Âli,1541-1600* (1986), 273-274; Marshall Hodgson, *The Venture of Islam: Conscience and History in a World Civilization, vol. 3* (Chicago: University of Chicago Press, 1958, 105-111); Lapidus, Ira M. *A History of Islamic Societies* (New York: Cambridge University Press, 1988), 83-89.

contextualize Islamic theories of government with pre-modern realities, so as to not mistake the governing models of pre-modern "Islamic states" with late Ottoman (post-Tanzimat) political practice, or contemporary Islamist movements for that matter, whose articulations of modern rule hail from very different genealogies. As Wael Hallaq reminds us, in the pre-modern Umayyad, Abbasid, (early) Ottoman, and Mughal societies, the words for "governance," "rule," or even "politics" might have conjured up very different images, and *experiences*.

> Pre-modern Muslim rule was limited in that it did not possess the pervasive powers of the modern state. Bureaucracy and state administration were thin, mostly limited to urban sites, and largely confined to matters such as the army of the ruler, his assistants, tax collection and often land tenure. People were not registered at birth, had no citizenship status, and could travel and move to other lands and regions freely—there being no borders, no passports, no nationalities, and no geographic fixity to residential status. A Cairene family, for instance, could migrate to Baghdad without having to apply for immigration, and without having to show documentation. . . And the farther people lived from the center of rule, the less they were affected by the ruler, his armies, and his will to impose a certain order or even taxes on them.[48]

Hallaq's descriptions essentially describe the absence of pervasive bureaucracies and technologies of surveillance that we readily identify and experience as constitutive of the modern state. Because pre-modern rulers did not command the technologies of violence, communication, and surveillance that their modern counterparts do, the costs of dispatching armies and officials to remote corners of the empire were prohibitive. Nor, often, could the amount of taxes they did collect adequately cover the necessary costs of exacting them. Ruling over vast empires, Ottoman and Mughal rulers lacked the staff and technologies to reach the deepest social layers, and thus attachment to the central government increasingly weakened as one moved away from the capital into the provincial "periphery.[49] Even labels like "periphery" are problematic because it assumes those living outside imperial capital viewed themselves as such, a highly unlikely proposition given self-sufficiency of many provincial towns and villages. Rather, provincial groups and lower social classes of urban centers often owed more loyalty to the local leadership, kin, or other social networks from which they hailed. Far from notions of "absolutist" rule, in practice Ottoman sultans and Mughal emperors attempted to govern only a "surface" of the complex, extremely diverse milieu of self-reliant groups that included multiple linguistic and religious communities, village assemblies, city councils, professional guilds, and literate elites, "whose internal ties of loyalty were unsurpassable, and whose daily lives were barely touched by whatever administrative machinery the ruler could muster."[50] When it came to the paramount problem of all empires—balancing expenses versus revenues—the practical result was it was simply not worth the trouble for a central government to impose a tight grip of

---

[48] Hallaq, *An Introduction to Islamic Law,* 7-8.

[49] Ibid. On Ottoman "center-periphery" dynamics, see also Karen Barkey, *Empire of Difference: The Ottomans in Comparative Perspective* (2008); Halil İnalcik and Donald Quataert, *An Economic and Social History of the Ottoman empire, 1300-1914* (1994); Suraiya Faroqhi, Bruce Mcgowan, Donald Quataert and Sevket Pamuk, eds., *An Economic and Social History of the Ottoman empire, Volume II, 1600-1914* (1994). For the Mughal context, see Muzaffar Alam, "Shar'a Governance in the Indo-Islamic Context," in *Beyond Turk and Hindu: Rethinking Religious Identities in Islamic South Asia,* David Gilmartin and Bruce B. Lawrence. eds. (2002), 216-245.

[50] Hallaq, *An Introduction to Islamic Law,* 51.

rule over large swaths of the empire. The main exception was the annual expected tribute and delegation of soldiers in times of war, which were also administered not through a centralized national draft, but a highly-localized process in practice.[51]

But if there was no strong central government to owe "allegiance" to, administer gubernatorial affairs, and settle disputes authoritatively, how did people in provincial and rural areas under Ottoman and Mughal "rule" regulate their affairs if there was no arm of central government even present? Medieval and early modern historians of both empires have largely answered: self-rule. Be it in dense city quarters of Istanbul or Lahore, or rural villages of Anatolia or the Punjab, populations beyond the immediate grasp of the Ottoman or Mughal central government largely regulated their own affairs. The fact primary source documents generally use the terms "*Osmanlılar*" (Ottomans) in Ottoman Turkish to refer to the ruling class and not the civilian population (*reayya*) speaks to this phenomenon.[52]

If civil populations ever did feel it necessary to call upon a supreme ruler not from among their midst, it was usually for a specific need requiring overwhelming martial force such protection against external enemies, be they tribal raids, highway robberies, or foreign armies encroaching from a distance. In a constantly negotiated relationship between center and province, civil populations developed a variety of internal mechanisms to keep their local communities alive, healthy, and even prosperous. Some historians have pointed to pre-Islamic "customary law" as a source of self-regulation, but to too sharply distinguish this from Sharīʿah has become increasingly suspect by legal historians in the field.[53] In fact, there is little need for distinction as the latter is generally agreed by historians of Islamic law to have intermingled and even subsumed the former.[54]

If the Sharīʿah was not merely law in the limited modern sense of the term, neither was it a simple by-product of an absolutist medieval ruler as some might have us believe. This is another significant contrast from modern law, which is largely a product of the state (either by democratically-represented legislature in a republic, or autocratically-mandated legislation in a dictatorship). If ultimate legal authority in the Sharīʿah was not vested in the ruler—the Sultan-Caliph in the Ottoman case and the Mughal emperor in Mughal India—then *where* could it be found? The answer: its authoritative interpreters. To shed light on this and how Ottoman and Mughal societies produced their own Sharīʿah experts, we must discuss two absolutely critical areas of medieval and early modern Islamic society: Islamic educational institutions, and the personnel that administered them: the ʿulamāʾ.

Guardians of Tradition, Custodians of Change: The ʿUlamāʾ as Experts in Islamic Law and Society

---

[51] For a comparative discussion on the internal economics of empire, see Barkey (2008), especially Chapter 4, "Becoming an Empire: Imperial Institutions and Control", 67-98. For the Ottoman case, see İnalcik and Quataert 1994, 55-102, and the Mughal case, see Alam 2002, 216-45.

[52] İnalcik and Quataert 1994, 55-102; Alam 2002, 216-45; Muzaffar Alam, *The Language of Political Islam, India 1200-1800* (2004).

[53] Hallaq, *An Introduction to Islamic Law,* 8.

[54] Muḥammad Hashim Kamali, *Principles of Islamic Jurisprudence* (2003), 369-383; Hallaq, *An Introduction to Islamic Law,* 30-39.

Sacred knowledge and the beginnings of Islamic legal education

Though the formation of an identifiable corps of *ʿulamāʾ*—scholars, jurists, and professors learned in the Islamic sciences—did not take shape until the early Abbasid period, the early development of legal education in Islam can in fact be traced back to the last two or three decades of the seventh century when private specialists in the law began teaching classes in mosques and city centers in the tradition of the Prophet himself.[55] Some of them being close companions of the Prophet, the first scholars of Islam were not paid salaries; their profound interest in the study of law was motivated by piety and religious learning, eschewing the worldly trappings of wealth and prestige. Around each of these early scholars gathered a number of students, mostly concentrated in the earliest Islamic metropolises of Mecca and Madīna, but eventually expanding to Damascus and Kufa (Iraq) with the spread of the Umayyad (661-750) and Abbasid (750-1258) dynasties. The symbolic aesthetics of these early congregations cannot be overstated: with some traveling from as far as North Africa and Persia to attend a session, students sat on the floor and gathered, quite literally, around the early scholars—hence the name for Islam's earliest pedagogical sessions: the *ḥalaqa* (plural: *ḥalaqāt*), or Islamic study circle. Like their teachers, the students of *ḥalaqāt* were primarily interested in gaining knowledge of Qurʾānic interpretation, the biography of the Prophet, and the lives of his companions, seeing in them models for exemplary standards of conduct and ordering their lives and societies along Islamic lines of social justice, humility, and egalitarianism. With classes usually held in the courtyard, garden, or interior of a mosque itself, there were no printed schedules, syllabi, or course descriptions. Upon graduating, students received no diplomas or degrees, but rather a personalized license (*ījāza*) issued by the professor, witnessing that the student had completed the study of a book or books that he in turn could transmit and teach to others. It must be stressed that the ijāza was a most personal form of licensing and certification, bearing the authority of the scholar-professor himself or herself, not that of an impersonal institution, college, or university.[56]

With humble beginnings in Mecca and Madīna, these early gatherings of knowledge eventually reached such distant urban centers as Balkh and Samarkand (of contemporary Afghanistan and Uzbekistan, respectively), with *ḥalaqāt* being organized in the newly-constructed mosques built in the various cities and towns that had come under the early rule of Islam along the way. This diffuse, noncentralized arrangement of education run entirely by and for ʿulamāʾ continued through Umayyad and early Abbasid rule. Notably, at this time ʿulamāʾ were not an insular community, closed off from society or absorbed in esoteric philosophy distant from the everyday needs or ordinary people. Rather, as embedded members and full participants of the communities they served, the ʿulamāʾ often stood up for the will and aspirations of the non-elite classes who did not have a strong voice in society, interceding on their behalf at the higher reaches of power, even though many ʿulamāʾ at this time themselves hailed from humble origins—tradesmen, farmers or small-scale merchants. This was power from the ground up. As early Islamic historian Richard Bulliet has noted,

---

[55] Nikkie R. Keddie, ed., *Scholars, Saints, and Sufis: Muslim Religious Institutions since 1500* (1972), 2; Ira Lapidus, "The Separation of State and Religion in the Development of early Islamic Society," *IJMES* 6 (1975): 363-85; Zaman 1997, 1-2, 7.

[56] Hallaq*, An Introduction to Islamic Law,* 12.

> [P]olitical power [in early Islamic societies] did not produce intellectual and religious eminence, nor was it produced by it. Intellectual and religious vitality depended upon a third factor, the emergence of a powerful and dynamic social and religious elite within the local Muslim community; and this same Muslim establishment, if it never succeeded in creating by itself a powerful state, at least contributed greatly to the power and survival of the existing state by ensuring a high degree of social order. [57]

The unquantifiable influence, or even *power*, emanating from widely-respected social station of the ʿulamāʾ was not acquired through swordsmanship, henchmen, or even connections to royalty, but through their widely-revered knowledge and character. As Hallaq observes,

> The ʿulamāʾ also represented for the masses the ideal of piety, rectitude and fine education. Their very profession as Guardians of Religion, experts in religious law and exemplars of the virtuous Muslim lifestyle made them not only the most genuine representatives of the masses but also the true 'heirs of the Prophet,' as one Prophetic report came to attest. They were the locus of legitimacy and of religious and moral authority. The later caliphs realized that brute power could not yield legitimacy, which they were striving to obtain. Legitimacy lay in the preserve of religion, erudition, ascetic piety and moral rectitude; in short, in the *persons* of those men who had profound religious knowledge of, and fashioned their lives after, the example of the Prophet and the exemplary forefathers. Thus, [over time] these caliphs understood that, inasmuch as the pious scholars needed their financial resources, they in turn needed the scholars' cooperation, for the latter were the ruler's only source of political legitimacy.[58]

For similar reasons outlined by Hallaq above, Richard Bulliet has described the ʿulamāʾ as "an elite religious establishment or patrician class with great influence among the population at large and minimal subservience to the government-at least until after the thirteenth century.[59] Literally translating as the "people of knowledge," the broad Arabic term *ʿulamāʾ* in fact comprised a diverse group of specialists in various Islamic sciences ranging from theology (*aqīda*/*kalām*), jurisprudence (*fiqh*), and spirituality (*taṣawuf*, or Sufism) to Arabic grammar, literature, ethics (*adab/akhlāq*), and even social services. But all, by definition, shared at least a basic training in the sacred law, the *Sharīʿah*.

Hallaq's Four-Part Typology of Islamic Juridical Experts

As for specialists in Sharīʿah, Wael Hallaq has described a four-part typology of Muslim juristic experts from the classical to early modern eras: the qāḍī (state-appointed judge), the *Muftī* (no English equivalent), the author-jurist, and the law professor.[60] Utilizing Hallaq's informative framework, I will briefly describe these four most prominent personnel in the

---

[57] Bulliet, *Conversion*, 138.

[58] Hallaq, *An Introduction to Islamic Law,* 43

[59] Bulliet, *Conversion*, 138.

[60] Hallaq, *An Introduction to Islamic Law,* 8. Alan Guenther has provided a similar "personnel" breakdown in Guenther, Alan M. "Ḥanafī Fiqh in Mughal India: The Fatāwā-yi ʿĀlamgīrī," in *India's Islamic Traditions,711-1750*, Richard M. Eaton, ed. (2003).

Islamic juridical field.[61] Though in the early years of Islam these positions overlapped significantly, over time these divisions became increasingly specialized and differentiated, and we will describe each accordingly here. As the authoritative experts of Islamic law, these individuals were in effect the guardians of social order and continuity, but also the custodians of change during the medieval and early modern eras. They would remains so until the great social transformations of the late Ottoman empire, British Raj, and modern nation-states of the long nineteenth century, when states of the Middle East and South Asia embarked on grand centralization programs that sought to streamline the rather diffuse system of juridical practice and associated educational networks into more uniform, state-controlled schools and bureaucracies. Moreover, in the specific case of late nineteenth and early twentieth century Afghanistan, it is especially crucial to grasp this outline of the Islamic juridical field in the premodern era, in order to understand *who* the Niẓāmnāmā codification project's architects sought to reconstitute in particular.

The Qāḍī

Akin to the modern judge or magistrate, the chief business of a qāḍī was to adjudicate disputes in a state-administered court of law. While the modern judge—in either Anglo-American common law or Continental European civil law jurisdictions—may be the nearest equivalent to Islamic law's Qāḍī, we will notice substantial differences arise when we properly historicize the qāḍīs of early Islam. For example, unlike judges today the qāḍī was often the least respected of legal professionals and least sought-after occupation by Muslim jurists. The reasons had to do with the ultimate source of legal and moral authority in Islamic law being epistemic—that is, from an erudite command of the religious texts coupled with personal piety—rather than by investiture of the state. The latter, in contrast, was viewed with suspicion and kept at a distance by some of Islam's most respected scholars.

But this was not the only difference. In fact, throughout history many respected ʿulamāʾ would join the ranks of state-employed qāḍīs and legal professionals, from Abū Hanifa's own student, Qāḍī Abū Yūsuf (d. 798), to Ottoman Shaykh al-Islam Ebusuud Efendi (1490-1574), to the very last deputy Shaykh al-Islam of the Ottoman empire, Shaykh Muḥammad Zāhid ibn Ḥasan al-Kawtharī (1879-1951). The other difference had to do with the types of activities and role of the Qāḍī, which was much broader than that of the limited jurisdiction of the modern judge. Wael Hallaq, has commented as follows on the competence of the qāḍī from the Umayyad and Abbasid to early Ottoman rule, stating that adjudicating disputes on the official court docket was only one of a complex array of duties he was responsible for:

> The Qāḍī, like the *muftī*, was a member of the community he served. In fact, Islamic law itself insists that a Qāḍī, to qualify for the position, has to be intimately familiar with the local customs and way of life in the community in which he serves. With the help of his staff. . . he was in charge of supervising much in the life of the community. He oversaw the building of mosques, streets, public fountains and bridges. He inspected newly constructed buildings and the operation of hospitals and soup-kitchens, and audited, among other things, the all important charitable endowments. He looked into the care afforded by guardians to orphans and the poor, and himself

[61] While they are the most prominent and influential, they are not the only actors in the medieval and early modern Islamic juridical field, of course. A broader range of participants in the field from the minor to the major would include the muḥtasib (common market inspector) to the sultan himself.

> acted as guardian in marriages of women who had no male relatives. Moreover, the qāḍī oftentimes played the exclusive role of mediator in cases that were not of a strictly legal nature. Not only did he mediate and arbitrate disputes and effect reconciliations between husbands and wives, but also between brothers and friends needing nor more than a respected outsider's opinion.[62]

As important as the Qāḍī's individual ability to reference the law, was the social site in which the qāḍī was embedded and in which his court functioned. Far from mechanically applying rules of law to cold facts, by the nature of their jobs and pre-modern Islamic society qāḍīs needed to grasp the wider social context of disputes that divided litigating parties. This entailed resolving conflicts not just according to theoretical logic or winner-takes-all principles, but as Hallaq states, "in full consideration of the present and future social relationships of the disputants."[63] Unlike modern judges, qāḍīs endeavored as much as possible to manage a social reality in which the litigating parties, often neighbors from the same community, could continue to live together amicably. Striving wherever possible to prevent the collapse of relationships, the successful qāḍī needed to master such acts of restorative justice that him to be familiar with, and willing to investigate, the history of relations between the disputants, their relatives, and witnesses.[64]

The Muftī

While the qāḍī was employed by the state to adjudicate law cases in court, as well as mediate disputes that arose in the community, his significance paled in comparison with the most towering legal professional in Islam, the Muftī. As the qāḍī in the early centuries of Islam carried an ambivalent position in the public eye, the Muftī, by contrast, was the supreme legal personality in Islam. When qāḍīs were left puzzled by complex legal dilemmas requiring elucidation and expertise on nuanced points of law, or when an ordinary person sought a ruling for a novel situation based on the Sharīʿah, they both turned to the Muftī. Here is why: Muftīs distinguished themselves and were indeed defined by their extensive expertise and erudition, often from decades of private scholarship and study, coupled with a sterling reputation for piety, humility, and service to the community.[65] Because legal authority in Islam was personal and

---

[62] Hallaq*, An Introduction to Islamic Law,* 11.

[63] Ibid., 12.

[64] Ibid. For a discussion of the continuing role of Ottoman Sharīʿah court judges as restorers of social order rather than mere administrators of jurisprudential logic in property disputes as late as the mid-nineteenth century, see Huricihan İslamoğlu, "Property as a Contested Domain: A Reevaluation of the Ottoman Land Code of 1858, in Roger Owen, ed. *New Perspectives on Property and Land in the Middle East* (2000), 12-13.

[65] This perspective also shares many parallels with the incisive work of Muḥammad Qasim Zaman's *The Ulama in Contemporary Islam* (2002), where the application is British India and post-partition India and Pakistan. With regard to the source of Muftī's distinctive reputation, similarly Hallaq notes it came down the individual's erudition and expertise,

> All this is to say that the *fatwā* is the product of legal expertise and advanced legal knowledge, and the more learned the *mufti,* the more authoritative and acceptable his *fatwā* was to both the court and the public. (The level of a scholar's legal knowledge was determined through practice, not degrees or

private—that is to say, it was in the authoritative knowledge of the individual jurists that authority resided, and *not* the ruler or state—Muftīs were held in high esteem by the literate and illiterate public, for they were not paid by the state and often lived off their own earnings through self-sufficient jobs especially in the early centuries of Islam. It was this profound aptitude in ecumenical-legal knowledge that enabled Muftīs to extract new rulings for new issues that later came to be known as *ijtihād*, or juristic reasoning by qualified jurists, the very bedrock of Islamic law's continual evolution through the ages.[66]

As indicated by the Arabic syntax of the noun, the Muftī's main business was to issue a *fatwā*—a legal answer to a question posed to him by a member of Islamic society. In response, the Muftī articulated what the law was with regard to a particular set of undisputed facts. Because of his or her erudition, the Muftī's opinion, though non-binding, in practice authoritatively settled many disputes in the Qāḍīs' courts of law or society at large.[67]

Questions addressed to the Muftī were raised by members of the community, including ordinary people, other Qāḍīs, and at times, even the Sultan himself. When qāḍīs approached a Muftī it was usually because they were presiding over cases brought to their courts that they found difficult to decide. As such, the first juristic treatises that appeared in Islam were the product of this very pragmatic question-and-answer exchange. Over time, the answers Muftīs gave were gathered together, augmented and edited, and then organized in systematic fashion by subject so they could eventually be transmitted in memory as well as in writing in the form of Islam's earliest law books.[68]

Though Muftīs did not usually physically sit in the Qāḍī's court, this did not affect the court's reliance on their expertise. Throughout Islamic history, and even until today, Muftīs have been routinely consulted on difficult and novel cases often involving unprecedented issues, even if they resided far from where the case was being decided or where the core events of the case took place.[69] This was demonstrated in the case of an eighteenth-century Afghan tribal leader seeking a fatwā from the ʿulamāʾ of Mecca to legitimize his war in Qandahar (discussed in the next chapter). In other instances, Islamic historians have recorded qāḍīs in Cairo seeking fatwās from learned Muftī as far as Andalucia, Spain.[70] In this manner, Alan Guenther summarizes the immense significance of this legal professional,

---

diplomas. The measure of a leading jurist was, among other things, the quality of his writings and *fatwās* as well as his ability to win in scholarly debates with distinguished scholars).

Hallaq, *An Introduction to Islamic Law,* 9-10.

[66] Kamali 2003, 468-474; Hallaq, *An Introduction to Islamic Law,* 35. For an extended argument on the continuation of *ijtihād* through the early modern period (challenging Joseph Schacht's thesis, among others, of a "closing of the gates of ijtihād"), see also Wael Hallaq, "From Fatwās to Furu': Growth and Change in Islamic Substantive Law," *Islamic Law and Society* 1 (1994): 17-56.

[67] Hallaq, *An Introduction to Islamic Law,* 9.

[68] Ibid.

[69] Ibid. For a contemporary study of the role of Muftīs in twentieth century Egyptian society, see Jakob Skovgard-Petersen, *Defining Islam for the Egyptian State: Muftis and Fatwās of the Dār al-Ifta* (1997).

[70] Hallaq, *An Introduction to Islamic Law,* 9.

> The link between the Sharīʿah as legal discourse and the Sharīʿah as a social instrument is precisely the work of the muftīs in producing fatwās derived from previous works of law but addressing real questions in their contemporary circumstances. Collections of fatwās initially reflected the reality to which they were addressed, with the original question addressed to the muftī followed by the answer given in reply. These were transformed into substantive law or *furu'* as the question/answer format was abstracted from the concrete situation and abridged to illustrate a general principle.[71]

While the Muftī was arguably the most prestigious and authoritative of Islamic jurists, this did not render his opinions supreme in the modern judicial review sense of the term. Nor did they, nor could they, ever claim to be exhaustive in their endeavors to meet the constantly arising new social and juridical challenges of the day. For that, there was another cadre of experts who rose to the occasion.

The Author-jurist

If there was one weakness in the professional capacity of a Muftī, it was their limited time for scholarship and teaching. As Muftīs often did not always have the time to elaborate on the reasoning of their conclusions in length due to constant preoccupation with answering questions posed by members of the community, many of their opinions were eventually explained in books authored sometimes by the Muftīs, but more often, another group of ʿulamāʾ who were often Muftīs themselves: the author-jurists.

In fully explaining and elaborating the complex reasoning and sources used to arrive at a decision, the author-jurists differed from the more socially-preoccupied Muftīs. Author-jurists, also capable of penning their own fatwās, wrote their juristic opinions with considerably more detail than a regular Muftī. As described above, the collected works of these fatwās became authoritative for subsequent generations in the forms of treatises, law primers and textbooks, and eventually, state codes.[72] As Hallaq notes,

> The great majority of Islamic legal works, however, were written not by the *muftī*, but rather by the author-jurists who depended in good part on the *fatwās* of distinguished *muftīs*. . . It was these works that afforded the author-jurists the opportunity to articulate, each for his own generation, a modified body of law that reflected both evolving social conditions and the state of the art in the law as a technical discipline. The overriding concern of the author-jurists was the incorporation of points of law (for the most part *fatwās*) that had become relevant and necessary to the age in which they were writing."[73]

In this way the author-jurists, though perhaps less visible than their regular Muftī counterparts, played a crucial role in keeping *fiqh*, or Islamic jurisprudence, a dynamic, constantly evolving, and sophisticated legal tradition. The significance of the early author-jurists writings cannot be overstated, as their treatises and law books became the substance of further

---

[71] Guenther, Alan M. "Hanafi Fiqh in Mughal India: The Fatāwā-yi ʿĀlamgīrī," in *India's Islamic Traditions,711-1750*, Richard M. Eaton, ed. (2003), 221-222.

[72] Guenther, "Hanafi Fiqh in Mughal India," 221.

[73] Hallaq, *An Introduction to Islamic Law,* 10.

elaboration and analytical extension to new cases in subsequent generations after the foundation of schools of jurisprudence (singular: *madhhab*, plural: *madhāhib*) and law colleges (*singular*: madrasah, plural: *madāris*), to be discussed in a later section. After all, the central role of the *fatwā* is the primary reason why medieval Islamic courts did not usually publish Qāḍīs' decision in the way practiced by modern courts today. Rather, as Hallaq astutely observes, "law was to be found not in the precedent established by courts of law (a notion based on the doctrine of *stare decisis*), but rather in a juristic body of writings that originated mostly in the answers given by Muftīs," and elaborated on by the author-jurists.[74] Crucially, it was these very law books penned by the author-jurists that constituted the foundation for Islamic societies' first codes of law.

The Professor

Finally, professors were Islamic scholars fully engaged in teaching students in all matters of fiqh, theology, spirituality, or other non-legal Islamic sciences. Like their fellow legal professionals but perhaps to an even greater degree, professors enjoyed a close-knit relationship with their colleagues and students. Far more than a strictly academic or business relationship, it was not uncommon for professors to marry their daughters to their male students, and look after their expenses and personal affairs with the concern and care of a parent. Moreover, perhaps to a greater degree than any of the other legal professions, professors were consistently motivated by the intangible but invaluable rewards of piety and learning, for the worldly returns were humble in this field (this was not the age of private universities with massive tuition fees). At the same time, the personal satisfaction of teaching the law and training the next generation of Islam's legal scholars, were likely tremendous. For this reason, it was not uncommon for Qāḍīs, Muftīs, and author-jurists to pursue a career in teaching and scholarship before, concurrent to, or after their primary field of emphasis.

In spite of the separate job descriptions outlined above, it is necessary to stress that, in the early centuries of Islam, as Alan Guenther notes, "An accomplished jurist could fill all these roles, or be limited to one or several of them."[75] Moreover, as mentioned earlier, in stark contrast to most societies today, the job of a state-appointed qāḍī was *not* viewed as the culmination of a successful legal career.[76] Much of this had to do with an ethical aversion to

---

[74] Hallaq argues that the Islamic concept of legal precedent was closely tied to the practice of the Muftī's *fatwā*, or juridical opinion based on an extension of established rulings (based on the sacred sources of Islamic law) to new cases,

> [E]manating from the world of legal practice, the *fatwās* rather than court decisions were collected and published, particularly those among them that contained new law or represented new legal elaborations on older problems that continued to be of recurrent relevance. Such *fatwās* usually underwent a significant editorial process in which legally irrelevant facts and personal details…were omitted. Moreover, they were abridged with a view to abstracting their contents into strictly legal formulas, usually of the hypothetical type: 'If X does Y under a certain set of conditions, then L (legal norm) follows.' Once edited and abstracted, these *fatwās* became part and parcel of the authoritative legal literature, to be referred to and applied as the situation required.
>
> Ibid., 10.

[75] Guenther, "Hanafi Fiqh in Mughal India," 221.

[76] Guenther notes, for example, how "biographical dictionaries portray accomplished jurists as men who were active in issuing fatwās, writing texts and teaching, but not necessarily working as Qāḍīs." Ibid.

making religious scholarship subservient to the state. Hence, generally before the Ottoman era, while qāḍīs were appointed and salaried by the state, this was notably *not* the case with Muftīs, author-jurists, or professors. "This is to say," Hallaq notes, "that until the legal profession was institutionalized, the jurists of Islam were not, in terms of gaining a livelihood, full-time legal professionals, however learned and skilled in the law they were. Thus, until the eleventh or twelfth century, the vast majority of jurists held other jobs, with many of them working as tanners, tailors, coppersmiths, copiers of manuscripts, and small merchants and traders."[77]

Thus while the earliest legists were intimately tied to their social surroundings, often working side jobs and supporting themselves whiling independently pursuing their scholarly endeavors, over time a corporate group formed that grew increasingly specialized, professionalized, and institutionalized. This was the norm by the ninth and tenth centuries and early Abbasid rule, by which time ruling caliphs by and large had grown increasingly detached from any specialized sense of legal knowledge themselves, and (in light of their failings in this regard) were thus expected to surround themselves with competent jurists who would assist them in addressing difficult legal matters.[78] Yet, with increasing complexity of issues as the early Islamic empires expanded its borders and encountered new populations, ideas, and philosophies, individual jurists were often not enough to tackle complex arrays of issues, refine existing doctrine for new realities and—most important to Muslim rulers—to impart legitimacy. As such, Qāḍīs, Muftīs, author-jurists and professors alike began operating within a new, more respected, more sophisticated scholastic and legal institution than the rudimentary, individually-led study circle. This newly developing institution was in embryonic form during the seventh century but gradually developed into an iconic institution from the eighth and ninth century on—the maḏhab, or school of law.

The Rise of the Law Schools

During the last decades of the seventh century, as the first study circles were being held in Madīna and eventually newer cities that came under Islamic rule such as Damascus, Kufa, and Basra, the earliest formations of a larger, more sophisticated institution were also taking place. As learned ʿulamāʾ debated religious and legal questions and students eager to learn their religion gathered around them in the process, the foundations were also laid for an autonomous (non-state supported) school of jurisprudence, the maḏhab. The fact legal authority in Islam did not reside in the ruler or state—a result of suspicions by pious Muslim scholars that latter day political institutions were morally corrupting—was a prime factor contributing to the emergence of the *maḏhab* in this historical context.[79]

The maḏhab served as the first non-state sponsored organization of Islamic legal scholarship. Usually founded by a prestigious Muftī of widespread acclaim, the students of the

---

[77] Hallaq*, An Introduction to Islamic Law,* 13.

[78] Muḥammad Qasim Zaman's *Religion and politics under the early 'Abbāsids: the emergence of the proto-Sunnī elite* (1997) is an extended and in-depth study of this historical development; see in particular 70-119. See also Hallaq*, An Introduction to Islamic Law,* 43-44 and Bernard G. Weiss, *The Spirit of Islamic* Law (2006), 16-17, 20-21.

[79] Weiss, 15-16; Hallaq*, An Introduction to Islamic Law,* 35-36; See also Sherman A. Jackson, *Islamic Law and the State: The Constitutional Jurisprudence of Shihab al-Din al Qarafi* (1996), xx-xxxv.

founder would continue to issue ruling based on the juristic principles established by the founder. Over time these principles became enshrined as the founding juristic principles of the "school," usually named after the founder. By the ninth century, hundreds of Sunnī *maḏhāhib* had formed around the earliest centers of Islamic scholarship: Madīna, Damascus, Basra, Kufa, Baghdad, Cairo, and as far as Andalucia, Spain. While some maḏhāhib grew in fame and followers—the greatest four Sunnī schools surviving until today being the Mālikī, Ḥanafī, Shāfiʿī, and Ḥanbalī—others died out with their followers or first few generations (as with the Ẓahiri school of Imam Hazm, for example).

The most widespread maḏhab in Islamic history proved to be the Ḥanafī school. The Ḥanafī maḏhab had its origins in the teachings of jurist polymaths Abū Ḥanīfa (d. 767) of Kufa, Iraq, and his two disciples, Qāḍī Abū Yūsuf (d. 798) and Muḥammad al-Shaybani (d. 805). The Ḥanafī school quickly extended its influence eastward, to Iran (until about 1500), and dominating India, Afghanistan, Central Asia, and Anatolia. Later on, it was adopted as the school of choice of the Ottoman and Mughal empires. Until this day, traditionally Ḥanafī populations include those in India, Pakistan, Bangladesh, Afghanistan Central Asia, northern Iraq, Syria, and Turkey.[80]

The purpose of the maḏhab was to anchor law in a source of deeply respected authority alternative to the ruler but also lasting beyond any single individual jurist who would inevitably die, and thus no longer be available to write brilliant juristic opinions on the pressing questions of the day. Through the maḏhab, therefore, the deceased master jurist's closest students and disciples were able to preserve the founder's brilliant legal arguments and build on the juristic legacy bequeathed by the school's founder, rather than "re-inventing the wheel" every time a new issue requiring ijtihād (personal reasoning by qualified jurists) arose. "Thus," Hallaq notes, "whereas in other cultures the ruling dynasty promulgated the law, enforced it and constituted the locus of legal authority (or legal power), in Islam it was the doctrinal legal school that produced law and afforded its axis of authority. In other words, legal authority resided in the collective, juristic doctrinal enterprise of the school, not in the ruler or in the doctrine of a single jurist."[81] In this way, the *maḏhāhib*, or doctrinal legal schools of Islamic jurisprudence, represent a fundamental feature of the Sharīʿah. Once formed, no Muslim jurist could operate independently of them until they were severely challenged by modern state reforms, and even then, they survive in tact in many Muslim countries.[82]

To summarize, in large part due to the autonomous development of the maḏhabs which retained autonomy from the royal court, the content of the law and its application in Sharīʿah societies was not compromised by political accommodation in the manner of other societies, in the past or today. Hallaq goes so far as to state "it was the ruler who—from the beginning of Islam until the middle of the nineteenth century—consistently had to bow to the dictates of the Sharīʿah and its representatives in governing the populace."[83] As a moral and legal force combined, therefore, it is no exaggeration to say that in early Muslim societies the law stood

---

[80] Muḥammad Hashim Kamali, *Shari'ah Law* (2010), 70-73; Hallaq, *An Introduction to Islamic Law,* 37.

[81] Hallaq, *An Introduction to Islamic Law,* 37.

[82] Ibid.

[83] Ibid., 38.

supreme for over a millennium, and this without the coercive technologies of the modern state—a societal accomplishment of the first order.[84]

But this does not mean the rulers did not idly stand by and let the ʿulamāʾ call the shots. Rather, the relationship between the religious law, ʿulamāʾ, and political power was constantly negotiated. Muslim rulers, beginning with the ʿAbbāssids and Seljuk Turks were to develop a new institution to regulate the study of law. This new institution offered a more structured, institutionalized system of financial patronage, and with it presented Muslim rulers with an unprecedented opportunity to influence and even co-opt some of the previously untouchable ʿulamāʾ. This institution was the Islamic law college, or the *madrasa*.

Introducing the Waqf: How private study circles became endowed law colleges

It should be evident from above that the *ḥalaqas*, or study circles, of early Islamic history were scholarly gatherings of a professor and his students, free of charge and open to the public. As the earliest scholars were largely self-supporting, they were not reliant on financial patronage of ruler or wealthy individuals, and therefore pursued their teaching and writing with minimal political interference. During the last decades of tenth century, a new institution evolved and began to superimpose itself over the ḥalaqa, altering some of the study circle's main features. Known as the madrasah, or Law College, the new institution was distinguished for its novel financial and political dimensions as much as its core educational purpose.[85] With the infusion of capital from affluent and political powerful donors, the rudimentary study circles eventually grew into the much larger *madrasa*. Distinguished from the early study circles by grander buildings, finer architecture, and even lucrative salaries for teachers, the new institution virtually swallowed its earlier counterpart. It was not uncommon, for example, for dozens or even hundreds of study circles to take place within the grand structure and under the elaborate domed ceiling of a single madrasah, all enabled by the large donations of group of donors a single wealthy patron. In this way, by subjecting legal education to increasingly systematic regulation through such financial sponsorship, Muslim rulers—beginning with the Abbasid dynasty, continuing through the Seljuks, and mastered by the Ottomans—were able to exert more influence over the education of students, selection of scholars, and ultimately, the production of Islamic legal norms in society.

But we should not overstate the intervention of political elites in the early madrasahs at this time—government "control" of Islamic education is still not an appropriate word until the ruptures of colonialism and modernization programs of the nineteenth century. Moreover, we cannot grasp the complexity of the historical emergence of madrasahs without discussing the rise of a sister institution to the madrasah, of extraordinary significance in Islamic legal and social history: the charitable trust, or waqf (Turkish: *vakıf*; plural: *evkaf*). It was through the law of waqf that a wealthy patron or ruler could endow a mosque with adjoining inns, soup kitchens, hospitals, and other social and community services all for the public good. And likewise, it was

[84] Sherman A. Jackson, "Shariʿah, Democracy, and the Modern Nation-State: Some Reflections on Islam, Popular Rule, and Pluralism." *Fordham International Law Journal* 27 (2003): 88-107; Hallaq, *An Introduction to Islamic Law,* 38.

[85] On the madrasah in medieval Islam, see George Makdisi, *The Rise of Colleges* (1981); Jonathan Berkey, *The Transmission of Knowledge in Medieval Cairo: A Social History of Islamic Education* (1992); Michael Chambers, *Knowledge and Social Practice in Medieval Damascus 1190–1350* (1994).

through the charitable trust that wealthy donors, or a community pooling its resources through charity, could dedicate a mosque to the teaching of law, and the professor and students provided with all the necessities of educational and scholarly endeavors: paper, pens, ink, a library, food, stipends, and dormitories.[86] In this way, more important than the magnificent structures built to house the madrasah (many of which still stand until this day), was the legal mechanism of waqf, which depending on who was establishing it, could be designed to protect, insulate from political pressure, but also co-opt Islamic educational institutions.

In relation to the madrasah, one Islamic historian has described the waqf as "the glue that could bind the human, physical and monetary elements together."[87] Defined as a charitable act in which one permanently relinquished property "for the sake of God," the waqf was essentially a philanthropic act to offer relief, aid, and institutionalized support to the poor, disadvantaged, and public at large. While a considerable proportion of charitable endowments were directed at education through the madrasah, waqfs were founded to build mosques, sufi lodges, hospitals, soup kitchens, traveler inns, and a variety of other public works, including bridges, public fountains, veterinary care, street cleaning, and public lighting.[88] How did the waqf operate in practice? Wael Hallaq described the operation of the law of the waqf as follows:

> Once the founder alienated his or her property as a waqf, the act was legally deemed irrevocable, entailing as it did the complete transfer of the right to ownership from the hands of the founder to those of God. Once alienated, the property could not be bought, sold, inherited, gifted, mortgaged or transferred in any other manner. The only exception was when the property ceased to serve its intended purposes. . . Once the deed was certified and witnessed (usually before a judge), the founder could no longer effect any substantive changes to its stipulations.[89]

Notably, once the waqf deed was certified, the qāḍī held ultimate power to supervise and oversee the endowed institution's administration, budget and operation.[90] As an endowed institution protected by the law of waqf, therefore, the Islamic law college served as a crucial meeting point of law, education, and politics in unprecedented fashion. It also served as the primary means through which wealthy patrons and rulers could build and sustain religious and political legitimacy.[91] "What gave rise to the complex relationship between law and politics," explains Hallaq, "was the important fact that those who founded the largest, most affluent and most prestigious madrasahs were the rulers and their immediate entourage."[92] Simple economics therefore, explain how the effects of political intervention began to be felt in the field of Islamic education.

---

[86] Hallaq, *An Introduction to Islamic Law,* 38.

[87] Ibid., 48.

[88] Ibid.; Sami Zubaida, *Law and Power in the Islamic World* (2005). For a in-depth historical study of Afghanistan's oldest and largest waqf property, the Hazrat ʿAlī ibn Abū Talib shrine in Mazar-i Sherif, see Robert D. McChesney, *Waqf in Central Asia: 400 Years in the History of a Muslim Shrine, 1480-1889* (1991).

[89] Hallaq, *An Introduction to Islamic Law,* 49.

[90] Ibid., 43.

[91] Ibid., 2.

[92] Ibid., 39.

In terms of historical stages, the basic structure of the madrasah appears to have formed towards the end of the eighth century, when affluent donors or rulers began to gift certain mosques with basic provisions and salaries, covering the fundamental expenses of professors who taught law there. What followed soon after were grand enlargement projects whereby salaries, food, and short-term dormitories for transient students and were also covered—all through the process of waqf. The final stage, the madrasah, included a fully-endowed campus with mosque, ample space for study circles, long-term dormitories for teachers and even students, and all their educational expenses covered, including a well-kept library, paper, ink, and any other necessary school supplies.[93]

The first successful example of a large scale establishment of madrasahs along this model took place in the Seljuk period of rule. The Seljuks were among the first major dynastic Turks to sweep through Iran and the Middle East from Central Asia, ruling from 1055-1157 under an Abbasid Caliph in name only. The Seljuks had defeated the Shīʿī Buyids (r. 934-1055) of western Iran in the name of Islam, but otherwise lacked both religious authority and political legitimacy. As committed Sunnīs, they maintained the Abbasid Caliph in name, but lacking any revered lineage themselves, vigorously searched for other means of needed legitimacy. In solving this problem, the Seljuks established a pattern of governance that was to be emulated and reinforced by the Ottomans and Mughals after them, and lasting until the nineteenth century. Beginning in the province of Khurāsān (contemporary Northeast Iran/western Afghanistan), they instituted to a policy of building and endowing madrasahs.[94]

As the Seljuk empire expanded westward through Persia they eventually captured the glorious Abbasid capital of Baghdad. And they were about to make it more glorious. The establishment of eleven imposing madrasahs in Baghdad by the Seljuk vizier Niẓām al-Mulk (1063-92) brought the madrasah into the limelight of Islamic legal and educational history. Producing such monumental scholars as Islamic jurist, theologian, and philosopher *par excellence* Abū Ḥāmid al-Ghazālī (1058-1111) and illustrious Persian poet Saʿdī (1184-1291), the Seljuk rulers were distinguished in Islamic history as the first to be able to effectively recruit top jurists from urban madrasahs for service in their administrations, especially in the major cities. Hallaq notes that arguably the first to utilize the law of waqf for political gains as such famed was Seljuk vizier Niẓām al-Mulk (1018-1092), founder of the great Niẓāmīyah madrasah of Baghdad.[95] This famed governor took it upon himself to personally supervise, select, and appoint—with salaries—some of the top jurists and law professors of the age. In this way Niẓām al-Mulk establishment and administration of the Muslim world's most elite madrasah set a pattern that thereafter took his namesake institution as a model; it was from here on that madrasahs on the "Niẓāmiye" model spread westward through the Middle east, Africa, Spain, and some even argue, went on to become the first colleges of Europe.[96] By the end of the century, as the Seljuk empire expanded westward through Persia and into Iraq, Syria, and

---

[93] Ibid., 47.

[94] Ibid., 52; Dupree, *Afghanistan*, 314.

[95] Author of Siyāsatnāma, or Siyar al-Mulūk. See Darke, Hubert (translator), *The Book of Government or Rules for Kings of Niẓām al-Mulk*. New Haven: Yale University Press, 1960.

[96] George Makdisi, *The Rise of Colleges* (1981); Jonathan Berkey, *The Transmission of Knowledge in Medieval Cairo: A Social History of Islamic Education* (1992); Michael Chambers, *Knowledge and Social Practice in Medieval Damascus 1190–1350* (1994).

Anatolia, the madrasah spread to capital cities and towns west of Baghdad, including Cairo, Damascus and, eventually under successor rulers, Istanbul. Hallaq notes that by the time the Mamlūks came to power in the middle of the thirteenth century in Egypt, Cairo had thirty-two madrasahs, and Alexandria boasted even more.[97]

Niẓām al-Mulk's personal involvement in establishment and administration of madrasahs became a rule of prudent statecraft. Through the Seljuk eras and continuing under Ottoman, Safavid, and Mughal practice, carious sultans, emirs, viziers and even influential female members of the ruling elite founded madrasahs, named them after themselves, and took a personal interest in their administration, including who taught and studied in them. It was in this way, Hallaq argues, "that foreign rulers and military commanders, who characterized the political scene in the Muslim world for centuries, could insert themselves into social networks, thereby fitting their political strategies into the populations they ruled."[98]

Thus, when Islam spread to new territories and Muslims became a ruling minority in such distant lands as Spain in the west and Khurāsān in the east, in these new, challenging environments, the ʿulamāʾ were only civilian elite that could represent the foreign ruler and the indigenous subjects to each other. At the same time, power relations between ʿulamāʾ and the rulers was constantly negotiated. "Except through the power of persuasion and alliance," notes Nikkie Keddie, "the ʿulamāʾ lacked the ultimate sanction of military power."[99] In most cases at this time they still lacked a clear hierarchical organization and leadership.[100] As new empires were founded, namely the Ottoman, Safavid, and Mughal dynasties, these early modern rulers incorporated new court cultures, burgeoning bureaucracies, and above all, the Niẓāmiye-modeled madrasah, to increase central control and neutralize (or more often) negotiate with imminent threats to their central authority. In the process, ʿulamāʾ, madrasahs, and Sharīʿah gradually became transformed into specialties under the regulation of the state.

In contrast to the early centuries of Islam, therefore, by the end of the eleventh century a considerable number of the ʿulamāʾ were in the pay of government, or reliant upon the support of wealthy patrons—both through the system of waqf.[101] At the same time, government support at this time should not be overstated. As Hallaq notes, in the pre-Ottoman Middle East the madrasah did not enjoy monopoly over legal education, and many ʿulamāʾ who went on serve as qāḍīs did not in fact acquire their education in a madrasah, but rather could have still been educated in a variety of non-state institutions such as private study circles kept by entirely independent scholars. Moreover, it cannot be stated that the madrasah at this time was a virtual arm of government, for it was still "neither intended nor perceived" as a tool for training government administrators and bureaucrats.[102] Rather, the main purpose of Islam's early madrasahs during the Seljuk, Mamlūk, Delhi Sultanate, and early Ottoman eras was to garner religious and political *legitimacy*. After all, the theory of government in Islam still vested

---

[97] Hallaq, *An Introduction to Islamic Law,* 48.

[98] Ibid., 52.

[99] Keddie, *Scholars, Saints, and Sufis*, 3.

[100] Ibid.

[101] Hallaq, *An Introduction to Islamic Law,* 53.

[102] Ibid., 54.

sovereignty in God and His sacred law, and the supreme authority for interpreting Islamic law still resided with the jurists, not the ruler. As such, the madrasah as a state-run institution for the training of bureaucrats was to be introduced much later in the nineteenth century, a topic we will return to in Chapter 3.

Meanwhile, in the historical context of medieval Islamic society both rulers and ʿulamāʾ needed each other, and the medieval madrasah was only one historical stage of each learning to cooperate with the other.[103] The constantly negotiated relationship between state and scholar, and the still diffuse nature of Islamic legal authority at this time, therefore attenuated the historical process of subordination of the legists from a strictly "moral community" to a professional juridical class, a phenomenon of a later era. It was not until the rise of the Ottoman and Mughal empires, when more intricate partnerships of convenience formed between ʿulamāʾ and Palace at first, followed by other state actors such as the Porte bureaucracy and hired soldiers, or Janissaries, in the Ottoman context. Such processes of centralization and organization of the ʿulamāʾ into a distinct scholarly class, or '*ilmiye*, began with the hierarchical administration of legal education as encountered in Süleyman's *Kanunnames*, or state-issued codes of law and administration. In order to understand the groundbreaking changes to Islamic law and society unleashed by the Ottomans and Mughals, we can also make some general remarks about Ottoman and Mughal Sharīʿah society in the process.

II
Islamic Legal History from Theory to Praxis: Ottoman and Mughal Juridical Fields in the Early Modern Era

Ottoman Şeriat Society: Jural hierarchies and the pursuit of uniformity

Historians trace the beginning of Ottoman rule to the early conquests of Amir Osman I, son of Ertuğrul, near Eskişehir of western Anatolia, following the demise of the Seljuk Sultanate of Rum. While Osman I ruled his new emirate in central Anatolia from 1299 until his death and succession by Orhan I in 1324—thereby initiating the longest Muslim dynasty in history—the Sharīʿah as a governing ideology does not appear to have a prominent structural presence in Ottoman rule until the reign of Beyazid I (1389-1401). It was Beyazid who, more than any of his predecessors, sponsored the ʿulamāʾ at large, paying special attention to the jurists. Differing from his Seljuk predecessors like Niẓām al-Mulk and the scores of Muslim rulers who had come and gone before him since the Abbasid era, however, Beyazid was distinguished for actually inviting to formally enter into an active ruling partnership with him. As the subsequent Ottoman centuries would reveal, Beyazid's invitation and subsequent practices established an entrenched paradigm of governance that would fundamentally transform Ottoman-Islamic governance strategies rule for the next two centuries, and indeed, with lasting effects until the last days of the Empire.[104]

With regard to the position of ʿulamāʾ in the Ottoman empire, Richard Chambers painted a general portrait as follows:

---

[103] Ibid., 42.

[104] Ibid., 72.

> The ʿulamāʾ comprised the majority of the educated Muslim population of the Ottoman empire. They staffed the mosques, mektebs (elementary schools), and medreses, were responsible for educating the Muslim community, served as the judges in the courts of Holy Law (Şeriat), and administered as well the *kanuns* (edicts) of the Sultans. From the early days of the Empire, the mektebs and medreses had provided the state with literate men to work as scribes and officials in the government bureaus, although 'on the job' training was available in the bureaus as well. High-ranking ʿulamāʾ sat in the Imperial Divan and held positions in the Palace which often gave them unusual access to the sovereign himself. The Chief Muftī (Şeyhülislam) was considered on a par with the Grand Vezir (Sadrazam). He could, and on occasion did, issue a legal opinion (*fetva)* which served as a restraint upon the Sultan's sovereign will.[105]

As Chambers proceeds to explain, the term "ulema" as represented in Ottoman historical documents corresponded not merely to graduates of madrasahs who had received their diplomas (*icazetler,* signifying completion of a given track of religious learning), but to those who had gone on to secure an appointment as a mosque functionary, teacher, Muftī, or Qāḍī. In this manner, the "ulamā' is Ottoman society referred to the learned religious and legal *profession*, also known as the '*ilmiye*, holding official ranks of office and titles specific to their career alone. Notably, the names of ʿulamāʾ were inscribed in an official ledger, removed only when they ceased to be counted among the learned officialdom, for whatever reason.[106] This degree of bureaucratization, along with many other Ottoman innovations in the juridical field, was unprecedented in Islamic legal history.

As members of the ruling *askeri* class, Chambers observes, the ʿulamāʾ were an exceptionally powerful estate in traditional Ottoman society. The fact they were exempt from taxation like other fellow ruling class members was only the beginning of their privileges. Unlike other leaders in the civil and military bureaucracies, out of reverence for their station the legists were never subordinated as "slaves of the Porte (*kapıkulları*)," and thus upon death their personal estates were not subject to confiscation, but rather could be passed on to their heirs. This privilege would prove to have significant social and economic consequences on the stratification of the field as large families began to monopolize upper echelons of the profession towards later Ottoman rule, growing increasingly powerful in the process. The financial position of certain prominent Ottoman ʿulamāʾ families was further strengthened by the vast religious endowments (*evkaf)*, which until the last decades of the empire, they administered entirely under their supervision and control.[107]

At the same time, historians have described a sense of equilibrium between the men of the sword under Ottoman rule and those of the law. In exchange for the scholars receiving a salary, protection, and the full right to apply the law as they saw fit, the ruling elite generally received cooperation from the scholars and a most of all, the promotion of governors' Islamic legitimacy—priceless intangibles in a Sharīʿah society. This is not to say there were not conflicts between scholars and the state—there certainly were, and power relations between the two were constantly negotiated. But by the rule of Süleyman I and after, the sense of equilibrium reigned dominant and ruling elites increasingly devised means of mollifying ʿulamāʾ while also exerting

[105] Richard L. Chambers, "The Ottoman Ulema and the Tanzimat," in Keddie 1972, 33.

[106] Chambers, "The Ottoman Ulema and the Tanzimat," 33.

[107] Ibid.

influence over them. Toward the end of the sixteenth century, notes Hallaq, "the Ottomans introduced an important change to their method of governance—they unified administrative and legal powers within the jurisdiction of the Sharīʿah judge. The qāḍī became the only government official empowered to hear cases and to adjudicate them, and more importantly, to decide on the legality of conduct of the highest provincial officials, including provincial governors."[108] As such the office of qāḍī was to grow into an increasingly complex and interdependent relationship that can be summarized as follows: while the government appointed, dismissed and paid Qāḍīs, the qāḍīs applied the sacred law, per the advice of author-jurists and Muftīs."[109]

Under this arrangement, an increasing number qāḍīs and professors found that their occupation—together with their associated scribal, notary, and witnessing functions—presented opportunities for to accumulate large amounts of capital, and keep it within the family. As such an even more powerful class of legists came into being who had succeeded in rendering service in the law a full-time, life-long career. By the sixteenth or seventeenth century, argues Hallaq, a majority of legists secured their income from a judgeship or a professorship in an endowed *madrasa*.[110] Combined with the ability of ʿulamāʾ to pass on the profession to their male children, the familial professionalization of the '*ilmiye* class rendered it, in Hallaq's words, "a venue for accumulating political, economic and social capital" in unprecedented fashion.[111] Nonetheless, the eminent ʿulamāʾ families still did not exert a complete monopoly over the profession until the early eighteenth century, when, in the words of Richard Chambers, "the ʿulamāʾ had reached an apex of privilege, affluence, and political power, [in which] a relatively small group of families dominated the upper echelons of the religious hierarchy and constituted the nearest thing to a hereditary aristocracy known in Ottoman history.[112]

But as families monopolized access to the upper echelons of the 'ilmiye class from the sixteenth through eighteenth centuries, a parallel phenomenon of even greater significance was taking place: an increasingly expansive state was widening—and tightening—its grip over this formerly autonomous class and the production of law in the empire. As Hallaq describes in this regard,

> The legists' family-centered monopoly over the legal profession, and especially over prominent governmental posts, was the result of a deliberate and systematic centralization policy that the Ottomans had begun to pursue as early as the sixteenth century. Whereas Niẓām al-Mulk had founded two or three dozen madrasahs throughout the Saljuq Empire, the Ottomans a madrasah in every city and town they conquered; indeed, the larger the population conquered, the bigger the *madrasa*. But the largest and most prestigious colleges were reserved for Istanbul, where a succession of sultans—as well as other influential men and women—poured much of their wealth

[108] Hallaq*, An Introduction to Islamic Law,* 75.

[109] Ibid., 53.

[110] Ibid., 54.

[111] Ibid., 55.

[112] Chambers, "The Ottoman Ulema and the Tanzimat," 33-34; Hallaq*, An Introduction to Islamic Law,* 55. See also ʿAbd al-Raḥmān Atcil, "The Route to the Top in the Ottoman Ilmiye Hierarchy of the Sixteenth Century," *Bulletin of School of Oriental and African Studies* 72 (2009): 489-512, and for more depth, Atcil's dissertation, "The formation of the Ottoman learned class and legal scholarship (1300--1600)," Ph.D. Dissertation, University of Chicago, Near Eastern Languages and Civilizations, 2010.

> into these colossal foundations… [E]ntry into government service was predicated upon completing the required course of study in these imperial madrasahs, which were increasingly staffed by the children of the legist families.[113]

In this manner, historians largely agree that that by the seventeenth century, most legists of Ottoman empire were in the employ of the government. The madrasah, once a novel educational institute in the largest urban centers, had now became widespread, and was quickly becoming a recruiting ground for Sharīʿah specialists into government service.[114]

But the absorption of madrasahs and legal education into the political-bureaucratic structure of rule was only one aspect, albeit a crucial one, of a larger process of regulating the scholarly field. Increasing state organization of law was most evident in the new juridical field, complete with an articulated hierarchy of ranks, that the Ottomans crafted as part and parcel of their empire-wide strategy of governance.[115] A distinctive feature of this hierarchy was the fact that, by the end of the fifteenth century, the Chief Muftī (also known as *Shaykh al-Islam*, or *Şeyhülislam* in Ottoman parlance) became the supreme religious figure in the Empire. He alone was responsible for coronating sultans, appointing and dismissing provincial judges, authoritatively "answering" the government's most pressing questions, and legitimizing campaigns of external expansion through military *jihad*, among other issues of paramount important to the administration of the empire. Hallaq notes that for a long time the Shaykh al-Islam was so powerful, he even possessed the de facto power to depose sultans.[116]

Historians speculate that the emergence of the office of Shaykh al-Islam, and his enhanced role vis-à-vis other ʿulamāʾ and the ruler appear to have evolved from certain Seljuk educational practices in their early rule of Transoxiana. Historians note that during the initial stages of the Seljuk state of Rum (r. 1077-1307), the forerunner to the Ottoman empire, a "Shaykh al-Islam" was appointed as head of the ʿulamāʾ involved in legal education for each city. In this manner, the theory goes, in their attempt to make Istanbul a centralized capital of a vast empire, the Ottomans did with the Shaykh al-Islam of Istanbul what they the Seljuks had done with regard to creating a monopoly of sultanic madrasahs: they made him the supreme head directly responsible for the provinces. In this way the Ottomans adapted a former educational administrative practice of the Seljuks and employed it as an integral strategy of general governance, appropriating the legal and educational institutions into the political realm in the process.[117]

---

[113] Hallaq, *An Introduction to Islamic Law,* 55.

[114] Ibid., 53. Hallaq qualifies this assessment by adding that not all madrasahs, and therefore ʿulamāʾ, were subject to state regulation. "Smaller, non-imperial and provincial madrasahs continued to train students, but their graduates never came to be part of the professional hierarchy that regulated society and, in certain respects, government." Ibid., 55.

[115] Ibid., 56.

[116] Ibid.

[117] Cemal Kafadar's *Between Two Worlds: The Construction of the Ottoman State* (1995) is precisely an exploration of the cosmopolitan social, cultural, and political heritage of the early Ottoman state. See also Hallaq, *An Introduction to Islamic Law,* 56 and Fleischer, *Bureaucrat and Intellectual*, 273-292.

But as a dynamic, we might even say cosmopolitan ruling group that incorporated notions of the Sharīʿah, Turko-Mongolian governing practices (*yasa* and *torii*),[118] and local customary law, the Ottomans also contributed their own unique innovations to the constantly evolving, then-seven-century old Islamic juridical tradition. A major thrust of Ottoman administrative strategy was their issuing of sultanic codes of law and administration, or *Kanunnames*, to organize educational and legal institutions under their rule. Richard Repp has argued that the first such rules regarding the organization of the ʿulamāʾ were those found in the *Kânunnâme* of Sultan Mehmed II (1444-1446).[119] Governing the administration of education and production of ʿulamāʾ, Sultan Mehmed II's code designs a pyramid structure of teaching positions defined by salary and location. Starting with the daily salary of a 20-akçe müderris (instructor) at the bottom, the positions increased by 5-akçe stages all the way until the 50-akçe medreses, peaking at the *Sahn-i thamân*—one of Istanbul's most prestigious madrasahs, if not the entire empire at large. After the "Sahn," the greatest of the 50-akçe medreses, the scholar who had just completed the medresse track could then begin a new course of the even more prestigious judgeships, peaking with 500-akçe kadı or kazaasker.[120] In this way, the Kanunname established the principle of "working one's way up" through the various teaching levels first, before becoming eligible for the higher echelons of the learned profession, or the *mevleviyets* in Ottoman parlance. In the same fashion, Sultan Mehmed's Kanunname also established a hierarchical system of gradation for the judgeships, or *kadılıks*, which similarly incorporated a graded system based on importance of the qāḍī court's location (Istanbul and European side being higher than Anatolia, for example), and placing the supreme office of *kazaasker* at the top of the kadılık pyramid. [121] The aforementioned Chief Muftī, or Shaykh al-islam, supervised the juridical pyramid itself.

In summary of this complex and sophisticated, yet adaptable and dynamic, early hierarchy of ʿulamāʾ as spelled out in Mehmet II's Kanunname, Richard Repp has noted,

> These provisions define the basis for the highly complex *cursus honorum* of the learned profession which finally became fully elaborated only in the early eighteenth century. The principle is fixed that a scholar aspiring to high office must first teach at a graded series of medreses, on after the other, and that only when he reaches a certain grade does he become eligible for the great offices of the learned hierarchy, the mevleviyets, which are in their turn graded.[122]

Beyond regulating the education of and professional opportunities of ʿulamāʾ in unprecedented fashion, another central change to Islamic Sharīʿah society institutionalized by the Ottomans was their adoption of the Ḥanafī school as the official school of jurisprudence of the empire. The other schools—Shafi'ī, Ḥanbalī or Mālikī—did not disappear, as they retained followers in the population as well as in the judiciary in very limited form. But from here on

---

[118] Fleischer, *Bureaucrat and Intellectual*, 274.

[119] Richard Repp, "Some Observations on the Development of the Ottoman Learned Hierarchy," in Keddie 1972, 19.

[120] Ibid., 19-20.

[121] Ibid., 23.

[122] Ibid., 20.

every major city or provincial capital in the Ottoman Balkans, Anatolia, Egypt, and Syria was headed by a Ḥanafī *Qāḍī al-Qudāt*, or Chief Justice, who appointed deputies in major provinces and even to the neighborhood level. While some non-Ḥanafī deputy judges or respected community members continued to "hold court" in neighborhoods and villages where inhabitants were predominantly of other schools, the official system and government apparatus were Ḥanafī to the core. Moreover, and crucially, advancement through the ranks of a government legal career was predicated on a Ḥanafī legal education and commitment to the Ḥanafī school.[123] As we will see in subsequent sections and chapters, this practice became a model for other Muslim rulers with predominantly Ḥanafī populations, as with Mughal India and Afghanistan.

The institutionalization of the Ḥanafī school on the state level was but one example, albeit an all-encompassing and far-reaching one, of uniformizing measures enacted by the Ottomans in their pursuit of economically efficient governance. And the Ottomans were by no means unique in this. As Huricihan İslamoğlu has argued, the age of standardization, uniformity, and Foucaultian discipline had begun in the Ottoman empire and China no less than Europe.[124] Other uniformizing measures in the Ottoman case abound. For example, Hallaq notes that the Ottomans were the first in Islamic history to build formally constructed courthouses, whereby a city or neighborhood's legal disputes were brought to a particular building or residence, rather than qāḍīs holding sessions informally in yards of mosques, madrasahs, or their own homes.[125] Hallaq elaborates on the profound consequences of this crucial aspect Ottoman juridical centralization, as follows,

> Fixing the physical site of the court was an administrative act of the first order. The court had become at one and the same time the smallest unit and the core of the Empire's administration. For it was the court that became the destination of sultanic *qanuns*, and it was from the court that these decrees were promulgated in the name of the sovereign. The court was also the locus of fiscal administration, where taxes paid and taxes due were recorded and monitored. And in order to commit the provincial court system to a regularized contact with the capital—a centralizing act—the provincial chief justice not only was an Istanbul man and a 'Turk,' but also was rotated every one to three years to work in various cities... This structured practice was unprecedented, having made possible by another unusual process, namely, co-opting the legal training of the Empire's judicial servants from the private sphere of the jurists and concentrating it in a permanent, affluent, powerful and ever-growing capital.[126]

Physically limiting judicial activities to a known and recognizable building solely for that purpose entailed a host of related centralizing and uniformizing strategies. In the long term what was even more significant than the new physical structure of the courthouse, is that the Ottomans also appear to be the first to have established a regular, organized practice of keeping court

---

[123] Hallaq, *An Introduction to Islamic Law,* 80.

[124] Huricihan İslamoğlu, ed. *Constituting Modernity: Private property in the East and West* (2004); Huricihan İslamoğlu and Peter C. Perdue, eds. *Shared Histories of Modernity: China, India, and the Ottoman empire* (2009); Huricihan İslamoğlu, "Modernities Compared: State Transformations and Constitutions of Property in the Qing and Ottoman empires," *Journal of Early Modern History* 5 (2001): 353-386; Hallaq, *An Introduction to Islamic Law,* 81.

[125] Hallaq, *An Introduction to Islamic Law,* 81.

[126] Ibid., 82.

records that enjoyed public status.[127] Having codified this rule in a sultanic code, or *Kanunname*, from that point in Ottoman practice qāḍīs were prohibited from keeping court registers in private custody away from the government or even public eye, a boon for later historians as much as eager descendants seeking to establish a claim to land or other property. Indeed the Ottoman practice of keeping public judicial registers facilitated new forms of judicial activism and social practice on the part of ordinary people throughout the empire, such that individuals of diverse backgrounds—men and women—often brought cases to the Islamic court in order to "build a history" and thereby prevent the alienation or transfer of their property without their knowledge or consent.

Hallaq has also noted how, probably also for the first time in Islamic history, the Ottomans rendered their new Islamic court not only financially independent, but a lucrative source of revenue for the imperial treasury.[128] Whereas qāḍīs in the earlier Abbasid and Seljuk eras received their stipends from the government as salary, the judges of Ottoman rule received payment directly in the forms of fees paid by court users—be it for the Qāḍī's scribal functions, notarization, witness abilities, or of course, resolving disputed through litigation. This was another unprecedented juridical innovation on the part of the Ottomans, and highly successful at that; every major city and at times even neighborhoods that came under Istanbul's rule incorporated these new features of the Ottoman Islamic court, which became a standard feature of the urban architecture and social practice from the Balkans to Iraq. "Most probably for the first time in Islamic history," writes Hallaq, "Qāḍīs were forbidden from hearing cases that did not involve formal petitioning of the court, the purpose being that fees had first to be paid and a formal record of the case maintained."[129] In certain regions such as Egypt, by law even all marriages were to be recorded in court, with a fee levied for processing the necessary paperwork and ceremonial functions. As Hallaq astutely observes, the Ottomans' highly innovative and creative judicial policies in fact served "a double-pronged policy" of introducing writing as a means of social-bureaucratic control, while regularly replenishing the central treasury.[130]

– • –

The discussion above has illustrated how bureaucratic uniformity—with its low costs of governing, enriched revenues, and overall economically efficient forms of management and social control—became the *modus operandi* of the Ottoman governing elite.[131] As Huricihan İslamoğlu has aptly noted with regard to the nineteenth century, but remains true with regard to earlier periods of Ottoman rule, "The tension between the tendency to make practices universal and uniform, on the one hand, and to make them particular, on the other, lay at the heart of the drama of state formation."[132] The Ottomans succeeded in institutionalizing, organizing, and

[127] Ibid.

[128] Ibid.

[129] Ibid.

[130] Ibid..

[131] Ibid., 80.

[132] İslamoğlu, *Constituting Modernity*, 42.

bureaucratizing the educational and legal professions of Islam in a way no previous empire had. Beginning with the Kanunname of Mehmet II, which built upon the centralized madrasah legacy of the Seljuks, the highly innovative Ottoman juridical practice evolved on its own terms by adding unique dimensions of a pyramid hierarchy of professors, mevleviyets, and kadılıks, topped by the Shaykh al-Islam. Over six centuries, the Ottoman capitals of Bursa, Edirne, and finally Istanbul added new institutional forms of regulation and control, particularly with regard to the fixation of a court of law and associated public registry practices. As Richard Repp aptly summarizes, the pursuit of uniformity began with the regulation of the ʿulamāʾ:

> There can be no question that in the great days of the empire, notable in the sixteenth century, the system produced superbly trained scholars, of nearly uniform education and experience, who were on the whole disposed—or at least not unwilling—to work with the secular officials of the state to create a viable polity. Whereas in former times, the ʿulamāʾ and the secular authorities had often been at odds, the Ottoman ʿulamāʾ, by the sixteenth century, were for the most part so trained and oriented to play a large part, together with the sultans themselves, in bringing about one might regard as a major achievement of the empire, namely the endowment of Islamic law, in its Ḥanafī form, with the highest degree of actual efficiency which it had ever possessed in a society of high material civilization since early Abbasid times.[133]

We now turn to a brief history of parallel developments in another Muslim empire that also inherited, and adapted, a highly stratified fusion of Islamic jurisprudence, Turko-Mongolian state administrative practices, and local customs: The Mughal Empire in India.

Mughal Sharī'at Society: Sultan-Qāḍī dialectics and the challenges of legal pluralism

In northern India, Ḥanafī scholars arrived along with the earliest Muslim conquerors from Central Asia and contemporary Afghanistan beginning with Maḥmūd al-Ghaznawī in the eleventh century.[134] By the time the descendant of Tamerlane and founder of the Mughal emperor, Zahirudeen Muḥammad Babur (1483-1530), and his Turkic armies descended on Delhi from Kabul in 1526, Muslim dynasties had already been in power in Delhi for nearly four centuries. As such, Islamic institutions of learning and adjudication were already in existence before the great Mughal empire expanded across the Indian subcontinent, including most of present-day Pakistan, India, Bangladesh and large portions of eastern Afghanistan, including Kabul, Ghazni, and Qandahar. While the Mughals cannot, therefore, be attributed for founding India's first wide scale Islamic institutions of education, law, and governance, like their Ottoman counterparts they did adapt these pre-existing institutions to unprecedented degrees of wealth, prevalence, and reach. As the most powerful and largest Indian empire to ever rule until the British Raj, cities and towns boomed under the Mughals, and the Indian economy remained prosperous due to their creation of an extensive road system and a uniform currency, among other accomplishments.

Although the early Mughals spoke Chagatai, a Turkic dialect, and maintained various Turko-Mongol practices such as *yasa* administrative parlance, they also patronized the Persian language and court culture dominant in Persia and their Central Asian origins. Over time the

---

[133] Repp, *Ottoman Learned Hierarchy*, 29-30.

[134] Guenther, "Hanafi Fiqh in Mughal India," 210.

Mughals were to transfer the Persian literary and high culture to India, facilitating the emergence of a new "Indo-Persian" civilization and the spread Islam at un unprecedented rate throughout South Asia. The Mughals also built imperial schools, or *maktabs*, in urban centers and in every province under their ruler, where youth learned the Qurʾān , Ḥadīth, and jurisprudence, as well as other subjects, in Arabic, Persian, and indigenous Indian languages such as Hindustani—a forerunner to Urdu.

In Mughal India, a Muslim youth pursuing religious knowledge and a career in either private scholarship or service in a patron's court entailed a long and rigorous path. If successful, he would master not only Arabic, but Persian, the language of the court and of letters, before even beginning the advanced sciences of Qurʾānic interpretation (tafsīr), Ḥadīth, and associated rational sciences. As Barbara Metcalf has described,

> Academic disciplines studied through the medium of Arabic were divided into two broad categories: *manqulat,* the 'transcribed' or 'copied' subjects of Qurʾān and the *hadis* or sayings of the Prophet; and *maʿqulat*, the rational sciences, or those which were the product of man's own thought and study. These latter subjects ranged from Arabic grammar and rhetoric to logic, mathematics, philosophy, and theology, to—above all—books of legal commentaries and jurisprudence. As a student completed each book he would receive a certificate from his teacher testifying to his accomplishment. His knowledge was judged by the number of books he had read and the scholars under whom he had studied. The Indian ʿulamāʾ in the Mughal period specialized in the rational sciences, many of whose exponents had come to India from scholarly centers in Transoxiana.[135]

While the early period of Mughal rule continued a tradition of accenting education in the "rational" sciences of logic, grammar, theology, and philosophy that likely took root during the Delhi Sultanate era, this pedagogical emphasis would gradually evolve as the empire expanded into distant realms, putting in touch distant currents of Islamic law and scholarship with each other, including the Ottomans. By the seventeenth century, for example, with maritime advances heralding improved sea routes between southwestern India and the Ḥijāz, Indian scholars established closer ties to ʿulamāʾ in Ottoman-administered Mecca and Madīna. As a result, Delhi and surrounding Muslim towns in the Upper Doab plains became renowned as an important center for the study of ḥadīth, following the scholarly expertise of Ḥijāz at the time, but now a distinction of North India that has lasted until the present day.[136] While Islamic studies incorporated study of the Qurʾān , the Prophetic example, and theology, the core subject and expertise in an 'alim's training was invariably law, or *fiqh*.[137] While all Sunnī schools of law viewed each other as valid and legitimate, the Ḥanafī school was by far predominant in India, Afghanistan, and Central Asia, though pockets of Shāfiʿīs existed in southern India, largely a result of deep interactions between Arab Shāfiʿī traders from Yemen and the Malabar coast.[138]

---

[135] B. Metcalf, *Islamic Revival in British India*, 18-19.

[136] Zaman, *The Ulama in Contemporary Islam*, 39, 50-53; B. Metcalf, *Islamic Revival in British India*, 19-20

[137] B. Metcalf, *Islamic Revival in British India*, 19-20.

[138] For an exploration of the intertwined scholarly and merchantile networks linking Yemen (especially the Hadramawt valley), East Africa, South India, and the Malay-Indonesian archipelago, see Enseng Ho, *The Graves of Tarim: Genealogy and Mobility across the Indian Ocean* (2006).

Contrary to depictions of the dreaded Afghan or Pakistani frontier madrasah commonplace in western media today, Islamic education and the application of the Law by ʿulamāʾ in medieval India was not an exercise in rote memorization, or "parroting received answers."[139] Like their Ottoman counterparts, the Mughals sponsored the Ḥanafī school in the educational syllabi and administration. As such, students of Islamic law seeking to become ʿulamāʾ in Mughal India pored over commentaries, super-commentaries, and compilations of decisions based on the works of Imam Abū Ḥanīfa (699-767), his two students Imam Muḥammad al-Shaybānī (749/50-805) and Qāḍī Abū Yūsuf (d. 798). Far from singularly focusing on the Qurʾān and Ḥadīth, students paid profuse attention to law and jurisprudence as exemplified in their meticulous study of the *Hidāyat*, a twelfth-century text by Central Asian scholar Burhān al-Dīn al-Marghinānī, as well as its considerably commentary and gloss literature.[140] As probably the single most influential and authoritative Islamic law book in medieval India, mastery of this text alone was a substantial undertaking, and even more so, as Barbara Metcalf has observed successfully applying the law book in practice could be an extraordinarily complicated operation of juristic expertise.[141]

Having completed their education (though it continued in many ways), graduates lived lives of self-sufficiency and private scholarship, or they sought out employment, grants, or endowments from the courts of rulers and nobles. Like their Ottoman counterparts to a certain degree, the Mughals also attempted to develop an elaborate hierarchy and system of organizing the education and career paths of Indian ʿulamāʾ. As Alan Guenther has described,

> Patronage by the state, the community, or wealthy individuals, and income from the produce of endowed properties, provided for the material needs of the ʿulamāʾ. From this pool of scholars, then, the state would select and appoint judges to serve at all levels of the judiciary. They held their positions and the emperor's pleasure, and could be dismissed at any time by him directly or on a report of an overseeing department. Aurangzeb expressed in his letters his high expectations of qāḍīs since they had the power to imprison or execute people of God… The chief Qāḍī, or *qāḍīul qudat,* was appointed directly by the emperor, while the judges of smaller jurisdictions

---

[139] B. Metcalf, *Islamic Revival in British India*, 20.

[140] This work was translated from Arabic into Persian and then English by Charles Hamilton in the late eighteenth century, to aid in the East India Company's administration of recently conquered Bengal province. As Metcalf notes, however, Hamilton left out sections covering ritual worship, and an 1870 version by Standish Grove Grady omitted other topics such as the role of the Qāḍī, deemed "irrelevant" by British Raj authorities. B. Metcalf, *Islamic Revival in British India*, 20. The act largeley held responsible for this *de jure* "irrelevance" was the expulsion of qāḍīs from the British courts embodied in the Act XI of 1864. See, NAI-H/JUD Feb 1876 42-81 (Concerning the error of the Act XI. of 1864 prohibiting the appointment of Mahomedan Kazis). We will return to the significance of this act for ʿulamāʾ in India, with ramifications for Afghanistan as well, in Chapter Two.

[141] For example, Metcalf provides a general description of the text's depth and range, as follows,

> The work consisted of fifty-seven books covering such diverse aspects of life and belief as the basic religious duties, purification and cleanliness, apostasy, marriage and divorce, slavery, criminal offenses, peace and security, taxes, the status of non-Muslims, the treasury, rebellion, partnerships and trusts, commercial transactions, gifts, wages, preemption, mortgage, and the administration of justice. Each chapter included divergent opinions of various scholars, an indication of the inclination of the majority, and a statement of the author's own preference.
>
> B. Metcalf, *Islamic Revival in British India*, 20-21.

> were appointed on the recommendation of the *sadr al-sudur,* the head of the chancellery. Upon presentation of his credentials to the local authority, then, the qāḍī took up his responsibilities.[142]

But Mughal attempts to centralize their ʿulamāʾ into a subordinate bureaucracy should not be overstated. Though state-scholar patron networks existed, with the courts of emperors and local governors serving as the apex of judicial authority in the empire, the situation was substantially different from the far more structured '*ilmiye* class of Ottoman Turkey. Barbara Metcalf cites some key differences distinguishing Mughal ʿulamāʾ from their counterparts in Ottoman Turkey in this regard, as follows,

> The Mughal ʿulamāʾ did not, however, form a precisely defined and powerful estate, as did their counterparts among the Ottomans. There a man who completed his studies sought enrollment as an officially recognized candidate for office. If subsequently admitted to a post, he moved through a graded series of teaching positions and thence into the similarly graded ranks of the religious bureaucracy made up of mosque functionaries, teachers, juriconsults, and judges. Such men were enrolled as ʿulamāʾ in official ledgers, exempted from taxation, and even exempted from confiscation of their personal estates at death. Their leading families became, one scholar has judged, 'the nearest thing to a hereditary aristocracy in Ottoman history.' If less powerful, the Mughal ʿulamāʾ may well also have been more independent. There was among them a strong tradition of moral detachment, and in every reign there were resignations over policies deemed irreligious. There were, moreover, semi-independent centers of scholarly activity. Nevertheless, most ʿulamāʾ felt that the significant arena for their work was among the powerful.[143]

If Indian ʿulamāʾ who chose to work in a private capacity and succeeded in finding means of patronage apart beyond the rulers, how independent were ʿulamāʾ once they accepted employment in a royal court? There is no stable, unitary answer to this question. Rather, the relationship between Indian ʿulamāʾ and the Delhi Sultanates, followed by the Mughal court as well as provincial princely states, was in a constant flux. Qāḍī-Sultan dialectics formed the axis on which the constant negotiation of power between scholars and the state in Mughal society tipped. Guenther provides the following synopsis in this regard, highlighting how universal statements on Indian rulers and the ʿulamāʾ are made at the historian's risk.

> Certain rulers, whether from motives of personal piety or political expediency, chose to patronize the ʿulamāʾ and created a favourable environment in which their scholarship could thrive, while other rulers were more elective in their choice of means to validate their rule, and of principles which they governed. The ʿulamāʾ themselves were not uniform in their response to the overtures of successive rulers, some willingly accepting government patronage in return for their loyal service, especially in its legal system. Others remained at a distance and offered a critical evaluation of the government's performance against a standard derived from Islamic teachings, thus continuing the pattern set by their forebears in earlier centuries... But the ʿulamāʾ fiercely resisted attempts by caliphs to usurp their religious authority, as occurred in the ninth century when al-Ma'mun forced his judges to accept the doctrine of a created Qurʾān and when Akbar passed an edict declaring himself to be the final authority in matters of religious law, staunchly objected to by the great Naqshabandī scholar and sufi Shaykh Aḥmad Sarhindī (d. 1624).[144]

---

[142] Guenther, "Hanafi Fiqh in Mughal India," 222-223.

[143] B. Metcalf, *Islamic Revival in British India*, 21.

[144] Guenther, "Hanafi Fiqh in Mughal India," 210-211.

As Barbara Metcalf notes, however, a Muslim ruler could seek to create a compliant class of scholars by patronizing only those who supported his decisions. Metcalf cites some similarities here between Akbar (r. 1556-1605) and Aurangzeb (r. 1658-1707) in this regard, though they are often represented as the most polar opposite Mughal rulers. Both rulers sought to empower the royal state over the ʿulamāʾ, restricting their autonomy in the process, resulting in leading ʿulamāʾ resigning from the courts and royal patronage of each. Aurangzeb, known for his dedication to the Sharīʿah, appears to have actually limited the power of the ʿulamāʾ in supporting a magisterial judicial reform project: the *Fatāwā-yi ʿĀlamgīrī*, which we will return to in more depth in the next section.

As for the relationship of ʿulamāʾ among each other and with society and state, unfortunately our knowledge of the Mughal judicial system pales in comparison to documentary records from the Ottoman court registers. South Asian historians have lamented that we have little in terms of documentary evidence of the relationship between rulers, governors, and qāḍīs in pre-colonial India. Some have commented that in comparison to fine-grained, rich textual analysis of provincial life through studies of Ottoman court records as performed by Doumani, Tucker, Peirce, and Boğac Ergene, it is difficult to know precisely how different the situation in India may have been from that of other richly studied contexts such as the Ottoman Balkans, Anatolia, Syria, Palestine, Iraq or Egypt—let alone the imperial capital of Istanbul.[145]

Nonetheless, Muhammad Qasim Zaman has ventured to argue that, "there are strong indications that in India, too, the interpretation of the Sharīʿah remained subject to considerable flexibility."[146] In other words, the role of the Qāḍī, and the functions assigned to him, likely varied from one time and place to another in Mughal India. Other scholars, such as Alan Guenther, have argued that the following generalizations can be made about Mughal Qāḍīs:

> The duty of the qāḍī included first of all passing judgment on all civil and criminal cases that came before his court. The chief qāḍī of the province was expected to perform additional functions such as supervising prisons; and later in the reign of Aurangzeb, he was entrusted with the custody of the government treasury. He also served as a consultant to governors and the emperor on legal matters, assisting them in deciding cases brought before them.[147]

It would seem Zaman would likely problematize Guenther's generalizing approach to a very time-and-locale specific occupation in Mughal India. For example, Zaman argues the military governor of each province most often determined the scope of the Qāḍī's functions in practice; and this was a constantly evolving, negotiated, and context-specific relationship. Moreover, Zaman cautions historians to beware of myopically focusing on static or uniformly

---

[145] There are some exceptions to the rule on paucity of pre-colonial Indian law court records: see J.S. Grewal, *In the By-Lanes of History: Some Persian Documents from a Punjab Town* (1975). On judicial administration under the Mughals, see Muḥammad Bashir Aḥmad, *The Administration of Justice in Medieval India* (1951); Jadunath Sarkar, *Mughal Administration* (1952); P. Saran, *The Provincial Government of the Mughals, 1526-1658* (1976); Zameeruddin Siddiqi, "The Institution of the qāḍī under the Mughals," in *Medieval India: A Miscellany* (1969); Radhika Singha, *A Despotism of Law: Crime and Justice in Early Colonial India* (1998).

[146] Zaman, *The Ulama in Contemporary Islam*, 19.

[147] Guenther, "Hanafi Fiqh in Mughal India," 223.

understood Sharīʿah, to the exclusion of alternative adjudicatory systems in the extremely pluralistic environment of medieval India. In his own words, Zaman describes,

> [T]he Sharīʿah was hardly the only source of legal rights in pre-colonial Muslim India. But the Sharīʿah was a crucial part of the legal system—a part, however, whose significance, and indeed whose very presence, may elude us if we insist too strongly on trying to discover it in the landscape as a fixed codelike entity rather than as a dynamic but unevenly distributed element of precolonial India's judicial discourse and practice.[148]

Zaman's paradigm assumes a separation between Sharīʿah, ʿurf (custom), however—a common dichotomy in the field but not one I am ready to accept. Many Islamic jurists, for example, include ʿurf as a valid source of Islamic law itself, while others have praised the embrace of local cultures in the law as a crucial factor in the spread and deep roots of Islamic juridical consciousness in myriad social contexts around the world.

Other historians have opted to discuss a third area, often forgotten in discussions limited to polarized dichotomies of "Sharīʿah versus customary law." This area is the realm of state (or sultanic) codes, also known in their Arabic or Persian plural forms as *qawānīn*, *niẓāmnāmā*, or *zāwābit*. As Muzaffar Alam has stated, "The *zawabit* (state laws) and secular considerations regulated the policies and the functions of the state in medieval India, but the *Shariah* remained the point of reference in daily civil and penal matters and the *ʿulamāʾ* almost exclusively staffed the legal departments."[149]

Hence, in spite of various attempts to streamline the administration of justice, organize and subordinate the training and professional careers of the ʿulamāʾ, and regulate the praxis of Sharīʿah through their empires, neither the Ottomans nor Mughals were ever able to control the Sharīʿah itself by a comprehensive code. But they did, at times, get close. In the case of the last real Mughal emperor, Aurangzeb, he commissioned an unprecedented act of juridical centralization in the form of the *Fatāwā-yi ʿĀlamgīrī* law digest of the late seventeenth century. Not exactly a modern law code per se, this digest did nonetheless set in motion and accelerate a process of codification that would have drastic consequences on the praxis of Sharīʿah in the modern era, beginning with the colonial ruptures of the late nineteenth century in the case of India. It is therefore critical to understand the early roots of the greatest threat to Islamic legal praxis as practiced for centuries under the Ottoman and Mughal Sharīʿah societies. This threat was the imperial project of codification.

Before discussing the motives, characteristics, and impact of codification on the Ottoman and Mughal Sharīʿah societies, however, it is first necessary to grasp the above discussed aspect of medieval and early modern governance: legal pluralism and "informal" meditational mechanisms—the very aspects that codification projects largely sought to regulate and control.

The pre-codified world of Islamic law: perspectives from legal anthropology

In speaking of the Islamic legal system, writes Wael Hallaq, "it would be neither sufficient nor even correct to dwell on the law court as the exclusive vehicle of conflict

---

[148] Zaman, *The Ulama in Contemporary Islam*, 19.

[149] Ibid., 201, quoting Muzaffar Alam, *The Crisis of Empire in Mughal North India: Awadh and the Punjab, 1707-48* (1993), 114.

resolution."[150] Hallaq proceeds to explain that, as with any legal jurisdiction, what goes on prior to official litigation are just as important to the legal system as what transpires in the walls of the courthouse. Legal anthropologists, foremost among them Laura Nader, have illustrated how this is particularly true in closely-knit, "face-to-face societies," such as pre-industrial Islamic societies that we have been discussing thus far. In these contexts, social networks based on kinship, religious, or geographic ties such as extended family, neighbors, clan, or tribe tended to manage disputes before they escalate into wider conflicts and before they could reach the more official public forum: the law court. It was not uncommon, for example, for the heads of households or other respected figures in the neighborhood to mediate between spousal discord over property disputes in the family. Sometimes, as Leslie Peirce and Beshara Doumani have shown in two district regions of the early modern Ottoman empire, women filed petitions in Sharīʿah courts to prevent the transfer of property to female members of the family (often wives and daughters) guaranteed them by Islamic law as administered in the qāḍī courts.[151] Ottoman Islamic court records in Syria and Anatolia document several of such examples, as well instances of village imams or tribal elders appearing in court records as having intervened as arbitrators in the pre-litigation phases of disputes, before arriving in the qāḍī court.[152] "It was within these groups, from Malaya to Morocco," stresses Hallaq, "that the initial operation of the legal system began, and it was through the continued involvement of such groups that the Muslim court was able to accomplish its task of conflict resolution."[153] For these reasons, Hallaq has concluded it would be inconceivable for an Islamic court to adjudicate cases "without due consideration of the moral sensibilities and communal complexities of the social site from within which a dispute had arisen."[154]

Thus, whether in the Ottoman or Mughal case, the court process in pre-modern Islamic societies was not disconnected from the social world of disputants.[155] This was possible because

---

[150] Hallaq*, An Introduction to Islamic Law,* 58.

[151] Doumani, Beshara, "Adjudicating Family: The Islamic Court and Disputes between Kin in Greater Syria, 1700-1860," in *Family History in the Middle East* (2003), 183-184; Leslie Peirce, *Morality Tales: Law and Gender in the Ottoman Court of Aintab* (2003), 1-2, 6-8, 140-161; Hallaq*, An Introduction to Islamic Law,* 59.

[152] Hallaq*, An Introduction to Islamic Law,* 59.

[153] Ibid.*,* 58.

[154] Ibid.

[155] Though his pre-modern-vs-modern dichotomies may be a bit overstated, Hallaq nonetheless offers some provocative reflections on the ruptures in the juridical field, as follows,

> It was embedded in a social fabric that demanded a moral logic of social equality rather than a logic of winner-takes-all resolutions. Restoring parties to the social roles they enjoyed before appearing in court required social and moral compromise, where each party was allowed to claim at least a partial gain. . . In this system, judges cared less for the application of a logically consistent legal doctrine or principle than for the creation of a compromise that left the disputants able to resume their previous relationships in the community and/or their lives as these had been led before the dispute began. But even when this was not possible, and even when the victim recovered all damages, the wrongdoer was also usually allowed a partial recovery of his moral personhood, for, by the informal nature of the Muslim court, the parties and their relatives, neighbors and friends were allowed to air their views in full and without constraint, defending the honor and reputation of one litigant or the other.
>
> Ibid.*,* 60.

not only was the qāḍī integrally linked with disputants as an embedded and participating member of society, but the same applies to all functionaries of the court: scribes, witnesses, notaries, and other court personnel, all sharing "the same social and moral landscape."[156] As for the actual court procedure, the discipline, expenses, and socioeconomic barriers of the modern court were not endemic problems to the Qāḍī's court. Rather, the work social historians reveal how Islamic courts afforded a virtual free public arena for practically anyone to secure their rights, or elaborate a public defense of their property of honor. As social historians of the region have documents, litigants in the Islamic court appeared before the qāḍī without elaborate ceremony, presenting their cases in plain speak narrative, without technical jargon, and without reliance on professional mediators, such as exorbitant attorney or expert fees.[157] In fact, the latter two professions can hardly be said to have even existed. Hallaq analyzes some of the informative factors contributing to wider access to justice in pre-modern Islamic society:

> This was possible because in the Islamic system of justice no noticeable gulf existed between the court as a legal institution and the consumers of the law, however economically impoverished or educationally disadvantaged the latter might be. . . If law was a lived and living tradition, then people knew what the law was. In other words, legal knowledge was widespread and accessible, thanks to the *muftī* and other legists who were willing to impart legal knowledge free of charge, and nearly at any time someone wished to have it. The social underdogs thus knew their rights before approaching the court, a fact that in part explains why they won the great majority of cases in which they happened to be plaintiffs. Their counsels were neither lawyers who spoke a different, incomprehensible language, nor higher-class professionals who exacted exorbitant fees that often made litigation and recovery of rights as expensive as the litigated object.[158]

In this manner, Hallaq concludes, the highly formalized processes of the modern court and its foreboding structure of legal representation—"costly and tending to suppress the individual voice of the litigants, let alone their sense of morality"—were "unknown" to Islamic courts. In the way the pre-modern Muslim court succeeded precisely where the modern court fails.[159] As a recent Rand corporation study revealed, nine out of ten persons wronged in by a product defect do not file a claim in a court of law, or seek private compensation.[160]

At the same time, however, we must not exaggerate the populism of Islamic courts. Islamic law, as a sophisticated discursive tradition, was also a discourse of scholarship and the elite, hence the role of Qāḍīs, Muftīs, author-jurists, and professors in the first place. But even here, the proximity and short social distance between the learned elite and ordinary people of a neighborhood, village, or small town facilitated the intertwining of the law and public morality. As Hallaq observes,

---

[156] Ibid., 62.

[157] Ibid., 63. This is a theme that permeates the Sharīʿah court case studies in Doumani (1995), Tucker (1998), and Peirce (2003).

[158] Hallaq, *An Introduction to Islamic Law,* 63-64.

[159] Nader, *The Life of the Law*, 14-17, 57 ("the plaintiff role atrophies with the introduction of the nation-state because the state assumes the plaintiff role in criminal cases and the victim becomes the 'real' plaintiff); Hallaq, *An Introduction to Islamic Law,* 61.

[160] Nader, *The Life of the Law*, 203.

> [T]he spread of the legal ethic and legal knowledge in the social order was also the function of a cumulative tradition, transmitted from one generation to the next, and enhanced at every turn by the vibrant participation of aspiring law students, the greater and lesser *muftīs* and the imams, and by the occasional advice that the judge and other learned persons dispensed while visiting acquaintances, walking in the street or shopping in the market. Thus when the common folk appeared before the court, they spoke a 'legal' language as perfectly comprehensible to the judge as the judge's vernacular 'moral' language was comprehensible to them. Legal norms and social morality were largely inseparable. . . As much a social as a legal institution, the Muslim court was eminently the product of the very community which it served and in the bosom of which it functioned.[161]

These comments are of extraordinary significance for understanding the context in which codification was enacted beginning in the nineteenth century. It will also be crucial to understanding resistance to codification on the part of many ʿulamāʾ and ordinary Afghans during the Amānī era, an issue we will return to in Chapters 5 and the Conclusion.

The above excerpts describe the social conditions for the civilian population which was subject to the law of the Sharīʿah, an unwavering standard of justice that stood above even the sultan. As such, ordinary people enjoyed several layers of protection from the crude power of rulers, be it in regard to life or property. The servants of the rulers—the military and bureaucracy, namely—by contrast were subject to often less merciful "sultanic codes." Generally described as Islamic law and administrative *codes* in historiography and common parlance, this is an issue of paramount importance in our study.[162]

While we have separately described the social and political station of the ʿulamāʾ and Muslim Sharīʿah society at large under Ottoman and Mughal rule, this supplementary component of "sharīʿah societies" is essential to grasp in order to view Islamic legal praxis in Ottoman and Mughal society in all its dimensions together. A concise was of phrasing this body of Islamic law is the administrative regulations issued by the ruler, also known by the more or less synonymous original terms *qanūn/kanun*, *ḍawābiṭ*, *qānūnnames/kānūnnāmes*, or *niẓāmnāmā*, in Arabic, Persian, or Turkish. We now turn to the historical role of these instruments of rule in the Islamic juristic tradition.

Siyāsa Sharʿīyya*: Islamic Law meets the Circle of Justice*

In order to realize the imperatives of political rule and governance, jurists and statesmen beginning in early Abbasid era and continuing to modern times developed a concept of the administration sanctioned by the Sharīʿah. Though not spelled out word for word, the concept relied heavily on the sultan's prerogative of executive authority. Jurists realized that the Muslim imperative of upholding justice as embodied in the Sharīʿah was not merely an abstract theory, but rather, had to be constantly reconciled with the demands and expediency of political rule. Even independent Muftīs not in the service of the state recognized that, without the backing of a strong, powerful ruler (and therefore, by extension, commanding a strong military and police

---

[161] Hallaq*, An Introduction to Islamic Law,* 64.

[162] Richard Repp, "Qānūn and Sharīʿah in the Ottoman Context," in Aziz al-Azmeh, *Islamic Law: Social and Historical Contexts* (1988); Hallaq*, An Introduction to Islamic Law,* 76.

force), the entire Sharīʿah society could always be under threat of external invasion, or civil strife within. Without the sovereign's juridico-political administration in other words, some historians remark, the Sharīʿah would have become "a hollow system."[163] This juridico-political administration came to be described by the jurists as *siyāsa sharʿīyyah*—a term difficult to translate, but representing notions of the ruler's prerogative to issue orders for the peace, stability, and order of society as long as they did not violate the bounds of Sharīʿah.[164] As Hallaq has put it, one way of framing this relationships was the Sharīʿah defined the substance and form of legal norms, while the sovereign ensured their enforcement. He elaborates the early juridico-political theory as follows,

> *Siyasa shar'iyya* represented the discretionary legal powers of the ruler to enforce the Qāḍī's judgments and to supplement the religious law [why does Hallaq separate these??] with administrative regulations that mostly pertained to the regime's machinery of governance, including powers to limit jurisdiction to certain areas of the law or to particular types of cases, as well as to curb and discipline abuses by government officials [Mazalim courts]. The dilemmas that regimes faced was their inability, due to distance from the center, to control the abuses of provincial governors and their men who often exhorted illegal taxes from the population. In addition to tax regulations, *siyasa shar'iyya* normally dealt with matters related to public order, land use, and at time criminal law and some aspects of public morality that could affect social harmony. The qualification "*shar'iyya"* in this compound expression was intended to convey the notion that exercise of the powers of *siyasa* was not only permitted, but in fact mandated by Sharīʿah juristic theory and judicial practice. Such powers not only were consistent with the dictates of religious law, but could in no way constitute an infringement thereof if properly exercised.[165]

In this way, the jurists were clear: the sultan enjoyed a prerogative of executive authority for the order and peace of society, but siyāsa sharʿīyyah in no way sanctioned the raw unfettered brute power of force but, rather, constituted "the exercise of wisdom, forbearance and prudence by a prince in ruling his subjects."[166] In this war, in order to realize the imperatives of the Circle of Justice in Ottoman and Mughal societies, jurists and statesmen developed a concept of the administration sanctioned by the Sharīʿah, though the details of *siyāsa sharʿīyyah* could be hardly spelled out word for word in practice.

As centuries progressed, Seljuk, Ottoman, and Mughal rulers and their constituent ʿulamāʾ constantly negotiated and adapted new formulations of siyāsa sharʿīyyah. In particular, recent scholarship on this theme has once again revealed that the institutions and practices of the Ottoman empire are better and more extensively documented than that of any other Muslim

---

[163] Hallaq*, An Introduction to Islamic Law,* 73; Amr Shalakany, "Islamic Legal Histories," *Berkeley Journal of Middle Eastern and Islamic Law* 1 (2008): 1-82.

[164] Lawyers involved in international terrorism cases in Muslim-majority countries may be well served by exploring the dynamic possibilities associated with this branch of Islamic law, and its contemporary ramifications. For example, see Frank E. Vogel, "The Trial of Terrorists under Classical Islamic Law" *Harvard International Law Journal* 43 (2002): 53-64.

[165] Hallaq*, An Introduction to Islamic Law,* 74.

[166] Ibid., 76; Kamali 2008, 225-245.

dynasty in history.[167] A boon for researchers, Ottoman diplomatic, bureaucratic, and judicial records documents how the Sharīʿah's imperative of upholding justice as interpreted by the *ʿilmiye* scholars was reconciled with the demands and expediency of political rule as interpreted by the sultan. Over time the Ottoman rendering of *siyāsa sharʿīyyah* came to be known the "Circle of Justice." Hallaq explains the paradigm as follows,

> The notion of the Circle of Justice begins with the idea that no political sovereignty can be attained without the military; yet no military can be sustained without financial resources. These resources furthermore can be raised only through levying taxes, which presupposes continuous economic productivity on the part of the subjects; but to maintain a level of prosperity that can sustain taxable income, justice needs to be ensured, and this in part means controlling the excesses of provincial officials, whose vision of justice may be overshadowed by personal power and rapacity. Thus, to be attained, justice required public order, all-important social harmony, and control of abusive and greedy government servants. To achieve all this, the Sharīʿah, clearly the axis of governance, points the way. But the Sharīʿah cannot be implemented without political sovereignty, and this cannot be attained without the military. Here, the Circle is joined.[168]

The Ottoman ʿulamāʾ, while accepting this conception of the Circle of Justice as valid, held an opposing viewpoint. For them, the Sharīʿah as Divine law was paramount. While they recognized an executive prerogative to maintain peace and order as legitimate, no one, including the sultan, could stand above the system itself, nor was the whole system designed to serve him. As Hallaq explains,

> The legists would instead advocate the highest goal to be the attainment of justice through implementation of the Sharīʿah, which in turn requires public order and social harmony. In their conception, the sovereign's function is to ensure stability and prevent internal fractiousness at any cost, and to this end he raises legally prescribed taxes to support his regime and implements *siyasa shar'iyya*, that is, political rule according to the prescriptions of Sharīʿah.[169]

In order to realize the imperatives of the Circle of Justice as described above, both ʿulamāʾ and rulers recognized the need for state-issued regulations to keep peace and order. This supplement was known as *qānūn*, or the edicts and decrees (or, *fîrmāns* and *żawābiṭ*) of the Sultan, and often came in the form of what modern day jurists would call "codes." In codes of qānūn, often more was at stake than simply locally-applied edicts concerning peace and order. As Hallaq describes,

> Often, the *qanun* merely asserted the provisions of religious law in an effort not only to place emphasis on such provisions but also to depict the sultanic will as Sharīʿah-minded. In these instances, the bid for legitimacy is unmistakable. But the *qanun* did add to the religious law,

---

[167] Hallaq, *An Introduction to Islamic Law,* 72. Just to cite a few prominent examples, see the works of Tucker 1998, Peirce 2003; Doumani 1995; and Ergene 2003.

[168] Hallaq, *An Introduction to Islamic Law,* 73-74. See also Heather Ferguson's excellent dissertation on the subject in early modern Ottoman context, "The Circle of Justice as genre, practice and objectification: a discursive re-mapping of the early modern Ottoman empire," Ph.D. Dissertation (U.C. Berkeley, Department of History, 2009).

[169] Hallaq, *An Introduction to Islamic Law,* 74.

> especially in areas having to do with public order, the bedrock of any successful regime. Among the most important of these areas were highway robbery, theft, bodily injury, homicide, adultery and fornication (and accusation thereof), usury, taxation, land tenure, and categorically all disturbance of order and peace.[170]

While ʿulamāʾ often contested the scope and authority of qānūn, seeing in it an implicit threat to their juristic monopoly over interpreting the law but also a threat to Islam and the rule of law itself,[171] it is important to not overstate *qānūn*-vs-*Sharīʿah* conflicts. In fact, as the vehicle for implementing the Islamic political strategy of *siyāsa sharʿīyyah*, qānūn was seen as legitimate by ʿulamāʾ and thus should be seen as within the Sharīʿah system itself, rather than bifurcating them into completely different legal systems. Schacht has written on Ebussuud Efendi, for example, that he "succeeded in bringing the *kanun*, the administrative law of the Ottoman empire, into agreement with the Sharīʿah."[172] Hallaq expands upon relationship between Sharīʿah and qānūn as follows:

> The Sharīʿah and the *qanun* had far more in common than they differed upon. True, substantive *qanun* transgressions upon the Sharīʿah did occur, but they were limited to narrow spheres and the qāḍīs and *muftīs* ignored them whenever they could. More remarkable, however, were the similarities between the two. The *qanun* and Ḥanafī law recognized, each in its own sphere but also mutually, a cumulative tradition: the later school texts (and particularly those of the Ḥanafī school, adopted as the official law of the Ottomans) never abrogated the earlier ones, and the founding fathers' doctrines continued to be enmeshed in the much later *fatwā* literature and author-jurist compilations. The *qanun* too was a cumulative discourse, each sultan propounding his own decrees while largely maintaining the sultanic laws of his predecessors.[173]

Though showing there was no large gap separating Sharīʿah and qānūn, both Schacht and Hallaq still posit a dichotomy between them, rather than subsuming qānūn within the perimeters of Sharīʿah. What needs to be clarified, however, is the difference from compendiums of Islamic law within the legal schools—as with the *Fatāwā-yi ʿĀlamgīrī* —and qānūn laws intended for lower level juridical functionaries. As Alan Guenther explains,

> [T]he *Fatāwā-yi ʿĀlamgīrī* was prepared by the ʿulamāʾ for the ʿulamāʾ and was intended as a compendium of Islamic law and the principles governing its derivation and application. By

---

[170] Ibid., 78.

[171] In describing some the most contested and controversial aspects of qānūn legislation, he further notes,

> Legalized usury, extra-judicial taxes and torture were perhaps the most objectionable pieces of legislation [of qānūn] in the view of the jurists. The latter, along with several Shaykh al-Islams, often militated against the *qanun*, and particularly, it seems, against the latter two provisions. The jurists' objections notwithstanding, the *qanun*—in its thin but diverse substance—was mostly seen, and accepted, as an integral part of the legal culture, and as an extra-judicial element that was required—after all—by the *siyasa shar'iyya* itself.
>
> Ibid.

[172] Repp, *Ottoman Learned Hierarchy*, 30.

[173] Hallaq*, An Introduction to Islamic Law,* 78.

> contrast, the farmans were prepared by the emperor for subordinate rulers and judges, and were intended to be implemented as the laws of the empire. Committed to governing along Islamic lines, and involved as he was in the compilation of the *Fatāwā-yi ʿĀlamgīrī*, the emperor saw the latter a source for his farmans.[174]

Another crucial difference between Ottoman and Mughal qānūn and contemporary codes must be mentioned. Unlike the decrees of autocrats and increasingly interventionist modern states which are intended to strip ordinary people of their rights, the qānūn of early modern Ottoman and Mughal rulers were often intended to protect the weakest in society from abuse by local notables. As Leslie Peirce has described,

> The *qanun*'s decrees, frequently restated in the *qanunnames* of several succeeding sultans in effect constituted a direct prohibition against conduct by government servants that might lead to injustice being inflicted upon the civilian population. The *qanun* of Sulayman the Lawgiver (r. 1520-66), for example, states that the 'executive officials shall not imprison nor injure any person without the cognizance of the (Sharīʿah) judge. And they shall collect a fine according to (the nature of) a person's offense and they shall take no more (than is due). If they do, the judge shall rule on the amount of the excess and restore it (to the victim).[175]

In this manner early modern Ottoman and Mughal qānūns were aimed at reigning in officials with competing interests, and loyalties. Given the local interests governors and deputies developed as they interfaced with local political and economic networks, sultans were always wary of the intersecting interests and conflicting loyalties pressuring their appointees in the provinces, where they were often far from imperial supervision.[176]

In this manner, a complex matrix of interests and imperatives on the part of sultan and ʿulamāʾ produced the complex documents known as early codes of *qānūn*, *żawābiṭ*, or *niẓāmnāmā*. That numerous, complex motives from multiple parties played out in early projects of codification is evident in the well-documented practice of Ottoman qānūn-writing, a project supported by sultan and many ʿulamāʾ in the former's court. As R.C. Jennings summarizes in this respect,

> The *qanun* therefore upheld the Sharīʿah by enhancing and supplementing its position and provisions, while the Sharīʿah, on the other hand, required the intervention of sultanic justice. This complementary duality was endlessly expressed in various decrees and letters in the judicial discourse of the Ottoman authorities, be they sultans, Shaykh al-Islams, viziers or Qāḍīs: justice had always to be carried out 'according to the Shar' and *qanun*.'[177]

---

[174] Guenther, "Hanafi Fiqh in Mughal India," 224. For a discussion of the problematic dichotomy between "Sharīʿah" and "qānūn" in the Ottoman context, see Amr Shalakany, "Islamic Legal Histories," *Berkeley Journal of Middle Eastern and Islamic Law* 1 2008 (1-82), 72-74.

[175] Hallaq*, An Introduction to Islamic Law,* 79, quoting Peirce 2003, 119, 327.

[176] Hallaq*, An Introduction to Islamic Law,* 77; Barkey 2008, especially Chapter 4, "Becoming an Empire: Imperial Institutions and Control", 67-98. For the Ottoman case, see İnalcik and Quataert 1994, 55-102, and the Mughal case, see Alam 2002, 216-45. This very same motivation would drive Ottoman reformers to draft a series of new law codes and associated technologies of surveillance and centralization in the mid-nineteenth century. See İslamoğlu 2002, 19-25.

[177] Hallaq*, An Introduction to Islamic Law,* 79, quoting R.C. Jennings, "Limitations of the Judicial Powers of the Kadi in 17th C. Ottoman Kayseri," *Studia Islamica* 50 (1979): 166-168.

In other words, even in the realm of sultanic codes—the Muslim ruler's privileged realm of almost supreme legal authority—the relationship between the religious law and political power was constantly negotiated. This point cannot be stressed when examining the literal products of Islamic juridical process—codes, constitutions, and other forms of statutory law such as administrative regulations. It is this perspective we must keep in mind when approaching our study's social history of the Niẓāmnāmā codes of Amir Amān-Allāh Khan and the first Constitution of Afghanistan in the core chapters of our dissertation. Moreover, this perspective helps us appreciate the rich legal history that preceded Amān-Allāh Khan's era, from the promulgation of Islam's very first constitution in the Prophet's city of Madīna in 622, to the production of perhaps the most famous early project of Islamic legal codification: the *Fatāwā-yi ʿĀlamgīrī* of Mughal Emperor Aurangzeb in 1675.

III
ORDER IN THE COURT!
ISLAMIC "CODES" AND "CONSTITUTIONS" FROM *ṢAḤĪFAT AL-MADĪNA* TO THE *FATĀWĀ HINDĪYAH*

The Constitution of Madīna

If we define the concept broadly as a supreme charter which puts to writing the core governing principles of a polity, then the first known "constitution" in Islamic history was the Prophet's *Ṣaḥīfat al-Madīna*, often translated as the "Constitution of Madīna" of 622 CE. The *Ṣaḥīfa*, or charter, was a formal agreement binding the Prophet and his community of Muslims along with resident Jews and non-Muslims of Madīna together to a core set of principles to govern their social, political, and economic coexistence. While initially drafted to end the bitter wars between two major Arab clans of Yathrib who were embroiled in a civil war before the Prophet's arrival the city, the Aws and Khazraj, the document in effect instituted rights and responsibilities for the entire Muslim, Jewish, and non-Muslim (polytheist) Arab population of Madīna. In the process it established one of the world's first muliethnic, multireligious polities governed by a single charter and under one "rule of law." On this remarkable document traced to the Madīnan period (622-633) of the life of the Prophet, Mark Graham notes,

> One of the most extraordinary events to take place during this time was the drafting of the Covenant of Madīna (Sahifat al-Madinah), what some consider to be the world's first constitution. It was a treaty and city charter between the Arabs and Jews of the city. All groups (Muslims, Jews, and non-Muslim Arabs) pledged to live in civic harmony, governed by mutual advice and consultation. The Covenant bound these varied groups into a common defense pact and stipulated that the Jews of the city were one community with the Muslims, that they were free to profess and practice their religion and that they were entitled to all the rights pertaining to the Muslims. This amazingly foresighted document was a revolutionary step forward in civil government. Despite the ultimately tragic end of Muslim and Jewish cooperation in Madīna, this blueprint of interreligious tolerance would serve Islam and its subject peoples well in the future.[178]

[178] Mark Graham, *How Islam Created the Modern World* (2006), 21.

It is important to date our history of Islamic constitutionalism with this landmark document. With it, all future Muslim polities—from the Mughals in the seventeenth century, to the Ottomans in the nineteenth century, to the Afghans in the twentieth century, to Egypt in the twenty-first century—would trace a precedent in the monumental act of drafting constitution to govern their multiethnic, multireligious empires.

Notwithstanding the immense political and even psychological importance of constitution in early modern and modern societies, legal realism and experience informs us that in the modern bureaucratic era, the substance of law lay often not in spectacularly drafted constitutions enunciating lofty general principles, but in the minutiae of codes and statutes drafted behind closed doors by a handful of judicial "experts." The core of this dissertation is about the history of such "experts" in the context of the drafting of the first constitution of Afghanistan from 1919-1923, and the history that led up to it, which we will come to in Chapters 3 to 7. Before that, however, it is important to trace the roots of codification and statutory law in medieval and early modern Muslim societies.

The Early Codes of Islamic Law: Medieval Qānūn and Fatwā Collections

"From the time of the earliest caliphs," writes Alan Guenther, "Muslim scholars had been active in producing legal opinions from which the ruler could draw assistance in formulating laws."[179] In practice, however, as the Umayyads and ʿAbbāssids established dynastic rule and with accompanying imperial expansion, rulers grew increasingly reluctant to compromise their own supreme juridical authority. At the same time, many of the ʿulamāʾ refused to be fully assimilated into the expanding state structure under the Abbasid and Seljuk early bureaucracies, on to the Ottomans and Mughals. Though a number of ʿulamāʾ would accept, and eventually even pursue, appointments as qāḍīs in the official state administration, others preferred to retain their autonomy and independence from the state, opting to serve as a variety of private legal advisors, professors, author-jurists, or even Muftīs. Skilled in the science of jurisprudence (fiqh), the *fuquhā'* (plural of *faqīh*) preserved a bastion of juridical autonomy from the ruler, continuing the scholar-state dialectics that characterized power relations between the ʿulamāʾ and sultan through the Ottoman and Mughal Sharīʿah societies.[180]

Nevertheless, historians of Islamic law in the classical period have observed that political rulers had a legitimate role in determining matters of Islamic law, and this right had been

---

[179] Guenther, "Hanafi Fiqh in Mughal India," 209. Egyptian jurist Kamal Imam has cited even earlier origins for codifications of Islamic law. In his paper on the subject, "On the Methodology of Codification," he writes,

> [I]t seems that the term codification has been ambiguous since its emergence, with writers differing about its connotation. Some Shari'ah and law scholars even tended to trace it back to Resalat As-Sahabah (Message of the Companions) by `Abdullah ibn Al-Muqaffa` and to the attempt of Ar-Rasheed to generalize the Muwatta' of Imam Malik, taking it to be a binding judicial reference. Scholar Abū Zuhrah, however, traced it back to the age of the Rightly Guided Caliphs, citing as a proof the letter Al-Qada' (Judicature), which Caliph `Umar ibn Al-Khattab sent to his judge Abū Musa Al-Ash`ari.

Imam, Kamal, "On the Methodology of Codification," paper presented at "The Codification and Renewal of Contemporary Islamic Fiqh," Muscat, Oman. 5-8 April, 2008.

[180] Guenther, "Hanafi Fiqh in Mughal India," 209.

recognized by ʿulamāʾ since at least the rule of the ʿAbbāssids.[181] In practice, however, after the era of the Rightly Guided Caliphs, Muslim rulers grew increasingly distant from their former roles as supreme juristic experts. Instead, as sultans increasingly grew detached from what was increasingly becoming a specialized field of knowledge, they were expected to surround themselves with competent jurists who would assist them in addressing difficult legal matters.[182] Upping the ante, some of the more ambitious sultans would use this consultory system to devise their own administrative codes, or *qānūn*, to regulate daily affairs in the empire (as seen above in the ʿAbbāssid, Seljuk, and Ottoman regulations governing education, courts, and the ʿulamāʾ profession). It must be noted, however, that the ruler's prerogative to draft and enforce qānūn codes did not extend to comprehensive civil or criminal law codes, which remained a monopoly of the schools of law and established jurists working within them. Indeed, one of the first attempts at a systematic "codification" of law was the failed attempt by the Abbasid secretary of state Ibn al-Muqaffaʿ (d. 759).[183] Islamic legal historian Sherman Jackson notes that this was the first and the last effort at a comprehensive law code until the Ottoman *Mecelle* of the late nineteenth century. [184]

Upon the advent of Turco-Muslim rule in northern India, Indian ʿulamāʾ continued to rely on the jurisprudence of Ḥanafī ʿulamāʾ from such centers of scholarship as Baghdad, Damascus, and Samarkand, but they also began to produce their own collections of authoritative codes and fatwā collections from earlier texts. These fatwā collections were selected to address the particular needs of the people of their time—or just as often, the needs of the ruler.[185] Historians have traced a handful of such early Islamic legal and administrative "codes" to the imperial drive for centralized governance. Alan Guenther, for example, cites *Fatāwā-yi Ghiyāthī*, as one of the earliest administrative codes, produced as early as the thirteenth century, and ascribed to Sultan Ghiyāth al-Dīn Balban (r. 1265-87). He proceeds to identify other notable compendiums of Muslim law that followed, "each usually compiled by an individual scholar demonstrating his

---

[181] Zaman, *Religion and politics under the early 'Abbāsids*, 120-124; Guenther, "Hanafi Fiqh in Mughal India," 210-211.

[182] Hallaq*, An Introduction to Islamic Law,* 43-44.

[183] Jackson, *Islamic Law and the State,* xviii.

[184] Ibid.

[185] Cornell Fleischer has argued that legacies of Turko-Mongolian political practices trickled down into Mughal and Ottoman views of the Sultan, and eventually, Caliphate,

> When the non-Muslim Mongols conquered Baghdad and put an end to the Abbasid caliphate in 1258, they not only destroyed the old order, but also introduced radically alien elements into the political life of the Islamic world. The Mongol Ilhans and the Turkic tribal elements that accompanied them or were assimilated into the Mongol order formed a military elite whose notions of political order, law, and social justice were informed not by sedentary Islamic values, but by the nomadic traditions of the steppe. . .Muslim subjects lived according to the Şeri'at, while the conquerors, even after their conversion to Islam, regulated their affairs according to their own legal codes, Cengiz Hanid yasa and Turkic tore (torii). These expressed Central Asian concepts of impersonal justice, and derived their authority from clan custom and formal proclamation by the head, more usually the founder, of the nomadic state. Yasa and tore governed such matters as treatment of the subject population, succession within the paramount clan, and its relationship with affiliated clans.
>
> Fleischer, *Bureaucrat and Intellectual*, 273-274.

expertise in matters of law, and often sponsored by the reigning emperor or one of his nobles."[186] Such was the case with the influential *Fatāwā-yi Tatar Khānī*, produced at the request of Khan-I Aʿzam Tatar Khan, a noble during the reign of Fayrūz Shah Tughluq (r. 1351-88) and completed in 1397 by the jurist ʿĀlim al-ʿĀlam ibn ʿAlā al-Dīn.[187] Other compilations of the same genre produced by ʿulamāʾ include the *Fatāwā-yi Ghiyāthī* and the *Fatāwā-yi Qarakhānī* of the thirteenth century, and the *Fatāwā-yi Barhānī*, produced under the rule of emperor Akbar.[188] The Turkish legal historian Ahmed Akgündüz, citing documents studied in the Ottoman archives in Istanbul, has identified the *Mulṭaqa al-Abḥur*, commissioned sometime between 1648 and 1687, as "the first official acceptance of a Legal Code of the Ottoman state."[189] Akgündüz proceeds to cite the Firmān of Sultan Murad IV (1623-1640) as describing this compendium to be the "the official legal code of the Ottoman State that covered criminal law, family law, and in short, all legal issues resembling laws."[190]

Similarly, in the context of Mughal India, during the reign of the emperor Aurangzeb, three notable fatwā collections were produced. Besides the famed *Fatāwā-yi ʿĀlamgīrī* (discussed subsequently), two distinguished ʿulamāʾ—Muʿīn al-Dīn Muḥammad bin Khwājah Maḥmūd al-Naqshabandī (d. 1674) and Muftī Abū al-Barakat ibn Hussām al-Dīn Dihlawī—each produced their own fatwā collections in the last decades of the seventeenth century. Guenther has thus argued that as the number of written authorities to be consulted increased, the aggregate sum of so many codes be they qānūn, niẓāmnāmā, or fatwā collections became "unwieldy" for jurists, judges, and administrators seeking to be comprehensive—or uniform—in their judicial practice.[191] It is in this context that first the Mughals under Aurangzeb, but most prolifically the Ottomans under the master codification work of Ahmed Cevdet Paşa and the *Mecelle* jurists, commissioned their own projects to "codify" Islamic law. A major justification of this monumental task was facilitating administrative ease and "Islamicizing" the state. For example, in the definitive compilation of judicial decisions of the *Fatāwā-yi ʿĀlamgīrī* the court historian wrote: "When the work, with God's pleasure, is completed, it will be for all the world the standard exposition of the law, and render everyone independent of Moslem doctors."[192] Barbara Metcalf has thus concluded that in ironic contrast to Aurangzeb's religious aura, there was little scope for independent influence on the part of the religious leadership under a monarch intent on limiting their authority, ironically, in the name of the Sharīʿah.[193]

---

[186] Guenther, "Hanafi Fiqh in Mughal India," 210.

[187] Akgündüz, Ahmed. *Introduction to Islamic Law* (2010), 100.

[188] Guenther, "Hanafi Fiqh in Mughal India," 215.

[189] Akgündüz, *Islamic Law*, 47.

[190] Ibid.

[191] Guenther, "Hanafi Fiqh in Mughal India," 210.

[192] Quoted in B. Metcalf, *Islamic Revival in British India*, 22-23.

[193] Ibid. In a very different view on the same monarch and his codification project, Azmi Özcan notes in this regard,

> While the victories of the Ottomans against the Christians were celebrated with jubilation in India, it is interesting to note that Aurangzeb was referred to in the Ottoman lands as 'the Sultan of India in our time…the warrior in the path of God…who had no equal among the kings of Islam in this age in

Breaking Ground in the Early Modern Islamic Juridical Field: The Fatāwā-yi ʿĀlamgīrī of Emperor Aurangzeb (1675)

Of the three greatest early modern Muslim empires—the Ottomans, the Safavids, and the Mughals—the Ottomans surpassed their counterparts in attempts to construct a uniform and streamlined system of justice; indeed, more than other Muslim dynasty in time as late as the early twentieth century. The robust and expansive juridico-political structure built and extended from Sultan Süleyman "the Lawgiver" (r. 1520-1566) to the last *de facto* sultan Abdülhamid II (1876-1909) regulated ʿulamāʾ, subordinate viziers, appointed governors, and courts of law in a transcontinental empire through the device of *siyāsa sharʿīyyah* and its associated *qānūn*.

Yet, there is evidence to suggest that the Ottomans were not the first to produce a comprehensive Islamic legal code based on Sharīʿah. Nor were they the only early modern empire that sought to streamline their administration and unify the patchwork of laws operating under the central government's jurisdiction.[194] In 1667, as Mughal expansion approached its zenith in India, Shah Aurangzeb "ʿĀlamgīr" commissioned a grand council of Muslim scholars for a singular purpose: to compile a comprehensive and authoritative manual of Islamic law for governors and judges. In the middle years of his reign and at the height of his power, Emperor Aurangzeb's elite law commission of ʿulamāʾ were entrusted with sifting through the voluminous juridical canon, and supplemental commentary literature, from the Ḥanafī school of jurisprudence for use in the qāḍī and Muftī courts of the Mughal empire. The work was completed in roughly eight year; by 1675 the commission has produced an exhaustive restatement of the Ḥanafī school's jurisprudential doctrine, arranged systematically by topic. Eponymously titled the *Fatāwā-yi ʿĀlamgīrī* after its royal patron, the text generated a robust commentary and gloss literature in Arabic, Persian, Turkish and Urdu. Surprisingly, the compendium has still not acquired a substantial scholarly attention in western languages.[195]

Historians offer various interpretations of Aurangzeb's motives for such a grand project. Alan Guenther stresses emperor Aurangzeb's two-prong desire to facilitate efficient

---

uprightness of conduct, fear of God, and zeal in religion' by the Ottoman chief *Mufti* of Syria." In light of the monumental project that Aurangzeb commissioned, it is not unlikely that the Ottoman Muftī was referring to the *Fatāwā-yi ʿĀlamgīrī*, though more research is needed to confirm this.

Özcan, Azmi. *Pan – Islamism: Indian Muslims, the Ottoman and Britain (1877 -1924)*. Leiden: Brill, 1997, 8-9.

[194] Huricihan İslamoğlu and William Purdue both explore this theme of shared modernities in *Shared Histories of Modernity: China, India, and the Ottoman empire* (2009). This follows in the path of İslamoğlu's path breaking work on legal codification, cadastral surveys, and the registration of land, in *Constituting Modernity: Private property in the East and West* (2004) and "Modernities Compared: State Transformations and Constitutions of Property in the Qing and Ottoman empires," *Journal of Early Modern History* 5 (2001): 353-386. See also Marie Seong-Hak Kim's work on sixteenth century France in "Civil Law and Civil War: Michel de l'Hôpital and the Ideals of Legal Unification in Sixteenth-Century France," *LHR* 28:3 (2010): 791-826. Thanks to Alexandra Havrylyshyn for the French legal history reference.

[195] *Al-Fatāwā al-Hindīyah fi madhab al-imam al-a'zam Abi Hanifa al Nu'man*, 6 vols. (Beirut: Dār al-maʿrifa, 1393 A.H.). *Al-Fatāwā al-Hindīyah* is the more common title in the Arab world and Turkey. Surprisingly, there has been no academic study yet of this important work in a western language, in spite of voluminous commentaries on this massive work in Arabic, Persian, and Urdu. For an introduction to its contents and compilers see Muḥammad Ishaq Bhatia, *Barr-i saghir Pak wa Hind main 'ilm-i fiqh* (1973), 257-365 and Zaman 2002, 201.

administration of the empire, coupled with a "re-islamicization" of the state according to his own interpretive principles.

> The problem he encountered was that rulings, as found in existing law books, were mixed up and lacked decisive authority because of contradictory decisions by past ʿulamāʾ and the weakness of supporting hadiths. The number of books to be consulted had also grown to such proportions as to make research unwieldy. The solution at which he arrived was to commission to the compilation of one comprehensive collection of authoritative rulings by qualified Indian ʿulamāʾ who would make a detailed examination of all the relevant law books in the imperial library and extract the necessary rulings.[196]

Muhammad Qasim Zaman, in a similar vein, argued administrative streamlining and efficiency in the judicial system were the driving forces behind this monumental juridical project. Zaman notes the explanatory reasons given for the code in the introductory front matter of the actual document. "[T]he justification that was in fact offered," notes Zaman, "concerned precisely the need to make judicial practice *less varied* and more firmly entrenched in the opinions of the best and most widely accepted authorities in the Ḥanafī school of law."[197]

While the *Fatāwā-yi ʿĀlamgīrī* emerges from a long tradition of administrative *qānūnnames* addressing family law, property, and crime, it systematizes procedural matters like *qāḍī* qualifications, juristic ploys (*ḥīyal)*, and executive discretion (*taʿzīr*) in unprecedented detail. An early-modern *tour de force*, the compilation reflected a two-prong ambition to streamline administration of the empire, and a uniformizing "Islamicization" of state institutions to facilitate the centralization of power in Delhi.

What do we know of the actual early history, authors, and compilation of the *Fatāwā-yi ʿĀlamgīrī*? Scholarly studies on the monumental project are surprisingly limited. Alan Guenther's study—utilizing historian Khafi Khan's account of the code's compilation—has provided some of the only insights on the production, contents, and founding history of the unprecedented project. The extensive project lasted roughly eight years, and was published towards the end of Emperor Aurangzeb's reign, when Mughal power was at its zenith of territorial expansion in the Subcontinent.[198] Regarding the compilers, sources indicate a large number of ʿulamāʾ working together in hierarchical arrangement, overseen by a Shaykh Niẓām from Burhanpur, of the Khandesh region east of Gujarat. Under the editor-in-chief were subordinate editors assigned to a corresponding number of sections and topics of the law, each editor bearing responsibility to Shaykh Niẓām for any errors in their respective section. Each chief editor then had a team of ʿulamāʾ alongside them to work with, supplemented by deputies and assistants. Based on this model, Guenther has estimated up to forty or fifty ʿulamāʾ participated in the production of the *Fatāwā-yi ʿĀlamgīrī*. Though in historian Khafi Khan's

---

[196] Guenther, "Hanafi Fiqh in Mughal India," 212.

[197] Zaman, *The Ulama in Contemporary Islam*, 20. The problem facing the Mughal judiciary, in the compilers' view, was a multiplicity of legal sources such that easy reference to a user-friendly set of books or "manual" was lacking. As Zaman explains, 'The standard books and treatises of this discipline [of law]..deal, in some cases, with only some of the [legal] problems, and most of them encompass differing reports and conflicting proofs'; at a loss for the most authoritative views, many have strayed from the 'light of the sunna towards the fires of mere whim.'" Ibid.

[198] Guenther, "Hanafi Fiqh in Mughal India," 217.

account he attributes the participating ʿulamāʾ to be from Delhi and Lahore, Guenther cites other historical texts to argue the commission was drawn from a much wider area of Muslim India.[199] The strength of this arrangement, Guenther notes, was it combined the expertise of numerous scholars in the various aspects of Islamic law, including those with substantial experience in the juridical bureaucracy of the empire.[200] In his own words,

> The result of such diversity as the records appear to indicate is that no localized clique dominated the work with its particular interpretation of the Sharīʿah, and that different scholars contributed their eclectic perspectives to insure a well-balanced presentation of Ḥanafī fiqh. . . The inclusion of scholars with rival patron sources on the commission demonstrates Aurangzeb's recognition that their scholarship and organizational abilities were more important than their rival political affiliations.[201]

While Shaykh Niẓām was the editor in chief of the rather ambitious project, the *Fatāwā-yi ʿĀlamgīrī* was ultimately overseen by the emperor himself. Indeed Aurangzeb appears to have taken an active, even interventionist, role in the project—appointing, dismissing, and even at times correcting commission members.[202] As an imperial project of the first order, participating ʿulamāʾ received generous remuneration for their services. Indian historians have traced *Madād-i maʿāsh* grants from the time of Aurangzeb linking the grant of title to lands across northern India to participation in the *Fatāwā-yi ʿĀlamgīrī* commission. Some ʿulamāʾ used these land grants to found semi-independent madrasahs of their own in provincial areas, as with Shah ʿAbd-al-Rahim of Delhi, who went on to found the historic Madrasah-i Raḥīmīya—the institution that trained India's greatest scholar of the seventeenth century, Shah Walī-Allāh al-Dihlawī. The offspring of another scholar who participated in the compilation of the *Fatāwā-yi ʿĀlamgīrī*, Mulla Quṭb al-Dīn, was awarded an estate in Lucknow, Awadh, eventually becoming home to the famous Firangī Maḥal madrasa. In this way the father's work on the *Fatāwā-yi ʿĀlamgīrī* commission continued benefit not only his descendants, but supported scholarly activities for generations later.[203]

As for the organization of the compendium, the *Fatāwā-yi ʿĀlamgīrī* is like other compilations of authoritative rulings by Ḥanafī jurists, in its systematic arrangement designed to provide a comprehensive reference for the school's interpretations of Islamic law.[204] But the *Fatāwā-yi ʿĀlamgīrī* also combines traditional aspects of fatwā collections, while also interjecting new features—hence the distinctive quality of this compendium of Ḥanafī jurisprudence. On the familiar organization, Guenther has written:

---

[199] Ibid.

[200] Ibid., 216-217.

[201] Ibid., 218.

[202] Ibid., 213-214.

[203] B. Metcalf, *Islamic Revival in British India*, 29-30; Guenther, "Hanafi Fiqh in Mughal India," 219. The best English-language history on the Firangī Maḥal is Francis Robinson's *The ʿulamāʾ of Firangī Maḥal and Islamic Culture in South Asia* (2005).

[204] Zaman, *The Ulama in Contemporary Islam*, 20-21; Guenther, "Hanafi Fiqh in Mughal India," 214-215.

> A lengthy introduction discusses the nature of fiqh and Islam in general, and provides information about the sources used and the jurists named as authorities. The selected subjects and their arrangement in the *Fatawa-i ʿĀlamgīri* deliberately follow those of the *Hidaya* of al-Marghinani, attempting to cover every topic on which a fatwā could be issued. The general division and arrangement of both the *Fatawa-i ʿĀlamgīri* and the *Hidaya* would appear to have been adopted from such standard books of Ḥanafī fiqh as Muḥammad al-Shaibani's *Jamaʿ-i Saghir*.[205]

As for the new aspects of its organization, the most significant are additional chapters on judicial proceedings and decrees (*muḥādir wa al-sijillāt*), legal forms (*shurūṭ),* legal devices (*ḥīyal),* and rules of inheritance (*farāʾid)*. Unlike the fifty-seven other sections, Guenther notes, the new chapters deal with issues of legal procedure, thereby indicating a new aspect of the compendium and bringing it closer to the modern definition of a "code."[206] When it comes to sources of the law, perhaps as an attempt to cultivate legitimacy, the *Fatāwā-yi ʿĀlamgīrī* again mixes the new with the old. Guenther describes some of the major features in this light:

> For each topic dealt with, cases are given from the standard works of Ḥanafī fiqh. Interspersed with the cases are more abstract works showing the reasons for the judgments, unless the reason is drawn directly from the Qurʾān or Hadith. The source of each case is given; and where the given source quotes other sources, those are given as well. In the case where two conflicting opinions are found and one is manifestly superior, both are still cited. It is also noted whether the source cited has been quoted word for word or merely summarized. In total, at least 124 sources are cited, omitting none of the major Ḥanafī works.[207]

As mentioned, the compendium placed a premium on allegiance to the Ḥanafī school and juristic tradition. As such the compendium drew from earlier fatwā collections, illustrating the cumulative nature of this genre of early codes and also their potential voluminous size. As Guenther notes,

> In size, the *Fatawa-i ʿĀlamgīri* is four times that of the *Hidaya*, containing a greater number of cases in each section. Therefore, while the *Hidaya* continued to be used by Muslim law-makers, the *Fatawa-i ʿĀlamgīri* had the advantage of providing a comprehensive review of all authoritative books of Ḥanafī fiqh, including those prepared by ʿulamāʾ writing subsequent to Marghinani. These include works produced by ʿulamāʾ such as the *Fatawa-i Ghiyathiyya* and the *Fatawa-i Qarakhani* of the thirteenth century, *Fatawa-i Tatar Khan* of the fourteenth century, and the *Fatawa-i Barhaniyyah* from the time of the emperor Akbar. In this manner, the *Fatawa-i ʿĀlamgīri* becomes a register of those works of jurisprudence produced in India that had attained a level of authority that made inclusion in such a compilation essential.[208]

---

[205] Guenther, "Hanafi Fiqh in Mughal India," 214-215.

[206] Ibid.

[207] Ibid., 215.

[208] Ibid.

Though originally published in Arabic, the *Fatāwā-yi ʿĀlamgīrī* was soon translated into Persian.[209] British jurist Niel B.E. Baillie (d. 1883) translated portions of the compendium into English. Notably, Baillie "considered it a pity that the *Hidāya* had been adopted instead of the *Fatawa-i ʿĀlamgīri* as the standard authority for the East India's Company's courts of civil justice."[210] The *Fatāwā-yi ʿĀlamgīrī*, Baillie argued, had the advantage of being compiled more recently, in India, and by the authority of a revered Indian Muslim ruler. The *Hidāya* on the other hand, though universally respected, was several centuries old and produced by a jurist from Central Asia. Mawlānā Saiyid Amir ʿAlī of Lucknow (d. 1919), a distinguished ʿālim and author of Qurʾānic and Hadith commentaries as well as works of *fiqh*, first translated and published the compendium into Urdu in the late nineteenth century.[211] The *Fatāwā-yi ʿĀlamgīrī* has since remained a staple of nearly every Pakistani and Indian Muslim lawyer's library until this day. Moreover, the *Fatāwā Hindīyah* —as the compendium is known outside the Subcontinent—has also gained a reputation as a crucial Ḥanafī authority in the larger Muslim community. "Apart from the additional sources," observed Guenther, "its increased comprehensiveness—and therefore increased length as well—and its authorship by the collective effort of a wide range of ʿulamāʾ make its contribution to Ḥanafī *fiqh* distinctive."[212]

As for its substantive content, the *Fatāwā-yi ʿĀlamgīrī*, rather than a collection of *fatwās*, or answers to specific and novel questions posed to a jurist as the name might suggest, is a comprehensive restatement of authoritative rulings of the Ḥanafī school of jurisprudence. "Though saturating the text with authorities from previous centuries," observes Guenther, "the editors were not merely compiling abstract legal theory," but rather, "they were deliberately reflecting on their contemporary context in the light of centuries of Islamic legal decisions."[213] Beyond the substantive provisions on convention topics of Islamic jurisprudence—marriage, divorce, inheritance, criminal law, and other property disputes—of particular importance to a centralizing monarch like Aurangzeb was sections on qualifications of the judge, and *uṣūl al-*

---

[209] It is unclear whether the Persian translation was completed because no copy seems to have survived, as Guenther has duly noted. Ibid., 215-216.

[210] Ibid.

[211] He is not to be confused with Indian Muslim scholar-journalist Amir Ali (d. 1928), author of *Spirit of Islam*.

[212] Ibid., 216.

[213] Ibid., 220. For example, in the section on *Adab al*-Qāḍi, or Qualifications of the Jurist, the *Fatāwā-yi ʿĀlamgīrī* addressed the necessary skills and responsibilities of a qāḍī from the perspective of Ḥanafī fiqh, but with an awareness of contemporary needs and societal interests from their perspective,

> "In addition a good character, he must have a knowledge of the Qurʾān and the Sunna…as well as a capacity for ijtihād, or independent reasoning… In issuing fatwās, or legal rulings, he must be impartial and just, without discriminating between rich and poor, powerful and weak, male and female, or young and mature. The written question is to be received with respect and studied in depth before it is answered. The answer must end with an invocation of God as the infallible One, and then preserved, since it bears the name of God. While answering, the mufti must be thoroughly familiar with the principles and methods of the imam, or 'founder', of his school. It is considered preferable if the fatwā is issued without remuneration, but people are permitted to hire the services of a mufti or fix a salary for him."
>
> Ibid., 219.

fiqh, or principles of Islamic jurisprudence. It was these latter sections, after all, that when applied as intended would effectively serve to curb qāḍī discretion in the emperor's courts, producing consistency, controllability, and the coveted goal of central governments: efficiency.[214]

It is for these reasons Guenther notes the *Fatāwā-yi ʿĀlamgīrī*, then, was written to provide the qāḍī and his advisors with a comprehensive compilation of Islamic law to assist them both in making legal rulings and in advising the emperor about the prescriptions of the Sharīʿah and to aid him in his law-making."[215] But individual qāḍīs continued to have a largely discretionary role even after the compendium. This was a result of continuing centrifugal forces and Islamic law's sensitivity to local social and cultural dynamics, as much as it was a reflection of the cumulative nature of the Islamic juridical tradition.

In practice, the limited historical record we have of Mughal judicial administration after the *Fatāwā-yi ʿĀlamgīrī* demonstrate that the compendium did produce an impact on the emperor's judiciary and Aurangzeb's attempt to reframe the legal system according to his own vision of an "Islamic rule of law" in practice. "As a source from which law could be derived," notes Guenther, "the *Fatāwā-yi ʿĀlamgīrī* provided him [and his jurists] with the fullest expression of the Sharīʿah according to the Ḥanafī tradition."[216] In addition to assisting qāḍīs and Muftīs in their judicial duties, the fact the *Fatāwā-yi ʿĀlamgīrī* was translated from Arabic into Persian soon after its compilation indicates "it quickly moved from the realm of legal speculation and theorizing to being applied by ordinary judges as all levels of administration."[217]

The compilation also has a legacy in Ottoman Turkey and Afghanistan—two "sister" Ḥanafī jurisdictions where administrators referenced the text while engineering centralization campaigns two centuries later. While it would be inaccurate to characterize the *Fatāwā-yi ʿĀlamgīrī* as a modern code—it never became a sole binding reference for an area of law to the exclusion of other sources—its influence beyond late Mughal India also remains greatly understudied.[218] Finally, *Al-Fatāwā al-Hindīyah*, as the work is more commonly known as in the Arab world and Turkey, also had an auxiliary objective beyond legal precedent: it bolstered the reputation of Indian 'ulamā' as authorities of the Ḥanafī school in the greater Islamic world, competing as they did with respected counterparts in Istanbul, Syria, Egypt, and central Asia.

---

[214] Some of the features affecting *uṣūl al-fiqh* methodologies of the Qāḍis to be trained under the new compendium are described by Guenther, as follows,

> Figuring prominently in the discussion of the usul al-fiqh is the comparative weight to be given to precedents and decisions given by the three jurists considered to be the founders of the Ḥanafī school. If the case before the qāḍī has not been addressed by these three, he is to look to decisions by subsequent lawyers. If there, too, he finds no assistance, he is then free to exercise his own judgment, provided he is qualified in the knowledge of fiqh. If others more qualified than he are present, namely muftis, he must follow their opinion.
>
> Ibid., 221.

[215] Ibid., 223.

[216] Ibid.

[217] Ibid., 225.

[218] Zaman, *The Ulama in Contemporary Islam*, 20-21; Guenther, "Hanafi Fiqh in Mughal India," 225. For a discussion of codification as a modern phenomenon in the Muslim world, though rearing its head first in the failed attempt by the Abbasid secretary of state Ibn al-Muqaffa' (d. 759), see Jackson 1996, xviii.

Indeed, over two centuries later, the *Fatāwā-yi ʿĀlamgīrī* would constitute a major source of law for the Niẓāmnāmā codes of a Muslim monarch, Amir Amān-Allāh Khan of Afghanistan. We will return to the substantive portions drawn on for the Afghan Niẓāmnāmā, but for now it suffices to say that the idea of a comprehensive restatement of the most authoritative Ḥanafī positions laid the groundwork for subsequent Islamic codes of law. The greatest example was the Ottoman *Mecelle* of 1869-1876, which also drew from the *Fatāwā-yi ʿĀlamgīrī*. In summary, Alan Guenther offers the following overview of this monumental work and its lasting legacy:

> The work united diverse ʿulamāʾ from various regions of Muslim India in a common project of reviewing the existing collection of authorities, weighing their relative authority, deciding between contradictory rulings, and selecting the material most applicable to seventeenth-century India. The result was a comprehensive, multi-volume compendium of Islamic law. Through its regular quotation of older authorities, it provided continuity with the past. Through its inclusion of the best of recent Ḥanafī works, some of them written by Indian scholars, it updated the Sharīʿah [fiqh] to take the current situation into account. Being written in Arabic, it served to strengthen the role of Indian fuquha in mainstream Ḥanafī thought.[219]

At the same time, the juridical legacy of the *Fatāwā-yi ʿĀlamgīrī*, in its immediate aftermath at least, should not be overstated. The compendium was only one of multiple sources of law referred to by Aurangzeb and his Qāḍīs. Other sources included other state-made codes like the *Ḍawābiṭ-i ʻAlamgīrī*, but also non-state produced legal systems such as ʻ*urf* and ʻ*adāt*, or "customary law."[220] Legal pluralism, in other words, continued to thrive in India even after the centralist project. As Muhammad Qasim Zaman notes,

> Despite their apparent mandate to reduce the fluidity (or uncertainty) of legal opinions, even the compilers of the ʿĀlamgīr*iyya* did little to try to harmonize the diversity of opinions in the Ḥanafī legal tradition. A variety of differing opinions are routinely noted in this compilation—as indeed manuals of *fiqh* (Islamic law) generally—giving the judges as well as the Muftīs considerable choice in dealing with the cases brought to them. It was in the presence of such divergences of opinion (*ikhtilaf*) that the jurists found the freedom to adjust the law and its application to changing times.[221]

Zaman's comments again give us reason to pause before considering the *Fatāwā-yi ʿĀlamgīrī* a formal legal code. While no doubt constituting a streamlining of judicial and administrative processes under Aurangzeb, the compendium did not serve to eliminate, or perhaps even reduce, the thriving legal pluralism in India before the judicial ruptures and transformations that emerged following the establishment of British colonial rule. "[D]espite the jurists' oft-repeated commitment to the most authoritative views with the Ḥanafī school of law," continues Zaman, "the actual practice of the Sharīʿah in precolonial India, as indeed elsewhere,

---

[219] Guenther, "Hanafi Fiqh in Mughal India," 225.

[220] Ibid., 223; Bernard Cohn, "Law and the Colonial State in India," in June Starr and Jane F. Collier, eds., *History and Power in the Study of Law: New Directions in Legal Anthropology* (1989).

[221] Zaman, *The Ulama in Contemporary Islam*, 20.

allowed for considerable flexibility in determining how that law would be implemented."[222] In spite of an unprecedented attempt to restate its core tenets in codified form—for the time-being, at least—the organic, constantly evolving, and pre-codified spirit of Islamic law still reigned supreme.

CONCLUSION

Economic historian Huricihan İslamoğlu has written, "Historically, idioms of rule have derived from vocabularies of statecraft that get imprinted in collective memories."[223] In this first chapter of the dissertation, we discussed some of the core vocabularies of statecraft developed by a constant contestation and negotiation of power between rulings elite and a diffuse Muslim scholarly class during the medieval Seljuk Empire, as well as the early modern Ottoman and Mughal empires. These vocabularies of Muslim-Turko-Mongolian statecraft drew from earlier texts and precedents established from the very beginnings of Islamic history. In order to excavate some of the precedents imprinted in early modern Islamic collective memories, we discussed the background of Islamic constitutions and codes from the Constitution of Madīna (*Ṣaḥīfat al-Madīna)* in 622 to the *Fatāwā Hindīyah* (1675) of the "last" Mughal emperor, Aurangzeb ʿĀlamgīr.

In the process, rather than treating law as a sterile, unchanging, and autonomous field of texts, I incorporated Pierre Bourdieu's theory of the juridical field into Islamic law, a social space of competition between state and provincial elites, and entrenched institutions such as scholarly classes and the military. I also drew from Laura Nader's concept of the pre-industrial "face-to-face" legal society as an apt description of the pre-modern Muslim Sharīʿah societies of the ʿAbbāssid, Seljuk, Ottoman and Mughal societies, as well as Christopher Tomlins' notion of legalities to frame our study of law in action, not just on the books. I also clarified much confusing terminology in the field of Islamic legal history that has imposed false dichotomies on Islamic legal history on the one hand, and collapsed important conceptual boundaries on the other. This is important not only for its own sake, but for understanding the legal and political history of the great projects of Islamic legal codification in the early modern and modern era: the late Mughal empire's *Fatāwā-yi ʿĀlamgīrī* (or *Fatāwā Hindīyah* , circa 1667-1675), the late Ottoman empire's *Mecelle-i Ahkam-ı Adliye* (1869-1876), and early twentieth century Afghanistan's *Niẓāmnāmā-yi Amānīyya* (1919-1923).

In the next chapter, we will discuss the legacy of Shah Aurangzeb's compilation in Ottoman Turkey and Afghanistan—two "sister" Ḥanafī jurisdictions where administrators referenced the text while engineering centralization campaigns two centuries later. While it would be inaccurate to characterize the *Fatāwā-yi ʿĀlamgīrī* as a modern code—it never became a singular reference for an area of law to the exclusion of other sources of law—its influence remains greatly understudied. The *Fatāwā Hindīyah* , as the work is known in the Arab world and Turkey, had an auxiliary effect (if not) objective beyond legal precedent: it bolstered the reputation of Indian ʿulamāʾ as authorities of the Ḥanafī school in the greater Islamic world, competing as they did with respected counterparts in Istanbul, Syria, Egypt, and central Asia.

---

[222] Ibid., 21.

[223] İslamoglu, *Constituting Modernity,* 50.

This chapter sought to better understand the nature of modern transformation in the Ottoman Middle East and British India—particularly in the juridical realms—by understanding what came before it, in terms of both doctrine and personnel. In pursuit of this goal I offered some comparative remarks about law and society in the Ottoman and Mughal empires from the medieval to early modern eras (sixteenth and seventeenth centuries in particular). Accordingly, the chapter focused on what I call a "The Islamic Juridical Triage": the *Sharīʿah* as a total social discourse, the *ʿulamāʾ* as a corporate body of legal personnel, and the *Waqf* (or charitable trust) as a pivotal intersection of law and education in both Ottoman and Mughal societies. With this juridical background and history of precedents, we commence our study of the *longue durée* that led to Afghanistan's first constitution of 1923, and the Indo-Ottoman juridical nexus that produced it.

CHAPTER TWO

Turks, Afghans, and Hindustanis

Tripartite relations and juridical fields from early modern to Muslim modern, 1453-1876

> Neither Arab am I nor man of Lahore
> Nor Indian from the town of Nagaur
> Neither Hindu am I nor Turk of Peshawar.
> Bullha, once God filled my thoughts,
> Hindus, Turks, I quit both sort.[1]
>
> - Bullhe Shah (1680-1758), sufi poet of the Punjab

> The unity of Islamism, politically, is a great fact standing out on the world's history. Touch one Musulman, whether Chief or beggar, and one touches, as it were, the whole structure of which he forms a part. [2]
>
> - Secret Memorandum, Foreign Department, British Indian Government (1881)

> The standards of our own morality are amply sufficient to meet all the requirements of modern civilization.[3]
>
> - Namık Kemal (1840-1888), Founder of the Young Ottoman party

– • –

The history of relations between Turks, Afghans and the peoples of the Indian subcontinent, or *Hindustan*, is complex and varied as they are intertwined. From the outset, it must be stated that the three admittedly broad ethno-geographic groupings employed here are borderline anachronistic for a host of reasons, not least of which is the way they convey a notion of fixed cultural and political identities—let alone separate "nations" or homogenous "peoples"—all of which they most certainly were not. Notwithstanding the Punjabi bard Bullhe Shah's powerful verse quoted above, it would probably be evident to an observer of early modern Ottoman and Mughal societies, if not medieval Abbasid and Seljuk urban life, that the

[1] "Kāfī no. 27" in Faqir Muḥammad Faqir, ed., *Kulliyyāt-e Bullhe Shah* (Lahore: Panjabi Adabi Academy, 1960), quoted in Christopher Shackle, "Beyond Turk and Hindu: Crossing the Boundaries in Indo-Muslim Romance" in David Gilmartin and Bruce Lawrence, *Beyond Turk and Hindu: Rethinking Religious Identities in Islamicate South Asia* (2000), 57.

[2] NAI-FD/SEC March 1881 45-90 ("Mussulman intrigues between Constantinople and India").

[3] Berkes, Niyazi, *The Development of Secularism in Turkey*. New York: Routledge, 1998, 218.

terms “Turks”, “Afghans”, and “Hindustanis” did convey some degree of geographic or linguistic specificity, particularly when distinguishing between Muslims.[4] What is more, one would notice that the history of Muslims belonging to one or more of these three “groups” in India were interwoven into the fabric of medieval and early modern Indian societies, with Islam being one but not the only social bond that was constantly shared, contested, and negotiated between them.

The first Muslim groups to arrive in India were Arab Muslim merchants trading along the southern Malabar Coast in the seventh century. Welcomed for their enriching contributions to local commerce, Arab Muslim traders found a hospitable environment where they built mosques, intermarried with local populations, and were free to share the young religion while immersing themselves in the diverse social landscape of southern India. The result was a significant integration of Hindu and Muslim cultures that continues in southern India until this day.[5]

The history of Islam in northern India is appreciably different.[6] Most historians mark the establishment of a significant Muslim presence in northern India with the imperial forays of an ethnic Turk from contemporary Ghazni, Afghanistan, into north India between 1000 and 1027. After conquering Khurāsān and northern Afghanistan, and in a bid to curry political favor and recognition from the Abbassid Caliphate in Baghdad, Maḥmūd of Ghazna (Mehmed Ghaznavi) burst through the famed Khyber Pass into the fertile North Indian plains. As the most prominent ruler of the Ghaznawīd Dynasty (975-1187), Maḥmūd eventually turned the former provincial town of Ghazni into the wealthy capital of an extensive empire that included much of today's Iran, Afghanistan, Pakistan and North-West India.

Maḥmūd’s conquest of Delhi was only the first of a series of Turkic dynasties that would rule northern India from the eleventh century until the middle of the nineteenth century. The Delhi Sultanate, a term used to cover five short-lived Islamic kingdoms of Turkic origin in medieval India,[7] ruled from Delhi between 1206 and 1526, with the last being replaced by the Mughal dynasty. With the exception of the Lodi Dynasty (1451-1526) and short-lived Suri Dynasty (1540-1557), both Pashtun kingdoms, as well as the Sayyid Dynasty (1414-1451), of

---

[4] This was especially the case given that, as a number of historians of India including Carl Ernst have argued, medieval Arabic and Persian use of the term “Hindu” denoted “an ethnic and geographic referent” rather than a religious designation. Gilmartin and Lawrence, 4; D.P. Singhal, *India and Afghanistan, 1876-1907* (1963),1. For the largely interchangeable terms of “Afghans”, “Pashtuns”, “Pathans”, and “Rohillas” in the prenational era, see Jos J.L. Gommans, *The Rise of the Indo-Afghan Empire c. 1710-1780* (1995), 9-12; Barbara Metcalf, *Islamic Revival in British India: Deoband, 1860-1900* (1982), 298; and Louis Dupree, *Afghanistan* (1973), 321.

[5] A common example is the matrilineal inheritance structures found among Muslims of Kerala and the southwestern coast of India, starkly contrasting with orthodox interpretations of Islamic law by Muslims in other regions of India, let alone the entire world.

[6] “Hindustan” is the pre-modern Turkic-Persianate term for India, specifically its northern provinces, It is also the modern Urdu term for the state of India, though it has fallen into decreasing use in both Pakistan and India today. “Hindustani” is a prenationalist term referring primarily, but not exclusively, to a Muslim resident of Northern India. While many more or less synonymous terms have been used for the same group (Indian Muslims, Indo-Muslims), I have opted for “Hindustani” precisely in this chapter precisely because of its pre-nationalist connotations.

[7] The five dynasties were the Mamlūk dynasty (1206–90); the Khilji dynasty (1290–1320); the Tughlaq dynasty (1320–1414); the Sayyid dynasty (1414–51); and the Lodi dynasty (1451–1526). The later Suri dynasty (1540-1557) was a short-lived empire that took over large swaths of the Mughal empire during a rather weak period of rule under Mughal Emperor Humayun, only to disintegrate with the restoration of Mughal power in 1556.

uncertain origins but said to be founded by descendants of the Prophet, these were all ethnically Turkic dynasties with roots hailing from central Asia. The establishment of the Delhi Sultanate and expansion of Turco-Afghan dynasties south and westward through the Subcontinent brought the patronization of Persian, Arabic, and Turkic languages into India, as well as Islamic legal and cultural institutions that would transform the social, political, and economic landscape of urban centers in northern India for the next eight centuries. Some of these transformative institutions included the Islamic charitable trust (waqf), the Islamic law college (madrasah), a consultative court culture with associated etiquettes (*dīwān*), and most importantly, an official class of Islamic legal scholars (*ʿulamāʾ*). As a semi-autonomous group with deep influence across diverse social strata in Indian society and a profound role in shaping understandings and implementations of the Sharīʿah, ʿulamāʾ frequently mediated relations between Muslim rulers and the ruled in India, a negotiated relationship we will explore further in the last section of this chapter.

While Maḥmūd Ghaznawī's conquest of India undoubtedly cleared the way for a history of successive Muslim dynasties across north India, the historiographical emphasis on invasions, armies, and "top-down" rule in accounts of "Islamic India," however, ignores the role of diverse social groups such as itinerant Sufis, Muslim refugees from Central and Western Asia, Arab traders in the south, and indigenous converts in the spread of Islam in the Subcontinent.[8] Conjuring images of "the marauding bloodthirsty Turk," the emphasis on external invasions by early European Orientalists (and later, particular extremist strands of Hindu nationalist historians) overlooks the role the Delhi sultans played in repulsing Mongol invasions, the welcoming of refugees from Mongol raids as far as Iraq, Iran and the Ferghana Valley, and the cultural efflorescence India enjoyed as a result of extraordinarily rich periods of the fusion of Muslim, Hindu, Buddhist and other cultures under the Delhi Sultanates and Mughal rule.[9] Overplaying the role of militant *jihads* and "Islamic invasions" is also a gross simplification of the complex inter-Muslim relations between Turks, Afghans, and Indian Muslims in South Asia. More often than not, for example, Muslim dynasties in India allied with local non-Muslim Indians against rival Muslim groups, as is the case with the Mughals allying with Hindu Rajputs against the co-religionist Afghans in the sixteenth and seventeenth centuries, a turbulent history we draw attention to now.

– • –

In this chapter we begin by tracing the ebbs and flows of tripartite relations between Turks, Afghans, and Indian Muslims from Sultan Muḥammad Ghaznawī's incursions into medieval India and the establishment of the Delhi Sultanate in the eleventh century, to history's first and only Ottoman-Afghan war in 1726. We conclude with the tepid response of Ottoman and Afghan rulers upon the invitation of Indian Muslims to join hands in the largest rebellion the British empire ever faced in its history: the Indian Sepoy Rebellion or "Mutiny" of 1857. I show not only there has been no singular, long-standing relationship between these three broad (majority Sunnī, through internally heterogeneous and fractured) Muslim populations, but rather

[8] Richard Bulliet, *Conversion to Islam in the Medieval Period: An Essay in Quantitative History* (1979). See also Richard Eaton's *India's Islamic Traditions, 711-1750* (2003) and *The Rise of Islam and the Bengal Frontier, 1204-1760* (1996).

[9] Thomas Metcalf and Barbara D. Metcalf, *A Concise History of India* (2006), xxviii.

a series of interrupted, incomplete, and seasonal alliances, friendships, and even occasional animosities. While dominant historiographical trend on Pan-Islamism is in one sense correct that Pan-Islamism is a relatively modern phenomenon, it is flawed in its erasure or ignorance of earlier episodes. Moreover, current scholarship on Pan-Islamism largely ignores educational and juridical ties between these regions and peoples, focusing instead on episodes of violent anti-Western confrontation and militancy. The emphasis on militant *jihads*, rebellions, and other spectacular military adventures has only been exacerbated in recent years when it comes to European and American on Pan-Islamism. By highlighting this problem, I set the stage for analyzing the long nineteenth century's two most unexplored streams of juridical and cultural Pan-Islamism in the Muslim world: the proliferation of Ottoman-styled étatism and legal modernism (embodied in the Tanzimat reforms and Mecelle Civil Code) from the west, and the Deobandi madrasah revival movement from the east. These would be the two very same intellectual and social streams that would compete for influence in the Amir's court in Kabul and Afghanistan's juridical field in the long nineteenth century, a history we will pick up in the next chapter.

I
EARLY EPISODES IN PAN-ISLAMIC OUTREACH

Locating "Pan-Islam"

According to one historian, "Pan-Islamism," as a term of European origin, first surfaced in the mid-1870s, when it was used in British Foreign Office documents to refer growing religio-nationalistic sentiments of Muslims in the face of European imperial expansion from North Africa to Southeast Asia.[10] But semantics appears to have also played a large role in historical scholarship on this elusive phenomenon. While mostly European scholars have adopted the British Foreign Office's view of Pan-Islamism as a late nineteenth century creation spawned by the late Ottoman sultan Abdülhamid II and a "global" network of agents, others have chosen to seek out its early roots. As Azmi Özcan argues, in order to genuinely understand the historical development of pre-national, international, and transnational ties between those professing the Muslim faith across the globe, it is important to not fall in the semantic debate over terminology, losing sight of the intended phenomenon to be described itself. Özcan summarizes his view on the matter as follows:

> Pan-Islamism in the sense of a union of all Muslims, is in fact as old as Islam itself, finding its roots in the verses of the Qurʾān and the traditions of the Prophet. . . It is true that the term 'Pan-Islamism' is a modern expression used by Westerners from the mid-1870s onwards. However, much before the term came into use in the West, its closest Ottoman equivalent, *İttihad-ı İslam* or the terms *İttihad-ı Din* and *Uhuvvet-i Din* which carry similar connotations, had long been used in the correspondence between Ottomans and the Muslim rulers of India, Central Asia, and Indonesia.[11]

[10] Azmi Özcan, *Pan–Islamism: Indian Muslims, the Ottoman and Britain (1877 -1924)* (1997), 24.

[11] Ibid., 23-24.

As the literature stands today, the historiography of Pan-Islamism is still generally limited to late Ottoman relations with Indian Muslims during the period of Abdülhamid II (1876-1909), World War I, and post-War Independence struggle in India and associated "Khilāfat Movement."[12] As such, Azmi Özcan's *Pan-Islamism: Indian Muslims, the Ottomans and Britain* (1997) still remains the most in-depth and up-to-date work on transnational relations between Turks, Indians, Iranians, and Afghans (as well as Muslims of China, Indonesia and the Malaysian archipelago). While a number works on Pan-Islamism produced in the late nineteenth and early twentieth centuries exist in European languages, only Özcan's study provides a background on Indo-Turkish relations based on original documents from as early as the fifteenth century.[13] Utilizing archival sources in Turkey, India, Pakistan and England, Özcan's study provides a comprehensive yet finely-grained backdrop of interaction between the pre-national groups of Turks, Afghans, and Hindustanis from the fifteenth century until early twentieth century.

According to Özcan, we have no recorded evidence of direct relations between Hindustanis, Afghans, and Ottoman Turks until the late fifteenth century.[14] The first recorded diplomatic missions between Muslim rulers in India and the Ottoman sultans took place in 1481,[15] between the Bahmani kings Muḥammad Shah III (1453-1481) and Maḥmūd Shah (1482-1518) of the Deccan plateau in southern India, and Ottoman Sultans Mehmed Fatih (1451-1482) and Beyazid II (1482-1512) of recently conquered Istanbul. These early contacts primarily consisted of the exchange of letters and gifts, with no evidence of political or military alliances being concluded at this time.[16] In this way, we can say the first stage of Indo-Ottoman

[12] There are several probably reasons accounting for the latter-day emphasis. Özcan argues that British obsession, and fear, of the "red" sultan Abdülhamid II (1876-1909) was a strong reason for pinning the movement's origins on him. "It seems that the main defect of such an approach," notes Özcan, "is that the majority of those scholars who have written on Pan-Islamism, confined their studies to the reign of Abdülhamid and therefore concluded that it was started by him." Özcan, 23. Adding the historiographical lacuna, Turkish scholars in the republic were largely indifferent to study of Pan-Islamism until only very recently. The most famous recent exception, other than Özcan's work, is Mehmet Saray's *Afganistan ve Türkler* (1987) and the İhsan Ekmeleddin's *The Islamic World in the New Century* (2010).

[13] Özcan provides a host of widespread examples of Ottoman "Pan-Islamic" activism with the broader Muslim world long before Abdülhamid II. For example, "[T]he extensive usage of religious notions and symbols, the idea of mobilization of the religious dignitaries like the Shaykhs, and Sufis, the emphasis on the unity and solidarity of the Muslims against foreigners, had all been employed by the Ottomans long before Abdülhamid II." Özcan 26. Özcan gives the historical examples of these very terms being employed in petitions for aid sent to the Ottomans by distant Muslim rulers who where never under Ottoman suzerainty, including the Central Asian Khanates of Bukhara (founded 1500), Hive (founded 1511), and Hokand (founded 1700), as well as Uzbek ruler Subhan Kulu Khan in 1690 and Ubeydullah Khan in 1707. Özcan 24-25. Strikingly, Özcan's findings build upon Anthony Reid's discovery of Ottoman contact with Muslims of Aceh, Indonesia from an even earlier period. Anthony Reid, "Nineteenth Century Pan-Islam in Indonesia and Malaysia." *Journal of Asian Studies* XXVI (Feb. 1976): 268; Özcan, 27.

[14] Özcan, *Pan-Islamism,* ix.

[15] Ibid., 1.

[16] Ibid..

relations—from roughly the mid-fifteenth century until mid-sixteenth century—consisted of diplomatic courtesies, a phenomenon not exclusive to inter-Muslim relations.[17]

Recorded contacts between the Ottomans and Afghans arise even later. From my own research in Turkey, the three oldest documents I found in the Ottoman archives dealing with "*Afganlar*," or Afghans, date to 1724, 1728, and 1744.[18] As a much larger, more populous, and richer territory, recorded contacts of Ottomans with India far outnumber those with the Afghans. Though documents in the Ottoman archives often contain references to Indian, Uzbek, and Afghan individuals in Ottoman domains – usually pilgrims, mendicants, and other travelers – state-to-state relations between these Middle eastern, South Asian, and Central Asian states are a much more complex historical affair to untangle from the sources.[19] As a background to Pan-Islamic relations in the late nineteenth and early twentieth centuries which form the bulk of this dissertation, we will first briefly discuss the history of Indo-Ottoman relations until the British conquest. Ottoman-Hindustani relations will also provide a background to the unique nature of Ottoman-Afghan relations which we will discuss thereafter.

Ottoman Sultan-Caliphs and the Delhi Sultanates

In 1517 Sultan Selim's conquest of Egypt, Syria and the Ḥijāz ushered in a transformative new phase in Ottoman history, and with it a major development in Ottoman relations with other Muslim rulers and peoples. Expanding the empire's domains in size—including the three holiest cities of Mecca, Madīna and Jerusalem—the Ottoman conquest of

---

[17] On the relatively cosmopolitan history of the Porte in its foreign relations in general—neither a perennial seeker of Pan-Islamic ententes nor a reclusive xenophobe secluded by an iron curtain—see Suraiya Faroqhi, *The Ottoman empire and the World Around It* (New York: I.B.Tauris, 2004).

[18] BOA-D.BŞM.d 40946 (1137) ("Seyyid Mehmed Sadık adlı Afgan elçisine verilen tayinatı gösterir defter"); BOA-C.DH 127-6634 (1141 Za 28) ("Afgan hanlarından olup mukaddema Bağdad'dan İstanbul'a gelen Şah Mehmed Han'ın Anadolu valise ve şark canibi seraskeri Ahmed Paşa maiyetinde bulunmak ve tayinatı ordu defterdarı tarafından verilmek üzere gönderildiğine dair müraşunileyh Ahmed Paşa'ya ve ordu defterdarına hüküm"); BOA-C.HR 67-3313 (1157 Ra 12) ("İran şehzadesi Samin'in maiyyetine gelen Efgan, Acem, Şirvan, Özbekli ve Gürcülere verilen tayinatın hesabı"). There is a considerable gap after these early documents in the Prime Ministry Ottoman Archives; the next earliest documents I found on Afghans dated to 1804 and 1836. BOA-C.HR 92/3777C (1218 Z 08) ("Ruslar'ın Hoy kasabasına sardıklarına, İran şahına muhalif Cafer Kuli Han'ın korkusundan öldüğüne, Özbek ve Afgan ile müteffik Şah Ruh Mīr za'nın İran askerlerini mağlup ettiğine dair") and BOA-C.HR 66/3255 (1252 Ra 03) ("İstanbul'a sefaretle gelen Efgan kadıaskerlerinden Han el-Ulum Maḥmūd Efendi'ye her ay iki bin kuruş masraf verilmesi"). Note also that modern Turkish script also uses the alternative spellings of "Efganlar", "Afkanlar", and "Efkanlar" to denote "Afghans."

[19] For example, the following Ottoman archives document from 1897 groups together state policy with itinerant or resident "Moroccan, Uzbek, Indian, and Afghan" mendicants in Ottoman domains. BOA-ŞD 2276/41 (1315 B 11) ("Mağribi ve Özbek ve Hindi ve Afgan ahalisinden fukara-yı ahalinin yedlerinde mürur tezakiri bulunmadığından nizamen alıncak ceza-yı nakdinin afvı"). While most documents concerning Afghans in the Ottoman empire concern communities in Istanbul, the Ḥijāz, and Iraq, a handful arise with regard to Afghans in Jerusalem. This should not be surprising, however, given Jerusalem was a major stopping point for pilgrims traveling to perform Ḥajj or 'Umrah. See for example BOA-ZB 443/102 (1316 Ma 28) ("Aslen Afganlı olup Küdüs'de iki sene ikamet eden ve jandarmaya kabulünu isteyen Abdülkadir vin Abdülkerim'in durumunun tahkiki") and BOA-A.MKT.UM 79/12 (1267 Z 20) ("Kudüs'teki Efgan Zaviyesi odalarına tacirlerce yapılan müdahalenin men'i"). The earliest document I found about Afghans in Istanbul dates to 1252/1836. BOA-C.HR 66/3255 (1252 Ra 03) ("İstanbul'a sefaretle gelen Efgan kadıaskerlerinden Han el-Ulum Maḥmūd Efendi'ye her ay iki bin kuruş masraf verilmesi").

eastern Anatolia, Syria, Egypt and the Ḥijāz under Selim I increased the empire's stature in prestige and glory among the world's Muslims. Beyond the newly acquired lands, populations, and wealth, this unprecedented advance in Ottoman expansion came with an unquantifiable prize: the Ottoman Sultan's assumption of the universal Caliphate.[20]

For Özcan, this supremely symbolic institution of the Caliphate "gave a new dimension to Ottoman rule and indeed served as the most important instrument in forging relations with other Muslim countries, including India."[21] It was more than merely holding the institution that mattered; there were institutional ramifications of tremendous significance in fostering Pan-Islamic ties between Ottomans and Muslims worldwide. Chief among them was the Ottoman administration of the *Ḥajj*, the annual pilgrimage that served as the premier venue for disseminating information to the Muslim world.[22] Through elaborate ceremonial proceedings conducted in the name of the Ottoman sultans in Mecca and Madīna—the very heart of Muslim global imagination—for the next four hundred years through the Ḥajj the Ottomans profoundly influenced global Muslim sentiment, strengthening attachment and loyalty to the Ottoman Sultan-Caliph in Istanbul. Time and again, the role of the Ottoman caliphate would surface in India and Afghanistan, as we will return to in subsequent chapters.

There was more to Ottoman Pan-Islamism than ceremony and symbolism, however. Sultan Selim rose to the task of his newly acquired prestige. Ottoman records indicate that soon after annexing Egypt and the Ḥijāz, Sultan Selim expressed interest in the conditions of Muslims in India, going so far as to consider aiding the Muslim ruler of Gujarat, Muzaffer Shah, against the invading Portuguese.[23] Despite the religious fanfare, there was more at play here than Pan-Islamic sentiment. The rise of Portuguese maritime power in the Indian Ocean and Mediterranean seriously threatened seaborne trade connecting ports from Istanbul and Alexandria to Aden and Bombay. Ḥajj routes for Indian pilgrims seeking to reach the Ḥijāz were also affected by Portuguese intervention on the high seas.[24] In this intensifying climate, Muslims feeling a sense of besiegement turned to the strongest Muslim power of time, and the custodians of the Holy Places, the Ottomans.

At this particular historical juncture, Istanbul's response was swift and decisive. In 1531, with the goal of driving the Portuguese away and thereby keep the Ḥajj routes open, Sultan Süleyman dispatched an Ottoman fleet of two thousand men to Gujurat, making landfall at Diu along the Malabar coast.[25] Preventing a Portuguese attack, the Ottoman success raised the

---

[20] Ottoman historiography states the last Abbasid caliph who had fled to Egypt following the Mongol sacking of Baghdad had passed it on to Sultan Selim. But more glory was on the way. In July 1517, the Sharif of Mecca sent the keys of Mecca and Madīna to the Sultan, symbolizing his allegiance to the new caliph of Islam. Özcan, *Pan-Islamism,* 1.

[21] Ibid., 1-2.

[22] Ibid., 28-29; See also Dale F. Eickelman and James Piscatori. *Muslim Travellers: Pilgrimage, Migration, and the Religious Imagination* (1990); Ross Dunn, *The Adventures of Ibn Batuta: A Muslim Traveler of the Fourteenth Century* (2004).

[23] Here the military aid did not materialize, however, probably due to the demise of Sultan Selim in 1520. Özcan, *Pan-Islamism,* 4.

[24] Ibid.

[25] Ibid.

confidence of Indian Muslims in the Turkish Sultan, whose prestige soared. Subsequent Ottoman expeditions to India followed—those of Hadim Süleyman Paşa in 1538 and Piri Reis in 1551. Most famous, however, was that of the Ottoman Admiral Sidi Ali Reis in 1533. After severe monsoon storms shipwrecked the captain and his fleet, Sidi Ali Reis was destined to take refuge in a Gujarati port administered by a local Muslim ruler, Sultan Ahmed.[26]

According to his own memoir, as an Ottoman admiral and representative of the Sublime Porte Sidi Ali Reis was held in high esteem in Gujurat, and was even offered the governorship of a province by the Gujurati ruler, Sultan Ahmed. The Ottoman envoy declined to accept, however, and left for Istanbul via the land route of Northwest India, Afghanistan, and Iran.[27] After returning to Istanbul, Sidi Ali Reis composed *Miratu'l-Memalik* (The Mirror of the Countries), a priceless travelogue containing valuable information about the political and cultural conditions of sixteenth-century India. In his travel memoir Sidi Ali Reis furnished details about the people he had met and the places he had visited during his long and strenuous journey from southern India to Turkey via Sind, Multan, Lahore, Delhi, Afghanistan, and Iran. Notably, the Muslim rulers he met on his way home showered him with proclamations of loyalty and devotion to the Ottoman Sultan.[28]

Before long, however, the Ottomans were not the only great Muslim empire with a presence in the region. In 1526 a descendant of the Timurids (who had once challenged and almost destroyed Ottoman power in Anatolia) named Babur conquered the kingdom of Kabul. By the seventeenth century, his descendants had conquered vast swath of northern India and soon established the Subcontinent's largest empire ever, stretching from Bengal in the east to Balochistan in the west, Kashmir in the north to the Kaveri basin in the south. How did the Ottomans interact with their counterpart in the Indian Subcontinent, the Mughals—whose empire boasted a population in 1700 of 100 million, five times that of the Ottomans, and nearly twenty times that of the Safavids in Iran?[29]

Brothers or Others? Ottomans and Mughals in Contact

Beginning in the sixteenth century and continuing for another two hundred years, there were three great Muslim powers ruling over large parts of the Muslim world: the Ottomans in Turkey, the Mughals in India, and the Safavids in Persia. The remainder of the Muslim-majority lands, from western Africa to Indonesia were under smaller, highly-localized Muslim rulers who were not under the suzerainty of these empires, though there is scanty evidence a number of

---

[26] Arminius Vambery, *The Travels and Adventures of the Turkish Admiral Sidi Ali Reïs in India, Afghanistan, Central Asia, and Persia, during the years 1553-1556* (1899); 21-24. According to M.Y. Mughal, two magnificent canons used in this expedition remain as artifacts, each inscriptions invoking God against the "Portuguese invaders of the Indian territories." M.Y. Mughul, "Turco-Pakistan Relations in Historical Perspective," *Grassroots* (University of Sind) 12-14 (1988); Özcan, 5.

[27] Vambery, *Sidi Ali Reïs*, 33; Özcan, *Pan-Islamism,* 5.

[28] Vambery, *Sidi Ali Reïs*, 26, 32; Özcan, *Pan-Islamism,* 5. Indeed Reis went so far as to claim that the Muslims of India wanted the Ottoman Sultan to bring Gujurat or possibly all of India under Ottoman sovereignty though no other source has corroborated this claim to date.

[29] T. Metcalf and B. Metcalf, *Concise History of India*, 1.

kings and princes paid a form of spiritual homage to the Ottoman Caliph.[30] As the two greatest Sunnī empires at the time, relations between the Ottomans and Mughals deserve special attention here. According to Özcan, the earliest references to the Mughals in Ottoman sources date to the first half of the sixteenth century, though no record of any official link exists until Jehangir's reign (1605-1627).[31] Perhaps due to a legacy of animosity dating to Timur's brazen and nearly catastrophic attack on the Ottomans in 1402 at the battle of Ankara, and Timur being a revered ancestor of the Mughals, there was little desire for contact on either side.[32] Özcan also hints that the Ottomans at first regarded the rise of the Mughals with some suspicion, possibly because of the Porte's alliance with the Gujuratis who were then at war with the Mughal Emperor, Humayun.[33]

These interpretations of early wariness are challenged, however, by evidence uncovered by Indian historian Naimur Rahman Farooqi of high-level contacts between the Ottomans and Mughals from the very beginning. In his pioneering and similarly meticulous *Mughal-Ottoman Relations* (1989), Farooqi discovered the presence of "several" Ottoman Turks in the service of the first emperor and founder of the Mughal dynasty, Babur (1483-1530). Among them were a chief artillery officer named Mustafa Rumi and a physician, both who personally served the Mughal ruler with distinction.[34] Nonetheless, Özcan's contention that no official delegations or grand alliances took place largely still holds true.

As for subsequent rulers following Babur, in somewhat sporadic episodes relations did warm between the two dynasties that shared not only Sunnī Muslim, but ethnically Turkic bonds. On at least one occasion Humayun appears to have acknowledged the supremacy of the Ottoman Sultan. Fortuitously enough, the story begins with a natural disaster in the Indian ocean, causing the shipwreck of an Ottoman admiral and his crew. In a priceless primary source and travel memoir, the shipwrecked Ottoman captain-turn-envoy Sidi Ali Reis narrates an account of his meeting in Humayun's court, where he was asked whether India or the empire of his Sultan (*Velayet-i Rum*) were the bigger of the two. Sidi Ali Reis forthrightly stated that India was not even one tenth of his Sultan's lands and that he was the only person who had authority to grant the right of the *khuṭbah* and coinage.[35] This seemed to have satisfied everyone present, including Humayun, who turned to his nobles and remarked without any sign of jealousy, "Surely the only man worthy to bear the title of Padishah is the ruler of Turkey, he alone and no one else in the world."[36] The Mughal emperor subsequently prayed for the welfare of the Ottoman Sultan.[37] In the early portion of his reign when he was still under the influence of the orthodox ʿulamāʾ, Humayun's son and perhaps the most famous of Mughal emperors, Akbar (1556-1605), was also

[30] B. Metcalf, *Islamic Revival in British India*, 18; Özcan, 11, 24, 27.

[31] Özcan, *Pan-Islamism,* 6.

[32] Ibid.

[33] Ibid.

[34] Naimur Rahman Farooqi, *Mughal -Ottoman Relations* (2009), 13.

[35] Vambery, *Sidi Ali Reïs*, 51-53.

[36] Ibid., 53.

[37] Ibid.

said to have plainly acknowledged the Ottoman Sultan as the Caliph of the age in a letter to him.[38]

The Mughal-Ottoman honeymoon did not last long, however. The more Akbar consolidated his power and expanded the domains of an increasingly powerful, rich, and glorious Mughal empire, he grew increasingly irreverent of the Ottomans, until he ultimately threw down the gauntlet and claimed the title of Caliph for himself.[39] On the longest-ruling Mughal emperor's disdain for his Ottoman counterparts, it would be difficult to put it more forcefully than Hamid Algar's observation, "So thoroughly oblivious was Akbar to the requirements of Islamic solidarity that in 1588, he planned a joint Mughal-Portuguese naval expedition against ports in Yemen held by the Ottomans."[40] This was surely a complete and ironic reversal of Sultan Süleyman's Pan-Islamic inroads into India decades earlier. Though little came out of it, the Ottomans did not take the threat lightly, and reinforcements were quickly ordered to Yemen, Basra, and Egypt.[41] On another occasion, Akbar's anti-Ottoman stand went so far that he attempted, and failed, to form a triple alliance with the Safavids in Iran and the Uzbeks in central Asia against the Ottomans.[42]

Following Akbar's death, his son and successor Jehangir was early on rather indifferent to the Ottomans, largely due to an inherited friendship with the Safavids and the staunchly anti-Ottoman Shah ʻAbbas I (1587-1629) of Iran, whom Jehangir appears to have forged even stronger ties with.[43] Indo-Persian relations quickly soured, however, when the Mughals and Safavids clashed over the strategic (and then borderland) city of Qandahar. When the latter was captured by the Safavids in 1622, Jehangir proposed a Sunnī alliance with the Ottomans and the Uzbeks against the Safavids. With this aim in mind, Jehangir even wrote a letter to the Ottoman Sultan Murad IV (1622-1640). The invitation came to no avail, however, as Jehangir died a year later in 1627.[44]

In a turning point in Ottoman-Mughal relations, historians record Shah Jihān (1627-1658) as the first Mughal ruler to establish regular diplomatic ties with the Ottomans.[45] Following in

---

[38] Özcan also notes that the Ottoman scholar and historian Katip Çelebi, in his *Tuhfetu'l-Kibar fi Esfar-i Bihar* (1329/1911), attributed this letter to the Mughal Emperor Humayun, however. Özcan, *Pan-Islamism,* 6.

[39] Ibid., 6-7.

[40] Hamid Algar, "*Tarîqat* and *Tarîq*: Central Asian Naqshbandîs on the Roads to the Haramayn," in Alexandre Papas, Thomas Welsford and Thierry Zarcone, eds., *Central Asian Pilgrims: Ḥajj Routes and Pious Visits between Central Asia and the Ḥijāz* (2012), 54. See also Naimur Rahman Farooqi's "Six Ottoman Documents on Mughal-Ottoman Relations During the Reign of Akbar," *Journal of Islamic Studies* 7 (1996) and "Moguls, Ottomans, and Pilgrims: Protecting the Routes to Mecca in the Sixteenth and Seventeenth Centuries," *The International History Review* 10 (1988): 198-220.

[41] Farooqi 1985, 20-22; Özcan, 6-7.

[42] Farooqi 1985, 20-22; Özcan, 6-7.

[43] Farooqi 1985, 24; Özcan, 7. Farooqi notes, for example, the cordial letters exchanged between Shah ʿAbbās I and Jehangir in Persian, who both addressed each other in Persian as "*biradar ba jan barabar"*(a brother for life, or as dear as life). Farooqi, 24.

[44] Farooqi 1985, 24-25; Özcan, 7.

[45] Farooqi 1985, 26-33; Özcan, 7.

the footsteps of his father, Shah Jihān also dispatched a letter to Ottoman sultan Murad IV in the hope of forming a Sunnī front against Shīʿī Iran, but this time through an official envoy named Mīr Zarīf Isfahānī. Although the proposed pact did not take shape, Isfahani's delegation was the first of several exchanges between the two Muslim rulers. It is also worth mentioning here that despite Shah Jihān's disappointment in Ottoman reluctance to conclude a strategic alliance, he still addressed Sultan Murad as the "Khan of the Muslim kings."[46]

In yet another downturn, official contacts between the Mughals and the Ottomans were at one of their lowest levels during the reign of Aurangzeb (1658-1707) and ensuing decades of Mughal collapse.[47] Yet, historians of Mughal-Ottoman relations can only speculate on their causes. Farooqi opines Aurangzeb's dethronement of his own father and a friend of the Ottomans, Shah Jihān, may have disgruntled the Sultan in Istanbul.[48] But given the complexity of imperial politics at this time, not to mention the almost constant tensions the Ottomans were facing with rivals in Europe and Persia, it is unlikely such a personal reaction would be steering an entire empire's foreign policy. The more contemporaneous Ottoman historian Izzi Süleyman Efendi, after all, directs our attention to more practical matters—he attributed the withering of Ottoman-Mughal diplomatic relations to the increased risks associated with the land journey to India due to instability in Persia, and the even greater dangers of an embattled sea route.[49] Yet these factors were frequently present in the reigns of previous Mughal rulers as well. Özcan, therefore, attributes the main reason for the stagnation of official links between the Ottomans and Mughals to be the chaos prevalent *in India* after the death of Aurangzeb. Furthermore, ebbs in official state ties should not detract us from the increasing commercial and cultural relations and contacts between Muslims of both empires, accompanied by growing interest and greater attention to the Ottoman Caliphate by Indian Muslims, especially in the post-Mughal eras.[50] As Özcan summarizes in this regard,

> There were also other links, such as the growing popularity of the sufi orders and cultural exchanges. The fame of many sixteenth and seventeenth-century Indian scholars, such as moulvi Faizi, Shaykh Abū al-Fazl, moulvi Abdul Hakim Sialkoti, Shahabuddin Ahmed, Umaru'l-Hindi and Abdu'l-Hai Dihlawī, reached the Ottoman lands, and their books, which were still kept in the libraries of Istanbul, were studied by Ottoman scholars. The *Maktubat* of Shaykh Ahmed Sarhindī and the famous *Fatāwā-yi ʿĀlamgīrī*, the Islamic law book compiled under the auspices of Aurangzeb, were also well known and widely read in Ottoman lands, as was the *Mathnawi* of Celaleddin Rumi (1207-1273) in India. The Ottoman architect Mimar Yūsuf (1490-1578), a disciple of the famous Sinan, was also known to have entered the service of the Mughals and constructed some buildings in Agra and Delhi. It is also well known that artillery experts from

[46] Özcan, *Pan-Islamism,* 7.

[47] Farooqi 1985, 60.

[48] Ibid.

[49] Özcan, *Pan-Islamism,* 8.

[50] Ibid., 8-9. On nineteenth and twentieth century Indo-Ottoman relations, see Naeem M. Qureshi, *Pan-Islam in British Indian Politics: A Study of the Khilāfat Movement, 1918-1924* (1999); Gail Minault, *The Khilāfat Movement: Religious Symbolism and Political Mobilization in India* (1982); A.C. Niemeijer, *The Khilāfat Movement in India, 1919-1924* (1972); and Ayesha Jalal, *Self and Sovereignty: Individual and Community in South Asian Islam since 1850* (2000).

> the Ottoman empire were often employed and rose to high ranks in the armies of the various Indian states. At times even battle orders were arranged in accordance with Ottoman style. Thus, the cutting of diplomatic relations between the two countries seemed to have had little effect upon the growth of popular links.[51]

Hence while ruler-to-ruler ties were constantly in flux in the pre-nationalist Middle East and South Asia, dynamic social, cultural, and economic trends that operated on from the ground up such as scholarly networks, educational ties and the annual Ḥajj pilgrimage fostered social networks and popular links that transcended the ebbs and flows of state diplomacy. It must also be stated here that transnational sufi orders (ṭarīqas) indeed played a major role in connecting Muslim populations thousands of miles apart. This was especially the case in the aftermath of Mughal collapse and ensuing power vacuum throughout northern India. The Chishtīyya, Suḥrawardīyya and Qādirīyya—but above all the Naqshabandīyya and Naqshabandī-Mujaddadīyya—orders became deeply rooted and widespread across India, Afghanistan, Central Asia, and Turkey.[52]

Before proceeding to discuss the fate of Ottoman relations with Indian Muslims following the collapse of Mughal rule, here is an appropriate juncture to discuss the emergence of the Afghan state in the formation of tripartite relations between Turks, Afghans, and Hindustanis.

II
FROM AFGHANS TO AFGHANISTAN

Most histories of Afghanistan conventionally mark the establishment of an Afghan state by Pashtun tribal leader Aḥmād Shah Durrānī with a capital in Qandahar in 1747. According to some historians and archaeologists, however, "Afghans" were a part of the rich social landscape of regions contemporarily known as the Middle East, South Asia, and Central Asia from as early as the first millennium BC.[53] While origins are unclear, historians have discovered references from texts to ancient peoples in the region called *Paktha (Pactyans)* between the second and the first millennium BC, with some historians arguing these may be the early ancestors of Pashtuns. Since at least the third century AD and onward, "Pashtuns" and "Afghans" were more or less interchangeable ethnic appellations until the establishment of a territorial nation-state with fixed borders in the nineteenth and twentieth centuries. While pastoral groups claiming Pashtun heritage are spread amongst various territories ranging from contemporary Iran in the west to Bengal in the east, during the Delhi Sultanate era a number of Afghan/Pashtun sultans ruled parts of the Indian subcontinent in settled kingdoms.[54]

---

[51] Özcan, *Pan-Islamism,* 8-9.

[52] Özcan, 9; B. Metcalf, *Islamic Revival in British India*, 27-28; Nawid 1999, 13-16; Sana Haroon, *Frontier of Faith: Islam in the Indo-Afghan Borderland* (2007), 37-41

[53] Dupree, *Afghanistan,* 272.

[54] This would continue even after the establishment of the state of Afghanistan in 1747. For example, during the eighteenth-nineteenth century in Rohilkhand of northern India a Pathan kingdom flourished; at its height under Hafizu'l-Mulk as many five thousand scholars were said to be supported by the ruler and other patrons. Barbara B. Metcalf, *Islamic Revival in British India*, 33. For a brief overview of the ancient and rich history of

The oldest document in the Ottoman archives I found dealing with "Afghans" dates to 1724.[55] While the Ottoman Turkish terms *Afganlar* (افغانلر/افگانلر) or *Afkanlar* (افکانلر) periodically surface to denote recognition of the people known as "Afghans" residing between Iran and India, based on my examination of the Ottoman archives the term "Afghanistan" as a solitary state does not appear to emerge in Ottoman parlance until the late eighteenth century.[56] Instead, we do find references to individual city-states and provinces of contemporary Afghanistan, such as Badakhsan (*Bedahşan*), Kandehar, Herat, Kabul (*Kabil*), Jalalabad (*Celalabad*), Balkh (*Belh*), and Feyzabad. In addition to provinces, as late as the 1890s the Ottoman archives documents refer to "Afghan tribes" ("*Afgan kabileler*") as a nomadic separate political entity and group that exists alongside the established city-states and provinces of Afghanistan, Türkistan and Bukhara, without fitting into any single one entity due to their nomadic movements, but mentioning their general movements in maps across these political zones.[57] These alternative references recognize itinerant Afghans and their ties to single provinces, cities, or "city-states" side-by-side with usage of "Afghanistan" or "Afkanistan" into the late nineteenth and early twentieth centuries.[58]

The oldest document I found on Afghans in Istanbul pertained to a group of Afghan officers visiting the Sublime State's capital in 1836, where they were warmly received and given a generous monthly stipend of 2000 kuruş.[59] It is not clear what their specific purpose was or

---

Afghans in India, see Jos J.L. Gommans, "Afghāns in India," *Encyclopaedia of Islam, THREE,* Gudrun Krämer, Denis Matringe, John Nawas, Everett Rowson, eds., Brill Online Edition (2013), available at http://referenceworks.brillonline.com/entries/encyclopaedia-of-islam-3/afghans-in-india-COM_0013.

[55] BOA-D.BŞM.d 40946 (1137) ("Seyyid Mehmed Sadık adlı Afgan elçisine verilen tayinatı gösterir defter").

[56] The earliest record I found using the term in the Prime Ministry Ottoman Archives was 1790/91. BOA-A.DVN.DVE 191 (1205) ("Dubronik, Gürcistan, Afganistan, ve Hindistan" hakkında).

[57] For example, BOA-Y.PRK.TKM 26/7 (1310 M 10) ("Afganistan, Türkistan, Buhara bölgelerinin haritaları ve ayaklanan Afgan kabilelerine dair malumat").

[58] For example, note the early references to "Herat" in BOA-AE.SAMD.III 31/2920 (1115 Z 29) ("Ahmet Ramazan'ın tekaüd ulufesine dair tecdiden berat ve Herat kadısı Mehmet Efendi'nin ilamı") and BOA-C.HR 824/37402A (1230 Z 29) ("Efgan makam-ı şahisinde bulunan Firuz Mīr za'nın biraderzadesinin muharebe kasdıyla üzerine gelerek Herat memalikinin fethine muvaffak olduğu…"); "Kabul" and "Kandehar" in BOA-C.HR 161/6721 (1215 R 06) and Kandehar only in BOA-A.AMD 37/28 (1268 C 29) ("Kandehar elçilerinin şal hediyesi takdimlere üzerine iktiazsının icrası"), BOA-C.ML 521/21292 (1259 S 29) ("İstanbul'da Mehmed Emin Haşim Efendi'nin evine misafir edilen Kandehar ulemasından Şeyh Ahmed Efendi ve bir devişinin günde on kuruş masraflarının itası") and BOA-C.HR 5/160 (1150 Z 29) ("Tahmas Kulu Han'ın ehl-i Rum ile mukatele ve Bağdat'ı muhasara ve sulhtan sonra diyar-ı Hindiye'ye Afkan ile fital eylemek için teveccüh eylediği bilad-ı Acem'in tahribine sebeb olduğuna Ace mile Hint arasındaki Qandahar'ı zabteylediği ve hanlara muhtelif muharebata ve muzafferiyeta ve nihayet Nādir Şah namını aldığına ve Nizamülmülk ile mukatelesine vesair tafsilata dair"); "Belh" in BOA-C.HR 1/6 (1231 M 30) ("Pederinin vefatından sonra mesned-i şehriyariye oturup Horasan ve Hindistan'ın bazı yerlerinden Efgani, Keşmir, Lahur, Sünt, Meltan, Şikarpur ve Bahrımuhit kenarına kadar ve Kandehar, Belh, Buhara ve Herat'a ve mülk-i Acem'e kadar tevsi eylediğine ve daima Hindistan'a cihad eylediğini ve biraderi Şehzade Mahmud…"); "Bedahşan" in BOA/A.MKT.NZD 364/91 (1278 S 25) ("Ahmed Bey'in hanesinde müsafereten kalan Bedahşan ulemasından Sayyid Süleyman Efendi ve beraberindekilere taamiye tahsisi"); and "Feyzabad" in BOA-A.MKT.UM 508/96 (1278 R 16) ("Görevini hakkıyla yapan Muhacir köyü Feyzabad İmamı Hacı Abbas Efendi'ye kötü harekette bulunanların başka yerde iskanı talebinin esbabının tahkiki").

[59] BOA-C.HR 66/3255 (1252 Ra 03) ("İstanbul'a sefaretle gelen Efgan kadıaskerlerinden Han el-Ulum Maḥmūd Efendi'ye her ay iki bin kuruş masraf verilmesi").

duration of stay as we have few other sources on the matter. What is sure is that the military officer-to-officer relationship would prove to be a lasting one between Turkey and Afghanistan, as we will see in subsequent chapters.

Although we have few official sources documenting early contacts between Afghans and the Ottomans, hajj diaries and travelogues offer a promising source for historians. Much more than an individual spiritual journey, for centuries the Ḥajj functioned as a crossroads for Muslim rulers—established and aspiring—to seek alliances of political, economic, and other strategic value. Non-ruling elements, such as traders and scholars, also benefitted from the pilgrimage's contacts and networks. An Ottoman archives document from 1815 describes a young Afghan scholar traveling from his country to Ottoman domains with the intention to perform Ḥajj, but also visited Egypt and Istanbul, where according to our source, he was even hosted by the Ottoman Shaykh-ul-Islam.[60] Scholarly networks between Afghanistan and Turkey is an understudied area of Pan-Islamic scholarship, and we will explore this theme further in the next chapter.

Istanbul's Pan-Islamic credentials received a boost when the Ottomans assumed custodianship of the Holy Places in 1517. As with their predecessors, for the new Ottoman Sultan-Caliphs it was a tremendously important sign of prestige, and responsibility, to ensure the Ḥajj routes were safe and convenient as possible. Although the shortest route for Muslims of India, Afghanistan and Central Asia to the Ḥijāz was through Iran, for pilgrims departing from these regions this does not mean it was the easiest. When Ottoman-Safavid rivalry took on particularly hostile dimensions, it was virtually impossible for pilgrims from these regions to traverse this route safely. In his extensive study *Moghul-Ottoman Relations* (1989), Naimur Rahman Farooqi argues that since the time of Sultan Süleyman, Ottoman rulers endeavored to provide alternate routes for Indian, Afghan and Uzbek pilgrims, including options through Russia and Istanbul, even though these routes could take years to complete. As Farooqi illustrates, control of the Ḥajj routes were so important that on at least one occasion they led to war between the Ottomans and Persians, with Afghans seeking to reach Mecca often having to choose sides.[61] In this way, as long as Afghans remained subject to the often bitter imperial competition between Ottomans, Persians, and the Mughals, their fortunes above and beyond the Ḥajj remained tied to the fates of these states.

The Afghan kingdoms of India and Persia

---

[60] BOA-C.HR 679/33104 (1230 Z 29) ("Afganistan'dan gelen genç bir alimin, sabık şeyhülislam konağında ikameti esnasında ʿulamāʾ ile mutaassıbane mübaheseleriyle muhitini gücendirmiş ve hamiden mahrum kalınca hacca niyet etmiş olmakla, biraz atiyye verilerek Mısır'a izamı").

[61] In 1544 the first Ottoman-Afghan alliance against Safavid Iran was concluded when Sher Shah Suri (1486-1545), the founder of the second Afghan Empire in India, dispatched an envoy to Istanbul proposing a joint Afghan–Ottoman attack on Persia. The plans for a joint attack fell apart, however, upon Sher Shah Suri's death in 1545. Farooqi 1985, 146-147. I also wish to thank Hakeem Naim for this reference, one of several secondary sources cited in his thoroughly researched honors thesis which I had the pleasure of reviewing, "The Ottoman empire and Afghanistan: A Record of Failure and Great Power Intrigue" (UC Berkeley Department of Near Eastern Studies, 2010). Indeed, in light of the pioneering work by Turkish historian Azmi Özcan and Indian historian Naimur Rahman Farooqi discussed here, it is wholly fitting than an Afghan historian fill the gap to complete a "tripartite scholarly nexus" on early modern Pan-Islamism and Indo-Afghan-Ottoman relations from the fifteenth through eighteenth centuries. I eagerly look forward to future works from this talented young scholar in this regard.

While Pashtun dynasties such as the Lodis (1451-1526) and Suris (1540-1557) had already established and lost kingdoms in India in the sixteenth century, the Safavid Empire of Persia experienced its "golden age" during the reign of Shah ʿAbbās from 1587 to 1629. Similar to the case of Aurangzeb and the Mughals, following the death of emperor Shah ʿAbbās a number of factors led to a weakening of Safavid control and the emergence of a power vacuum in Iran. Chief among them were tensions between the fiercely autonomous ethnically Turkish tribal warriors known as the *Qizilbāsh/Kızılbaş* ("redheads", after their crimson headgear), who constituted the backbone of the Safavid military, and the newly adopted Persian elements.[62] Some historians have also attributed the harsh ruled practiced by the Safavid governors against Sunnī minorities to be a major contributing factor of their downfall.[63]

In the realm of inter-state relations, one of the fiercest and most enduring conflicts between the Safavids and Mughals was over the city of Qandahar. Some Afghan historians have framed the settling of the conflict in favor of the Safavids as due to a cultural inclination some Afghan tribes showed for Persians, despite the fact that the Afghans were mostly Sunnīs like the Mughals.[64] However, rather than an issue of loyalty or cultural preference, it was more likely a case of Afghans playing the Mughals and Safavids against each other in order to benefit from their rivalry and gain power in Qandahar at the expense of both imperial powers.

At the turn of the eighteenth century, a series of revolts erupted in Safavid-controlled Qandahar. Shah Ḥusayn, the Safavid ruler at the time, appointed a Georgian convert to Islam, Girgun Khan (also known as King George XI of Kartli), as governor to the restive city. Girgun Khan commanded a hefty Georgian force combined with twenty thousand Persian soldiers. According to Afghan historian Mīr Muḥammad Siddīq Farhāng, it was under Girgun Khan's rule over Qandahar that Mīrwais Khan Hotakī, an able tribal leader of the Ghilzai Pashtuns, began playing rival forces within the Safavid state against each other. In particular, Mīrwais began a secret correspondence with Girgun Khan's foes in the Safavid court, protesting the governor's harsh treatment of Afghan subjects.[65]

Girgun Khan eventually discovered Mīrwais's complaints to the Safavids, and after dismissing him from his position as municipal chief, banished him from Qandahar altogether. But Mīrwais's rise to power was only to begin. After proceeding to the Safavid capital of Isfahan, he devoted himself to building a relationship of trust with the Safavid Shah. Once he gained the Shah's confidence, Mīrwais requested leave from the Shah to perform pilgrimage to Mecca, though history would reveal his purposes were perhaps not purely devotional.[66]

According to Mīr Ghulām Muḥammad Ghubār, Laurence Lockhart and Jos Gommans, among others, Mīrwais sat with a number of influential Sunnī *ʿulamāʾ* in Mecca, and procured a *fatwā* (juristic license) to confront Girgun Khan and overthrow Safavid rule in his hometown of

---

[62] Dupree, 322-323; Laurence Lockhart. *The Fall of the Safavi Dynasty and the Afghan Occupation of Persia* (1958), 22-24.

[63] Dupree, 322-323; Lockhart, 33.

[64] Dupree, *Afghanistan,* 322.

[65] Dupree, *Afghanistan,* 323; Lockhart, 84-87; Mīr Muḥammad Siddīq Farhāng. *Afghanistan Dar Panj Qarn-i Akhir* (1990), 76.

[66] Dupree, *Afghanistan,* 323; Lockhart, 86.

Qandahar.[67] Following the conventional practice of *istiftā'*, or seeking fatwā, Mīrwais posed two questions to a group of ʿulamāʾ in Mecca. The first inquired whether a Muslim community had the right to rise up in arms against a tyrant who prevented them from performing their "religious duties."[68] The second concerned the legality of an oath of allegiance (*bay'at*) to a ruler if such an oath was forcibly imposed on the people by tribal leaders, and specifically whether the common tribesmen had the right to free themselves of such a pact.[69] In their fatwā, the ʿulamāʾ responded in the affirmative. Emboldened by the juristic verdict, Mīrwais returned to Persia, gathered together a powerful conglomeration of Afghan tribes who appointed him their leader, marched to Qandahar and pronounced himself governor of the city.[70] By April 1709, with the help of his tribal supporters, Girgun Khan was killed and Mīrwais declared himself the *wakīl* (governor or regent) of Qandahar. As it happened, he had just founded the Hotakī Dynasty.[71]

While Mīrwais lived the rest of his life in peacefully in Qandahar until his death in 1715, his successors were more ambitious. In 1721, Mīrwais's son, Mahmud, led a powerful force from Qandahar to Herat with the purpose of attacking the rival Abdāli tribe. But he did not stop there. After defeating the Abdālis, Maḥmūd marched westward toward Isfahan, the Safavids' glorious capital.[72] In a bloody battle at Gulnabad, a village twenty miles from Isfahan, Maḥmūd defeated the Safavid army and captured the glorious capital after a brutal siege forced the city into submission. In this manner the Afghans brought an end to the Safavid Empire in October 1722. Now only the Ottomans remained as a great Muslim empire.

History's Only Ottoman-Afghan War

The Afghan invasion of Persia raised alarm among two powerful neighbors in the region in particular: the Russians and the Ottomans. The Russians refused to recognize the Afghans as legitimate rulers of Persia. More surprisingly, perhaps, Istanbul followed suit. With a perennial eye on Persian territory, the Ottomans exploited the power vacuum created by the fall of the Safavids and began launching small scale attacks along the volatile Persian-Ottoman border. Denominational ties—which played a role in earlier proposals for a Sunnī front of Ottomans, Afghans, and Mughals against the Shīʿī Safavids—seemed to have all but disappeared. Before

---

[67] Mīr Ghulām Muḥammad Ghubār, *Afghanistan dar masīr-i tārīkh* (1985), 319; Lockhart, 86; Gommans, 46.

[68] Lockhart, 86; Ghubār, 319; Gommans, 46. While each of these cited historians recount the epic fatwā procured by the Ghilzais from Mecca, I have yet to come across a work that explores the members of this group of Meccan ʿulamāʾ, and their ties to the Ottomans and imperial center in Istanbul. Without this information, we know little of the authority of the fatwā Mīr wais secured, and even more significantly, the nature of early Afghan-Ottoman juridical ties at this time.

[69] Lockhart, 86; Ghubār 1985, 319.

[70] Dupree, *Afghanistan,* 323; Lockhart, 87-88; Farhāng 1990, 79.

[71] Dupree, *Afghanistan,* 323-324; Farhāng 1990, 79. Conflicting accounts on Girgun Khan's death are provided by the different authors.

[72] Dupree, *Afghanistan,* 324-327; Lockhart, 93-94, 114-129; Willem Floor, *The Afghan Occupation of Safavid Persia 1721-1729* (1998), 39-63. For an Iranian account of Maḥmūd's early incursions into Khurāsān, see Mīr za Abdul-nabi Shaykh al-Islam Behbahani, *Badī'ah al-akhbār: waqāya' behbahān dar zamān-e ḥamle-ye Mahmūd Afghān* (1389/1944).

long, Ottoman forces threatened the very survival of the young Afghan rule in Persia. Whether it was realizing he was severely outmatched, or fraternal ties had a softening effect, it was at this point that Mīrwais's nephew and successor, Ashraf Khan, turned to diplomacy. Seeking to settle the conflict with the Ottomans, in 1725 Ashraf dispatched his deputy commander ʿAbd al-ʿAzīz to Istanbul to meet with Ottoman authorities and conclude a peace deal.[73]

In the early stages of talks, Islamic fraternity reigned. According to Judasz Krusinki, an eye-witness to the Afghan delegation's mission to Istanbul and author of an account on its proceedings, ʿAbd al-ʿAzīz delivered three letters from Ashraf Khan to the Ottoman Sultan and his Grand Vizier.[74] The third letter was a declaration of religious solidarity, composed in Arabic, by nineteen Afghan *ʿulamāʾ*. The letter was addressed to the Ottoman Shaykh al-Islam (Şeyhülislam), Abdullah Efendi, the preeminent juristic authority on religious affairs in the Ottoman empire at the time.[75] It is revealing that the Afghans reached out to Ottoman juristic authority, as opposed to the political head of state alone, a trend that would be reciprocated over a century later when the Ottomans would send their first official emissary to Kabul.

It is unclear what the immediate effect of this letter was on the Ottoman Şeyhulislam, Grand Vizier, and ultimately, Sultan himself. From what historians have gleaned from the encounter, after fraternal sentiments and courtesies were exchanged, a difficult and heated conversation ensued.[76] At one point during his meeting with Ottoman Grand Vizier, ʿAbd al-ʿAzīz demanded the return of Persian territories that had been invaded by the Ottomans. This raised tensions in the Ottoman court, resulting in angry outbursts.[77] Ultimately, the Ottoman *Shaykh ul-Islam* responded to Ashraf's letter with an opposing fatwā. In this fatwā, Abdullah Efendi stated that it was prohibited for Muslims to be ruled by two different Imams, and therefore, it was unlawful for Ashraf to invade another Muslim territory and declare it his own. But that was not all. Upping the ante, Abdullah Efendi's fatwā berated Ashraf Khan as an impudent rebel, who dared to claim the dignity and power of an Imam when the Ottoman Sultan and Caliph of all Muslims was the sole "shadow of God on Earth."[78] The fatwā concluded that the rebel of Isfahan must be subdued until he and his forces accepted the legitimate authority of the Ottoman Sultan, the only true Caliph.[79]

Historians debate the factors that led the Sultan to wage war on the Afghans, who had just overthrown the Ottomans' long-time rival, the Safavids, with whom they whom fought a number of brutal wars. According to Laurence Lockhart, a crucial factor leading Istanbul to

---

[73] Dupree, *Afghanistan,* 328; Lockhart, 282-284. Curiously, the Ottoman-Afghan war appears to be left out of the first study by a Turkish scholar on Afghan-Turk relations and most minor works and essays since. See Mehmet Saray, *Afganistan ve Türkler* (1987) and his earlier work on Afghanistan, *Dünden Bügüne Afganistan* (1981).

[74] Lockhart 282-283; Judas Père Tadeusz Krusinski, *Histoire de la Dernière Revolution de Perse* (1728), 316.

[75] Lockhart, 282.

[76] Ibid., 283-284.

[77] Ibid., 284-285.

[78] Dupree, *Afghanistan,* 328; Lockhart, 285-286.

[79] Dupree, *Afghanistan,* 328; Lockhart, 285-286.

refuse Ashraf Khan's claims to Persian territory and declare war against him was the latter's growing popularity among certain Sunnī Ottoman subjects in the eastern provinces of Anatolia and western Iran, mainly the Ottomans' Kurdish auxiliaries in the region.[80] Lockhart cites correspondence between the Ottoman governor of Baghdad, Ahmed Paşa, and the Porte concerning a vigorous propaganda campaign by Ashraf among Ottoman soldiers and subjects in the region. Particularly disturbing to the Ottomans were reports that Ashraf was propagating the legitimacy of his claim to Persian lands, and that any Ottoman attempt to check his rule would amount to declaring war on fellow Sunnī Muslim ruler.[81]

Undeterred, the Ottomans dispatched an army led by Ahmed Pasha to western Iran in autumn of 1726, with the mission of subduing Afghan rule in Persia. Afghan and the Ottoman forces finally clashed in an epic battle fought in an area between Isfahan and the city of Hamadan. According to Lockhart's account, although the Ottomans' military capabilities far surpassed the Afghans, the Ottomans in fact lost the war due to Ashraf Khan's extensive propaganda campaign that preceded the battle. Before the war even started, Ashraf Khan had already dispatched a group of Afghan *ʿulamāʾ* to the Ottoman military camps spreading the message of Muslim solidarity, and in some cases distributing subsidies to Ottoman soldiers, weakening morale to fight their co-religionists.[82]

For historians of Ottoman foreign relations, the first and last Afghan–Ottoman war was a turning point in Ottoman relations with not only for the Afghans, but all Muslim neighbors to the east. Only after this war could the Porte appraise to what degree the Afghans were a force to be reckoned with, or ignored in the distant frontiers of the empire. It was now clearly the former. To Ashraf's credit, his skillful diplomacy before and after the hostilities led to an amiable agreement between the two Sunnī Muslim powers. In particular, it appears Ashraf's willingness to return prisoners and goods captured opened a critical space for the conclusion of a peace treaty between the Sublime Porte and the young Afghan kingdom in Persia.[83] In October 1727, the Ottomans recognized Ashraf as the king of Persia, bearing the right to strike coins in his name and to sponsor a caravan from his dominion for the annual Ḥajj. In exchange, the Afghans were to recognize the Ottoman Sultan as "head of the Muslim world," with precedence over Ashraf's name in the Friday sermon.[84]

The resolution of the first and only Ottoman-Afghan war seemed to reflect a profound shift in Istanbul's former policy of uncompromising supremacy among Muslim states. Instead of pursuing the Afghans "to teach them a lesson," the Ottoman Caliph had honorably recognized another Sunnī Muslim leader whom he had just come to war with, conceding the deeply symbolic symbols of coinage, official Ḥajj sponsorship, and a shared place in the Friday sermon. In hindsight, however, historians look back at the first Ottoman-Afghan treaty as a temporary maneuver, in part having to due with the fluid nature of Afghan gains in Persia at the time. In spite of recognizing Ashraf as a sovereign Muslim ruler in 1727, over the next century the Ottomans were to distance themselves even further from Muslim kingdoms and principalities,

[80] Lockhart, 289.

[81] Ibid., 289-290.

[82] Ibid., 288-292.

[83] Ibid., 292-294.

[84] Dupree, 328. Lockhart, 292-293.

including Afghanistan, reserving the hallowed right of Islam-based sovereignty exclusively to itself. As Istanbul refocused attention on relations and conflicts with Russia and Europe to the north and west—by far the greatest source of anxiety for the Porte from the eighteenth century on—the Ottomans largely dealt with other Muslim rulers by refusing to recognize them as legitimate political powers. This was the case even in the absence of hostilities, as existed periodically with Mughal, Safavid, and Uzbek rulers before. The new Ottoman policy of "Pan-Islamic indifference"—akin to British "Masterly Inactivity"—would also be extended to Afghanistan when it emerged as an independent "state" with more settled borders in 1747.

Aḥmad Shah Abdālī and the birth of Afghanistan

Afghan rule in Persia was short-lived as it was dramatic. Barely a decade after their capture of Isfahan, a powerful military commander from Khurāsān, Tamāsp Qulī Afshār (d. 1747), began to gather the support of a large number of Persians chafing under Afghan rule. Leading a coalition of anti-Afghan forces, he marched to Isfahan in the name of restoring Safavid rule in 1728. Having conquered Isfahan, he solidified his power and eventually ousted the Hotakī dynasty from Persia after the Battle of Damghan in 1729. Following his victory Tamāsp declared himself King of Persia and assumed the title of Nādir Shah. The new Persian kingdom encompassed a vast territory, including most of contemporary Iran, Afghanistan, Central Asia and a large portion of India, including Delhi—which he viciously sacked in 1739. With large numbers of Sunnī Muslims under his rule, however, Nādir Shah was troubled by one aspect of his newly acquired office—he lacked recognition from the Ottoman Caliph as a legitimate ruler.[85] With the hope of shoring up support among his Sunnī subjects and increasing Pan-Islamic prestige, he was purported to have embraced Sunnīsm, the motives of which historians have fiercely debated, some arguing it was strategic ploy to undercut the Ottomans, while others arguing it was a bold effort to unite Muslims and ward off foreign encroachment, especially Russia.[86]

While we will likely never know what Nadir's ultimate *intentions* were, we can determine that he did have multiple objectives in seeking a rapprochement with the Ottomans. Farooqi argues that in making a symbolic gesture towards embracing Sunnīsm, Nādir Shah sought not to overcome his Sunnī counterparts, but to secure the recognition of the twelver Shīʿī (Jaʿfarī) school of jurisprudence as a fifth maḍhab, or Sunnī school of Islamic law, equal with the other four Sunnī schools of Islamic jurisprudence.[87] He also requested the official appointment of a Persian *Amir al-Ḥajj,* or superintendent of the pilgrimage, to sponsor and accompany Ḥajj caravans to the holy cities of the Ḥijāz. The Ottomans rejected his proposals as blameworthy "innovations" at best, and dangerous subterfuges as worst.[88] The deployment of a pluralistic discourse to obtain recognition of the Jaʿfarī school of jurisprudence—using Islamic scholars, theologians, and jurists—is particularly noteworthy here, however, indicating an early modern

[85] This contrasted with Nādir Shah's own recognition and praise of Ottoman Sultan Maḥmūd I as the "illuminating sun of the sky of Caliphate." Farooqi 1985, 186, 100-101.

[86] Ibid., 76, 82-83, and 100-101.

[87] Ibid., 76.

[88] Ibid., 100.

attempt to form a transnational nexus of Islamic juridical fields. While Nādir Shah's attempt was profusely political as it was unsuccessful, the production of another transnational, "Pan-Islamic" juridical field in late nineteenth and early twentieth century Afghanistan—rooted in a different set of political aims—will be the subject of Chapters 3, 4, and 5.

Meanwhile in Iran, Nādir Shah's subjugation of the Afghans also proved ephemeral, and short-lived. The east and southeast regions of Nādir Shah's Persian territory, what is today west and southwest Afghanistan, became a particularly explosive site of contestation between Persians and Afghans. Nor can the conflict be described as simply between Afghans and Persians. Among the Afghans, two rival tribes, the Ghilzai and Abdāli, dominated the major cities of Herat and Qandahar. While Nādir fought the Ghilzais tooth and nail, he favored the Abdālis, offering the latter positions in his army and a chance to rise through the ranks. One particularly influential Afghan commander in Nādir Shah's army was a man named Ahmed Khan Abdāli, the founder of modern-day Afghanistan.

Following Nādir Shah's assassination in June 1747, Ahmed Khan returned to his hometown of Qandahar. According to Ghubār, and also reported by other Afghan historians, tribal chiefs and townspeople convened a *jirga* (a traditional Pashtun council of elders), and elected Ahmed Khan as the new governor of Qandahar.[89] Following in the footsteps of his predecessors, Ahmed Khan Abdāli assumed the new title of Aḥmād Shah "Durrānī" and with Qandahar as his capital, founded a new Afghan empire that included all of today's Afghanistan, Pakistan, eastern Iran and large portions of northern and western India including Delhi. While subsequent Afghan rulers would lose portions of frontier areas to Iran, British India, and Czarist Russia to formulate today's borders, Aḥmād Shah established a dynasty that continuously ruled until the twentieth century. Most Afghan historians therefore mark 1747 as the founding year of the modern state of Afghanistan.

Also like his predecessors, however, Aḥmād Shah struggled to obtain recognition from the Ottoman Caliph.[90] In the early 1760s, shortly after securing a magnificent victory against the Sikhs at Battle of Panipat on January 14, 1761, Aḥmād Shah reached out to the Porte in a lengthy letter to Ottoman Sultan-Caliph Mustafa III.[91] According to Gommans, the former Safavid general and now upstart Durrānī emperor had written a "pompous" letter to the Ottoman Sultan, addressing him on equal terms as *birādar* ("brother"), no doubt elaborating the details of his accession to the Afghan throne, victories in Persia, and glorious expeditions to India.[92] More substantively, Aḥmad Shah extended his desire to resume a friendly relationship with the Ottomans, but also ardently reiterated the earlier Ghilzai acknowledgement of the rightful succession of the Ottoman Sultans to the Pan-Islamic Caliphate in 1727.[93] Hoping to court Ottoman sympathies for a fellow Sunnī ruler, Aḥmād Shah also

---

[89] Dupree, 332-334; Ghubār 1985*,* 355. For a more critical account of this epic (pre)national narrative and its role in creating an Afghan national consciousness in the twentieth century, see M. Jamil Hanifi, "Editing the Past: Colonial Production of Hegemony Through the 'Loya Jirga' in Afghanistan," *IRS* 37 (2004): 295-322.

[90] On the correspondence between Aḥmad Shah and the Ottomans, see Ḡ. Jīlānī Jalālī, *Nāma-yi aʿlā ḥaḍrat Aḥmad Shāh Bābā be-nām-ah aʿlā ḥaḍrat Ṣulṭān Muṣṭafā thālith-i ʿuthmānī* (Kabul: 1346 [1967]).

[91] Asghar H. Bilgrami, *Afghanistan and British India, 1793-1907* (1972), 19; Gommans, 49-51; 56

[92] Gommans, 49-51.

[93] Ibid., 46, 49-51.

expressed regret that he was not able to embark on a large scale attack on Persia, subtly implying he expected such action from the caliph of all Muslims himself.[94] Given the historic rivalries between the Persians and the Ottomans, the young Afghan monarch was probably banking on the theme of anti-Persian (and/or anti-Shīʿī) politics in order to rebuild relations with Istanbul for his own geostrategic and domestic consumption objectives.

In spite of its dazzling descriptions and claims, it does not appear the Ottoman court in Istanbul have Aḥmād Shah's letter any importance. A united Ottoman-Afghan force failed to materialize.[95] As for the Islamic legitimacy Aḥmad Shah so anxiously sought as founder of a new empire that in effect replaced the former Safavid and Mughal empires in the east, he would have to seek it elsewhere. Through a remarkable whirlwind of military and diplomatic accolades, he would find it through shoring up further conquest in eastern Khurāsān (the northeastern Iranian city Mashhad in particular), and through seizing further lands and riches in India following the "invitation" of prominent Hindustani ʿulamāʾ including the preeminent revivalist Shah Walī-Allāh of Delhi (1703-1762), but also through his subsequent universalist rapprochement with Shī'ism in Iran, and as well as Hindustani Muslims and even Rajput successor states in the context of a dwindling Mughal court.[96] What is more, to the north, Aḥmad Shah sealed Afghan victory over Uzbek khanates of Central Asia, in particular the historic city of Balkh, after which the Uzbek ruler Shah Murad of Bukhara presented the Durrānī ruler with a *khirqeh sherīf*, a sacred cloak of the holy Prophet of Islam long guarded by the rulers of Bukhara, and held under cherished guardianship by the Dahpidi Naqshabandī Sufis of Fayzabad.[97] As Gommans notes, this was no light symbolic gesture, but carried significant political as much as spiritual significance:

> This present was generally believed to be am Uzbek acknowledgement of the Durrānī victory. Besides, the transfer of the *khirqa* also reflected the transfer of the Prophet's blessings from the Uzbeks to the Durrānīs, and as such it also symbolized the shift of Muslim leadership from Bukhara to Qandahar.[98]

In this respect, when taking into account Aḥmad Shah's exploits in founding an Afghan empire that secured astounding victories in the "three cardinal directions" of Afghanistan's geopolitical location—Iran to the east, India to the west and south, and Turkistan to the north—it is also important remember that contrary to some depictions in historiography of the region, the Afghans under Aḥmad Shah Durrānī were not a legion of marauding plunderers or a second "Mongol" wave in the region. As significant as the military achievements was the subsequent revivalist impetus the Durrānī Empire gave to Indo-Afghan and Islamo-Persianate civilization and cultural expressions—including attire, etiquettes, and arts—in the aftermath of Mughal and Safavid collapse. In this way, as Gomman notes, the Afghan courts at Qandahar, Herat, Kabul,

---

[94] Ibid., 49-51.

[95] Ibid., 65.

[96] For a concise overview of Aḥmad Shah Durrānī's remarkable achievements in this regard, see Ibid., 47-66.

[97] Dupree, *Afghanistan,* 339; Gommans, 66.

[98] Gommans, 65.

as well as Peshawar and Lahore, can be added to the Shīʿī efflorescence in Lucknow and Sunnī Indian revival under the Niẓām in Hyderabad, as all part of a general late eighteenth-century "Indo-Muslim" revivalism in South Asia.[99] We will return to the scholarly, and particularly juridical, consequences of this development for India and Afghanistan in the next chapter.

– • –

Returning to the topic of tripartite relations and Pan-Islamism, Ottoman Sultan Mustafa III's lackluster response to the Afghan ruler's letter illustrates the complexity, unpredictability, and variability of relations the Ottomans shared with Muslim rulers to east during the tumultuous eighteenth century. Jealously guarding the title of Caliphate it acquired in 1517, for the next four centuries the Ottomans assumed religious supremacy and privilege in the Muslim world, with eagerly sought after recognition from independent Muslim rulers as far as Central Asia, Indonesia, and Afghanistan, all lands where no Ottoman army had ever set foot.

But beginning in the mid-eighteenth and through the nineteenth century, a new element entered the stage, complicating the relationships between Muslim states to an unprecedented degree. Though Europeans had a long history of visiting and living in Muslim metropolises from Edirne to Calcutta, the arrival of European joint-stock companies, armies, and colonial administration on the scene forever changed the intricate relationships Muslim rulers had negotiated through direct contacts over centuries. As tumultuous developments in the nineteenth century would reveal, in theory the European threat could push Muslims together in defensive alliances, but in practice the political maneuvers of the new actors could contribute to being as divisive as unifying among Muslims in Turkey, India, and Afghanistan.

From Mughal-Safavid Collapse to Anglo-Afghan Ascendance

External Outreach, Revisited: Sobering Lessons in Pan-Islamic Detachment

Following the death of the Mughal emperor Aurangzeb in 1707, a political vacuum emerged in India as the largest and greatest political entity in the Subcontinent, the Mughal empire, was on the verge of collapse. Pounded by external invasions from Iranian and Afghan forces, undermined by increasingly assertive centrifugal forces in the provinces such as those of the Sikhs and Marathas, the largest empire India had ever seen was unraveling at the seams. According to later historians of India, imperial overexpansion and the proliferation of Mughal *manṣabdārī* (non-hereditary military aristocrat) ranks were key contributing factors to the empire's decline.[100] As independent rulers staked their claims to former Mughal lands, soon the empire was reduced to a limited territory in the upper Doab Valley of northern India around Delhi. More a protectorate than anything else, the extremely weakened Mughal "Emperor" himself relied on protection from Maratha, and eventually British, support.

But this was only the beginning of regional instability during the eighteenth century. In 1722, the Safavid empire in Iran also collapsed as a result of Afghan incursions. With the Mughal emperor a virtual puppet, and Afghan rule in Persia merely a transient episode, for many

[99] Ibid., 61.

[100] B. Metcalf, *Islamic Revival in British India*, 25.

Indian Muslims the Ottomans represented the last standing great Muslim empire. "In the midst of growing despair and confusion," writes Azmi Özcan, "the Indian Muslims were developing a kind of attachment to the Ottoman Sultan as the most prestigious Muslim ruler."[101] This attachment would only intensify when, for the first time, the political vacuum in India facilitated the advance of a European power beyond coastal enclaves and into the Indian heartland.

On June 23, 1757, British East India Company troops led by Robert Clive clashed with the French-supported forces of *Sirāj al-Dawlah* (1733-1757), the last Nawab of Bengal, outside the small village of Palashi (Plassey), near the contemporary India-Bangladesh border. The Battle of Plassey was a decisive victory for the British, firmly planting Company rule in one of the richest and most fertile regions of India at the time. From Bengal the British would eventually launch their conquest of the entire Indian subcontinent. But we should not overstate military prowess of the Company forces; they were not the only factor contributing to British victory. Part of the reason for Sirāj al-Dawlah's defeat can be attributed to the fact that the Nawab was preoccupied with fear of an attack from the north by the Afghans under Aḥmād Shah Durrānī, and from the west by the Marathas. In this complex juncture, he was unable to deploy his entire force against the British for fear of being attacked from the flanks.[102] A tenable argument can be made, therefore, that rival conflicts between co-religionist Afghan and north Indian Muslim princes played a key role in the expansion of British power across the Subcontinent. It would not be the last time.

The establishment and expansion of British power in the Indian subcontinent would have tremendous political, socioeconomic, and psychological effects on the diverse populations of India, and historians have come to cast doubt on studies focusing myopically on proto-nationalist Hindu or Muslim populations as anachronistic. As briefly touched upon in the opening of our chapter, the populations of India had far more complex, fluid identities than the typical fixed communalistic bifurcations of "Hindu" and "Muslim." Nevertheless, it is undeniable that for those claiming to be Muslims—or seen by the British as so—and were formerly associated with ruling regimes or court cultures in cities like Delhi or Lucknow, they experienced a deeply traumatic loss of prosperity, prestige, not to mention property. "For the first time," reflects Azmi Özcan, "they had to experience how to live as the subjects of an alien power."[103] Özcan argues that the dramatic loss of power and subsequent break-down of Islamic administrative

---

[101] Özcan, *Pan-Islamism,* 9-10. As an indication of renewed Ottoman prestige, Indian ʿulamāʾ increasingly praised the Ottomans in their works. For example, Özcan notes how the preeminent revivalist Indian Muslim scholar Shah Walī-Allāh (1703-1762) in his noted book *Tafhīmat-i Ilāhīyah*, referred to the Ottoman Sultan with the title originally used for the first four caliphs, "*Amir al-Muʾminīn*" (Commander of the Believers). Ibid., 9-10.

[102] John Harrington, *Sir John Malcolm and the Creation of British India* (New York: Palgrave Macmillan, 2010), 25.

[103] Özcan, 9. We will return to the issue of the aftermath of Mughal collapse and the unprecedented challenges north Indian Muslims faced following the great rebellion of 1857, and British political supremacy in particular, in the next chapter. For our purposes here, suffice to say that the latter a topic eminent historians of South Asia, including Thomas Metcalf, Peter Hardy, Ayesha Jalal, and William Dalrymple have explored in depth elsewhere, and often with considerable debate as to the extent of British "vengeance" on India's Muslims following 1857. Thomas R. Metcalf's *The Aftermath of Revolt: India, 1857-1870* (1964) is devoted to an exploration of this question and larger social and political effects of the mutiny. See also Peter Hardy, *The Muslims of British India* (1972), 61-91 and Ayesha Jalal, *Self and Sovereignty: Individual and Community in South Asian Islam Since 1850* (2000), 27-67. William Dalrymple's *The Last Mughal: The Fall of a Dynasty, Delhi, 1857*(2006), is a magnum opus devoted to the rebellion, its aftermath, and the cataclysmic effects on the diverse residents of Delhi.

control prompted a search for "a psychological centre" on the part of Indian Muslims, consequently enhancing their attachment to the most powerful Muslim state at the time, the Ottoman empire, and to a lesser extent, the Afghan Amīrs of Kabul.[104] For many Muslim rulers in India facing rapid British expansion, the Ottoman attachment was more than romantic nostalgia or emotional sentiment. With the onset of British expansion across India, the fate of the independent Muslim rulers of India was poured into a new crucible. Realizing they were in no position to resist single-handedly, independent Muslim kingdoms across southern and western India once again turned to the Ottoman empire for aid, seeking Caliphal investiture from the Sultan in the process.

Ottomans, Afghans, and the Muslims of South India, Redux

Following the precedent established in the sixteenth century with the Portuguese, among those who approached the Ottomans for help against the British were the Muslim rulers of Malabar and Mysore. In 1777 Sultan Ali Raja of Malabar dispatched an envoy to Istanbul to obtain financial help in his fight against the British.[105] In his letter, Sultan Ali addressed "the Caliph of Muslims," reminding him the Porte had sent them military assistance two hundred and forty years ago and he hoped to resume such fruitful alliances as he had been busy fighting European invaders for the last forty years. Results were not forthcoming this time, however. Still under the heavy burden of the late war with Russia, and barely recovering form the humiliating terms of the Treaty of Küçük Kaynarca in 1774, the Ottomans regretted they were unable to help.[106]

But the Malabar-Ottoman correspondence was far from over. Two years later in 1780, the sister and successor of Sultan Ali, Bibi Sultan, twice made appeals to the Ottomans for aid against Portuguese and British encroachments.[107] But again the Porte regretted that it could not help, citing the long distance separating their lands. Nonetheless, the Ottomans did offer to intervene diplomatically between Malabar and England. It may have been little comfort, but according to Özcan, anything more was clearly beyond the capacity of the Sultan at the time.[108]

At nearly the exact same time, the determined ruler of southern India and "tiger of Mysore," Tipu Sultan, sought Ottoman assistance in his battle against British expansion. From 1774 onwards, Tipu Sultan dispatched several missions to Istanbul, the most remarkable being in 1776 when he sent seven hundred men saddled with "extraordinarily rich and abundant gifts."[109] Beyond seeking a military and commercial pact with the Ottomans, Tipu Sultan sought a

---

[104] Özcan, *Pan-Islamism,* 13.

[105] Ibid., 11.

[106] Ibid.

[107] Ibid.

[108] Ibid. Özcan mentions an important historiographical point here: in spite of plentiful examples in the Prime Ministry Ottoman Archives documenting early relations with Indian Muslim kingdoms, relations between the Malabar Kingdom and the Ottomans rarely find mention in English-language works, probably due to excessive reliance on British or local Indian sources and the lack of access to Ottoman archives which went much further in preserving such correspondence.

[109] Ibid., 11-12.

Caliphal investiture from the Ottoman Sultan. According to Özcan, this was the first and only instance of its kind on the part of an Indian ruler seeking recognition from the Ottoman Caliphs (though the practice itself was not new, as earlier Muslim rulers had sought recognition from the Abbasid Caliphs).[110] Furthermore, Tipu Sultan requested permission from the Ottomans to contribute to the maintenance of the religious shrines in Mecca, Madīna, Najaf, and Kerbela.[111]

In the end, Tipu Sultan's delegation returned empty-handed, but it was not for lack of Pan-Islamic solidarity. Coinciding with the Russo-Ottoman war in the Crimea in 1787, Tipu's mission to Istanbul faced extremely unfavorable circumstances for proposing an Indo-Ottoman pact against the British. In this climate, the Porte concluded it was imprudent to antagonize Britain by responding favorably to Tipu Sultan's proposal of an alliance. Refusing Ottoman advice to make peace with the British or make concessions to an invading force, Tipu Sultan suffered heavy defeats against British forces in 1792, losing large territories in the process. But he did not relent. Seeking new allies in order to avenge himself and recover his territories, Tipu turned to the French. Here a very revealing occurrence took place. With the French occupation of Egypt in 1798, the British Government grew extremely alarmed, and appealed to the Ottoman Sultan Selim III (1789-1807) as the "acknowledged Head of the Mohammedan Church" to send a letter to Tipu Sultan advising him not to oppose Britain, but the French instead.[112] Hence began an ironic relationship that would continue for roughly another century—one in which we find Britain petitioning the Ottoman Sultans to use their institution of the Pan-Islamic Caliphate to further British imperial interests.

Seeking to shore up desired British support, the Ottoman sultan complied. In correspondence with Tipu, the Ottoman sultan blasted French aggression in Egypt, declaring the real goal of the French to be the colonization of the Muslim world and destruction of Islam itself.[113] Amidst this background Sultan Selim III argued to Tipu that the purpose of the French in sending an army to India was not to help him but to occupy India. Since France was the enemy of Islam, the Sultan argued, Tipu's duty was to protect India from the French. Moreover, Sultan Selim tried to reassure Tipu that he would help prevent any British attack on his domains by acting as an intermediary between them.[114]

The tiger of Mysore was not impressed. In his reply, Tipu agreed that Muslims should not befriend those who invaded Muslim countries, and for that very reason since the British were invading his country he would not strike a deal with them.[115] Before these letters were received

---

[110] Ibid.

[111] Ibid. Notably, this was an honor maintained in Tipu Sultan's name even after his death. BOA-C.HR 784/36642 (1222 Z 29) ("Hindistan'da Tibu Sultan tarafından Bağdad hediyelerle gelen Hüseyin Ali Han, Seyit Alaeddin Mehmed ve Seyit Mehmed Ali'nin işbu takrirlerinde kendileri yolda iken Basra'ya geldiklerinde Tibu Sultan'ın şehit olup Bahadır Hanadır Han'a mülkün geçtiğini anlamaları üzerine geri döndüklerine dair").

[112] Özcan, *Pan-Islamism,* 12.

[113] Ibid., 13.

[114] Ibid.. There is uncanny pattern here that would repeat itself in the Ottoman war with Russia in 1877-1878, except replace Tipu Sultan with Amir Shir Ali of Afghanistan.

[115] Ibid.

in Istanbul, Lord Wellesley ordered a campaign against Tipu Sultan, who fought until being killed on the battlefield in 1799. [116]

By the turn of the eighteenth century, therefore, the situation was dismal for Muslim rulers in India desiring to be free of foreign control and retain some semblance of Islamic sovereignty and their own government. Though the Afghans had succeeded in building an independent state centered in Qandahar (and later moved to Kabul), their rule over Lahore and Delhi was not long-lasting. Meanwhile, the British secured decisive victories at Plassey (1757) and Buxar (1764), signaling an opening to rich Indian hinterland for the first time. After plundering Bengal, Company forces moved up the rich Gangetic plain through a combination of military victories and buying off local rulers. By 1803 the East India Company was the near-paramount political and military power in the Subcontinent, and the new protector of the Mughal "emperor" in the Red Fort of Delhi, a political fiction they maintained until the great rebellion of 1857.[117]

III
(RE-)STARTING WITHIN:
INDIAN ʿULAMĀʾ AND ISLAMIC REVIVAL AFTER THE MUGHALS

We have discussed the early resistance of independent Muslim rulers like Tipu Sultan of Mysore, ʿAlī Rājā, and Bibi Sultan of Malabar against the British. We also discussed the failure of Pan-Islamic initiatives to reach out to the Ottomans, and how relations were practically as antagonistic between Indian Muslim rulers and the Afghans and Iranians as they were with the British. In this climate, Indian Muslims opposing colonial rule realized they largely had to face the British themselves. The harsh reality for Indians defying British expansion was they had little to no state support, with the exception of limited French assistance in some cases, and even that drew suspicion as to their ultimate intentions.

At the same time, it is important to recognize that there was no perennial, pre-ordained conflict between ʿulamāʾ, "radical Pan-Islamic activists," or "Islam" for that matter and British rule in India. As Peter Hardy has argued in his magnum opus, *The Muslims of British India* (1972), a more historical approach to the evolving role of ʿulamāʾ from the ascent of the British East India Company following the decline of the Mughals after Aurangzeb to the upheavals of the Khilāfat movement after World War I reveal a complex, constantly negotiated relationship, rather than the simplistic dichotomous spectrum of "hostility" and "loyalty", or "submission" and "resistance" for that matter.

> As long as Muslim sultans ruled, the ʿulamāʾ could reluctantly, but without dread, avert their eyes from the politics of power, confident that at least they would be the politics of Muslim power. In British India, this could not be so. Nevertheless, the establishment of British supremacy in India

[116] For a delegation of subjects loyal to the "fallen martyr (şehit olup) Tipu Sultan" delivering gifts on the latter's behalf in Baghdad roughly a decade after his last stand against the British, see BOA-C.HR 784/36642 (1222 Z 29) ("Hindistan'da Tibu Sultan tarafından Bağdad hediyelerle gelen Hüseyin Ali Han, Seyit Alaeddin Mehmed ve Seyit Mehmed Ali'nin işbu takrirlerinde kendileri yolda iken Basra'ya geldiklerinde Tibu Sultan'ın şehit olup Bahadır Hanadır Han'a mülkün geçtiğini anlamaları üzerine geri döndüklerine dair").

[117] T. Metcalf and B. Metcalf, *Concise History of India,* 68-73.

> was slow to arouse open hostility among the ‘ʿulamāʾ, perhaps because the de facto medieval relationship between the ruler and the Holy Law and its interpreters the ʿulamāʾ continued for several decades after the East India Company assumed the diwani in Bengal. Until 1790 penal justice continued in Bengal to be dispensed under the revived shari'a procedures of Aurangzeb’s (1658-1707) time. Regulation II of 1772 provided that ‘in all suits regarding inheritance, succession, marriage and caste and other usages and institutions, the law of the Qurʾān with respect to Muhammadans...shall be invariably adhered to.’ Until 1864 British magistrates were assisted by muftīs whose duty it was to expound the relevant mandates of the shari’a in suits where Islamic law was applied.[118]

As we well know from incidents of rebellion and revolt that did occur, however, this is not to deny the very real incidences of Indian uprisings against British rule. Rather, hostility itself arose on a case-by-case due to the constellation of political interests lining up in favor or against collaboration or conflict with British rule and legal-political institutions. Continuing the narrative of the evolving relationships between the diversity of Indian Muslim social actors and the British Raj’s colonial administration, Hardy has observed,

> Hostility to British rule began to be manifested in principle by some ʿulamāʾ in the first two decades of the nineteenth century when the Delhi ‘alim, Shah ʿAbd-al-Aziz pronounced British Indian territory to be dar al-harb in law, although he did not declare all service under the British by Muslims to be illegal. (He may have been protesting against the progressive British interference, from 1791 onwards, with the substantive Muslim penal law.) Some ʿulamāʾ supported the movement of Sayyid Aḥmad Bareli and others were prominent in the rebellion of 1857, but no general stance towards British rule can be predicated of the ʿulamāʾ as an aggregate, in the nineteenth century.[119]

Refining Hardy’s paradigm of a diverse and heterogeneous amalgam of Muslim communities of British India in flux, Barbara Metcalf identifies two patterns of Muslim “reformist” response having emerged in the Delhi region in the aftermath of Mughal decline and British ascendancy beginning in the early eighteenth century and continuing in the nineteenth century. Until her study on Deoband, most Western historians focused on military of resistance to British rule, in particular the militant *jihads* of Sayyid Aḥmad of Rai Bareli (1786-1831), Shah Ismāʿīl Shahīd (1779-1831), and Ḥājī Sharīʿat-Allāh (1781-1840) of the Bengal. But militant resistance was only one strand of Muslim opposition to colonial rule in India, and emerged much later at that. The focus on militant resistance obscures the far more prevalent, and long-lasting, influence of two kinds of networks—at times overlapping—in British Indian Muslim society: the ʿulamāʾ establishment, and the *pīr-murīd* relationships at the heart of transnational sufi networks.

Having lost the sponsorship and protection of royal patronage in India, Muslim leaders in India developed a variety of responses to British expansion. Historians have grouped Muslim responses to British colonialism in India in two broad kinds. One response came from the ʿulamāʾ of the imperial capital of Delhi. The primary goal of the ʿulamāʾ was not only to establish a unified standard of religious orthodoxy, but to reassert the balanced relationship between rulers and the ruled with themselves as the indispensable intermediaries—long an ideal of classical Sunnī Islam since the scholarship of al-Mawardī (972-1058) and al-Ghazālī (1058-

[118] Hardy, Peter 19-20

[119] Ibid.

1111). But as with the classical era, during Mughal times the Indian ʿulamāʾ were not the only influential religious actors on the scene. Another response to this political instability came from the landed shrine-based sufi *pīrs* of the rural regions of India, such as the Punjab, Sind, and Bengal. Like other intermediary powers, the *pīrs* asserted themselves against regional political leaders who no longer had the backing of imperial authorities, filling the vacuum with enhanced religious authority. In the eighteenth century, in highly populous, rural regions such as Punjab and Sind, there was an upsurge in activities by the Chishtī sufi orders, especially the Niẓāmīya branch. sufi revival was no less apparent in the former imperial heartland of northern India, where the Naqshabandī order grew in influence. Introduced into India through the teachings of Khwājah Bāqī Billāh (1563-1603), whose disciples had included Shaykh Aḥmad Sarhindī and ʿAbd al-Ḥaqq Dihlawī, by the eighteenth century there were prominent Naqshabandī leaders across north India. Increasingly influential, the Naqshabandī order was to play a large role in re-incorporating spiritual ecstasy and serving the disadvantaged with rigorous adherence to the Sharīʿah, joining the already firmly established Qādirī and Chishtī orders of India in this regard.[120]

In light of their considerable overlapping roles, we should be careful of creating false dichotomies between the ʿulamāʾ and the sufi *pīr-murīd* networks. There were hardly any neat or clean divisions here in practice. For example, urban ʿulamāʾ often enjoyed local-based support and revenues like that of pīrs associated with lavishly endowed shrines. Moreover, beginning in the seventeenth century, many of the Indian revivalist ʿulamāʾ following in the path of Shah Walī-Allāh emphasized meticulous attention to the Sharīʿah without disavowing sufism, though they remained wary of the competing influence of rival sects such as the Shīʿīs, or even a competing branch of Sunnī Islam. If we are to extract some general characteristics of this influential social class during this period, as Barbara Metcalf has noted, Indian ʿulamāʾ under British rule were primarily defined by their commitment to preserving "the intellectual heritage of the faithful without the court as protector."[121]

In the process of filling the void left by the traumatic collapse of Mughal power, historians have also noted how the institutional distinctions between "ʿālim and sufi" became increasingly blurred as large numbers of scholars moved from the former Mughal imperial capital of Delhi to provincial cities and towns, seeking new forms of royal patronage and bringing attachments to Sufism with them.[122] One such important group of ʿulamāʾ of the eighteenth century were the ʿulamāʾ of Firangī Maḥal in Lucknow. Like their counterparts in Delhi, the ʿulamāʾ of this eighteenth century educational institution sought to preserve religious learning in a period without imperial patronage, and to uphold the old relationship between scholar and ruler, whilst maintaining a strong personal attachment to sufism throughout.[123]

The ʿUlamāʾ of Firangī Maḥal, Lucknow

---

[120] B. Metcalf, *Islamic Revival in British India,* 9, 27-28; Francis Robinson, *The 'Ulama of Farangi Mahal and Islamic Culture in South Asia* (Delhi: Permanent Black, 2001), 15-16, 29-31, 41-42.

[121] B. Metcalf, *Islamic Revival in British India,* 29.

[122] Ibid., 31-32; Robinson, *The ʿUlama of Farangi Mahall,* 18-27.

[123] B. Metcalf, *Islamic Revival in British India,* 9; Robinson, *The ʿUlama of Farangi Mahall,* 73-75.

Sometime during the year of 1691 or 1692, Mullah Quṭb al-Dīn, a prominent ʿālim of Delhi and former member of the *Fatāwā-yi ʿĀlamgīrī* commission, was killed in a land dispute. The Mughal Emperor Aurangzeb was so distressed by this incident that he rewarded the deceased's sons with a tax-free plot of land in Lucknow known as Firangī Maḥal.[124] Thereafter, the Nawab (princely ruler) of Lucknow, although a Shīʿī, provided the main source of support for the college, probably because of the excellent training it offered in Persian, Arabic, and Hindustani literature—still the priceless keys for a successful future in the bureaucracy at this time. Hence even Iranian Shīʿīs hoping to settle in Lucknow and earn the Nawab's patronage had to present an *ījāzah* (degree certificate) from Firangī Maḥal before receiving a stipend. In the course of the instability of the eighteenth century across the region, Lucknow became a true "island of stability" where scholars from across Iran to India flocked to the court of the Nawab and Firangī Maḥal for opportunities to rise through the ranks.[125] Preparing *qāḍīs* and *muftīs* for administrative work became a mainstay of Firangī Maḥal, filling a void created by the collapse of scholarly centers in the Mughal capital of Delhi and surrounding environs.[126]

Perhaps the greatest single contribution of Firangī Maḥal as an institution, however, was the production of a new pedagogical curriculum, the *Dars-i Niẓāmī*. A comprehensive and magisterial abridgement of the Islamic scholarly canon, particularly of the Ḥanafī school, the curriculum included core subjects in Arabic grammar, Qurʾānic interpretation (tafṣīr), law (fiqh), principles of jurisprudence (uṣūl al-fiqh), as well as the "rational sciences" (*maʿqūlāt*) of logic, philosophy and rhetoric.[127] Under the supervision of Mullah Niẓām al-Dīn Sehalvī (d. 1748), the Firangī Maḥal ʿulamāʾ expanded and systematized the syllabi such that a number of works from each of the traditional sciences were included. Selecting authoritative works on both the transmitted sciences (*manqūlāt)* and the theoretical sciences (*maʿqūlāt)*, the Firangī Maḥalis emphasized the latter, only marginally studying Qurʾān and Ḥadīth, with most attention given to lessons in logic, philosophy, rhetoric, Arabic grammar, mathematics, rhetoric, and *fiqh* (law). Though Indian ʿulamāʾ of latter generations would reverse the emphasis, they nevertheless adopted the standards of a comprehensive, systematized syllabus as established by Firangī Maḥal. Even when the British established the *Madrasah-i ʿAlīyah* in Calcutta in 1780 to train

---

[124] The plot of land included a mansion built and formerly owned by a French adventurer who settled in Lucknow, hence the name *Firangī Maḥal*, or "Frenchman's Estate." Ibid., 29-30.

[125] Notably, the stability and opportunities for scholarship is most likely why the ancestors of Ayatollah Khumaynī (d. 1989) of Iran settled in Lucknow during the instability of the eighteenth century before returning to Iran in the twentieth century. Some of his detractors would later use the Khumaynī family's sojourn in India to try to discredit the future founder and head of state of the Islamic Republic for not being a "pure" Iranian, an allegation that reveals more about the accuser than the accused. On the blossoming of Shīʿī centers of learning in northern India, especially Avadh, in the eighteenth century, see Robinson, *The ʿUlama of Farangi Mahall,* 24-27.

[126] B. Metcalf, *Islamic Revival in British India*, 30.

[127] Robinson, *The ʿUlama of Farangi Mahall,* 14-15, 23, 46-55. For a list of the major texts studied in the curriculum, see Ibid., 249-251. A brilliant magnum opus of scholarly creativity within the venerated Ḥanafī school jurisprudential tradition, Metcalf notes that the curriculum has since "dominated religious teaching in South Asia to the present." Ibid., 31. Notably, it was adopted by the preeminent madrasah in south Asia, the Dār al-ʿUlūm at Deoband, and its affiliate networks throughout India and Afghanistan.

qāḍīs under their supervision, its first principal was a graduate of Firangī Maḥal who instituted the *Dars-i Niẓāmī* curriculum there. [128]

Another distinguishing element of Firangī Maḥal was the merging of scholarly and mystic traditions into one. Firangī Maḥalis reinvigorated *taṣawuf* (Islamic spirituality, or mysticism) as a learned science. As practicing Sufis who also embodied knowledge of the sacred law, Firangī Maḥalis were tied together not only by family ties, but by joint initiations into multiple sufi orders, with members bound by common allegiance to a *pīr*. Above all, the lasting legacy of Firangī Maḥal was their sincerity and commitment to guarding and preserving the intellectual tradition of Islam in a period of extreme tumultuousness and instability. Students came from across the region, even as far as Iran, to Firangī Maḥal. As important, they brought the *Dars-i Niẓāmī* syllabus with them back to their homes, mosques and communities. Moreover, as an institution the Firangī Maḥal represented a closer association of the ʿulamāʾ of India among themselves, an important contribution to the modern transformation of ʿulamāʾ into a class of legal and educational actors.[129]

Certainly, the Firangī Maḥalis had their share of immense challenges. Preparing students and graduates for careers in princely service in India under Company rule was laden with difficulties, and dangers. As Barbara Metcalf notes, "the travels, the varieties of employment, the violent deaths of at least one member in each of the first four generations of the family—all this suggests the difficulties facing the family in maintaining the pattern of dependence on princes."[130] But most of all, Firangī Maḥal's continued reliance on royal patronage—albeit now in an adjusted form in the provincial cities rather than imperial center of Delhi—became a source of weakness in the long term. In a pattern that could continue into the nineteenth century, after completing their education Firangī Maḥal graduates sought employment or scholarly support wherever there was a prince, or even from the British government. This would prove to be a contributing factor to the institution's decay in the later decades of the nineteenth century. A related weakness was that as an elite institution serving the royal courts of India, the Firangī Maḥal lacked a strong, independent position based on independent funding and a popular, widely-based audience. "Rather," observes Barbara Metcalf, "they continued to focus, as had the ʿulamāʾ of Mughal days, on abstruse and technical kinds of scholarship,"[131] as reflected in their emphasis on the *maʿqūlāt.* This was reflected in the Firangī Maḥal's primary audience: a very small segment of India's most privileged princes.

Nonetheless, it was, above all, the erudition of Firangī Maḥal ʿulamāʾ that earned them widespread respect and support from Muslims from Iran to India, anxious to guard their spiritual and intellectual heritage amidst the tumultuous environs of the eighteenth century and encroaching foreign rule. Though they would increasingly find themselves without a supporter or patron in Muslim courts or the British Indian government until the eclipse of the institution by other Modern Muslim institutes, colleges and movements, respect for the erudition they continued, and bequeathed, has remained until this day.[132]

---

[128] B. Metcalf, *Islamic Revival in British India,* 31.

[129] Ibid., 31; Robinson, *The ʿUlama of Farangi Mahall,* 14-15, 73-75, 101-102, 125-129;

[130] B. Metcalf, *Islamic Revival in British India*, 32.

[131] Ibid., 34.

[132] Ibid; Robinson, *The ʿUlama of Farangi Mahall,*101-102, 128-129.

Shah Walī-Allāh, Founding Father of Islamic Revivalism in India

Mullah Quṭb al-Dīn *was* not the only Indian ʿālim to participate in Emperor Aurangzeb's *Fatāwā-yi ʿĀlamgīrī* commission and be linked to the founding of a prominent eighteenth century Islamic college. Shaykh ʿAbd al-Raḥīm (1644-1718), who assisted in the collection of the *Fatāwā-yi ʿĀlamgīrī*, disliked courtly life and withdrew from the project to found an Islamic seminary, the *Madrasah-i Raḥīmīyah*. The Madrasah-i Raḥīmīyah was a theological college which later produced later monumental religious reformers like Shah ʻAbd al-ʿAzīz (1745-1823), Sayyid Aḥmad of Rai Bareli (1786-1831), and Shah Ismāʿīl Shahīd (1779-1831). But Shaykh ʻAbd al-Raḥīm was most famous for another reason: he was the father of the Muslim scholar, sufi, jurist, and philosopher extraordinaire, Shah Walī-Allāh al-Dihlawī (1703-1762). Succeeding his father as director of that school, Shah Walī-Allāh devoted his life to study and teaching, becoming the most influential Indian Muslim scholar of the eighteenth century.[133]

On February 21, 1703, Shah Walī-Allāh (al-Muḥaddith al-Dihlawī) was born in Phalit, a *qarya* (small town) outside Delhi, during the reign of Mughal emperor Aurangzeb. His early childhood and young adult years coincided with the trauma of Mughal imperial collapse following the death of emperor Aurangzeb, but he continued to study avidly with his father, Shaykh ʿAbd al-Raḥīm (1646-1719), a prominent India scholar of Delhi and founder of the *Madrasah Raḥīmīyya*.[134] Devout and dedicated to learning from an early age, Shah Walī-Allāh sought to revive and unite what he saw as a waning and divided Muslim ummah, not through the imperial court, but through a popularization of Islamic education. Seeking to purify the religion of accretions but also preserving the tradition from corruption and decay, Shah Walī-Allāh also called for a number of social, economic, and political reforms, including labor protections, welfare entitlements to food, clothing, and housing, and furthermore, a more honorable treatment of women, particularly in upholding their rights to property, inheritance, and remarriage.[135] Reflecting his desire to popularize Islamic teachings and educate the Muslim masses, Shah Walī-Allāh was also one of the first scholars to translate the Qurʾān from Arabic to Persian—an unprecedented accomplishment stemming from his challenging the predominant orthodox position on the subject, rather than from lack of ability.

But Shah Walī-Allāh's greatest contribution was a synthesis of the entire Islamic tradition into revived form, rearticulated for the common believer rather than elite, abstract philosophies. Shah Walī-Allāh's success was not in the mere compilation of commentaries, as Barbara Metcalf has duly noted, but in his "intellectual synthesis and systematization, an unprecedented *taṭbīq* of who genres of Islamic scholarship, across centuries.[136] Far from relics of the past, however, Shah Walī-Allāh's magnetism lay precisely in his ability to relate the significance and relevance of that scholarly legacy for Indian Muslims entering an extremely fluid and tumultuous period. As Metcalf continues to describe,

---

[133] Ibid., 36. On Shah Walī-Allāh's thought generally, see J.M.S. Baljon, *Religion and Thought of Shah Wali Allah Dihlawi, 1703-1762* (Leiden: E.J. Brill, 1986).

[134] Baljon, *Religion and Though of Shah Wali Allah*, 2.

[135] Ibid., 1, 192-199; Hardy, *Muslims of British India,* 27.

[136] B. Metcalf, *Islamic Revival in British India,* 36.

> Troubled by the disorder he saw around him, perhaps even sensing that he was at the end of an age, he sought to stem the tide of decline by consolidating and clarifying the entire body of the Islamic tradition. Knowledge of the truth would bring Muslims to religious obedience that would end the divisions and deviations he so greatly deplored.[137]

As with the ʿulamāʾ of Firangī Maḥal, Shah Walī-Allāh hoped to restore a stable, just Muslim order in India in which ʿulamāʾ would a more prominent role in public life, rather than the courts of imperial rulers. Unlike the Firangī Maḥalis, however, he delved into the organization of state power and the nature of relations between ruler and ruled, with ʿulamāʾ as guardians and intermediaries, arguing for a balance among all three groups.[138] Moreover, as stated above, Shah Walī-Allāh's teachings were explicitly geared to a mass pan-Indian audience, and reforming popular belief and practice on a widespread level. Part of this may have had to do with his family's different stance vis-à-vis ruling circles—his own father chafed under royal patronage, disenchanted with courtly life while working on the Islamic codification project of the *Fatāwā-yi ʿĀlamgīrī*, and in the court of perhaps the Mughal's most pious ruler at that—Aurangzeb Alamgir. He also was perhaps disillusioned with the subordinate role the Mughal court gave the ʿulamāʾ, seeing this as an imbalance of the "inner" and "outer" caliphates. Advising rulers, guiding the community, and safeguarding the intellectual heritage—these were the responsibilities of ʿulamāʾ for Shah Walī-Allāh.[139]

In another difference from the Firangī Maḥalis, Shah Walī-Allāh went beyond erudite analysis to active political involvement. Seeking a venue to implement his ideals, he wrote turn to the few strong, independent Indian Muslim rulers left, including Niẓām al-Mulk (r. 1724-1748) of the successor state of Hyderabad, Najīb al-Dawlah (d. 1790) the Pashtun ruler of Rohilkhand, and even to Aḥmād Shah Abdāli of Afghanistan, inviting each to assume the required role of just Muslim ruler. More than just mere initiations, Shah Walī-Allāh advised these rulers on issues of just Islamic rule, social policy, and even statecraft. While few accepted his proposals, he did thus articulate a new vision of just, enlightened rule by an independent Imam guided by God-fearing ʿulamāʾ.[140]

As to the substance of his teachings, Shah Walī-Allāh reinvigorated attention to the study of Ḥadīth, thereby reversing the focus of Firangī Maḥalis and other courtly ʿulamāʾ who tended to peripheralize the *manqūlāt* for the "rational" sciences. Shah Walī-Allāh's focus on the Ḥadīth was likely inspired by his time in the Ḥijāz, where he studied with the likes of Shaykh Abu't-Tahir ibn Ibrāhīm, who made Ḥadīth their major interest. In this way, Shah Walī-Allāh's work and his descendants established ʿulamāʾ circles in India's with a reputation for study of Ḥadīth that has lasted until the present day.[141] As important, Shah Walī-Allāh reinvigorated the

---

[137] Ibid.

[138] Ibid., 35-36; Robinson, *The ʿUlama of Farangi Mahall,* 91-93.

[139] B. Metcalf, *Islamic Revival in British India*, 36; Baljon, *Religion and Though of Shah Wali Allah*, 30-31, 160-171.

[140] B. Metcalf, *Islamic Revival in British India*, 35-36; Baljon, *Religion and Though of Shah Wali Allah*, 116-126.

[141] B. Metcalf, *Islamic Revival in British India*, 37; Baljon, *Religion and Though of Shah Wali Allah*, 152-160.

importance of scholars reengaging original sources and early opinions of the schools of law in order to arrive at closer, more finely-tuned guides to religious truth. Reemphasizing that the "doors to ijtihād" were never closed, he called on those qualified and skilled the Islamic legal sciences to consult the writings of the law schools in light of original sources and the Ḥadīth. ʿulamāʾ should be trained and versed in the jurisprudence of all the law schools, he argued, and they should judge accordingly in the supreme light of Qurʾān and Ḥadīth.[142] Such "jurisprudential eclecticism" may have also come from the influence of his father, who was also a devotee of the Ḥanafī school, but nevertheless did contribute to the dynamic legal codification project of the *Fatāwā-yi ʿĀlamgīrī* that broadened the scope of ʿulamāʾ to incorporate from a wide variety of sources, albeit still within the Ḥanafī school.[143]

– • –

The scholars of Firangī Maḥal and Shah Walī-Allāh were not the only pioneers in formulating new patterns of reform and community guidance by the ʿulamāʾ. By the time of Shah Walī-Allāh's death in 1762, and the late eighteenth century, Indian Muslim scholars had found employment in the new regional kingdoms such as Lucknow, Rohilkhand, and Hyderabad. In this way ʿulamāʾ evolved to find new networks of patronage, and indeed enhanced their roles as guides to the masses and rulers alike, as well as traditional roles of guarding the Islamic intellectual, cultural, and spiritual heritage.[144] In spiritual and intellectual scholarship, Indian ʿulamāʾ had found a role held in esteem by Muslim rulers and masses alike. In the process, they were also cultivating new forms of organizing not only religious movements, but social and political leadership across India. This new consciousness would play a tremendously profound role in developments involving Indian Muslims, and Afghanistan, during the nineteenth century.

Diverging Streams: The Successors of Shah Walī-Allāh and Resisting the British

At the turn of the nineteenth century, not all Muslim leaders were on board with the patient gradualism of Firangī Maḥal. Moreover, the successors of Shah Walī-Allāh moved in two different directions. One direction emphasized the advanced study of Islamic law (*fiqh*) with a view towards enhancing personal practice and piety. This was accompanied by an increase in the

---

[142] Contrary to some depictions, this point does not mean Shah Walī-Allāh was a supporter or affiliate of Wahabbism. He supported the idea of a scholarly elite that was qualified to do what the laypeople were not. For example, Barbara Metcalf qualifies the limits of his jurisprudential eclecticism, as follows,

> Shah Walī-Allāh, however, did not invite all Muslims or even all educated Muslims to engage in *ijtihad.* In matters of the Law, as in other aspects of the faith, he sustained the pervasive Islamic orientation that certain interpretations of the faith could only be understood by the religious elite, the *khass,* and should not even be discussed with the *ʿamm,* who could easily slip into error. Hence, on the matter of the Law he felt that most ʿulamāʾ and believers should adhere to the Ḥanafī school of law, and that only the few should pursue the reinvigoration of the faith he espoused.

B. Metcalf, *Islamic Revival in British India*, 38-39. For his conditional support of judicial eclecticism, see Ibid., 37-38.

[143] Ibid., 38-39.

[144] Ibid., 44; Robinson, *The ʿUlama of Farangi Mahall,* 125-129.

value and practice of independent scholarly judicial opinions (*fatwā*, pl. *fatāwā*) penned by prominent scholars for an increasingly large number of Indian Muslims hungry for detailed guidance on matters of personal and daily attention. This was the direction of Shah Walī-Allāh's son and greatest student, Shah ʿAbd al-ʿAzīz (1745-1823).[145]

The second direction, reflected in the life and teachings of Shah ʿAbd al-ʿAzīz's student Sayyid Aḥmad of Rai Bareli, was more dramatic—military revolt on the borders of the old empire, in the hope of creating a new Islamic order through militant, externally-oriented *jihad.* Though the latter effort failed, the pan-India campaigns of Sayyid Aḥmad would lay the seeds for further Islamic revival and Pan-Islamic consciousness throughout India. In the end, both streams played profound roles in anti-British mobilization in the nineteenth century. The first direction, represented by Shah ʿAbd al-ʿAzīz, would be the lasting hallmark not only of the Walī-Allāh family but of most groups of ʿulamāʾ and Muslim activists by the end of the nineteenth century.[146]

The differences in these successor streams of Shah Walī-Allāh's "school" of Islamic law and theology had roots in the rapidly changing context of an India no longer ruled by a supreme Islamic sovereign in Delhi, but rather judged by a constellation of much weaker, semi-autonomous princes throughout the Subcontinent. What is more, there was a much more powerful newcomer, the British East India Company. By the 1760s, as Muslims of Delhi looked to Aḥmād Shah Durrānī as a possible savior of Muslim in the Subcontinent, the British had already established their dominance in Bengal and Bihar. A decade later they reduced Avadh (Oudh) to a vassal state, and by 1803 they ousted the Marathas as protector of the now titular king in Delhi, taking on the symbolic role for themselves. As Company rule expanded through India, the stress on popular Islam on the part of these ʿulamāʾ was related to a new chessboard of lack of royal patronage and the need for a strengthened, united presence vis-à-vis foreign rulers. As powerful rulers more alien in cultural than the Marathas or Afghans had ever been, the new threat to self-preservation was greater than ever.

More than a case of xenophobia, there were also factors of severe economic and social displacement with the onset of British rule. Though, as Peter Hardy has shown, the effects of early British rule were felt gradually and unevenly, a number of British policies initiated unprecedented change. Like all empires of the time, Company policies were intended to find the most effective way to secure revenues from the land. As such they established land settlements, uprooting those amenable to new British rulers and reducing those opposed to abject poverty, in the meantime identifying and clarifying who had rights to the produce of the soil. As Barbara Metcalf has observed,

> In the process, some Indians benefitted and some suffered. In Bengal the power of landed interests was substantially enhanced at the cost of the tillers of the soil, who in the eastern sections of that province were almost entirely Muslim. There, too, revenue-free grants, many of them supporting Muslim religious institutions, were apparently obliterated. . . Again, generally speaking, it was in Bengal that Muslim fortunes most precipitously declined, but everywhere employment was at the pleasure of aliens. The greatest change took place in military service, as

[145] B. Metcalf, *Islamic Revival in British India*., 46-47.

[146] Ibid.

successive princes were brought under British control and their armies, both formal and informal, were disbanded.[147]

But of all changes initiated by Company rule, the most troubling to pious Muslims was in the realm of administration of law. Starting in late eighteenth century Bengal, Islamic law was transformed into "Anglo-Muhammadan law," in which such central practical issues as the law of evidence and the interpretation of offenses against the state were not derived from Fiqh but English law. Though law in India continued to be the law of religious communities, with Muslims subject to Muslim law, Hindus to what was deemed to be Hindu law, the very categories were constructed from the perspective of British administrators, seeking a singular, inflexible ruling for any given issue. In the process of such "codification," law for each community was frozen and closed off from the nuances of juristic interpretation.[148] Though indigenous scholars, such as Muslim mouvlies and Hindu pandits, were initially retained as advisors, "Anglo-Muhammadan law" and "Hindu law" were increasingly administered by British officials who saw Indian legal actors as unreliable and suspect.

Shah ʿAbd al-ʿAzīz: "Rivers of Shariat" and the Revival of Fatwā Scholarship

It was in this context that the teachings and fatāwā of Shah ʿAbd al-ʿAzīz took on extreme importance. The eldest son of Shah Walī-Allāh, he took over as the teacher of Ḥadīth in place of his father after the latter's death, and would grow on to become one of India's greatest Islamic scholars, renowned for his expertise in Ḥadīth (hence his title, the Muhaddith of Delhi, like his father). Shah ʿAbd al-ʿAzīz was praised by one traveler from Bukhara as a great scholar from whom "rivers of shari'at would flow into all the world."[149]

Shah ʿAbd al-ʿAzīz's juristic opinions became a primary means of propagating his teachings and views of Sharīʿah beyond the limited circle of his students. At a time of an increasing stranglehold by the British over local courts, his fatāwā provided individual Muslims across India with day-to-day guidance in the minute details of life from daily prayers and hygiene, to marriage and property disputes. In spite of the harsh political conditions, his teachings inspired a semi-autonomous existence for Indian Muslims where they guarded aspects of their legal tradition from British intrusion. By constant reference to the Ḥadīth, Shah ʿAbd al-ʿAzīz revived the *Sunnah* (practice of the Prophet) as a model for Indian Muslims in all aspects of life.[150] This was not, however, an archaic classical artifact returning from the medieval age. As Barbara Metcalf has observed, there was a distinctly modern aspect to this new form of fatwā-giving.

> *Fatawa* in a Muslim state were traditionally given by a court official, the *muftī,* for the guidance of the *qazi* or judge. Now in India they were given directly to believers, who welcomed them as a

---

[147] Ibid., 48-49.

[148] See Bernard S. Cohn's *Colonialism and its Forms of Knowledge: The British in India* (1996) and "Law and the Colonial State in India," in June Starr and Jane F. Collier, *History and Power in the Study of Law: New Directions in Legal Anthropology* (1989).

[149] B. Metcalf, *Islamic Revival in British India*, 47.

[150] Ibid., 47-48.

> form of guidance in the changed circumstances of the day. They had, of course, no coercive power, and they could no longer deal with a whole range of issues related to the organization of the state. They were, however, to become a vehicle for disseminating ever more detailed guidance in minute concerns of everyday life, including in their purview decisions about customary practices that had been of little concern to the state, but were of great moment to Muslims seeking to preserve an authentic expression of their religion under alien rule.[151]

The new role of fatāwā in the nineteenth and even twentieth century has been analyzed by legal anthropologists in locales as diverse as Egypt, Pakistan, and Yemen.[152] In the case of India, the content of Shah ʿAbd al-ʿAzīz's fatāwā has often obscured their larger role in transformation of modern Indian Muslim consciousness in the nineteenth century. Scholars of Indian Islam have particularly obsessed over the question of whether Shah ʿAbd al-ʿAzīz in his fatāwā declared north India (Hindustan) under British rule to be *Dār al-Ḥarb*, an abode of war, or *Dār al-Islām*, an abode of peace.[153] Some scholars have sought in the fatāwā a source of legitimacy for the later militant jihad launched by Sayyid Aḥmad of Rai Bareli. Barbara Metcalf opines that "The *fatawa* were, in fact, ambiguous on the political status of India, and were more important for suggesting partial strategies for accommodating to the new circumstances and for establishing the role of the ʿulamāʾ as guides to those circumstances."[154] We will return to this question of the Islamic legal status of India under British rule in the next chapter.

What is important for our purposes here is that Shah ʿAbd al-ʿAzīz's fatāwā exemplified the kind of moral and legal guidance that could create a semi-autonomous community "self-

---

[151] Ibid., 50.

[152] Brinkley Messick, *The Calligraphic State: Textual Domination and History in a Muslim Society* (1993); Khalid Masud, Brinkley Messick, and David Powers, eds., *Islamic Legal Interpretation: Muftis and their Fatwās* (1996); Jakob Skovgard-Petersen, *Defining Islam for the Egyptian State: Muftis and Fatwās of the Dār al-Ifta* (1997).

[153] That these terms have often been misconstrued as delineating "perpetual war against the infidel" in one realm, and utopian society on the other hands, has been aptly noted by Hamid Algar, who writes on the *juridical* nature of the term as referring to, "lands not under Islamic rule, a juridical term for certain non-Muslim territory, though often construed, especially by Western writers, as a geopolitical concept implying the necessity for perpetual, even if generally latent, warfare between the Muslim state and its non-Muslim neighbors." On clarifying the historical application of the term in practice, particularly in the Ḥanafī school which is predomiannt in central Asia and Afghanistan, India, and the Ottoman empire, he further notes,

> Abū Ḥanīfa held that three conditions must obtain: implementation of laws other than those of Islam, contiguity to other lands ruled by non-Muslims, and loss of security by Muslims and *ḏemmī*s (non-Muslim subjects of the Islamic state) inhabiting the territory (Saraḵsī, V, pp. 1856-57). Later Ḥanafīte jurists maintained that, as long as any ordinance of Islam remained in effect, territories lost to non-Muslim rule still counted as *dār al-Eslām*; Muslims did not have to emigrate from such territories, and even nomination of Muslim judges and other dignitaries by the non-Muslim rulers, considered usurpers, was permitted (Ḵonjī, p. 396). Such views became particularly relevant to Persia after the Mongol conquest in the early 13th century. Similarly, any part of *dār al-ḥarb* might be transformed into *dār al-Eslām* without military conquest, simply by the implementation of some laws of Islam. Abu'l-Ḥasan ʿAlī Māwardī (d. 450/1058), for example, held that, if a Muslim was able to practice his religion openly, the place where he lived was *dār al-Eslām* (Nawawī, p.10).
>
> Algar, Hamid. "Dār-al-Ḥarb", *Encyclopaedia Iranica* Vol. VI, Fasc. 6 (1993): 668-669.

[154] B. Metcalf, *Islamic Revival in British India*, 50.

contained not only on matters of faith but in everyday behavior."[155] Though the issuing of fatāwā was not an important concern for Shah Walī-Allāh, his sons, students, and even other ʿulamāʾ of the post-Mughal period found in it a springboard for self-preservation, guidance, and renewal. Considering the advances made possible by newly available printing presses, fatāwā became one of their most important tools not only for solidifying communal consciousness, but for inspiring and teaching adherence to Islamic law by Muslims. Moreover, many ʿulamāʾ and Muslim leaders felt it was only through such personal, sincere, individual adherence to the Sharīʿah and tenets of faith that Muslims could re-establish an independent, dignified, civic and political existence in India again.[156]

Another group who also saw themselves as successors to Shah Walī-Allāh's legacy of revival, followed another path. They also would see the renewed importance of *fatāwā* for Indian Muslims under foreign rule, but reached an entirely different conclusion.

The Second Stream: The Indo-Afghan Militancy of Sayyid Aḥmad of Rai Bareli

The sons and disciples of Shah Walī-Allāh inherited his focus on reformist religious guidance, but added an emboldened sense of urgency to reach beyond the old elites, and bolster the role of ʿulamāʾ and Islamic law as spiritual and social guides to help lay Muslims navigate the dangers of India under British rule. We have already discussed the scholastic contributions of Shah ʿAbd al-ʿAzīz in this regard, in particular his reinvigoration of fatwā literature. But there was a second offshoot of the Shah Walī-Allāh school. It was represented most powerfully in the teachings and activities of Sayyid Aḥmad of Rai Bareli (1786-1831), himself a student of Shah ʿAbd al-ʿAzīz, though he parted with his fellow students in a key regard. Unlike Shah ʿAbd al-ʿAzīz and his successors, Sayyid Aḥmad would become famous for arguing that the whole order of Indian society had to be challenged and confronted, in the process creating a new Islamic society through militant jihad.[157]

Shah ʿAbd al-ʿAzīz's approach, described by Metcalf as "gradualist and pragmatic," was abandoned by some members of the younger generation of the Walī-Allāh school, following the lead of a new visionary, Sayyid Aḥmad of Rai Bareli. Sayyid Aḥmad, also known as Sayyid Aḥmad Barelvi, was a Muslim activist from Rai Bareli, Oudh. He was born into a respected Saiyyid family, revered not only for its noble origins but their piety and scholarship. As a youth Sayyid Aḥmad distinguished himself in piety, physical strength, and generosity among his peers.[158] He would go on to found a movement known as *Ṭarīqah-i Muḥammadīyah*, a revolutionary campaign advocating militant resistance against non-Muslim authority in India, be the British in Bengal, or the Sikhs of Punjab. His supporters designated him *Amir al-Mu'minin* ("Commander of the Believers"), as he proclaimed a militant jihad against the Sikhs in the Punjab. Influenced by teachings of Shah ʿAbd al-ʿAzīz and his spiritual grandfather Shah Walī-Allāh but adding his own interpretations, Sayyid Aḥmad toured Afghanistan and the areas occupied by the Sikhs raising the banner of militant *jihad* and rallying the Pashtun tribes to his banner.

---

[155] Ibid., 52.

[156] Ibid.

[157] B. Metcalf, *Islamic Revival in British India*, 10.

[158] Ibid., 53.

When Sayyid Aḥmad was roughly twenty-five years old, he departed Delhi to enlist as a cavalryman for an Afghan prince named Amir Khan (1768-1834), the nawwab of Tonk in central India.[159] Amir Khan's grandfather had come to Rohilkhand and established himself as one of the new Afghan overlords of the eighteenth century who rose up in the wake of Mughal decline. Like many other Muslim princes after Mughal collapse, he engaged in many military adventures using free-floating disbanded soldiers from former princely armies or young Muslim recruits anxious for a job and perhaps a sense of mission. Sayyid Aḥmad was one of them. Later historians, probably adopting the views of Sayyid Aḥmad's later disciples and followers, would interpret his years with the Amir Khan as Sayyid Aḥmad's first attempt to carve out an "Islamic state" that would be wholly organized by the Sharīʿah—notably, the same perennial goal of Islamist political parties from the Middle East to Southeast Asia in the twentieth century.

Like Shah ʿAbd al-ʿAzīz, Sayyid Aḥmad's emphasis was on increasing popular adherence to Islamic orthodoxy. Unlike his teacher, however, Sayyid Aḥmad called for a militant, externally-oriented jihad to purify society from the top down. Though he authored many works, including *al-Sīrāṭ al-Mustaqīm* (composed originally in Persian then translated into Urdu), and *Taqīyat al-Imān* (in Urdu), Sayyid Aḥmad is most remembered for his call for a militant jihad in the Info-Afghan frontier. In 1818, Sayyid Aḥmad returned to Delhi where he began to gather around himself a group of loyal followers. Then, for six months in 1818-1819, he began to tour the many Muslim villages of the upper Doab countryside, including Ghaziabad, Muradnager, Meerut, Sardhanah, Kandhlah, Phulat, Muzaffarnagar, Deoband, Gangoh, Nanautah, Thanah Bhawan, and Saharanpur. All along the way and during these visits, he preached his reformist message, his charisma winning many to his message. In 1821, he resolved to make a pilgrimage to Mecca, but this was only a preliminary step to a larger journey: his pan-Indian militant jihad.[160]

For his model of an Islamic state, Sayyid Aḥmad looked at the princely states that emerged in the wake of Mughal collapse as a possible start, but historians agree his strategy was defined more by classical notions of militant jihad rather than Machiavellian geopolitics of his time, though the latter did play a role. This is most evident in his decision to launch his war from a Muslim-governed area—Afghanistan and the tribal frontier. Moreover, it was reflected in his decision to first fight the Sikhs in the Punjab, rather than the British in India. This had to do with a legal question which taxed the minds of the reformers: to whom was obedience due and who needed to be fought. Muḥammad Ismāʿīl, one of the two primary students of Sayyid Aḥmad, for example, wrote in his *Manṣab-i Imāmat* that Muslims ought to be loyal to any Muslim ruler as long as he did not commit *kufr*, or open disbelief such that he dishonored Islam. The status of Hindustan was in question because there was, after all, a nominal Muslim ruler in Delhi in the Mughal emperor. The Punjab, on the other hand, did not have a Muslim ruler, nor did they even pay lip service to the emperor at Delhi. It was thus easier for them to define it as Dār al-Ḥarb and obligatory to fight.[161]

Following the above model, and the need to fight from a Muslim-governed area, Sayyid Aḥmad departed from north India in January 1826 to begin what was the journey of his lifetime. The journey to gather followers, funds, and a free frontier to fight from ultimately extending over

[159] Hardy, *The Muslims of British India*, 35.

[160] B. Metcalf, *Islamic Revival in British India*, 60.

[161] Ibid., 61-62.

three thousand miles, as Sayyid Aḥmad and his disciples traveled through Rajasthan, Sind, and Baluchistan ultimately to Afghanistan, the tribal territory where he hoped to fight. Along the way he gathered more loyal followers and built a network of contributions. In November 1826, after winning the allegiance of some of the local Pashtun tribes, he defeated the Sikhs at Akora Khattak. In January of the following year Sayyid Aḥmad was declared *amiru'l-mu'minin,* a title usually assumed by caliphs.

But Sayyid Aḥmad's rise to power was short-lives as it was dramatic. The local tribes who supposedly supported the militant jihad, had their own reasons and quarrels. Others began to chafe under the radical reforms of Sayyid Aḥmad's *mujahidin.* In 1831, possibly from a betrayal or ambush of former supporters, Sayyid Aḥmad and his followers were ambushed at opening of the narrow Kaghan Valley in Balakot. Sayyid Aḥmad, his famed student Muḥammad Ismāʿīl, and possible six hundred others were killed. Because Sayyid Aḥmad's body was never found, some of the survivors and supporters across India cherished the idea he was still alive. Some of his followers were able to regroup, gathering in distant Sittana and with other survivors of campaign until the 1860s, when the British, nervous after the Mutiny, put an end to this chapter of militant resistance.

At first glance, Sayyid Aḥmad's militant campaign was a short-lived success followed by an abysmal failure. The success comprised of uniting north Indian Muslim leadership and some tribal chiefs on the frontier, into alliance in the 1820s and 1830s. The first opponent was the Sikhs, but eventually the British as well. Ultimately, their militant jihad was defeated by internal divisions among the tribal Muslims as much as by the Sikhs.[162] Though Sayyid Aḥmad's campaign had ended suddenly in Balakot, he achieved some unprecedented gains which would have lasting effects in northern India. In particular, it was after Balakot that a Muslim network for transferring men and supplies from Bengal, across upper India, and to the frontier was created. But the legacy far outlasted his demise and that of his followers in the valley of Balakot. Sayyid Aḥmad's tours preceding the campaign, as he sought out recruits and disseminated his message, had a lasting impact on younger generations of Indian Muslims in the Upper Doab. As Barbara Metcalf relates,

> In the years before the jihad, Sayyid Aḥmad and his followers in fact set a pattern for disseminating their teachings that lasted even after their military movement had ended. They used above all the scholarly network centered in Delhi, which provided them with contacts with students and other ʿulamāʾ from a wide area. Through this network they were tied to members of important religious families of the rural towns or *qasbahs* of the upper Doab and even beyond. For the Mughals the *qasbahs* had been centers of imperial influence where leading families had settled as courtiers, religious leaders, and zamindars—the outposts of empire in the countryside. In the Doab, towns such as Ambahtah, Manglaur, Deoband, Kandhlah, Kairanah, Phulat, Nanautah, and Gangoh even today testify to their rich past not only as sites of mosques, madrasahs, palaces, and tombs built by notables, but by the continued presence of important religious families.[163]

In this way, in some cases it was specifically after one of his visits to small Muslim qasbahs of the upper Doab that sons of scholarly families were inspired to relocate to Delhi to

[162] Ibid., 10.

[163] Ibid., 63.

advance in their education.[164] This in itself would have lasting implications for Muslim scholarship, politics, and mobilization in the late nineteenth and twentieth century. After Balakot, however, the emphasis of the ʿulamāʾ and Muslims of north India shifted to other methods of reform.[165]

– • –

Though two divergent strands of resistance to British colonial rule discussed above diverged in important ways, they nevertheless shared crucial similarities, trends, and even foundational principles. The reformers shared a deep suspicion of ʿulamāʾ and Muslim leaders who served the British. Part of this was nothing new—pious scholars in Islamic history were by default critical of other scholars who used their knowledge to serve those in power, and usually they were speaking of the courts of sultans. But now a whole new, foreign, non-Muslim player entered the scene, and scholars who served in British courts seemed to represent an inexcusable corruption of the religion.[166]

In addition, the growth of Urdu prose and poetry played no small part in the works of these ʿulamāʾ, who patronized and taught Urdu poets, and sent their children to them to learn Urdu and vise versa.[167] As Barbara Metcalf observes, "The role of the reformers of the 1820s and 1830s in shaping the language in this direction was substantial. Their goal was to reach a popular audience, not limited to those accustomed to the subtleties of Persianate diction."[168] And yet, in spite of their new populist thrust, these were still tremendously sophisticated, erudite, and scholarly individuals. For example, of the eleven major works of Muḥammad Ismāʿīl, six were in Arabic, three in Persian, and two were in Urdu—the latter being his native tongue.[169] But most of all, the emergence of Urdu as a popular vernacular of South Asian Muslims from Afghanistan to Bengal owes in no small part to the efforts of these ʿulamāʾ. Their efforts laid a foundation for the rich efflorescence of the language under three new pivotal *institutions* that fostered an Urdu renaissance in the nineteenth century: Delhi College, Dār al-ʿUlūm Deoband, and the Anglo-Oriental Muslim College of Aligarh.

A New Model of Reform: Delhi College and its Muslim Graduates

[164] Ibid., 64.

[165] Ibid., 63. It is worthy to note that Shah Walī-Allāh was not the only radical reformer operating in India in the early and mid-nineteenth century who considered India under the British Dār-al-Ḥarb. In early nineteenth century Bengal, a movement led by Ḥājī Sharīʿat-Allāh (1781-1840) known as the Farāʾizī movement emerged after returning to India in 1821 following extensive contact the Wahhabis in the Ḥijāz. Unlike Shah ʿAbd al-ʿAzīz, Sharīʿat-Allāh was explicit in defining Bengal as Dār al-Ḥarb. As such he issued juristic opinions prohibiting the juma prayer on Fridays and even the Eid festivals, citing the lack of a Qazi-administered city and court appointed by a legitimate Sultan. Ibid., 53-54.

[166] B. Metcalf, *Islamic Revival in British India*, 66-67.

[167] Ibid., 67.

[168] Ibid.

[169] Ibid..

In spite of their suspicions, misgivings, and even animosity with British rule, Shah ʿAbd al-ʿAzīz and his disciples established pattern of de facto cooperation with the British, combined with utmost attention reserved for disseminating Islamic moral and legal norms in Indian Muslims' everyday lives. The tradition of standing apart from the militant jihad of Sayyid Aḥmad, and focusing on leading a peaceful reform movement by focusing on education and preserving juridical autonomy, was continued in Delhi by ʿAbd al-ʿAzīz's successor, Muḥammad Isḥāq, together with his younger brother Ya'qub. In 1841, perhaps out of growing discomfort under alien rule, or strictly personal desire, both brothers immigrated to Mecca, leaving behind a dedicated group of students who continued their work and the "Walī-Allāh school" tradition in the coming decades. Among them were Sayyid Ḥusayn Muḥaddith Dihlawī (d. 1902), Ḥājī Imdād-Allāh (1817-1899), and Sayyid Aḥmad Khan (1817-1898), each founders of different streams of Indian Muslim religious and political thought in the late nineteenth century in their own right.[170]

The above students would go on to represent a vastly diverse spectrum of religious and political ideas, though they shared the a common grounding of commitment to Islamic reform and experience to British educational institutions. Contact with British missionaries often linked with Delhi College, moreover, added an increased sense of urgency to the reformist mission, as well as further models of organization. According to Barbara Metcalf, the single most important model they encountered and would eventually go on to adopt and adapt, was the short-lived Delhi College, founded by the government in 1825 and closed following the Great Revolt of 1857. It was Delhi College that provided the ideal model for education, which its Muslim ʿulamāʾ graduates would later adapt for their own purposes in promoting their own versions of modern education of India's Muslims.[171]

Following the British de facto conquest of Delhi, British authorities launched a report on the state of education in the city. Known as the Report of the General Committee on Public Instruction, the testimony criticized the state of education as represented in a collection of private madrasahs scattered throughout the city. The report criticized madrasahs, where (supposedly) "time was spent on Koran and *fiqh*," with little coverage of other subjects, and lacking a regular system of attendance at that. Pursuant to the report of the General Committee on Public Instruction, the goal of a new college built along British lines in the former Mughal capital Delhi, open to elite Hindus and Muslims alike, would be the creation of "Indian gentlemen" that upon graduation would find suitable work.

A British principal oversaw the launching of the school in 1825, which was expanded with the considerable waqf endowment of the Nawab Iʿtimād al-Dawla of Avadh three years later. Delhi College began with two branches, one in English in which European literature and sciences were taught; the other an "Oriental" branch where Arabic, Persian, and Sanksrit lessons were offered in addition to history, geography, mathematics and sciences. Initially, there was

---

[170] B. Metcalf, *Islamic Revival in British India*, 71. Sayyid Ḥusayn Muḥaddith Dihlawī was the founder of the Ahl-e Ḥadīth movement, an Indo-Islamic reformist movement inspired by Wahabbism, primarily in its opposition to strict adherence (*taqlīd*) of the four traditional schools of Sunnī jurisprudence. On the history and thought of this movement, see Sanyal, Usha. *Devotional Islam and Politics in British India: Aḥmad Raza Khan Barelwi and his Movement, 1870-1920.*Ḥājī Imdād-Allāh was One of the preeminent founders and spiritual leaders of the Dār al-ʿUlūm madrasa at Deoband. Sayyid Aḥmad Khan was the founder of Muḥammadan Anglo-Oriental College at Aligarh.

[171] B. Metcalf, *Islamic Revival in British India*, 73.

ambivalence about being associated with the government. Some ʿulamāʾ feared a loss of dignity from the slights of the rulers, who were not even Muslims or Hindustanis. Muslim students and ʿulamāʾ were also extremely wary of the role of Christian missionaries in British educational institutions such as Delhi College, and the close relationship indeed seemed to reflect direct government support for Christian proselytizing. But in spite of all these dangers, many Muslims from prominent Muslim families of the Upper Doab decided to join the College.

Perhaps drawn to the prestigious environment affiliated with the government schools, and the profitable jobs open to their graduates, Muslim students and their parents who supported them discovered a new-found confidence to work with the government in such areas of education because of the advantages they could draw, while maintaining their faith, or indeed enhancing it while gathering the best a modern education had to offer, taking models back to their towns of origin. They also found that Muslim students at these colleges had an even stronger attachment to Islam and an emboldened sense of obedience to the divine law.[172] In addition to the fruits of improved job prospects for the graduates, a strengthening of ʿulamāʾ networks across India, and revived commitment to the Sharīʿah in public life, the new educational institutions strengthened the usage and proliferation of Urdu as a lingua franca for India's diverse Muslim communities, another milestone for the still-nascent, proto-nationalist "Indian Muslim" public sphere.[173]

As mentioned above Delhi College was opened to Hindus and Muslims of "respectable" backgrounds. Metcalf notes the number of Muslims was proportionally large, ranging from one-third to one-half out of a usual total of three to five hundred students.[174] For the future of Muslims of North India, more important than numbers, however, were the types of Muslim students arriving at Delhi College and the networks they brought along. One story in particular tells it all. Mawlānā Mamlūk ʿAlī, a close associate of the Walī-Allāh family, came to Delhi to study from them at the Delhi College. One of the students of Shah ʿAbd al-ʿAzīz, Mawlānā Rashīd al-Dīn Khan, became head of the Arabic department at the college. Mamlūk ʿAlī succeeded him as head Arabic instructor in 1833. But this was only the beginning. Mamlūk ʿAlī's connection with the family continued and much of his family followed him to Delhi, in part inspired by a dramatic visit of Sayyid Aḥmad in 1820. Mamlūk ʿAlī's activities in Delhi strengthened reformist ties between the Upper Doab and Delhi. Among those who joined Mamlūk ʿAlī in Delhi were his son, Muḥammad Yāʿqūb, his nephews Aḥsan and Muḥammad Maẓhar Nanautawī, a distant nephew Muḥammad Qāsim, and two more relatives, Dhulfiqār ʿAlī and Faḍl al-Raḥmān.

Delhi College is most commonly cited by historians as producing the pro-British Muslim loyalist ideologues, led by Sayyid Aḥmad Khan, who would later go on to establish Aligarh Anglo-Oriental College.[175] But among the students of Mamlūk ʿAlī who were educated in the

---

[172] Ibid., 75.

[173] The proliferation of Urdu as the primary lingua franca of Muslims in South Asia is a somewhat mixed milestone, however, given it was accompanied by a simultaneous decline in Persian (even though advanced Muslim students in India continued to train in both Arabic and Persian into the twentieth century). See Robinson, *The ʿUlama of Farangi Mahall,* 27-28 and 32-34 and B. Metcalf, *Islamic Revival in British India*, 73.

[174] B. Metcalf, *Islamic Revival in British India*, 74.

[175] As Barbara Metcalf summarizes in this regard, "Among Mamlūk 'Ali's associates were also those who would be associated with the Westernizing Aligarh movement: Sayyid Aḥmad Khan himself, Nazir Ahmed, Zaka'u'llah Khan, and Sami'u'llah Khan." Ibid., 75.

vicinity of Delhi College in the 1840s, there were also three would go on to make pioneering contributions in a completely different ideological direction and establish institutions that would be nearly as important to the Muslims of frontier areas of India such as Afghanistan, Bengal, and Burma as India itself. These three leaders included Muḥammad Qāsim Nanautawī (1833-1877) and Rāshid Aḥmad Gangohī (1829-1905), who were to be instrumental in founding the Islamic college at Deoband after the Great Revolt. Finally Ḥajji Imdād-Allāh (1817-1899), a revered sufi *pir* in Mecca and a major influence on many ʿulamāʾ, who would also have strong ties to the seminary at Deoband.

The early careers of these three men reflect the background of many ʿulamāʾ of this period as well as the character of the religious life at Delhi during the middle of the nineteenth century. All three were natives of rural townships (*qasbahs*) of the upper Doab: Nanautah, Gangoh, and Thanah Bahwan, respectively. They each then spent brief periods in Delhi, where the experience surrounding Delhi College provided a common training in modern literature, sciences, and administering a university. They then each eventually returned to the countryside of the Upper Doab to further their teachings until they founded the monumental institution at Deoband.[176] While they did not hope to imitate Sayyid Aḥmad in his military ventures, particularly after the events of 1857, the reformers did replicate his zeal for the popular dissemination of the correct interpretation of the Law, which was the lasting legacy of the Waliyuallah school and all its divergent successors.[177] Before we can understand the legacy these founders left in proper context, it is necessary to discuss an event of cataclysmic proportion in India, and which touched Muslims of diverse social, economic, and political backgrounds in unprecedented ways, the great Indian rebellion of 1857.

The 1857 Revolt: Roots, Responses, and Repercussions

On Sparks and Causes

On the evening of May 10, 1857, in the heat of the Indian summer, a group of Hindustani sepoys belonging to a regiment in the Bengal Army stationed at Meerut rose up against their commanding British officers. Having killed their superiors, the mutineers stormed the local armory and murdered the English residents of the town. The rebels then marched on Delhi the next day, with hundreds of thousands of Indians eventually joining the rebellion as the word spread across India. As the British lost control of whole swaths of northern India from Punjab to Bihar as well as pockets of central India that rose up in revolt, the disparate groups ultimately rallied under the unifying standard of the aged Mughal emperor Bahadur Shah in the Red Fort of Delhi.

In the end the British recaptured Delhi in September, in no small part due to reinforcements from Punjab. The last Mughal Bahadur Shah II was exiled to Burma, and following his death, buried in an unmarked grave so as to prevent it from becoming a site of pilgrimage. The royal sons were executed, with servants and womenfolk of the Mughal court sold and exiled. Sporadic fighting continued in Lucknow until November and UP province well into 1858. In central India, Maratha leaders such as Rani of Jhansi, Nana Sahib, and Tantia Topi

[176] Ibid. 76.

[177] Ibid., 80.

prolonged the fighting, but by the fall of Gwalior in June 1858 the greatest revolt in Indian history was over.

This is how most historians have presented the Sepoy Mutiny of 1857, alternatively known as the first Indian War of Independence or Great Indian Revolt, a massive rebellion that shook the foundations of the British Raj to the core.[178] In some areas taking a year to fight their way back, the British press and many historians since have lavished attention on the brutality and ferocity of the insurrection, valorizing the British reconquest in the process. The largest revolt against British rule in history may have began as a military mutiny, springing from festering grievances among the soldiers of the Bengal Army, but less is known about the roots in Indian society at large.[179] Thomas and Barbara Metcalf proceed to describe some of the less known causes that led to this dramatic outpouring of violence:

> There had been discontent at assignments to Burma, resulting in the 1856 General Services Enlistment Act requiring sepoys to serve wherever posted. There was dissatisfaction with pay and the limited opportunities for promotion. . . And, as the proximate cause, there was the new Lee Enfield rifle, whose use required soldiers to bite off the end of each cartridge—widely reputed to have been greased with pig or cow fat, polluting to both Hindus and Muslims. When sepoys refused to load their rifles, they were publicly humiliated, even expelled from service.[180]

The greased cartridges of the Lee Enfield rifle and the sight of having eighty-five of their colleagues dragged off in chains the previous day may have been the "proximate" spark of this massive revolt.[181] But even deeper wounds across diverse social strata of Indian society at large must be attributed to the cause of an even more significant development than the initial mutiny: why so many hundreds of thousands (if not millions) of non-commissioned Indians later *joined*. A contemporary analyst elegantly summarizes some of the deeper causes, arguing that under the rule of the British East India Company, the benefits of "civilization" were largely not enjoyed by the colonized:

> Western technology was shared only insofar as it increased production. New cities were built instead of old cities being developed. Cheaply manufactured imports destroyed most local industries, and native markets had little choice but to focus almost exclusively on the economic needs of the colonial powers. . . In return for the pillaging of their lands, the suppression of their independence, and the destruction of their local economies, the colonized peoples were to be given the gift of 'civilization.'[182]

The widespread, cross-cutting offense Indians across diverse social groups took at British colonialism is evident in the scope of those who took part in the uprising. With a cross-section of

---

[178] Thomas Metcalf and Barbara Metcalf, *A Concise History of India* (2006), 100-103. For a dramatically told but no less meticulously researched account of the 1857 Mutiny and its immediate aftermath, see William Dalrymple, *The Last Mughal: The Fall of a Dynasty, Delhi 1857* (2008).

[179] T. Metcalf and B. Metcalf, *Concise History of India*, 101.

[180] Ibid.

[181] Ibid.

[182] Reza Aslan, *No god but God* (2006), 222-223.

northern India from Bihar to Punjab and portions of Central India, it is difficult to generalize. Precise estimates of the number of rebels in the 1857 rebellion are notoriously hard to come by. William Dalrymple notes that "of the 139,000 sepoys of the Bengal Army—the largest modern in Asia—all but 7,796 turned against their British masters."[183] Dalrymple and the Indian historian Irfan Habib have also noted that large portions of the common population in northern provinces, such as Avadh, Muslims, Hindus, and Sikhs joined the rebellion that was originally sparked by 300 mutineers at Meerut.[184]

The exact number of Muslims who participated is even more contested. But what historians do largely agree upon is that while the vast numbers of members of formerly privileged classes under Mughal rule joined the revolt, there were significant portions of India's wider population that did not. As Metcalf and Metcalf note in this regard,

> Many [Indians] remained loyal throughout, and in so doing secured the ultimate defeat of the revolt. Not least among these were soldiers from the recently conquered Punjab, who felt no affection for the Bengal sepoys who had defeated them. In addition, neither the Bombay Army nor the Madras Army rebelled, so insuring that southern India remained quiet. Among the most visibly 'loyal' were those, like the Bengali intelligentsia, who had Western education, together with Bengal's zamindars, tied to the Raj by the Permanent Settlement that secured their prosperity. India's ruling princes too, in contrast to those among them who had lost their thrones, almost invariably calculated that their interests were best served by supporting their British rulers. Even among the rebellious Oudh landlords, many hedged their bets by sending emissaries to the British camp, and so in the end survived with their lands intact.[185]

The case of Muslims in the British Indian Army—including in the imperial force that eventually crushed the rebellion—is also an oft-overlooked aspect of the British imperial policy in India, and must be kept in mind in assessing "Muslim fanaticism" in the revolt. As David Washbrook has observed, "One of the supreme ironies of 'British' rule in India was that so much of the military power of an ostensibly 'Christian' state should have rested upon the shoulders of a 'Muslim' soldiery."[186] In this manner, it would be thoroughly mistaken to paint with large strokes any monolithic "Indian Muslim" role in the 1857 insurrection. In recent decades, the authoritative research of respected historians of South Asia including Thomas Metcalf, Peter Hardy, and more recently, Ayesha Jalal, and have case doubts on the previously widely held notion of a Muslim omnipresence in the revolt. Citing the "remarkably perceptive and balanced observations" of British official and first-hand witness Sir George Campbell, written in July and August 1857 at the height of the rebellion, Hardy argues the rebellion "was essentially Hindustani in character, a rebellion of previously dominant classes, both Hindu and Muslim, in the North-Western Provinces 'who have been rejected by us.'"[187] By citing the specific regional, economic, and social grievances held by specific groups of Hindu and Muslim elites disenfranchised by British rule, rather than the conventional religious or ideological

---

[183] Dalyrmple, 13

[184] Ibid.; Irfan Habib, "The Coming of 1857," *Social Scientist* 26 (1998): 6.

[185] T. Metcalf and B. Metcalf, *Concise History of India*, 103.

[186] David Washbrook, review of Nile Green, *Islam and the Army in Colonial India* (2009).

[187] Hardy, 67-68.

explanations, Hardy argues against the explanatory force of a Pan-Islamic militant jihad or, as the common British attitude was in 1857, that "a Muslim meant a rebel."[188] William Dalrymple's *The Last Mughal* (2006) reaches similar conclusions with a characteristic depth, subtle texture into the lives of the persons involved, and literary grace.

Other historians, such as Ayesha Jalal, have even upped the ante by questioning the category of "Indian Muslim" in the first place, arguing it obscured multiple regional, linguistic, and cultural layers of identify among India's Muslims, and had little reality in practice before the twentieth century.[189] Even in the decades after the polarizing rebellion of 1857 and the polarizing effects of British rule, argues Jalal, the idea of an autonomous Indian Muslim community did not take deep roots subsequent events until much later in the twentieth century. In particular, it followed the collapse of the pan-Indian Khilāfat movement, and only then did the emergence of a "two-nation" theory more fully take center stage, accompanied as it was with retroactive construction of India's complex, multilayered past. The later development of a separate Indian Muslim consciousness might also be argued by examining the role of "Pan-Islamism" in the 1857 revolt, or rather, lack thereof.

Pan-Islamic" Response to India's Greatest Rebellion

Another proof that the Great Revolt of 1857 cannot by any stretch be reduced to a Pan-Islamic jihad (or even pan-Indo-Muslim one for that matter) was the rather lukewarm Pan-Islamic response from neighboring Muslim countries, in particular the Afghans and Ottomans. Azmi Özcan argues in his chapter on the 1857 revolt in *Pan-Islamism* that there were reports the mutineers sought international aid in their campaign to oust the British from India, including Muslim rulers in Iran and Afghanistan. But most of all, as the supreme Muslim state at the time and possessors of the holy Caliphate, the Ottoman empire was the primary power from which the Indian Muslims expected to find an unwavering pillar of support. But they were severely disappointed on all accounts. In fact, as events panned out, during the Mutiny the British made sure to remind Istanbul of the aid they had given to the Ottomans during the Crimean war, and the British took full advantage of this.[190] In this manner, Indian Muslim efforts to secure Ottoman support failed to produce any tangible results on their behalf. Not only did emissaries come back empty handed, the British actually obtained permission from the Porte for the passage of their troops to India through Egypt and Suez.[191] But the biggest prize was yet to come. What is more, the British secured a proclamation from the Sultan, as Caliph of the world's Muslims, advising the Indian Muslims to abandon their insurrection and not to fight the British. This proclamation was circulated and read in mosques throughout India.[192]

---

[188] Ibid., 62.

[189] See especially her chapters, "Muslims as a Legal and Political Category" and "Identity and Sovereignty in Muslim Consciousness" in *Self and Sovereignty: Individual and Community in South Asian Islam Since 1850* (2000), 139-186 and 187-261.

[190] Özcan, *Pan-Islamism,* 15-16.

[191] Ibid.

[192] Ibid.

But that was not all. According to Özcan's study of Ottoman archival documents, the quashing of the rebellion and success of British troops, including the capture of Delhi, were reported to have been met with a "cordial expression of satisfaction" by the Porte. Upping the ante, the Grand Vezir at the time, Ali Paşa, even sent a message of congratulations to the British Government. In the meantime the Porte even donated a thousand pounds to a British relief fund for orphans, widows, and wounded soldiers.[193] On Ottoman help to the British, Salar Jung, Prime Minister of the Muslim princely state of Haydarabad which also remained loyal to the British, wrote that "the most warlike of the native races," and here he meant the Turks, "gave their united support to the British connection at that supreme moment when their defection might have cost the life of every white man and woman in India."[194]

Yet the Ottoman refusal to aid the rebels was probably due to reasons far beyond "owing" the British for past aid. After all, was returning a favor to the British more important than coming to the aid of tens of thousands of Muslims in need? Özcan cites a few additional factors that likely influenced the Sultan to not intervene. On the foreign relations front, the Sultan desperately needed Britain's friendship to maintain the integrity of his empire. On the domestic front, some historians cite as a factor the fact that the Porte was also dependent on British approval—and loans—to carry out the Tanzimat reforms introduced in 1839.[195]

However, Özcan also argues, one gets the impression from the Sultan's conversation with Lord Redcliffe that he was misinformed about the nature of the events of 1857 and the Muslim involvement in them, because the Sultan later admitted that had the British attempted to substitute Christianity for Islam in India, the case "would have been different, and the same goodwill would not have been manifested by them."[196] Özcan goes on to argue that though the British did not attempt to substitute Christianity for Islam, the result was not all so different: Christian rule was substituted for that of Muslims.[197] What is more, perhaps the Ottomans had little clue of what was to come for India's Muslim population in ensuing years.

As for the Afghan response to the 1857 rebellion in India, sources are largely quiet on any incidents of Kabul throwing their support behind the revolt. What is more, Amin Tarzi notes that the staunchly pro-British stance of Afghan Amir Dost Muḥammad (1793-1863), and even more so his son the Afghan prince Muḥammad A'zam (d. 1868), in the wake of the Indian uprising:

> British authorities maltreated Muḥammad Aʿẓam when he was in Chitral in 1866, whereas the latter had always professed himself to be a friend of that empire, and had supported its cause during the Great Revolt of 1857. When Muslims in India asked Amir Dust Muḥammad for aid, Muḥammad 'Azam had persuaded his father to remain neutral and fulfill his treaty obligations to the British. ʿAbd al-Raḥmān quotes his uncle as later saying that 'the British government's friendship is based on opportunism and neither its amity nor enmity is firm.'[198]

---

[193] Ibid., 16.

[194] Ibid., 17.

[195] Ibid.

[196] Ibid.

[197] Ibid.

[198] Amin Tarzi, "The Judicial State: Evolution and Centralization of the Courts in Afghanistan, 1883-1896," Ph.D. Dissertation (New York University, Department of Middle East Studies, 2003), 45.

Amin Tarzi states that other than Muḥammad Aʿẓam's autobiography, however, he did not find any independent confirmation of Aʿẓam's involvement in persuading his father not to provide aid to the Indian rebels.[199] Nevertheless, at such a pivotal juncture in Indian and Indian Muslim history, a "Pan-Islamic" orientation would have found a prime opportunity in the 1857 Sepoy Rebellion. Instead, in light of their risking everything to participate in the largest uprising in the British empire's history, for the Indian revolutionaries, Kabul's silence was deafening.

Some Qualifications on Pan-Islamic Indifference

In spite of my organization of this sub-chapter, it is important to not overstate a sense of dichotomy between "internal" and "external" events among Indian Muslims at this time. Though Britain had little to fear in terms of Indo-Ottoman military or political pacts that could turn against them, the growing contacts and influence between Istanbul and Indian Muslims was not lost on the new rulers of India. Even the Mughal Governors of Deccan, Niẓām al-Mulk (1748) and his son Nāṣir Jang (1748-1751) petitioned the Ottomans for assistance, addressing the sultan as 'Caliph of the Holy Prophet' in their correspondence, though similarly little seems to have come of it.[200] What Ottoman-Indian Muslim correspondence did teach the British, however, was the growing significance of this attachment in geo-politics. The British began to sense that their interests in India were inextricably related to their relations with the Ottomans, due to the profound effect the Ottoman Caliphate had upon India's Muslims.[201] The fact that the British had requested Selim III to advise an avowed enemy of the British, Tipu Sultan, for example, demonstrates the confidence they had in the Ottoman Sultan's influence in India and in their role as Caliphs.[202] This was the first occasion that the British approached the Sultan for help, but not the last. In the following decades the British would repeatedly turn to the Ottoman Sultan to use his influence over Muslims in other realms to their advantage, most strikingly in the Mutiny of 1857 and the Afghan Crisis of 1878 (both discussed in subsequent section).

In spite of these lukewarm responses from Istanbul, Indian Muslims continued to look up to the Ottomans and seek their aid. As Muslim prestige declined in India amidst an onslaught of increasingly suffocating British administrative control, in the first half of the nineteenth century the Indo-Muslim ʿulamāʾ, especially the spiritual descendants of Shah Walī-Allāh, did much to re-champion the Ottoman cause. Özcan notes that a sampling of Urdu newspapers in 1844 would reveal a keen interest taken by the Indian Muslims in Ottoman affairs.[203] Several Indian ʿulamāʾ, such as Shah Muḥammad Ishaq (1778-1846), the grand son of Shah Walī-Allāh, migrated to Mecca in the 1840s and propagated the Ottoman cause among Indian Muslims in the Ḥijāz.[204] Meanwhile, the Ottomans were also busy doing their part in building ties. In 1849, they

[199] Tarzi, "The Judicial State," 45.

[200] Özcan, *Pan-Islamism*, 10.

[201] Ibid.

[202] Ibid., 13.

[203] Ibid., 14.

[204] Ibid.

opened their first two consulates in Bombay and Calcutta. Far beyond issuing travel documents, Ottoman consulates would play a large role in furthering Pan-Islamic ties between Turks and Indians through the vigorous activities of consular staff, who often took an active part in local Indian life.[205]

In 1853, the outbreak of the Crimean War pitted the Ottomans fighting alongside the British and French against the Russians. According to Özcan, this was the first instance in the history of the Subcontinent in which Indian Muslims rallied together on a wide-scale level out of sympathy and concern for the Ottomans accruing from a single event.[206] Overjoyed that Britain had sided with the Ottomans, the Indian Muslims found themselves free to express their solidarity with the Ottomans alongside goodwill for the British Indian Government alike. In spite of prior suspicions over increasing ties between the Ottomans and Indian Muslims, the Government of India largely welcomed this spirit of Pan-Islamism, particularly due to its pro-British strain. Indeed, the British welcomed the opportunity to impress the Indian Muslims as a benevolent sovereign by posing as the defender of the Sultan, his empire, and even Muslim sentiments worldwide.[207] By now, it was thoroughly evident that the Ottoman Caliphate had emerged as a major mobilizing factor among the Indian Muslims, and the British—ironically—continued to use to this to their advantage until the late nineteenth century, as shown in the Ottoman response to the unprecedented Indian rebellion of 1857, in which Indian Muslims played no small role.[208] But it would surface one more time, in the 1870s, before Anglo-Ottoman relations took a sour turn in the 1880s, for the remainder of the Ottoman empire.

Similarly, Ottoman and Afghan rulers were not isolated entities in the nineteenth century. Historians have documented contacts of various kinds throughout the nineteenth century. Mehmet Saray, for example, cites examples of Afghans inviting the Ottomans to partake in militant jihad expeditions against the British. The Ottomans, favoring an alliance with the British against their arch-enemy Russia, declined or did not respond. Less dramatic than spectacular proposals for joint military expeditions, and perhaps more significant to the historian of Pan-Islamic relations, were the day-to-day relations in the form of surveillance, diplomatic courtesies, and jurisdictional issues involving itinerant and transnational Afghans in Ottoman domains. For example, a document from the Ottoman archives dated to 1903 discusses the Ottoman contacts with the family of a prominent Afghan ʿālim who passed away in Mosul, Mesopotamia, and the Ottoman provision of a stipend of support to his family.[209] Several other documents also record instances of Ottoman surveillance of (if not provisions of stipends to) Afghan travelers, scholars, and pilgrims, especially in the Mesopotamian cities of Baghdad, Najaf, Mosul, and Kirkuk, but also as far as Jerusalem.[210] A reoccurring example in the Ottoman

[205] Ibid. We will explore these incidences from original British Indian Foreign and Political Office documents in the National Archives of India in Chapters 3 and 4.

[206] Ibid., 14-15.

[207] Ibid., 15.

[208] Ibid.

[209] BOA. BEO 2047/153500 (1321 M 21).

[210] For example, BEO 753/56410 (1313 L 04) (Afghans in Silifke); BEO 471/35318 (1312 Ra 08) (Afghans in Kirkuk); BEO 690/51712 (1313 R 19) (Afghans in Baghdad); DH.MKT 1358/9 (1303 Za 1) (Afghans in Jerusalem).

archives was Istanbul's support of an Afghan prince named "Mehmed Azim Khan" (Muḥammad Aʿẓam Khan) residing in Baghdad, Iraq.[211] This also includes his activities in exile, and the possibility of a return to Afghanistan.[212]

Other documents track an interaction even closer, nay within, the Ottoman center of Istanbul. A document from the Ottoman archives dated from March 1906, for example, discusses the state monitoring of an Afghan sufi lodge (*kalenderhane*, or *tekke*) in the Üsküdar district of Istanbul, and the attending to various requests surrounding the administration of the lodge.[213] An earlier reference from the Ottoman archives on the lodge from May 1858, discusses the passing of the lodge's shaikh, and the appointment by a certain Feyzüddin Efendi in his place.[214] The fact the Ottoman government was reporting in the records the latest updates with personnel, and maybe even involved in the appointment of them (the document uses the word "*tayın*", which is the same word used to describe the appointment of officials in the Ottoman bureaucracy in the *Siccil-i Umumi*, or Ottoman Civil Service Employment Registry), demonstrates the high degree of surveillance and monitoring of this particular Afghan lodge at least. Indeed the Afghan Qādirī sufi lodge is Üsküdar surfaces in a number of Ottoman archives documents as being a major locus of the Afghan community in Ottoman Istanbul well into the twentieth century.[215]

What is more, the Ottoman archives even document the Ottoman foreign intelligence agencies keeping track of Afghans traveling abroad, including to England. One Ottoman archives document from December 1891 describes, in rather surprising detail, the travel of an Afghan eye doctor from Kabul to Liverpool, England. The document proceeds to describe his marriage to local woman who converted to Islam, and their activities in the Liverpool Muslim community.[216] As demonstrated in other documents, such as the correspondence with the "Shaykh al Islam of the British Isles" William Henry Quilliam,[217] it appears the Ottomans took

---

[211] For example, see BOA-BEO 2907/217955 (1324 B 23) (concerning Afghan Mehmed Efendi's stipend). BEO 703/52692 (1313 Ca 24) (concerning the Baghdad-residing Afghan prince Mehmed Aʿẓam Efendi's stipend of 400 kuruş). Also, see BOA-BEO 1675/125566 (1319 S 28).

[212] BOA-BEO 2232/167329 (1321 N 18).

[213] BOA. BEO 2787/208952 (1324 M 25).

[214] BOA-A.MKT.MVL 97/73 (1274 L 05).

[215] For example, see BOA-ZB 608/57 (1323 My 15); BOA-Y.MTV 254/114 (1321 L 17). One Ottoman archives report describes the Afghan tekke in Üsküdar as in the same vicinity of a Chinese mosque also in the area. BOA-Y.PRK.AZJ 47/25 (1320 Z 29).

[216] BOA-Y.A.HUS 254/11 (1309 Ca 05).

[217] One of the most fascinating finds in this regard is the Turkish translation of an article, dated to 1890, in the Prime Ministry Ottoman Archives, signed by William Henry Quilliam, as President of the Islamic Center of Liverpool. The article appears to be originally taken from the "Islam" newspaper, likely a community newspaper for the Muslim community in Liverpool. That the Ottomans took an active interest in "Shaykh al-Islam Quilliam" and the Liverpool community is amply demonstrated in this translation, and a number of additional documents on the community in the Prime Ministry Ottoman Archives. BOA-Y.PRK.TKM 21/57 (1307 Z 30).

an active interest in the growth and indigenization of Islam in European countries, and even the United States, as another document on Muslim communities in California illustrates.[218]

Meanwhile, the British were careful to address any imbalance between the position of their envoys and that of other European powers, or Russia, in the Ottoman court. Through robust economic and military aid during the Tanzimat reforms and Crimean War, the British quickly restored a preponderant influence at the Porte and Palace, and Russia again returned to its traditional archenemy relationship with Turkey.

The First Anglo-Afghan War

In comparison to British friendship with the Ottoman Sultan, in Afghanistan, the situation was often more complex. Like Turkey, the British and Russians fought a heated cold war in the court of the ruler, and at times came to all-out war, in the name of contesting the other's influence in Kabul. The British had been less successful, however, in winning the sympathy of Afghan rulers. In 1836, the British dispatched a mission led by Alexander Burnes to the court of Amir Dost Muḥammad Khan in Kabul and the semi-autonomous governor of Qandahar, Kuhandel Khan. The purpose was to deliver a stern message: any Afghan ruler who made overtures to the Russians or Persians—Britain's main rivals in the region—would meet with harsh consequences.[219]

Dost Muḥammad Khan remained oblivious to British demands issued by the Burnes mission. Upping the ante, the Afghan amir pressed the British envoy to deliver a message back to his superiors: return Peshawar to Afghan control, after the former had recently annexed it. Meanwhile, the Russians sent their own emissary to the Kabul court, seeking to exploit the growing Anglo-Afghan rift. Needless to say, this enflamed the British even more. Failing utterly in its mission, when the Burnes mission returned to India it was clear the seeds of a second Anglo-Afghan war had already been sown. In 1838, the British began searching for a more pliant ruler in Kabul, and the means to achieve this goal.[220] Lord Auckland, the British governor in India at the time, proposed to replace Dost Muḥammad Khan with another Afghan prince of sound credentials: Shah Shujāʿ (1785-1842), the grandson of Aḥmad Shah Durrānī.[221] The die was now cast for a second invasion of Afghanistan by the British.

By March 1839, the British Indian army had crossed Sind and camped at Quetta, the strategic gateway of Baluchistan to Afghanistan's southern city and first capital, Qandahar. By April 1839, the army reached Qandahar, where Shah Shujāʿ was welcomed by tribal nobles. From Shah Shujāʿ's successful anointment in Qandahar, it did not take long for the British to

---

[218] BOA-DH.MTV 24/80 (1331 Ca 21) ("Mübarek makamları ve mükaddes yerleri ziyaret etmek isteyen Kaliforniya'daki Hindistan ve Afganistan Cemiyat-ı İslamiyyesi Kātib-i Umumisi Hoşhol Han Amanzai'ye gerekli kolaylıkların gösterilmesi"). On the "Shaykh al-Islam of the British Isles," William Henry Abdullah Quilliam, see Ron Geaves, *Islam in Victorian Britain: The Life and Timesof Abdullah Quilliam* (Leicestershire: Kube Publishing, 2010).

[219] Dupree, *Afghanistan,* 369-376. For an in-depth study of this period and its watershed events, see Noelle, Christina. *State and Tribe in Nineteenth Century Afghanistan: The Reign of Amir Dost Muhammad Khan, 1826-1863* (London: Curzon Press, 1997).

[220] Dupree, *Afghanistan,* 369-376.

[221] Ibid.

reach Kabul in August of 1839. Shah Shujāʿ was subsequently coronated as the new Amir of Afghanistan.[222]

The British celebration was short-lived, and premature. Characteristic of many invasions and violent interference in the country, resentment against the British intervention led to local forms of resistance gaining traction, and before long, a rebellion was in the making. With the encouragement of religious leaders and tribal nobles opposed to a British puppet on the Afghan throne, the population of Kabul and provincial areas convinced the British it was time to return to India. In January 1842, the British announced they would depart Kabul and begin the trek to India. It was an ill-fated evacuation. With the Khyber Pass blocked by border tribes, the Afghans in effect trapped the returning British army in the valleys near Jalalabad. Out of a combined military and civilian personnel of 17,000 individuals, Afghan (and British) lore has it that the entire army was wiped out, save a Dr. William Brydon who was spared only to deliver an ominous message and warning to his superiors in Jalalabad that more slaughter was awaiting the British in the valleys of Afghanistan.[223]

The lesson was not lost on the British, nor the Afghans. For the British, the disaster of 1842 had taught them that direct occupation of Afghanistan was too risky and too expensive, with few actual returns in terms of natural resources or other material wealth. They learned it was more profitable to keep Afghanistan as a buffer zone against Russian incursion, and through border might and political persuasion maintain a friendly government in Kabul. For Afghan rulers whether in Kabul, Qandahar, Balkh, or Herat, the risk of foreign invasion was all too near and all too real. The British in particular were singled out for being the most dangerous, based on experience, but Russia also loomed ominously to the north and through intervention in neighboring Persia. The aspect of Kabul being pegged between two world superpowers could be a blessing and a curse at one, and forms the geopolitical backdrop for developments for the remainder of the nineteenth century, which we will return to in the next chapter.

New Currents in Ottoman Internationalism, 1860s and 1870s

Özcan's magnum opus on the subject insightfully displays how "Pan-Islamism" was not a romantic sense of religious solidarity, but rather a set of geostrategic political alliances that were very vulnerable to change. As a leading case in point, 1856 was a major turning point in that during the Crimean War, the Ottomans became indebted to British (on top of British aid against Mehmet Ali Paşa of Egypt). As a result, in 1857 the Ottomans did not throw their support behind the Indian rebels against the British Indian government and actually encouraged them to desist from rebelling. But Indian, Afghan, and Ottoman Turkish individuals continued to court contacts with each other, some deliberately and others due to more spontaneous, unplanned circumstances. Ottoman internationalism was to take a major turn with three overlapping developments in the 1870s: the travels and Pan-Islamic activism of Jamāl al-Dīn "al-Afghānī" (d. 1897), the enthronement of Sultan Abdülhamid II in Istanbul (r. 1876-1909), and the Russo-Ottoman war of 1877-1878. We will return to the latter two developments in the next chapter.

---

[222] Ibid., 378.

[223] Ibid. 281-282. The disastrous events of 1842 for the British Indian army are the subject of a voluminous literature in Britain, particularly among military historians and rife with all the classic stereotypes of Afghans as a people. See, for example, Patrick Macrory, *Retreat from Kabul: The Incredible Story of How a Savage Afghan Force Massacred the World's Most Powerful Army* (Gulford, CT: Lyons Press, 2002).

After the most famous Ottoman sultan of Pan-Islamism, Sultan Abdülhamid II, probably the most famous personality to be associated with this amalgam of disparate transnational movements is Sayyid Jamāl al-Dīn "al-Afghānī," the roaming international spokesperson advocating for a greater union of Muslim peoples. Jamāl al-Dīn's publications, speeches, and dizzying travels between Iran, India, Afghanistan and the Ottoman empire during the 1870s and 1890s contributed to molding an environment of closer ties between different Muslim states and communities. Though for some time questions surrounded his birth and childhood, Nikkie Keddie has argued convincingly that he was born in the village of Asadabad near the city of Hamadan, Iran, likely to Shīʿī parentage. Jamāl al-Dīn was educated at home first by his father, and subsequently in Qazwin, Tehran, and Najaf, Iraq. Afghani later assumed the title "al-Afghānī," likely to stress his new Sunnī identity and bolster his credentials in the Ottoman empire, Afghanistan, and India.[224] A vocal critic against the imperialism of Europe, especially in the greater Islamic world, Jamāl al-Dīn argued the best defense against the colonial onslaught was the unity of Muslims. For Jamāl al-Dīn this was not simply an article of faith, it was a matter of protection against foreign intervention and survival. As a modernist, he argued that there was no conflict in fusing the best of Western technologies and even values with Islam. These were messages that were already circulating amongst the Young Ottomans like Namık Kemal and others, to whom we will return to later in this chapter.

Al-Afghani's message gained traction because he wrote and travelled at a time of increasingly generalized feeling that by the 1870s, the very existence of the empire seemed to be in danger, even under siege by non-Muslim powers bent on weakening or wholly dismantling the empire bit by bit. Özcan notes that there were widespread feelings of separation and encirclement by hostile powers for the last great power of Islam, the Ottomans.[225] Much of this had to do with increasing attacks on the physical integrity of the empire by European and Russian powers, but also media attacks in western capitals. As Özcan notes,

> After the Crimean war, the treaty of Paris (1856) had guaranteed the territorial integrity of the Ottoman empire, but after 1870, with the unification of Germany, the European states started to reconsider their position. Having been defeated by Prussia in 1871, France had to concentrate on her internal affairs. England softened her approach towards the Middle East, which exposed the Ottomans to Russian pressure. Russia had already been pursuing Pan-Slavic ambitions in the Ottoman Balkans. She also forced the Porte to cancel article twelve of the Paris Treaty which had banned the Russian militarization of the Black Sea. Austria-Hungary, too, became interested in the Ottoman provinces of Bosnia and Herzogovina. Clearly the Ottoman empire was in a politically desperate situation.[226]

Together these foreign policy setbacks would become a background to developments not only in the empire's relationship with other powers and Muslims outside the Ottoman domains, which we will return to in the next chapter, but has a direct relationship to juridical developments

---

[224] Keddie, Nikki R. *Sayyid Jamal al-Din "al-Afghani": A Political Biography*. Berkeley: University of California Press, 1972; Keddie, Nikki R. *An Islamic Response to Imperialism: Political and Religious Writings of Sayyid Jamal ad-Din "al-Afghani"*. Berkeley: University of California Press, 1983, 212; Keddie, Nikki R. "Afghani in Afghanistan." *Middle Eastern Studies* 1 (1965): 322-349.

[225] Özcan, *Pan-Islamism*, 32.

[226] Ibid., 41.

within the empire as well. Having discussed the traumatic crushing of the 1857 rebellion, and losses on the Ottoman foreign policy level, we now turn to the effects of these developments inside British India and the Ottoman empire, respectively.

IV
MUSLIMS MODERNS IN THE INDO-JURIDICAL FIELD: DEOBAND, ALIGHAR, AND THE QUEST FOR "ISLAMIC STATE(S)", 1858-1876

> No longer is the Taj Mahal, that Mughal ideal made real by craftsmen from throughout the Perso-Islamic world, the appropriate paradigm. The paradigms of the new cultural orientation are not nearly so magnificent; they are school buildings, like those of the Dar al-ʿUlum at Deoband and Sayyid Ahmad Khan's Aligarh College, which express a Muslim identity, which absorb to varying degrees the messages of the West, and which house institutions in their various ways committed to a Muslim future on the Indian subcontinent. [227]
>
> - Francis Robinson, *The ʿUlama of Farangi Mahall* (2001)

A world not of their making: Indian ʿulamāʾ and Islamic Law in British India after 1857

The great rebellion of 1857 gashed deep wounds across both Indian and British societies, producing a scar perhaps never erased from Anglo-Indian relations. In light of the brutality of the revolt, followed by an equally, and quite probably more brutal suppression by the British army and vigilantes in retaliation, the memory of the "Mutiny", "Sepoy Rebellion", or even "First Indian War of Independence" speak to the ongoing trauma but also polarizing perspectives of one of the more dramatic ruptures in modern history. "If the British took the Mutiny as a symptom of barbarity," note two eminent historians of South Asian history, "the Indians did so no less."[228] In their attempts to reign in the uprising and ultimately crush it, British retaliation quickly spiraled out of control. Insurrections in the three northern cities and surrounding areas of Delhi, Lucknow, and Kanpur, as well as the Maratha-led uprising in central India, drew the greatest attention of the British. On the march to these areas, British troops and associated militias unleashed an indiscriminate campaign of terror, "ravaging the countryside and killing randomly."[229] Despite Governor-General Lord Canning's attempt to check British excesses and vigilantism against native populations in the so-called "Clemency Proclamation" of July 1857, race-based savagery continued through the summer and autumn.[230]

While the extent of British revenge was brutal in the Indian countryside, it was worse in Delhi. The great Mughal capital had once again began to grow and prosper with the British peace, but now that peace was gone and the city witnessed depredations that in some respects exceeded the pillaging of Persian invader Nādir Shah in the eighteenth century. Muslim royal

---

[227] Robinson, *The 'Ulama of Farangi Mahal*, 211.

[228] T. Metcalf and B. Metcalf, *Concise History of India,* 103.

[229] Ibid.

[230] Ibid.

claims to the throne were abolished, and the last Mughal king, an octogenarian with his sons brutally murdered before him, was banished in disgrace to Burma. The British razed entire districts of the city, especially the concentrated Muslim areas surrounding the Red Fort, where lively bazaars, mosques, madrasahs and private homes of courtiers thrived for centuries, events retold in harrowing detail in William Dalrymple's *The Last Mughal* (2006). Barbara Metcalf offers a brief portrait of the extent of British vengeance in the former Mughal capital:

> The mosques of the city were occupied: the Jami' Masjid for five years, the Fatehpuri Masjid for twenty. The Zinatu'l-Masjid in Darya Ganj was used as a kitchen until it was restored half a century later by Lord Curzon. In 1860 it was decided to clear a large area around the Red Fort, and though financial compensation was given, there was no recompense for losing a building like the Akbari Masjid, built by a Begum of Shah Jihān, and long a major center of the reformist effort. *Madrasahs*, including the Daru'l-Baqa, restored by Muftī Sadru's-Sudur Azurdah, were razed, as well. In the Kuchah Chelan *mahallah,* where Shah ʿAbd al-ʿAzīz had preached and the great religious and intellectual families had long resided, the British shot perhaps fourteen hundred people. Muslims were disproportionately blamed for their part in the Mutiny, for many British believed that Muslims had fought from political grievances, Hindus from economic; and the former motive was understood to be more invidious and more dangerous.[231]

The shock of the Mutiny, and its brutal suppression, shook the very foundations of Britain's empire at the core. The sheer size, scale, and ferocity of the rebellion—unprecedented in the annals of British history on or off the island—prompted much introspection in Calcutta and London alike. Though it was not enough to shake the Crown's belief in the colonial enterprise, empire, and the "civilizing mission," it did show that a serious rethinking and reorganization of the Raj was in order. On August 2, 1858, the British Parliament approved the Government of India Act. Terminating all governing authority of the East India Company and transferring the rule of India to the British Crown, the previous system of periodic charter reviews every two decades now gave way to regular parliamentary scrutiny of Indian affairs.[232] The act created the new position of the Secretary of State for India, with an attached advisory body known as the Council of India. Based in London, the Secretary of State for India was vested with supreme authority for the Government of India. But based on a grand proclamation by Queen Victoria to the "Princes, Chiefs, and People of India" in November 1858, local authority for day-to-day administration of Britain's richest colony belonged to the Viceroy in Calcutta, a title assumed by Governor Canning.[233] Though the Secretary of State for India in London bore ultimate responsibility for Indian affairs, the Parliament and Queen's conflicting proclamations set the stage for nearly a century of conflicting British perspectives, priorities, and policies on India between London, Calcutta, and later Delhi.

On the ground in India, after the Mutiny the British rapidly institutionalized the fear, hatred, and suspicion of the colonized so viciously displayed during the revolt by remolding Indian cities along segregated lines. Demarcations of separate spaces for English residents and

---

[231] B. Metcalf, *Islamic Revival in British India*, 84-85.

[232] T. Metcalf and B. Metcalf, *Concise History of India*, 104.

[233] Ibid.

native Indians quickly became associated with the "modern" and "traditional," respectively.[234] Describing these "civil lines," Thomas and Barbara Metcalf note,

> These spaces communicated racial difference as well as the threatening disorder and 'putrid air' understood to characterize the old cities. They represented, moreover, as part of lived experience, an association of British culture with the 'modern' in contrast to the older sections of the city seen as 'medieval' or 'traditional'—always the necessary foil to modernity. The 'colonial city' was predicated on such duality.[235]

The goal of the British separating and distancing themselves from "native" society was not merely a reincarnation of the same, old-fashioned racism. Rather, reflecting the disciplinary technologies of modern governmentality Michel Foucault describes so vividly as taking root in Europe during this time, the latest rulers of India sought through such administrative practices "to order and control it."[236] In the decades that followed the rebellion, the British Crown abolished the East India Company and assumed direct rule of India. With the Queen declared empress, Britain reached the apex of imperial rule, an unshakeable belief in its civilizing mission, and an expansion of modern institutions of bureaucracy, registration, and surveillance. In the decades following the revolt, the first census of India was compiled in 1872, followed by the Survey of India in 1878, which was thereafter carried out on an India-wide decennial basis from 1881 on. New regulations required newspapers and journals to be registered and recorded, with all new books and even pamphlets required to pass government censors before distribution.[237] Enhancing a practice begun in the 1780s under Governor-General Warren Hastings, the Government of India in the 1860s systematized and enacted into law previously compiled Muslim and Hindu civil law codes, "simplifying" (read rigidifying and transforming) the highly complex procedures of Shar'ia as interpreted by ʿulamāʾ into the so-called "Anglo-Muhammadan" law codes in India.[238] Pastoral, nomadic, and tribal groups, as well as other itinerant groups and individuals, including Ḥajj pilgrims—already suspect in the eyes of British administrators since the days of the East India Company—became even more suspect with the onset of mass transportation. In order to combat these agents of "criminality" and "thuggery," the British imposed new forms of identification, surveillance, and regulation of communications and transport.[239]

---

[234] Ibid., 108. See also in this regard, Nicholas Dirks, *The Scandal of Empire: India and the Creation of Imperial Britain* (Cambridge: Harvard University Press, 2006).

[235] T. Metcalf and B. Metcalf, *Concise History of India*, 108.

[236] Ibid., 112.

[237] T. Metcalf and B. Metcalf, *Concise History of India*, 112; B. Metcalf, *Islamic Revival in British India,* 10. On these themes see also, Bernard S. Cohn, *Colonialism and its Forms of Knowledge: The British in India* (Princeton: Princeton University Press, 1996), and Dirks, *The Scandal of Empire*.

[238] Bernard Cohn, "Law and the Colonial State in India," in June Starr and Jane F. Collier, *History and Power in the Study of Law: New Directions in Legal Anthropology* (Ithaca: Cornell University Press, 1989); T. Metcalf and B. Metcalf, *Concise History of India*, 112.

[239] Radhika Singha's *A Despotism of Law: Crime and Justice in Early Colonial India* (New York: Oxford University Press, 1998) and "'Providential' Circumstances: The Thuggee Campaign of the 1830s and Legal Innovation," *MAS* 27 (1993): 83-146; Sanjay Nigam, "Disciplining and policing the 'criminals by birth: The making

In sum, the transition from Company rule to direct Crown administration reflected an entirely transformative moment not only in India, but in British governance even in Europe. The elaborate bureaucratic and technocratic institutions, from policing and sanitation to public health and railroads reflected changes occurring in western Europe as well.[240] In the area of governing and regulating people, Thomas and Barbara Metcalf make the important point that, "Such measuring and categorizing of peoples, places, and cultures in order to make the country's inhabitants 'legible' to its rulers was a worldwide phenomenon, a product of late nineteenth-century modernism, not a function solely of colonialism."[241] From this broader, more comparative, and more global historical perspective, the post-1857 "inscription" of Indian society by British colonial administrators in was merely strengthened, not founded, in the ruptures and trauma of the great revolt.[242]

Indeed, as Chapter 3 of this dissertation will explore, the campaign of centralizing states to make the populations, markets, and ideas of the societies they governed "legible" was a shared imperial and modern state-building imperative across the world, including non-colonial Muslim contexts.[243] This centralizing administrative imperative of the early modern and modern eras affected and transformed the modes of governance implemented by independent Muslim rulers like the Ottomans, Qajars (Persia), and the Afghans, especially dramatically in the long nineteenth century. But it also—in a reverse direction—forever altered the status of the former privileged groups of Mughal imperium and Indo-Persianate courtly culture, in particular the Indian ʿulamāʾ. With the double-blow of Mughal collapse in the eighteenth century and the onslaught of British colonialism in the late eighteenth and nineteenth centuries across northern India, Muslim scholars faced a devastating blow to their juristic (and financial) autonomy which they never quite recovered from. But the ʿulamāʾ of South Asia were also not passive victims of some externally transplanted process of modernity. Rather, in the contestations and conciliations they forged with the new rulers of India, they played a crucial part in formulating their own "Muslim modernities," especially in the realms of law, education, and social services in the post-Mughal state, a theme we will pick up in more detail in the next chapter.

In the decades following the Great Revolt of 1857, perhaps surprisingly, the rebellion did not figure prominently in the writings and teachings of the Indian ʿulamāʾ—at least overtly. At the same time, the reality of the rebellion and its crushing was lay silently in the background of everything they did. British military supremacy defined their options of action, from which they largely selected a gradualist, pragmatic approach to life in India under the British Raj. But to

---

of a colonial stereotype," *Indian Economic and Social History Review* 27 (1990): 131-164; T. Metcalf and B. Metcalf, *Concise History of India*, 112.

[240] Foucault, Michel. *Discipline and Punish: The Birth of the Prison*. New York: Vintage Books, 1995; *Society Must Be Defended: Lectures at the College de France, 1975-1976*. New York: Picador, 1997; T. Metcalf and B. Metcalf, *Concise History of India*, 104.

[241] T. Metcalf and B. Metcalf, *Concise History of India*, 114

[242] Ibid.

[243] We will also later return to the important and relevant arguments of Huricihan İslamoğlu and James Scott in the regard of shared histories of modernity and "seeing like a state." Huricihan İslamoğlu, "Modernities Compared: State Transformations and Constitutions of Property in the Qing and Ottoman Empires." *Journal of Early Modern History* 5 (2001): 353-386. James C. Scott, *Seeing Like a State: How Certain Schemes to Improve the Human Condition Have Failed* (New Haven: Yale University Press, 1998).

hold that Indian ʿulamāʾ "eliminated" political dimensions from their thought would be going too far. True, ʿulamāʾ be forced by necessity to "take government jobs as needed," and were always aware of a limit, with most going "out of their way to avoid offense to their rulers, and they sought to avoid conflict."[244] But this underplays the interconstitutive nature of "religion" and "politics", especially in the Habermasian public sphere of the modern era.[245] After all, at the core of the Deoband movement was a robust social, cultural, and juridical *reform* movement—*productive* as it was *preservationist*—with the goals of reviving Islamic orthodoxy and preserving the autonomy of Muslim communities, with the ʿulamā' as stewards, from the very same interventions of the centralizing state administrations described above. For these reasons, as we will see in the forthcoming sections of this chapter, the Deoband movement in particular withdrew from the new British imperial center of Delhi to found its own nucleus of operations in the upper Doab valley of northern India. Here the scholars of Deoband could more freely teach on a range of issues from theology to family life, adjudicate disputes, raise funds without relying on British financial support, and otherwise promote their own notions of modern Muslim life. And if this were not enough to make British colonial administrators more wary of the college at Deoband in comparison to its more "integrationist" counterpart and rival Muslim educational institution at Aligarh, there was also the dynamic activism of the institution in times of international crisis facing the Ottoman empire, as during the Ottoman-Russian War of 1878, Italian occupation of Libya in 1912-1913, and most vociferously, the First World War. (Of course, many of the Muslim students and faculty of Anglo-Oriental Muhammadan College at Aligarh would also participate in these politicizing events as fervently). We will also return to these themes in more in Chapters 3 and 4.

In this way, while historians can debate the "political" nature of "religious" movements in British India, what is certain is that following the Great Revolt, ʿulamāʾ who had been centered in Delhi tended to leave the beloved former Mughal capital for their townships of origins in the Upper Doab from which they shared roots. Such *qasbahs* as Saharanpur, Deoband, Kandhlah, Gangoh, and Bareli, were seen as more insulated from the British presence. As such during the remainder of the nineteenth century, they gradually became centers for preserving Indian Muslim cultural heritage and social life, continuing into the early twentieth century, eventually playing a crucial role in the independence struggle of India. As Metcalf astutely notes, "in this work of preservation the ʿulamāʾ were heirs to the early nineteenth-century program of reform: its self-consciousness about religion, its repertoire of techniques of influence, and the inspiration of its charismatic leaders."[246]

In this way, the ʿulamāʾ of South Asia were neither passive victims nor spectators of some abstract process of European modernity hoisted upon them. Works by recent historians and anthropologists have examined how Indians across the religious and social spectrum contributed to fashioning their own modernities during British colonial rule in India. The pioneering work of Barbara Metcalf, author of the only academic study of the origins and early history of the Dār al-ʿUlūm madrasah at Deoband to date, is central in this regard. This section of the chapter will further explore the early strategies of Indian ʿulamāʾ involved in the crucial

[244] B. Metcalf, *Islamic Revival in British India*, 85.

[245] Jürgen Habermas, "Religion in the Public Sphere," *European Journal of Philosophy* 14 (2006): 1-25.

[246] B. Metcalf, *Islamic Revival in British India*, 85-86.

realms of law, education, and Muslim community social services in post-Mutiny India, but with an eye towards to transregional and transnational consequences.

Initial Indian Muslim Response to British Political Supremacy

It may surprise contemporaries to find that in the decades following the Mutiny of 1857, the rebellion did not figure prominently in the writings and teachings of the Indian ʿulamāʾ—at least overtly. But this only underscores that the reality of the rebellion and its crushing lay silently in the background of everything they did. British military supremacy defined their options of action, from which they largely selected a gradualist, pragmatic approach to life in India under the British Raj. With a new emphasis on preservation of the Islamic intellectual, social, and legal heritage from colonial intrusion, north Indian ʿulamāʾ refocused their attention on the establishment of educational institutions. Using their experience in government institutions such as Delhi College in the early nineteenth century, they established their own versions with the goal of teaching Muslims of all backgrounds, and indeed economic class and geographical regions, reinvigorating popular belief and practice of Islam on the public and private levels. This new focus on "inward" development, personal piety, and the Islamic quality of individual lives, the ʿulamāʾ were operating in an autonomous space protected from British encroachment, and in the process producing individuals who were ready to negotiate, and indeed challenge, the contours of modern government in India during the more tumultuous times of the late nineteenth and twentieth century.[247]

The transition from Company rule to direct administration by the British Crown also reflected an accompanying authoritarian imperative that affected the Muslims of Hindustan particularly strongly, especially the formerly privileged groups tied to the Mughal court such as the ʻʻulamāʾ. The threat to Muslim juridical autonomy that attended the destruction of sovereign Muslim power in India was a devastating blow Indian Muslims, particularly the ʻʻulamāʾ, have still not fully recovered from. The sudden termination of financial support to ʿulamāʾ and madrasahs, as well as the autonomy to interpret and practice Islamic law as they saw fit, was a blow ʿulamāʾ would struggle to cope with. But over the course of the long nineteenth century, as we will now address, they did far more than cope.

It was for the purpose of popular Islamic education that following the Great Revolt, ʿulamāʾ who had been centered in Delhi tended to leave the beloved former Mughal capital for their townships of origins in the Upper Doab from which they shared extended family relations and roots. Such *qasbahs* as Saharanpur, Deoband, Kandhlah, Gangoh, and Bareli, were seen as more insulated from the British presence. As such during the remainder of the nineteenth century, they gradually became centers for preserving Indian Muslim cultural heritage and social life, continuing into the early twentieth century, eventually playing a crucial role in the

---

[247] Ibid. For arguably the best overviews of the role lof the ʿulamā" in modern South Asia in this regard, see Muḥammad Qasim Zaman, *The Ulama in Contemporary Islam: Custodians of Change* (Princeton: Princeton University Press, 2002). For a broader study addressing the diversity of Muslim socio-political actors and the formation of "Indian Muslim" identity and community, see Ayesha Jalal's *Self and Sovereignty: Individual and Community in South Asian Islam since 1850* (New York: Routledge, 2000). For an incisive study on the themes in the context of a Muslim women's movement outside our historical confines here of nineteenth century India, see Saba Mahmood's *The Politics of Piety: The Islamic Revival and the Feminist Subject* (Princeton: Princeton University Press, 2005) and "Hermeneutics, Secularism, and Empire: Reformation of Islamic Politics," *Public Culture* 18 (2006): 323-347.

independence struggle of India. As Metcalf notes, "in this work of preservation the ʿulamāʾ were heirs to the early nineteenth-century program of reform: its self-consciousness about religion, its repertoire of techniques of influence, and the inspiration of its charismatic leaders."[248]

Challenging conventional accounts which dismiss Indian ʿulamāʾ of the modern era as "an isolated 'underworld,' relics of a traditional, unchanging past," Metcalf's pioneering work—the only academic study focused on the early history of the Deoband madrasah in a western language—argues that far from xenophobic hermits, or militant fanatics, the college founders' firm grounding in Islamic legal scholarship and sufism propelled the movement towards religious renewal and moral purification, not political office. Their adept use of new institutional forms creatively adapted from Delhi College, and of course modern technologies, enhanced their reputation as one of British India's leading modern Muslim revival movements.[249] In this regard Metcalf famously describes Deoband's approach to British supremacy in India following the crushing of the 1857 revolt as one of "turning within."

> In this period the ʿulamāʾ chose a strategy of turning within, eschewing for the time all concern with the organization of the sate and relations with other communities. Their sole concern was to preserve the religious heritage—the classic role of the ʿulamāʾ from the post-Abbasid centuries on—and to disseminate instruction in authentic religious practice and belief. They sought to be, and to create in others, personalities that embodied Islam. To this end they preached and wrote, offered advisory legal opinions, and acted as spiritual guides to their followers. Their form of organization and their techniques of communication were new; their broad-based audience was new; and their emphases within their religion and their consciousness of it were new in their time.[250]

Metcalf goes so far as to say most Indian ʿulamāʾ "eliminated" political dimensions from their thought. But this is perhaps an overstatement. True, ʿulamāʾ were often driven by necessity to take government jobs, but they were always conscious of a limit, with most ʿulamāʾ steering clear of confrontation, conflict, or even offense to avoid attracting the ire or suspicion of their rulers—the consequences of which were still fresh in mind and all too real.[251] Yet, the ostensible political quietism of Indian Muslims in the late nineteenth century underplays the long-term political ramifications of their renewed emphases on calling wayward Muslims back to the faith and conscientious religious practice and revival of socio-religious networks across Muslim India, especially in the north. It also underplays the social, and political, ramifications of newly found madrasahs, most of all at Deoband.

While Metcalf's argument of "turning within" must be respected, she also slightly underestimates the *juridical* role of ʿulamāʾ under the British Raj, in particular their contesting the juridical threat posed by British courts. Before understanding the ʿulamāʾ's response, we must examine the nature of this threat, real, perceived and imagined. The increasingly

---

[248] B. Metcalf, *Islamic Revival in British India*, 85-86

[249] Ibid., 11.

[250] Ibid., 11-12.

[251] Ibid., 85-86.

integrating political and social world "made possible the sharing of religious universals with Muslims of varied geographic backgrounds, at the cost of parochial cults."[252]

The Post-Mutiny Landscape: A Juridical Perspective

To a great number of Muslims of Hindustan, especially the ʿulamāʾ and courtly ranks who were linked to the Mughal court, the crushing of the Mutiny was the *coup de grace* of a much older assault that began nearly a century earlier. Just decades after the Company's defeat of Sirāj al-Dawla (d. 1757), Tipu Sultan (1750-1799), and all other independent Muslim rulers in the subcontinent rulers who stood up against the British, for those who survived the turmoil 1857 constituted not only the quashing of a revolt, but the destruction of the greatest vestige of independent Muslim sovereign power in the subcontinent. Cataclysmic in the true sense of the word, it was a combined political, economic, and psychological blow in one devastating stroke. What is more, Indian Muslims were widely blamed for instigating and carrying out the rebellion by British authorities—often with no justification—as Islamophobic notions of violence and extremism were used to punish Muslims in particular.

Nor did British vengeance die out in the initial retaliation, but as mentioned above, policies of fear were institutionalized. In the decades after 1857, many Muslims of northern India—particularly those formerly linked the Mughal court and princely rulers in Awadh—soon found themselves behind their Hindu counterparts in many fields. Özcan writes that in addition to economic, social, political, and cultural devastation, Muslim sensibilities and widespread feelings vulnerability were exacerbated by efforts to convert them to Christianity.[253]

Of particular concern to ʿulamāʾ, the establishment and expansion of British authority in India in the first half of the nineteenth century had a devastating effect on India's Muslims and institutions of Islamic law, learning, and governance. Beyond losing political supremacy in the Subcontinent, many Indian Muslims felt not only was their political existence at stake, but their cultural identity as well. Well before 1857, vigorous debate took place among Indian ʿulamāʾ on the legality of Muslims living under British rule. For some, they were witnessing only the latest episode in a narrative of increasingly interventionist colonial authorities intruding into sacrosanct legal and cultural realms. Landmark British administrative decisions such as the institution of English as the official language of India in 1838, followed soon thereafter by the 1842 decision to replace Persian with English for government employment and the language of law courts, sent tremors of anxiety among Muslim communities in the subcontinent. Moreover, new educational and legal policies that threatened the autonomy of Islamic colleges (*madrasas*), charitable foundations (waqfs), and courts of law seemed to spell the end of Islam in India as they knew it.[254]

In this way, what made the fate of many Muslim communities after the Mutiny particularly bleak and unprecedented was the dramatic blow of prestige, and authority, to the ʿʿulamāʾ—the guardians Islamic orthopraxy who saw their institutionalized power violently crushed and influence widely curtailed in India in the aftermath of the 1857 rebellion. Several factors explain this. A primary reason was many ʿulamāʾ who survived the British reprisals left

[252] Ibid., 12.

[253] Özcan, *Pan-Islamism,* 18.

[254] Ibid., 13.

the country altogether, including such prominent figures as Mawlānā Raḥmat-Allāh Kairanwī (1881-1891), Mawlānā Ḥājī Imdād-Allāh (1817-1899), Mawlānā ʿAbd al-Ghanī Mujaddadī al-Dihlawī (d. 1878), Mawlānā Muḥammad Yaʿqūb (b. 1832), and Mawlānā Khayr al-Dīn (1831-1908). Özcan notes that many Indian ʿulamāʾ migrated to the Ottoman-administered Ḥijāz, Iraq, or Syria, with some even going as far as Istanbul.[255]

From Qāḍīs to Codes

As for the ʿulamāʾ who remained in India, one of the pillars of British imperial strategy in India was to significantly reduce their power and influence. A major pillar strategy of the latter goal was by first prohibiting the use of Persian in British Indian courts and administration; second, by employing English judges who utilized recently compiled "Anglo-Muhammadan" law codes in adjudicating cases between Muslims.[256] Adding insult to injury, at least to the many Indian Muslim ʿulamāʾ who remained loyal through the tumult of 1857, less than a decade later the Government of India passed Act XI of 1864, prohibiting the employment of Muslim *qāḍīs* in British Indian courts. As an 1876 Home Department Judicial Branch describes, Act XI of 1864 served

> to abolish the offices held under the British Government of Hindu and Mahomedan Law Officers, because their functions in our courts and under our laws had become obsolete and inconvenient… But the Government [also] appear to have held in 1864 that since the functions of a Kazi in our courts were obsolete, and since his office was about to be abolished, it would be absurd to continue to appoint a Kazi.[257]

On the social effects of the administrative ruling, the British lawyer in India, J. O'Kinealy, Esq, notes that the result of the law was to deprive Indian Muslims of "respectable" government appointments, relegating them to "chuprasees, duftries, and peons", without "much chance of improvement."[258] A major reason for Muslims falling behind their Hindu counterparts, according to O'Kinealy was the former's hesitation to school their children in English, and even more hesitant to enroll them in government schools. As noted in his 1876 memorandum on the subject,

> The Government schools have never been freely resorted to, for the simple reasons that there is no religious teaching; no provision for the appointment of Moulvies to teach Oordoo, Persian or Arabic, and that the masters are Hindus, instead of Mussulmans… I have gone to some trouble in ascertaining the number of Mussulmans and Hindus which have attended our schools, and find

---

[255] Ibid., 18.

[256] The theme of "Anglo-Muḥammad" codes replacing Indo-Muslim qāḍīs is a discussed in depth in Cohn, Zaman, and Messick and Hallaq. For an incisive critique of the social effects of codification, the bureaucratization of ʿulamāʾ, and the modern state's commandeering of the historically non-centralized praxis of Islamic law in Muslim societies, including British India, see Hallaq (2009, 355-499), Zaman (2002, 87-110), and Messick (1996, 54-72, 167-192), but especially Bernard Cohn, *Colonialism and its Forms of Knowledge: The British in India*, especially Chapter Three, "Law and the Colonial State in India."

[257] NAI-H/JUD Feb 1876 42-81 (Concerning the error of the Act XI. of 1864 prohibiting the appointment of Mahomedan Kazis)

[258] Ibid., 2.

> that during 1860-61 and 1861-62 there was only one Mussulman to ten Hindus, but that the proportion increased to one to five in 1865-66. It appears, however, that nearly the whole increase was due to the system of aided *schools* [akin to modern charter schools], under which it is possible to keep a school somewhat more exclusive than a Zillah school. The relative at the *English schools has not increased*.[259]

The following memorandum on the Abolition and proposed revival of Government recognition and appointment of Kazis by a certain P. Gangooly, dated August 31, 1871, first provides an overview of the role of the qāḍī in medieval and early modern India, stating,

> In the Mahomedan system of administration, Kazies were a set of functionaries uniting in themselves both civil and criminal jurisdictions, and empowered to try all sorts of disputes arising between man and man…According to Mahomedan law it is the duty of the sovereign to appoint Kazies. Under the terms of the *Heydaya* "it is incumbent on the Sultan to select for the office of Kazie a person who is capable of discharging the duties of it, and passing decrees, and who is also in a superlative degree just and virtuous." His duties are stated to be—to decide cases of debt, and deposits of contested property; to adjudicate demand of wives for maintenance; to try claims founded on purchase or gift, as well as cases of inheritance.[260]

Gangooly then proceeds to historicize how that central juridical role was gradually eroded by British legislation over the first half of the nineteenth century, legislation which increasingly challenging the jurisdiction of qāḍīs in India and effectively pushing the qāḍī off his own turf. British "codification" of Islamic jurisprudence had a large role to play in reducing the socio-legal authority of the ʿulamāʾ.

> Regulation 12 of 1793 empowered the Governor General in council to appoint Hindoo and Mahomedan law officers to the civil and criminal courts of judicature. Regulation 39 of the same year described the duties of the Mahomedan law officers to be 'preparing and attesting deeds of transfer and other law papers, celebrating marriages and performing such religious duties or ceremonies prescribed by the Mahomedan law as have been hitherto discharged by them under the British Government, and also superintending the sale of distrained property, and paying certain charitable pensions and allowances… Regulations 11 of 1802 and 3 of 1808 of the Madras Code, and Regulation 26 of 1827 of the Bombay Code, authorized the appointment of Kazies in the Madras and Bombay Presidencies. And for a considerable period these relics of the Mahomedan rule continued to form an important element in the judicial administration of the country. But with the gradual development of the system of administration, the sphere of their duties and the importance of their position were materially circumscribed, till one by one most of the *quasi*-judicial and fiscal duties originally entrusted to them had passed into other hands."[261]

Given the above prior history, Act XI of 1864 was merely the tip of the iceberg in terms of British attempts to curtail the jurisdiction of the Qazis. On Act XI, Mr. B.H.E. writes in an memorandum, dated February 26, 1872,

---

[259] Ibid., 3-4.

[260] Ibid.

[261] Ibid., 1-2.

> "I ALWAYS held the opinion that the enactment of Act XI. of 1864 was a great blunder, and I think so still. It was the result of a morbid feeling which often possesses very worthy people in respect to religions which they hold to be false; but the legal decisions since given show that, in giving effect to that feeling, we have neglected a plain duty to our Mahomedan subjects… It seems, however, pretty clean that the Act has placed the Mahomedans under a religious disability, and it is no argument to say that they are not entitled to a recognition which other religions do not obtain from Government, because to no other community is such recognition essential [sic]." [262]

In response to the above pleas, A.C. Lyall, Commissioner of West Berar, writes in a memorandum dated May 22, 1873, explaining the official British Indian Government's position,

> We cannot revive the Kazi now, because he belongs to a system of law and administration that has passed away. In settled Mahomedan times and countries he was Judge, Legal Remembrancer, and Registrar of important deeds. I doubt whether he was ever an established institution, essential to Mahomedan society in India, as (for instance) in Turkey. The continuous political struggles prevented any formal consolidation of the system of Islam in most parts of India…Aurungzebe appointed most of the Kazis, being scandalized at the ignorance of Mahomedan law which he found in those parts; but most of them done nothing ever since beside living on their endowments. They seldom exercised any definite functions; and now the functions which they should exercise by virtue of office are obsolete and superseded, while the endowments have become hereditary family property. [263]

In the midst of this unprecedented threat to Indian ʿulamāʾ stood a legal question of immense social and political significance: was India under British rule still to be considered in *Dār al-Islām*, the abode of Islam? Beginning with the British arrival in India, a group of ʿulamāʾ took a hard stance against the foreign invaders. Especially prominent were the disciples of Shaykh Walī-Allāh al-Dihlawī—Sayyid Aḥmad of Rai Bareli in particular—who declared that India was *Dār al-Ḥarb* ("abode of war") and therefore militant jihad was necessary against the British in order to restore Muslim rule. Though Sayyid Aḥmad's jihad was crushed by betrayal and ambush in the valley of Balakot, for the remainder of the nineteenth century, his followers continued to espouse violent opposition to non-Muslim rule, though their numbers dwindled. Their message did not wholly disappear, however, and echoes of Sayyid Aḥmad's militant jihad continued to resonate among some South Asian Muslims—with considerable evolution and branching out—until the present day. In short, the so-called "jihadist" strand opined that as long as a strong, independent, and just Muslim Caliph was not ruling India, a military campaign was obligatory to establish it. This was, by far however, the minority view.

After 1857, with the devastating consequences of Indian Muslims, more nuanced debates emerged among Indian ʿulamāʾ as to the question of India's status under British rule. Those of the minority opinion that India was Dār al-Ḥarb left India for such locales as Afghanistan, Mecca, and even Istanbul, or "simply kept quiet, for they saw no other alternative."[264] Others, however, ruled that because the British did not prevent Muslims from performing their daily religious practices—though what constitutes daily Islamic practice is itself part of the debate—

---

[262] Ibid.

[263] Ibid.

[264] Özcan , *Pan-Islamism*, 19-20.

these jurists declared India under the British Raj was Dār al-Islām.[265] The majority view eventually split between some ʿulamāʾ holding India was still Dār al-Islām as long as Muslims could practice their religion freely (and here, the devil was in the details), and a third, more nuanced view that India under the British was neither, but should be characterized by a novel intermediary status.

The jurists offered various pieces of evidence to support their views. In offering their verdicts on the legitimacy of British Indian rule and Indian Muslim loyalty, notably, some ʿulamāʾ drew their conclusions from the friendly relations between the Ottoman Sultan Caliph and the British. One prominent Indian Muslim scholar named Mawlawī Faḍl ʿAlī (Moulvi Fazl Ali), for example, at a meeting held by Mawlawī ʿAbd al-Laṭīf's (Moulvi Abdul Latif) Muhammadan Literary Society of Calcutta, argued that because the 'Sultan of Turkey' was the greatest Muslim ruler and Caliph of all Muslims in the world, the fact he enjoys cordial relations with the British thus rendered militant *jihad* against the British government unlawful. This was the consensus of the meeting, attended by such other influential Indian ʿulamāʾ as Moulvis Karamat ʿAlī, ʿAbd al-Ḥakīm, Muḥammad ʿAbd al-Rāʿūf, and Shaykh Aḥmad Efendi Anṣārī.[266] Needless to say, such meetings and pronounced verdicts of legitimacy were probably quite pleasing to the British Indian government. If they hailed from a somewhat stretched interpretation of Islamic law, they nonetheless spoke volumes to the value of the Ottoman Sultan's friendly relationship to the British, and the influence he could have over Indian Muslims. This was not a lesson lost on the British—they would again refer to Ottoman influence among Muslims outside Turkey in the Afghan conflict of 1877-1878, a development of unintended consequences we will return to at the end of this chapter.

While it is clear from Özcan's study of Ottoman correspondence in the nineteenth century that the Porte did not consider India to be *Dār al-Ḥarb*, things were not so straightforward for Indian Muslims who had to deal with the interventions of British rule everyday. In fact, because of the tremendous consequences, this very question stoked vigorous debate among ʿulamāʾ in India, irrespective of Ottoman-British relations at the time. In spite of their deep respect for the Sultan and their Turkish coreligionists, and the impact of Ottoman ulemaʿs stance on the British, by no means did Indian ʿulamāʾ take the Ottoman stance for granted. It did strike many as more of a political compromise and realpolitick, than a bona fide juridical opinion. For these reasons the debates about the status of British India never entirely disappeared, and indeed continued for the rest of British rule with considerable ebbs and flows, tending to flare at times of political conflict, such as the aftermath of 1857, Russo-Ottoman war of 1877-1878, and most of all, World War I. As Barbara Metcalf has observed, "The ambiguity of the *fatawa* on the status of British India derived in part from the lack of clear consensus within Hanafi law on what constituted *daru'l-harb*, and beyond that, from the very complexity of the situation that ʿAbd al-ʿAzīz faced."[267]

---

[265] Ibid.

[266] Ibid., citing *Abstract of the Proceedings of the Mahomedan Literary Society of Calcutta* (Calcutta: 1871).

[267] B. Metcalf, *Islamic Revival in British India*, 50-51. Here it is worth noting that as avowed revivers of Islamic legal orthodoxy, several of these militant groups of the era at the very least professed to observe stringent conditions, drawn from classical Islamic law, governing the waging of war in India. The main conditions included an inability to freely observe Islamic rites of worship, but also, crucially, an adjacent Muslim county must have been seen as bearing sufficient power to make such war practicable (Afghanistan time and again would become crucial in this regard). Ibid. Notably, the stringent conditions of classical Islamic law on warfare, including prohibitions on

We will return to the debate over British India's status as Dār al-Islām versus Dār al-Ḥarb in Chapter 4, with the revival of this question in the context of the post-World War I Indian Khilāfat Movement. Taking a step back from the usual historiographical preoccupation with Indian Muslim militancy under the Raj, it is important to discuss the efforts and institutional legacies of Muslims in a realm far more lasting and significant, and which we started this section: education. The most influential Indian Muslim institutions to emerge in northern India under the British Raj were the Dār al-ʿUlūm madrasah at Deoband, and Aligarh Muslim University. The Dār al-ʿUlūm of Deoband and the Aligarh Muslim University represented the two most prestigious and most prominent Indian Muslim-administered colleges of northern India under the British Raj. They are not the only ones, but among those that operated on a "For Us, By Us" model, they were preeminent, and not just in India, and we might say they were akin to India's al-Azhar and Oxford universities, respectively. Though they were by no means the only independent Muslim educational institutions in British India in the late nineteenth century, we will focus am focusing on these two institutions because they were the preeminent ones. They were also the most favored destination for elite Afghan families to send their children, but also, especially in the case of Deoband, for disadvantaged families and even orphans.

Founding India's "Azhar": The Establishment and Expansion of Deobandi Madrasas Across South Asia

Appropriately, a story of juridical roots explains the rise of south Asia's most famous Islamic law college: the madrasah at Deoband. In the eighteenth century, a certain Tafazzul Ḥusayn was killed in a family feud. Relatives of the deceased brought the issue to a British court, which failed to institute any punishment. Anticipating retaliation and fearing for the life of Ḥusayn's young grandson Muḥammad Qāsim in particular, the elders of the family sent young Qāsim as a child to Deoband, a small *qasbah* in the Upper Doab plateau, about 90 miles from Delhi.[268] While in Deoband, the young Muḥammad Qāsim housed with relatives and studied from several ʿulamāʾ in the town. In 1843, the eminent teacher of Delhi College, Mamlūk ʿAlī (see previous section) returned from Ḥajj and took Muḥammad Qāsim, his own nephew, to Delhi to expand his horizons. There, Qāsim met Rāshid Aḥmad Gangohī , who had also gone to Delhi from the Upper Doab to study with Mamlūk ʿAlī. They excelled in their studies around Delhi College, Qāsim staying for five years and Aḥmad for four. Metcalf notes that they were probably private pupils of instructors at Delhi College rather than formally enrolled students, although through as they followed esteemed scholars like Mamlūk ʿAlī they shared in all its ambiance. Their teachers in Delhi recognized great potential in these youths to be religious leaders for the future generations of Indian Muslims at a time when much of that future was in doubt.[269]

---

harming civilians, women, children and the elderly, are a stark and painful contrast from the behavior of many proclaimed Muslim governments, and opposition groups, who have largely wholesale adopted the inhumane and dehumanizing "total war" strategies of modern warfare. For an oft-ignored and poignant historical-jurisprudential contrast hovering in the background of contemporary scholarship on "Muslim militancy" and "jihadis", see Frank E. Vogel, "The Trial of Terrorists under Classical Islamic Law," *Harvard International Law Journal* 43 (2002): 53-64.

[268] B. Metcalf, *Islamic Revival in British India*, 76.

[269] Ibid., 78.

In 1867, roughly two decades later, it was this precisely this group of students, having become scholars in their own right, who established the influential Dār al-ʿUlūm madrasah in the aforementioned town of Deoband, in Saharanpur district of Uttar Pradesh northeast of Delhi. Barbara Metcalf has produced the foremost academic study of the early history of Deoband in a western language, describing how a group of north Indian ʿulamāʾ, inspired by educational models adapted from Delhi College, founded their own modern educational institute in 1867 in the Upper Doab valley *qasbah* of Deoband. On the mission of the institution, she writes,

> The goal was to train a class of religious scholars dedicated to a version of Islam stripped of many customary practices deemed deviant. The curriculum was based on the *dars-e neẓāmī* developed at the Farangī Maḥāll in Lucknow in the 18th century, though with less emphasis on "rational" studies in favor of a thorough grounding in the Koran and Hadith.[270]

While the college aimed to preserve both Islamic values and Indo-Persianate culture through intensive studies the revealed Islamic sciences, or *manqulat*, of Qu'ranic interpretation, Hadith, theology (*aqīdah*), jurisprudence (*fiqh*), and spirituality (*taṣawuf*), the style of pedagogy and administration itself was novel. Deoband's founders Muḥammad Qāsim and Rāshid Aḥmad Gangohī, among other colleagues at the madrasah, preserved northern India's traditional commitment to the Ḥanafī school of jurisprudence, as well as the *Dars-i Niẓāmī* curriculum established by the ʿulamāʾ at Firangī Maḥal, but more remarkable is their instituting modern educational methods such as a centralized college campus with lecture halls and on-campus student housing, fixed curricula and syllabi, specialization by different faculty who lectured in specific fields, exams, grades, and prizes, a central library, as well as a printing press. Given their experience from Delhi College, there is little doubt this was a novel synthesis of administrative form learned at Delhi college, fused with the predominantly Ḥanafī-centric *Dars-i Niẓāmī* curriculum of the Firangī Maḥal tradition. Though bearing roots in both educational traditions, the result was not a hybrid, but something entirely new—the Dār al-ʿUlūm college at Deoband.

Another outstanding feature of the "Deobandi" tradition was its catalyzing effect on the proliferation of Urdu as a primary medium of instruction in northern Indian madrasas, but also as a lingua franca for the extremely heterogeneous Muslims of South Asia. While heavy emphasis was also placed on the more traditional pedagogical languages of Arabic and Persian, the adoption of Urdu as a lingua franca for Muslims of the Subcontinent, especially urbanized, highly-literate regions of communities in and surrounding Delhi, Lucknow, and Hyderabad, but even as far as Afghanistan, southern India, and Bengal.[271] Beyond Islamic religious and legal instruction, the Dār al-ʿUlūm madrasah at Deoband and its satellite campuses also served as a galvanizing movement of Islamic revival in the religious, civic, and juridical sense. Rather than espousing involvement in politics in British-controlled India, the institution encouraged a boycott of British courts and institutions to the extent possible. Financially, the founders of the Dār al-ʿUlūm madrasah were adamant of maintaining the college's independence from British

[270] Barbara Metcalf, "Deoband," *Encyclopaedia Iranica*, Vol. VII, Fasc. 3 (1994): 296-297.

[271] Ibid.

patronage, and grew famous for collecting voluntary donations from Muslims, from the most humble contributions of locals in the qasbah, to the Amir of Afghanistan.[272]

In the alternative to British educational and juridical institutions, they advocated a personal, individual re-attachment to Islamic values and adherence to the Shariat in personal life. Coupled to the strategy of boycotting British courts, Deoband also represented a preservation of not only Islamic law and religious values, but a preservation of the authority of ʿulamāʾ as the custodians of the Islamic juridical tradition and ultimate authority on Muslim legal affairs in India. At the same time, the loss of a Muslim sovereign in India—even a merely symbolic figure-head like the last Mughal emperor, Shah Bahādur Ẓafar II—was a palpable loss of pre-eminent that continued to traumatize the Muslim elites of northern India for decades to come. It was a loss they never quite recovered from fully. It also produced a sense of longing for a strong Muslim sovereign not only to legitimize Islamic institutions, but as a source of protection from the depredations of non-Muslim rule. So Indian Muslims continued to look for the iconic just Muslim ruler—in India, in Afghanistan, and in Ottoman Turkey. It was the latter two realms that proved to be the most consistent sources of looking up to for a Muslim sovereign for the remainder of the nineteenth century and into the twentieth century.

The north Indian madrasah at Deoband, then, is extremely important to our story in Afghanistan because the college represented perhaps *the* preeminent institution of learning for Afghan youth in the second half of the nineteenth century.[273] On the prestigious credentials of the Deoband seminary in Afghanistan, Ludwig Adamec writes, "Graduates of Deoband readily found teaching positions in Afghanistan where a madrasah of international reputation did not exist."[274] This is not to say it was always an "open-door" policy for Afghan students to train at Deoband; the college had a complex relationship with the rulers in Kabul, as they did with the British rulers in Calcutta and Delhi; restrictions most often came on the side of Afghan rulers who at times grew suspicious of the institution. Both Amir ʿAbd al-Raḥmān and King Amān-Allāh prohibited Deobandis from teaching in Afghanistan for certain periods of time, for example.[275] Conversely, at other times both Ottoman and Afghan rulers benefitted from the institution's Pan-Islamic reputation and extensive system of grassroots networks, as in the case of World War I and Amir Amān-Allāh Khan's independence campaign in 1919, to which we will return in Chapters 4 and 5, respectively.

---

[272] The outer gate of the college, evoking an unmistakeable imperial motif, was constructed with funds donated by the Amir of Afghanistan. B. Metcalf, *Islamic Revival in British India*, 11.

[273] Certainly, there was also the *Madrasah-i Shāhī* in Kabul, though the latter appears to have been a more selective institution connected to the Kabul court elite and notable Afghan families, relative to Deoband's comparatively more open and "public" character. More work is needed on the history of the Madrasah-i Shāhī in Kabul in general, however, before we can draw any firm conclusions here. It also goes without saying that as a staunchly Sunnī institution, and specifically strict adherents to the Ḥanafī school, the madrasah at Deoband was hardly a viable option for adherents to Shīʿī schools of law in Afghanistan. For the latter, Iran and Iraq presented the most prestigious options for higher Islamic learning, though India also had exceedingly well-endowed instituions of Shīʿī learning as well, most notably in Lucknow. On Shīʿī instittuions of learning in northern India in the eighteenth and nineteenth centuries, see Robinson, *The ʿUlama of Farangi Mahall*, 24-27.

[274] Adamec, Ludwig W. *Historical Dictionary of Afghanistan*. Metuchen: Scarecrow Press, 1991, 64.

[275] Adamec*, Afghanistan,* 64.

Like finances, the founders of the madrasah at Deoband were keen on keeping the institution aloof from politics, as a form of protection, if anything else. This reputation would begin to evolve with the aforementioned conflicts of World War I and Afghanistan's drive for independence. The college's reputation would have a mixed one during the Indian independence movement, in which many of Deoband's preeminent ʿulamāʾ opposed the Pakistan movement, such as Mawlānā Ḥusayn Aḥmad Madanī, while others migrated once the Muslim state was formed. The school has produced a prolific amount of scholars, and over 15,000 graduates since the founding of the mother institution in Deoband. The madrasah at Deoband has also branched into hundreds of affiliates across the globe, from Afghanistan to Bengal, and England to South Africa, and the closer to the contemporary period that we trace the original institution's history, the more difficult it is to say that a unitary *maslak* or method governs each affiliated institution.[276] Out concern in this dissertation, however, is the institution's pivotal role in juridical developments in Afghanistan at the end of the nineteenth century and beginning of the twentieth century, to which we will return to in subsequent chapters.

Founding India's Oxford: Sir Sayyid Ahmed Khan and the Muhammadan Anglo-Oriental College at Aligarh

If we venture a comparison and propose that the Dār al-ʿUlūm Madrasah at Deoband (est. 1867) represented an "al-Azhar University" of sorts for Indian Muslims in British India—in its premier status as India's top college of traditional Islamic studies administered by ʿulamāʾ—the we may be likewise tempted to describe the Muhammadan Anglo-Oriental College at Aligarh (est. 1875) as their "Oxford." The college at Aligarh, originally named *Madrasat al-ʿUlūm Musulmānān-i Hind*, was the brain-child and dream of Sir Sayyid Aḥmad Khan (d. 1898), one of the most prominent Indian Muslim thinkers, educational reformers, and political leaders of the nineteenth century.[277] Founded in 1875, the Muhammadan Anglo-Oriental College at Aligarh

---

[276] This is especially the case following the Afghan-Soviet war of the 1980s, when a particular radicalization of Deobandi madrasahs set in, especially in Pakistan and Afghanistan, where the role of militancy and an extreme sectarianism took on unprecedented proportions.

[277] For a brief biography of Sayyid Aḥmad Khan, one of the most influential Indian Muslim thinkers of the nineteenth century and founder of one particular strand of Muslim modernism in British India, see Francis C.R. Robinson, "Aḥmad Khān, Sayyid," *Encyclopaedia of Islam, THREE,* Gudrun Krämer, Denis Matringe, John Nawas, Everett Rowson, eds., Brill Online Edition (2013), available at http://www.encquran.brill.nl/entries/encyclopaedia-of-islam-3/ahmad-khan-sayyid-COM_23098. On Sir Sayyid's family history and birth, Robinson writes,

> Sayyid Aḥmad Khān (d. 1898), an Indian educational reformer, modernist religious thinker, and political leader, was born in Delhi on 6 Dhū l-Ḥijja 1232/17 October 1817. On his father's side his family were Ḥusaynī *sayyid*s, who came to India from Herat to serve the Mughals in the time of Abū l-Fatḥ Akbar (r. 963–1014/1556–1605), and from that time remained close to the royal family. His father, Mīr Muttaqī (d. 1838), a sportsman and Ṣūfī, was a courtier close enough to Akbar Shāh II (r. 1221–53/1806–37) to be referred to by him as "Brother Muttaqī." His mother's family claimed descent from the Ṣūfī saint Khwāja Yūsuf Hamadānī (d. 535/1140) of Merv; the family came to Delhi via KashMīr as traders in shawls. Sayyid Aḥmad's grandfather was Khwāja Farīd al-Dīn (d. 1828), the brilliant mathematician, principal of the Calcutta Madrasa, East India Company envoy to the Qājār court and the Burmese court at Ava, and reforming prime minister for Akbar II. This background of Mughal aristocracy and constructive involvement with the British was an important part of Sayyid Aḥmad's formation… No less important in Sayyid Aḥmad's upbringing was his mother, who was primarily responsible for his early education and the development of his character. Important, too, were his family's religious affiliations. His great uncle was a Ṣūfī saint; his father was a close disciple of Shāh Ghulām ʿAlī Dihlawī Naqshband (d. 1240/1824) and was

represented Sayyid Aḥmad Khan's vision of integration and upward mobility for Indian Muslims within the British colonial system. Like the Dār al-ʿUlūm Madrasah at Deoband, the Muhammadan Anglo-Oriental College grew out of the thought and work of Indian Muslims traumatized by the depredations of the aftermath of 1857. Like the founders of the Dār al-ʿUlūm Madrasah at Deoband, Sayyid Aḥmad Khan and the founders of the Muhammadan Anglo-Oriental College lamented the replacement of Persian with English in the British Indian Government's official administration and courts of law, mostly for the social and economic effects they knew it would have on Muslim elites as a class, especially in northern India. Unlike the Deobandis, however, Sayyid Aḥmad Khan espoused a staunchly pro-British and "loyalist" politics, arguing that because the British were now the supreme rulers of India and were there to stay, for Muslims to have any future in India they would have to learn English and excel educationally in order to compete successfully with their Hindu counterparts, who were already far surpassing them in schooling, employment, and public life. Unlike the Deobandis, Khan fervently encouraged Muslims to learn English and western sciences, and seek upward mobility in government jobs in order to promote the social and political interests of Muslim elites in British India.[278]

In 1864, Sir Sayyid's modernist vision and intellectual outlook manifested for the first time institutionally in the Scientific Society of Aligarh. A cultural and educational society, the organization was founded to translate major Western works of philosophy and science into Indian languages. The goal was not personal edification, however, but to prepare the ground for a broader reorientation of Indian Muslim society along British educational and occupational lines. Additional inspiration, and momentum, for the Muhammadan Anglo-Oriental College came from the return of Sir Sayyid's son, Sayyid Maḥmūd, from studies at Cambridge University in England. Sir Sayyid Aḥmad Khan had also visited Oxford and Cambridge, but it was not until the son's return to India from England in 1872 that a detailed proposal was penned for an independent Muslim university which employed the best of British educational and administrative models with the spirit and content of Islamic social values. This aspect of synthesizing British educational models with the goals of "Muslim education" is yet another similarity with the madrasah at Deoband.[279]

Together with the opposing modernist perspective of Sayyid Aḥmad Khan, and the reliance on funding from the British government as well as prominent loyalist Muslims like the Agha Khan, however, the points of divergence between the two landmark institutions become obvious. Originally affiliated with the University of Calcutta, and subsequently Allahabad University in 1885, over the next two decades the college would evolve into a full-fledged public university, including a school for young women, a university magazine (*The Aligarian*), a law school, and a vast network of alumni institutions. In 1920 the college's name was officially

---

buried at the foot of his master's grave; and his mother's family were all followers of the family of Shāh Walī Allāh al-Dihlawī (d. 1176/1762).

In this way, Robinson concludes, Sayyid Aḥmad was brought up "in the heart of the North Indian reformist tradition." For a longer, more detailed account on Sir Sayyid and his movement, see David S Lelyveld, *Aligarh's First Generation: Muslim Solidarity in British India* (New Delhi: Oxford University Press, 1996).

[278] Lelyveld, *Aligarh's First Generation*, 71-81, 106-119; Hardy, *The Muslims of British India*, 94-103.

[279] Ibid.

changed to Aligarh Muslim University, and until this day remains a top-ranked research university with a large 1000-plus acre campus in the city of Aligarh, Uttar Pradesh.

– • –

As perhaps expected with prominent institutions of higher education in close vicinity to one another, an intense rivalry emerged among these two institutions. The rivalry between Deoband and Aligarh stemmed not from simply being the top two Muslim educational institutions in northern India, however. The rivalry did not stem from academic competition per se, but rather their institutional visions of Islam in the modern world and their visions for the future of the Indian Muslim community. Nor was the rivalry limited to the Muslims of India. As we will return to in the subsequent chapters, in the context of Afghanistan, Deoband and Aligarh trained some of the country's most successful students, including some of its greatest jurists who would eventually serve on prominent lawmaking commissions, including the first Afghan constitution and Niẓāmnāmā codes of Amān-Allāh Khan.

V
A BELIEF IN BETTER:
OTTOMAN JURIDICAL TRANSFORMATION BEFORE AND AFTER THE TANZIMAT

Muddying the Master Narratives of Decline and Westernization

Middle East and Ottoman historians have long described a "decline" of the Ottoman empire as setting in sometime in the seventeenth century. Academic works popular in the mid-to-late twentieth century such as Bernard Lewis's *The Emergence of Modern Turkey* (1961), Roderic Davison's *Reform in the Ottoman empire, 1856-1876* (1963), and Stanford Shaw's *History of the Ottoman Empire and Modern Turkey* (1976) offer similar narratives of linear decline followed by modernization inspired by invigorating contact with the West, framing religion as a backwards, toxic influence on modernist trends; emphasizing the "penetration" of western ideas. Modernization theorists such as Davison frame decline as inevitable, describing Ottoman rulers as utterly incapable, unable to stem the tide of minority nationalism and linear progress of secular modernity. A host of reasons are given for Ottoman decline, from the cultural to structural. Arguments of Muslims' cultural inability to adapt have been largely debunked by recent scholarship, bringing the focus to economic and political structural weaknesses and a process of *transformation* in the wake of unprecedented challenges, rather than a 250-year "decline" contemporary historians have rightly described as ludicrous. These challenges include the vested interests of Ottoman ʿulamāʾ and provincial notables in resisting state centralization, increasing debt to European powers, and independence movements of provincial rulers.

For the next generation of Middle East historians, the power struggle *behind* these reforms tended to catch their attention more than the actual proclamations. Şerif Mardin notes in this regard, "Because modernization meant changes in the practices of the Ottoman state and because it involved the relinquishment of the idealized picture of these practices, it was a process full of protests, reprisals, convulsions, and revolutions."[280] The conventional historiographical

[280] Şerif Mardin, *The Genesis of Young Ottoman Thought: A Study in the Modernization of Turkish*

picture has been one of a "westernized" and secular" Ottoman bureaucracy struggling to impose reforms on vested interest groups in the empire, in particular the ʿulamāʾ and madrasah students, the Janissaries, and at times, the sultan himself.

Similarly, a new approach taken by the next generation of scholars was to historicize the Tanzimat reforms of the nineteenth century While Middle East historians writing in the mid-twentieth century tended to track the beginning of the Tanzimat with the proclamation of the Charter of Gülhane—itself presented as an imitation of European, especially, French administrative models—more recent generations of historians have studied the Tanzimat not as a spontaneous outcropping, but rooted in earlier attempts to restructure the Ottoman state to meet economic and military challenges beginning in the eighteenth century. As Şerif Mardin has endeavored to show, the Tanzimat did not spring from thin air. Rather, Sultan Abdülmecid's predecessors had laid the foundations, and in particular, a reliance on top-down codification as the means to effect social change.

> The hoary Ottoman bureaucratic tradition had, by the time the Tanzimat reforms were initiated, created a fund of secular legislation and legislative practice. This predisposed the builders of the Tanzimat to visualize statutory regulations as the lever which would ensure the implementation of their plans. The Tanzimat was thus characterized by a flood of statutes, regulations, laws and by-laws.[281]

This was "social engineering through law" at its highest point in Ottoman legal history. Between 1839 and 1868 a flood of institutional changes known as the "Tanzimat" reforms were proclaimed, building on the foundation constructed by Sultan Maḥmūd II, while following the direction of the Charter's proclamations, all the while utilizing the means of drafting and ratification of state codes. Mardin summarizes a number of the prominent reforms as follows,

> In 1840 a code of penal laws was promulgated. In 1845 an assembly of provincial delegates was gathered in the capital to impress them with the seriousness of the reform program. In 1847 modern secular criminal tribunals were established. In 1850 a secular code of commerce based on European practice was promulgated. In 1840, 1854, 1861, and 1868 the governmental mechanism first created by the establishment of the Meclis-i Vâlâ was recast. In 1856 an Ottoman bank was established. Between 1845 and 1868 education was almost completely secularized. After 1856 new regulations regarding the Christian subjects of the empire were made. In 1861 a secular code of commercial procedure was adopted. In 1864 a new law of provincial administration was put into effect. In 1867 foreigners were granted the right to own property. In 1868 a new *lycée* was established where teaching was to be in French. Progressive steps were taken to secularize pious foundations these years.[282]

At the heart of the Ottoman reforms was a growing recognition of structural weaknesses in the state than needed reordering. Historians argue that the primary impetus for restructuring reforms was the series of humiliating military defeats on the battlefield and oceans, beginning in

---

Political Ideas (Syracuse: Syracuse University Press, 2000), 136.

[281] Ibid., 114.

[282] Ibid., 162-163.

the very end of the seventeenth century and continuing through the eighteenth. As Mardin relates,

> At the core of the process of Ottoman modernization lay a problem of military policy: continued military defeats and losses of territory stimulated the Ottomans to look for the factors underlying Western military superiority. As early as the seventeenth century Ottoman statesmen had become aware that the administration of the empire left a great deal to be desired."[283] But "[I]t is only in the eighteenth century and in relation to military reform that the connection was established once and for all between *reform* and *Europeanization*.[284]

The conventional narrative that Ottoman defeats on the battlefield led to a renewed vigor in the ongoing pursuit of administrative reform (read: centralization) in other areas is likely accurate in the sense of the dramatic nature of territorial loss as a galvanizing psycho-social contributor. It was not, however, the only factor. A related issue was the crisis of revenue that was plaguing the state and infecting other areas. The end of conquest produced unprecedented challenges for the Ottoman state. Without the riches of new lands and taxable populations that came with expansion and conquest, no longer could the Ottoman empire acquire lucrative new tax revenues and distribute new lands to loyal servants. As İslamoğlu has argued with regard to the curtailing of Ottoman imperial expansion prompting a need to find new means of revenue, the answer came in the form of maximizing taxation and increasing efficiency of the administration *within* the empire (a theme we will return to shortly). Other scholars cite the role of vested interests as obstructionist forces in the success of Ottoman reforms. In particular, these historians refer to Ottoman ʿulamāʾ, provincial notables, and the janissaries.[285] Chambers, for example, proceeds to write here that,

> The ʿulamāʾ were an exceptionally privileged and powerful estate in traditional Ottoman society. As members of the ruling askeri class, they were exempt from taxation. Unlike their fellow askeris in the civil and military bureaucracies, they had never had the status of 'slaves of the Porte" (kapikullari) and thus their personal estates were not subject to confiscation by the state upon their deaths but could be passed on to their heirs. Their financial position was further

---

[283] Ibid., 134-135.

[284] Ibid., 135. Mardin notes that two aspects must be kept in mind here:

> First, the shock experienced by the Ottomans when they realized the empire was declining, and especially the trauma caused by the continuous reverses which they suffered in the late eighteenth century, was a very severe and painful one. This was so because the ideology of conquest was part of a religious belief—the belief in war as a means of propagating Islam; because, in addition, territorial expansion had played such an important part of the founding of the Ottoman empire; finally, because losses of territory meant losses of revenue at a time when Ottoman statesmen were also highly concerned with the process of economic decline and fiscal inefficiency. The horrified realization of Ottoman regression constituted the motive force behind all Ottoman reform movements and eventually provided the impetus that drove the Young Ottomans to act.
>
> Ibid.

[285] Keddie 1972, 2-3.

> strengthened by the vast religious endowments (evkaf) which they supervised and administered.[286]

Richard Repp writes that, ironically, the unsurpassed centralization of the ilmiye class by the Ottoman government carried its own set of problems.

> While the organization of the learned hierarchy thus at least for a period worked to the advantage of the state by providing it with a steady supply of well-trained scholars, the simple fact of the thoroughgoing organization of the ʿulamāʾ carried with it the seeds of considerable trouble for the state. . . [T]he definition of success in the learned field in terms of money and power, a definition implicit in the very process of establishing a graded hierarchy, created the climate for precisely the sort of corruption—the sale of offices, the nepotism, and so on—that afflicted other governmental institutions.[287]

By the eighteenth century, Repp notes, the ʿulamāʾ, as an establishment, became an entrenched corporate group invested in the current social order and thus poised to contest and change to the internal balance of power. Another group also based in the capital, the Janissary corps, served as another bulwark force that opposed the centralizing measures. This was largely because Janissaries expressed social grievances and aligned with the poor and conservative ʿulamāʾ against the reformist sultans and Porte. As Mardin notes in this regard,

> In this case the primary antireformist impetus came from janissaries who were feeling, in terms of irregular pay, the effects of the general economic decline of the country. Allied with the janissaries were the poorer classes of the capital. In revolting, the janissaries expressed social grievances but also their disgust with the luxurious life led by Ottoman officials and specially with the Western forms that this luxury had taken. The common people of the capital did not see any connection between the appreciation of tulips and the answering of their daily problems.[288]

At certain points the janissaries became so strong that Sultan Ahmed III was forced to abdicate due to rebellion by janissaries in the capital. His "Westernizing" vizier was executed and his body paraded through town."[289] The important point here is that any one group would have been insufficient to check the power of the Sultan and Porte. It was the Janissary-ʿUlamāʾ nexus that proved so powerful during the Ottoman centuries. Here, Richard Repp makes the following pertinent comment on the Ottoman ʿulamāʾ, though somewhat over-generalized, as a social class in the empire.

> Like the Janissaries, moreover, they had become an enormously powerful, conservative pressure group within the state, with a vested interest in maintaining the status quo. Ironically, it was the very cohesiveness created by the hierarchical structure, which had yielded great benefits to the state in the sixteenth century, particularly in the administration of law, which from at least the

---

[286] Chambers in Keddie, 33

[287] Repp, 30

[288] Mardin, *Genesis of Young Ottoman Thought,* 139.

[289] Ibid., 138-139.

eighteenth century on lent such power to the efforts of the ʿulamāʾ to block often necessary reforms and innovations.[290]

Another key issue for the reformists, that was seen to be linked to political malaise and the stronghold of ʿulamāʾ, was the declining state of Ottoman education. This has been interpreted by historians to be an especially acute problem in the empire given that "Before the Tanzimat," as Mardin notes, "judges and jurists, professors and teachers, doctors and healers, priests and mystics, mathematicians and logicians, astronomers and astrologists, musicologists and librarians and, to a much lesser degree, administrators and officials originated almost exclusively in the so-called 'learned institution,' the *ilmiyye*."[291] Recent historical scholarship on the ʿulamāʾ from South Asia to the Middle East, however, has debunked the narratives of linear decline and reliance on Western contact as a spark for reform.[292] What the older narratives ignore are two aspects: first, that reform was an ongoing process in continuation long before western hegemony, and secondly, that inter-state competition drove the Ottomans to constantly adapt and innovate new institutions to compete. We will now examine this history through the lens of a hallmark of modern statecraft—the codification of law in the Ottoman empire.

The Motivation for Codification: Analyzing Ottoman Modernization through Codes

Nineteenth century Ottoman society witnessed the promulgation of a host of Ottoman codes designed to streamline the administration and homogenize law in the empire. These included Public, Constitutional, Administrative, Penal, Trial, Financial and International Law.[293] Most notable among these were the Ottoman Land Code of 1858 (Arazi Kanunnamesi), a Code of Commercial Procedure (1861), and the Code of Provincial Administration (1864) (Vilâyât Nizâmnâmesi). These new Ottoman codes differed from the earlier "codes" such as the Kanunnames of Süleyman, *Mulṭaq al-Abḥur*, and most notably the late Mughal empire's *Fatāwā-yi ʿĀlamgīrī* in that the new Ottoman codes were numbered articles of law that stated the authoritative position in mostly but not strictly Ḥanafī jurisprudence, rather than a compilation of different opinions or simply sovereign dictates. While it would be inaccurate to characterize compilations such as the *Fatāwā-yi ʿĀlamgīrī* as modern law codes—they did not become a singular reference for an area of law to the exclusion of other sources of law—nonetheless these compendiums' influence on the formation of Islamic law in late Mughal rule, and late Ottoman rule, is vastly understudied. As embodied in the *Fatāwā-yi ʿĀlamgīrī*, the idea of a comprehensive restatement of the most authoritative Ḥanafī positions laid the groundwork for subsequent Islamic codes of law in fellow Ḥanafī jurisdictions.

Since the production of the *Fatāwā-yi ʿĀlamgīrī* in India in the late seventeenth century, a document that Ottoman ʿulamāʾ and bureaucrats consulted in their own juridical practice,

---

[290] Repp, 32

[291] Şerif Mardin, *Religion and Social Change in Modern Turkey: The Case of Bediüzzaman Said Nursi*. (Albany: State University of New York Press: 1989), 105-06.

[292] The best recent example is Muhammad Qasim Zaman, *The Ulama in Contemporary Islam: Custodians of Change* (Princeton: Princeton University Press, 2002).

[293] Ahmet Akgündüz's has compiled an opus of Ottoman Islamic codes from the beginning of the empire until its collapse following World War I in *İslâm ve Osmanlı Hukûku Külliyâtı* (2011).

Muslim and non-Muslim sovereigns offered several reasons for issuing a new comprehensive codes of law.[294] And they, perhaps, harbored even more unpronounced motivations. Some of the announced motivations included: simplifying judicial procedure, the problem of uneducated and low quality judicial personnel including judges, to homogenize the legal order and thereby prevent "arbitrary" local rule and abuse of authority, render the unfamiliar familiar (as in legality per Tomlins), control ʿulamāʾ, provincial notables, and tribes, as well as "announcing" the law to Ottoman subjects and Europeans alike. Ironically, these were shared motivations between centralizing states across religious divides, including the British and French empires and even settler colonialism of early America.[295]

To begin with the latter example, Chris Tomlins has argued that the struggle to rid juridical strangeness and cultivate familiarity in a new land was an operational force behind the production of early American law. Far from the detached and impartial professionalism that was constructed to characterize the early Anglo-American law in earlier U.S. legal historiography, Tomlins notes there was an extra-legal "instrumentality in English attempts to colonize the landscape—to give it system, regularity, purpose, familiarity."[296] Here Tomlins explains how the act of English settlers invoking English law in the new world enjoyed cultural legitimacy because these laws were grounded in familiar conceptions of private property derived from usage of a bounded territory to the exclusion of others. Written, compiled, and/or codified law therefore became the means to legitimate the very project of colonization and its associated expropriation of land for exclusive use by the settlers.

There is a related administrative imperative at work here that transcends the production or transplantation of juridical legality in new frontiers by individual colonial settlers: the drive to make society more legible to a centralizing state. In this way, the production of familiar legalities for newly conquered foreign territories, or expanding the reach of the central government over its own territory, becomes a shared imperative for a broad and diverse range of imperial actors in the early modern and modern eras. From the Ottoman administration of its easternmost provinces in Mesopotamia to the extension of Mughal writ over the Deccan plateau in southern India, and from British and French imperial rule in India and north Africa, respectively, to English settlers in north America, a common juridical exercise emerges in the form of codification of law. To quote Tomlins' elegant prose, this exercise was "the struggle to transform strangeness into familiarity and to fix authority on the outcome, so that henceforth that outcome would prevail and no other."[297]

---

[294] On the *Fatawa-i ʿĀlamgīri* being consulted by Ottoman jurists, see Özcan, *Pan-Islamism*, 8-9.

[295] For a brief overview of European projects to codify Islamic law and/or impose codes of their own production on native populations of the Arab and Muslim world in the nineteenth and early twentieth centuries, see Wael Hallaq's chapter "Colonizing the Muslim world and its Shari'a," in Hallaq 2009. For British India, see 85-89; for Dutch Indonesia, see 89-93; and for the French in Algeria see, 110-114. For a more in-depth study of codification in British India, and Jones' juridical project and the roots of "Anglo-Muḥammadan" law in British India in particular, see Bernard Cohn's excellent chapter, "Law and the Colonial State in India," in *Colonialism and its Forms of Knowledge: The British in India* (1996). For French Algeria, see Christelow, Alan. *Muslim Law Courts and the French Colonial State in Algeria*. Princeton: Princeton University Press, 1985.

[296] Christopher Tomlins, "The Many Legalities of Colonization: A Manifesto of Destiny for Early American Legal History," in Christopher L. Tomlins and Bruce H. Mann, *The Many Legalities of Early America* (Chapel Hill: University of North Carolina Press, 2001), 15.

[297] Ibid., 4. That English settlers in America emerged from a "common law" jurisdiction—where the power of precedent is arguably venerated more than any other—makes the aforementioned imperial dimensions of

It is often wrongly assumed, therefore, that beginning in the nineteenth century the Ottoman empire simply borrowed and imposed modern laws in imitation of European mentors. But this is ignoring the fact Ottoman jurists who drafted the 1858 Land Code, the Mecelle, and the Constitution of 1876 drew from Islamic sources. They also ignore that there were shared modern impulses driving codification projects from Western Europe to the Ottoman and Mughal empires and China as early as the seventeenth century. Huricihan İslamoğlu and Roger Owen have instead proposed an alternative, more comparative historical view that focuses on a global "great transformation" that transcended East and West.[298] There is some historical detangling—and de-otherizing—necessary in order to see the parallel processes and similarities at work in these disparate historical regions and after decades of scholarship grounded in eighteenth-nineteenth century Orientalism and twentieth century modernization theory. As Huricihan İslamoğlu has observed,

> The liberal world view was inseparable from a vocabulary of European domination over non-European areas in the latter part of the nineteenth century and in the twentieth century. This vocabulary represents the dichotomous perception of social reality… between Europe (the West) and non-Europe (the East). Thus, European history is cast as the privileged domain of exchange of private property, of circumscribed state presence, and of the rule of law. Non-European history, by contrast, describes a sphere of stunted commercial development or economic stagnation, of despotic states, and of the absence of rule of law.[299]

To understand the contours of the great transformation of the eighteenth and nineteenth centuries, it is necessary to offer some remarks on what preceded it. The Ottoman empire developed during the fifteenth and sixteenth centuries in competition with other states in central Europe and the Balkans in the west and Anatolia and Persia in the east. The strength and survival of the state greatly depended on its ability to exploit land-based sources of revenue

---

"announcing the law" by the transplantation of English law, or the codification of "native" law, all the more salient. As we will explore further in Chapter 2 and 3, the imperial dimension behind codification was taken to new heights in the British East India Company, and later British Raj's colonial administration of India.

[298] İslamoğlu argues for a "great transformation", which "signalled re-orderings of social realities and represented radical ruptures with what had been before." "The formation of centralised leviathans," notes İslamoğlu, "remained the centrepiece of the experience of worldwide modernity in the nineteenth century and most of the twentieth century." Ibid., 28. On the great transformation, İslamoğlu elaborates as follows,

> [O]ne could talk about the 'great transformation' as one of multiple state transformations that signaled the reordering of social realities and that represented radical ruptures from what had been. These transformations and the formation of the centralized leviathans that originated in the context of interstate competition in Western Eurasia and were subsequently generalized to other world areas (through exigencies of European colonial rule as well as resistance to that rule) remain the single most important agency in the constitution of the 'order of the market.' On the one hand, examination of the orderings of social reality by centralized states and of the categories in which these orderings were cast may point to a history widely shared by different world regions, cutting across the East/West divide.
>
> Ibid., 14.

[299] Huricihan İslamoğlu, "Propety as a Contested Domain: A Reevaluation of the Ottoman Land Code of 1858," in Roger Owen, ed, *New Perspectives on Property and Land in the Middle East* (Cambridge: Harvard University Press, 2000), 6.

urgently required to build and support cavalry-based armies. In the sixteenth-century environment, Huricihan İslamoğlu explains, this primarily meant territorial expansion.[300] In this early modern context, internal politics was marked by a pattern of exchange of revenue entitlements for political allegiance. Here the state was represented by the figure of the just ruler. "Justice" translated as the ruler's ability to ensure order and protect the population (from both external attack and internal social strife), as well as foster a basic level of subsistence and protection from oppression (*zulüm*) of state officials or landowners, provided a coherent standard of legitimacy and justice to an otherwise diverse patchwork of social, political, and economic practices of statecraft. In this premodern juridical field, court "judgments" should more accurately be described as results of negotiations which the judges mediated, rather than unilateral "decisions" of a supreme authority. Meanwhile from the top, administrative rulings cast as the ruler's *kanun*, or *kanunnames*, appropriated usages of local customary practice along with the ruler's attempt to maximize revenue, therefore representing a truly negotiated settlement and accommodation among multiple competing parties.[301]

What was the role of Ottoman judges in this conception of justice? Until the nineteenth century, rather than detached and distance bureaucrats coldly applying rules of law, judges were largely power-brokers negotiating between the central government's financial imperatives and local populations. As İslamoğlu notes, they did not exactly conform to an image as devoted state servants. But beginning in the nineteenth century, as part of a modern struggle to maximize efficiency, Istanbul sought to replace local judges who often became enmeshed with local power networks (no matter how often the central government rotated them). This new class of bureaucrats and councils were to homogenize, centralize, and standardize the myriad local negotiated settlements into standard codes implementing procedures and rules dictated from Istanbul.[302]

According to Huricihan İslamoğlu, the transformation of Ottoman landed property relations took place in a larger context of inter-empire competition, and was parallel to similar transformations taking place in Europe and for similar reasons. Before the nineteenth century, the Ottomans practices a "distributive-accommodative" mode of governance in which Istanbul distributed newly conquered lands to loyal groups and negotiated property rights on a highly individuated, case-by-case basis with diverse groups that divided up usufruct rights and tax revenues among different holders.[303]

But once territorial expansion trickled to a slow in the eighteenth century, argues İslamoğlu, policies of "internal consolidation" replaced those of territorial expansion and maximizing efficiency became the name of the game for the Ottoman center. The rapid succession of territorial losses in the eighteenth century was indeed a shocking turn of events for many Ottomans. Early twentieth century Orientalists largely conceived of the "Ottoman decline" thesis from these series of turnarounds, and the gloomy *nasihatnames* that some

---

[300] Ibid., 15

[301] Ibid., 16

[302] Huricihan İslamoğlu, ed., *Constituting Modernity: Private property in the East and West* (New York: I.B. Tauris, 2004), 284-285.

[303] Ibid.

Ottoman statesmen wrote about the conditions.[304] But what the decline thesis misses is the agile response of the Ottoman government to meet this transformation at hand. In the realm of property relations, the central government now sought to establish a unilateral, singular, and supreme claim to revenues on land to the exclusion of all other local power holders.

> Unable to expand outward, the central government turned inward to establish control over the revenues that had formerly accrued to the members of the ruling bloc. This was a long drawn-out process of incessant struggle between the central government and the members of the religious establishment, provincial notables, and the old-guard military establishment.[305]

One of the crucial phases in the "drawn-out process of incessant struggle" described above was the "recasting" of a premodern landed property system in which revenue grants distributed by the central government following conquest were transformed into lifetime tax-farm assignments. Releasing rural land from the premodern "web" of revenue claims allowed for land to be reconstituted as a legally recognized 'thing" that could be possessed and owned by an individual owner, who would then be responsible to the state for payment of tax on that land.[306] İslamoğlu explains the subsequent nineteenth century transformation from tax farming to individualized property ownership in more detail as follows,

> The practice of tax farming involved large cash advances made to the central government by the tax farmers in return for the right to collect taxes from a given region; its preponderance coincided with commercial expansion in agriculture. From the point of view of the central government, it also represented an attempt to accommodate as tax farmers those provincial elites that were not part of old distributive networks. In so doing, the central government sought to weaken the hold of old elites over land while, at the same time, increasing its share of agrarian revenues. In the nineteenth century, with the crystallization of a central army and a central bureaucracy, the government undertook new orderings of property relations on land. These orderings aimed at establishing the general claim by the state over revenues to the exclusion of the entitlements of the different groups (including the ruler and his entourage) that formerly constituted the ruling bloc (including tax farmers). At the same time, the central government sought to subject these groups to taxation, thus abolishing their privileges in the form of tax exemptions.[307]

There was additional factor at play here, as well—the role of commercial expansion. This phenomenon pushed state planners to not only seek to increase taxation revenues, but also increase productivity and produce more wealth. Gathering wealth through taxation began to be viewed in more intensive terms—the Ottoman state began to immerse itself in the regulation of

---

[304] For example, see Rifat Abou El-Ḥajj's discussion of the *Nasihatname* literature in Abou-El-Haj, Rifa'at 'Ali. "The Ottoman *Nasihatname* as a Discourse over 'Morality'," in *Melanges, Professeur Robert Mantran*, ed., Abdeljelil Temimi (Zaghouan: Centre d'Etudes et de Recherches Ottomanes, 1988); and *Formation of the Modern State: The Ottoman empire, Sixteenth to Eighteenth Centuries*. Syracuse: Syracuse University Press, 2005.

[305] İslamoğlu, "Propety as a Contested Domain," 19-20.

[306] Roger Owen, ed., *New Perspectives on Property and Land in the Middle East* (Cambridge: Harvard University Press, 2000), xv.

[307] İslamoğlu, "Propety as a Contested Domain," 19-20.

economic activity to increase productive capacity, which would result in an expansion of taxable incomes.[308] This new obsession with the economy was reflected in new standards of bookkeeping, censuses, and judicial practices.[309]

To this end, beginning in the 1830s, the Ottoman central government began preparing new systems of statistics on its populations, included censuses, income registers and cadastral surveys. İslamoğlu notes that a group of *Temettuat* registers, or registers of income-yielding assets, compiled sometime between 1840 and the first in a long series of land and property registers of the nineteenth century.[310] In sum, the Temettuat registers not only counted numbers of individuals and income levels, but actually developed a system of classification using categories that defined different actors on the land in relation to the singular claim of taxation of the central government.[311] This aspect of the central state's claim to centralize and homogenize and reconstitute property relations has been examined in depth elsewhere James C. Scott in *Seeing Like a State* (1998), where he described the pre-modern state as "partially blind" and "legibility" as a central feature of modern statecraft.[312]

But if the nineteenth-century intellectual and political climate was characterized by two imperatives of modern state domination—increased taxation and economic growth—the most significant transformation was realized through a new reconstitution of land ownership in individual form.[313] The individuation of property relations was not an end in itself. It was directly tied to the central government imperatives of increasing the tax base. On a related note, taxes were no longer collected on a collective, village-level basis. As İslamoğlu shows in her study of Ottoman rural land registers from 1840 to 1845, the turn to individual tax burdens is evident in the presence of entries of multiple taxpayers in a single household, let along village, in 1845. This was in contrast to the practice of one entry per home in 1840.[314] A related practice which aided in the central government's legibility drive was the assigning of numbers to properties, as in modern addresses.

Beyond the individuation of tax-paying in the empire, the transformation of property relations involved the simplification and conversion of property from a complex web of relations involving multiple rights and diverse parties into "a 'thing' to be owned, exchanged and taxed on its income."[315] İslamoğlu describes this process as a modern "disentangling" of land from the

---

[308] Ibid., 21.

[309] It should also be noted that while several European states increasingly resorted to colonial conquests in Asia, Africa, and the Americas to meet the new revenue requirements—a strategy of raw plunder that the Ottomans for complex historical reasons, largely did not resort to—here is an additional difference from Ottoman imperial rule. Ibid., 21.

[310] İslamoğlu, *Constituting Modernity,* 296.

[311] Ibid., 297.

[312] James C. Scott, *Seeing Like a State: How Certain Schemes to Improve the Human Condition Have Failed* (New Haven: Yale University Press, 1998). See also Huricihan İslamoğlu's discussion of Scott in the context of the nineteenth century Ottoman empire in İslamoğlu, *Constituting Modernity,* 276-277.

[313] İslamoğlu, *Constituting Modernity*, 288.

[314] Ibid., 297.

[315] Ibid., 298.

intricate web of premodern property relations. The new goals of individualizing and homogenizing property relations in order to make rural areas "legible" to the state are also evident in the Ottoman government's adoption of new, more precise and replicable terms of measurement in the land registers. For example, the *çift*—a unit of measurement marked by its plasticity and variability in different locales, was replaced by the more standard *dönüm* (919.30 square meters).[316] Unlike the *çift*, the latter was an areal unit of measurement that would assist in the job of uniformizing measurement schemes and land registries.[317]

In summary of the motivations that pushed for the production and establishment of an Islamic land code that would reconstitute property relations in the empire, İslamoğlu writes,

> Three concerns that were central to the process of state centralisation can be said to have motivated the administrative constitutions of individual ownership. The first concern relates to fiscality or the channeling of all tax revenues to the coffers of central administrations and the elimination of revenue claims of former ruling groups. Individual ownership recast property relations in land in terms of the singular claim of the central state on tax revenues and in terms of the absolute claim to access by the owner to the exclusion of multiple claims to land use. This enabled the appropriation of tax revenues by the central administration not solely through its elimination of other claimants to taxes, but also through its simplification of multiple claims to land use facilitating central administration's access to revenues.[318]

Cevdet Paşa: From Madrasa to the Mecelle

The earlier history of a "great transformation" in the eighteenth and nineteenth century Ottoman empires is extremely important for understanding similar processes at work in the state centralization and (attempted) "great transformation" of another Muslim state—Afghanistan in the late nineteenth and early twentieth century, to which we turn to in the next chapter. While I have presented an abridged version of extremely complex and drawn-out historical events covering multiple centuries above, it is also important to recognize that profound structural shifts as those of the "great transformations" of the eighteenth and nineteenth centuries were not complete, nor inevitable, processes. Rather, contestations continued even during and after the Ottoman law codes of the nineteenth century, beginning with the Land Code of 1858. But what is crucial to recognize is that the discursive terrain had in the meanwhile changed. While contestations and negotiations continued, they were to be largely carried out in the language of the codes, or through the bodies of the commissions. And this was exactly the context in which Ottoman "transitional" statesmen like Ahmed Cevdet Paşa emerged, seeking as they did to co-opt the language of juridical confrontations to ones embodied in the state codes which they drafted.

In this way our genealogy of modern Islamic legal codification really begins in Istanbul during the mid-nineteenth century, when an embattled Ottoman empire faced an increasing number of revolts and separatist movements from within and an ever-present threat of Russian expansionism from without. Complicating matters further for the Porte, the Istanbul-based Ottoman government faced the additional hurdle of rapidly escalating debt to British and French

---

[316] Ibid., 295, 299.

[317] Ibid., 299.

[318] İslamoğlu, "Propety as a Contested Domain," 11-12.

creditors from a series of expensive military and infrastructural reform projects beginning in the late eighteenth century, and continuing into the grand administrative and legal reorganization schemes of the mid-nineteenth century. famously known as the Tanzimat reforms. It was in this context that the Porte came under mounting pressure to codify their legal system to meet European norms of modern finance, contractual law, and even civil law in general. It is also in this context that thought and work of Ahmed Cevdet Paşa, arguably the late Ottoman empire's greatest jurist, becomes especially important.

Cevdet Paşa was a brilliant polymath, who wrote works in jurisprudence, theology, education, sociology, and history. After an outstanding performance in Istanbul's elite Hamidiye Medrese, he quickly rose through the ranks of the Ottoman bureaucracy until landing the powerful position of Minister of Justice in the 1860s, having by that time already served on several Ottoman law code drafting committees including the 1858 Ottoman Land Code and the 1864 Provincial Reorganization Code. When pressured to implement the translation of the Code Napoleon as the Ottoman empire's official civil code, however, he refused. Instead, he assembled a commission to produce one of the most groundbreaking law codes in Islamic history: the *Mecelle-i Ahkam-ı Adliye* ("*Mecelle*").

The *Mecelle* was the arguably the first, and definitely most famous, attempt to codify the civil law of an Islamic state, adopting and *creatively adapting* the external aesthetics and organization of European codes like the Code Napoleon in form, but drawing from Islamic jurisprudential texts of the Ḥanafī school of law for its substantive provisions. As a modern code of Islamic law, the *Mecelle* is also important for its long life well beyond the Ottoman empire, bearing lasting influence in most of the successor states, including from Bosnia-Herzogovina to Syria, and from Iraq to the British Mandate for Palestine and, later, Israel formally until 1984. The *Mecelle* also remains the basis of civil law in Jordan and Kuwait, and continues to be studied in Islamic law colleges across the world, including Malaysia, India, Pakistan, and Afghanistan. Most important for our purposes here, it was consulted in the drafting of the Afghan Niẓāmnāmā codes during the reign of Amir Amān-Allāh Khan. There is one more contribution Cevdet Paşa made to the late Ottoman juridical field. In 1880, he established the Ottoman empire's Imperial Law School (Mekteb-i Hukuk) in Istanbul. We returned to the significance of that foundation in Chapter 5, when a graduate of that institution, the Istanbul lawyer Osman Bedri Bey, was appointed as director of the committee that drafted the first constitution of Afghanistan.

Similarly, Recep Şentürk has provided us with insights into the jurisprudential sources consulted in the production of the Ottoman Mecelle, the preeminent modern codification of Islamic law, also based on the major texts of the Ḥanafī school. The influential and dynamic Ottoman jurist, administrator, and President of the High Judicial Ordinances Commission which promulgated the Ottoman Civil Code, Ahmed Cevdet Paşa, along with his eminent jurists who participated alongside him like Şirvanizade Sayyid Aḥmad Hulusi Efendi also drew from major works of Ḥanafī fiqh, such as Ibn Nujaym and Khādimī, and the commentaries on their works within the Ḥanafī school.[319] In Cevdet Paşa's writings, especially his memoirs *Tezâkir*, we get a

[319] Şentürk 2007, 195. The full name of the formerly mentioned major Ḥanafī scholar is Zeynüddin Zeyn b. Ibrāhīm Muḥammad Misri Ḥanafī Ibn Nujaym (970 [1563]), and one of his canonical texts is al-Ashbah wa an-Naẓā'ir, ed. Muḥammad Muti' Hafiz (Damascus: Dal al-Fikr, 1983 [1403]). One of the foremost commentaries on it also noted by Şentürk, probably consulted alongside the original text by the *Mecelle* drafters, is Abū al-Abbas Shahabuddin Aḥmad b. Muḥammad Hamawi (1098 [1687]), *Ghamz 'Uyun al-Basa'ir: Sharh Kitāb al-Ashbah wa an-Naza'ir* (Beirut: Dar al Kutub al-ilmiye, 1985 [1405]). Şentürk 2007, 195. For the latter scholar, Abū Said Muḥammad b. Mustafa b. Uthman al-Khadimi, Şentürk notes his revered *fiqh* manual, *Majāmi' al-Haqāiq*, a work that has itself produced voluminous commentaries, including by the author himself entitled, *Manafi' al-Daqa'iq*

glimpse of his intellectual vision of modern, codified, Islamic law in practice. Similar to the late Mughal empire's *Fatāwā-yi ʿĀlamgīrī*, the fact that *Mecelle* itself produced a commentary genre of its own in several languages—mostly Arabic, Turkish, and Urdu—across the Muslim world speaks to its influence beyond late Ottoman Turkey.[320]

Motivations for codification did not, of course, spring from a vacuum of the Ottoman Islamic scholasticism or legal tradition, but rather were in constant contestation, and negotiation, with the political and economic imperatives of the Ottoman state, and increasingly during the nineteenth century, European powers. And additional motivation, for example, from the Ottoman state for codification was addressing the "decreasing quality" of ʿulamāʾ and judges, or the "decrease in sophistication" seen among the ʿulamāʾ and of which Cevdet Paşa had spoken.[321] As for pressure from foreign powers, according to an expression common at the time, the French were known to frequently complain to the Porte, "bring forth your code; let us see it and make it known to our subjects."[322] An additional pressure hailed from foreign merchants in Istanbul, some of whom claimed the lack of a precise and knowable commercial code disadvantaged them vis-à-vis Ottoman Muslims.[323]

Amidst these myriad and complex motivations, it is difficult to locate a *single* factor that led to increased projects of legal codification. All factors no doubt played a role. But one should stand out above the rest: the central government's aim to streamline and regulate administration of the empire into a more efficient way. We discuss this is in light of the arguably the greatest Ottoman code of the nineteenth century—the Ottoman Civil Code, or Mecelle, which was drafted and promulgated between 1869 and 1876.

The Mecelle: The Ottoman-Islamic Civil Code

In 1869, the powerful Ottoman administrator, President of the Council of Judicial Ordinances, and later Minister of Justice Ahmed Cevdet Paşa (1822-1895) personally selected fifteen jurists to participate in the historic compilation of the *Mecelle-i Ahkam-ı 'Adliye* (*Majellat al-aḥkām al-'adlīyya* in Arabic, *Mecelle* in Turkish), the Ottoman Civil Code.[324] The *Mecelle*

Sharh al-Haqa'iq. Notably, Şentürk observes, Khadimi's work and commentaries were translated into Turkish by the author's son, Abdullah b. Muḥammad b. Mustafa Ḥanafī al-Khadimi (1192 [1778]), *Usul-i Fıkıhdan Haşiyeli Macami al-Hakaik* (Istanbul: Maḥmūd Bey Matbaası, 1318 [1899]), and was "one of the most popular Islamic Jurisprudence manual[s] during this period." (295).

[320] The most famous commentaries on the *Mecelle* are in Arabic and include at the top of the list Imams Ali Haydar and Attasi. Amazingly, I found in the Library of Congress an edition of the Haydar's commentary on the *Mecelle* in Arabic, published in Kabul in 1923! In addition to the aforementioned works, Şentürk notes the following Turkish commentaries on the Mecelle, Emin Efendizade Küçük Ali Haydar Efendi, *Dürerü l-Hükkam Şerhu Mecelleti l-Ahkam* (Istanbul: Matbaa-i Ebu Ziya, 1912), 'Abdüssettar, *Mecelle Şerhi Teşrih* (Istanbul: Mihran Matbaası, 1879), Mehmed Ziyaeddin, *Mecelle-i Ahkam-ı Adliyye Şerhi* (İstanbul: Kasbar Matbaası, 1894).

[321] Mardin, *Genesis of Young Ottoman Thought,* 407-408.

[322] Aynur Turk Asova, "The Nineteenth Century Reform Movements in the Ottoman empire." M.A. Thesis (Southeastern Louisiana University, History, 1997) 56.

[323] Mardin, *Genesis of Young Ottoman Thought,* 16.

[324] For sample original documents, drafts, and notes from the *Mecelle* commission's work on the Mecelle, see, e.g., the following Ottoman archives documents BOA-İ.DUİT 91/28 (1287 M 18) ("Nizamat; MEecelle-i Ahkam-ı Adliye; Mahakim-i Şeriye; Mecalis-i Nizamiye; Meclis-i Mahsus"); BOA-İ.DUİT 91/54 (1306 Ca 26)

was the arguably the first attempt to codify the civil law of an Islamic state, adopting and *creatively adapting* the external aesthetics and organization of European codes like the Code Napoleon in form, but drawing from Islamic jurisprudential texts of the Ḥanafī school of law for its substantive provisions.

It would not be an exaggeration to say that the *Mecelle* is the most famous codification of Islamic law in modern history; the sixteen-volume text continues to be highly revered and studied, if not implemented, in juridical institutions and colleges of law throughout the Islamic world today. This is particularly the case in Muslim-majority societies predominantly adhering to the Ḥanafī school, such as Pakistan, Afghanistan, and Turkey, but also in scholastic environments where Islamic legal pluralism is the norm, such as Al-Azhar University in Cairo, Egypt, Al-Qarwiyyīn University in Fez, Morocco, and the International Islamic University of Malaysia in Kuala Lumpur.

The *Mecelle* was arguably the first (and certainly the most famous) attempt to codify the civil law of a Muslim-majority state, adopting and creatively adapting the external aesthetics and organization of European codes like the Code Napoleon in form, but drawing from Islamic jurisprudential texts of the Ḥanafī school of law for its substantive provisions. Notably, as seen from the various dates of publication of each of the sixteen books (taking eight years), the fact different books were produced years apart reflects how the drafting of the Mecelle Civil Code was a long and meticulous *process*, rather than an instantaneous duplication or transplant of French judicial codes as was the assumption in earlier historiography of the Tanzimat. A similar point applies to the Afghan Niẓāmnāmā codes of the 1920s, to which we will turn to in the final and culminating chapter.

("Nizamat; beyyinat bahsi; Abdülmecid Han; Mecelle-i Ahkam-ı Adliye; Meclis-i Vükela; Cemiyet-i Mahalliye"); BOA-İ.DH 649/45087 (1289 M 25) ("Mecelle-i Ahkam-ı Adliyenin yedinci cildinin arzına dair"); BOA-İ.DUİT 652/45388 (1289 R 22) ("Mecelle-i Ahkam-ı Adliyenin sekizinci kitabının arzı'); BOA-İ.DUİT 687/47957 (1291 C 15) ("Mecelle'nin şirkete müteallik onuncu kitabının takdim olunduğu"); BOA-İ.DUİT 688/48024 (1291 C 19) ("Mecelle-i Ahkam-ı Adliye'nin vekalete dair onbirinci kitabının takdimi"); BOA-İ.DUİT 692/48411 (1291 L 5) ("Mecelle-i Ahkam-ı Adliye'nin sulha dair onikinci kitabının takdimi"); BOA-İ.DUİT 91/37 (1293 Ş 13) ("Nizamat; Mecelle-i Ahkam-ı Adliye; Cemiyet-i Mahsusa"); BOA-İ.DUİT 91/40 (1296 Ca 20) ("Nizamat, layiha, tanzim; Mecelle-i Ahkam-ı Adliye"); BOA-İ.DUİT 91/52 (1293 S 06) ("Nizamat; beyyinat, tahlif bahsi; Mecelle-i Ahkam-ı Adliye"). For a particularly striking original copy of the Book on Admissions (Emanat), the first page of which is embellished with gold-trimmed borders and has a supplementary note honoring the eponymous founder of the Ḥanafī school of jurisprudence, Imam Abū Hanifah, as well as his two most prominent students, Qaḍī Abū Yūsuf and Imam Muḥammad al-Shaybani, see BOA-İ.DUİT 91/30 (1288 Z 24) ("Nizamat; İmam Ebu Yusuf; İmam-ı Azam; İmam Muḥammad; Mehakim-i Şeriye ve Nizamiye; Mecelle-i Ahkam-ı Adliye"). For a more general Ottoman archival document praising the new state code while bolstering its Islamic legitimacy by linking it's genealogy with Ottoman-Islamic juridical tradition, in particular the Qurʾān , Ḥadīth, and Imams of the four established Sunnī schools of jurisprudence (as well as the "consensus of the ummah" , or İcmâ-i ümmet) see BOA-Y.EE 9/24 (1327 R 06) ("Devletlerin hükümet-i siyasiyyeleri hakkında malumat ve mütâlaat verildikten sonra, Mezahib-i Erbaa Ulemasınsan mürekkep İcmâ-i ümmet tarzında bir Meclis-i Aliyye-i İslamiyye teşkili ile Hukuku problemlerin Ahkâm-ı Kur'an ve Hadis ile telif ve tatbik olunması ve bir Mecelle-i Mülkiyye-Şer'iyye teşekkülü ile çalışmılır yapılması, maarifin ıslahı ile memlekete nâfi olarak adam yetiştirilmesi ve Diyânet-i İslâmiyye tahsiline önem verilmesi, âşar ve zekat usulünün kullanılması vesaireye dair layiha"). As Huricihan İslamoğlu has observed, such emphases reflected Ottoman state attempts to present the new law codes of the Tanzimat era and thereafter as in continuity with—rather than ruptures from—traditional Ottoman-Islamic legal practice (2000, 34).

Notably, as seen from the dates of publication, the fact different books were produced in some cases years apart reflects how the drafting of the Mecelle Civil Code was a long and meticulous *process*, rather than an instantaneous duplication or transplant of French judicial codes as was the assumption in earlier historiography of the Tanzimat. A similar point applies to the Afghan Niẓāmnāmā codes of the 1920s, to which we will turn to in the final and culminating chapter.

At the same time, Ottoman archival records on the *Mecelle* also illustrate the centralizing and etatist aspects of the code. Each publication of a book was accompanied by the seals or signatures of top Ottoman statesmen, from the Minister of Justice Ahmed Cevdet Paşa, to the participating ʿulamāʾ like Ahmed Hulusi Efendi, to the Shaykh al-Islam, to the Grand Vizier, to the Sultan's approval himself.[325] The fact the original was published in Ottoman Turkish, rather than the more classical convention of Arabic or Persian, also speaks to the modern, functionalist approach of the codifiers, seeking to produce an authoritative, but "user-friendly" manual for Ottoman judges to use throughout the empire.[326] Moreover, the translations into Arabic, French, English, Greek and Bulgarian—for use by foreign embassies and merchants but also in some cases, by non-Muslim Ottoman subjects—were only permitted with explicit permission of the state, signifying another attempt by the Porte to maintain central control over the Ottoman juridical field throughout the empire.[327] The same rule applied to the most famous commentaries on the Mecelle, such as that by Selim Rustum Baz Efendi or Ali Haydar Efendi.[328] Central state control over the production, distribution, and implementation of the *Mecelle* is also illustrated in the reverse direction; in at least one case from the provincial town Trabzon off the Anatolian north coast, where Ottoman archival records even indicate an example of the state disciplining provincial officers for publishing the code *without permission*, signifying the state's efforts to regulate the spread of the text, and prevent unauthorized versions, translations, or commentaries.[329]

---

[325] See, for example, BOA-İ.DUİT 91/54 (1306 Ca 26) ("Nizamat; beyyinat bahsi; Abdülmecid Han; Mecelle-i Ahkam-ı Adliye; Meclis-i Vükela; Cemiyet-i Mahalliye")

[326] This contrasts with the *Fatāwā-yi ʿĀlamgīrī*, for example, published originally in Arabic and then translated into Persian for court use in India (Urdu and English translations would not emerge until the nineteenth and twentieth centuries).

[327] BOA-İ.DH 778/63308 (1295 Z 28) ("Mecelle-i Ahkam-ı Adliye'nin Arapça'ya tercüme edilen onuncu cildinin tabına ruhsat itası"); BOA-MF.MKT 25/137 (1292 M 16) ("Düsturların Arabça'ya tercümesi Şura-yı Devlet'te görüşüldüğünden verilecek karara göre gerekenin yapılacağı, Düstur'daki bazı nizamları havi olarak Beyrut'ta basılan Arabça Mecelle'nin söz konusu vilayete gönderilmesi"); BOA-MF.MKT 32/60 (1292 Za 01) ("Mecelle-i Ahkam-ı Adliye'nin beşinci kitabı olan Kitāb el-Rehin'in Arabcaya tercüme edilen nüshalarının basılıp gönderilmesi"); BOA-MF.MKT 32/60 (1292 Za 01) ("Mecelle-i Ahkam-ı Adliye'nin Fransızcaya tercüme edilen ikinci kitabının imtiyazsız olarak ve bir defaya mahsus olmak üzere basımı için Serdice Efendiye ruhsat verilmesi"); BOA-MF.MKT 297/14 (1313 C 21) ("Mecelle-i Ahkam-ı Adliye'nin İngilizce'ye tercümesi izinin Babıali'den alınması"); BOA-ŞD 2665/25 (1314 L 04) ("Kırmırabaf Bidayet Mahkemesi Reisi Mösyö Tahris'i İngilizce'ye tercüme ettiği Mecelle'nin neşrine ruhsat verilmesi hakkında Dahiliye tezkiresi"); BOA-MF.MKT 303/15 (1313 Ş 08) ("Dustur ve Mecelle-i Ahkam-ı Adliye'yi Rumca'ya tercüme ederek bunlardan birer nüshasının vilayetlerdeki hristiyan mahkeme ve meclislerine gönderilip..."); BOA-MF.MKT 33/63 (1292 Z 23) ("Düstur ve Mecelle'yi Bulgarcaya işinin, bu kitapları Rumcaya da çeviren Dimitraki Nikolayidi Efendi uhdesine verilerek, masraflarının nasıl karşılanabileceğinin Divan-ı Ahkam-ı Adliye Nezareti'ne bildirilmesi"); BOA-MF.MKT 50/138 (1294 Ş 07) ("Arnavudoğlu Hristaki'nin Bulgarcaya tercüme ettiği Düstur ile Mecelle'nin asıllarına uygun olup olmadığı tetkik edildikten sonra müterciminin taltif edileceği").

[328] BOA-MF.MKT 100/144 (1305 Z 29) ("Betrun kazası Bidayet Mahkemesi Reisi Selim Baz Efendi'nin düzenlediği Şerhü'l-*Mecelle* adlı kitabın tab'ı için verilecek ruhsatname pul yapıştırılmasının Cebel-i Lübnan mutasarrıflığına bildirilmesi"); BOA-MF.MKT 1035/30 (1325 Z 09) ("Mahkeme-i Temyiz Azası Ali Haydar Efendi'nin, Mecelle'ye şerh olarak yazdığı Dava, Sulh, İbra ve İkrar isimli kitapların tetkik için Meşihat'a gönderildiği").

[329] BOA-MF.MKT 153/51 (1310 R 11) ("Trabzon İdadisi için gümrüğe götürülen sandık içinde çıkan Mecelle-i Ahkam-ı Adliye kitabına izinsiz basıldığı için el konulduğu"). An example of the state *not* granting

Finally, the *Mecelle* is significant not only for its use in Ottoman courts—in both the Şeriat courts and new Niẓāmiye civil law track systems of late nineteenth century—but for the training of judges in both systems, including members of the traditional *ilmiye* (ulema class), and still yet, professional lawyers for the Niẓāmiye system courts.[330] Ottoman archival records, for example, illustrate the use of the *Mecelle* text in the new law schools of the Hamidian era in locales as far and wide as Baghdad, Salonica, Sivas and Kastamonu, let alone the imperial capital of Istanbul.[331] According to correspondence with provincial regions of the empire, Ottoman law professors in particular seem to have taken a liking, or fulfilled an order, to teach the text in training prosecutors, among other new kinds of juridical personnel for both modern Ottoman Şeriat and Niẓāmiye courts.[332]

As a modern code of Islamic law, the *Mecelle* is also important for its long life well beyond Ottoman Turkey. After the dissolution of the Ottoman empire following World War I, the *Mecelle* remained a lasting influence in most of its successor states, including Bosnia-Herzogovina and Albania, Syria, Iraq, Cyprus. In the British Mandate for Palestine and, later, Israel formally until 1984. The *Mecelle* also remains the basis of civil law in Jordan and Kuwait, and continues to be studied in Islamic law colleges across the world, including Egypt, Malaysia, India, and—as we will see in subsequent chapters—Afghanistan.[333]

---

permission to a request to publish volumes of the *Mecelle* is found in BOA-MF.MKT 590/6 (1319 B 26) ("Mecelle-i Ahkam-ı Adliye'nin Kavaid-i Külliyesi ile Kitābül Büyü adlı kitaplarda bazı hatalar görüldüğünden basım ve neşrine ruhsat verilemeyeceği").

[330] That the *Mecelle* was used in both Şeriat and Nizamiye courts is evident in Ottoman archival records. See, e.g., BOA-MV 23/69 (1304 Z 16) ("Mehakim-i Nizamiye ve Şer'iyye'nin vazifelerinin ayrılması hususunun *Mecelle* Cemiyeti de hazır bulunduğu halde Şûra-yı Devlet'de görüşülmesine dair"). For an example of a "religious" instructor—a disctinction still of dubious lineage—teaching the *Mecelle* can be found in BOA-MF.MKT 1087/53 (1326 Za 24) ("Selanik Hukuk Mektebi'nin birinci ve ikinci sınıflarının Devletler Hukuku ve Hukuku-ı Esasiye derslerine dava vekillerinden Osman Sermed, ikinci sınıfların İdare Hukuk derslerine Celal beyler ile *Mecelle* derslerine Saatli Camii Müderrrisi Ali Efendi'nin tayini").

[331] BOA-MF.MKT 1087/53 (1326 Za 24) ("Selanik Hukuk Mektebi'nin birinci ve ikinci sınıflarının Devletler Hukuku ve Hukuku-ı Esasiye derslerine dava vekillerinden Osman Sermed, ikinci sınıfların İdare Hukuk derslerine Celal beyler ile *Mecelle* derslerine Saatli Camii Müderrrisi Ali Efendi'nin tayini"); BOA-MF.MKT 1096/56 (1327 M 7) ("Selanik Hukuk Mektebi *Mecelle* Muallimliğine diğeri tayin olunana kadar mektup muallimlerinden Mustafa Hazım Efendi'nin tayini"); BOA-MF.MKT 151/113 (131- Ra 22) ("Sivas'ta inşa olunmakta olan idadi mektebinde *Mecelle* dersinin de son sınıflarda tedris edildiğinden, *Mecelle* dersi muallimliğine tayinini taleb eden ulemadan ve Bidayet Mahkemesi Azası Alim Efendi'nin bu talebinin yerine getirilmeyeceği");BOA-MF.MKT 179/47 (1311 S 15) ("Kastamonu İdadi Mektebi MEcelle Muallimi Pertev Efendi'nin kavanin-i mülkiye muallimliğinden niçin alındığını sorması"); BOA-MF.MKT 176/119 (1311 M 18) ("Midilli Mekteb-i İdadisi'nde bu sene *Mecelle* dersi tedrise başlandığından liva Müddei-i Umumi Muavini Mehmed Zühdi Efendi'nin *Mecelle* ve Kavanin-i Mülkiye muallimliğine tayin edildi"). That such practices continued beyond the Hamidian era in Baghdad, for example, is seen in BOA-MF.MKT 1100/37 (1327 M 21) ("Bağdad Hukuk Mektebi Mecelle-i Ahkam-ı Adliye Muallimi Ali Efendi'nin Meclis-i Mebusan azalığına seçildiğinden yerine Mekteb-i Hukuk mezunlarından Mehmed Arif Efendi'nin tayini");BOA-MF.MKT 1165/55 (1329 M 13) ("Bağdad Hukuk Mektebi derslerinden Mecelle, Usul-ı Muhakemet-ı Hukukiye ve Ticaret-i Berriye dersleri için ayrılan maaş tahsisatındaki yanlışkığın düzeltilmesi") and BOA-MF.MKT 1169/7 (1329 Ra 28) ("Bağdad Hukuk Mektebi *Mecelle* muallimliğinden azledilen Zahavizade Cemil Bey'in tekrar görevine dönebileceği")

[332] For a recent study on the Nizamiye courts, see Avi Rubin, *Ottoman Nizamiye Courts: Law and Modernity* (New York: Palgrave Macmillan, 2011).

[333] In spite of its later fame, at the time of its production the *Mecelle* remained a source of controversy among Ottoman ʿulamāʾ, and in some orthodox circles, ever since. For an incisive critique of codification, the

– • –

In this section of the chapter we discussed the longer history behind the Ottoman Tanzimat reforms of 1839-1868, as well as the "great transformation" from a pre-modern expansionist Ottoman empire, into the modern, centralizing and disciplinary Ottoman state of the nineteenth century. This is important for our story because these processes represent one of the long nineteenth century's two most unexplored streams of juridical and cultural Pan-Islamism in the Muslim world: the proliferation of Ottoman-styled *étatisme* and legal modernism (embodied in the Tanzimat reforms and Mecelle Civil Code). Coupled with the Deobandi and Aligharian Indo-Islamic revival movements from the east, these would be would be the two very same intellectual and social streams that would compete for influence in the Amir's court in Kabul and Afghanistan's juridical field in the "long" nineteenth century.

In order to fully grasp the dynamism of late Ottoman modernism, and the particular strands within it that impacted some especially influential Afghans in the late nineteenth century, we must examine the role of the Young Ottoman movement, and its relationship with Muslim modernist movements on a global level. We will not delve into an exhaustive history of the Young Ottoman movement, for that is not the central subject of our study, and that has already been completed admirably by Şerif Mardin in *The Genesis of Young Ottoman Thought* (1962). Instead, to provide some color and texture to our discussion of Muslim modernism in the late nineteenth century—which macro-histories of great transformations such as our last section's theme tend to overlook—we will focus on the life and thought of the most influential of Young Ottomans, the Muslim modernist thinker, journalist, and administrator, Namık Kemal Efendi. Studying his life, thought, and career will provide a more up-close view and window into some of the most influential streams of Muslim modernist thought gaining ground in not only the late Ottoman empire, but as we will see in subsequent chapters, other parts of the greater Islamic world, including Afghanistan.

VI
YOUNG OTTOMANS: MUSLIM MODERNISM MEETS CONSTITUTIONALISM

Namık Kemal, Intellectual Father of the Young Ottomans

The Young Ottomans, or *Yeni Osmanlılar* as they were known in Ottoman Turkish, was a secret society established in 1865 by a group of Ottoman dissident intellectuals dissatisfied with the pace and direction of reforms under the Tanzimat regime of Ali and Fuad Paşas. A

---

bureaucratization of ʿulamāʾ, and the modern state's commandeering of the historically non-centralized praxis of Islamic law in Muslim societies, see Hallaq (2009, 355-499), Zaman (2002, 87-110), and Messick (1996, 54-72, 167-192). For critiques of subsequent and tenuously-related juridical developments from the middle of the next century—Islamism, Islamist political movements, and the much more recent concept of "Islamic states"—see Hallaq (2012), Roy (1994) and Halverson (2010). For a slightly different argument, illustrating continuities *within* the ruptures from late Ottoman and especially Hamidian society to twentieth century Islamist movements, see Kemal Karpat's *The Politcization of Islam: Reconstructing Identity, State, Faith, and Community in the Late Ottoman State* (New York: Oxford University Press, 2001).

constitutionalist organization, its members are widely credited with being the intellectual and grassroots social force that led to the landmark Ottoman Constitution (*Kanun-ı Esasi*) of 1876. They are also widely seen as the inspiration for the later "Young Turks" of subsequent decades of the nineteenth and early twentieth century. While the original society was made up of a diverse cast of mostly Muslim Turks in Istanbul, the journalist, administrator, and poet Namık Kemal is widely remembered as its founder and most inspirational spokesperson.

Though most famous for his patriotic speeches and poetry for which he has been concisely described as "an apostle of two ideas: freedom and fatherland," Namık Kemal left behind a towering legacy of Ottoman political thought, lasting long beyond the confines of his unique historical context. A product of the new Ottoman *ruşdiye* schooling, French political theory, and classical Persian-Islamic poetry combined, Kemal's dynamic education and career represented the best of efforts to pursue "Muslim modernities" in the late Ottoman empire, especially in the intertwining realms law, education, and constitutionalism.[334]

Early Life, Education, and Career

Mehmed Namık Kemal was born on 26 Shawwal 1256/21 December 1840, in the Ottoman port town of Tekirdağ.[335] Of an aristocratic family, Kemal's father hailed from a long line of Ottoman officials, and served as a court astronomer. His mother was of Albanian birth and the daughter of an Ottoman governor. Namık received his education at home, where he trained in Arabic, Persian, and French, in addition to his native Ottoman Turkish. Following the conventional career path of young men of his class and time, he entered the civil service at the age of seventeen and worked in the Translation Office of the Customs Bureau, where students refined their administrative skills and perfected their French. After graduation Kemal rapidly ascended through the Ottoman civil service until landing a position at the pinnacle of the Ottoman bureaucracy itself, the *Bab-ı Ali* (Sublime Porte) in Istanbul.[336]

While excelling in his professional capacity as an Ottoman bureaucrat, Namık Kemal also maintained a vigorous literary career. Early on he came under influence of Ottoman Turkish writer Ibrāhīm Şinasi, whom he collaborated with in producing the journal *Tasvir-i Efkar*, of which he assumed editorialship when Şinasi fled to France in 1865. Like his mentor Şinasi, Namık Kemal's political commentaries on the Ottoman reform policies were seething but incisive (Tanzimat), and when combined with their articulation in a familiar, popular Islamic idiom, he quickly ran into trouble with Porte authorities. He eventually was forced into exile in 1867, spending the next three years between London, Paris, and Vienna, occupying himself with opposition journals, studying law and economics, and translating several French works into Turkish. It was not a solitary exile for Kemal, however. Along with a number of his ideological colleagues, this highly literate, motivated, and talented group of Ottoman exiles would eventually coalesce into an oppositional group known as *Yeni Osmanlılar*, or Young (or "New")

---

[334] Indeed Mustafa Kemal "Atatürk" himself claims Namık Kemal had a profound influence on him as a youth. Lewis describes Kemal concisely as an "apostle of two ideas: freedom and fatherland." Bernard Lewis, *Emergence of Modern Turkey* (London: Oxford University Press, 1968), 141.

[335] Adnan Benk, ed, "Namık Kemal," *Büyük Larousse Sözlük ve Ansiklopedisi* 14 (1986) 8525-26.

[336] Lewis, *Emergence of Modern Turkey*, 140-41; Davison, *Reform in the Ottoman empire*; Benk, "Namık Kemal," 8525-26.

Ottomans. Following an amnesty Kemal returned to Istanbul in 1870, where he produced a patriotic drama *Vatan*, which aroused the suspicion of the new Sultan, once more resulting in official disfavor, this time being punished with imprisonment in Cyprus. After the deposing of Abdülaziz in 1876 he was again allowed to return to Istanbul, and participated in the preparation of the Ottoman constitution. A dissident to the end, however, he soon fell out with Sultan Abdülhamid II over the latter's authoritarianism. He spent his remaining years in exile on the island of Chios until his death in 1888.[337]

Though successive Ottoman governments tried and failed to contain his seething criticism, Namık Kemal bequeathed a legacy of Islamic modernist political thought, dissident politics, and until this day is remembered in Turkey as the poet of "the motherland and liberty."[338] Sina Akşin unequivocally states, "The most distinguished of the Young Ottomans was Namık Kemal," whose poetry and prose had "far-reaching, revolutionary impact," not only on his own generation of Young Ottomans but on the next generation of "Young Turks" from which Cemal, Enver, and even Mustafa Kemal Atatürk emerged. For Namık Kemal, "liberty" and "the nation" were the foundation of his religio-political philosophy. An ideologist *par excellence*, he excelled in the manipulation of cultural symbols to amplify the power of his political messages. His abstractions of the polity into an "Ottomanism" (Osmanlılık) transcended religion and ethnicity and other forms of parochialism were rim with assurance that a properly constituted representative assembly would put an end to the separatism that was plaguing the empire. He was an advocate of reason, notes Mardin, but also a poet who knew how to play on the emotions in his fiery exhortations to Ottomanism and Islamic revival.[339] With the stirring strongly emotionalism of his writings and plays, he often commanded Ottoman audiences to their feet, and what is more, to the streets.[340]

Though hailing from aristocratic origins, Namık Kemal was more of a populist than many other of his Young Ottoman colleagues such as Mustafa Fazıl or Halil Şerif. His writings and speeches imparted a strong sense of sympathy with "the bewilderment of those who were left stranded, materially and spiritually" by the dislocations and transformations of modernity.[341] Firm in his belief and sincere in his activism, Namık Kemal's personal life mirrored his call for justice in Ottoman society. Late Ottoman historian Roderic Davison recounts how Egyptian Khedive Ismail once tried to bribe Namık Kemal to employ the latter's skills and connections in his favor, but Kemal flatly refused.[342] For Kemal, the immense Perso-Islamic classical tradition complemented the lofty standards of justice at the core of the Sharīʿah. Conversant in French philosophical texts of Montesquieu and Rousseau as he was with the Persian, Arabic or Turkish couplets of Saʿdī, Nedim or Ghalib Bey, Kemal's eclectic, dynamic education carried him far beyond the confines of service in the Ottoman bureaucracy. His literary achievements were immense, and Kemal was especially prolific in publishing articles on representative political

[337] Lewis, *Emergence of Modern Turkey*, 140-41.

[338] Akşin, *Turkey: From Empire to Revolutionary Republic*, 34.

[339] Mardin, *Genesis of Young Ottoman Thought,* 79.

[340] Ibid.

[341] Ibid.

[342] Davison, *Reform in the Ottoman Empire,* 218.

theory in Islam for oppositional newspapers in exile, including *Hürriyet* and *İbret*.[343] In short, Namık Kemal was the greatest living example of the Young Ottoman attempt to synthesize and adapt constitutional thought and political theory from classical Islamic and European liberal canons.

In 1870, Namık Kemal returned to Turkey after his exile in Europe. The father of the Young Ottomans was as bold and as analytical in his proposals for reform as ever. Kemal's conclusions on the topic of Islamic decline were especially bold and forthright, holding that rise of the West stemmed from their commitment to the ideas of liberty and progress over those of fatalism and resignation (which, for Kemal, characterized the East). Moreover, Kemal drew special attention to the importance of modern technology in the rise of Europe, historical descriptions Niyazi Berkes states were "instrumental in imbedding in the hearts of the Turkish intellectuals the notion of the superiority of the civilization achieved in the West."[344] Western civilization's technological superiority could not longer be denied, and for the Ottoman state to survive, therefore, Muslims had to adopt "liberty" and "progress" as near articles of faith. After obtaining the necessary tools from Europe, this paradigm of progress held, Muslim nations could then create their own commonwealth to counteract European dominance.[345]

As Şerif Mardin has shown, the inspiration for Namık Kemal's "Patriotic Alliance" (*İttifak-ı Hamiyyet*), a forerunner to the Young Ottoman association, was at least partially due to fellow exile Ayetullah Bey bringing two books on the organization of the Carbonari, the secret society which in early nineteenth century struggled against the restoration of autocratic rule in France and Italy. However intense the Patriotic Alliance's commitment was to reform *for* Ottomans, *by* Ottomans, along *Islamic* lines, "there is no doubt," writes Mardin, "that the founding members of the Patriotic Alliance thought of themselves as aiming to follow the political lead of Europe."[346] In this regard, there is evidence to demonstrate the European sources from which Kemal devised practical models for his theory of Islamic representative government. For instance, Kemal cites the French constitution as the best example for the Ottoman government to follow in devising its own constitution in the 1870s. This was by process of elimination, Mardin explains, for Kemal did not think any other government's foundational text quite matched up to Ottoman exigencies as well.[347]

For Kemal there was much to learn from Europe (and America) beyond political institutions and constitutionalism. Beyond his respect for constitutional structures in France lay an admiration for European philosophy of history, and treatises on the rise and fall of empires in particular. This was evident in his translations of the French historian Volney's *Ruins of Palmyra* and political philosopher Montesquieu's *Grandeur and Decadence of the Romans*. From these works he adopted and adapted the idea that empires decline when they do not heed the principles of natural law—a term which in the Ottoman case, he adapted to mean the Noble

---

[343] See the list of his works in Mardin, *Genesis of Young Ottoman Thought,* 286.

[344] Niyazi Berkes, *The Development of Secularism in Turkey* (Montreal: McGill University Press, 1964), 215.

[345] Ibid.

[346] Mardin, *Genesis of Young Ottoman Thought,* 21.

[347] Ibid.

Şeriat.[348] The most obvious sign of liberal European influence in Kemal's political thought, however, is his concept of progress. This is especially evident in Kemal's writings from London, where he frequently commented on British law courts, parliament, public infrastructure, and scientific advances. As Mardin argues notes,

> Kemal considered Western progress to have been due to the sum of events which had occurred in Europe in the two centuries preceding the middle of the nineteenth century. This progress was advancing at an increasingly fast pace and its most important characteristic was that it had brought 'lasting order' in society. . .[He] argued that Europe had achieved these results by separating existing laws from 'abstractions' and 'superstitions' and had thus established science on 'experiment and deduction.' One of the consequences of this 'dawning of truth' had been the French Declaration of the Rights of Man. . .If the Ottomans desired to make use of their natural abilities, they should take notice of what had happened in Europe.[349]

Namık Kemal's respect for European, especially French, political institutions led to a series of specific recommendation to the Ottoman authorities upon his return. These included a rejuvenation of Ottoman agriculture through tax reforms, extending conscription to Non-Muslims, eliminating tariffs that led to the ruin of local manufactures, and establishing favorable credit for the growth of local industry. "All of this," Mardin notes, "was part of his attitude that (the passive) idea of resignation to one's fate was utterly non-Islamic."[350]

In spite of his respect for French legal and political institutions, Namık Kemal was far from an uncritical Francophile. An avid follower of international affairs, Kemal closely observed the Franco-Prussian War, and appears to have been affected by Germany's displacement of France as the premier European power and new vanguard of "western civilization."[351] For Kemal, Prussia's superiority stemmed from the extent of their scientific and technological advances. Citing the role of German training in Prussia's success, Namık Kemal was of the first influential Ottomans to lay the seeds for the Porte's turn to German experts as opposed to the traditional models of France or England. Kemal's concern with the technical apparatus of progress, wherever it may be, surfaces in a large number of articles he wrote for the *İbret* newspaper while in exile in Europe.[352] Here he reserved many pages for describing, and praising, European material progress. Steam, electricity, factories, joint-stock companies, and banks all played a prominent role in his writings on Western achievements.[353]

Namık Kemal's respect for European accomplishments was not limited to the trappings of material progress and technology. Bernard Lewis described Namık Kemal as indebted to the jurisprudence of Montesquieu, the political thought of Rousseau, and the economics of Smith and Ricardo.[354] Şerif Mardin identifies the diverse repertoire of Western thinkers who

---

[348] Ibid., 316-317.

[349] Ibid., 320-321.

[350] Ibid.

[351] Ibid., 62.

[352] Ibid.

[353] Mardin, *Religion and Social Change in Modern Turkey,* 405.

[354] Lewis, *Emergence of Modern Turkey*, 140.

influenced Kemal as including Plato, Aristotle, Zeno, Cicero, Descartes, Bacon, Rousseau, Voltaire, Condorcet, Turgot, Robespierre, Danton, Garibaldi, Silvio Pellico, Montesquieu, Locke, Volney, and the French Romantic writers. He also stresses Kemal's French-intensive education as a youth, noting Kemal took private lessons from the French jurist Emile Acollas during the former's stay in Paris. Mardin goes so far as to cite a direct correlation between reoccurring ideas in Namık Kemal's thought and the European philosophers from the enlightenment to modern liberalism, including his theory of popular sovereignty (Rousseau), double contract (Locke), separation of powers (Montesquieu), and even decadence of the Ottoman empire (Volney).[355]

Given his cosmopolitan education at the Ottoman Translation Bureau in Istanbul, French influence is not surprising, but to what extent? Surely Namık Kemal must have drawn inspiration from his own religious and intellectual tradition in Turkey as well, and from which he so powerfully drew on Islamic motifs in his poetry and prose alike? This is a glaring lacuna in the intellectual history of Namık Kemal and Young Ottoman thought in general, but is a topic for another occasion.

The Young Ottomans and Pan-Islam

Namık Kemal and Maḥmūd Ṭarzī both lived at a time of increasing European and Russian imperial expansion, including largely-Muslim territories of central Asia, Caucuses, Balkans, central Africa and the region that has come to be known as the Middle East. Şerif Mardin, in *Religion and Social Change in Modern Turkey* (1989), writes that for Namık Kemal, "Pan-Islam was the international dimension of this revival of interest in Islam and was an Ottoman answer to Russia's sponsoring of pan-Slavism."[356] In this narrative, the origin of Pan-Islamism in the Ottoman empire traces back to the Sublime Porte's desire to counter the rising European balance of power, especially pan-Slavism and pan-Germanism:

> [T]he Young Ottomans had followed the development of pan-Slavism with some apprehension and were beginning to wonder whether it did not provide a model for the Ottomans' relations with Muslims dispersed throughout Asia and Africa… Namık Kemal was aware that changes in world communications had created opportunities for links to be established with other Muslim nations.[357]

This was a threatening development with which Palace officials, secular, Western-oriented bureaucrats and Islamic modernist intellectuals at the Porte, and ʿulamāʾ all shared a mutual concern. As Şerif Mardin describes in *Genesis of Young Ottoman Thought* (1962),

> A feeling arose in the Ottoman empire, both in official circles and among the out-and-out opponents of Westernization, that this was the time for the Ottoman empire to escape the tutelage of the Western Powers. There occurred an ingathering of hitherto centrifugal forces. The common focus was the desire to free the Ottoman empire of its inferior position in its relations

[355] Mardin, *Genesis of Young Ottoman Thought,* 307-319.

[356] Mardin, *Religion and Social Change*, 117.

[357] Ibid., 122.

> with Western Powers. From this to the idea of a bond uniting all Moslems was only a step. This step was to be taken when the Young Ottomans 'invented' Pan-Islamism.[358]

But there was more to this latest Ottoman "ism" than reaction against Pan-Slavic international politics. Namık Kemal lived at a time of increasing European and Russian expansion into the predominantly Muslim territories of central Asia, the Caucuses, Balkans, and North Africa, and today's "Middle East." The importance of Muslim unity was not lost upon astute observers of global affairs like Namık Kemal. For him, notes Mardin, "Pan-Islam was the international dimension of this revival of interest in Islam and was an Ottoman answer to Russia's sponsoring of pan-Slavism."[359] In this way Mardin argues that the origin of Pan-Islamism in the Ottoman empire traces back to the Sublime Porte's desire to counter the rising European balance of power, especially pan-Slavism and pan-Germanism.[360] This was a threatening development with which Porte officials, western-oriented bureaucrats, traditional ''ulamā', and Islamic modernists like Kemal and other "Young Ottomans" shared mutually grave concern.[361]

But there was more to Ottoman Pan-Islamism than mere self-preservation against external threats. Amongst Kemal's works was his publication of a biography of the great Islamic hero and victor against the Crusaders, Salaḥ al-Dīn al-Ayyūbī (d. 1193), a work that is reported to have sold out within a short span of time.[362] "Neither was the enthusiasm for the booklet on the life and time of Saladin, the Islamic hero, entirely fortuitous," notes Mardin.[363] Rather, the idea of a renaissance of the Islamic people was increasingly popular, and the Young Ottomans now began to work out an extensive theory of the political unification of Islamic people.[364]

At the same time, when it came to the ethnic diversity of the empire, for Namık Kemal, all who lived in the lands of the House of Osman were Ottoman—and subject to Ottoman law—irrespective of religion, language, or social class.[365] Here Namık Kemal's theory of "the unity of nationalities" emerges under the umbrella nationality and citizenship of *Ottomanism* (*Osmanlılık*). But there was a potentially contradictory element of glorifying Islamic unity with political and civil equality for non-Muslim Ottomans, just as there was between glorifying Turkish achievements while calling for unity with non-Turkish Muslims. Perhaps it was this incongruity that made Kemal later gave up the idea of an Ottoman nation, as he witnessed one by one the Ottoman loss of most of its European holdings in the empire. Faced with these humiliating defeats, Kemal subsequently shifted his focus to Muslims, in and outside Ottoman

---

[358] Mardin, *Genesis of Young Ottoman Thought,* 60.

[359] Mardin, *Religion and Social Change*, 117.

[360] Ibid., 122.

[361] Mardin, *Genesis of Young Ottoman Thought,* 60.

[362] Ibid., 59.

[363] Ibid.

[364] Ibid.

[365] Akşin, *Turkey: From Empire to Revolutionary Republic*, 35-36.

domains.[366] As he formulated a pan-Ottoman vision for the domestic policy of the state, on the other hand, Namık Kemal advocated a Pan-Islamic vision without. The Ottoman state could be saved by strengthening bonds with Muslims outside the Sultan's domains. The moralism was self-evident—for Kemal, nothing less should be expected of the Ottoman 'elder brothers.'"[367] Notably, the notion of Ottomans as "elder brothers" is language that would echo, and indeed even be repeated, by Afghan rulers in the early twentieth century, a discourse we will return to Chapters 4 and 5.

"There is a Limit to Our Borrowing": Preservation of Self and Occidentalist Critiques

Previous sections highlighted the shared borrowings of European liberal philosophy in both Namık Kemal and Maḥmūd Ṭarzī's political thought. But neither of these towering literary figures, poets and philosophers in their own rights, were uncritical adorers of the West. As Niyazi Berkes, in his classic work *The Development of Secularism in Turkey* (1964) notes,

> It would be incorrect to portray Kemal as an unconditional Westernist. He warned against the dangers arising from the widening gulf between the traditionalist conservatives and the imitative Westernists. He began by demolishing to his satisfaction a belief that he regarded as a myth in the minds of both Turks and their critics, namely, that the major obstacles to the progress of the Turks was their religion. This led him to search both for those elements of the culture that were obstacles to progress and for those aspects of Western civilization that should not be taken over. He then found that all obstacles to progress were due to the failure of the Tanzimat reforms vis-à-vis European economic and political penetration. Kemal was the first Turkish writer to see clearly the importance of the economic penetration of the West and his descriptions of the evils of the existing economic, financial , administrative, and educational conditions were accurate and pioneering. . . Kemal was a pioneer too in discussing the limits within which change was imperative. For him, Turkey should acquire without hesitation everything that was superior and useful in Western civilization, but whenever Kemal used the term 'civilization' (*medeniyet*), he referred only to industry, technology, economy, the press, and education.[368]

Berkes proceeds to argue that Kemal failed to realize that by insisting upon differentiating between "good" and "bad" aspects of Western civilization, those scientific and technological aspects of the West which he admired did not emerge in a cultural vacuum, a critique we will return to below.[369] Kemal complements his critiques of Western excesses with praise of the salvageable aspects of Islamic civilization. In his article *Wa Shawirhum fi'l Amr*, named after the Qurʾānic verse exhorting consultation in governance, Kemal writes,

> Considering its greater power to impose universal obedience by material and spiritual means, the Islamic provision for politics is many times superior to the European method of legislation. Being the product, of a thousand years' historical development, the *fiqh* had reached the level of technical perfection; therefore, it was incomparably superior to those laws stolen hastily from the

---

[366] Mardin, *Genesis of Young Ottoman Thought,* 332.

[367] Ibid.

[368] Berkes, *Development of Secularism in Turkey*, 216.

[369] Ibid.

> French codes. The provisions of the *fiqh* were better suited to the interests not only of the Muslims but even of the Christian subjects of the Empire than those of the French laws. The matter did not stop even here. Being the product of centuries, the provisions of *fiqh* had become the property of the whole Muslim *ummet* and part and parcel of the mores, customs, and traditions of the people, Therefore they were not mere legal norms … Is there any religion in the world which has succeeded in associating justice with moral virtue (*ihsan*) and thereby transforming moral obligations into legal obligations?[370]

In line with his praise of classical Islam's rich legal and intellectual legacy, Kemal saved his severest criticism for the Tanzimat statesmen who introduced secularism and, more specifically, a ruinous dualism into the Ottoman legal, administrative, and educational systems. Hence Berkes argues that for Kemal,

> [T]he Tanzimat committed its gravest error by copying the Western concept of the separation of state from religion. This not only damaged the religious foundation of the state but also cleared the way for European interference. It gave grounds for the European belief that the Muslims were incapable of reform, encouraged the separation of the non-Muslim millets as independent nations, and, by substituting the spurious aspects of Western civilization for genuine historical traditions, created an unbridgeable gulf between the part of the culture that had become pseudo-Islamic and the part that had become merely pseudo-Western. Kemal was not unaware of the importance of the secularization of the state in the West, but he did not believe that a similar revolution was necessary in the case of the Islamic state.[371]

It is in this light that history cannot judge Namık Kemal as an uncritical promoter of all things European, and his commitment to the Caliphate as legitimate Islamic government casts much doubt as him being the intellectual forbearer of the Young Turks, let alone an inspiration for Mustafa Kemal, as nationalist historiography has conventionally presented. Indeed, in the following crucial passage for our study, Namık Kemal excoriated the Tanzimat reformers for constructing a false dichotomy between "secular" and "Islamic," and boldly challenged his secular reformist opponents with poignant questions that struck at the heart of the Ottoman state's dilemmas of modernity,

> Is it reasonable to regard the provisions of the *fiqh* as chains of slavery simply because they were based on religious provisions? Does discarding them because of their religious basis not imply a preference for injustice rather than the justice based on religion?. . .The *fiqh* had the advantage of being religiously sanctioned. Why divest the state of its religious support just for the sake of borrowing legal provisions from Western codes? Did everything have to come indiscriminately from the West? The Muslims did not need to borrow the moral (*manevi*) civilization of the West. The standards of our own morality are amply sufficient to meet all the requirements of modern civilization.[372]

In the same vein the Young Ottomans blasted the new Ottoman elite "experts", especially Ali Paşa and Fuad Paşa, for their superficial adoption of European culture. Not mincing their

---

[370] Ibid., 217.

[371] Ibid., 218.

[372] Ibid.

words, or generalizations, they mocked the reforms in the most sardonic of tones, saying they amounted to "the establishment of theaters, frequenting ballrooms, being liberal about the infidelities of one's wife and using European toilets," whilst endorsing autocratic rule and tyranny for the masses.[373] It is in this light, Mardin elegantly concludes, "The dichotomy between the attitude of the suave and Europeanized statesmen of the Tanzimat and the cultural and religious puritanism of the Young Ottomans shows that the Young Ottomans, who have been represented as the inheritors of a Western-oriented tradition introduced by their intellectual mentor Şinasi, had, in fact, more complex intellectual antecedents."[374]

Recent Ottomanist scholarship has demonstrated that contrary to prior portrayals of the Young Ottomans as uncritical advocates of thorough Westernization, in fact the *Hürriyet* –as mouthpiece of the Young Ottoman movement—consistently embraced an "Islamic" discourse on problems of government.[375] Some of the most common themes in Kemal's writing are the interconnected motifs of divine justice, religious law, and dutiful observance of the principles of Islam. Notably, Mardin writes that Kemal was influenced by Bektaşı and Qādirī Sufism, particularly renowned for their espousal of the everyday grieving of the common man, woman, and child.[376]

Similarly, Şerif Mardin argues that the Young Ottoman movement cannot be reduced to just an abstract legal debate club, but rather thinkers like Namık Kemal were operating in (and contributing to) a much broader trend of Islamic modernist revivalism in the Ottoman empire at large. Crucial to their intellectual foundations was the idea of *synthesis* of classical Islamic jurisprudence, theology, and ethics with modern political institutions. As Mardin notes, Namık Kemal was often at pains to demonstrate that his theory of representative government was based on *Islamic* premises,

> A somewhat different theory which he also adopted was that the Ottomans could not cut themselves off from what, in effect, were their basic cultural foundations. Turks could not adopt modern institutions without basing them on deeper foundations. Islam was the mold in which Islamic-Ottoman social personality had crystallized, and Namık Kemal believed this could not be neglected in a new political theory.[377]

In this fashion, for Young Ottoman intellectuals like Namık Kemal, the struggle for modernization of the state did not mean blind or wholesale imitation of the West, but rather a careful selection of institutions or concepts thriving in Europe which could be built on Islamic foundations, i.e. where there was evidence in Islamic canonical sources that such institutions

---

[373] Mardin, *Genesis of Young Ottoman Thought,* 115.

[374] Mardin, *Genesis of Young Ottoman Thought,* 117.

[375] Ibid., 286-96. Lest we be deceived in to thinking this represented some ahistoric "Islamic" state, however, as Muslim moderns who embraced the central role of a paternalist state in theory, the Young Ottomans were "conscripts of modernity", to use David Scott's clever term, rather than representatives of a continuous line of uninterrupted Islamic juridical experts, as would be *slightly more* akin to the Ottoman ʿulamāʾ. David Scott, *Conscripts of Modernity: The Tragedy of Colonial Enlightenment* (Durham: Duke University Press, 2004).

[376] Mardin, *Genesis of Young Ottoman Thought*, 286-96.

[377] Mardin, *Religion and Social Change*, 122.

were of benefit to the Muslim community, or at least not in contravention of any clear textual prohibitions. For example, on the topic of an Ottoman constitution,

> Every one of the clauses to be included in the new constitution of the Ottoman empire was to be in harmony with a precept of Islamic law. Furthermore, the establishment of a constitutional regime in Turkey would not, according to Kemal, be an innovation. According to him, to institute a mechanism of governmental control would only mean the refining of a mode of government which had been in use in the Ottoman empire before the centralizing moves of Maḥmūd and the rise of a new bureaucracy had put an end to it.[378]

In this manner Kemal legitimated the constitutional movement by first, emphasizing its harmony with Islam itself, the spiritual-religious-legal foundation of the Ottoman state. Secondly, he placed constitutionalism as perfectly in line with Ottoman political tradition and practice, thereby reflecting continuity with the Ottoman past rather than some radical, destabilizing break from it. Similarly, on the broader topic of justice in general, Mardin writes that,

> There were a number of contexts in which the Islamic cast of Ottoman thought was underlined by Kemal. One was that in the traditional society a kind of rough social justice had been achieved, linked to the transitoriness of political status. Second, the new constitutional system of the Ottomans had to rest on Islamic ethical foundations in order for the entire edifice to stand. Third, while Ottoman constitutionalism would take its inspiration from the Şeriat, law-making in parliament would be once-removed from the Şeriat and could, therefore, apply to all the religious groups in the Empire.[379]

It is because Namık Kemal believed in an Islamic, qāḍī-made "common law" that he attacked the continental European conception of a public law which, in the form it took during the nineteenth century, started from the basic tenet of the superiority of the moral personality of the state. From there Namık Kemal went to attack the conception of the general will."[380] As Mardin relates, Kemal was at pains to distance his theory of the state and morality from areligious epistemologies becoming more normative in Europe,

> Morality without religion, argued Kemal, could not by itself constitute a check on man's actions. This, he said, was what was meant by Voltaire when the latter stated that 'if there is no God, it would be necessary to invent one.' Consequently, a positivistic interpretation of law was anathema to Kemal. He did, however, accept Montesquieu statement that law was the sum of relations which stemmed from the very nature of things, since this statement was vague enough to be set into religious context. According to Kemal, not only did the religious foundation of law solve the problem of a fixed standard of good and bad, but, in addition, it had great practical advantages. Since God had ordered the study of the Koran, every citizen was held to know the general principles embodied in it. If laws were passed in accordance with these general principles, it meant that every true believer would automatically have a sufficient knowledge of

---

[378] Mardin, *Genesis of Young Ottoman Thought,* 310.

[379] Mardin, *Religion and Social Change*, 122.

[380] Mardin, *Genesis of Young Ottoman Thought,* 314.

> the laws of the realm. In a country like France, where law was not drafted in accordance with such basic standards, it was of course impossible for the citizen to know the law.[381]

Keeping on the topic of public morality, Kemal had critical words not only for Europe's extreme materialism, but for Ottoman society itself. "With regard to the Ottoman empire," Mardin notes, "Namık Kemal was in keeping with the tradition of Ottoman thought which related the downfall of the empire to a slackening in the observance of religious law.[382] This was a far from a simpleton tirade against personal religious laxness of Ottoman elites, however. Rather Kemal was berating the failure of Ottoman reformist statesmen to uphold the Sharīʿah itself in the administration of the empire's affairs. Mardin relates,

> He was violently opposed to the movement for the secularization of law which had started with the Tanzimat. He stated: 'Up to the present courts with wide jurisdiction [the new secular courts of the Tanzimat] have been founded and all kinds of laws made. Of what use have these been, other than weakening the Mohammedan Şeriat? Are these courts more impartial than religious courts and are these laws more perfect than the precepts of he Şeriat? Since it [the Şeriat] is under the protection of the Unique One, even the greatest of tyrants cannot alter it. All he can do is suppress it. We would seek our salvation in conforming to these standards…[383]

Kemal's intellectual work here on Ottoman "decline" directly engaged prominent liberal European thought on the "rise of Europe." This was a time when European historians and philosophers attributed their own global achievements "to the gradually widening limits of freedom of thought, and, in particular, that the rise of political liberalism had been associated with two parallel movements—the emancipation of philosophy from religion and the conceptualization of a mechanistic system of nature."[384] Namık Kemal contested these self-congratulatory presumptions that were prevalent in nineteenth-century European historiography and legal-philosophical treatises. For example, in a perceptive exposé on insufficiency of Western reason, he argued:

> With the benefits to which it has given rise, the experimental method, which has contributed more than anything else to the maturing and the progress of the world, has not been able to clear itself of the onus of having overstepped all boundaries and having placed whatever beliefs there were in the mind and whatever feelings there were in the soul under the light of reality and investigation. Among those who have made it a habit to use the experimental method in their search for truth there are certain super-critics who limit their quest for answers to material occurrences and who would like to consider everything that cannot be touched or seen as either unreliable apparitions or as inferior to the manifestations of nature.[385]

---

[381] Ibid., 314-317.

[382] Namık Kemal, "Devlet-i Aliyye-yi Bulunduğu Hal-ı Hatarnaktan Halasın Esbabı," *Hürriyet* (August 24, 1868), 1-2, quoted in Ibid., 315.

[383] Mardin, *Genesis of Young Ottoman Thought,* 316-17.

[384] Ibid., 325.

[385] Ibid., 326-27. Kemal is also quoted to have said here, "If the Lord had created the mind of man [on the model of] the multiplication table, his conscience like a geometric measure, it would have been impossible for such concepts as 'the nation,' 'the fatherland,' or 'family' to exist."[385]

Kemal's criticisms of the limits of Western secular-liberal reason were part and parcel of a grander battle of ideas taking place amongst Ottoman elites, especially between the increasingly secularized Porte bureaucracy, Istanbul intelligentsia, and diverse strands of Ottoman ʿulamāʾ. Speaking to the larger sociopolitical and intellectual climate, Şerif Mardin describes the scene as follows,

> By the 1860s ʿulamāʾ and persons with a conservative religious attitude had begun to realize that a real Kulturkampf was in the offing and that they might be on the losing side of the battle. Here, too, Islam could not remain silent: the theme of the cultural content of Islam as a civilization was brought out and its superiority to Western civilization emphatically affirmed. The more intellectualistic of these schemes were produced by a basically secular intelligentsia—the Young Ottomans being the clearest example—working to revive Islamic cultural premises. The need to find a foundation for the Ottoman state which was more explicit than the traditional formula—'the state and religion are twins'—was rising. This need was the direct result of the new discourse introduced with secular schools and the secular literature which was on the way to becoming the new language of educated Turks. The newer Islam used by ideologues as a legitimizing discourse and a cultural foundation was undoubtedly different from traditional Islam. On the other hand, the ʿulamāʾ seemed to be able to devise an Islamic populism appealing to the traditionalistic masses more readily than was the case with the secular intelligentsia.[386]

Given the elite backgrounds of the Young Ottoman intellectuals, it was precisely this aspect of Islamic populism described above that group often tried to amend by emphasizing certain themes and approaches in their writings and speeches more than others. For example, as proof that Islam in the Ottoman center had taken on a new "ideological" role, Mardin notes the use of mosque preachers' sermons for constitutionalist agitation by the Young Ottomans in the 1860s.[387] "It was the Islamic texture which was preponderant in his thought," Mardin rather forthrightly summarizes.[388]

It is worthy to emphasize that the Ottoman reforms which oppositional intellectuals like Namık Kemal denounced did not exist in a sealed vacuum. As M.S. Anderson has argued, international relations and diplomacy played a major role in affecting internal reforms of the Ottoman empire, questioning the authenticity of the Tanzimat reforms from an internal perspective. Anderson argues Ottoman internal reforms paralleled conflicts and resolution of conflicts with foreign powers, rather than indigenously-led social movements. Namık Kemal was keenly aware of the externally imposed nature of many of these structural changes in Ottoman law and governance and criticized them accordingly.

In another major area of critique, Namık Kemal, writing nearly a century before Michel Foucault, also identified the undemocratic nature of modern technocracies (because bureaucratic elite had access to European languages, by default they claimed sole authority to dictate policy lines). Here Namık Kemal's idea of the Islamic social contract (*biat/bayʿah*) becomes crucially relevant. While often attributed to Rousseau's theory of the social contract, "a fundamental characteristic of Namık Kemal's theory is his attempt to devise some means by which ultimate

---

[386] Mardin, *Religion and Social Change*, 115.

[387] Ibid., 113.

[388] Mardin, *Genesis of Young Ottoman Thought,* 318.

reference in matters of government would be the will of the community while still remaining true to Islamic principles."[389] In this manner Kemal praised the entrenchment of individual rights in European constitutional movements, as well the latter's achievements in limiting of autocratic power and increasing representation of ordinary power in government affairs, but all along he envisioned these institutional changes as bolstering the role of Sharīʿah and the Islamic identity of the Ottoman state, rather than delimiting it. The Sharīʿah was crucial to Kemal's populism because though he clearly admired aspects of Rousseauvian democracy conceptually, when Tanzimat statesmen defaced the religious law and introduced cosmetic changes to the Ottoman legal system (to please Europeans at that), "it was this impossibility of having reference to an ultimate ethical-political code against which Namık Kemal protested."[390]

In this way, in spite of his respect, even admiration, of European accomplishments in the realm of science, technology, even some political aspects of liberalism, Namık Kemal was not an uncritical psychophant of Europe, America, or even Japan. He still had a profound sense of "self", and an appreciation for a sense of Ottoman and Islamic cultural identity and history, amorphic and cosmopolitan as that was in his own view of Ottomanism. As Niyazi Berkes has argued with respect to Namık Kemal,

> It would be incorrect to portray Kemal as an unconditional Westernist. He warned against the dangers arising from the widening gulf between the traditionalist conservatives and the imitative Westernists. He began by demolishing to his satisfaction a belief that he regarded as a myth in the minds of both Turks and their critics, namely, that the major obstacles to the progress of the Turks was their religion.[391]

As Berkes proceeds to argue, refusing to believe that Islam was the problem, Kemal undertook an extensive analysis of Ottoman weakness, searching for obstacles to his society's progress. Ultimately, Kemal pitted much of the blame on European economic and cultural imperialism. In this regard, Kemal was one of the first Young Ottoman thinkers to identify the role of European economic intervention as the Achilles' heal of the Ottoman state, rather than conventional focus on military weakness. Kemal's descriptions of the economic, financial, administrative and educational conditions of the empire were accurate, as they were devastating. Moreover, he was a pioneer in discussing the sociological limits within which change was imperative. For Kemal, Turkey should acquire all that seemed useful from Europe—to a limit. When Kemal used the term 'civilization' (*medeniyet*), observes Berkes, "he referred only to industry, technology, economy, the press, and education,"[392] and not European social and cultural norms.

As Şerif Mardin argues, crucial to their intellectual foundations was the idea of *synthesis* of classical Islamic jurisprudence, theology, and ethics with modern political institutions. According to Mardin, Namık Kemal based his theory of representative government on Islamic premises. For Kemal, Ottomans could not cut themselves off from their basic intellectual and

---

[389] Ibid., 296.

[390] Ibid., 119.

[391] Berkes, *Development of Secularism in Turkey*, 216.

[392] Ibid.

cultural foundations. A corollary theory was that the Ottomans could not *adopt* modern institutions without *adapting* them from deeper foundations imbedded in the rich social, cultural, and fabric of their society. Indeed, Kemal sternly warned that any new political theory without a strong Islamic basis in Turkey was destined for failure.[393]

In line with his praise of classical Islam's rich legal and intellectual legacy, therefore, Kemal saved his severest criticism for the Tanzimat statesmen who introduced secularism and, more specifically, a ruinous dualism into the Ottoman legal, administrative, and educational systems. Hence Berkes argues that for Kemal,

> [T]he Tanzimat committed its gravest error by copying the Western concept of the separation of state from religion. This not only damaged the religious foundation of the state but also cleared the way for European interference. It gave grounds for the European belief that the Muslims were incapable of reform, encouraged the separation of the non-Muslim millets as independent nations, and, by substituting the spurious aspects of Western civilization for genuine historical traditions, created an unbridgeable gulf between the part of the culture that had become pseudo-Islamic and the part that had become merely pseudo-Western. Kemal was not unaware of the importance of the secularization of the state in the West, but he did not believe that a similar revolution was necessary in the case of the Islamic state.[394]

In this way beyond his treatises on Ottoman "decline," Kemal challenged prevalent theories among liberals and Muslim occidentalists on the "rise of Europe." This was a time when European historians and philosophers attributed their own global achievements to such cultural generalizations as "freedom of thought," and, in particular, the "emancipation" of philosophy from religion, as well as mechanistic conceptualization of the universe.[395] Namık Kemal contested these self-congratulatory presumptions that were prevalent in nineteenth-century European historiography and legal-philosophical treatises. For example, in a perceptive exposé on insufficiency of Western reason, he argued:

> With the benefits to which it has given rise, the experimental method, which has contributed more than anything else to the maturing and the progress of the world, has not been able to clear itself of the onus of having overstepped all boundaries and having placed whatever beliefs there were in the mind and whatever feelings there were in the soul under the light of reality and investigation. Among those who have made it a habit to use the experimental method in their search for truth there are certain super-critics who limit their quest for answers to material occurrences and who would like to consider everything that cannot be touched or seen as either unreliable apparitions or as inferior to the manifestations of nature.[396]

In addition to his critiques of the excesses of materialist philosophies and Europe's "extreme empiricism", in another important area of critique, Namık Kemal, writing a century

---

[393] Mardin, *Religion and Social Change*, 122.

[394] Berkes, *Development of Secularism in Turkey*, 218.

[395] Mardin, *Genesis of Young Ottoman Thought*, 325.

[396] Ibid., 326-27. Kemal is also reported to have said in this regard, "If the Lord had created the mind of man [on the model of] the multiplication table, his conscience like a geometric measure, it would have been impossible for such concepts as 'the nation,' 'the fatherland,' or 'family' to exist." Ibid., 327.

before Michel Foucault, also identified the authoritarian nature of modern technocracies (because bureaucratic elite had access to European languages, by default they claimed sole authority to dictate policy lines). Here Namık Kemal's idea of the *biat*, becomes crucially relevant. While often attributed to Rousseau's theory of the social contract, Kemal devised a theory that upheld the principle of will of the people being the ultimate reference in government, but one that remained true to Islamic principles.[397] He achieved this by praising the sacralization of individual rights in European constitutional movements, as well the latter's achievements in limiting of autocratic power and increasing representation of ordinary power in government affairs, but all along he envisioned these institutional changes as bolstering the role of Sharīʿah and the Islamic identity of the Ottoman state, rather than delimiting it. The Sharīʿah was crucial to Kemal's populism because though he clearly admired aspects of Rousseauvian democracy conceptually, when Tanzimat statesmen defaced the religious law and introduced cosmetic changes to the Ottoman legal system (to appease European governments and financial institutions), "it was this impossibility of having reference to an ultimate ethical-political code against which Namık Kemal protested."[398]

Kemal did, however, accept Montesquieu statement that law was the sum of relations stemming from the very nature of things, a vague conception of natural law that could be worked into a religious context. According to Kemal, not only did the religious foundation of law solve the problem of a fixed standard of good and bad, but, in addition, it had great practical advantages, including greater access to law for the common man and woman in Muslim society, who looked to Islam for sacrosanct rights. For example, in one of his more famous passages quoted in Mardin, Kemal writes,

> Since God had ordered the study of the Koran, every citizen was held to know the general principles embodied in it. If laws were passed in accordance with these general principles, it meant that every true believer would automatically have a sufficient knowledge of the laws of the realm. In a country like France, where law was not drafted in accordance with such basic standards, it was of course impossible for the citizen to know the law.[399]

On the topic of public morality, Kemal had critical words not only for Europe's extreme materialism, but for Ottoman society itself. "With regard to the Ottoman empire," Mardin notes, "Namık Kemal was in keeping with the tradition of Ottoman thought which related the downfall of the empire to a slackening in the observance of religious law.[400] This was a far from a simpleton tirade against personal religious laxness of Ottoman elites, however. Rather Kemal was berating the failure of Ottoman reformist statesmen to uphold the Sharīʿah itself in the administration of the empire's affairs. Mardin relates that Kemal was violently opposed to the movement for the secularization of law which had started with the Tanzimat. In this regard Kemal has written,

---

[397] Ibid., 296.

[398] Ibid., 119.

[399] Ibid., 314-317.

[400] Namık Kemal, "Devlet-i Aliyye-yi Bulunduğu Hal-ı Hatarnaktan Halasın Esbabı," 1-2.

> Up to the present courts with wide jurisdiction [the new secular courts of the Tanzimat] have been founded and all kinds of laws made. Of what use have these been, other than weakening the Mohammedan Şeriat? Are these courts more impartial than religious courts and are these laws more perfect than the precepts of he Şeriat? Since it [the Şeriat] is under the protection of the Unique One, even the greatest of tyrants cannot alter it. All he can do is suppress it. We would seek our salvation in conforming to these standards…[401]

It is important to emphasize here that the Ottoman reforms which oppositional intellectuals like Namık Kemal denounced did not exist in a vacuum. As Matthew Smith Anderson once argued in *The Eastern Question* (1966), international relations and diplomacy played a major role in affecting internal reforms of the Ottoman empire, questioning the authenticity of the Tanzimat reforms from an internal perspective. Anderson argues Ottoman internal reforms paralleled conflicts and resolution of conflicts with foreign powers, rather than indigenously-led social movements.[402] Namık Kemal was keenly aware of the externally imposed nature of many of these structural changes in Ottoman law and governance and criticized them accordingly.

As Recep Şentürk has shown, Kemal's criticisms of the limits of Western secular-liberal reason were part and parcel of a broader ideological struggle taking place amongst Ottoman elites, especially between the Porte bureaucracy, a burgeoning Istanbul intelligentsia, and of course, the Ottoman ʿulamāʾ at this time.[403] As Şerif Mardin has shown with regard to the larger sociopolitical and intellectual climate, by the 1860s the ilmiye class conservative-leaning intellectuals had begun to realize that a new "Kulturkampf" was in the making and that they might be on the losing side of the battle. Muslim modernists, represented in the likes of Namık Kemal Efendi, represented a transitional Ottoman intellectual class that sought to propose Islam as a modern civilization with ancient roots, adaptable and dynamic and with its superiority to Western civilization emphatically affirmed. The purpose of such polemics was not bravado or hubris however, but a framing of a concreter political program represented in Ottomanism and a modernized Islamic law.

– • –

We have now seen how for late Ottoman intellectuals like Namık Kemal, the struggle for modernization of the state did not mean blind or wholesale imitation of Europe, but rather a sober appraisal and judicious selection of the best institutions, wherever they be found in the world. These institutions could then be built on Islamic foundations. That is to say, where there was evidence that such institutions were of benefit (*maṣlaḥa*) to the Muslim community, or at least not in contravention of any clear textual prohibitions, then they should be aggressively pursued and acquired. On the subject of an Ottoman constitution, Kemal stressed that each and every clause of the clauses must be in harmony with a precept of Islamic law.[404] In this way

---

[401] Mardin, *Genesis of Young Ottoman Thought,* 316-17.

[402] M.S. Anderson, *The Eastern Question (1774-1923)* (London: Macmillan, 1966).

[403] Recep Şentürk, "Intellectual Dependency: Late Ottoman Intellectuals between Fiqh and Social Science," *Die Welt des Islams* 47 (2006): 283-318.

[404] Mardin, *Genesis of Young Ottoman Thought,* 310.

Kemal legitimated the Ottoman constitutional movement by emphasizing the constitution would itself enshrine Islam as the spiritual *and* legal foundation of the Ottoman state. Secondly, he argued constitutionalism was perfectly in line with Ottoman political tradition and practice, thereby reflecting continuity with the Ottoman past rather than promoting a radical, destabilizing break from it.[405]

More specifically, because Namık Kemal believed in an Islamic, *qadi*-made "common law," he attacked the continental European conception of a public law which, in the form it took during the nineteenth century, began with the basic tenet of the supremacy of the moral personality of the state. This was quite a blow to legal reformists intent on importing French civil law. Similarly, Kemal refused to accept the general will as infallible.[406] As Mardin argues, for Kemal morality without religion could not by itself constitute a check on man's actions. Voltaire's positivistic interpretation of law and religion was therefore anathema to Kemal.

Kemal complements his critiques of Western excesses with praise of the most beautiful aspects of Islamic civilization, which he argues are many and must be preserved. Indeed, he would proceed to argue those very elements must be brought to life and enhanced in every Muslim society. In his article "Wa Shāwirhum fī al-Amr" ("Consult them in the Matter"), named after a famous Qurʾānic verse exhorting mutual consultation (*shūrah*) in social life and governance, Namık Kemal in his characteristically ardent style writes,

> Considering its greater power to impose universal obedience by material and spiritual means, the Islamic provision for politics is many times superior to the European method of legislation. Being the product, of a thousand years' historical development, the *fiqh* had reached the level of technical perfection; therefore, it was incomparably superior to those laws stolen hastily from the French codes. The provisions of the *fiqh* were better suited to the interests not only of the Muslims but even of the Christian subjects of the Empire than those of the French laws. The matter did not stop even here. Being the product of centuries, the provisions of *fiqh* had become the property of the whole Muslim *ummet* and part and parcel of the mores, customs, and traditions of the people, Therefore they were not mere legal norms … Is there any religion in the world which has succeeded in associating justice with moral virtue (*ihsan*) and thereby transforming moral obligations into legal obligations?[407]

In this way Namık Kemal excoriated the Tanzimat reformers for constructing a false dichotomy between "secular" and "Islamic," and boldly challenged his secular reformist opponents with poignant questions that struck at the heart of the Ottoman state's dilemmas of modernity,

> Is it reasonable to regard the provisions of the *fiqh* as chains of slavery simply because they were based on religious provisions? Does discarding them because of their religious basis not imply a preference for injustice rather than the justice based on religion.[408]

---

[405] Mardin, *Religion and Social Change*, 122.

[406] Mardin, *Genesis of Young Ottoman Thought,* 314.

[407] Namık Kemal, "Wa shawirhum fi'l-amr", *Hürriyet* (July 20, 1868), 1-4, in Charles Kurzman, ed., *Modernist Islam, 1840-1940: A Sourcebook* (New York: Oxford University Press, 2002), 144.

[408] Ibid.

It is in this light, then, that we cannot brand the illustrious and dynamic thinker Namık Kemal as an uncritical promoter of all things European. Far from it, he often praised the superiority of Islamic civilization. Moreover, his commitment to the Caliphate as legitimate Islamic government (albeit reconceptualized as a constitutional monarchy) should complicate the conventional understanding of Namık Kemal as a linear predecessor of the Young Turks, Kemalism or the Turkish Republic.

Montesquieu meets al-Mawardī: Namık Kemal on Representative Government

For Namık Kemal, one of the most persistent themes of his writings centered on one question: "What is the form of democracy in an Islamically conceived community?"[409] A long history preceded Kemal before he posed this question, one that has become so emblematic of modernity in Muslim-majority countries until this day.[410] As Şerif Mardin argues, the Tanzimat statesmen were wary of initiating too rash a movement in a populist direction, and it was left to their critics of the 1860s, the Young Ottomans, to make an issue of popular representation. For the Young Ottomans, the viability of a state was dependent upon the social solidarity of its masses, and their proposals for representative government followed the premise that the only means to ensure this solidarity was through liberty, within the protective limits of an Islamic polity.[411]

This was not democracy in the sense of full sovereignty resting in the people as a truth self-evident. Rather, the Young Ottomans were proposing a new solution to the same problem facing the Tanzimat reformers—the dissolution of the empire, capitulations to European, and external economic infiltration. Thus, while recognizing the same impetus for change that spurred the Tanzimat reformers to initiate massive administrative changes in the Ottoman governmental system, the Young Ottomans led by the illustrious Namık Kemal chartered a new course. It was a course that stressed what the Tanzimat statesmen did not, i.e. representation and participation of the common population in the affairs of the state. To the Tanzimat statemens' proposal of good government framed by an enlightened despotism, their foes, the Young Ottomans, countered that it was *participation* in the process of government which would rally Muslims to reforms and eliminate the barriers between different religious groups.[412]

Namık Kemal's theory of representative government has stirred debates among historians about the degree to which his ideology was a mere graft from the political philosophies of Rousseau and Montesquieu, or a unique and authentically "Islamic" contribution to issues of representative government. According to Sina Akşin,

> Namık Kemal took the ideology of the French Revolution and clothed it in terms acceptable to and easily assimilated by Muslims. For example, he cited the *biat* (oath of allegiance) ceremony as an Islamic parallel of Jean-Jacques Rousseau's theory of the 'Social Contract.' In the *biat* ceremony subjects accepted the authority of the sultan and in return were deemed to have a

---

[409] Berkes, *Development of Secularism in Turkey*, 482.

[410] Interestingly enough, as Berkes notes, half-a-century later Mustafa Kemal would essentially reverse the question as, "What is the position of Islam in a democractically conceived political community?" Ibid.

[411] Mardin, *Genesis of Young Ottoman Thought,* 116.

[412] Ibid.

> contract with him in which he promised to refrain from oppression and to be just in his dealings with them. It could therefore be maintained that if there was injustice they had the right to resist. Political rights and the parliamentary system were interpreted as being analogous to the *meşveret* system of the Koran which orders the faithful to 'take counsel.'[413]

For Akşin, other concepts introduced by Namık Kemal were that all men were born free, and the state is not an entity separate from the people and cannot have interests separate from theirs.[414] In "Wa Shāwirhum fī al-Amr," Kemal writes that "Being created free by God, man is naturally obliged to benefit from this divine gift. General freedom is protected within society because society can produce a preponderant force to safeguard the individual from the fear of the aggression on the part of another individual."[415] This leads to Kemal's conception of the state as a moral person, remnant of Rousseau:

> The state is a moral personality. The making of laws is tantamount to its will, and the execution is its actions. As long as both of these are held in the same hands, the actions of the government can never be saved from the unfettered exercise of will. Thus the necessity for a council of the *umma* arises from this.[416]

Kemal's theory of a "Council of the Umma" reveals a number of tensions implicit in his political thought. In particular, to what extent was his theory of popular representation accordant, or discordant, with his commitment to the supremacy of Islamic law in Ottoman society? How were his notions of social equality among Ottomans, and popular representation, to be reconciled with rule by the Sharīʿah? Here Mardin reminds us that none of Namık Kemal's ideas, including his theory of social equality, should be singled out and isolated from its historical context. For Kemal, equality meant equality before the law, and equality which derives from the dignity of the human person and the divine origin of the creation of man. In practice, this meant for Kemal that no one was above the law—high government officials would not be treated more leniently than ordinary citizens in the courts. This was the equality that had existed between the Prophet and his followers and was identified with an idealized Islamic golden age.[417]

From the same passages above, it is evident that Kemal was not talking of a secular-liberal democracy in the French or American sense. Just as Kemal envisioned a limit to borrowing from the West, the Sharīʿah laid down limits in public life that theoretically no one could violate, not even the Sultan. As Mardin shows, though the community constituted the source of sovereignty in Namık Kemal's scheme for governance, it does not follow that the majority is entitled to transgress the boundaries of the moral law set by the Şeriat. Just as the majority cannot transgress the moral law's boundaries, neither can the community delegate actions which violate the sacred Şeriat.[418] Thus for Namık Kemal no majority, however strong,

---

[413] Akşin, *Turkey: From Empire to Revolutionary Republic*, 35.

[414] Ibid.

[415] Namık Kemal, "Wa shawirhum fi'l-amr", 144.

[416] Ibid., 144-145.

[417] Mardin, *Genesis of Young Ottoman Thought,* 319.

[418] Ibid., 299.

was warranted in committing an injustice. Here Kemal's reoccurring notion of *usul-u meşveret*—a complex and difficult term to translate, but referring to the combined principles of constitutionalism, participatory politics, and representative government—becomes especially important. On the complexity of the term Mardin notes that it

> has only rarely the connotation of 'constitutionalism'; more often it is used as the equivalent of 'representative government.' The reason for which constitutionalism was not accorded a place as a primary political goal was that according to Kemal the Şeriat already provided a set of fundamental political principles to guide statesmen.[419]

It is worthy to note here that Kemal was loyal to Sultan himself and in spite of his caustic words for the Tanzimat government and "expert" advisory rule of Fuad and Ali Paşa, he never called for an end to the Sultanate/Caliphate or proposed radical revolution.[420] Rather some of his articles outlined his ideal governmental structure for a more representative, stronger Ottoman state and society. Using the French model, Kemal projected a three-body system of government—a council of state [*Meclis-i Şura-yi Devlet*], a senate [*senato*], and a lower chamber [*Meclis-i Şura-yi Ümmet*], with the Sultan holding an executive supervisory role. As Mardin explains, the council of state was entrusted with preparing laws and working through difficulties that might arise in administrative practice. The *corps le'gislatif* (composed of elected members, as opposed to the council of state's appointment members), and the senate were charged with to approving the legislation prepared by the council of state, and the lower chamber was to control the budget.[421]

Namık Kemal was astutely aware of European criticisms of Ottoman government. Orientalist depictions of Eastern despotism notwithstanding, Kemal took these criticisms to heart. He laments how, in his own words, "Europeans conclude that the Muslims are ignorant of the pleasure of freedom and readily submit to the noose of oppression.[422] But Kemal's target audience was not European observers, and he rarely sought to appease them. Rather, Kemal sought to persuade Ottoman officials themselves to make the changes he was promoting, by their own will and initiative. In developing his own sociopolitical critiques of Ottoman governance, and in proposing alterative solutions such as his elaborate theories of Islamic representative government for the "new" Ottoman state, Kemal responded to reactionary attacks on his writings by stressing the indomitability of a government that drew its strength from incorporating the general population in its administration. Adamanat that public opinion was "an exilir of health" and not a "poison" as conventionally held by both Palace and Porte, Kemal vehemently argued that "The only measure that will eliminate the present oppression and profligacy, and put an end to the mistrust of the people, is the adoption of the method of consultation."[423] For Kemal, the Qurʾānic emphasis on consultation, or *shura/meshawar*a, was the greatest proof of the Islamic nature of constitutionalism. In classic synthesis style, for example, he argued

---

[419] Ibid., 309.

[420] Ibid., 405.

[421] Ibid., 311.

[422] Namık Kemal, "*Wa shawirhum fi'l-amr*", 146.

[423] Ibid., 147.

> As for the imagined detrimental effects that would stem from the adoption of the method of consultation, in reality these have no basis. First, it is said that the establishment of a council of the people would violate the rights of the sultan. As was made clear in our introduction, the right of the sultan in our country is to govern on the basis of the will of the people and the principles of freedom. His title is 'one charged with kingship' (*sahib al-mulk*), not 'owner of kingship' (*malik al-mulk*, a title reserved for God in the Qurʾān, 3:26). His Imperial Majesty the sultan is heir to the esteemed Ottoman dynasty, which established its state by protecting religion. It was thanks to this fact that the [Ottoman sultan] became the cynosure of the people and the caliph of Islam.[424]

In light of his cosmopolitan and eclectic nature of argument, it is important to distill the major points of Namık Kemal's legal, constitutional, and political—let us sum it up as *juridical*—thought. Şerif Mardin aptly summarizes as follows: representative government, limited by a separation of powers, the will of the people, and the Sharīʿah as a guiding source and supreme authority above which no one, not even the Sultan, could stand above. Most of Kemal's writings led to a common conclusion—the necessity of a 'system of *meşveret*,' his word for 'representative government.' He would go on to state that a community ('*ümmet*') could be free only when it had been assured of its personal rights ('*hukuk-u şahsiye*'). Securing personal rights was dependent upon the institution of impartial and competent courts, while political right depended upon the separation of powers ('*küvvetlerin taksimi*') and the establishment of representative government.[425]

The Priority of Juridical Reform for Namık Kemal

For Namık Kemal, there was little doubt where the crucial line of departure stood from his generation of Young Ottomans and the previous Tanzimat reformers: the administration of law. As Berkes has argued,

> [T]he legal reforms of the Tanzimat were not only inconsistent but also harmful, first in damaging the legal foundations of the Ottoman Islamic polity and second, in opening the legal and intellectual gates for the West to undermine the historical existence of the Muslim community. The Tanzimat introduced codes from sources alien to the Islamic legal traditions and thus undermined the integrity of the fiqh system, which was the legal foundation of the Şeriat. The fiqh was, in his words, the 'greatest monument of the Islamic civilization,' and 'a product of several centuries' and of the painstaking labours of Muslim jurists and judges. It was possible to derive the most modern codes to suit the most modern needs from this 'great ocean.'[426]

At times Kemal went even further and upped the ante, asserting that the Ottomans surpassed European societies in the realm of establishing a respectable rule of law via the Sharīʿah and incorporating ordinary people's participation as knowing agents in the dominant legal order (due to their knowledge of basic religious law), something which Kemal stressed could not be the case

---

[424] Ibid.

[425] Mardin, *Genesis of Young Ottoman Thought,* 308-09.

[426] Berkes, *Development of Secularism in Turkey*, 216.

for the common European man in his secular society. As Berkes summarized Kemal's philosophy of law in this regard,

> [T]he fundamental principles (that is, the natural law), which the Western philosophers discovered only 'through philosophical deductions' from certain human premises 'because they did not have a Şeriat,' were already known to the Muslims once and for all in the injunctions of God and the hadiths of the Prophet; therefore, there was no need to produce or discover them by philosophical reasoning. That these principles were instituted by God, with the foundations of the Islamic law as the first data, gave that law the greatest authority because, obviously, man-made laws could not have the same universality or powers of endurance as divinely inspired ones.[427]

Namık Kemal's praise for a Sharia-based public order helps us understand his bitter opposition to the Tanzimat's transplanting of European legal codes in the largely-Muslim Ottoman society. W.C. Smith stressed this point nearly a century later by raising the following poignant question with regard to Mustafa Kemal Atatürk's radical legislation in the late 1920s, "If the members of the Grand National Assembly have replaced the Sharīʿah with a foreign code because it seemed to them good, what is to keep them tomorrow from replacing this by fascist laws, if it seemed to them, as a ruling group, profitable?"[428] Here Mardin insightfully notes the potential rare alliance that could have formed between disillusioned Porte bureaucrats and ʿulamāʾ. Mardin writes, "the opposition of the ʿulamāʾ to the imperial prerogative of lawmaking explains the process by which, for many Young Ottomans, the establishment of a constitutional system in Turkey was equated with a return to the rule of law as embodied in the practice of the Şeriat."[429]

Similarly, Mardin notes that the Young Ottomans scalded the statesmen of the school of Ali Paşa for having swindled the tremendous opportunities afforded by the "unfathomable sea of the Şeriat" in their obsession to mimic all things European.[430] The Young Ottomans and ʿulamāʾ both had a shared basis for complaint in this regard. Indeed, as Mardin indicates, "the new elite took over the Western-mindedness of Reşid Paşa and carried it even farther."[431] These men, for example, were the first to join Masonic lodges in Turkey, established by British and French ambassadors. But as Mardin rightfully notes, far more substantial than the external manifestations of Europeanization in clothing, language, and lifestyle, the strongest indications of where their inspiration and reliance for reform (read: state centralization) lay was "in the favorable attitude that they adopted toward the creation of lay courts and the adoption of codes of law modeled on European codes."[432]

---

[427] Ibid.

[428] Wilfred Cantwell Smith, *Islam in Modern History* (Princeton: Princeton University Press, 1957), 196-97, quoted in Mardin, *Genesis of Young Ottoman Thought,* 119.

[429] Mardin, *Genesis of Young Ottoman Thought,* 105.

[430] Mardin, *Genesis of Young Ottoman Thought,* 115.

[431] Ibid., 116.

[432] Ibid.

> It is indeed extraordinary that when the project for the creation of such courts—which had been suggested by Western powers—was being discussed at the Porte, there should have existed a group of statesmen who were not averse to the suggestions of the French ambassador, Bourree, of having the entire French civil code translated into Turkish and used as a Turkish civil code.[433]

These were precisely the actions which Muslim modernist journalists, political theorists, and most of all, *jurists* like Ahmed Cevdet Paşa had taken a firm stand against. For jurist-administrators like Cevdet Paşa, but also Young Ottoman constitutionalists like Namık Kemal, hearing proposals such as that above was more than enough motivation to launch their own juridical modernity-making projects. In short, most of the Young Ottoman criticism of the Tanzimat reforms and associated politics can be summarized as a call for justice, with Namık Kemal calling for the reinvigoration of a Sharīʿah-based rule of law that even the most powerful statesmen could not escape. As Mardin concludes,

> To a large extent what this meant in practice was a demand for the implementation of the religious law, the Şeriat. There are statements of Namık Kemal which show that he believed the ʿulamāʾ needed to be shorn of what he considered obscurantist elements, but, as for the 'spirit' of that law itself, Namık Kemal believed that the Şeriat provided the surest guide.. .[Similar to Sir Edward Coke] Namık Kemal too believed that it was the Ottoman equivalent of the common law 'which assigned to the King his powers, to each of the courts its proper jurisdiction and to every Englishman [or in this case, to every Ottoman] the rights and privileges of his station.' He also believed that the Şeriat included all that then could be counted as constitution, both the fundamental structure of the government and the fundamental rights of the subjects. This belief of Namık Kemal's was strictly orthodox and emphasized the teachings of the ʿulamāʾ.[434]

In this way "modern Islamic law" was the key concept for Kemal, distinguishing his proposals from what he saw as excessive tutelage to European masters at the expense of Ottoman-Islamic history and tradition. Kemal not only thought the borrowing of foreign laws should cease, but he asserted that the Ottomans surpassed European societies in the realm of establishing a rule of law via the Sharīʿah. This was because the latter incorporated everyday ordinary people's participation as knowing agents in the dominant legal order, due to their knowledge of basic religious law, something which Kemal stressed could never be the case for the common man or woman in many European societies. As Berkes has argued, for Kemal "natural law" was already known to Muslims in the injunctions of God and the hadiths of the Prophet; therefore, there was no need to produce or discover them by philosophical reasoning. Because these principles were instituted by God and not man, from its very foundations Islamic law enjoyed the greatest authority in the hearts and minds of Muslims; conversely, Kemal argued, man-made laws could never have the same universality or powers of endurance as divinely inspired ones.[435]

Namık Kemal's praise for a Sharīʿah-based public order helps us understand his bitter opposition to the Tanzimat's transplanting of European legal codes in Ottoman society. The core of Kemal's criticism of the Tanzimat reforms, after all, was that a true Ottoman "rule of law"

---

[433] Ibid.

[434] Ibid., 314.

[435] Ibid.

was to be derived from Ottoman law, which was based on the Şeriat, and promoted a sense of accountability and justice before the law from which even the most powerful statesmen could not escape. Though he believed the ʿulamāʾ needed to be shorn of what he considered "obscurantist" elements, in order to liberate the 'spirit' of the law from close-minded obsession with minutia, in the end Namık Kemal believed that the Sharīʿah (Şeriat) provided the surest guide. Mardin even cites a similarity between Namık Kemal and Sir Edward Coke, for Kemal too believed that an Ottoman equivalent of the "common law" assigned limited powers to the King, and delineated to each courts its proper jurisdiction and to every citizen the rights and privileges of his station. [436] Kemal also supported the idea that the Şeriat contained all that was needed for a constitution, from the fundamental structure of the uppermost echelons of government, to the fundamental rights of the most humble street vendor and Ottoman citizen-subject.[437]

Young Ottomans and the Rule of Law: The Juridical Legacy

As we look back at the contributions of Namık Kemal Efendi and the Young Ottomans, we will see an immense and abiding legacy for each. For Namık Kemal, his greatest victory was the realization of a core Young Ottoman ideal: the Ottoman Constitution of 1876. Though short-lived, the Ottoman parliament and constitution was a milestone achievement of representative government with Islamic inspiration, as attested to in the writings of Young Ottomans like Namık Kemal through the 1860s and 1870s. The Ottoman Parliament and Constitution were eventually disbanded—along with the first Ottoman Islamic Civil code the Mecelle—by Sultan Abdülhamid II in one of Ottoman history's great ironies (a development that could be attributed to drastically changed realities on the ground after the Russo-Ottoman war of 1877-1878 and other threats to the Empire which were factors as much, if not more, than any idiosyncrasies of Abdülhamid's part). Nonetheless, the intellectual and political legacy of the Young Ottomans and Namık Kemal in particular were recognized and later claimed to be, completely or in part, inspirations for the Young Turk revolution three decades later and even by Mustafa Kemal and other leaders of the secular Turkish Republic.

At the same time, Namık Kemal and the Young Ottomans did not deal extensively with the theoretical and methodological foundations of their intellectual attempts to synthesize *fiqh* and European social theories. These were to be dealt with extensively by the Young Turks who followed them.[438] In this way Namık Kemal remained without a competitor until Ziya Gökalp emerged as the official mentor and ideologist of the Young Turks, especially the Committee for Union and Progress (İttihad ve Terakki Cemiyeti, or "CUP") with a "more or less coherent system of thought". It is with this earlier generation's intellectual and political contributions, after all, that historians of modern Turkey Feroz Aḥmad and Şükrü Hanioğlu begin their authoritative histories of the Young Turk revolution, end of the Ottoman empire, and founding of the Turkish Republic.

In spite of their immense and monumental contributions to the intellectual, social, and political goals of the Young Ottoman and Young Afghan movements, Namık Kemal nor did not live to see full fruition of his ideas in his society, nor were his calls for reform heeded and implemented in the short term. As fate would have it, Kemal grew disillusioned with the pace of

[436] Ibid.

[437] Ibid.

[438] Şentürk, "Intellectual Dependency: Late Ottoman Intellectuals between Fiqh and Social Science," 302.

reforms under the ruling authorities they served under—for the former reforms were too slow or lacking sincerity, for the latter they were too fast and lacking wisdom and prudence. And their frustration and disappointment with ruling authorities did not go unnoticed.

For Namık Kemal, a dissident and patriot at heart both at once, after earning the ire of the ruling Sultan again he spent the last years of his life banished from Istanbul and even imprisonment. His hometown of Tekirdağ still claim to have the chains, literally, of his imprisonment. After a life of service in so many capacities and in as many cities, Namık Kemal died on the presently Greek-ruled island of Chios, surrounded by the blue waters of the Aegean sea.

– • –

Above all else, the Young Ottomans stood for cohesion of the empire under a rubric of Islamic rule of law and Ottomanism. Theirs was a reformism *drawing from* the Ottoman Islamic heritage and the Şeriat. They were against Ottoman "meekness", as they were against the Tanzimat's over-westernization and superficial reforms that did not improve life in content. They also looked beyond the Ottoman confines to build bridges with Muslims of other lands, as far as India and Central Asia. They formed links and alliances with Ottoman ʿulamāʾ, students, and sufi tekke networks, who otherwise lacked a strong voice in the elite circles of Istanbul. But most of all, they were against the bureaucratic tyranny and "rule of experts" represented by the Tanzimat architects. It was these developments that laid the seeds for an Ottoman constitution. They eventually became the most threatening and organized opposition to Sultan Abdülhamid II, who became the main reason for the actual passing of a constitution, their greatest legacy to Turkey until this day.

CONCLUSION

We began this chapter by tracing the ebbs and flows of tripartite relations between Turks, Afghans, and Indian Muslims from Sultan Muḥammad Ghaznawī's incursions into medieval India and the establishment of the Delhi Sultanate in the eleventh century, to history's first and only Ottoman-Afghan war in 1726. We concluded with the tepid response of Ottoman and Afghan rulers upon the invitation of Indian Muslims to join hands in the largest rebellion the British empire ever faced in its history: the Indian Rebellion, or Sepoy "Mutiny" of 1857. Such a lukewarm response might be a surprising anti-climax to contemporary observers expecting a global Pan-Islamic "tide" even at this juncture in history.

I show not only there has been no singular, long-standing relationship between these three broad (majority Sunnī, through internally heterogeneous and fractured) Muslim populations, but rather a series of interrupted, incomplete, and seasonal alliances, friendships, and even occasional animosities. While dominant historiographical trend on Pan-Islamism is in one sense correct that Pan-Islamism is a relatively modern phenomenon, it is flawed in its erasure or ignorance of earlier episodes. Moreover, I show that extant scholarship on Pan-Islamism largely ignores educational and juridical ties between these regions and peoples, focusing instead on episodes of violent anti-Western confrontation and militancy.

While Azmi Özcan looks at formal contacts, his study does not examine in depth the intellectual ties between Ottoman schools and India, especially in the realm of Ḥanafī jurisprudence. This is common in studies of Pan-Islamism in which attention is showered upon

grandiose visions of military alliances that were occasionally proposed, contemplated, but rarely materialized. Ignored in this paradigm are the intellectual and legal collaborations that *did* occur. This is particularly the case with the relationship during nearly two centuries of shared legal scholarship between India and Turkey, beginning with the circulation of the *Fatāwā-yi ʿĀlamgīrī* after its publication in 1675. While jurisprudential studies of Islamic law in the modern era have emphasized the large effect of the *Mecelle* on the larger Muslim world, especially Ḥanafī fiqh, to the extent of my knowledge no studies have examined the earlier effect of the Indian *Fatāwā-yi ʿĀlamgīrī* on the Ottomans. While it is beyond the scope of this study to perform a thorough examination of this question, it is important to acknowledge for our purposes here the *Fatāwā-yi ʿĀlamgīrī* was a groundbreaking precedent in the Islamic juridical field, but also grew from a deep historical wellspring of Islamic compilations, codifications, and commentaries on them. Furthermore, as we will explore in Chapters 3 and 5, it would become a significant source of future projects of codifying Ḥanafī jurisprudence in two later modern states: the late Ottoman Mecelle, and the Niẓāmnāmā of Amir Amān-Allāh Khan in Afghanistan.

On a final note on the wide and open world of judicial "precedents", it is important to recognize that the Ottomans and the Mughals were not the only states interested in codifying Islamic law at the time. Nor were codification projects that tapped into the socio-legal reservoirs of religious texts exclusive to Muslim powers or Islamic law, of course. Rather, some of the earliest modern codifications of Islamic law were in fact commissioned by European colonial powers, including the British in India, the French in Algeria, and the Dutch in Indonesia.[439] Bernard Cohn has examined the case of the British "codifications" of Islamic law proposed by the Oxford classicist and Orientalist Sir William Jones (1746-1794). Jones' recommendations were enthusiastically received in India and put into effect with the political and financial backing of Governor-General of Bengal Warren Hastings (1732-1818). The result was a "Muslim Law Digest," more a compilation of translated classical Islamic legal texts, stripped of their voluminous commentaries, than a bona fide legal "codification." As a hasty amalgam of classical rulings—with substantive rulings mainly drawn from translating passages of the original Arabic text *Hidāyah* of the twelfth century central Asian Ḥanafī scholar Burhān al-Dīn ʿAlī ibn Abī Bakr al-Marghīnānī (1152–1197)—and British common law procedure, the digests were immediately put to use in administering a new "Anglo-Muhammadan law" for Muslims in the British Indian empire.[440] A similar project was commissioned for Hindu law, published in London in 1776 as *A Code of Gentoo Laws; or, Ordinations of the Pundits*.[441]

---

[439] For a brief overview of European projects to codify Islamic law and/or impose codes of their own production on native populations of the Arab and Muslim world in the nineteenth and early twentieth centuries, see Wael Hallaq's chapter "Colonizing the Muslim world and its Shari'a," in Hallaq 2009. For British India, see 85-89; for Dutch Indonesia, see 89-93; and for the French in Algeria see, 110-114.

[440] Jones' juridical project and the roots of "Anglo-Muḥammadan" law in British India are discussed in depth in Bernard Cohn's riveting chapter, "Law and the Colonial State in India," in *Colonialism and its Forms of Knowledge: The British in India* (1996). For a study of French colonial law in Algeria, see Christelow, Alan. *Muslim Law Courts and the French Colonial State in Algeria*. Princeton: Princeton University Press, 1985.

[441] Cohn, *Colonialism and its Forms of Knowledge*, 66. That a "codification craze" was not limited to imperial settings at this time is evident in similar codification projects in eighteenth and nineteenth century Latin America. For a fascinating comparison of "creative adaptation" of French legal codes in a non-Middle Eastern context, see Mirow, M.C. "The Power of Codification in Latin America: Simon Bolivar and the Code Napoleon," *Tulane Journal of Int'l & Comparative Law* 2000 and "Borrowing Private Law in Latin America: Andrés Bello's Use of the Code Napoléon in Drafting the Chilean Civil Code." *Louisiana Law Review* 61 (2001).

Did these codifications have an effect on Indian Muslim, Ottoman, and Afghan views on codification? The evidence is scant and speculative, and much more research is required to establish if there were any intellectual or juridical genealogies between the late eighteenth century British codifications of Islamic law as "digests" and what was later to emerge in Ottoman Turkey in the late nineteenth century, and Afghanistan in the twentieth. Given the staunch resistance of the north Indian ʿulamāʾ establishment to any British interventions in their protected space of personal law and spirituality in the Muslim *qasbahs* of the Upper Doab Valley surrounding Delhi—efforts that included spearheading boycotts of British courts and its so-called "Anglo-Muhammadan" law—it seems unlikely there were inroads towards joint collaborations in the British and Indo-Islamic juridical fields in this regard.

In any case, what is relevant for our purposes here is that the British did not support projects of Islamic legal codification or the administration of Islamic law in their courts for long. In 1837, the British replaced Persian with English as official language of courts of India. Then, beginning in the early 1860s, the British Indian government's turn against qāḍī courts, more specifically the interpretation and application of Islamic jurisprudence by traditionally trained Muslim personnel, reached new heights (or lows, depending on one's perspective). Most prominent among the legislation passed after 1860, in the aftermath of the 1857 rebellion that is, was Act XI of 1864, prohibiting the employment of Muslim *qāḍīs* in British Indian courts. This act was a major blow to the position of ʿulamāʾ in Indian society, from the perspective of the British Indian Government, at least, who were now not even willing to employ the most loyalist of *qāḍīs*. While the latter overcame qualms of serving in British courts before Act XI of 1864, now even *their* position was threatened.

As we will see in the next chapter, the Indian ʿulamāʾ and their supporters in the diverse Muslim communities of post-Mutiny India did not passively spectate as their positions, prestige, and in some cases, property were under threat. Two of the most robust responses of Indian Muslims, though not the only one as we will also see, was the establishment of the Dār al-ʿUlūm madrasa at Deoband in northern India, and the Anglo-Oriental Muhammadan College at Aligarh, two educational institutions that would have lasting influences on the conceptualization and practice of modern Islam in the nineteenth and twentieth century not only in India, but in Afghanistan as well.

Meanwhile, by highlighting the disproportional historiographical emphasis on jihads, rebellions, and other spectacular military adventures, we have set the stage for analyzing the long nineteenth century's two most unexplored streams of transnational Islamic juridical cultures and institutions in the Muslim world: the proliferation of Ottoman etatism and legal modernism (embodied in the Tanzimat laws and Mecelle Civil Code) from the west, and the twin Deobandi-Aligharian Indo-Islamic revival movement from the east. These would be the very same social, cultural, and *juridical* streams that would compete for influence in the Amir's court in Kabul and Afghanistan's juridical field in the long nineteenth century.

CHAPTER THREE

A Tale of Three Cities

Istanbul, Kabul, and Greater Delhi in Juridical Contact, 1877-1901

> One who grows up in a village or a rural settlement and seeks to learn sacred knowledge will not be able to find the appropriate kinds of instruction in his local surroundings... He will therefore have to travel to seek instruction in heavily populated cities, just as is the case with all other crafts.
>
> - Ibn Khaldun (1332-1406), *The Muqqadimah*

> For good or for evil, all past history teaches us there has been always an intimate political intercourse between Afghanistan and India, and permanently to exclude Afghanistan from the sphere of Indian politics is an impossibility.[1]
>
> - The Mahomedan Literary Society of Calcutta to Viceroy Lytton (1879)

> If the Porte really desired to cultivate friendly relations with the Mussulmen in Central Asia which it might utilize in case of need, it should pave the way to it by maintaining permanent diplomatic discourse with them, and not attempt simply to use them as tools which it would very probably cast away whenever the hour of danger was past.[2]
>
> - Khedive Ismail of Egypt, advising an Ottoman envoy to Kabul (1877)

– • –

In the early morning hours of August 9, 1877, British naval authorities off the Indian coast of Bombay identified an unusual ship on the horizon. Though scores of vessels carrying transnational passengers, commercial goods, and military supplies routinely entered Bombay's bustling sea-port, the Indian subcontinent's largest, from the beginning there were indications there was something different, something unusual, about this arrival. As port employees briskly

[1] NAI-FD/SS September 1879 179-361 ("From The Mahomedan Literary Society of Calcutta to Viceroy and Edward Robert Lytton, Governor-General of India").

[2] Notes from the conversation between Khedive Ismail and Ottoman envoy Ahmed Hulusi Efendi are reported in NAI-FD/SEC March 1878 6-63 ("Deputation of a Turkish Envoy to Afghanistan"). British officials in London, Istanbul, and Calcutta made little secret of the fact that their intelligence officers would be accompanying the Ottoman envoy practically every step of the journey. For the Ottoman perspective, see the extraordinarily rich file in BOA-Y.A.HUS 159/14 (1294 Ş 01) ("Afganistan Sefiri Ahmed Hulusi Efendi'nin kendisine Bombay'da gösterilen ihtiramdan dolayı İngilizlerin endişelendikleriye ilgili telgrafın takdimi"); BOA-İ.HR 276/16873 (1295 C 05) ("Sefaret-i mahsusa Ahmed Hulusi Efendi'nin Afganistan'a gönderildiği") and BOA-İ.HR 335/21534 (1295 C 21) ("Sefareti fevkalade ile Afganistan'a gidip gelmiş olan Şirvanizade Ahmed Hulusi Efendi ile maiyyetinin harcırahının ödenmesi). For a first-hand account from one of the delegates themselves, see Aḥmad Hamdi Efendi's travel memoir, *Hindistan, Swat ve Afghanistan Seyahatnamesi* (İstanbul: Maḥmūd Bey Matbaası, 1300 [1882/3]).

prepared for the craft's imminent landfall and anchoring, a company of British officers surrounded the dock, scanning for disturbances on shore. At last the vessel made contact with the dock, grinding to a screeching halt. Disembarking, the passengers were immediately escorted to a smaller boat waiting nearby. The visitors were then discreetly scuttled to an agreed-upon location down the harbor—the Ottoman Imperial Consulate at Bombay.

The attempts by the British authorities to cloak the arrival of the Ottoman delegation in secrecy proved to be in vain. Within hours of arriving, accounts from the Ottoman consulate describe ecstatic, chanting crowds—presumed to be made up of the city's Muslims—overflowing into the streets and generating an atmosphere of glee and pandemonium. The hero's welcome in Bombay was far from over, however. When the visitors expressed a desire to attend Friday prayers in a local mosque the next day, to the astonishment of the Turks—and their British hosts—by midday there were an estimated 50-60,000 thousand people already gathered in and around the mosque.[3] As one member of the mission wrote in his travel diary, it was difficult to estimate the precise numbers, but "because of the crowd we were nearly suffocated."[4] Blind sighted by this explosive display of pro-Ottoman sentiment so far from the Sultan's domains, British authorities arranged for the delegation's immediate departure from the city, notwithstanding their travel from Yemen a day earlier, Egypt a week prior, and Istanbul three weeks before. With this pomp and circumstance—albeit not the kind British officials had in mind—the Ottoman delegation resumed the journey to their intended destination: Kabul, Afghanistan.[5]

– • –

The epic voyage of Ottoman envoy Ahmed Hulusi Efendi from Istanbul to Kabul and back in 1877-1878—a remarkable journey that included sojourns in Egypt, Yemen, India, Syria and the Ḥijāz—has received a modest and disparate amount of scholarly attention. Dwight Lee (1941) first published an article on the Porte's mission to Afghanistan, an expedition that was integrally tied to Ottoman military strategy in the Russo-Ottoman war of 1877.[6] In his early study Lee traces the involvement of influential British officials in London, Calcutta, and Istanbul

[3] Mehmet Saray, *Türk-Afgan Münasebetleri* (İstanbul: Veli Yayınları, 1984), 17.

[4] Ahmed Hamdi, *Hindistan, Swat ve Afghanistan Seyahatnamesi* (İstanbul: Mahmud Bey Matbaası, 1300 [1882/3]), 11-12.

[5] Our opening scene is reconstructed from documents first discovered in the British Indian archival records by Dwight Lee (1941) and in the Prime Ministry Ottoman Archives by Cavid Baysun (1952) and Azmi Özcan (1997). BOA-Y.A.HUS 159/14 (1294 Ş 01) ("Afganistan Sefiri Ahmed Hulusi Efendi'nin kendisine Bombay'da gösterilen ihtiramdan dolayı İngilizlerin endişelendikleriye ilgili telgrafın takdimi"), BOA-İ.HR 276/16873 (1295 C 05) ("Sefaret-i mahsusa Ahmed Hulusi Efendi'nin Afganistan'a gönderildiği"), and NAI-FD/SEC March 1878 70-145 ("Arrival of the Turkish Envoy, his journey in India, and departure for Cabul"). Ahmed Hamdi Efendi, a journalist and member of the delegation, has also left us with glimpses of the arrival at Bombay in his travel memoir, *Hindistan, Swat ve Afganistan Seyahatnamesi* (1300 [1882-83]). Finally, Özcan and Lee also give us some sense of the dramatic nature of the delegation's journey through India in their descriptions of the Ottoman mission to Kabul. Azmi Özcan, *Pan-Islamism: Indian Muslims, the Ottoman and Britain (1877 -1924)* (Leiden: Brill, 1997), 86; Dwight Lee, A Turkish Mission to Afghanistan, 1877," *The Journal of Modern History* 13 (1941): 349.

[6] Dwight Lee, A Turkish Mission to Afghanistan, 1877," *The Journal of Modern History* 13 (1941): 335-356.

in debating, promoting, and ultimately facilitating the Ottoman envoy's journey to Afghanistan via British India, including Hulusi Efendi's sea-landing at Bombay. The British had also planned to "escort" him through the Indian interior, and ultimately, across the border into Afghanistan via the Khyber Pass. Relying on India Office records in London, Lee described the Ottoman mission as a failure because of the envoy's inability to convince the Afghan ruler, Amir Sher ʿAlī Khan (r. 1869-1879), to join the Ottoman war against Russia.[7] A decade later, Cavid Baysun unearthed a batch of documents from Ottoman archival repositories in Istanbul pertaining to Hulusi Efendi's historic mission; shortly thereafter he published a brief article on what these documents tell us about the envoy's mission from the Porte's perspective.[8] For the next three decades, however, Hulusi Efendi and his legacy seems to have been largely forgotten.

Utilizing increased access to the Prime Ministry Ottoman archives in Istanbul, Mehmet Saray (1984, 1987) and Azmi Özcan (1997) provide more complex and multi-dimensional accounts of Hulusi Efendi's historic expedition based on documents left by the mission as well as British officials at the India Office Records in London.[9] Restoring a degree of agency to the Ottoman actors, Özcan illustrates how Sultan Abdülhamid II (r. 1876-1909) deftly played London off Calcutta in ensuring the success of his proposal to send an Ottoman envoy to Kabul.[10] Furthermore, by examining original correspondence left by the expedition members, Özcan and Saray unearth issues and perspectives no previous work had explored: how Hulusi Efendi and his colleagues pursued independent objectives in their interactions with Afghans and Indian Muslims, to the constant angst of British authorities. The Ottoman mission to Afghanistan only receives brief attention, however, as part of their broader work on Ottoman foreign relations during the Hamidian and Young Turks eras.

---

[7] Ibid., 352-53.

[8] The main discoveries of Baysun's 1952 article, "Şirvanizade Ahmed Hulusi Efendi'nin Efganistan Elçiliğine Aid Vesikalar" include a brief profile of Ahmed Hulusi Efendi originally penned in Mehmed Süreyya Bey's (1890) *Sicill-i Osmani*, and notes left by two of Hulusi Efendi's accompanying scribes, Ahmed Hamdi Efendi and Ahmed Behai Efendi. M. Cavid. Baysun, "Şirvanizade Ahmed Hulusi Efendi'nin Efganistan Elçiliğine Aid Vesikalar," *Tarih Dergisi (İstanbul Üniversitesi Edebiyat Fakültesi* IV (1952): 147-158; Mehmet Süreyya Bey, *Sicill-i Osmani, I. Cild* (İstanbul: Matba'-i 'âmire, 1890).

[9] Özcan's unsurpassed monograph builds on earlier work addressing relations between the Ottomans and Indian Muslims, including a study on the Ottoman stance during the Indian Rebellion of 1857 and the relationship and mutual influence of Ottoman jurist Ahmet Cevdet Paşa's Islamic modernism and Abdülhamid's Pan-Islamic politics. Azmi Özcan, "1857 Büyük Hind Ayaklandması ve Osmanlı Devleti," *İslam Tetkikleri Dergisi* IX (1995): 269-280 and Azmi Özcan, "Sultan II. Abdülhamid'in 'Pan-İslâm' Siyasetinde Cevdet Paşa'nın Tesiri," in *Ahmet Cevdet Paşa Sempozyum: 9-11 Hazıran 1995* (Ankara: Türkiye Diyanet Vakfı Yayınları, 1997). Saray's work (1984) provides the first transcription of Hulusi efendi's report from Ottoman to Modern Turkish. Saray, *Türk-Afgan Münasebetleri*. I would also like to thank Hakeem Naim here for our exchanges on Ottoman-Afghan relations in the eighteenth and nineteenth centuries. With our intersecting inquiries and interests, I look forward to much more mutual learning to come.

[10] Far from representing uniform and coherent imperial policies, clashes between the Foreign Office in London, the India Office in Calcutta (Simla in summers), and the British Embassy at Istanbul is one of the reoccurring background themes of our story. While most differences of opinion among British administrators revolved around logistical considerations, occasionally archival records from the three sites reveal more fundamental divergences in perspectives—particularly with regard to the Crown's policies vis-à-vis the Ottoman sultan*, Afghanistan,* and the Muslims of India. For exploration of this theme in the broader context of Britain's global empire in the long nineteenth century, see Thomas Metcalf, *Imperial Connections: India in the Indian Ocean Arena, 1860-1920* (Berkeley: University of California Press, 2007).

While only a handful of scholarly works have touched upon the Ottoman expedition to Kabul in 1877-1878, even fewer have focused on the envoy who led the delegation, the late Ottoman legal scholar, Şirvanizade Sayyid Aḥmad Hulusi Efendi (d. 1889). In particular, no study to date has examined the *juridical* impact of this remarkable individual's voyage and his movements across some of the most formidable political boundaries of his time. This section of the dissertation address the historiographical gap by first exploring the largely unexamined life of Ahmed Hulusi Efendi. Drawing on sources from Ottoman, Indian, and British archives, I argue that the preeminent jurist of Istanbul brought more than fraternal Islamic greetings and a call to arms against Russia during his landmark meeting with the Afghan Amir Sher ʿAlī Khan of Kabul in autumn 1877. While the Porte's attempt to enlist the Afghans in the Russo-Ottoman War (1877-1878) is an aspect of the mission historians have hitherto dwelled on, the emphasis on Pan-Islamic "jihads" and militancy has overlooked other forms of exchange taking place that, in comparison, were far more substantial, deep-rooted, and long-lasting. As one of the late Ottoman empire's preeminent jurists and a leading member of the elite commission that drafted the ground-breaking Ottoman Civil Code, or *Mecelle*, from 1869-1876, Hulusi Efendi served as a catalyst for discussions with Afghan and Indian scholars and administrators on one of the most controversial state practices in the nineteenth century Muslim world—the codification of *fiqh*, or Islamic jurisprudence, into modern statutory law. Far from a neutral bystander in such debates, Hulusi Efendi's participation in the drafting of the *Mecelle* civil code, on top of decades of service in the Ottoman judicial bureaucracy, highlight the leading role he played in such Ottoman étatist projects before his arrival in Kabul.

While historians of "Pan-Islamism," defined here as modern ideologies promoting the strengthening of relations between Muslims across political boundaries, have tended to focus on radical ideologues and militant ententes, the emphasis on confrontation with the west has overlooked more subtle internal processes, such as the transnational movement and circulation of scholars and students exchanging texts, ideas, and the latest legal trends between the Ottoman and British empires in the late nineteenth century. In this sense, Ahmed Hulusi Efendi was but one example—albeit a particularly dramatic one—of a modern Muslim transnational forging more robust links between the Islamic *juridical fields* of the Ottoman empire, British India, and Afghanistan.[11] While the historical record is admittedly sketchy—leaving us with room to speculate on the exact words of conversations taking place in the Kabul court that late summer and autumn of 1877—I argue that in light of Ahmed Hulusi Efendi's prolific career as a jurist, judge, and high judicial council member, it is difficult to escape the conclusion that the late Ottoman jurist did not profoundly impact the Afghan and Indian statesmen and scholars he met on his tour. This is especially the case given archival sources reveal Hulusi Efendi communicated at length not only with the Afghan Amīr, but with a variety of Afghan and Indian

[11] In this study I am drawing from Pierre Bourdieu's concept of social—and specifically juridical—fields, and Laura Nader's "user theory of law." Rather than viewing "the law" as an autonomous body of texts deduced by authorized experts, I employ these theoretical frameworks to approach law as a political arena in which social elites and ordinary people experience, contest, and shape legal meanings through educational practices, professional habitus, and multiple sites of dispute resolution that together form a society's "juridical field." Pierre Bourdieu, "The Force of Law: Toward a Sociology of the Juridical Field," trans. Richard Terdiman, *Hastings Law Journal* 38 (1987): 805-853; Laura Nader, *The Life of the Law: Anthropological Projects* (Berkeley: University of California Press, 2002). Equally important in our study is a recognition that the juridical fields of different states and societies are not markedly distinct nor self-contained, but allow for considerable (and constant) overlap, entanglement, and intertwining. I argue here and in the subsequent chapters that this was increasingly the case with the Ottoman, Afghan, and Indian juridical fields following Hulusi Efendi's historic mission to Kabul.

notables, including leading Muslim scholars (*ʿulamāʾ*) of Kabul and northern India. Among the latter were the eminent jurists and professors of the Dār al-ʿUlūm Deoband, south Asia's preeminent college of Islamic law northeast of Delhi.

Therefore, augmenting the work of Lee, Baysun, Saray, and Özcan, and utilizing records researched in the Ottoman, Indian, and British archives, this chapter seeks to open further avenues for inquiry on the juridical impact of the late Ottoman mission to Kabul.[12] I argue that Ahmed Hulusi Efendi's mission became a medium for circulating new conversations and ideas characterizing a particular strand of Islamic legal modernism in the late nineteenth century—a centralizing Ottoman *étatisme* that combined bureaucratization of the ʿulamāʾ, state administration of the *evkaf* (charitable endowments), and the codification of Islamic jurisprudence (*fiqh*) into statutory law codes. These were the modern juridical processes which Hulusi Efendi had participated in immediately before departing Istanbul for Afghanistan, most spectacularly in his work on the Ottoman civil code (1869-1876).[13] In light of Hulusi Efendi's dialogues in and outside the Kabul palace—including with Afghanistan's top administrators, scholars and intelligentsia—it is likely the Ottoman mission played a groundbreaking role in the circulation of modern notions of law, administration, and statecraft *alla turca* in the territory. That the grand and unprecedented state-building campaign of the Afghan Amir ʿAbd al-Raḥmān Khan (r. 1880-1901) was launched from Kabul just two years after Hulusi Efendi's visit lends further evidence to this proposition.

Thus, the legacy of Hulusi Efendi's voyage highlights how modern notions of law, administration, and statecraft transcended politically-bounded territories, or as transatlantic historian Lisa Lindsay has recently written, "people, things, processes and ideas in the past were mobile."[14] Moreover, this dramatic episode of *juridical* Pan-Islamism illustrates how particular

---

[12] One of the richest historical sources we have on the entire 1877-1878 Ottoman mission to India and Afghanistan was Ahmed Hamdi Efendi's own travel memoir, published in Ottoman Turkish in Istanbul in 1882-1883. Hamdi Efendi was a journalist and publisher in Istanbul, before being selected as an emissary for the Kabul mission. An Ottoman archives document from 1872 discusses his publication of a translation of a number of works from Arabic to Turkish, including *Maqamat-i Hariri*, and other works significant to the Mevlevi sufi order. It is fitting that Hamdi Efendi would translate such a work as *al-Maqāmāt al-Ḥarīrī*, a book written by Abū Muḥammad al-Qāsim ibn ʿAlī al-Ḥarīrī (1054-1122) containing fifty relatively short stories, or *maqāmāt,* each identified by the name of a different city in the Muslim world at the time. Hamdi Efendi's travel memoir discusses a broad range of observations, dialogues, and even portraits of persons he saw while sojourning through India, as well as street scenes and prominent sites including mosques, sufi shrines, and Hindu temples.[12]

[13] The *Mecelle* was not the first modern code of law promulgated by jurists trained in the Ottoman-Islamic *medrese* tradition. In 1858 and 1864, for example, Ahmed Cevdet Paşa chaired committees to draft the Ottoman Land Code and Provincial Reorganization Code, respectively, each drawn (somewhat eclectically) from provisions of Islamic jurisprudence of the Ḥanafī school, though not exclusively. Notably, not all codes were drawn from Islamic law; in 1861, the Code of Commercial Procedure was adopted, and in 1863, the Code of Maritime Commerce, both of which were essentially translation of similar French codes. Avi Rubin, "From Legal Representation to Advocacy: Attorneys and Clients in the Ottoman Nizamiye Courts." *IJMES* 44 (2012): 111-112. It was precisely these processes of foreign transplantation that led Cevdet Paşa to refuse to do the same for the Ottoman Civil Code, a project he insisted on drafting based on Islamic jurisprudence by qualified 'ulamā.' As Huricihan İslamoğlu has argued, the latter emphasis cascaded with Ottoman state attempts to present the new law codes as in continuity with—rather than ruptures from—traditional Ottoman-Islamic legal practice. Huricihan İslamoğlu, "Propety as a Contested Domain: A Reevaluation of the Ottoman Land Code of 1858," in Roger Owen, ed, *New Perspectives on Property and Land in the Middle East* (Cambridge: Harvard University Press, 2000), 34.

[14] Lisa A. Lindsay, "The Appeal of Transnational History," *Perspectives on History* 50 (2012): 48.

regions within the vast socio-cultural zone stretching from the Balkans to Bengal came to be increasingly linked through specific networks, institutions, and processes of expertise that would intersect and co-evolve into the modern Ottoman, Afghan, and Indian juridical fields. "Rather than highlight abstract processes and aggregates," to persist with Lindsay's elegant description, out discussion contributes to genres of world history that "give us intimate portraits of men and women experiencing and affecting larger-scale political, economic, social, or intellectual formations. And like the best social histories, they emphasize the dignity and agency of the individual."[15]

– • –

In this chapter, we began with the momentous visit of the first official Ottoman ambassador, Şirvanizade Sayyid Aḥmad Hulusi Efendi, to India and Afghanistan in 1877-1878. As an elite Ottoman Islamic judge, jurist and member of the *Mecelle* commission, Hulusi Efendi brought more than talk of political alliance and the impending war against the Russians to his landmark meeting with the Afghan Amir and ʿulamāʾ of Kabul. After describing the background which led up to his historic journey in Part I, in Part II I argue that his juridical experience made a lasting impression on Afghan and Indian ʿulamāʾ present on his tour, and with this began the proliferation of the *Mecelle* (and Islamic legal modernism *alla turca* with it) through the Indian and Afghan juridical fields. In Part III, I show how meanwhile with the advent of the Russo-Ottoman war, Pan-Islamic ties between Istanbul and South and Central Asia intensified to an unprecedented degree. In particular I explore the late nineteenth century development of a new tripartite Turco-Indo-Afghan "Pan-Islamism", distinguishing the late nineteenth century version from earlier Pan-Islamic projects of the Ottomans, Safavids, and Mughals in the early modern era. Far from shahs and sultans conspiring with each other on the battlefield against some imagined western Other, the contours of Pan-Islamic relations between Turks, Afghans, and Indian Muslims were defined not in blood, but in *ink*—filling the pages of administrative manuals, law books, and scholarly commentaries on a range of issues that were far more pressing to monarchs and Muslim communities in Afghanistan and India in the late nineteenth century.

In Part IV of this chapter, I explore how the new reigning autocrat in Kabul, Amir ʿAbd al-Raḥmān Khan (r. 1880-1901), began a relentless search for the administrative hardware and expertise to govern his country with an iron-fist. I argue that while British and Russian experts played a minor role in his court, ultimately, he looked to the Ottomans with admiration as a modern "Islamic state" *par excellence* for his greatest inspiration. Using British Indian and Ottoman archives, I trace the examples of Ottoman exchange and expertise with Amir ʿAbd al-

---

[15] Lindsay, "The Appeal of Transnational History," 49. I am also indebted in this regard to Lauren Benton's work on la and colonial cultures, in particular her notion of legal norms "encoding" *both* culture and property within local and transnational contexts. For example, on the relationship between "culture" and "structure" in transnational legal contexts, Benton insightfully writes,

> [C]ulture does not cohere at the local level and structure reveal itself as a map of international connections. Legal and cultural contests simultaneously produce institutional patterns and expectations about cultural and legal ordering elsewhere. To borrow and revise a phrase from Geertz, the global institutional order has its origins in the stories that people tell themselves about others.

Lauren A. Benton, *Law and Colonial Cultures: Legal Regimes in world history, 1400-1900* (New York: Columbia University Press, 2001), 263.

Raḥmān, revising historiographical assumptions that the British and Russians were the sole experts in the court of Kabul. The juridical significance of Hulusi efendi's mission to Kabul is also evident here in the fact that only five years after the Ottoman envoy's visit in 1877, the Afghan Amir in Kabul ʿAbd al-Raḥmān Khan was publishing works drawing from the Ottomans for administrative and juridical inspiration and models. A representative example is the law code, *Asās al-Qāḍāt*, a manual for judges compiled in 1883-1884 by the Afghan legal scholar of Qandahar, Aḥmad Jān Khan ʿAlkuzai. The "code" is strikingly similar in some respects to the Mecelle, in its vertical alignment of numbered articles, followed by a concise statement of the rule and brief mention of juridical source. As a code of civil procedure, it was the first attempt by the government of Afghanistan to extend a regularized judicial system over the whole of the country and to codify Islamic jurisprudence of the Ḥanafī school as the law of the state. The rules in the Fundamentals for Judges were comprehensive, addressing details ranging from which opinions of the Ḥanafī school (and occasionally others) were to be determinative in a given type of case, to where and how far apart the parties were required to sit in court.

While my research argues Amir ʿAbd al-Raḥmān was looking at the Ottomans for administrative and legal models, ʿAbd al-Raḥmān Khan was building stronger ties between Turkey and Afghanistan in ways he likely never intended: the forced exile of his enemies, many of whom proceeded to the land of not only Sultan Abdülhamid II, but far more important for our story, the land Cevdet Paşa, Ottoman Turkey. In the final section of the chapter, I describe another monumental development that took place during the second Anglo-Afghan War (1878-1880) and early ʿAbd al-Raḥmān eras, a twin pair of events in 1879 and 1881, respectively, that were hardly expected to have any significant consequences for Afghanistan at the time. This was the expulsion and forced exile of the reigning government in Kabul, based on personal vendettas or plain power politics, to banish two influential families from Afghanistan: the Yaḥya-khel (later, the Muṣāḥibān) to India and the Tarzi family to the Ottoman empire. While we introduce these events at the end of this chapter, these twin events would go on to have a profound and lasting impact on Afghanistan's political and legal history in the twentieth century, which we return to in Chapters 4 and 5.

I
THE OTTOMAN ROAD TO KABUL:
SULTAN ABDÜLHAMID SELECTS AN ENVOY—TO AFGHANISTAN, 1875-1877

For historians of late Ottoman Pan-Islamism, there are two indications that Sultan Abdülhamid II (r. 1876-1909) was reconfiguring the Porte's foreign policy to reflect a more vigorous engagement with Muslims abroad, particularly in Asia. First, there is the surge in intelligence-gathering on British India, Afghanistan, and Turkistan (central Asia) during the last two decades of the nineteenth century and continuing until the First World War. Given the more regular and institutionalized correspondence with Indian Muslims during the Hamidian era, including the establishment of a consulate (*şehbenderhane*) at Bombay, to attribute the increase in reporting to enhanced print technologies alone misses the substantive boost in perceived geostrategic value of these regions to the Porte.

With respect to the Porte's burgeoning interest in Muslim-majority states and populations abroad, the Prime Ministry Ottoman Archives in Istanbul contain a trove of mid-nineteenth century reports from the *Hariciye Nezareti*, or Foreign Ministry, on various domestic affairs of

Afghanistan, Iran, and Turkistan. A large number of these reports are declassified letters and telegrams from the Ottoman ambassador in Tehran.[16] In addition to the dispatch of clandestine emissaries, the monitoring of international newspaper coverage, and the launch of more vigorous state-to-state diplomatic contacts, the Ottoman archives also contain examples of private correspondence between Porte officials and Muslim civil and philanthropic associations (*anjumāns*) in Iran, India, and Afghanistan. Private correspondence provided the Porte not only with valuable intelligence, but a key means for building stronger ties with local grassroots Muslim organizations and notables beyond the official Ottoman domains. They also supplemented regular reports from Ottoman consulates abroad, offering Porte officials a window into myriad aspects of local politics, economy, and the social lives of non-Ottoman Muslims from Balkh to Bengal, and Bukhara to Bombay.[17]

---

[16] For example, a pair of documents from 1862 discuss Ottoman interest in a diplomatic spat and series of skirmishes between Iran and Afghanistan over the border province of Herat. BOA-İ.HR 195/11056 (1279 Ra 19) ("Herat ve Afganistan hakimlerinin muhaberelerine dair") and BOA-İ.HR 195/11088 (1279 R 11) ("Tehran Sefiri Haydar Efendi'nin gönderdiği ve Afganistan hakimin muhasaraya devam etmekte olduğunu bildiren tahriratın arzı"). An Ottoman document report from the following year discusses the death of Afghan Amir Dost Muḥammad Khan. BOA-İ.HR 201/11443 (1280 M 13) ("Afganistan Amiri Dost Mehmed Han'ın vefatı"). Only months later, another Ottoman archives report details the internecine competition for the Afghan throne, and demonstrating an increasing degree of interventionism, the Ottoman support of Afghan Amir Sher ʿAlī Khan's cousin, Serdar Sarwar Khan, including a gift of 100 lira. BOA-İ.HR 257/15381 (1289 L 13) ("Afganistan Şahı Şir Ali Han'ın amcazadesi Serdar Server Han'a verilen yüz liranın tesviyesi"). Another year later, Ottoman archives documents again report on the details of a conflict between Iran and Afghanistan over the Central Asian province of Khive. BOA-İ.HR 259/15477 (1290 S 21) ("Afganistan ile İran arasındaki ihtilaf ve Hive'ye dair").

[17] For a sample of documents in chronological order illustrating escalating Ottoman interest in Afghan affairs in particular during the second half of the nineteenth century through the first two decades of the twentieth, see BOA-İ.HR 195/11056 (1279 Ra 19) ("Herat ve Afganistan hakimlerinin muhaberelerine dair"); BOA-İ.HR 201/11443 (1280 M 13) ("Afganistan Amiri Dost Mehmed Han'ın vefatı"); BOA-İ.HR 257/15381 (1289 L 13) ("Afganistan Şahı Şir Ali Han'ın amcazadesi Serdar Server Han'a verilen yüz liranın tesviyesi"); BOA-İ.HR 259/15477 (1290 S 21) ("Afganistan ile İran arasındaki ihtilaf ve Hive'ye dair"); BOA-Y.PRK.HR 1/16 (1293 Z 15) ("Afgan ve Hind Müslümanlarının Osmanlı Devlet ile savaşan Ruslara karşı cihad ilan etmesi ve Dersaadet'e gönderilmek üzere iane toplanması"); BOA-İ.HR 273/16494 01 (1294 M 14) ("Hindistan ve Afganistan Müslümanlarının Osmanlı Devleti'ne karşı gösterdikleri dostluk"); BOA-HR.SYS 4/40 (1878 12 13) ("New York Tribune ve New York Herald gazetelerinde İngiltere-Afganistan ilişkileri ve İngiltere Hükümeti'ne karşı yayınlar"); BOA-Y.PRK.TKM 10/62 (1304 L 24) ("İngiliz-Afganistan ilişkileri"); BOA-Y.PRK.PT 9/99 (1312 S 10) ("Hindistan-Afganistan meselesi"); BOA-HR.HMŞ.İŞO 173/20 (1307 Ra 06) ("Afganistan halkının Osmanlı topraklarında bulundukları sürece Osmanlı Devleti himayesinde bulunmaları nedeniyle kendilerine her konuda buna gore işlem yapılacağı"); BOA-Y.PRK.EŞA 37/36 (1318 L 13) ("İngiltere ve Rusya Devletleri'nin Afgan Amiri ʿAbd al-Raḥmān Han ile İran şahına karşı entrikaları ve Müslüman kavimleri birbirine düşürüp parçalama siyasetleri"); BOA-HR.SYS 5/17 (1910 02 19) ("Afganistan Hükümeti hizmetinde bulunan Osmanlı zabitleri"); BOA-HR.SYS 5/18 (1912 03 26) ("Afganistan'ın Kalküta vekilinin Osmanlı ile münasebetleri artırma arzusu"); BOA-HRT.h 118 (1330 R 29) ("Mısır ve Suriye Haritası; haritanın sol tarafında İran*, Afghanistan,* Beluçistan ve Karadeniz Havzası ayrıca gösterilmiştir"); BOA-ŞD 37/27 (1331 S 16) ("Afganistan, Buhara ve Sudan ahalisinden olubda Adana'ya gelerek sicile kayıd olunmuş olanların hizmet-i askeriyeleri ve tekalif-i emiriyeleri hakkında"); BOA-ŞD 40/3 (1332 S 01) ("Adana'ya Afganistan ve Buhara'dan gelenlerin askerlikleri"); BOA-DH.SN.THR 47/94 (1332 S 06) ("Afganistan ahalisinden Osmanlı tabiiyyetine girmek isteyenler hakkında"); BOA-HR.SYS 5/20 (1914 05 26) ("Osmanlı Devleti'nin Afganistan'a bir heyet göndermesini ve bu suretle Afganistan'ın Osmanlıya dahil olacağını bildirir Afganlı Abdülkadir el-Hanefi el-Kadiri ve Johannesburg mutebaranından Habib Motan'ın mektupları"); BOA-HR.SYS 2312/1 (1917 03 31) ("Afganistan'a gönderilen heyet"). In addition to developing and refining their own mechanisms of intelligence gathering, the Porte also made extensive use of European, Russian, and even American newspaper coverage on Afghan, Indian, and Asian affairs. This is evident in various detailed reports on foreign newspapers, such as one file from the Prime Ministry Ottoman Archives of 1878 includes a trough of news clippings from the New York Times and New York Herald regarding the Ottoman and British

While Ottoman state records during the last quarter of the nineteenth century indicate that the Porte was taking a deeper interest in Asian affairs, the concurrent flow of letters, telegrams, and visiting delegations of Indians and Afghans to Istanbul tell us it was not a one-way relationship. Nor did it begin with the ascent of Sultan Abdülhamid II. Archival records from Istanbul, Kabul, London, and Delhi provide examples of Indian Muslims and Afghans reciprocating—and in many cases, initiating—communication with the Porte as early as the fifteenth century, though ties did not grow to be a significant and consistent factor in Ottoman foreign policy and geopolitics until the late nineteenth century.[18] For Sultan Abdülhamid, already in the midst of a massive reformulation of Ottoman policies to reflect the state's more "Muslim" character following the calamitous demographic shifts of the late nineteenth century, the emergence of such contacts was auspicious.[19] Having consolidated his grip on power following his defeat of the Young Ottoman constitutionalists (a victory most clearly demonstrated in the effective annulment of the landmark *Qānūn-i Esāsī*, or Ottoman Constitution, of 1876) the sultan now sought to identify political assets outside Ottoman

---

positions vis-à-vis the Russo-Ottoman war and Anglo-Afghan relations in particular. BOA-HR.SYS 4/40 (1878 12 13) ("New York Tribune ve New York Herald gazetelerinde İngiltere-Afganistan ilişkileri ve İngiltere Hükümeti'ne karşı yayınlar"). In a later example from the twentieth century, see BOA-HR.SYS 5/19 (1912 06 14) ("Times gazetesinin Afganistan'da isyan çıktığı hakkındaki haberi").

[18] According to Özcan (1997), there is no recorded evidence of direct relations between Hindustanis (Indians) and Ottoman Turks until the late fifteenth century. The first recorded diplomatic missions between Muslim rulers in India and the Ottoman sultans took place in 1481, between the Bahmani kings Muḥammad Shah III (1453-1481) and Maḥmūd Shah (1482-1518) of the Deccan plateau in southern India, and Ottoman Sultans Mehmed Fatih (1451-1482) and Beyazid II (1482-1512) following the conquest of Istanbul in 1453. These early contacts consisted primarily of the exchange of letters and gifts, with no evidence of political or military alliances being concluded at this time. In this way, we can say the first stage of Indo-Ottoman relations—from roughly the mid-fifteenth century until mid-sixteenth century—consisted of diplomatic courtesies, a phenomenon not exclusive to inter-Muslim relations, of course. Özcan*, Pan-Islamism,* ix-1.

Recorded contacts between the Ottomans and Afghans arise even later. The three oldest documents I found in the Prime Ministry Ottoman Archives dealing with Afghans date to 1724, 1728, and 1744. BOA-D.BŞM.d 40946 (1137) ("Seyyid Mehmed Sadık adlı Afgan elçisine verilen tayinatı gösterir defter"); BOA-C.DH 127-6634 (1141 Za 28) ("Afgan hanlarından olup mukaddema Bağdad'dan İstanbul'a gelen Şah Mehmed Han'ın Anadolu valise ve şark canibi seraskeri Ahmed Paşa maiyetinde bulunmak" üzere); BOA-C.HR 67-3313 (1157 Ra 12) ("İran şehzadesi Samin'in maiyyetine gelen Efgan, Acem, Şirvan, Özbekli ve Gürcülere verilen tayinatın hesabı"). There is a considerable gap after these early documents in the Prime Ministry Ottoman Archives; the next earliest documents I found on Afghans dated to 1804 and 1836. BOA-C.HR 92/3777C (1218 Z 08) ("Ruslar'ın Hoy kasabasına sardıklarına, İran şahına muhalif Cafer Kuli Han'ın korkusundan öldüğüne, Özbek ve Afgan ile müteffik Şah Ruh Mīr za'nın İran askerlerini mağlup ettiğine dair") and BOA-C.HR 66/3255 (1252 Ra 03) ("İstanbul'a sefaretle gelen Efgan kadıaskerlerinden Han el-Ulum Maḥmūd Efendi'ye her ay iki bin kuruş masraf verilmesi"). Note also that early modern Ottoman orthography also uses the alternative spellings of "Efganlar", "Afkanlar", and "Efkanlar" to denote "Afghans." On early modern Ottoman relations with India, see also Naimur Rahman Farooqi, *Mughal-Ottoman Relations* (Delhi: Idarah-i Adabiyat-i Delhi, 2009). On the relatively cosmopolitan history of the Porte in its foreign relations in general, see Suraiya Faroqhi, *The Ottoman Empire and the World Around It.* New York: I.B.Tauris, 2004.

[19] For a study on the massive territorial and demographic transformations of the late nineteenth century Ottoman empire, and the dialectical relationship with the Hamidian administration's newfound stress on the "Islamic" character of Ottoman domestic and foreign policies, see Selim Deringil, *The Well-Protected Domains: Ideology and the Legitimation of Power in the Ottoman Empire, 1876-1909* (New York: I.B. Tauris, 1999).

territories.[20] It is in this context that the Ottomans began reaching out more assertively to the Muslims of India, Afghanistan, and Turkistan beginning in the late 1870s. And it was for these reasons that following the outbreak of war with Russia in the spring of 1877, Sultan Abdülhamid decided to send an envoy to Kabul. The Porte had a concrete goal in mind: convince the Afghan Amir Sher ʿAlī Khan to join the war against Russia and secure Afghan participation on the side of the Ottomans. Together, so the scheme went, the Ottomans and Afghans would open a devastating third front against Russia in the latter's perennial Achilles' heel: the Muslim-majority regions of central Asia.[21]

Facts on the Ground: Kabul between London, Calcutta, and St. Petersburg

Meanwhile in London, having won the premiership in 1874, Benjamin Disraeli shuffled his foreign ministry cabinet to reflect the more hawkish "forward policy" in British India, an approach fixed on curbing Russian expansion in central Asia and Afghanistan. At precisely the same time, St. Petersburg was also embroiled in rethinking strategy along her southern flank. In search for a warm-water port to facilitate commerce during winter, not to mention a covetous gaze on Britain's prize colony, India, the Czar dispatched troops to the central Asian Khanates of Turkistan, occupying some of the region's major cities, including Tashkent. With Russia perched at the very threshold to India, the Viceroy of India Sir Edward Lytton demanded from Kabul the right to establish a force in the Afghan capital to counter Russian encroachment from the north. Suspicious of Britain's intentions, Amir Sher ʿAlī refused the request.

---

[20] Sultan Abdülaziz attempted to play the Porte's top-down reformists against Young Ottoman oppositionals, but the Young Ottomans eventually succeeded in staging a coup to dethrone Abdülaziz and instate his cousin Murad V in the throne. The latter, suffering from mental breakdown, resigned after three months and Abdülhamid II rose to the Ottoman throne. Abdülhamid was a sharp politician on the domestic and international fronts. While not openly opposing the British, he was suspicious of European intentions in the Muslim world as he was of Russia. For these reasons he began to court a better relationship with Iran and Muslims in central Asia and India. It was he who invited Jamaluddin "al-Afghani" to Istanbul, and commissioned the roaming ideologue to compose texts that would promote a reproachment between Turkey and Iran, and Sunnīs and Shīʿīs. Eventually Sultan Abdulhamid and Jamaluddin fell out, apparently due to suspicions (and/or accusations) that Afghani was a freemason, was working with the British, or both. Abdülhamid eventually banned Afghani's articles, and following the assassination of the Iranian shah in 1896 which was blamed on Afghani's activities, the sultan kept Afghani under house arrest in Istanbul until his demise in 1897. The effects of Abdülhamid's sponsorship of Afghani cannot be underestimated, however, as it came precisely when Afghani was in need of a Muslim soveriegin's support, and it was during his time in Ottoman domains that his message of Pan-Islamism, Islamic Modernism, and Salafism reached vast proportions.

[21] British and Ottoman records offer conflicting stories as to the origins of the 1877-1878 Hulusi Efendi Mission to Kabul. British Indian intelligence records in the 1870s contain rumors of secret envoys and messengers shuttling between Istanbul and Kabul during the reign of Sher ʿAlī Khan (1863-1879). A cache of Indian archival documents from the mid-1870s, for example, establish the presence of a clandestine Ottoman "double agent" in Kabul by the name of "Şeyh Süleyman Efendi" years before Hulusi Efendi's arrival in autumn 1877. NAI-FD/SEC July 1875 193-196 ("Turkish officers at Kashgar, and rumours of a Mahomedan revival"); NAI-FD/SEC March 1879 38-4 ("Secret Turkish Agent to Afghanistan"); NAI-FD/SEC December 1878 72-97 ("On Proposed Turkish Mission to Cabul"). For a study on this question, see Azmi Özcan's "Şeyh Şüleyman Efendi Bir Double Agent mi idi?" *Tarih ve Toplum* XVII (1992): 100-121. Even if true, however, it cannot be stated that Süleyman Efendi was the first Ottoman "ambassador" to Kabul given the secret nature of the visits, the obscure origins of the envoy, and the fact the Afghan Amir did not receive the purported Ottoman agent in public darbar. Özcan*, Pan-Islamism,* 79. In contrast to the mission of 1877, these facts render Ahmed Hulusi Efendi to be the first official, and publicly-acknowledged Ottoman ambassador to Kabul.

London's response was swift and unyielding. British Indian Army troops were dispatched to the Afghan borderland, where they soon occupied Quetta—the strategic gateway to the southern Afghan province of Qandahar. By 1876, the British had stationed a base in the city. Alarmed by this escalation, Amir Sher ʿAlī approached the Russians for council, and possibly more. For London, reluctant to launch another full-scale invasion but also intent on keeping Afghanistan in their sphere of influence, the situation was dire and called for creative measures.[22] Meanwhile, Russian expansion in the Balkans, Caucuses, and eastern Mediterranean appeared to bring the British and Ottomans together in the common project of curbing St. Petersburg once again.[23] It was in this geopolitical context that the idea of an Ottoman mission to Afghanistan gained traction among Porte and Crown officials alike.

The goal of the mission, articulated in triangular correspondence between officials in Istanbul, Calcutta, and London, was to dispatch an Ottoman Muslim statesman and representative of Sultan Abdülhamid to Kabul with the aim of persuading the Afghan Amir Sher ʿAlī to ally with the Ottomans in war against Russia. Curbing the aggression of St. Petersburg was in the interest of all Muslims, including the Afghans, so the reasoning went.[24] The reasoning also hailed from a belief that as a fellow Muslim, Sunnī, and adherent of the Ḥanafī school of Islamic jurisprudence, the Amir could not disregard a request of the Sultan-Caliph, especially when the latter's call was bolstered by a fatwā procured from the eminent *muftīs* of Mecca and Istanbul. The public nature of the fatwā—delivered through an official envoy received in public *dīwān*, in the presence of scholars, dignitaries and other courtiers—would heap additional pressure on the Amir.[25] When the British Foreign Office began to have doubts about the mission, Queen Victoria's ambassador at Istanbul Sir Austen Henry Layard insisted to skeptical London officials that the mission was in Britain's best interest. Meanwhile, the sultan quietly made logistical arrangements, assembling the delegates and paying for all expenses from Ottoman state coffers. India's Governor-General qualified his support, however, by urging the Porte to choose "a man of ability and importance," intimating a seasoned diplomat with strong

---

[22] Thomas Barfield, *Afghanistan: A Cultural and Political History* (Princeton: Princeton University Press, 2010), 139-140; Amin Saikal, *Modern Afghanistan: A History of Struggle and Survival* (London: I.B. Tauris, 2006), 33-34; Louis Dupree, *Afghanistan* (Princeton: Princeton University Press, 1973), 406-407.

[23] That British and Ottoman administrators agreed on the idea as a mutually beneficial project is reinforced by the somewhat surprising finding by Lee and Özcan that British officials originally conceived the idea for the mission. Lee, *A Turkish Mission*, 339-344; Özcan*, Pan-Islamism,* 73-78, 81. As evidence, both authors cited several letters between Lytton and Layard illustrating interest in sending an Ottoman envoy to Kabul even before Sultan Abdülhamid expressed interest in such a project. Özcan even goes so far as to say Abdülhamid was initially skeptical of the idea, and had to be persuaded of its utility to both Britain and the Porte. If true, this would add an additional degree of irony to the way events would actually unravel in Ottoman favor. Alternatively, this may have been a clever ruse on the sultan's part by feigning lack of interest in such a mission while contemplating independent objectives all along.

[24] A rare interview between British officials and Hulusi Efendi while he was en route to Kabul provides a rare glimpse of the declared mission of the Turkish Envoy in Kabul, as it was understood through London's eyes: "[T]he object of the Envoy's mission was to preach a religious crusade among the Mussulman population of Central Asia, and through the Ameer of Afghanistan to induce the Ameer of Bokhara to excite the populations of Central Asia to revolt against Russia." NAI-FD/SEC March 1878 202-207 (No. 204) ("Conversation between Lord Loftus and M. de Giers regarding the Turkish Mission to Afghanistan. Diary of the proceedings of the Turkish Mission to Cabul").

[25] Lee 1941, *A Turkish Mission*, 339-340; Özcan*, Pan-Islamism,* 80.

pro-British leanings.[26] It soon became evident, however, that Sultan Abdülhamid harbored his own vision of the ideal man for the job.

Enter Ahmed Hulusi Efendi

According to British documents the initial selection for the job was the Porte's ambassador to Persia, Reza Bey in Tehran, but this decision was revoked for unclear reasons.[27] Despite British requests, Abdülhamid did not select a diplomat with extensive diplomatic service. Instead, he chose a man celebrated for his impeccable Islamic scholarly credentials: the madrasa-trained scholar, judge, and eminent jurist of Istanbul, Ahmed Hulusi Efendi. The selection of Hulusi Efendi as first ambassador to Kabul is significant for reasons that have not received sufficient scholarly attention. With respect to his eminent status among both Ottoman officialdom and scholars, Ottoman and British sources offer strikingly similar portraits of the man, an indication of his widely respected stature and position during the late Tanzimat (1839-1876) and Hamidian (1876-1909) eras. Archival reports from Istanbul, Alexandria (Egypt), Diyarbekir, and Delhi—all places he would visit in 1877-1878—describe him as an erudite, devout, and widely respected *'ālim* (Muslim legal-religious scholar). "Well spoken of" by both Porte and Palace, he was in the upper echelons of Istanbul's *ilmiye*, or Ottoman scholarly class.[28]

Şirvanizade Sayyid Aḥmad Hulusi Efendi, was born in the first half of the nineteenth century in the northeastern Anatolian town of Amasya, a few hours' journey from the Black Sea coast. His father, Şirvanlı İsmail Efendi, was likely a religious scholar or teacher of some local prominence given his title *efendi*, though this term became increasingly applied in the later nineteenth century to denote Ottoman subjects with highly-literate and formally-educated upbringing in general.[29] More importantly, the honorific title "Seyyid" or "al-Seyyid" (liegelord, or master) commonly preceding his name in Ottoman documents likely indicates a venerated lineage from the Prophet, a distinction more of social rather than any legal consequence in

---

[26] See, NAI-FD/SEC March 1878 213 ("Grant of Rs. 2,000 to Turkish Consul-General, Bombay, for services rendered to the Turkish mission"). This document indicates that the Ottoman consultate in Bombay was responsible for covering the expenses related to the mission.

[27] A secret British Indian government document describes the Sultan's reversal of the decision to appoint the Ottoman ambassador to Tehran for the job at an interview between Layard, the Queen's Ambassador at Istanbul, and the Sultan. In the same interview, Sultan Abdülhamid stated that in sending an emissary to Afghanistan he would, "as head of the Mahomedan world, enjoin Musulmans not to offer opposition to England, but rather to oppose the policy of Russia." NAI-FD/SEC December 1878 72-97 ("On Proposed Turkish Mission to Cabul").

[28] NAI-FD/SEC March 1878 6-63 (No. 14) ("Deputation of a Turkish Envoy to Afghanistan; Object of mission; Instructions by Secretary of State regarding reception, &c; Instructions by Turkish Government to Envoy"). Two weeks later, Layard again wrote to the to Earl of Derby, on June 29, 1877, stating,

> "[The Sultan] has now named as his envoy Ahmed Khouloussi Efendi, a brother of the late Grand Vizier, Shirvanzadeh Mehemet Rushdi Pasha, of whom I hear a very favorable account. He is a Roziaskeir, a high dignity amongst the ʿulamāʾ, and one commanding influence with Mahometans."

NAI-FD/SEC March 1878 6-63 (No. 48) ("Deputation of a Turkish Envoy to Afghanistan; Object of mission; Instructions by Secretary of State regarding reception, &c; Instructions by Turkish Government to Envoy").

[29] Süreyya, *Sicill-i Osmani*, 307.

Ottoman society at the time.[30] Reflecting his connections to both Porte and Palace, Ahmed Hulusi was the brother of the late Grand Vizier Şirvanizade Mehmet Ali Ruşdi Paşa.[31]

Little is known about Hulusi Efendi's childhood and early education in Amasya. At the time, conventional practice of families wishing to educate their children in rural settings of the Balkans, Anatolia, Syria and Iraq was to help the young to first exhaust opportunities to learn at the hands of a respected elder or imam in the local mosque or sufi lodge (*tekke*).[32] Occasionally, some students would proceed to higher studies in a madrasah, or college of Islamic studies, in a larger Ottoman metropolis, some of the most prestigious being in Istanbul, Aleppo, Damascus and Baghdad, but like the Ottoman şeriat courts, were otherwise scattered throughout the empire. Advancement to higher education in such metropolises was most commonly the case for students who were exceptionally-gifted, or well-connected. In the case of young Ahmed Hulusi Efendi, it was likely an outstanding combination of both.

After completing his formal studies, a brief entry in the Ottoman employment compendium *Sicill-i Osmani* reports that Hulusi Efendi's first occupation in Istanbul was as a teacher (müderris), likely in one or more of the Islamic sciences of theology (*ʿaqīdah)*, jurisprudence (*fiqh*), or spirituality and ethics (*taṣawuf*).[33] Signifying his transition to the juridical field, an Ottoman archives document from 1849 describes one of his early appointments as *kadı* (*qāḍī*) to the Aydos district of Istanbul.[34] From that moment on, Hulusi Efendi scaled the ranks of the *ilmiye* with prodigious success. In May 1867, after serving in a number of judicial posts as a state-employed judge, he was promoted as kadı of Istanbul's prestigious district of Galata.[35] The very next year, auspiciously, he was appointed to a judgeship in the holy city of Mecca.[36] Ultimately, Ahmed Hulusi Efendi reached the pinnacle of the Ottoman judicial hierarchy with an appointment to the eminent rank of *Kazasker* (*qāḍī al-ʿaskar*), or "Chief Justice") of Anatolia, arguably among the five most powerful juridical positions in the entire empire, and subordinate only to the Ottoman *Şeyhülislam* (*shaykh al-Islam*).[37] Notably, Kazaskers were permitted to attend the *divan* consultational meetings at the sultan's palace, and

---

[30] Ahmed Hulusi Efendi's venerated ancestry is corroborated by Colonel Disbrowe's aforementioned report of his October 29, 1877, conversation with the Ottoman envoy, in which Hulusi Efendi described his father's highl-yregarded status as "a Cazi and a Syud," which "entitled me to respect and added to my influence." NAI-FD/SEC March 1878 207 ("Diary of the Turkish Envoy's journey from Bombay to, and from, the British frontier"), 7.

[31] Süreyya, *Sicill-i Osmani*, 307; Ebül'ulâ Mardin, *Medeni Hukuk Cephesinden Ahmet Cevdet Paşa* (İstanbul: T.C. Mardin Valiliği, 2011), 202-203; Ahmed Şimşirgil and Ekrem Buğra Ekinci, *Ahmed Cevdet Paşa ve Mecelle* (İstanbul: Adem Eğitim Kültür ve Sosyal Hizmetler Derneği İktisadi İşletmesi, 2008), 53.

[32] Richard L. Chambers, "The Education of a Nineteenth-Century Ottoman Alim: Ahmed Cevdet Paşa," *IJMES* 4 (1973): 441-44.

[33] Süreyya, 307

[34] BOA-A.MKT.DV 14/26 (1265 C 28) ("Misirvi kazasından müteveffa Hacı Ahmed Kaptan'ın varisleri ile eski kaza naibi Aydoslu Sayyid Aḥmad Hulusi Efendi arasındaki Mīr as meselesinden dolayı olan davanın için Kadı Osman'ın Dersaadet'e gönderilmesine dair Varna muhafızına şukka").

[35] (Süreyya 1890, 307; Mardin 2011, 202-203; Şimşirgil and Ekinci 2008, 53)

[36] (Süreyya 1890, 307; Mardin 2011, 202-203).

[37] (Mardin 2011, 202-203; Şimşirgil and Ekinci 2008, 53

it is likely here that Abdülhamid became acquainted with Hulusi Efendi. In addition to his judicial duties, Hulusi Efendi continued to engage in supplementary scholarly activities including teaching. An Ottoman archives document from 1867 refers to the hiring of Ahmed Hulusi Efendi as a tutor for two women, likely daughters of one of Istanbul's elite families, or even the Palace itself.[38] In the same year, Hulusi Efendi was recognized by the Ottoman sultan with an honorary medal for his outstanding judicial service to the state.[39]

Hulusi Efendi's most prestigious appointment in the Ottoman juridical field was still to come, however. In 1869, the powerful Ottoman administrator, President of the Council of Judicial Ordinances, and later Minister of Justice Ahmed Cevdet Paşa (1822-1895) personally selected Hulusi Efendi to be one of the fifteen jurists to participate in the historic compilation of the *Mecelle-i Ahkam-ı 'Adliye* (Arabic: *Majellat al-aḥkām al-'adlīyya*), or Ottoman Civil Code.[40] It would not be an exaggeration to say that the *Mecelle* is the most famous codification of Islamic law in modern history; the sixteen-volume text continues to be highly revered and studied, if not implemented, in juridical institutions and colleges of law throughout the Islamic world today.[41] Hulusi Efendi's role in the Mecelle's compilation was lasting and profound, serving on the elite commission from the launch of the project in 1869 until its completion in 1876.[42] He participated in the preparation of all the sixteen volumes of the Civil Code,

[38] BOA-MVL 545/36 (1284 Ca 11) ("Müderris Sayyid Aḥmad Hulusi Efendi'nin Nefise ve Zekiye hanımlar ile hane hususunda arzhali").

[39] BOA-İ.DH 566/39435 (1284 Ca 13). The foremost primary source on Ahmed Hulusi Efendi's life in Ottoman records is in Süreyya Mehmet Bey's (1845-1909) *Sicill-i Osmani, cild I*. İstanbul, 1308, 307. I did not find an employment profile for Hulusi Efendi in the Ottoman Siccil-i Umumi *(Siccil-i Ahval)* employment profiles. An employment profile for his son Mehmed Cemali Bey, however, can be found in BOA-DH.SAİDd 55/95 (1284 Z 29) ("Mehmed Cemali Bey; 1284 İstanbul doğumlu, Şirvanizade Ahmed Hulusi Efendi'nin oğlu"). For additional, albeit scanty, biographical details on Hulusi Efendi, see Bayur (1950, 438), Şimşirgil and Ekinci (2008, 53) and Mardin (2011, 202-203).

[40] The *Mecelle* was the arguably the first (and certainly the most famous) attempt to codify the civil law of a Muslim-majority state, adopting and creatively adapting the external aesthetics and organization of European codes like the Code Napoleon in form, but drawing from Islamic jurisprudential texts of the Ḥanafī school of law for its substantive provisions. As a modern code of Islamic law, the *Mecelle* is also important for its long life well beyond Ottoman Turkey. After the dissolution of the Ottoman empire following World War I, the *Mecelle* remained a lasting influence in most of its successor states, including Bosnia-Herzogovina, Albania, Syria, Iraq, and Cyprus. It was also enforced in the British Mandate for Palestine and, later, Israel formally until 1984. The *Mecelle* also remains the basis of civil law in Jordan and Kuwait, and continues to be studied in Islamic law colleges across the world, including Malaysia, India, Pakistan, and Afghanistan. For Hulusi Efendi's participation on the *Mecelle* commission, see Şimşirgil and Ekinci (2008, 53), Ekinci (1997, 54-56), Mardin (2011, 202-203) and Yavuz (1986, 72-73). In spite of its later fame, at the time of its production the *Mecelle* remained a source of controversy among Ottoman ʿulamāʾ, and in some orthodox circles, ever since. For an incisive critique of codification, the bureaucratization of ʿulamāʾ, and the modern state's commandeering of the historically non-centralized praxis of Islamic law in Muslim societies, see Hallaq (2009, 355-499), Zaman (2002, 87-110), and Messick (1996, 54-72, 167-192). For critiques of subsequent and tenuously-related juridical developments from the middle of the next century—Islamism, Islamist political movements, and the much more recent concept of "Islamic states"—see Hallaq (2012), Roy (1994) and Halverson (2010).

[41] This is particularly the case in Muslim-majority societies predominantly adhering to the Ḥanafī school, such as Pakistan, Afghanistan, and Turkey, but also in scholastic environments where Islamic legal pluralism is the norm, such as Al-Azhar University in Cairo, Egypt, Al-Qarwiyyīn University in Fez, Morocco, and the International Islamic University of Malaysia in Kuala Lumpur.

[42] (Mardin 2011, 53).

containing 1851 articles, with the exception of the sixth and eight volumes. As for the thirteenth book, *Kitābü'l-İkrar* ("Admissions"), Hulusi Efendi's influence was cited to be preponderant.[43]

As one of the greatest Ottoman jurists of the nineteenth century, Ahmed Hulusi Efendi's remarkable career was about to take another prolific turn. In 1877, less than a year after the landmark ratification of the first Ottoman constitution, Sultan Abdülhamid II appointed Hulusi Efendi to lead the Porte's first official Ottoman delegation to Afghanistan.[44] In light of his eminent juristic experience and professional *habitus* imbued in the judicial activities described above, Hulusi Efendi's appointment is central to our interest in the circulation of ideas and conversations about Muslim modernism across and between Ottoman, Afghan, and Indian juridical fields.

– • –

British officials were not nearly as enthusiastic about Ahmed Hulusi Efendi's appointment. British Indian archives reveal a sense of bewilderment at the Sultan's selection of an Islamic scholar for the diplomatic post. Just as common was disdain. In the following report penned by an official in the Foreign Department of the British Indian Government, we find a glimpse of British official sentiment on the selection,

---

[43] (Şimşirgil and Ekinci 2008, 53, 57). For a sample document in the Prime Ministry Ottoman Archives illustrating Hulusi Efendi's service on the *Mecelle* drafting commission, including records affixed with his signature and/or seal, see BOA-İ.DUİT 91/37 (1293 Ş 13) ("Nizamat; Mecelle-i Ahkam-ı Adliye; Cemiyet-i Mahsusa"); BOA-İ.DUİT 91/40 (1296 Ca 20) ("Nizamat, layiha, tanzim; Mecelle-i Ahkam-ı Adliye"); BOA-İ.DUİT 91/52 (1293 S 06) ("Nizamat; beyyinat, tahlif bahsi; Mecelle-i Ahkam-ı Adliye"). For a particularly striking original copy of the Book on Admissions (Emanat), the first page of which is embellished with gold-trimmed borders, and Hulusi Efendi's seal affixed to a cover sheet, see BOA-İ.DUİT 91/30 (1288 Z 24) ("Nizamat; İmam Ebu Yusuf; İmam-ı Azam; İmam Muḥammad; Mehakim-i Şeriye ve Nizamiye; Mecelle-i Ahkam-ı Adliye"). For honors he received from the Ottoman state in this regard, see BOA-A.MKT.MHM 447/11 (1289 Z 08) ("Mecelle-i Ahkam-ı Adliye Cemiyeti'nden bazı şahıslara nişan verilmesi"); BOA-A.MKT.MHM 447/46 (1289 Z 17) ("Mecelle-i Ahkam-ı Adliye Cemiyeti'nden bazı azalarına nişan verilmesi"). For an illustration of how seals of Ahmed Hulusi Efendi on aforementioned *Mecelle* documents match identically with those of documents from the 1877-1878 mission to Kabul, compare the aforementioned documents with Hulusi efendi's persona seals affixed to the end of letters in BOA-İ.HR 276/16873 (1295 C 05) ("Sefaret-i Mahsusa Ahmed Hulusi Efendi'nin Afganistan'a gönderildiği") and BOA-İ.HR 335/21534 (1295 C 21) ("Sefareti fevkalade ile Afganistan'a gidip gelmiş olan Şirvanizade Ahmed Hulusi Efendi ile maiyyetinin harcırahının ödenmesi").

[44] Ottoman, British, and Indian sources also tell us about the few other members who accompanied the mission. We know, for example, that a mixed group of Ottoman Turks and Afghans accompanied Hulusi Efendi to Kabul. According to one file in the Indian archives, the members and positions of the Hulusi Efendi Mission to Kabul were as follows: (1) Sayyid Aḥmad Hulusi Efendi, Envoy; (2) Ḥusayn Efendi, Consul-General at Bombay; (3) Ahmed Mundi Efendi, Consul; (4) Bala Efendi, Private Secretary; and (5) Wahim Efendi, Accountant and Treasurer. We also know from their own travel diary (Hamdi 1882-83; Baysun 1952) that journalists Aḥmad Hamdi Efendi and Ahmed Bahai Efendi accompanied the mission. For British perspective(s), there are three main primary sources on the 1877-78 Ottoman mission to Kabul of Hulusi Efendi. They are split between the Indian National Archives in Delhi and the India Office Records in London and include: NAI-FD/SEC March 1878 208-209 ("Further information regarding the proceedings of the Turkish Mission to Kabul"), NAI-FD/GNL/B December 1913 44-47 ("Report regarding certain papers of the late Sir A.H. Layard connected with the Turkish mission to Kabul, 1877"), and IOR-ORB.30 5502 ("Confidential Precis of the Principal Correspondence &c. Showing the Policy and Relations of the British Government Toward Afghanistan, April 1872-May 1879"). The latter contains documents and translations of reports on Hulusi Efendi's mission and is currently housed in the India Office Records at the British Library in London.

> Syud Ahmed Kholoosi is a short, stout man, with an honest, but slow, address. He is very reticent, partly, I think, from natural disposition, partly from having nothing particular to talk about. His appearance is more that of an Afghan than that of a modern Turk. He is one of the old school, evidently more a Mulla (priest) than a diplomat; and this is shown in all he says and does.[45]

Amazingly, the commentary above is one of longest descriptions offered by a British official on Ahmed Hulusi Efendi. Evident is the disregard for his eminent status in the Ottoman juridical hierarchy; indeed, the official seems wholly ignorant of Hulusi Efendi's extensive juridical experience in general, including his seven-year participation in the production of the most famous codification of Islamic jurisprudence in modern history. The fact no mention is made on this significant aspect of his experience, displaying more interest in his physical appearance, reveals a profound unawareness of his qualifications and juridical expertise in particular. As Nader (2005), Kroncke (2004), Curtis (2009), and Ruskola (2002) have illustrated following Said (1978), such attitudes would be consistent with the prevalent "legal Orientalism" of lesser-informed British colonial administrators, sure of themselves and their civilizing mission while being convinced Muslim legal actors—sweepingly generalized by the-lesser-informed-Weberian notions of "*kadijustiz*" from Constantinople to Calcutta—had little to offer for "the rule of law."[46] It is also a blind spot that perhaps explains why historians have missed where the greatest impact of Hulusi Efendi's mission lay in the long term: the Indian and Afghan *juridical* fields.

II
THE EXTRAORDINARY MISSION OF AHMED HULUSI EFENDI (1877-78): A JURIDICAL PERSPECTIVE

On August 11, 1877, the day after a rapturous reception was accorded to the Ottoman delegation at Bombay, Hulusi Efendi and his colleagues had already left the city. Likely still exhausted following the journey from Aden, Yemen, the group now forged on through the Indian interior en route to the subcontinent's ancient gateway to Afghanistan and central Asia, the Khyber Pass. Wary of repeating incidents as had transpired the day earlier, a newly-augmented company of British officers now accompanied the mission. The Raj's security "escort" for the Ottoman mission did not emerge from recent events at Bombay alone, however. Beneath the surface of British policy vis-à-vis the mission lay a deep sense of misgiving among Raj officials

[45] NAI-FD/SEC March 1878 208-209 ("Further information regarding the proceedings of the Turkish Mission to Kabul").

[46] Nader, Laura. "Law and the Theory of Lack." *Hastings International and Comparative Law Review* 28 (2005): 191-204. Kroncke, Jed. "Substantive Irrationalities and Irrational Substantivities: The Flexible Orientalism of Islamic Law." *UCLA Journal of Islamic and Near Eastern Law* 4 (2004-2005): 41-73; Ruskola, Teemu. "Legal Orientalism." *Michigan Law Review* 101 (2002): 179-234; Said, Edward. *Orientalism*. New York: Vintage, 1979. For a discussion of British East India Company administrator Edmund Burke's attitude towards Islamic law and the role it played in the development of British attitudes towards colonial India, see Michael Curtis, *Orientalism and Islam: European Thinkers on Oriental Despotism in the Middle East and India* (New York: Cambridge University Press, 2009).

about its potentially volatile effects with regard to India's substantial Muslim population. Still haunted by the trauma of the British Empire's largest rebellion, the Indian Mutiny of 1857, British officials escorting the delegation were under strict orders to stay clear of all "Mussulman concentrations," and to be vigilant for any signs of Pan-Islamic "firebrands," "mutineers", and "intrigue." For these very reasons, even before Hulusi Efendi stepped foot on Indian soil, the British Secretary of State to the Government of India wrote in a memo to Calcutta earlier that summer,

> I need hardly call your attention to the probability that, if the envoy is permitted to remain in any of the towns where a powerful Mussulman population exists, popular demonstrations will result, which may involve hazard to the public peace as well as be likely to give a false impression of the intentions of Her Majesty's Government. Your Excellency will best avoid this danger by arranging that the envoy should rest at places where the Mussulman element is not predominant in the population.[47]

Akin to a nineteenth century version of Chalmers Johnson's theory of "blowback", the above passage reveals the astute observations of some British officials wary of the long-term, unforeseen consequences of an intervention in Afghanistan which they helped facilitate in the first place.[48] Meanwhile, following a long and arduous journey through the tribally-governed frontier region of the Indo-Afghan borderland, Hulusi Efendi and his entourage finally reached Kabul on September 8, 1877.[49]

---

[47] NAI-FD/SEC March 1878 6-63 (No. 32) ("Deputation of a Turkish Envoy to Afghanistan; Object of mission; Instructions by Secretary of State regarding reception, &c; Instructions by Turkish Government to Envoy"). A similar message was conveyed in the The Government of India's memo from August 1877 to those responsible for the envoy's sojourn in India, stating that "Every care was to be exercised, consistent with politeness, to render the Envoy's stay in Bombay, and other populaous Mahomedan cities, as brief as possible, and His Excellency's journey through British territory quiet and unostentatious." NAI-FD/SEC March 1878 207 ("Diary of the Turkish Envoy's journey from Bombay to, and from, the British frontier"), 1. Needless to say, the failure to take these warnings seriously in Bombay likely resulted in all the more embarrassment for British officials responsible for the reception.

[48] Chalmers Johnson, *Blowback: The Costs and Consquences of American Empire* (New York: Henry Holt and Co., 2000).

[49] NAI-FD/SEC 1878 70-145 (No. 144) ("Arrival of the Turkish Envoy, his journey in India, and departure for Cabul"). British and Ottoman sources offer conflicting accounts of what happened upon the Ottoman delegation's arrival. According to some British intelligence records, it was a startling fifteen days before the envoy and his entourage were officially received by the Afghan amir. NAI-FD/SEC March78 191-201 (No. 198) ("Gratification of the Sultan with the reception accorded to his Envoy to Afghanistan on his passage through India"). Similarly, another report has more information and details on the program of Turkish envoy's reception in Kabul. NAI-FD/SEC July 1878 122-123 ("Kabul News for September 1877"). Interestingly enough, British sources are themselves conflicting. A "Candahar Diary" entry for October 16, 1877, for example, states Hulusi Efendi had to wait six days for an interview with the Amir, and the first five days was due to the Amir's illness. Ottoman records, on the other hand offer, a slightly different version of events, stating it was only a few days and was due to an illness of the Amir. In sum, British and Ottoman sources provide different angles and conclusions on the proceedings of the Ottoman mission in Kabul. Ottoman sources provide more detail, and a generally more positive picture of interaction. Nonetheless, there are reasons to be circumspect of both British and Ottoman sources at this juncture. The aforementioned prejudices and specific geopolitical interests of British administrators may have lead many to play down the warmth between Kabul and Istanbul in their reports. At the same time, while the memoirs and reports of the Ottoman mission members provide us with more texture, as Özcan insightfully notes, they should also be read with a good deal of historical circumspection given they may have been produced with a view towards impressing

– • –

Both Ottoman and British sources describe the historic meeting between Amir Sher ʿAlī and Hulusi Efendi as a cordial exchange.[50] The meeting began with an offering of gifts on behalf of the Ottoman Sultan, including a sacred hair from the Prophet's beard (*mu-i mübarek*), a symbolic act of solidarity which was reported to have above all "much pleased" the Afghan Amir. In his own report on the mission, Hulusi Efendi describes how an initial atmosphere of suspicion and mistrust dissipated when Hulusi Efendi finally met with the Afghan ruler, and the latter demonstrated the expected fealty and respect to the Caliph of the Muslims, the Sultan of Istanbul, and amity with his co-religionists. A report of a British informant privy to the early conversations writes in a report dated October 9, 1877,

> After paying obeisance to the Amir, the Envoy laid before His Highness the presents and the *Mu-i-mubarak* which he had brought with him. The Amir was much pleased to see the *Mu-i-mubarak*, and asked the Envoy the particulars of the health of the Sultan, and interrogated him about the number of days within which His Excellency performed his journey to Cabul. After this conversation the Amir ordered his courtiers to send three elephants daily to the residence of the Envoy to take him and party out for airing. The guard which had been placed at the Envoy's residence to prevent the inhabitants of the town from frequenting the locality was removed.[51]

---

the Sultan. Özcan*, Pan-Islamism,* 85. Still, the Prime Ministry Ottoman Archives contain a rich file of original letters and notes dispatched by Hulusi Efendi concerning his mission's progress from Kabul, from a conversation with Khedive Ismail of Egypt in Alexandria, to the delegation's arrival in Bombay, to Hulusi Efendi's exchange with Amir Sher ʿAlī in Kabul. Elegantly hand-written in Ottoman Turkish, these letters and invaluable primary sources can be found in the Prime Ministry Ottoman Archives until this day, and what is more, provide more textured details of the events in Kabul than what he reported to the British. The largest and richest file on the Hulusi Efendi mission to Kabul can be found in BOA-Y.A.HUS 159/14 (1294 Ş 01) ("Afganistan Sefiri Ahmed Hulusi Efendi'nin kendisine Bombay'da gösterilen ihtiramdan dolayı İngilizlerin endişelendikleriye ilgili telgrafın takdimi"). The other main files in the Prime Ministry Ottoman Archives, including additional despatches from Hulusi Efendi to Istanbul, are found in BOA-İ.HR 276/16873 (1295 C 05) ("Sefaret-i mahsusa Ahmed Hulusi Efendi'nin Afganistan'a gönderildiği") and BOA-İ.HR 335/21534 (1295 C 21) ("Sefareti fevkalade ile Afganistan'a gidip gelmiş olan Şirvanizade Ahmed Hulusi Efendi ile maiyyetinin harcırahının ödenmesi). The latter includes original stamps, envelopes, and cover letters used for correspondence between Hulusi Efendi and the Porte, mailed via Peshawar and Bombay. These sources have been examined in detail by late Ottoman historians Azmi Özcan and Dwight Lee, but largely focus on state-to-state diplomacy and "foreign relations" approaches.

[50] On his reception in Kabul, the Ottoman envoy Ahmed Hulusi Efendi said to Disbrowe,

> I was treated in Cabul with great respect. The Ameer commanded that due honor and courtesy should be extended to me. His Highness received me most amicably. The Ameer is exceedingly intelligent, looks after the administration of his Government and his country with much diligence, knows all that passes; indeed nothing takes place that reaches not his ears. .. The Khyberees acknowledge the Ameer's authority and paid me every respect in the press.

NAI-FD/SEC March 1878 207 ("Diary of the Turkish Envoy's journey from Bombay to, and from, the British frontier"), 7.

[51] NAI-FD/SEC March 1878 254-298 ("News-letters received from the Government of the Punjab") (No. 267).

Some important points are in store here with regard to clarifying what we know, what we may never know, and what is probable in light of available evidence. While we do not have transcripts of conversations, we do know that Hulusi Efendi met with leading members of the Afghan ʿulamāʾ in the court of Amir Sher ʿAlī.[52] We also know that in addition to individual conversations between the Sultan's envoy and the Afghan amīr, a series of letters were also exchanged between the two Muslim sovereigns—constituting another means of familiarizing the Afghan Amir with recent developments in the Ottoman domains.[53] Most significant of all, however, are the comments of British informants above which indicate that Hulusi Efendi was largely unrestricted in his movement in Kabul, especially towards the latter stages of their roughly three-week stay in the city. In contrast to the relative suspicion most foreign visitors were subject to while visiting Kabul, towards the end of his stay Hulusi Efendi was granted a virtual *carte blanche* to meet the Afghan ʿulamāʾ and other Kabul elites.[54] In light of these circumstances, it is practically inconceivable that Hulusi Efendi would not discuss his participation in the *Mecelle* with the Afghan and Indian ʿulamāʾ—a project he had devoted nearly the entire past decade of his life to.[55] We must, therefore, see Hulusi Efendi's intermingling with the ʿulamāʾ of Kabul as laying early seeds for the circulation of an Ottoman-styled Islamic legal modernism in Afghanistan, in which the codification of Islamic law (particularly following the Ḥanafī school of jurisprudence) played a central role. That the earliest processes of the modern codification of Islamic law in Afghanistan begins less than a

---

[52] For an alleged verbatim transcript of some of the conversations between the envoy and the Amir, see NAI-FD/SEC/March 1878 208-209 ("Further information not contained in the diary regarding the proceedings of the Turkish Mission to Cabul"). However, not being corroborated by other sources, it is difficult to ascertain the accuracy of these reports, which were often merely passed on from memory by British informants present in the Kabul court, quite possibly long after the actual events had transpired. We must also keep in mind the probability such reports could have been produced with an intention to please superiors in Calcutta or even London.

[53] NAI-FD/SEC September 1878 48-49 ("Mitchell's Abstract. Texts of letters between Amir Sher ʿAlī and Sultan of Turkey"). In his general summary of the encounter, including his brief comment on the letters exchanged in Kabul, Ahmed Hulusi Efendi reportedly said to Disbrowe,

> The Ameer is exceedingly intelligent, looks after the administration of his Government and his country with much diligence, knows all that passes; indeed nothing takes place that reaches not his ears. I strove to cause matters to run smooth between England and Cabul. I offered much friendly counsel. I should be speaking falsely did I say I thought the Ameer entertained unfriendly intentions towards England. I trust all will end well. Turkey has derived no material advantages from my mission. The Russian Envoy at Cabul is not admitted by the Ameer to an audience because the Ameer has no answer to give him. I am the bearer of three letters to the Porte, one to the Sultan, one to the Sadr-e Azim, and one to the Shaykh ool Islam. The three letters were all sealed and their contents were not made known to me.

NAI-FD/SEC March 1878 207 ("Diary of the Turkish Envoy's journey from Bombay to, and from, the British frontier"), 7.

[54] See, by contrast, the memoir (Macintyre 2004) of Joseph Harlan, the first American in Afghanistan and a visitor to Kabul in 1838, and the memoir of Roland Wild (1932), who visited Kabul during the Amān-Allāh era (1919-1929).

[55] A similar conclusion would hold for the landmark Ottoman *Kanun-ı Esasi* of 1876 for that matter, arguably the first modern constitution in the Islamic world, and which was adopted just months before Hulusi Efendi's departure from Istanbul.

decade later with the grand codification projects of Amir ʿAbd al-Raḥmān Khan lends support to this conclusion.[56] We will return to this legacy in the final section of the paper.

Amir Sher ʿAlī's Decision

After the initial few days of hospitality and exchange of respects and gifts between the Afghan Amir and the Ottoman envoy, eventually Hulusi Efendi proceeded to explain the *raison d'être* of his visit: to offer Sultan Abdülhamid's call to arms against the bellicose Russians.[57] Ottoman and British records indicate that the Amir patiently listened to the envoy as he explained what the Sultan was requesting from the Amīr, and the reasons why. The Amir's demeanor was solemn and reverential. Having listened attentively, however, the Amir then proceeded to tender his regrets in not being able to meet the Sultan's request.

Offering his reasons, the Amir said he saw only one foe of the Afghans: the British. He then cited the "unjustifiable" occupation of Kelat and Swat by British troops, an action which "had so exasperated and offended him, that he could not now possibly treat the English other than as aggressive enemies."[58] When the Ottoman envoy waxed on the atrocities of Russian forces "against Muslims" from the Balkans to Bukhara, or described Russia as untrustworthy and the enemies of the Afghans, the Amir was circumspect and distant.[59] In response to propositions to form an Ottoman-Afghan alliance against St. Petersburg, the Amir was reticent and aloof. When Hulusi Efendi again sought to demonize the Russian regime, the Afghan ruler would repeatedly deflect attention to India, describing the British as his chief and most mischievous rival who were already occupying Afghan soil.

---

[56] For an overview of the codfication projects launched by Amir ʿAbd al-Raḥmān, and some evidence of inspiration from both the Ottomans and Persians, see Tarzi (2003, 277, 328-330).

[57] One of the lengthiest descriptions of Hulusi Efendi's initial encounter with the Afghan Amir is described in a memorandum by Sir A. Sandison, dated, November 1, 1878. The report is based on a conversation between Hulusi Efendi and Sandison, and begins by describing the cordial reception the Amir offered to the delegates, followed by an intense series of conversations on Afghanistan's relations with the British and Russians. On the reception of the Ottoman mission in the Amir's court, Sandison quotes Hulusi Efendi as follows, "shortly after his arrival at Kabul he met with a most cordial reception from the Amir, who professed the greatest and veneration for the Sultan as the head of the Mussulman religion. He even expressed his readiness to fight for His Majesty's cause in a subordinate position in the Imperial army." NAI-FD/SEC March 1879 44-56 ("Sultan's Proposal to depatch a letter to Amir of Kabul") (No. 49).

[58] NAI-FD/SEC March 1879 44-56 ("Sultan's Proposal to depatch a letter to Amir of Kabul") (No. 49).

[59] For example, in a telegram from Captain Cavagnari in Peshawar to the Viceroy in Simla in October 1877, he writes,

> At first Cabul Ameer distrusted mission, and said it was sent by the British Government. (After notice) change in Ameer's temper; some days afterwards presents and letters were delivered, the one from the Shaykh-ul-Islam, with denunciation, was also presented. Envoy explained to the Ameer the grasping nature of Russia, and that if he did not court alliance with the English, his territory would soon be absorbed by Russia. He proposed that Turkey and Afghanistan should divide Persia, and that the Ameer should extend his rule over Bokhara.

NAI-FD/SEC March 1878 146-190 ("Turkish Envoy's return from Kabul and departure from India") (No 169).

Finally, seeking to accommodate the Amir's concerns, Hulusi Efendi offered to mediate peace talks between the Afghans and the British. In the end, however, Amir Sher Khan was non-committal. The Afghan ruler could not relinquish fear of another impending British invasion, heralded by the 1876 annexation of Quetta—territory considered by the Amir as part of Afghanistan. Moreover, although Sher ʿAlī appreciated Ottoman efforts to mediate the impending crisis with the British, the Afghan ruler understood that Istanbul was not in a position to offer concrete assistance from so far a distance, and already bogged down by conflict in the Balkans, eastern Mediterranean, and eastern Anatolian fronts. In the Amir's strategic calculus, the Porte did not have the military, political, or institutional means to achieve real diplomatic or military gains in the region. What is more, Sher ʿAlī wondered how the Ottomans would protect Kabul from Russian retaliation, when the Turks were already besieged by a much greater threat on their own doorstep: the Russian invasion of Istanbul itself.[60]

Rebuffed but respected, Hulusi Efendi and his colleagues realized their mission had come to an end. They had completed their central objective: delivering the Sultan's call to arms to the Afghan Amir. Having been turned down, it was now time to prepare for the long journey home.

---

[60] Amir Sher ʿAlī nonetheless made sure to not reply in a manner too curt or disrespectful. This was not mere diplomatic courtesy. According to available sources on the episode (Saray 1984, 16-22; Özcan 1997a, 84), Amir Sher ʿAlī Khan went out of his way to display sympathy and solidarity with the Ottoman Sultan. See also Saray (1987). A copy of the from the Sultan to the Amir is in Baysun (1952, 156-158). A British information reported in October 1877 that the Amir gifted Hulusi Efendi with a present of 12,000 Rupees upon parting with the envoy cordially. NAI-FP/A January 1878 33-48 ("Candahar Diaries"). Özcan, however, provides the best summary of the epic encounter:

> The Amir appeared very grateful to receive an envoy from the Caliph of Islam, but he regretted that he was unable to respond as he would have liked to. The Amir told the envoy that 'since the population of Afghanistan is almost all sunni Muslims they always prayed for the well-being of the Ottoman State and indeed regarded his own government as part of the Sublime State'. 'Although the ill-desires of the Russians are well known', the Amir contended, 'the deceits of the British are even far more and though they always pretend to be friendly, in fact they want to destroy us'. The Amir complained that despite his friendliness with the British, they had occupied Quetta. Referring to the neighbouring countries surrounding Afghanistan, Russia, Iran, and British India, the Amir said they were all hostile, but the British were the most aggressive and dangerous. Therefore it was not suitable for him to enter upon a war with Russia.

Özcan*, Pan-Islamism,* 82-83. Hence Amir Sher ʿAlī considered the Ottoman offer to mediate with the British, as Amir Sher ʿAlī Khan was not desirous of a war with either the Russians or the British. In the end, however, geopolitics trumped the fraternal expressions. The challenges and opportunities of Afghanistan's geostrategic position emerges particularly strong in the Amir's comments here. More specifically, some kernels of wisdom from Khedive Ismail's advice to Hulusi Efendi may have revealed themselves at this juncture more than ever; for while the Porte was more concerned with Russian aggression on their front doorstep, Kabul was absorbed with the British on their's. As the Özcan proceeds to quote from the encounter,

> When the envoy argued that the Porte might help bring about a rapprochement between him and the British, he dismissed the suggestion by saying that he could not trust the British. But in case the Porte could persuade the British to evacuate Quetta, any tension between them would automatically cease and there would be a chance for improving relations. Likewise the *Akhund* of Swat expressed his dissatisfaction over the fact that the Caliph had chosen to send envoy through the British, whom he could not trust. He said that the occupation of Quetta had been most offending and therefore caution and care must be exercised while dealing with the British.
>
> Ibid.

Because the return voyage was again to pass through India, however, in a critical sense the mission was not quite over after all.

A (Second) Passage to India: Hulusi Efendi mingles with Muslims of Delhi and Aligarh

Meanwhile in India, ever since the explosive demonstrations Bombay British officials had been preparing for Hulusi Efendi's return through India.[61] Once again, like the Ottoman envoy's arrival at Bombay in the beginning of the journey, but with even more caution, the British sought to make made arrangements to limit his interactions. Surprisingly, however, in spite of earlier warnings from the Foreign Office in London, a shift in strategy seems to have occurred in the minds of British officials planning the envoy's return route. It is not entirely clear what caused the shift in attitudes, but contrary to earlier instructions, Hulusi Efendi and his delegation were permitted to visit a number of famous Muslim sites in northern India before their departure from Bombay. The envoy was permitted to make brief stops in Lahore, Amritsar, Sirhind, Agra, and Kanpur, *en route* to Bombay.[62] To be sure, Hulusi Efendi took full advantage of the opportunity and visited the shrine of a venerated sufi saint in Punjab, Jama Masjid in Delhi (India's largest mosque), the Taj Majal in Agra, and the Muhammadan Anglo-Oriental College at Aligarh (later Aligarh Muslim University). At these famous sites he received splendid receptions from the local Muslim populations, though our sources do not indicate they were particularly large, and staunchly loyal to the British Crown, indicating Calcutta's better preparations this time around.

As to the British authorities' *volte-face*, one possible explanation of the new policy is that these were in fact calculated and strategic visits on the part of the British to impress on the envoy the "magnanimous and tolerant" treatment of India's Muslim minority, and how the latter were free to practice their religion and thrive under British rule.[63] The following telegram from the British ambassador at Istanbul Sir Layard to the Viceroy, describing the former's conversation with Sultan Abdülhamid, for example, reveals such motives were at play:

> I ventured to remark to His Majesty that Ahmed Khouloussi should take advantage of his journey to India to see the perfect freedom enjoyed by all religious sects and creeds in the dominions of

---

[61] For example, the following telegram from the Viceroy, Simla to Captain Cavagnari, Peshawur, October 27, 1877, reveals the initial policy concerning Hulusi Efendi's return journey through India, "[J]ourney should be made pleasant and enjoyable to envoy, but think it is important that no lengthened stay should be made at Delhi, Agra, or Bombay. Spare time should therefore be occupied in such places as Rawulpindi or Jhelum." NAI-FD/SEC March 1878 146-190 ("Turkish Envoy's return from Kabul and departure from India") (No. 164).

[62] NAI-FD/SEC March 1878 207 ("Diary of the Turkish Envoy's journey from Bombay to, and from, the British frontier")

[63] The strategic component can be seen in the specific locations the returning Ottoman mission was given permission to pass through—Lahore, Delhi, Agra, and Aligarh. Notably, these were the very same places the Amir Ḥabīb-Allāh Khan (r. 1901-1919) would visit in his landmark tour of India in 1907, a mission designed by Raj officials to impress on the Afghan ruler the value of British patronage. On a related note, in light of the massive population of British India (a vast swath of territory encompassing today's extremely densely-populated India, Pakistan, Bangladesh, Sri Lanka and portions of Myanmar and Afghanistan), the fact the Raj had inherited the great Mughal empire, and finally, that the number of Muslims in India probably exceeded even that of the Ottoman empire, some staunchly pro-British Muslims went so far as to describe Queen Victoria's domains as the "greatest Muḥammadan empire" in the world.

> the Queen and Empress of India. He would find, I said, Mussulmans filling high places, flourishing Mussulman colleges, and wealthy and prosperous Mussulman institutions of all kinds, whilst the Mahomedans themselves retained, without molestation, their own religious laws and observances.[64]

In addition to the "model-Muslim-minority" window dressing and predictable Taj Mahaj tourist excursion intended for their Ottoman guests' consumption, for the Raj there were also domestic dividends to be made in ensuring the Turks left with a good impression: it could send a powerful message to Indian Muslims that Queen Victoria was a friend of the Sultan, and therefore all Muslims.[65] As an additional consideration, the British Indian Government likely

---

[64] NAI-FD/SEC March 1878 191-201 ("Gratification of the Sultan with the reception accorded to his Envoy to Afghanistan on his passage through India") (No. 196).

[65] This is not to say such gestures were insincere or strictly Machiavellian, cold, and calculating strategy, of course. While ultimately we cannot read people's intentions with certainty, there is evidence to suggest an additional but related element was at play here—a certain level of honor and respect, on a personal level, between the two dignitaries. This is evident in the following passages from Colonel Disbrowe's diary of the mission, revealing a rare moment of tenderness, honor and respect exchanged between the two statesmen. On decision to allow the Envoy to stop at Lahore, Amritsar, Sirhind, Delhi, Agra, and Kanpur, *en route* to Bombay, Disbrowe writes on October 26,

> As regards Delhi, the Peer (spiritual guide) of the Envoy's father was buried there, and a pilgrimage to the Peer's tomb His Excellency considered an indispensable religious duty. With respect to the other places named, he could not, he said, expect to revisit India, and to leave the country without having seen them would indeed be a grievous disappointment to him. His Excellency had previously said to me, "The Sultan is sure to question me closely regarding the places of note I visited to India, and how can I look my sovereign in the face and tell him I passed through the cities but saw none of their wonders… This it was that led me on October 20th to telegraph to the Foreign Secretary the wishes of the Envoy.

NAI-FD/SEC March 1878 207 ("Diary of the Turkish Envoy's journey from Bombay to, and from, the British frontier"). Perhaps encouraged that his more personal style was bearing fruit, Hulusi Efendi again approached Disbrowe three days later with the following words to share. As Disbrowe notes in his October 29 diary entry,

> After breakfast His Excellency came into my room and of his own accord began speaking to me regarding his visit to Cabul. He said somewhat emphatically, 'I exerted myself greatly for England. Please God, matters will end well. Should my mission have been attended with any degree of success, it has been owing to several reasons. My father was well acquainted with Asia. His name is familiar in Daghestan and Afghanistan. I have already told you that his spiritual guide was buried at Delhi. The turban I wear, too, meaning thereby that he was a Cazi and a Syud, entitled me to respect and added to my influence. I endeavored to be most conciliatory in manner and speech. The result was that I was treated in return with all courtesy and kindness. Had I not possessed the above advantages I never could have carried my mission through.

NAI-FD/SEC March 1878 207 ("Diary of the Turkish Envoy's journey from Bombay to, and from, the British frontier"). (7) Significantly, we also learn from the above passage that Ahmed Hulusi Efendi was indeed of venerated "Seyyid" ancestry. We also learn of the perhaps surprising coincidence of his father's ties to central Asia and Afghanistan—not surprisingly, however, through sufi orders. Finally, roughly a week later and after passing through Sirhind, home to the eponomynous founder of the Mujaddadi branch of the Naqshabandī order prominent in Punjab and Afghanistan, Disbrowe notes in his November 6 diary entry that Hulusi Efendi had the following words to share, "It would have been impossible for the British Government to have afforded me greater pleasure than they have done by permitting me to visit this shrine. To have passed Sirhind, and not to have visited it, would have grieved me deeply." NAI-FD/SEC March 1878 207 ("Diary of the Turkish Envoy's journey from Bombay to, and from, the British frontier") (8).

did not want to appear on the defensive by scurrying the Ottoman mission through India for yet a second time, especially since word had no doubt spread through the vernacular press by now that a representative of Sultan Abdülhamid was traveling through India. Regardless of motivation, archival records reveal Hulusi Efendi's movements were closely monitored, with supervised meetings only being allowed only with staunchly pro-British notables—namely, Sir Sayyid Aḥmad Khan of the Anglo-Oriental Muhammadan College at Aligarh and the Agha Khan.[66]

On Hulusi Efendi's November 8 tour of Aligarh with the Muslim college's esteemed founder, Sayyid Aḥmad Khan, Disbrowe writes,

> Saiyid Ahmed Khan being most anxious that Envoy should visit the Mahomedan College at Allyghur, the foundation stone of which was laid by His Lordship, the present Viceroy, arrangements were made for the visit. Reached Allyghur at 3-40p.m. Saiyyid Ahmed Khan drove us at once to the College where on arrival we found the Professors and entire body of students assembled to welcome and receive Envoy. The Professors were severally introduced to His Excellency. Saiyyid Ahmed Khan explained everything of interest connected with the institution, and presently a brief address was read out to His Excellency, who spoke a few words in reply, stating what pleasure it had given him to visit the College, and how gratified he was to find that the study of Arabic was so carefully attended to.[67]

Notably, as seen in the itinerary of the Ottoman mission's return passage through India, the British Indian government prevented meetings between the Ottoman delegation and Indian Muslims representing more autonomous, self-sufficient, and to some officials, "anti-British"

---

[66] NAI-FD/SEC March 1878 207 ("Diary of the Turkish Envoy's journey from Bombay to, and from, the British frontier") includes a report of Hulusi's Efendi's meetings with Sayyid Aḥmad Khan—once before the trip to Kabul, and once after—as well as a visit to the Aligarh Muslim University. On the first meeting with Sayyid Ahmed Khan, Disbrowe writes on August 13,

> The leading Mahomedan was one Sayyid Aḥmad Khan, a native gentleman of considerable influence, and well thought of by Government I understand. He is reputed a good scholar, and stands, I am told, at the head of the 'literati' in Allyghur. I exchanged bows with him, and would willingly have been introduced, but, feeling that an introduction might lead to conversation, and possibly to a request by the parties collected to be introduced to the Envoy, I refrained. 'The quieter the better' was my motto.

NAI-FD/SEC March 1878 207 ("Diary of the Turkish Envoy's journey from Bombay to, and from, the British frontier"), 2. With regard to the later meetings after Kabul, an November 9, the Ottoman envoy dined with Saiyid Ahmed Khan. Earlier that day, and again the next day, the he visited the Taj Mehal, the Agra fort and palaces, Moti Masjid, Sikundra, and "other places worth seeing, " summarizes Disbrowe. He further notes that Sayyid Aḥmad Khan, "who had been so agreeable and pleasant a companion to the Envoy, took leave of His Excellency" on November 10. NAI-FD/SEC March 1878 207 ("Diary of the Turkish Envoy's journey from Bombay to, and from, the British frontier"), 9. Another file includes a detailed brief of the Agha Khan's meeting with the envoy, the former apparently asking questions in the service of the British. Describing the meeting between the Agha Khan and Hulusi Efendi, the report proceeds to describe how the Agha Khan asked the envoy many questions about his trip to Kabul, but received for the most part monosyllabic answers from the envoy. NAI-FD/SEC March 1878 202-207 ("Conversation between Lord Loftus and M. de Giers regarding the Turkish Mission to Afghanistan; Diary of the proceedings of the Turkish Mission to Cabul"). Disbrowe also notes that on November 18, the envoy was initially greeted by the Agha Khan two sons, Ali Shah and Jehangeer Shah. NAI-FD/SEC March 1878 207 ("Diary of the Turkish Envoy's journey from Bombay to, and from, the British frontier"), 7.

[67] NAI-FD/SEC March 1878 207 ("Diary of the Turkish Envoy's journey from Bombay to, and from, the British frontier"), 8-9.

institutions like the Dār al-ʿUlūm madrasah at Deoband.[68] Even here, however, the Raj's strategy did not entirely succeed. Attached to Hulusi Efendi's own report of the mission and resting in the Ottoman archives in Istanbul today is a gold-inscribed letter signed by the Deoband madrasa's leading scholars. The document, somehow delivered to the Ottoman envoy, praises the sultan and proclaims a fervent desire to build stronger ties in the future.[69] Historians of Pan-Islamism have argued that the strengthening of these ties at the turn of the twentieth century would have long-term consequences for the emergence of transnational alliances between anti-colonial movements in India, Afghanistan, and the former territories of the Ottoman empire after the first world war.[70] Still, the *juridical* impact of linkages formed between the Porte, the Amir's court in Kabul, and the ʿulamāʾ of Deoband as a product of Hulusi Efendi's mission have not been well explored.

As for the *denouement* of Ahmed Hulusi Efendi's voyage through India, on November 19, 1877, Colonel Disbrowe writes in the concluding entry of his diary on the mission that the Ottoman envoy and his colleagues departed Bombay for Yemen on board the steamship *Java*. Before his departure, however, the colonel notes the following exchange with his brief travel companion,

> On my asking the Envoy what he most admired of all he had seen, he said the gardens at Lahore and the Taj Mehal. As to mosques, the mosques in Constantinople surpass in style and beauty all he had seen in India. I explained that the Taj had been designed by Esa Mahomed Effendi, an architect sent to the Emperor Shah Jihān by the Sultan of Turkey. This both surprised and pleased the Excellency.[71]

The colonel further notes that extensive arrangements were made for the envoy's departure. At 11:30 in the morning, Disbrowe writes, he escorted Hulusi Efendi and his entourage to the Bombay docks, where a salute of fifteen guns was fired en route. As a steam-launch was being prepared at the pier, the envoy was greeted by the Bombay Municipal Commissioner, who stayed and chatted with the envoy for about an hour, after which he wished

---

[68] As Barbara Metcalf has shown, in spite of the participation of some of the college's founders in the 1857 rebellion (a decade before the college's actual establishment at Deoband), the description of "anti-British" is largely reductionist and misleading given the generally pietistic and scholastic orientation of the institution, staff, and students, whose core mission was to train properly qualified religious leaders to serve local Muslim communities throughout India. Barbara Daly Metcalf, *Islamic Revival in British India: Deoband, 1860-1900* (Princeton: Princeton University Press, 1982).

[69] BOA-Y.A.HUS 159/14 (1294 Ş 01) ("Afganistan Sefiri Ahmed Hulusi Efendi'nin kendisine Bombay'da gösterilen ihtiramdan dolayı İngilizlerin endişelendikleriye ilgili telgrafın takdimi"). Of course, the madrasah at Deoband was not the only institution dispatching letters of support, friendship, and more to the Ottoman Sultan, nor was correspondence between Indian Muslims and the Sultan limited to the private, clandestine realm as seems to be the case with the letter from Deoband. The following report from the Prime Ministry Ottoman Archives contains an article in the Calcutta Times published by local Indian Muslims expressing their ties to the Sultan as publicly as it gets, BOA-HR.TO 59/24 (1877 07 05) ("Hindistan Müslümanlarının Devlet-i Aliyye'ye olan meyl ve muhabbetleri hakkında Times gazetesine Kalküta muhabirinden gönderilen telgrafın Londra Sefareti'nden irsal olunduğu").

[70] (Özcan 1997a; Qureshi 1999; Aydin 2007)

[71] NAI-FD/SEC March 1878 207 ("Diary of the Turkish Envoy's journey from Bombay to, and from, the British frontier"), 9.

Hulusi Efendi and his party a pleasant voyage.[72] Hulusi Efendi, before leaving the shores of India, is reported to have said the following words to Disbrowe, "I think, whenever opportunity was afforded me, I express my thanks for the great kindness and attention I received everywhere in India, but, should I have failed in any respect, I request you will rectify the omission."[73] And with that gesture of courtesy, and respect, the first official Ottoman ambassador to Afghanistan commenced the sea-journey back to Istanbul.

Mission Accomplished? Hulusi Efendi's Expedition and Legacy in Retrospect

In light of the Afghan Amir's refusal to join an Anglo-Ottoman alliance against the Russians, historians have largely characterized the first Ottoman mission to Kabul as a failure. Like British administrators contemporary to the mission, such views exhibit a tendency to limit Hulusi Efendi's mission to a mere formalistic exchange of gifts and prayers, implying the expedition was more about "Oriental decorum" than concrete political gains or long-term social consequences. Such characterizations cascade with prevalent historiographical narratives of "the Sick Man of Europe" and an empire in linear decline—views no doubt influenced by too strong a focus on late Ottoman territorial and economic losses, coupled with an over-reliance on British sources. Highlighting the British perspective at the time of the events, a telegram from Raj officials to the Earl of Derby, British Secretary Foreign Affairs, dated February 17, 1878, states, "the Turkish Delegate to the Amir of Afghanistan has completely failed in his endeavors to shake the confidence of Sheyre Ali in Russia."[74] In this manner earlier twentieth century historians like Dwight Lee often rehashed the narrow policy perspectives of Calcutta or London, considering only the short-term strategic value of the mission vis-à-vis harassing Russia along her southern, Muslim-majority frontier. Even historians using Ottoman sources render the expedition to have been an utter failure. "Thus," concludes Özcan "the mission returned to Turkey without achieving anything."[75] Özcan is keen to note here, for example, how the Indo-Muslim response to the Ottoman delegation's arrival is amenable to be romanticized and overblown—there is little evidence of a *pan*-Indian Muslim response to the Ottoman mission, after all—and British efforts to contain the envoy's influence outside of specific cities "succeeded" in this respect.

To stake the significance of Hulusi Efendi's mission entirely on its ability to foment an Afghan war against Russia (or even more implausible, a pan-Indian uprising, for that matter) in such a short span of time is not only ahistoric and unrealistic; it also ignores the expedition's long-term effects beyond battlefields and grand alliances. What historians who argue "failure" have tended to overlook are the enduring social and political consequences of Hulusi Efendi's mission, including a reinvigoration of Ottoman influence in India and Afghanistan, a process which steadily increased through the last two decades of the nineteenth century and continuing through the First World War. The focus on military strategy also overlooks the groundbreaking advances made in unexplored realms of Indo-Ottoman-Afghan tripartite relations, such as the

---

[72] Ibid.

[73] Ibid.

[74] NAI-FD/SEC May 1878 12-15 (No. 14) ("News from Afghanistan").

[75] Özcan, *Pan-Islamism,* 84.

circulation of new ideas and conversations about Islamic legal modernism between these overlapping Ḥanafī jurisdictions.

No doubt, more research is needed to uncover the precise nature of conversations that took place on Hulusi Efendi's historic mission to India and Afghanistan. It is also possible we will never know them. But given the timing and circumstances of his arrival (one year after the promulgation of the *Mecelle* and less than a year after the adoption of the first Ottoman constitution), the great fanfare with which he was greeted in such cities as Bombay, Delhi, Aligarh, and of course, Kabul, there is a case to be made that Hulusi Efendi's visit had done far more than stoke pro-Ottoman sentiment among Muslim publics in India and Afghanistan. Rather, at the level of law and statecraft, Hulusi Efendi's mission laid the seeds for circulating an Islamic modernism *alla turca*—as seen in the increasing respect for and reference to Ottoman models of governance by Muslim rulers abroad. This was the case with the Bārakzai amīrs of Afghanistan—ʿAbd al-Raḥmān (r. 1880-1901), Ḥabīb-Allāh (r. 1901-1919), and Amān-Allāh (r. 1919-1929)—but also the Indian princely states of Bhopal and Hyderabad, where semi-independent Muslim rulers looked to Istanbul not out of fraternal or religious sentiment so much as the concrete goals of acquiring international recognition, administrative models, and technical expertise for their own state-building campaigns.[76]

– • –

For the next three decades, Sultan Abdülhamid continued to view India and Afghanistan as potential reservoirs of Ottoman muscle abroad. After all, the dispatch of Hulusi Efendi's mission brought assets of immense potential value in a future conflict with Britain: the sympathy among co-religionists living in the prized jewel of Queen Victoria's global empire, India. While London and Calcutta were keen to keep the disparate seas of Pan-Islam from joining, in the ensuing decades it would not be lost on the Porte, and many Indian Muslims, that they would have to chart their own course of bilateral relations, establishing venues for direct correspondence on their own terms.[77] The Kabul mission was the Porte's first step in this direction.

In his 1941 study of the Hulusi Efendi expedition, Dwight Lee unearthed some of the first documents illustrating British distress and regret with allowing the mission to proceed. Some of the officials responsible for the mission's passage through India, including the Viceroy of India Robert Bulwer-Lytton and British Ambassador at Istanbul Henry Austen Layard, squarely faulting the Turks for the mission's "failure." At the top of the list, they singled out Hulusi

[76] For an exploration of this theme in relation to Afghanistan, see Tarzi (2003). For case studies of shared administrative reforms in the specific context of modern Islamic education, compare Benjamin Fortna, *Imperial Classroom* with Datla dissertation on Osmania University in Hyderabad, India (2006).

[77] As both the symbolic spiritual head of Sunnī Muslims worldwide, and the most powerful ruler in the Islamic world, the British likely realized it would be very difficult to prevent the Sultan's "religious" influence from bleeding into "political" affairs, as if the two were neatly distinguished in the first place. In the ensuing years, Ottoman newspapers would continue to follow events in Central Asia with scrutiny, and the Prime Ministry Ottoman Archives contain an increasing number of newspaper coverage of these regions, including reports of incidents along the volatile Indo-Afghan border. Meanwhile, as Deringil (1999), Qureshi (1999), and Özcan (1997) have shown, Sultan Abdülhamid II grew increasingly adept at employing Pan-Islamic rhetoric and policy for concrete political and diplomatic gains over the remaining two decades of the nineteenth century, in spite of lacking an extensive network of embassies or military stations in British India and central Asia.

Efendi for blame, labeling him a "bigot" ill-suited for the post of ambassador. They also heaped venom on an Afghan-born Turkish translator who accompanied the mission, Lal Shah, declaring him a "traitor" and "untrustworthy intriguer" who "poisoned" the atmosphere in Kabul due to his anti-British views.[78] As Özcan further notes, both Layard and Lytton attributed the failure to the selection of the envoy, stressing that "if he had been a diplomat rather than a 'mullah', the result would have been different."[79] In this way British administrators concealed their embarrassment and deflected responsibility by "blaming the messengers" for the unfavorable consequences of a mission they themselves had conceived, actively promoted, and ultimately facilitated.[80]

Having explored what Hulusi Efendi and the Ottoman delegation *did* achieve in their mission, it would be mistaken to brand the entire mission a failure. In addition to fomenting pro-Ottoman sentiments in strategic locations—including two of India's greatest and most populous cities, Bombay and Delhi—the Ottomans had succeeded in sending an official emissary to Kabul where he was warmly received, hosted by courtiers and greeted by commoners, and finally bid a gracious farewell—accolades which representatives of few other world powers could claim for themselves at the time. The failure narrative also misses one crucial contribution in particular: the Ottoman jurist Hulusi Efendi's role in cultivating new transnational conversations about law, administration, and governance among Muslim statesmen and scholars in Ottoman Turkey, Afghanistan, and British India in the late nineteenth century. Though we have precious little documentation of the conversations between Hulusi Efendi and the Indo-Afghan ʿulamāʾ, we know that they took place almost immediately following his seven-year participation in the most renowned codification of Islamic law in modern history, the Mecelle. In light of this background, it is difficult to imagine that the topic of the Ottoman Civil Code, the Ottoman Constitution of 1876, and other momentous judicial projects taking place in the Sultan's empire did not surface in these conversations between Muslim "lawyers" in the transnational Islamic juridical field. British sources lend support to this conclusion. After describing the "failure" of the mission to convince the Afghan Amir to join the war effort, it proceeds to describe Hulusi Efendi's ties of solidarity formed with the "many friends" he made in Kabul.[81]

– • –

Finally, what became of the illustrious Ottoman scholar, jurist, and ambassador extraordinaire, Ahmed Hulusi Efendi, whose arrival in Bombay caused such a commotion one summer day in August 1877? Mehmed Süreyya Bey's *Sicill-i Osmani* (1890) notes that upon his return from Afghanistan, Hulusi Efendi served a brief stint as deputy governor in Diyarbekir, before retiring to his hometown of Amasya in northern Anatolia.[82] The documentary trail then largely goes cold, however, and we know little of Hulusi Efendi's activities following his return.

[78] Lee, 1941, 352)

[79] Özcan*, Pan-Islamism,* 84.

[80] (Lee 1941, 335-356)

[81] NAI-FD/SEC May 1879 171-173 (No. 173) ("Ahmed Kholoussi Efendi's Mission to Amir Sheyre Ali").

[82] (Süreyya 1890, 307)

A communiqué in the Ottoman archives and the *Sicill-i Osmani* reports he died there peacefully on the fifteenth of the Islamic lunar month of Jumādā al-Ūlā, or January 17, 1889.[83]

Like the renowned jurist-administrator Cevdet Paşa, Ahmed Hulusi Efendi was a late Ottoman "transitional", who combined a traditional madrasa-training with active participation in the *Devlet-i 'Aliyye's* most innovative juridical projects of the modern age.[84] That Hulusi Efendi has received surprisingly little historical attention is remarkable, given the leading role he played in compiling the path breaking Ottoman civil code to serving as the Porte's first official envoy to Afghanistan. In retrospect, these were some of the most ambitious and dynamic state projects—in domestic and foreign policy realms, respectively—to be launched during the Ottoman empire in the nineteenth century. While Hulusi Efendi's retirement to the quaint town of his birth brings to a close an epic journey and a dramatic chapter in the history of Ottoman relations with the greater Islamic world, in many respects a larger and more complex story of shared legal histories, modern statecraft, and Ottoman *juridical* activity in Afghanistan had only just begun.

III
A New Beginning: Indo-Ottoman Relations after the Russo-Ottoman War

Coming to Terms with a Gamechanger

Historians can debate if the Afghan Amir responded positively to the Sultan's call to open a front against the Russians whether this would have made a difference in the outcome of the war of 1877-1878. What is certain is that the conclusion of the war would have lasting consequences on the balance of power between Britain, Russia, and the Ottomans in global sphere. To begin with, the Russians were able to seize a significant amount of Ottoman territory before a peace was brokered by the British. Most of the territory was in the northeast of Anatolia near the Caucuses, and the influx of Muslim refugees from these regions would have long-lasting and divesting consequences for the diverse peoples of the eastern regions of Turkey, Armenia, Syria and Iraq for decades to come.

Ottoman territorial losses and concessions, however, were far from over. The Treaty of Yeşilköy (San Stefano) of March 3, 1878 symbolized Ottoman isolation and humiliating capitulation to Russian demands. According to the terms, the Porte recognized the complete independence of Rumania, Serbia and Montenegro. Moreover, Bulgaria became autonomous while Russia formally annexed considerable territories on both ends of the Ottoman empire, including Bessarabia in the west and Kars and Ardahan in the east. European powers were initially concerned with terms, fearing a dramatic increase in Russian power in the region and St. Petersburg's encroachment on the Mediterranean. Britain in particular feared Russian domination in the Middle East would undermine access to the Suez: the imperial life-line to Britain's crown jewel, India. Wasting no time, Britain and Austria forced Russia to attend another conference at Berlin in July 1878. Revising the terms at San Stefano, the new Berlin Treaty restored a more favorable balance of power—from the perspective of Britain and France,

[83] BOA-İ.DH 1118/87407 (1306 Ca 18) ("Amasya'da irtihal eden Şirvanizade Ahmed Hulusi Efendi'nin mahdumları tarafından Padişah'a takdim olunan istida"). The file also includes a eulogy composed by Hulusi Efendi's sons, which was dispatched to the Ottoman sultan to honor their father and his legacy.

[84] (Chambers 1973)

that is—by limiting Russian gains in formerly Ottoman-governed region. In particular, Bosnia and Herzegovina were handed over to Austrian administration, while Britain secured Cyprus a few months earlier for use as a strategic base in the very nucleus of the eastern Mediterranean. In exchange for these Ottoman concessions, the British made only a vague pledge to defend the Porte against further Russian aggression.[85]

In spite of the damage control afforded by the European powers attending to their own interests and curbing Russian expansionism, the outcome of the 1877-1878 Russo-Ottoman was nothing less than a devastating loss to the Sultan's empire. On top of the unprecedented population and territorial losses, the social and psychological effects of the defeat on the Ottoman ruling class was palpable. As Özcan summarizes in this respect,

> As far as the Ottoman empire was concerned it was forced to give up more than one-third of its entire territory with a population of more than 5 million, half of which were Muslims. As if this were not enough, the Berlin Treaty also gave European powers a say over the fate of the Ottoman empire, whereas the *Yeşilköy* Treaty had awarded this right only to Russia. Either way, the war had a devastating effect upon the Ottoman empire and made it difficult even for what was left to survive. But one thing was clear: the *İttihad-ı Anasır*, the unity of the Ottoman nations, was dead, and the Empire had no alternative but to rely on its Muslim elements for survival. As a result of the wars, the demographic situation within the Empire also underwent a dramatic change. By the end of the 1870s, partly because of the loss of the Balkan lands and partly because of the massive influx of Muslim refugees from the lost territories, the population of the Empire was overwhelmingly Muslim, more than seventy per cent. This was bound to affect policy making thereafter.[86]

For Sultan Abdülhamid and the Porte, the latest war with Russia provided painful lessons that reinforced an increasing sense of isolation, abandonment by old allies in Europe, and alienation from the Western powers in general.[87] As Özcan continues in his description,

> During and after the war the Porte had repeatedly asked the signatories of the Treaty of Paris (1856) to protect the Ottoman integrity as they had guaranteed to do, but in vain. Abdülhamid felt particularly bitter about the British attitude. It was now clear that Britain had deviated from her traditional policy of supporting the integrity of the Ottoman empire. Abdülhamid held that Britain had betrayed the Ottomans by not helping them financially and militarily despite earlier promises. Thus within a short time Abdülhamid had to face the stark reality that no reliance could be put on any foreign power. It also became clear that the European powers would not hesitate to break up the Ottoman empire at the first available opportunity, if they could agree on their respective shares.[88]

---

[85] Lee 1941, 338; Özcan*, Pan-Islamism,* 44; M.S. Anderson, *The Eastern Question (1774-1923)* (1966).

[86] Özcan*, Pan-Islamism,* 44.

[87] Interestingly enough, the United States appears to have been a notable exception in this regard. See, for example, the memoirs of late nineteenth century US ambassador to the Porte, Samuel Sullivan Cox (Gül Çağalı Güven, trans.), *Bir Amerikan Diplomatının İstanbul Anıları, 1885-1887* (İstanbul: İş Bankası, 2010); Abdülhamit Bilici, "Sultan Abdülhamid II and American envoy," *Today's Zaman* (March 1, 2013).

[88] Özcan, *Pan-Islamism*, 45.

In light of the shifting calculus towards the "Sick Man of Europe" taking place in the hallways of 10 Downing Street and other corridors of power in western Europe, we cannot dismiss Abdülhamid's fears of imperial conspiracies to break up and divide among themselves the remains of the Ottoman empire as mere paranoia. There were real reasons to fear a change in relations by the European powers to Istanbul. As Özcan's study has shown through correspondence between lord Salisbury and Lytton, the Viceroy of India, there were already indications the Europeans were rethinking strategies for the "Eastern Question."[89] Dwight Lee notes, for example, that upon Salisbury's return from the peace Conference at Constantinople, he found himself converted to "the spoliation of Turkey" even with Russia.[90]

Before long, the die was cast and increasing British hostility to the Ottoman government was no longer a secret. Britain's transition to an openly hostile attitude towards the Ottoman empire begins with Gladstone's ascendancy in 1880. With Gladstone in the premiership, the relationship between Britain and the Ottomans was marked by a mutually growing and reinforcing suspicion and mistrust.[91] Matters became even more strained between London and Istanbul during the early 1880s. In 1881, European powers forced the Porte to make considerable territorial concessions to Greece in strategic areas of the Balkans. Meanwhile, on the other side of the Mediterranean, France had occupied Tunis, adding the former Ottoman province to their North African colonial possessions. Most devastatingly of all, in 1882 British troops occupied Egypt, further undermining the legal fiction of Ottoman suzerainty in the wealthy and most precious Arab-majority "province" of the empire. While Britain claimed the occupation was in the name of the Ottoman Sultan to enforce law and order in the restive territory, the Crown meanwhile reaped the tremendous economic and geostrategic benefits of controlling access to the Suez Canal. Crucially, is the latter development that made the British crown even less dependent on Ottoman friendship, as London now had direct marine access to the jewel in its crown and prize colony of the empire, India.[92]

Light at the end of the tunnel? Indo-Ottoman Outreach and Visions of Pan-Islam

For an Ottoman sultan beset by the defeat and humiliation following the latest war with Russia, there was perhaps one small, seemingly minor source of consolation: Ahmed Hulusi Efendi's historic mission to India and Afghanistan. In spite of predominant historiographical depictions of its "failure" to convince Amir Sher ʿAlī to join the Ottomans in battle against the Russians, the mission bore the oft-overlooked fruits of stoking pro-Ottoman feeling among

---

[89] According to declassified British documents, Lord Salisbury himself wrote in 1877 that "the old policy of defending English interests by sustaining the Ottoman dynasty has become impracticable and I think that the time has come for defending English interests in a more direct way by some territorial rearrangement." Ibid. 1997, 45; M.S. Anderson, *The Eastern Question (1774-1923)*.

[90] Lee 1941, 347.

[91] "Abdülhamid was convinced," notes Özcan in this regard, "that Britain was pursuing a sinister policy of undermining the unity of the Empire in the Middle East, but he found himself helpless as he could not afford to openly antagonize Britain." Özcan*, Pan-Islamism,* 45-46; M.S. Anderson, *The Eastern Question (1774-1923)* (1966); Selim Deringil, *The Well-Protected Domains: Ideology and the Legitimation of Power in the Ottoman empire, 1876-1909* (1999).

[92] Özcan*, Pan-Islamism,* 45-46.

Afghans, Indian Muslims and even many Hindus, to an unprecedented degree. Beyond mere sentiment, Ottoman archival documents attest to an extraordinary mobilization on the part of Afghans and Indian Muslims organizing fundraising drives for the Ottoman war and relief efforts during the crisis of 1877-1878.

One such document records instances and amounts Indian Muslims and Afghans raised for the "Ottoman State's Jihad against the Russians" ("Osmanlı Devlet ile savaşan Ruslara karşi cihad").[93] This same document includes excerpts of an Indian Muslim Urdu newspaper presenting detailed coverage of Afghan and Ottoman affairs, including the relations of Amir ʿAbd al-Raḥmān with the Ottomans, an issue we will explore in more depth in the subsequent section of this chapter.[94] The file is an extraordinarily rich treasure trove of primary source documents in Turkish, Arabic, Urdu, and Persian illustrating one of the most vigorous and intense episodes of correspondence and proposed alliance between Ottoman Turks, Afghans, and Indian Muslims in the nineteenth century. The Ottomans' goal was to enlist Indian and Afghan support for the war against the Russians, and they utilized a variety of resources at their disposal to secure this end. We learn from this cache of documents that, in addition to the Hulusi Efendi mission, the Ottomans even received a letter from the representatives of the sacred shrine of Shaykh ʿAbd al-Qādir al-Gīlānī of Baghdad dispatching a letter in Arabic in support of the Ottoman jihad.[95] What is more, though its authenticity is suspect given what we know about the results of Aḥmad Hamdi Efendi's mission to Swat, there is an English news article purporting to claim that the Akhund of Swat was encouraging his followers to join the Ottoman jihad as well.

The Ottoman Red Crescent Society's recently opened archive also contains a cache of documents recording such concrete connections such as fundraising and even dispatch of Indian Muslim doctors to the War Front, the two means of support that British Indian officials allowed Indian Muslims to express. An undated Ottoman archives document, though probably belonging to the ʿAbd al-Raḥmān era judging from the style of writing and quality of paper, discusses the Ottoman Sultan's appreciation for a gift from Afghan Muslims of a blessed hair from the noble beard of the Prophet.[96] Beyond filial piety, this was a gift of clearly political ramifications as well.

In this fashion pro-Ottoman sentiment was not merely stoked by the Hulusi mission, but was pre-existing to a certain extent. Nevertheless the Hulusi mission stoked it to an unprecedented degree. Moreover, pro-Ottoman sympathies in India and Afghanistan did spontaneously grow from the Hulusi mission to Kabul, but were also stoked by what many Muslims across the world saw as a growing attempt to dismember the empire by a dreadful combined force of the European powers and Russia. In the same vein, when the course of the war turned against the Ottomans, the Indian Muslims were there to share grief, and wage damage control. Indian Muslims, as individuals and anjumāns, organized to voice their support for the Ottomans, and demand for a just peace treaty. As Özcan describes,

---

[93] BOA-Y.PRK.HR 1/16 (1293 Z 15) ("Afgan ve Hind Müslümanlarının Osmanlı Devlet ile savaşan Ruslara karşı cihad ilan etmesi ve Dersaadet'e gönderilmek üzere iane toplanması").

[94] Ibid.

[95] Ibid.

[96] BOA-Y.PRK.AZJ 55/75 (undated) ("Padişah tarafından Afganistan Müslümanları'na hediye edilen lihye-i şerif için teşekkürat").

> In the Autumn of 1877 the fall of Plevne was greeted with great sorrow and anguish by Indian Muslims. Nonetheless, during the siege of Plevne the news about the heroic defense by the Ottoman soldiers and *Gazi* Osman Paşa had captured the imagination of every Muslim household in India. *Gazi* Osman Paşa became their hero and gained great fame and reputation. However, when the news of the eventual collapse of the Ottoman armies in December 1877 reached India. . . [t]hey attributed it to the failure on the part of Britain to support the Ottomans as she had done during the Crimean war. Moreover, they resented the fact that the British Government did not pay due regard to their appeals to support the Ottomans against the Russians.[97]

Indian Muslim disappointment was only to intensify after the anxiously waiting for terms of the Berlin Conference following the war. After the Berlin Treaty of 1878 was publicized, Indian Muslim opinion again came out vociferously against what they described as European "coercion" at the conference and the imposing of an unjust "victor's and opportunistic bystanders'" peace. Muslims across India particularly decried the Berlin Conference's forcing the Ottomans to cede longstanding European territories to newly carved Balkan states.[98]

For the time-being, the British did not oppose such vociferous protest on the part of Indian Muslims. There are two main reasons for this. First, in public protests and publications Indian Muslims generally couched their protests in a language of loyalty to the British Crown, speaking as subjects of the Queen, but who shared religious allegiance with the Sultan, who was after all still a friend to the British at this early stage of his reign.[99] Secondly, on the latter note, Indian Muslim support for the Ottomans conveniently translated into opposition to Russia, the British Crown's key superpower rival.[100] Though the British Government in India instructed their officers and local authorities to not interfere in such pro-Ottoman meetings (as long as, crucially, no Ottoman envoy was present), at the same time they were also instructed to monitor developments closely for any outbreaks of "fanaticism" and duly report them to the Central Government before they got out of hand.[101] The British had their reasons to be cautious, however, reasons that—part real, part imagined—deserve more historical attention, and to which we turn to now.

Abdülhamid II, British India, and the Ghost of 1857

---

[97] Özcan*, Pan-Islamism,* 70-71.

[98] Ibid.

[99] Ibid., 71. Peter Hardy, *The Muslims of British India* (1972) (pp); David Lelyveld, *Aligarh's First Generation: Muslim Solidarity in British India* (1996) (pp); M. Naeem Qureshi, *Pan-Islam in British Indian Politics* (1999) (pp); Metcalf, *Islamic Revival in British India* (1982) (pp); Ayesha Jalal, *Self and Sovereinty: Individual and Community in South Asian Islam since 1850* (2000) (pp). In light of the fierce and brutal conflicts of the early twentieth century, namely the first world war and subequent Turkish war of independence, it is easy to overlook the fact that London and Istanbul were close allies for most of the nineteenth century, mainly in conflicts against Russia (as in the Crimean war), but also in crushing internal revolts in the Ottoman empire (as with Mehmed ʿAlī Paşa and his son's campaign against the Porte).

[100] Lee 1941, 339, 353, 355; Özcan*, Pan-Islamism,* 71; Qureshi

[101] Lee 1941, 336-337; Özcan*, Pan-Islamism,* 71.

It is in this political environment described above that we can trace the emergence of a reinvigorated and reformulated expression of Pan-Islamic ideology and policy during the Hamidian era of the late Ottoman empire and British India. And it is in this context that we find Sultan Abdülhamid II increasingly reaching out to the Muslims of India and Central Asia, and not as merely a spontaneous outburst from Hulusi Efendi's mission. The above political context sheds more light on why Abdülhamid may have found himself with few practical options for remaking the political identity of the Ottoman state following the dramatic territorial and demographic transformations of the late nineteenth century. Pan-Islamism was one of them. The historiography of Pan-Islamism during the Hamidian era is embroiled in a series of debates and controversies, including what Abdülhamid's exact intentions were, the extent of Indian Muslim support, and the role of other outside powers, especially the Russians, in fomenting anti-British sentiment with an Islamic veneer. Concerning the Hamidian era in particular, Azmi Özcan notes, it is not common to encounter "diametrically opposed" assertions in the literature.

> On the one hand that he was a notoriously anti-Western autocrat who developed and pursued a sinister Pan-Islamic policy to destroy Christianity, and on the other that he had nothing to do with Pan-Islamism. Adding to this, most of the secondary sources on his reign are not entirely reliable and deal with the topic from certain ideological standpoints.[102]

Adding to the confusion is the fact most sources consulted by historians to date reflected Young Turk assessments of Abdülhamid, which were by definition organized in opposition against him, thus casting doubt on the strength of their conclusions.[103] Another overlooked historical trend in the Pan-Islamic movement has been the role of non-Muslim Indians, including Hindus and Sikhs, in contributing to Ottoman relief funds in different parts of India.[104] The following note from the British Indian government archives reveals the Raj's fears of the Ghost of 1857 once again, in which they concentrate on the terrible threat of a combined Hindu and Muslim force rebelling against the British. But even here, a disproportionate weight was placed on Muslims in the rebellion, as the following Foreign Department record illustrates,

> Important as religion is as a factor in all Asiatic movements, the way in which, in 1857-59, Hindus combined with Mussulmans against us, under the influence to some considerable extent of a common panic, prevents us from concluding that the field in India which is open to Turkish intrigue is by any means restricted to the limits of *Mahomedan* India only. And yet, no doubt, it is Islamism throughout Hindustan to which our measures of precaution should be principally directed.[105]

In this war, with prescient fears of another 1857 mutiny lurching in the dark, British intelligence and diplomatic records during the Hamidian era reveal growing anxieties over the reach of Sultan Abdülhamid's influence in Asia through his adept use of the "Pan-Islamic card."

---

[102] Özcan, *Pan-Islamism,* 46.

[103] On Young Turk historiography of the Hamidian era, see M. Şükrü Hanioğlu, *Preparation for a Revolution: The Young Turks, 1902-1908* (2001) and *Young Turks in Opposition* (1995); Özcan*, Pan-Islamism,* 46.

[104] Özcan*, Pan-Islamism,* 70; Qureshi; Minault; Jalal.

[105] NAI-FD/SEC March 1881 45-90 (No. 27) ("Mussulman intrigues between Constantinople and India").

The British obsession with "Mussulman Intrigue" and "Hindustani Fanatics" would only grow and deepen during the overlapping periods of Sultan Abdülhamid and Amir ʿAbd al-Raḥmān Khan's rule. These two Muslim sovereigns, though ostensibly pro-British—in their orientation vis-à-vis the Crown's rivalry with Russia, at least—became an increasingly sharp source of concern for British Indian administrators. Far more difficult than the task of monitoring the correspondence between two sovereigns, British officials had a much more difficult time—and were far more worried—about the loose, opaque and highly fluid nature of contacts between individual Muslims, pilgrims, sufi orders, and other itinerants who did not travel with entourages and fanfare wherever they went. The problem of possible intrigue brewing in the Ḥijāz—because of its religious as much as its geographic centrality—made surveillance especially difficult for British authorities, who could never quite tell the intentions of caravans heading for Mecca—caravans which often passed through both Ottoman, Persian, British, Uzbek, and Russian jurisdictions, as well as locally deputed governors such as the Shārīfs of the Ḥijāz. For these reasons, for example, a telegram from the Secretary of State, dated June 11, 1880, reads, "The Secretary of State forwards a suggestion made by Sir A.H. Layard that a secret agent should be deputed from India with the next pilgrimage to Mecca, in order to keep a watch on possible intrigues between the new Grand Sheriff and Indian Mussulman notables who might be among the pilgrims."[106]

"Keep a watch" is exactly British what intelligence did—from Bombay to Baghdad, and Mecca to Constantinople. Revealing the Crown's constant anxiety of a potential repeat of 1857—though the Indian Sepoy rebellion was anything but a foreign-inspired revolt—nevertheless British officials grew extremely wary of pilgrims and travelers to the Ḥijāz not only for the aforementioned reasons. Adding insult to injury, many rebels who participated in the events of 1857 had fled India and found refuge in the Ḥijāz, an Ottoman territory. For example, the following British intelligence file from 1877—the same year as Hulusi Efendi's journey to Kabul—includes reports of prominent Indian Muslim princes, including those who participated in the 1857 revolt and absconded to Ottoman territory. R. Casoland, a British intelligence officer in Constantinople, notes in a memo based on the report of an informant in Mecca dated April 21, 1877,

> The Nawab of Kherkoabad, whose name I forget, is now and has been ever since the termination of the India mutiny (of 1857) in Mecca, whither he absconded from Delhi when he last fought against England. He took a prominent part as one of the leaders of the rebels. There is also at Mecca the Shahzadah Perooz, who likewise took part openly in the same mutiny. He fought the English both at Lucknow and Delhi, and he ultimately succeeded to escape safely to Mecca. A certain Mīr Mehmet Bey is also at Mecca. He was formerly in the service as a superior officer of the Nawab of Lucknow. He is also a rebel, and is one of those who absconded to mecca.[107]

Even when there were no signs of seditious activity, but merely Indian Muslims building ties with the Porte through honorary visits or financial donations—in either direction—British intelligence was keen to report. In the same aforementioned file which reported on the presence of mutineers in Mecca, the British officer notes with concern "a letter of thanks" dispatched from

---

[106] Ibid.

[107] NAI-FD/SEC Sept 1877 1-10 (Mahomedan contributions to Turkey; and Indian Princes at Constantinople").

religious authorities in Mecca to Indian Muslims for their contributions in wealth, lives, and prayers. The file notes that the letter, addressed from "the principal religious leaders of the Mahomedan faith at Mecca to the Mahomedans of India", was "in the Arabic language, bearing the seals of the principal leaders of the Mahomedan religion at Mecca, has been received by Haji Kuttub-ud-din, merchant of Delhi and President of the Mahomedan Society there, through the Turkish Consul at Bombay."[108]

The aforementioned quote is one an excellent representation of the kinds of transnational connections being formed between Ottoman and Indian Muslim actors, in this case a triangularization of Istanbul, Mecca, and Bombay. It was precisely the frequency, ease, and *normality* of such exchanges that troubled British intelligence the most—how to decipher what was threatening, and what was benign? It was precisely these factors that led some British officials to go to extremes in their assessments of the danger of the "Pan-Islamic threat," exhibiting paranoid levels of suspicion and mistrust. One illustrative case is the report from A.C. Lyall, Esq, to Mahor P.D. Henderson from July 1880. Dispatched in response to a memorandum by Major P.D. Henderson entitled "Intrigues between Constantinople and Mahomedans in India," the memorandum includes a note by Colonel Tweedie unsurprisingly entitled, "Mussulman Intrigues," which states,

> The unity of Islamism, politically, is a great fact standing out on the world's history. Touch one Musulman, whether Chief or beggar, and one touches, as it were, the whole structure of which he forms a part. Islamite political aggression proceeding from Turkey in the direction of India is thus no phantom danger; but a real movement; having strong roots; sent out towards a congenial soil; and therefore requiring careful and skillful counteractive treatment on our part.[109]

The urgency and alarmism in the above passage is palpable. In exaggerating "the unity of Islamism", primarily by ignoring the immense social, cultural, and political diversity of Muslim-majority societies from Morocco to Malaysia, the reporter reveals deep-seated fears about a rising Pan-Islamic specter linking the Ottoman sultan with the covert activities of "Musulman intrigers" in India, Afghanistan, and central Asia to the point of paranoia. Even after the return of the Hulusi Efendi mission to Istanbul and the conclusion of the Russo-Ottoman war, the British fears of an interventionist Istanbul in India, Afghanistan, and Central Asia only increased.[110] At the same time, it is important not to overstate British fears and assume a

---

[108] Ibid.

[109] NAI-FD/SEC March 1881 45-90 (No. 27) ("Mussulman intrigues between Constantinople and India").

[110] The following passage from a British Indian intelligence records shows the level of British concern, even paranoia of an imminent Pan-Islamic uprising. A secret Foreign Department report of July 1879 entitled, "Mecca Sharif's offer to communicate with Afghan Chiefs in sense favorable to views of Government" reads,

> His highness requested me to inform Your Lordship always under the strictest secrecy that the state of Mussulman feeling in India throughout Asia and in Egypt is such that a slight event might create wars and raise revolt in all Mahomedan countries. Suspicion, mistrust, doubt, and irritation have taken deep root in the hearts of Mussulmans, and these sentiments, His Highness states, can only gradually be eradicated and confidence restored by the exercise of great prudence and delicacy, and by avoiding any and every measure which may excite fanaticism. The various Mussulman nationalities are now in close correspondence with each other, and political events are reported to the Chiefs of all. The organization seems complete and the union perfect, and restless are ever moving in search of pretexts to raise complications. Russia is aware of all this, and she is, through her agents, fanning the flame…[110]

monolithic British policy existed vis-à-vis the "Pan-Islamic" threat. Rather, there were several competing theories, fissures, and differences in outlook between Calcutta and London. This is evident from a close examination of declassified British correspondence on these issues. For example, in light of London's paranoia on the subject, it might surprise readers that Calcutta often displayed far more foresighted assessments on the subject. Such nuances are evident when comparing how Calcutta balanced the "demand-side" sacred nature of the Caliphate and making reassurances to Indian Muslim in this regard, while British policy based in London largely focused on the "supply-side" of Pan-Islamism, and neutralizing potential threats wherever they were. As Özcan notes on the latter, the British focused on tracking all travelers to and from Turkey to India.

> As to the existence of secret Ottoman agents in India, the Government of India noted that after the Russo-Turkish war an extraordinary number of foreigners, principally Turks, Persians, and Arabs, had visited India. The conduct of some of them seemed inconsistent with the ostensible commercial objects of their visits, but their increase in number appeared to be the result of the opening up of India to foreigners. The government held that until recently, India was cut off from Western Asia by many obstacles, natural and political. With the rapid disappearance of these obstacles, a number of Ottoman subjects, Persians, and people from Central Asia were beginning to find their way into India. Therefore, the increased number of foreigners in India could not fairly be attributed to any active intrigues on the part of the Ottomans.[111]

Similarly, when it came to London's fear of a certain Mawlawī Hedayetullah, who was named "the most dangerous member of the Committee," by London, police authorities in Bombay subsequently reported that "he was a man of no influence in the Muslim community, although he had close links with the Ottoman consul general."[112] Nevertheless, even though Major Henderson's findings revealed that the Committee had ceased to exist at the close of the Russo-Turkish war in 1878, and that the Bombay Police did not believe such a committee was engaged in any wrongdoing, the fear remained.[113] Indeed, as Özcan's study of British

---

Similarly, an extract from an Odessa Paper called the *Novo Rossiisk* Telegraph, in an article dated 26 April 1877, reads,

> The proclamation in Afghanistan of a holy war against England has a peculiar significance for England in the present circumstances. England, as we all know, has her Achilles' heel in her Indian possessions… It has been the policy of England in Central Asia to sow discord among the native tribes; this discord enfeebled the authority of the local rulers, and favoured the establishment of the English protectorate over them, which changed ultimately into absolute power. England has more than once menaced Afghanistan with Persia, with a view to diverting that country from alliance with Russia. Suddenly there comes an unexpected change of scene. Persia is obdurate to the wiles of the British siren, and Afghanistan declares war, not against Persia, but against England herself, whose hands are now somewhat tied. The holy war may spread far beyond the limits of Afghanistan and affect the Achilles' heel of Britain—India. This deserves serious consideration. If the matter is confined to Afghanistan, England need not be particularly alarmed, but if it should be the signal for a colossal rising of the majority of the population, what then?[110]

[111] Özcan*, Pan-Islamism,* 93.

[112] Ibid., 96.

[113] See Henderson's report in NAI-FD/Sec. March 1881 45-90 ("Mussulman intrigues between Constantinople and India"); Özcan*, Pan-Islamism,* 96.

correspondence in the same period has also shown, it was often London harboring excessive fears of Pan-Islamism, while the British Indian government in Calcutta was far more rational and empirical on the topic. In this way, Özcan notes, "Unlike Layard, the Indian Government believed that the religious prejudices of the Muslims were not being more than usually worked upon in a direction hostile to British interests and rule."[114] On the paranoia of British officials London and Istanbul concerning Indian Muslim sedition versus the Indian Government's empiricism, Özcan further notes,

> [B]etween the 1st of May 1879 and the 30th of April 1880, [the Indian Government] had not found even one letter dispatched from Bombay to either the Sultan or *Gazi* Osman Paşa. The enquiry further revealed that the correspondence between India and Turkey was concerned with commercial and private matters and was, in no way, of any political importance. Thus the Indian Government concluded that, though in general there were grounds for suspecting that some intrigue was going on and that the influence of the Sultan had undoubtedly extended into India, it was very difficult for them to establish whether any systematic attempt of the kind was in operation.[115]

The following quotes are revealing in their foresighted prediction of Indian Muslim deep concern over the fate of the Caliphate in the future, and the role Britain would play in either protecting or harming the sacred institution. The secret Foreign Department file of April 1878 entitled, "State of feeling among the Mahomedan population of Constantinople" reads,

> As regards the Mussulmans in general, the Envoy observed, there could be no doubt that if the Turkish Empire perished, and a great blow was thus dealt against their religion, they would attribute the event in a great measure to England. . . But what, the Khan said, could the Mahomedans of India do now? The English are too strong for them under present circumstances. But they will nourish feelings of hatred and revenge against England at the bottom of their hearts, and they will bide their time. That time, he added, may come sooner or later…[116]

At the same time, these statements cannot be entirely attributed to mere British paranoia. Abdülhamid indeed took advantage of Ottoman influence abroad and shifting political conditions to foster that influence further. Sultan Abdülhamid, after all, was not a passive spectator in this struggle for the empire's survival, but he employed a number of strategies to promote the interests of the Ottoman state abroad. These included dispatching foreign emissaries to Asia, inviting Indian and Afghan delegations to Istanbul where they were warmly received, and sponsoring local proxies and institutions across Central Asia and India. At the most basic level, the Ottoman government paid for and distributed books to educational institutions across India, including the eminent Dār al-ʿUlūm madrasah at Deoband.[117]

---

[114] Özcan*, Pan-Islamism,* 93.

[115] Ibid.*,* 92-93.

[116] NAI-FD/SEC April 1878 163-164 ("State of feeling among the Mahomedan population of Constantinople").

[117] Özcan*, Pan-Islamism,* 76, 95; Sayyid Mahboob Rizvi, *History of the Dār al-Ulum Deoband, vol. 1* (1980), 180.

Far from mere sentiment and speeches, there was a vast array of institutional networks Abdülhamid used to foster modern Pan-Islamism. In addition to being the bearer of the Pan-Islamic Caliphate and corresponding with prominent Muslims individually, the Sultan also utilized the role of the Ḥajj pilgrimage and a global network of sufi orders. Added to these, we must also consider the role of Ottoman consulates, Indian Muslims anjumāns, Pan-Islamic newspapers from Constantinople to Calcutta, the Ottoman Red Crescent Society, and a vast constellation of educational networks from the new Hamidian law schools (Mekteb-i Hukuk) and military academies (Harbiye) established in the 1880s and 1890s, to the Muslim colleges of India. That is to say, Pan-Islamism was never a one-way relationship initiated at the behest of Sultan Abdülhamid or the Porte alone. As important as the latter's outreach were Indian Muslim and Afghan activism in support of the Ottomans as custodians of the caliphate. We now address each of these kinds of transnational institutional connections in turn.

The Ḥajj: A Pan-Islamic nexus par excellence?

During the second half of the nineteenth century, a series of technological advances and developments in the realm of transportation and communication had a profound impact on Muslims' ability to perform, and the Ottomans' ability to administer, the annual Ḥajj pilgrimage in the Ḥijāz, Arabia. The emergence of steamship travel in particular enhanced the opportunities for ordinary Muslims from around the world to travel to the very heart of the Islamic world, expending considerably less time and expenses in the process. Combined with the transcontinental railroad, these advances resulted in a sharp increase in the number and distribution of Muslims worldwide in the annual Ḥajj. Beyond the greater numbers of pilgrims, new technologies of transportation and communication also expanded opportunities for Muslims to exchange products and ideas, and collaborate in new projects that long outlasted the pilgrimage of any given year.[118]

The increased ease of travel and higher numbers of pilgrims are not the only factors contributing to increased Ottoman influence in Asia in the last two decades of the nineteenth century. Rather, as Selim Deringil has argued, we must also take into consideration the actual role of Ottoman agency in promulgating such international influence above and beyond "receiving" the pilgrims—hardly a passive act given the preparation and resources involved. In particular, Sultan Abdülhamid was adamant about revamping the infrastructure of the Ḥajj sites, as well as employing Muslims from a variety of regions, including areas not under Ottoman jurisdiction, in the administration of the rites. Özcan discusses how the Sultan sought to capitalize on the geographic and socio-psychological centrality of Mecca and Madīna among the faithful,

> We must add to this the fact that Mecca, because of its religious significance, was naturally the centre of Ottoman activities in urging the Muslim world to help the cause of *jehad*. With the beginning of the war the Ottomans started propaganda work at Mecca. In the process, one method employed was the distribution of pamphlets among the pilgrims. Significantly, these pamphlets

[118] Hamid Algar, "*Tarîqat* and *Tarîq*: Central Asian Naqshbandîs on the Roads to the Haramayn," in Alexandre Papas, Thomas Welsford and Thierry Zarcone, eds., *Central Asian Pilgrims: Ḥajj Routes and Pious Visits between Central Asia and the Ḥijāz* (2012); Özcan*, Pan-Islamism,* 53, 71.

> and other propaganda materials were prepared in such a way that they carried different messages to the Muslims of different countries.[119]

Some Ottoman ministers were wary to overexert Ottoman rights with regard to the annual Ḥajj pilgrimage and non-Ottoman subjects. This particularly became an issue with Indian Muslims, who were subjects of the British crown, and some ministers feared this would be politicizing religious rites to a risky degree. Nevertheless the Sultan felt it was fully within his right as caliph to enlist Indian Muslims and other non-Ottoman subjects in services relates to the Holy Cities of Mecca, Madīna, and Jerusalem, but also Baghdad, Najaf, and Kerbala in Iraq. Ultimately, Istanbul negotiated delicate resolutions with the British without fully ending the controversy. Meanwhile Abdülhamid retained the right to appoint foreign Muslim employees in the holy sites, in spite of objections from foreign states.[120] What is more, Ottoman archives documents record several instances of the Sultan inviting prominent Indian and Afghan Muslims to his palace, particularly ʿulamāʾ and other religious leaders, where they received warm receptions, in some cases even given residences in Istanbul. "Islamic textbooks" were also distributed as gifts to educational institutions in India and Central Asia.[121] This not only increased the Sultan's prestige in British and Russian domains, but increased the latter's paranoia of Ottoman agents in every corner of their empire. But above all, there was one combined social, religious, and economic institution that British and Russian officials were most nervous about, and which they were increasingly powerless to control, monitor, or curb: the sufī ṭarīqas.

All the Sultan's Men: Abdülhamid and sufi networks from Konya to Calcutta

While the Ḥajj invited and welcomed thousands of Muslims worldwide, regardless of kingdom, ethnicity, or ideology, Sultan Abdülhamid also had benefit of loyal men who ascribed to the ideology of the Palace. In this regard, one of the most versatile, far-reaching, and effective assets in the hand of Abdülhamid's Pan-Islamic policy was that of the sufi tariqas. As Özcan notes in this regard,

> He was particularly anxious to maintain good relations with Shaykhs and Dervishes. Because of their popularity and influence, they were invited to his palace and treated very well. Among them, the most influential, with wide links throughout the Muslim world, were Shaykh Muḥammad Zafir of the Shazeli order, Ebul Huda as-Sayyadi and Ahmed Esad of the Rufai order. These Shaykhs not only contributed largely to pro-Ottoman literature but also sent their disciples to various Muslim lands to encourage pro-Caliph feelings.[122]

---

[119] Özcan*, Pan-Islamism,* 74-75. Notably, the Ottomans were not undimensional in their outreach to Muslim minorities in rival empires, but exhibited substantial sophistication and nuance, with attention to the unique circumstances of each land. "Thus," notes Özcan for example, "while those Muslims living in the areas under Russian rule or in Afghanistan and Iran were openly invited to rise and fight against the Russians, others such as the Indian Muslims were urged only to contribute moral and financial aid. Also, in the case of the Indian Muslims, there was strong emphasis on the existence of good relations between the British and the Ottomans, to the effect that the British Government would not object to support given by the Indian Muslims." Ibid.

[120] Ibid.*,* 52

[121] Ibid.

[122] Ibid., 52-53.

The British were perhaps most fearful, and outraged, at this aspect of Hamidian Pan-Islamism, probably because they had the least control of it. For example, a reception given to Mawlawī Hedayatullah at the Palace led to the fervent disapproval and protest of the British Embassy in Istanbul."[123] Meanwhile British intelligence continued to monitor the flow of traffic to and from Anatolia to inner Asia, many of whom were suspected or found to be members of one of the transnational sufi orders linking Anatolia with much of central and South Asia, in particular the Qādirī, Naqshabandī, or Mevlevī orders. For example, a telegram dispatched by an officer from the British Secretary of State's Office in London to the Viceroy at Simla dated August 12, 1897, notes, "Saiyid Yahia-el-Husen-el-Kadiri of Herat accompanied by 30 Afghan Dervishes, and by a son-in law of Afzal Khan, a Sardār of the Amir, have arrived in Constantinople to visit the Sultan as announced by the 'Sabah' and reported by Currie." [124]

But far beyond a thorn in the British side, Sultan Abdülhamid had concrete benefits to gain from association with sufi tariqas not just in Anatolia, but across the empire, and even beyond. Beyond increasing Ottoman prestige and influence, it gave the Sultan a constant feeling of the "pulse" of society, so often distant from the limited perception of nobles and bureaucrats in the capital's palace. This enabled the Palace to maintain fresh and accurate intelligence on affairs in the cities and in the provinces on a variety of issues in the most intimate aspects of Ottoman social life.

Exporting Ottomanism? The Growth of Ottoman Consulates Abroad

While sufi tariqas provided an intimate window into social life of Muslim populations in and outside the empire, officials in the Ottoman government under Abdülhamid realized fairly

---

[123] NAI-FD/SEC F November 1884 243-253; Özcan*, Pan-Islamism,* 52.

[124] NAI-FD/SEC/F Oct 1897 416-436 (No. 417). Perhaps even more revealing that the news of this particular individual's arrival in Istanbul was his own cosmopolitan background. In the following description of Sayyid Yaḥyā we get a glimpse of the broad-ranging and dynamic kinds of connections he brought wherever he traveled,

> Yahia is himself the son-in-law of Sardār (Mir) Afzal Khan… Yahia is a native of Herat valley and belongs to a family of priests called Kadiri, and has considerable influence among Persians and amity towards frontier tribes. He settled in Khaf in eighty-two, and his family is still there. He left Meshed in September 1896 for Tehran on his way to Mecca *viâ* Baghdad, accompanied by numerous frontier pilgrims, and has probably now arrived at Constantinople on his return from Mecca.

NAI-FD/SEC/F Oct 1897 416-436 (No. 420). Perhaps most revealing of all, however, is the British reporter ultimate conclusion on the benign nature visit, stating,

> No political importance need be attached to his visit to the Sultan. He is not a politician, only a priest and a Dervish, and having fled Afghanistan for fear of the present Amir, his visit to Sultan can have no connection with the Amir.

Ibid. Though the British official concludes the nature of the visit was not of "political importance," one wonders how these conclusions were drawn given the kinds of relationships fostered and ties built across political boundaries through such visit—all at a time when Britain claimed to bear sole right to conduct Afghanistan's foreign affairs. Moreover, the conclusion illustrates what British officials *were* looking for in monitoring the movements of Muslim itinerants such as the above congregation, even when they did not find it.

quickly that if they sought a more proactive Ottoman presence outside of the empire, in particular in areas where large Muslim populations resided, they would have to physically *be* there. This would also give a more permanent legitimate base for Ottoman operations abroad. While the term "Ottomanism" (Osmanlılık) in the historiography of the empire during the Tanzimat usually refers to the reform movement's attempts to wither away distinctions of creed and sect in the empire and establish a more uniform system of laws, taxes, and conscription policies for all the Sultan's subjects—and thereby erode the European capitulations system which favored many religious minorities in the mercantile classes of urban centers like Istanbul, Izmir, and Beirut—there is something to be said about a different kind of Ottomanism in the late nineteenth century under Abdülhamid II. It was not an official Ottomanism in the sense of equalizing policies towards domestic subjects of the sultan, but rather, a more diffuse notion of promoting Ottoman prestige among its Muslim non-subjects. It is in this context that the significance of Ottoman consulates in places like India takes full form. They would also be the source of suspicion from British and Dutch authorities as to the real nature of their activities and interactions with the local populace.

The first Ottoman consulates in India opened in 1849. Two men named Ağa Kabulı Muḥammad and Hacı Habib were appointed as the first Ottoman ambassadors to Calcutta and Bombay, respectively. According to Özcan's study, the royal ferman authorizing the appointment specified their duties as "executing the affairs of the merchants and our people" and "consulting their interest and ensuring the respect of property and honour."[125] Expansion of consulates were not limited to India at this time, but extended as far as the Dutch East Indies, where the Ottomans built a consulate in the 1880s. A report by Ali Galib Bey, the Ottoman consul general in the Dutch East Indian colonies, found in the Ottoman archives provides us with a glimpse of the role that such consuls could play in Hamidian Pan-Islamism, in particular the proliferation of Ottoman sentiment and influence. According to Galib Bey's report, analyzed by Özcan in his study,

> Until his arrival in 1883 on Batava, one of the islands, there was no such practice as praying for the Ottoman Caliph in Friday prayers. Hence, in the first Friday sermon which he led, he included Abdülhamid's name in the *khuṭbah* as the Caliph of the age. The congregation was moved and burst into tears and they offered their thanksgiving. Thereafter the practice spread rapidly in the islands and became part of the Friday sermon. Ali Galib regretted that previous to his appointment no effort had been made to link these Muslims with the Caliphate. During his term of office, many Muslims applied to be accepted as the subjects of the Caliph, but he was unable to meet their demands as international law did not permit such practice . . .Instead Galib Bey told them that if they stayed at least for five years in the Caliph's dominions, particularly in Mecca, they would be eligible to become Ottoman citizens. Perhaps this was one of the reasons there were so many Muslim settlers in Mecca from Jawa, India, and Central Asia.[126]

The nature of consular and bilateral relations, of course, was they were by definition not a one-way road. In spite of lacking a state or central authority in India, Indian Muslims also dispatched mobile "consuls" to Istanbul, though without bearing any official titles or authority from the British government. In one example recorded in a British Indian intelligence file

[125] Özcan*, Pan-Islamism,* 112.

[126] Ibid., 54.

entitled "State of feeling among the Mahomedan population of Constantinople," British intelligence officials discuss how a certain Yakoob Khan Tura, the Kashgar Envoy who recently was in England, "has taken a house in Constantinople", where he "sees a good deal of the Turkish notables and of the Mussulman population of the city."[127] In light of the friendly relations between the British and Porte in the mid-nineteenth century, the British largely tolerated Ottoman consulates on their soil, though they limited them to the port cities of Bombay and Calcutta. It was not until the 1870s that British Indian authorities began to cast a more critical eye on the activities of the Ottoman consuls. Özcan notes that it was during the 1870s that the Ottoman consul general at Bombay, a man named Hüseyin Hasib Efendi, emerged as a prominent and active representative of the Sultan-Caliph in India. Hasib Efendi was described as sociable, and enjoyed close ties with both the Urdu press and the local Muslim community of Bombay.[128] He made good use of these relationships during the Russo-Turkish war of 1877-1878, and played a key role in galvanizing Indian Muslims to the Ottoman cause, raising superscriptions and popular support. Judging from papers he left behind, Özcan also notes, Hasib Efendi's activities were not limited to Muslims in India, but also neighboring countries, including Iran.[129]

While Hasib Efendi's activities coincided with shared interest between the Ottomans and the British against Russia, the growing popularity of a representative of the Sultan right under their nose raised eyebrows in some circles of the British administration. Though his activities were largely limited to monitoring and dispatching news in the local Urdu press about the Ottomans as well as collecting financial contributions for the Ottoman relief cause, some in the British administration began to depict him as a firebrand and focus of "Indo-Turkish" intrigue. "Rumours were rife," notes Özcan, "that he was behind the anti-British activities in India and that he was inciting the natives against the British by claiming that he would free them from foreign rule."[130] For these reasons, British records indicate Hasib Efendi was under almost constant surveillance, including his movements within India, until his departure from the consulate in the early 1880s.[131]

Similarly, a note by the Assistant Secretary in the Political Department, Bombay, dated August 16, 1880, reveals the British fears of this individual and his activities. The intelligence report observes that the Ottoman Consul-General moved his residence from the Chowpatty district on Queen's Road to a new residence at the very heart of the "Mahomedan quarter" of Bombay known as Baboola Tank. Transcending exclusive concern with Hasib Efendi, the document proceeds to cite the intelligence report of a local informant, who narrates the events at a typical Friday prayer in the large congregational Jumma Mosque of Bombay, as follows,

---

[127] NAI-FD/SEC April 1878 163-164 ("State of feeling among the Mahomedan population of Constantinople").

[128] Özcan, *Pan-Islamism,* 112.

[129] Ibid.

[130] Ibid.

[131] For example, note the surveillance of the "Turkish Consul at Bombay" in NAI-FD/Sec. December 1878 106-110 ("Sultan's proposal to send a letter to Amir of Kabul"); NAI-FD/Sec. March 1881 92-103 ("Mahomedan intrigues; Correspondence between Constantinople and Mussulmans in India"); and NAI-FD/SEC March 1878 6-63 ("Deputation of a Turkish Envoy to Afghanistan"). See also Özcan, *Pan-Islamism,* 113, for further discussion of Hasib Efendi's movements and actions under British surveillance.

> The Turkish Consul, as representing the Sultan of Turkey, the Khelif of Islam, is present and joins in the public prayers in the mosque. When the Imam concludes the Friday prayer, he offers a thanksgiving to the Almighty, praises the messenger of God, his principal Khelifs, and then comes to praise the Khelif of the time, the Commander of the Faithful, as servant of the two sacred shrines, *viz.*, Abdülhamid Khan, Sultan of Islam and Mussulmen. All this is done in the presence of his direct representative, who is accredited from Constantinople, to the followers of Islam. The hearts of all present are drawn towards him, and this performance affects the minds of the people, not only of the ignorant and bigoted, but also the minds of those who are educated.[132]

Fortunately for historians, and per Ottoman bureaucratic practice, Hasib Efendi maintained detailed records of Indian contributors to the Ottoman relief effort and British records are not the only sources available. Known as the *Defter-i Hindiyye,* the official register of Indian contributions not only helped the Bombay consulate stay organized, but provided Istanbul with a glimpse of burgeoning Indian Muslim support for the Sultan—in concrete fashion.[133] The Porte and Palace were so impressed with not only Hasib Efendi's service, but the vociferous response of Indian Muslim enthusiasm for the Ottomans, that they immediately set out to build more consulates on Indian soil to further extend Ottoman influence and interests in the area. Thereafter, the Porte would time and again ask the British for permission to open more consuls on Indian soil, including one in the strategic Indo-Afghan frontier post of Peshawar in 1877.[134]

The British response was to issue a swift and uncompromising refusal. The official reasoning was that because the Ottomans did not have commercial interests in the region, there were no valid reasons to open additional consulates in the Indian hinterland.[135] For example, in a secret telegram on the issue from Sir Louis Mallet, Under-Secretary of State for India to Lord Tenterden, Under-Secretary of State for Foreign Affairs, dated June 14, 1877, Mallet writes,

> With regard to the proposed [Ottoman] Consulate at Peshawar, I am directed to observe that it is not the practice to permit a consul to act in any town in India except where the country he represents has important commercial interests, and, further, that up to this time no consul has been appointed to any inland Indian town. Lord Salisbury is, therefore, of opinion that there is no occasion for sanctioning such an arrangement in the present case.[136]

---

[132] NAI-FD/SEC March 1881 92-103 (No. 100) ("Mahomedan intrigues; Correspondence between Constantinople and Mussulmans in India"). That even the informant seemed impressed by the khaṭib's stirring abilities is evident in his concluding statement, "The impression is sufficient for the furtherance of the object."

[133] Specially compiled for the inspection of Abdülhamid, the file is a valuable historical source on the organizations and indiviuduals who were active in raising subscriptions for the relief funds. Özcan*, Pan-Islamism,* 69-70.

[134] For example, see NAI-FD/SEC March 1878 6-63 ("Deputation of a Turkish Envoy to Afghanistan"); Özcan*, Pan-Islamism,* 113.

[135] NAI-FD/SEC March 1878 6-63 (No. 29) ("Deputation of a Turkish Envoy to Afghanistan"); Özcan*, Pan-Islamism,* 113.

[136] NAI-FD/SEC March 1878 6-63 (No. 29) ("Deputation of a Turkish Envoy to Afghanistan"); Özcan*, Pan-Islamism,* 113.

While this kind of reasoning may have been true for the moment, it provided a convenient temporary excuse for the British to engage in damage control over what they increasingly came to see as widening cracks in their attempts to dam out Ottoman influence in the Indian interior. This kind of argument became increasingly untenable in light of increasing social, political, and even economic ties between the Ottomans and India over the course of the late nineteenth and early twentieth centuries.

Pan-Islam's Pen-Pals? Indo-Ottoman Correspondence on the Rise

The establishment of the Ottoman consulate in Bombay and its activities with the local Muslim community was part and parcel of a much broader development of increasing contacts and networks between the Sultan, Ottoman statesmen and Indian Muslims. The Porte did not leave it to their Indian consulates to cultivate relations with Muslims outside of their domains. Ottoman officials in Istanbul composed and dispatched letters themselves, and had prominent ʿulamāʾ in Istanbul as well as representatives in prestigious holy sites—including the Sharifs of Mecca and sufi orders in Baghdad—write letters to Indian Muslims to maintain contacts and galvanize them to support the Ottomans. The purpose was not only to fundraise subscriptions, but in the case of contacts with Indian Muslims in particular, to impress on the British the powerful international prestige of the Ottomans and steer London's policy back in a pro-Ottoman direction.[137]

It is important to note here that the Porte did not recklessly or randomly pursue these contacts in a haphazard fashion. British intelligence reports document letters being sent back and forth between Istanbul and prominent Indian Muslim political leaders in particular. The following documents illustrate that on the whole Istanbul sought correspondence with elite Indian Muslim political figures, such as the Bibi of Bhopal, the Niẓām of Hyderabad, and the Agha Khan. In a report from Sir Frank Henry Souter, Kt. C.S.I., Commissioner of Police, Bombay, to C. Gonne, Esq., Chief Secretary to Government, Bombay, Political Dept., dated August 13, 1880, it presents a forwarded lists of registered letters from May 1878 to June 1880, received from the Egyptian Post Office as furnished by the Postmaster-General of Bombay. The report proceeds to name the following prominent Indian Muslim personalities, and the frequency of correspondence with the Ottomans in 1881 (See Appendix A and B).

Appendices A and B illustrate the extensive and far-reaching scope of Ottoman contacts with Indian Muslims, not only in India, but among expatriate Indian communities all over the empire as far as Baghdad and Jerusalem.[138] Ottoman representatives in Istanbul and Egypt contacted a broad range of Indian Muslim rulers. They also indicate, however, that they were not particularly extended in length—most letters were solitary and followed up, at least in this period. The report also reveals the close monitoring of Indian Muslim leaders and their contacts with the Ottomans.

---

[137] Özcan*, Pan-Islamism,* 74.

[138] See, for example, BOA-DH.MKT 1358/9 (1303 Za 1) ("Küdus'te ikamet etmekte olan Afgan, Hind, Tunus, ve Cezayir ahalisine tezkire-i osmaniye verilmesi"); BOA-MVL 1035/131 (1284 S 10) ("Afganistan ahalisinden olup Kudüs-i Şerif'te Mescid-i Aksa'da mücavir bulunan Şeyh Musa Efendi'ye maaş tahsisi"); NAI-FD/SEC March 1881 92-103 (No. 97) ("Mahomedan intrigues; Correspondence between Constantinople and Mussulmans in India"); NAI-FD/GNL/B April 1882 14 ("Approximate number of British Indian subjects residing at Baghdad and its vicinity").

The Ottomans did not only send letters to Muslims in India while in India. They also took advantage of the annual Ḥajj to distribute pamphlets and other literature and gifts to Indian Muslims. One such letter appealed to "the Muslims of Turkistan, Afghanistan, Kashgar, Iran, Arabia, Morocco, and India," and was signed by the chief *muftīs* of Mecca.[139] The flurry of Ottoman correspondence with Indian Muslims and organizations paid off. British records document increasing pro-Turkish sentiment across India after the Russo-Ottoman war, and the cooling of relations between Istanbul and London. The British started to become even more anxious over these developments, and surveillance of Indian Muslim activity, in particular any demonstrations of pro-Turkish sentiment, were carefully watched, even in the most unsuspecting and innocuous of places. For example, one such report entitled "Feeling of the Madras Mahomedans with regard to Turkey" wrote with concern that an "Anjumān-i-Muávini-Islam" association formed at Madras might be a bastion of Turkish intrigue in firing up anti-British sentiment. In fact, as another report indicated, the organization was formed for the establishment of schools "for both sexes of the Muhammadan community and for providing pauper children under instruction with food and clothing."[140]

The enthusiastic response of Indian Muslims was not taken for granted by the Ottomans. Özcan's study reveals that as a gesture of appreciation, the Ottomans began rewarding decorating individuals, newspapers, and Muslim organizations with appreciative letters, gifts, and even medals. An Ottoman archives document from 1877 discusses the Ottoman government's appreciation and thanks to the Muslim community of Hayderabad, India, for their support during the Russo-Ottoman war.[141] Because many of the Indians were not accustomed to such royal treatment, and as this may have been the first such relationship with a Muslim sovereign in a generation, this was an honor that only strengthened such bonds.[142] Notably, the tones of such letters are in sharp contrast to those of "uncompromising loyalty" to the British, indicating how many prominent Indian Muslims were caught in a difficult bind between socio-religious "allegiance" (*bayʿat*) to the Sultan-Caliph, and civil subjecthood to the Queen's British empire. These tensions would become increasingly sharp and interminable when Anglo-Ottoman relations began to spiral into an abyss of mutual suspicion and accusations in the late nineteenth and early twentieth century, but most of all, with the near universal trauma of World War I. We return to these developments in the next chapter.

A New Kind of Waqf? Indian Muslim Anjumāns under British Colonial Rule

Alongside with and in addition to the links of influential Indian Muslim scholars and community leaders with counterparts in the Ottoman empire, late nineteenth century British Indian society also witnessed an increasing number of predominantly urban associations and civic organizations, known as *anjumāns*, founded by Indian Muslims to represent their

---

[139] Özcan*, Pan-Islamism,* 75.

[140] NAI-FD/SEC September 1881 99-103 ("Feeling of the Madras Mahomedans with regard to Turkey").

[141] BOA-HR.TO 126/76 (1877 05 16) ("Hindistan'da Haydarabad ahali-i Müslemesi tarafından gönderilen iane-i harbiyyenin vüsülünü mübeyyin Osmanlı Hükümeti ve padişah tarafından teşekkürü havi mektup irsali lüzumuna dair Londra Sefareti'nin telgrafnamesi").

[142] Özcan*, Pan-Islamism,* 76. For Indian Muslim outreach to the Ottoman and Afghan sovereigns in the eighteenth century, see our discussion in Chapter 2.

communal interests vis-à-vis other nascently forming "castes" under the British Raj. Negotiating and contesting local policies of British administrators was not the only purpose of the anjumāns, however. There was also a transnational aspect to their activities. These organizations also fostered closer ties with the Ottomans, and often for the Ottomans, including putting pressure on British authorities for more favorable foreign policies vis-à-vis the Porte. The anjumāns displayed their solidarity with the Ottoman through two general means: raising subscriptions for the Ottoman relief fund, and drawing up resolutions in appeal to the British Crown to defend the Ottomans. "Although both methods were often employed together," notes Özcan, "by and large the organization of such proceedings also reflected the different fields of activities of the traditional religious leaders versus the newly-emerging political leaders in India."[143] In this manner both traditionalist ʿulamāʾ and Muslim modernists found a means to display support for the Ottomans. While the Dār al-ʿUlūm at Deoband opted to collect subscriptions strictly through local mosque attendees and known community members (honoring the most humble of donors in the process by publishing or announcing each and everyone's names in the college's magazine), other intellectuals in major cities such as Sayyid Amir Ali (1849-1928) of Orissa and Nawab Abdul Latif (1828-1893) of the Calcutta Muhammadan Society engaged the British government directly for support.[144]

There is evidence to believe the impetus for the prolific growth of anjumāns in the late nineteenth century may have originated with the significant expatriate Indian Muslim community in England. Notably, a "London Islamic Society" was founded in the late 1870s by the Indian Muslims living in England, a group that included prominent Indian Muslim leaders Khuda Bakhsh and Sayyid Amir Ali.[145] As Indian Muslims returned to their home cities in India, they opened up new branches of the same organizations, or started entirely new ones. Some of the largest and most active organizations included the *Anjumān-i Islam* (Islamic Society), the *Anjumān-i Taʾayyid-i Turkiyah* (Society of Aid to Turkey), and the *Majlis-i Muayyid-i Islamiyah* (Assembly of Islamic Aid).[146]

In spite of constant reiterations of their loyalty to the British crown, several of the more transnationally-oriented anjumāns attracted the suspicion of British authorities. Anjumān in particular, Society of Aid to Turkey, was formed for the purpose of fundraising for Ottoman relief efforts. In spite of its philanthropic objectives, the anjumān was soon accused of rallying Indian Muslim across the major cities of India, and even other countries, against British rule. They were also accused of making common bonds with the Afghans against the British, an old fear not so much from the 1857 Mutiny, as the earlier campaigns of Sayyid Aḥmad of Rai Bareli

---

[143] Özcan, *Pan-Islamism,* 65. On the emergence of a new class of Indian Muslim intellectuals that would thereafter compete with the ʿulamāʾ, including the Aligarh movements, see Lelyveld; Qureshi; Jalal; Minault

[144] Özcan, *Pan-Islamism,* 65. On the politics of Muslim philanthropic associations (anjumāns) in British India, see Jalal, Lelyveld; Qureshi; Minault

[145] Özcan, *Pan-Islamism,* 97. The names of other members can be seen in NAI-FD/SEC November 1881 (No. 86).

[146] Özcan, *Pan-Islamism,* 69-70. Peter Hardy, *The Muslims of British India* (1972) (pp); David Lelyveld, *Aligarh's First Generation: Muslim Solidarity in British India* (1996) (pp); M. Naeem Qureshi, *Pan-Islam in British Indian Politics* (1999) (pp); Metcalf, *Islamic Revival in British India* (1982) (pp); Ayesha Jalal, *Self and Sovereignty: Individual and Community in South Asian Islam since 1850* (2000) (pp); Gail Minault, *The Khilāfat Movement: Religious Symbolism and Political Mobilization in India* (1982).

in the Indo-Afghan frontier in the seventeenth century (Chapter 2).[147] British records cite some of the most influential Muslims of Bombay, including Muḥammad ʿAli Rogay, ʿAbd al-Raḥmān Mounia, Ḥājī Karīm Muḥammad, ʿAbd al-Ḥusayn Shirāzī and Moulvi Hidāyat-Allāh as among the Committee's members.[148] What is more, the Ottoman Sultan decorated them with medals in appreciation of their services for the union of Islam.[149]

Two of the most influential and active organization founded by Indian Muslims in this period were the *Anjumān-i Ḥimāyat-i Islam* (Society for the Protection of Islam), a primarily educational and social services institute founded for Muslim boys and girls in Lahore in 1884, and the more generally-oriented *Anjumān-i Islam*. The latter organization was founded in Bombay in 1874, but soon branched out to several of India's largest cities, including Delhi, Hayderabad, Lahore, Calcutta, Lucknow, Madras, Allahabad, and Amritsar.[150] In 1880, an Indian Muslim and member of the *Anjumān-i Islam* in Bombay named ʿAbd al-Raḥīm visited Turkey in 1880, where he informed the Sultan that the organization had many members across India, "where issues concerning Turkey, the Caliphate, Afghanistan, Qandahar and Central Asia were extensively discussed."[151] When the British Government of India got word of this individual and his transnational movements, they dispatched a special agent named Major Henderson to Bombay to look into the matter.[152]

Similar reports abound concerning Indian Muslims in British Bengal. The British provincial government of Bengal also held suspicions about the anjumāns founded and operating in their jurisdiction. Notably, they suspected the Ḥajj pilgrims as being the primary link between the Porte and Indian Muslims. Indian Muslim merchants working in Ottoman domains even received certificates stating they were subjects of the Ottoman sultan, not the British crown.[153] Similarly, the Bengal Government noted with trepidation that the son of Nawab Abdul Latif, Abdul Fazl Rahman, had traveled to Turkey in 1880 where he cordially met high Ottoman officials, including an Ottoman general of near legendary status in India, Gazi Osman Paşa (YEARS). Rahman subsequently established a branch of the London Islamic Society in Calcutta, where weekly meetings were held in his house, and he was suspected of coordinating close contacts with the Porte.[154] Particularly troubling was the observation that such organizational activities appeared to transcend traditional Sunnī-Shīʿī divisions. As Özcan notes in this regard, Sunnī-Shīʿī divisions did not generally play a role in stifling the growth and activities of the anjumāns.

---

[147] Özcan, *Pan-Islamism,* 95-96.

[148] Ibid.

[149] Ibid.

[150] Ibid., 69.

[151] Ibid., 96.

[152] A sample of Henderson's espionage reports are in NAI-FD/SEC March 1881 45-90 ("Mussulman intrigues between Constantinople and India"). Özcan, *Pan-Islamism,* 96.

[153] Özcan, *Pan-Islamism,* 97.

[154] Ibid.

> There was almost a conspicuous unanimity in the Muslim community in support of the Ottomans. The Ottomans had traditionally presented themselves as the champion of Sunnīsm, and there were anxious speculations among the Sunnīs in India whether the Shīʿīs would join them or remain apart. But from the beginning the Shīʿīs quickly identified themselves with the common cause, and some influential Shīʿī individuals, like Badruddin Tyabji, Muḥammad Ali Rogay, Sayyid Amir Ali and Chiragh Ali, even became leaders.[155]

In this manner, even before the Russo-Turkish War of 1877-1878, there were seeds of such organizations devoted to cultivating Indo-Ottoman ties, in both England and India. The activities of these organizations demonstrate the longstanding prestige the Ottoman empire had in the eyes of many Indian Muslims, even before the Ottomans had began to reach out with their first official emissary in 1877. As mentioned earlier, financial contributions to the Ottoman relief fund were a major source of activity of Indian Muslim anjumāns. Such activities were not limited to the relief from the war, but also debt relief. Özcan goes so far to state that of all the forms of pro-Ottoman solidarity and assistance in India, "the most significant demonstration of Indo-Muslim concern was the enormous amount of money that poured into the relief funds opened throughout the country."[156] In this way, beyond the literary and martial fields, there were thus a multiplicity of avenues for Indo-Ottoman engagement taking shape in the Hamidian era, in spite of increasing British surveillance and restrictions on Indian Muslim movement after 1857.

A major means for Indian Muslim who could not actually travel outside of India for demonstrating such support was through financial contributions to the Ottoman war and relief effort. In the case of British India, given the officially neutral position of the British government vis-à-vis the Russo-Ottoman war, and an increasingly vigilant British surveillance machinery on all exports of persons and monies across borders, Indian Muslims were largely restricted to donating to charitable and relief causes, at least with fundraisers in the public realm. As Özcan's study has shown, this was no paltry contribution, but illustrates a major source of support for the Ottomans in not just economic means, but political capital as well.[157] It is precisely in the above light of financial contributions that the role of a new dynamic, transnational organization

---

[155] Ibid., 66; Qureshi; B Metcalf, *Islamic Revival in British India* (1982); Jalal.

[156] Özcan*, Pan-Islamism,* 68-69.

[157] While some historians have debated the actual sums donated, others such as Özcan stress there was a qualitative and not just a quantitative aspect to Indian Muslim donations to the Ottomans.

> There are conflicting accounts in the Muslim press as to how much money was collected on India. Although it is very difficult to estimate the exact amount, the official Ottoman register show that it was around 124,843 Ottoman liras, which was well above 10 lakhs of Indian rupees. Available data suggest that all sections of the Muslim community, rich and poor, contributed according to their ability. Pro-Ottoman feeling was shown even to the extent that in some places women sold their jewelry in order to contribute to the funds. This was in itself an unprecedented show of concern which took everybody, including the Ottomans, by surprise.

Ibid. That this dramatic display of pro-Ottoman support was unprecedented in intensity and effect on Ottoman's new orientation towards Indian Muslims is evident when considering additional humanitarian crises taking place simultaneously in the subcontinent. "Indeed," notes Özcan on the donation drive, "its significance can be better judged when we bear in mind the fact that at about the same time a terrible famine had engulfed Bengal, Bombay and Madras during which around six million people were reported to have died. Yet the contributions of the Indian Muslims were by far the largest in the entire Muslim world." Ibid.

founded by Ottoman philanthropists in the late Tanzimat period has particular salience, though bearing continuities with the aforementioned organizations. Established in 1868, the organization would take a center-stage in fostering Indo-Ottoman connections in the philanthropic and financial aid fields during the Hamidian eras. This organization was one of the world's first international humanitarian societies, the Ottoman Red Crescent Society.

The Ottoman Red Crescent Society and Indian Muslims

Indian Muslim financial contributions to the Ottomans assumed a number of different forms and avenues during the late nineteenth and early twentieth centuries. A primary example was the considerable involvement of Indian Muslims in relief efforts for families of Ottoman soldiers killed or wounded in the war against Russia. For example, a Foreign Department Political Branch report of March 1877 includes a bulky file filled with handwritten correspondence documenting Indian Muslim donations towards the relief efforts for Ottoman soldiers and their families.[158] The primary vehicle for Indian Muslim participation in raising funds for the Ottoman relief cause from the last quarter of the nineteenth century until the end of the empire was the Ottoman Red Crescent Society, or *Türk Kızılayı Derneği* as the successor organization is known by in Turkey today, and *Hilal-i Ahmer Cemiyeti* as it was originally known in Ottoman Turkish. [159] Founded in 1868 as one of the world's first international humanitarian organizations, the Red Crescent Society is commonly remembered today as an affiliate of the International Red Cross in predominantly Muslim countries. Beginning in the Russo-Ottoman War of 1877-1878, but culminating in the 1912-1913 Balkan war, the First World War, and Turkish war of Independence, the Red Crescent Society was a major vehicle for coordinating projects of Indo-Ottoman collaboration in the humanitarian and financial field.

Until recent years, most sources on the Ottoman Red Crescent society were limited to British sources, or the Ottoman central archives in Istanbul, rather than the records of the organization itself. The Ottoman Red Crescent Society's recently opened archive in Ankara

---

[158] NAI-FP/B March 1877 262-269 ("Assistance of Government in collecting subscriptions towards the relief of sick and wounded Turkish soldiers").

[159] Reflecting the epistemological and political ruptures (but also continuities) from Ottoman to Republican Turkey during the late nineteenth to mid-twentieth centuries, the organization had no less than five official name changes in less than a century. What is even more remarkable is, considering the translation from Ottoman and modern Turkish to English, with the exception of one instance the meaning hardly changed. On June 11, 1868, the organization was founded as the "Osmanlı Yaralı ve Hasta Askerlere Yardım Cemiyeti", or the Ottoman Aid Society for Injured and Ill Soldiers. In 1877, reflecting its broadened scope and embrace of various forms of relief work in war and peace time as well as its ties with the International Red Cross, the organization became the "Osmanlı Hilal-i Ahmer Cemiyeti", or Ottoman Red Crescent Society. In the 1923, not surprisingly, the name was officially changed to "Türkiye Hilal-i Ahmer Cemiyeti", or Turkish Red Crescent Society, still using Ottoman Turkish parlance for the society's name, however. In 1935, less than a decade after the change to Latin script and the expungement of Arabic and Persian vocabulary from the language (an impossible endeavor, we might note), the new name became "Türkiye Kızılay Cemiyeti", replacing the Arabo-Persian compound noun (izāfe) construction "Hilal-i Ahmer" with the Turkish compound noun, "Kızılayı"; the imparted meaning of "Red Crescent" being identical in both. Finally, in 1947, the last Ottoman remnance of the name, "Cemiyeti", or organization.society, was changed to the Turkish "Dernek", once again, identical in English translation, but seen by Turkish Language Reform officials to have more "secular" and ethnically "Turk" credentials given the Arabic-Islamic undertones retroactively hoisted on the word "Cemiyet." For a chronology of the organization, including the official names, see the official website (kurumsal) of the Turkish Red Crescent Society, specifically under "Our History" ("Tarihçemiz").

contains a cache of documents recording such concrete connections such as fundraising and even dispatch of Indian Muslim doctors to the War Front, the two means of support that British Indian officials generally allowed Indian Muslims to pursue without obstruction (in comparison to volunteers seeking to join the Ottoman war effort, at least). Such contributions indicate that for many Indian Muslims, Pan-Islamism and pro-Ottoman sentiment were not simply rhetorical displays of religious solidarity and "sentiment", nor "an importation from the West" as some historians have argued.[160] Rather, as demonstrated in my archival findings in the Red Crescent Society archive in Ankara, these transnational Indo-Ottoman links are documented in thousands of pages of reports, receipts, and correspondence, often revealing considerable economic expenditures, and to which we will return to in more detail in Chapter 4. Rich as they are voluminous, these sources document fundraising meetings and donations throughout major cities of India and Afghanistan, illustrating concrete transnational connections between Turkey, Afghanistan, and India at a pivotal moment of transformation in the histories of each of these three states.

The documents I studied from the Ankara archive deal with prisoner exchange negotiations between the Allies and Ottoman forces during World War I, including Red Crescent correspondence with British and French military authorities in Iraq, Egypt, and the Levant, but also India, where many Ottoman prisoners were being held.[161] As such we will return to a closer discussion of these sources in Chapters 4. For our purposes here in the Hamidian era, it suffices

---

[160] For example, Dwight Lee, writing in the American Historical Review in 1942, cited what he saw as Pan-Islamism's parallels with the transnational influence of the Roman Catholic pope. As such, amazingly, he held that the concept of a Pan-Islamic Caliph, even "when it was promulgated by Moslems, was itself an importation from the West." Dwight E. Lee, "The Origins of Pan-Islamism," *The American Historical Review* 47 (1942): 278-287, 282. To be fair to Lee, however, he does qualify his remarks by acknowledging that far more research was needed on Pan-Islamism as a historical phenomenon, particularly due to the existent sources reliant on European sources. In his final analysis he concludes,

> [T]he usual interpretations of Pan-Islamism and especially the story of its origins, both as to chronology and causes, have been inadequate and unsatisfactory and that insofar as Pan-Islamism and the revival of the caliphate are linked with the whole problem of the reaction of the Islamic world to the impact of the Occident, a satisfactory and funda-mentally sound historical treatment can be made only if Islamic sources can be studied. Furthermore, in such a study of Pan-Islamism not only must the intellectual and political developments in all the various Moslem countries be clearly understood, but also the itnternational relations of the great powers toward one another and toward the Islamic countries must be taken into account. Only after such a study can one definitely decide whether an effort to translate the "tendency" toward Islamic unity into an actual movement was a phantasm or a reality and whether Pan-Islamism was a genuine Moslem reaction to Western en-croachment or merely a weapon of imperialism, conceived by Western brains and forged by Western hands.

Lee, "Origins of Pan-Islamism", 286-287. On a less academic note which I can nevertheless attest to from personal communications, Indian Muslim financial contributions to Ottoman relief efforts and, later, the Turkish war of independence, remain a staple of many oral histories of the first world war in Turkey today.

[161] For example, for a report from the Balkan wars, see TKA 394/52 (1912) ("Hindistan daki müslümanların H.A. ya bağışta bulunmaya devam edeceklerine dair bilgi"). There are hundreds from the first world war period, constituting a majority of the 446 documents on Indian Muslims, most dealing with prisoner exchange and repatriation. For illustrative examples of Indo-Ottoman aid proceeding in both directions during World War I and the subsequent Turkish War of Independence, see TKA 1138/22 (29.KS.1328) ("Bombay Poor Müslimi Medical Mission Hastanesinin memurları ve yapılan yardımlar için teşekkürler hakkında") and TKA 615/73 (16.05.1920) ("Hint Milletinden İzMīr e yardım için gelecek heyet için pasaport taleb edildiği hakkında").

to say that beginning in the late nineteenth century and specifically in the tumult of the Russo-Ottoman War of 1877-1878, the Red Crescent Society was laying a creative transnational foundation for Indians and Afghans to demonstrate their support for the Ottoman state through material means, in a way that did not antagonize or draw the ire of suspicious British administrators, perhaps owing to the humanitarian impulse of the organization, and the respected stature it soon earned in that regard.

While urban Muslim organizations like Anjumān-i Islam were instrumental in galvanizing support among the Muslims of India's largest cities, we cannot forget the crucial role of another type of Indian Muslim institution in the same regard in the Indian hinterland: the madrasah of Dār al-ʿUlūm Deoband. Founded in 1866 in the northern province of Saharanpur by ʿulamāʾ graduates of Delhi College, the institution quietly but industriously promoted Ottoman ties from its letter to Ahmed Hulusi Efendi during his tour of India discussed earlier in this chapter, to the height of the First World War (Chapter 4). On the role of Muslim seminaries like the college at Deoband in promoting Indo-Ottoman ties, Özcan notes,

> [I]nstitutions of religious education, especially the *Daru'l-Ulum* Deoband, were most enthusiastically involved in this endeavour. The staff and the students of Deoband Seminary not only themselves contributed largely but also invited others and indeed organized the collection of funds. The Ottoman documents often referred to the efforts of *moulvis* Muḥammad Qāsim (1833-1877), Muḥammad Refi ud-Din, Muḥammad Yāʿqūb (d. 1886), and Muḥammad Abid among the teachers (*müdarrisun)* of the *Daru'l-Ulum* Deoband. Curiously enough, despite the frequent references to the fervour and interest of the Deobandis in the Ottoman documents, the Indian sources often did not mention them. Clearly the Deobandis must have wished to keep a low profile in their strong pro-Ottoman endeavours, probably for fear of antagonising the Indian Government.[162]

We will return to the critical role of Dār al-ʿUlūm Deoband in fostering Pan-Islamic links in the juridical realm in more depth in chapters 4 and 5.

It also must be stated that aside from financial and moral support, there are also recorded instances of Indian Muslims traveling to the war front and fighting alongside the Turks as volunteers in the Ottoman army. There is evidence that Indian Muslims were recruited and traveled to the war front in the Ottoman conflict with the Russians. In Bengal, for example, pamphlets with guidelines for volunteers seeking to go to Turkey were published, and a certain Indian Muslim named Azimullah Khan was even decorated decoration by the Porte for his service as a volunteer in the Ottoman army.[163] By and large, however, British administrators were keen on preventing such transnational networks of militancy from forming on their own watch, and conditions were such that we do not as yet have evidence of massive numbers in this regard. While Raj authorities justified their policy in light of the Queen's official proclamation of neutrality vis-à-vis the Russo-Ottoman conflict, some Indian Muslims cleverly argued this

---

[162] Özcan*, Pan-Islamism,* 69-70. The extraordinary letter, written in Persian with gold trimmings and signed by the most prominent scholars of Deoband and arguably all of India, is contained BOA-Y.A.HUS 159/14 (1294 Ş 01) ("Afganistan Sefiri Ahmed Hulusi Efendi'nin kendisine Bombay'da gösterilen ihtiramdan dolayı İngilizlerin endişelendikleriye ilgili telgrafın takdimi").

[163] Özcan*, Pan-Islamism*, 68.

only applied to Englishmen, and could not be binding upon Muslim Indians who shared a bond of faith with the Ottomans.[164]

Pan-Islam in Print: The Circulation of Indo-Ottoman Newspapers

While the British were monitoring the movements of Indian Muslims, Afghans, and Turks from Constantinople to Calcutta, they were as apprehensive of what they were writing in the local vernacular press across these vast but increasingly connected regions. Publishing newspapers and journals in Urdu, Persian, Arabic, and Turkish, a genre of Pan-Islamic newspapers had emerged from publishing houses across India, but also Ottoman Turkey. In the 1880s and 1890s, after the passing of Lytton's Vernacular Press Act, British authorities in India assumed the right to confiscate any periodicals found to be publishing tracts detrimental to British interests. This law did not arise out of theory. One particular newspaper named the *Paik-i Islam*, published in Istanbul, became the first example of a newspaper publicly attacked by British officials in Turkey.[165] As Özcan describes in this regard,

> [A]mong many Ottoman newspapers, none provoked a stronger reaction from the British Government than the *Paik-i Islam*. The *Paik-i Islam* was published in Urdu and Turkish in Istanbul under full knowledge of the Porte. Evidence suggests that it was Sait Paşa, the Prime Minister, who sanctioned the paper and made facilities available for its publication. The first issue of the paper came out in May 1880. Its object, as described by its Indian editor, Nusrat Ali Khan, in a report addressed to the Porte, was to forge close relations between the Indian Muslims and the Ottomans, to explain to the Muslims in India the necessity of their recognizing the Caliphate of the Sultan, and to procure means to inform and address the Indian Muslims on religious and political matters.[166]

It must be made clear here, however, that even though Prime Minister Sait Paşa approved the publication of the newspaper under Ottoman patronage in Istanbul, he was resolute on not imparting any misleading high hopes to the Indians that the Ottomans were ready to shift course with their traditionally close ties with Britain. Rather, as one Ottoman document report states, the purpose of the paper from the Ottoman state's perspective was merely "to establish spiritual relations between the Indian Muslims and the Ottomans *(Husul-ı Munasabat-i Maneviyye)*."[167]

In spite of the Ottoman state's insistence on the spiritual nature of such ties, the British remained circumspect. The following British intelligence documents give us a glimpse of the extent of British concern with these developments. A note from the Government, Bombay, dated late July 1881, reads,

> The *Peik Islam* newspaper is published in Hindustani and Turkish, in parallel columns, and we are now arranging for it to be regularly supplied to the Foreign Office, where we can examine it. Another paper called the *Akhtai* is said to be published in Persian and Turkish, and also to have

---

[164] Ibid., 68-69.

[165] Ibid., 119.

[166] Ibid., 117.

[167] Ibid.

adopted a tone hostile to British interests, this might also, perhaps, be taken in by us, and regularly examined.[168]

This would not be the last we heard of the *Peik-i Islam* and similar Pan-Islamic newspapers emanating from Istanbul, but also Indian cities. A telegram from Sir A.H. Layard, the British Ambassador at Constantinople to Earl Granville, Secretary of State for Foreign Affairs, reports the following information obtained from an informant in Istanbul, who was monitoring the activities of Indian Muslims in Turkey. The informant reported that an Indian Muslim named Nusret Ali Khan is about to publish a newspaper in Urdu and Turkish in Istanbul. "My informant further states," the report continues, "that this newspaper is to be the organ of the Porte, and will be authorized by Imperial Iradé." The report mentions that as editor, Nusret Ali Khan, is to receive a subsidy, and was likely recruited for his prior experience in being the editor of the *Nusret El Akbar* newspaper, printed at Delhi. The report proceeds to describes the three objects of the newspaper as follows,

1. To tighten the relations between Turkey and the Mahomedan population of India.
2. To explain to the Mussulmans of India the necessity of their recognizing more completely the Caliphate of the Sultan.
3. To afford the means of addressing the Indian Mussulman population on religious and political matters.[169]

The informant proceeds to report that "no less than seventy Mahomedan Princes" in India were ready to recognize the Ottoman Sultan's Caliphate in a political fashion, as well as increase financial contributions to the Porte. "It is, therefore, very necessary," concludes the informant in grave concern, "that the Indian Government should take steps to prevent the circulation of this newspaper, as it might have an effect, dangerous to British authority, upon the Mussulmans of India, and might even be very prejudicial to British interests in Central Asia."[170]

In this way an emergent Indian Muslim vernacular press, mostly but not solely in Urdu, began to take an increasing interest in Ottoman affairs in the 1870s. Before 1870 there was only one major pan-Indian Muslim newspaper of significance, *The Aligarh Institute Gazette*.[171] Founded by Muslim modernist intellectual Sayyid Aḥmad Khan in 1866 as the weekly publication of the Aligarh Scientific Society, even this section had limited reach given its forthrightly modernist views. As Barbara Metcalf and Nile Green have also shown, the Muslim press in India was largely limited to religious publications at this time, but would exponentially increase and branch out into other areas in the ensuing decades.[172]

The turning point for a rapid increase in Indian Muslim interest in the Ottoman empire was the "Eastern Crisis" of the mid 1870s and ensuing Russo-Turkish war of 1877-1878. While up until this time many Indian Muslims presumed the Ottomans were in an invulnerable state,

---

[168] NAI-FD/SEC March 1881 45-90 (No. 65) ("Mussulman intrigues between Constantinople and India").

[169] Ibid.

[170] Ibid.

[171] Lelyveld; Jalal

[172] Metcalf, *Islamic Revival in British India* (1982) (pp); Nile Green, *Bombay Islam: The Religious Economy of the West Indian Ocean, 1840-1915* (2011) (pp).

the weakness of the state in light of European and Russian encroachments was a shock for Indian Muslims. From this point on Indian Muslims saw that it was their responsibility to come to the aid of the Ottomans at their time of need, including events in Eastern Europe and the Balkans. "The extent of the pro-Ottoman stand and sentiments was reflected in the newly developing Muslim press," notes Özcan, where "the start of many journals which exclusively devoted space to the publication of Turkish news and at the same time urged Muslims to give aid or relief to the Muslim soldiers and orphans."[173]

The emergence of Muslim vernacular newspapers and journals in India corresponded to a growing interest and demand for day to day information on Muslims all over the world, but especially the Ottoman empire—the largest and most powerful Muslim empire, and domain of the Sultan Caliph, with whom Indian Muslims were forming a special relationship. The story of leading Indian Muslim intellectual Sayyid Amir Ali is a telling case in point, whose interest in Ottoman affairs began in 1876 upon reading the Istanbul-based newspaper, *Ahbar-ı Darul Hilafet*. The *Ahbar-ı Darul Hilafet* was launched in 1876 by an Indian called Iskender Efendi who was teaching Persian in Istanbul at the time.[174]

The response of the British Indian government was not to idly watch these seemingly ominous events unroll, and no British official wanted to be the one caught for letting a repeat of 1857 creep upon them unknowingly. Revealing this "Ghost of 1857" once again, the Viceroy of India Lord Lytton, out of fear that "the ignorant masses might be excited against the Government" by the hostile vernacular press, in early 1878 petitioned his superiors in London for permission to introduce "some strong means of repression."[175] The India Office responded in the affirmative, issuing the Vernacular Press Act of 1878, a new law severely restricted the freedom of the press in Britain's largest colony. While the decree excluded those Indian newspapers published in English, read by small minority of mostly loyal Indians, the law was directly aimed at those increasingly Pan-Islamic and radical newspapers published in Urdu, Persian, Arabic, and Turkish.[176]

Meanwhile in the Ottoman empire, at almost the exact same time the British Embassy in Istanbul began to complain that Ottoman newspapers were becoming increasingly critical of British policy in Asia, Africa, and even Ireland. The British Embassy especially pointed to the outspokenly Pan-Islamic and anti-imperialist articles of the *Vakıt* and the *Tercuman-ı Hakikat,* which were particularly outspoken in attacking European policies towards Muslim countries and colonies.[177] The question of the press was to become a major issue of tension between London and Istanbul over the ensuing decades.

Meanwhile, newspaper and journal articles were not the only literary tracts Indian Muslims published in support of the Ottomans, nor were their pro-Ottoman publications always explicitly political. Even the continuation of religious publications by Indian Muslim scholars

---

[173] Özcan*, Pan-Islamism,* 64.

[174] Ibid., 65.

[175] Ibid., 116, citing R.J. Moore, *Liberalism and Indian Politics 1877-1922* (London: 1966), 21-22.

[176] For an elaboration of the many ironies and contradictions in this episode of British "liberal" governance of India, see Nasser Hussain, *The Jurisprudence of Emergency: Colonialism and the Rule of Law* (2003).

[177] Özcan*, Pan-Islamism,* 116.

attained a new found transnational reach and importance, as was the case with Islamic scholar Raḥmat-Allāh Kairanwī for example. As Özcan notes on this individual,

> Raḥmat-Allāh Kairanwī was specially invited to Istanbul by Sultan Abdülhamid in 1883. By that time Kairanwī's fame had reached Istanbul for his works against the Christian missionaries. One of his books, 'Izharu'l-Haq', was also translated into Turkish by Hayreddin Paşa, the Grand Vezir. However, because Kairanwī was involved in the Mutiny, the British Embassy in Istanbul communicated to the Porte, by instruction of the Foreign Office, their protest that 'a notorious rebel of Indian Mutiny' was treated honourably. Moulvi Kairanwī lived in Mecca until his death in 1891 where he set up a Madrasah for higher education. In 1893 he applied to the Indian Government to be permitted to return to India, but was refused.[178]

A brief synopsis of the above author's scholastic contributions, and their far-reaching influence and translations reflect the transnational connections at play in this time. Born in the town of Kairana in northern Uttra Pradesh province of India, Shaykh Raḥmat-Allāh Kairanwī, or Raḥmat-Allāh Efendi as he was known in Turkey, was the author of the famous work on Christian polemics, *Iẓhār al-Ḥaqq* (Manifestation of the Truth), which was published in Arabic in Istanbul in 1864. This work which was also translated into Urdu under the same title, into Persian as *Sayf al-Abrār*, into Ottoman Turkish under the original Arabic title in 1875 in Istanbul, and in Bosnia as *Ibrāz al-Ḥaqq* in 1876.[179] The rapid proliferation and impressive geographic spread of Kairanwī's texts illustrate how once a reputable scholar and his work entered the Islamic scholastic field, within years scholarly currents would carry it to the ends of the earth, and in multiple languages. After being accused of fomenting rebellion in the 1857 Mutiny and his life under threat from the British, Shaykh Raḥmat-Allāh boarded a ship from Bombay to the Yemeni port of Mocha. Two years later, he was reported to have traveled to Mecca, before resettling in the Ottoman capital of Istanbul. He died in Mecca in 1891.

If the Ottomans were interested in honoring the Indian Muslims who supported them, the feeling was no less intense on the Indian side. The Urdu press abound with reports abound of Indian Muslims such as Allāma Shiblī Nuʿmānī, traveling to Istanbul to greet Ottoman officials, out of respect and admiration.[180] Nevertheless, we should not overstate the unanimity and solidarity of even the vernacular Muslim press in India. There remained divergence of opinions within the Indian Muslim community, and their corresponding press, over such vital questions and issues in Pan-Islamism as the recognition of the Ottoman Sultan as Caliph. While the *Jarīda-i Ruzgār*, the *Shams al-Akhbār*, and most fervently of all the *Paik-i Islam* firmly advocated the universal caliphate of the Ottoman Sultan, other Indian Muslim newspapers such as the *Kuh-i Nūr,* the *Aligarh Institute Gazette,* the *Avadh Akhbār*, and the *Aḥsan al-Akhbār* presented an opposing perspective, arguing the British Crown remained the only true sovereign of Indian Muslims. Not surprisingly, these "loyalist" refutations were often produced at the encouragement of, if not to the immense satisfaction of, the British authorities in India.[181]

---

[178] Ibid., 18-19.

[179] Ahmed Cevdet Paşa, *Faideli Bilgiler* (İstanbul: Hakikat Kitābevi Yayınları, 2010), 14.

[180] Özcan, *Pan-Islamism,* 71.

[181] Ibid., 119.

In this manner, there remained a diversity of views among the heterogeneous communities of Muslims in British India in the late nineteenth century and as displayed in the robust print culture and vernacular press of the period. Print culture was only one means of cultural and political expression, of course. It was becoming increasingly evident, moreover, that a new wave of Pan-Islamic and pro-Ottoman sentiment, and activism, was taking root in a variety of other institutional forms in India during the late nineteenth century.

Alumni and educational networks

We have discussed above the role of a variety of growing economic, political, and intellectual links between Indian Muslims and the Ottoman empire. While Chapter 2 discussed the emergence of modern Indian Muslim educational institutions of different intellectual genealogies and philosophies—namely, the Dār al-ʿUlūm Deoband madrasah and Aligarh Muslim University—we have not as yet addressed the Pan-Islamic activities of these institutions. Of the two, the Dār al-ʿUlūm Deoband was particularly assertive in cultivating ties with the Ottomans, sending volunteers and literature alike during the Hamidian era. On the contributions of the preeminent madrasah in India at this particular juncture, Özcan notes that a complex array of factors made Deoband, remarkably, stand out to the Ottomans, whilst staying relatively discreet and hidden from British surveillance of Indian Muslim activities with the Ottomans.

> The staff and the students of Deoband Seminary not only themselves contributed largely but also invited others and indeed organized the collection of funds. The Ottoman documents often referred to the efforts of *moulvis* Muḥammad Qāsim (1833-1877), Muḥammad Refi ud-Din, Muḥammad Yāʿqūb (d. 1886), and Muḥammad Abid among the teachers (*müdarrisun)* of the *Daru'l-Ulum* Deoband. Curiously enough, despite the frequent references to the fervour and interest of the Deobandis in the Ottoman documents, the Indian sources often did not mention them. Clearly the Deobandis must have wished to keep a low profile in their strong pro-Ottoman endeavours, probably for fear of antagonising the Indian Government.[182]

In response to the enthusiastic support of the Deobandis, the Ottoman sultan dispatched a number of Arabic text books to the Daru'l-Ulum Deoband as gifts.[183] On the other side of the relationship, the Ottoman archives contain documents attesting to Deoband's cultivating of ties with the Ottomans at this time. Özcan, for example, discusses the discovery of a remarkable letter written and signed by Deoband's top ʿulamāʾ, dispatched to Hulusi Efendi during the latter's visit to Kabul and India.

> The second letter was written by the *ʿulamāʾ* of the *Daru'l-Ulum* Deoband, a rare document showing how the Deobandis felt about the Ottomans and the Sultan even at this early stage. The

[182] We will discuss the role of Deoband in more depth in Chapters 4 and 5 with regard to its considerable transborder role in Afghanistan. Özcan's remarks here are based on his study of the Official Ottoman register, *Defter-i İane-i Hindiyye,* a file specially compiled and submitted to the inspection of Abdülhamid on the role of Indian Muslims in raising subscriptions for the Ottoman relief cause. Özcan*, Pan-Islamism,* 69-70.

[183] Özcan, 76. On Deoband's ties with the Ottomans, see Sayyid Mahboob Rizvi, *History of the Dār al-Ulum Deoband, vol. 1* (1980), 180. The lone latter document illustrating a Deoband-Red Crescent connection I found in the Red Crescent Society archives is in TKA 231/63 (19.04.1913) ("Deoband daki Darül-Alouni Üniversitesinin talimatıyla açılan kredi, Rıfat Bey adına yatan para ve Dr. Bahaddin Şakir e ait fatura hakkında").

> letter was written in Persian, gilded with beautiful calligraphy, and carried the distinctive signatures of important *ʿulamāʾ*. The tone of the letter clearly suggested that the Deobandi *ʿulamāʾ* had been the firm supporters of the Ottoman cause and certainly continued to follow the path set up by *moulvi* Muḥammad Ishaq.[184]

The seeds were sown for further Deobandi involvement with the Ottomans in the ensuing decades. As we will explore in Chapters 4 and 5, this was an auspicious beginning and continuation of Indo-Ottoman relations at the same time, a relationship that would culminate in the upheaval and aftermath of World War I.

A Return Mission to Kabul?

By the time Hulusi Efendi and his delegation returned to Istanbul, the tide of the Russo-Ottoman war had already turned against the Turks, and by spring 1878, Istanbul was negotiating a painful series of concessions. But just as Istanbul was negotiating its own peace treaty for a war in which Kabul was neutral, the latter began to face imminent conflict. In Afghanistan, the Afghan Amir Sher ʿAlī still burned with resentment from the British occupation of Quetta, and seeds were sown for another war involving the British, to which we turn to now. By 1879 Afghanistan was on the brink of a second war with Britain, after a series of tussles with the Raj over the extent of Russian influence in the Kabul court.

In the midst of this brewing conflict, the Sultan, for the second time in as many years, offered to Britain to be a voice of moderation and conciliation between Kabul and Calcutta. In particular, he proposed again to send an envoy to Kabul to convince the Afghan Amir of the benefits of friendship with Britain. The British response is indeed revealing, of how much had changed in just a manner of years. Unsurprisingly, Lytton and his state council rejected the offer. But what is more revealing than the simple answer, was the reasoning offered. In turning down the Ottoman offer to mediate, Lytton stated that such an envoy should be "selected with a view to political rather than religious influence."[185] Expanding on the Viceroy's reasoning, one of the state council members of the British Indian Government stated,

> It we countenance his assumption of this quasi-spiritual leadership when it is convenient for us can we very well repudiate it with effect, if hereafter it should be inconvenient? And this remark applies more particularly to our own Muḥammadan subjects. So far as we are concerned, his position as '*khalif*' should be recognised as little as possible, and that the mission on his part should be regarded as that of a political ally only.[186]

Unlike in 1877, the British Indian Government was unambiguously and unanimously averse to the idea of another Ottoman delegation to Kabul. They had learned their lesson.

---

[184] Özcan, 69-70. The extraordinary letter referred to by Özcan is written in Persian with gold trimmings and signed by the most prominent scholars of Deoband and arguably all of India. It is contained in BOA-Y.A.HUS 159/14 (1294 Ş 01) ("Afganistan Sefiri Ahmed Hulusi Efendi'nin kendisine Bombay'da gösterilen ihtiramdan dolayı İngilizlerin endişelendikleriye ilgili telgrafın takdimi").

[185] Özcan, *Pan-Islamism,* 87; Lee, "Turkish Mission to Afghanistan", 353-354. Notably, Lee disparagely refers to Abdülhamid's selection of Hulusi Efendi as a choice of "a mulla, rather than a politician." Ibid., 353.

[186] Özcan, *Pan-Islamism,* 87.

Nonetheless, Sultan Abdülhamid was persistent. After the proposal of an Ottoman delegation was turned down, he proposed to send a personalized letter to the Afghan Amīr, in his individual capacity as Caliph of Islam, "advising him to listen to the counsels of the British and be friendly towards them."[187] According to Özcan, Abdülhamid repeatedly proposed this idea, going through multiple channels, including producing a copy of such a letter for Layard's approval. To his chagrin, no action was taken by the British. In later years and as late as 1899, the Sultan would repeat his proposal, each time rejected in turn.[188]

While we will return to the events leading to and aftermath of the second Anglo-Afghan war of 1879-1880 in the next section, it suffices to say here that one way of interpreting Sultan Abdülhamid's repeated overtures to London was to impress the British in a bid to attract stronger support in the Ottoman war against Russia. This is certainly a feasible interpretation. But it is not the only one. Based on evidence of Abdülhamid's simultaneous independent outreach in India, Afghanistan, and Central Asia, it is as likely he wanted to demonstrate to the British the extent of the Istanbul Caliphate's sway in distant lands that were not even under Ottoman jurisdiction, but under their very own noses. Based on contemporaneous developments unraveling in Turkey and in India, it appears Layard and Lytton no doubt believed that he did exercise such influence.[189] In light of British rejection of the Sultan's overtures, it was clear that strengthening Ottoman prestige and influence in these regions was a trump card in Abdülhamid's hand.

The second Anglo-Afghan war also increased Ottoman confidence in their ability to reach out to coreligionists in Asia, especially under imperial rule of Russia and India. In a secret Foreign Department document of March 1879, entitled, "Sultan's Proposal to dispatch a letter to Amir of Kabul", a telegram from Sir Henry Layard, British Ambassador at Constantinople, to the Secretary of State for Foreign Affairs, dated January 10, 1879, reads,

> Haireden Pasha begs me to inform Your Lordship that owing to the events which have taken place in Afghanistan and the reported flight of Sher ʿAlī, the Sultan has not sent the Amir the letter… His Majesty is however ready to address it to Yacoob Khan, if Her Majesty's Government should be of opinion that it may be of use to do so, or to take any other steps in the matter which may appear desirable to Your Lordship.[190]

In this manner, the Ottoman empire once again attempted to step in between a conflict between the Afghans and British, but the latter refused. In a telegram from the Marquis of Salisbury to Layard, dated January 22, 1879, the British again seek to stress that the Sultan cannot influence new Amir of Afghanistan on relations with Russia and Britain, stating "Your Excellency is aware that the Amir has fled from Kabul, and in carrying out the above instructions, Your Excellency will represent to the Sultan that the time would appear to have now

---

[187] Ibid.

[188] For example, see NAI-FD/SEC December 1878 72-97 ("On Proposed Turkish Mission to Cabul") and NAI-FD/SEC/F November 1899 29-30 ("Afghanistan and Turkey; Proposal of the Sultan of Turkey to send an Agent to Kabul; His alleged letter to the Amir of Afghanistan to send an Afghan Agent to Constantinople").

[189] Özcan*, Pan-Islamism,* 87.

[190] NAI-FD/SEC March 1879 44-56 (No. 55) ("Sultan's Proposal to depatch a letter to Amir of Kabul").

gone by when His Majesty's counsels might avail to influence the policy of the Amir."[191] This time, it was unlikely a question of his *ability* to do so, rather than the fact the British simply did not *want* him to exercise this growing influence on their own turf.

This was probably the last time the Ottomans would "offer" their assistance to mediate between the Afghans and the British. After the Russo-Ottoman war and the second Anglo-Afghan war, with new geopolitical realities on the ground, Sultan Abdülhamid realized he had direct access through his own cultivated channels, with or without British permission. As such, with the war settled in Turkey, and Abdülhamid's Ottoman government disgruntled from British behavior, he now vigorously turned Ottoman Turkey on the path to a Pan-Islamic foreign policy. Meanwhile, events in India had also given a push to Pan-Islamic sentiment, independent of Abdülhamid's actions. "By the early 1880s," notes Özcan, "there was widespread resentment in Turkey towards Britain because of her attitude during and after the Russo-Turkish war. This resentment, coupled with growing anti-British feelings, was also bound to manifest itself in India in the form of even more intense, enthusiastic support for the Ottomans."[192] Needless to say, this did not fall so well on the British. But before we turn to deteriorating relations between the Ottomans and British during the 1880s and 1890s, we turn to a new rising figure in the east, ʿAbd al-Raḥmān Khan of Kabul, the new Amir of Afghanistan.

Indo-Ottomanism in the Hamidian Era: A Summary

The above sections have illustrated how Indians and Ottomans converged in increasing ties to one another through a variety of social, political, economic, and intellectual means. The extent of pro-Ottoman influence was so deep in India that some historians have noted the name of Sultan's name had reached "even the remote villages of India."[193] Such influence had the dual impact of not only increasing ties between the Muslims of the Ottoman empire and India, but also impressing on the British that pro-Ottoman sentiment among Indian Muslims could no longer be ignored. In summarizing the Pan-Islamic achievements of Abdülhamid in the 1880s and 1890s, Azmi Özcan offers some reasons why this sultan's outreach can be characterized as "unique and unprecedented" in the annals of Indo-Ottoman outreach and "Pan-Islamism."

> It was unique because nowhere else in the Muslim world was there such a large-scale and heartfelt sympathy for the Ottomans. It was unprecedented because Indo-Muslim public opinion for the first time manifested itself in an institutionalized form as a united body through several organizations and newspapers…Evidently, the most important factor that made the pro-Ottoman Indo-Muslim feeling in India so widely felt and so common was the development of native newspapers. It was mostly through the newspapers that the vast majority of Muslims became aware of the situation of their Muslim brethren, and they responded as best they could.[194]

Unprecedented in some respects in light of the above mentioned factors, it is also important to recognize Indian financial and moral support for the Ottomans was not entirely new,

---

[191] Ibid.

[192] Özcan*, Pan-Islamism,* 89.

[193] Ibid., 78.

[194] Ibid., 76-77.

nor a invention of the Hamidian state's foreign policy, as some historians have suggested. As discussed in Chapter 2, there were already prior cases of Indian Muslim contributions to Ottoman relief causes during the Crimean war. However, these were relatively small in comparison. Moreover, there is an additional factor that must be introduced to the complex picture of Indo-Ottoman outreach and social networks at this juncture of the early Hamidian era: the "tolerant" attitude of the British Raj towards such activities at this time. As Özcan insightfully notes in this regard,

> Although the authorities chose neither to encourage nor to discourage pro-Ottoman activities, the overall effect was a favourable reaction towards the Ottomans. Thanks to the efforts of some leaders and the press, Muslims quickly developed a belief that their contributions to the Ottoman relief funds would also please their rulers, the British. This removed from them all apprehensions of causing any breach of rules, and thus they felt free to express themselves without any restraints or restrictions.[195]

In light of the increased and intensified contacts between the Ottomans and Indian Muslims in the last decades of the nineteenth century, there was thus some empirical reality to British fears of the "ghost of 1857" resurfacing in India once again—exaggerated and distorted as those fears of exclusively Muslim participation may have been. It was because of such fears that British Raj officials continued to track any and all examples of correspondence between the Porte, or Ottoman officials anywhere in the Sultan's empire, and Indian Muslims.[196] Likewise British increased their surveillance of affairs in Afghanistan and Central Asia.[197] But have historians overblown the "Pan-Islamic threat," by following too uncritically the claims of British government records? There is a possible historiographical overemphasis here indeed. In spite of some strongly-worded personal and private statements concerning British oppression of Indian Muslims, and the calls for revenge it stoked, Özcan notes,

> [T]here is no evidence to suggest that he ever seriously and realistically contemplated the formation of a global Muslim united front for military purposes against Christian domination, nor did he encourage the Muslims to rise against their Christian rulers. In fact, he was shrewd enough to realize that in view of the tremendous superiority of the West in every field, such ideas were beyond realization. Therefore, he always exaggerated the power of *jehad* in public, in private however, he admitted that it had no strength to resist the Western powers.[198]

In this way, we should not exaggerate the extent of all Indian Muslims' sympathies for the Ottomans, especially if it came to endangering their own interests. Nor should we overstate the extent of Ottoman strength in India at this time. India was practically land-locked as far as the Ottomans were concerned, with the British controlling sea access, the Russians controlling the central Asian route, and Iran (along with British and Russian spheres of influence) controlling the Persian border. And just as the Ottomans had local agents, the British did too.

---

[195] Ibid.

[196] NAI-FD/SEC April 1880 79-82 ("Alleged correspondence of the Sultan of Turkey and Osman Pasha with Mussulmans in India").

[197] NAI-FD/SEC March 1880 71-91 ("Affairs in Central Asia and Afghanistan").

[198] Özcan*, Pan-Islamism,* 51.

For example, it should not be forgotten that the Niẓām of Hyderabad sent a contingent of troops to fight alongside the British Crown's troops in the Afghan campaign.[199] Even among the Muslim population extremely loyal to the British, they couched their concern for events in Afghanistan in carefully worded language that also conveyed their concern. For example, The Mahomedan Literary Society of Calcutta wrote in a letter to the Viceroy and Edward Robert Lytton, Governor-General of India, dated July 14, 1879, as follows,

> For good or for evil, all past history teaches us there has been always an intimate political intercourse between Afghanistan and India, and permanently to exclude Afghanistan from the sphere of Indian politics is an impossibility. The element, therefore, being a constant one, it gladdens the hearts of all loyal subjects of this Empire to perceive that, so far as human foresight could provide, provision has been made that henceforth that constant element should be counted as a favorable item in all political calculations. As subjects of Her Imperial Majesty, we rejoice at the success and *prestige* which has attended on the efforts of war and diplomacy, and at the additional security thereby acquired for this Empire. At the same time, we are glad, as Mahomedans, to find, that the Kingdom of Afghanistan is again placed on a secure basis, with every prospect of existing as a strong, prosperous, and independent State.[200]

In this way, when most Indian Muslims leaders chose to voice their concerns to the British Government of India, the predominant mode of expression was still in a language of deference and "loyalty." Revolutionary rhetoric of overthrowing the British was not yet a popular means of mobilization and discourse at this time. In contrast to the revolutionary discourse that would emerge from a variety of Muslim, Hindu and Sikh leaders decades later in World War I and in the lead-up to the independence movement in India, the language here may sound obsequious in comparison. Be that as it may, there is no doubt it was anchored in a language of triumphalist pride, prestige, and security of the British Empire, to which prominent Indian Muslim elites were still committed to—in some cases, even over and above their affection for and "loyalty" to the Ottoman sultan.[201]

There are other examples of Muslim "levers" the British continued to take advantage of, in spite of increasing Ottoman attempts to do the same for their own interests. Foreshadowing British interventions and ties with the Ḥijāz decades later, the Sharif of Mecca refused the Afghan Amir Sher 'Ali's call for a fatwā against the British. In a telegram from J. Zohrab, Esq., British Consul at Jeddah to Marquis of Salisbury, Secretary of State for Foreign Affairs, dated March 12, 1879, it reads, in what appears to be even earlier stages of the Sharif's correspondence with the British decades before the more well-known Sharif-McMahon correspondence during World War I,

---

[199] NAI-FD/GNL/B/Sup December 1878 151-155 ("Employment or service of the Hyderabad Contingent Cavalry during the Afghan Campaign").

[200] NAI-FD/S.S. September 1879 179-361 (No. 333).

[201] Özcan*, Pan-Islamism,* 74. On the complexity of these two prominent late nineteenth century Indian Muslim leaders, Özcan aotly notes, "[B]oth Nawab Abdul Latif and Sayyid Aḥmad Khan were as enthusiastic as any other Indian Muslim in raising subscriptions for the Ottoman relief funds during the war. Later on, however, Sayyid Aḥmad Khan was to disassociate himself altogether from the Ottoman cause and refuse the claims that the Ottoman Sultan was the Caliph of all Muslims." Ibid.

> THE High Sheriff of Mecca has, under a pledge of the strictest secrecy, informed me through my Dragoman, Yūsuf Beg, who returned from Mecca yesterday, that prior to the war with Afghanistan he received a letter by special messenger from Shere Ali, in which His Highness was earnestly requested to state, in reply, whether, seeing the Government of India ill-used and oppressed the Indian Mussulmans, the Mussulmans would not be justified in taking up arms against the Government in aid of Afghanistan. His Highness saw the object Shere Ali had in view in seeking for such a document, and well knowing that a declaration of this kind, emanating from the highest Mussulman ecclesiastical authority, would prove most mischievous, he refused to give the opinion: he replied that, being on the most friendly terms with England, and feeling convinced that England was humane and just in her rule over Hindustan, he could not credit assertions to the contrary, and would not give an opinion prejudicial to her interests. The Sultan having also sent a mission to him (the Amir) to convey the disapproval of Her Majesty at the policy of the Amīr, he was bound to bow to that opinion.[202]

As Selim Deringil has argued, the Ottoman regime of Sultan Abdülhamid proved a versatile and formidable rival to British and Russian imperial competitors. Facing vastly reduced territories, large inflows of Muslim refugees from territories they formerly ruled, and an economic crisis, the officials of the bureaucracy that Abdülhamid built maneuvered deftly under extremely pressing conditions.[203] As Özcan notes,

> Contrary to the assertions of many Westerners, there is no evidence to the effect that Abdülhamid ever claimed political sovereignty over the Muslims outside his dominion. But he was persistent in exercising his Caliphal rights to appoint religious officials to the former Ottoman territories, now under foreign rule, in order to maintain his influence among the Muslim residents of these territories, as well as to meet their religious needs. Thus he, personally selected and appointed some of the *muftīs, qadis* and teachers who were sent to Egypt, Cyprus, Bulgaria, Crimea, and Bosnia-Herzegovina.[204]

---

[202] NAI-FD/SEC July 1879 34-37 (No. 36) ("Mecca Sharif's offer to communicate with Afghan Chiefs in sense favorable to views of Government"). This document is also deeply informative for its exposition on the complex relationship of the Ottoman Sultan and the Sherifate of the Ḥijāz. For example, in another section the reporter proceeds to describe the religio-political power dynamics between the Sultan and the Sherif, and how the former was more constrained in his interactions with the latter than an initial reading of his preeminent role as Sultan-Caliph would imply:

> The Sherifate is not an appointment of which the Sultan can dispose at will, it is hereditary, but as there are two families who claim the same descent from the Prophet, the family of Devi Aun, a member of which is now Sheriff, and the family of Devi Zed, the representative of which is at Constantinople, the Sultan without any act of usurpation can remove the member of one family for a member of the other, but this power he would only exercise when urgently called upon, for the Sheriff is regarded with far too great veneration by all Mussulmans, and his desposition, without serious cause, would most probably create serious trouble… The Sultan is acknowledged as the elected leader of the Mahomedan religion, the Sheriff is recognized as the direct descendant of the Prophet and head of the faith.

Ibid. Similarly, a revived Wahabbi movement continued to harass Ottoman officials and stations in Arabia, another lever which the British would use to their advantage. See, for example, NAI-FP/B April 1874 22-27 ("Turco-Wahabee affairs"). This report discusses battles between Ottoman forces and Wahabbi rebels as reported by British from Bahrein.

[203] Selim Deringil, *The Well-Protected Domains: Ideology and the Legitimation of Power in the Ottoman empire, 1876-1909* (New York: I.B. Tauris, 1999).

[204] Özcan*, Pan-Islamism,* 52.

It is this latter point that is crucial for our purposes—Sultan Abdülhamid took the appointment of international "religious" functionaries in and outside his empire quite seriously, though we a more proper term here would be *juridical* officials, as evident in his selection of Hulusi Efendi as first Ottoman ambassador to Kabul. This vast transcontinental network of administrative and diplomatic institutions is probably the greatest difference distinguishing Ottoman from Afghan Pan-Islamic activity. The latter did not have anywhere near the infrastructure and experience of international diplomacy as did Istanbul. Hence, one contemporary British official observed,

> On one point I am inclined to differ from Major Henderson. I attach much more importance to the influence of Stamboul on India than to the influence of Afghanistan. The Afghans are too well known, as fierce barbarians, to be much respected as religious leaders and brethren in India; and when the Afghan war has ended the present political sympathies with the Afghans will quiet down; though I believe this war will have effects of *another* kind on Indian politics. On the other hand, I have for some years held that the interest of Mahomedans in the fortunes of the Turkish Sultanate is keen and growing, and I believe that the collapse of the Osmanli power will be much felt in India. No Mahomedan of political instincts and ambition can fail to realize the serious blow to Islam that the Sultan's fall must involve.[205]

Perhaps the British official did not realize that the question of whether Istanbul or Kabul was more influential in India was a mute one. As I have endeavoured to highlight in the work of Azmi Özcan's magnum opus supplemented by my own archival findings for this period, it was the tripartite nexus of all *three* cities that the British would have to be increasingly worried about.

– • –

In the next section, we return to the same period of the last two decades of the nineteenth century, but instead of the broad overview of a rejuvenated tripartite nexus between the Ottomans, Afghans, and Indian Muslims discussed in this chapter, we focus on one crucial urban space within it—Kabul. In 1879, Amir Sher ʿAlī, the Afghan monarch whom the Porte dispatched the prominent Ottoman Islamic scholar Ahmed Hulusi Efendi as an envoy to in an effort to build a Pan-Islamic entente, abdicated in the face of turmoil initiated by mounting British intervention in the frontier, and ever-present threat to his life and throne. In the power struggle that ensued in 1879-1880, a new amir assumed the Afghan throne in the capital city following the abdication of Sher ʿAlī Khan. Far from simply another violent dynastic succession in Kabul, upon his ascent to power Amir ʿAbd al-Raḥmān would launch the most ambitious—and brutal—modern state-building project in Afghanistan's history, up to that point in time. By exploring the juridical edifice constructed by the "Iron Amīr", as Afghan historians remember ʿAbd al-Raḥmān, as well as his recruitment of Ottoman and British Indian expertise in his court beginning in 1879-1880, we will take the first steps towards rediscovering Afghanistan's legal and administrative history a full century before most contemporary commentators, and even some historians, trace the rise of a modern bureaucracy, army, and judicial corps in the country.

[205] NAI-FD/SEC March 1881 45-90 ("Mussulman intrigues between Constantinople and India").

1979, of course, bears the unique distinction of a watershed year engrained in both collective memory *and* academic scholarship on the Middle East, in the region itself and the United States. It is largely remembered as a year of rupture, primarily because of the twin geopolitical "earthquakes" of the Iranian Revolution and the Soviet invasion of Afghanistan, both sending shockwaves throughout the region and much of the world, and amazingly, occurring only months apart. The former is most commonly remembered for having established the first modern "Islamic state" in the region; the latter for attempting to build the first centralized bureaucracy and state-driven economy in Afghanistan's history. Common as these notions are, a rediscovery of Afghanistan in the ʿAbd al-Raḥmān era will illustrate how both assessments are off the mark—and both exactly by a century.

IV
INSIDE THE IRON AMĪRATE: EXPERTS AND ADMINISTRATIVE EXCHANGE IN THE COURT OF ʿABD AL-RAḤMĀN KHAN, 1880-1901

> "During my residence in Tashkand I formed the acquaintance of three persons…one, the son of an ecclesiastic of high rank, and the two others, the sons of the Prime Minister of America. I am going to write them to send me three miners of their country well versed in their art, so that they may explore the mines of this country, as it abounds in mines of gold, rubies, turquoises, iron, &c."[206]
>
> - Amir ʿAbd al-Raḥmān Khan, in conversation with the British Representative at Kabul (1883)

> "The question seems to me whether we should absolutely decline to accede to the employment of Americans or Europeans in Afghanistan, on the grounds (1) that their lives would not be safe, and that any injury to them would cause trouble, in which we would necessarily be involved; and (2) that we could not trust Americans or Europeans, not being British subjects, unless they were chosen by us…"[207]
>
> - British Foreign Department, Political Branch File on Afghanistan (1883)

In this section, I explore how the new reigning autocrat in Kabul, Amir ʿAbd al-Raḥmān Khan (r. 1880-1901), began a relentless search for the administrative hardware and expertise to govern his country with an iron-fist. I argue that while British and Russian experts played a minor role in his court, ultimately, he looked to the Ottomans with admiration as a modern "Islamic state" *par excellence* for his greatest inspiration. My goal here is to augment the excellent monographs and scholarship of Hasan Kakar, Ashraf Ghani, but most of all, Amin Tarzi on the ʿAbd al-Raḥmān era by highlighting the understudied Ottoman role in the "Iron Amīr"'s centralization campaign in Afghanistan during the last two decades of the nineteenth

[206] NAI-FD/A-Political-E Precis-Docket October 1883 71-73 ("The Amir of Afghanistan's intention of obtaining the services of American miners").

[207] Ibid.

century.[208] Utilizing records from Afghan, British Indian, and Ottoman archives, in addition to considering the breakthrough contributions of recent scholarship on the ʿAbd al-Raḥmān era by Kakar, Ghani, and Tarzi, I trace the examples of Ottoman exchange and expertise with Amir ʿAbd al-Raḥmān, revising historiographical assumptions that the British and Russians were the sole experts in the court of Kabul.

– • –

There is a general consensus among historians of Afghanistan that the beginnings of a modern state in Afghanistan are to be found in the reign of Amir ʿAbd al-Raḥmān Khan (1880-1901). The usually offered reasoning is that it was not until the reign of ʿAbd al-Raḥmān—the so-called "Iron Amīr"—that firm borders were established and ratified by treaty, the first country-wide codifications of law were promulgated, and a sophisticated network of national courts, were instituted throughout the country. As Daniel Balland has summarized,

> ʿAbd al-Raḥmān also introduced innovations in the social and economic spheres. Although it is difficult to imagine that the abolition of the levirate (1300/1883) and slavery (1895) had immediate effects, such measures contributed to a change in intellectual climate. Internal exchange benefited from a campaign against highwaymen and an ambitious policy of constructing strategic roads, bridges, and caravanserais. A state monopoly extended meddlesome control over a large part of the country's internal and external commerce. European industrial technology made a debut when the amir personally recruited English and Indian specialists to construct and direct a whole range of small civil and military industries. English doctors opened the first public clinic in 1895.[209]

While Balland also notes that "all of this lacked coherence and remained superficial, since it was concentrated in Kabul," and other important realms of social life—namely, education, press and travel freedoms—were largely neglected, if not purposively stifled, on the whole he describes the Iron Amir's accomplishments as "positive."[210] Here, Balland is surely referring to the autocrat's establishment of "a strong state" infrastructure, including recognized boundaries and maps of the country for the first time, but perhaps marginalizes the extreme

---

[208] The most thoroughly-researched works devoted to the ʿAbd al-Raḥmān era in English are M. Hasan Kakar's *Government and Society in Afghanistan: The Reign of Amir 'Abd al-Rahman* Khan (Austin: University of Texas Press, 1979), Amin Tarzi's 2003 dissertation "The Judicial State: Evolution and Centralization of the Courts in Afghanistan, 1883-1896," Ph.D. Dissertation (New York University, Department of Middle East Studies, 2003), and Ashraf Ghani's studies of court records in the same era, including two scholarly articles, a doctoral dissertation, and a master's thesis devoted to the subject. Ghani, Ashraf, "Islam and State-Building in a Tribal Society: Afghanistan 1880-1901," *MAS* 12 (1978): 269-284; "Disputes in a Court of Sharia, Kunar Valley, Afghanistan: 1895-1890." *IJMES* 15 (1983): 353-367; "Production and Domination: Afghanistan, 1747-1901." Ph.D. Dissertation, Columbia University, 1982; and "State-Building and Centralization in a Tribal Society: Afghanistan, 1880-1901." M.A.Thesis, American University of Beirut, 1977. In light of its recent discoveries, I will pay special attention to Amin Tarzi's work in this section of the chapter.

[209] Balland, D. "Afghanistan, Political History," *Encyclopaedia Iranica*, Vol. I, Fasc. 5 (1983): 547-58.

[210] Ibid.

brutality with which the "Iron Amir" employed in achieving these goals.[211] So as to dismiss any premature notions of liberalism taking root in this period, we should also note the period witnessed the first extension of a nation-wide network of spying and intelligence gathering as well as the brutal public display of punishments. All these institutional "reforms" speak to the first time one national central authority was perceived to have extended "uniformly"—though this was likely far from the case in practice—across the territory of the modern state of Afghanistan.

The distinction and sense of exceptionalism of Amir ʿAbd al-Raḥmān's reign stems not only from the novel accomplishments of the "Iron Amir" himself, nor even his extensive and unprecedented state administration, but may also have to do with the paucity of sources on the Afghan rulers *before* him. For this reason, historians and observers have often made the mistake of assuming that no legal system existed in Afghanistan before ʿAbd al-Raḥmān.[212] The claim,

---

[211] Ibid. The extremely brutal tactics and legacy of state terrorism employed by the "Iron Amir" are a consistent theme in each of the aforementioned works on the autocrat's two-decade reign, particularly with regard to the Hazarahs and other non-Pashtun minorities, though he hardly spared recalcitrants among his own ethnic group from torture, forced displacement and exile, and execution. For a summary of his atrocities in this regard, see Barfield, *Afghanistan: A Cultural and Political History,* 146-158 and Saikal, *Modern Afghanistan,* 36-39.

A far less brutal but additional tragedy nonetheless in the making during Amir ʿAbd al-Raḥmān's state-building campaign was the amir's border demarcation agreements with the British, including the famous Durand Line Agreement of 1893. In its vertical divison of the Sulayman mountain range, the latter agreeement effectively surrendered Afghan control over the major routes to the Indus valley, as well as denaturalization of nearly half of the indigenous Pashtun population in the Indo-Afghan frontier. With the stroke of a pen, the inhabitants of the eastern sude of the Durand Line effectively became British Indian, and not Afghan, subjects, in spite of historic ties of language, family, and trade with what was to become "Afghanistan" proper. Needless to say, this laid the roots of ongoing Pashtun irredentism, nomadic populations whose grazing and mercantile routes were disrupted, as well as an intractable conflict between Afghanistan and its eastern neighbor Briitsh India and, later, Pakistan.

[212] Christina Noelle's work on the Amir Dost Muḥammad Khan era (1826-1863) is one of the rare exceptions that has helped address this historiographical gap. Chirstina Noelle, *State and Tribe in Nineteenth Century Afghanistan: The Reign of Amir Dost Muḥammad Khan, 1826-1863* (London: Curzon Press, 1997). Also see Ashraf Ghani's encyclopedic entry on Administrative history of Afghanistan, where on the administrative system of Amir Dost Muḥammad, he notes,

> The system devised by Dōst Moḥammad invested the prince-governors with maximum military, financial, and administrative powers, but it was kept functioning only by the ties between a father and his sons; with Dōst Moḥammad's death, it collapsed. Civil war raged from 1279/1863 to 1285/1868, when one of his sons, Šēr ʿAlī, imposed his authority over the whole country. He embarked on a number of basic administrative reforms. In Ḏu'l-ḥeǰǰa, 1286/March, 1870, he established a thirteen-member council to advise him on affairs of state; subsequently, the council became a cabinet. The office of *ṣadr-e aʿẓam* (prime minister) was created and ministerial positions were filled with a cross-section of society. Šēr ʿAlī took a close interest in the expenditure of state resources and refused to entrust his sons with administrative positions, relying instead "on dependents who owed all to himself." But his major preoccupation was to reorganize the army. Not only did he increase the size of the standing army, but he also embarked on an ambitious program of constructing workshops for the local manufacture of military needs. To pay for these undertakings, he increased existing taxes and imposed new ones. In short, the size and functions of the administration expanded rapidly during this period. But Šēr ʿAlī's reign came to an abrupt end in 1296/1878 with the second unsuccessful British invasion.

Ashraf Ghani, "Afghanistan, xi. Administration," *Encyclopaedia Iranica*, Vol. I, Fasc. 5-6, (1983): 558-64 (omitting citations). While the most powerful refutations of the aforementioned historipgraphical assumptions would be based on documents in the Afghan archives, there are glimpses, perhaps surprisingly, from even the British Indian archives on the modern precedents of Amir ʿAbd al-Raḥmān's state-building campaign which authors like Kakar and Ghani largely focus on. For a rare macro-economic study and one of the earliest published "budgets"

asserted by apologists for ʿAbd al-Raḥmān as well as foreign observers, assumes that Afghanistan was nothing but a land of wild tribes before the Iron Amir. That ʿAbd al-Raḥmān Khan is the most recorded ruler in Afghan history has only added to the personality cult among historians, and even some contemporary advisors to Afghanistan's state-building process, who seem to imply the autocratic monarch was a "model" of central authority in one of the most "ungovernable" countries in the world.[213]

There is an added problem with the historiography of Afghanistan that has exacerbated the historiographical overemphasis on the individual ruler and his cult of personality. Folk tale spinners and even some historians alike have tended to exaggerate, or at least focus on, some of the idiosyncratic aspects of his personality and highly personalized rule, overlooking institutional developments established under his reign. Until the recent excellent studies of three scholars—Hasan Kakar, Ashraf Ghani, and most recently, Amin Tarzi—histories of Afghanistan were replete with the personality cult of Amir ʿAbd al-Raḥmān with little written on the topic of institutional history or day-to-day administration of his government. As for the cause of such historiographical overemphasis, Amin Tarzi concludes that extent historiography on the ʿAbd al-Raḥmān era tend to focus on the amir's gruesome and exotic methods of execution, rather than on the extensive network of judicial institutions, of which new state-administered punishments were but one part.[214] "[T]he personal activities of ʿAbd al-Raḥmān have been accorded a disproportionate significance when compared to the structures he inherited and modified or created," he notes in the introduction to his dissertation, "although there is an inextricable relationship between the person and the institutions."[215]

Of all these works, the studies of Ashraf Ghani and Amin Tarzi go the farthest in examining the foundational institutions Amir ʿAbd al-Raḥmān established in building the national state of Afghanistan.[216] Ashraf Ghani's study stand apart as the first and only study to access provincial court records in Afghanistan of the late nineteenth century as a window into Amir ʿAbd al-Raḥmān's centralization campaign through law. He argues that for ʿAbd al-Raḥmān, Islam was not just the religion of the vast majority of Afghans, but the fulcrum upon which he would simultaneously propel, impose, and negotiate his state centralization agenda. For the first time ever, according to Ghani, an Afghan ruler imposed the Sharīʿah as the supreme law of the land over and above what he argues are competing legal systems, namely the pluralistic tribal customs of Afghanistan's diverse ethno-linguistic groups and tribes (or "arbitrary" whims of local district governors and strongmen), throughout the territory of

---

of the Afghanistan government, for example, outlining revenue versus costs of administration, and gathered somewhat eclectically from nearly all provinces and regions of the country from as early as the late 1850s but focused primarily on the 1870s and rule of Sher ʿAlī Khan, see NAI-FD/SS Jan 1880 536-544 ("Afghanistan. Its revenue and cost of administration").

[213] Note, for example, the concluding recommondations offered in this regard in Tarzi, "The Judicial State," 308.

[214] Tarzi, "The Judicial State," 10.

[215] Ibid., 4.

[216] Tarzi astutely notes here that historians of the era have been overly focused on the amir's "authoritarian personality…rather than on the result of his actions," and thereby "discounting the possibility that ʿAbd al-Raḥmān may have had a larger and more systematic conceptual framework." Ibid., 15.

Afghanistan. Ghani shows that a primary means of achieving this goal were the institution of uniform courts and codes across the social and cultural patchwork of the country.[217]

As both Ghani and Tarzi argue, Amir ʿAbd al-Raḥmān primarily used Islam—and Islamic law specifically—to justify and implement his centralization and state-building program. In this regard ʿAbd al-Raḥmān's vision for a consolidated administrative structure that reached deep into Afghan society as it did all over the country maps on to Weber's theory of modern state formation. This is especially the case with a common transition from "patriarchal and patrimonial system of administration" to a "technical and effective bureaucratic system," and more famously, for 'traditional authority' to be replaced by Weber's "rational" or "legal" authority. As Tarzi explains, "'ʿAbd al-Raḥmān sought to monopolize the enforcing power to establish his rational and legal authority over the society which he was trying to organize under a centralized state structure.[218]

In his study of rare documents from the Russian, Uzbek, and Afghan archives, Tarzi adeptly martials Afghan government records from the 1880s and 1890s—particularly of the judicial branch—in various districts of the country. Examining previously unstudied royal decrees (*fîrmāns*), autobiographical notes, administrative law codes, and secret correspondence with local administrators in Khust and Kuhdaman provinces, Tarzi concludes that "Any hope for success in implementing judicial reforms depended on formalizing and distributing the amir's regulations in text form to officials throughout the country."[219] For this reason, a key part of Tarzi's study are the administrative codes (*Niẓāmnāmā/kanunnames*) of the Amir ʿAbd al-Raḥmān era that sought to introduce efficiency, surveillance, and streamlining of the government machinery on an unprecedented scale in Afghanistan. But the two texts which Tarzi's places most emphasis are ʿAbd al-Raḥmān's autobiography, *Pandnamah-yi dunya wa din*, and an instruction manual for qazis and other juridical officials in the country's newly established network of Sharīʿah courts, *Asās al-Qāḍāt*.[220] Both published in 1885, these two works were the foremost judicial tools of centralization Amir ʿAbd al-Raḥmān would employ in his struggle to impose uniform rule throughout Afghanistan. The former spread the cult of personality of ʿAbd al-Raḥmān as a supreme, untouchable ruler, symbolizing an absolute state. The latter represented the detailed instructions juridical institutions would in seeking to establish one uniform model of justice throughout the country.

The documents Tarzi discusses in his study are extremely important for our purposes because they represented the foundations of a modern state and juridical field in Afghanistan under Amir ʿAbd al-Raḥmān. Here I employ Bourdieu's concept of the "juridical field" to highlight how ʿAbd al-Raḥmān sought to unite and control multiple, competing juridical fields

---

[217] Ghani, Ashraf, "Islam and State-Building in a Tribal Society: Afghanistan 1880-1901." *MAS* 12 (1978): 269-284; "Disputes in a Court of Sharia, Kunar Valley, Afghanistan: 1895-1890." *IJMES* 15 (1983): 353-367; "Production and Domination: Afghanistan, 1747-1901." Ph.D. Dissertation, Columbia University, 1982; and "State-Building and Centralization in a Tribal Society: Afghanistan, 1880-1901." M.A.Thesis, American University of Beirut, 1977. See also Tarzi's review of Ghani's work in "The Judicial State," 17.

[218] Tarzi, "The Judicial State," 18.

[219] Ibid., 20.

[220] For an original copy of the second edition of *Asās al-Qāḍāt*, published in 1893/94, see ADL 0124/0603 (1311 [1893/94]) (Aḥmad Jān Alkuzai, *Asās al-Qāḍāt, 2nd edition*). For an original copy of the first edition, see ADL 0129 (1303 [1885/86]) (Aḥmad Jān Alkuzai, *Asās al-Qāḍāt; sharḥ-i ḥuqūq wa jazā*).

scattered across Afghanistan into one central court system. While much more research remains to be done to determine to what degree ʿAbd al-Raḥmān actually succeeded in his goal, it was not until the reign of grandson, Amir Amān-Allāh Khan (1919-1929), that an Afghan ruler would try again on such a grandiose scale to impose central authority on the whole country. But we are getting ahead of ourselves. We now turn to the juridical accomplishments of Amir ʿAbd al-Raḥmān, beginning with his rise to power following yet another dramatic war between the Afghans and the British.

From the Second Anglo-Afghan War (1878-1880) to a New Amir in Kabul

In the mid 1870s, with the British having occupied Quetta, top of an earlier invasion of Afghanistan and war in the century, reigning Afghan amir in Kabul Sher ʿAlī Khan had reasons to be cautious of British intentions. For these reasons he tilted towards closer ties with Russia, inviting a Russian envoy to the Kabul court in 1878. Like the outcome of when his father Amir Dust Muḥammad invited a Russian envoy to Kabul forty years earlier, this led to a chain of events that, eerily, was reminiscent of events forty years earlier in the First Anglo-Afghan War, and would also repeatedly rear its head in Afghan politics nearly exactly a century later. Fearing Moscow's influence was far too strong in Kabul, and barely a year after the conclusion of the Ottoman mission, Lytton had ordered the amassing of another British army to invade Afghanistan. Feeling the pressure mount, by late 1878 Amir Sher ʿAlī Khan had fled Kabul to the north, aiming to reach Russia and pull Moscow into an international settlement of the conflict with Britain.

Like his father, Amir Dust Muhammad, Amir Sher ʿAlī also failed to persuade the Russians to intervene in his favor. He later died at Mazar-i Sharif, broken and abandoned. In the meantime, his son Sardār Muḥammad Yaʿqūb Khan, who was serving as regent in Kabul in his father's absence, was proclaimed amir and ascended the Afghan throne in February 1879. The change of the guard in Kabul mattered little to the British, however, for whom the die was already cast. Sher ʿAlī's tilting towards the Russians was one thing; his fleeing to Moscow was the last straw, or the ideal excuse, for the British to finally intervene as planned. The invasion that followed between the Afghans and the British, the second one of the nineteenth century, would result in a dramatic redrawing of relations and boundaries between the Afghans and the British in India.

In November 1878, Britain declared war on Afghanistan, citing Russian advancement as the *causa bella*. In the months that followed, the British army—using a majority of Indian soldiers—won a number of decisive battles against a disorganized and splintered Afghan resistance in the frontier and Indo-Afghan borderlands. Sensing the imminent invasion and capture of Kabul at the hands of the British, Amir Muḥammad Yaʿqūb relented and pressed for peace in the hopes of keeping his kingdom.[221]

---

[221] Tarzi, "The Judicial State," 65-68; Saikal, *Modern Afghanistan,* 33-35; Dupree, *Afghanistan,* 403-413. The brief political history in this chapter section is adapted from the excellent and concise chronologies offered by Amin Tarzi, Amin Saikal, and Louis Dupree. For a more detailed political history of 'Abd al-Raḥmān Khan's campaign for the Afghan throne and consolidation of authority under his rule, see M. Hasan Kawun Kakar's *A Political and Diplomatic History of Afghanistan, 1863-1901* (Leiden: Brill, 2006); *Government and Society in Afghanistan: The Reign of Amir 'Abd al Rahman* Khan (Austin: University of Texas Press, 1979). For a British officer's account of this period and its events from the persepective of India, see Colonel T. Hungerford Holdich's *The Indian Borderland: 1880-1900* (Delhi: Gian Publishing House, 1987), originally published in 1909.

The Treaty of Gandamak (1879)

A treaty was signed on May 26, 1879 at the small village of Gandamak, near Jalalabad, between Amir Muḥammad Yaʾqūb and the British envoy, Major Louis Napoleon Cavagnari. The Treaty of Gandamak was overwhelmingly in favor of British interests, and has therefore been described as among the most "degrading" signed by an Afghan ruler, bartering away the strategic Kurram Valley, Sibi and Pishin—all crucial borderland areas along the Indo-Afghan frontier—to India. This had the practical result of splitting half of the indigenous Afghan population, imposing a division that thereafter divided "Eastern" Pathans from "Western" Pashtuns.[222] What is more, in addition to reducing Russian influence in the Kabul court and securing agreements from the Afghan amir to bring Afghanistan into the British sphere of influence, the India also gained administrative control over three key frontier districts: Kurram, Sibi and Pishin, the latter including the crucial frontier city Quetta and district of Waziristan. On top of all this, the British imposed the right to maintain "representative of the British Government" in the Kabul court. This was a highly coveted concession which the British sought since the government of Lord Dalhousie, and which a jealous Moscow had not been able to secure so openly and successfully. As the British celebrated in London and Simla, embittered Afghans in Kabul and elsewhere intent on expelling the British regrouped amid one of the more devastating defeats in the country's history.[223]

Soon thereafter, the freshly-knighted Sir Cavagnari was chosen as the British resident in Kabul and arrived there in July 1879. But as had happened before, and would repeat itself albeit under distinct historical conditions again, British forces in Afghanistan soon learned that though they had won the war only to lose the peace. A rapidly won-war soon turned into a disastrous array of skirmishes, and guerilla insurgencies. On September 1879, in an attack reminiscent of events in 1842, bands of Afghan militias ambushed and killed Cavagnari, his entire European staff, along with the majority of his Indian troops.[224] Cavagnari's fiasco sent shockwaves through the British Indian Government, London, and the British public. Just barely two decades after the Indian Mutiny, British newspapers were quick to condemn what were widely believed to be confirmations of Muslim savagery and barbarism, of which the Afghan supposedly represented a particularly virulent extreme. The reaction from the British Indian Government was swift and ruthless. Calcutta dispatched a retaliatory force to Afghanistan, with General Frederick Roberts at the command of the Kabul contingent. Meanwhile in Kabul, in spite of denouncing the attack and claiming to have no role in it, the reigning Amir Muḥammad Yāʿqūb was quickly "arrested" by British forces, with the secret assistance of some leading nobles of the Muḥammadzai clan in Kabul. With no reigning power on the Afghan throne in Kabul, the stage

---

[222] Saikal, *Modern Afghanistan*, 34; Dupree, *Afghanistan,* 409. As Amin Tarzi has further observed on the degrading nature of the treaty, the agreement resulted in the "forced division of the Pashtun lands in the south and east left the emerging Afghan state with only half of its original constituents, and pushed it further away from the ports of the Indian Ocean." Tarzi, "The Judicial State," 64.

[223] Ibid., 67-68; Saikal, *Modern Afghanistan,* 34; Dupree, *Afghanistan,* 403.

[224] According to Fayẓ Muḥammad Kātib, Muḥammad Yaʿqūb had failed to pay his troops for two consecutive months and the soldiers had arrrived at the British embassy to demand their wages, whereupon British guardsmen opened fire and killed several, resulting in subsequent mayhem at the embassy. Tarzi, "The Judicial State," 69.

was set for another competition for power, with an extremely wary British eager to impose a choice of their own.[225]

Meanwhile outside of Kabul the loosely organized segments of a scattered Afghan resistance began to came together under the leadership by a charismatic general in the Afghan army, Muḥammad Jān Khan Wardak. As prominent and influential *Mawlawīs* and *'ʿulamāʾ'* on both sides of the Indo-Afghan border, and some wealthy landowners outside Kabul pitched in their support to the declared popular jihad against the British, they also threw in their support behind recently Muḥammad Jān whom they honored with the title of *Ghazi*.

In the midst of the growing rebellion against British forces in Afghanistan, there was also a changing of the guard taking place in London as elections resulted in the fall of Benjamin Disraeli's Conservative government and resurgence of a Liberal government under William Gladstone. With the resignation of Lord Lytton in 1880, the aggressive British "forward policy" in Afghanistan was replaced by the revival of a more restrained "masterly inactivity" approach favored by Lytton's replacement by the new Governor-General of India, George Ripon (1880-1884). The distinguishing features of British policy in the period was known as a "policy of disintegration", which favored a three-part division of Afghanistan, which would cease to be a unitary state. According to the plan as originally proposed by Lytton, Qandahar was to remain under British control, with a titular Afghan figurehead posted as governor. Herat and Afghan Sistan would to offered to the Shah in Iran, in exchange for the latter's breaking ties with Russia, thereby bringing greater Khurāsān and strategic Caspian in the British sphere of influence. Kabul and Afghan Turkistan, meanwhile, would be under the jurisdiction of an Afghan amir but still with indirect British control.[226]

The plan would not come into effect. Rather, the British faced a rising conflagration of revolts and rebel attacks, including a prominent role played by cross-border Pashtun tribal militias and religious leaders in the rebellion. The latter was becoming a matter of increasingly threatening nature to the British Indian Government, which even London was taking note of. Ultimately, however, without a clearly identifiable Amir whom Afghan nobles of the influential Muḥammadzai clan would support, there was a danger to all parties of the post-invasion conflict spiraling out of control. All sides began to look for a new Amīr, including the British and Russians.[227]

It is in this context and vacuum of power that ʿAbd al-Raḥmān Khan returned to the scene in Afghanistan, with the support of Muḥammadzai princes, but also with both British and Russian approval and assistance. On January 7, 1880, select papers in the British press announced the arrival of prince ʿAbd al-Raḥmān Khan in Badakhshan from Russian-controlled central Asia. "[F]rom the outset of his arrival on Afghan soil," notes Tarzi, "he had portrayed himself as the savior of Afghanistan from the foreign yoke and the restorer of Islamic order in the country, two of the main demands of the anti-British resistance."[228] The positioning and

---

[225] This implication is also originally the argument of Afghan court historian Fayẓ Muḥammad Katib, discussed in Ibid., 70-71.

[226] Ibid., 71-73.

[227] Ibid., 64-65; Saikal, *Modern Afghanistan*, 34-35; Dupree, *Afghanistan,* 410. For a primary source document on the transborder role of Pashtun tribes, Indo-Afghan ʿulamāʾ, other socio-religious leaders in the conflict, see NAI-FD/SEC January 1879 157-161 ("Circular by 'Ulemas' of Afghanistan inciting people to war against the English").

[228] Tarzi, "The Judicial State," 84.

rhetoric of protecting Islam and expelling foreign invaders paid off for ʿAbd al-Raḥmān. Quickly consolidating power in the northern provinces of Turkistan, ʿAbd al-Raḥmān and his forces gradually encroached on Kabul. Tired of expensive and devastating war in Afghanistan, the British also warmed to peace. On July 22, 1880, in gathering of Afghan notables and British officers in Kabul, ʿAbd al-Raḥmān Khan was proclaimed "Amir of Kabul." Almost immediately Friday sermons were read with mention of his name, and government coins were minted in his name.[229]

In spite of the seething anti-imperial rhetoric of ʿAbd al-Raḥmān Khan, at the base of his rise to power was a series of implicit agreements with the British on the terms of his ascending the Afghan throne. A crucial aspect of this was respecting and indeed complying with the British vision of Afghanistan as a "buffer"—or as Amir ʿAbd al-Raḥmān referred to himself, a "curtain"—between the colonies of Britain and Russia.[230] In exchange for accepting the amirate of Afghanistan, ʿAbd al-Raḥmān Khan was reported to have agreed to the following four terms with the British:

1. The British government would never and on no occasion impose obligations (*taklif)* on the state of Afghanistan.
2. In case a foreign state intends to invade the territory of Afghanistan, the said state would rise to its [Afghanistan's] assistance and would take its [Afghanistan's] defense upon itself.
3. His Majesty is to be entrusted with the deeds on agreements over border demarcation lines between Afghanistan and the states of Russia and Iran.
4. To tie the thread of friendship and the know of concord, the annual sum of twelve laks [1,200,000] English rupees is to be paid continuously to the state of Afghanistan.[231]

In spite of the truce in Kabul and apparent resolution of the power vacuum, the war was not over outside of Kabul. On July 27, 1880, less than a week after British recognition of ʿAbd al-Raḥmān as amir of Kabul, another rising Afghan commander named Sardār Muḥammad Ayyub Khan handed British forces stationed in Qandahar a stunning defeat at the famous battle of Maiwand. A small village about 70 kilometers west of Qandahar, the battle of Maiwand is etched in to the national consciousness of Afghanistan with themes of courage, valor, and independence.[232]

In spite of their charismatic victories, however, neither Muḥammad Jān nor Muḥammad Ayūb Khan would reap the fruits of their victory, in real political terms at least. Rather, as the new officially recognized monarch, Amir ʿAbd al-Raḥmān would reap the political spoils of this war. On August 11, 1880, the last of British troops withdrew Kabul. By November, the British even offered to withdraw their troops from Qandahar, providing the new Amir with ideal

---

[229] Ibid., 89.

[230] Ibid., 101.

[231] Quoted in Ibid., 103. For an original copy of the third volume of Fayẓ Muḥammad's magnum opus, *Siraj al-tawārīkh* (1915), see ADL 0009 (1333 [1915]) (Fayẓ Muḥammad Kātib, *Siraj al-tawārīkh vol. 3*). An entire copy of the handwritten manuscript also rests in Rare Collections section of New York University's Bobst Library. Robert McChesney has also translated and analyzing portions of Fayẓ Muḥammad's text on the rebellion in Robert D. McChesney, *Kabul Under Siege: Fayẓ Muḥammad's Account of the 1929 Uprising* (Princeton: Markus Weiner, 1999).

[232] Tarzi, "The Judicial State," 91; Dupree, *Afghanistan,* 410-411.

opportunity to unite the various provinces into a unitary state under Afghan, and specifically *his*, sovereignty. In this manner, the new Amir ʿAbd al-Raḥmān would claim the spoils and glory of ousting the foreigners, though it can hardly be said to be attributed to his hands.[233] After all, ʿAbd al-Raḥmān's "iron rule" was in no small part indebted to his ascent to the Kabul precisely because he accepted British control over Afghanistan's foreign relations, thereby relegating the country to virtual "protectorate" status. "In consolidating his hold over the country," Balland nevertheless notes, "he defeated his opponents in four civil wars and one hundred major and minor rebellions."[234]

In this combination of brutal sieges and territorial expansion but also strategic negotiations and compromises with the British, Amir ʿAbd al-Raḥmān rose to power in Afghanistan after years of exile in India, Iran, and Russian-controlled Central Asia. His establishment on the Kabul throne would inaugurate two decades of authoritarian rule, but also much else in the way of juridical exchange between Ottoman Turkey, British India, and Afghanistan. In order to achieve his goals of a juridical state, he had to firmly impose a central government on the country in way no previous ruler of Afghanistan had ever done before.

Amir ʿAbd al-Raḥmān's Campaign for Afghanistan, the National State

As has been discussed in Chapters 1 and 2, it should be clear by now in this dissertation that "Afghanistan" as a modern territorial unit with political sovereignty and international recognition as such did not emerge until the collapse of the Mughal and Safavid empires, and even then, emerged in gradual stages that grew and waned based on a number of shifting international treaties. It was not until the reign of Amir ʿAbd al-Raḥmān Khan (1880-1901) that the jurisdictional limits of the state of Afghanistan were formally demarcated and recognized by its surrounding neighbors: British India to the east and south, Persia to the west, and Czarist Russia to the north.[235]

As for internal governance, Hasan Kakar has argued that during the reigns of the early rulers from Aḥmad Shah Durrānī through Amir Sher ʿAli, the governance of Afghanistan "was more or less by agreement between the heads of tribes rather than by the imposition of control of the central government."[236] Historians are in agreement that the beginnings of a genuinely "centralized" government structure in Afghanistan cannot be said to have been established until the reign of Amir ʿAbd al-Raḥmān.[237] "Unlike previous Afghan rulers," in the words of Amin Tarzi, "this amir was intent on bringing those regions of the country that had either been totally autonomous or had offered no more than a token allegiance to the Afghan state centered in

---

[233] Tarzi, "The Judicial State," 94-96; ; Saikal, *Modern Afghanistan,* 34-35; Dupree, *Afghanistan,* 411.

[234] Balland, "Afghanistan, Political History," 547-558.

[235] Tarzi, "The Judicial State," 62; Saikal, *Modern Afghanistan,* 37.

[236] Hasan Kakar, "Afghanistan from Disintegration to Reunification: 1880-1884," *Afghanistan* (Kabul), 23 (1970): 13, quoted in Tarzi, "The Judicial State," 74.

[237] These are precisely the central arguments of works focused on the "Iron Amir" eras, most notably by Hasan Kakar, Ashraf Ghani, and Amin Tarzi. Tarzi, "The Judicial State"; Kakar, *Government and Society in* Afghanistan; Ghani, "Islam and State-Building in a Tribal Society." It is also generally assumed in the more general survey works on Afghanistan. See for example, Dupree, *Afghanistan,* 417; Saikal, *Modern Afghanistan,* 35; Thomas Barfield, *Afghanistan: A Cultural and Political History* (Princeton: Princeton University Press, 2010), 151, 159.

Kabul."[238] But before ʿAbd al-Raḥmān could implement his nation and state-building program, he had to win the territory first. This was not an easy feat, given the significant losses of territory occupied, held and claimed by the British to the predominantly Pashtun east and south. A series of skirmishes and treaties would finally settle the border, temporarily at least, and it was under ʿAbd al-Raḥmān that the present borders of Afghanistan were consolidated under a central government.

Demarcating Afghanistan's "Borders": Beginnings of an inconclusive process

The first stage of ʿAbd al-Raḥmān's centralization campaign was defining and formalizing the limits of his jurisdiction, drawing a line between his Afghan kingdom and where the British could not intervene beyond. This was a long, drawn-out process that boiled down to a dialectical relationship of border disputes followed by intense negotiations between Kabul and Calcutta.

In spite of a deceivingly durable accord at Kabul, the division of the Pashtun heartland at Gandamak remained a perpetual source of soreness in relations between the Afghan amir and the British Indian government. On the other side, the threat of interference by the amir in British India's Pashtun frontier lands—real or imagined—remained a perpetual source of consternation for British officials. While it is difficult to discern fact from rumor, actuality and accusation, there is no doubt that the Amir sought to reincorporate the frontier areas in northwest India into Afghan sovereign control under his rule. He was unsuccessful in this regard, however, as the British insisted on upholding Article 9 of the Treaty of Gandamak, which relegated the strategic districts of Kurram, Pishin and Sibi as "under the protection and administrative control of the British Government," with revenues paid to the Amir after charges of civil administration were deducted. What resulted was a drawn-out process of border activity followed by negotiations, with a perpetual aura of mistrust and resentment on multiple sides.[239] The first, the Durand Agreement of 1893, would have lasting consequences not just for Afghanistan and British India during the ʿAbd al-Raḥmān era, but Afghanistan's eastern neighbor up to the present day.

The Durand Agreement of 1893: A Peace to End All Peace?

---

[238] Tarzi, "The Judicial State," 103.

[239] Ibid, 121. Tarzi provides the following synopsis of the long process of "finalizing" Afghanistan's borders as follows,

> The negotiations over demarcation of Afghanistan's boundaries were conducted by the British on behalf of the aMīr or with him from 1887 to 1896, with a few cases re-negotiated later. The northern boundary of Afghanistan with the tsarist Russian empire was demarcated from 1887 to 1891 with several amendments made in 1921, 1947 and 1974. The western Afghan border with Iran was agreed upon as a result of four arbitrations between the years 1872 and 1932. The Afghan-Chinese frontier was established by treaty in 1895-96, however formal demarcation along the agreed lines was not completed until 1963. The eastern and southern boundary of Afghanistan was fixed by Anglo-Afghan agreements in 1879 and 1893, however, no Afghan government up to that of President Najib-Allah (1986-92) ever formally accepted these agreements.
>
> Tarzi, "The Judicial State," 62.

Of all the territories the vast British empire attempted to enforce and govern, the one separating India and Afghanistan posed the greatest challenge. In November 1893, perhaps tired of constant border raids, tensions, and mutual accusations of stirring unrest, Amir ʿAbd al-Raḥmān and the foreign secretary of the British Indian government, Sir Mortimer Durand, met to hammer out a more firm agreement. Once again, the districts in the strategic borderlands of Bajaur, Asmar, Chitral, and Swat became key points of contention. On the British side, they were tired of cross-border raids and having to police the most porous border in their empire. Amir ʿAbd al-Raḥmān, on the other hand, sought to place these districts under his administration. In the final compromise, Afghanistan assumed control over Asmar and Birmal, while British India consolidated its control over the remaining disputed districts in the borderland, including areas with Pashtun majorities. In what became known as the Durand Line, far from resolving the border disputes, this boundary merely made official arbitrary lines that once again divided a highly mobile, well-connected Pashtun population that could and would still crisscross back and forth, with allegiances often being held as suspect by both governments.

It was certainly a high-stakes trade-off for Amir ʿAbd al-Raḥmān. For onlookers, the losses were obvious—an Afghan amir appeared to have bartered away precious lands with kin populations relegated to British subjecthood—with nothing which Afghans did not already claim a right to. But agreeing to the boundary demarcation as proposed, in return the Amir became the first Afghan monarch to command a defined territory under his control.[240] The role of establishing a defined, demarcated border and jurisdictional territory can only be understood within the context of ʿAbd al-Raḥmān's national centralization and state-building campaign, what Louis Dupree has called processes of "internal imperialism."[241]

There was another crucial component to the Durand Agreement beyond demarcating territory, and squarely addressed the question of Afghanistan's position in the Great Game. Was Afghanistan to fall under Russian or British spheres of influence. By signing an exclusive agreement with the British, Amir ʿAbd al-Raḥmān had firmly put Afghanistan in the realm of the latter. A major component of this decision was relegating Afghanistan's foreign affairs to Calcutta, in exchange for domestic autonomy. It would prove to be a momentous decision as well, and one that would continue to irk Afghan amirs until Amir Amān-Allāh challenged this aspect of Anglo-Afghan relations in the war of independence of 1919.

But even here ʿAbd al-Raḥmān succumbed to this compromise in order to pursue an even more crucial strategic objective: to concentrate energy and resources on the "internal conquest" of Afghanistan, and consolidate his authority throughout a firmly demarcated territory. In this way, both controversial aspects of the Durand Agreement—the loss of Pashtun territories to India, and the concession of Afghanistan's foreign policy to the British—were directly related to his premium of consolidating authority within the country. In 1896, having settled his national borders and international conflicts, Amir ʿAbd al-Raḥmān focused his energies on enforcing his mandate throughout the newly redefined territory of "Afghanistan." By 1896, after years of brutal and repressive enforcement of his government mandate on the provinces, the "Iron Amīr" had brought all regions of Afghanistan under the rule of Kabul.[242]

---

[240] Ibid.; Saikal, *Modern Afghanistan*, 36-37.

[241] Dupree, *Afghanistan,* 417.

[242] Ibid; Tarzi, "The Judicial State," 306; Saikal, *Modern Afghanistan,* 36-37.

But the real, ideological campaign had only just begun: the struggle to lay the groundwork for a unitary, national, and juridical state. In May 1896, the influential Muḥammadzai nobles of Kabul bestowed upon ʿAbd al-Raḥmān the honorary and royal title of *Zīyā al-Millat wa al-Dīn* (Light of the Nation and Religion). Soon thereafter in August of the same year, ʿAbd al-Raḥmān established an annual national "festival of unity" (*Jashni-u muttafiqah millī*) to bring together all the various regions and peoples of Afghanistan under one celebration of his rule and government. Hence began two state "traditions" of honoring the monarch with titles and holding annual national celebrations that would be adopted by later Afghan rulers as well, in the same struggle of promoting a unitary Afghan state.[243]

The First Map of Afghanistan

As part and parcel of his struggle to impose centralized governance of a unitary state for the first time in the country' history, Amir ʿAbd al-Raḥmān commissioned a series of proclamations and publications imposing a singular name for the geographically-defined and sovereign country he now ruled. In this manner the idea of "Afghanistan" took an official state form that was no longer limited to just the homeland of the Pashtuns, but rather included the diversity of people living in the territories recently demarcated by and under the sovereignty of Amir ʿAbd al-Raḥmān. For the first time in the history of the Afghans, "Afghanistan" signified a unitary state with internationally-recognized border that included the diversity of inhabitants in the country.[244]

In 1898, five years after the Durand Agreement, ʿAbd al-Raḥmān's government issued what is likely to be the first indigenously-produced map of Afghanistan. The map was illustrated with captions, and was accompanied by a personalized message from Amir ʿAbd al-Raḥmān that was then read out aloud in numerous cities and towns throughout Afghanistan.[245] As David

---

[243] Tarzi, "The Judicial State," 119-120.

[244] Ibid., 125-126; Saikal, *Modern Afghanistan,* 35-38; Barfield, *Afghanistan: A Cultural and Political History,* 159. Occasionally the compound phrase "Afghanistan and Turkistan" were used to denote Amir ʿAbd al-Raḥmān's publiocations in Afghan publications of the period. Amin Tarzi notes that Fayẓ Muḥammad's *Siraj al-tawarikh*, published after the death of ʿAbd al-Raḥmān, has in its subtitle, "*mamlakat-i Afghanistan wa Turkistan-i muta'alliqah bih an* (The country of Afghanistan and the (part of) Turkistan which belongs to it." Tarzi, "The Judicial State," 125-126. The various tribes of Afghanistan referred to here are, the Nuristanis, the Qizilbash, the Uzbeks, the Hazarahs, the Tajiks, and the Pashtuns. The ethnic diversity of Afghanistan is a long and complex topic, and this is not an exhaustive list, but refers to the overarching groupings used in common parlance. See Ibid., 128-132 and Barfield, *Afghanistan: A Cultural and Political History,* 23-31.

[245] Tarzi, "The Judicial State," 123. A copy of the landmark map is included in David B. Edwards, *Heroes of the Age: Moral Faultlines on the Afghan Frontier* (Berkeley: University of California Press, 1996), 79. The map was accompanied with a text read aloud in public squares of major towns as follows,

> I, who am Amir ʿAbd al-Raḥmān Khan, the king of Afghanistan, have never and at no occasion during the period of my reign neglected the welfare of you, the subjects and people of Afghanistan. Books of advice and publications of preaching and other kinds of guidance, all have been and will continue to be given to you. At this time, I have made for you a map of your own state and of the states surrounding you so that you see it with your own eyes, observe it, and see what is to your benefit and what way would be beneficial to your religion and to your world.
>
> Tarzi, "The Judicial State," 124-125.

Edwards has observed, given that over ninety percent of the population was illiterate at the time, it was the image on the document that mattered.[246]

Perhaps the greatest significance of the map was its symbolic representation of the extension of uniform state authority to previously autonomous regions of Afghanistan, areas that always governed their affairs independently and locally to the extreme, and resisted central rulers from Kabul or Qandahar encroaching on their turf. Known in Afghan geopolitical parlance as "*yaghistan*", or the land of the unruly or hostile, these areas signified a barrier to modern state formation that extended uniform rules to the entirety of the population, not to mention reaping the additional benefits of taxation and conscription.[247]

What the map also conveys is a sense of territorialization and internal division of the political entity called Afghanistan. While Amir ʿAbd al-Raḥmān has succeeded in demarcating the external boundaries of the country through the Durand Agreement in 1893, updating previous attempts at Gandamak in 1879, establishing internal divisions and administrative districts proved to be far more thorny. One of the first attempts to establish a country-wide division of provinces and districts was the manual for governors known as the *Kitābchah-i Ḥukūmatī* (Book of Government Administration) printed during the middle of ʿAbd al-Raḥmān's reign.[248] This was an extremely important document we will discuss in more detail in subsequent sections, but for now it suffices to say the *Kitābchah-i Ḥukūmatī* was of the first government publications that fixed the number of Afghan provinces at five: Turkistan, Qataghan and Badakhshan, Kabul, Qandahar and Herat. While it is true that a few documents found from the ʿAbd al-Raḥmān era, such as military maps and financial records, indicate different numbers, sometimes naming four or six provinces, what is certain is the organized division of the defined territory of Afghanistan had begun.[249]

Before we turn to the specific initiatives of Amir ʿAbd al-Raḥmān's national plan of action for a juridical state, first we examine the question of his potential inspirations and influences.

Innovation, Tradition, and the Politics of Expertise in Amir ʿAbd al-Raḥmān's Court

Foreign Experts in Afghanistan: The Conventional Narratives

When Amir ʿAbd al-Raḥmān assumed the Afghan throne he set out to build a strong, centralized state the like of which Afghanistan had never seen in its history. Having spent time

---

[246] Edwards, *Heroes of the Age*, 84.

[247] Tarzi, "The Judicial State," 103.

[248] For an original copy of *Kitābchah-i ahkam-i hukumati*, also known as *Kitābchah-i ahkam-i hukumati, Kitāb-i qawanīn-i hukkam wa zubbat, Risalah-i dastur al-'amal-i hukkam wa zubbat, Risalah-i hukumati*, and the title in the following version, see ADL 0204 (1309 [1891]) (Aḥmad Jān Khan ʿAlkuzai and Mawlawī Muḥammad Jan, *Qānūn-i kar-guzari dar mu'amalat-i hukumati wa ta'yīn-i jara'im-i siyasat ba-amir*).

[249] Tarzi, "The Judicial State," 126-127. Incidentally, new Ottoman maps of Afghanistan emerge in Ottoman archives in this period. The particularly "new" aspects of these maps was the inclusion of the lesser known northern areas along the northern border with Turkistan. We also begin to see reports solely devoted to "Afghan tribes" (Afgan kabileleri). For an example fo both, see, e.g, BOA-Y.PRK.TKM 26/7 (1310 M 10) ("Afganistan, Turkistan, Buhara bölgelerinin haritaları ve ayaklanan Afgan kabilelerine dair malumat").

in exile in British India and Iran, interacted with British representatives in Kabul, but most of all, personally observing the etatist accomplishments of Czarist Russia in Moscow, most historians argue he was inspired by these models in his state-building. Yuri Gankovski, a Russian scholar who examined the nascent bureaucracies of the Durrānī dynasty, has argued Afghan rulers in the nineteenth century lacked experience in modern statecraft, and therefore were reliant on foreign models for inspiration and guidance. Gangovski identifies Iran and India as the main territories Afghans learned from in administering their newly established empire, as they were the same territories they had just conquered. Building on Gankovski's preliminary studies on these problems as well as rare documents in the Uzbek national archives, Amin Tarzi is the only western scholar to demonstrate how Czarist Russia has been overlooked as a key source of inspiration for state centralization.[250]

A significant contribution of Tarzi's work is to highlight the previously overlooked role of Russian influence on ʿAbd al-Raḥmān's political and administrative strategies during his decade-long exile in Russian-controlled central Asia. Before Tarzi's study, neither Afghan nor British historiography of the ʿAbd al-Raḥmān era examined the role of his exile in Russian Turkistan. Using untapped records from the Russian and Uzbek archives, Tarzi paints a picture of a busy ʿAbd al-Raḥmān in exile, meeting officials, military personnel, and even foreign journalists, interactions which have a left a paper trail for historians. By examining ʿAbd al-Raḥmān's decade in Russian exile, Tarzi gives us new material to consider when investigating the later "Iron Amir's" sources of inspiration and models of reform that he drew upon in his campaign to build a unitary, national and modern state in Afghanistan.[251]

In describing the decisive role of Russian influence on the prince in exile, Amin Tarzi especially points out the significance of ʿAbd al-Raḥmān's interactions with General Konstantin Kaufman, the commander-in-chief of the Russian army in Turkistan since 1867. General Kaufman was an able and highly ambitious general, conquering the historic Bukharan capital of Samarqand in spring 1868 and occupying the strategic city of Khiva in 1873. It was through interactions and training exercises with Kaufmann, argues Tarzi, that the young ʿAbd al-Raḥman was first "exposed to European diplomatic *modi operandi*."[252] British Indian records appear to support Amin Tarzi's argument of the strong and lasting influence ʿAbd al-Raḥmān's exile in Turkistan had on his long-term administrative training and models. A Foreign Department Political Branch document of October 1883 discusses a conversation the British Agent at Kabul had with Amir ʿAbd al-Raḥmān, in which the latter mentioned how during his stay in Tashkent, he developed contacts with a wide range of diplomats, military officers, and experts for hire from as a far as the United States.[253]

---

[250] Tarzi, "The Judicial State," 21-22, discussing Iu. V. Gankovskiĭ, *Imperia Durrani: Ocherki administrativiĭ i voennoĭ sistemy* (Moscow: 1958). As Tarzi mildly states in this regard, "It is possible that ʿAbd al-Raḥmān had absorbed the value of autocracy during his decade-long stay in Russian Turkistan and learned to appreciate the transparency and predictability that the Russian autocratic system could bring to fiscal administration, thus to military organization and territorial security." Ibid., 306.

[251] Ibid., 49-50.

[252] Ibid.

[253] NAI-FD/A/POL/E October 1883 71-73 ("The Amir of Afghanistan's intention of obtaining the services of American miners") (no. 65).

Other authors stress the role of Amir ʿAbd al-Raḥmān's British connections, beginning with his early life. As a young prince ʿAbd al-Raḥmān received his early military training from his father's military commander and a British convert to Islam, General Sher Muḥammad Khan. British connections continued into the early reign of ʿAbd al-Raḥmān's amirate, particularly in institutional, educational and technological arenas. In 1885 the first printing press in Afghanistan was reported to have arrived in Kabul from British India. Furthermore, in addition to the lithographic press established in Kabul with British assistance, ʿAbd al-Raḥmān frequently ordered the printing of books in Calcutta, through an Englishman named T.A. Martin, brother of the author of ʿAbd al-Raḥmān's English biography *Under the Absolute Amīr,* Frank A. Martin.[254] Amin Tarzi has also described the role of British and/or Indian Muslim assistance in the publication of a treatise entitled *Risālah-i qawāʿid-i kār-i mayjarhā* (The Treatise on Rules for the Duties of Majors). The latter was a series on administrative and military affairs, including such topics as the organization and surveillance of bookkeeping practices, the accountability of military personnel, and the safe stowing of military equipment. While the work was commissioned under ʿAbd al-Raḥmān's direct sponsorship, the use of several English military terms such as 'paltan' (platoon), 'layn' (line), 'raput' (report), 'aspatal' (hospital) and 'parait' (parade) in this publication indicate a significant role played by Indian Muslim or British advisors in organizing his army.[255] Similarly, a Foreign Political branch report of March 1878 entitled, "Intelligence respecting state of affairs in Afghanistan, Bokhara, and Meimaneh," includes the translation of a letter from a correspondent at Herat to the Meshed Agent, dated November 12, 1877, which reads, "A certain Mollah, Abdul Kader, a native of Peshawur, residing at Cabul, was ordered by the Amir to translate a book on military instruction and rules from English into Persian and Afghan, which he did, and the Amir had a thousand copies printed and distributed among the officers and men."[256]

Amir ʿAbd al-Raḥmān also took a particularly avid interest in British and Indian Muslim writers, and he relied on them especially in fostering a literary project of the utmost importance to many monarchs: his autobiography. One Frontier Branch document from the British Foreign Department discusses the Amir's purchase and keen interest in Dr. John A. Gray's book, *At the Court of the Amir*.[257] As the first British physician of Amir ʿAbd al-Raḥmān, Dr. John Alfred Gray had arrived in Kabul in March of 1889, and notably, appears to have not published the book until his departure from Afghanistan and the Amir's service.[258] Perhaps unsatisfied with some of its content, or merely seeking to add to his collection, the Amir ordered the translation into Persian of another biography also published originally in English, Stephen Wheeler's *The Ameer ʿAbd al-Raḥmān* (1895). This was duly carried out by Najaf ʿAlī, an Indian Muslim and

---

[254] Tarzi, "The Judicial State," 334-335.

[255] Ibid., 324

[256] NAI-FD/A March 1878 101-104. No. 104 ("Intelligence respecting state of affairs in Afghanistan, Bokhara, and Meimaneh").

[257] NAI-FD/FRNT-B April 1896 225-228 ("Purchase of Dr. J.A.Gray's book, 'At the Court of the Amir.' Translation into Persian, by Najaf Ali, of Wheeler's Biography of the Amir. Amir's order to Mīr Munshi Sultan Muhd. to write a history of H.H.'s reign"). The biography referred to here is Stephen Wheeler's *The Ameer ʿAbd al-Raḥmān* (New York: Frederick Warne & Co., 1895).

[258] Tarzi, "The Judicial State," 116.

brother to the later Young Afghan constitutionalist, Dr. ʿAbd al-Ghanī.[259] Other documents describe the Amir's order to Mīr Munshi Sultan Muḥammad, another Indian Muslim intellectual and Pathan, to write a history of his majesty's reign. An Extract from the Kabul Diary, dated the January 18, 1896, reads,

> His Highness ordered Mīr Munshi Sultan Muḥammad to prepare a book, containing all the circumstances of His Highness' reign from the beginning up to the present time, giving an account of the wars, victories, troubles &c., experienced by His Highness. In short to write a life of His Highness the Amir.[260]

Amir ʿAbd al-Raḥmān also displayed an avid interest in procuring a British-styled education for sons, revealing an additional layer of alignment with the British in a most sensitive matter for an absolute monarch. An Indian archives document from 1886 discusses the intention of the Amir to send his sons to London for education, always a strong indication of foreign attachment and loyalties up to the present day. As the British Agent at Kabul wrote in a letter dated January 5, 1886, he reported that he has heard that His Highness the Amir mention in the Darbar, "I propose sending both of my sons with a few attendants to London, where they should received education for five years and see all the factories there."[261]

In spring of 1895, Shahzāde Naṣr-Allāh Khan finally embarked on a state visit to Britain, though not for his formal education per se. A Secret Foreign Department document from June 1895 reports on Prince Nasrulla Khan's visit to England in May and June 1895. The file includes detailed British preparations in India and England during April 1895 for the prince's trip.[262] In a coinciding act of converging intelligence, always a boon to the historian, the Ottoman government also took a keen interest in the Afghan prince's journey to London, and a number of documents in the Ottoman archives attest to this interest.[263] What is more, the Ottoman archives contain documents taking interest not only in the prince's journey through

---

[259] NAI-FD/FRNT/B April 1896 225-228.

[260] Ibid.

[261] What is more, the Briitsh agent continued to report, "All the officers present in the Darbir except the Dabir, who alone kept silent, said—'This is a very good idea indeed, and it will be a good thing to do so.'" FD/FRNT/A March 1886 103-105 ("Intention of the Amir of Afghanistan to send his sons to London to be educated"). Based on Ottoman records at this juncture, we also learn that a trip to Egypt was also proposed at some point, but for unclear reasons (the Ottoman records indicate it was an "inappropriate" time) the trip to the Ottoman domains did not pan out. BOA-İ.HR 436/66 (1313 S 2) ("Afganistan Emiri'nin oğlunun Mısır'a gitmesinin şu sıralar bazı mahzurlar olduğu"); BOA-İ.HR 436/67 (1313 S 3) ("Afganistan Emiri'nin oğlunun Mısır'a şu sıralarda gitmesinin uygun olmayacağı").

[262] On the Serdar's travels within England, see NAI-FD/SEC/F June 1895 1-163 ("Visit of Shahzada Nasrulla Khan, son of His Highness the Amir of Afghanistan, to England") and NAI-FD/SEC/F July 1895 934-945 ("Visit of Sardār Naṣr-Allāh Khan to England") which outlines the schedule of Serdar Naṣr-Allāh's visits as follows (in chronological order): London, Manchester, Birmingham, Liverpool, Glasgow, Edinburgh, Elswick, Leeds, Sheffield, and finally his return to London, Ascot, and a visit to the Woolwich Arsenal. (No. 935). For an account from Ottoman intelligence records, also keen to track the Afghan prince's travels, see BOA-Y.A.HUS 329/32 (1312 Z 2) ("Afganistan emirinin ikinci oğlu Naṣr-Allāh Han'ın Londra'ya seyahat maksadı ve Kabul surety hakkında") and Y.A.HUS 332/27 (1313 M 20) ("Afganistan emirinin oğlunun Liverpol'da bulunan Cemaat-i İslamiye tarafından merasimle istikbal edildiği").

[263] BOA-Y.A.HUS 329/32 (1312 Z 2).

England, but also the Muslim community in such cities as Liverpool, where apparently one of the first British mosques were built.[264] That Prince Naṣr-Allāh took an active interest in the British Mosque and its community members reveals a burgeoning cosmopolitan interest in Muslim communities in the west on the part of the Afghan royal family. It could also just as much reveal a British attempt to impress the Afghans on British tolerance of Muslims residing in England. This is a strategy they would repeat with regard to Amir ʿAbd al-Raḥmān's son, Ḥabīb-Allāh, during the latter's visit to India in the early twentieth century.

As Amir ʿAbd al-Raḥmān was sending two of his sons to the British metropolis, British subjects and other Europeans continued to arrive in his court. In this manner, historiography of the ʿAbd al-Raḥmān era has tended to stress the arrival of Europeans from two streams: British India, and Czarist Russia. After discussing more of the details of these streams, we will address what is left ignored in this historiography of foreign experts in Afghanistan.

Europeans in Kabul: A trickle at most

As a boon to historians, the British Foreign Department of the Government of India kept detailed records of not only all British subjects in Afghanistan, but all foreigners as well. These reports give us an indication of the number of individuals who traveled to Afghanistan, citizenship and kinds of professions represented, and frequency of visits, especially to Kabul. For example, a Foreign Department Frontier branch report of Oct 1892 entitled, "Employment by the Amir of Afghanistan of an English tanner and currier" provided a list of foreign nationals employed by the Amir in Afghanistan. This particular reports discusses a certain William Tasker, a tanner, and Edward Thornton, a currier. Both were described as Englishmen and of the same age, 28 or 29 years. In addition to these two individuals, the file includes a current list of Europeans in the Amir's service and their profession. A handwritten note in the margins of the third page of the files reads, "there are 15 Europeans at Kabul."[265] A handwritten note on the fourth page of the file reads, "We have about a dozen Englishmen now in Kabul. They are apparently safe – and yet our representative, a Mussulman, is said to be in danger if he goes out for a walk."[266] On the tenth page of the file, a certain W. Cunningham writes to the British Agent at Kabul, "I am directed to inform you that the two Englishmen mentioned… who have engaged though the Agency of Messrs. Walsh Lovett and Co. for employment in Kabul, are shortly proceeding there, at their own risk."[267] This quote reveals that Kabul was not an open place to Europeans to freely visit or work, even when under government contract, as protection was not guaranteed. It also demonstrates that Amir ʿAbd al-Raḥmān was not as keen on attracting European experts to his kingdom as the historiography suggests.

In a note from the Kabul representative to Under-Secretary of the Foreign Department, Government of India, Simla, dated Sept 21, 1892, the representative provides an informative list of "all the Englishmen in Kabul and their respective occupations." The list is provided in the

[264] BOA-Y.A.HUS 332/27 (1313 M 20).

[265] NAI-FD/FRNT/B Oct 1892 151-57 ("Employment by the Amir of Afghanistan of an English tanner and currier. List of Europeans in the Amir's service"), 3.

[266] Ibid., 4.

[267] Ibid., 10.

Appendices (see Appendix C).[268] In addition to the above individuals and professions, the reports mentions that an "instructor in Gunnery" as well as "four Bengalees," whose occupations not mentioned other than "in the service of H.H. the Amīr," are also described as en route to Kabul.[269]

There also records of Amir ʿAbd al-Raḥmān seeking out American miners. A Foreign Department Political branch report of October 1883 entitled, "The Amir of Afghanistan's intention of obtaining the services of American miners" includes a letter from the British Agent in Kabul, dated August 24, 1883, discussing the shortage in expertise in "mining matters" in Afghanistan. Describing the problem, the British Agent stated, "After full enquiries, it was found that there were no Musulmans possessing the necessary qualifications; and that only one Hindu, an employé of the Geological Survey, had really any knowledge of mining matters; while he required very exorbitant terms, if he went at all."[270] Finally, after considering the matter, the British Agent concluded only European or American mining experts could be employed in this field. Yet even in the case of Americans in Afghanistan, the agent reports, extreme caution was necessary on the part of the British when it came to allowing foreigners access to the country through British controlled India and the Khyber Pass.

> The question seems to me whether we should absolutely decline to accede to the employment of Americans or Europeans in Afghanistan, on the grounds (1) that their lives would not be safe, and that any injury to them would cause trouble, in which we would necessarily be involved; and (2) that we could not trust Americans or Europeans, not being British subjects, unless they were chosen by us; or whether we should content ourselves with simply deprecating the Amir's proposals, and stipulating that, if they should be carried out, we should have the selection of the persons to be employed. I should be inclined to the former of these courses.[271]

The above quotation reveals the complex internal dynamics of foreign experts in Afghanistan at this time. Far from a lawless frontier of mercenaries and experts for hire, as gatekeepers of the main non-Russian entry into Afghanistan—the Khyber Pass—the British tightly monitored and controlled the flow of foreign employees in all professional fields in and out of Afghanistan. In another priceless historical anecdote, an extract from the British Agent at Kabul's intelligence newsletter, dated August 1883, also offers a summary of the British Agent's conversation with Amir ʿAbd al-Raḥmān over this very issue. In it we can see the politics of expertise, and the screening, selection, and logistic support of foreign advisors hired to work in Afghanistan for the Amir. The agent quotes the Amir as follows,

> During my residence in Tashkand I formed the acquaintance of three persons, whose names I wrote down in my note book, which is at Kabul—one, the son of an ecclesiastic of high rank, and the two others, the sons of the Prime Minister of America. I am going to write them to send me three miners of their country well versed in their art, so that they may explore the mines of this

[268] Ibid.

[269] Ibid.

[270] NAI-FD/A/Pol/E October 1883 71-73 ("The Amir of Afghanistan's intention of obtaining the services of American miners") (No. 65).

[271] Ibid.

> country, as it abounds in mines of gold, rubies, turquoises, iron, &c. I have made up my mind to pay the miners three lakhs of rupees a year, and will given them one-fourth of the income which the mines may yield in addition. At first, I thought of getting miners through the British authorities, but I have now given up the idea, because the late war is still fresh in the memory of the people of Afghanistan, and so it is feared lest they should cause an injury to them (the miners). The reason why I do not ask the French for miners, is because they are the inveterate enemies of the British."[272]

In what might have been one of the first cases of contact between Afghanistan and the United States of America, here Amir ʿAbd al-Raḥmān reveals much of the politics of expertise, master craftsmanship, and colonial competition in his state-building drive. This was, after all, a time when European and American officers, merchants, and mercenaries traveled the world in search of employment as experts, advisors, and consultants to native rulers seeking to modernize, from Mexico, to the Ottoman empire, to Japan.

The above quotation also reveals how Amir ʿAbd al-Raḥmān was quite aware of smoldering rivalries between the British and French in his own country, a competition he may have been able to exploit to his advantage in theory, but appeared to have balked at out of fear of stoking British anger. On this note, there are also records to show the British were adamant in preventing French influence in Afghanistan, and partly explains the few numbers of Frenchmen we see in Afghanistan during the ʿAbd al-Raḥmān period, as well as his successors. As such they worked to prevent any and all French citizens from entering Afghanistan. For example, the following document discusses the application of a M. Letellier, a French citizen, for permission to visit Afghanistan with a view to obtaining walnut wood. The British would not have it. The document, signed June 7, 1893 by a "Mr. H.M.D.", reveals not only the British imperative to keep the French out of Afghanistan, but also the generally inhospitable conditions for travelers and foreign employees at this time.

> We do not want Frenchmen in Afghanistan. I would answer than we cannot give a safe-conduct, as we never do so in the case of British subjects, warning them on the contrary that if they choose to go to Afghanistan they go entirely at their own risk. Further, we never recommend any British trader to the Amīr, and do not permit any to cross our frontier unless invited by him.[273]

While Amir ʿAbd al-Raḥmān was wont to employ Frenchmen in Afghanistan, out of fear of angering the British, at the same time there is evidence indicating Amir ʿAbd al-Raḥmān was also very defensive—"unfriendly", in the language of one British official—when it came to openly accepting foreign experts in his various state-building projects. For example, one British report describes his rejection of a British offer to present the Amir with a Persian translation of the Indian Jail Manual. The file includes handwritten letters between British Agent at Kabul and Deputy Secretary, in which the former asks the latter if he can present a translation of the Indian Jail Manual to Amir ʿAbd al-Raḥmān as a suggestion, his response being that it is a bad idea because it will be seen as interference.[274] The first document in the file, a telegram From W.J.

---

[272] Ibid.

[273] NAI-FD/SEC/F June 1893 299-302 ("Application of M. Letellier for permission to vist Afghanistan with a view to obtaining walnut wood").

[274] NAI-FD/FRNT/B Aug 1893 207-209 ("Proposal to present H.H. the Amir with a Persian translation of the Indian Jail Manual")

Cunningham, Esquire, Deputy Secretary to the Government of India, to Muḥammad Afzal Khan, British Agent at Kabul, in August 1893, states "The only objection to this proposal which suggests itself is that His Highness may regard your attempt to interfere with his internal administration. I have to ask if you have considered your proposal from this point of view."[275] The response of Muḥammad Afzal Khan, British Agent at Kabul, to W.J. Cunningham, Esquire, Deputy Secretary to the Government of India, dated, August 16, 1893, speaks to the British arrogance and carefulness at the same time. Afzal Khan's responded with the following words,

> In fact you are quite right. His Highness would consider my action as an insidious attempt to interfere with his internal administration, if the translation were presented to him in any manner which would go to show that it was directly or indirectly enforced upon hi, and that it was presented by me in the capacity of a British Agent, but presenting it to him not directly in that capacity and only as a suggestion I am of opinion that he would not have taken in that light… However, I consider the presenting of the translation as undeservable and unnecessary.[276]

Yet another report illustrates the "unfriendly attitude" of the Amir towards the British Agent at Kabul, even going so far as to issue of orders prohibiting the Agent from visiting the workshops or houses of the Amir's European employees in Kabul.[277] Similarly, a Foreign Department Political branch communiqué describes how the Amir personally had a certain *mawlawī* (religious functionary) arrested on the accusation that he had secreted two Englishmen in his house.[278] The report proceeds to describe how the Amir ultimately inflicted a hefty fine of Rupees 50,000 upon the man.[279] Far from a honeymoon of experts, the Amir frequently exhibited an unfriendly attitude towards the British, imposing restrictions on British operations and influence, and exerting tight control on any forms of outside influence operating in Afghanistan under his reign. Such behavior exhibited Amir ʿAbd al-Raḥmān's rejection of outside help, particularly British, in his administration of internal affairs.

The relationship was rocky on both sides. There is evidence to conclude that the few Europeans who did work in Kabul at this time were not so excited after all about their employment opportunities in Kabul, according to British records at least. For example, a British intelligence document from July 1893 discusses a strike among the European employees at Kabul, and the apparently frustrated return to India of a Dr. Gray, and Messrs. Collins, Wild, and McDermott. The file includes the translation of a petition dated April 6, 1893, from Messrs. Edwards and McDermott of the Machine House of Kabul, to the address of His Highness the Amir of Afghanistan, providing some of the context for their disappointment. After compliments, the petition states,

---

[275] Ibid.

[276] Ibid.

[277] NAI-FD/SEC/F July 1892 345-359 ("Unfriendly attitude of the Amir towards the British Agent at Kabul and issue of orders prohibiting the Agent from visiting the workshops or houses of His Highness's European employees").

[278] NAI-FD/A/Pol/AMarch 1878 101-104 (No. 104) ("Intelligence respecting state of affairs in Afghanistan, Bokhara, and Meimaneh").

[279] Ibid.

> We most humbly beg to state that we are performing our duties according to our power, but instead of receiving any reward, we have been subjected to extremely bad treatment and disgrace. We, therefore, most respectfully beg that we may be permitted to go away, so that we may pray for Your Highness.[280]

In the end, the Amir granted leave to those he personally invited. As for those employed by other agencies, he stated he would only discharge those who could provide an official letter of discharge from their respectively employing agencies, and only then would the Amir discharge them.[281] A secret intelligence report from the Foreign Department from proceeds to describe the attempt of British expatriates in Afghanistan to file a civil suit in British Indian courts against the Afghan amir for damages sustained from breach of contract and other claims.[282] The British Indian courts turned down jurisdiction, rejecting the claimants' argument Amir ʿAbd al-Raḥmān was an "Indian prince."[283]

Together, these documents indicate that far from a desperate search for foreign experts, Amir ʿAbd al-Raḥmān exercised an extremely cautious—xenophobic even—attitude towards any and all outsiders in his recently conquered and demarcated domains. This includes his careful scrutiny of all foreign experts who applied for employment, and those who were ultimately chosen for employment in Afghanistan—either by him, or the few private agencies who had permission to operate in the country. As seen in the treatment allotted to them and indicated by British intelligence reports, ʿAbd al-Raḥmān's suspicions especially fell on Europeans. This suspicion also explains why he repeatedly refused requests to grant concessions to British railway and telegraph companies to extent rails and lines from British India into Afghanistan, a policy upheld by his son Amir Ḥabīb-Allāh as well.

At the same time, we should not exaggerate Afghanistan's isolation at this time, reinforcing myths of the "forbidden mountain kingdom" so often portrayed in western travel tales, such as that of the first American in Afghanistan, Josiah Harlan.[284] Rather, the very same sources cited above, particularly the British intelligence records for Afghanistan and the Indo-Afghan frontier, reveal that foreign experts of a variety of backgrounds and nationalities did come to Afghanistan in the late nineteenth century, under conditions stipulated by the Amir. But there is a key aspect ignored in the historiography of the era in this regard: it is debatable whether the experts were "European" in the conventional sense, as they came not from the usual group of Britain, France, Germany, Austria, or even Russia, but rather from Ottoman Turkey.

---

[280] NAI-FD/SEC/F July 1893 109-159 ("Strike among the European employés at Kabul. Assault committed by an Afghan on Mr. Edwards. Return to India of Dr. Gray, and Messrs. Collins, Wild, and McDermott") (No. 112).

[281] Ibid.

[282] The were from the firm of Messrs. Jehangir & Co. against Amir ʿAbd al-Raḥmān. Their application for permission to institute a civil suit against the Amir as an "Indian prince" was rejected by the British court. NAI-FD/SEC/F Sept 1892 727-737. ("Claims of His Highness the Amir against the firm of Messrs. Jehangir & Co., and rejection of the latter's application for permission to institute a civil suit against His Highness"). The file includes a short discussion of whether Indian civil procedure code applies to Amir Amān-Allāh as an "Indian prince", in which the court replied in the negative.

[283] Ibid.

[284] Ben Macintyre, *The Man Who Would be King: The First American in Afghanistan (2005)*, pp. 121-149.

This is a story that begins here, but will continue into the Ḥabīb-Allāh Khan era, and ultimately, the production of the first Afghan constitution and supplementary Niẓāmnāmā codes during the Amān-Allāh Khan era in Chapter 5.

A Westward Glance… to Istanbul

Other evidence, unexplored until now, has shown that Amir ʿAbd al-Raḥmān was also looking to the Ottomans as his primary model for administrative and legal reforms. During ʿAbd al-Raḥmān's reign, Ottoman-Afghan ties remained cordial but limited and distant. This was mainly because Amir ʿAbd al-Raḥmān (and his successor) were constrained by the aforementioned treaties (mainly, the Gandamak and Durand agreements) with the British in his ability to conduct independent foreign affairs rather than any lack of interest on ʿAbd al-Raḥmān's part. After the 1877-1878 Hulusi Efendi mission to Kabul, the British were especially wary of Pan-Islamic relations that might instigate their Indian Muslim populations to revolt against their foreign rulers. As recently unearthed evidence including this dissertation will show, this did not stop Amir ʿAbd al-Raḥmān from modeling many of his reforms on Ottoman state practice, even from such a distance. For example, Amir ʿAbd al-Raḥmān is known to have published and translated a few books on Ottoman statecraft, military training, and administrative practice.[285] It is not quite clear exactly how the Amir obtained these books, but given the increasing traffic of students, scholars, sufis, and pilgrims—not to mention official envoys—between Istanbul and Kabul from the late 1870s to 1890s, it is not difficult to imagine a host of possibilities. One document in the Ottoman archives, for example, includes clippings of articles from a late nineteenth century Indian Muslim vernacular newspaper in Urdu that discusses Afghan and Ottoman affairs, including the relations of Amir ʿAbd al-Raḥmān with the Ottomans.[286] Let us examine the history of how these close ties—including between the authoritarian monarchs Sultan Abdülhamid II and Amir ʿAbd al-Raḥmān—came about.

In 1877, as discussed in Part I of this chapter, Sultan Abdülhamid II dispatched the first official Ottoman envoy to Afghanistan via British India. It is profoundly significant (rather than coincidental) that Abdülhamid II would select Şirvanizade Sayyid Aḥmad Hulusi Efendi—an esteemed Islamic jurist and member of Ahmed Cevdet Paşa's *Mecelle* commission—as the first official Ottoman emissary to Afghanistan in 1877. While we do not have records of all the conversations the Ottoman envoy had with the Afghan rulers and ʿulamāʾ of Kabul, we can speculatively conclude he must have discussed such matters as his recent involvement in the

[285] NAI-FD/SEC/F March 1898 313-324. This large file lists books and proclamations published by the Amir of Afghanistan on a range of issues from the martial to religious fields to refutations of Wahabi doctrines, all intended "for the information and guidance of Mussulmans." Most prominent is a summary and extract from *Taqwīm al-Dīn,* authored by the following "Mullas and Kazis": Mullah Abū Bakr, Mulla Ghulām Muḥammad, Mulla Abdul Khalak, Kazi Mīr jamal, Maulavi Abdur Rauf, Mulla Ramzan (Mufti), Mulla Saiyid Muḥammad (Examiner), Mulla Sa'aduddin, Mulla Dad Muḥammad (Examiner), Mulla Obeidullah, Mulla Saefuddin, Mulla Abdullah and Hafiz Ḥabīb-Allāh. For an original copy of *Taqwīm al-Dīn*, see ADL 0004 (1306 [1888-89]) (Mulla Abū Bakr, et al., *Taqwīm al-Dīn*). For an original copy of the book on the Ottomans commissioned by Amir ʿAbd al-Raḥmān, see ADL 0003 (1887) (Mīr Muḥammad Azim Khan, ed., *Sar-rishtah-i Islamiyah Rum*). For two Afghan accounts of the Russian-Ottoman war of 1877-1878, see ADL 0186 (1294 [1877]) (Qāḍī ʿAbd al-Qādir, *Wa'z-namah*) and ADL 0203 (1308 [1888]) (Gul Muḥammad Muḥammadzai, ʿAbd-al-Subhan, ed., *Jang-i Rum wa Rus*). The latter was published during the reign of Amir ʿAbd al-Raḥmān.

[286] BOA. Y.PRK.HR 1/16 (1293 Z 15).

Mecelle and Ottoman constitution of 1876—the top headlines of the day in Turkey. It is difficult to imagine that Hulusi effendi did not discuss, or was not approached, about these monumental activities. As a result of this mission, I argue, Amir ʿAbd al-Raḥmān began looking to the Ottomans for administrative and legal models.

In spite of the grand and unprecedented nature of Hulusi's Efendi's delegation, we have no *direct* evidence yet of Ottoman-Afghan collaboration in the juridical field.[287] Yet it is hard to imagine that a member of the unprecedented *Mecelle* commission would not have had legal discussions with high-ranking ʿulamāʾ in Kabul and the Afghan Amir himself. More research is needed in this time period to uncover incidents of juridical collaboration. What we do know is Ottoman state practice was a source of inspiration for Amir ʿAbd al-Raḥmān's centralization program. Amin Tarzi, for example, discusses the Amir's commissioning of a publication entitled *Sarrishtah-i Islāmīyyah-i Rūm* (The Islamic Organization of the Ottoman empire), edited by Mīr Muḥammad ʻAzim Khan Sarjan-Mayjar and published in Kabul in 1304 [1886/7], "[t]o provide an example to the various ethnic groups living in Afghanistan how other multi-ethnic Islamic governments have dealt with the threat of attack."[288] Moreover, he discusses the role of Amir ʿAbd al-Raḥmān citing the Ottomans as a model in his own army-building, nation-building and state-building efforts:

> In *Sarrishtah-yi Islamiyyah-yi Rum*, a publication dated 1886/87, the amir calls on his people to emulate the example set by the Ottomans in organizing a strong military force. He addresses his people as: 'O people of Afghanistan, who are Durrānī and Ghilja'i and Persian-speakers and Hazarahs and Turks, you all belong to Afghanistan, and are all believers and Muslims.'[289]

It is revealing that in Amir ʿAbd al-Raḥmān's call to formulate a unitary state and grand scheme of centralization whereby all Muslims were viewed as subordinate equals, he points to the Ottomans. In this manner Amir ʿAbd al-Raḥmān turned to the Ottomans not out of mere filial piety, but for a specific administrative and juridical model that had the added benefit of

---

[287] A similar problem (and historiographical gap) exists with regard to administrative exchanges and dialogues between the Amirs of Afghanistan and the Qajar Shahs of Persia. This is a particularly glaring lacuna in light of the significant state-building campaign of Amir Kabīr (1807-1852), chief minister to Naṣir al-Dīn Shah, in particular. In the latter's grand centralization project, especially the attempted (and failed) bureaucratization of the Iranian 'ulamā', there are parallels both to Amir ʿAbd al-Raḥmān's campaign, and of course, the Ottoman reforms before and during the Tanzimat. Nonetheless, with regard to Amir ʿAbd al-Raḥmān and the Qajar rulers of Iran, we do not see the same vigorous interest, robust literature, and to the extent of my research, documentary evidence, he displayed with Ottomans in the case of Iran. For an insightful overview of Amir Kabir's administrative reforms and centralization campaign, see Algar, Hamid. "Amīr Kabīr, Mīrzā Taqī Khan." *Encyclopaedia Iranica* Vol. I, Fasc. 9 (1989): 959-963.

[288] Tarzi, "The Judicial State," 328. Tarzi further notes the specific role of a national army in his looking to the Ottomans. "ʿAbd al-Raḥmān published a short pamphlet entitled *Sarrishtah-yi Islamiyyah-yi Rum* (The Islamic Organization of Rum) in which the Ottoman sultan is said to have gathered all constituencies in his empire and imposed special levies on them to finance his military." Ibid. According to Tarzi, an English translation of this work was printed in the *Times of India* (Calcutta) on April 10, 1887. Ibid.

[289] Tarzi, "The Judicial State," 150. For an original copy of the book on the Ottomans commissioned by Amir ʿAbd al-Raḥmān, see ADL 0003 (1887) (Mīr Muḥammad Azim Khan, ed., *Sar-rishtah-yi Islamiyah-yi Rum*). Here Tarzi also relevantly notes that "in the recorded Afghan history this statement represents the first instance where all major tribal confederations and ethnic groups living in the country are addressed as belonging to a specific political entity called Afghanistan." Tarzi, "The Judicial State," 150.

being within the shared realm of a transnational Islamic legal culture. Though brutal and uncompromising in so many respects, as a matter of efficiency, if not personal belief, Amir ʿAbd al-Raḥmān was keen to preserve some level of legitimacy in the eyes of his subjects when it came to being a "Muslim ruler". This was especially the case with the Afghan ʿulamāʾ establishment, to whom even an autocrats like Amir ʿAbd al-Raḥmān was bound to respect.[290] Drawing from "the Ottoman example" provided the dual benefits of a blueprint for modern centralizing reforms while still being seen as "Islamic" given the widespread respect for the Ottoman Sultan, even from ʿulamāʾ wary of central authority encroaching on their juridical turf. For these reasons, following the "Ottoman model" is a theme we will encounter for the remainder of the Bārakzai Dynasty as long as the Ottomans lasted, all the way until Amir Amān-Allāh.[291]

Other publications about the Ottomans include a book on the Russo-Turkish war of 1877-1878. Amin Tarzi also discusses another government-commissioned book, which appears to be a translation of an unacknowledged European work, entitled *Kitāb-i Jang-i Rūm wa Rūs* (The Book of the Russo-Ottoman War).[292] "What is of interest in this publication," notes Tarzi, "is the introduction, which criticizes the treatment of Muslims in India by their foreign, i.e. British, overlords and calls for Afghans to rally behind their amir who is one of them."[293] In this manner, Amir ʿAbd al-Raḥmān increasingly cited the Ottomans as the Islamic model of modern governance *par excellence*, while also contrasting both Afghan and Ottoman domains from British India, where Muslims were no longer fortunate to have a Muslim ruler. The point was not so much to lament the plight of Indian Muslims, but to impress on his subjects the importance of loyalty to their sultan and Amir.

Indeed this was not the only occasion where Amir ʿAbd al-Raḥmān was at pains to distance himself from any image of nearness, let alone reliance, on British overlords. Be it some proto-nationalist notion of "Afghānīyāt" ("Afghan-ness"), "Pan-Islamic pride", or simply a tyrant's ferocious will to remain autonomous, Amir ʿAbd al-Raḥmān would not be seen as a puppet of the British (his treaty signing away control over Afghan foreign affairs notwithstanding), especially in the management of Afghanistan's *internal* affairs. We must view this not merely as a quirk of the Amir's stubborn personality; rather, in light of his *policy* to maintain legitimacy in front of the ʿulamāʾ and public as an independent Muslim ruler, perceptions of his independence, especially in internal affairs, was of utmost importance.

As a case in point, when the British Agent requested his superiors in Calcutta whether it would be a prudent idea to offer the British Indian Jail Manual to the Amir for his perusal and

---

[290] The complex relationship between Amir ʿAbd al-Raḥmān and the Afghan ʿulamāʾ is a topic that still needs more study, Kakar, Ghani, and Tarzi's excellent work notwithstanding. For a revealing synopsis of British perceptions of the Amir's relations with the Afghan ʿulamāʾ, which cannot be outright dismissed so much as it reveals the complexity of those relationship, see NAI-FD/Dec/F April 1891 164-179 ("Relations of the Amir with Religious Characters, &c.").

[291] While it would be difficult to claim Amir ʿAbd al-Raḥmān was *solely* looking to the Ottomans as his inspiration for building a strong, modern, Muslim state, my main argument here is to problematize and complicate an extant historiography that has tended to presume Amir ʿAbd al-Raḥmān was "naturally" looking to the British or Russians as the inspiration and models for his state-building campaign, thereby overlooking the Ottomans.

[292] An original copy can be found at ADL 0203 (1308 [1888]) (Gul Muḥammad Muḥammadzai, ʿAbd-al-Subhan, ed., *Jang-i Rūm wa Rūs*). The latter was published during the reign of Amir ʿAbd al-Raḥmān.

[293] Tarzi, "The Judicial State," 330.

possible use in his own administration of criminal law, W.J. Cunningham, Esq., Deputy Secretary to the Government of India, was forthright in his criticism. In a memo he wrote to the British Agent at Kabul on July 18, 1893, in response to the latter's suggestion of presenting a Persian translation of the British Indian Jail Manual for the Amir of Afghanistan's use, Cunningham astutely notes,

> The only objection to this proposal which suggests itself is that His Highness may regard your action as an insidious attempt to interfere with his internal administration. I am to ask if you have considered your proposal from His point of view.[294]

We learn from the remainder of the declassified file that the British Agent duly rescinded his idea, citing the foresight he did not consider. The above shows the autonomy which Amir ʿAbd al-Raḥmān jealously guarded any and all matters touching upon the administration of internal affairs in his country, such that even British officials were wary to even make *suggestions* concerning the administration of his judicial courts.[295] That the fierce autonomy of the Amir (with respect to the internal administration of the country, at least) was reflected in both the ʿAbd al-Raḥmān's personality and policies provides an additional important factor in explaining the Amir's veering towards an Ottoman model of governance versus any other, and to which we turn in more detail now.

Sultan Abdülhamid and Amir ʿAbd al-Raḥmān

While there was distant juridical *influence*, as of yet we have not seen direct juridical collaboration between the Ottomans, Indian Muslims, and Afghans at this time. This would not happen until closer ties and exchanges were taking place, and most of all, when the requisite political support was present to foster close collaborations of greater intensity and longer duration. Nevertheless, what we do know at this time from the available historical records—British Indian and Ottoman archives records mainly—is that the Amir held a deep admiration, awe even, for the Ottoman Sultan and the state he governed. Judging from the language Amir ʿAbd al-Raḥmān is reported to have used in several discovered documents in this archives, it is clear the former viewed the Sultan-Caliph not as a peer but a superior demanding his respect. Not even the Shah of Persia could claim such a stature in the Afghan amir eyes. Of course, the fact that the Amīrs of Afghanistan—with the exception of a brief war in 1726—never shared a border with the Ottomans, never competed for limited strategic resources, and certainly never lived under Ottoman sovereignty partially explains the more cordial relations they enjoyed with the Ottomans than with other Muslim rulers, such as Iran or Bukhara or India.

Nevertheless, the degree of respect for the Ottoman sultan in ʿAbd al-Raḥmān's words are so unique they deserve repeating and recognition there was more than mere geopolitics involved, but a highly personal, albeit still distant, relationship. In a letter from the Indian archives dated January 10, 1883, Qaḍī ʿAbd al-Qādir Khan, a resident of Peshawar visiting

[294] NAI-FD/FRNT/B Aug 1893 207-209 (re presenting translation of Indian Jail Manual to the Amir of Afghanistan).

[295] Ibid.

Kabul, reports the Amir to have said in private conversation with his close advisors Dabir al-Mulk and Khan-i Mulla Khan, that "I or the Sultan of Turkey must be considered to be the head of Islam," citing sectarian differences as the reason the Shah of Iran could not assume the position.[296] Sectarian politics put aside, the quote illustrates the deep respect and reverence the Amir of Afghanistan held for the Ottoman sultan and his view that only Ottoman Turkey and Afghanistan were the sole independent Sunnī Muslim states and authorities at the time.

Similarly, there is some evidence to indicate Amir ʿAbd al-Raḥmān was primarily looking at the Ottomans as his model for a centralized "Islamic state" *par excellence*. As Senzil Nawid notes, "An example of Turkish influence was the establishment of the corps of court pages (*ghulām-bachas*), which was inspired by the Ottoman janissary system."[297] Beyond these surface observations however, perhaps the greatest evidence is that Amir ʿAbd al-Raḥmān commissioned works, and in at least one case actually authored, books on the Ottomans, attesting to his inspiration for centralization reforms.

There are many historical reasons to not be surprised by Amir ʿAbd al-Raḥmān's turn to the west—not to Europe, but to the Ottomans. As discussed in Part I, it is during the ʿAbd al-Raḥmān era that we see an increase in flow of pilgrims, scholars, and sufis between Ottoman domains—particularly Syria, Iraq and the Ḥijāz—and Afghanistan. We also see a joint condemnation, from both Sultan Abdülhamid and Amir ʿAbd al-Raḥmān of and "Wahabbi" doctrines that challenged the authority of the four traditional schools of Sunnī law.[298] Reflecting the shared ideological concern about the rise of Wahabism, both Ottoman ʿulamāʾ and the Amir ʿAbd al-Raḥmān published or commission tracts reflecting concern with the rise of Wahabism. Though the Ottomans had crushed the initial up swell in Nejd, Arabia in the eighteenth century, the movement would have a habit of coming back and emerging in distant parts of the Muslim world, wreaking havoc on orthodox institutions and traditional sufi-pir-oriented practice alike. In the lengthy work *Taqwīm al-Dīn*, first published in Kabul by Mawlawīs Mīr Muḥammad Azim Khanand ʿAbd-al-Razaq Dihlawī in 1884, with a second edition by Mullah Abū Bakr among twelve other ʿulamāʾ in 1886, the third and final section of the book is devoted to a refutation of the Wahhabis.[299] Shorter proclamations were also published and circulated by the Amir's government, including one preserved in the Indian archives that was distributed in Qandahar.[300] Such books and proclamations share direct parallels with a work published by previously discussed and esteemed Ottoman jurist Ahmed Cevdet Paşa, who presented a stalwart defense of the *ehl-i sünnet (ahl al-sunnah)* and scathing critique of the Wahabbis in *Ma'lûmât-i*

---

[296] NAI-FD/SEC/E Feb 1883 211 ("Peshawar Confidential Diary No. 2 of 19th of January 1883").

[297] Nawid, *Religious Response*, 78.

[298] NAI-FD/FRNT/A Feb 1888 30-31 ("Proclamation sent from Kabul for distribution in the Qandahar district about the Wahabis") This document includes a translation of ʿAbd al-Raḥmān's condemnation of Wahabbi doctrines.

[299] Tarzi, "The Judicial State," 328-329. The said work is Azim Khan, Mīr Muḥammad, and ʿAbd-al-Razaq Dihlawī. *Taqwīm-i Dīn*. Kabul: Government PrintingHouse, 1306/1884. The second edition is Mulla Abū Bakr et al. *Taqwim al-Din* (Abdul Razq Dihlawī, ed.) Kabul: 1888. For an original copy of the latter edition, see ADL 0004 (1306 [1888-89]) (Mulla Abū Bakr, et al., *Taqwīm al-Dīn*).

[300] The proclamation was issued from Kabul in 1888 under the reign of Amir ʿAbd al-Raḥmān, describing, criticizing and condemning Wahabbi doctrines, and a translation can be found in NAI-FD/FRNT/A Feb 1888 30-31 ("Proclamation for distribution in Qandahar district about Wahabis").

Nâfi'a, published in Ottoman Turkish.[301] Far more than mere sectarian polemics, the above reveals a shared ideological view of traditional Islam, benevolent monarchy, and a demand for total obedience under a rubric of Pan-Islamic strength and anti-colonial defense.

Of course, the Ottomans were not the only fellow Muslim rulers whom the Afghan Amir interacted with. There were local Muslim rulers and princes in India, Central Asia (Turkistan), and most notable of all after the Ottomans, Iran. On the latter, Colonel C.J. Windham's declassified *Precis on Afghan Affairs* (1914) from the India Office Records contains reports of correspondence between Afghan and Persian monarchs as early as the reign of Amir ʿAbd al-Raḥmān. For example, in an entry entitled, "The Amir ʿAbd al-Raḥmān receives Persian Envoys at Kabul", the precis notes that in January 1883,

> [T]he Amir ʿAbd al-Raḥmān sent the Governor of India a copy of some correspondence which had recently passed between himself and the Prince Governor of Mashhad (the brother of the Shah). The correspondence consisted of a letter from the Prince to the Amir, sent by the hands of a special messenger (Saiyid Bakhir) in order 'to open the doors of communication and correspondence' between them.[302]

Although the above document informs us that, not surprisingly, correspondence between Afghan and Iranian rulers continued through the Amir ʿAbd al-Raḥmān era, relations were not nearly as close and reverent as that between the Afghan ruler and the Sultan-Caliph in Istanbul. We may initially guess that Sunnī-Shīʿī differences had a role to play here. Amir ʿAbd al-Raḥmān notoriously persecuted the Shīʿī Hazaras of central Afghanistan, though as Amin Tarzi has argued, in light of his earlier relations with Hazara communities at the beginning of his rule, it is also possible his behavior was the result of brutally crushing any revolts against his rule, no matter the source. The following report from the diary of Sardār Muḥammad Afzal Khan, British Agent at Kabul, while we cannot take it as verbatim transcript given the lenses of the British informant through which we have received it, nevertheless gives us *a* glimpse into Amir ʿAbd al-Raḥmān's bias against Shīʿī ʿulamāʾ in his process of selecting and distributing judicial officers throughout the territory of Afghanistan.

> On the 26th of November 1892, I went over to His Highness the Amir…Mulla Khosa presented to him from below about two dozen applications of Mullas, candidates for the posts of Kazis and Muftīs for the different places in Afghanistan, and sent up to him (His Highness) a list of the candidates, and told him that one Kazi and one Muftī have been sent to Maimena. His Highness carefully went through the list, and, seeing the name of a Shiah on the list, remarked that this would disgrace the other Kazis and Muftīs in the eyes of the people, and would prove a source of great anxiety to the others… It is the duty of every king to show to his subjects the right way to be followed, and in so doing he is discharging his duty, but the people are at liberty to follow his advice or not… [at the end] About 21 Kazis and Muftīs were appointed for different parts of Afghanistan, but the others will be appointed by and by, and sent to the various parts of the country.[303]

---

[301] This work is known as *Faideli Bilgiler* in modern Turkish, and has been translated into English under the title *The Sunnī Path*.

[302] IOR-L/PS/20/42 *Precis on Afghan Affairs*, by Lieutenant-Colonel C.J. Windham. Calcutta: Superintendent Government Printing, 1914 (Para 329, p. 416).

[303] NAI-FD/SEC Jan 1893 511-539 (2-3).

While anecdotal reports such as the one above give us an indication of the Amir's prejudice against Shīʿīs in his internal judicial appointments, it is still not dispositive with regard to his foreign relations with Persia. The previously mentioned report discussing the Amir's invitation to the Shah of Iran, which was initiated by Amir ʿAbd al-Raḥmān after all, signals the doors of communication were open between the two Persian-speaking monarchs. Rather, we must conclude, Amir ʿAbd al-Raḥmān particularly looked up to the Ottomans not just as *Sunnī* rulers, as the most powerful Muslim rulers in the world period, and the "Islamic state" par excellence.

Though we do not see more missions the likes of the Hulusi effendi mission—the British were keen not to repeat their "mistake" here—nevertheless Ottoman government records and British intelligence documents for this period do record instances of Turks and Afghans visiting each other's capitals and courts. In a secret British intelligence report devoted to the "policy to be adopted in the event of the Amir's death", the British track increasing assistance and strengthening of ties between Istanbul and Kabul. Offering insights into the strengthening of ties between the two Muslim sovereigns, the file reports of news received from the office of the "Amir's Almond Agent at Peshawar" in 1896 that the Sultan of Turkey has conferred the title of "Ziyaüddin Ghazi" upon His Highness the Amir ʿAbd al-Raḥmān of Afghanistan. The report continues to describe how the Amīr, upon hearing of the bestowal of the title, "has held great rejoicing and received *nazars* in memory of this honour."[304] It appears the Amir also took the title to heart, and began using it in *firmāns* and diplomatic correspondence with other sovereigns almost immediately. An envelope of a letter found in the Indian archives from the Amir letter to the Viceroy of India in 1896, for example, has the following written on the outside, "From His Highness the Amīr, Zia-ul-millat-wad-din, Independent King of the dominions of Afghanistan."[305] The immediate use of a title granted by the Ottoman Sultan on the Amir would indicate an even stronger relationship and respect for Istanbul the Amir of Kabul who seemed to heed no one else.

At the same time, the excessive reliance of British intelligence on local informants renders much to be critical of, as this particular report from an "Indian almond agent at Peshawar" illustrates how rumor-esque, insubstantial, and circumstantial intelligence reports can be as evidence for historians. So much of the British intelligence records were based on rumor, such that it behooves the historian of this era to be very circumspect with them. As even the above document noted at the end, "news not yet confirmed from other source."[306]

How are historians to use such sources then, if not wholly disregard them? The triangulation of Indian, British, and Ottoman sources reveal indisputable evidence that Amir ʿAbd al-Raḥmān was increasing ties with the Ottomans, and in ways beyond diplomatic courtesies and filial piety. Rather, when such sources are corroborated together in a holistic light, they provide insight into the administrative exchange and borrowing taking place. For example, as discussed above, there is evidence of exchange between the two authoritarian

---

[304] NAI-FD/SEC/F Oct 1896 166-186 ("Assumption by His Highness the Amir of Afghanistan of the title "Zia-ul-Millat-wad-Din." Personal present from His Excellency the Viceroy to His Highness on the occasion. Afghan succession. Policy to be adopted in the event of the Amir's death").

[305] Ibid.

[306] Ibid.

monarchies in the realm of specific administrative reforms, particularly with Amir ʿAbd al-Raḥmān looking to the Ottoman model for inspiration on a modern "Islamic state."

– • –

In conclusion, it was likely the sum effect of a multiplicity of sources of advisors and administrative expertise that flowed into the court of Amir ʿAbd al-Raḥmān: Russian, British, Iranian, and Ottoman. While scholars have largely emphasized the Russian and British component, and Amin Tarzi discusses the Iranian influence, I argue scholars have largely left out the Ottoman influence role, beginning with the mission of Hulusi Efendi. Having discussed the potential inspirations, models and multiple sources of administrative exchange that Amir ʿAbd al-Raḥmān's government drew upon, we now turn to a closer examination of the landmark and pioneering juridical developments in Afghanistan during the ʿAbd al-Raḥmān era.

A Rule of Law, Not Men: Seeing Like a Juridical State in Afghanistan

> [T]he creation and development of structures and institutions, rather than personalities, are what determined the apparent effectiveness of Abdul Rahman.[307]
>
> - Amin Tarzi, "The Judicial State" (2003)

The historiography of the judicial system of Afghanistan before Amir ʿAbd al-Raḥmān is exceedingly scarce. One of best sources on modern Afghanistan's judiciary from an Afghan scholar, written in Persian, and based on Afghan government sources is ʿAzīz al-Dīn Fufalzai's *Dār al-Qaḍāʾ dar Afghanistan*, published in Kabul in the Afghan solar year of 1369 [1990/91].[308] Fufalzai's work provides one of the most thorough lists of judicial divisions and personnel of successive regimes in the country's history from the nineteenth to late twentieth centuries. The work is a priceless source for our dissertation in its rare list of the names of jurists and politicians who participated in codification and juridical centralization activities from the late nineteenth century to the Amān-Allāh Khan era, and we will return to the importance of the work in that regard in Chapter 5.[309] For our purposes here, Fufalzai's survey of the Afghan legal system stands out among modern legal histories published in Afghanistan for its in-depth study of property law in Afghanistan since the nineteenth century, including a study of primary source documents pertaining to transactions in land. As Amin Tarzi notes in this regard,

> No detailed study of the judicial system under Sher ʿAlī is available to be used as a comparison to the changes introduced to this system by ʿAbd al-Raḥmān. Lists of publications in the reign of Shaer 'Ali do not include instruction manuals or any other text dealing with the judicial system of the state. It is generally accepted that the country lacked a centralized and systematized judicial system. In his survey of the Afghan judicial system 'Aziz al-Dīn Fufalzai reproduces several

[307] Tarzi, "The Judicial State," 29.

[308] ʿAzīz al-Dīn Wakīlī Fufalzai, *Dār al-qaza dar afghanistan: az awayil-i-'ahd-i-islam ta 'ahd-i jumhuriyat* (Kabul: Markarz-i Tahqiqat-i'Ulum-i Islami, 1369 [1990/91]).

[309] See, for example, his list of members of the *Ta'sīs-i Mehfel-I Waziʿ-i Qawānīin* (Foundation for the Compilation of State Law Codes) of Kabul in Ibid., 518-519.

> legal documents mostly related to real estate transaction, but he does not provide details on how the system worked.[310]

Compared to Amin Tarzi's meticulous study of the proclamations, law books, and juridical manuals published during the ʿAbd al-Raḥmān era, for the social historian or legal anthropologist the fine textual details and minute discussion of court procedure begs the question as to how much of these rules were actually implemented in practice. That is to say, these meticulously researched textual studies presents us with the anthropological problem of the "law in action" versus "laws on the books." In spite of the excellent archival research and are glimpses of late nineteenth century legal documents from Afghanistan, we still do not get a comprehensive picture of how the system worked in practice, especially when it comes the role of the Sharʿīa vis-à-vis "competing" legal systems. For the anthropological perspective of these administrative regulations' implementation on the ground and outside of Kabul, Ashraf Ghani's studies of Sharīʿat court records in Kunar province are the most robust attempt study to remedy the historiographical gap in this regard.[311]

As for Afghanistan's earlier administrative and judicial history, Hasan Kakar, Christine Noelle, and Asta Oelsen have provided the only academic studies in a western language on the legal and administrative systems of Afghanistan before the Iron Amir. One of the rare sources from this period, in a western language at least, are the books and notes of Scottish statesman and historian Mountstuart Elphinstone (1779-1859), who was appointed as the first British envoy the Kabul court in 1808. In Elphinstone's classic travel log of early nineteenth century Afghanistan, he famously provided the following description of law in the "Kingdom of Cabul," as British Indian statesmen often referred to the ruling Afghan dynasty.

> [The] general law of the kingdom is that of Mahomet, which is adopted in civil actions in the Ooloosses [Afghan interior and nomadic tribes] also; but their peculiar code, and the only one applied in their *internal* administration of criminal justice, is the Pooshtoonwulle, or usage of the Afghauns; a rude system of customary law, founded on principles such a one would suppose to have prevailed before the institution of civil government.[312]

Elphinstone's general description, therefore, describes Islamic jurisprudence as part of the reigning juridical culture and social norms in Afghan society before Amir ʿAbd al-Raḥmān's "Islamization" campaign. The uncodified, locally administered juridical field described by Kakar reigned from the establishment of the first Afghan empire under Aḥmad Shah Durrānī and the Saduzai dynasty (1747-1818) to the first reign of Shah Shujāʿ al-Mulk (r. 1803-18, 1839-41). Apart from these scattered snapshots such as Elphinstone's diaries, however, no systematic study has been carried out of law and administration during the amirates preceding ʿAbd al-Raḥmān. A major reason for this gap in the historiography is the lack of primary sources that would give

---

[310] Tarzi, "The Judicial State," 139.

[311] Ghani, Ashraf. Disputes in a Court of Sharia, Kunar Valley, Afghanistan: 1895-1890." *IJMES* 15 (1983): 353-367; "Afghanistan, xi. Administration." *Encyclopaedia Iranica*, Vol. I, Fasc. 5-6, pp. 558-564 (1983); "Islam and State-Building in a Tribal Society: Afghanistan 1880-1901." *MAS* 12 (1978): 269-284.

[312] Mountstuart Elphinstone, *An Account of the Kingdom of Cabul and its Dependencies in Persia, Tartary, and India* (London: Richard Bentley, 1839), quoted in Tarzi, "The Judicial State," 138. See also Noelle 1995, 469-75.

us a window into social life in the era, let alone government sources. Amin Tarzi, in prefacing his dissertation on the "judicial state" established by Amir ʿAbd al-Raḥmān Khan, comments,

> No detailed study of the judicial system under Sher Ali is available to be used as a comparison to the changes introduced to this system by Abdul Rahman. Lists of publications in the reign of Sher ʿali do not include instruction manuals or any other text dealing with the judicial system of the state. It is generally accepted that the country lacked a centralized and systematized judicial system.[313]

For these reasons Amir ʿAbd al-Raḥmān, called by British Viceroy of Egypt Lord Curzon as the "Justinian of Afghanistan", is widely held by historians and to have laid the basic foundations of a national juridical state.[314] By juridical state, I mean to describe a central government that at least *proclaims* to govern in accordance with announced and publicly-available legal texts, such as a constitution or law codes, rather than the private, personal decisions of individuals whether or not they hold official government office. We might say it is another term for the "rule of law" (see Introduction). Using the concept of a juridical state, this section examines how Amir ʿAbd al-Raḥmān laid the foundations for such a law-based state, a new textual and administrative edifice his son, Amir Ḥabīb-Allāh Khan (1901-1919), and his grandson, Amir Amān-Allāh Khan (1919-1929) in particular, built upon and expanded in their own "Rule of Law" projects. We begin with ʿAbd al-Raḥmān's core aims and goals, and then proceed to the means he used to achieve them.

The Iron Amir's Government: Goals and Challenges

Amir ʿAbd al-Raḥmān was driven by a range of political and economic interests to pursue a centralization campaign that was bent on building a unitary national state of Afghanistan governed by laws drafted by him and executed by a bureaucracy and army loyal to him. As Amin Tarzi, Hasan Kakar, and Ashraf Ghani have noted, it was ʿAbd al-Raḥmān's determination to impose ʿ*ayn-i ḥukūmat*, or the supervision of government, on a clearly demarcated and defined territory that set ʿAbd al-Raḥmān apart from his predecessors. In order to build and impose his central bureaucracy and spread its influence in every corner of Afghanistan, the amir needed to first reduce the power of his greatest competitors—the tribal chiefs, nobles, and large landowners spread out throughout the country's interior hinterland. What is more, the Amir sought not only to crush their power militarily, but more important, he sought to make them employees of the state, to make their legal disputes "the business of the state," and to make their men the protectors of the state. Most of all, he sought to enlist them in the central state's new prerogatives, such as policing cities, towns, and highways, maintaining law and order, supervising markets, and ensuring that everyone in Afghanistan paid taxes to the central government.[315]

---

[313] Tarzi, "The Judicial State," 139.

[314] According to Sultan Muḥammad Khan, a biographer of the amir, the British Viceroy of India George Curzon (r. 1899-1905) referred to ʿAbd al-Raḥmān as the "Justininan of Afghanistan." Ibid., 133. Later commentators would describe Amir Amān-Allāh Khan (r. 1919-1929) in the same terms.

[315] Tarzi, "The Judicial State," 23. The following British document is one of the few sources outlining Afghanistan's revenue and costs of administration. NAI-FD/SS January 1880 536-544 ("Afghanistan. Its revenue and cost of administration"). But as Amin Tarzi concisely points out, these objectives were not so easy for a

More than a mere drawing of maps and settling of borders was at play in Amir ʿAbd al-Raḥmān's campaign to build a national state and unprecedented kind of government in Afghanistan. As Huricihan İslamoğlu has argued, these were shared imperatives of early modern states, such as that drove the Ottomans to centralize their state in Anatolia, Syria, Arabia and North Africa, the Qing Dynasty in China, and the Czars in Russia.[316] In the case of Amir ʿAbd al-Raḥmān and Afghanistan, the centralization drive must be seen within the Hegelian dialectics of "*ḥukūmat*" and "*yāghistān*", or between central government and the land of the "free." At the heart of the dialectic was a struggle between Kabul's attempt to exert authority over the interior and rural majority for money, men, and minds on the one hand, and the widespread resistance to that extension of state authority on the other. The ḥukūmat-yāghistān dialect is a perennial theme in the social, political and legal history of Afghanistan. From Aḥmad Shah Durrānī's foundation of an Afghan empire in Qandahar, to British attempts to quell restive Pashtun tribes in the Indo-Afghan frontier, this is a story that continues in to the Amir Amān-Allāh Khan and present day. It is also the dialectic which Amir ʿAbd al-Raḥmān was determined to win, and win completely. To do so he had to introduce a new form of rule Afghanistan had never seen. As Tarzi describes in this regard,

> The institutionalization of the state's authority required a fundamentally different set of rules, which for the first time in the history of the country were codified and supervised by an extensive bureaucracy. The new rules included new and higher rates of taxation for the first time on all segments of the Afghan society and rigidly regulated economic policies. They also involved codification of laws and rules of procedure and the imposition of a single judicial system, enforced by strong military, intelligence, and police forces. Through assiduous assimilation of theories derived from the doctrines of sovereignty in Islam, ʿAbd al-Raḥmān legitimized the imposition of his state's rule within his boundaries over the unruly elements within his society.[317]

ʿAbd al-Raḥmān employed a variety of tools and strategies in pursuing his goal of a centralized state loyal to him. One of them was the use of Islamic political discourse to bolster his legitimacy. As presented in detail in his government published manual, *Taqwīm al-Dīn* (1888/89), ʿAbd al-Raḥmān was adamant that for people claiming to be Muslims, submission to a Muslim sovereign was the only option.[318] For Amin Tarzi, however, ʿAbd al-Raḥmān went beyond traditional Sunnī political theory and actually innovated an unprecedented form of absolute governance with an "Islamic" veneer to justify the violence and cult of personality, with a demand for absolute obedience to him. Tarzi explains the calculus and reasoning as follows,

---

government in nineteenth century Afghanistan, for at least two reasons: "Most Afghans did not believe in paying taxes and most tax collectors did not believe in working for the central government." Tarzi, "The Judicial State," 23.

[316] İslamoğlu, Huricihan "Modernities Compared: State Transformations and Constitutions of Property in the Qing and Ottoman empires." *Journal of Early Modern History* 5 (2001): 353-386; İslamoğlu, Huricihan, ed. *Constituting Modernity: Private property in the East and West*. New York: I.B. Tauris, 2004; İslamoğlu, Huricihan and Peter C. Perdue, eds. *Shared Histories of Modernity: China, India, and the Ottoman empire*. New York: Routledge, 2009.

[317] Tarzi, "The Judicial State," 106; .

[318] For an original copy of the manual, see ADL 0004 (1306 [1888/89]) (Mulla Abū Bakr, et al., *Taqwīm al-Dīn*).

> ʿAbd al-Raḥmān understood the composition of his state as a multi-ethnic, feudal patchwork of disassociated communities with no common bond other than a strong belief in the religion of Islam. . . [T]he only tie between various communities and tribal confederations, was Islam, interpreted in accordance to local customs, and its laws enforced by locally appointed clergyman with no or little influence from the central government. What ʿAbd al-Raḥmān desired was to force on every community and tribal confederation within his domain a single interpretation of Islam which would derive from him.[319]

Perhaps the greatest example of Amir ʿAbd al-Raḥmān's employment of Islamic rhetoric and cultural symbols came on Tuesday, March 1, 1892, when the Amir was reported have brought a sacred Prophetic Mantle (*Khirk-i Mubārak*) from Qandahar to Kabul, and Rs. 6000 were distributed in alms on the day of its arrival.[320] This leads us to believe that while Amir ʿAbd al-Raḥmān may have learned various technologies of governance from his time in exile, or from foreign powers, he nevertheless crafted his own program by using Islam as a political ideology to justify his centralization program. In this way he was following a long tradition of Muslim rulers, the Ottomans, Mughals, Safavids and Qajars, and now the Afghans.

We should not overstate the role of the subtle arts of persuasion in ʿAbd al-Raḥmān's campaign of centralization, however, for apparently there was little of it. While political scientists and policymakers may be awestruck by his achievements of centralization, the legacy of the "Iron Amir" is largely one of state-sanctioned terrorism and brutality. Should an Afghan population not be convinced by ʿAbd al-Raḥmān's religious rhetoric, the consequences of opposing him were swift, brutal, and calamitous.[321]

Offering a glimpse into the Amir's vision, a secret Foreign Department file of April 1891 includes an entry in the Peshawar Confidential Diary dated March 12, 1891, entitled "Relations of the Amir with Religious Characters, &c." The intelligence file describes a royal *firmān* issued to the Baizai Mohmands of Bedmani, one of the few complete firmāns of the Amir we have addressed to a tribal conglomeration in the interior of the country. The text reveals a discourse of tribal "ignorance" of the state laws, and remedial discipline through law and education. The translation of the proclamation is provided below,

> Be it known to you, all the maliks, landlords, and elders of Mohmand tribes, especially Miro Khels, a section of Baizai of Bedmani, that it has been brought to the notice of His Highness that you have preferred a complaint against Ghulām Haidar Khan, Commander-in-Chief, in the matter of eight men who have been hanged by the said officer in obedience to the orders of His Highness, you are hereby informed that the Commander-in-Chief has not done this really and positively of his own accord. Owing to your ignorance of State laws, you have considered this a matter of importance. Although His Highness overlooks the offences committed by Afghans and especially in the matter of purchase of arms, which is strictly prohibited by His Highness, and these men have been concerned several times in such cases and have been pardoned for the sake

[319] Tarzi, "The Judicial State," 118-119.

[320] NAI-FD/SEC/F June 1892 364-418.

[321] The most obvious example of the brutality of ʿAbd al-Raḥmān's centralization plan is in his ruthless suppression of autonomy movements by Hazarah communities in Afghanistan. On the atrocities carried out in this period, see Tarzi, "The Judicial State," 153-159; Barfield, *Afghanistan: A Cultural and Political History,* 146-158; and Saikal, *Modern Afghanistan,* 36-39.

> and at the recommendation of the Khan of Lalpura. If these persons had escaped this time the punishment they deserved, it might have emboldened the other tribes, and His Highness has to deal with lakhs of persons. Therefore an order was passed for these persons to be hanged and put to death, and this was the punishment under the State laws. You must certainly keep yourself aloof hereafter from committal of any such unworthy acts, lest the punishment and reproach of the State may befall you, and it was necessary to inform you of this.[322]

By stressing their disobedience owed to the said tribe's "ignorance of State laws," which resulted in their "punishment under the State laws," and a future warning against "the punishment and reproach of the State," Amir ʿAbd al-Raḥmān's proclamation was disciplining this particular tribe and surrounding population into the rules and subjectivities of modern power. The authority of the Afghan Amīr, though still embodied in ʿAbd al-Raḥmān Khan himself, was not the same personal power of previous rulers, but rather represented a new intervention into Afghanistan's juridical field, or rather, assortment of juridical *fields* that the Amir sought to conglomerate into *one*. In place of the occasional brutal public punishments characteristic of Foucault's discussion of premodern power—which definitely continued throughout the Amir's reign—more emphasis was put on the role of abstract rules, regulations, and procedures of government handbooks. In this way, Amin Tarzi's study of state (*sarkārī*) proclamations illustrates "the high priority ʿAbd al-Raḥmān gave to the procedural and structural regulation of religious courts, rather than mere obedience to his person."[323]

In place of a unifocal center of power in the Amir's darbar, the Amir's reforms signaled a diffusion of that power into the very lives of his subjects throughout the country. The new, more impersonal State authority (*dawlat*), whose rules everyone was bound to follow, reached in unprecedented fashion into the personal aspects of subjects' lives, representing a hallmark sign of modern disciplinary power.[324]

With this historical understanding of the state imperatives driving Amir ʿAbd al-Raḥmān to pursue his centralization campaign, we now turn to the means and strategies he devised and relentlessly applied in executing it. Amir ʿAbd al-Raḥmān employed a variety of strategies and programs in pursuit of his ultimate project of a juridical state. The remainder of this section examines the major tools he employed in this pursuit, including enhanced bookkeeping methods, institutionalization of the Ḥanafī school of jurisprudence, government control of Islamic charitable endowments (*awqāf*), and finally, a number state-commissioned publications designed to institute a uniform system of law and administration throughout the provinces of Afghanistan, as well as expand and tighten the central government's grip over social and economic life. We now turn to a discussion of these tools in order. In spite of the ordering of each section, many of

---

[322] NAI-FD/SEC/F April 1891 164-179 ("Peshawar confidential diaries of 1891.Relations of the Amir with Religious Characters, &c.").

[323] Tarzi, "The Judicial State," 28-29.

[324] So as to not overstate the degree of regulation, surveillance, and discipline in 'Abd al-Raḥmān's reign however, these were still "seeds" rather than full-on manifestations of modern disciplinary power, per Foucault. The more extensive reaching into traditionally autonomous realms of Afghan social life—particularly with regard to the roles and conditions of women, regulation of marriage, and a more universal system of education—would not be promulgated until the Amānī era (Chapter 5). Foucault, Michel. *Discipline and Punish: The Birth of the Prison*. New York: Vintage Books, 1995; and *Society Must Be Defended: Lectures at the College de France, 1975-1976*. New York: Picador, 1997.

these reforms were launched simultaneously and in tandem, supporting each other like the bricks of one massive state edifice that the Amir sought to build from the ground up.

Improved Bookkeeping and the Abolition of the *Fard* System

More remembered for his brutal suppression of revolts and cruel punishments of convicted criminals, one of the most lasting reforms of the "Iron Amīr"'s centralization campaign was not the many made up of blood and steel, but the wood fibers of paper. Prior to Amir ʿAbd al-Raḥmān's reign, official state documents in Afghanistan were composed by scribes on individual units of paper, parchments known as *fard*. At the end of each year, officials in charge of each district or province would collect the loose parchments and scrolls and compile them into a book of records, or *daftar*. According to Russian historian Shokhhumorov, an even more ancient system of bookkeeping existed in Afghanistan until the ʿAbd al-Raḥmān era whereby individual parchments of paper were glued together and rolled into scrolls, or *tumars*. The latter system could become quiet unwieldy as, according to one historian, the *tumars* could reach such extensive lengths as over one hundred meters. What is more, as Tarzi notes, when a particular document had to be accessed the entire scroll had to be painstakingly unrolled. Due to the top-heavy and rather clumsy nature of these methods, not to mention the ever-present danger of easily tampering with the records, such practices did not produce the meticulous bookkeeping Amir ʿAbd al-Raḥmān would need for his extensive centralization and taxation plan.[325]

For these reasons Amir ʿAbd al-Raḥmān launched a series of decrees pertaining to recordkeeping and tax-collecting, beginning with the abolition of the *fard* system and institution of binded tax books.[326] Historians have recognized the abolition of the *fard* and imposition of an improved recordkeeping system as one of ʿAbd al-Raḥmān's earliest groundbreaking measures in reforming the state administration, curbing fraud, and streamlining the bureaucracy. As for the actual impact of the reforms, because of the paucity of primary sources speaking to the implementation of the decrees, historians differ as to the degree of success. What is certain is it

---

[325] As Tarzi notes in this regard, both the *tumar* and *fard* systems of recordkeeping "left considerable room for government officials to commit fraud and embezzlement by tampering with the unbound collections of documents." These above descriptions of the *fard* and *daftar* paper systems are provided in Tarzi, "The Judicial State," 23, citing S. Shokhumorov, *Akham-i khuzur Kak istochnik po istorii Afganistana nachala XX* (Moscow: 1980), 14. Tarzi also notes the observations of an Afghan historian, Sayyid Mahdi Farrukh, who claims the *tumars* system was employed in Afghanistan as late as the reign of Amir Amān-Allāh Khan (r. 1919-29), but there is no corroboration of this from any other source. Tarzi, "The Judicial State," 23, citing Sayyid Mahdi Farrukh, *Tārīkh-i sīyāsī-yi Afghanistan* (Qum: 1371 [1992]) (originally published in 1935), 457.

[326] Afghan court historian Fayḍ Muḥammad provides an insightfully textured description in his contemporary account of the new systen as follows,

> On October 16, 1892, His Majesty changed the fard practice in favor of such as revenue and expenditures and other matters, even the internal correspondence that was exchanged between governors, employees and the diwan clerks on state matters, excluding petitions and letters that were addressed to the Esteemed Crown, must all be collected in book form and be bound. In the case of committing an error in writing, the error must be crossed off with a pen and not erased by licking the ink with the tongue or by scraping the ink to conceal fraud.

Fayẓ Muḥammad, *Sirāj al-Tawārīkh, vol. 3* (Kabul: 1331-1333 [1913-1915]), 700-01, cited and translated in Tarzi, "The Judicial State," 24.

was an enhancement in recordkeeping of the practices, from the perspective of the state at least, and laid a foundation for further improvements in the realm of administration.[327]

Seeking to standardize financial, administrative, and juridical practice in his domains, Amir ʿAbd al-Raḥmān commissioned the compilation and reproduction of the Afghan state's first official instruction manuals, government handbooks, and other printed guidelines for officials to refer to and apply all over Afghanistan. These handbooks, some of which we will discuss in detail in subsequent sections of this chapter in light of Amin Tarzi's findings, were distributed to tax collectors, judges, military commanders, and municipal police throughout the country. The primary emphasis was on the core act of the central bureaucracy: collecting taxes. In applying this new strategy, ʿAbd al-Raḥmān faced an array of abuses of administrative authority: tax collectors, local strongmen, and other officers of the government or military continued to overtax and extort money from the common people, while the embezzlement of public funds merely transmuted to new forms. This was achieved by hiding the *firmāns*, instruction manuals and other government-issued guidebooks from the public, subversive and self-serving acts aided by high rates of illiteracy.[328]

Seeking to overcome these obstacles, Amir ʿAbd al-Raḥmān responded with an even more enhanced system of publication, reproduction, and distribution of his decrees to battle corruption. By ordering the mass reproduction and distribution of official state decrees (*sarkārī*) throughout the territories of Afghanistan, ʿAbd al-Raḥmān sought the dual objective of holding officials accountable to the public, while at the same time streamlining the administration and enhancing the efficiency of tax-collecting, policing, and other prerogatives of the state.[329] As to the former concept of holding officials accountable to the public, historians describe this innovation as one of the most modern institutional reforms of Amir ʿAbd al-Raḥmān. At the same time, far from "democratizing" the administration, this was a hallmark of modern governance and discipline, surveillancing the state's employees in its duties. As Tarzi notes,

> By ordering that all of the amir's instruction manuals and farmans be made public, ʿAbd al-Raḥmān was officially drawing the public into the affairs of the state. It was a novel idea in Afghanistan to have both specific and general instructions given to local governors and at the same time to allow the public access to these documents. Of course in the late nineteenth century the rate of literacy was extremely low and those few who could read, were generally employed by the government or were members of the landowning or clerical elite.[330]

---

[327] Amin Tarzi summarizes in this regard,

> In trying to abolish the *fard* system, ʿAbd al-Raḥmān did introduce a new more efficient means of maintaining the daily records of the activities of his government both in the capital city of Kabul and in the provinces. How successful this change was in eliminating fraud is not known. Since the amir complained bitterly to the end of his life about the lack of integrity of his appointees, it may be assumed that the misappropriation of public funds continued long after the elimination of the *fard* system. But there can be little doubt that the new system was more efficient in maintaining and allowing access to bureaucratic records of the state.
>
> Ibid., 26.

[328] Ibid., 24.

[329] Ibid., 23-25.

[330] Ibid., 25-26; .

By addressing the general public's "ignorance" of state laws, in this way Amir ʿAbd al-Raḥmān devised clever means to gather public support while simultaneously imposing new forms of discipline and surveillance measures on his employees. We now turn to the other groundbreaking institutional reforms that further enhanced the central government's reach into Afghan social life, beginning with the most influential actors who could stand in his path: the ʿulamāʾ.

State Seizure of Waqfs (*awqāf*)

Historians have cited a major impetus behind his centralization reforms to be the neutralization of independent ʿulamāʾ whom he never trusted and saw as the greatest obstacles to his agenda. In spite of occasional public praise of prominent scholars and holy men in and Afghanistan, this extreme mistrust is evident in his written works. Some of the most frequent characterizations of religious leaders in Amir ʿAbd al-Raḥmān's writings are negative portrayals of "deceitful", "cunning", and willing to exploit common people's ignorance for personal gain.[331] Though Amir ʿAbd al-Raḥmān would eventually experience a personal turnabout and religious "conversion" in the last years of his life, it would be after years of unleashing policies at undermining the ʿulamāʾ, sufi tariqas, and other bastions of independent social and religious life in Afghanistan.

In the first chapter we discussed the historical emergence and characterizing features of the Islamic charitable endowment, or waqf, in early modern Islamic societies. Robert McChesney's study of the Hazrat ʿAlī shrine at Mazar-i Sherif is one of the only studies we have of this profoundly significant institution of Islamic law in Afghanistan from the early modern to modern eras. As illustrated in McChesney's work, the waqfs remained a source of financial autonomy for Afghan ʿulamāʾ and bastion of protection from intervention, and reliance on, the central state.[332] When Amir ʿAbd al-Raḥmān launched a massive project to transfer control of the major waqfs from the private control of the ʿulamāʾ into state ownership and administration, he was in no small part following the path of Ottoman predecessors. This is most evident in his focusing on two goals that were inextricably intertwined at the hip: seizing control of the waqfs (*awqāf*) and an attempt to rein in the ʿulamāʾ through bureaucratizing them. In these regards, Amir ʿAbd al-Raḥmān was following the Ottoman model of centralizing and control the administration and governance of the country by undermining the most independent and influential socio-legal actors in society, and he sought to do so by first seizing their primary means of financial support, the waqfs. Both were crucial aspects of social and religious life in the country, and the Amir was about to exert state control over both of them.

According to Amin Tarzi, the first act of Amir ʿAbd al-Raḥmān's dramatic campaign to undermine the ʿulamāʾ and reemploy them under his patronage began with the selection and employment of someone from among them, but who would help him achieve his goals. Historians have therefore marked the appointment of Mawlawī Aḥmad Jān Qandahārī Alkuzai in 1882 to head of the *daftar-i sanjish* (bureau of finance) as a watershed moment which initiated a series of measures to reorganize the administration of charitable endowments, including the

[331] Ibid., 176 .

[332] McChesney, Robert D. *Waqf in Central Asia: 400 Years in the History of a Muslim Shrine, 1480-1889*. Princeton: Princeton University Press, 1991.

financial support of ʿulamāʾ and their educational institutions. In what we might call the early stages of an "Islamic rule of law" campaign designed by its chief architect, the Sharīʿat-trained scholar Mawlawī Aḥmad Jān Qandahārī Alkuzai (d. 1902), in Afghanistan, Tarzi provides the following overview,

> The process of bureaucratizing of the ʿulamāʾ officially began in October 1882 when Mawlawī Aḥmad Jān Khan Qandahārī (Alikuzaʾi) was appointed as the head of the daftar-i sanjish. Among many fiscal measures that he initiated, the Mawlawī began to reorganize funds that the state was giving to the religious establishments. He regulated or confiscated all stipends which former rulers had assigned to people by virtue of their being engaged in the study of Islamic sciences (*talab al-ʻilm*) or descent from the Prophet Muhammad. He then reassigned stipends to those of the ʿulamāʾ whose claims were deemed valid. Although it took a little longer for a more comprehensive institutionalization of the administration of *awqaf* (religious endowments) to be realized, at this point the amir made a first attempt at 'confiscating awqaf and assigning their revenue for the upkeep of *imams* and *mu'azzins* of mosques as well as for carpeting, lighting and other expenses of mosques.' The new rules instructed qazis and the qazi al-quzat to be vigilant in regards to the awqaf so that one takes control of the religious foundations by force.[333]

In this way, with an eminent Afghan Islamic scholar at the helm of his juridical state-building project, there was an ironic aspect of this process actually undermining the ʿulamāʾ by depriving them of control over the waqfs (and thereby their financial autonomy), and then reemploying them under the Amir's patronage under completely new terms and power relations. The next major step in this direction—and perhaps the most dramatic to date—came in 1887. In that year Amir ʿAbd al-Raḥmān ordered that *all* forms of property held as waqf, including land and moveable property of religious institutions, *sayyids* (descendants of Prophet), and prominent ʿulamāʾ would be transferred to the new state treasury's department of charitable endowments (*diwān-i awqāf*). This new department would be administered by ʿulamāʾ selected by the Amir who would then be employees of the state and be paid fixed monthly wages.[334]

The next major move came in 1893, when the Amir imposed taxes on the sayyids of Herat, a powerful and previously exempt group under previous amirs. When asked how he could overturn customary practice when all previous Afghan amirs had exempt the family, the Amir responded with a verse from the Qurʾān he interpreted as applying as supporting his position and the administration of zakat funds by the state, a move that his grandson Amir Amān-Allāh would later employ in the 1920s.[335] Another means of seizing control over endowments was the

---

[333] Tarzi, "The Judicial State," 177. On this preeminent Afghan jurist at the time, Aḥmad Jān Khan ʿAlkuzai, Tarzi writes he was,

> also known under the cognomen Tajir, was from Arghistan, Qandahar and in addition to writing books on law, had compiled a collection (*diwan*) of poetry in Persian and Pashtu. He died in 1902. His son, Mawlawī Muḥammad Sarwar Khan Wāṣif, headed the first Afghan constitutional movement in 1909. Apart from writing skills and knowledge of law, Alkuzai served ʿAbd al-Raḥmān in generating more revenue from land and livestock taxes, regulating the fees which were paid for the maintenance of mosques and confiscating the religious endowments (waqf*)*.
>
> Ibid., 135.

[334] Ibid., 177.

[335] Ibid.

allegation (followed by prosecution) of the misappropriation of funds by state officials. As stated in Rule 27 of the *Asās al-Qāḍāt* judge's handbook, "[i]n the case of misappropriation of a religious endowment, the qazis are ordered to act according to the rules of the Sharīʿah by taking away the property or yields thereof from its confiscator and return it to the *mutawallī al-awqāf* (trustee of the waqf foundations)."[336] In this manner the position of trustee of the waqfs, a government-paid position, represented the new custodian of religious institutions that were previously financed by private donations, and now was in the control of the central state. Another way of putting it is that the Amir himself presented himself now as the supreme *mutawallī*, or trustee, of all the awqaf in the country. This was an attempt to legitimize what was by far the greatest intrusion of the state into a vital arena: their financial support. As his famous *Risālah-i Mawʾizah* (1892/93) proclamation, authored by one of his leading jurists Gul Muḥammad Khan Muḥammadzai and a copy of which rests in the Indian archives in Delhi, the Amir describes the state seizure of realms previously administered in a decentralized fashion by private local actors, as follows,

> Formerly, the State did not take care of the mosques, nor were any of the office-bearers paid, but now the State looks after the mosques, and the Imam and the Moazzin are paid by the State, and expenses for matting, lighting, ropes and buckets for drawing well-water, etc., are met by the State.[337]

Alongside the allegations of corruption, were allegations of incompetence. In the same text commissioned by Amir ʿAbd al-Raḥmān, *Risālah-i Mawʾizah*, the author paints a picture of the widespread lack of qualifications among religious leaders. "[P]rior to amir's reforms," notes Tarzi in his summary of the text, "the judicial system of the country was in such a shambles that every man with a white turban could proclaim himself a qazi and every literate person a muftī."[338] Similarly, as an abstract of the text in the Indian archives proceeds to relate, much of the Amir's judicial centralization program hinged on a negative assessment, or depiction, of the largely autonomous legal actors in the Afghan juridical field at the time,

> Formerly any one who wore a white turban could become a 'Kazi,' and any writer could become a 'Muftī.' In every village and town they used to carry on their trade, encouraging people to bring suits before their Courts. They used to receive bribes. Now High Highness the present Amir has appointed able, learned, and honest 'Olamaʿ to every place in his dominions for the purpose of administering justice among the people. He has given them substantial salaries, so that they may not be tempted to receive bribes. They are also obliged to give guarantees for their good and honest behaviour during the performance of their duties. Highness has also notified that, with the exception of 'Olama appointed by the State, no other Olama has a right to decide any issue.[339]

---

[336] Ibid. For an original copy of the second edition of *Asās al-Qāḍāt*, published in 1893-1894, see ADL 0124/0603 (1311 [1893-94]) (Aḥmad Jān Alkuzai, *Asās al-Qāḍāt, 2nd edition*). For an original copy of the first edition, see ADL 0129 (1303 [1885-86]) (Aḥmad Jān Alkuzai, *Asās al-Qāḍāt; sharh-i huquq wa jaza*).

[337] NAI-FD/SEC/F March 1898 313-324 (re proclamations of the Amir, including a summary of Mou'azi-i-Afghani), 2. The proclamation also goes on to describe the role of the "Boxes of Justice" (*sandūq-i ʿadālat*), in a total of 24 statements describing the reforms launched by Amir ʿAbd al-Raḥmān to strengthen, protect and serve his people.

[338] Tarzi, "The Judicial State," 179.

[339] NAI-FD/SEC/F March 1898 313-324 ("K.W. No. 4; summary of Mou'az-i-Afghani"), 1-2.

By creating a public perception of lack of qualifications, Amir ʿAbd al-Raḥmān was not only justifying his ambitious state-building program, he was setting up for a replacement: new ʿulamāʾ that would not only be financed by his state, but also trained by it. This leads us to his next tactic in his attempt to undermine the autonomy of the Afghan ʿulamāʿ: law school examinations.

Bureaucratizing the ʿulamāʾ by Qualifying Exams

Amir ʿAbd al-Raḥmān did not solely rely on the confiscation of endowments to state control, but also supplemented this dramatic act with a series of related reforms that also resulted in the government regulation of ʿulamāʾ, their education, and their employment. A related series of measures involved the limitation of jurisdiction to Sharīʿat cases to state-employed judges. The goal was to ensure only state-employed ʿulamāʾ—that is to say, ʿulamāʾ who would be dependent on the state and therefore trusted by the state—could accept jurisdiction over Sharīʿah law cases. As Sultan Muḥammad concludes in his biography of the Amīr, Islamic law and its administration in Afghanistan was to be "vested in the hands of ecclesiastical officials selected and appointed by the Crown; and they hold their offices under the sole privilege of the Crown. They are therefore bound, willing or unwilling, to obey the Crown, which stops all divergences and innovations, substituting for these a general unity."[340]

A related strategy was the was the imposition of a comprehensive exam in Islamic jurisprudence on all state-employed ʿulamāʾ. Known as the *imtiḥān-i faqahat*, the examination furthered government control over the education and professional prospects of the ʿulamāʾ. According to Tarzi, citing British sources, by May 1883 the process of testing the ʿulamāʾ had already begun and the amir is reported to have issued a farman stating,

> Every Mullah who passed a certain test should receive a royal diploma and wear a white turban, but a Mullah who has not read up to the above-mentioned standard shall wear a coloured turban, and every Mullah whose whereabouts, nationality and parentage are not known shall be expelled from the country, so that no stranger may come and foment disturbances.[341]

Notably, there are even indications the new examination was not going to be limited to the employment of strictly judicial personnel, i.e. the qāḍīs and muftīs. Rather, as Amin Tarzi observes, "All religious figures, such as trustees of shrines, shaykhs of sufi orders, and hereditary heads of important religious families were required to take the examination in order to be able to function in their respective offices."[342] This was a dramatic shift from the relative autonomy of juridical actors, even those acting in official capacities, before Amir ʿAbd al-Raḥmān. Covering his bases, Amir ʿAbd al-Raḥmān also made sure to increase the salaries of his new judicial employees, so as to help prevent bribes in the judiciary.[343]

---

[340] Tarzi, "The Judicial State," 179-180, quoting Sultan Mahomed Khan, *The Life of ʿAbd al-Raḥmān* Khan, 2:205

[341] Ibid., 180, quoting Oleson 1995, 73-74.

[342] Ibid, 181.

[343] Ibid., 179 .

In this way the Amir took on the ʿulamāʾ in their most coveted and traditional areas of authority: education and the administration of justice. Realizing the tremendous prestige and cultural capital of the ʿulamāʾ, the Amir chose to not confront the ʿulamāʾ physically or with violence, though he surely resorted to repression in cases of armed uprising and revolt. Rather than engage in violent confrontation with the ʿulamāʾ, the Amir sought to make them state functionaries on government payroll. This was a strategy the Ottomans had surpassed all other early modern Muslim states two centuries earlier, as discussed in Chapters 1 and 2. Commenting on these nascent steps Amir ʿAbd al-Raḥmān had taken towards a "bureaucratization" of the Afghan ʿulamāʾ, Amin Tarzi writes,

> The *modus vivendi* between the mullas and the amir as described by MacMunn was achieved not so much with 'Abd a-Rahman bowing to the mullas, but through his carefully and methodically co-opting the clergy into the central state structure and by formulating a system in which any opposition to the state (i.e. the amir) would be expressed as to an opposition to the precepts of the Sharīʿah—the raison d'être of the 'ʿulamāʾ. [In this way] The amir used the very calls of the ʿulamāʾ for the Islamization of the Afghan state to diminish their independence. He accomplished this by bringing their fortunes and those of the state together.[344]

Similar to the Ottoman administrator and jurist Ahmed Cevdet's Paşa's vision of a modern juridical state governed by Islamic law, Amir ʿAbd al-Raḥmān pursued a vision of a strong central state that drew its legitimacy and authority from the sacred Sharīʿat. This was a vision that his grandson Amir Amān-Allāh Khan would also draw, and build, upon in his own "rule of law" project. The new social contract envisioned by Amir ʿAbd al-Raḥmān was that he would rule and attend to their needs in the name of Islamic law in exchange for absolute obedience. This contract also applied to the ʿulamāʾ. As Asta Olesen has argued there was incentive for some ʿulamāʾ to accept this trade-off, as it gave them enhanced prestige and power in society, although it resulted in the legitimization of the ruler in the process, and the locus of authority in the state.[345] In this way, and Ashraf Ghani and Amin Tarzi have argued, the supreme achievement of the "Iron Amīr" was to formulate an interpretation of Islam that also justified his centralization scheme and which he became the ultimate arbiter of, whilst claiming to be a savior of Islam and supporter of the 'ʿulamāʾ, who he employed and whose institutions of learning were made dependent on him.[346] Put more explicitly, this scheme allowed the Amir to claim that any disobedience of his orders and challenge of his centralization policy was tantamount to disobedience to the Sharīʿah.[347] As Amin Tarzi summarizes in this regard,

> The crux of the amir's efforts was to establish a set policy of administering justice based on the Sharīʿah, to serve as the law for all inhabitants of Afghanistan. He stressed that the royal decrees issued by him would reflect the divine commands. Therefore, deviation from his decrees was to be regarded as tantamount to disobedience to the divine rules. . . [In this way] ʿAbd al-Raḥmān

---

[344] Ibid., 205.

[345] Olesen, Asta. *Islam and Politics in Afghanistan*. Richmond Surrey: Curzon, 1995; Tarzi, "The Judicial State," 206.

[346] Tarzi, "The Judicial State," 206.

[347] Ibid.

would try to justify his actions as necessary steps in propagating the rule of the Sharīʿah, which was after all the basic qualification required by the ʿulamāʾ of the country.[348]

Amir ʿAbd al-Raḥmān attempt to impose a uniform system of law for Afghanistan in the name of the Sharīʿah was a dramatic feat by all accounts. But it was a not a new one in the Islamic world. As discussed in Chapters 1 and 2, the idea of a juridical state, governed by pronounced rules drawn from Islamic jurisprudence and administered by a centralized bureaucracy of judicial actors has precedents in Emperor Aurangzeb's *Fatāwā Hindīyah* (1667-1675), the Ottoman codification projects of the Tanzimat (1839-1868) and Ahmed Cevdet Paşa, and in some ways, even the post-Tanzimat constitutional ideology of the Young Ottomans (Chapter 2). Amir ʿAbd al-Raḥmān's centralization program is also one that did not happen overnight, nor was it pursued in a reckless and ideological fashion. "[B]eing fully aware of the potential volatility of the mullas," notes Tarzi, "the amir moved very subtly so as not to provoke them."[349] For these reasons, as seen in the gap in time between his steps of encroachment on the awqāf described above, the Amir's moves were gradual and his key strategy was to make the ʿulamāʾ dependent on the central state for their livelihood, rather than directly confront them. A related subtle strategy in this regard was that once he employed them on government payroll, he then busied many ʿulamāʾ with sowing the seeds of their further submission: he began to employ the ʿulamāʾ in the regulation of their own professions, through the compilation of codes and handbooks. We now turn to these specific juridical processes and products, beginning with the institution of the Ḥanafī school of law, which was also a clever compromise with the majority of Afghan ʿulamāʾ in order to further even broader goals.

Institutionalization of the Ḥanafī School as Official Doctrine of the Afghan State

As introduced in Chapter 1, the term *siyāsa sharʿīyya* in Islamic law describes the sanctioned acts of rulers and their deputies to take immediate actions or design long-term policies in areas of social life where there is no explicit textual ruling in the sacred sources of Islamic law, usually in disciplinary or municipal matters, for reasons of administrative expediency. One of the most significant actions taken by Amir ʿAbd al-Raḥmān under this principle was the institutionalization of the Ḥanafī School as the official *madhhab* (school of Islamic jurisprudence) of the Afghan State. This was a decision that would have lasting consequences not just for the ʿAbd al-Raḥmān era, but for all subsequent rulers after him, especially Amir Amān-Allāh Khan (1919-1929).

Put shortly, Amir ʿAbd al-Raḥmān institutionalized by decree what was already a general social norm in Afghanistan and Central Asia: the predominance of the Ḥanafī school of jurisprudence. However, given the diversity of Islamic practice in Afghanistan, including a substantial Shīʿī population, ʿAbd al-Raḥmān's judicial act of instituting the Ḥanafī school of law by state law had profound implications for legal practice in Afghanistan. This is because the decree represented an intervention into Afghan social life of unprecedented degree, in addition to the legal pluralism thriving on the ground in rural Afghanistan, where Afghan *Mawlawīs*

[348] Ibid, 142.

[349] Ibid, 206.

(religious scholars and imams) and respected elders conventionally "administered" law in Afghan society intertwined with local customary norms, without frequent intervention of the central state. As Ashraf Ghani notes on the juridical field in Afghanistan *before* the codifications of Amir ʿAbd al-Raḥmān (during the reigns of Amir Dost Muḥammad and Sher ʿAlī),

> In the juridical sphere the state's role was also limited. The major line of cleavage here was between the *Šarīʿa* and customary tribal codes…Some *qożāt* were paid by the state, but the majority were supported by the local inhabitants. Available evidence suggests that they had a large degree of latitude in their interpretation of the *Šarīʿa* and that state made no attempts to impose a uniform interpretation or to undertake a systematic review of their decisions. Disputes in rural areas were usually resolved through customary law, which varied greatly from one group to another as well as from region to region. Even among Paštūn clans, who adhered to the common code of *paštūnwalī*, there were considerable differences in practice…Individual conflicts could and did evolve into feuds among clans, lasting over generations. Only when the parties concerned were mutually exhausted would they submit their disputes to a tribal council composed of members of a neutral group or experienced arbitrators. In short, while the Dorrānī empire displayed vigor in its military expansion, its domestic institutions were weak.[350]

It was precisely this legal "patchwork" of conflicting, intersecting, and overlapping legal systems that Amir ʿAbd al-Raḥmān sought to streamline and homogenize into a uniform legal system. Whether initiated with this intention or not is difficult to tell from our limited sources, but the Amir's proclamations with regards to protecting the rights of vulnerable groups like children and women in society may well have been intended, in fact, to empower the central government over these competing legal systems, and intervene in provincial life to an unprecedented degree (a theme we will encounter again in the Amān-Allāh Khan era). As Helena Malikyar as noted with regard to the government proclamations concerning "family law" in Afghanistan during the ʿAbd al-Raḥmān era,

> From the inception of the modern Afghan state in 1747, matters pertaining to family law were settled on an ad hoc basis, either in Sharīʿa courts or in tribal assemblies. It was Amir ʿAbd al-Raḥmān Khān (r. 1880–1901) who first attempted to codify Afghan family law and apply it in a uniform manner throughout the country. He banned child marriage, forced marriage, and exorbitant bride-price. He also declared un-Islamic such practices as bride-price and the giving of girls in marriage to end blood feuds. He also restored to women the right to seek divorce in cases of non-support, and to widows their rights to inheritance. Although these were important first steps, *qāḍī*s in remote areas of the country continued to issue rulings based on traditional practices and on their own interpretation of the Sharīʿa.[351]

In this way, while Malikyar acknowledges the landmark reforms Amir ʿAbd al-Raḥmān initiated in the realm of family law, including important protections for with regard to prohibiting forced marriage of children and women, she also astutely observes the contrast

---

[350] Ashraf Ghani, "Afghanistan, xi. Administration." *Encyclopaedia Iranica*, Vol. I, Fasc. 5-6 (1983): 558-564 (omitting citations).

[351] Helena Malikyar, "Law: Modern Family Law, 1800–Present: Afghanistan." *Encyclopedia of Women & Islamic Cultures*, Suad Joseph, ed., Brill Online Edition (2013), available at http://referenceworks.brillonline.com/entries/encyclopedia-of-women-and-islamic-cultures/law-modern-family-law-1800present-afghanistan-COM_0114a.

between these regulations on paper, and the juridical practices on the ground. In particular, she alludes to the complex interaction between the codes of the central state based in Kabul (statutory law), Islamic law, and highly localized "tribal" or "customary" law.[352] While "traditional practices" or "customary law" are rather problematic terms, implying untouched, static "traditions" that are fixed and have remained unchanged for centuries on end, the term often describes what in reality constitutes a biased assortment of law that colonial regimes—or central governments such as Amir ʿAbd al-Raḥmān's—selectively supported as manageable and able to coexist with their own colonial or imperial rule.[353] I find Lauren Benton's notion of "custom" within colonial contexts particularly useful, especially with regard to its elasticity for understanding a variety of complex legal and historical interactions not only in European colonial encounters, but in encounters between a centralizing state and local juridical fields in contexts of "modernization" or "modern state-building" (as is the case in this dissertation). As she notes with regard to aforementioned reification and "stretching" of "custom" in colonial contexts (but also centralizing state's "modernization" campaigns), "It was not the *content* of custom that stretched across boundaries (though sometimes this was also the case) but rather the legal and political *space* for custom that reproduced itself and, in the process, created new possibilities for colonial governance and cross-regional capitalist economies."[354]

In a similar way, much of the literature on law in Afghanistan—both historical and contemporary—reflects a view of local Afghan "customary law" as static, frozen in time, and regressive. The illicit, and sometimes not so illicit, assumption is that such maladies are to be removed and "improved", purportedly by liberal Western norms of judicial procedure and substantive law. Such views overlook the constantly evolving, highly refined, and adaptive nature of local customary law mechanisms, systems of law that, as in Afghanistan, have survived vicissitudes of war and famine, and when compared to state-run judicial institutions and law enforcement, have succeeded far more in maintaining relative social order during eras of prosperity and national turmoil alike.[355] Essentialist views on customary law also ignore the deeply rooted connections of customary law with virtually all aspects of social life in a local setting like a rural Afghan village, where each law or social norm is intertwined with another.

---

[352] I also deal with this subject in depth elsewhere in "Shari'a, Custom, and Statutory Law: Comparing State Approaches to Islamic Jurisprudence, Tribal Autonomy, and Legal Development in Afghanistan and Pakistan." *Global Jurist* 7 (2007): 1-56; and "Judicial Reform in Afghanistan: A Case Study in the New Criminal Procedure Code." *Hastings International and Comparative Law Review* 29 (2005): 101-141; and "Afghanistan's Reconstruction, 5 Years Later: Narratives of Progress, Marginalized Realities, and the Politics of Law in a Transitional Islamic Republic." *Gonzaga Journal of International Law* 10 (2007): 269-314.

[353] For example, see Martin Chanock, *Law, Custom, and Social Order: The Colonial Experience in Malawi and Zambia* (1998), for a critical explanation of the "customary law" concept. Speaking of customary law, Chanock notes that much of what was deemed "customary" was in fact simply the winning representations of intense conflicts between ethnic groups, genders, and generations, winning because they found accord with the ideas and interests of the colonial rulers. But they were only partial representations of the value and practices in African communities, both those inherited from the precolonial past, and those adapted and reformed in the unfolding present.

[354] Lauren A. Benton, *Law and Colonial Cultures: Legal Regimes in world history, 1400-1900* (New York: Columbia University Press, 2001), 262.

[355] Thomas J. Barfield, "On Local Justice and Culture in Post-Taliban Afghanistan," 17 Conn. J. Int'l L. 437 (2002); Chanock, *Law, Custom and Social Order*; T.W. Bennett, *The Application of Customary Law in Southern Africa: The Conflict of Personal Laws* (1985); Martin Chanock, *The Making of South African Legal Culture 1902-1936: Fear, Favour, and Prejudice* (2001).

As Laura Nader has also noted, the term does not capture the dynamic and flexible qualities of indigenous legal cultures, observing, "Research on 'customary law' illustrates that legal tradition is not petrified history; rather, legal tradition is constantly being invented."[356]

With this understanding in mind, how did Amir ʿAbd al-Raḥmān proceed to build his a centralized the juridical administration of the country that attempted to streamline and homogenize the complex patchwork of competing legal systems across Afghanistan into a more uniform system of courts, or as Amin Tarzi's describes, the Iron Amir's "judicial state"? The primary means was not just official proclamations, but the production and distribution of official guidebooks for the practice of Islamic law according to the Ḥanafī school. The aforementioned *Asās al-Qāḍāt* was one example, in how it outlined the precedential authority of Ḥanafī jurists. There were several other books in this regard, which we will discuss in turn in the next section.

Before proceeding to discuss the specific initiatives Amir ʿAbd al-Raḥmān pursued vis-à-vis the institutionalization of the Ḥanafī school, it is worthy to point out that Amir ʿAbd al-Raḥmān did sanction the reference to other schools of Sunnī jurisprudence when it fitted an administrative need. That is to say, the Amir did approve use of the controversial doctrine of *talfīq,* or juristic eclecticism between the four Sunnī schools of Islamic jurisprudence. In some of areas of the law, this resulted in drawing from the Mālikī school of jurisprudence in select issues, as Kakar has pointed out.[357]

In this way, even the policy of *talfīq* (juristic eclecticism) was not seen by many Afghan ʿulamāʾ to be outside of the modern Ḥanafī position vis-à-vis the executive's ability to draw from *siyāsa sharʿīyyah* (see Chapter 1) to formulate custom-made policies to meet the administrative needs of the day. Moreover, this was a policy Mughal and Ottoman predecessors had established in such landmark juridical projects as the *Fatāwā Hindīyah* (*Fatāwā-yi ʿĀlamgīrī*) and the Ottoman *Mecelle*, as discussed in Chapters 1 and 2. This indicates yet another convergence in legal modernism between the Ottomans and Afghans, and leads further evidence to the theory that Amir ʿAbd al-Raḥmān was drawing on the Ottoman example.

It is also worth mentioning, however, that Amir ʿAbd al-Raḥmān's same juridical flexibility did not generally extend to the Shīʿī populations.[358] In this way, a semblance of legal pluralism still did reign even in the centralized administration of Amir ʿAbd al-Raḥmān. What was really at stake however, was not just the predominance of one school of Islamic over another—because the jurists under ʿAbd al-Raḥmān did at time refer to talfiq, or jurisprudential

---

[356] Nader, *The Life of the Law*, 66. With these legal anthropological perspectives in mind, this dissertation uses the term to refer to the diversity of *unofficial*, *i.e. non-state-sponsored* legal systems indigenous to Afghanistan.

[357] Olesen 1987, 85; Coulson 1964, 132-133; Tarzi, "The Judicial State," 148, citing Kakar 1979, 167. This was not a novel to the Amir's codes, but also took place in the Mecelle. *Asās al-Qāḍāt* states in Rule 40 that the Muftis assigned to assist the qāḍīs are to be followers of the Ḥanafī school. Tarzi, "The Judicial State," 147. *Asās al-Qāḍāt* states in Rule 108 that the *fatāwā* of qāḍī Khan, also known as the *Dhakhirāt al-fatwā*, were originally compiled by Burhan al-Din b. Maza (d. about 1174). Ibid. For an original copy of the second edition of *Asās al-Qāḍāt*, published in 1893-1894, see ADL 0124/0603 (1311 [1893-94]) (Aḥmad Jān Alkuzai, *Asās al-Qāḍāt, 2nd edition*). For an original copy of the first edition, see ADL 0129 (1303 [1885-86]) (Aḥmad Jān Alkuzai, *Asās al-Qāḍāt; sharh-i huquq wa jaza*). An original copy of *Ihtisab al-Din* can be found in ADL 0201 (1306 [1888]) (ʿAbd-al-Razzāq Dihlawī, *Ihtisab al-din; dastur al-ʿamal-i muhtasib-hā).*

[358] Regarding the conditions of Shīʿī courts, Tarzi concludes, "Although the guidelines to the qazis ordered them to pass judgment in accordance with the Ḥanafī school, there is no evidence to suggest that initially this rule was applied to—or that the central government had the power to enforce in—the courts in the Hazarah districts where the population was predominantly Shi'i." Tarzi, "The Judicial State," 148-149.

eclecticism—but rather the supremacy of the Sharīʿah Courts over local customs. This was an unprecedented achievement in Afghanistan. As Ashraf Ghani has argued, though the vast majority of Afghans identified with Islam as part and parcel of being an Afghan, the uniformization of laws under one monarch which Amir ʿAbd al-Raḥmān sought to impose was a dangerous innovation to most Pashtun tribes in the interior, who usually did not refer their disputes to one uniform model of state courts emanating from Kabul.[359]

As has been shown in other contexts where official state law hoisting the Sharīʿah conflicted with local customary law (such as Bedouin customary law in Greater Syria and Iraq in the case of the Ottomans), such conflicts opened unique spaces of judicial activism for perhaps unexpected plaintiffs, including minorities and women.[360] As Ghani has also shown, in the case of ʿAbd al-Raḥmān's Islamization campaign, this created space for enhanced rights for women petitioners who sought greater rights under Sharīʿat principles in comparison to predominant modes of customary law,

> The supremacy of shari'ah courts over local customs, as Ghani argues, gave women the right to dispute legal cases for the first time in the history of Afghanistan. To further enable female subjects to take advantage of their Islamic rights, the amir instructed qazis in the cities to designate one day or half a day of the week, depending on demand, to women petitioners only. In the month of August 1893, one of the inns (*saray*) of Kabul was designated exclusively for women travelers who would come to the capital from the provinces to appeal their cases before the dar al-qaza'. There is abundant evidence all through primary sources showing the putting in practice of women's Islamic right to use the legal system. . . Secondly, the amir's response[s] indicates that he paid attention to petitions, regardless of gender; and thirdly, it is a testament to the fact that an ordinary citizen could venture over the head of a powerful official such as the khan-i ʻulum and complain about his negligence to the king.[361]

Since, as we know, customary law intertwined with interpretations of the Sharīʿah to a very deep degree, what tools did Amir ʿAbd al-Raḥmān employ to achieve the reordering and reconstituting of the Afghan juridical field to make Islamic jurisprudence (*fiqh*), as derived by the Ḥanafī jurists, the supreme mode of law in Afghanistan? The amir designed a variety of tools and strategies to consolidate the juridical field in this regard, and we have already discussed some of them: seizing the waqfs, bureaucratizing the Afghan ʿulamāʾ, imposing examinations, and instituting the Ḥanafī school of jurisprudence as the "official" *madhhab* of the Afghan state. There was one more extremely important juridical device he introduced, which would continue to be upheld, adapted and built upon by future rulers of Afghanistan. These were the new streamlined manuals and handbooks for judges, to which turn to now.

---

[359] Ghani, Ashraf. "Islam and State-Building in a Tribal Society: Afghanistan 1880-1901." *MAS* 12 (1978): 269-28; "Disputes in a Court of Sharia, Kunar Valley, Afghanistan: 1895-1890." *IJMES* 15 (1983): 353-367; "Afghanistan, xi. Administration." *Encyclopaedia Iranica*, Vol. I, Fasc. 5-6, pp. 558-564 (1983)*;* Tarzi, "The Judicial State," 144-145]

[360] For case studies illustrating this point in the context of interaction, contestation, and negotiation between "customary law" and Islamic law particularly with regard to property disputes and gender roles, see Beshara Doumani, *Family History in the Middle East: Household, Property, and Gender* (2003); Judith E. Tucker, *In the House of the Law: Gender and Islamic Law in Ottoman Syria and Palestine* (1998); Leslie Peirce *Morality Tales: Law and Gender in the Ottoman Court of Aintab* (2003);

[361] Tarzi, "The Judicial State," 160-162; .

Directing the Verdict: Mandating Minutae in Afghan Court Procedure

In addition to enhanced bookkeeping technologies, and controlling the budgets and funding of ʿulamāʾ and their educational institutions, one of the key means Amir ʿAbd al-Raḥmān used to promote his state centralization campaign was the publication and reproduction of state manuals and guidebooks for the use of government officials all over the country. For individuals working in the Afghan juridical field at this time—qāḍīs, muftīs, and other ʿulamāʾ as well as court bureaucrats like scribes, police (*kotwāls*) and prison guards—this was probably the most visible representation of the Amir's attempt to institute a uniform system of law and administration beyond Kabul and into the provinces. This section will review the major state publications of Amir Amān-Allāh's government in this regard: *Asās al-Quẓāt* (1885/86), *Kitābchah-i Ḥukūmatī* (1891), and a series of miscellaneous administrative decrees that will be discussed together for organizational convenience.[362]

Asās al-Qāḍāt (1885/86): Afghanistan's First Code of Civil Procedure?

In 1885 Amir ʿAbd al-Raḥmān commissioned his top state jurist Mawlawī Aḥmad Jān Khan ʿAlkuzai to compile a book that judges of the new centralized state of Afghanistan could apply no matter where they were in the country. Mawlawī Aḥmad Jān Khan ʿAlkuzai responded with a 140-page manual for judges known as *Asās al-Qāḍāt*.[363] The book contains 136 rules pertaining to judicial practice and administering one of the Afghan state courts according to Islamic law. Symbolizing the nexus between ʿulamāʾ, Islamic law, and the state, Amir ʿAbd al-Raḥmān's signature follows every single rule of the book, indicating his approval, or agreement to uphold the rule, depending on how one looks at it. A reprint of the book was completed in 1893, with no apparent differences between the first and second edition.[364]

A major portion of the book's contents are stipulated punishments for various crimes and tort damages, but also other civil matters such as dowry. While many of these were decided by the ʿulamāʾ authors according to specific stipulations in the Qurʾān and Hadith, or commentaries

---

[362] While this section will focus on the these three mentioned "lawbooks" or manuals promulgated during the Amri ʿAbd al-Raḥmān era, they were by no means the only ones. For examples of additional lawbooks and manuals produced in this period but not discussed here, see ADL 0601 (n.d.) (Amir ʿAbd al-Raḥmān Khan, Gul Muḥammad Muḥammadzai, *Kitāb-i qanun-i Afghanistan*; on the duties of Kotwals) ;ADL 0224 (1317 [1899]) (Gul Muḥammad Muḥammadzai, *Kitāb-i qanun-i Afghanistan*); and ADL 0228 (n.d.) (ʿAbd-al-Khaliq Muḥammadzai, *Qānūn-i hukkam-i dawlat-i Khuda-dad-i Afghanistan*). Illustraing the historian's perennial struggle of where to begin, for examples of similar lawbooks from just *before* the Amir ʿAbd al-Raḥmān era, i.e. Amir Sher ʿAlī Khan era, see ADL 0184 (1873) (Qāḍī ʿAbd al-Qādir, *Qānūn-namah-i-'askari*); ADL 0185 (1873) (Qāḍī ʿAbd al-Qādir, *Fatawa-yi Barahnah-ya Fatawa-yi Amiri*); ADL 0126 (1292 [1875]) (Qāḍī ʿAbd al-Qādir, *Tuhfat al-ʿulamāʾ/Nashihatname*). Though of the same "lawbook" or "administrative law manual" genre, the breadth and depth of the lawbooks published under the reign of Amir ʿAbd al-Raḥmān make the latter especially distinct and "new" in contradistinction to the earlier antecedents.

[363] Tarzi, "The Judicial State," 135-136; .

[364] Ibid. For an original copy of the second edition of *Asās al-Qāḍāt*, published in 1893-1894, see ADL 0124/0603 (1311 [1893-94]) (Aḥmad Jān Alkuzai, *Asās al-Qāḍāt, 2nd edition*). For an original copy of the first edition, see ADL 0129 (1303 [1885-86]) (Aḥmad Jān Alkuzai, *Asās al-Qāḍāt; sharh-i huquq wa jaza*).

of Ḥanafī fiqh, others were left at the Amir's discretion.[365] This was following in the traditional practice of *taʿzīr* as discussed in Chapter 1. As for the organization of the book, the introduction presents the following highly-structured format as described by Tarzi in his review of the work,

> According to Alkuzai's introduction the book was to consist of three parts, the first containing the ethics and rules of conduct for judges vis-à-vis plaintiffs, defendants, witnesses and court functionaries. The second part was to deal with the format in which legal documents were to be written, and the third with the office of *muhtasib* (market inspector) and regulations to it… The first chapter of *Asās al-Qāḍāt*—the entire work as it stands today—represents the first attempt by the Afghan state to extend a judicial system over the entire country and codify the Sharīʿah as state law.[366]

As for actual substantive provisions of the guidebook, they ranged from jurisdictional issues, to the procedure behind appeals, to perhaps most important of all: the establishment of a system of *judicial* precedent. This does not mean that Afghanistan did not have a system of juridical precedent before; rather, the newly introduced aspect here was to *institutionalize* a system of judicial precedent that built upon the decisions of the *official state* courts, and not local interpretations of Islamic law, customary law, or even non-judicial personnel who were not authorized to pronounce legal verdicts. This significant and transformative rule—on paper at least—disallowing local provincial rulers to judge cases is an extremely important on, for it speaks to the Amir's attempt to eliminate local competitors for power and authority in the juridical realm. Their explicit disauthorization from adjudicating cases ties into the aforementioned institutional changes of required examinations, which together represent the Amir's desire to supervise and control his juridical personnel, and prevent autonomous or competing juridical fields from emerging (or rather, continuing) which he could not supervise and monitor. Significantly, the new handbook also imposed a Statute of limitations on cases, another hallmark of modern judicial procedure.[367]

The organization of *Asās al-Qāḍāt* into distinct chapters for administrative use, the specific stipulation of punishments and recording of them according to organized chapters, and

---

[365] Tarzi observes that where usually exact penalities or fines or stipulated, in areas of ta'zīr, simply 'it is correct' (*sahih ast*) is written, indicating the matter is at the Amir's or he deputy's discretion. Tarzi, "The Judicial State",135-136

[366] Ibid., 135-136; .

[367] On a statute of limitations and the introduction of binding judicial precedent, Amin Tarzi notes the following provisions were to apply to the new civil procedure of Afghanistan's courts,

> Article 51 of *Asās al-Qāḍāt* specifically states that only cases that had occurred within the previous 15 lunar years could be litigated. The article allows for exceptions to this statute of limitation in cases involving inheritance, religious endowment (waqf) or where one of the parties was absent. The judges (*quzat* plural of *qazi*) were obligated to forward to Kabul all cases not involving the exceptions, or those that considered moot under the new statute of limitation, so that the amir pass whatever judgement he deems fair. In Article 115 qazis were ordered to accept as valid rulings by previous Afghan amirs or by ʿAbd al-Raḥmān in litigations (*khusumat*), as long as those rulings were based on the Sharīʿah. The rulings of other high officials of the government such as na'ib al-hukumas, hakims, kutwals, etc, were not, however, acceptable.
>
> Ibid., 137.

the detailing of court procedure are all hallmarks of modern civil and criminal procedure. They also bear much resemblance to the procedural details that make the mainstay of the *Fatawa Hindīyah*, and even more so, the *Mecelle*. For these reasons, Tarzi rightfully states, *Asās al-Qāḍāt* should therefore be viewed as a landmark change in the judicial administration of the state, or more accurately, a pioneering step in the building of a judicial administration for the nascent Afghan state."[368]

Though a landmark and pioneering text of legal procedure in its own right, *Asās al-Qāḍāt* was not the only new legal "code" or juridical guidebook promulgated during Amir ʿAbd al-Raḥmān's rule. Another prominent legal manual, or "code", published during the ʿAbd al-Raḥmān Khan was the *Kitābchah-i Ḥukūmatī* (Book of Governance).[369] According to Amin Tarzi, interestingly enough this supplementary code was compiled in 1883 to 1884, simultaneous to the production of the *Asās al-Qāḍāt*. However, unlike *Asās al-Qāḍāt*, *Kitābchah-i Ḥukūmatī* apparently eight years passed before Amir ʿAbd al-Raḥmān actually authorized its formal publication and distribution throughout his imperial domains. Tarzi attributes this delay in publication to the amir's lacking "willingness to transfer too much state authority to others during the first years of his reign."[370]

A closer examination of the provisions of the *Kitābchah-i Ḥukūmatī*, translated portions of which have been included in the Appendices (see Appendix D), provide some insights as to Amir ʿAbd al-Raḥmān's hesitation in this regard.[371] In contrast to the more meticulous procedures outlined for judges and courtroom personnel in *Asās al-Qāḍāt*, *Kitābchah-i Ḥukūmatī* is more of a collection of principles to be applied loosely by juridical personnel in the daily administration of justice in the provinces. That is to say, far more discretion was left to the provincial actors, as opposed to the micro-management which suited Amir ʿAbd al-Raḥmān in the first decade of his rule.

Certainly, law books, judicial codes, and judges' manuals were not the only tasks Amir ʿAbd al-Raḥmān busied himself and his top advisors with in his campaign to establish a strong modern state in Afghanistan. If fact, it was not even the primary task. In order to even to make the reception of these codes even remotely possible, Amir ʿAbd al-Raḥmān launched a brutal campaign to quash all forms of resistance to his autocratic authority, from Hazara populations in central Afghanistan and Kabul, to Pashtun tribes in the south and east of the country. Concerning the latter, Amir ʿAbd al-Raḥmān even forced many of these tribes to relocate in

---

[368] Ibid.

[369] For an original copy of *Kitābchah-i ahkam-i hukumati*, also known as *Kitābchah-i ahkam-i hukumati, Kitāb-i qawanīn-i hukkam wa zubbat, Risalah-i dastur al-'amal-i hukkam wa zubbat, Risalah-i hukumati*, and the title in the following version, see ADL 0204 (1309 [1891]) (Aḥmad Jān Khan ʿAlkuzai and Mawlawī Muḥammad Jan, *Qānūn-i kar-guzari dar mu'amalat-i hukumati wa ta'yīn-i jara'im-i siyasat ba-amir*).

[370] Tarzi, "The Judicial State," 169.

[371] NAI-FD/Sec/F July 1903 8-9 ("Notes on the administration of Law and Justice in Afghanistan, by Mīr Abdul Rashid, Mīr Munshi to the Chief Commissioner in the North-West Frontier Province"). Though printed in 1903, the document is a re-print of selected sections of the "Kitabcha-i-Hukumati" ordered Amir Ḥabīb-Allāh for the guidance of the state Hakims and was still in force in Afghanistan during his rule. For an original copy of *Kitābchah-i ahkam-i hukumati*, also known as *Kitābchah-i ahkam-i hukumati, Kitāb-i qawanīn-i hukkam wa zubbat, Risalah-i dastur al-'amal-i hukkam wa zubbat, Risalah-i hukumati*, and the title in the following version, see ADL 0204 (1309 [1891]) (Aḥmad Jān Khan ʿAlkuzai and Mawlawī Muḥammad Jan, *Qānūn-i kar-guzari dar mu'amalat-i hukumati wa ta'yīn-i jara'im-i siyasat ba-amir*).

northern and eastern parts of the country, such as Kunduz and Mazar-i-Sharif, historically Uzbek and Turkic centers in the history of the country. I do not delve into the details of Amir ʿAbd al-Raḥmān's military campaign across the country as this subject has already received a relatively large amount of attention by scholars of Afghanistan—namely Ashraf Ghani, Hasan Kakar, and Amin Tarzi.

With regard to Amir ʿAbd al-Raḥmān's greatest political "achievement", and the feat that enabled his subsequent administrative reforms, it is undoubtedly his unmatched attention to the reorganization of the Afghan army that warrants discussion. As Ashraf Ghani notes in this regard,

> Like his predecessors, ʿAbd al-Raḥmān paid special attention to the expansion and reorganization of the army. Out of an estimated population of six million people…the army recruited 79,000 men. The pay of the regular, quasi-regular and irregular troops amounted to 7,262,670 rupees, or 58.6 percent of the total cost of the state…The army was not used as a mere deterrent. It physically conquered the whole country—parts of it several times—in order to restructure the relationship of the local power holders with the central government. ʿAbd al-Raḥmān acquired his means of destruction through British grants as well as purchases on the open market. Between 1880 and 1895, he was presented with 80 guns, 17,342 shots and shells, 33,302 rifles, 3,200 carbines and 21,308,800 cartridges...In 1899, purchases of the Afghan government going through India were so large that they became the subject of a special correspondence between the viceroy and the secretary of state for India. In that year, ʿAbd al-Raḥmān had bought '2,000,000 cordite 33 bore cartridges, 2 3/4 tons Nordenfeldt and 9 tons Hotchkiss cartridges... 10 tons Martini-Henry and 9 tons Hotchkiss cases, besides several hundred thousand Lee-Metford and Mauser ball cartridges…[372]

Demonstrating the interconnected and interdependent quality of the Amir's state-building reforms, however, ʿAbd al-Raḥmān Khan's massive campaign to construct—and wield—an effective army loyal to his central command led to affiliated reforms in the financial and bureaucratic realms. The amir's campaign was very much similar to the comprehensive and interdependent quality of the Ottoman Tanzimat reforms in this respect. The amir's centralizing impulse bled into virtually every other realm of ʿAbd al-Raḥmān's government, and wide scale and unprecedented interventions into Afghan society at large. At the top, and from a bird's eye view, he divided the country into six provinces, which were in turn divided into smaller districts (this coincided, as mentioned earlier, with the production of Afghanistan's first internally-produced maps). Though he still personally appointed governors for these provinces, and we do not see the formation of a multi-tiered "cabinet" entrusted with distinct and articulated functions as we do in the case of subsequent rulers (see Chapters 4 and 5), nevertheless Ghani, Kakar, and Tarzi discuss his foundation of financial auditing practices to increase the efficiency of the state's taxation practices and revenue.[373] Crucially, Ghani notes his attempt to establish a rigorous and balanced national budget did were not successful, and tax-farming remained the norm of the country's political economy, along with exports of fruits, nuts, and lambskins.[374]

---

[372] Ghani, "Afghanistan, Administration," 558-564 (citations omitted).

[373] Ibid.

[374] Ibid. For a rare cross-border economic history of Afghanistan and the Indo-Afghan frontier during the late nineteenth century, see also Shah Mahmoud Hanifi's *Connecting Histories in Afghanistan: Market Relations*

As discussed in an earlier section, the sheer unprecedented scale of ʿAbd al-Raḥmān's vision for a unitary state with a strong centralized government was in no small part inspired by what he learned about another Muslim empire and state that he looked up to: the Ottoman empire. ʿAbd al-Raḥmān's emphasis on building a strong and invincible army loyal to his command was no doubt influenced by what he heard, read, and otherwise learned about the Ottoman Sultan's army and state to the west, and we may understand his massive military purchases from this perspective as well. In conclusion, Ghani provides one of the best descriptions of how the Iron Amir's centralizing impulse bled into virtually every other realm of ʿAbd al-Raḥmān's government, and wide scale and unprecedented interventions into Afghan society at large.

> To pay for such purchases, ʿAbd al-Raḥmān brought every part of the country under tight military, administrative, and juridical control. The hallmark of his reign was the bureaucratization of all spheres of administration, involving the clear demarcation of spheres of responsibility based on principles of accountability, hierarchy, and record-keeping. His administration was basically conducted through the written medium. To formalize these changes he issued a whole series of edicts, called *qānūn* or *dastūr-al-ʿamal*. Every officer of the army received a published set of rules that defined his functions and responsibilities—e.g., *Ketāb-e neẓām-e Afǧānestān* (the military laws of Afghanistan) for *mīrzāyān* (clerks), *kōtḥawāla-dārhā* (corporals), *meyǰarhā* (majors), etc. These efforts at reorganization also included the civil administration and the judiciary. In 1885, ʿAbd al-Raḥmān instructed Mawlawī Aḥmadǰān Khan, a court official, to compile two handbooks defining the duties of the governors and judges, called *qānūn-e kārgozārī dar moʿāmalāt-e ḥokūmatī* (law of conduct in the affairs of the state) and *asās al-qożāt*(foundation of judges). Under the latter regulations, the *qāżī* became a salaried official of the state whose conduct was strictly regulated and whose decisions were subject to regular review by his superiors. He could only give judgments in a court, not in his house or a mosque, and all the proceedings had to be recorded in writing.[375]

We have this come full circle as to the intertwining, interdependent, and interconnected quality of Amir ʿAbd al-Raḥmān's state-building reforms. We see in the above synopsis how the "Iron Amirate" was built upon a strong centralized army loyal to the Amir, but this massive "tool" of violence became the springboard for additional reforms in the realms of administration and law.

V
DAMASCUS TO DEHRADUN: TWO STREAMS OF EXILES FROM KABUL

If Amir ʿAbd al-Raḥmān was seeking out experts from outside Afghanistan and as far as Istanbul and Delhi, ironically, he was also laying the seeds for future Afghan experts without even knowing it. In this section, I also describe another monumental development that took

---

and State Formation a Colonial Frontier (Stanford: Stanford University Press, 2011), and "Impoverishing a Colonial Frontier: Cash, Credit, and Debt in Nineteenth Century Afghanistan." *IRS* 37 (2004): 199-218.

[375] As far as laws on the books versus in practice, Ghani further notes in a later article, based on a rare study of court records in a provincial district court of Konar valley, eastern Afghanistan, for the years 1885 to 1890, that the measures were largely implemented. Ashraf Ghani, "Disputes in a Court of *Sharia*, Kunar Valley*, Afghanistan,* 1885-1890,"*IJMES* 15 (1983): 353-367.

place during the ʿAbd al-Raḥmān era: the expulsion of several influential Afghan families soon after his assumption of power. When the Iron Amir assumed the throne, one of his first edicts was to banish all those influential families who were a remote threat to his power, or challenged him in a manner seen to be unbecoming of subjects an absolute king. The expulsion of notable Afghan families who opposed Amir ʿAbd al-Raḥmān's absolutism were hardly expected to have any consequence at the time, but would go on to have a profound and lasting impact on Afghanistan's political and legal history decades later in the twentieth century. This included the Amir ʿAbd al-Raḥmān's decision in 1881, based on personal vendettas or plain power politics, to expel one of Afghanistan's most powerful and well-connected families in particular: the Tarzis. We will also address the effects of the 1879 expulsion of the Yaḥya-khel (later, the Muṣāḥibān) family during the Second Anglo-Afghan War (1878-1880).

Kabul to Damascus: The Tarzis in Ottoman Exile

In 1881, following a dispute with the ʿAbd al-Raḥmān Khan over his ruthless scorched earth policies, the Amir banished a prominent Pashtun noble of Qandahar, Ghulām Muḥammad Ṭarzī Khan, and the entire Tarzi family was banished from Afghanistan.[376] After a short stay in India, they proceeded to Baghdad out of desire to live in the Sultan of Turkey's domains, and their antipathy for the British. When the Sultan of Turkey heard of their loyalty, he invited them to Istanbul where they were warmly received, and eventually settled them in Damascus with a generous stipend. Ottoman archives document these stipends from the very first distributions until well into the 1890s.[377] Sardār Ghulām Muḥammad Ṭarzī Khan was described in noble terms in the Ottoman archives, receiving various honors and medals from the Ottoman government, and an 1898 Ottoman archives document discussed the possibility of visiting Afghanistan one more time.[378] It appears the father did not return to Afghanistan, though he

[376] Biographical sources on this remarkable intellectual—arguably Afghanistan's greatest of the twentieth century—are surprisingly rare and few. To my knowledge to book-length study exists in a western language, though a few exist in Persian, Urdu, and Turkish. Sources are largely limited to articles and essays. See for example, Louis Dupree, "Maḥmūd Ṭarzī: Forgotten Nationalist." *American Universities Field Series Report: South Asia Series* III (1964): 21-42; Vartan, Gregorian, "Maḥmūd Ṭarzī and the Saraj-al-Akhbar: Ideology of Nationalism and Modernism in Afghanistan, 1880-1946." *Middle East Journal* 21 (1967): 345-68; İmamhocayev, Rahmanhoca, "Afgan Aydını ve Yazarı Mahmut Tarzi ve Osmanlı-Türkiye." Çev. Osman Mert, *Atatürk Üniversitesi Türkiyat Araştırmaları Enstitüsü Dergisi* 9 (2002): 347-352; Sistani, Muḥammad 'Azam. *Allama Maḥmūd Ṭarzī, Amir Amān-Allāh wa ruhaniyat mutanafaz*. Peshawar: Kitābkhane Danesh, 2004; Özmen, Süleyman. "Maḥmūd Ṭarzī'nin Hayatı, İnkılapçılığı ve Faaliyetleri." Ph.D. Dissertation, Marmara University (Istanbul), Türkiyat Araştırmaları Enstitüsü. 2008. The BBC Persian service recently published an exposé on his life, Muḥammad Akram Andishmand, "Tarzi Peshgām Nowgraye Afghanistan dar sed-e beestam" BBC Persian (24 August 2008). For an autobiographical essay on Maḥmūd Ṭarzī's early years, see Maḥmūd Ṭarzī (Wahid Tarzi, trans. and ed.), "Reminiscences: A Short History of an Era (1869-1881)," *Afghanistan Forum: Occasional Paper #36* (1998).

[377] For example, one of the first reports in the Prime Ministry Ottoman Archives on the official sponsorship of the Tarzi family is in BOA-A.MKT.UM 565/25 (1278 Za 15) ("Serdar Mehmed Han'ın ailesine gönderdiği meblağın büyük oğlu tarafından borçlarına yetmeyeceği iddiasıyla Kabul edilmediği"); BOA-BEO 459/34377 (1312 S 17) ("Afganistan serdarı Gulam Muḥammad Tarzi'nin borcunun tesviyesi"); BEO 459/34391 (1312 S 17) ("Afganistan serdarı olup Osmanlıya iltica edip Şam'da kendi arzusu ile ikamet eden Gulam Mehmed Tarzi Han'ın, giriftar olduğu ikiyüz lira deyninin mahallince tesviyesi"); BEO 488/36529 (1312 R 03) ("Mukaddema Afganistan Serdarı iken iltica eden Gulam Muḥammad Tarzi Han'ın tesviye-i deyni").

[378] For example, BOA-Y.PRK.ASK 149/35 (1316 Za 23) ("İhsan buyurulan nişanları Şam'da mukim Serdar Gulam Muḥammad Han'ın kendisinin Afganistan'a götüreceği").

completed a pilgrimage to Mecca one last time in 1897. On December 8, 1900, he died in Damascus, Syria, where he was buried at the Haḍrat Dahdah cemetery near the tomb of the sufi mystic, al-ʿĀrif Ayūb al-Khalwatī.[379] Meanwhile, Sardār Ghulām Muḥammad's precocious son, Mahmud, although also growing up in Syria, appears to have taken a more active role in resuming relations with the Afghan Amir.

Maḥmūd Ṭarzī: Afghanistan's Most Influential Exile in Ottoman Turkey

Maḥmūd Ṭarzī was born in Ghazni, Afghanistan on August 23, 1865, while traveling with his family from Kabul to Qandahar during a period of civil unrest arising from a dynastic struggle for power in the Afghan ruling family. Maḥmūd's father, Ghulām Muḥammad Khan Tarzi, hailed from an eminent Afghan lineage, tracing their ancestry back to Ḥājī Jamal Khan of Qandahar (1719-1805), a respected Pashtun noble and tribal leader. During the Second Anglo-Afghan War of 1878-1880, Ghulām Muḥammad Khan and his elder sons fought valiantly against the British. In 1880, when ʿAbd al-Raḥmān (r. 1880-1901) returned from exile in central Asia to become the British choice for Amir of Kabul, the Tarzis broke with the Amir over his brutality toward his conquered enemies, resulting in the entire family's banishment from Afghanistan. The Tarzis, including the teenager Mahmud, spent their first years of exile in Karachi, India from 1881-1883, but because of their entrenched suspicion of the British, chafed under British rule. Instead they proceeded to Baghdad, then the easternmost provincial capital of the Ottoman empire. Meanwhile, the Ottoman authorities in Istanbul maintained a keen interest in Afghan affairs, and followed the Tarzis' whereabouts in India, Iran, and Mesopotamia.[380]

And the Ottomans were impressed. Soon after arrival in Baghdad, the Tarzis were well looked after by the Ottoman provincial government, including provision of an initial plot of land to build a residence and stipend soon after their arrival.[381] But this was only the beginning of what would grow to be a deep and long-standing relationship. After six months in Baghdad, Mesopotamia, the Tarzis were invited to Istanbul, upon the invitation of no less than Sultan Abdülhamid II himself. After a cordial meeting and provision of a salary to Sardār Ghulām Muḥammad Tarzi and his family as guests, the family was settled in Damascus, where Ghulām Muḥammad Tarzi spent the last eighteen years of his life, in receipt of an Ottoman stipend for him and his family.[382] According to Ottoman records, the stipend covered a plot of land, daily

---

[379] "The Barakzai Dynasty," Royal Ark: Afghanistan, available at http://www.royalark.net/Afghanistan/tarzi.htm.

[380] As the following pages will demonstrate, a number of documents in the BOA-attest to Ottoman interest in Afghan affairs, including the travels and activities of prominent Afghan notable families in exile, such as the Tarzi family.

[381] BOA-Y.PRK.BŞK 11/25 (1303 Z 29) ("Afgan Amiri Dost Mehmed Han'ın biraderzadesi Gulam Mehmed Han Tarzi'ye arazi ve maaş tahsisiyle Bağdat'da ikameti meselesi").

[382] The Prime Ministry Ottoman Archives contains a detailed records of stipend dispursements to the Serdar Ghulām Muḥammad Tarzi and his family, from as early as 1862 and lasting in to the 1890s. An early government deed also indicated the expenses of shifting the Tarzi family from Baghdad to Damascus would be paid by the Ottoman government is contained in BOA-İ.DH 968/76510 (1303 S 06) ("Afgan Amiri Dost Mehmed Han'ın biraderzadesi Serdar Gulam Mehmed Han Tarzi'ye maaş tahsisi"). The official deed of imperial financial support, contained in BOA-İ.MMS 85/3694 (1304 M 29), concludes with a string of signatures from the most powerful men in the Ottoman bureaucracy, including the Grand Vizier and Shaykh al-Islam, indicating the great importance the Ottoman government gave to the matter and the reception of the Tarzi family as guests of the Sultan and their

subsistence, and even covering of Sardār Ghulām Muḥammad Khan's travel within Ottoman domains.[383] What is more, Ottoman records indicate the family was comprised of 35 persons, though this probably included servants.[384] The stipend also included a special allotment for the young "Mehmed Bey", one of Sardār Ghulām Muḥammad's sons, who according to a document in the Ottoman archives in 1889 was to be sent to Istanbul for education.[385]

Sardār Ghulām Muḥammad Ṭarzī Khan was described in noble terms in the Ottoman archives, usually as Afghan Prince ("Afghanistan Sardārı"),[386] Afghan Military Commander and Relative of the Amir of Afghanistan ("Afgan ümera-yı askeriyesinden ve emirin

---

Afghan Muslim brethren. The stipends also recognized different members of the family. See BOA-DH.MKT 1379/76 (1304 S 23) ("Afgan emirinin Şam'da ikamete memur olup zor durumda bulunan biraderzadesi Serdar Gulam Mehmed Han Tarzi'nin muhassan maaşına bin kuruş zam ve ailesinden isteyenlerin uygun birer işte istihdamı"); BOA-DH.MKT 1667/39 (1307 S 20) ("Afganistan Amiri Dost Mehmed Han'ın biraderzadesi olup Şam'da ikamet eden Serdar Gulam Mehmed Han'a tahsis miktar atıyye artırılması"); BOA-BEO 459/34377 (1312 S 17) ("Afganistan serdarı Gulam Mehmed Terzi'nin borcunun tesviyesi"); BOA-BEO 459/34391 (1312 S 17) ("Afganistan serdarı olup Osmanlıya iltica edip Şam'da kendi arzusu ile ikamet eden Gulam Mehmed Tarzi Han'ın, giriftar olduğu ikiyüz lira deyninin mahallince tesviyesi"); BOA-BEO 488/36529 (1312 R 03) ("Mukaddema Afganistan Serdarı iken iltica eden Gulam Mehmed Terzi Han'ın tesviye-i deyni"); BOA-İ.DH 1154/90257 (1307 S 05) ("Afganistan emirinin birader-zadesi Serdar Gulam Mehmed Han'ın zamm-ı maaşına dair"). BOA-DH.MKT 278/41 (1312 Ra 04) describes the combinations of general financial support (comprising gifts, stipends, and loans) provided to the Damascus-residing Tarzi family as Imperial Charity (sadaka-ı padişahi). BOA-DH.MKT 1666/17 (1307 S 17) singles out "Maḥmūd Bey" for a special allotment for his educational travels to Istanbul. BOA-BEO 1688/126578 (1319 Ra 26) also singles out Maḥmūd Ṭarzī for receipt of a stipend. BOA-BEO 1686/126437 (1319 Ra 22) even singles out a son-in-law, Abdülbaki Edendi, for receipt of a stipend. BOA-DH.MKT 1381/47 (1304 Ra 1) raises the possibility of state employment ("devlet hizmet ve memuriyetinde istihdam edilmeleri") for the sons of the family. In summary, BOA-MV 13/43 (1304 M 28) provides a useful overview of the various forms of support given by the Ottoman government to the Tarzi family, including an increase of 3000 kuruş from the originally stipulated amount (which was seen to be insufficient), and the possibility of state employment. This document also indicates the Tarzi family at this time comprised 35 persons.

[383] See above documents for descriptions of the subsistence stipend. In addition to the above documents, see also İ.DH 1154/90257 (1307 S 05) ("Afganistan emirinin biraderzadesi Serdar Gulam Mehmed Han'ın zaam-ı maaşına dair") and BOA-İ.DH 968/76510 (1303 S 06) ("Afgan Amiri Dost Mehmed Han'ın biraderzadesi Serdar Gulam Mehmed Han Tarzi'ye maaş tahsisi"). BOA-DH.MKT 1386/3 (1304 Ra 23) ("Bir miktar maaş ve arazi tahsisi ile Suriye'de ikamete memur edilen Serdar Gulam Mehmed Han'a Şam'da dönmesi için harcırah verilmesi") and BOA-DH.MKT 1386/47 (1304 Ra 24) mention the allotment of a portion of land in Damascus for the family patriarch, Serdar Ghulām Muḥammad Khan and his family. On their provision of travel funds to and from Damascus, see BOA-İ.DH 1011/79807 (1304 Ra 03) ("Serdar Gulam Mehmed Han'a Şam'a avdeti için harcırah verilmesi") and BOA-İ.DH 1278/100575 (1309 Za 12) ("Gidecek olan Serdar Gulam Mehmed Han'a atiyye-i seniyye olarak yüz lira itası").

[384] BOA-MV 13/43 (1304 M 28) ("Afgan Amiri Dost Mehmed Han'ın biraderzadesi olan Serdar Gulam Mehmed Han Tarzi ve otuzbeş kişiden oluşan ailesine verilen maaşın yeterli olmadığından, maaşının artırılarak üçbin kuruşa iblağı ve ailesinden devlet işlerinde istihdama kabiliyeti olanların uygun görevlere verilmesinin Suriye vilateine tebliği hakkında").

[385] BOA-DH.MKT 1666/17 (1307 S 17) ("Afganistan Amiri Dost Mehmed Han'ın biraderzadesi olup, Şam'da ikamet eden Serdar Gulam Mehmed Han Tarzi'nin Dersaadet'e gönderdiği mahdumu Maḥmūd Bey'e münasib miktar atıyye verilmesi").

[386] BOA-BEO 488/36529 (1312 R 03) ("Mukaddema Afganistan Serdarı iken iltica eden Gulam Mehmed Terzi Han'ın tesviye-i deyni").

akrabasından"),[387] and sometimes as the Damascus-residing Qandahārī ("Şam'da mukim Kanderharlı"),[388] or simply the Afghan-Ottoman prince-refugee ("Afghanistan serdarı olup Osmanlıya iltica edip").[389] Beyond descriptive titles, at least one Ottoman archives document indicates he received some form of decoration from the Ottoman government.[390]

Back in Afghanistan, the aging Amir ʿAbd al-Raḥmān eventually softened his stance towards Ghulām Muḥammad Tarzi, making gestures, but Tarzi refused to accept the Afghan Amir's invitation to return home.[391] Just two years before he passed away in Syria, an Ottoman archives document discussed the possibility of his making a visit to Afghanistan.[392] It appears he did not. The Ottoman records report the government giving every individual member of the Tarzi family in Syria a stipend upon the patriarch's death, and various other forms of financial support continuing as late as the first decade of the new century.[393] One particular document

---

[387] BOA-BEO 2739/205415 (1323 Za 18) ("Afgan ümera-yı askeriyesinden ve emirin akrabasından olup Dersaadet'te bulunan Serdar Mehmed Han'a atiyye-i seniyye tertbinden beş yüz kuruş itası").

[388] BOA-BEO 2420/181461 (1322 B 20) ("Şam'da mukim Kandeharlı Serdar Gulam Mehmed'in mahdumlarının Kandehar'a gitmelerine müsaade itası").

[389] BOA-BEO 459/34391 (1312 S 17) ("Afganistan serdarı olup Osmanlıya iltica edip Şam'da kendi arzusu ile ikamet eden Gulam Mehmed Tarzi Han'ın, giriftar olduğu ikiyüz lira deyninin mahallince tesviyesi").

[390] BOA-Y.PRK.ASK 149/35 (1316 Za 23), praising Serdar Ghulām Muḥammad Ṭarzī Khan as "ihsan buyurulan nişanları."

[391] According to Dupree, the patriarch of the Ṭarzī family wrote back, tongue in cheek, asking "Why should I return to my earthly home of Afghanistan, when I am near the place of the Day of Resurrection?" a reference to prophetic tradition describing the day of resurrection and its predecessory apocalyptic events as beginning in Syria. Louis Dupree, "Maḥmūd Ṭarzī: Forgotten Nationalist," South Asia Series, American Universities Field Series Report, Vol III, No. 1 (Jan 1964), 2-4.

[392] BOA-Y.PRK.ASK 149/35 (1316 Za 23) ("İhsan bulunan nişanları Şam'da mukim Serdar Gulam Mehmed Han'ın kendisinin Afganistan'a götüreceği").

[393] BOA-DH.MKT 2453/39 (1318 Za 01) ("Şam'da bulunan eski Afganistan emirinin kardeşi Serdar Gulam Mehmed Han'ın vefatıyala maaşının oğluna tahsisi"); BOA-İ.ML 11/1312S-19 (1312 S 13) ("Devlet-i Aliyye'ye dehalet etmiş olan Afganistan Serdarı Gulam Mehmed Tarzihan'ın maaşına zam yapılması ve borçlarının silinmesi"); BOA-İ.ML 43/1318/Z-33 (1318 Z 25) ("Afganistan'dan göçup Şam'da ikamet etmiş olan Afgan Amiri Mehmed Han'ın biraderzadesi Serdar Gulam Mehmed Tarzi'nin verfatıyla münhal kalan maaşının ailesine verilmesi"); BOA-Y.PRK.ZB 26/55 (1318 L 17) ("Vefat eden Afganlı Serdar Gulam Mehmed Han'ın oğlu, damadı ve torununu münhal maaşının kendilerine verilmesini istedikleri"). BOA-BEO 1648/123598 (1319 M 02) ("Serdar Gulam Mehmed Han'ın vefatıyla münhal kalan maaşın aile efradına tahsisi"); BOA-BEO 1657/124207 (1319 M 19) ("Babası Serdar Gulam Mehmed Han'dan kalan maaştan Abdülgani isminde birisinin de hissedar edilmek istendiğinden bahisle Maḥmūd tarafından verilen arzuhalın takdimi"); BOA-DH.MKT 671/17 (1320 Z 22) ("Şam'a hicret eden Afganlı Serdar Mehmed Han'a tahsis edilmiş olup vefatından sonra ailesi efradına eşit olarak taksim edilmiş olan maaşdan oğlu Abdülcelil Bey'e aid olan ve Abdülcelil Bey'in vefatı sebebiyle münhal kalan meblağın, Abdülbaki Bey'e tahsisinin mümkün olmadığı"). In sum, BOA-ŞD 2293/4 (1323 Z 09) states the rather considerable amount of 3600 kuruş given to Serdar Ghulām Mehmed Tarzi's family upon the latter's death; 22 individuals were included in the family stipend. Loans were also arranged for the family, for example, in BOA-BEO 459/34391 (1312 S 17) ("Afganistan serdarı olup Osmanlıya iltica edip Şam'da kendi arzusu ile ikamet eden Gulam Mehmed Tarzi Han'ın, giriftar olduğu ikiyüz lira deyninin mahallince tesviyesi"). Interestingly, BOA-DH.MKT 2453/39 (1319 Za 01) specifies the provision of a support stipend following Serdar Ghulām Mehmed Khan's death to "his son" only ("Serdar Gulam Mehmed Han'ın vefatıyla maaşının oğluna tahsisi"); while BOA-DH.MKT 2489/131 (1319 S 08) allocates a stipend to the whole family ("Muḥammad Han Tarzi'nin vefatıyla maaşının ailesine tahsisi"). This is yet another occasion that Maḥmūd Ṭarzī was held in especially favorable eyes by

reports of the lending of credit to the young Maḥmūd in 1894.[394] The fact it was a loan, rather than an outright gift, speaks to the young Maḥmūd's hard-working ethic and reputation. By desiring to pay it back, rather than collect free-bees (which he easily could have given the Ottoman government was fully sponsoring the family), it was yet another illustration of his determination and resolve.

Maḥmūd's hard work ethic and determination bore many fruits. The Ottoman provincial government of Syria outreached to the young Maḥmūd Ṭarzī, offering him "an appropriate and suitable kind of employment" (münasip ve uygun bir memuriyette) in the provincial government bureaucracy in Damascus.[395] Documents in the Ottoman archives reveal that Maḥmūd Ṭarzī's first posting was as a secretarial position in the Damascus Police Commissioner's office.[396] A position was also apparently offered to his son, Ḥabīb-Allāh, in the Beirut office.[397] Offering the young, hard-working Maḥmūd appropriate employment, as the son of one of the Sultan's favorite Afghans, in the Sublime State was seen as the least they could offer to such a loyal transnational Muslim subject of the Caliph.[398]

Maḥmūd Ṭarzī took full avail of the special opportunities coming from a noble family provided. Though his family was in receipt of an Ottoman stipend in Damascus,[399] and his trips to Istanbul were paid for by the Ottoman state,[400] he refused to rest on his laurels off handouts,

---

the Ottoman authorities. A separate document describing the stipend to be given to Abdülbaki Efendi is contained in BOA-DH.MKT 2506/141 (1319 Ra 19) ("Afganistan'dan göçerek Şam'da yerleşen ve vefat eden esku Afgan Amiri Dost Mehmed Han'ın kardeşinin oğlu Gulam Mehmed Han'ın verfatıyla mahlul kalan maaşının ailesine tahsisiyle Dersaadet'te ikamet eden Abdülbaki Efendi'ye atiyye verilmesi").

[394] The document certifying the loan can be found in BOA-BEO 459/34377 (1312 S 17) ("Afganistan serdarı Gulam Mehmed Terzi'nin borcunun tesviyesi").

[395] BOA-DH.MKT 2508/121 (1319 Ra 23) ("Afganistan'dan hicretle Şam'da ikamet etmekte iken vefat eden Afgan emirinin biraderi Serdar Gulam Mehmed Terzi'nin mahdumu olan ve Dersaadet'te bulunan Maḥmūd Bey'e Suriye'ye gidebilmesi için atiyye verilecek Maḥmūd Bey'e Suriye'ye gidebilmesi için atiyye verilerek Maḥmūd Bey ve diğer aile fertlerinin Suriye Vilayeti'nce açılacal memuriyetlerde istihdam edilmeleri"); BOA-DH.MKT 2501/27 (1319 Ra 03) ("Serdar Gulam Mehmed Han'ın oğlu Mahmud'un bir memuriyete tayini ile torunu Ḥabīb-Allāh'ın Suriye'de polis komiserliğinde istihdam edilmesi"); BOA-DH.MKT 2505/140 (1319 Ra 16) ("Münasip bur memuriyette istihdamlarını isteyen Serdar Gulam Mehmed Han'ın oğlue Maḥmūd ve torunu Ḥabīb-Allāh'ın kabiliyetleri ve iktidarlarına uygun bir memuriyette istihdamlarıyla Ḥabīb-Allāh Efendi'nin Beyrut'ta polis komiserliğinde istihdam edilmesi").

[396] BOA-DH.MKT 2501/27 (1319 Ra 03).

[397] Ibid.; BOA-DH.MKT 2505/140 (1319 Ra 16)

[398] BOA-BEO 1673/125405 (1319 S 23) ("Merhum Serdar Gulam Mehmed Han'ın mahdumu ile hafidinin münasip birer hizmetle kayırılmaları").

[399] BOA-BEO 459/34377 (1312 S 17) ("Afganistan serdarı Gulam Mehmed Terzi'nin borcunun tesviyesi"); BEO 459/34391 (1312 S 17) ("Afganistan serdarı olup Osmanlıya iltica edip Şam'da kendi arzusu ile ikamet eden Gulam Mehmed Tarzi Han'ın, giriftar olduğu ikiyüz lira deyninin mahallince tesviyesi"); BEO 488/36529 (1312 R 03) ("Mukaddema Afganistan Serdarı iken iltica eden Gulam Mehmed Terzi Han'ın tesviye-i deyni"); DH.MKT 1667/39 (1307 S 20) ("Afganistan Amiri Dost Mehmed Han'ın biraderzadesi olup Şam'da ikamet eden Serdar Gulam Mehmed Han'a tahsis miktar atıyye artırılması").

[400] BOA-DH.MKT 1666/17 (1307 S 17) ("Afganistan Amiri Dost Mehmed Han'ın biraderzadesi olup, Şam'da ikamet eden Serdar Gulam Mehmed Han Tarzi'nin Dersaadet'e gönderdiği mahdumu Maḥmūd Bey'e münasib miktar atıyye verilmesi").

and strove to make the best of his opportunities, seeking out education and employment where he could apply his talents and learn. The young Maḥmūd enjoyed a rich education in Istanbul and Damascus. Mastering Arabic and Ottoman Turkish, in addition to his native Persian and Pashtu, he was particularly enthralled in poetry and philosophy, reading the original in several languages.[401] A true transnational, in sum Maḥmūd Ṭarzī spoke and wrote Persian, Pashtu, Urdu, Turkish, Arabic, and French. As the young Tarzi matured, he refused to live passively as a guest on Ottoman salary. In Damascus he applied to the local Ottoman civil service and found employment in the secretariat of the Ottoman Syrian province. About his time in Ottoman service, Louis Dupree writes, "He savored the intellectual atmosphere of Damascus, and argued ideals, dreams, and Realpolitik with the incubating Young Turks who eventually overthrew Sultan Abdülhamid and shaped modern Turkey."[402] He met and impressed the worldly-wise exponent of Pan-Islamism, Jamāl al-Dīn Afghani, considered a fellow Afghan, though recent scholarship holds he was of Persian origin.[403] And he impressed the Ottoman authorities as well, receiving an honorary distinction for his services to the Sublime State.[404] An Ottoman archives document from 1893, signed by the Ottoman Grand Vizier, describes the conferral of 5th Degree Rank honor on Maḥmūd Bey for his services to the state.[405] Nor was this likely surprising for the Sublime Porte or the Sultan; a year earlier they had described his own father as a man of firm determination ("azimet edecek olan") in a report in the Ottoman archives.[406]

Developing his knowledge of political theories and practice he acquired in Syria for his homeland of Afghanistan, Tarzi would grow to be an avid ideologue in his own right. Maḥmūd even began to take a more active role in resuming relations with the Afghan Amir. In 1897, he sent a Persian translation of the Ottoman Porte bureaucrat Ḥasan Fehmi Paşa's *Devletlerarası Hukuk*, a treatise on International Law, to the Afghan Amir. Özmen credits this act with the beginning of an interest on the part of Amir ʿAbd al-Raḥmān in establishing a politics of independence, but this is unlikely as Amir ʿAbd al-Raḥmān's interest in this politics, including modeling off the Ottomans, had already begun much earlier.[407] Tarzi was probably influenced by the burgeoning reformist politics brewing in Ottoman urban centers like Istanbul and Damascus. As Afghanistan scholar and Tarzi's first biographer in a European languages states, Louis Dupree notes, "Everything the dissident young Tarzi wanted to say about Afghanistan he said through the lips of the young Turk."[408]

---

[401] Dupree, "Forgotten Nationalist," 4.

[402] Ibid.

[403] Ibid., 5.

[404] BOA-BEO 123/9216 (1310 Ca 28) ("Serdar Gulam Mehmed Han'ın mahdumu Maḥmūd Bey oraca ne hizmetde bulunduğu, rütbe ve nişanının olup olmadığı konusunda bilgi istenmesi").

[405] BOA-İ.TAL 11/1310C-052 (1310 C 15) ("Şam'da ikamet eden Gulam Mehmed Han'ın mahdumu Mehmed Bey uhdesine rütbe-i hamise tevcihi").

[406] BOA-BEO 15/1116 (1309 Za 12) ("Azimet edecek olan Serdar Gulam Mehmed Han'ın atiyye-i seniyye olarak Maliye Hazinesi'ndedn yüz lira verilmesi").

[407] Sülayman Özmen, "Maḥmūd Ṭarzī'nin Hayatı, İnkılapçılığı ve Faaliyetleri." Ph.D. Thesis, Marmara University, Turkish Studies Institute, Istanbul 2008, 35, citing Ashraf Ghani, "Literature as Politics: The Case of Maḥmūd Ṭarzī," *Afghanistan* 29:3 (1976): 63-72 Kabul, 1977, 19.

[408] Dupree, "Forgotten Nationalist," 5.

The role of the Maḥmūd Ṭarzī family would become significant later by laying the foundation for Ottoman-Afghan diplomatic and expert exchanges under the reign of Ḥabīb-Allāh and Amān-Allāh, to which we will turn to in the next chapter.

Kabul to Dehradun: The Muṣāḥibān in Indian Exile

While the Tarzi family represented the most powerful and eminent Afghan family of exiles to migrate westward and settle in Ottoman domains in the late nineteenth century, they were not the only ones. Nor did all Afghan families migrate westward, to Iran or the Ottoman empire. Many more migrated, by choice or by force, eastward to India. Such was the case with another preeminent Afghan family, that of another prominent Pashtun noble named Muḥammad Yūsuf Khan and his father Yaḥyā Khan, hailing from the Telai branch of the then-reigning Royal dynasty of Afghanistan—the Muḥammadzai clan of Bārakzai Pashtuns (hence the family surname Yaḥyā Ḵēl)—and deported to India in 1879 when Kabul was under British control in the Second Anglo Afghan War.[409]

Yaḥyā Khan was the son of an Afghan of the royal family named Sultan Muḥammad Khan Telai, and crucially, he was the brother of Amir Dost Mohammed Khan and therefore rival to the Afghan throne. Facing the wrath—or mere suspicions and paranoia—of an empowered Amir Dost Muhammad, the family was resettled in India near the military hill station city of Derradun, northern India. Here the family's most famous son, Nādir Khan, and his brothers, were born and grew up under British patronage. The family that would become known as the Yaḥya-khel after the patriarch's name, and more famously later, the *Muṣāḥibān* (signifying those "close" to the King).[410] While several of the men would go on to exercise profound influence on the politics of Afghanistan over the next half-century, it is Nādir Khan, the future patriarch (and King of Afghanistan from 1929-1933) to whom we turn to now.

Nādir Khan: Afghanistan's Most Influential Exile in British India

Nādir Khan was born on April 9, 1883 in Dehradun, British India. He was educated in the British military academy and, like the Tarzi family, would develop splendidly with his education and professional expertise. At the age of 18, he entered Afghanistan for the first time when his grandfather Muḥammad Yaḥyā Khan was allowed to return from exile to Afghanistan in an agreement brokered by the aging Amir ʿAbd al-Raḥmān and the British. As May Schinasi notes, Moḥammad Nādir embarked on a successful military career in the early years of the Ḥabīb-Allāh era, promoted to the rank of Lieutenant General (*nāyebsālār*) in 1912, and subsequently to General (*sepahsālār*) in 1914.[411] Nādir Khan would later become a prominent military general under Amir Amān-Allāh, leading the nascent Afghan national army and tribal irregulars to victory in the Third Anglo-Afghan War. He subsequently was named Minister of War and Ambassador to France.

---

[409] May Schinasi, "Moḥamed Nāder Shah," *Encyclopaedia Iranica*, Online edition (2008), available at http://www.iranicaonline.org/articles/mohammad-nader-shah-king-of-afghanistan.

[410] Ibid.

[411] Ibid.

We will return to the marvelous careers and lives of Maḥmūd Ṭarzī and Nādir Khan and the implications of both for Afghanistan's modern history in the twentieth century in the next two chapters. For now it suffices to say that in the 1880s and 1890s, while Amir ʿAbd al-Raḥmān was forging stronger ties with the Ottomans by means of texts and envoys, he was also bringing Afghanistan, Turkey, and the Muslims of India closer together in ways he likely never imagined—through the activities of the Afghans he exiled from the country. In this way during the Amir ʿAbd al-Raḥmān era the seeds were laid for a return of Afghans—bringing individuals, texts, and ideas with them—from two very different and competing streams that would thereafter compete for influence and power in the Kabul court: Ottoman Turkey and British India. We will explore these issues in greater depth as they unraveled in the early years of the twentieth century in the next chapter.

CONCLUSION

We began this chapter with the momentous visit of the first official Ottoman ambassador, Şirvanizade Sayyid Aḥmad Hulusi Efendi, to India and Afghanistan in 1877-1878. As a prominent and respected Ottoman Islamic judge, jurist and member of the *Mecelle* commission, Hulusi Efendi brought more than talk of political alliance and the impending war against the Russians to his landmark meeting with the Afghan Amir and ʿulamāʾ of Kabul. In light of the landmark 1876 Ottoman Constitution, and the promulgation of the Ottoman Civil Code in which he participated in drafting—a code of law the substantive provisions of which were largely drawn from Ḥanafī *fiqh*, the same school of law which Muslims in Afghanistan and India also largely adhered to—I argue that the conversations Hulusi Efendi had with Afghan and Indian ʿulamāʾ and state officials, coupled with his extensive judicial service to the Ottoman state, were prone to have a lasting impression on the juridical consciousness and visions of reform among Afghan and Indian scholars, statesmen, and possibly even subjects . With this meeting, I argue, began the proliferation of the *Mecelle* (and Islamic legal modernism *alla turca* with it) through the Indian and Afghan juridical fields.

In Part III, I show that with the advent of the Russo-Ottoman war, Pan-Islamic ties between Istanbul and South and Central Asia intensified to an unprecedented degree. More specifically, I show how the late nineteenth century development of a new tripartite Turco-Indo-Afghan "Pan-Islamism", distinguishes the late nineteenth century version from earlier Pan-Islamic projects of the Ottomans, Safavids, and Mughals in the early modern era. Far from shahs and sultans conspiring with (or against) each other on the battlefield, or against some imagined western Other, the contours of transnational projects between Turks, Afghans, and Indian Muslims in the late nineteenth century were largely carried out not in blood, but in *ink*—filling the pages of administrative manuals, law books, and scholarly commentaries on a range of social and political issues that were far more pressing to monarchs and Muslim communities in Afghanistan and India in the late nineteenth century. In the case of the former jurisdiction, Afghan monarchs sought innovative applications of Islamic law to reconstitute disparate and competing juridical networks into a centralized, streamlined, and "efficient" state. In the case of the latter, Indian ʿulamāʾ jealously guarded their authority over Islamic law as a bastion of sovereignty and autonomy from British colonial policies that, like the Afghan monarch, sought to remake Muslim society in a manner conducive to efficient administration.

In Part IV, we returned to the same period of the last two decades of the nineteenth century, but instead of the broad overview of a rejuvenated tripartite nexus between the Ottomans, Afghans, and Indian Muslims discussed in this chapter, we focus on one crucial urban space within it—Kabul. In 1879, Amir *Sher ʿAlī*, the Afghan monarch whom the Porte dispatched the prominent Ottoman Islamic scholar Ahmed Hulusi Efendi as an envoy to in an effort to build a Pan-Islamic entente, abdicated in the face of turmoil initiated by mounting British intervention in the frontier, and ever-present threat to his life and throne. In the power struggle that ensued in 1879-1880, a new amir assumed the Afghan throne in the capital city following the abdication of Sher ʿAlī Khan. Far from simply another violent dynastic succession in Kabul, Part IV explores how upon his ascent to power Amir ʿAbd al-Raḥmān would launch the most ambitious—and brutal—modern state-building project in Afghanistan's history, up to that point in time. By exploring the juridical edifice constructed by the "Iron Amīr", as Afghan historians remember ʿAbd al-Raḥmān, as well as his recruitment of Ottoman and British Indian expertise in his court beginning in 1879-1880, we will take the first steps towards rediscovering Afghanistan's legal and administrative history a full century before most contemporary commentators, and even some historians, trace the rise of a modern bureaucracy, army, and judicial corps in the country. In this way, we explored how the new reigning autocrat in Kabul, Amir ʿAbd al-Raḥmān Khan (r. 1880-1901), began a relentless search for the administrative hardware and expertise to govern his country with an iron-fist. I argued that while British and Russian experts played a minor role in his court, ultimately, he looked to the Ottomans with admiration as a modern "Islamic state" *par excellence* for his greatest inspiration. Using British Indian and Ottoman archives, I trace the examples of Ottoman exchange and expertise with Amir ʿAbd al-Raḥmān, revising historiographical assumptions that the British and Russians were the sole experts in the court of Kabul.

Finally, in Part V, I described two other monumental developments that took place during the Second Anglo-Afghan War and early ʿAbd al-Raḥmān era. The twin pair of events, in 1879 and 1881, respectively, were hardly expected to have any significant consequences for Afghanistan at the time. This was the decision by the reigning government in Kabul, based on personal vendettas or plain power politics, to expel two influential families from Afghanistan: the Yaḥya-khel (later, the Muṣāḥibān) to India and the Tarzi family to the Ottoman empire. We now turn to the consequences of this decision for Afghanistan in the introduction of the next chapter.

CHAPTER FOUR

Cosmopolitan Afghanistan

Young Turks, Indian Revolutionaries, and Returning Exiles in Kabul, 1901-1918

> Afghanistan is the Ottoman State's younger brother and right arm in the politics of the East.[1]
>
> - Amir Ḥabīb-Allāh Khan, receiving an Ottoman delegation in Kabul, 1907

> All Ottomans are nourished by sincere feelings and warm wishes for Afghanistan. It is this sincere feeling and love which propelled us to work in union with our Afghan brothers, and to make this Islamic land a second home for us helpless servants.[2]
>
> - Ottoman journalist Ali Fehmi in Kabul, 1907

> To us, the Indian Mussulmans, Your Majesty possesses an additional interest and fascination as the friend and ally of the British Government, which, at the present day, commands the allegiance of more Mussulman subjects that any other sovereign in the world.[3]
>
> - Muhammadan Literary Society of Calcutta to Amir Ḥabīb-Allāh upon the latter's visit to India, 1907

> As regards the internal administration of the country His Majesty's policy is wholly at variance with that of his father Amir ʿAbd al-Raḥmān Khan. This is instanced in the recall of all the refugees to Afghanistan by means of a general proclamation and the immediate entrusting some of them with work of great responsibility.[4]
>
> - Secret Memorandum, Foreign Department, Government of India, 1907

– • –

On the first of October, 1901, Amir ʿAbd al-Raḥmān Khan died from natural causes. With the demise of the "Iron Amir" came the end of two decades of autocratic rule the likes of which Afghanistan had never seen in its young history. Yet, even more significantly, with the

[1] Abidin Ünal, İskender Özbay, Rezzan Ünalp, Alev Keskin, and Nilüfer Altın, *Geçmişten Günümüze Türk-Afgan İlişkileri,* (Ankara: Genelkurmay Askeri Tarih ve Stratejik Etüt Başkanlığı Yayınları Basimevi, 2009), 33.

[2] Ibid.

[3] NAI-FD/SEC/F June 1907 34-52 ("Desire of certain Muḥammad Communities to present addresses of welcome to the Amir of Afghanistan on the occasion of his visit to India. Hafez Mohamed Musa, Secretary, Anjumān-e-Khademul Islam, Calcutta, to Secretary to the Government of India in the Foreign Department, 23 Jan 1907").

[4] NAI-FD/SEC/F February 1907 176-179 ("Report on the generally unsatisfactory condition of Afghanistan").

succession of ʿAbd al-Raḥmān's eldest and most trusted son, Ḥabīb-Allāh to the throne, Afghanistan witnessed the most peaceful and unopposed transition of power since 1772, and until the present day. How are we to explain this stability? As Amin Tarzi has argued and I have argued in Chapter 3 of this dissertation, the centralized juridical institutions the "Iron Amir" had built during his rule led to an unprecedented level of predictability through the disciplinary technologies of registration, bureaucratization, and surveillance across the country to a degree which the country had never witnessed before. On the ever-relevant foreign relations front, the agreement ʿAbd al-Raḥmān formed with the British—forming the Durand Line and signing away Afghanistan's control of its foreign affairs to the Raj in exchange for internal sovereignty and non-interference from the British—help ʿAbd al-Raḥmān secure a level of internal sovereignty over the interior of the country in ways and degrees previous rulers did not have the luxury, resources, or time to be able to exert. With foreign intervention inside the country—whether from the British or the Russians—at a new low, Amir ʿAbd al-Raḥmān's central government in Kabul was able to focus on extending its mandate throughout the country.

The stability Afghanistan enjoyed led the new Amir Ḥabīb-Allāh to experiment with what some historians have called, "the first steps towards modernization."[5] Eschewing the modernization theory paradigm, this chapter opts for a language of *centralization*, and Amir Ḥabīb-Allāh added new dimensions to the centralization program that his father had so vigorously launched between 1880 and 1901. Building on his father's achievements, it was during the Ḥabīb-Allāh period that Afghanistan "opened" more channels for foreign influence in the Kabul court and environs, but still in a strictly controlled manner. In contrast to the ʿAbd al-Raḥmān era (1880-1901), Ottoman and British Indian influence begins to surface in a more open and unrestricted manner in the environment of Kabul during the Ḥabīb-Allāh era.[6] In particular, it was during this era that Ottoman experts begin to be invited to Afghanistan for the first time, and likewise, the British took advantage to send as many experts as they could to Afghanistan to advance their own interests in a continued "cold war" rivalry against the Ottomans.[7]

In this chapter, we follow the landmark shifts in domestic and foreign policy in Afghanistan following the death of the "Iron Amir" ʿAbd al-Raḥmān Khan, and the ascent of his son Ḥabīb-Allāh Khan to the Kabul throne. In addition to the sense of a new political era following the death of absolutist monarch ʿAbd al-Raḥmān Khan, there are a few early decisions made by Amir Ḥabīb-Allāh that led to a "shake-up" of the geo-political scene, especially in the

---

[5] Adamec, Ludwig W. *Afghanistan, 1900-1923*. Berkeley: University of California Press, 1967; Gregorian, Vartan. *The Emergence of Modern Afghanistan, 1880-1946*. Stanford: Stanford University Press, 1969; Dupree, Louis. *Afghanistan*. Princeton: Princeton University Press, 1973; Poullada, Leon. *Reform and Rebellion in Afghanistan: King Amān-Allāh's Failure to Modernize a Tribal Society*. Ithaca: Cornell University Press, 1973; Saikal, Amin. *Modern Afghanistan: A History of Struggle and Survival.* London: I.B. Tauris, 2006.

[6] Ünal et al., *Türk-Afgan İlişkileri*, 32.

[7] As discussed in the introduction, I opt for the more historicized appelage of "Ottoman" rather than "Turk/Turkish", for the former stresses the centrality of the Ottoman Caliphate in the Indo-Afghan Khilāfat Movement and the repeated emphasis Indians and Afghans placed on this transnational Islamic institution in their zeal to work with their "elder brothers" from Istanbul. The Niẓāmnāmā commission's collapse following the abolition of the Caliphate in 1924—an which act which shocked Indians and Afghans after decades of collaboration with the Turks—underscores this theory. Moreover, there are too many factions to be summed up under "Turk" or "Turkish", which does not speak to the ethnic diversity (Arab, Kurdish, Turkish, Balkan, etc) of actors who had Ottoman nationality in the late nineteenth and early twentieth century.

capital, Kabul. In one of his first acts as sovereign, Amir Ḥabīb-Allāh issued an amnesty to the large number of Afghan families banished and forced into exile during his father's rule.

Part I ("Siblings from a Distant Shore") of this chapter explores the role of the consequences of the return of these refugees to Afghanistan, and their rich contributions to Afghanistan's social, intellectual, and cultural life, as well as the expansion of the central state institutions. We begin by examining the groundbreaking effect of the return of Afghan exiles from two profoundly significant intellectual, cultural, and professional streams, and the very same ones discussed in the previous chapter: Ottoman Turkey from the west, and British India from the east. While this period witnessed the arrival, temporary settlement, and departure of a number of Ottoman, British, Egyptian, Persian, and Russian experts, we focus on tracing the activities and contributions of the Tarzi family of Maḥmūd Ṭarzī (1865-1933), who returned to Kabul from Ottoman Damascus, and the Muṣāḥibān (Moḥammadzaī, or Yaḥyā Ḵēl) family of Nādir Khan (1883-1933), who returned to Kabul from Dehradun, the hill station in northern India and home to the British Raj's elite military academy. It is these two streams of expertise, religio-political connections, and rival claims to the throne that would compete for authority in the Kabul court throughout the early twentieth century, especially in the Ḥabīb-Allāh and Amān-Allāh eras. Using Ottoman and British Indian archives, I illustrate how the return of each exile and their families also brought with it a torrent of doctors, teachers, lawyers, journalists, and military experts from their land of sponsorship for the last two decades, and all competing for the patronage and attention of the Amir in Kabul. Hence begins the early history of an Indo-Ottoman rivalry in Kabul.

Throughout the Chapter I trace Amir Ḥabīb-Allāh's ambivalent role towards both pro-Ottoman and pro-British factions in his court, illustrating how he paid respect to the Ottoman Sultan-Caliph by welcoming and honoring the Turks in Kabul, but also courted British patronage by making a trip to India, where he retuned deeply impressed with the condition of Indian Muslim institutions in particular. In Part II ("Illuminations at Agra"), I illustrate the dramatic effects of Amir Ḥabīb-Allāh's visit to India in 1906, and in particular his taking note of educational and juridical advances in the British Raj. Meeting with Indian Muslim leaders and visiting such prominent educational institutions as Aligarh Muslim University, Mayo College in Ajmer, and Lahore College, Ḥabīb-Allāh returned with a new vision of educational and legal reform under Islamic auspices, but no doubt heavily influenced by what he saw in British India in terms of institutions and technologies he aspired to have for his own country. This influential trip would result in Amir Ḥabīb-Allāh increasing and intensifying his invitations for foreign experts to aid in the implementation of his own national state-building project.

Meanwhile, Afghan refugees were not the only travelers and itinerants to enter "the forbidden kingdom," as British and American newspapers often liked to refer to the country in the nineteenth and early twentieth century.[8] British and Ottoman records documents a host of travelers entering the country from as diverse as Egypt, Turkey, India, Iran, Russia, and the United States. As these same sources reveal, however, the bulk of visitors to Afghanistan at this time came from Ottoman and British Indian territories. In this light Part III ("The 'Sultanis' of

[8] As a representative case in point, see "Absolute Monarch of Untamed Asian Hill People Prepares to Modernize His Ancient and Turbulent Land." *New York Times* (October 16, 1927), page X16.

Kabul") and Part IV ("The Hindustani Connection") examine the increasing number of foreign arrivals in Kabul during the reign of Amir Ḥabīb-Allāh. Like the returning Afghan exiles—the Tarzis and Muṣāḥibān families in particular—we examine immigrants and sojourners coming from two major streams—Ottoman Turkey, and British India. Using Ottoman and British Indian archives, I illustrate how a host of experts from the Ottoman and Indian realms—at times bringing competing political ties, loyalties, and visions of reform—competed for the patronage and attention of the Amir in Kabul. In this fashion, despite growing Pan-Islamic sentiment and public enthusiasm for the Ottomans in India and Afghanistan, an Indo-Ottoman rivalry continued to foment in the Kabul court.

In spite of Amir Ḥabīb-Allāh's veering towards the British, the invigorated movement of Afghans, commoners and elite politicians alike, once again led to heightened anxieties on the part of the British, and increased interest on the part of the Ottomans, of the dangers and opportunities, respectively, that Afghanistan presented in the realm of geopolitics and Pan-Islamism. Using documents gathered from the Indian archives in Delhi, Indian Office records in London, and Ottoman archives in Istanbul, Part V ("Pan-Islamism Meets the Great Game") of this chapter explores the continuing and intensifying problem of jurisdictional tensions between the British and Ottomans over Afghans in their territories and spheres of influence, along with the intensifying issue of Pan-Islamism again brewing at an unprecedented pace in the background.

At the outbreak of the Great War, Amir Ḥabīb-Allāh would continue to play his cards adroitly amidst the most savage human conflict in history, giving false pretenses to both Ottoman and British envoys, and maintaining Afghanistan's neutrality in the process. This was an exceptionally challenging, and precarious, balancing act given the of successive waves of Indo-Afghan volunteers and revolutionaries congregating in Kabul in support of the Ottoman-declared jihad and the unprecedented level of Pan-Islamic revolutionary activity against British rule in India which even the 1857 Mutiny did not witness. Part VI ("A Battle for Herats…and One Mind") examines the role of the second Ottoman mission to Kabul during World War I in this regard.

Part VII ("From Newcomers to New Players") concludes the chapter with the consequences of the secret joint German-Ottoman delegation to Kabul, and the burdens of neutrality Afghanistan faced under Amir Ḥabīb-Allāh's ultimate decision to avoid entering the Great War. In the end, Amir Ḥabīb-Allāh's unpopular stance vis-à-vis the Ottomans caught up to him, and he was mysteriously assassinated in the middle of the night in February 1919. While historians have not been able to establish the ultimate culprit with any concrete evidence, there is little doubt the assassination was an "inside job"—whoever perpetrated it had access to the Amir's security detail for the fateful expedition to Jalalabad. Amir Ḥabīb-Allāh had no shortage of enemies in his court, especially following his immensely controversial decision to distance himself from the Ottoman-declared jihad in World War I and hold a neutral position, a position many held to be in obeisance to British pressure.

The combination of burgeoning Ottoman influence in the region, rising anti-British sentiment in India amidst British behavior in the Turco-Italian war, and Ḥabīb-Allāh's unpopular decision to remain neutral, likely resulting in his assassination, together radically transformed the political landscape within Afghanistan. In particular, it set the stage for the meteoric rise of Amān-Allāh Khan as the new Amir, Maḥmūd Ṭarzī as his mentor, and the Young Afghan party as the ideological cadres in power, the subject of the next chapter and culmination of the dissertation.

I
SIBLINGS FROM A DISTANT SHORE: THE RETURN OF AFGHAN EXILES TO KABUL

Fall of a King, Rise of a Prince

After the death of Amir ʿAbd al-Raḥmān, his appointed heir and son Ḥabīb-Allāh Khan assumed the Afghan throne in one of the most stable—and the most peaceful—transitions of power in Afghanistan's modern history. According to British Indian intelligence sources, in conventional regal fashion he issued a grand proclamation issued in Persian on the occasion of his accession to the throne dated September 10, 1901 (26 Jamādā al-thānī 1319), the second day after the death of Amir ʿAbd al-Raḥmān Khan. According to a British informant present, one of the only sources we have of the Amir's early speech, in his address the newly crowned Amir Ḥabīb-Allāh "assured the people who had assembled for the Fatiha ceremony, that he accepted their allegiance, repented for his past sins and would as far as possible avoid all sins and always work in the interests of his people and country as his late father did; and that he expects all Afghan officials to serve him and their government most loyally."[9]

Significantly, the proclamation referred to the new Amir, Ḥabīb-Allāh Khan, at the beginning of proclamation as "His Eminence the Caliph-King of the Believers, the Venerable Amir."[10] A sentence in the middle of the document states the Amir's bearing the weighty responsibilities of both Sultanate and Caliphate, revealing the discursive strategy of linking the Amir's temporal power to the religio-political office of the Righteous Caliphate.[11] With profuse quotations from the Qurʾān throughout the text, including exhortations as "Whosoever fulfills his covenants truthfully, God will bestow on him a tremendous recompense" and warnings "But if you turn away, then verily My punishment is severe," Amir Ḥabīb-Allāh connects the worldly obligations of obeying the sovereign ruler with the universal, other-worldly, and eternal decree of obeying God and His Prophet.[12] Symbolizing the combination of both forms of authority, the Amir's signature appended to the end of the document is read with the title, "*Haḍrat Khalīfah al-Muslimīn*" (His Eminence the Caliph of the Muslims"), reiterating the Amir's combined religious and political authority at once.[13]

In light of the grandeur and ambitious nature of these titles, we might ask: was Amir Ḥabīb-Allāh contesting Ottoman claims to the universal Islamic caliphate? Did Ḥabīb-Allāh have higher aspirations to claiming the Caliphate for himself, or, was he a view that sanctioned

---

[9] NAI-FD/FRNT/B Oct 1908 192 ("Proclamation issued by the Amir on the occasion of his accession to the throne.")

[10] "Haḍrat Khalīfah Pādshāh-i Muʾminīn yaʿnī Amīr bā-towqīr." NAI-FD/FRNT/B Oct 1908 192 ("Proclamation issued by the Amir on the occasion of his accession to the throne").

[11] "*Man dar bayni ṣalāṭīn bah-amūre ṣalṭanat wa khilāfat khudnayk wa sarānjam bāsham*." Ibid.

[12] Quoting the Qurʾānic verses, "*Wa man awfā bimā ʻāhada ʻalayhi Allāh fasayuʾtīhi ajran ʻadhīma*" (48:10) and "*laʾin kafartum inna ʻadhābī lashadīd*" (14:7). Ibid.

[13] NAI-FD/FRNT/B Oct 1908 192 ("Proclamation issued by the Amir on the occasion of his accession to the throne").

the presence of multiple claims to the Caliphate? In spite of the Amir's lofty language and titles invoking some connection to the Caliphate, they do not speak to a contestation with Istanbul's claim to the religio-political office, but rather signify an attempt to bolster his own legitimacy and carve out an autonomous space of Islamic sovereignty for Afghanistan and himself as its ruler. In fact, Amir Ḥabīb-Allāh was at pains to continue his father's policy of respect and fealty to the Ottoman Sultan-Caliph at Istanbul. Just as Amir ʿAbd al-Raḥmān paid tribute to the Ottomans, as discussed in Chapter 3, it was rather unthinkable that Amir Ḥabīb-Allāh could overturn such a monumental institution recognized by Muslims across the globe. Moreover, as subsequent events would show, Ḥabīb-Allāh continued to demonstrate great respect to the Ottoman Caliph and his subjects visiting Kabul, though events would also show fraternal solidarity was not the only factor involved. Rather, by inviting Ottoman professionals to Kabul, Amir Ḥabīb-Allāh was seeking the expertise that emanated from the Sublime Domains of Istanbul, and its sister cities such as Damascus, Aleppo, Baghdad, and even British-controlled Cairo. But as we will also discuss, subjects of the Ottoman sultan were not the only experts Amir Ḥabīb-Allāh invited, nor were they the only ones who came to serve in his court in Kabul.

Early Decisions of Groundbreaking Significance

According to British documents, one of the first executive acts in the early days of Ḥabīb-Allāh's rule was the appointment of his younger brother, Amīnullāh Khan (not to be confused with Ḥabīb-Allāh's son, Amānullāh) to the crucial judicial ministry he inherited from their father, ʿAbd al-Raḥmān.[14] By delegating the critical post to his brother, Amir Ḥabīb-Allāh's decision signified the beginnings of a separation of powers in the state structure, a division of bureaucratic labor so to speak, a process which Amir ʿAbd al-Raḥmān was never willing to commence, opting to monopolize all state power in is own hands. Beyond the nascent step towards creating a ministry of justice separate from his own executive branch, however, there is perhaps an even more significant executive act of Amir Ḥabīb-Allāh for the juridical field of Afghanistan. In 1902, Amir Ḥabīb-Allāh called for the establishment of a *Maḥfil-i mīzān wa taḥqīqāt* (Bureau of Assessment and Research). The bureau was founded in Kabul under the direct supervision of Amir Ḥabīb-Allāh and Nāʾib al-Ṣalṭana Naṣr-Allāh Khan and consisted of nine ʿulamāʾ.[15] The bureau was commissioned to formulate and publish legislation in the form of binding law codes for the central state government in Kabul as well as provincial governments, a process that began first in the ʿAbd al-Raḥmān era, but was expanded under Amir Ḥabīb-Allāh. In particular, Amir Ḥabīb-Allāh empowered the Bureau with the mandate of expanding the *Siraj al-Ahkam* law codes, whose compilation begun under his father's reign, into detailed and comprehensive volumes.[16] These volumes, based on authoritative Ḥanafī lawbooks,

---

[14] NAI-FD/SEC/F November 1901 1-129 ("Death of His Highness ʿAbd al-Raḥmān Khan of Afghanistan and succession of his eldest son, Ḥabīb-Allāh Khan, as Amir of Afghanistan and its Dependencies. Letter from British Agent at Kabul to the Asst Secretary to the Government of India in the Foreign Department, 9 October 1901") (No. 90).

[15] Nawid, Senzil. *Religious Response to Social Change in Afghanistan, 1919-29: King Aman-Allah and the Afghan ʿulamāʾ*. Costa Mesa: Mazda Publishers, 1999, 77; Fufalzai, ʿAzīz al-Dīn Wakīlī. *Dār al-qaza dar afghanistan: az awayil-i-ʿahd-i-islam ta ʿahd-i jumhuriyat*. Kabul: Government Printing House, 1369/1990, 413.

[16] According to Afghan historian ʿAzīz al-Dīn Wakīlī Fufalzai, the compilation of *Sirāj al-Aḥkām* began under Amir ʿAbd al-Raḥmān but was completed under Amir Ḥabīb-Allāh. Fufalzai, 406-407; Nawid, 77. For original copies of editions and volumes published under the reign of Amir Ḥabīb-Allāh, between 1910 and 1913, by

were an attempt by the Afghan ʿulamāʾ to produce a streamlined Ḥanafī lawbook to be used by Afghan judges and akin to the Ottoman Mecelle. Among the authors who served on this preeminent law commission were the influential Afghan Islamic jurists Mawlawīs Ḥājī ʿAbd al-Rāziq, ʿAbd al-Rabb and ʿAbd al-Raḥmān Baiktutī.[17] These individuals would also play a major role in the Niẓāmnāmā legislation of the Amānī era. We will return to the significance of this project in Chapter 5, where juridical projects founded during the ʿAbd al-Raḥmān era, and continued under the Ḥabīb-Allāh era, reached their pinnacle during the early Amān-Allāh era under the auspices of an Indo-Ottoman juridical nexus consisting of Ottoman Turkish, Indian Muslim, and Afghan scholars, jurists, and politicians.[18]

Afghan jurists Mawlawīs Mīr ʿAlī Jan and ʿAbd al-Rāziq, see ADL 0016 (1327 [1910]) (Mīr ʿAlī Jan and ʿAbd al-Rāziq, *Sirāj al-aḥkām fī mu'āmalāt-i Islam; vol 1: Kitāb adab al-qaḍī*); ADL 0013/0157 (1330 [1912]) (Mīr ʿAlī Jan and ʿAbd al-Rāziq, *Sirāj al-aḥkām fī mu'āmalāt-i Islam, vol 2: Kitāb al-Shahada*); ADL 0156 (1331 [1913]) (Mīr ʿAlī Jan and ʿAbd al-Rāziq, *Sirāj al-aḥkām fī mu'āmalāt-i Islam, vol 3: Kitāb al-wikālah, Kitāb al-kafālah, Kitāb al-ḥawālah*); ADL 0014/0155 (1330 [1912]) (Mīr ʿAlī Jan and ʿAbd al-Rāziq, *Sirāj al-aḥkām fī mu'āmalāt-i Islam, vol 4: Kitāb al-da'wā*); and ADL 0158 (1335 [1917]) (Mīr ʿAlī Jan and ʿAbd al-Rāziq, *Sirāj al-aḥkām fī mu'āmalāt-i Islam, vol 4/5?: Kitāb al-iqrār*). For an additional lawbook published with a separate title by the same pair of jurists in 1916, see ADL 0143 (1334 [1916]) (Ḥājī ʿAbd-al-Razzāq and Mawlawī ʿAbd al-Rabb, *Siraj arkan al-Islam*). For additional guidbooks on administrative regulations governing labor practices during the reign of Amir Ḥabīb-Allāh Khan, akin to the "Niẓāmnāmā" of his successor Amir Amān-Allāh Khan, see ADL 0237 (1328 [1910]) (Amir Ḥabīb-Allāh Khan, *Dastur al-'amal-i wāqi'ah-nigarani i'laniya-i dawlat-i Khuda-dad-i qawiya-i bunyad-i Afghanistan*); ADL 0273 (1336 [1917-1918]) (*Kitābchah-i dastur al-'amal-i kalantar-ha-yi guzar-ha-yi dar al-saltana, Kabul);* ADL 0467 (1332 [1913-14]) (*Niẓāmnāmā-yi* madrasah-*i mubarakah-i Ḥabībīyah*)*;* ADL 0256 (1332 [1914]) (*Qānūnnamah*, on fiscal administration). For a firmān of Amir Ḥabīb-Allāh, translated and pertaining to administrative regulations in a particular district (Chakhansur) along the Indo-Afghan border, but also the Amir's negotiations with local maliks and tahsildars concerning such issues as not letting particular lands go uncultivated and thereby letting water channels flow into "foreign territory", see NAI-FD/FRNT/B June 1905 328 (Translation of a printed Firman dated 23 Jamadi ul-Akhir/16 September 1903 from the Amir of Afghanistan to Akhundzada Faqir Muḥammad Khan Hakim of the Chakhansur District). For a translated *firmān* enforcing the Qurʾānic limit on four wives, an injunction that Amir Habibulla especially sought to enforce on government ministers in violation of the law, see NAI-FD/FRNT/B June 1904 161 (re limits on polygamy in Afghanistan). Notably, according to the firmān the Amir was at pains to point out his abiding by this rule. As we will discuss further in the next chapter, these judicial guidebooks, legal compilations, and proclamations lend further evidence to a history of juridical centralization *internal* to Afghanistan's modern history beginning with the Amir ʿAbd al-Raḥmān and Ḥabīb-Allāh eras, as opposed to transplants from foreign experts after the country's independence and ascent of Amir Amān-Allāh in 1919.

[17] Fufalzai, 406-407; Nawid, 77. See previous note for their published juridical works during the Ḥabīb-Allāh era.

[18] While an exhaustive lsit of lawbooks, judge's manuals, and other "codifications" commissioned by Amir Ḥabīb-Allāh Khan is unavailable, Daniel Balland provides the following list of publications examined his administrative history of the Afghan state,

> *Serāǰ al-aḥkām fī moʿāmalāt al-Eslām* (Edicts of Serāǰ [Ḥabīballāh] on affairs of Islam), compiled by Mīr ʿAlīǰān Khan et al.: I. *Adab al-qāżī* (Vocation of the *qāżī*), Kabul, 1327/1909. II. *Ketāb al-šahāda*(Book of testimony or witnesses), Kabul, 1330/1912. III. *Ketāb al-wakāla* (Book of representation), Kabul, 1331/1913. IV. *Ketāb al-daʿwā* (Book of disputes), Kabul, n.d. V. *Ketāb al-eqrār* (Book of confessions), Kabul, 1335/1917. These volumes summarized the existing *Šarīʿa* scholarship and provided the *qożāt* with a readily available and authoritative guide. *Neẓām-nāma-ye mālekān* (Regulations for the headmen), Kabul, 1332/1914. *Qawāʿed-e Serāǰ-al-mella wa'l-dīn fī dastūr-al-ʿamal-e momayyezīn* (Regulations of the Lantern of the Nation and Religion [Ḥabīballāh] for the guidance of inspectors), Kabul, 1323/1905. Attempting to forge special links with the rural power elite, Ḥabīballāh appointed a number of them inspectors to report to him directly on the conduct of the officials of the government; this handbook defines

Initially, the most significant decision Amir Habibulllah made in the early years of his rule, however, had more to do with factors taking place outside Afghanistan, but would soon have a crucial impact on future developments within his kingdom. When Amir Ḥabīb-Allāh assumed the throne, in order to signal the dawn of a new era under his reign, the monarch granted amnesty to a number of Afghan families exiled from the country during his father's reign. Chief among these exiled Afghan families were two in particular: the influential Tarzi family, who had settled in Ottoman Turkey, and the Muṣāḥibān family, who had settled in northern India, both of whose stories of exile we introduced in Chapter 3. After temporary stays in Karachi, Baghdad, and Istanbul, the Tarzi family was finally settled on an Ottoman stipend in the cosmopolitan Ottoman city of Damascus. As for the Muṣāḥibān clan, their anglophile background led them to northern India. The sons of the family, in particular a young man named Nādir Khan, received their education in the British Indian elite military academy at Deradun. Firmly embedded in their host societies, when the exiled families returned to Afghanistan at the turn of the twentieth century, they came with two decades of foreign education and intermingling with a broad range of individuals, ideas, and institutions in Ottoman Turkey and British India, respectively. They also brought a host of experts, training, and entourages with them. Each of these streams represented the Indian and Turkish streams of expertise that would compete for authority and power in the Kabul court for the next three decades.

Maḥmūd Ṭarzī Returns to Kabul

After 22 years of foreign exile in Karachi, Baghdad, Istanbul, and finally Damascus, Maḥmūd Ṭarzī received word of the death of Amir ʿAbd al-Raḥmān—his father's nemesis and the cause of his exile from the land of his birth, Afghanistan. Soon thereafter, Tarzi learned of the amnesty offered to Afghans living in exile. One can imagine the excitement, or the apprehension, he and his family must have experienced at the time. That Maḥmūd Ṭarzī had a cosmopolitan education and career in Ottoman Turkey is clear from archival records on his education and employment. Serving as an Ottoman bureaucrat, he learned Turkish and French in addition to his native Persian and Pashtu (and Urdu). He translated works from European languages, and learned from scholars and intellectuals of various political slants and perspectives, but most of all, the Young Ottomans, and then the Young Turks. In 1896, Maḥmūd Ṭarzī met with the famous roaming Islamic scholar Sayyid Cemaleddin Afgani in Istanbul.[19] Monographs on urban history of the late Ottoman empire, such as Murat Gül's book *The*

---

their responsibilities. *Qawāʿed Serāǰ-al-mella fī ṭarīq al-taʿzīa* (Regulations of the Lantern of the Nation on the manner of holding funerals), Kabul, 1321/1903. This work was published with the aim of doing away with elaborate and expensive funeral ceremonies. *Qawāʿed-e rebāṭhā-ye Serāǰīya*(The Lantern's regulations for caravansaries), Kabul, 1328/1910. Through these measures the movement of people in the country and the construction, maintenance, and use of caravansaries were subjected to bureaucratic control.*Naẓām-nāma-ye maktab-e ebtedāʾī* (Regulations for primary schools), Kabul, 1335/1917. These rules provide a glimpse of the program pursued by the students as well as the ideal image of the modern system of education held by Afghan officials of the period. *Dastūr-al-ʿamal-e ahālī-e ḥaram* (Regulations for the members of the [royal] household), Kabul, n.d. This handbook provides interesting details on the ceremonial aspects of the life in the court and rules of hygiene followed there.

Balland, D. "Afghanistan, Political History," *Encyclopaedia Iranica*, Vol. I, Fasc. 5 (1983): 547-58.

[19] Ünal et al.*, Türk-Afgan İlişkileri,* 57.

Emergence of Modern Istanbul (2009), and Keith Wautenpaugh's *Being Modern in the Middle East* (2006) on Ottoman Aleppo, provides some glimpses into the world Maḥmūd Ṭarzī lived in as an Afghan exile in Istanbul and Damascus, and what a contrast it must have been from Afghanistan he was about to return to.[20]

We also know from British intelligence records that Maḥmūd Ṭarzī was not an isolated example of Afghans in Turkey at this time. A secret Foreign Department file of August 1901 includes information regarding an Afghan named ʿAbd al-Bāqī (Abdülbaki), a resident of Kabul, but proceeds to discuss information on a community of Afghans in Istanbul at this time.[21] Returning to the case of Maḥmūd Ṭarzī, after spending the majority of his young life in the cosmopolitan capitals of Istanbul and Damascus, visiting scholars, intellectuals, and statesmen alike, we might ask: was he resistant to the idea of returning to far-off, unfamiliar Afghanistan?

If the fact that he Maḥmūd Ṭarzī left almost immediately for Afghanistan upon hearing of the amnesty is any indication, then the answer would be in the emphatic negative. Ottoman archives records indicate that Maḥmūd Ṭarzī, in spite of being well settled in Ottoman Damascus, married to the daughter of a notable Damascene family, and fairly comfortable in employment, displayed an early desire to return to Afghanistan soon after he received the word of ʿAbd al-Raḥmān's death and the amnesty.[22] It was more than just the romantic desire of an Afghan poet. Documents in the Ottoman archives indicate Maḥmūd Ṭarzī made his first return to Afghanistan in May 1902, departing from Peshawar to Kabul on May 2, exactly seven months to the date after the king's death, indicating that he almost immediately prepared to return to his homeland upon hearing word of the amnesty.[23]

In this way, not long after the death of Amir ʿAbd al-Raḥmān and the amnesty granted to Afghan exiles, Maḥmūd Ṭarzī made his intention to return to Afghanistan. Ottoman records track the quick response and determination to return to his homeland, beginning with his traveling to Istanbul to seek permission from the Sultan for the trip.[24] A pair of documents from

---

[20] Murat Gül, *The Emergence of Modern Istanbul: Transformation and Modernization of a City*. London: Tauris, 2009, 54-58, 73, 84-88; Watenpaugh, Keith David. *Being Modern in the Middle East: Revoliution, Nationalism, Colonialism and the Arab Middle Class*. Princeton: Princeton University Press, 2006.

[21] NAI-FD/SEC/F August 1901 14-19 ("Information regarding an Afghan named Abdul Baki, a resident of Kabul"). Notably, both British and Ottoman archives take an active interest in the background, movement,s and activites of ʿAbd al-Bāqī. The Ottoman ultimately award him with a medal and receive him with honors as an esteemed representative of the Afghan amir. BOA-İ.TAL 110/1314L-028 (1314 L 13) ("Afganistan serdarının mahdumu Mahmdu Bey'e rütbe-i saniye tevchihine ve Afganistan Amiri'nin teşrifatcılarından Abdülbaki Efendi'ye dördüncü rütbeden Nişan-ı Mecidi ihsanı"). The British, on the other hand, alternate between seeing him as unreliable and untrustworthy. For example, in 1901, years before British officers continued to receive intelligence from him in re Turks in Kabul, British Indian officials at Simla refuse a request to assist him in his desire to return to Afghanistan that year. FD/SEC/F August 1901 14-19 ("Information regarding an Afghan named Abdul Baki, a resident of Kabul").

[22] BOA-İ.HUS 121/1322B-116 (1322 B 26) ("Afganistan'a avdet etmet üzere mesarif-i seferiyelerinin ihsanı istidasını havi serdar Gulam Mehmed Han imazlı arzuhal").

[23] BOA-BEO 2420/181461 (1322 B 20) ("Şam'da mukim Kandeharlı Serdar Gulam Mehmed'in mahdumlarının Kandehar'a gitmelerine müsaade itası"); BOA-DH.MKT 896/7 (1322 B 25) ("Bir süredir Şam'da ikamet etmekte olan Qandaharlı Serdar Gulam Mehmed'in vefatı üzerine oğlu ve torunlarının Qandahar'a gitmelerine izin verilmesi").

[24] BOA-Y.MTV 254/64 (1321 L 11) "(Afganistan ümerasından olan Serdar Mehmed Han'ın Dersaadet'e azimetine izin verilmesi").

the Grand Vizier's office, one with his own signature affixed to it, reports of "the Qandahārī" Sardār Ghulām Muḥammad's Damascus-residing son seeking permission to return to his ancestral home of Qandahar, though he was in fact returning to Kabul.[25] The Ottoman government responded favorably, not only granting permission for the departure, but even offering sufficient funds for the momentous trip. What is more, the Porte provided Maḥmūd Ṭarzī with an honorable letter of introduction to Amir Ḥabīb-Allāh along with other supportive paperwork attesting to his character and activities while living in the Ottoman domains.[26]

The Prime Ministry Ottoman Archives in Istanbul include reports of his journey, including a communication between the Van provincial government and the Porte about each and every stop Tarzi made, including where he was coming from, and where he intended to go, along the way.[27] Based on these reports, it is evident Maḥmūd Ṭarzī had more than tourism in mind. He was envisioning both the expansion of Ottoman influence, and the aiding of his original home. Maḥmūd Ṭarzī 's first return trip to Kabul was without his family, probably due to the uncertain political environment he was to receive and to scope the scene before exposing his family to the potential danger of a premature return to Afghanistan. The circumstances of Tarzi's first return to Kabul without his family may also have been a result of the Porte's request, in order to ensure Tarzi's return to the Ottoman domains and thereby provide the Porte with invaluable intelligence on Afghan affairs from an elite insider.

As for his actual journey to and arrival in Afghanistan, Ottoman and British archives both report he arrived in the Indian port city of Bombay in spring 1902. Documents in the Ottoman archives indicate Maḥmūd Ṭarzī made his first return to Afghanistan in May 1902, departing from Peshawar to Kabul on May 2, exactly seven months to the date after the king's death, indicating that he almost immediately prepared to return to his homeland upon hearing word of the amnesty.[28] Similarly, a secret document from the British Indian Foreign Department reported that "Sardār Muḥammad Jan, son of the late Sardār Ghulām Muḥammad Khan, had

---

[25] BOA-BEO 2420/181461 (1322 B 20) ("Şam'da mukim Kandeharlı Serdar Gulam Mehmed'in mahdumlarının Kandehar'a gitmelerine müsaade itası"); BOA-DH.MKT 896/7 (1322 B 25) ("Bir süredir Şam'da ikamet etmekte olan Qandaharlı Serdar Gulam Mehmed'in vefatı üzerine oğlu ve torunlarının Qandahar'a gitmelerine izin verilmesi"). The Grand Vizier's personal signature on the latter document speaks to the great importance the Ottoman government placed on this particular Afghan and his return home.

[26] BOA-BEO 2232/167329 (1321 N 18) ("Afganistan Emareti dahilinkdeki Berberistan'ın hakimi iken ayrılarak Osmanlı tabiiyyetine geçen ve tekrar Afganistan'a dönmek isteyen Serdar Mehmed Azim Han'ın atıyye olarak mebaliğ-i kafiye itası hakkındaki melfuf dahiliye tezkiresi üzerine gerekli paranın Hazine tarafından mezkur atıyye tertibinin bütçesine naklı gerektiğinin beyanı") and BOA-BEO 2351/176275 (1322 R 01) ("Memleketleri olan Afganistan'a avdet edeceklerinden tedahül maaşlarının Hazine'ce tesviyesi ile beraber beratlarının istirdad olunmasına dair Serdar Gulam Mehmed Han mahdumu ve hafidi Maḥmūd ve Ḥabīb-Allāh imzalarıyla verilen arzuhal"). The letter of introduction and support is in BOA-Y.PRK.ASK 192/19 (1320) ("Serdar Gulam Han'ın oğlu ile torununun Afgan Amiri Habibullah Han'ın name-i mahsusu padişaha tahdim edilmek üzerine Hariciye nazırına vermiş oldukları").

[27] BOA-BEO 2244/168253 (1321 L 14) ("Serdar Mehmed Han'ın nereden gelip nereye gitmek istediğinin Van vilayetinden sorulması") and BOA-BEO 2338/175290 (1322 Ra 07) ("Serdar Mehmed Han'ın Dersaadet gelmesine mahal olmayıp Afganistan'a gitmesine mümanaat olunmamasının Van Vilayeti'ne tebliği").

[28] BOA-BEO 2420/181461 (1322 B 20) ("Şam'da mukim Kandeharlı Serdar Gulam Mehmed'in mahdumlarının Kandehar'a gitmelerine müsaade itası"); BOA-DH.MKT 896/7 (1322 B 25) ("Bir süredir Şam'da ikamet etmekte olan Qandaharlı Serdar Gulam Mehmed'in vefatı üzerine oğlu ve torunlarının Qandahar'a gitmelerine izin verilmesi").

arrived at Peshawar from Turkey, and left for Kabul on May 1."[29] Significantly, however, the British report also mentions Tarzi received permission from Amir Ḥabīb-Allāh for his return, and that Tarzi "was said to have brought for His Highness a secret communication from the Sultan."[30]

Not to be outdone by his Ottoman counterpart nearly two decades earlier, Amir Ḥabīb-Allāh also received the returning Maḥmūd Ṭarzī in the Afghan capital with pomp and circumstance, symbolizing the amnesty offered to the Tarzi family, and reassuring the new patriarch, Mahmud, that it was safe for him and his family to return to their ancestral homeland. The Ottoman archives contains a beautifully calligraphed manuscript, with golden trimmings, composed in Persian, from the Amir Ḥabīb-Allāh to Sardār Maḥmūd Ṭarzī on this landmark gesture. After proper formalities and respect given to the Ottoman authorities, the letter performs the royal purpose of granting Maḥmūd Ṭarzī and his family amnesty, along with a warm welcome and invitation to return to his homeland of Afghanistan.[31] As we will see, Amir Ḥabīb-Allāh's warm welcome and invitation to the Tarzis to permanently settle in Kabul would have lasting consequences not just for the Tarzi family, but Afghan-Ottoman relations, and juridical developments within Afghanistan for the next two decades.[32]

---

[29] NAI/SEC/F November 1902 23-28 ("Information regarding the movements of Sardār Abdul Majid Khan, son of Serdar Abdullah Khan").

[30] Ibid.

[31] BOA-Y.A. HUS 467/1 (1321 Z 01) ("Serdar Gulam Mehmed Han'ın mahdumu ve hafidi Mehmed ve Ḥabīb-Allāh Efendilerin arizası"). Exactly how this document, written in Persian and signed and stamped by Amir Ḥabīb-Allāh, ended up in the Prime Ministry Ottoman Archives is a mystery. Perhaps it is a second copy which Maḥmūd Ṭarzī kept in Ottoman hands for safekeeping. To the extent of my knowledge, I did not find a copy in the Afghan archives in Kabul.

[32] Of course, Maḥmūd Ṭarzī was not the only Afghan refugee to return home from exile in the Ottoman domains—though he was certainly the most prominent. For another example of Afghan refugees in Turkey returning home after the amnesty, see NAI-FD/SEC/F June 1908 146-199 ("Arrival of certain Turks at Kabul"), which includes a report a British officer in the Baluchistan Agency, who writes on November 16, 1907,

> On the 3rd November Saiyid Ismail, Herati, who was a refugee in Turkey for eight years, arrived in Quetta from Herat with two servants. He has obtained His Majesty the Amir's permission to return to his home and is now on his way to Constantinople and intends bringing his family back with him. He left Quetta for Karachi on the 4th November.

We see here that the said returning refugee also followed the pattern of Maḥmūd Ṭarzī, returning to Afghanistan by himself first, obtaining permission formally, then returning with his famiy. For another example of an Afghan refugee returning from Ottoman Baghdad, see NAI/FD/SEC/F Oct 1907 152-159 (No. 153). In the same file, a memorandum from the First Assistant Resident, Persian Gulf, forwarded to the Director fo Criminal Intelligence, Simla, dated May 5, 1907, includes the following passage,

> An Afghan calling himself Sayyid Ismail Khan Chashtyzadah, native of Kabul, who was, it is said, expelled from his native country by the late Amir and had since lived at Baghdad, subsidized by the Turkish Government, arrived at Bunder Abbas on or about the 8th April 1907, and stayed with a native merchant, Amin-ut-Tujjar. He left on 22nd April, giving out that he was going to Karachi *en route* for Kabul and thence to Constantinople. Enquiries instituted by His Britannic Majesty's Consul, Bunder Abbas, do not appear to indicate that this individual's visit had any political or ulterior significance. He arrived on the 24th at Maskat, where His Highness the Sultan has accommodated him in a house near Messrs. W.J. Towell and Company's premises. At Maskat he has given out that he intends proceeding to Afghanistan *viâ* Bombay. His departure will be reported.

Kabul to Damascus, and back

Back in Kabul after nearly three decades in exile, Maḥmūd Ṭarzī is said to have impressed on Amir Ḥabīb-Allāh the need to bring in Turkish experts to Afghanistan to help in its advancement in the economic, educational, and technological fields. According to Ünal et al., Tarzi specifically persuaded Amir Ḥabīb-Allāh to invite Ottoman experts in all fields to Afghanistan. Adopting his suggestions, Amir Ḥabīb-Allāh then dispatched Tarzi back to Turkey not only to retrieve his family, but to return with a cadre of Ottoman experts in a variety of fields to Afghanistan. The Ottoman archives contains documents from 1902-1904 describing Maḥmūd Ṭarzī's desire to return to Istanbul in this regard.[33] Seeing a mutual interest in this project, the Porte was more than willing to oblige, and a document in the archives indicated permission was duly granted by the Porte for Tarzi to return to Damascus, with the intent of returning to Afghanistan.[34]

In spite of the dramatic nature of his return to Kabul and Damascus, Maḥmūd Ṭarzī's attempt to bring Turkish experts to Afghanistan fell on sympathetic, but largely unreceptive ears.[35] As fate would have it, at exactly the same time (1902-1903), an outbreak of cholera epidemic in Afghanistan (it would happen again in 1915), likely confirmed notions in Istanbul of the country as a distant backwater—too far away, too unfamiliar, too unpredictable for such a risky journey, even for the boldest of Ottoman adventurers and soldiers of fortune. Nonetheless, the tireless and dedicated Maḥmūd Ṭarzī did succeed however in gaining the attention of a few adventurous Ottoman nationals who saw opportunities for employment in Afghanistan, mostly decommissioned military officers, journalists in exile, or other exiles with Young Turk affiliations. Between the crucial years of 1902 and 1908, the Ottoman community in Kabul would expand to include even greater numbers. The Ottoman archives discuss the activities of Maḥmūd Ṭarzī in Istanbul and his desire to return to Afghanistan with Ottoman experts alongside him in this regard.[36] They also document Ottoman support of Maḥmūd Ṭarzī during his interval stay between his two returns to Afghanistan, noting full well his political clout and being the grandson of a respected Afghan exile Ghulām Muḥammad Khan, illustrating the detailed family trees Ottoman records kept even of distant Afghan families.[37]

Maḥmūd Ṭarzī's return to Ottoman domains was only temporary, and he came with a mission: to gather as many Turkish experts as he could for the return. Ottoman archives

---

NAI/FD/SEC/F Oct 1907 152-159 (No. 153).

[33] BOA-Y.MTV 254/64 (1321 L 11)"(Afganistan ümerasından olan Serdar Mehmed Han'ın Dersaadet'e azimetine izin verilmesi").

[34] Ibid.

[35] Ünal et al*., Türk-Afgan İlişkileri,* 32.

[36] BOA-BEO 2338/175290 (1322 Ra 07) ("Serdar Mehmed Han'ın Dersaadet gelmesine mahal olmayıp Afganistan'a gitmesine mümanaat olunmamasının Van Vilayeti'ne tebliği").

[37] BOA-BEO 2351/176275 (1322 R 01) ("Memleketleri olan Afganistan'a avdet edeceklerinden tedahül maaşlarının Hazine'ce tesviyesi ile beraber beratlarının istirdad olunmasına dair Serdar Gulam Mehmed Han mahdumu ve hafidi Maḥmūd ve Ḥabīb-Allāh imzalarıyla verilen arzuhal").

document that Maḥmūd Ṭarzī received permission to return to Afghanistan on April 4, 1904.[38] Soon thereafter, and within a year of his return to Ottoman territory, Maḥmūd Ṭarzī returned to Kabul via Syria and Iraq with his family in 1904-1905.[39] A rare document of Maḥmūd Ṭarzī's official request for permission to return to Afghanistan, this time affixed with the personal seals of Maḥmūd Ṭarzī and the Afghan Amir Ḥabīb-Allāh, rests in the Ottoman archives in Istanbul.[40] One can imagine the moment must have been bittersweet for Maḥmūd Ṭarzī, and his personal reminisces are lucid in this regard.[41] As he prepared to return to his land of birth with his family, he was also preparing to leave the land where he spent his tender youth, where he acquired his education, his first employment, and where built lasting relationships with Ottoman bureaucrats, ideologues, and activists. These were experiences Tarzi would bring with him in serving a new sovereign, and a new state in Kabul.

For this trip, too, Maḥmūd Ṭarzī followed all the proper formalities and courtesies, again requesting permission from the Sultan directly to return to Afghanistan. The Ottoman Government's response was again generous and obliging. Not only was the response in the affirmative, a report from Maḥmūd Ṭarzī's visit to Istanbul in the Ottoman archives reports of Maḥmūd Ṭarzī receiving an extremely generous travel stipend of 1000 kuruş in preparation for his upcoming trip back to Afghanistan, in addition and an increase to what he was already receiving from the Porte.[42]

On this return trip to Kabul, however, just as significant as Maḥmūd Ṭarzī's own return to Afghanistan with his family was the fact a small, somewhat tightly-knit group of Ottoman, and specifically "Young Turk" professionals followed. That some of the Ottoman subjects who came to Afghanistan in the early Ḥabīb-Allāh era were Young Turk exiles and likely active members of the revolutionary party of the same name is evident in the response of Ottoman

---

[38] BOA-Y.A.HUS 470/14 (1322 M 18) ("Gulam Mehmed Han'ın mahdumlarının Afganistan'a avdetlerine izin verilmesi").

[39] BOA-BEO 2403/180192 (1322 C 24) ("Şam'da bulunan aile fertlerini alıp Afganistan'a gideceklerinden bahisle azimetlerine mümanaat olunmaması ve teshilat gösterilmesi hakkında Serdar Mehmed Gulam Han'ın mahdumu Maḥmūd ve hafidi Ḥabīb-Allāh imzalarıyla Suriye'den gönderilen arzuhal").

[40] BOA-Y.PRK.AZJ 49/33 (1321 Z 29) ("Afganistan'a avdetlerine izin verilme isteği"). Maḥmūd Ṭarzī's seeking of permission to return to Afghanistan with his family, and the granting of it, are recorded in a number of documents in the Prime Ministry Ottoman Archives, including BOA-İ.HUS 121/1322B-077 (1322 B 19) ("Afganistan'a avdet etmet üzere mesarif-i seferiyelerinin ihsanı istidasını havi serdar Gulam Mehmed Han imazlı arzuhal").

[41] Tarzi, Mahmud, Wahid Tarzi, trans. and ed., "Reminiscences: A Short History of an Era (1869-1881)," *Afghanistan Forum: Occasional Paper #36* (1998).

[42] BOA-BEO 2739/205415 (1323 Za 18) ("Afgan ümera-yı askeriyesinden ve emirin akrabasından olup Dersaadet'te bulunan Serdar Mehmed Han'a atiyye-i seniyye tertbinden beş yüz kuruş itası"); BOA-BEO 2748/206077 (1323 Za 28) ("Afgan ümera-yı askeriyesinden ve emirin akrabasından Dersaadet'te bulunan Serdar Mehmed Han'a atiyye-i seniyye tertibinden bin kuruş daha itası"). The increase of his originally allotted amount is also reported in BOA-DH.MKT 1041/67 (1323 Za 19) ("Dersaadet'te bulunan Afgan ümera-yı askeriyesinden ve emirin akrabasından Serdar Mehmed Han'a atiyye tertibinden verilen meblağın arttırılması"). Notably, the fact this report was completed by the Ministry of Interior Affairs (rather than the Hariciye, or Foreign Affairs Ministry) symbolizes the blurred boundaries and transnationalism of Maḥmūd Ṭarzī, the "Ottoman Afghan." What is more, an official document granting permission to the Tarzis to return to Afghanistan is signed by Minister of Foreign Affairs, and is contained in BOA-Y.A.HUS 470/14 (1322 M 18) ("Gulam Mehmed Han'ın mahdumlarının Afganistan'a avdetlerine izin verilmesi").

officials to queries on the subject by British consular officials, and which we will return to shortly.[43] Some historians have traced the development of constitutional politics the emerged at roughly the same time to the influence of these "Young Turks" in Kabul. As we will return to these individuals and the other Ottomans who came to Kabul at this time in Part III of this chapter, we now turn to exploring expanding late Ottoman influence in Afghanistan in the form of an organization that had more in common with the Young Turks than simply its name: the Young Afghan party.

Maḥmūd Ṭarzī, the Young Turks, and the Young Afghans in Kabul

Were one to pick up a textbook on the modern history of Afghanistan, one is almost certain to encounter Maḥmūd Ṭarzī as the preeminent Afghan intellectual of the early twentieth century. The purpose of this section is not to provide an expansive biography of his career in Afghanistan, nor the extent of his philosophy and thought, however. There has been some scholarly attention to Tarzi, his life, and his thought elsewhere.[44] This section seeks to illustrate how the return of Maḥmūd Ṭarzī to Afghanistan was not simply a return of a prominent exile and his family to their homeland. Rather, this section will illustrate how Tarzi's arrival also prompted a torrent of Ottoman influence at the highest echelons of the Afghan government, but also among Kabul's burgeoning palace elite and intelligentsia, as seen most profoundly in rise of the Young Turk-inspired secret "Young Afghan" party.

Maḥmūd Ṭarzī's towering intellectualism, journalism, and erudition was matched by equally brawny political clout. The latter was manifestly clear in his robust political connections to the Afghan royal family and court. In 1904, soon after returning to Afghanistan with his family from Syria, he soon thereafter married his daughter Süreyya to Prince Amān-Allāh Khan. He subsequently married another daughter to Prince ʿInāyat-Allāh. Both marriages, but particularly the former, would have profound ramifications not just for his family, but the future of Afghanistan and Turkey as states in one of the most influential and powerful marriages in the country's history.[45] Tarzi's relationship with Prince and subsequently Amir Amān-Allāh would prove to be a pivotal, and complicated, one with lasting consequences for Afghanistan's international relations and internal political development, which we will return to in Chapter 5. Now an influential patriarch in the Afghan royal family, Maḥmūd Ṭarzī had an even more respected, and protected, platform to disseminate his ideas among palace elites in the form of

---

[43] NAI-FD/SEC/F June 1908 146-199 ("Arrival of certain Turks at Kabul").

[44] Schinasi, May. *Afghanistan at the Beginning of the Twentieth Century: Nationalism and Journalism in Afghanistan, A Study of Seraj ul-akhbar, 1911-1918*. Naples: Istituto Universitario Orientale, 1979; Dupree, Louis. "Maḥmūd Ṭarzī: Forgotten Nationalist." *American Universities Field Series Report: South Asia Series*, Vol III, No. 1 (1964); Gregorian, Vartan. "Maḥmūd Ṭarzī and the Saraj-al-Akhbar: Ideology of Nationalism and Modernism in Afghanistan, 1880-1946." *Middle East Journal* 21 (1967): 345-68. As Wali Ahmadi has insightfully shown, however, the historiographical spotlight on Tarzi has overshadowed other significant Afghan intellectuals and activists of the same generation, some of whom were also returning exiles, such as Muḥammad Sarwar Wāṣif, ʿAbd al-Rahman Lūdīn, Muhyi al-Din Anis, among others. Ahmadi, *Modern Persian Literature in Afghanistan,* 29-35, 57-61.

[45] Unal et al., 58; İmamhocayev, Rahmanhoca (Çev. Osman Mert). "Afgan Aydını ve Yazarı Mahmut Tarzi ve Osmanlı-Türkiye." *Atatürk Üniversitesi Türkiyat Araştırmaları Enstitüsü Dergisi* 9 (2002): 347-352; Özmen, Süleyman. "Maḥmūd Ṭarzī'nin Hayatı, İnkılapçılığı ve Faaliyetleri." Ph.D. Dissertation, Marmara University (Istanbul), Türkiyat Araştırmaları Enstitüsü. 2008, 67.

personal lectures, meetings of the burgeoning Young Afghan Party, as well as his supreme journalistic achievement, the *Sirāj al-Akhbār*.

Sirāj al-Akhbār

During the reign of Amir Ḥabīb-Allāh, Tarzi's greatest achievement was the bimonthly Persian newspaper *Sirāj al-Akhbār*. With publication beginning in Kabul in 1910, the targets of Tarzi's editorials and articles were *both* Western imperialism and an orthodox religious establishment he saw as resistant to change.[46] In spite of his virulent attacks on modern-day crusades emanating from Europe, he also challenged the notion that Muslims had nothing to learn from "the West." Before long his audience grew from the burgeoning intelligentsia of Kabul to Muslims experiencing colonization in British India and Russian-controlled Central Asia. So much so that on several occasions British officials banned distribution of Tarzi's newspaper in India.[47]

Through his influential newspaper, and in other writings, Tarzi frequently asked in rhetorical fashion, *"Ilm chist*?" ("What is knowledge?"). He boldly argued that knowledge is not limited to the sacred Islamic texts, but should also include "modern technology, natural science, and social science."[48] Drawing from his experience, education, and mentors among Young Turk circles in Damascus, Tarzi leaped at the opportunity to disseminate his views with the ideal platform of the editorship of a transnationally-distributed and read Persian newspaper, *Sirāj al-Akhbār*. He soon grew famous not only in Afghanistan, but also in neighboring Persian-literate Muslim circles as in India and Iran, for his unapologetically self-critical views of Muslim societies, once a hallmark of Orientalist scholarship. Illustrating the latter, one of his most famous expressions was, "Once Europe existed in a Dark Age and Islam carried the torch of learning. Now we Muslims live in a Dark Age."[49] In this way, Maḥmūd Ṭarzī used his largely uninhibited platform—albeit, as long as he did not criticize the Afghan royal family—to promote his views on Muslim self-empowerment through education, social reform, and the acquisition of modern technology.

The Young Afghans

Having firmly resettled into Kabul and palace life under Amir Ḥabīb-Allāh, Tarzi forged contacts with Kabul's increasingly active educated elite to form a loosely-organized society of intellectuals (*rushan-fikrān*) along pro-Ottoman and Muslim modernist lines within a few years of his arrival. Tarzi's activities in this regard appear to have coincided, or possibly even followed, earlier activity by a small group of Afghan, and even some Indian, dissident intellectuals in Kabul who established a secret national party known, appropriately, as the *Sirr-i Millī* (Secret of the Nation).[50] Regardless of antecedents, as the Afghan scholars and historians

[46] Dupree, "Maḥmūd Ṭarzī", 6.

[47] Ibid.

[48] Ibid., 20.

[49] Ibid.

[50] Note, for example, the role of Indian Doctor ʿAbd-al-Ghani in founding the Sirr-i Milli, which we will return to later in this chapter and in Chapter 5.

Mīr Ghulām Muḥammad Ghubār, ʿAbd al-Ḥay Ḥabībī, Masʿūd Pūhanyār, Sayyid Saʿd al-Dīn Hāshimī, and most recently, Senzil Nawid, and have shown, Tarzi's influence soon towered above the rest with his catalyzing effect on a number of well-educated liberal elites of notable Afghan families in Kabul, his robust connections to the Afghan royal family and Ottoman politicians abroad, as well as the influential publication which he founded, *Sirāj al-Akhbār*.[51] Together the meetings, conversations, and eventually, publications of these intellectuals would culminate in the formation of a loosely organized party that became known as both the Young Afghans (*Jawānān-i Afghān*), and the Constitutionalists (*Mashrūṭah-Khwāhān*). While much research still needs to be done on the origins and early history of the party, what we know at this point was that the organization began as a secret society of dissenting Afghan elites, but also some Indian Muslims, who were mostly active in the capital promoting strong constitutionalist, Muslim modernist, and pro-Ottoman tendencies.[52]

Most historians of twentieth century Afghanistan trace the origins of the Young Afghan party to their eponymous predecessor in the late Ottoman empire, the *Jön Türkler* or Young Turks. This is with good reason given the prominent role of Maḥmūd Ṭarzī in founding the association, and his own unquestionable links with Young Turk colleagues in Damascus and Istanbul. This is also based off many historians' tendency to replicate the perspectives of British officials, or adopt them uncritically. For example, on the growth of nationalism and the Young Afghan party in the early years of Ḥabīb-Allāh's reign, Machonachie writes,

> The nationalist movement in Afghanistan may be dated from the return of S. Maḥmūd Ṭarzī from Damascus. Its complexion was strongly Turkish, as for instance in its opposition to fanaticism and its liberal attitude towards the emancipation of women; and the close relations into which Amān-Allāh subsequently entered with the leaders of the Union and Progress party, Jemal and Enver Pashas, confirmed this tendency.[53]

In this way British records tend to focus on the dramatic, spectacular "foreign conspiracy" theory of Young Turk activity across the globe, but especially so dangerously close to the Crown's prize colony of India. To presume the party "arrived" with Tarzi's advent in Kabul would be incorrect however, given the prior-established presence of secret societies and

---

[51] Ḥabībī, ʿAbd al-Ḥayy. *Junbush-i Mashrūṭiyat dar Afghanistan*. Qum: Ihsānī, 1993; Pūhanyār, Masʿūd. *Ẓuhūr-i mashrūṭīyat va qurbāniyān-i istibdād dar Afghānistān*. Peshawar: Sabā Kitābkhānah, 1375 [1996]. Hāshimī, Sayyid Saʿd al-Dīn. *Junbush-i mashrūṭiyat khwāhi dar Afghanistan*. Kabul: Shūrā-yī farhangī Afghanistan, 2001. as Wali Ahmadi has also shown, however, Maḥmūd Ṭarzī has perhaps received a disproportionate emphasis, at least in light of the several other prominent Afghan intellectuals who were also active as constitiuionalists and "Young Afghans" and have not received nearly as much historiographical or popular attention. Among the latter are the scholar and outspoken constitutionalist Muḥammad Sarwar Wāṣif, the son of Aḥmad Jān Alkuzai (compiler of Asās al-Qāḍāt and other codifications of law during the ʿAbd al-Raḥmān era), to whom we will return to shortly.

[52] For an overview of the Young Afghan party from an Afghan historians' perspetives, see Pūhanyār, especially 214-238. For an example of British confusion over the diverse strands of the movement, including mistaking the group members for communists as late as World War II, see IOR-R/12/162 (1942) (on the "Young Afghan Party"), an inquiry about Young Afghans and communism shows confusion of British officer asking for information on Young Afghans during World War II.

[53] IOR-R/12/LIB/107: R. Machonachie (Foreign and Political Department, Government of India), *A Precis on Afghan Affairs: From February 1919 to September 1927* (Simla: Government of India Press, 1928) (para 21, p. 8).

public charitable organizations in both nineteenth century Iran and India known as *anjumāns*—organizations whose members and ideas, as is to be expected, probably circulated considerably through Afghanistan. As Bayat has noted with respect to late Qajar Iran,

> [T]he idea of secret groupings for political action, religio-political movements, or revolt, has a long tradition in Iran. In the second half of the 19th century, during the long reign of Nāṣer-al-dīn Shah (1264-1313/1848-96), reform-minded intellectuals, government officials, and members of the mercantile class, and of the *'olamā'* formed loosely defined, often secret, associations with the purpose of formulating and disseminating their socio-political and cultural views.[54]

Other historians more focused on Afghanistan have noted the particularistic, and therefore rather elitist background of the constitutionalist. This was not an uprising of the masses, so to speak, an especially inappropriate notion for the still majority-rural population of Afghanistan at this time, and the small number of higher educational institutions, literary societies, and publications *relative to* the much larger and more urbanized metropolises of India, Iran, and the Ottoman empire. On the largely urban and bourgeois-elite backgrounds of the party members, for example, McChesney notes the Young Afghan party can be characterized as,

> an indigenous group of reform-minded people whose ideas had been allowed to develop more or less unhindered in the decade and a half before he came to power in 1919. But these men were for the most part Kabulis, people who seemed unaware than Afghanistan was not Iran, Russia, Turkey, or Japan but a place with a markedly different past, one in which the signs of national sentiment for, or a sense of belonging to, a territory or nation called Afghanistan were conspicuous by their absence.[55]

In addition to McChesney's important note on the elite, non-populist backgrounds of many of the Young Afghans, it is also important to highlight their cosmopolitan membership and origins. We have already discussed the role of the Young Turks and Turkish-influence Afghans in the formation of the party. It is also important to recognize the prominent role of Indian

---

[54] Bayat, M., H. Algar and W.L. Hanaway, Jr., "Anjoman," *Encyclopaedia Iranica* Vol. II, Fasc. I (1985): 77-83. There are, of course, fascinating and unexplored parallels between the Young Afghans in Afghanistan at this time and the constitutional organization in Iran, *Anjoman-i Saʿādat*. Given the rich though still understudied history of the latter organization, this is a subject deserving of an entirely separate study I hope to pursue on its own terms. For essential background on this organization, and the also rather transnational Iranian constituional experience (encompassing constitutional activities mainly in Qum, Tehran, Tabriz, Najaf, and Istanbul), from 1891-1909 (beginning with the Tobacco revolts of 1891), see Algar, Hamid. "Anjoman-e Saʿādat," *Encyclopaedia Iranica* Vol. II, Fasc. 1 (1985): 89; Algar, Hamid. *Religion and State in Iran, 1785-1906: The Role of the Ulama in the Qajar Period*. Berkeley: University of California Press, 1969; Zarinebaf, Fariba, "From Istanbul to Tabriz: Modernity and Constitutionalism in the Ottoman empire and Iran." *Comparative Studies of South Asia, Africa, and the Middle East* 28 (2008): 154-169.

[55] McChesney, 6.

Muslim intellectuals who crossed the Durand Line and enmeshed themselves in the local elite political scene as well. This should not be surprising, for as McChesney notes, "Indian Muslims had long been an influential force in Afghanistan as educators, bureaucrats, and merchants and were an important line of communication between the highlands of Afghanistan and the northern Indian plain."[56]

While a number of Indian Muslim served in important positions, but mostly as teachers and doctors, beginning in the Amir ʿAbd al-Raḥmān era and continuing through the Amān-Allāh eras, the most notable among them was Doctor ʿAbd-al-Ghani, originally of Gujrat, India, but migrated to Afghanistan during the Amir ʿAbd al-Raḥmān era.[57] We will return to the particulars of this influential and important individual in Chapter 5, as well as his two brothers who also joined him in Kabul, but for now what is important is the secret society he is accredited with founding during the Ḥabīb-Allāh era, and became the virtual nucleus of the Young Afghan party. This "secret society within a secret society" was known, appropriately, as the *Sirr-i-Milli*, or Secret of the Nation. On this secret organization of *rushan-fikrān*, or intellectuals and literati, Adamec writes,

> [A] secret organization which in 1909 plotted a coup against Amir Ḥabīb-Allāh and aimed at the establishment of a republican form of government (*mashruta*). Its reputed head was Maulawi Muḥammad Sarwar Wāṣif, a native of Qandahar. Dr. ʿAbd al-Ghanī, an Indian Muslim who was head of Ḥabībīyah school, and some of his students were accused of membership in the *sirr-i-milli* (Secret of the Nation). The organization wrote increasingly threatening letters to Amir Ḥabīb-Allāh, telling him to 'mend his ways, or face the consequences.' ʿAbd al-Ghanī was arrested and jailed until 1919, when King Amān-Allāh ascended the throne.[58]

In this way, the Young Afghan party, rather than being a simply by-product of the Young Turks, had more complex origins as a blend of Muslim Modernist intellectuals and constitutional activities brewing in the late Ottoman Syria, Afghanistan, and British India. These complex roots and antecedents notwithstanding, the Young Afghan party was established some time in the initial years after Maḥmūd Ṭarzī's arrival in Kabul in the early reign of Amir Ḥabīb-Allāh. The society was generally made up of a coterie of young and "progressive-minded" intellectuals who sought to establish a constitutional government in Afghanistan, whilst liberating the country from the British.[59] It is not surprising therefore to find that British intelligence documents

---

[56] Ibid., 11.

[57] Another notable Indian Muslim migrant to Afghanistan who served in Amir Amān-Allāh's government was the Indian revolutionary Muḥammad Iqbal Shedai (1888-1974). Amir Amanullah appointed Shedai as Minister for Indian refugees. Notably, a *niẓāmname* code was produced just for the responisbilities engaged in this post.

[58] Adamec*, Afghanistan,* 220. Similarly, Machonachie notes in his Afghan Precis,

> In 1909 the existence of a society in Kabul, called the 'Sir-i-Milli', had been detected and its leaders punished. The choice of the word 'Milli' ('national') is in itself significant. The movement, however, fostered by the influences already mentioned as operative throughout the East, gathered strength during the War.

IOR-R/12/LIB/107, *Precis on Afghan Affairs*, (para. 21, p. 8).

[59] For a list of the most ntoable members of the party, fifty-six in total, see Ḥabībī, 258-299. Pūhanyār lists fifty-two in his work; see 45-47; Ghubar mentions forty-five, 719. For the most in-depth work on the Young Afghans, see Ḥabībī, ʿAbd al-Ḥayy. *Junbush-i Mashrūṭiyat dar Afghanistan*. Qum: Ihsānī, 1993; Pūhanyār,

consistently describe Maḥmūd Ṭarzī as "anti-British" and a pro-Turkish firebrand given his instrumental role in establishing and leading this party. A handwritten note from the 1914 *Who's Who in Afghanistan* succinctly and to-the-point describes Tarzi as "Anti-British," and notably, "in charge of Germans and Turks during their stay in Afghanistan."[60]

With respect to the Young Afghan party and constitutionalism in Afghanistan during the Ḥabīb-Allāh era, as Ahmadi insightfully argues, it is important to recognize that Maḥmūd Ṭarzī was but one of scores of active Afghans (and some Indian Muslims) organizing, writing, and struggling for constitutional change. He was no doubt one of the most influential, well-connected, and powerful, but he was not the only one. Nor was he the most radical; rather, as Ahmadi insightfully notes, there were other less compromising, and less well-connected, Afghan intellectuals and activists who ultimately suffered far greater losses for their constitutional activism. A leading case in point is the life and career of Mawlawī Muḥammad Sarwar Wāṣif, widely remembered as one of the most charismatic spokespersons, and an abiding example of courage and sacrifice, of the early Afghan constitutional movement.

A Martyr for Afghan Constitutionalism

As Wali Ahmadi has argued in his groundbreaking study of modern Persian literature in Afghanistan in the twentieth century, however, Maḥmūd Ṭarzī has perhaps received a disproportionate emphasis, at least in light of the several other prominent Afghan intellectuals who were also active as constitutionalists and "Young Afghans" and have not received nearly as much historiographical or popular attention. Among the latter are was the writer, poet, and outspoken constitutionalist, Muḥammad Sarwar Wāṣif.

Muḥammad Sarwar Wāṣif Alkūzāī Qandahārī was the son of Aḥmad Jān Alkūzāī (d. 1884), the preeminent Afghan jurist and compiler of *Asās al-Qāḍāt*, among other codifications of law during the Amir ʿAbd al-Raḥmān era.[61] While the father represented an exemplary case of a traditionally trained Afghan-jurist thrust into the position of drafting law codes for the centralizing state, akin in some ways to the Ottoman Minister of Justice and jurist-administrator *par excellence* Ahmed Cevdet Paşa (1822-1895), the son represented the an opposite perspective in the juridical field. Rather than viewing the law as a means to empower the state, his view of constitutionalism presented law as a *constraining* force on the tyranny of a monarch that could use all the technologies of violence of the modern state to enforce his way. He also saw the constitution as a *liberating* force for releasing the intellectual, social, and economic potential of the country and its people. As a writer and poet, he became a leading member of a group of liberal faculty and students at the Ḥabībīyah school, and an occasional contributor to Maḥmūd Ṭarzī's Muslim Modernist newspaper, *Sirāj al-Akhbār*.[62] In his poetry and writing, he shared parallels with Tarzi in their espousals of Muslim modernist themes of progress, selective

---

Masʿūd. *Ẓuhūr-i mashrūṭīyat va qurbāniyān-i istibdād dar Afghānistān*. Peshawar: Sabā Kitābkhānah, 1375 [1996]. Hashimī, Sayyid Saʿd al-Dīn. *Junbush-i mashrūṭiyat khwāhi dar Afghanistan*. Kabul: Shūrā-yī farhangī Afghanistan, 2001. Apart from sections of books and articles in the work of Dupree, Nawid, and Schinasi, no extended study has been completed on the Young Afghans in a western language to my knowledge.

[60] IOR/L/PS 20/B220/1 ("*Who's Who in Afghanistan*: 1914"), 56.

[61] Pūhanyār, *Ẓuhūr-i mashrūṭīyat*, 48.

[62] Ahmadi, *Modern Persian Literature in Afghanistan,* 29.

borrowing, and a call to synthesize the best of modern western civilization (especially sciences, technology, and material progress) with a pride in a reified Afghan and Islamic culture. In this respect both writers often referred to Japan as a successful model of successful "Asian modernization" and progress that could teach "haughty Europe" a lesson.[63] For Wāṣif, however, genuine modernity transcended the importation of the latest technologies or scientific discoveries, be it from Europe, Japan, or even the Turks. In this way, when Wāṣif wrote of progress and modernity, it was not in the typical way of empowering the Afghan state. Rather, as Wali Ahmadi has keenly observed, "In noticeable variance to Tarzi's cautious, and rather elitist, approach to the issue of the state and its rulers in promoting and directing the project of modernity, intellectuals like Vasif argued that the state should help create such imperatives that would incorporate modernity through engendering pervasive consensual ties within society rather than consolidating and reinforcing the dominant state."[64] As a fiery writer and poet who published in both Persian and Pashtu, Sarwar became one of the most articulate Afghan spokespersons of liberal oppositional to the aggrandizing and autocratic tendencies of not only Amir Ḥabīb-Allāh, but the modern state itself. On the literary constitutionalism of Wāṣif, as well as his Young Afghan *Mashrūṭah-Khwāhān* colleagues, Ahmadi continues to relate,

> "The idea of constitutionalism (*mashrūṭiyat*)—aiming at limiting, constraining, and regulating the highly arbitrary powers of the monarchy—was the earliest instance where the intricate conjunction of politics and literature came to the forefront of modernity debates in Afghanistan. Although far from being coherently conceived, unambiguously presented, or uniformly received, *mashrūṭiyat* was seen as a necessary precondition to bridge the classic chasm between the state and society, and to create the consensual foundations for the emergence of a thriving cultural polity, a viable nation-state."

As an additional indication of his more radical constitutionalist position with respect to Amir Ḥabīb-Allāh's increasingly autocratic grip on power, in comparison to Tarzi, Wāṣif appears to have taken fewer precautions with the tone and scope of his publications and ultimately, political activities. As one of Afghanistan's most outspoken "public intellectuals", Wāṣif saw it as behooving of all *rushan-fikrān* to "epitomize the conscience of the people" and speak truth to power, be it against foreign imperialism in the British and Russian empires, or the tyranny of the Afghan monarchy itself.[65] No doubt it was the latter theme that rendered Wāṣif especially suspect—or susceptible—in the eyes of the amir, and a target to the depredations that were to follow.

Difficult as it is to ascertain fact from fiction in such cases, in 1909 Wāṣif was arrested for his alleged role in a covert plot by the *Sirr-i Millī* to overthrow the regime. Wāṣif was also accused of being the principal author of a famous letter to Amir Ḥabīb-Allāh, a sort of "manifesto" for the most ardent *Mashrūṭah-Khwāhān*, or the constitutionalists. According to Ahmadi, the letter that rendered Wāṣif in deep water with Ḥabīb-Allāh government included the following memorable passage, rimming, apparently, with an implicit threat to the regime,

---

[63] Ibid., 30-31.

[64] Ibid.

[65] Ibid., 31-32.

> In certain countries, the enlightened ruler agrees, at his own accord, to introduce foundations of legal rule and constitutional authority. [I]n some other cases, the people, using force and by recourse to violence, change the state system according to the wishes of the nation, and transform it into constitutional authority.[66]

Soon after the publication of this letter, Sarwar along with a number of his constitutionalist devotees were arrested and accused of conspiring to assassinate the Amir. After a quick trial and conviction, as so as to send a message, he was ordered to be blown up at the barrel of a canon in 1909—a punishment most famously employed by the British Raj in India following the 1857 rebellion. A dissident to the end, however, one of Wāṣif's most famous poetic verses is a couplet in Persian he purportedly penned minutes before his execution.[67] Before being tied to the canon, Wāṣif is reported to have made a last request: a pen and paper, which he used to compose the following line in poetic verse,

> Forsaking one's property, one's soul, and one's head — ترک مال و ترک جان و ترک سر
> Is only the first step towards achieving constitutional rule.[68] — در ره مشروطه اول منزلست

In this way, with his uncompromising sincerity and consistency of message, Muḥammad Sarwar Wāṣif embodied the lionized public intellectual, and a martyr for the Afghan constitutional movement. While the prosecutions, imprisonments, and executions no doubt sent the movement of Young Afghans into further seclusion, the constitutionalist cause continued to simmer under the increasingly authoritarian grip of Amir Ḥabīb-Allāh. It was not until the reign of Ḥabīb-Allāh's son, and a young Afghan prince himself, Amān-Allāh Khan, that the ideals unleashed by the Young Afghans like Wāṣif were to be implemented, in top-down fashion in the Niẓāmnāmā Amaniyya. As we will explore during the Amānī era in Chapter 5, however, then too a vigorous opposition rose up against the central state, but from a quite distinct ideological direction.

While Amir Ḥabīb-Allāh felt threatened and was most worried about charismatic Afghan intellectuals like Mawlawī Muḥammad Sarwar Wāṣif because of their constitutional activities, British intelligence meanwhile was more focused on, and wary of, Maḥmūd Ṭarzī's pro-Turkish sympathies, coupled with his profound influence among Afghan elites in Kabul. The latter reveals ongoing British anxieties and fears about the Porte's influence encroaching on Afghanistan, to the detriment of what the British Raj saw as their most strategic and immediate sphere of influence. We will return to this theme in the next section, but first, we turn to another stream of influence also operating in Kabul at the time, that at times, could rival that of Maḥmūd Ṭarzī and the pro-Ottoman elements in Afghanistan: Nādir Khan, the Muṣāḥibān (Yaḥya-khel) family, and Indian Muslims in Kabul.

The Return of Nādir Khan and the Yaḥya-khel

---

[66] Quoted in Ibid., 31.

[67] For more biographical details on Mawlawī Muḥammad Sarwār Khan Wāṣif and his vigorous role in the first Afghan constitutional movement during the Ḥabīb-Allāh Khan era, see Pūhanyār, 47-52. For additional details on his writing career, thought, and constitional activism, see Hāshimī, 214, 217, 225-26, 247-49, 253-54, 293.

[68] Ahmadi, 31; Ḥabībī, 15; Pūhanyār, 52; Hāshimī, 247

By the time the Tarzi family had resettled in Kabul, another profoundly influential and powerful Afghan family had already returned to the Afghan capital after years in exile as well. Unlike the Tarzis, the Muṣāḥibān—or Yaḥya-khel, as their original Pashtun family name went—of Nādir Khan arrived after nearly two decades years in exile in British India. When Nādir Khan (1883-1933) received word of the amnesty made to him and his family, he made preparations for a homecoming in Kabul. Like Maḥmūd Ṭarzī, he was a prominent Afghan notable who did not return by himself, but brought his family members and relatives. And like Maḥmūd Ṭarzī, he did not just bring his relatives, but prompted an entourage of Muslim experts from British India to Afghanistan that would play a role in the political, juridical, and military development of the country for the next three decades.

Nādir Khan and the Muṣāḥibān clan was not the only prominent Afghan exile living in India, but he was among the most influential and powerful ones. For example, another instance of prominent Afghan exiles residing and working in India is General Parvez Shah Khan, was born in 1840 as the son of Agha Saiyid Abbas. Parvez Shah Khan was an Afghan refugee residing at Lahore, and drew Rs. 350 monthly from the Indian Government. British intelligence records document he had 69 "followers," many of whom were also in the employment of the British Indian Government, signifying his continuing geopolitical importance and activities while in India, but also his associations with the British government.[69] Similarly, in a significant document revealing the law of refugees from the British Indian perspective, a note from the British Resident in Kashmir, Srinagar, to Secretary to the Government of India in the Foreign Department, September 16, 1902, stated that Afghan refugees are not subjects of the British Crown, even if residing in British Indian territory, and thus maintained their special status as Afghans.

In his reply, the Deputy Secretary to the Government of India in the Foreign Department to E.G. Colvin, Esq., Resident in Kashmir, December 20, 1902, wrote

> In reply I am to say that Afghan refugees and their Afghan servants are Asiatics, and unless they have been naturalized, are not subjects of His Majesty. They are consequently outside the special rules, and come under the jurisdiction of the Courts of the Darbar. There is no objection to this ruling being made known to the Afghan refugees at present in Kashmir, or to others who may hereafter propose to visit the State.[70]

This ruling helped maintain a link with Afghanistan in a juridical sense, rather than fostering complete integration. Beyond legal rulings and judgments in British India, far more important were the living people who fostered and maintained cross-border links between Afghanistan and India. Mohammed Nādir Khan and the Yaḥya-khel clan were one such living link.

Muḥammad Nādir Khan was born in the north Indian hill station of Dehradun in 1883. His father, Muḥammad Yaḥyā, had been banished to India following a dispute with the "Iron Amir", ʿAbd al-Raḥmān Khan. Thus the young Nādir Khan did not set foot on Afghan soil until the ripe age of 18, when his grandfather was authorized to return to Afghanistan with his family

[69] IOR/L/PS 20/B220/1 ("*Who's Who in Afghanistan*: 1914"), 69.

[70] NAI-FD/FRNT/A February 1903 56-57 ("Ruling that Afghan refugees and their Afghan servants are Asiatics, and not subjects of His Majesty, unless naturalized").

by Amir ʿAbd al-Raḥmān shortly before his death in 1901.[71] This coincided with the general amnesty given to Afghan exiles to be issued by ʿAbd al-Raḥmān's son, Ḥabīb-Allāh, upon the latter's coronation as the new Amir of Afghanistan. The new Amir Ḥabīb-Allāh embraced the Yaḥya-khel's return and provided them with all the vestiges of an Afghan noble family with ties to the palace. The family's leaders enjoyed an eminent position in Ḥabīb-Allāh's court, and the young Muḥammad Nader quickly scaled the ranks of the Afghan military establishment. By 1912 he was promoted to the prestigious rank of Lieutenant General (*nāʾib-sālār*), and subsequently General (*sepah-sālār*) in 1914. He would enjoy thundering success in the Third Anglo-Afghan War, or Afghan War of Independence, particularly in his ability to rally the Masʿud and Waziri tribes on the Indian side of the Durand Line to secure victory over the British at Thal in Waziristan in May 1919. This would earn him the venerated *Nishān-i almār-i aʿlā* medal under Amir Amān-Allāh Khan.

While Nādir Khan emerges more forcefully in our story during the reign of Amir Amān-Allāh Khan (1919-1929), as a prelude to his actual assuming the Afghan throne as Nādir Shah from 1929-1933, what is important to recognize at this point is that Nādir Khan's return to Kabul came during the early years of Amir Ḥabīb-Allāh's rule. This was a time when Amir Ḥabīb-Allāh had opened Afghanistan's doors—cautiously and slowly, but nonetheless, opened—to foreign experts. While we discussed the role of Ottoman arrivals and experts following Maḥmūd Ṭarzī's return from exile above, Nādir Khan's return to Kabul, correspondingly, prompted the arrival of Indian Muslims and Indian-educated Afghans to Kabul as a counter-balancing force to the spread of Ottoman influence in Afghanistan. That Indians were also successful in courting influence in the court of Kabul, and on the Amir himself, is evident in the vigorous recruiting of Indian Muslim teachers, doctors, and other professionals by Amir Ḥabīb-Allāh—a practice he continued from his father, ʿAbd al-Raḥmān Khan. Amir Ḥabīb-Allāh's preference for Indian Muslims and educating Afghans at British Indian institutions would surface most clearly in his *own* movement, however, when he literally travelled to India in 1906-1907. Notably, this would be the only foreign travel of Ḥabīb-Allāh Khan while Amir, and the influence of which we turn to now.

II
ILLUMINATIONS AT AGRA: AMIR ḤABĪB-ALLĀH'S TOUR OF INDIA

> The visit to India has brought home to the Amir how far removed his country is from the ladder of true progress... The strength and greatness of the British Government have, moreover, been thoroughly impressed on his mind...[72]
>
> - Secret Memorandum, Foreign Department of the British Indian Government, 1907

Education in Afghanistan during the early Ḥabīb-Allāh era

[71] Adamec, *Afghanistan,* 264-65.

[72] NAI-FD/SEC/F February 1907 176-179 ("Report on the generally unsatisfactory condition of Afghanistan").

When he assumed the reins of power as Amir, Ḥabīb-Allāh Khan knew as well as anyone that his vision of a modern Afghan state was dependent on a properly trained bureaucracy to implement his goals of a modern taxation regime, a police force to enforce his laws and supervise markets, a regular army to defend the borders from external enemies (and his throne from within), and a unified network of courts to make the state the adjudicator between disputes. Since the establishment of modern Muslim educational institutions in India in the nineteenth century such as Dār al-ʿUlūm Deoband, the Anglo-Oriental Muhammadan College at Aligarh, and Islamia College at Lahore, not to mention the proliferation of British-administered institutions of higher learning such as Delhi College and Mayo College at Ajmer (Chapter 2), Amir Ḥabīb-Allāh had been keeping a watchful eye on India as a model for his own educational reforms. At the beginning of his reign, the idea of recruiting teachers, especially Indian Muslims, from institutions like the Aligarh Muslim University, Islamia College at Lahore, and the Dār al-ʿUlūm madrasah at Deoband was the most feasible option. Meanwhile, many Afghan students continued to study in India at precisely the same preeminent institutions, creating a constant traffic of students and scholars crisscrossing in both directions. The latter was not an entirely a new phenomenon, however, as Afghan students had been studying, and even teaching, at Indian institutions since the late nineteenth century, including at Dār al-ʿUlūm Deoband.[73] Ultimately, Amir Ḥabīb-Allāh soon began to contemplate establishing Indian-modeled educational institutions in his own country. In this gradual manner the seeds were lain for what Afghan historians believe to be one of Amir Ḥabīb-Allāh's greatest and most lasting contributions: the establishment of Ḥabībīyah College in Kabul.[74]

What led Amir Ḥabīb-Allāh to embark on such an ambitious project at this time? According to the historiography, the impression we get is this came as a result of Amir Ḥabīb-Allāh's visit to India in early 1907. Sources in the Indian National Archives, however, indicate Amir Ḥabīb-Allāh was developing the idea of educational reforms for his country well before these excursions. Predictably perhaps, the seeds of the project began with the education of his own sons. A document in the National Archives of India indicates that in 1903, Ḥabīb-Allāh recruited five Indian Muslim professors from the Indian College at Lahore for the purpose of founding a college for the education of the sons of the Afghan nobility.[75] Another source even traces the impulse to the Amir ʿAbd al-Raḥmān era, in spite of the latter's notorious xenophobia and insistence to keep the borders of Afghanistan closed to foreigners. According to a 1906 article from the Daily Telegraph as well as documents in the Indian National Archives, the idea for a college for princes in Kabul originated with Ḥabīb-Allāh's father, Amir ʿAbd al-Raḥmān

[73] For example, Metcalf notes the significant number of Afghan students and teachers making up an integral part of the student body and faculty at Deoband. B. Metcalf, *Islamic Revival in British India*, 1982, 107, 111, 135.

[74] For an original copy of an Afghan Government proclamation concerning the Ḥabībīa college during the reign of Ḥabīb-Allāh Khan, see ADL 0467 (1332 [1913-14]) (*Niẓāmnāmā-yi* madrasah-*i mubarakah-i Ḥabībīyah*). For an article roughly six decades later on the infleucne of the late Ottoman and early Turkish Republic's "Mülkiye" educational system in Afghanistan, see Dağpınar, Mehmet Ali. "Afganistan'da Mülkiye." *Mülkiyeliler Birliği Dergisi* 43 (1976): 10-15.

[75] NAI-FD/FRNT/B November 1906 220-222 ("H.H. the Amir's speech at Kabul on education in Afghanistan").

Khan.[76] One document from the Indian archives notes how in the early 1880s, soon after assuming the Afghan throne, the Amir could hardly find three Afghan clerks able to read and write in Persian or Pashtu.[77] By 1900, however, according to this document, "thousands of his people could read and write," and in the Amir's own words, "schools are being opened in all the towns, and in every regiment of the army, for the education of the people."[78] While it is difficult to establish the veracity of the Amir's claims at the time, we nonetheless get a sense of initiative on Amir ʿAbd al-Raḥmān's part in the realm of education reforms, and the strategic value placed on schooling as linked directly to building a professional, regulated bureaucracy. Furthermore, in his own biography, published in 1900 by an Indian Muslim, Sultan Muḥammad (Mir Munshi), ʿAbd al-Raḥmān Khan referred to a college to be established at Kabul "for the teaching of various sciences and, systems of education according to European methods."[79]

From other sources of the time, however, we learn that Amir ʿAbd al-Raḥmān's descriptions of his country were exaggerated and "over-coloured", to use a more distant British observer's phrase. As the Daily Telegraph article proceeds to state,

> Unfortunately, there is reason to believe that this roseate picture was absolutely over-coloured, and that the late Ameer, or his Secretary of State who compiled the autobiography was drawing a very long bow. Mr. Angus Hamilton, in his recent book on Afghanistan declares that the education system of the country has made no advance whatever upon the native principle of oral teaching. "There are no schools," he says, "or colleges under European supervision similar to those which exist in other Eastern countries, and the young is only trained to read Persian, to quote extensively from the Koran, to write, to shoot, and to read.[80]

Clearly Amir ʿAbd al-Raḥmān had an interest in singing self-congratulatory praises and claiming the success of his own reform policies, though it is difficult to argue British observers, writing from India, could offer impartial evaluations of their real impact in Afghanistan. Perhaps the fact Amir Ḥabīb-Allāh expressed dissatisfaction with the pace of his reforms, and engaged in far more self-critique of his government and the state of affairs under his rule than his father, supports the conclusions of the British journalist above. For example, the aforementioned article from 1906 proceeds to describe how Amir Ḥabīb-Allāh's "wrathful" depiction of the "retrogression" of the college which he himself founded a few years earlier. At the same time, Amir Ḥabīb-Allāh was careful not to assume too much responsibility for the dissatisfactory state of affairs, but rather deflected blame to "the stubborn prejudices of the Afghan officials, of whom not two out of ten are fit for State service, if education is to be taken as the test."[81]

---

[76] Ibid.

[77] Ibid.

[78] Ibid. Upping the ante, we might also consider the Amir's additional comments on the new educational spirit spreading across his kingdom, and the links to professionalization and bureaucratization: "the people themselves have opened voluntary schools for the education of their children everywhere. Every official, no matter what his duties may be, has to go through an examination." Ibid.

[79] Ibid. Mir Munshi, Sultan Mohammad, *The Life of ʿAbd al-Raḥmān* (London: 1900).

[80] NAI-FD/FRNT/B November 1906 220-222 ("H.H. the Amir's speech at Kabul on education in Afghanistan").

[81] Ibid.

Whether or not we are to take the Amir's claims at face value, the extremely limited educational and professional training opportunities for young Afghan students were likely the most pressing obstacle facing Amir Ḥabīb-Allāh's envisioned reform program, rather than the imagined and stereotypical "Afghan's incurable suspiciousness of the foreigner, whether British or Russian, which the Ameer is trying to overcome."[82] For these reasons, Amir Ḥabīb-Allāh was likely to agree with Lord Curzon's assessment and advice for young Muslims in India, that "If I were a Mohamedan prince or a man of wealth," said Lord Curzon to the students of Aligarh College in 1901, "I would concentrate my attention on education, and on education alone."[83]

It is with this background and vision in mind that Ḥabīb-Allāh Khan departed for his first trip abroad as Amir, to Afghanistan's eastern neighbor, British India. The aforementioned documents from the Indian archives indicate that the Afghan Amir was already looking for educational models to implement in his own kingdom upon his arrival in India. This is confirmed by the itinerary and objectives of the Amir's travels within India. For example, declassified documents from the Indian National Archives on the Amir's trip to India indeed indicate that Amir Ḥabīb-Allāh was most interested in surveying India's educational institutions, particularly those of higher learning for Indian Muslims. Amir Ḥabīb-Allāh's focus on colleges and universities, followed by factories and other industrial sites, appear to be driven by the imperative of striking a balance in Afghanistan between preserving the Islamic cultural heritage of Afghans while advancing as a society to meet the needs of the modern industrial age through education and technology. In this way, by examining the education of Indian Muslims in British India, Amir Ḥabīb-Allāh sought a model for Afghans, highlighted by his influential trip to India in 1907.

A Passage to India: Amir Ḥabīb-Allāh's Indian Tour of 1906-1907

Documents from the National Archives of India and Afghanistan National Archives provide some of the richest sources on the Amir's visit to India, British preparations for his arrival, and his activities therein.[84] A series of Foreign Department Frontier Branch documents review some of the highlights of the Amir's Indian tour, including his speeches about the trip, in his own words, upon returning to Kabul. The documents actually begin with a file produced before the Amir even departed Kabul and was in the midst of making preparations for his tour.[85] On January 8, 1907, the Amir having recently crossed the Durand Line met with *Anjumān-Ḥimāyat-i Islam*, a local philanthropic association of Peshawar. According to British accounts, when solicited for a donation, the Amir reportedly encouraged them but offered them no funds, stated that he was entrusted with spending his money on educating Afghan orphans and children

[82] Ibid.

[83] Ibid.

[84] The richest and most detailed sources on Amir Ḥabīb-Allāh's tour of India rest are drawn from the NAI. The richest source from the ANA is an originally Urdu text translated into Persian on the occasion and subject of the Amir's trip to India. For an original copy, see ADL 0233 (1324 [1906]) (Ḥajji Muḥammad Khan, *Dhikr-i Shah-i Islam*).

[85] NAI-FD/FRNT/B November 1906 220-222 ("H.H. the Amir's speech at Kabul on education in Afghanistan").

first.[86] On January 21, 1907, the Amir arrived at Delhi. Almost immediately upon arrival, he and his entourage traveled to visit the Red Fort, Kutb Minar, and the sacred tombs of revered sufi saint Niẓāmuddin Auliya and the Mughal emperor Humayun.[87] The Amir spent the day January 23 at Ajmer with a small group, where he visited the famous shrine of Shaykh Chishti, a Jain temple, Mayo College (the British academy for Indian princes), as well as a number of railway workshops. He returned by train to Delhi in the evening. [88]

On January 24, the Amir arrived at Delhi at 8:30 in the morning, after which he visited native flour mills, a biscuit factory and selected cotton mills. The reporter notes that the "Amir appeared to pay special attention to cotton mills as he is contemplating their erection in Afghanistan and is in negotiation with Cawnpore firms on the subject." [89] On January 25, it was Eid al-adha in India, the greatest Muslim holiday of the year. The festival was attended by morning Eid prayers at the Eidgah at 9:00 a.m., followed by Friday prayers at Jama Masjid at 1 p.m. The reporter describes a welcome ceremony with great pomp and circumstance, with echoes of Ahmed Hulusi efendi's tour three decades earlier,

> Immense crowds of Mussulmans from all parts of the country were present at both ceremonies. Amir expressed pleasure at excellent manner in which mosque is kept up… He wished to present silver lamp and candelabra to mosque in commemoration of his visit. He refused to accept address from Mussulmans attached to mosque which he characterized as mere begging letter and also from Hindus, and seemed altogether tired of addresses and ceremonies and to be anxious that remainder of tour be as informal as possible. Over one hundred goats were sacrificed, but not cows.[90]

Beyond the throngs of Indians waiting to meet the Amir, many wanted to address him personally. A secret Foreign Department file of June 1907 discusses the various politics and courtesies revolving around the attempt to secure a private address with the Afghan amir. Criminal Intelligence reported on November 21, 1906, that,

> Dr. ʿAbd al-Ghanī will accompany the Amir and at Lahore will present his friends to the Amir. At ʿAbd al-Ghanī's instigation the Amir has decided to establish a University at Kabul. This is considered as the best means of extending the Amir's influence over the Indian Muhammadans. The idea is fully approved by ʿAbd al-Ghanī's party, but the Anjumān-i-Islam have their own here in the person of Sardār Ayub Khan and on the occasion of the Id prayers at Shahi Mosque

[86] NAI/FD/SEC/F June 1907 34-52 ("Desire of certain Muḥammad Communities to present addresses of welcome to the Amir of Afghanistan on the occasion of his visit to India. Note by Maula Bakhsh, 8 Jan 1907").

[87] NAI/FD/SEC/F February 1907 119-137 ("Reports regarding the movements of the Amir during his visit to India from the date of his departure from Gwalior to that of his arrival and departure from Calcutta."); NAI/FD/SEC/F. June 1907 34-52 ("Desire of certain Muḥammad Communities to present addresses of welcome to the Amir of Afghanistan on the occasion of his visit to India. Note by Maula Bakhsh, 8 Jan 1907").

[88] NAI/FD/SEC/F February 1907 119-137 ("Reports regarding the movements of the Amir during his visit to India from the date of his departure from Gwalior to that of his arrival and departure from Calcutta.").

[89] Ibid.

[90] Ibid.

> rice and shells were thrown by the Anjumān-i-Islam over the head of Ayub Khan… to show the English that they do honour their leaders.[91]

The fact British Indian "Criminal Intelligence" was monitoring the relationship between the Amir's visit and local Indian Muslims is revealing. Of particular interest to the authorities was the question of whether the Amir's name would be read in the *khuṭbah* during the Friday prayers in India, an indication of Islamic sovereignty, independence, and allegiance. This idea was so threatening to the British officials that they gave strict orders to monitor whose name was read in the khuṭba.[92]

After Delhi, the Amir proceeded on an important trip to Aligarh, where he visited the Alighar Muslim University.[93] A report from H.R.C. Dobbs, stationed with the Amir's camp, Aligarh, to Foreign Secretary, Calcutta, January 16, 1907, writes,

> Amir arrived at Aligarh 10-40 this morning, inspected buildings of Muhammadan Anglo-Oriental College with which he expressed himself delighted, attended prayers at mosque, and after hearing without comment a lecture on political economy and watching a class being taught English, searchingly examined Theological class students. He then went into large hall crowded with students and visitors and received address from College Trustees. In reply, Amir said that he was satisfied that all statements which he had heard that teachings of college were contrary to Muhammadan religion were calumnies. He had found the students perfect in religious knowledge and he exhorted them after having acquired religious knowledge by all means to learn as much western knowledge as possible.[94]

The Amir concluded his rousing speech by promising a monthly prescription of 20,000 Indian rupees in charitable contributions to the Muslim college. He also alluded to himself having started a similar college in Kabul "along these lines."[95] British reports note that his remarks were received with all the more enthusiasm, and he was grateful to the British authorities for allowing him meet with the students.[96]

On January 26, the Viceroy in Calcutta noted that the Amir decided to take 200 Sardārs and followers to Calcutta, while the remainder of the party returned to Afghanistan.[97] A report from Hafez Mohamed Musa, Secretary, Anjumān-e-Khademul Islam, Calcutta, to Secretary to the Government of India in the Foreign Department, January 23, 1907, writes of a request to meet and address Amir Ḥabīb-Allāh. In his report he provides a translation of a letter in Persian from the Muhammadan Literary Society of Calcutta addressed to "His Majesty of High rank, of great dignity Siraj-ul-Millat-i-waddin Amir Sir Ḥabīb-Allāh Khan, Amir of Afghanistan and its

---

[91] NAI-FD/SEC/F June 1907 34-52 ("Desire of certain Muḥammad Communities to present addresses of welcome to the Amir of Afghanistan on the occasion of his visit to India").

[92] An intelligence report of February 1907 on the importance of the prayers for Muslim ruler in the khuṭbah as a symbol of independence, sovereighty, and allegiance all at once is included in the same file. Ibid.

[93] Ibid.

[94] Ibid.

[95] Ibid.

[96] Ibid.

[97] NAI/FD/SEC/F February 1907 119-137 ("Reports regarding the movements of the Amir during his visit to India from the date of his departure from Gwalior to that of his arrival and departure from Calcutta.").

Dependencies," the entire text of which is included in the Appendices (See Appendix G). After profuse and traditionally hyperbolic praise of the Afghan amir, an illustrative passage highlighting a simultaneous adoration of both the Afghan Amir and the British Crown reads as follows,

> [T]o us, the Indian Mussulmans, Your Majesty possesses an additional interest and fascination as the friend and ally of the British Government, which, at the present day, commands the allegiance of more Mussulman subjects that any other sovereign in the world. We, therefore, rejoice that cordial relations subsisting between Your Majesty's Government and that of His Gracious Majesty the King Emperor of India, is increasing day by day and we sincerely hope and trust that the present visit of Your Majesty may serve to knit the two Governments still more closely together, to the lasting good of Your Majesty's people and of the people of India.[98]

Another Foreign Department but Frontier branch report of March 1907 entitled "Result of the Amir's visit to Aligarh", demonstrates that both British authorities and the rectors of the university were keen on the Amir visiting the college in order to enhance its Islamic credentials and prestige both in and outside India. A letter dated February 8, 1907 from a certain Sayyid Mahdī ʿAlī ("Muḥsin al-Mulk"), the Secretary of the Muslim Anglo-Oriental College at Aligarh, to Sir L.W. Dane, the Foreign Secretary to the Government of India, waxes on the accomplishments of the visit from the college's perspective. Describing the visit as "a grand success", the college administrator proceeds to state,

> Not only that we have got a very substantial pecuniary help from the Amir, but his utterances are sure to prove most valuable to our cause and mission of education. His testimonial is bound to be accepted by all orthodox Musalmans, who used to condemn the religious aspect of the institution, from the old days of Sir Saiyad Ahmad Khan Bahadur and against whom he had to fight a long life battle.[99]

In response Sir Louis Dane, writing from Calcutta on February 12, 1907, Muslim officials at the university and town celebrated the fact that the Amir "enjoyed the visit and said

---

[98] NAI-FD/SEC/F June 1907 34-52 ("Desire of certain Muḥammad Communities to present addresses of welcome to the Amir of Afghanistan on the occasion of his visit to India. Hafez Mohamed Musa, Secretary, Anjumān-e-Khademul Islam, Calcutta, to Secretary to the Government of India in the Foreign Department, 23 Jan 1907"). For a representative sample of the hyperbolic introductions given to the Afghan aMīr by some of his Indian audiences, note the following excerpt the letter in Persian from the Muḥammadan Literary Society of Calcutta addressed to "His Majesty of High rank, of great dignity Siraj-ul-Millat-i-waddin Amir Sir Ḥabīb-Allāh Khan, Amir of Afghanistan and its Dependencies", which proceeds to state,

> Amongst the brilliant and distinguished galary of the living sovereigns of the world, Your Majesty occupies an exalted position as one of the foremost of the Moslem potentates, under whose beneficient and enlightened sway the Arts and Sciences of the West are achieving signal triumphs amongst a people who are no less distinguished for an affectionate regard for all that is best and noblest in Islamic culture and civilization.
>
> Ibid.

[99] NAI-FD/FRNT/B March 1907 36 ("Result of the Amir's visit to Aligarh").

that he was quite satisfied about the orthodoxy and excellence of the religious instruction. He added if the students go wrong afterwards it is their own fault and not the fault of the college."[100]

Perhaps no words convey the Amir's enthusiasm more expressively than the Amir's very own. A translation of the Amir's address to the Indian Muslims at the Muhammadan Anglo-Oriental College at Aligarh included in the Appendices (see Appendix H). The speech was the Amir's reply to an Address presented by the Trustees of the College, and the Amir discussed what he saw as the absolute need for young Muslims of their times to combine a top-notch, modern education (read: on the British model), while maintaining the best kernels of Islamic culture, etiquette, and ethics.[101] Underscoring the point that education was his focus while in Kabul, the following extract from the "Mulk & Millut" newspaper of September 18, 1906, provides a contemporary commentary on the Amir's speeches on education, stating,

> We had thought that only nations which had reached a high degree of Western civilisation were seriously troubled with education questions. But that was a mistake. There is an education difficulty even in far-off Afghanistan, which led the Ameer to deliver the remarkable speech which appeared in our columns the other day." [102]

The report also includes quotes of the Amir's speech at Kabul on education in Afghanistan, shortly upon his return to Kabul from India. Addressing his counselors in full *darbar* on July 4, the Ameer spoke up in defense of education—"strongly and manfully" and "as the most enthusiastic educationalist could desire"—to quote a British observer present—and then said, "The superiority of one man over another is through knowledge and good-breeding, and not through wealth and high lineage."[103] On this "crushing rebuke", the British reporter present notes it was no doubt addressed to "those Afghan officials, who have done all in their power to thwart the Ameer's educational schemes and prevent the school or college, which he opened three years ago, from becoming a success.[104]

The fact the Amir stressed the importance of Islamic culture, while seeking to revamp Islamic education should not surprise us, however, as this was one of the most consistent message of Muslim modernism, diverse and multifaceted as its various strands were at the beginning of the twentieth century. We have examined the speeches of Amir Ḥabīb-Allāh in this regard. It is also evident in the books, syllabi, and other educational material used at Ḥabībīyah College. For example, one of the authorized published works we have preserved from Ḥabībīyah college is *Sirāj al-Fiqh* (1911-12), also known as *Kitāb-i dīnīyāt*, by Mawlawī ʿAbd al-Rabb, an educational book published by the Ḥabībīyah College which discusses a range of topics for Afghan youth, from descriptions and characteristics (*shamā'il*) of the Prophet, ablution (*wuḍū'*), prayer (*namāz/ṣalāt*), and ethics (*akhlāq*), with a vision to teaching young Afghans these

---

[100] Ibid.

[101] Ibid.

[102] NAI-FD/FRNT/B November 1906 220-222 ("H.H. the Amir's speech at Kabul on education in Afghanistan").

[103] Ibid.

[104] Ibid.

subjects, but using Islamic precedent.[105] In the very same spirit, while at Aligarh, the Amir also included a certificate awarded to the Indian Muslim students, with a personal note inscribed by the Amir himself. The following is a translation of the note penned by Amir Ḥabīb-Allāh for the students of the Muslim Anglo-Oriental College at Aligarh, signed with his customary honorary title, *Sirāj al-Millat wa al-Dīn* (Shining Lamp of the Nation and Religion),

> This day, Wednesday, the 16th of January 1907, I came to see the College at Aligarh. I had heard from some people that the boys of the said College were not right in their belief of the tenets of Islam, but, in my presence and with my own tongue, I have myself examined the boys regarding some of the important principles of Islam and the dogmas about the offering of the Prayers and the Keeping of the Fasts. They have replied to all my questions rightly according to the belief of the Musalmans. I have also inspected the Building Department and the Boarding House system, how the boys live and how they are brought up. Everything is very good and excellent. (It is my opinion therefore that) After the Musalman boys may have thus learnt the important principles and dogmas of the religion, they are quite at liberty to begin learning the sciences of Europe and then there is no harm in it.[106]

In this manner Amir Ḥabīb-Allāh's visit to Aligarh underscores the importance he placed on education, but also and as significantly, *where* he looked to for models. The fact the Amir did not visit Dār al-ʿUlūm Deoband in Saharanpur, roughly an hour by train from Delhi, and the preeminent madrasah in all of South Asia, speaks to where he was *not* looking as well. Alternatively, there is also the possibility that the Amir sought to visit the Islamic college, but British authorities did not allow it given the potentially threatening nature of such a visit. This is more probable, given we also know that Amir Ḥabīb-Allāh financially supported the Dār al-ʿUlūm Madrasah at Deoband, as Barbara Metcalf has noted with the construction of one of the outer gates of the campus, displaying an unmistakable imperial motif.[107] In any case, though the Amir did not visit Deoband, he continued to visit other strategic locales in India where Indian Muslims also flocked to greet and honor him.

The tremendous impact the Amir's tour of India had on his vision of reform is evident in his speeches and decisions upon his return to Kabul. In a Foreign Department Frontier Branch document from September 1906, British representatives reported a speech delivered by the amir that exclusively dwelt on education in Afghanistan. The speech was delivered by Amir Ḥabīb-Allāh in full durbar on the July 4, 1906. After some religious references to the immense importance to the human race of knowledge the Amir proceeded to state that "education is the only path to service in the State" and that, regrettably, "The Habeebiya school was opened nearly three years ago, but now we observe its work retrogressing; it is the Government officers that are

---

[105] For an original copy of this book from the Afghanistan National Archives, see ADL 0239 (1328 [1911]) (Mawlawī ʿAbd al-Rabb, *Kitāb-i duwwum-i dīnīyāt (Siraj al-fiqh) hissah-i duwwum*). A 1912 edition of the book can also be found in the British Library in London. For two additional books by the same author-jurist, Mawlawī ʿAbd al-Rabb, one also on religious instruction, and the second one, interestingly, on more political matters—the obedience of obeying those in authority—see ADL 0150 (1335 [1916-1917]) (ʿAbd al-Rabb, *Risalah-i-awwal-i dīniyyāt*) and ADL 0151/0152 (1334 [1916]) (ʿAbd al-Rabb, *Iṭā'āt-i ulū'l-amr*), respectively.

[106] NAI-FD/FRNT/B March 1907 36 ("Result of the Amir's visit to Aligarh").

[107] B. Metcalf, *Islamic Revival in India: Deoband*, 112-113.

especially to blame."[108] The entire text of the speech is included in the Appendices (See Appendix F).

That education played a paramount role during the Amir's visit to India is also evident from comments in Indian Muslim and Ottoman newspapers alike. *The Muhammadan* and *Yıldız*, an Ottoman newspaper, reported in September 1906, that the Amir of Afghanistan had been trying his best to introduce and spread the new arts and sciences of modern says in his country. In a durbar, where all ministers and courtiers were present, he is reported to have delivered the following remarks shortly after his return from India,

> I want to promote the condition of my country and better the state of my subjects; and this I cannot do without introducing in my land modern modes of education, science and arts. If anybody does not like this idea of mine, he ought to leave this durbar at once, because I cannot be pleased with such a person. At the same time I let you know that if anybody quits this hall as I already asked of you, I shall never be offended with him. But it should be bore in mind that I shall be very much offended and displeased with him, if he were to create obstacles in the way of the progress of the nation.[109]

Amir Ḥabīb-Allāh did not simply issue speeches and proclamations in this regard. A crucial aspect of his program was the recruitment of qualified teachers and administrators. In this light, an extract from *Mulk & Millut* dated October 2, 1906, writes that Dr. ʿAbd al-Ghanī, Principal of the Islamia College at Lahore had resigned his post—just months before the Amir's visit to India—and "is about to proceed to Cabool in obedience to the summon of His Majesty the Amir."[110] Before even crossing the Durand Line into India, Amir Ḥabīb-Allāh had already found his man to lead the educational reform program. "Dr. ʿAbd al-Ghanī is thus destined to be the pioneer of education in Afghanistan," the paper lauded.[111]

While Amir Ḥabīb-Allāh's visit to India provided many chances for Indian Muslims and institutions in major urban centers of India to build stronger ties with Afghanistan and the Amir, it was also a golden opportunity for London and Calcutta to make a lasting impression on Ḥabīb-Allāh when it came to the benefits of British patronage at a time of Kabul slowly emerging from international isolation. In this way, as much as Amir Ḥabīb-Allāh has certain objectives in mind, British officials were themselves on a mission to make their own impression on the monarch. Planning the Amir's visit to the great Mughal heritage city of Agra, the British planned an extravagant welcome festival, including adorning the city with lights beginning with the railroad itself, to bridges and edifices across the historic town. An Internal Branch document of June 1907 of the Foreign Department entitled "Illuminations at Agra on the occasion of the visit to that city in January 1907 of the Amir of Afghanistan and of the Viceroy," a relatively large file for this department, was devoted to a meticulous set of instructions solely pertaining to the adornment of a bridge over the railroad station with a spectacular array of lightwork so as to illuminate the Amir's arrival at Agra, home of the world-famous Taj Mahal. No doubt, the

---

[108] NAI-FD/FRNT/B September 1906 141 ("H.H. the Amir's speech at Kabul on education in Afghanistan").

[109] Ibid.

[110] Ibid.

[111] Ibid.

intention was to impress even a king upon his arrival in the former Mughal capital and now British provincial city so to be starstruck with awe. The report includes references to and requests for the purchase of 10,000 lights, as well as 50 gross Vauxhall lights at 20 Rs/a gross, 100 dozen Chinese lanterns and 5000 other lights.[112]

The pomp and circumstance with which Amir Ḥabīb-Allāh was received at Agra, not to mention every other city and venue he visited, was a fitting conclusion to the Amir's first official tour of India. On this momentous tour the Afghan king met a red-carpet reception not only from the British Indian Government, but from Indian Muslims. Unlike the 1877-1878 Hulusi Efendi mission in which represented of another, more powerful Islamic sovereign visited India, this reception played into British hands, and plans, quite nicely. Amir Ḥabīb-Allāh returned to Afghanistan with more awe and appreciation of British power, and under those auspices, Indian Muslim achievements in his very own neighbor's country. This was underscored by the fact that India shared deep historical links with Afghanistan, not to mention cultural affinities, and continuing cross-border family ties.

By 1907, Amir Ḥabīb-Allāh was still anxious over the progress, or lack thereof, of his reform program, particularly the problem of a sufficiently educated and properly trained cadre of professionals to staff his bureaucracy. The following secret report from the Foreign Department of February 1907 entitled "Report on the generally unsatisfactory condition of Afghanistan" speaks to Amir Ḥabīb-Allāh's frustration with the state of "progress" in his country, and his intention to make some structural changes to fix the problem. One of the documents in the file, a special report by Malik Khuda Bakhsh, Tiwana, British Agent at Kabul, dated January 22, 1907, reports that "in devising plans for the amelioration of the condition of his country and in making changes in the administration, the Amir keeps constantly before his mind the example of Japan."[113] The reporter is also keen to point out what he deems the "limited sources of advancement" for the country, however, citing the lack of heavy infrastructure or capital in the country, the absence of a sufficiently large and well-educated bureaucracy, or abundant natural resources for the exploiting. In contrast to his emphasis on what Afghanistan "lacked", the British agent then poses a sharp foil of his representation of the country with the "true progress" of his patron government, the British Raj in India. On the latter, Khuda Bakhsh waxes on the salubrious effects of the Amir's tour, as follows,

> The visit to India has brought home to the Amir how far removed his country is from the ladder of true progress, and what expenditure and system are required for keeping well-trained troops and for properly administering the country. The strength and greatness of the British Government have, moreover, been thoroughly impressed on his mind as will appear from the fact that after the review at Agra he openly declared before his counselors in his tent after seeing the British troops it could be said of the troops of Afghanistan they did not deserve to be called trained troops.[114]

– • –

[112] NAI-FD/Intl/B June 1907 625-639 ("Illuminations at Agra on the occasion of the visit to that city in January 1907 of the Amir of Afghanistan and of the Viceroy").

[113] NAI-FD/SEC/F February 1907 176-179 ("Report on the generally unsatisfactory condition of Afghanistan").

[114] Ibid.

In summary of the watershed transformations unleashed in just a few years of Amir Ḥabīb-Allāh's reign, the Afghan monarch was committed to a model of cautious and gradual, but nonetheless ambitious, reform program. Amir Ḥabīb-Allāh began by issuing an amnesty to Afghan exiles abroad and inviting the refugees to return home. His goal was to recruit badly needed professionals to staff and implement his state centralization and bureaucratization project. Many exiles did decide to return—and they came from two realms in particular, the Ottoman empire and India. These professionals would form the backbone of his envisioned educational, judicial, and military reform projects in particular. Though they were not the only ones, Maḥmūd Ṭarzī from Ottoman Damascus, and Nādir Khan from Dehradun, British India, became the most prominent and influential returning exiles in this regard. A secret memorandum from the British Indian Foreign Department from summarizes the early years and first initiatives of Ḥabīb-Allāh Khan's emirate as follows,

> As regards the internal administration of the country His Majesty's policy is wholly at variance with that of his father Amir ʿAbd al-Raḥmān Khan. This is instanced in the recall of all the refugees to Afghanistan by means of a general proclamation and the immediate entrusting some of them with work of great responsibility; the creation of new appointments in the beginning of 1905 for the division of work; the entrusting of the work of administration sometimes to his son Inayatulla Khan and sometimes to Sardār Nasrulla Khan; the lessening of the influence of mistrusting of old officials; making distinct changes in the organisation of the troops; the neglecting of the holding of Durbars; the discharging from the troops of the soldiers unfit for duty; and the reducing of the number of the recipients of pensions and allowances…[115]

By 1906, Amir Ḥabīb-Allāh was unsatisfied with the pace of reform in his kingdom. He made up his mind on a tour of India, with the goal of seeking practical institutional models for his reforms, as well as recruit staff. What he found exceeded his expectations. The Amir was dazzled not so much by the warm reception the British Indian Government gave him, but rather, the technological, bureaucratic, and military prowess of the Queen's Indian empire. Moreover, Amir Ḥabīb-Allāh was inspired by the educational and professional advancements of Indian Muslims under the Raj, particularly whose loyalty and dedication to the British government was unflinching, and had studied in British-styled colleges, taken up jobs in the British Indian bureaucracy, or even served in the British Indian army.[116] Summarizing the catalyzing effect of Ḥabīb-Allāh's Indian tour, Senzil Nawid writes,

> Habib-Allah's visit to India in 1906 was another impetus for change. Inspired by India's progress along Western lines, he introduced a modest reform program in Afghanistan that included the creation of textile and power factories; the construction of new roads and modern building in Kabul, Jalalabad, and Paghman; improvements to the postal system and to public health; expansion of trade; and the establishment of a printing house (matba`ai-i `enayat) and a

[115] Ibid.

[116] Nile Green, *Islam and the Army in Colonial India: Sepoy Religion in the Service of Empire* (New York: Cambridge University Press, 2009).

> translation bureau (dar al-tarjoma). He also founded a teacher-training college (dar al-mo`alimin) and Habibiyya College, both of which were staffed principally by Indian Muslims and Turks.[117]

In this way, upon his return to Afghanistan from India, Amir Ḥabīb-Allāh embarked on a series of revamped reform projects in a variety of fields. Though still cautious and paling in comparison to what his son would unleash a decade later, he almost immediately expanded and broadened the scope of his reforms initiated earlier.[118] The general thrust of Amir Ḥabīb-Allāh's reforms were basic administrative, educational, and military institution-building programs. Afghanistan was divided into six administrative provinces: Kabul, Qandahar, Herat, Farah, Afghan Turkistan and Badakhsan. He personally appointed governors responsible for the administration of each. In 1907 he appointed a vice-regent that reported directly to the Amir. Provincial governors held administrative and judicial powers. However, judgments issuing death sentences had to pass through the Amir.[119] After administration, Ḥabīb-Allāh Khan also set about organizing the army, continuing a program his father Amir ʿAbd al-Raḥmān has initiated. In 1907, an Ottoman officer from Baghdad named Said Maḥmūd Efendi was entrusted with training and educating the officers, a theme we will return to shortly.[120] Amir Ḥabīb-Allāh also launched a series of large infrastructural projects. In 1908 a telephone line was established between Kabul and Jalalabad.[121] In 1910, the country's first hydroelectric plant was established to provide the city of Kabul with electricity. A portion of production going to meet the needs of the army, the number of workers at these plants reached 5000 in 1919.[122]

Meanwhile, British observers continued to give short shrift to the Amir's ambitions, expecting they would go nowhere in the long run. For example, a British intelligence report dispatched in 1907 on conditions in Afghanistan relates,

> The administration of the revenues of Afghanistan is still in a very unsatisfactory condition and no means are devised for augmenting them. There are certain plots of land which could be colonised and brought under irrigation by a small expenditure, and though His Majesty the Amir has several times thought of plans for effecting this object, the work of extending irrigation has not yet been taken in hand. At the instance of Sardār Nasrulla Khan the Amir is thinking of making a survey and a new settlement of land in Afghanistan, but there is little hope that His Majesty will be able to procure the necessary staff for such an important work.[123]

In this way Amir Ḥabīb-Allāh faced one ever-present and reoccurring problem with his variety of reform projects that historians have tended to bundle together under the loose thread of "modernization." This problem, which the above document alludes to in its closing lines, is the

---

[117] Nawid, *Religious Response*, 75.

[118] Ahmetbeyoğlu, 246.

[119] Ibid.

[120] Ibid., 247.

[121] Ibid.

[122] Ibid.

[123] NAI-FD/SEC/F February 1907 176-179 ("Report on the generally unsatisfactory condition of Afghanistan").

shortage of human capacity, i.e. having sufficiently trained professionals and skilled labor, to implement the envisioned reforms. It is precisely with tackling this problem in mind the Amir Ḥabīb-Allāh with renewed vigor sought out international experts to implement his reforms.

Turning to international affairs, any discussion of Afghanistan during the Amir Ḥabīb-Allāh era—in the political or juridical fields—would be incomplete without mention of the August 31, 1907, Anglo-Russian Convention signed in St. Petersburg. In this landmark agreement, an imperial "meeting of minds" between Britain and Russia with regard to central Asia, Afghanistan was declared outside Russia's sphere of influence and therefore subject to Britain's "jurisdiction." This agreement, in which neither Iran nor Afghanistan were consulted, caused a tremendous uproar among people in Iran and Afghanistan; most of all, groups like the Young Afghans and constitutionalists. In this dramatic twist to Great Game imperialism in Afghanistan, the stakes of Amir Ḥabīb-Allāh's quest for sovereignty, respect, and a modern Afghan state had taken an even more pressing urgency. Together, the these facts led the Amir to extend more vigorous invitations to Ottoman Turks and Indian Muslims to make the journey to Afghanistan, where they would not only find employment, but would be involved in the noble "Islamic" cause of building a better, stronger, and modern Afghanistan.

III
THE "SULTANIS" OF KABUL: OTTOMAN ÉMIGRÉS TO AFGHANISTAN, 1902-1914

> [T]he Amir has decided to take active steps for the education of his subjects on Turkish lines, and with this object in view he has been for some time past trying to induce Turks of the civil, military, and Ulema classes, respectively, to go and settle in Afghanistan in order to inculcate and diffuse Turkish principles and methods in administrative, military, and educational matters in that country. [124]
>
> - British Consul at Damascus to British ambassador at Istanbul (1903)

The amnesty issued by Amir Ḥabīb-Allāh Khan did not only affect Afghans living in exile. Just as Maḥmūd Ṭarzī and Nādir Khan brought with them Turkish and Indian experts, the word also spread of employment in Afghanistan through independent channels beyond Afghan nationals. Eventually, news of opportunity the Amir's invitation reached, and produced, a motley crew of international engineers, teachers, lawyers, active and decommissioned military officers, and other foreign advisors made their way to Kabul in search of employment, fortune, and perhaps even some adventure. They came from across the including Ottoman, Indian, European, Russian, and even American domains. This section explores the arrival, careers, and in some cases, early departures, of these individuals using documents from a range of international archives.

Based on a study of available documents from Ottoman, Indian, and British archives during the Ḥabīb-Allāh era, among the most represented professions that came to Afghanistan at this time were mechanical and civil engineers and their associate technicians. They were also among the most diverse of the professions in terms of nationality. This group included Ottoman Turks, Egyptians, Englishmen, Germans, Frenchmen, and Americans, among others. As for

[124] NAI-FD/SEC/F Feb. 1904 247-249 (re Abdul Baki, an Afghan in Constantinople and Damascus).

military advisors, foreign officers have a long history of service in the Afghan royal court, going back to General Sher Muḥammad Khan, an English convert to Islam who served in Amir ʿAbd al-Raḥmān's court.[125]

According to our available sources, the most represented nationality in this group were Ottomans, British Indians, and Germans. During the reign of Ḥabīb-Allāh Khan, and the early years of Amān-Allāh Khan (as we will see in the next chapter), the Ottomans in Kabul were by far the most successful in building a rapport with the Amir in Kabul, as seen in the successive waves of Ottoman officers, such as Mahmud Sami, an Arab Ottoman from Iraq, who would eventually go on to establish the elite military academy, the Mekteb-i Harbiye, in Kabul.

This group also witnessed a boost in prestige and morale, along with a good deal of drama, during the commotion of World War I and especially early on during Afghanistan's ambiguous role in the conflict. Most dramatically, the secret joint German-Ottoman mission dispatched during World War I has become the subject of significant interest among military historians in the United States, Britain, Germany, and Turkey. Also known as the Hüseyin-Niedermayer expedition after the Ottoman and German generals, respectively, in Part V of this chapter we will return to this Ottoman war-time mission to Afghanistan, the second since that of Ahmed Hulusi Efendi in 1877-1878.

According to our archival sources, the second most represented profession among foreign experts was teachers and journalists. Especially strong in this contingent were Indian Muslims and Egyptians, but also a small number of Ottomans. The Muslim College at Aligarh and Dār al-ʿUlūm Deoband were the most heavily represented institutions, with a large number of its graduates finding employment in Afghan schools. A number of Ottomans were also present as teachers, doctors, and judicial advisors. Among the latter group, notably a group of Ottoman advisors including, most prominently, a Young Turk journalist and exile named Ali Fehmi were very influential in this group.[126] On the latter individual, British Indian archives provide the following background, including a telegram from Constantinople, December 24, 1908, signed by Ali Fehmi Efendi. The reporting official describes the latter as, "Mehmed Ali Fehmy,

---

[125] Tarzi, "The Judicial State," 33-34. Kakar 1979.

[126] A secret Foreign Department document states on Ali Felhmi Efendi, "Ali Effendi is an expert who has offered his services to reorganize the revenue system and introduce schemes for improving the irrigation of the country. He has promised to enlist the services of two or three experienced engineers." NAI-FD/SEC/F January 1909 74-76 ("Information regarding certain Turks in the employ of the Amir"). Though one of the leading Ottoman exiles in Kabul in the Ḥabīb-Allāh era, Fehmi's career has not been well studied. Two documents on his service in Afghanistan in the Prime Ministry Ottoman Archives—actually concerning his desire to return to Turkey to be exact—are in BOA-MF.MKT 1138/61 (1327 Ş 01) ("Afganistan'a ıslahına memuren Kabil'de bulunan ve vatanına dönmek için müsaade isteyen Ali Fehmi Efendi hakkında Hariciye Nezareti'ne malumat verildiği"); and BOA-BEO 3628/272077 (1327 Ş 17) ("Afganistan'ın umur-ı maliyesine memuren Kabil'de mukim Mekteb-i Mülkiye mezunlarından Ali Fehmi Efendi'nin arzusu vechiyle Memalik-i Osmaniye'ye istediği zaman dönebileceğinin Hindistan'da bulunan şehbenderlerimiz aracılığıyla yada vesait-i saire ile kendisine tebliğ ettirilmesi"). Before his arrival in Afghanistan, Ottoman records indicate he pursued an active career in journalism, including an editorial positin in the *Muvazene* magazine in Egypt. These records indicate the Hamidian government was keeping a watchful eye on his activities far outside Istanbul. BOA-Y.A.HUS 517/16 (1325 Za 05) ("Muvazene Gazetesi Muharriri Ali Fehmi'nin Mısır'a celbi ve müteferriatı hakkındaki ihbarın tahkiki"); BOA-Y.MTV 165/125 (1315 Ra 23) ("Gayret gazetesi Müdürü Rıza Efendi'ye irade tebliğ olunarak Muvazene gazetesi Sahibi Ali Fehmi ile birlikte İstanbul'a azimetlerine dair Bularistan Komiserliği'nin yazısı"). It appears even following his exile in Afghanistan, and numerous changes in regimes, controversy, or enemies, continued to follow him. An Ottoman archives document from 1924 describes his killing and the apprehension of his murderers. BOA-HR.İM 103/16 (1924 04 21) ("Öldürülen alahali ve Muvazene Gazetesi yazarlarından Ali Fehmi Bey'in katilleri").

licencié de l'école, ancient sous-directeur de lycée, ancien professeur de droit criminal à l'école de Genève et plus tard à Philippopoli; ancient rédacteur en chef de l'*Ahali* et chargé, à Caboul, de la reorganisation des finances afghanes."[127] According to the original telegram communicated in French, Ali Fehmi is reported to have written to the new Young Turk government in Istanbul, exhorting his compatriots to what we may interpret as simultaneously (and intertwined) Pan-Islamic and Pan-Turkic agendas,

> Vous, mandataires de la nation! Pensez au Turkestan; arrivez à un eunion avec les Turcs de Russie, de Chine, d'Afghanistan de Perse qui sont de même religion et de même race que nous. Etablissez des rapports politiques et amicaux en Turkestan chinois, russe et afghan.[128]

Furthermore, seeking to display the Afghans' mutual feelings in this regard, Fehmi shared the following quote of the Afghan Amir with his audience, which he again translated into French as follows, "L'Afghanistan est un des bras de l'empire ottoman. S'il arrive un malheur à ce dernier, ce malheur nous atteindra aussi."[129] The same quote is reported in Turkish sources from Ali Fehmi's 1907-1908 mission to Afghanistan.[130] In this way, both the Young Turk and Afghan governments appear to have viewed the Turkish presence in Kabul as an auspicious development that portended not only a reinvigoration of fraternal ties, but a robust bulwark against the shared challenges of European imperialism.

While Ali Fehmi and Mehmed Fazlı were of the most vocal and prominent of the Young Turk dissidents, activists and professionals in Kabul during the reign of Amir Ḥabīb-Allāh, they

---

[127] NAI-FD/SEC/F March 1909 44-49 ("Employment of Turks in Afghanistan"). According to Sir G. Lowther's report to Sir E. Grey, dated December 27, 1908, Lowther summarizes an extract of a telegram read to the Turkish Chamber of Deputies by Mehmet Ali Fehmi, in Afghanistan where he was entrusted with the reorganisation of finances. The following summary from Lowder describes how Fehmi, in his telegram, calls upon the Representatives of the Turkish nation

> to think of Turkestan, to unite with the Turks in Russia, China, Afghanistan and Persia, who have the same religion and are of the same race. Political and friendly relations should be established with the Turks in these countries…. The writer goes on to say that, on his arrival in Afghanistan a year ago, the Prime Minister, Sardār Naṣr-Allāh, said to him, that Afghanistan was one of the arms of the Ottoman empire, and that any misfortune occurring to the latter would also fall upon Afghanistan. . . The writer concludes by urging on his countrymen to put an obstacle in the way of the intervention of their enemies by opening relations with the Emir and by sending him letters of credit to that effect. No obstacle, he says, would be placed in the way of this by England, as friendly relations with that country had been re-established. . . The reading of the telegram was received by the Chamber with much applause.
>
> Ibid.

[128] "O servants of the nation! Consider Turkistan deeply. Unite with the Turks of Russia, China, Afghanistan, and Persia, who are of the same religion and the same race as us. Establish firm political relations and friendly ties with the Chinese, the Russian, and the Afghan components of Turkistan." NAI-FD/SEC/F March 1909 44-49 ("Employment of Turks in Afghanistan") (translation mine).

[129] "Afghanistan is one of the arms of the Ottoman empire. Should any disaster befall it, we shall be afflicted by the same misfortune." Ibid. (translation mine).

[130] Ünal et al, *Türk-Afgan İlişkileri,* 33.

were by no means the only ones. Notably, British sources indicate the arrival in 1912 of an Ottoman judicial officer in Afghanistan to serve in the Amir's court.[131]

To focus on the Ottoman presence in Kabul alone would be to miss the complexity of Kabul's increasingly cosmopolitan characteristics at this time. Just as we talk about the Ottoman presence from the west, an opposing stream the east, the Indian Muslim—representing both Deobandi and Aligharian strands—must also be factored in to the evolving juridical field in Afghanistan at this time. This competition in the juridical field became particularly intense and productive during the Amān-Allāh Khan era, which we will discuss more closely in the next chapter. For now, we turn to examining the contours of the explosion in foreign arrivals in Afghanistan during the Ḥabīb-Allāh era, with a particular focus on the understudied Ottoman and Indian Muslim streams which were, in fact, the most influential. These findings challenge prevalent historiographical notions of a predominance of European experts in Afghanistan in the early twentieth century.[132]

From Trickle to Torrent: Ottomans in Afghanistan after the Amnesty

One of the most significant aspects of Maḥmūd Ṭarzī's return to Afghanistan from Ottoman Syria was the fact a small group of Ottoman professionals followed. In fact, the very same cholera of 1903 that had discouraged some Ottomans from considering a journey to Afghanistan earlier, eventually prompted other individuals—in coordination with Afghan officials and health professionals—to initiate arguably the first public health campaign in the country ever. In one such project attributed to the recently arrived Ottoman experts, water was brought to Kabul from Paghman via a piping system.[133] Among the Amir's personnel medical staff, two Turkish doctors, one of whom was the Amir's private physician, and the rest who were Indians, established the first state hospital in Kabul in 1913.[134] Ünal et al. note that this hospital provided important services even though personnel and supplies were scant.[135] To increase the prestige of the ruling family and to acquaint the people with manufactured products made in state institutions, Amir Ḥabīb-Allāh also opened Afghanistan's first industrial exposition in 1913.[136] Also in the same year, Prince ʿInāyat-Allāh organizes an "Education Conference" in Kabul; out

[131] IOR-L/PS 10/196 ("Turco-Italian War of 1911: Political and Secret Department Correspondence: P4327-3/11, Turco-Italian War: Moslem Representations"), 148-149.

[132] Adamec, Ludwig W. *Afghanistan, 1900-1923*. Berkeley: University of California Press, 1967; Gregorian, Vartan. *The Emergence of Modern Afghanistan, 1880-1946*. Stanford: Stanford University Press, 1969; Poullada, Leon. *Reform and Rebellion in Afghanistan: King Amān-Allāh's Failure to Modernize a Tribal Society*. Ithaca: Cornell University Press, 1973; Dupree, Louis, *Afghanistan*. Princeton: Princeton University Press, 1973.

[133] Ahmetbeyoğlu, Ali. *Afganistan Üzerine Araştırmalar*. İstanbul: Tarih ve Tabiat Vakfı Yayınları, 2001, 246; Ünal et al., *Türk-Afgan İlişkileri,* 34.

[134] Ahmetbeyoğlu, Ali. *Afganistan Üzerine Araştırmalar*. İstanbul: Tarih ve Tabiat Vakfı Yayınları, 2001, 246; Ünal et al., *Türk-Afgan İlişkileri,* 34.

[135] Ünal et al., *Türk-Afgan İlişkileri,* 34.

[136] Ahmetbeyoğlu, 247.

of a total of nine experts participating in the conference, three were Ottoman subjects, speaking to the great extent of the Ottoman role in Amir Habibulllah's reform program.[137]

Beyond the specific professions which they represented—a diverse range of professionals including doctors, teachers, engineers and mechanics, and journalists—the Turks who came to Kabul also brought their own politics. That some of the main Turks to come to Afghanistan in the early Ḥabīb-Allāh era were Ottoman exiles and likely active members of the revolutionary Young Turk party is evident in the response of Ottoman officials to queries on the subject by British consular officials.[138] For the official Hamidian government's view on some of the Ottoman exiles who travelled to Afghanistan at this time, including Ali Fehmi, note, for example, the January 28, 1908 memo from British ambassador in Constantinople Sir N. O'Conor, which includes a report of interviews between O'Conor with the Ottoman ambassador at Tehran and the Ottoman Grand Vizier regarding an alleged Turkish "mission" in Afghanistan. In this report, O'Conor states,

> Upon my questioning the Grand Vizier on this subject yesterday, His Highness declared that there was absolutely no question of a Turkish mission, and that the Turks who have passed through Khorassan are most probably political suspects and exiles about whom the Porte has been inquiring for months past. The Porte learnt some time ago that Ali Fehmi, editor of the *Muazene*, a paper published at Philippopoli, and indulging in violent criticism of the existing régime in Turkey, had left for Geneva and subsequently proceeded to Cairo, with other Turkish political exiles, some of whom have been condemned to death by the Turkish Courts." The interview then reports, "The names of these political prisoners are: Ali Fehmi, editor of the *Muazene*, an outlaw and fugitive from justice; Major Hussein, a deserter from the Yemen; Dr. Abdullah, an outlaw; Nejir; Ali Riza; Lieutenant Fazil Effendi, of the Constantinople School of Medicine; and Reshid Effendi. [139]

As evident in the Grand Vizier's distancing himself and the Hamidian regime from these itinerant Turks, many of the Ottomans who came to Kabul in the early Ḥabīb-Allāh era were in fact exiles and dissidents who did *not* represent the Hamidian regime. Several were members of the Young Turk party, forced or into exile or self-exile due to their oppositional activities. When many of these Turks arrived in Afghanistan from locales as diverse as Cairo, Damascus, and Europe, they did not check their politics at the door, but rather would influence and interact with Afghan intellectuals and officials in their own right. For these reasons some historians have traced the development of constitutional politics that emerged at roughly the same time in Afghanistan to the influence of these "Young Turks" in Kabul, in addition to the role of the Iranian Constitutional Revolution (1906-1911).[140]

---

[137] Ünal et al., *Türk-Afgan İlişkileri,* 34.

[138] NAI-FD/SEC/F June 1908 146-199 ("Arrival of certain Turks at Kabul").

[139] Ibid.

[140] ʿAbd al-Ḥay Ḥabībī, Masʿūd Pūhanyār, Sayyid al-Dīn Hashimī as well as Ludwig Adamec and Vartan Gregorian have written at length on the personages and politics of the constitutional movement during the Ḥabīb-Allāh era and therefore this story will not be recounted here. Abd al-Ḥayy Ḥabībī, *Junbush-i Mashrūṭiyat dar Afghanistan* (Qum: Ihsānī, 1993); Masʿūd Pūhanyār, *Ẓuhūr-i mashrūṭīyat va qurbāniyān-i istibdād dar Afghānistān* (Peshawar: Sabā Kitābkhānah, 1375 [1996]); Sayyid Saʿd al-Dīn Hashimī, *Junbush-i mashrūṭiyat khwāhi dar Afghanistan* (Kabul: Shūrā-yī farhangī Afghanistan, 2001); Ludwig W Adamec, *Afghanistan, 1900-1923* (Berkeley: University of California Press, 1967); Vartan Gregorian, *The Emergence of Modern Afghanistan, 1880-1946*

While we discussed the return of Afghan refugees in Part I, documents in the Ottoman and British Indian archives also illustrate the increasing traffic of Turks and Afghans between Istanbul and Kabul at roughly the same time. With the passing of Amir ʿAbd al-Raḥmān and the coronation of moderately reformist Amir Ḥabīb-Allāh, the doors were opened for more Ottomans, Persians, Russians, and Europeans to enter Afghanistan. This was not entirely new. As we have examined in Chapters 2 and 3, there are recorded instances of Ottomans traveling to Kabul in the ʿAbd al-Raḥmān era and early years of the Ḥabīb-Allāh era. For example, according to a secret Foreign Department file from July 1904, a British Indian official named Sir N. O'Conor writes to the Marquess of Landowne, in Constantinople, in a letter dated January 25, 1904, that Sultan Abdülhamid was planning to dispatch an envoy to Kabul in order to bestow the first class of the Order of the Mecidiye—of the highest honors bestowed by any Sultan—on the Amir of Afghanistan.[141] According to the intelligence report, the Sultan had an ulterior motive for the delegation beyond bestowing awards and exchanging fraternal greeting however. In the British agent's own words, "he will at the same time convey to His Highness an invitation to send twelve or fifteen young Afghan cadets to be educated in the military school here", meaning, Istanbul.[142]

For these reasons British intelligence reports on Afghanistan—issued by the Queen's officials from as far and wide as Istanbul, Damascus, Calcutta—appear to be most concerned about the growing Turkish presence in Kabul. Some of these reports, at least, appear to be sensationalist and exaggerated, in no small part due to the unreliable sources some British intelligence officials were drawing their information from, including apparently Ottoman double-agents. As a case in point, N.R. O'Conor of the British Embassy in Istanbul writes on December 8, 1903, that he "received from His Majesty's Consul at Damascus, reporting certain statements made to him by one Abdul Baki respecting the Turcophil tendencies of the Amir of Afghanistan."[143] As of January 8, 1904, the said ʿAbd al-Bāqī—, an Ottoman double agent, was reported to have been residing at Istanbul at the time of his interview with the British

---

(Stanford: Stanford University Press, 1969). In this way the historiography of constitutionalism in Afghanistan has hitherto focused on the political movements of the Young Afghan secret society and other *anjumāns* from the Ḥabīb-Allāh era to the Amān-Allāh era. Such historiography focuses on the anti-monarchical ideologies of an underground movement of politicians, intellectuals and military cadets, led by Maḥmūd Ṭarzī but also other key influential political actors in Kabul during the Ḥabīb-Allāh era. The general historiographical preoccupation with the overt political dimensions of this struggles, to the exclusion of juridical developments, across eras and countries is also evident in Gregorian and Adamec's focus on the role of secret political societies during the reign of Amir Ḥabīb-Allāh (and not the jurisprudence of constitutionalist ʿulamāʾ like Mawlawī ʿAbd al-Wāsiʿ Qandahārī, for example).

A relevant lacuna in the field that I hope to explore in the future is the overlapping and intertwining of constitutional politics of Kabul, Tehran, Qum, Tabriz, and Istanbul at this time, connecting constitional movements of Ottoman Turkey, Qajar Iran, and Afghanistan. For an excellent introduction to connections between the Ottoman and Iranian constitutional experiments, see Fariba Zarinebaf, "From Istanbul to Tabriz: Modernity and Constitutionalism in the Ottoman empire and Iran," *Comparative Studies of South Asia, Africa, and the Middle East* 28 (2008): 154-169.

[141] NAI-FD/SEC/F July 1904 224-235 ("Relations between Afghanistan and Turkey").

[142] Ibid. The name of this proposed envoy was "Bedri Bey." In a striking coincidence, another Ottoman arrival in Kabul named "Bedri Bey" will surface again as a crucial personality in the context of the early Amān-Allāh era of Afghanistan, and which we will turn to in the next chapter.

[143] NAI-FD/SEC/F Feb. 1904 247-249 (re Abdul Baki, an Afghan in Constantinople and Damascus).

ambassador, but then subsequently moved to Damascus, and was later found seeking entrance to Afghanistan.[144] It is precisely this shadowy individual who British sources rely on extensively for information on Amir Ḥabīb-Allāh's alleged "Turcophilism." For example, the following report is representative,

> My informant assures me that Turcophilism is at present rampant in Kabul, where everything that comes, or is supposed to come from this country, is welcomed with enthusiasm by the short-sighted and retrograde ruler and all those who come under his immediate influence. For instance, the Amir has introduced the Fez into Afghanistan as a substitute for the forage cap which all his officers and, I believe, the non-commissioned officers as well, have been wearing in recent years, in preference to the 'calpack', which is, of course, the national head-gear.[145]

Beyond hats and other headgear, and understandably so, British intelligence appear to be far more concerned with the Afghan Amir's leaning towards Turkish, and German, experts for military training and industrial resources. As the above report proceeds to describe on the activities of Maḥmūd Ṭarzī in this regard,

> A certain Maḥmūd Bey, an Afghan, who is one of the sons of the late Sardār Ghulām Muhammad, and therefore brother-in-law of Abdul Baki Khan, has recently returned to Damascus from Afghanistan with a commission from the Amir to buy, among other things, fezzes to the value of 200*l*., which he is to take back with him to his native country. I am also informed by Abdul Baki that a factory has already been established there for the manufacture of fezes under the supervision of a German. . .Maḥmūd Bey has also been directed to procure, for his sovereign's inspection, samples of all the uniforms worn in the Turkish Army from the highest to the lower grades with a view to their ultimate adoption in Afghanistan.[146]

---

[144] A report from the British Consul at Damascus provides some further background on Abdul Baki in a memo to O'Conor, dated from Damascus on November 19, 1903,

> I have lately had several interviews with an Afghan of rank of the name of Abdul Baki, in the course of which he has made certain statements to me of a very interesting and confidential nature… Abdul Baki Khan, who has been residing in Damascus, on and off, fir the last six years, belongs to the Wazir Yar Muḥammad Khan branch of the Elicozai-Durrānī clan, and is the son-in-law of the late Sardār Ghulām Muḥammad Khan, Terzi, a cousin of the late Amir ʿAbd al-Raḥmān … I know little of the man's antecedents beyond what he chooses to tell me… Suffice it to say that he has evidently travelled a good deal both in Russian Central Asia, and, to a certain extent, in Russia proper, and is a well-bred, intelligent man who takes a keen interest in Russian politics, especially, of course, in that branch of it which concerns his native country, to which he professes himself to be passionately attached. It is under the influence of this fervid patriotism…that Abdul Baki has bewailed to me on several occasions the blindly perverse infatuation of the present Amir in trying to get rid of the British connection at the suggestion, or at all events with the approval and connivance of the Sultan…

Ibid. British officials were later to learn this background was possibly entirely fabricated, and they never learned the true origins, or intentions, of Mr. "Abdul Baki."

[145] Ibid.

[146] Ibid. The reporter also takes note of the Afghan Amir's immense interest in, and financial contributions to, the Ottoman-German Ḥijāz railway project—probably a powerful (and for the Islamophobes, a most ominous and threatening) example of Ottoman industrialization and Pan-Islamism combined. As the British Consul writes,

> As might be expected, the Hejza Railway scheme has proved especially attractive to Habibulla Khan, who, it is alleged he has sent large sums of money to the Sultan in furtherance of this enterprise in which he takes

Taking a step back, the British Consul had the following words to say to summarize what he saw as the Afghan Amir's "Turcophil tendencies" which, far from mere sentiment, were taking concrete shape in the recruiting of experts and building of economic, military, and educational ties. "Not content with giving these substantial proofs of his marked preference for, and admiration of, the Sultan and his people," notes the Consul, "the Amir has decided to take active steps for the education of his subjects on Turkish lines, and with this object in view he has been for some time past trying to induce Turks of the civil, military, and Ulema classes, respectively, to go and settle in Afghanistan in order to inculcate and diffuse Turkish principles and methods in administrative, military, and educational matters in that country."[147]

The above documents on the early years of Amir Ḥabīb-Allāh's reign from the British and Indian archives notwithstanding, the bulk of Ottomans who came to Afghanistan during the Ḥabīb-Allāh era, however, arrived *after* Amir Ḥabīb-Allāh's return from India and the intensified search for foreign experts on the latter's part. For example, a secret Foreign Department file of 1908 discusses a Turkish community in Kabul.[148] The timing of the arrival of these émigrés is

---

> the deepest interest. Quite recently, Abdul Baki asserts, an Afghan of some distinction of the name of Sardār Abdulla Khan, brought with him from his native country a sum of 80,000 rupees, which represents the Amir's latest contribution to the railway fund, a certain proportion of which, *viz.*, 30,000 rupees, has already been taken from Mecca to Constantinople by another Afghan, a certain Hassan Khan.
>
> Ibid.

[147] Ibid. On the exact individuals involved and their schedule of movements, the Consul writes,

> Five of these persons have already left Damascus for their destination *via* Baghdad and Persia to be dollowed shortly by four or five others among whom are a certain Mihri Effendi, said to be a very intelligent and well educated man who was for some time Ottoman Shahbender (Consul) in Persia and knows the language of that country well, and Cadri Bey, the brother-in-law of Bedri Bey, the ex-Mutessarif of Tripoli (of Syria), who is now a member of the Shoura-i-devlet (Privy Council). These men are in Constantinople. The remaining eight to ten persons, on whom one is a certain Kalib Efendi, lately Cadi of the little town of Ahireh in the Hauran, a man of some parts, I believe, and two others are Turkish officers now stationed here, will be taken out in about two months' time by sea to Bombay by the persons who have been charged with the local organisation of the 'mission.' These are Maḥmūd Bey…his brother Ḥabīb-Allāh Khan, and Abdul Baki Khan, my informant, himself.

Ibid., 3. Far from a romanticized episode of fraternal Pan-Islam, however, the reporter notes the details of their contracts were initially a point of contention.

> There have been, it would appear, some difficulties in arranging the terms of renumeration of the persons selected for this mission—some 20 in all, so far, though the services of more than twice that number are really required by the Amir—their demands being considerably in excess of what he was willing to grant. In fact they asked for a guarantee of continuous employment for 12 years, three years' salary at the rate of £T.300 to be paid down in advance to each man before leaving this country and £T.500 per head, in addition, for 'travelling expenses'. After a considerable amount of haggling on both sides, it has been agreed and contracts have been drawn up and signed to the effect that each member of the 'mission' is to receive a salary ranging from 250*l.* to 300*l.*, according to his rank and qualifications, an advance of 100*l.* per head having already been made in cash, while a further sum of 25*l.* will be handed to each man on the eve of his departure for Afghanistan. The demand for a guarantee of continuous employment during a stated period has been allowed to drop.
>
> Ibid.

[148] NAI-FD/SEC/F August 1908 203-209 ("Information regarding the Turks in Kabul").

not accidental. In 1907-1908, the topic of recruiting Ottoman experts took on a pressing urgency in Kabul. This time with Prince Naṣr-Allāh's order Tarzi sends letters to Ottoman expats and exiles—many of them dissidents to the Hamidian regime living in Europe or neighboring countries—inviting them to come to Afghanistan and work. The result of this invitation was that a group of Turkish experts came through Iran and Russia to Afghanistan, among them a provincial governor named Ḥasan Hüsnibek, a Turkish physician Dr. İzzet Munir, mechanic Ali Rıza, portraitist Mehmed Fazlı, and the aforementioned Young Turk journalist Ali Fehmi. Over the court of the Ḥabīb-Allāh era until the first World War, the number of Ottoman experts in Afghanistan would slowly increase.[149] In particular, in one of the state mechanical factories Turkish experts working had reportedly earned a good reputation. In the printing house, technicians Mehmed Ḥasan Efendi, Mehmed Nadir Efendi, and Mehmed Fazlı were entrusted with training at least five local apprentices.[150]

Following Maḥmūd Ṭarzī's invitation at the end of 1907, the Ottoman journalist Mehmed Fazlı visits Kabul for about one year. Shortly after the Second Ottoman Constitutional Revolution in 1908, Fazlı returns to Istanbul and publishes a book of his Afghan memoirs entitled *Afganistan'da bir jöntürk* (A Young Turk in Afghanistan), offering descriptions of Afghanistan during the reign of Amir Ḥabīb-Allāh.[151] Fazlı's delegation includes technicians, teachers, and politicians, military officers and doctors. Afghanistan's first modern educational institutions called "Ḥabībīyah" and "Harbiye" high schools were established, and other state institutions in which Turkish experts played a large role. During the period in which Mehmed Fazlı was there, the Ottoman Colonel Mahmud Sami Bey was the founder and principal of the "Harbiye Siraciye" Military School.[152] For just over two decades, Mahmud Sami would go on to be one of the most prominent, and prolific, Ottomans in Kabul. He served in multiple capacities as military drill instructor, educator, and administrator in the capital from roughly 1905 until his death in 1930.[153] On the promising beginnings of Mahmud Sami's career in Kabul, an excerpt from the diary of the British Agent at Kabul from 1909, forwarded to the Director of Criminal Intelligence at Simla, writes,

> The influence of Mahmud Sami, the Turk, is increasing. The Amir has begun to consider him a useful man. The Turk is gaining ground by legitimate means. He works hard and with all attention. The military school had made a very good start and the credit is due to Colonel Mahmud Sami. On the day of *Jashan* the boys of the school came to pay their respects to the Amir. They behaved like disciplined soldiers. They were about seventy in number, all in full dress and carrying rifles. The youngest were seven or eight years old. They were carrying air

[149] Ünal et al., *Türk-Afgan İlişkileri,* 32; Rahmanhoca İmamhocayev, "Afganistan ve Türkiye," *Atatürk Üniversitesi Türkiyat Araştırmaları Enstitüsü Dergisi* 17 (2001): 264-265.

[150] Ibid.

[151] Mehmet Fazlı (Kenan Karabulut, trans.), *Afganistan'da bir jöntürk: Mısır Sürgününden Afgan Reformuna* (İstanbul: Türkiye Bankası Kültür Yayınları, 2007). This work was originally published in Ottoman Turkish as *Resimli Afgan Seyaheti* (İstanbul: Matbaa Ahmed İhsan, 1325 [1907/08]).

[152] Ünal et al.*, Türk-Afgan İlişkileri,* 32; İmamhocayev, "Afganistan ve Türkiye", 264-265.

[153] Sami was executed in 1930, purportedly by order of Nādir Khan following the former Ottoman colonel and Harbiye's instructor's capture during the rebellion of Ḥabīb-Allāh Kalakānī against Amir Amān-Allāh (and later Nādir Khan) of 1928-1929.

guns. They have their separate band, who are also boys except three who are their instructors. Though it is yet a play, they make a very good show indeed.[154]

In this way, British and Indian archives provide examples of how the attempts to bring Turks to Afghanistan were an expression of policy at the highest level of the Afghan government, and not simply a random arrival of unemployed individuals. As a British Indian intelligence report from 1909, and one of the longest and most detailed descriptions of Ottoman experts arriving in Afghanistan in a specific time period, relates,

> There are about 10 Turks and Arabs in the employ of the Amir—two are employed in the workshops, one is a geologist and has been appointed Superintendent of mines in Afghanistan; another named Husni Efendi is an educated Military officer who is preparing a book in the Turkish language containing rules and regulations for the troops, and also a treatise on drill. The books will be translated into Persian. Two of the Turks named Munawwar Beg and Ali Ahmed are Doctors. Another named Ali Effendi is an expert who has offered his services to reorganize the revenue system and introduce schemes for improving the irrigation of the country. He has promised to enlist the services of two or three experienced engineers. Another named Maḥmūd Beg is a drill instructor who has been granted the rank of Colonel and who instructs the Jadidul-Islam and Ardal Regiments Turkish drill. Another named Hilmi Pasha has been entrusted with the duty of improving the postal system. Another named Raza Beg is an Engineer and has been put in charge of roads. All the above Turks except Ali Effendi went to Kabul *viâ* Herat. They receive salaries ranging from ₹500 to ₹1,200 Kabuli per mensem.[155]

Confirming the above reports, Turkish grammar and language books found in the Afghan archives, some of them originally written by hand in the years of Ḥabīb-Allāh's reign, indicate plans to teach Turkish in the schools for young Afghans.[156] Beyond texts left behind, several secret Foreign Department files from years 1907 and through the first world war provide explicit details regarding certain Turks in the employ of the Amir. In such declassified file, a British officer writes in the Peshawar Confidential Diary, on December 15, 1908,

> The idea of introducing efficient Turks into Afghanistan for employment on posts of responsibility and trust was originated by Sardār Nasrulla Khan and approved by the Amir. Naṣr-Allāh Khan prefers Turks to natives of India, and the Amir is inclined to share his views. It is intended that Turkish element should be brought into the Afghan service gradually and in a limited measure so as to avoid jealousy of Afghan officials in Kabul, and should only be confined to training purposes. There is no intention of employing Turks permanently either in the Military or Civil Departments. When Afghans get trained, the Turks employed for training purposes will be discharged.[157]

---

[154] NAI-FD/SEC/F Sept 1909 1-3 ("Information regarding certain Turks at Kabul")

[155] NAI-FD/SEC Jan 1909 74-76 ("Information regarding certain Turks in the employ of the Amir")

[156] For original copies of Turkish textbooks in Afghanistan during the Ḥabīb-Allāh era, see ADL 0274 (1336 [1917-18]) (Muḥammad Nazif, *Ṣarf-i Turkba tarjumah-i Darī*) and ADL 0275 (1336 [1917-1918]) (Muḥammad Nazif, *Qirā'āt zabān-i Turki*). For examples from the Amān-Allāh era, see ADL 0302 (1299 [1920]) (Muḥammad Nazif, *Kitāb-i alifba-i Turki*); ADL 0298 (1298 [1919]) (Omer Naji, *Muʿallim: taʿlīm-i qirā'at: üçüncü kısım*) ;ADL 0299 (1299 [1920]) (Ḥusayn Hifzi, *Istifadalı dersler: ehlak*).

[157] NAI-FD/SEC/F January 1909 74-76 ("Information regarding certain Turks in the employ of the Amir").

In this manner, Amir Ḥabīb-Allāh had specific reasons for recruiting Ottoman experts above and beyond any other nationality. Even then, the Ottomans visiting Afghanistan were not casually strolling through an open-door to Kabul, but were identified, screened for specific skills, and recruited accordingly. In other words, Ottoman subjects were not given a blanket invitation so much as certain transnational networks connecting Kabul with urban metropolises of the Ottoman empire—Baghdad, Damascus, Aleppo, and Istanbul in particular—were exploited by the Amir. A prime example of such transnational networks was the connections built by Afghan refugee Maḥmūd Ṭarzī with Young Turk professionals and civil servants in these very cities. Even then, however, invitations were extended for Ottoman professionals and "experts" with specific skills and experience (we will return to this subject subsequently). Such scrutiny was evident in Amir Ḥabīb-Allāh's personal interviewing of Ottoman subjects upon their arrival in Kabul. For example, a confidential memorandum dated November 21, 1906, from the Personal Assistant to the Inspector-General of Police, North-West Frontier Province forwarded an extract from a Criminal Intelligence Department report, dated November 14, 1906, which states,

> Jamil Effendi, Turk, of Sham returned to Peshawar from Kabul on the 13th on his way back to Sham *viâ* Bombay and is putting up with Abdul Wadud Khan, Qandahārī. It has been ascertained that directly on his arrival in Kabul he had an interview with His Majesty and was granted R500 Kabuli. The Amir also directed his expenses to be defrayed from the State Treasury during his stay in Kabul. He stayed with Sardār Habibulla Khan, Naib Kotwal of Kabul, who is a connection. With the Amir's permission he visited Kohistani-i-Kabul, Chardehi and other places of interest. On his return from Logar, the Amir had again an interview with Jamil Effendi, and carried on a conversation in Turkish with the Amir. Jamil Effendi asked for a year's leave; this was granted and R500 by Sardār Nasrulla Khan and R200 by Sardār Habibulla Khan, Naib Kotwal. He was then allowed to depart. Jamil Effendi intends visiting the Turkish Consulate before leaving Bombay. He has been told by the Amir not to disclose to anybody the grant made to him. This man is also said to be in receipt of pay from the Sultan of Turkey.[158]

The prospect of Ottoman Turks on the payroll of both Sultan Abdülhamid and the Afghan Amir—as seen in the above report—all at a time when Britain was solely empowered by treaty to conduct Afghanistan's foreign affairs, was likely not well received by the Lond and Calcutta. Still, the reports of Ottoman arrivals in Kabul continued, some reaching the landlocked country through British India, others through Iran, still others through Central Asia. A secret Foreign Department file from June 1908 reports on the arrival of a group of "certain Turks" at Kabul earlier that winter. As the diary of the British Agent at Kabul for the week ending the January 15, 1908 reports,

> Eight Turks arrived at Kabul on the 8th instant at noon. Sowars of the Qandahārī cavalry were in their escort. On their arrival at Kabul, the Turki (Uzbaks) and Tolwara cavalry regiments lined the roads as a mark of honour, and saluted them. It is said that the Turks have been sent for through Mahmud Sami, Effendi. One of the Turks is a doctor, and knows the art of preparing medicines. He also understands all about herbs, and how to make use of them. Another is an engineer. The third is an expert in military matters. The rest are his assistants and followers.[159]

---

[158] NAI/FD/SEC/F Oct 1907 152-159 (No. 152)

[159] NAI-FD/SEC/F June 1908 146-199 ("Arrival of certain Turks at Kabul"). The report also includes an extract from the diary of the British Agent at Kabul, for the week ending January 15, 1908, which further notes on

The document continues to state that in connection with the arrival of the Turks, the Amir gave orders to Mahmud Sami Efendi that "any Turk fit and qualified in work, suitable for the requirements of Afghanistan, will be taken into service if he would like to come."[160] The document proceeds to explain the Amir's order that drilling after the English fashion is going to be absolutely abolished, with "Sultani" drill being introduced in its place. The document proceeds to explain that "Sultani" is the colloquial word used for "Turkish" in Afghanistan and, as the informant emphasizes in attempt to corroborate his story, "I saw these men myself in the mosque."[161] On the influential members of this group of "Sultanis," the document proceeds to explain,

> Of the eight persons, one is an engineer, one a surveyor, one a doctor, two assistant doctors, who are also said to be well up in compounding and preparing medicines from herbs—one is a qualified hand in office routine, and one is a military expert. The eighth is a man of advanced years, and perhaps has come only as a companion to one of the members of the party… All of them are the relatives or friends of Mahmud Sami, Effendi, though whom they have been summoned to Kabul.[162]

From the diary of the British Agent at Kabul for the week ending the January 22, 1908, a report states that of the eight Turks who arrived on January 15, one was a lawyer "qualified in office routine", further described as "a barrister and is well up in law."[163] Unfortunately, from our sources I have not been able to identify the name of this Ottoman "barrister." That Ottoman lawyers were arriving in Kabul as early as 1908 challenges the predominant historiographical narrative that judicial reform in Afghanistan began in the Amān-Allāh era, and presumably led by French experts at that. We will return to the evidence (or lack thereof) for this assertion in the next chapter. Now, we turn to discuss the contours of the burgeoning Ottoman participation in various state-building projects of Amir Ḥabīb-Allāh Khan.

The Job Description: Ottoman Perspectives

How did the Ottomans view, and explain, their arrival in Kabul? How did they present themselves and the nature of their activities? In answering these questions, this section discusses key sources on the Ottoman community in Afghanistan during the Ḥabīb-Allāh era include a small number of documents from this era in the Ottoman archives, comparatively in the Indian and British archives, and a personal memoir by a Young Turk journalist in Kabul during the Ḥabīb-Allāh era, Mehmed Fazlı. British and Indian archives present a picture of a small, mid-

---

the occupations of the arriving Turks, "Of the eight persons, one is an engineer, one a surveyor, one a doctor, two assistant doctors, who are also said to be well up in compounding and preparing medicines from herbs—one is a qualified hand in office routine, and one is a military expert. The eighth is a man of advanced years, and perhaps has come only as a companion to one of the members of the party." Ibid., 7.

[160] Ibid.

[161] Ibid.

[162] Ibid.

[163] Ibid.

rank community of gentlemen seeking employment and importance that was not always forthcoming. For example, a secret report composed in June 1908 by the Foreign Department of the British Indian Government writes,

> The Turks who have come tell their story as below. They say that they belonged to a certain party in Turkey who wanted to persuade the Sultan to make improvements in the machinery of the Government. This party was called "Union against Sultan". As the party has not succeeded in its aims, several members feeling very much disappointed made up their minds to leave their native land for good. This is why they sought employment in Afghanistan. From their personal appearance they seem to be gentlemen. They were admitted to the Durbar, and given seats in the third row (the last) on the left hand of the Amir. It shows that they are not men of high position or of any real importance at present. . . They corresponded with Mahmud Sami, Effendi, who got orders from the Amir and sent for them. His Majesty had sent one hundred pounds as an advance for their traveling expenses which they returned. They spent their own money on the way. They are said to have come via Herat and Qandahar.[164]

In this manner, a British informant in Kabul provides us with one of the first documented portraits of the nascent Ottoman community in Kabul. The main points we can glean from this source are that the said "Turks"—based on the expressed motivation for their journey—were likely members of the CUP (Committee of Union and Progress) fleeing a purge from the Hamidian regime. This is particularly clear in their comments expressing frustration with the "lack of progress" in the empire, as opposed to simple economic opportunism. This view is strengthened by the circumstances of their return to Turkey, a development we will now turn to. Indeed, the arrival of these particular Ottomans was an extraordinary case of timing, given the Young Turk revolution in Turkey was just months away. Indeed, the changing circumstances in Turkey, and perhaps the results of their time in Afghanistan, would drive them to return to Turkey in less than a year, in no small part because of the fluid circumstances there.

At the ʿĪd al-Aḍhā festivities of the year, Amir Ḥabīb-Allāh made the following significant announcement about the invitation, arrival, and welcome of Muslim experts from across the world, but from two locales in particular: Turkey and India. The document states that at the royal darbar celebration, The Amir then rose and before leaving the mosque looked towards the Turks, and after receiving their greetings turned towards the audience and said,

> These men have come for the sake of instructing my people. This is just as I send for Muhammadans from India for the same purpose. It makes no difference at all. Muhammadans of all the countries are the same to me. These men do not know Persian. I know the Turkish language, but it is different from the Turkish of Turkey itself. I saw these men this morning and talked to them for some time. . .After this the Amir turned towards the surveyor (Turk) and asked him whether he knew sketching. The man replied in the affirmative. Again the Amir asked whether he does his work with the prismatic compass and theodolite and level. The Turk replied that he knew how to use all the three instruments.[165]

With such proximity to the king, expectations were high for the Afghan court in terms of the ability of the Ottomans to provide crucially needed services for the Amir's reform program.

---

[164] Ibid.

[165] Ibid.

At the same time, as royal guests in the service of the king, but also subjects of the Ottoman Sultan-Caliph, the Ottomans had expectations as well. As we will see and for complex reasons, on both sides they were not always met.

An Early Return?

In spite of a warm welcome and some fanfare surrounding their arrival, by late 1908—less than a year after their arrival—British intelligence records indicate some Turks in Kabul were already contemplating a return home. For example, the Diary of the British Agent at Kabul writes that as early as autumn 1908, just months after their arrival,

> The Turks are thinking of returning to Turkey. The improvements and developments in the Turkish Government are attracting them. Mahmud Sami will stay here even if the others go back.[166]

The British Agent's comments are revealing not only for their claim to have uncovered some dissatisfaction on the part of the Turks in Kabul. Rather, they reveal that events in Turkey would have a profound impact on the Ottoman community in Kabul. It is because of the dramatic and fluid state of affairs in Istanbul in particular that had more to do with the desire of the Turks to return home. Significantly, the same document also indicates that Mahmud Sami—one of the most eminent and arguably a leader of the Ottomans in Kabul at the time—had no intention of leaving Afghanistan.[167]

The Amir's response to grumblings in the Turkish community in Kabul and rumors of an impending departure is also revealing. Predictably perhaps, the rumors of an impending departure on the part of the Turks of Kabul deeply disturbed him, and he sought to get to the bottom of the matter and the causes for their unease. For example, the Kabul Agency Diary for period ending on October 7, 1908, notes,

> His Majesty the Amir has enquired from the Turks whether they have really resolved to return to their country in any case, or whether they consider that they have not been well treated. And also whether they are willing to serve here if their pay is increased.[168]

In this way Amir Ḥabīb-Allāh soon learned that no uniform reason existed for the attitude of the Turks concerning their stay or departure from Kabul. For some Turks, it was a matter of pay; for others, the poor conditions of their accommodations; for others, dissatisfaction with the terms or conditions of their employment. Some signaled a desire to stay if these conditions were remedied, while others, perhaps for ideological reasons, were bent on returning to Ottoman domains following the watershed Young Turk revolution no matter what carrots were waived in front of them in Kabul. Given the dramatic events that had taken place in their absence back

---

[166] NAI-FD/FRNT/B December 1908 62 ("Information regarding the Turks in Kabul").

[167] That Mahmud Sami was a predominant figure in the Ottoman community in Kabul during the Ḥabīb-Allāh eras, and even through the Amān-Allāh eras, is evident in his frequent mentioning in Afghan, Ottoman, and British, archival sources for the period. We will, therefore, be mentioning him through this chapter and the next, including a brief biography in Part VII of this chapter.

[168] NAI-FD/FRNT/B December 1908 62 ("Information regarding the Turks in Kabul").

home, and the ideological nature of their exile, it appears a considerable number of the returning Ottoman exiles fall into this group.

Still, some Ottomans such as Mahmud Sami stayed in Afghanistan, and other Turks continued to arrive in Kabul, in spite of developments in Istanbul and in spite of complaints from their fellow "Sultanis" in Kabul. Government records, manuals, and textbooks in the ANA dating to the Amān-Allāh period, including military training manuals and children's books for teaching and learning Turkish, attest to a continued Ottoman presence through the first world war and rise of Amān-Allāh Khan. Most histrographical attention, however, has been given to the two major waves of Ottoman arrivals—the first after Maḥmūd Ṭarzī's return in 1905, and the second with Cemal Paşa's mission to Kabul after the ascent of Amir Amān-Allāh and the more prominent individuals in those waves.[169] Example of the constant flow of less prominent Turks to and from Afghanistan during the Ḥabīb-Allāh and Amān-Allāh periods—by officers and civilians who did not garner as much attention—can also be found in British intelligence records of travelers to an from Afghanistan at the time. For example, a letter of Mīrzā Muḥammad Khan, a British News writer at Herat, writes in a letter dated September 23, 1908,

> The Commandant of the *khassadars* at Kahir Killa has sent here a Turk escorted by two *khassadars*. The Turk intends to go to Kabul and the Governor has reported all particulars about him to the authorities there. He has been lodged in Chaharbagh as a State guest pending receipt of orders from Kabul.[170]

In this way, we see less of a singular or uniform arrival of Ottomans in Kabul than a disparate and unsteady flow of individuals from Ottoman domains, or Ottoman exiles. We also definitely do not see many announced or official state visits of Ottoman delegations, in the fashion Ahmed Hulusi Efendi's mission visited Amir Sher ʿAlī's Kabul court in 1877-1878. Rather, what we see from Ottoman, British Indian, and Afghan sources are a series of dispersed, episodic and somewhat clandestine arrivals of Turks trafficking between Ottoman domains and Afghanistan in the Amir Ḥabīb-Allāh era. One of the benefits of this new kind of traffic for Amir Ḥabīb-Allāh was the low-key nature of his transnational guests, which helped keep foreign—especially Ottoman—activities in Afghanistan under the radar of the ever-watchful authorities of the British Raj. As evident, in the significant intelligence reports discussed in this chapter, however, it did not go entirely unnoticed by the British. The latter used an array of spies, informants, and regular diplomatic personnel at the British Agency at Kabul to monitor the Ottoman presence and activities in Afghanistan.

One aspect of the Ottoman presence in Kabul that Amir Ḥabīb-Allāh did not find to his liking was the often itinerant, unstable, and short-term nature of their stays in Afghanistan. As a result of their often short and irregular presence, the Amir may well have begun to doubt their ability to complete tasks requiring a long-term commitment which the Amir was now unsure Ottomans would be in a position to fulfill. The aforementioned case of the Turks lodged at

---

[169] See, for example, the following Turkish works in the ANA and ADL: ADL 0298 (1298 [1919]) (Omer Naji, *Muʿallim: taʿlīm-i qirāʾat: üçüncü kısım*); ADL 0299 (1299 [1920]) (Ḥusayn Hifzi, *Istifadalı dersler: ehlak*); ADL 0302 (1299 [1920]) (Muḥammad Nazif, *Kitāb-i alifba-i Turki*); ADL 0309 (n.d.) (Ziya Bey, [Program of military instruction translated from Turkish by Muḥammad Amin])

[170] NAI-FD/FRNT/B December 1908 62 ("Information regarding the Turks in Kabul").

Chaharbagh is a prime example. A newsletter from Mirza Muḥammad Aslam Khan of September 30, 1908, writes that soon even this group was preparing to return to Turkey.

> The Turk, who was reported in my News-letter for the last week as having arrived here *viâ* Kuhsan, is a brother of one of the five Turks who have lately come to Kabul. He has a *firmān* from the Sultan of Turkey and has come to take his brother back with him. The Governor is arranging for his onward journey to Kabul.[171]

Other documents in the British Indian archives provide additional examples of the fluid nature of this transnational community and lack of long-term commitments with the exception of a very few individuals. For example, the Kabul Diary for the week ending November 18, 1908, notes

> Fazal Beg, Afridi, has been granted 8 months' leave. He will go to Turkey *viâ* Peshawar (India). The other Turks will follow his example. They do not want to stay here.[172]

The above documents reveal the extraordinarily ironic timing of the arrival of Turks in Kabul, and how this may have cut their stay short in Afghanistan. With the landmark Young Turk revolution in Turkey taking place in 1908, it seemed the perfect time to return home, especially since, as discussed, many of the Ottomans in Kabul were exiles from Hamidian rule to begin with.[173] Indeed, even as far as India, and across sectarian boundaries, Muslims were hailing the milestones of the restoration of constitutional rule in Turkey. For example, at the "All-India Shia" conference held in Lucknow in December 1908, attendees congratulated the Ottomans on their new constitution, especially highlighting the equal rights given to the Shīʿī community in the Ottoman empire, with all wishes and prayers for success.[174]

---

[171] Ibid.

[172] NAI-FD/FRNT/B December 1908 62 ("Information regarding the Turks in Kabul").

[173] On the topic of the Young Turk revolution, the question arises as to what the Indian Muslim response was, given the latter's strong attachement to Sultan Abdülhamid in particular. It is difficult to surmise any overriding sentiment form our sources and without a more exhaustive study on this particular question, but form sources I did examine in this study, it was likely a mixed bag. That is to say, while the removal of Sultan Abdülhamid by the Young Turk revolution no doubt created confusion among avowedly pro-Ottoman Indian Muslims, we cannot generalize this translated into a loss of support or enthusiasm for the Ottoman Turkish government. Note, for example, Mushir Ḥusayn Kidwai's open letter to Indian Muslims to support the Turkish government even after the removal of Sultan Abdülhamid, following his return from Constantinople, see NAI-FD/Extl-B Feb 1911 127-130. As British reporters note, Kidwai's letter served to bolser the credentials of the Young Turks from a "devout Moslem standpoint" for Indian Muslims, who were in receipt of rumors the new regime were "Freethinkers, Freemasons, and generally godless from an Islamic point of view" and many of whom were genuinely confused as as to the intentions of the Young Turks.

[174] NAI-FD/EXTL/A February 1909 10-13 ("Congratulatory messages from the All-India Shia Conference in connection with the inauguration of the Turkish Constitution"). This detailed reports contrasts apparently with the less attention given to constitutional developments in Iran in 1905-06, at least in Afghanistan. For example, one British intelligence source includes the following question and answer exchange concerning news coverage of Persia in Afghanistan:

> [Q:] What is being said in Kabul with regard to the disturbances in Persia?...Do they sympathise with the Persian Parliament of with the Shah?...

Still, others departed Afghanistan and returned to Ottoman territory for different reasons. At least one Ottoman Turk became seriously ill, requiring a return from Kabul to be treated in Haydarpaşa hospital (presumably in Istanbul, but possibly another Ottoman metropolis like Baghdad, Damascus, or Aleppo) as an Ottoman archives document from August 1911 reports.[175] Notably, the Ottoman government took the matter so seriously that the report was verified and personally signed by the Grand Vizier.

The Few and the Committed

In spite of the challenges of life in Afghanistan, and a number of early departures from their countrymen, a number of Ottomans chose to remain in Kabul. The case of Mahmud Sami is only the most prominent. Others continued to newly arrive in Afghanistan. In October of the same year the Director of British Criminal Intelligence, reported that according to secret information received from Constantinople, the Pan-Islamic League, at the instigation of Germany, was in constant communication with India and Afghanistan. The purported medium of such communication was Nakib of Baghdad and the Sharif of Mecca, who were said to have dispatched and received to and from India and Afghanistan from time to time. As early as 1902, our sources suggest, the Nakib of Baghdad was the medium of correspondence between the Sultan and the Amir of Afghanistan. The report concluded, "it is natural, therefore, to view with suspicion the visits of the Nakib's relations to India or Afghanistan."[176]

The Naqībīya family of Baghdad, also known as the Qāderīya in light of their honored ancestor, are descendants of the revered sufi shaykh of Baghdad, Shaykh Sayyid ʿAbd al-Qādir al-Gīlānī (1077-1166). Commonly referred to as "Imam Ghawth al-Dīn" ("Ghausuddin"), "Ghaus-i Azam" or "Pīr Ṣāḥib" in Afghanistan and many parts of India, Shaykh Gīlānī is one of the foremost patron saints revered by Afghans, and among the preeminent sufi shaykhs in the entire Islamic world. Though the mausoleum of Shaykh ʿAbd al-Qādir rests in Baghdad, some of his descendants settled in Afghanistan and India, including a certain Sayyid Hassan, who established himself in Kabul in the 1880s, and received the support and homage of the Afghan emirs. The connections to important Ottoman players in the Ḥabīb-Allāh era are crucial: Colonel Mahmud Sami, the Ottoman drill instructor and founder of the Harbiye Military Academy in Kabul, was a nephew of one of the living patriarchs of the family in Baghdad, named Shaykh

---

> [A:]. The masses do not know what is happening in Persia. Afghanistan is deaf. Means for obtaining information from outside are very limited. At Kabul people are quite ignorant of what is going on even in Qandahar or Herat. Newspapers are not subscribed for by the public, partly because each paper costs them a rupee postage and partly because they have no taste for them. Only the Amir and a few Sardārs subscribe to a few papers. They do not seem to take much interest in the affairs of Persia. I have not been able to ascertain what the Amir thinks, but as to Sardār Nasrulla Khan I know that he never counts Persia among Muḥammadan Kingdoms.

More research is needed on discussions of Iran in Afghanistan and India at this time to draw any firm conclusions here, however.

[175] BOA-MF.MKT 1174/41 (1329 Ş 18) ("Kabil'de Osmanlılar tarafından yapılan Mekteb-I Serraciye adlı askeri mektebde muallim olup tedavi için Dersaadet'e gelen Nazif Efendi'nin Haydarpaşa'daki klinik hastanesinde tedavi edilmesi").

[176] NAI-FD/FRNT/B November 1910 92-93 ("Information regarding the Turks in Kabul and one Pir Abdus Salam of Baghdad").

ʿAbd al-Salām. A report by a British officer named E.H.S. Clarke of the Foreign Office, Calcutta, in a letter dated November 8, 1910 to A.H. McMahon, Agent to the Governor General and Chief Commissioner in Baluchistan, provides some more background on the transnational influence and movements of this eminent individual and his family across the eastern provinces of the Ottoman empire, Iran, Afghanistan, and India. According to Clarke's report,

> The members of the family generally speaking, are Pan-Islamic and anti-European, and the present Nakib used to be the medium of communication between Constantinople and Kabul. As long ago as 1881 the late Saiyid Sulman of Baghdad, described as the then Nakib, and father of Abdus Salam, came on a political mission to India. The name of the brother at Kabul (… is Saiyid Hassan; he is in great favour with the Amir, Nasrulla Khan and the higher officials; and he receives an allowance of Rs. 1,000/- per mensem, as well as having been given a grant of land.) Saiyid Muḥammad Effendi, the Turkish drill instructor at Kabul, is the nephew of Abdus Salam, being his sister's son. . .The Criminal Intelligence Department consider that Abdus Salam must continue to be regarded as a potential intriguer and religious bigot... It will be interesting to see if he ever does re-visit Kabul.[177]

Contrary to British depictions and obsessions with the Pan-Islamic bogeyman, the Ottoman community in Kabul at this time was not an unruly band of wandering dervishes or militant firebrands. Rather, some came from eminent sufi lineages with strong ties to the Afghan royal family; in this way they were largely stabilizing forces. Most, however, were professionals arriving in Kabul for a specific purpose related to bringing some form of solicited expertise to Afghanistan. The foremost example of this was a delegation of Ottoman officers sent to Afghanistan in 1910.

The Ottoman archives report of a delegation of Ottoman officers sent to the Afghan government to serve in an advisorial capacity.[178] This file is prefaced, interestingly, by a cover letter in French by the Ottoman Ambassador in London, addressed to the Ottoman Foreign Minister Rifaat Paşa. The cover letter, dated February 5, 1910, introduces a report in Turkish about a group of Ottoman officers traveling to Afghanistan for the purpose of serving the Afghan government ("Afganistan hükümeti hizmetinde"). Nor was the flow of officers and soldiers was a one-way road for the Ottomans and Afghans. A pair of Ottoman archives document from 1913 and 1914 discusses the coming of officers and soldiers coming from as distant places and populations as Afghanistan, Bukhara, and the Sudan to complete military training in Adana.[179]

To the consternation of the British and in spite of negative experiences from previous arrivals, during the volatile years of 1910-1914 and before the eventual breakout of the Great War, more Ottomans continued to arrive in Kabul. The North-West Frontier Province (NWFP) Diary for week ending 6 May 1911 reports, for example, that "Saiyid Aḥmad Samadi, a Turk, proceeding to Kabul to enter the Amir's service. He was accompanied by his family." Similarly, the Diary of the Sub-Assistant Surgeon Dasaundhi Khan, in charge of the British

---

[177] Ibid.

[178] BOA-HR.SYS 5/17 (1910 02 19) ("Afganistan Hükümeti hizmetinde bulunan Osmanlı zabitleri").

[179] BOA-ŞD 37/27 (1331 S 16) ("Afganistan, Buhara ve Sudan ahalisinden olubda Adana'ya gelerek sicile kayıd olunmuş olanların hizmet-i askeriyeleri ve tekalif-i emiriyeleri hakkında") and BOA-ŞD 40/3 (1332 S 01) ("Adana'ya Afganistan ve Buhara'dan gelenlerin askerlikleri").

Agency Dispensary at Kabul, reported in late May 1911, that "Doctor Munir Beg Khan Effendi, who had gone on furlough, has returned to Kabul and resumed his duties."[180] The NWFP Provincial Diary in late June 1911, also reported that Salih, an Ottoman subject and brother-in-law of Ḥabīb-Allāh Khan, *Naib Kotwal*, passed through he Khyber pass, proceeding to Kabul to see his relations. The diary reports, "He had two swords with him imported from Syria which he is going to present to His Majesty the Amir."[181]

One can almost say from a study of Ottoman and British intelligence records on Afghanistan for the time that there was a near steady of flow of Turks to and from Afghanistan during the Ḥabīb-Allāh era, including during the first world war. Traffic was regulated and monitored by the Ottomans to such a degree that returning Turks to Istanbul earlier than planned had to return their traveling stipends.[182] Other influential Turks, such as Dr. Munir Izzat Bey, the Amir's personal physician, even left Kabul for Istanbul and returned, illustrating a commitment to fulfill his service to the Amir. A Bombay Police report from May 1911 reveals, for example,

> Bombay, May 9th. A Turkish Doctor named Dr. Munie Izert [sic] accompanied by his wife arrived in Bombay from Constantinople per S.S. BOHEMIA on the 2nd instant and has put up with Col. Gulam Rasul …the Amir's agent. It is said that he is in the employ of H.M. the Amir and intends to proceed shortly to Afghanistan.[183]

Nor were the Turks who came to Afghanistan all of the same professional or ideological stripe. They represented diverse occupations and politics, nor even can we be sure they were all "Young Turks," in terms of their political affiliation with the nascent CUP (Committee for Union and Progress), or the Young Turks' chief nemesis against who they formed as an oppositional party, Sultan Abdülhamid II. For example, a Bombay Police Abstract dated January 15, 1910 writes,

> Bombay, January 11th.—*Ḥājī Muḥammad Ali Shoki* Padshah has arrived from Constantinople per Italian S.S.*D. Balduino* on the 5th instant and has put up with Colonel Gulam Rasul, Agent for Kabul, in Prince Building near J.J. Corner. It is reported that he is to go to Kabul after visiting Hyderabad (Deccan) to see the Turkish officials who have recently been engaged by the Amir to look after the police and the military. . .The Ḥājī is said to be an ex-official of the old Turkish *régime* and very bitter against the present constitution. He proposes to deliver lectures in Arabic against the present *régime*.[184]

The above passage illustrates the mix of Turks coming to Kabul, in some cases from entirely different ends of the political spectrum: from Young Turk dissidents to Hamidian officials. This was not a uniform group. They brought different forms of expertise to

---

[180] NAI-FD/FRNT/B August 1911 40-42 ("Information regarding the Turks in Kabul").

[181] Ibid.

[182] Such was the case of Süleyman Şefik Paşa and Ahmed Fakih Efendi, who returned from Afghanistan earlier than scheduled. BOA-DH.EUM.4.Şb 3/62 (1333 Za 10) ("Afganistan'dan dönen Süleyman Şefik Paşa ile Ahmed Fakih Efendi'ye verilen harcırahtan fazla olan kısmının geri alınması").

[183] NAI-FD/FRNT/B August 1911 40-42 ("Information regarding the Turks in Kabul").

[184] NAI-FD/SEC/F September 1910 1-12 ("Employment of Turks in Afghanistan").

Afghanistan, and they brought back different experiences. One of the documents attesting to increased Ottoman knowledge about Afghanistan from these visits is a detailed map of Afghanistan in the Ottoman archives dated to August 25, 1912. The map includes Iran, India, and Baluchistan as separate countries.[185] Similarly, as late as 1913, the Frontier Branch of the Foreign Department produced three reports for the month of May of that year documenting the individual names and professions of Ottoman Turks in Afghanistan up to that date. It is also one of our most complete lists available of Turks employed by Amir Ḥabīb-Allāh.[186]

Professionals in search of employment were not the only aspects to Ottomans coming to Afghanistan. It is true that British sources, ever wary of being caught off-guard by a large-scale rebellion as occurred in 1857, tend to exaggerate the role of Pan-Islamic politics at this juncture. That being said, there is no doubt that there was more than a simple exchange of technocratic expertise by a few Turks and Afghans at work in the exponential increase of Ottomans in Afghanistan during the Ḥabīb-Allāh Khan era. A study of Ottoman archival sources from this period indicate that greater political aspirations by the Sublime Porte in the region of India, Afghanistan, and Central Asia were undeniable. For example a Foreign Department Frontier branch document from November 1911 reports the "alleged" arrival of a high Turkish official in Afghanistan with the object of inducing the Amir to conclude a treaty of alliance with Turkey. The document discusses a report from the Foreign Office that, amazingly, the Russian Government shared sources with the British in Bokhara, claiming that the Amir "had engaged 2 or 3 Turkish officers as Military Instructors" and "a higher Turkish Official was in Afghanistan to induce the Amir to conclude a treaty of alliance with Turkey. Count B. added that Young Turk agents were busy in Central Asia with propaganda on behalf of what is now called the New Islamic League."[187]

Similarly, British sources also document instances of Pan-Islamic activity in the reverse direction. For example, a cable received by the Frontier Branch of the British Indian Foreign Department from the British Representative at Qandahar dated October 16, 1911, reports,

> [T]he Amir will shortly send Sardār Muḥammad Usman Khan, Governor of Qandahar, to Constantinople. The object of the visit is not known, but some persons think that Muḥammad Usman Khan is going to Turkey to secure the services of men qualified in mining and building roads, canals, etc., which the Amir is anxious to start in Afghanistan, or to stay there and qualify himself in engineering. It is stated that as the general public of Afghanistan dislike the employment of non-Muslim foreigners, the Amir secretly consulted the leading men on the subject and was advised to employ capable Turks on the ground that they would be cheaper and being co-religionists of the Afghans would not be disliked in Afghanistan.[188]

In this manner we can see the strongest illustration of the reasoning behind supporting an Indo-Ottoman nexus in Afghanistan, from the perspective of Afghan officials. Because of

---

[185] BOA-HRT.h 118 (1330 R 29) ("Mısır ve Suriye Haritası; haritanın sol tarafında İran*, Afghanistan,* Beluçistan ve Karadeniz Havzası ayrıca gösterilmiştir").

[186] NAI-FD/FRNT/B May 1913 71-72 ("Information regarding the Turks employed in Afghanistan by His Majesty the Amir. List of Turks in Afghanistan").

[187] NAI-FD/FRNT/B November 1911 105 ("Alleged arrival of a high Turkish official in Afghanistan with the object of inducing the Amir to conclude a treaty of alliance with Turkey").

[188] Ibid.

Afghan's resentment of non-Muslim foreigners in their country, the Afghan officials reasoned that recruiting from Ottoman and Indian Muslim domains would be a better bargain and less costly on a number of fronts. This was all the more appealing given the apparent qualifications of many Turks and Indians in precisely the fields that the Afghan Amir and his advisors were seeking.

Given the diverse, multifaceted, and fluid qualities of this transnational community, it is difficult to make generalizations of any uniform or static kind on the Turks in Kabul during the Ḥabīb-Allāh era. A study of Ottoman, British, Indian, and Afghan sources does reveal, however, a few key reoccurring names and individuals of Ottoman background in Kabul at this time. A letter dated April 28, 1913, from Malik Talib Mehdi Khan, British Agent at Kabul, to the Deputy Secretary to the Government of India in the Foreign Department, provides the following background information about two key Ottoman personalities residing in Kabul at this time in particular,

> The most important personage in the Turkish community is (1) Dr. Munir Izzat. He goes to this country practically every year, ostensibly on leave, but really on duty, and brings full reports of the doings of Government in Turkey, for the information of His Majesty the Amir. He has many news-agents in Turkey who are paid through him, and keep the Afghan Government informed through him of what is taking place there. His chief mission is to create a sympathetic and brotherly feeling between the Turks and Afghans. Next in importance is the Baghdadi Pir (2), who is another intermediary between the two nations (Afghan and Turkey).[189]

Ottoman Turks continued to come to Afghanistan not only through the first World War, but many stayed afterwards. Beyond the key personages, the Ottoman archives also contain documents on less well-known Ottomans who also make the journey to Afghanistan, in some cases stayed, and in some cases returned. For example, an Ottoman archives document from April 1918 describes the return of an Ottoman named Hüseyin, son of Sayyid İsmail, to his hometown of İzmir and the Ottoman government granting him permission to do so.[190] Predictably, the activities of the all the aforementioned individuals raised the suspicions of Calcutta and London, increasing the already tense "Cold War" tensions brewing between the Ottomans and the British since the 1880s. We now turn to the continuation of these tensions in the era of Amir Ḥabīb-Allāh Khan.

Fear and Loathing in London (and Calcutta)

As my research in the British and Indian archives has demonstrated, officials serving the Raj expressed deep anxieties over Turks working in Afghanistan, and they increasingly endeavored to monitor and curtail it wherever and whenever possible. In the early years of Amir Ḥabīb-Allāh's reign, well before the outbreak of World War I, British archives reveal

---

[189] NAI-FD/FRNT/B May 1913 71-72 ("Information regarding the Turks employed in Afghanistan by His Majesty the Amir. List of Turks in Afghanistan").

[190] BOA-DH.EUM.5.Şb 57/49 (1336 C 29) ("Afganistan'ın Kabil şehri ahalisinden Hüseyin oğlu Sayyid İsmail'in İzMīr üzerinden memleketine gitmesine izin verildiği"); BOA-DH.EUM.5.Şb 56/36 (1336 C 07) ("Afganistan'dan gelerek din ve vatan için cihada iştirak eden Hüseyin Hanoğlu Sayyid İsmail'in memleketine İzMīr üzerinden dönmek üzere müsaade verilmesi talebi").

monitoring of all posts sent between Ottoman and Afghan domains.[191] Similar to the suspicious and even paranoid tone of reports written during the Hulusi effendi mission of 1877-1878, British Indian archival files on Afghanistan and the frontier region are filled with reports Pan-Islamic "firebrands, intrigue, and troublemakers."[192] The declassified 1914 edition of the British Indian intelligence manual *Who's Who in Afghanistan*, for example, discusses an itinerant Afghan named Sayyid Muḥammad Ismāʿīl, son of Sayyid ʿAbd al-Raḥmān of Herat. The latter was reported to have returned to Kabul in March 1908 after a stay of undisclosed duration at Istanbul. The report proceeds to list his Rs. 5,000 per annum stipend from the Ottoman Government, and his return to Kabul in 1913.[193] Of the most common options of residence for Afghan exiles—India, Persia, Russia, and Turkey—the British were especially watchful of exiles who chose the Ottoman domains.[194]

There is corresponding evidence in the Ottoman archives to corroborate some of the claims of clandestine Pan-Islamic activity between the Porte and Kabul at this time. Since the mid-nineteenth century the Ottoman archives also document a number of stipends being issued to Afghan itinerants and Sufis in Ottoman domains, as well as to their families in the case of the former's death, as with the case of a prominent Naqshabandī Afghan shaikh who died in Mosul in northern Mesopotamia (Iraq).[195] The latter case also illustrates the longstanding connections

---

[191] For example, the following document tracks a letter from a Turkish teacher in Beirut to the Afghan Amir on the topic of the Mawlid, or Muslim celebrations of the Prophet's birth. NAI-FD/FRNT/B August 1911 40-42 ("Information regarding the Turks in Kabul"). In an enclosed report in this file entitled Notes in the Criminal Intelligence Office, a note from the North West Frontier Province, dated February 15, 1911, reports that "a letter to the Amir from a Turkish teacher at Beyrout was received at the Islamia Post Office." On February 16, it reports that "a cover for Sardār ʿInāyat-Allāh Khan from the Porte at Constantinople passed through the Islamia Post Office on 13th February 1911." Similarly, an extract from a C.I.D. newsletter dated February 14, 1911, reads, "A letter and a notice in Arabic were received on the 11th instant at the Islamia Post Office to the address of the Amir of Kabul from one Abad-ul-moulad-ul-Nabi-ul-anwar, Sayyad, a Turkish teacher of Beirut, Asiatic Turkey, suggesting to the Amir to declare and celebrate the birth-day of the Prophet Mohammad as a national festival just as it has been recently adopted throughout the Turkish dominions."

[192] NAI-FD/EXTL/B September 1913 5 ("Movements of a certain Bahri Bey, a Pan-Islamic Propagandist"). A British intellegence cable from Erzeroum, dated June 7, 1913, reports "A certain Bahri Bey, who came to Van with the new Vali Tahsin Bey, has just got his passport *viséd* by the Russian vice-consul at Van to go to Afghanistan and India viâ Russia. He appears to be a Pan-Islam propagandist."

[193] IOR/L/PS 20/B220/1 ("*Who's Who in Afghanistan*: 1914"), 76.

[194] According to the 1914 *Who's Who in Afghanistan*, qāḍī Muḥammad Akbar Jan, of Peshawar, "reported to be contemplating a visit to Turkey or Persia." IOR/L/PS 20/B220/1 ("*Who's Who in Afghanistan*: 1914"), 14.

[195] BOA-BEO 2443/183178 (1322 Ş 27) ("Afganistan meşahir-i ulemasından ve Tarik-i Aliye-i Nakşibendiye meşayih-i kiramından müteveffa Şeyh Mehmed Efendi'nin Musul'da sakin ailesine maaş tahsisi"). An exceedingly large number of Afghan exiles in the late nineteenth centiry, perhaps the majority, settled in Iraq on Ottoman stipend. For example, the DH.MKT file contains scores of reports of Afghan exiles Maḥmūd Khan, Ahmed Ali Khan, and of course Muḥammad Azam Khan and stipends for them and their families while living in Baghdad and other cities of Ottoman Mesopotamia. For example, documents from the Prime Ministry Ottoman Archives in Istanbul addressing this development include DH.MKT 1961/8 (1309 Za 18) ("Afganistan şehzadelerinden olup Bağdad'da ikamet eden Ahmed Ali Han ile Mehmed Azam Han tahsis edilen para ile idare edemediklerinden yevmiyelerine zam yapılması"); BOA-DH.MKT 1000/39 (1323 C 15) ("Bağdad'da misafireten mukim Afganistan Amirzadelerinden Maḥmūd Han'ın evvelce kesilip iadeten tahsis edilen yevmiyesinin Bağdad Vilayeti emvalinden tesviyesi"); BOA-DH.İ.UM 8/2 (1334 B 01) ("Afganistan şehzadelerinden merhum Ahmed Ali Han'ın zevcesi, mahdumu ve kerimelerine tahsis olunan maaş hakkında"); and BOA-MV 200/18 (1334 Ra 20) ("Afganistan Hükümdarı Mehmed Kamyab'ın oğlu Ahmed Ali Han'ın ölümü üzerine ailelerine maaş tahsisi").

between the Ottomans and the Afghans through the transnational networks of sufi orders, or *tarīqas*. In the case of Anatolia, Mesopotamia, and Central Asia as well as India, one of the most powerful, widespread, and active sufi orders was represented by the Naqshabandī ṭarīqa in particular, followed by the Qādirī and Mevlevi orders. As Hamid Algar, Sana Haroon, Nile Green and Lale Can have shown, the transnational (and of course, *pre*national) proliferation of sufi orders in Asia and Africa have been one of the most consistent pillars of the Islamic world across the medieval, early modern, and modern eras, albeit with considerable evolution, adaptations, and transformations across each.[196] I found abundant references to the Naqşibendiya and Qādirīya orders in particular during my research in the Ottoman archives, highlighting the role of these ṭarīqas in linking saints and scholars, as well as their students and devotees, in Turkey, Central Asia and Afghanistan, and India.[197] It is hardly accidental, after all, that the most famous sufi mystic in the western world—Mevlana Jalāl al-Dīn "Rūmī"—was born in Balkh, Afghanistan, taught and interlocuted with scholars in Baghdad, Iraq and Damascus, Syria, and spent the prime of his career in Konya, Turkey, where is buried until this day.[198]

Notably, the British were not alone in their constant surveillance, fear and even paranoia of transnational Pan-Islamic activity brewing under their nose. Not surprisingly, the Russians also had deepening concerns about the growing development of a transnational, Pan-Islamic movement brewing right under their nose—to be exact, in the soft underbelly of Muslim-

---

BOA-ŞD 2596/22 (1310 S 14) also details how the stipend to Afghan princes Ahmed Ali Khan and Mehmed Azam Khan were for daily expenses ("yevmiyelerinin zammı") during their exile in Baghdad.

[196] Algar, Hamid, "*Tarîqat* and *Tarîq*: Central Asian Naqshbandîs on the Roads to the Haramayn," in Alexandre Papas, Thomas Welsford and Thierry Zarcone, eds., *Central Asian Pilgrims: Ḥajj Routes and Pious Visits between Central Asia and the Ḥijāz.* Berlin: Klaus Schwarz Verlag, 2012; Can, Lale. "Connecting People: A Central Asian sufi Network in turn-of-the-century Istanbul." *MAS* 46 (2012): 373-401. Haroon, Sana. *Frontier of Faith: Islam in the Indo-Afghan Borderland*. New York: Columbia University Press, 2007. Green, Nile, *Making Space: Sufis and Settlers in Early Modern India*. New York: Oxford University Press, 2012; "Blessed Men and Tribal Politics" Notes on Political Culture in the Indo-Afghan World." *Journal of the Economic and Social History of the Orient* 49 (2006): 344-360.

[197] For example, BOA-BEO 2666/199921 (1323 B 16) ("Afganistan ahalisinden ve Nakşibendi meşayihinden Maḥmūd Celaleddin Efendi'ye maaş tahsisi"); DH.EUM.7.Şb 2/54 (1333 S 03) ("Şeyh Abdülkadir Geylani'nin Hindistan ve Afganistan'da pekçok mensubu bulunduğundan bu tarikatın Nakibü'l-eşrafından bütün kadirileri cihada davit eden bir fetvanın alınarak gizlice Tahran Sefaret'ine gönderilmesi"); DH.EUM.7.Şb 2/68 (1333 S 22) ("Tahran Sefareti'nin cihada teşvik amacıyla Afganistan'a gitmelerini istediği Abdülkadir Geylani Tarikatı killiddarı ile çocuklarının ciddi ve file bir hareket ifa etmeye muktedir olmadıkları"). In addition to the Naqshabandī and Qādirī orders, the Prime Ministry Ottoman Archives also document how the Mevlevi order was a transnational connection between Afghans and Turks – most famously in the order's founded Mevlana Jelaleddin Rumi, himself born in Balkh*, Afghanistan,* and died in Konya, Turkey, and continuing into the twentieth century. BOA-DH.MKT 1985/91 (1310 M 17) ("Bağdad'da ikamet eden Afganistan hanzadelerinden Ahmed Ali ve Mehmed Azam Han'a tahsis olunmuş olan yevmiyelere zam yapılarak Afganistan sabık memurlarından Nizamüddin Han ve Hindistan ulemasından ve Mevlevi tarikatından Gulam Resul bin Pir nam zata yeniden yevmiye tahsisi"); DH.MKT 2017/115 (1310 R 15) ("Bağdad'da mukim Afganistan hanzadelerinden Ahmed Ali Han ve Mehmed Azam Han'ın yevmiyelerine zam yapılması, Afganistan sabık memurlarından Nizameddin Han ile Hindistan ulemasından ve Mevlevi tarikatından Allam Resul bin Pir'e onar guruş yevmiye tahsisi hususundaki irade gereğince bedellerinin Bağdad emvalinden karşılanması").

[198] A true transborder "prenational", after a traditional training in the classic Islamic sciences, Mevlana Rumi produced his finest mystical works and poetry in both Persian and Turkish, but also produced couplets in Arabic and, according to some reports, Greek. Franklin D. Lewis, *Rumi: Past and Present, East and West: The Life, Teachings, and Poety of Jalal al-Din Rumi* (Oxford: Oneworld Publications, 2008).

majority regions of Central Asia and the Caucuses. For example, in an October 24, 1911 Foreign Office note entitled "Turkish activity in Afghanistan and Central Asia" reported in the Frontier branch of the Foreign Department, a Sir Edward Grey wrote to Mr. O'Beirne that the Russian Ambassador had called at the Foreign Office to deliver the following message in a rare case of British-Russian collaboration,

> Count Benckendorff said that two or three Turkish officers had been engaged by the Ameer of Afghanistan as instructors to his troops. . . He also said that a higher Turkish official was in Afghanistan with the object of endeavouring to induce the Ameer to conclude a treaty of alliance with Turkey. . .He added that Young Turk agents were busy in Central Asia making propaganda on behalf of a Pan-Islamic—or, as it is now called, Neo-Islamic—League.[199]

Of course, it is also possible the above message was intended to be a trick on the Russian part, amplifying British fears of Pan-Islamism on their border with Afghanistan (and the nearby Russian empire), thereby enhancing St. Petersburg's bargaining position. Either way, the above report illustrates how threatening Pan-Islamism had assumed the form of a "third wave" threat against both Russian and British imperialism, with Afghanistan becoming an increasingly strategic conduit for Indo-Ottoman relations in particular. It is also important to note that British and Russian anxieties were not at all assuaged by the fall of Sultan Abdülhamid II—the so-called Pan-Islamic firebrand extraordinaire—from power following the Young Turk revolution of 1908-1909. The rise of the so-called "western-oriented" Young Turk regime and the Committee of Union and Progress (CUP) did not render Pan-Islamism a vacuous or abandoned ideology in or outside the Ottoman empire, after all. Rather, Pan-Islamism evolved and took more subtle, but equally transnational and active, forms under the Young Turk transition at the Sublime Porte. In some ways, from the perspective of London or St. Petersburg, anxieties over Pan-Islamism were even exacerbated under the more dispersed, more scattered, and often more ruthless Young Turk regime led by the CUP.

For example, in a Secret Foreign Department report from May 1909 entitled "Views of His Britannic Majesty's Ambassador at Constantinople on the suggestions of His Britannic Majesty's Consul-General, Meshed, a document produced with regard to the employment of Turks in Afghanistan", Sir Gerard Lowther wrote to Sir E. Grey of Pera on March 1, 1909, writes,

> I believe that the Indian Government views the presence of Turkish officers in Kabul with suspicion… although the Pan-Islamic propaganda of the Sultan since the change of régime in Turkey has to a certain extent lost its force, "regenerate Turkey" is now ruled by the Committee of Union and Progress whose eventual policy may not impossibly be strongly coloured by advanced Turkish nationalism, if not indeed, Moslem fanaticism.[200]

In this way the transnational activities of Young Turk exiles, and subsequently, CUP cadres arriving in Kabul struck up as much paranoia among British officials wary of the specter of Pan-Islamism, as did the Young Turk's very own nemesis, Sultan Abdülhamid II. A main

---

[199] NAI-FD/FRNT/B February 1912 2 ("Turkish activity in Afghanistan and Central Asia").

[200] NAI-FD/SEC/F May 1909 127 ("Views of His Britannic Majesty's Ambassador at Constantinople on the suggestions of His Britannic Majesty's Consul-General, Meshed, in regard to the employment of Turks in Afghanistan").

reason for this, as late Ottoman historians Şükrü Hanioğlu and Ḥasan Kayalı have shown elsewhere, was that CUP nationalism at this time could not be rendered to a simplistic, uniform ideology of "Turkification," but rather, a complex amalgam of different (and some times, contradictory) ideologies competing in practice. One thread within that amalgam was a continued consideration of Pan-Islamic and pan-Turkic agendas, however loosely defined, tied together by a desire to promote the Sublime Porte's interests abroad as it was to undermine its international opponents. These competing ideologies would eventually conflict in the long term at the end of the empire and early Republic, especially with regard to the formulation of specific policies concerning language, minority rights, and the "character" of the state.

In the short term, however, the blend of these disparate factions and ideologies within the umbrella of a still-surviving, multi-ethnic and transcontinental Ottoman state made for a formidable combination, especially in a context of confrontation with the imperial powers of Britain, Russia, France, and even Italy, as the Italo-Ottoman war of 1911, the Balkan Wars of 1912-1913, and of course, World War I demonstrated. The latter would witness some of the most dramatic displays of clandestine Pan-Islamic militant activity, precisely the kind the British colonial administrators, and to a lesser extent Czarist Russia, had been imagining in their worst fears. Most spectacular of these adventures was the joint Ottoman-German Hüseyin-Niedermayer mission (more famously known as the Niedermayer-Hentig mission) to Kabul in 1915, which we will turn to at the end of this chapter. Such activities continued beyond the end of the Great War, including the pan-Turanian activism of Enver Paşa in Central Asia, and the slightly more pragmatic transnational activity of Cemal Paşa in Afghanistan. As noted in the introduction to the dissertation, these are the dramatic episodes that historians of Pan-Islamism have largely dwelled on, ignoring the more subtle, more deeply-rooted, and longer-lasting transnational Muslim interactions in the realms of education and law. We will return to those episodes of transnational Pan-Islamism in the next and final chapter, but only to expand on the largely unexplored *juridical* aspects of this movement.

Before proceeding to track the development of Pan-Islamic and pan-Turanian activities in the latter years of Amir Ḥabīb-Allāh's reign, it is important to not overstate the degree of unanimity among Ottomans, Indians, and Afghans in the rather cosmopolitan Kabul at this time. In fact, there was little unanimity to speak of at all. Indo-Ottoman relations were driven, after all, as much by tensions and rivalries over the Amir's attention and patronage as they were by any so-called over-arching Pan-Islamic agenda, real or imagined. Even among the Ottoman camp, unanimity was far from the case and the "Turks in Kabul", to use British archival language, were not one monolithic or unified group. Rather, they continued to be torn by internal rivalries, such as those in support of the Sultan and Ottoman monarchy, versus the Young Turk party.[201]

---

[201] This remained the case even through the first world war, a time when, if ever, some semblance of unanimity on fundamental issues concerning the Ottoman state might be more forthcoming. For example, a secret Foreign and Political Department, War branch file of January 1917 discusses the proposed distribution among Turkish Officers Prisoners of War in India of a booklet in Turkish written by a Turkish gentleman, Yeşilli Zadeh Aziz Nuri Bey, containing violent attack on the Young Turk Party. A memo from Offley Shore, Brigadier-General, Chief of the General Staff Indian Expedy. Force D, to Chief of the General Staff, Army Headquarters, Simla, September 19, 1916, states

> I forward herewith 50 copies of a booklet in Turkish written by a Turkish gentleman, one Yeshili Zadeh 'Aziz Nuri Bey; it is a violent attack on the Young Turk Party. It is suggested that these would be suitable for distribution among Turkish Officers Prisoners of War in India.

We now move to these themes of tensions and rivalries within Indo-Ottoman relations in Afghanistan in the next section. In particular, we turn to discussing a rival stream of experts coming into Afghanistan, from neighboring India, and the impact they had on juridical developments in Afghanistan.

IV
THE HINDUSTANI CONNECTION: DEOBANDIS, ALIGHARIANS, AND OTHER INDIAN MUSLIMS IN KABUL, 1901-1914

Indian Muslim Experts in Afghanistan: Amir Ḥabīb-Allāh Recruits Doctors and Teachers from India

It must be stated at the outset that in comparison to Turkish employees in Afghanistan, who started coming in large numbers only after the return of Maḥmūd Ṭarzī to Afghanistan and in the years 1907-1915 in particular, recorded instances of Indian Muslims present in the courts of Afghan Amirs and other capacities exist since the nineteenth century.
There are several reasons to explain this, from the proximity of India to Afghanistan, to the British policy of stationing an Indian Muslim in the court at Kabul since the era of Amir ʿAbd al-Raḥmān Khan. Together with linguistic proximity (most educated Indian Muslims learned Persian, which was the language of administration since Mughal times) and cultural proximity (Afghans have a long history of settlement, trade, and even establishing kingdoms there, as discussed in Chapter 2). Professionally-speaking, as McChesney observes, "Indian Muslims had long been an influential force in Afghanistan as educators, bureaucrats, and merchants and were an important line of communication between the highlands of Afghanistan and the northern Indian plain."[202] All put together, these factors led to a much stronger presence of Indians in Kabul in comparison to both the Ottoman and Persian presence in Kabul.

At the same time, in spite of increased proximity, cultural and linguistic affinities, and a long history of cross-border activities, it cannot be said that Indian Muslim emigrants to Afghanistan arrived in the same range of professions than the Ottomans did beginning in the Ḥabīb-Allāh era. This is particularly the case with commissioned or even retired military officers—with some notable exceptions. The ones who came to Kabul were largely Ottomans rather than Indian Muslims. There were political reasons to explain these demographics. As subjects of the British crown, Indian Muslims who came even near the border were monitored for their movements, especially any with military backgrounds. For these reasons, Indian Muslims who tended to come to Kabul on official business were professionals—doctors, teachers, and journalists, mostly. And these were exactly who Amir Ḥabīb-Allāh recruited for filling posts in his hospitals and schools. As cited above, the primary articulated reasons for this decision was the Afghan Amir's desire to employ Muslims and thereby respect Afghan public

---

NAI-FP/SEC/War/B January 1917 139 ("Proposed distribution among Turkish Officers Prisoners of War in India of a booklet in Turkish written by a Turkish gentleman, Yeshili Zadeh ʻAziz Nuri Bey, containing violent attack on the Young Turk Party"). The file includes one copy of the actual pamphlet book, 74 pages, made up of two essays, entitled "Sadayı Sadakat!" and "Sadayı Vecjan!" The book appears to be a call in support of Sultan Reşad against the Young Turk party.

[202] McChesney, 11

sentiment. Not to be forgotten are financial considerations and constraints, however, for the wages of Europeans were considerably higher. In this way, like his invitation to the Turks, a combination of religious solidarity with fiscal considerations played into the Amir Ḥabīb-Allāh extending invitations to Indian Muslims to come to Kabul to work. These competing material and religious reasons would play a role in Ḥabīb-Allāh's later decisions as well, with material and strategic reasons ultimately trumping religious solidarity for him in the first world war.

The first Indians to be employed in Amir Ḥabīb-Allāh's service were physicians, teachers, and school administrators, filling positions in the first modern state hospital ever built in Afghanistan, as well as the Ḥabībīyah college. Historic reasons of non-human origin played a role in bringing these developments about. In 1903, a cholera epidemic broke out in Afghanistan (it would again in 1915).[203] In responding to this crisis, Amir Ḥabīb-Allāh and his advisors prompted the beginning of a modern public health campaign in Afghanistan.[204] Water was brought to Kabul from Paghman via a piping system.[205] Among the Amir's personnel medical staff, two Turkish doctors (one of whom was the Amir's private physician) and the rest who were Indians, ultimately establishing the first state hospital in Kabul in 1913.[206]

Indian innovation also played a role in the construction of a modern high school and college in Kabul. Dr. ʿAbd al-Ghanī of Lahore played a major role in this project. A report from the Foreign Department Frontier office of June 1907 reports on a "Detailed scheme submitted by Dr. ʿAbd al-Ghanī for the improvement of the Ḥabībīyah College, with a grant of 50,000 per annum sanctioned by the Amir."[207] Ḥabībīyah College would go on to be one of Amir Ḥabīb-Allāh's most prized and celebrated achievement—a modern Muslim school for the children of Afghan nobles and princes. That the idea was promoted and pursued by an Indian Muslim should not surprise us, given the history of modern Muslim colleges at Deoband and Aligarh. The Kabul Agency Diary reported for the week ending on December 8, 1906, as follows,

> Doctor ʿAbd al-Ghanī had submitted a detailed scheme about the improvement of the Ḥabībīyah College. He had suggested that a suitable building should be provided, and that the number of teachers should be increased. At present the guest-house which accommodated the British Mission has been given for the purpose, and an annual grant of fifty thousand rupees has been sanctioned by His Highness. It is proposed to open a Commercial Branch School also, for which teachers will be obtained from India. Doctor ʿAbd al-Ghanī has been appointed Director of Public Instruction. At present he works as Translator of News-papers, &c., to Sardār Nasrulla Khan. It is proposed to grant scholarships to the students, and to appoint Muḥammad Ishak Paracha of Bhera, who has received a training in Japan, as Professor of the Commercial School."[208]

---

[203] Ahmetbeyoğlu, 246.

[204] Ibid.

[205] Ibid.

[206] Ibid.

[207] NAI-FD/FRNT/B June 1907 226 ("Detailed scheme submitted by Dr. Abdul Ghani for the improvement of the Ḥabībīa College. Grant of 50,000 per annum sanctioned by the Amir").

[208] Ibid.

Judging from the last line's reference Professor Muḥammad Isḥāq Paracha, if Japanese-trained Indian Muslim economics teachers in Kabul does not provide an indication of the cosmopolitan nature of Afghanistan at this time, then the cornucopia of nationalities—ranging from Somalia to the United States of America—arriving in Kabul at this time would.[209] The above section illustrates the diverse fusion of Indians coming to Kabul, in some cases from entirely different ends of the political spectrum: from Alighar graduates to Deobandi ʿulamāʾ to a staunchly pro-British Indians. As with the Turks who came to Kabul in the same period, this was not a uniform group. Still, with some notable exceptions, and unlike the Turks, they mostly came from civilian and professional, rather than military, backgrounds.

In addition to the presence of Indian Muslims in Kabul of various stripes, it is noteworthy here to add the increasingly large number of Afghans educated in India who returned to India during the Ḥabīb-Allāh khan era. We have discussed the role of returning refugees from India, such as General Nādir Khan and the Muṣāḥibān family, but other less prominent Afghans also went to study in India and returned to serve in various capacities. For example, Ali Aḥmad

---

[209] NAI-FP/SEC/War October 1918, 188-190 ("Report on the Administration of Civil and Criminal Justice by the Courts established under the Iraq Occupied Territories Code for the year 1917"). This should not be seen as outrageous or out of the usual, for many Indian Muslims were already transnational in outlook and employment. Many, for example, served with the British in Iraq, Palestine, and Egypt as clerks, doctors, teachers, and mid-level (but rarely superior) officers, and in other capacities, bringing with them their knowledge of Islamic cultures and law, though this was hardly sufficient qualification for the new and diverse contexts they were entering. (It tends to speaks to an Orientalist tendency to essentialize and reduce the diverse societies of the Middle East solely under the rubic of religion). For example, as late as October 1918, in the last months of the first world war, the British employed Indian Muslims as judges in occupied Iraq. One Secret War Deparment document from the same month entitled "Report on the Administration of Civil and Criminal Justice by the Courts established under the Iraq Occupied Territories Code for the year 1917," illustrates how Indian Muslims served as judicial officers in Iraq, including a certain Khan Sahib Agha Mīr za Muḥammad, who served as Assistant Judicial Officer in the Basrah and Ashar Civil Court in 1917. These examples highlight the juridical fluidity of Indian Muslims across the region, not only in Afghanistan.

For a particurly outlandish character that yet typifies British Indian interest in the increasingly cosmopolitan nature of Kabul, but also the well-traveled and cosmopolitan qualities of many travelers to Afghanistan, the following document is revealing. Beyond more curiosity, of course, the reporting British officers were constantly on guard for any and all possibility of fomenting militant alliances, as seen in the following "Somali" visit to Kabul. In a memo from officers in the Foreign Department fo the Government of India, Frontier Branch, to John Morley, the Secretary of State for India, dated September 27, 1906, it writes:

> Towards the beginning of this year we received information that an emissary from the Somali Mulla was in Calcutta on his way to Afghanistan to see the Amir; and his movements were watched… It was found that he had in his service an Egyptian Mulla and an Arab servant, and that he professed to have a roving commission from King Menelek in the interests of trade. He seemed, moveover, to have travelled extensively and had even been for three months the guest of His Majesty the Sultan at Constantinople, where he had been decorated with the 1st class of the Order of the Mejidie… In Austria he was decorated with an Order, and was accorded a personal audience of His Majesty the Emperor. He had been to London… The suspicion that Abdulla was a Somali emissary was confirmed by the Kabul Envoy, who admitted that Abdulla had represented himself to him as an envoy from the Mulla and notables of Somaliland to the Amir of Afghanistan, whom they proposed to recognise as Khalifa and who was to be asked to authorise a *Jehad* by the Somalis and to provide gun-smiths for them.

NAI-FD/SEC/F Oct 1906 27-50 (re Somali envoy in Kabul). For an American in Kabul during the Ḥabīb-Allāh era, an engineer named G. Jewett, see Hāshimī, 263. For an article he authored on his time in Afghanistan, see the rather obseqiously-titled A.C. Jewett, "The Sum of All Wisdom: Ḥabīb-Allāh Khan," *Asia* (New York) (April 20, 1920): 277-83.

Khan, who was said to be a favorite of Naṣr-Allāh, was educated at Muree.[210] Nur Aḥmad Khan, an Indian *moulvi* (mawlawī, or teacher of Islamic theology, ethics, and law), received his B.A. at Aligarh College, and found employment in the Ḥabībīyah College.[211] The aforementioned individuals fall in an extremely important category of Indian Muslims who arrived in Afghanistan at this time, in light of their connections to three Indian Muslims institutions in particular: Dār al-ʿUlūm Deoband College in Saharanpur, Anglo-Oriental Muhammadan College at Aligarh, and Islamia College in Lahore. Each of these institutions trained Afghans who then returned to Afghanistan with various levels of expertise, especially in the crucial realms of law, administration, and education. We will return to the contributions of Indian-educated Afghans in the Niẓāmnāmā commission appointed by Amir Amān-Allāh Khan in the next chapter.

It is also important in this regard to remember the social, educational, and economic linkages between India and Afghanistan built by the Pashtuns/Pakhtuns/Pathans in the Frontier—the transborder Afghans *par excellence*. British Foreign, Political, and Frontier Department records are inundated with file after file upon the problems posed by Pashtun tribes on both sides of the Durand line. British records particularly complain of the dangers of border raids and "intrigues", fugitives of the law fleeing the respective authorities from crimes committed on one side of the border and seeking refuge on the other, to notorious tribal rebels often wanted by authorities on both sides of the border, such as Ḥājī ʿAbd al-Razzāq.[212] We will return to the significance of this community of "transborder Afghans", known as "Pathans" in India, in the next chapter.

Provincializing Europe(ans): On the English, French, Russians, and Americans, et al., in Kabul during the Ḥabīb-Allāh Era

In a secret Foreign Department document dated June 1907, Amir Ḥabīb-Allāh is reported to have expressed interest in a team of British engineers to visit his country for employment and other services related to his vision of development for the country. A certain Mr. Hayden applied to examine a coal mine at Ghorband, and a Mr. W.A. Johns, railway engineer, applied to visit Kabul, all demonstrating the "Amir's wish to employ certain experts in Afghanistan," as the title of the document states.[213] Meanwhile, in spite of an initial interest in recruiting European experts, Amir Ḥabīb-Allāh ultimately was unsatisfied with their work. It is likely that this was a third factor in persuading Amir Ḥabīb-Allāh to focus almost exclusively on Ottomans and Indian Muslims as his preferred foreign employees.

---

[210] IOR/L/PS 20/B220/1 ("*Who's Who in Afghanistan*: 1914"), 17.

[211] Ibid., 67.

[212] For example, see IOR-L/PS 10/1019 for extensive examples of British intelligence files on the notorious Ḥājī abdul razzaq, including his border raids and "intrigues" on both sides of the Indo-Afghan border.

[213] NAI-FD/SEC/F June 1907 567-63 ("Amir's wish to employ certain experts in Afghanistan. Proposed deputation of Mr. W.A. Johns, Railway Engineer, to Afghanistan. Report by Mr. Hayden of the result of his examination of the coal mine at Ghorband"). This document illustrates Amir Ḥabīb-Allāh's search for experts. It is also gives a glimpose into his dissatisfaction with British engineers, indicating why increasingly turns to recruiting Turks after this disappointment.

Nonetheless, in spite of the poor performance, and despite the Amir's favoring of Muslims to be employed in his country, a trickle of European experts also continued to make their way into the country in various positions of employment. This section briefly addresses these individuals and their backgrounds and professions. British records indicate a number of other Europeans active in service in Afghanistan during the Ḥabīb-Allāh era up to 1914—most being technicians, but also a broad range of service personnel, including electricians and mining engineers to chauffeurs and candle makers.[214]

We will focus on the story of one individual, a British mineralogist named Dr. Saise, for depth. Fortunately for us, Dr. Saise left an printed interview with the British Political Agent of Khyber, which is one of the few extant sources on European employees in the court of Amir Ḥabīb-Allāh. A secret Foreign Department file from February 1910 provides the details. The interview took place on January 3, 1910, following Dr. Saise's return to Peshawar after two months in Afghanistan. A summary of the interview, conducted by J.F. Maffey, Political Agent at Khyber, reads,

> Dr. Saise was graciously received by the Amir and treated with great consideration throughout his visit. He speaks highly of the Amir, both as a man and as a ruler. He does not in any way corroborate the common representation of the Amir as an indolent, pleasure-seeking and somewhat vicious potentate. The picture he paints is of a warm-hearted king, standing alone, struggling to improve his country, and better the condition of his people, but baulked at every turn by the exactions and oppression practiced by his officials, who distort every scheme and beneficence into an engine of tyranny.[215]

In addition to these comments on the king's progressive orientation, the British observer was particularly impressed by the state of education and training at the Mekteb-i Harbiye, the Ottoman-styled military academy co-founded and administered by the former Ottoman Arab colonel from Iraq, Mahmud Sami. The school was modeled off similar institutions founded during the Hamidian era and was designed to train both high and mid-rank officers in major cities like Istanbul, Damascus, and Baghdad.[216] As an elite military academy for Afghan princes and the children other elites, Kabul's Ḥarbīyah (Harbiye) became a brewing ground for the Young Afghan underground political party, which laid the seeds for the politics of a constitutional movement in Afghanistan. Between 1904 and 1906 Amir Ḥabīb-Allāh ordered the building of the *Madrasah-i Ḥarbīyah-i Sirājīya* to facilitate the education of officers, in 1904-1906.[217] Like its counterparts with the same name in Ottoman domains of Istanbul, Damascus, and Baghdad, among other locales, Kabul's Harbiye was modeled off the new Ottoman

---

[214] IOR/L/PS 20/B220/1 ("*Who's Who in Afghanistan*: 1914"), x.

[215] NAI-FD/SEC/F February 1910 5 ("Return to India from Afghanistan of Dr. Saise, Mineralogist. Note by the Political Agent, Khyber, of an interview with Dr. Saise").

[216] On Ottoman Harbiye schools, see Fortna, Benjamin C. *Imperial Classroom: Islam, the State, and Education in the Late Ottoman empire*. New York: Oxford University Press, 2002; Somel, Selçuk Akşin. *The Modernization of Public Education in the Ottoman empire*. Leiden: Brill, 2001. On the *Mekteb-i 'Anbar* in Damascus, the most prestigious Ottoman state educational academy in Syria, see Provence, Michael. *The Great Syrian Revolt and the Rise of Arab Nationalism*. Austin: University of Texas Press, 2005, 39-40.

[217] Ahmetbeyoğlu, 246.

educational system established during the Hamidian era.[218] As the British intelligence report notes, "Dr. Saise was greatly struck with the excellence of the arrangements at the Harbia school where eighty cadets belonging to good families are instructed in military subjects and trained in habits of discipline under the supervision of a Turkish Colonel."[219]

Dr. Saise was not euphoric about everything he saw in Afghanistan. He was keen to observe the discord between the Amir's grandiose reform projects, and the lack of translation into concrete action on the ground. The blame for this, the British mineralogist asserted, lay not with the king, nor with self-interested saboteurs and corrupt officials described above neither, but ultimately in a lack of proper training to implement the developing schemes. As the British intelligence file summarizes,

> The chief obstacle to progress lies in the lack of men possessing the requisite training to carry out the Amir's schemes. Dr. Saise told the Amir that he could overcome the difficulty by sending young Afghans to the technical centres of the West. This suggestion did not appear to find favour with the Amir who doubtless realises that dangerous ideas as well as education may be imbibed in the free atmosphere of Europe.[220]

Dr. Saise's observations are revealing for several reasons. First of all, they demonstrate the increased interest of Amir Ḥabīb-Allāh in at least contemplating avenues of "reform" (read: centralization) in Afghanistan. Saise's comments also illustrate the factional competition inside the Kabul court, including amongst the brothers of Ḥabīb-Allāh, his foremost rivals to the Afghan throne. His high praise for the Turkish role in the modernization of the military, which seems to be proceeding fairly well from this perspective, is also revealing. Yet, the greatest hurdle facing Ḥabīb-Allāh's goals are the lack of personnel capacity to implement his reforms. Hence, the issues of educating Afghans abroad, or alternatively, bringing in more experts surfaces once again.

Another major point of contention in the Kabul court that led to much dispute between the leaders of British Indian and Afghanistan was the issue of a transborder railroad connecting Afghanistan with India. Since the time of Amir ʿAbd al-Raḥmān, the British were aggressively promoting plans to build a corridor through the Durand Line, and it is not difficult to see why. By connecting the strategic border towns of Peshawar and Jalalabad (and eventually Kabul), such a grand and unprecedented project would provide safe and rapid access for British troops to reach the Afghan capital, securing the notoriously risky Khyber Pass, as well as providing a lifeline of supplies, fuel, and men in the case of another British war against Afghanistan—or even yet, Russia. Amir ʿAbd al-Raḥmān was adamantly against the project, and would have no discussions about the laying of railways in any part of Afghan territory. No matter the incentives British officials and investors waived before him, the Amir rightly saw such a project as a threat to the territorial sovereignty of Afghanistan, and believed it would only make external conquest of his country the easier.

---

[218] Fortna, Benjamin C. *Imperial Classroom: Islam, the State, and Education in the Late Ottoman empire*. New York: Oxford University Press, 2002; Somel, Selçuk Akşin. *The Modernization of Public Education in the Ottoman empire*. Leiden: Brill, 2001.

[219] NAI-FD/SEC/F February 1910 5 ("Return to India from Afghanistan of Dr. Saise, Mineralogist. Note by the Political Agent, Khyber, of an interview with Dr. Saise").

[220] Ibid.

When Amir ʿAbd al-Raḥmān died, the British saw another opportunity to press their case in the former Amir's more cosmopolitan, and perhaps malleable, son. The debate was opened again with Amir Ḥabīb-Allāh, who opted for a more ambiguous position, possibly to lure British investment in other realms of Afghanistan's slightly opening economy. His own court seemed to be more divided on the issue. For example, a certain Muḥammad Ḥusayn Khan of Parwan, Kohistan was known to be "A great opponent of the Amir's proposals for the introduction of railways into Afghanistan," according to a declassified document from the India Office records in London.[221] Khushdil Khan, a Bārakzai notable of Luinab, on the other hand, was described as "friendly towards the British Government, and to be one of the few supporters of the proposal to introduce railways in Afghanistan."[222] In this way, one's position on railroads in Afghanistan often signaled one's position towards the British. At the same time, it is likely more complex than that; issues of modernization and "progress" were also at play, such that even Naṣr-Allāh's party were interested in technological advancements for the sake of empowerment. As Dr. Saise observed in an interview with the British Agent at Khyber,

> The Amir's progressive policy in itself is not at all unpopular. The people show pride in the excellent roads, the factories and the well-trained troops. Even Nasrulla and his Mullas countenance the policy of internal development. Dr. Saise formed the opinion that Naṣr-Allāh would undoubtedly succeed to the exclusion of Inayatulla should the throne fall vacant, and he declares this to be the general opinion in the country. There is, however, no doubt that Inayatulla is popular with the troops, so that a struggle between progressive Militarism and conservative Islam might ensue. At present complete harmony reigns in the Royal family.[223]

We will return to the aspect of "harmony" in the Royal family, or lack thereof, at the end of this chapter. At present, any discussion of Europeans in Afghanistan at this juncture would not be complete without mentioning the not insignificant role of European converts to Islam and their dynamic, cosmopolitan, and transnational role in the country. British sources take a skeptical and suspicious view of such persons, unless they were on British payroll, fearing that such individuals were fifth column figures and held to be unpredictable or holding unascertainable loyalties. For example, British intelligence sources mention a certain Shaykh ʿAbd al-Raḥmān, described as "a European who has embraced Islam. Lives at Mahipura in Peshawar and acts as a newswriter to the Amir."[224] Another secret document discusses a certain Mr. C. Edward, described as "a Eurasian chauffeur in the employ of Nasrulla Khan. This man is much more a native than a European, he has turned Muhammadan and taken the name of Gul Muhammad."[225]

Finally, British intelligence records also discuss a certain individual named "Umar, Muhammad, *alias* Mr. Nyss." Born in Gibraltar in 1880, he was the son of a Mr. E.W. Nyss of

---

[221] IOR/L/PS 20/B220/1 ("*Who's Who in Afghanistan*: 1914"), x, 45-46.

[222] Ibid., x, 54.

[223] NAI-FD/SEC/F February 1910 5 ("Return to India from Afghanistan of Dr. Saise, Mineralogist. Note by the Political Agent, Khyber, of an interview with Dr. Saise").

[224] IOR/L/PS 20/B220/1 ("*Who's Who in Afghanistan*: 1914"), 84.

[225] Ibid., 28.

Portuguese extraction and an Irish mother, he was at one time a Superintendent in the Comptroller-General's Office, Calcutta, and afterwards Assistant Accountant-General in Kashmir (about 1899). He embraced Islam in about 1900, after which he has been employed in the Afghan post office at Peshawar as an English scribe, drawing Rs. 25 monthly pay.[226] The phenomenon of European converts to Islam like Mr. Edward (Gul Muhammad), Mr. Nyss, and Shaykh ʿAbd al-Raḥmān raises complex issues of identity, citizenship, and jurisdiction. To whom did these individual bodies "belong", and which political entities did they represent in Kabul? These were issues that were already brewing to conflict between the British and Ottomans since the late ʿAbd al-Raḥmān era.[227] We now turn the continuation, and evolution, of these tensions into the Ḥabīb-Allāh era.

V
PAN-ISLAMISM MEETS THE GREAT GAME: OTTOMAN, AFGHAN, AND INDO-MUSLIM TRANSNATIONALISM DURING THE ḤABĪB-ALLĀH ERA

> Careful distinction should be drawn between tribesmen who are *boná fide* subjects of the Amir and Pathans or other tribesmen who live on the British side of the Durand agreement line: the latter are British subjects, or at any rate British protected subjects...[228]
>
> - Internal Memo, Foreign Department of the Government of India (1904)
>
> [S]hould a contentious case of an Afghan subject arise in the province, the Turkish authorities would, in their present temper, decline to admit the good offices of a British Consular Officer on his behalf, and that the Afghan subject's case would consequently be disposed of in the same manner as if he were a Turkish subject.[229]
>
> - Internal Memo, Foreign Department of the Government of India (1911)

Pan-Islamic Activism—and Apprehensions—Reach New Heights

We have discussed thus far the return of prominent Afghan exiles to Afghanistan, as well as the arrival of Ottoman nationals in Kabul following the "slightly open-door" policy of Amir Ḥabīb-Allāh Khan. A host of documents in the India Office Records in London, Indian National Archives in Delhi, and even Ottoman archives in Istanbul also illustrate the increasing traffic of Indians and Afghans between Kabul and major cities of India at roughly the same time. With the

---

[226] Ibid., 91.

[227] I explore these issues based on correspondence between the Porte and London in the Ottoman and British archives in a separate forthcoming article, "Adjudicating Afghans: Contested Citizenries and Jurisdictional Tussles in the Anglo-Ottoman Cold War over Afghanistan, 1880-1914."

[228] NAI-FD/EXTL/A July 1904 17-18 ("Extension of British protection in Turkish Arabia to Afghans and Pathans, subjects of the Amir of Afghanistan").

[229] NAI-FD/SEC/G June 1911 13-15 ("Status in the Ottoman Dominions of subjects of His Majesty the Amir of Afghanistan")

death of Amir ʿAbd al-Raḥmān and rise of Amir Ḥabīb-Allāh, the doors were slightly opened for Indians to come to Afghanistan in increasing numbers as well. Moreover, just as Turks made their way to Afghanistan, even more made their way to India, which was the main route to Afghanistan, even during the Hulusi Efendi mission in 1877-1878 (Russia controlled the northern route as well as much of the eastern border with Iran). Moreover, as also seen in the Hulusi Efendi mission to Kabul, the Sublime Porte largely viewed India and Afghanistan as contiguous entities, rather than completely separate or autonomous political zones, divided by natural or national boundaries. Ottoman maps of India and Afghanistan from the late nineteenth and early twentieth century speak to this differently imagined geography, distinct from British and even some Indian and Afghan conceptions which placed paramount emphasis on the Durand Line.[230]

For British Indian administrators wary of Ottoman encroachment on their western border, the problem of Indian Muslim traffic between Afghanistan and India has become an even more interminable headache. Indeed, one often overlooked aspect of the "Eastern Problem" by historiography focused on geopolitics in the Mediterranean was London's deepening fears over the strengthening of ties between the Ottoman Sultan-Caliph in Istanbul and the Muslims of the Indian Subcontinent. The British, along with Czarist Russia, ironically, also began to suspect Afghanistan was becoming at best a conduit and at worst a key meeting ground for anti-imperialist radicals, Pan-Islamists, and Bolsheviks from north Africa and the Balkans to Southeast Asia and Japan.

The rising British concern over Ottoman and Indian travelers to Afghanistan discussed in the last section should not be viewed in a historical vacuum. The concern was not over the individuals and their activities per se, but that it was in a context of rising anti-British sentiment in India and Afghanistan. What was more ominous was that such sentiment seemed to be taking the form of Pan-Islamism and political union of Muslim states, including those living under British rule. For example, an Ottoman archives document from 1906 discusses the impending travels to Istanbul of an Indian Muslim named Abdullah Suhrawardi Efendi of Calcutta, and the warm reception and hospitality he was to receive from the Ottoman government.[231] The reason for Mr. Abdullah's reception was his service "in defense of Islamic rights and the Ottoman Caliphate" ("hukuk-ı İslamiye ve hilafet-i Osmaniye müdafaa etmek üzere") through the means of various publications in Persian and English in India.

During the years of Ḥabīb-Allāh Khan was in power in Kabul, The British continued to exercise vigilance over increasing Pan-Islamic political movement and contacts between the Ottoman Turks, Indian Muslims, and Afghans, be it the political, economic, or cultural realms. An Ottoman archives document of 1904, for example, reports with the suspicion the arrival of British delegations to and from Afghanistan even in the realm of trade. It is as if Afghanistan had become a cold war battleground even in the quiet economic realm, with both industrialized

---

[230] One of the documents attesting to increased Ottoman knowledge about Afghanistan from these visits is a detailed map of Afghanistan in the Prime Ministry Ottoman Archives dated to August 25, 1912. The map includes Iran, India, and Baluchistan as separate countries. BOA-HRT.h 118 (1330 R 29) ("Mısır ve Suriye Haritası; haritanın sol tarafında İran, *Afghanistan,* Beluçistan ve Karadeniz Havzası ayrıca gösterilmiştir").

[231] BOA-BEO 2955/221596 (1324 L 16) ("Kalküta'da biri Farsça ve diğeri İngilizce olarak gazete neşr eden ve hukuk-ı İslamiye ve hilafet-i Osmaniyi müdafaa etmek üzere İngiliz matbuatında makaleler kaleme almış olan Hindli Abdullah Sühreverdi Efendi'nin Dersaadet'e geleceği ve kendisine gereken hürmet ve yardımın yapılması").

states anxious to market their goods to the key state that served as crucial gateway to reach India and Central Asia.[232]

Meanwhile, the Porte also continued—and in many respects intensified—their own intelligence gathering capabilities in the regions. In particular, Ottoman foreign intelligence officers continued to collect information on the conditions of Muslim minorities in their two greatest rivals: British India and Czarist Russia. One document in the Ottoman archives from 1907, for example, speaks of revolutionary activities in India ("Hindistan'da ihtilal hareketleri") and a peasants' revolt in Russia ("Rusya'da köylülerin isyanı").[233]

Educators, or Provocateurs? Pan-Islamic Journalism from Calcutta to Constantinople

Beyond an increasing number of clandestine visits by Ottomans to India and Afghanistan in this period, Indian Muslim journalism continued to be a boon to the Ottoman Pan-Islamic cause, and a thorn in the side of officials of British empire not only in India, but across the world, from Tokyo to San Francisco. Ottoman archives documents continue to report of Indian Muslim newspapers sympathetic to the Ottomans across India. A 1902 telegram in the Ottoman archives describes the initiation of the Lucknow-based *al-Bayan* newspaper.[234] Nor were reports solely about affairs in the Ottoman interest, in the strict sense of the term. In the same year (1902), the Ottoman archives report of the publication of a new newspaper, *The Muslim Chronicle*, in Calcutta, and how favorable this development was for the Indian Muslim community there.[235] But even here, strong Indo-Ottoman connections were praised, and how the newspaper had become a vehicle for continuing ties, affection, and mutual support during difficult times. The file contains a letter in English from the newspaper's director in Calcutta, to a Mr. Asghar Ali Efendi, Esq., of Pera, Istanbul, describing the efforts of the newspaper to extol Ottoman policies, defend the Sultan, and maintain strong Indo-Ottoman ties.

A Foreign Department External branch document of March 1904 how much great concern was caused by a single article among British intelligence circles. Published in Arabic on December 24, 1903, in the newspaper "Al-Moayyid," the author Muḥammad Munir-uz-Zaman, a member of the Educational Society in Bengal and writing "on behalf of the Indian Muslems", suggested that the Moslem Nation should join together in a common bond. The fact this section caused concern is revealing: while it is very pro-Turkish and Pan-Islamic in sentiment, it does so without being militant, and was more about building commercial and social ties. Yet, this also aroused the concern of British officials. In this document the author makes some bold proposals. He requests Urdu to be taught in Turkish colleges to facilitate communication between Indian Muslims and Turks, requests a Turkish merchant or industrialist come to Calcutta and set up shop so all the Muslims can buy from him and interact with him, while says Indian Muslims are

[232] BOA-Y.A.HUS 481/150 (1322 N 29) ("Hindistan Hükümeti tarafından ticari muamelenin terakkisi için Afganistan'a gönderilecek heyete dair Bombay Başşehbenderliği tahriratı").

[233] BOA-Y.PRK.TKM 50/14 (1325 R 26) ("Hindistan'da ihtilal hareketleri. Rusya'da köylülerin isyanı").

[234] BOA-Y.EE.KP 15/1485 (1320 S 8) ("Hindistan'da Lukno şehrinde neşredilen el-Beyan ismindeki risalenin idhaline ve neşrine meydan verilmemesi hakkında").

[235] BOA-Y.MTV 160/27 (1315 M 12) ("Kalküta'da yer sarsıntısı olduğuna ve İngiltere'de Oldham civarında mektebliler katarının yoldan çıktığına dair Paris'den Deraliyye'de Sabah Gazetesi'ne gönderilen telgrafın sureti").

very enchanted by Turks and are always falling their news though far away they be. The fact the writer, Muḥammad Munir-uz-Zaman, was an itinerant preacher from a village in Chittagong, Bengal, and published this section in Arabic in the "Al-Moayyid" newspaper provides another revealing layer of the dynamic, transnational, and cosmopolitan nature of these networks.[236] The full text of the article is transcribed in the Appendices (See Appendix E).

Given the increasingly aggressive outreach by the Ottomans ever since the late Hamidian period, however, perhaps it was not so far-fetched for Zaman to make such proposals after all. Ottoman records indicate they kept close account of Muslim sentiment in India and Afghanistan, including keeping articles from British newspapers on stirrings of Muslim unrest in these countries in particular, as well as Russia.[237] One document from 1907 speaks of revolutionary

[236] NAI-FD/EXTL/B March 1904 109 ("Article in the newspaper 'Al-Moayyid' written by Muḥammad Munir-uz-Zaman suggesting that the Moslem Nation should join together in a common bond").

[237] For example, see BOA-HR.SYS 5/19 (1912 06 14) ("Times gazetesinin Afganistan'da isyan çıktığı hakkındaki haberi"). Once again demonstrating Ottoman cosmopolitanism and deepening interest in Afghanistan at the same time, this was a French translation of an English article in the Times newspaper dated 13 June 1912 and submitted by a correspondent in the Ottoman Embassy in London, Tevfik Bey, to the Minister of Foreign Affairs in Istanbul Aasim Bey, on the breakout of a revolt in Afghanistan, entitled "La Révolte en Afghanistan: Le Prestige de l'Ameer est sur le decline." The article proceeds to describe Amir Ḥabīb-Allāh's apparent decline in prestige in Afghanistan, the simmering of a revolt in Khost province (foreshadowing what was to come nearly a decade later), and the increasingly prominent role of the Turks in Afghanistan. For a non-governmental Ottoman perspective from the exact same time period, note the following voluminous series of articles on Afghanistan in the Ottoman Turkish newspapers, *Takvim-i Vakayı* and *Sebîlürreşad*. "Afganistan bir seda." *Takvim-i Vakayı* 75/10 (1326 [1908]): 1; S.M. Tevfik, "Hayat-ı Akvam-ı İslamiye: Afganistan Müslümanları." *Sebîlürreşad* 17/1999(1912): 327-328; Tahir el-Mevlevi, "Tarih: Afganistan, Bedahşan'a Vürudum Esnasındaki Vakayi Sene 1298." *Sebîlürreşad* 23/205 (1912): 437-439; Afganizâde, "Afganistan." *Sebîlürreşad* 12/311 (1914): 430-431; Afganizâde, "Afganistan Bugünkü Mertebesine Nasıl Yükseldi?" *Sebîlürreşad* 13/313 (1914): 7-8; Afganizâde, "Afganistan Herhalde İngiltere Aleyhine Kıyam Edecektir." *Sebîlürreşad* 13/316 (1915): 28-29; Afganizâde, "Afganistan'ın Hindistanı İstilası Garibtir." *Sebîlürreşad* 13/315 (1915): 24; Afganizâde, "Afganistan Bütün Gavamizi Ahvale Vakıftır." *Sebîlürreşad* 13/320 (1915): 63. While Afganizâde, likely a pen name, appears to have taken an avid interest in the anti-British politics of many common Afghans, Tahir El-Mevlevi, on the other hand, appears to have taken a particular interest in state-building policies of the "Iron Amir", ʿAbd al-Raḥmān Khan, as evident in the following profuse list of articles contributed by him alone in the Islamic modernist journal, *Sebîlürreşad* from 1912-1913. See, Tahir el-Mevlevi, "Tarih: Afganistan, Emir ʿAbd al-Raḥmān Han." *Sebîlürreşad* 25/207 (1912): 482-483; Tahir el-Mevlevi, "Tarih: Afganistan, Emir ʿAbd al-Raḥmān Han." *Sebîlürreşad* 26/208 (1912): 498-499; Tahir el-Mevlevi, "Tarih: Afganistan, Emir ʿAbd al-Raḥmān Han." *Sebîlürreşad* 27/209 (1912): 9-10; Tahir el-Mevlevi, "Tarih: Afganistan, Emir ʿAbd al-Raḥmān Han." *Sebîlürreşad* 28/210 (1912): 27-28; Tahir el-Mevlevi, "Tarih: Afganistan, Emir ʿAbd al-Raḥmān Han." *Sebîlürreşad* 32/214 (1912): 110-112; Tahir el-Mevlevi, "Tarih: Afganistan, Emir ʿAbd al-Raḥmān Han." *Sebîlürreşad* 31/213 (1912): 84-86; Tahir el-Mevlevi, "Tarih: Afganistan, Emir ʿAbd al-Raḥmān Han." *Sebîlürreşad* 29/211 (1912): 47-48; Tahir el-Mevlevi, "Tarih: Afganistan, Emir ʿAbd al-Raḥmān Han." *Sebîlürreşad* 24/206 (1912): 462-463; Tahir el-Mevlevi, "Tarih: Afganistan, Emir ʿAbd al-Raḥmān Han." *Sebîlürreşad* 21/203 (1912): 402-403; Tahir el-Mevlevi, "Tarih: Afganistan, Emir ʿAbd al-Raḥmān Han." *Sebîlürreşad* 20/202 (1912): 382-383; Tahir el-Mevlevi, "Tarih: Afganistan, Emir ʿAbd al-Raḥmān Han." *Sebîlürreşad* 33/215 (1912): 127-128; Tahir el-Mevlevi, "Tarih: Afganistan, Emir ʿAbd al-Raḥmān Han." *Sebîlürreşad* 9/191 (1912): 160-161; Tahir el-Mevlevi, "Tarih: Afganistan, Emir ʿAbd al-Raḥmān Han." *Sebîlürreşad* 8/190(1912): 139; Tahir el-Mevlevi, "Tarih: Afganistan, Emir ʿAbd al-Raḥmān Han." *Sebîlürreşad* 7-189 (1912): 118-119; Tahir el-Mevlevi, "Tarih: Afganistan, Emir ʿAbd al-Raḥmān Han." *Sebîlürreşad* 2/184 (1912): 22-23; Tahir el-Mevlevi, "Tarih: Afganistan, Emir ʿAbd al-Raḥmān Han." *Sebîlürreşad* 5-187 (1912): 78-79; Tahir el-Mevlevi, "Tarih: Afganistan, Emir ʿAbd al-Raḥmān Han." *Sebîlürreşad* 19/201 (1912): 360-361; Tahir el-Mevlevi, "Tarih: Afganistan, Emir ʿAbd al-Raḥmān Han." *Sebîlürreşad* 18/200 (1912): 340; Tahir el-Mevlevi, "Tarih: Afganistan, Emir ʿAbd al-Raḥmān Han." *Sebîlürreşad* 13/195 (1912): 246-247; Tahir el-Mevlevi, "Tarih: Afganistan, Emir ʿAbd al-Raḥmān Han." *Sebîlürreşad* 14/196 (1912): 265-266; Tahir el-Mevlevi, "Tarih: Afganistan, Emir ʿAbd al-Raḥmān Han." *Sebîlürreşad* 11/193 (1912): 196-197; Tahir el-Mevlevi, "Tarih:

activities in India ("Hindistan'da ihtilal hareketleri") and a villagers' revolt in Russia ("Rusya'da köylülerin isyanı").[238] Even after the devastation of the first world war, and the locus of Turkish leadership moved to Ankara, late Ottoman records continued to monitor events in India and Afghanistan, especially along the volatile Info-Afghan frontier.[239] From a nineteenth century conservative political culture that was horrified by peasant uprisings and revolutions in France, to open embrace and even possibly stirring of rebellions in India and Central Asia, Ottoman political culture had transformed to a tremendous degree in the name of battling British and Russian intrigue and great game politics.[240]

Likely for the same reasons, a pair of thick files in the Ottoman archives contains detailed reports of newspapers from around the world, including Paris, Cairo, Vienna, Brussels, Bucharest, London, Berlin, Rome, New York, Boston, Geneva, Lyon, Lahore, Florence, Dresden, Studgard among other world cities.[241] Other files in the Ottoman archives contain

---

Afganistan, Emir ʿAbd al-Raḥmān Han." *Sebîlürreşad* 12/194 (1912): 223-224; Tahir el-Mevlevi, "Tarih: Afganistan, Emir ʿAbd al-Raḥmān Han." *Sebîlürreşad* 13/195 (1912): 239-240; Tahir el-Mevlevi, "Tarih: Afganistan, Emir ʿAbd al-Raḥmān Han." *Sebîlürreşad* 15/197 (1912): 281-282; Tahir el-Mevlevi, "Tarih: Afganistan, Emir ʿAbd al-Raḥmān Han." *Sebîlürreşad* 16/198 (1912): 303; Tahir el-Mevlevi, "Tarih: Afganistan, Emir ʿAbd al-Raḥmān Han, Herat'ın Afganistan Hükümetine İlhakı." *Sebîlürreşad* 45/227 (1912): 335-336; Tahir el-Mevlevi, "Tarih: Afganistan, Emir ʿAbd al-Raḥmān Han." *Sebîlürreşad* 10/241(1913): 116. Notably, *Sebîlürreşad* was also a paper to which the Afghan intellectual, journalist, and statesman Maḥmūd Ṭarzī occasionally contributed articles to. See, for example, Maḥmūd Ṭarzī, "Idare-i Sıraci'l Ahbar-ı Afganiye." *Sebîlürreşad* 11/275 (1914): 279.

[238] BOA-Y.PRK.TKM 50/14 (1325 R 26) ("Hindistan'da ihtilal hareketleri. Rusya'da köylülerin isyanı").

[239] Note, for example, the following reports in the archives of Institute for the History of the Turkish Revolution in Ankara on developments in Afghanistan and India. They include reports of anti-British mobilization from a diverse cast of Muslims and even non-Muslims—from tribes in Baluchistan in Baluchistan to Hindus in India—beginning in 1918. TİTE 1015/18/14 (31/02/1336) ("Afganlıların Türkistanla müttefik olarak İngilizlere karşı harbe girdiklerini; İngilizlerin, İran hükümetini elegeçirdiklerini, İran ordusunda bir çok İngiliz subayının bulunduğunu bildiren istihbarat raporu"); TİTE 915/19/111 (10/02/1336) ("Afganistan'ın Hindistan hududuna asker yığdığını") ;TİTE 1067/28/35 (25/06/1336) ("Afgan emirinin eski Afgan Emir Ḥabīb-Allāh'ın ölüm yıldönümü nedeniyle yaptığı nutukta Osmanlı İmparatorluğu için Avrupalı devletlerin izlemiş oldukları imha siyasetine değinerek, Afgan dostluğundan bahsettiğini; Hindistan'da hilafenin devletin parçalanması ve baskı altına alınmasından dolayı hasıl olan heyecanın manalı bir renk alarak azalardan Ḥasan Efendi'nin protesto makamından istifa ettiğini; Hindistan hilafet heyeti murahhaslarından Mehmed Ali Sayyid Süleyman Medrui Ebu'l Kayyım imzasıyla Paris'te yazılıp zat-ı şahaneye gönderilen bir mektupta bütün Müslümanların hilafet için ellerinden geleni yapacaklarını söylediğini"); TİTE 865/31/18 (20/04/1336) ("Bülüçistan ve Kabilelerinin Afganistan ile birlikte İngilizlere harp ilan ettikleri, Afganlıların Hindistan dahilinde ilerledikleri ve zor durumda kalan İngilizlere Hintlilerle birlikte bulundukları teklifler; Gayrimüslim Hintlilerin Müslüman Hintlilerle birlikte Hindistan'ın istiklal için birleştikleri"). While we will return to this theme in the next chapter, it suffices to say that such developments were born with the ascent of Amān-Allāh Khan, but had roots during the late Ḥabīb-Allāh era, as seen in these late Ottoman archival records from Ankara.

[240] Thanks to Huricihan İslamoğlu for her insights here on nineteenth century political culture of the Ottoman state, particularly the anti-revolutionary aspects shared with the coservative monarchies of Europe.

[241] BOA-DH.MKT 661/30 (1320 Z 4) ("Paris, Kahire, Viyana, Brüksel, Londra, Lahor, Berlin, Budapeşte, Bükreş, Roma, Mısır, New York, Boston ve İsviçre'de neşredilen bazı gazetelerin iligili nüshalarının memlekete idhali men' edildiğinden ilgilerce gereğinin yapılması") and BOA-DH.MKT 683/9 (1321 M 11) ("Paris, Londra, Lyon, Lahor, Brüksel, Roma, Floransa, Bükres, Viyana, Karlsruhe, Niş, Mısır, Budapeşte, Dresden, Studgard ve sair yerlerde neşredilen gazetelerden bazılarının, muzır neşriyatlı nüshalarının Devlet-i Aliyye sınırları içine girmesine meydan verilmemesi"). A file from 1901 contains an even larger list of world newspapers, with detailed descriptions of their place of publication, schedule of circulation, chief editor, and date of establishment. BOA-

clippings of articles from foreign newspapers in Cairo, Alexandria, Tehran, and Tunisia.[242] The Ottoman government also had other reasons to be interested in global newspapers—they were not the only one reading them. The files also proceed to describe the procedures for screening and/or prohibiting the import of newspapers from a number of world cities.

Indo-Ottoman ties appear to have only strengthened during the early years of the twentieth century. As an illustrious example, when Sultan Abdülhamid narrowly escaped from a fire at Yıldız Palace, Indian Muslims responded with prayers and salutations for his health for his "miraculous escape" from what would have otherwise constituted a "universal calamity."[243] The Ottoman archives document from 1906 contains a translation into Turkish of prayers made by Muslims of Hayderabad for the Sultan, thanking God for his delivery, and supplicating for protection "from the plots and intrigues of his enemies."[244]

As political as they were sentimental, references to the Ottomans and Turks as "elder brothers" were exemplified in action when a number of Indian Muslims began sending their children to Istanbul for advanced studies, and as far as our documentary records shows, Istanbul received them well. For example, a Foreign Department External branch file of July 1911 entitled, "Request made by the Young Moslem Association of Bengal to the Turkish Government for the free education of Indian Moslem Children at Constantinople", beyond the self-explanatory title, illustrates increasing *institutional* ties between Indian Muslims and the Ottomans.[245] Similarly, a Foreign Department External branch file of May 1911, self-explanatorily entitled, "Proposal to educate and board Indian Moslem children free at Constantinople, to send special officials to collect subscriptions for the Ḥijāz railway, to place Turkish wares on Indian markets and to send the Young Moslems Association of Bengal a host of addresses of Moslem merchants and a Newspaper published by a Moslem" reveals another example of increasing institutional ties in the educational realm.[246]

Y.PRK.DH 11/94 (1319 C 25) ("Ecnebi matbuattan muhtelif gazette ve risalelerin isimleri ve bunların basıldıkları yerler").

[242] BOA-ZB 590/96 (1322 H 05) ("Mısır, İskenderiye ve Kalküta'da basılan muhtelif gazetelerin berlirtilen nüshalarının ülkeye sokulmaması") and BOA-ZB 597/39 (1323 T 14) (Mısır, Londra, Tanca, Tahran, Kalküta ve Tunus'ta çıkan bazı gazetelerin belirtilen nüshalarının yurda sokulmaması").

[243] BOA-Y.PRK.AZJ 51/72 (1323 Z 29) ("Haydarabad Müslümanları'nın padişaha dua ettikleri").

[244] Ibid.

[245] NAI-FD/EXTL/B July 1911 510-513 ("Request made by the Young Moslem Association of Bengal to the Turkish Government for the free education of Indian Moslem Children at Constantinople etc.").

[246] NAI-FD/EXTL/B May 1911 189 ("Proposal to educate and board Indian Moslem children free at Constantinople, to send special officials to collect subscriptions for the Hedjaz railway, to place Turkish wares on Indian markets and to send the Young Moslems Association of Bengal a host of addresses of Moslem merchants and a Newspaper published by a Moslem"). The Ḥijāz Railway was not only one of Sultan Abdülhamid's most successful large-scale industrial projects; being largely funded from subscriptions of Muslims throughout the empire, and as far as India, it was a Pan-Islamic cause par excellence. For an in-depth study of the Pan-Islamic nature of the Ḥijāz railway—a line that symbolically connected Istanbul's historic Haydarpaşa railway station with the line's last stop in Madīna, just a few blocks from the Prophet's mosque, see Hülagü, M. Metin, *The Ḥijāz Railway: Construction of a New Hope*. New York: Blue Dome, 2010. For a sample of records in the Prime Ministry Ottoman Archives attesting to the widescale nature of donations to the project, see BOA-BEO 1867/140022 (1320 Ra 09) ("Hindistan'da Haydarabad ahalisinden olan dört zata ihsan buyrulan Hicaz Demiryolu madalyalarının leffen irsal kılındığı"); BOA-DH.MKT 2525/86 (1319 Ca 8) ("Lahor'da Pelise İhbar Gazetesi'nin Hicaz demiryolları için açtığı iane kampanyasında toplanıp gönderilen miktarın komisyona teslimi ve ilmuhaberinin

While reports of young Indian Muslims traveling to Turkey may have raised eyebrows among some British officials in Calcutta, Constantinople, and London, far more disturbing to British administrators was the movement of Ottoman military officers in Afghanistan and the frontier region of India. The fact several of these expeditions were unannounced and therefore interpreted to have been of a clandestine nature was especially perturbing for British officials. For example, the following secret Foreign Department file from March 1910 entitled "Alleged connection between the 'Young Turkey' movement and Indian Mussalmans" reveals intensifying connections between Indian Muslims and Ottomans that transcended the persona of the "Crimson Sultan" Abdülhamid II, and speak to the formation of broader-based binational and institutional ties. To speak of Pan-Islamism as a Hamidian phenomena, therefore, is inaccurate. Rather, as British intelligence officials were themselves becoming rapidly aware, Pan-Islamic activity thrived well after the deposing of Sultan Abdülhamid and the Young Turk revolution. What is more, British Indian archival records attest to the Crown's increasing anxieties over Young Turk activity—in a fusion of Pan-Islamic and Pan-Turkic agendas—from Libya to Afghanistan.

For example, in a September 26, 1909 note to Sir E. Grey, Sir G. Lowther reports that two Turkish missions left to visit "Muhammadans in the East" in April 1909, immediately prior to the removal of Abdülhamid II from power. "The first Mission was on behalf of Sultan Abdülhamid and was sent out by Shaykh Abū al-Huda, the Rafai leader of Constantinople."[247] Lowther proceeds to report that the mission arrived in India in March 1909, with a covert arrival in Bengal, but never appears to have been active, most probably due to the dramatic fall of Abdülhamid from power at Istanbul following the Young Turk revolution. The second Mission belonged to the "Young Turk" party, and it Lowether reports it was suspected to visit China before coming to India. "A watch is kept for it, but it does not appear to have arrived in this country," Lowther concluded.[248] In addition to illustrating the increasing frequency of Indo-Ottoman delegations and secret missions in both directions, these documents also demonstrate heightened British concern that such activities were no longer isolated incidents of the sultan's agents, but rather a nexus of institutions combining efforts under more ominous, long-term designs.

Following the deposing of Sultan Abdülhamid II in April 1909, British Raj officials were, and expecting, a negative Indian Muslim reaction. British Authorities in India even prepared for possible protests against the Young Turk regime by Indian Muslims, an event that was probably seen as advantageous to British interests. But the result was largely tepid, with it soon falling in the background. This led some British officials to conclude Pan-Islamism was on the wane. For example, in a September 26, 1909 note to Sir E. Grey, Sir G. Lowther reports that,

---

ve iane biletlerinin de gazeteye gönderilmesi"; BOA-İ.TAL 275/1319 Z-197 (1319 Z 14) ("Hindistan Haydarabad'da yardımda bulunan zevata Hamidiye Hicaz Demiryolu Madalyası verilmesi"). Roughly eight years later and near the completion of the project, the Ottoman government awarded a similar medal to a Sheja'ullah Khan of Hayderabad, for his contributions to the Railway. BOA-İ.TAL 467/1328 Ş-30 (1329 Ca 21) ("Hindistan Haydarabad şehrinde cumadar Şecaullah Han Sahib'e Hicaz Demiryolu nikel madalya verilmesi").

[247] NAI-FD/SEC/E March 1910 579-580 ("Alleged connection between the 'Young Turkey' movement and Indian Musalmans").

[248] Ibid.

> It was only from the United Provinces that reports were received regarding the general feeling among Muhammadans about the deposition of Abdülhamid and from these it would appear that, where any interest was excited, the local Muhammadans sympathised with ex-Sultan in his downfall. . . It may be said that the occurrences at Constantinople attracted comparatively little attention amongst Indian Muhammadans and , where they were concerned, the balance of opinion was in favour of the ex-Sultan and against the Young Turk party, but interest in the matter soon died down."[249]

Notably a note in the margins highlights a different situation on the Indo-Afghan frontier. On the deposing of Abdülhamid, S.H. Butler writes, "Feeling was intense at the time on the frontier. The people could talk of nothing else."[250] What led to this significant increase in Pan-Islamic activism and sentiment across the Ottoman empire, India, and Afghanistan during this period? We now turn to historicizing this development by discussing some of the key turning point events and trends during the Ḥabīb-Allāh era.

Internal Catalyst: The Ḥijāz Railway

One of the greatest vehicles, pun intended, of Sultan Abdülhamid's Pan-Islamic campaign was the construction of the Ḥijāz railway linking Istanbul's Hayderpaşa station to the holy city of Madīna.[251] The railway line was completed in 1908, though the events of World War I disrupted the extension to Mecca. Beyond the symbolism of the railway, linking Istanbul to the interior cities of Syria and the holy cities of Jerusalem, Madīna, and Mecca, the project was phenomenal in that it was completed without debt, and a large part came from the donations of ordinary people. What is more, scores of documents in the Ottoman and British Indian archives attest to Indian Muslims playing a considerable role in organizing funds for the project, thereby illustrating the Porte's ability to tap into Pan-Islamic reservoirs abroad through the vehicles of modern finance and industrial expansion. This was Namıl Kemal's dream of Muslim modernism at work. For example, one document in the Ottoman archives from 1902 describes the extremely successful fundraising campaigns carried out in Hyderabad, India, and the Ottomans rewarding four individuals in particular with medals for their outstanding services to the project.[252] Another Ottoman archives document from 1901 describes the activities of Indian Muslims in Lahore, including journalists of the *Pelise İhbar* magazine, making a vigorous campaign to fundraise for the Ḥijāz Railway cause.[253] Similarly, an Ottoman archives document from March 1902 describes the Ottoman government awarding medals to a number of key

---

[249] Ibid.

[250] NAI-FD/SEC/E March 1910 579-580 ("Alleged connection between the 'Young Turkey' movement and Indian Musalmans").

[251] M. Metin Hülagü, *The Ḥijāz Railway: Construction of a New Hope* (New York: Blue Dome, 2010).

[252] BOA-BEO 1867/140022 (1320 Ra 09) ("Hindistan'da Haydarabad ahalisinden olan dört zata ihsan buyrulan Hicaz Demiryolu madalyalarının leffen irsal kılındığı").

[253] BOA-DH.MKT 2525/86 (1319 Ca 8) ("Lahor'da Pelise İhbar Gazetesi'nin Hicaz demiryolları için açtığı iane kampanyasında toplanıp gönderilen miktarın komisyona teslimi ve ilmuhaberinin ve iane biletlerinin de gazeteye gönderilmesi").

individuals in Hayderabad, India, for their outstanding efforts in support of the Ḥijāz Railway.[254] A number of documents describe medals and honors to Indian Muslims to the same effect until the completion of the project.[255]

In this way, from both Indian and Ottoman domains and in both directions, Pan-Islamism was alive and present in India from the visit of Hulusi effendi to India in 1877-1878 to the construction of the Ḥijāz Railway in the early twentieth century. Far from being static, however, the ties between Afghans and Indians with the Ottomans empire had evolved from contacts between high-profile individuals like Sultan Abdülhamid and his envoy, Ahmed Hulusi Efendi, to stronger *institutional* ties. The latter were painstakingly built, represented, and constantly reproduced through humanitarian and philanthropic organizations like the Ottoman Red Crescent Society and scores of Indian *anjumāns;* educational institutions like the *Harbiye* academies of Baghdad, Damascus, Istanbul, and even Kabul; and the Indo-Muslim colleges of the Dār al-ʿUlūm at Deoband and Anglo-Oriental Muhammadan College at Aligarh.

Still, we must be careful to not overstate the role of Pan-Islamism as an international political force at this time, in the sense that it *not* represent an attempt to form a radical new *pax Islamica* which would overthrow British sovereignty over India, and Russian spheres of influence in Central Asia, for example. In that sense, Pan-Islamism as a political movement was still a diffuse, dormant and overall negligible force in that it did not force the hand of the British to significantly alter their policies vis-à-vis the Porte. This would begin to change with the Ottoman-Italian war of 1911-1912 and, irreversibly, with World War I.

External Catalyst: The Italo-Turkish War of 1911-1912 and a Swell of Pan-Islamic Public Opinion

A secret document from the India Office Records on the Turco-Italian war from 1911 includes a large number of telegrams and correspondence from Indian Muslims petitioning the British government to intervene on behalf of the Ottomans. These letters are filled with passionate language, including addresses to the British Crown as "our beloved Emperor greatest musulman monarch" following by expressions of outrage at Italian transgression against the Ottoman Sultan and Caliph of the Muslims. A sampling of selected letters include a copy of a letter from the London All-India Muslim League to Under Secretary of State, Foreign Office. [256]

---

[254] BOA-İ.TAL 275/1319 Z-197 (1319 Z 14) ("Hindistan Haydarabad'da yardımda bulunan zevata Hamidiye Hicaz Demiryolu Madalyası verilmesi").

[255] For example, roughly eight years later and near the completion of the project, the Ottoman government awarded a similar medal to a Sheja'ullah Khan of Hayderabad, for his contributions to the Railway. BOA-İ.TAL 467/1328 Ş-30 (1329 Ca 21) ("Hindistan Haydarabad şehrinde cumadar Şecaullah Han Sahib'e Hicaz Demiryolu nikel madalya verilmesi").

[256] IOR-L/PS 10/196 ("Turco-Italian War of 1911: Political and Secret Department Correspondence: P4327-3/11, Turco-Italian War: Moslem Representations; P4327-2/11, Turco-Italian War: Turkish Propaganda"), 89-91. For a brief and representative sample from 1911, note the following telegram dispatched by a local Indian Muslim organization to the British Secretary of State for India at the height of the Italo-Ottoman conflict in Libya,

> To the Secretary of State for India:
>
> Directors of Juma mosque of Bombay on behalf of mahomedan Community of bombay Earnestly appeal to you as the head of His majesty's brittanic government to extend the strong arm of support of the formidable might of the puissant british empire to our sacred khalifa the sultan of Turkey against the most unrighteous

Writing from Queen Anne's Chambers at Westminister, on May 10, 1912, the entire letter is transcribed in the Appendices (See Appendix I).[257]

Beyond letters and petitions, thousands of Muslims across major Indian cities took to the streets to make their sentiments known in public demonstrations and protests. A telegram to the Foreign Minister, London, from British intelligence dated October, 7, 1911, discusses a protest of Lahore Muslims beseeching their "beloved Emperor greatest musulman monarch" to exercise his "transcendent British influence" and "thwart unprovoked aggression of Italy," in a petition authored by Muḥammad ʿAlī Khan "Kazilbash", President of the "Lahore Musulmans."[258] Similarly, a telegram to the Foreign Secretary, London, dated October 9, 1911, and signed by an Indian Muslim barrister named Mirayab Khan lambasts Italy's "unjust" invasion and occupation of Tripoli, an act of aggression "condemned by Musalmans who pray King's immediate intervention."[259] The fact an Indian Muslim attorney authored this written protest should not surprise us. Time and again Indian Muslim lawyers and other juridical personnel would use their fluency in English and British law to engage and support the burgeoning Pan-Islamic movement in the early decades of the twentieth century not only in India, but even in England itself (as we will see in the Khilāfat movement in Chapter 5).

Meanwhile, the British Indian government, as they had since the 1880s, continued to track the arrival and departure of Ottoman subjects to India and Afghanistan, but now with increasing vigor and caution. Government files from the India Office such as "On Suspected Turkish Missions to Afghanistan, 1911,"[260] "Turco-Italian Wars. Alleged Young Turk mission to stir up trouble on the Indian frontier,"[261] and yet another, "Turco-Italian War: Feeling in Afghanistan,"[262] all trace the burgeoning transnational communications and movement between the Ottoman authorities in Constantinople, Damascus, and Baghdad, with Muslim subjects in India, as well as the Afghan government in Kabul. On January 16, 1912, the following confidential letter from British Minister Sir E. Grey Bart, written in Istanbul, reads,

> [O]n the subject of the state of feeling prevailing in Afghanistan with regard to the Turco-Italian war, it may be of interest to you to know that reports have recently reached me from a secret

---

> and wicked war initiated and declared by Italy against the Holy Ottoman empire Leading to the unwarranted disturbance of international peace and pray that the British government as the true champion of Justice and Liberty and the acknowledged friend of The New Turkish Constitutional Regime will staunchly stand by its Historic ally.
>
> (Signed)
>
> Kazi Sharif Mahomed Saleh Bombay Resident, Board of Directors of Juma Mosque And Kazi of Bombay.

Ibid.

[257] Ibid., 94-97.

[258] Ibid., 132.

[259] Ibid., 133.

[260] Ibid.

[261] Ibid., 147.

[262] Ibid., 146.

> native source here, the value of which I am, however, unable to gauge accurately, to the effect that certain quarters in Constantinople, presumable Young Turkish, are sending emissaries to Afghanistan with a view to making trouble among the Afridi and Rukzai [Orakzai] tribes, with the support, if possible, of the Amir. . . The object is said to be to induce England in this way to take up a favourable attitude towards Turkey in her present difficulties.[263]

Similarly, in a letter from Kabul dated November 12, 1911, Malik Talib Mehdi Khan, the British Agent at Kabul, reports on the cinderblock quality of the conflict in Italy. He takes particular note of the potential for the Porte to exploit anti-British anger in Indian and Afghanistan at the Crown's seemingly duplicitous stance, which even the Afghan Amir was reported to be displeased with.

> I reported in my last two diaries the feelings of the public here about the Italo-Turkish war. The Muhammadans are all angry with the British Government. His Majesty the Amir is also sorry over its attitude with regard to the passage of Turkish troops through Egypt. He thinks that the said Government is at the bottom of the conflict and that, if the passage is not allowed, he shall be convinced of it. Outwardly he has assumed an attitude of equanimity, but inwardly is much afflicted and watches the development of events very keenly. The sketch map of the seat of war, which was submitted with my last diary, was designed to serve the purpose of showing the progress of events and to create sympathy with the Turks and enmity towards the British Government.[264]

Though the report was later denied in a letter to Sir F.A. Hirtzel, K.C.V, Secretary, Political Department, India Office, London, in a confidential letter of November 16, 1911, the report itself illustrates the British concern and paranoia over even the idea of it.[265] In an even more surprising act of collaboration against the Pan-Islamic "threat", the following letter reveals Russian and British collaboration over the issue of Pan-Islamism. It is also possible the Russians were simply playing up the threat so as to busy the British, to endear themselves to London, or to feign friendship at that particular moment. The letter of British official and attorney J. O'Beirne, Esq, from the Foreign Office provides an intriguing example of how Russian officials shared information concerning a possible Pan-Islamic conspiracy being hatched in Kabul.[266]

The following secret Foreign Department document of June 1912 entitled "Communication from the Ulemas of Madras respecting the application of the Neutrality provisions in Egypt during the Turco-Italian War" contains a letter of Indian ʿulamāʾ writing in protest of what they saw as the unjust stance prejudicing the Ottomans in the Italo-Turkish war. Writing from Royapettah, Madras, on April 4, 1912, the succinct but nonetheless sharply-worded letter, supplemented with carefully selected extracts from Egyptian newspapers and signed by a certain "Bhuharuddin Ahmed", reads,

> My Lord,

---

[263] Ibid., 148-149.

[264] Ibid., 151

[265] Ibid., 153.

[266] Ibid., 156, 160.

> We the Ulemas of Madras beg to bring the following extracts from Egyptian papers to Your Lordship's notice for favour of necessary action:--
> The prohibition of the passage of Turkish volunteers through Egypt, and the non-prohibition of the supply of provisions to the Italian forces from the same country though it is recognized to be under Turkish suzerainty, is a cause of deep regret to the Moslem world as well as one of grave insult to the rights of the Kaliphate.[267]

In response, Louis Mallet of the Foreign Office suggested the following terse, cold, and oblivious reply to the Undersecretary of State, India Office, on May 2, 1912, "a reply should be addressed to the Ulemas from your Department to the effect that they are mistaken in supposing that the two belligerents have been treated with anything but absolute impartiality in Egypt."[268] Other documents speak to a more aggressive form of support for the Ottomans. This was especially the case with Indian and Afghan volunteers who made their way, or tried, to the actual war front. Needless to say, Pan-Islamic militancy was textbook troubling for British officials in India, even if the enemy was not them. It was the thought of it spiraling out of control that especially troubled colonial officials. The following Foreign Department External branch document of April 1913 entitled "Movements of the Afghan volunteers for service with Turkey during the Turko-Balkan War," signifies that this was not just an imagined fear, but actually took place. On October 19, 1912, the British Vice-Consul Hough at Jaffa wrote to British Consul McGregor at Jerusalem,

> I have the honour to report, as a fact of some interest, that seventy-three Afghans have left for the scene of operations as volunteers. These Afghans are largely of British Indian nationality, but only a small proportion of them are registered in this Vice-Consulate. Among the present batch there were three who had British papers, though one named Muḥammad Jan became an Ottoman subject just before leaving. These Afghans form a turbulent element of the population, and live for the most part by blackmailing owners of orange gardens to appoint them as watchers. An owner who preferred his own nominee would probably find his trees cut down. . . Their entirely unregretted departure is interesting in view of the efforts that are being made by a few mischievous fanatics to make the present war appear as a Jehad.[269]

The above contingent of Afghan volunteers traveling to join the Ottoman war arose in the context of the Balkan wars of 1911-1912.[270] As we can imagine, this is a phenomenon that

---

[267] NAI-FD/SEC/G June 1912 2-3 ("Communication from the Ulemas of Madras respecting the application of the Neutrality provisions in Egypt during the Turco-Italian War").

[268] Ibid.

[269] NAI-FD/EXTL/B April 1913 301-302 ("Movements of the Afghan volunteers for service with Turkey during the Turko-Balkan War").

[270] Interestingly, the previous report appears to conflict with the intelligence reports of the British Agent in Kabul in 1909, just a few years earlier, where he writes,

> The Afghan public know nothing about the Balkan crisis and are quite ignorant of the state of affairs in Turkey. The Turks in Kabul are, of course, in correspondence with their friends in Constantinople; and they informed the Amir and Sardār Nasrulla Khan of whatever news they receive from Turkey. They have arranged for their letters to be sent to them through Dost Muḥammad Khan, the Amir's Agent at Karachi, who arranges for their despatch to Kabul through the Afghan Post Master at Peshawar. It is not known what effect the attitude of the British Government towards Turkey in the present Balkan crisis has had on the Amir.

would only intensify with the onset of the great war. And yet, as it would turn out, the British had less to worry about Indians and Afghans joining with Ottoman forces, though this was a concern. Rather, a bigger concern was the reality that the Ottomans and Germans had already sent a secret delegation to Kabul with one sole mission: to convince the Afghan Amir to join the Central Powers and invade India. We will return to this mission in the next section. Beforehand, however, we turn to another area of Pan-Islamic activism in the non-military field.

The Ottoman Red Crescent Society: Pan-Islamic Humanitarianism in Full Throttle

In addition to the Ḥijāz Railway, another major vehicle for Pan-Islamic solidarity and activities with even older roots was the *Osmanlı Hilal-i Ahmer Cemeyeti*, or Ottoman Red Crescent Society. Founded during the Crimean War as one of the world's first international humanitarian organizations, the organization served as a key means for Indian Muslims to demonstrate support for the Ottoman Sultan-Caliph through concrete means. The Ottoman archives contain a trove of documents pertaining to the activities of the Society, including its vigorous presence and history among the Muslims of India, particularly with its branches in the cities of Lahore, Delhi, Calcutta, and Hayderabad, but also smaller and crucial north Indian *qasbas* like Deoband.[271] A large number of files are especially covered in the 1911-1913 years of the *Hariciye Nezareti Tercüme Odası* files in the Prime Ministry Ottoman Archives in Istanbul. The richest "gold mine" of documents pertaining to the organization's transnational activities, however, rests in the newly opened Türk Kızılayı Arşivi (Turkish Red Crescent Society Archive) in Ankara.

As discussed in Chapter 3, the primary vehicle for Indian Muslim and Afghan participation in raising funds for the Ottoman relief cause from the last quarter of the nineteenth century until the end of the empire was the Ottoman Red Crescent Society (*Hilal-i Ahmer Cemiyeti* as it was originally known in Ottoman Turkish), or *Türk Kızılayı Derneği* as the successor organization is known by in Turkey today.[272] Founded in 1868 as an affiliate of the

---

NAI-FD/SEC/F Feb 1909 8 ("News regarding affairs in Afghanistan") (2-3). Such variant portrayals of "Afghan" public opinion can be explained by the dramatic intensification of events in the Balkans over the subsequent tqo years, but also just as conceivably, the many contradictions in reporting by British intelligence sources, as well as the extremely different social conditions between urban centers like Kabul, Qandahar, Herat, and Jalalabad, and the Indo-Afghan tribal frontier.

[271] BOA-HR.TO 544/48 (1913 03 12) ("Hindistan'ın Diyobend şehrindeki Hilal-i Ahmer Cemiyeti'nin gönderdiği paranın sadrazama verilmek üzere Osmanlı Bankası'na geldiğinin haber verilmesi talebi"). Intriguingly, this document is one of the only references to the city of Deoband. The document refers the presence of a Red Crescent Society branch and the Muslims of Deoband—presumably linked to the Dār al-ʿUlūm Deoband madrasa—sending money for the Ottoman relief cause in coordination with the Ottoman Bank. Evidence of donations sent to the Ottomans by the Dār al-ʿUlūm at Deoband can also be found in the Turkish Red Crescent Society's newly opened archive in Ankara. See, for example, TKA 231/63 (19 04 1913) ("Deoband Daki Darül-Aloumi Üniversitesinin talimatıyla açılan kredi, Rıfat Bey adına yatan para ve Dr. Bahaddin Şakie ait fatura hakkında").

[272] Reflecting the epistemological and political ruptures (but also continuities) from Ottoman to Republican Turkey during the late nineteenth to mid-twentieth centuries, the organization had no less than five official name changes in less than a century. What is even more remarkable is, considering the translation from Ottoman and modern Turkish to English, with the exception of one instance the meaning hardly changed. On June 11, 1868, the organization was founded as the "Osmanlı Yaralı ve Hasta Askerlere Yardım Cemiyeti", or the Ottoman Aid Society for Injured and Ill Soldiers. In 1877, reflecting its broadened scope and embrace of various forms of relief work in war and peace time as well as its ties with the International Red Cross, the organization became the "Osmanlı Hilal-i Ahmer Cemiyeti", or Ottoman Red Crescent Society. In the 1923, not surprisingly, the name was officially changed

International Conference of National Aid Societies for the Nursing of the War Wounded of 1867 (later International Committee for the Red Cross, or ICRC), the Red Crescent Society is most commonly remembered even today as the Islamic world's partner organization to the International Red Cross. Beginning in the Russo-Ottoman War of 1877-1878, but culminating in the 1912-1913 Balkan war, the first World War, and Turkish war of Independence, the Red Crescent Society was a major vehicle for coordinating projects of Indo-Ottoman collaboration in the humanitarian and financial field.

Until recent years, however, most sources on the Ottoman Red Crescent society were limited to British sources, or the Ottoman central archives in Istanbul, rather than the records of the organization itself. The Ottoman Red Crescent Society's recently opened archive in Ankara contains a voluminous cache of documents attesting to concrete connections such as fundraising and even the dispatch of Indian Muslim doctors to the war front. These were two means of support which British Indian wartime officials were somewhat less keen, or less successful, in preventing Indian Muslims from pursuing without having their loyalty to the British crown called to question (in comparison to volunteers seeking to join the Ottoman war effort, at least).[273] Such contributions indicate that for many Indian Muslims, Pan-Islamism and pro-

---

to "Türkiye Hilal-i Ahmer Cemiyeti", or Turkish Red Crescent Society, still using Ottoman Turkish parlance for the society's name, however. In 1935, less than a decade after the change to Latin script and the expungement of Arabic and Persian vocabulary from the language (an impossible endeavor, we might note), the new name became "Türkiye Kızılay Cemiyeti", replacing the Arabo-Persian compound noun (izāfe) construction "Hilal-i Ahmer" with the Turkish compound noun, "Kızılayı"; the imparted meaning of "Red Crescent" being identical in both. Finally, in 1947, the last Ottoman remnance of the name, "Cemiyeti", or organization.society, was changed to the Turkish "Dernek", once again, identical in English translation, but seen by Turkish Language Reform officials to have more "secular" and ethnically "Turk" credentials given the Arabic-Islamic undertones retroactively hoisted on the word "Cemiyet." For a chronology of the organization, see the official website (kurumsal) of the Turkish Red Crescent Society, specifically "Our History" (Tarihçemiz), at http://arsiv.kizilay.org.tr/.

[273] To give an indication of the voluminous examples of Indian and Afghan donations to Ottoman relief causes vis-à-vis the Red Crescent Society during the first two decades of the twentieth century and the reign of Amir Ḥabīb-Allāh Khan, the following are the list of documents I was able to peruse through, each illustrating Indo-Ottoman and Turco-Afghan connections in the humanitarian field, at this new and vastly underused archive. TKA 314/9 (Mart.1330) ("Hindistan da Ağra Beldesi sakinlerinden Abdulcelil namı tarafından yapılan yardım ve makbuzunun gönderilmesine ilişkin belge") ; TKA 99/134 (17.Eki.12) ("Hindistan - Karaçi deki müslümanların savaş nedeniyle HA ya yaptıkları bağış hk") TKA 99/121 (11.Eylül.1328) ("Hindistan dan adları ekte verlen zatlar tarafından HAC a yapılan yardım hk"); TKA 99/66 ("Hindistan da Lukuf Şehrindeki HAC Başkatibi Ḥasan Bey tarafından toplanan para hk.") 19.Mayıs.1328; TKA 99/63 ("Hindistan ın Ağtumker Şehri nde Mehmet Ali namı zat tarafından HAC a yapılan yardım hk.") 19.Mayıs.1328; TKA 99/47 ("Hindistan HAC Bombay şubesi namına İbrahim Kerim Bey tarafından Trablusgarp taki yaralılar için toplanan yardım hk.") 1.Mayıs.1328; TKA 99/4 ("Hindistan dan gönderilen yardım hk.") 3.Mart.1328; TKA 94/33 ("Hindistan dan yapılan yardımlar hakkında") 21.TE.1912, TKA 282/60 ((From Hindistan Gadar Ofisi to OHAC: "Savaş yaralıları için gönderilen 210 dolarlık çek hk.") 10.Nis.16;TKA 95/232 ("Hindistan dan toplanan yardım paralarına ait makbuz senetlerinin gönderilmesi hk.") 15.Temmuz.1329; TKA 95/230 ("Hindistan da müslümanlarca toplanan ve HA e gönderilen paralara ait makbuz senetleri hk.") 07.Haz.13; TKA 95/229 ("Hindistan da Ranavav daki müslümanlardan HA adına yapılan bağış hk.") 07.Haz.13; TKA 95/226 ("Hindistan da toplanan yardım paralarına ait makbuzların gönderilmesi hk.") 6.Haziran.1329; TKA 95/217 ("Hindistan dan Emin Ali tarafından yardım olarak gönderilen para hk.") 25.Mayıs.1329; TKA 95/211 ("Balkan Savaşı gazileri için HA ya yapılan bağış hk. - Hindistan da bulunan İslam tebası tarafından HA e yapılan para yardımı hk.") 17.May.13; TKA 95/199 ("Hindistan ın bir şehrinde HA adına toplanan meblağ için gerekli makbuzun irsali hk.") 05.May.13; TKA 95/193 ("Asker-i Osmaniyye ye teslim edilen hediyeyi kabul edilmesinin istenmesi hk.") 7.Mayıs.1329; TKA 95/186 ("Hindistan ın bir şehrinde toplanan paranın şehrin HA müdürü tarafından gönderilmesi hk.") 25.Nisan.1329; TKA 95/178 ("Hindistan daki İslam ahalisi tarafından HA e iane olarak verilen para için makbuzun irsali hk.") 17.Nis.13; TKA 95/157 ("Qamar Shah Khan ın Rampur (Hindistan) halkı adına HA ya yaptığı bağış hk. Gönderilidiği beyan edilen makbuzlar hk.") 10.04.1913 -

15.Nisan.1329; TKA 95/140 (“Hindistan dan gönderilen yardımın kayıt edilmesi ile ilgili.”) 3.Nisan.1329; TKA 95/135 (“Hindistan dan gönderilen yetmişdokuz buçuk İngiliz lirası yardımın makbuz senedi ile ilgili.”) 1.Nisan.1329; TKA 95/130 (“Hindistan Behva dan gönderilen yardım ile ilgili.”) 29.Mar.13; TKA 95/120 (“Hindistan Bombai şehrinden gönderilen hastane çadırı ve terliklerin vuruduna dair bir malumat alınamadığı hk.”) 23.Mar.13; TKA 95/112 (“Hindistan dan HA e yapılan bağışın yerlerine ulaşıp ulaşmadığının bildirilmesi ve meblağı belirtilmiş bağış makbuzlarının gönderilmesi hk.”) 18.Mar.13 ;TKA 95/108 (“Hindistan dan gönderilen bağışların makbuzlarının leffen takdim kılındığı hk.”) 17.Mar.13; TKA 95/107 (“Hindistan dan gönderilen bağışların makbuzlarının leffen takdim kılındığı hk.”) 17.Mar.13; TKA 95/106 (“Hindistan dan HA e gönderilen bağışların makbuzlarının isimleri belirtilmiş kişiler namına gönderilmesi hk.”) 17.Mar.13; TKA 95/103 (“Dharmapuri (Hindistan) halkı tarafından Ha için toplanan bağış hk.”) 15.Mar.13; TKA 95/93 (“Hindistan dan isimleri belirtilmiş şahıslar tarafından HA e yapılan bağışların makbuzlarının şahıslara henüz gönderilmediği hk.”) 12.Mar.13; TKA 95/87 (“Hindistan Bombay dan hisar ahalisinden ʿAbd al-Raḥmān Han ve diğerleri tarafından gönderilen bağış makbuzlarının gönderilmesi hk.”) 10.Mart.1327; TKA 95/78 (“Hindistan dan yaralılar için HA e 3 taksit halinde gönderilen bağışın gereken yere ulaşıp ulaşmadığına dair bilgilendirilmesi ve makbuzlarının gönderilmesi hk.”) 24.Nisan.1329; TKA 95/58 (“Molla Ahmet tarafından Hindistan dan gönderilen yardım hk.”) 02.Mar.13; TKA 95/56 (“Hindistan da Pençab eyaletinde yapılmakta olan iş için gönderilen para ve çek hk.”) Mart.1329; TKA 93/30 (“Hindistan ın Bombay ve Candbur Şehirlerinden toplanan ianat hakkında”) 18.KE.1329; TKA 96/231 (“Hindistan da Darül-umumi medresesi tarafından HAC namına gönderilen para hk.”) 9.KS.1328; TKA 96/229 (“Kalküta ya HA tarafından Hacı Muḥammad İsmail Han adına gönderilen paranın alındığı hk.”) 1913; TKA 96/213 (“Hindistan send şehri müslümanlarının OHAC namına bir miktar para gönderilmesi hk.”) 16.KS.1328; TKA 96/204 (“Hindistan Encümen-i Müeyyidü l-islam katibinin HAC ye bir miktar iane gönderilmesi hk.”) 17.KS.1328; TKA 96/174 (“Hindistan dan Hilal-i ahmere gönderilen para yardımına dair”) 26.KS.1328; TKA 96/152 (“Kalküta dan gönderilen yardımlar ile ilgilidir”) 30.KE.1328; TKA 96/146 (“Hindistan ın bombay şehrinden gönderilen tıbbi heyet ile ilgilidir”) 29.KE.1328; TKA 96/143 (“Hindistan ın Kalküta şehrinden gönderilen 34 lira 85 kuruş ile ilgilidir”) 29.TE.1328; TKA 96/142 (“Hindistan dan bir şahıs tarafından gönderilen 200 ingiliz lirasi ile ilgilidir”). 29.KE; TKA 96/138 (“Hindistan da yaşayan Mehmed Fadıl Bey ve Mehmed Şevket bey tarafından gönderilen 200 ve 270 ingiliz lirası ile ilgilidir.”) 27.KE.1328; TKA 96/137 (“Hindistan ın Bengal şehrinden gönderilen toplam 512 sterlin ile ilgilidir”) 27.Ara.12; TKA 96/132 (“Hindistan dan gönderilen 100 şişe ilaç hk.”) 24.KE.1328; TKA 96/122 (“Hindistandan yollanan yardım parası ve makbuzuyla ilgili belge”) 23.KE.1328; TKA 96/113 (“Hindistandan HA ya gönderilen para hk”). 22.KE.1328; TKA 96/112 (Hindistan dervenbed şehrinde Darül-ilim medresesi müdürü tarafından gönderilen para hk. 22.KE.1328); TKA 96/111 (Hindistan ın muradabad şehrinden Mehmet Şevket han tarafından 275 ingiliz lirası gönderildiği ve makbuzun istendiğine dair. 22.KE.1328); TKA 96/109 (Hindistandan yollanan yardım parasının gelip gelmediği hakkında bilgi ve geldiyse makbuzunun istendiği belge. 22.KE.1328); TKA 96/77 (Hindistan bankası nın aracılıgıyla Kalkük şubesi nden 1098 ingiliz lirasının osmanlı bankası na gönderilmesi hk. 16.Ara.12); TKA 96/65(Hindistanın Napor şehrindeki islam cemiyetinin Hilal-i Ahmer e yedi adedi ingiliz lirası gönderildiği belirten havalanamenin cemiyetin veznedarı Necmül-hak imzasıyla gönderilen mektubun tercümesiyle takdim kılınması hk. 13.KE.1328); TKA 96/51 (Hindistanda vatan gazatesi imtiyaz sahibi Mehmet İnsallah Efendinin HA ianesi olarak para gönderdiği hk. 9.KE.1328); TKA 96/42(İstanbula gelen muhacirlerin ihtiyaçlarının karşılanması için Hindistan emiri Ali nin yardım parası gönderdiği hk. 8.KE.1328); TKA 96/39(Kalküta dan İstanbul a yapılan para transferi hk. bilgi. 05.Ara.12); TKA 97/150 (Hindistan ın bombay sehrinden iki kişi tarafından Hilal-iAhmere yardım olarak gönderildiği 24.TS.1328); TKA 97/147 (Hindistan dan 3 kişi tarafından yapılan yardım paraları ve bu paralar için makbuz talebi ile ilgilidir.) (23.TS.1328); TKA 97/138(Hindistan da yayın yapılan Müsir gazetesi tarafından gönderilen para yardımı ile ilgilidir. 21.TS.1912); TKA 97/86(Hindistanın çeşitli şehirlerinden Hilal-i Ahmer e yardım olarak gönderilen 1097 lira 89 kuruşun makbuzunun istenmesi hk. 15.TS.1328); TKA 97/84(Hindistan da Mehmet efendi tarafından Hilal-i Ahmere yardım olarak yüz liranın Makeyni Hümayuna gönderildiğinin bildirilmesi vr makbuzun istenmesi hk. 15.TS.1328); TKA 97/79(Hindistan ın muradabad şehri müslümanları tarafından Hilal-i Ahmere yardım olarak gönderilen 70 ingiliz lirasına çekin makbuzunun istenmesi hakkında14.TS.1328); TKA 97/63(Rampur halkı tarafından Balkan Savaşı nda yaralanan askerler için toplanan bağış hk. 13.11.1912); TKA 97/55(Hindistan daki müslümanlar tarafından Hilal-i Ahmer e gönderilen 7 sterlin hk. 12.11.1912); TKA 97/37 (Hindistan ianatı vasıl olup olmadığının rampor ianatı hakkında Hilmi Paşa tarafından cevap gönderilmediği hakkında telgraf27.TS.1328); TKA 97/28 (Hilalı Ahmere Hindistan dan birkaç kişi tarafından gönderilen bir ingiliz lirasının merkeze yollandığı hk. 8.TS.1912); TKA 256/78(Hindistan ın Karaçi Şehbenderliği muhabiri Mehmed Mendita namı zat tarafından Cemiyete yapılan yardım hakkında14.02.1913); TKA 256/75(Hindistan 82. Alay zabitlerinin Cemiyete yardım için gönderdikleri bir miktar para ve çeke dair14.02.1913);

TKA 256/68(Hindistan da Ranfun şehrinden Türk İane Cemiyeti Reisi Ahmed Molla Davud imzasıyla alınan telgrafta, yaralı askerlere verilmek üzere yapılan yardım hakkında 16.KE.1912); TKA 95/219 ("İslam muhacirlerine yardım için Hindistan da toplanan elli İngiliz lirasının gönderildiği hk.") 20.May.12; TKA 256/29(Şimdiye kadar Hindistan dan Cemiyete yapılan yardımların miktarını ve yardım yapanlara teşekkür mektupları gönderilmesini belirten belge19.TS.1912); TKA 256/27(Hindistan ın Pencap eyaletinde Karnal a bağlı Şahabad HAC ne yardım için gönderdiği bir miktar para hakkında belge23.02.1913); TKA 256/25(Hindistan ın Belucistan Eyaletinde Zuetta şehrinde HAC Merkezince toplanan yardımların gönderilmesi hakkında15.02.1913); TKA 256/24(Mezkur bankanın müdürünün Belucistan ın Küta şehrinde oluşturulan HAC in emri üzerine 900 liralık bir çek gönderildiği hakkında21.Nisan.1328); TKA 256/23(Hindistan ın Şahabad şehrinde Cemiyete yardım için toplanan bir miktar paranın postaneden gönderildiğini bildiren belge29.02.1913); TKA 256/17(Adı geçen zat tarafından Hindistan da Cemiyet için toplanan yardım parasının ve makbuzlarının gönderildiğine dair11.KE.1912); TKA 256/16(Hindistan ın Aonla ve Usrahta kasabalarından iki zatın gönderdiği yardım parasının iletildiği hakkında4.KS.1913); TKA 256/15(Hindistan ın Delhi Şehbenderliğinden gelen bir mektupta adı geçen zat tarafından yazıldığı ve halktan Osmanlı askerine yardım için toplanan paradan bahseden belge24.KS.1913); TKA 256/1(Hindistan dan Cemiyet namına gönderilen beşer İngiliz lirası hakkında18.KE.1912); TKA 95/42 (Sahranpur HAC tarafından Hindistan Milli Bankası aracılığıyla yollanan HA ianesine dair. 10.Şubat.1328); TKA 95/33(Hindistan müslüman ahalisinin Şambey Baş Şehbenderliği vasıtasıyla gönderilen ianat hk. 11.Şubat.1328); TKA 95/27(HAC ye Hindistan Milli Bakanı aracılığıyla gönderilen para hk. 13.Şubat.1328); TKA 95/17 (Madros (Hindistan) şehrindeki İslam cemaati tarafından gönderilen ianat hk. 18.Şubat.1328); TKA 95/16 Hindistan ın Sahranpur kazası nda Darülulum müdürü Mehmet ahmet Efendi nin gönderdiği para hk. 19.Şubat.1328); TKA 19/163(Hindistandan gönderilen yardım Harbiye Nezareti ne gönderildiğine dair21 .Şubat. 1327); TKA 19/152(Hindistan ın çeşitleri şehirlerin ahalileri tarafından H.A. İanesi olarak toplanılıp Bombay Şehbenderliği tarafından gönderilen 27 liralık çek hk. 9.KS.1327); TKA 19/112(Hindistan dan yardımseverler tarafından gönderilen yardımın sahiplerini ve miktarlarını gösteren liste1327); TKA 19/109 ("Vatan" ın sahibi Muḥammad Insha-Ullah adına yatırılan para hk. Bilgi 23.02.1912); TKA 19/108 ("Vatan" ın sahibi Muḥammad Insha-Ullah adına yatırılan para hk. Bilgi 30.03.1912); TKA 18/138 (Besim Ömer Paşa nın Hindistan Kızılhaçı Medikal Misyon üyeleri için gönderdiği para hakkında12.03.1913); TKA 18/111 (Son Balkan Harbi nde yaralanan askerlerimiz için Hindistan da toplanan HAC ianeleri hakkında. 26.Haziran.1330); TKA 18/107 (Bombay Encümen in Hindistan dan gönderdiği paralarla ilgili. 27.02.1912); TKA 18/106 (Hindistan dan HAC ne gönderilecek paraların gönderilme şekli hakkında22.02.1913); TKA 18/92 (Hindistan da Delhi den Muhtar Ahmet Ensari başkanlığında bir sağlık heyetinin gönderildiği hakkında03.KE.1912); TKA 18/60 (Birinci Hindistan Kızılhaçı Medikal Misyonu nun hastanesindeki yaralılara ilişkin bilgi); TKA 18/46 (Hastanelerinin isminin "Hind Heyet-i Sıhhiyesi HA Hastanesi" şeklinde değil "Hindistan Birinci HA Hastanesi" olarak kullanılmasını arz eden yazı. 23.Mart.1329); TKA 18/33(Dersaadete gelmek üzere olan Müslüman Tabiblerin Hindistan Bombay dan hareket ettiğine dair. 24.TS.1328); TKA 18/30(Hindistan Tıbbiye Heyetine dair. 19.KE.1328); TKA 18/28(Kalküta Şubesinden HA nın hesabına aktarılan para hakkında. 28.01.1913); TKA 18/25 (Delhi Şubesi tarafından HA nın İstanbul şubesine aktarılan para hakkında. 14.02.1913); TKA 551/5(Hindistan da yapılan yardım ve gönderilen mektupların tercüme edilip, yapılan yardımların makbuzlarının gönderilmesi hk. belge. 18.KS.1913); TKA 551/3(Hindistan dan yapılan çeşitli miktarlardsaki yardımlar ve teşekkürlerinin bildirilmesini isteyen belge. 14.KS); TKA 1261/40 (Hindistan da toplanan (HAC için) kerestelerin gönderilmesi hakkında. (Viyana daki İngiliz şirketine) 26.Tem.25); TKA 1261/3 (Hindistan muhacirleri için yardım isteniyor. 10.Mar.22); TKA 98/146 (Hindistan dan HA yararına toplanan yardımlar listesi1329); TKA 98/145 (Hindistan dan HA yararına toplanan yardımlar listesi1329); TKA 98/144(Hindistan dan HA yararına toplanan yardımlar listesi1329); TKA 98/130(Hindistan dan 1912-1913 senelerinde gelen yardımların özeti. 11.05.1917); TKA 98/129(Hindistan dan ölmüş askerlerin dullarına ve yetimlerine gönderilen yardımla ilgili 1000 İngiliz lirası29.11.1913); TKA 98/114(Hindistandan HAC a yapılan yardımdan dolayı ordaki müslüman ahaliye teşekkürlerini bildiren belge11.KS.1329); TKA 98/108(Hindistan dan Pençab bölgesinden Fazıl Metin adında kişi tarafından HAC a yapılan yardım hakkında belge26.KE.1329); TKA 98/104(Hindistan dan HAC a yapılan yardımların makbuzlarının gönderilmesi hakkındaki belge25.KE.1329); TKA 98/76(Hindistan dan Emir Ali isimli zat vasıtasıyla gönderilen yardım hakkında19.TS.1328); TKA 98/48(Hindistan dan Hilal-i Ahmer e yapılan yardımlar hakkında Hariciye Nezareti nin gönderdiği ihbarname tercümesi26.09.1913); TKA 98/10(Hindistan ın değişik kentlerinden Hilal-i Ahmer e gönderilen paralarının makbuzlarının istenmesine dair. 3.Temmuz.1329); TKA 101/95 (Hindistan da Lahur şehrinde müştekil Osmanlı iane heyeti tarafından verilen meblağa dair mevzuat hakkında belge 26.06.1914); TKA 101/26(HAC a yardım eden Hindistan da bulunan Ahmed adlı kişiye gönderilen kutu hakkında23.02.1912); TKA 101/21(Hindistan dan gelen yardımlar hakkında belge22.01.1912); TKA 101 20(Hindistan dan gelen yardımdan dolayı cevap yazıldığını bildiren müsvedde kağıt22.01.1912); TKA

Ottoman sentiment were not simply rhetorical displays of religious solidarity and sentiment, nor "an importation from the West", as some historians have argued, but concrete links of institutional support, involving significant economic spending and sacrifice.[274] Rich as they are voluminous, these sources document fundraising meetings and donations throughout major cities of India and Afghanistan, illustrating concrete transnational connections between Turkey, Afghanistan, and India at a pivotal moment of transformation in the histories of each of these three states.[275]

101/18(Savaşlardan dolayı yardıma muhtaç olan Osmanlıya yardım toplayan Hindistan halkının gösterdiği fedakarlık hakkında06.01.1912); TKA 101/15(Londra sefiri Tefik paşa tarafından Hindistan dan gelen yardımların Dersaadette daha düşük göründüğnden bunun sebebini soran belge05.12.1912); TKA 148/130 (Hindistan da mezkur Kızılhaç tarafından kurulan Fırst ındıa red cerscent missia isimli bir kurula dair gazetede çıkan bir küpür hk. 2.AGUSTOS.1913); TKA 156/56 (Hindistan müslümanları tarafından toplanıp Londra dan İngiliz Konsolosu aracılığıyla gönderilen para ve eşya hk. 18.KS.1330); TKA 149/13 (Hindistanlı müslümanlar tarafından kurulan HA Heyet-i İmdadiyesi Romanya Vapuru yla İstanbul a gelmesi hakkında ve heyetin üye listesi). 04.KE.1328); TKA 149/12 (Hindistanlı müslümanlar tarafından kurulan HA Heyet-i İmdadiyesi Romanya Vapuru yla İstanbul a gelmesi hakkında ve heyetin üye listesi). 04.KE.1328); TKA 16/105 (Hindistan dan (Delhi) gönderilecek Sıhhiye Heyeti hakkında 27.TS.1328); TKA 16/92 (12.KS.1328) ("Hindistan HA Heyeti nin pek çok yardımı olduğu, hastanelerinin kurulması halinde iaşe ve iane yapılması hakkında"). ;TKA 16/30 ("Hindistan da Delhi şehrinden gelecek Heyet-i Sıhhiye nin memnuniyetle kabul edileceği hakkında"). 24.TS.1328; and TKA 16/17 (13.KE.1328) ("İstanbul a gelecek ikinci Hindistan Heyet-i Sıhhiyesi için Sancaktepe de bir yerin uygun görüldüğüne dair"). For examples from the early 1920s, i.e. during the Turkish war of independence and Amānī era, see TKA 256/42(Hindistan uleması ve İslam Hukuku hocalarından Seyid Abdülmecid Efendi Hazretleri tarafından Cemiyete yapılan yardımın gönderildiğine dair belge27.KE.1338); TKA 1198/62 ("Hindistan Merkez Hilafet Komitesinden gönderilen yardım hakkında") 13.06.1339; TKA 1323/38 ("Gazi Mustafa Kemal Paşa tarafından Hindistan da Hacı Vahiyüddin efendiye yazılan mektubun iletilmesinin talep edildiği hakkında") 10.Mayıs.1339; TKA 1198/61 ("Hindistan Merkez Hilafet Komitesinden gönderilen yardım hakkında.") 13.06.1339; and TKA 1261/16 (Hindistan a gönderilecek heyete katılmak ya da toplanacak yardım için görev almak isteyen Ebu l Hayr hk. 5.TS:1339).

[274] For example, Dwight Lee, writing in the American Historical Review in 1942, cited what he saw as Pan-Islamism's parallels with the transnational influence of the Roman Catholic pope. As such, amazingly, he held that the concept of a Pan-Islamic Caliph, even "when it was promulgated by Moslems, was itself an importation from the West." Dwight E. Lee, "The Origins of Pan-Islamism," *The American Historical Review* 47 (1942): 278-287, 282. To be fair to Lee, however, he does qualify his remarks by acknowledging that far more research was needed on Pan-Islamism as a historical phenomenon, particularly due to the existent sources reliant on European sources. In the end he concludes,

> [T]he usual interpretations of Pan-Islamism and especially the story of its origins, both as to chronology and causes, have been inadequate and unsatisfactory and that insofar as Pan-Islamism and the revival of the caliphate are linked with the whole problem of the reaction of the Islamic world to the impact of the Occident, a satisfactory and funda-mentally sound historical treatment can be made only if Islamic sources can be studied. Furthermore, in such a study of Pan-Islamism not only must the intellectual and political developments in all the various Moslem countries be clearly understood, but also the itnternational relations of the great powers toward one another and toward the Islamic countries must be taken into account. Only after such a study can one definitely decide whether an effort to translate the "tendency" toward Islamic unity into an actual movement was a phantasm or a reality and whether Pan-Islamism was a genuine Moslem reaction to Western en-croachment or merely a weapon of imperialism, conceived by Western brains and forged by Western hands.

Lee, "Origins of Pan-Islamism", 286-287. On a less academic note which I can nevertheless attest to from personal communications, Indian Muslim financial contributions to Ottoman relief efforts and, later, the Turkish war of independence, remain a staple of many oral histories of the first world war in Turkey today.

[275] For a representative sample from hundreds of documents listed in a previous footnote, and a case involving both Indian and Afghan donors, see TKA 19/165 (25 Şubat 1327) ("Afgan-Hindistan müslümanlarından

The cache of documents I uncovered in the newly opened archive of the Turkish Red Crescent Society in Ankara provides us with specific instances of fundraisers and donor meetings across urban centers of India, as well as Afghanistan, in the first quarter of the twentieth century.[276] My research at the archive turned up 446 such documents involving Indian Muslims or Red Crescent activities in India in general (Hindistan), 10 documents involving Afghans or Red Crescent activities in Afghanistan, and 1 file specific to the Islamic madrasah at Deoband of Saharanpur province, northern India.[277] When we combine the British Indian intelligence reports on the activities of the Red Crescent Society with the reports in the Ottoman archives, we find two polar opposite perspectives—one from the Ottoman government, and the other from the British Indian government—both documenting the mobilization of Indian Muslims for Ottoman causes.[278] Putting both sources together, we have an embarrassment of riches of historical sources on Indian Muslim support for the Ottomans at the turn of the twentieth century. What is more, these documents illustrate that Indian Muslim contributions were substantial and widespread enough to conclude that the thousands of individuals and scores of organizations involved in pro-Ottoman relief efforts in India at this time were not engaged in empty displays of sentiment and emotional support, but concrete links of transnational social and economic networks in action, involving significant financial expenditure and sacrifice. This included substantial Muslim participation in Ottoman Red Crescent activities and fundraising across the Indian Subcontinent, and even Afghanistan.[279]

---

toplanıp Sidney Şehbenderliği vasıtasıyla gönderilen yardım hk"). The list of documents in the footnotes to follow represent the main examples of Indian or Afghan donations to Ottoman relief causes vis-à-vis the Red Crescent Society in the first two decades of the twentieth century, i.e. the reign of Amir Ḥabīb-Allāh of Afghanistan.

[276] For examples of fundraisers in Afghanistan for injured Ottoman soldiers, civilians, and children, see TKA 99/87 (17 Hazıran 1328) ("Savaşta yaralananlara yardım için Afganistan müslümanlarınca yapılan yardım hakkında"). Interestingly, for an anecdotal reference half a century later but which also emerged in my research at the Red Crescent Society archive, and thereby illustrating contuinuity of these institutional relations, see TKA 1173/7 (25 03 1961) ("Afganistan'a 3 balya çocuk eşyası yollandığı hakkında").

[277] One of the only documents illustrating a Deoband-Red Crescent connection in the Red Crescent Society Archive in Ankara is found in TKA 21/63 (19.04.1913) ("Deoband daki Darül-Alouni Üniversitesinin talimatıyla açılan kredi, Rıfat Bey adına yatan para ve Dr. Bahaddin Şakir e ait fatura hakkında"). This Red Crescent Society Archive document is matched by a similar document from the same year in the Prime Ministry Ottoman Archives in Istanbul at BOA-HR.TO 544/48 (1913 03 12) ("Hindistan'ın Diyobend şehrindeki Hilal-i Ahmer Cemiyeti'nin gönderdiği paranın sadrazama verilmerk üzere Osmanlı Bankası'na geldiğinin haber verilmesi talebi"). Notably, one of the only references to the city of "Diyobend" in the Prime Ministry Ottoman Archives is this document referring the presence of a Red Crescent Society branch and the Muslims of Deoband sending money for the Ottoman relief cause via the Ottoman Bank. For a discussion of Deoband's contributions to the Hilal-i Ahmer by its foremost chronicler, see Sayyid Mahboob Rizvi, *History of the Dār al-Ulum Deoband, vol. 1* (1980), 180.

[278] An example from the British official perspective of these activities is found in NAI-FP/B March 1877 262-269. "Assistance of Government in collecting subscriptions towards the relief of sick and wounded Turkish soldiers."

[279] The Red Crescent Society archive's documents on Afghan aid Afghan contributions are from the early twentieth century, however, and largely deal with medical care of orphans and children in India but also Anatolia, including Amir Amān-Allāh Khan's visit to a hospital in Ankara. The nine documents relevant to our study and pertaining to the era we are focusing on are TKA 1416/1 (1926) ("Sabık Afgan Kralının Ankara Numune Hastanesi ziyareti"); TKA 389/60 (24.TE.1337) ("Diyarbakır Elcezire İstihbarat Mülazım-ı evveli Afghanistanlı Abdürraşit Efendi'nin hayatta olup olmadığını araştırılıp bildirilmesi hakkında"); TKA 1361/72 (10 Şubat, 1340) ("Vakit gazetesinde çıkan 'Afganistan Amiri ve Türkler' ismindeki makalede Kabil harbiye mektebinde muallimlik yaptığı

The documents I studied from the Turkish Red Crescent Society's Ankara archive deal with prisoner exchange negotiations between the Allies and Ottoman forces during World War I, including Red Crescent correspondence with British and French military authorities in Iraq, Egypt, and the Levant, but also India, where many Ottoman prisoners were being held.[280] But even before the Great War, the Balkan wars of 1911-1912 also proved to be a key testing ground for the Red Crescent Society in the early twentieth century. An Ottoman archives document from 1912 provides a telling example of the critical role of the society for Indian Muslims in their contributions to the Ottoman relief cause; the document discusses the raising of funds for the wounded and the families of the fallen and the sending to Ottoman representatives during a meeting in Delhi.[281] During the Balkan War, the famous Indian (and later Pakistani) Deobandi Scholar Mawlānā Shabbir Usmani held a leading position collecting donations for the Hilal-i Ahmer Fund.[282]

---

bildirilen yüzbaşı Ḥasan Tahsin hakkında tahkikat talep edildiğine dair); TKA 1074/11 (4.TE.1928) ("İzMīr HA ya Afgan Kralı nın geldiği zaman gönderilen 150 Afgan bayrağı hakkında"); TKA 99/87 (17 Hazıran, 1328) ("Savaşta yaralananlara yardım için Afganistan müslümanlarınca yapılan yardım hakkında"); TKA 817/4 (1.TE.1333) ("Askeri künyesi verilen ve şuan Kıbrıs ta esir tutulan 1873 esir numaralı Esad a 1,5 Lira irsali hakkında"); TKA 44/319 (14 Mart 1338) ("Kırşehir Hastanesinde baş eczacı olan Emin Refik in hastane lağv edildikten sonra açıkta kaldığı, Afgan sefaret heyetiyle Afganistan'a gitmek için görevlendirildiğinin haber alındığı, bu haberin doğru olup olmadığının bildirilmesinin talep edildiği hakkında"); TKA 19/165 (25 Şubat 1327) ("Afgan-Hindistan müslümanlarından toplanıp Sidney Şehbenderliği vasıtasıyla gönderilen yardım hakkında"); and TKA 570/329 (24 TE 1337) ("Afganistan lı 26 yaşında ʿAbd al-Raḥmān oğlu Abdürreşit Efendi hakkında bilgi talep edildiğine dair"). The tenth document not included here dates to 1961.

[280] For example, for a report from the Balkan wars, see TKA 394/52 (1912) ("Hindistan daki müslümanların H.A. ya bağışta bulunmaya devam edeceklerine dair bilgi"). There are hundreds from the first world war period, constituting a majority of the 446 documents on Indian Muslims, most dealing with prisoner exchange and repatriation. For illustrative examples of the Red Crescent society corresponding with British officials to facilitate prisoner exchanges and/or financial support to Ottoman prisoners of war being held in India, see TKA 954/249 (20.Ağustos.1334) ("Hindistan ın Bellari Üsera Karargahından Mehmed Ali ye bir miktar para gönderildiği hakkında"); TKA 954/237 (6.Ağustos.1334) ("Hindistan ta Bellari Üsera Karargahında Ayşebacılı İbrahim oğlu Ḥasan a bir miktar para gönderildiği hakkında"); TKA 954/191 (22.Ağustos.1334) ("Hindistan ın Bellari Üsera Karargahında bulunan Tavşanlılı Ayanoğullarından Halil İbrahim e bir miktar para gönderildiği hakkında"); TKA 954/169 (19.Ağustos.1334) ("Hindistan'ın Thayetmyo Üsera Karargahında bulunan Konyalı Süleyman Ağa ya bir miktar para gönderildiğine dair"); TKA 954/80 (8.7.1334) ("Hindistan da Meiktila kasabasında bulunan Osmanlı üserasından Yeniceli Molla Osman oğlu Arif e gönderilen 300 kuruş gönderildiği hakkında"); TKA 954/94 (27.Ağustos.1334) ("Hindistan da Tavgon Kasabası Üsera Karargahında 6. postada Beypazarlı Emir Hüseyin oğlu Tursun a 500 kuruş gönderildiğine dair"); TKA 954/80 (8.7.1334) ("Hindistan da Meiktila kasabasında bulunan Osmanlı üserasından Yeniceli Molla Osman oğlu Arif e gönderilen 300 kuruş gönderildiği hakkında"). For illustrative examples of Indo-Ottoman aid proceeding in both directions during World War I and the subsequent Turkish War of Independence, see TKA 1138/22 (29.KS.1328) ("Bombay Poor Müslimi Medical Mission Hastanesinin memurları ve yapılan yardımlar için teşekkürler hakkında") and TKA 615/73 (16.05.1920) ("Hint Milletinden İzMīr e yardım için gelecek heyet için pasaport taleb edildiği hakkında").

[281] BOA-HR.TO 543/42 (1912 12 05) ("Balkan muharebesinde mecruh ve şehit ailelerine verilmek üzere Hilal-i Ahmer Cemiyeti'ne tevdi edilmek üzere Hindistan'da Delhi'de toplanan meblağ").

[282] Qasmi, Muḥammad Ubeidullah al-As'adi. *Dār al-ʿUlūm Deoband*. Karachi: Fazl Rabi An-Nadwi, 2005; Rizwi, Sayyid Mahbub. *History of the Dār al-Ulum Deoband*. Deoband, India : Idara-e Ihtemam Dar al Ulum, 1980-1981. One of the most prolific and influential South Asian 'ulema of the twentieth century, in 1944, Mawlānā Shabbir Usmani joined the Muslim League and became one of the few Deobandis who publicly supported the Pakistan state movement. He founded the Jamʿīyat ʿUlamāʾ-yi Islam in 1945, largely to oppose the anti-Partition (and therefore, some might even say anti-Pakistan) ideology of the Jamʿīyat ʿUlamāʾ-yi Hind. Usmani's greatest literary work is *Tafsīr-i ʿUthmānī*, an Urdu translation of the profoundly infleuntail Qurʾān ic commentary written

Nor were only high-profile individuals and anjumāns involved; rather Indian Muslim community institutions, from mosques to newspapers, rallied together to make contributions as well. For example, an Ottoman archives document from 1913 discusses the role of the Lahore-based *Zamindar* magazine in raising and sending a considerable sum for the relief of the wounded and families of the deceased.[283] Similarly, the Delhi-based *Comrad* magazine, another bastion of Indian Muslim and Pan-Islamic activism, used its journalistic resources not only to advertise and fundraise for the Ottoman war cause, but also to publish articles keeping the public informed about the war and the atrocities and oppression committed, followed by a renewed call to donate for the wounded and other victims of the war.[284] Even where the Red Crescent Society was not specifically mentioned, a nexus with their purpose can be gleaned from Indian cities. For example, an Ottoman archives document from 1913 discusses the role of the Calcutta-based *al-Hilal* magazine in "protecting the honor and dignity of Islam" ("Şeref ve namus-ı İslamın kurtarılması").[285] A June 1913 document from the Ottoman archives reports with pride and appreciation the donation of 300 British Pounds from the owner of the Lahore-based *Watan* magazine, an Indian Muslim named Muḥammad Inshallah Efendi.[286] What is more, this particular £300 pound dispatch was the fifteenth such installment dispatched by the magazine editor, equaling a staggering sum total of 7000 British pounds in donation "for the relief of the wounded and refugees."[287]

As the wave of pro-Ottoman sympathy, and *activity*, increased precipitously in India and Afghanistan in the wake of the 1911-1912 Italo-Ottoman war, meanwhile the British Indian Government found itself between a rock and a hard place. On the one hand, the Crown sought to uphold treaty and neutrality obligations with fellow European powers; on the other, they were ruling the largest Muslim population in the world in India, to many Raj officials in Calcutta (later, Delhi), the "Ghost of 1857" was never very spectral at all. What is more, the connections were adding up and combining in ways that were difficult to supervise. Three years earlier, the same Mehmed Inshallah Efendi, owner of the Lahore-based *Tan* magazine who had organized

---

by his teacher, Shaykhul Hind Mawlānā Maḥmūd ul Hasan (1851-1920). The latter was one fo the first students at Deoband Madrasa, and became one of the most preeminent Indian Islamic scholars of the modern age. He is especially notable for our purposes here because of his pro-Ottoman activities during World War I, which we will turn to shortly.

[283] BOA-HR.TO 543/88 (1913 01 21) ("Şehit ve yaralı Osmanlı askerleri için Lahor'da yayınlanan Zemindar gazetesi tarafından gönderilen meblağ").

[284] BOA-HR.TO 543/94 (1913 01 24) ("Hindistan'ın Delhi şehrinde yayınlanan Comrad Gazetesi Heyet-i Idaresi tarafından Osmanlı Devletiyle ilgili haberleri resmi olarak almak istirhamına ve muharebede mecruh olanlara yardım olmak üzere gönderilen meblağa dair telgraf").

[285] BOA-HR.TO 543/105 (1913 01 26) ("Şeref ve namus-ı İslamın kurtarılması hususunda ittihaz buyurulan kararın vürudunu intizar ettiklerine dair Kalküta'da intişar eden el-Hilal gazetesi tarafından telgraf").

[286] BOA-İ.MBH 12/1331 B-003 (1331 B 05) ("Guzat-ı Osmaniye ve Muhacirin İanesi olmak üzere Lahor'da Vatan Gazetesi imtiyaz sahibi Mehmed İnşallah Efendi tarafından gönderilen üç yüz İngiliz Lirasına dair").

[287] BOA-Y.A.HUS 377/4 (1315 Ca 01) ("Hindistan'ın Pencab ahalisinden Vekil gazetesi muharriri Muḥammad İnşallah Efendi'nin mahdumlarının askeriye mekteblerine kabulü istidası"). Notably, this was the same Muḥammad İnşallah Efendi described in an earlier record, who in the 1890s was editor of the *Wakeel* magazine, and whose sons applied to serve in the Ottoman army in 1897.

the aforementioned meeting for fundraising for the Ottoman Sultan's Ḥijāz Railway project, would continue to sponsor projects for "endearing themselves to the Sultan" ("gayretlerinin Padişah nezdinde memnunluk uyandırdığı").[288] Couched in the safe space of religious ties, there was nothing *illegal* about these Indo-Ottoman connections, after all. In this way, the *Türk Kızılayı Arşivi* (Turkish Red Crescent Archive) in Ankara contains roughly 400 documents from India, Afghanistan, and of course, the Ottoman domains, illustrating how the Ottoman Red Crescent Society was a major vehicle for coordinating projects of Indo-Ottoman collaboration in the humanitarian and financial field.

With the onset of the Turco-Italian war of 1911-12, the Balkan Crisis, and finally the Great War, British fears of Ottoman activity in India and Afghanistan reached their apex. On top of escalating outrage at European inconsistency vis-à-vis the Italian invasion of Libya, the war witnessed an increasing number of Indian Muslims and Afghans volunteering for the Ottoman war effort. For example, a British intelligence document composed by British agent W. Hough writes in 1913,

> I have the honour to report, as a fact of some interest, that seventy-three Afghans have left for the scene of operations as volunteers. These Afghans are largely of British Indian nationality, but only a small proportion of them are registered in this Vice-Consulate. Among the present batch there were three who had British papers, though one named Muḥammad Jan became an Ottoman subject just before leaving. These Afghans form a turbulent element of the population, and live for the most part by blackmailing owners of orange gardens to appoint them as watchers. An owner who preferred his own nominee would probably find his trees cut down… Their entirely unregretted departure is interesting in view of the efforts that are being made by a few mischievous fanatics to make the present war appear as a Jehad."[289]

While the escalating events during the Balkan Wars of 1912-1913 were no doubt a turning point in global Pan-Islamic opinion, especially in India, they would pale in comparison to the ruptures and drama of the most devastating war the world had ever seen in 1914-1918, to which we turn to now.

VI
A Battle for Herats…and One Mind: The Ottoman-German Expedition to Kabul, 1915

> "We do not wish to emphasise allegiance of Moslems in India to the Khalifate; for this would be playing into hands of Pan-Islamists, and it would tie our hands if the Turks are expelled by Arabs from the holy places in the event of war with Turkey."[290]

---

[288] BOA-İ.MBH 2/1328 Ca-017 (1328 Ca 29) ("Tan Gazetesi sahibi Mehmed İnşallah Efendi'nin Lahor'da Hicaz Demiryolu için yardım toplama gayretlerinin Padişah nezdinde memnunluk uyandırdığı").

[289] NAI-FD/EXTL/B April 1913 301-302 ("Movements of the Afghan volunteers for service with Turkey during the Turko-Balkan War").

[290] NAI-FP/SEC/War May 1915 453-487 ("Communiqué regarding the Turkish attitude. Proclamation issued respecting the Holy Places of Arabia including the Holy Shrines of Mesopotamia and the port of Jeddah").

- Secret Memorandum, Foreign and Political Department of the Government of India (1915)

On August 2, 1914, the Ottoman empire and Germany signed a military pact. This did *not* constitute formal entry into the first World War for the Ottomans, however, whose leadership still remained conflicted on whether to join the war, and on whose side, as late as autumn of 1914. For a series of complex reasons dealt with at length by scholars of World War I, most recently by late Ottoman historian Mustafa Aksakal, over the next three months the elite "triumvirate" leadership of the CUP plunged the empire into war, albeit one they argued British, French, and Russian behavior had left them with little choice to avoid.[291] On November 3, 1914, exactly three months after Britain entered the war on August 4, the British government recognized the secession of the Ottoman province of Kuwait and its formation as an independent state under British protection, a direct threat to the territorial integrity of the Ottoman empire along its southern and eastern flanks. Two days later, on November 5, 1914, Britain officially annexed Cyprus. In the eyes of a few key decision makers, at least, a dignified Ottoman neutrality was becoming less and less of a reality. British refusal to deliver ships ordered and pre-paid by the Porte may have been a final straw. On October 27, 1914, the Ottoman empire formally entered World War I. With the approval of the Ottoman Shaykh al-Islam (Şeyhülislam), the Ottoman Sultan-Caliph Mehmed Reşad issued a Declaration of Jihad and with it the empire's formal entry into the most devastating war the world had ever seen. A copy of the full *fatwā* (juristic opinion), signed by Sultan Reşad and Şeyhülislam Hayri Efendi, along with attached signatures of many prominent Ottoman ʿulamāʾ, is stored in the Ottoman Prime Ministry archives.[292] The fatwā is addressed to the Muslims of the entire world, but specified by name the following overlapping countries and regions in particular: Africa, Central Asia, Europe, the Ḥijāz, Turkistan, Bukhara, Khive, India, Iran, China, Germany, Austria, and Afghanistan.

Earlier scholarship has tended to present the Ottoman government's aforementioned Pan-Islamic activities leading during World War I as a sudden and unprecedented intervention on the part of the Porte in the greater Muslim world, with a lead-role given to the Germans. The latter are presumed to be the dominant actors who, the argument goes, fooled the Porte into joining the war and launch an expedition to Afghanistan. Recent scholarship by Mustafa Aksakal has restored a sense of agency not only to leading Ottoman officials in entering the war but a constellation of actors in Ottoman Turkey, including the role of public opinion.[293] This

[291] Aksakal, Mustafa. *The Ottoman Road to War in 1914: The Ottoman empire and the First World War*. New York: Cambridge University Press, 2010; and "Why did the Ottomans enter a European War in 1914? New Sources, New Views." *Osmanlı Araştırmaları: The Journal of Ottoman Studies* 36 (2000): 187-194.

[292] The Ottoman Shaykh al-Islam's fatwā sanctioning Ottoman entry into World War I is available in BOA-İ.DUİT 1/28 (1333 M 04). The richness of this historical document in terms of themes and places discusses is evident in the Ottoman Archives' catalog description, including the nearly twenty /regions countries it was apparently addressed and dispatched to: "Asya-yı Vusta; Afrika; Kuran; Ravza-i mübareke; Osmanlılar; Liva-i Muḥammadiye; Avrupa; Kırım; Fizan; Türkistan; Buhara; Hive; Hindistan; İran; Afganistan; Çin; Karadağ; Almanya; Nemçe."

[293] Aksakal, Mustafa. *The Ottoman Road to War in 1914: The Ottoman empire and the First World War*. New York: Cambridge University Press, 2010; and "Why did the Ottomans enter a European War in 1914? New Sources, New Views." *Osmanlı Araştırmaları: The Journal of Ottoman Studies* 36 (2000): 187-194.

dissertation has sought to uncover the assertive, independent role played by the Porte not only in the organizing the expedition to Afghanistan, but as Chapter 2, Chapter 3 and earlier sections of this chapter have argued, in much earlier episodes of Pan-Islamic outreach dating to the mid-nineteenth century. Furthermore, as this dissertation has also argued, to focus on the "supply side" of Ottoman Pan-Islamism in Istanbul and ignore the "demand side" of in India and Afghanistan would be to marginalize the role of local agents in such projects of transnational Muslim network-building.

From Tensions to Total War: World War I, Indian Muslims, and the Question of "Loyalty"

In the case of World War I, the entrance of the Ottoman state into the conflict on the German side created both enthusiasm and intense anxiety among Muslims in India, Afghanistan, and Central Asia. While it is difficult to generalize in the absence of "polling" technology, let alone reading documents produced in the fog of war-time hysteria, historians of modern India have argued that when the First World War broke out, Indian Muslims by and large held a "loyal" position to the British Indian government. That is to say, British entry to the war did not dramatically alter Indian Muslim behavior vis-à-vis their imperial sovereign. As we will explore in this section, even those who protested the British position in the war argued in a language of patriotism and loyalty.

As Naeem Qureshi, Ayesha Jalal, Azmi Özcan and others have demonstrated, the British entry into the first world war at first resulted in a general outpouring of pro-British sentiment among India's urban populations, especially among mainstream Indian Muslim political organizations.[294] This early enthusiasm on the part of many of India's Muslims contrasted with initial British fears of a potential increase in subversive activities, akin to the 1857 Mutiny. In the early part of the war, these fears were largely unfounded. Meanwhile, Indians provided far more than moral support and good will to the Crown during the war, providing a constant source of men and goods for a global British army hungry for soldiers and raw supplies. The Indian army fought in every major theatre of combat operations during World War I—Europe, Africa, and the Middle East. Among the ranks were Hindus, Sikhs, and Muslims, the latter being especially drawn from the so-called "martial races" of Pathans, Baluchis, and Punjabis. In all, roughly one million Indian soldiers and laborers served in these regions combined, with the Indian government and princely states supplying large amounts of foodstuffs, money, and ammunition to the British war effort. Official figures suggest that nearly 65,000 Indian soldiers were killed and at least as many wounded in combat operations during World War I.[295]

---

[294] Özcan, Azmi. *Pan-Islamism: Indian Muslims, the Ottoman and Britain (1877 -1924)* (Leiden: Brill, 1997), 160-170; Qureshi, M. Naeem. *Pan-Islam in British Indian Politics: A Study of the Khilāfat Movement, 1918-1924* (Leiden: E.J. Brill, 1999), 1, 88, 447; Ayesha Jalal, *Self and Sovereignty: Individual and Community in South Asian Islam since 1850* (New York: Routledge, 2000), 192-93.

[295] David Omissi, "India and the Western Front," BBC History Online (March 10, 2011), available at http://www.bbc.co.uk/history/worldwars/wwone/india_wwone_01.shtml. See also *Sepoys in the Trenches: The Indian Corps on the Western Front, 1914-15* by Gordon Corrigan (Spellmount, 1999); *Indian Voices of the Great War: Soldiers' Letters, 1914-1918*edited by David Omissi (Macmillan, 1999); *The Sepoy and the Raj: The Indian Army, 1860-1940* by David Omissi (Macmillan, 1994); *Battle Colors: Race, Sex and Colonial Soldiery in World War I* by Philippa Levine (Journal of Women's History 9, no 4, 1998); *The Imperial Reserve: The Indian Corps on the Western Front, 1914-15* by Jeffrey Greenhut (Journal of Imperial and Commonwealth History 12, 1983).

Beyond contributions in the field of battle, several Indian Muslim political organizations (anjumāns) went out of their way to proclaim their loyalty to the Crown. This was the case from the very beginning, but especially grew common in late 1914, precisely when British administrators began to feel uneasy at prospect of subversive Muslim activity given the potential of war with Ottoman Turkey, the world's greatest Muslim power, appeared to be on the horizon. For example, the following document from the Foreign and Political Department of April 1915 entitled "Expressions of loyalty from the Mohammedans and Mahommedan Bodies in India on the outbreak of war with Turkey," shows the widespread "loyalty" of Indian Muslim attitudes at the outbreak and in the early stages of the war. The document includes a report of the proceedings of a public meeting of the "Muhammadans of Ajmer" held at the local Eidgah on Sunday, November 8, 1914 at 5 p.m., where a number of resolutions were passed to put at ease a hyper-vigilant British Indian Government at war. For instance, the second resolution claimed to express a general sentiment at the outbreak of the war, including the uber-sensitive issue of Britain's involvement in a war that had the Caliph of all Muslims, the Ottoman sultan, on the other side.

> Resolution II. This meeting of the Muhammadans of Ajmer expresses sorrow and anxiety at the news of the outbreak of war between Great Britain (which rules over the greatest number of Muhammadans in the world) and the Ottoman empire which has caused a regrettable estrangement between two Empires which were on terms of the greatest friendship for a long time past…[296]

Upping the ante, the very next resolution turned to the all-important *quid pro quo* for British administrators wary of a sequel episode to the 1857 Mutiny. Seeking to ease those concerns (and possibly bolster post-war bargaining positions) the next resolution stated,

> Resolution III. This meeting of the Muhammadans of Ajmer as subjects of His Majesty the King Emperor dutifully assures His Excellency the viceroy that the outbreak of the war would not make the slightest difference in the proved loyalty of the Muhammadans of this place and the Musalmans of Ajmer who have spent their lives and their forefathers before them under the benign shadow of the British Government would remain as faithful as they have been hitherto…[297]

The above resolutions, issued by a local Indian Muslim civic organization (anjumān) from Ajmer, illustrate how many anjumāns were called upon and at pains to express a bold, unambiguous "loyalty" to the British Indian Government. This was largely due to the suspicion cast on Indian Muslims in light of the fact the Ottomans had entered the war against the Allied powers. In this war, the Ottoman entry into the war produced acute anxieties not only on the part of the British Indian Government, who ruled over the largest Muslim population in the world, but also on the part of Indian Muslims themselves. While it is difficult to ascertain from these limited sources alone how representative such organizations and resolutions were in terms of the public opinion of Muslims across India (a massively heterogeneous category at that), the Ajmer anjumān was certainly not alone or aberrational in its issuing of the pro-British resolutions.

---

[296] NAI-FP/Intl/B April 1915 259-305 ("Expressions of loyalty from the Mohammedans and Mahommedan Bodies in India on the outbreak of war with Turkey").

[297] Ibid.

Similar examples of pro-British resolutions and town-hall meetings by Indian Muslims occurred throughout India. In an example from another city, one evening in early November 1914, a meeting of the Muslims of Kotah State met at the house of a certain Khan Bahadur Mir Ali. According to an informant present, the meeting consisted of "respectable and leading residents", in which "great regret" was expressed at the announcement of hostilities between Great Britain and Turkey. Commenting further on the meeting of Muslim notables in a letter dated November 6, 1914 from the Diwan, Kotah State, to the Political Agent, Kotah and Jhalawar, the letter reads,

> They unanimously moved that they were loyal subjects of the Kotah Darbar and that like their Chief His Highness the Maharao Sahib they were and shall remain loyal and faithful to His Majesty's Government; that the just and benign rule of His Britannic Majesty is so deeply rooted in their hearts that they cannot think of deviating from the path of true faith, loyalty and allegiance they owe to His Government. It is a matter that will ever afford them pleasing gratification that the British Government with due regard to the religion has especially declared that all Islamic holy places shall remain immune from attack and molestation by their naval and military forces and what is still more remarkable has secured similar assurances from France and Russia.[298]

Even in large and heterogeneous cities such as Ajmer where diverse Muslim organizations could be found, many of these diverse organizations came forth with staunch and nearly unanimous proclamations of their loyalty to the British crown. For example, the proceedings of a meeting of Sahibzadgan Khadman of the Khwāja Moinuddin Chishti of Ajmer held on November 7, 1914 report that leading Muslim notables and members of the public were present, totaling roughly 400 persons. The following resolution was proposed by Ḥājī Sayyid Raḥmat ʿAlī, seconded by Sayyid Ghulām Quṭb al-Dīn, and passed unanimously, as follows,

> That all the Muhammadans of India who have connection with the blessed threshold of the Khwāja Sahib be informed by wide publication of notices that as the benign British Government has bestowed upon Muhammadans the religious freedom and has maintained the grandeur of the sacred Dargah Khwāja Sahib with great regards and respects and have benevolently allowed to exist in perpetuity all the Muhammadan endowments in India granted by the past Kings and has also allowed the management of all these endowments to be continued in our hands without any interference and that the Government has rather supervised the management for their welfare we all Muhammadans are very much indebted and should express our heartfelt thanks to Government and should never waive ourselves from these gratifications the Government have showed to us. We all as in duty bound should always be loyal, obedient and grateful to the Government and specially much more at the present crisis of war no such thing should be allowed to occur so as to put a hair breadth slur on our unflinching loyalty.[299]

In this way, a number of Indian Muslim notables and community gatherings such as the Ajmer assembly passed resolutions expressing "loyalty" not only to secure and promote their community's short-term interests during the war, nor even their long-term interests after, but *also* to express their expectations that British armies "respect" the holy sites in the Ḥijāz, Jerusalem, and Iraq. The British intelligence report which contains the resolutions of these Muslim

[298] Ibid.

[299] Ibid.

anjumāns then proceeds to state that for propaganda purposes, copies of the proceedings and resolutions were to be printed in English, Urdu, and Gujrati, and then advertised in newspapers and distributed to all the big cities including Calcutta, Bombay, Madras, Lahore, Delhi, Allahabad, Lucknow, Kanpur, and Agra, "where there is a large number of the Muhammadans having concern with the sacred shrine of Khwāja Sahib, Ajmer."[300]

Similarly, in the neighboring city and capital of Jaipure, Rajistan, on November 20, 1914 at 4 p.m., British intelligence sources report that "a crowded and representative meeting of the Muhammadans of Jaipur" was held in the Ramnivas Gardens of Rajisthan province, where they gathered to express their "deep devotion and unflinching loyalty to the British Government."[301] Some Indian Muslim assemblies, though by no means the norm, went so far as to publish critiques of the Ottoman decision to enter the war, or even for not joining the side of the British. In another example of the latter rather extreme pro-British pole, proceedings of a public meeting of the Muhammadans of the Bharatpur State held in the Jama Masjid, Bharatpur, November 5, 1914 are reported in a Foreign and Political Department, where a certain Moulvi Muḥammad Ashiaq Ḥasan Khan, at a "largely attended public gathering" held at 4:30 pm in the Jama Masjid, read out loud an Urdu communiqué which deplored Turkey's decision to join Germany and her old enemy Austria in the war. According to a British informant present, the moulvi proceeded to state, that it was "the paramount duty of the Musalmans to rally to the British Government, the greatest Moslim power in the world, and to support it whole heartedly in the present situation, which has been rendered critical by the action of the Turks."[302] Summarizing the events, the informant's report proceeded to mention that the following resolutions were passed. "unanimously":

> (1) Resolved.- That the Muhammadans of Bharatpur deplore the very regrettable and most unexpected news of the participation of the Ottoman Government in the present war and its aggressive attitude towards Great Britain, its old and staunch friend, regardless of the millions of Muhammadans who are loyally attached to the British Government… Turkey's unjustifiable and unprovoked action has no influence whatever on their feelings of unswerving loyalty and allegiance to the British Throne.
> (2) That they strongly hope that all the Muhammadans of India will disavow the ungrateful attitude of Turkey and will not consider her deserving of any sympathy.
> (3) That prayers be offered for the success of the British arms.[303]

In a similar vein, a translation of the speech made by Sher Khan Sahib at the meeting of Muslims at Honnali is transcribed in the Appendices (Appendix J).[304] Some Indian Muslims chose to express their "loyalty" in the form of poetry composed for the British war cause. For example, a certain Abdul Jalil Fiassi on the occasion of Special meeting convened by the "Mussalman Community of Closepet" town, chose to express his loyalty to the British Crown on November 7, 1914, by reading the following poem offered in praise of British rule:

---

[300] Ibid.

[301] Ibid.

[302] Ibid.

[303] Ibid.

[304] Ibid.

> Self reverence, self knowledge, self control;
> These three alone lead like to sovereign power.
> Yet not for power (power of herself)
> Would come uncalled for but live by law
> Acting the law we live by without fear.[305]

In a similar vein, at the proceedings of the general meeting of the Musalmans held under the auspices of the Muslim Literary Union, Shimoga, at Savaipalia, Shimoga on November 6, 1914, a certain Mr. N. ʿAbd al-Ẓāhir lectured in Urdu on "War and Blessings of the British Rule in India."[306] Mr. Abdul Zahir described British rule as "a reign of peace, tranquility and religious liberty," contrasting the Crown's "tolerance' with "the disturbed days and days of terror of Hilaku Khan and Nādir Shah (when Musalmans were the rulers over a greater part of the world)."[307] In describing the latter, ʿAbd al-Ẓāhir quoted the famous Persian poet Saʿdī, who described a night of journey in his time as a night of death (*Shab-i -raḥīl tark-i jān bāyed guft*). In this way the author contrasted the dreadful days of the Mongol invasion of Khurāsān and the seventeenth century Persian monarch Nādir Shah's pillage of Delhi, with the "benign" British rule when in spite of a fearful war in Europe, "the Peace of India is least disturbed and the brunt of War is little felt," all being the result "of the able British rule in India."[308]

We must note here that the British were not passively receiving (and cherishing) these expressions of Muslim loyalty in India, but had been actively cultivating it from the earliest stages of the war. This was specially evident with regard to two employed strategies in particular: first, the drafting of pro-British propaganda pamphlets for circulation in Muslim markets, mosques and community centers; secondly, buying the support of Muslim princes and notables. On the latter, more elite level, an October 30, 1914 letter from the Begum of Bhopal, as President of the "All-India Muslim Ladies' Conference, Aligarh", Her Highness asked that a recent Resolution of the Conference expressing unswerving loyalty to the British Crown may be submitted for the information of H.E. the Viceroy.[309] On this communication, a memorandum from W.S. Davis, Esq., Political Agent, Bhopal, to Mr. O.V. Bosanquet, Agent to the Governor-General in Central India, Indore, November 7, 1914, reads,

> I had a conversation with the Begum this morning on my return from Bombay. . . Although she agrees that Government cannot afford to let firebrands stir up trouble through disloyal papers, she still thinks that an effort should be made to get people of this sort on the right side, and offered, if Government approved, to send for Muḥammad Ali and reason with him and point out the error of

---

[305] Ibid. Ironically, we could apply this poem to the Niẓāmnāmā commission and the Amān-Allāh era, when Muslim modernists—epitomized in Maḥmūd Ṭarzī and the Young Afghans—finally found a ruler sympathetic to their projects. In this sense, though originally intended for the totally different context of many Indian Muslims' loyalty to the British during World War I, the poem's theme's of patience and the law, and waiting for a legitimate Muslim authority, bears resonance.

[306] Ibid.

[307] Ibid.

[308] Ibid.

[309] Ibid.

> his ways…She urged above all let Government leave no stone unturned to get the Mullahs with them. She mentioned that some people were of opinion that Aligarh College should be closed as there is no doubt that about half the Committee and Staff are ruled by Muḥammad Ali and his party. She thinks that to close the College would be a mistake, as the fathers of the students are loyal enough and the majority of the students are loyal too.[310]

The file also reports of a certain Nawab Sir Mohamed Iftikhar Ali Khan Bahadur, Ruler of Jaora, who convened on Friday, November 6, 1914, at 9:30 AM, a large public meeting to which relatives, State officials and people of the town were invited to hear his speech in support of the British, pro-loyalty, and condemned Turkish entry to the war.[311] Returning to the Begum's pro-British message, a translation of Her Highness's address to her people of Bhopal on November 5, 1914, reads, "The fact that the manifold blessings which we enjoy under the *aegis* of the British rule are such as were never vouchsafed to Indian under any *régime* prior to the British *Raj*, is acknowledged on all hands…"[312] In this way British Indian authorities officials self-interestedly collected and spread the news of Indian Muslim princes who criticize Turkish entry into the war, and praised Britain's "benign" rule over India in the process.[313]

Similarly, the following proclamation regarding British intentions to respect the Holy Sites in Ḥijāz, Jerusalem, and Iraq were carefully calculated to not offend Indian Muslim sentiment, and even recruit their support. A secret War, Foreign, and Political department memorandum of May 1915 entitled "Communiqué regarding the Turkish attitude: a Proclamation issued respecting the Holy Places of Arabia including the Holy Shrines of Mesopotamia and the port of Jeddah" includes the following draft proclamation,

> PUBLIC ANNOUNCEMENT. In view of the outbreak of war between Great Britain and Turkey, which to the regret of Great Britain has been brought about by the ill-advised, unprovoked and deliberate action of the Ottoman Government, His Excellency the Viceroy is authorised by His Majesty's Government to make the following public announcement in regard to the Holy Places of Arabia including the Holy Shrines of Mesopotamia and the port of Jeddah, in order that there may be no misunderstanding on the part of His Majesty's most loyal Moslem subjects as to the attitude of His Majesty's Government in this war in which no question of a religious character is involved. These Holy Places and Jeddah will be immune from attack or molestation by the British Navy and Military Forces so long as there is no interference with pilgrims from India to the Holy Places and Shrines in question. At the request of His Majesty's Government the Governments of France and Russia have been given them similar assurances."[314]

The above draft was translated into Urdu and intended for distribution throughout strategic Muslim sites in India. Even more revealing than the above announcement of British

---

[310] NAI-FP/SEC/Intl Oct 1916 13-34 ("Declarations of loyalty by the leading Musalman Princes in India on the outbreak of war with Turkey").

[311] Ibid.

[312] Ibid.

[313] Ibid.

[314] NAI-FP/SEC/War May 1915 453-487 ("Communiqué regarding the Turkish attitude. Proclamation issued respecting the Holy Places of Arabia including the Holy Shrines of Mesopotamia and the port of Jeddah").

intentions, however, is the critical commentary of British officials provide after pouring through the aforementioned draft. Following a telegram of Sir E. Grey of Constantinople to Sir L. Mallet of the Foreign Office in London, September 23, 1914, the Reply of the Viceroy to Mallet's telegram reads,

> We do not wish to emphasise allegiance of Moslems in India to Khalifate; for this would be playing into hands of Pan-Islamists, and it would tie our hands if the Turks are expelled by Arabs from the holy places in the event of war with Turkey. Further we do not think it desirable that Niẓām or other Chiefs should telegraph to Constantinople. There have already been several meetings of Mahometans in the provinces where resolutions of loyalty to the British Government have been passed, and telegrams have been sent to Turkish Government urging them to maintain their neutrality and even to side with England in the war.[315]

The Viceroy's insistence on avoiding reference to the Ottoman Caliphate highlights Britain's lingering fears of the Pan-Islamic institution *par excellence*. British administrators, having moved to the new north Indian metropolis of Delhi as their new capital in 1912, still feared the danger of transnational Islamic causes being stoked to an uncontrollable conflagration once again. Notably, we also see an early glimpse of a post-war partition plan in the making, especially with the reference to "post-Ottoman" Arab lands, where even transferal of the custodianship of the Muslim holy sites was discussed. Even before the war, such questions as the probable effect on popular Muslim opinion in Hyderbad if the Ottomans sided against Britain vexed officials in London and Delhi alike. For example, a memo from Mr. S.M. Fraser, British Resident at Hyderabad, to Mr. J.B. Wood, Political Secretary to the Government of India Foreign and Political Department, August 30, 1914, comments on the state of "Muhammadan feeling in Hyderabad" in the populous state,

> [T]here is undoubtedly a strong feeling of sympathy with Turkey, which even men like Salar Jang look up to with reverence as the one live Muhammadan Kingdom, and it was, I know, with a feeling of relief that the Minister read of Turkey's early declaration of neutrality. It is certain, therefore that even the educated classes would find their sympathies divided if we were now to be at war with the Sultan, and although nothing as yet exists here which can be called Pan-Islamic sentiment, attempt at agitation would doubtless be made among the ignorant masses in the city.[316]

Aware of the potential threat, and adamant to snub any potential pro-Ottoman or Pan-Islamic activism from taking root in India, the British Resident's proposed plan of action is even more revealing. In the same document, he proceeds to offer the following advice on using the other most prominent Indian Muslim princely state ruler and strategic "asset" the British Indian Government had at its disposal, the Niẓām of Hyderabad.

> In such a contingency, it would, in my opinion, be imperative that the Niẓām should at once publicly and in unmistakable terms declare that single-eyed loyalty to the British Government, to the exclusion of all further sympathy with the Sultan, is the paramount duty of every Muhammadan in India. And I have no doubt that His Highness would act upon the Resident's

[315] Ibid.

[316] Ibid.

> suggestion that he should stand forth as the leader and spokesman of Muhammadan India in the matter.[317]

In a similar proposed strategy of "using" Indian Muslim princes and other notables to rouse pro-British sentiment among India's diverse Muslim populations, the following cache of documents reveals the strategic alliances formed between the British Indian Government and certain Muslim rulers of the princely states, such as the Niẓām of Hyderabad and the Begum of Bhopal. A Foreign and Political Department Secret-Internal branch memorandum of October 1916 entitled, "Declarations of loyalty by the leading Musalman Princes in India on the outbreak of war with Turkey" similarly reveals the high level of complicity between a small number of Indian Muslim princes and the British Indian Government against the Ottomans. For example, a memo from Mr. S.M. Fraser, Resident at Hyderbad, to Mr. J.B. Wood, Political Secretary to the Government of India in the Foreign and Political Department, September 2, 1914, discusses a conversation the former had with Minister Salar Jung of Hyderabad on the Niẓām's position if the Ottomans entered the war on the side of Germany and against England.

> His Highness could influence the people of Hyderabad, but Salar Jung doubted whether he would carry weight outside. I replied that the Niẓām was, I knew, looked up to by Muhammadans both in the north and south of India, and, whatever the weight he carried, he must not lose this, the opportunity of his life. To Salar Jung himself there would fall the same chance of service as fell to this grandfather at the time of the Mutiny. With this he quite concurred, and said that he had used the 1857 precedent with the Niẓām, who realized how much more claim the Delhi Emperor had on Hyderabad than the Sultan of Turkey. He also referred to the telegram which certain Muhammadans of Bengal have sent to the Sultan, advising him to maintain his neutrality; and he asked my opinion whether the Niẓām should send a similar message.[318]

In this manner, if the British feared a repeat of the events of 1857—however much they re-constructed it as a Pan-Islamic jihad, dubiously so we might add—ironically, they also sought to capitalize on their strategic political assets within India's diverse Muslim populations. The latter is evident in the Raj aggressively seeking the public support and endorsement of the pro-British Indian Muslim princes, most prominently the Bhegum of Bhopal and the Niẓām of Hyderabad. Amazingly, the British Resident at Hyderabad went so far as to suggest drafting the Niẓām's proclamation of "loyalty" by himself! In his own words, the British Resident at Hyderabad writes,

> I then proceeded that it would be well if we were ready with a draft of what the Niẓām should say, to telegraph to the Viceroy, in case Turkey declared war, since the message would have to be very carefully worded, as from a religious Muhammadan and respecter of the Sultan, who rallied his fellow religionists to the side of the King, not only as the benefactor of all his Indian subjects, but as the Sovereign whom the Koran itself requires all true followers of Islam to support. The Sultan would not be fighting for any religious cause, nor in defence of his country, for the allies had already agreed to respect his territory, but Turkey would be going out of her way to side with

[317] NAI-FP/SEC/WAR May 1915 453-487 ("Communiqué regarding the Turkish attitude. Proclamation issued respecting the Holy Places of Arabia including the Holy Shrines of Mesopotamia and the port of Jeddah").

[318] NAI-FP/SEC/INTL Oct 1916 13-34 ("Declarations of loyalty by the leading Musalman Princes in India on the outbreak of war with Turkey").

> the tyrant Germany whose brutality to the weak and harmless, like poor Belgium, had aroused the hatred of the whole civilized world.[319]

Such was the extent of British war propaganda *within* India, that drafting proclamations for Indian Muslim princely rulers to express their sincere "loyalty" to the Crown was not inconceivable. Another way of putting the strategy might run like this: if political Islam could not be eliminated, it could be channeled in a pro-British direction—echoing British policy in the 1877-1878 Hulusi Efendi mission to Kabul (Chapter 3). As demonstrated in the above draft proclamation, it was the willingness of officials in the Muslim Princely States such as Hyderabad to collaborate with Raj officials in curbing pro-Ottoman sentiment among Indian Muslims that that led some British officials to conclude, rather patronizingly, that "Salar Jung is maturing fast in grasp and judgment and his heart is in the right place…"[320] In the case of the above letter, it originated from a secret memorandum likely composed sometime in early September 1914 (at the latest), because is referred to in a telegram between the British Resident at Hyderabad to the Political Secretary, Foreign and Political Department at Simla on September 15, 1914, and resulted in the Proclamation to be published by His Highness the Niẓām of Hyderabad. The fact a pre-circulated draft was sent to the British beforehand reveals much of the degree of collaborations that were likely taking place among influential decision makers in certain Indian Muslim princely states. A draft of the letter composed by the British officials for circulation by the Niẓām in included in the Appendix (see Appendix K).[321]

In this way, a survey of British Indian internal intelligence records in the lead up to the Ottoman entry into World War I reveals how British Indian government sought to reap the fruits of their outreach with : a large number of areas expressed loyalty with letters and town-hall meetings and resolutions from Muslim communities, associations, and even rulers across India, including the cities of Bhopal, Kashmir, Mysore (including many letters from different districts and towns from Mysore State), Bangalore, Chitaldrug, Ajmer, Bharatpur, Kotah and jhalawar, Hosdurga, Taluk, Devangere, Chellakere, Honnali, Baroda, Chennagiri Taluk, Anekal, Jaipur, Indore, Bikaner and Karauli State. We must contrast these early pro-British declarations, however, from the dissenting opinions of certain segments of the burgeoning Indian Muslim intelligentsia who were not in positions of official employment or ruling a princely state. We can speculate that many of these rulers were making pronouncements less out of a principled belief in British supremacy, than out of self-preservation, given the legacy of trauma among Indian Muslims following the destruction of Mughal sovereignty in 1857, especially in northern India (See Chapter 3). We now turn to the more complex and nuanced views of Indian Muslim intellectuals, journalists, and scholars who contributed to the production of a Habermasian "Indo-Muslim" public sphere in India in the early twentieth century, often over and above the rulers of the princely state.

Indian Muslims and "Loyalty": A More Nuanced View

---

[319] Ibid.

[320] Ibid.

[321] Ibid.

Perhaps more than any other political term at the time, "loyalty" was of the most contested concepts in British India during World War I, given many Muslims framed their dissent and opposition to the war (and especially against the Ottoman empire) in terms of patriotism, loyalty, and enhancement of British Indian security and prosperity. Moreover, perhaps we should not be so quick to rush to judgment on the Indian Muslim "loyalists." After all, an alternatively imagined "rebellious" mode was hardly an option in the aftermath of the 1857 Mutiny. Rather, perhaps some Indian Muslims opined that the best, or only, way they could influence British foreign policy vis-à-vis the war was to first reassure British administrators ruling them that their dissent was itself a manifestation of loyalty and good will. In this way, many Indian Muslims saw their support for the Ottomans during the war as not contradictory with loyalty to their own political sovereign, the British Crown.

Of course, Indian Muslims who chose to stress their "loyalty" to the British above all considerations were not the only ones who weighed in on the matter. As the course of the war would unravel, it soon became evident there was a growing number of vocal Indian Muslim intellectuals and activists that would increasingly express their connection to the Ottomans, especially as news of the war made it clear it was not a quick, negligible war but one of epic proportions. The tireless work of Ottoman Pan-Islamists, such as the Lebanese Druze leader Amir Shakib Arsalan, were pivotal in gathering support for the Ottoman war effort. An Ottoman archives document speaks to his efforts in outreach to the world's Muslims in this regard, in particular his call to the world's Muslims to provide "material and spiritual" support to the Ottoman State ("Dünya müslümanlarının Osmanlı Devletine maddi manevi destek verdiklerine").[322]

There is also a geographic element to such collective expressions of loyalty, a large number being from central, southern India, and Bengal. Notably, we do not see any reports from Northern Indian province of Uttra Pradesh, home to some of the most dynamic and powerful Indian Muslim organizations and institutions, including Dār al-ʿUlūm Deoband Madrasah and the Muhammadan Anglo-Oriental College at Aligarh. Moreover, apart from the All-India Muslim Ladies' Conference, we do not see any all-India Muslim conferences as of yet. As Ayesha Jalal's work has shown, the historical conditions leading to the emergence of a pan-Indian Muslim consciousness, identity, and institutional formation had not taken root yet, and the construction of all-India Muslim organizations was a much slower process that would not surface until later decades of the twentieth century, culminating in the politics of the Muslim League, the Jamʿīyat-i ʿUlamāʾ-i Hind, the Jamʿīyat-i ʿUlamāʾ-i Islam, all in addition to the Indian National Congress party in the 1930s and 1940s.[323]

A broader and more comprehensive consultation of Ottoman, Afghan, and Indian archival sources reveals that just as the British Raj authorities were parading declarations of Indian Muslims' loyalty to the Crown, and even some condemnation of the Ottoman decision to enter the war against Britain, meanwhile other Indian Muslims were mobilizing in a variety of fashions to express their loyalty to the Ottoman Sultan-Caliph in Istanbul. Within the same year we see the issue of jurisdictional tensions between the Ottomans and British take on whole new dimensions, with the outright immigration of some Indian Muslims to Ottoman domains, and

[322] BOA-DH.KMS 63/53 (1332 R 02) ("Dünya müslümanlarının Osmanlı Devletine maddi manevi destek verdiklerine ve Hicaz Mısır bölgelerindeki bazı meselelere dair Amir Şekip Arslan'ın mektubları").

[323] Ayesha Jalal, *Self and Sovereignty: Individual and Community in South Asian Islam since 1850* (New York: Routledge, 2000), 212.

seeking of Ottoman citizenship. An Ottoman archives document from January 1915, for example, describes the presence of Indian Muslim doctor Abdulkerim Efendi son of Muḥammad Maruf Khan, and his wife Binnaz Khan, as residents in Istanbul. What is more, the document describes their acceptance of Ottoman citizenship.[324] What is even more interesting, however, is that according to the document, their sons remained in India and desired to keep British citizenship. While it is not entirely clear if this was a family dispute, or a more secret strategy to keep some family within British domains as a pocket of internal resistance, there no doubt the parents had thrown in their lot with the Ottomans. The report also proceeds to describe the correspondence between an Istanbul news reporter named Mehmed Said Efendi with Indian Muslims administering the staunchly pro-Ottoman Muslims newspapers of India, the *Comrade* and *Zamindar*. Nor was this simply a product of World War I. Three years earlier, an Ottoman archives document from late 1911 describes Istanbul's triangular correspondence with an Indian Muslim named el-Memun Suhrawardi, and in the same report, Cairo's *al-Ahrām* newspaper.[325]

Few episodes are more emblematic of growing Indian Muslim support for the Ottomans, as well as Ottoman outreach, than the joint German-Ottoman mission to Kabul in 1915, to which we turn to now. Far more than an isolated mission of a few Ottoman-German officers, this expedition would attract the support and attention of general Muslim civilian populations across India as well. We will first discuss the perimeters of the joint German-Ottoman expedition to Kabul, then proceed to discuss some of the greater social and political consequences of this expedition for Afghanistan, India, and the late Ottoman empire.

Journey to Afghanistan, Redux: The Joint German-Ottoman Mission to Kabul

With the first World War in full throttle, pro-Ottoman sympathies and anti-British feelings in India were already at a high, and took on a new dimension with the Ottoman declaration of Jihad. The entrance of the Ottoman state into World War I on the side of the Central powers in November 1914 created much enthusiasm, anxiety, and hysteria among Muslims in India, Afghanistan, and Central Asia. Even before the outbreak of World War I in summer 1914, Turkish sympathies and anti-British feelings were already at a high after the Italo-Turkish war, and took on a new dimension with the Ottoman declaration of a military jihad. To capitalize on this outpouring of sympathy and pro-Ottoman and pro-German feeling, a joint Ottoman-German mission was organized and dispatched to Kabul.[326] The joint mission is commonly known as the Hentig-Niedermayer Expedition, but is also known in Ottoman historiography, more accurately we might add, as the Hüseyin-Niedermayer expedition—after

---

[324] BOA-DH.İD 61-1/57 (1333 Ra 10) ("Dersaadet'te mukim Hindistanlı Tabib Abdulkerim Efendi bin Muḥammad Maruf Han ile zevcesi Binnaz Hanım'ın Osmanlı tabiiyetine kabulünün uygun görüldüğü, İngiliz tabiiyyetinde kalmak isteyen mahdumları olan ve Hindistan'da yayınlanan Zikomrad ve Zimendar adlı gazeteler İstanbul muhabiri Mehmed Said Efendi hakkında bir muamele yapmaya gerek olmadığı").

[325] BOA-DH.İD 79/11 (1330 M 03) ("Trablusgarp'ta ordunun muzafferiyetine dair zaman zaman telgrafla malumat verildiğı takdirde bunun Hindistan'da el-Memnun Sühreverdi vasıtasıyla, Mısır'da da el-Ehram Gazetesiyle alem-i İslama neşredilebileceği mütalaasıyla bu gazeteye bir miktar para tesviyesini havi Mısı Fevkalade Komiserliği talebinin Maliye Nezareti'ne havalesi ve bu haberlerin Sadaret vasıtasıyla ulaştırılması gerektiği.")

[326] Ahmetbeyoğlu, 248; Saray, 88-89; F.J. Moberly, Operations in Persia, 1914-1919. London, HMSO, 1987, p. 116)

the Ottoman and German commanders, respectively, who led it. Ludwig Adamec summarizes the objectives of the campaign as follows,

> An expedition conceived in August 1914 by the German general staff for the purpose of 'revolutionizing India, inducing Afghanistan to attack India, and securing Iran as a bridge from the Ottoman empire to Afghanistan.' The leading members were Werner Otto von Hentig, a young German diplomat who had served in Iran, and Oskar von Niedermayer, a captain in the German army. They were accompanied by Kazim Bey, a Turkish officer, Maulawi Barakat-Allāh and Mahendra Pratap, two Indian revolutionaries, and a number of Afridi Pashtuns who has been taken from a prisoner of war camp. Hentig carried an unsigned letter purported to be from the German Kaiser and a message from von Bethmann-Hollweg, the chancellor, for Amir Ḥabīb-Allāh. He was to establish diplomatic relations and conclude a treaty of friendship or, if possible an alliance, with Afghanistan. Niedermayer was to discuss matters of a military nature and the Indians were to appeal to Amir Ḥabīb-Allāh for support in the fight against the British in India. Kazim Bey was to convey special messages from the Sultan-Caliph and the leaders of the Ottoman war government. The expedition crossed Iran and entered Afghanistan in August 1915 and five weeks later reached Kabul.[327]

While conventional historiography, such as Adamec's description of the "accompanying" Ottoman members above, have attributed the idea to the Germans with the Ottomans as passive secondary actors "tagging along" under German leadership, recently unearthed sources in the Ottoman archives discuss the more complex origins—and branches—of the secret delegation.[328] One document in the Ottoman archives discusses the letters between a certain Afghan shaykh named ʿAbd al-Qādir al-Ḥanafī al-Qādirī, and a Muslim political activist and lawyer from Johannesburg named Habib Motan, again illustrating the cosmopolitan nature and global scope of these connections and relationships.[329] The letters, written in English, French, and Arabic, are addressed to the Ottoman Imperial Consulate in Johannesburg, discussing how according to the Afghan Shaykh Abdulqadir, the country was ripe for a secret mission of an Ottoman delegation to Afghanistan and plans to incorporate Afghanistan into a stronger union with the Sublime Ottoman State.[330]

Ottoman archives documents also reveal that though the Germans took a very aggressive approach to recruiting for the delegation early on, many of their initial moves, perhaps overly hasty and rushed, did not come to much avail, and the Turks were often left to pick up the pieces. For example, in November 1914, just months after the outbreak of the war in Europe and the

---

[327] Adamec*, Afghanistan,* 108-109. The Joint German-Ottoman expedition to Afghanistan has been the subject of a significant amount of literature, mostly by military historians. The expedition was significant in being Germany's first diplomatic contact with Afghanistan, thereby marking yet another blow to the British monopoly over Afghan foreign relations. One of the prominent German leaders of the expedition, Von Hentig, published two books on the expedition and travel to Afghanistan: Werner Otto Von Hentig, *Meine Diplomatenfahrt ins verschlossene Land* (Berlin: 1918) and *Mein Leben Eine Dienstreise* (Göttingen: Vandenhoeck & Ruprecht, 1962).

[328] Azmi Özcan's *Pan-Islamism* provides one of the best researched overviews of the joint Ottoman-German mission to Kabul, while focusing on Ottoman sources and perspectives.

[329] BOA-HR.SYS 5/20 (1914 05 26) ("Osmanlı Devleti'nin Afganistan'a bir heyet göndermesini ve bu suretle Afganistan'ın Osmanlıya dahil olacağını bildirir Afganlı Abdülkadir el-Hanefi el-Kadiri ve Johannesburg mutebaranından Habib Motan'ın mektupları").

[330] Ibid.

signing of the Ottoman-Germany alliance in August 1914, the Germans began recruiting prominent Ottoman military and civilian officers for a mission of unprecedented significance. They went straight to the top, and recruited some of the Ottoman government's top military brass and parliamentary officials. Their first choice for the selection was the highly decorated former Governor of Basra and Commander Süleyman Sefik Paşa, along Parliamentary Representative of Aydın, Abdullah Efendi.[331] It is not clear to what extent the German mission went over and above the heads of the relevant Ottoman authorities in making their appointments, an issue that would surface time and again between the Turks and Germans in their World War I alliance on a number of occasions. What is clear is Şüleyman Şefik Paşa was a highly-decorated officer in the Ottoman military establishment. Ottoman archives indicate he received medals for his civilian service in governing Basra, after serving in commanding positions as Brigadier General in Asir Province in the southern Arabian peninsula and in Damascus.[332] Ottoman archives records also indicate he subsequently reached the very prestigious and influential ranks of Chief of the Harbiye Military Academy, as well as Superior Commander of İzmit (Harbiye Nazırı ve İzmit Fevkalede Kumandanı).[333] What is more, in August 1914, before the Ottomans even entered the war, the now Major General Süleyman Şefik Paşa was decorated with the prestigious Silver Honor Medal (Altın İftihar Madalyası), in a document signed by Minister of War himself, Enver Paşa.[334]

In spite of his glistening record, however, Ottoman archives reports reveal a sense among some Ottoman military officials that he was not the best choice for the mission. Sülayman Sefik Paşa returned from his mission in Afghanistan as early as September 1915, less than a year after his appointment to head the mission there.[335] It is not clear what prompted his return from

---

[331] BOA-DH.EUM.KLU 5/18 (1333 M 10) ("Almanya Hükümeti tarafından Afganistan'a gönderilen elçilik heyetiyle birleşmek üzere Aydın Mebusu Abdullah Efendi ile eski Basra Vali ve Kumandanı Ferik Süleyman Paşa orta elçi derecesinde tayin olunduğu").

[332] BOA-A.MTZ.05 35/164 (1332 L 9) ("Sabık Basra Valisi Süleyman Şefik Paşa'ya madalya verildiğine dair telgraf"). Before his appointment to Basra, Ottoman archives records indicate Şuleyman Şefik Paşa served as Commander of the Ottoman Third Army Artillery (Seyyar Topçu Üçuncü Liva Kumandanı) in Asir Province of southern Arabia, BOA-BEO 3570/267705 (1327 Ca 20) ("Asir Mutasarrıf ve Kumandanlığı'na tayin buyurulan Mīr liva Süleyman Şefik Paşa tarafından Asir için akçe istenildiği"); BOA-BEO 3554/266544 (1327 Ca 02) ("Asir Mutasarrıflığı ile Kumandanlığı'na Mīr liva Süleyman Şefik Paşa'nın tayini"); BOA-DH.MKT 2814/47 (1327 R 26) ("Asir Mutasarrıflığı'na Seyyar Topçu Üçüncü Liva Kumandanı Süleyman Şefik Paşa'nın tayini"), and BOA-İ.DH 1474/1327R-19 (1327 R 29) ("Asır Mutasarrıf ve Kumandanı Mīr liva Süleyman Şefik Paşa'nın tayini"), followed by Commander of Ottoman Eighth Army Wing in Damascus, BOA-DH.KMS 11/12 (1332 Ra 05) ("Şam'da bulunan Sekizinci Kolordu Kumandanı Süleyman Şefik Paşa'nın, Basra Valiliğine tayin edildiği"). After World War I, in 1919, he received the top medal of Honors of the First Order (Birince rütbe) for his service by the Ministry of Foreign Affairs. BOA-İ.DUİT 7/95 (1337 Z 21) ("Seyahat, taltifat, izin, nişan, talik ruhsatı; Süleyman Şefik Paşa (Harbiye Nazırı)").

[333] BOA-İ.DUİT 160/25 (1338 Ş 10) ("Tayin; Süleyman Şefik Paşa Yeveriekrem, İzmit fevkalede kumandanı").

[334] BOA-İ.TAL 496/1332N-29 (1332 N 19) ("Basra Vali ve Kumandanı Mīr liva Süleyman Şefik Paşa'ya altın İftihar Madalyası itası").

[335] Apparently he had reached Afghanistan itself however, according to BOA-DH.EUM.4.Şb 3/62 (1333 Za 10) ("Afganistan'dan dönen Süleyman Şefik Paşa ile Ahmed Fakih Efendi'ye verilen harcırahtan fazla olan kısmının geri alınması"). Most likely, he reached as far as the western border city of Herat and did not reach Kabul but turned around, as Ottoman and British Indian archives documents reveal the mission did not reach Kabul until October 1915.

Afghanistan, and he is not mentioned in Ottoman records with regard to Afghanistan from here on. To the extent of my research, the last document was from February 1918, where an Ottoman archives document reports that Commander Süleyman Şefik Paşa was dispatched to Vienna and Berlin for medical treatment.[336]

While this was but one of many gaffes and errors in the German coordination of the mission, it is also clear that other Ottoman officers had their differences with the Germans, such that the mission actually split along national lines and took separate routes through Iraq and Iran before meeting together in Kabul.[337] A number of documents in the Ottoman archives and Indian archives, as well as British India Office Records, reveal a paper trail concerning the intentions, activities, and results of the secret mission.

One especially rich file in the Ottoman archives contains no less than 40 documents on the Niedermayer mission to Kabul, including Sardār Naṣr-Allāh's response written in Persian to a letter from the German captain Niedermayer and secretary of the legation, Von Hentig, concerning the idea of a joint German-Turkish mission to Kabul.[338] It also includes a list of the Turkish members of the delegation. The Ottoman delegation to Afghanistan during World War I, one of the war's most colorful secrets, would be led by Naval Commander Hüseyin Rauf Bey, and the German delegation by Shiraz ambassador Von Van Muss.[339] A number of documents in the Ottoman archives describe the selection, preparation, movements, and communication with its most prominent leaders: Rauf Bey, Nedim Bey, Mehmet Ubeydullah Efendi (İzmirli) and their respective delegations.[340] Ubeydullah İzmirli Efendi's mission met and departed from Isfahan, Iran, while Nedim Bey departed from Istanbul, and stopped in Kirmanşhah, Iran, before eventually returning.[341] Rauf Bey's delegation was joined by officers in Baghdad, making a total

---

[336] BOA-DH.EUM.SSM 18/27 (1336 Ca 08) ("Tedavi olmak üzere Viyana ve Berlin'e gidecek olan Ferik Süleyman Şefik Paşa'ya verilen seyahat varakası").

[337] BOA-DH.ŞFR 465/6 (1331 Ma 01) ("Binbaşı Hüseyin Rauf Bey'le Afganistan'a gitmekte olan Alman zabitleri arasında ihtilaf çıktığı").

[338] BOA-HR.SYS 2312/1 (1917 03 31) ("Afganistan'a gönderilen heyet"). Thanks to Hakeem Naim for first bringing this file to my attention.

[339] The Siccil-i Umumi records contain and an educational and employment profile for Captain Hüseyin Rauf bey in DH.SAİDd 28/263 (1287 Z 29) ("Hüseyin Rauf Bey; 1287 İstanbul doğumlu, Muhakemat-ı Askeriye Dairesi Reisi Müşir Alyanak Mustafa Paşa'nın oğlu").

[340] BOA-DH.ŞFR 48/278 (1333 18 1) ("Emniyet-i Umumiye Müdüriyeti'nden Afganistan'a gitmek üzere hareket eden ve el yevm Bağdad'da bulunan Rauf Bey'in şimdilik o cihete izamı mümkün olmamasına mebni maiyet-i aliyyelerin istihdamı muvafık görüldüğünden mazhar-ı tensib-i alileri buyurulduğu taktirde kendisine tebliği keyfiyet olunmak üzere işarı' şeklinde Dördüncü Ordu-yı Hümayun Kumandanlığı'a çekilen telgraf"). In addition to imperial orders assembling the mission, the Prime Ministry Ottoman Archives include real-time telegraphs from the delegations as they progressed through Syria Mesopotamia, Iran, and finally Afghanistan. For example, DH.ŞFR 540/65 (1332 Ke 03) ("Afganistan emirinin dünya savaşı dolayısıyla Osmanlı Devleti'ne olan teklifleri vesaireye dair Altınca Ordu Kumandanlığı'nın telgrafı").

[341] BOA-DH.ŞFR 511/54 (1331 Şu 16) ("Bağdad'da bulunan Ubeydullah Efendi'nin Afganistan'a gitmek üzere İsfahan'dan, Nedim Bey'in de İstanbul'a gitmek üzere Kirmanşah'dan hareket ettiği"); DH.ŞFR 512/107 (1331 Şu 28) ("Tahran Osmanlı Sefareti Fevkalade Başkatibi Nedim Bey'in İran'ın durumuna ve Afganistan'a gitmekte iken Kirmanşah'a dönme nedenlerine ve Alman heyet-i seferiyesine dair beyanları hakkında Bağdad valisinin şifreli telgrafı"); DH.ŞFR 61/54 (1334 R 15) (Emniyet-i Umumiye Müdüriyeti'nden 'Görevli olarak Afganistan'a gitmekte olan İzMīr Mebusu Ubeydullah Efendi ve katibi Nedim Bey'in nerede bulunduklarının bildirilmesi' şeklinde Bağdad ve Musul Vilayetleri'ne çekilen telgraf"); DH.ŞFR 63/308 (1334 B 10) ("Avdet eden

of 25 persons. Von Muss's delegation was soon joined by Captain Oskar von Niedermayer and Doctor von Hentig along with 20 others.[342] We now turn to a history of these disparate expeditions that constituted the 1915 joint Ottoman-German secret mission to Kabul.

The Decoy

On November 28, 1914, just days before Ottoman Caliph Reshad V would declare Jihad against the Allied powers, Mehmet Ubeydullah İzmirli Efendi, a member of the CUP from Izmir, was chosen by CUP "triumverate" member Enver Paşa to travel to Afghanistan in a joint German-Ottoman mission to convince the Amir of Afghanistan to join the jihad against British and Russians. Ubeydullah Efendi was a colorful personality and Ottoman international extraordinaire, boasting adventures in as far as wide as Iran and America, even publishing a memoir about his service as an Ottoman diplomat in the United States.[343] The Ottoman archives also contain a trove of documents on Ubeydullah Efendi's official duties, and adventures, in Washington, D.C..[344]

The Ottoman archives contain a flood of documents tracking his movements and activities in line with the Afghanistan mission, from his departure from Izmir, to the convergence point in Baghdad, with stops in Konya, Hüdavendigar, Urfa, Mosul, Adana, and Aleppo along the way.[345] Up to this point a delegation led by Ubeydullah Efendi was to be

---

Afganistan Heyet-i Mahsusası Kātibi Nedim Bey'in Haleb'e ulaşıp ulaşmadığı hususunda bilgi verilmesine dair, Kalem-i Mahsus'tan Halep Vilayeti'ne çekilen telgraf").

[342] Ünal et al., *Türk-Afgan İlişkileri,* 34.

[343] For Mehmet Ubeydullah Efendi's memoirs, see Ömer Hakan Özalp, ed., *Mehmed Ubeydullah Efendi'nin Malta, Afganistan, ve İran Hatıraları* (İstanbul: Dergah Yayınları, 2002); Ahmet Turan Alkan, ed., *Sıradışı Bir Jön Türk: Ubeydullah Efendi'nin Amerika Hatıraları* (İstanbul: İletişim Yayınları, 1989); and Ömer Hakan Özalp, ed., *Ulemadan Bir Jöntürk: Mehmed Ubeydullah Efendi* (İstanbul: Dergah Yayınları, 2005). Interestingly, the Prime Ministry Ottoman Archives contains a book published in Ottoman Turkish in 1914, entitled "Kavm-i Cedid" (the New People), by a certain "Shaykh Ubeydullah Afghani." BOA-DH.KMS 7/25 (1332 Ra 08) ("Ubeydullah Efgani'nin yazdığı 'Kavm-i Cedid' adlı kitabın toplatiması"). This is likely not our Shaykh Ubeydullah İzmirli Efendi, who does not appear elsewhere as having taken on the designation of "Afghani", but rather Shaykh Mehmed Ubeydullah Efendi of the Afghan tekke in Üsküdar, reported in BOA-Y.MTV 254/114 (1321 L 17) ("Afganistan'lı Şeyh Hacı Mehmed Ubeydullah Efendi'nin Üsküdar Afganlar Dergahı postnişinliğine tayini"). It may also indicate the pen name of another Ottoman subject with some connection to Afghanistan, an Afghan immigrant, or an Ottoman subject of Afghan descent.

[344] The Ottoman government documents on Ubeydullah's activites in the United States in 1894 are contained in BOA-HR.SYS 63/1 (1894 03 09); BOA-HR.SYS 63/4 (1894 03 19); BOA-HR.SYS 63/5 (1894 03 25). BOA-HR.SYS 63/6 (1894 04 04) provides a useful overview of his activities in Washington ("Washington'daki faaliyetleri"). Records of financial dispursements from Istanbul to the Ottoman embassy in Washington during his tenure are also included in BOA-HR.SYS 63/7 (1894 04 06) and BOA-HR.SYS 63/9 (1894 04 10). The treasure chest file by far, however, is BOA-HR.SYS 63/8 (1894 04 06) ("Haik ve diğer gazetelerin küpürlerinin gönderildiği, Ubeydullah Efendi'nin faalietleri"), containing over 75 documents including newspaper clippings and translations of articles from the U.S. press on such issues as Muslims in North America, to Ottoman surveillance on Armenian political activities in the U.S., and critiques of missionaries in Turkey. BOA-HR.SYS 64/30 (1895 10 10) describes Ubeydullah Efendi's return to Istanbul.

[345] An entire thesis could be written on this extraordinary mission, as much research has still to be done on the details and complications of this extraordinary mission. This dissertation will not focus on the details of these documents, but will provide them here for the use of future researchers in the hope more work can be done. BOA-

coordinated with the separate one led by Nedim Bey.[346] But at this point, to the outside eye, a curious development takes place. The delegation leaves Baghdad for Isfahan, Iran, en route to Afghanistan, at the same time that *another* Ottoman delegation led by Nedim Bey departed back to Istanbul from Kirmanshah.[347]

Yet the expedition was only about to get even more strange. While in Tehran, Ubeydullah Efendi was captured by British authorities.[348] He was held for some time, until he was ultimately released as harmless, whereupon he returned to Istanbul.[349] As Azmi Özcan among others have illustrated, Ubeydullah Efendi's mission, travels, and activities in

---

DH.MTV 38/46 (1331 Ra 19) (Departure from Izmir); BOA-DH.ŞFR 474/80 (1331 My 25) and BOA-DH.ŞFR 54A/57 (1333 N 08) (Despatches from Mosul); BOA-DH.ŞFR 54A/61 (1333 N 10) (Despatch from Süleymaniye); BOA-DH.ŞFR 54A/365 (1333 N 29) (Despatch en route to Kirmanshah); BOA-DH.ŞFR 51/229 (1333 Ca 22) (Update on travels through Konya, Hüdavendigar, Urfa, Mosul, Adana, Aleppo, Baghdad and Zor); BOA-DH.ŞFR 510/72 (1331 Şu 09) (Despatch from Baghdad).

[346] BOA-DH.ŞFR 512/119 (1331 Şu 29) ("Ubeydullah Efendi ile Kātibi Nedim Bey, Musul"); BOA-DH.ŞFR 61/54 (1334 R 15) ("Emniyet-i Umumiye Müdüriyeti'nden 'Görevli olarak Afganistan'a gitmekte olan İzMīr Mebusu Ubeydullah Efendi ve kabtibi NEdim Bey'in nerede bulunduklarının bildirilmesi' şeklinde Bağdad ve Musul Vilayetleri'ne çekilen telgraf").

[347] BOA-DH.ŞFR 511/54 (1331 Şu 16) ("Bağdad'da bulunan Ubeydullah Efendi'nin Afganistan'a gimek üzere İsfahan'dan, Nedim Bey'in de İstanbul'a gitmek üzere Kirmanşah'dan hareket ettiği"); BOA-DH.ŞFR 511/76 (1331 Şu 17) ("Kātibi ile birlikete Süleymaniye'den İran'a geçtiği bilinen Ubeydullah Efendi'nin, bulunduğuna dair herhangi bir bilgi olmadığı ve İran Sefareti heyetinin İsfahan'da bulunmasının hareket ettiği"); BOA-DH.ŞFR 512/91 (1331 Şu 28) ("Sefaret Fevkalade Başkatibi Maḥmūd Nedim Bey'in Bağdad'da geldiği ve Ubeydullah Efendi'nin Almanlarla birlikte İsfahan'dan hareket ettiği").

[348] Ubeydullah Efendi's arrest by British authorities in Tehran is attested to by a variety of sources, including the Prime Ministry Ottoman Archives, India Office Records, and British Indian archival records. The following report from the India Office Records includes a transcript of an interview with a certain "Afghan prince" named Zacharia Khan, who was reported to have accompanied Ubeydullah Efendi to Iran. The following is a copy of the interrogation report of Prince Zekeria Khan by a Mr. "I.O." in Alexandria, Egypt on 18 July 1919, where is reported to have made the following statements,

> [S]oon after the declarations of war I was called up at the Sublime Porte by TALLTarzi, "The Judicial State",Pasha. He told me that this was a Holy War~~and~~ and he offered me 100,000 pounds, decoration and honours if I were willing to proceed to AFGHANISTAN for making propaganda there and fomenting trouble. I refused with contempt to listen to TALLTarzi, "The Judicial State",Pasha's proposals. He then told me that I had no brains. A month after my interview with TALLTarzi, "The Judicial State",Pasha, I heard that a man called EBBEID ALLAH, an Anatolian, who knows Persian, Afghan and English, was sent with 16 men through PERSIA, to AFGHANISTAN to make Turkish propaganda. He was given 32,000 pounds. On his arrival at TEHRAN he was arrested by the Persian authorities and the 16 men were repatriated to CONSTANTINOPLE. EBBEID ALLAH was kept imprisoned for about six months in TEHRAN. He was then released on the instances of the Turkish Ministry and allowed to proceed to AFGHANISTAN. I do know know what has become of him.

IOR/L/PS/161 File 8391/1919 (1919) ("The Pan-Islamic Movement in Moslem Countries"), 681-682. Given the circumstances of Zacharia's Khan's arrest, confinement, and possible ill-treatment under British custody if not coerced statement, the veracity of his statements are suspect, to say the least.

[349] Details of the Ottoman authorities planning his return trip to Istanbul are in BOA-DH.ŞFR 84/63 (1336 Ca 05) ("Ubeydullah Efendi'nin İstanbul'a dönüşü için ne mikdar para gerektiğinin ve hangi vasıtayla gönderilebileceğinin Tahran Sefareti'ne sorulup bidirilmesine dair Hariciye Nezareti Muhasebe Şubesi'nden Süleymaniye'de Sine Şehbenderi Maḥmūd Bey'e çekilen cevabı telgraf").

Mesopotamia and Iran were likely a ploy and decoy "mission", while the real mission was headed by Hüseyin Rauf Bey and Kazım Bey.[350] We now turn to the "real" expedition that actually reached Kabul at the very height of World War I in early Autumn of 1915.

The Hüseyin-Niedermayer Expedition(s) to Kabul: A Brief History of the "Real" Mission

In spite of some initial hesitation and annoyance with which the German military leadership seemed to be so aggressively pursuing a Pan-Islamic agenda (and thereby overstepping the Ottoman government), certain influential members of the CUP leadership soon warmed to the idea. Ottoman records illustrate that regardless of whose inspiration the idea was, the Ottoman government footed the bill for their delegation to Kabul, with details of individual stipends and salaries of concerned members.[351] The secret mission of the delegation was to incite the Muslims of Afghanistan and India to join the war against the British. There were also intricate logistical considerations involved, having to do with Afghanistan's landlocked geographic and geopolitical position, caught between Czarist Russia and British India. One document from the Ottoman archives reports of how the majority of Afghanistan's military forces were stationed along the border with Peshawar and Punjab, while describing in detail the state of Afghanistan's postal services, seen to be extremely relevant to any communication regarding a jointly-communicated surprise attack on the British from Afghanistan.[352]

Ottoman Captain (yüzbaşı) Kazım Bey and German Captain Oskar von Niedermayer headed the Turk-German commission, reaching Kabul with a warm reception in October 1915. Ottoman documents reveal it was an extremely sophisticated mission with multiple groups formed, routes taken, and even decoy ambassadors, as mentioned. The delegations left together from Istanbul, the plan being to go to Iran via Aleppo and Baghdad. The mission was in one important sense "successful" in the sense of reaching Kabul after an extremely perilous journey through hazardous war zones in Mesopotamia and portions of British and Russian-administered Iran. There were also many sudden shifts in personnel along the way, with multiple Ottoman embassies involved.[353] Ottoman documents indicate that Captain Hayri Efendi was originally selected to head the Turkish mission, probably due to his earlier experience in training the Afghan army in Kabul, but later removed himself or was removed from the post, and was replaced by Captain Kazım Bey.[354] Ottoman records also indicate the assignment of a prominent

---

[350] Özcan. Special thanks to Hakeem Naim for our conversation on Ubeydullah Efendi and bringing his memoirs to my attention.

[351] BOA-DH.EUM.4Şb 4/7 (1334 M 09) ("Afgnaistan'a gönderilecek heyette bulunlara ait maaş ve harcırah miktarını gösteren pusulanın takdim edildiği").

[352] BOA-DH.EUM.2.Şb 3/10 (1333 M 17) ("Afgan kuvvetlerinin çoğunun Peşaver ve Pencab hudutlarında bulunduğu, Afganistan'a telgraf ve posta olmadığı, emin ve müsait bir vasıta ile cihat ilanının ulaştırılacağı").

[353] For example, in addition to the core mission members from Istanbul, Aleppo, and Baghdad, Ottoman records from 1915 indicate that the Ottoman ambassador in Tehran Asim Bey also dispatched men where they rendezvoused with the mission in Herat. BOA-HR.SYS 2337/11 (1915 02 28) ("Tahran Sefiri Asım Bey'in Afganistan'a gönderdiği şahsın Herat'a ulaştığı").

[354] BOA- İ.HB 166/1333 R-061 (1333 R 26) ("Afganistan ordusuna katıldığı haber alınan Yüzbaşı Hayri Efendi'nin askeriyeden tardı") indicates the delegation early on called upon Yüzbaşı Hayri Efendi's knowledge of the Afghan army due to his earlier experience in training the Afghan army in Kabul. For additional background on

role of Nedim Bey as the primary scribe (Başkâtibi), though one Ottoman record appears to indicate he returned early and did not accompany the mission to Kabul.[355] Moreover, as mentioned, Ubeydullah Efendi did not actually make it to Afghanistan after being captured by British authorities in Tehran.[356]

In spite of the enthusiastic beginning, on the way, differences emerged between the two delegations, a dispute arose, and the German delegation returned to Aleppo. From then on the two delegations found it necessary to continue the mission separately.[357] An Ottoman archives document reveals that just weeks after the auspicious secret mission was formed, a dispute arose between the German officers and the Ottoman Commander Hüseyin Rauf Bey who was leading the Turkish delegation.[358] Roughly a month later, a telegraph held in the Ottoman archives reports of Hüseyin Rauf Bey's delegation having reached Baghdad and entering the Şirin Fortress, but no mention of the Germans are made, indicating they had taken another route.[359] The Ottoman archives contain other telegraphed messages and updates of the delegation's movements, including Iran, where again the Germans are not mentioned as part of the delegation.[360] In a revealing development, according to a letter from the Ottoman consulate in Kirmanashah, Iran, while the Ottomans had faced differences and divisions with the German officers who were officially on their side in the war, the Ottoman delegation appears to have received assistance from Indian Muslims who were serving in the British consulates but had in essence crossed sides to join the Ottomans.[361]

Hayri Efendi's experience from Ottoman archival sources, including his various medals and honors, see BOA-İ.DH 900/71552 (1301 M 6) ("Mekteb-i Harbiye İstihkamat-ı Hafife Hocası Yüzbaşı Hayri Efendi'ye nişan verilmesi"); BOA-İ.TAL 178/1317S-003 (1317 S 02) ("İkinci Ordu-yı Hümayuna mensup Piyade Nizamiye Dördüncü Fırkanın erkan-ı harbiyesine mülhak Yüzbaşı Hayri Efendi'ye beşince rütbeden bir kıt'a Nişan-ı Mecidi itaşı"); BOA-İ.TAL 480/1330Z-02 (1330 Z 01) ("Yüzbaşı Hayri Efendi'ye ve saireye tahlisiyye madalysı i'tası").

[355] BOA-DH.KMS 35/29 (1333 M 14) ("Afgan Heyet-i Mahsusası Başkatibi Nedim Bey'ın maaşı").

[356] Ubeydullah's activities and status in Tehran as of 1917 are described in a despatch from the Ottoman embassy in Tehran in BOA-HR.SYS 2340/56 (1917 11 3). His request to return to Istanbul is in BOA-HR.SYS 2340/60 (1917 11 10), which is followed by several more months of communications back and forth between the foreign ministries of Istanbul and Tehran regarding Ubeydullah's Efendi state in Tehran. Then Grand Vizier Talat Paşa's personal attempts to secure his return to Istanbul (and then procure a full report of his experiences and observations), as well as other requests from the Sublime Porte on Ubeydullah's conditions, can be found in BOA-HR.SYS 2340/65 (1917 12 5); BOA-HR.SYS 2340/83 (1918 01 9); BOA-HR.SYS 2340/85 (1918 01 10); and BOA-HR.SYS 2340/96 (1918 02 18); HR.SYS 2454/22 (1918 06 06); BOA-HR.SYS 2454/32 (1918 06 08).

[357] Ünal et al., *Türk-Afgan İlişkileri,* 34.

[358] BOA-DH.ŞFR 465/6 (1331 Ma 01) ("Binbaşı Hüseyin Rauf Bey'le Afganistan'a gitmekte olan Alman zabitleri arasında ihtilaf çıktığı").

[359] BOA-DH.ŞFR 467/66 (1331 Ma 30) ("Hüseyin Rauf Bey heyet-i seferiyenin Kasr-ı Şirin'e girdiği. Bağdad").

[360] BOA-DH.ŞFR 493/11 (1331 E 28). ("Hüseyin Rauf Bey kuvve-i seferiyyesinin İran'da icra-yı harekat eylediği sırada, İran aşairiyle vukubulan müsademeta Sincabi ve Gülhur aşairi de iştirak etmiş olduklarından bu aşiretlerin hudut dahiline mürurlarına müsaade edilmemesi. Bağdad").

[361] BOA-HR.SYS 2338/67 (1915 05 25) ("Binbaşı Hüseyin Rauf Bey'in kumandasındaki Osmanlı kuvvetlerinin Kasr-ı Şirin'e gelmesi üzerine Kirmanşah'daki Rus ve İngiliz konsoloslarıyla düşman tebeasından birkaç memur ve Kazakların Hemedan'a firar eyledikleri. İngiliz konsoloshanesini korumaya memur Hindli müslüman askerlerin Osmanlı konsoloshanesine geldiğinin Kirmanşah Şehbenderi Refik Bey tarafından

By the end of spring and early summer 1915, after leaving jointly with an Ottoman mission from Istanbul, the German mission separated from the Turkish delegation over some differences that arose in Baghdad, and returned to Aleppo. Meanwhile, in early July of 1915, the British Secretary of State for India received authorization from London to counteract German activities in Persia by tracking and engaging the delegation, and prevent both Germans and Ottomans from entering Afghanistan.[362]

Finally, in spite of a tumultuous journey and several shifts in personnel, the German delegation eventually reached Kabul in August 1915.[363] As for the Ottoman delegation, due to enemy engagement in Iran's Kirmanshah region, their arrival in Afghanistan was delayed, not reaching Kabul until October 7, 1915 after a hazardous journey through Iran.[364] According to Adamec, both delegations received a warm reception from the Amir.[365] The expedition's purpose, however, was to encourage the Afghan king to prepare for an attack on India, and in this way cause the British forces to be divided such that forces destined for the European front would have to remain in India, and the German and Turkish armies could more easily take care of the war against Russia, and so that both Afghanistan and India could together win their freedom from the British.[366] With the aim of influencing the Afghan king to enter the war on their side, the Turks brought gifts of a sword, a copy of the Holy Qurʾān , and a ceremonial banner/flag; the Germans bringing weapons and gold.[367] An Ottoman archives document from February 1915 contains a letter written in Arabic by a prominent Ottoman noble of Baghdad named Sayyid ʿAbd al-Raḥmān Efendi, and intended for the Amir of Afghanistan. After praising

---

bildirilmesi"). This remarkable development is described in a May 1915 report discussing the delegation's engagement with British and Russian consulates. Interestingly, the following entry I found in the declassified 1930 *Who's Who in Afghanistan* in the India Office Records appears to confirm and identify one of the individuals, as follows,

> 3. Abbas Effendi, *Indian*.—Real name is Surkhra, sowar, No. 2773, Hodson's Horse, son of Alam Sher of Shahpur. Deserted to Turks from Consular Guard, Kermanshah, June 1925, and later took Turkish nationality. Came to Kabul with Fakhruddin Pasha, *via* Herat in 1921. Employed as interpreter in Turkish Legation, Kabul to 1927. In February 1927, appointed cavalry instructor at reorganised Harbiyeh cadet college.
>
> *Who's Who in Afghanistan 1930*. General Staff, India. Simla: Government of India Press, 1930, 1.

[362] Adamec 1967, 85.

[363] Ünal et al., *Türk-Afgan İlişkileri,* 34.

[364] Ibid.

[365] Adamec, *Afghanistan*, 88-89. Adamec further notes that Hayri Bey, an Ottoman military instructor in Kabul training the Afghan troops, gathered the other Turks in Kabul to give the arriving delegation a rousing military salute and parade. Notably, the delegations were housed on the historic grounds of Bāgh-i Baber hill, where the first Mughal emperor Zahir-ud-din Muhammad Babur (1483-1530) is buried until this day. They were also provided with supplies at the Afghan government's expense. Ibid. In spite of this hospitality, Adamec is less upbeat in his description of the mission on the whole however, writing it "was not at all the dignified affairs which its members hoped it would be." Adamec, *Afghanistan*, 89.

[366] Ahmetbeyoğlu, 159; Aybek, Zafer Hasan. *Āp-bītī*. Lahore: Mansur Book House, 193?, 95-96; "Ubayd-Allah Sindhī in Afghanistan." *Journal of the Regional Cultural Institute* VI/384 (1973): 129-136.

[367] Ünal et al., *Türk-Afgan İlişkileri,* 34.

and offering salutations to the Amir, the letter proceeds to describe the glorious mission of Hüseyin Raüf Bey and the intention to send an Ottoman delegation to Kabul for the glory of Islam and raising of God's religion.[368] The document also indicates that Ottoman Fourth Army Commander and Minister of Navy Cemal Paşa had intimated to ʿAbd al-Raḥmān Efendi to compose the letter.

In the end, the joint Turco-German mission, carrying the Ottoman Sultan's Call for Jihad, informs Amir Ḥabīb-Allāh of the growing anti-British movement in India and Afghanistan and that a majority of Afghan notables support the jihad, but ultimately Amir Ḥabīb-Allāh refuses the call.[369] In January 1916, Amir Ḥabīb-Allāh publicly declared Afghanistan's neutrality in the First World War. This was in spite of the fact the commission, carrying the Ottoman Caliph's declaration of Jihad against the British and Russians, requested the Afghan leadership to commence mobilization of military forces against the British in India. The decision was a tremendous boon to the British Raj. While it is difficult to ascertain the exact percentages of public sentiment agreeing with or resenting the decision, Afghan sources reveal the majority or at least a powerful plurality, of the Afghan public in Kabul found the decision deplorable. Preferring to stay neutral and thereby appease the British, Amir Ḥabīb-Allāh thought he would benefit from such a policy.[370] But as events would turn out, in spite of its apparent pro-stabilizing quality, Amir Ḥabīb-Allāh's decision would in fact have drastic decisions not only for his own rule, but the future of Afghanistan as a whole.

In May 1916, the Ottoman-German Mission departed from Kabul, a few months after Ḥabīb-Allāh's public announcement of Afghanistan's neutrality.[371] Afghan public sentiment, according to Nawid, by and large remained firmly pro-Ottoman. On July 16, 1916, Maḥmūd Ṭarzī published a scathing and stirring article in *Sirāj al-Akhbār* attacking the Sharif of Mecca for his revolt against the Ottomans, a position that had subtle overtones of critique against the Amir's own position of neutrality.[372] As we will see at the end of the chapter, Tarzi was not alone in this regard.

Enter the Indian Revolutionaries: The "Silk Letters" Movement

---

[368] BOA-DH.EUM.7.Şb 3/18 (1333 Ra 21) ("Dordüncü Ordu Kumandanı ve Bahriye Nazırı Cemal Paşa'nın eMīr üzerine Bağdad Nakibü'l-eşrafı Sayyid ʿAbd al-Raḥmān Efendi tarafından Afganistan emirine yazılıp özel bir görevle Bağdad'da bulunan Hüseyin Rauf Bey'e verilen Arapça mektubun bir suretinin takdimi").

[369] Ünal et al., *Türk-Afgan İlişkileri,* 34; K. Tuncer Çağlayan, "Afganistan'da Bir Türk-Alman Heyetin Faaliyetlerine Karşı İngilitere'nin Politikaları," *Atatürk Araştırma Merkezi Dergisi* 17 (2001): 409-428.

[370] Ahmetbeyoğlu, 248; Saray, 88-89; F.J. Moberly, *Operations in Persia, 1914-1919*. London: HMSO, 1987, 116.

[371] Nawid, *Religious Response*, 40. It is not clear exactly who stayed in Kabul after the mission, and who returned to Istanbul, or elsewhere. For some, returning to Istanbul was not an option upon the conclusion of the war, as the Allied occupation of Istanbul rendered all major politicians and military officials subject to investigation, arrest, and even prosecution. It is not clear how long Hüseyin Rauf Bey stayed in Kabul after the mission, but an Ottoman archives document from 1922 describes the Allied occupational government of Istanbul seeking an arrest warrant and investigation of his possible presence in Istanbul. BOA-HR.İM 13/68 (1922 11 29) ("İstanbul'da mevcudiyetini Kabul ettiğimiz ecnebi asakir-i işgaliyenin kendileriyle ilgili hususat için bir askeri polis heyeti bulundurmasının meydana getireceği mahzurlar hakkında Hüseyin Rauf Bey'in mütalaatı").

[372] Nawid, *Religious Response*, 41.

In 1915, at the height of the first world war, a network of Ottoman and German officers, Indian Muslims, and crossborder Afghans hatched a plot to launch an uprising against the British Government of India. The dramatic plot entailed coordinating a massive rebellion in India with the support of Ottoman, German, and Afghan officers. The gist of the strategy entailed convincing the ruler of Afghanistan, Amir Ḥabīb-Allāh, to declare war against the British, which would in effect open a third front against Britain in her most valuable colony. From inside India, the plot involved anti-British Indians, including Muslims and Hindus, operating mainly from the Punjab and tribal belt of the northwest frontier with Afghanistan. To coordinate plans between the movement's leaders in India, Afghanistan, and the Ottoman empire, clandestine letters were etched into pages of silk cloth. The movement therefore became known as the *Tehrik-i Reshmi Rumal*, or Silk Letters Movement, after the silk letters that were concealed in the baggage of travelers shuttling between Istanbul, the Ḥijāz, Baghdad, Kabul, and the Indo-Afghan frontier.[373]

The preeminent leader of the movement on the Indian side was the preeminent Indian Muslim scholar of Deoband, "Shaykh al-Hind" Mawlānā Maḥmūd al-Ḥasan (1851-1920).[374] Ḥasan dispatched two of his students from Deoband, Mawlānās Ubeydullah Sindhī (1872-1944) and Mian Mansūr Anṣārī, along with the Indian Muslim political activist Muḥammad Barakat-Allāh (1854-1927) and a Hindu graduate of Aligarh Muslim College, Raja Mahendra Pratap (1886-1979), to various locations across Asia and the Middle East to promote the Ottoman and Indian independence causes.[375] Mawlānā Ubeydullah himself was a Sikh convert and graduate of the Dār al-ʿUlūm Madrasah at Deoband, and he became the main Indian in Kabul individual conveying messages between participants in India and Afghanistan.[376]

To mobilize the populations along the Indo-Afghan frontier and Afghanistan as well as gain the Amir of Afghanistan's crucial support, Ḥasan dispatched Sindhī, Pratap, and Barakat-Allāh to Kabul, and Anṣārī to the North-West Frontier Province. To coordinate plans with the Ottomans, Ḥasan himself travelled to the Ḥijāz, where he obtained a signed declaration from the Ottoman Governor, Ghalib Paşa, in support of the plan. Messages of support were also obtained from the German Kaiser, Enver Paşa and the displaced Khedive of Egypt, Abbas Hilmi, all endorsing the mission to Kabul and urging the Amir to move against India.[377] Meanwhile, self-proclaimed volunteers for the Ottoman war effort traveled across Durand Line and Afghan frontier to Kabul. In addition to Ubeydullah Sindhī, Barakat-Allāh, and Pratap, the "best known" of the Indian Revolutionaries according to British intelligence sources were Sayyid ʿAlī Bukhārī, "Intriguers in Waziristan," including Mulla Bashir and Muḥammad Hassan; the "The Bajauri

---

[373] For a journalistic and somewhat sensationalistic account of these events, see Peter Hopkirk, *Like Hidden Fire: The Plot to Bring Down the British Empire* (New York: Kodansha, 1994). From the perspective of Deoband's official historians, see Rizvi, History of the Dār al-Ulum Deoband.

[374] On Shaykh Maḥmūd al-Ḥasan, see S.P. Sen, ed, *Dictionary of National Biography, vol. III* (Calcutta: Institute of Historical Studies, 1974), 12.

[375] On Raja Mahendra Pratap, see S.P. Sen, ed, *Dictionary of National Biography, vol. III* (Calcutta: Institute of Historical Studies, 1974), 10. On Pratap's background and global activites in Afghanistan, Russia, Switzerland, Japan, China, Tibet, Nepal, the United States, and Turkey, see IOR-R/12/LIB/107, *Precis on Afghan Affairs*, (para. 5-7, p. 272-273).

[376] On Sindhī, see S.P. Sen, ed, *Dictionary of National Biography, vol. III* (Calcutta: Institute of Historical Studies, 1974), 10; Adamec, *Historical Dictionary for Afghanistan*, 181.

[377] Özcan, *Pan-Islamism,* 160-170, 207; Adamec, *Afghanistan*, 83-85.

party," including ʿAbd al-Raḥmān of Kotki and his attendant Ghulamo; the "The Swat party," comprising Maulvi Fazl Muḥammad, his brother Muḥammad Ayūb of Battal, ʿAbd al-Raḥmān Mehtarjao of Chitral; ʿAbd al-Sattār of Teri and ʿAbd al-ʿAzīz of Saidu; and finally, "The Indian Military Party" (*Jamʿīyat-i ʿAskarī-yi Hind*), consisting of Maulvi Fazl Rabbī, Ghulām Muḥammad ʿAzīz and ex-Risaldar Rukn al-Dīn, and Kemal al-Dīn, an Adam Khel Afrīdī, among others.[378]

Ubeydullah was able to establish friendly relations with Amir, and some public sympathy for the Pan-Islamic cause, but was ultimately unsuccessful in convincing the Amir to join the war on the side of the Ottomans. The members then hoped to secure the right of free passage for Ottoman and German forces to India, which was also refused. When the Amir was evidently non-committal, Ubeydullah, along with some students from Lahore (including Zafer Ḥasan Aybek, who left an autobiography) decided to focus on building more direct links between Pan-Islamic events in India and the Ottoman domains. In the process, Ubeydullah was uncovered by a group of British Indian officers in the Punjab, who arrested Mawlānā Ubeydullah Sindhī and captured some of his letters in the process.[379] Subsequently, as Ḥasan planned to return to India via Baghdad and Baluchistan, he was arrested in Mecca. He was then imprisoned in Malta, where he famously was accompanied by his premier student Shaykh Aḥmad Ḥusayn Madanī, for more than three years before his release in 1920.[380]

The Mission(s) in Retrospect

From the late nineteenth century to the 1920s, the most represented nationalities among foreign officers serving in Kabul this group included Ottomans, British Indians, and Germans, but also included a small number of Persians.[381] The Ottomans were by far the most successful, however, as seen in the contingent of Ottoman officers such as Mahmud Sami, an Ottoman Arab from Iraq, who would eventually go on to establish the Mekteb-i Harbiye in Kabul. As an elite military academy for Afghan princes and the children other elites, Kabul's Harbiye, became a brewing ground for the Young Afghan underground political party, which laid the seeds for the

---

[378] IOR-R/12/LIB/107, *Precis on Afghan Affairs*, (para. 504, pp. 270).

[379] Adamec, *Afghanistan*, 83-85.

[380] Madani's loyalty to his teacher is particularly noteworthy in light of the fact he was not one of the accused parties, but accompanied Shaykh al-Ḥasan to prison for three years nonetheless. He would later go on to be one of the preeminent Indian ʿulamāʾ of the century in his own right. For a recent biography in English, see Barbara D. Metcalf, *Ḥusayn Ahmad Madani: The Jihad for Islam and India's Freedom* (Oxford: Oneworld Publications, 2009).

[381] A secret Foreign and Political Document War branch of Oct 1919 comments on the situation in Persia, Caspian Region and Trans-Caspia. A telegram from the British Consul-General and Agent to the Government of India in Khurāsān, Meshed, to Secretary to the Government of India in the Foreign and Political Department, Simla, 12 August 1918 reprots that "Sadik, Persian, was arrested by Russians and deported two years ago. Recently returned to Meshed and was re-arrested by one of the employés of Consulate. He accompanied Niedermayer's mission to Afghanistan." NAI-FP/SEC/War October 1919 1-263 ("Situation in Persia, Caspian Region and Trans-Caspia"), 23.

politics of a constitutional movement in Afghanistan. Notably, one of the students there was none other than a young prince named Amān-Allāh Khan, the son of Ḥabib-Allāh Khan, and the next amir of Afghanistan.

The Ottomans in Kabul witnessed a surge during the drama of World War I. Historians such as Mehmet Saray, Şükrü Hanioğlu, Azmi Özcan and others have traced the role of both transnational clandestine movements of 1915 seeking to overthrow British rule in India via Afghanistan: the Hüşeyin-Niedermayer Expedition to Kabul, and the Silk Letter Movement. These were plots of epic proportions hatched not only by Turks, but Germans and Indians who made their way Kabul. The aim was once again to convince the Afghan Amir to open a front, but this time against the British. While there are many parallels to the 1877 Ottoman Mission, some key differences emerge.

To begin with, the key enemy this time was the British, rather than the Russians. Moreover, a group of Germans joined the expeditions, and some historians argue they were the motivating force behind the mission, whereas the Turks were more skeptical of the ambitious mission , perhaps because of previous disappointment in this regard. Moreover, Afghans and Indian Muslims played a much larger role in this expedition. The role of the Dār al-ʿUlūm college at Deoband, and itinerant Turcophile Indian Muslims such as Ḥasan Aybek, played a key role in expanding the plot to epic proportions. The role of sufi tariqas, especially the Naqshabandī and Qādirī orders, were instrumental in galvanizing support for the Ottomans before the mission even arrived.[382] One example was Cemal Paşa's attempt to procure a letter from the Baghdad Naqīb Sayyid ʿAbd al-Raḥmān Efendi through Hüseyin Rauf Bey, that the latter could deliver to Amir Ḥabīb-Allāh with the exhortation to join the Ottoman jihad.[383] While the expedition ultimately failed in convincing the Afghan Amir to open a front against the British, once again it did stoke Indo-Ottoman sentiments and Pan-Islamism to unprecedented proportions. Given the advances in media and communications, Ottoman and Indian Muslim newspapers had a feast on the news of the expedition to Afghanistan.

---

[382] For example, one Ottoman archives document discusses the role of Naqshabandī and Qādirī nobles (eşraf) in rallying support for the Ottoman jihad, including pronouncing fatwās. Interestingly, this was discussed in a secret report despatched to Istanbul by the Ottoman ambassador in Tehran. BOA-DH.EUM.7.Şb 2/54 (1333 S 03) ("Şeyh Abdülkadir Geylani'nin Hindistan ve Afganistan'da pekçok mensubu bulunduğundan bu tarikatın Nakibü'l-eşrafından bütün kadiriler cihada davet eden bir fetvanın alınarak gizlice Tahran Sefaret'ine gönderilmesi"). In addition to the Naqshabandī and Qādirī orders, the Prime Ministry Ottoman Archives also document how the Mevlevi order was an additional transnational connection between Afghans and Turks. BOA-DH.MKT 1985/91 (1310 M 17) ("Bağdad'da ikamet eden Afganistan hanzadelerinden Ahmed Ali ve Mehmed Azam Han'a tahsis olunmuş olan yevmiyelere zam yapılarak Afganistan sabık memurlarından Nizamüddin Han ve Hindistan ulemasından ve Mevlevi tarikatından Gulam Resul bin Pir nam zata yeniden yvmiye tahsisi"); DH.MKT 2017/115 (1310 R 15) ("Bağdad'da mukim Afganistan hanzaderlerinden Ahmed Ali Han ve Muḥammad Azam Han'ın yevmiyelerine zan yapılması, Afganistan sabık memurlarından Nizameddin Han ile Hindistan ulemasından ve Mevlevi tarikatından Allam Resul bin Pir'e onar guruş yevmiye tahsisi husundaki irade gereğince bedellerinin Bağdad emvalinden karşılanması"). Notably, Mevlana Jelaleddin Rumi, the founder of the order himself, was born in Balkh*, Afghanistan,* and is buried in Konya, Turkey, where he continues to be visited by pilgrims from around the world. Incidentally, the famous twentieth century Indian Muslim poet, Muḥammad Iqbal, once expressed to desire to be buried in the Mevlana's burial compound; when that was not possible upon Iqbal's death, a symbolic gravestone with his name was placed within the confines of the Mevlana's burial complex in Konya.

[383] BOA-DH.EUM.7.Şb 3/18 (1333 Ra 21) ("Dordüncü Ordu Kumandanı ve Bahriye Nazırı Cemal Paşa'nın eMīr üzerine Bağdad Nakibü'l-eşrafı Sayyid ʿAbd al-Raḥmān Efendi tarafından Afganistan emirine yazılıp özel bir görevle Bağdad'da bulunan Hüseyin Rauf Bey'e verilen Arapça mektubun bir suretinin takdimi"). Interestingly, the Prime Ministry Ottoman Archives document describes how the letter was to be in Arabic, the lingua franca between the Turkish, Arab, and Afghan governments at this time.

Moreover, unlike the 1877 expedition which was far more brief in nature and duration, apparently a number of Ottoman Turks and Indian Muslims stayed in Kabul following the convergence of both expeditions in the Afghan capital, at least for a number of years. Some stayed for the duration of the war, as one Ottoman archives document reveals about a Hüseyin Hanoğlu Sayyid İsmail, an Ottoman Turk from Izmir, who expressed a desire to return to his hometown after participating in the jihad in Afghanistan "for religion and country."[384] An Ottoman Police Directorate from April 1918 describes the Ottoman government granting him permission to do so.[385] A number of students of Mawlānā Ubeydullah Sindhī, such as Zafer Ḥasan "Aybek", stayed in Kabul as well. The latter, Zafer Hasan, later took on the Turkish surname "Aybek" after becoming a Turkish citizen following his departure from Afghanistan in 1920s. His is important to our purposes not only because of his fascinating background that crossed the British Indian, Afghan, late Ottoman, and early Turkish Republic historical fields, but because he left us an invaluable historical source on the era and these overlapping fields: he published an autobiography which chronicles events from the perspective of an Indian Muslim student of Punjab. Reflecting British concern with this transnational individual who appears to have been an "Indo-Afghan" as much as an "Indo-Ottoman", the declassified 1930 *Who's Who in Afghanistan* contains an entry for him which states,

> 687. ZAFAR HUSAIN [Hasan], *Indian*, of Karnal district.—One of Obaidullah's party and calls himself, 'Secretary to Provisional Government of India.' Was with Obaidullah during the 1919 campaign. On Nādir Khan's staff in Ningrahar, 1920, and Assistant Editor of the Jalalabad newspaper *Ittihad-i-Mashraqi* (Eastern Unity) published for first time in February 1920. Translator and Confidential Secretary to Nādir Khan, July 1920. A teacher in the Harbiyeh School, 1926. Reported to have been invited to Kabul by King Nadir, November 1929.[386]

We now turn to those few Ottomans who chose to remain in Afghanistan after the Hüseyin-Niedermayer mission to Kabul, "Silk Letters" movement, and in some cases, beyond the end of the war. While many of the Indo-Ottoman transnationals returned with their original delegation or cohort back to their homes in Anatolia or India, others chose to stay in Kabul, with lasting consequences for all three countries.

VII
FROM NEWCOMERS TO NEW PLAYERS: OTTOMAN OFFICERS AND INDIAN REVOLUTIONARIES IN KABUL AFTER WORLD WAR I

Ottomans who stayed

[384] BOA-DH.EUM.5.Şb 56/36 (1336 C 07) ("Afganistan'dan gelerek din ve vatan için cihada iştirak eden Hüseyin Hanoğlu Sayyid İsmail'in memleketine İzMīr üzerinden dönmek üzere müsaade verilmesi talebi"). He was eventually granted permission to return from Kabul to IzMīr in November 1918. BOA-DH.EUM.5.Şb 57/49 (1336 C 29) ("Afganistan Kabil şehri ahalisinden Hüseyin oğlu Sayyid İsmail'in İzMīr üzerinden memleketine gitmesine izin verildiği").

[385] BOA-DH.EUM.5.Şb 57/49 (1336 C 29) ("Afganistan Kabil şehri ahalisinden Hüseyin oğlu Sayyid İsmail'in İzMīr üzerinden memleketine gitmesine izin verildiği").

[386] *Who's Who in Afghanistan (1930)*, 255.

While historians have largely portrayed the Hüseryin-Niedermayer expedition to Kabul as a "failure", particularly by dwelling on the delegation's inability to convince Afghan Amir to join the Ottoman war effort, overlooks some of the profound social and political consequences that the delegation did have. As a result of the expedition, another official Ottoman delegation had reached Kabul, continuing in the legacy of Ahmed Hulusi Efendi's mission of 1877-1878. Unlike Hulusi Efendi's expedition, however, the Ottoman mission was not accompanied by a British escort, and not all Ottomans briskly returned upon the completion of the mission. In spite of the challenges of life in Afghanistan, and a number of early departures from their countrymen, a number of Ottomans chose to remain in Kabul.
In fact, archival documents in Istanbul, Ankara, Delhi, London, and Kabul indicate a group of Ottomans stayed in Kabul even after the war had ended. Chief among them was the Colonel Mahmud Sami, an Arab Ottoman officer from Iraq, who would eventually go on to establish the elite military academy, the Maktab-i Ḥarbīyah (Mekteb-i Harbiye), in Kabul.

Colonel Mahmud Sami Bey

That Mahmud Sami was a predominant figure in the Ottoman community in Kabul during the Ḥabīb-Allāh eras, and even through the Amān-Allāh eras, is evident in his frequent mentioning in Ottoman, but especially British, sources for the period, as seen throughout this chapter and the next. On the origins of his coming to Kabul a confidential memorandum dated September 10, 1906 from Baghdad, Major J. Ramsay, Officiating Political Resident in Turkish Arabia and British Consul-General at Baghdad, forwarded to the Secretary to the Government of India in the Foreign Department the following memorandum about "affairs in Turkish Arabia", writes,

> Mr. Gaskin is learning Turkish from Saiyid Mahmud, an officer in the Turkish Army, who is at present under a cloud. This man said he had received an invitation to Afghanistan from one Saiyid Mahmud, son of Saiyid Habibulla… Saiyid Hassan, a brother of the Nakib of Baghdad, lives at Kabul an enjoys an allowance of ₹1,000 per mensem, in addition to some land. He sent Saiyid Maḥmūd to Pir Abdul Salam, who is another brother of the Nakib, at Baghdad, to see if he could obtain the services of a capable Turkish officer to assist in reorganizing the Afghan Army.[387]

Mahmud Sami is most often remembered in Afghan historiography for having established the prestigious Harbiye military academy in Kabul, which he also directed and taught some of the country's most elite families' sons, including, notably, a young prince named Amān-Allāh Khan. He was remembered, and monitored, by the British very closely in that regard and others, too. An extract from the "Englishman," dated August 18, 1919, recalls some of the clandestine activities of Mahmud Sami during the war.

> There was in Kabul at the time a certain Turkish Colonel, Mahomed Sadi [sic], who was employed in the Afghan Army as Instructor in Physical Training. This man was in reality an agent of the Young Turks. He was recommended to Baron Wesendanck, the Director of the German Oriental Bureau, by Enver Pasha, as an officer of resource and probity who could be

[387] NAI/FD/SEC/F Oct 1907 152-159 (No. 158).

> safely entrusted with large sums of money. He was finally given no less a sum than £100,000, which he was to spend in causing all the trouble he could to the Government of India. Looking for ways and means he would naturally get into touch with the Provisional Government of India. He finally joined the conspirators himself, but beyond giving the Indians an allowance which would enable them to live in a better way than they had been doing, he did not for the time being spend any of the money given him by Baron Wesendanck, and the Provisional Government was far off as ever from being a real danger to India.[388]

In addition to his instruction and military service at the Harbiye, which he helped establish, his prodigious work ethic manifested in his voluminous publications he authored during the Ḥabīb-Allāh and Amānī eras. Many, if not all, of them are preserved and digitized in the Afghanistan Digital Library, and include works in both Persian and Turkish.[389]

Colonel Mahmud Sami, the Ottoman drill instructor and founder of the Harbiye Military Academy in Kabul, was a nephew of one of the living patriarchs of the family in Baghdad, named Shaykh ʿAbd-al-Salam. A report by a British officer named E.H.S. Clarke of the Foreign Office, Calcutta, in a letter dated November 8, 1910 to A.H. McMahon, Agent to the Governor General and Chief Commissioner in Baluchistan, provides some more background on the transnational influence and movements of this eminent individual and his family across the eastern provinces of the Ottoman empire, Iran, Afghanistan, and India. According to Clarke's report,

> The members of the family generally speaking, are Pan-Islamic and anti-European, and the present Nakib used to be the medium of communication between Constantinople and Kabul. As long ago as 1881 the late Saiyid Sulman of Baghdad, described as the then Nakib, and father of Abdus Salam, came on a political mission to India. The name of the brother at Kabul… is Saiyid Hassan; he is in great favour with the Amir, Nasrulla Khan and the higher officials; and he receives an allowance of Rs. 1,000/- per mensem, as well as having been given a grant of land.) Saiyid Muḥammad Effendi, the Turkish drill instructor at Kabul, is the nephew of Abdus Salam, being his sister's son... The Criminal Intelligence Department consider that Abdus Salam must continue to be regarded as a potential intriguer and religious bigot... It will be interesting to see if he ever does re-visit Kabul.[390]

---

[388] NAI-FP/SecF November 1920 1-582 ("Afghan Situation, Part IV").

[389] ADL 0235 (1327 [1909]) (Mahmud Sami, *Tarbiyah-i 'askarīyah*); ADL 0241 (1910) (Mahmud Sami, *Nūtah-i ta'līm-nāmah-i piyādah*); ADL 0300 (1299 [1920]) (Mahmud Sami, Uṣūl-i tanqīṭ); ADL 0303 (1299 [1920]) (Mahmud Sami, Az taʿlim-namah-i piyadah); ADL 0304 (1299 [1920]) (Mahmud Sami, Jadawil-i haftah yaʿni prughram-i taʿlim wa tarbiyah); ADL 0313 (1300 [1921]) (Mahmud Sami, Amsilah dar bab-i qumandah-ha-yi shiṭarat yaʿni qumanda-ha-yi chālāk); ADL 0322 (1300 [1921]) (Mahmud Sami, Taʿlīm-namah-i piyādah); ADL 0323 (1300 [1921]) (Mahmud Sami, Masā'il dar bāb-i taʿlīm wa tarbīyah-i akhpuri-yi munfarid); ADL 0333 (1301 [1922]) (Mahmud Sami, Prughram-i durus-i fann-i andakht); ADL 0602 (1301 [1922]) (Mahmud Sami, Mukhtasar magar mukammal; sarf wa nahwi farsi bih tarz-i jadid); ADL 0337 (1300/1302 [1921/1923]) (Mahmud Sami, Miqyāsāt-i jadīdah); ADL 0607 (1302 [1923]) (Mahmud Sami, Jughrafiya-yi ʿaskarī); ADL 0344 (1302 [1923]) (Mahmud Sami, Taʿbiyah); ADL 0345 (1302 [1923]) (Mahmud Sami, Khulasah-i bahs-i tīt-i niẓām az kutub-i ʿaskarīyah-i ʿUsmānīyah); ADL 0346 (1302 [1923]) (Mahmud Sami, Prūghrām-i naẓarīyat-i taʿlīm); ADL 0347 (1302 [1923]) (Mahmud Sami, Mukhtaṣar-ha-yi taʿlīm-namah-i suwārī); ADL 0348 (1302 [1923]) (Mahmud Sami, Khadamāt-i safarīyah).

[390] NAI-FD/FRNT/B November 1910 92-93 ("Information regarding the Turks in Kabul and one Pir Abdus Salam of Baghdad").

For just over two decades, Mahmud Sami would go on to be one of the most prominent, and prolific, Ottomans in Kabul. He served in multiple capacities as military drill instructor, educator, and administrator in the capital from roughly 1905 until his death in 1930. On the promising beginnings of Mahmud Sami's career in Kabul, an excerpt from the diary of the British Agent at Kabul from 1909, forwarded to the Director of Criminal Intelligence at Simla, writes,

> The influence of Mahmud Sami, the Turk, is increasing. The Amir has begun to consider him a useful man. The Turk is gaining ground by legitimate means. He works hard and with all attention. The military school had made a very good start and the credit is due to Colonel Mahmud Sami. On the day of *Jashan* the boys of the school came to pay their respects to the Amir. They behaved like disciplined soldiers. They were about seventy in number, all in full dress and carrying rifles. The youngest were seven or eight years old. They were carrying air guns. They have their separate band, who are also boys except three who are their instructors. Though it is yet a play, they make a very good show indeed.[391]

Mahmud Sami's fortunes did not fare as well during the Nādir Shah era, when his prolific career in Kabul came to an abrupt end. He was arrested by the Nādir Shah regime for his alleged support given to the brigand rebel Ḥabīb-Allāh Kalakānī , and executed in May 1930. In this way he became yet another casualty of the of the post-Indo-Ottoman nexus purges, to which we will return in the conclusion of the dissertation.

While certainly of the most prominent, Colonel Mahmud Sami was not, however, the only Ottoman who stayed. Other prominent Ottomans in Kabul who arrived before the start of the war and were still found to be present at the end included the Turkish doctors Munir İzzat Bey (later Chief Medical Officer in Amir Amān-Allāh's Cabinet), followed by Ahmed Fahima Bey (later Chief Civil Physician in Amir Amān-Allāh Khan's Cabinet), among others.[392] As we will explore in more detail in the next chapter, some stayed in Kabul, while others proceeded to engage in pro-Ottoman activities in Central Asia and some even crossing the Durand Line and Indo-Afghan frontier. The group of Ottomans who stayed in Kabul were dwarfed by the numbers of Indians, however, to which we turn to now.

Indians who Stayed

On February 5, 1915, responding to the Ottoman announcement of Jihad, Zafer Ḥasan "Aybek" and a group of other youth mainly from Lahore Government College set out from Lahore to reach Kabul via Jalalabad. After reaching Kabul, they would reside in the same city for eight years.[393] His memoirs, written in Urdu and published posthumously in Pakistan, was also translated into Turkish by Halil Töker. In the semi-autobiographical work, Zafer Ḥasan "Aybek" describes a broad range of observation about Afghanistan from geography and ethnic makeup, to vivid urban scenes and majestic scenery, but also revealing his many stereotypes of

---

[391] NAI-FD/SEC/F Sept 1909 1-3 ("Information regarding certain Turks at Kabul").

[392] *Who's Who in Afghanistan (1920),* 72, 155.

[393] Halil Töker, "Zafer Ḥasan Aybek ve Afganistan Anıları (1915-1922, 1933-36, 1937)," in Ali Ahmetbeyoğlu, ed., *Afganistan Üzerine Araştırmalar* (İstanbul: Tarih ve Tabiat Vakfı Yayınları, 2001), 150.

Afghans in the process.[394] Slightly reminiscent of British perceptions and stereotypes of "the noble savage," a quality not terribly surprising given his education in British India, he begins with a stereotypical description of their "noble qualities", including a litany of adjectives as follows,

> long-suffering (cefakâr), riddled with adversity (mihnetkeş), self-sacrificing, loyal (fedakâr) and warsome (savaşcıdır)…They love riding horses…and during times of war they will stop at nothing including their lives…They are freedom-loving people, and show great pride in front of non-Afghans.[395]

Like all ethnic stereotypes, even those presumed to be "positive" or "compliments" are often merely foil images of patronizing, insulting, and derogatory descriptions that can easily be reverted to demonization under different political circumstances. In this very light, and in the rather revealing very next sentence, Aybek proceeds to offer the following insalubrious stereotypes of a people he had just praised.

> They are excessively in their pursuit of wealth and fame. If they find someone to be useful, they will be very good to them, but having gotten what they need, every form of evil will come forth…In their view, human blood has no worth. For this reason, Afghan tribes, especially those living in the eastern frontier/border area, do not know how to stop clashing and quarreling. The people of these same tribes are so nourished by enmity amongst each other, that if one murder occurs, they will wait years in anticipation for the best chance to take revenge in ease. For these reasons, for years and years they continue to be occupied in internal wars.[396]

Like the "noble savage" archetype of nineteenth century American historiography and ethnographies that tended to simultaneously demonize and romanticize the indigenous other at the same time, in similarly contradictory fashion Aybek begins by painting with extremely broad strokes what he sees as the "characteristics" of Afghans, starting with the "negative" traits. And yet, in the very next paragraph of his autobiography, Aybek returns in similarly essentializing fashion to discuss the so-called "positive" traits, as follows,

> Afghans are famous for their hospitality…Afghans call this Pashtunwali and young or old everyone lives by law of brotherhood. This law, for some reason, holds Afghans to be superior to non-Afghans, even if they be Muslim. So much so that for some reason in some countries they pay no heed to state and religious laws.[397]

Aybek then proceeds to describe a variety the conditions of in the country, including trade, industry, imports and exports, and British "tribute" to the Afghans to stay neutral against the Russians. He also discusses the state of Afghanistan's budget and military—two issues that,

---

[394] Ibid., 151.

[395] Ibid., 151-152 (translation mine).

[396] Ibid. (translation mine).

[397] Ibid. (translation mine).

after the political alignment of Amir Ḥabīb-Allāh, were perhaps the most important issues in the eyes of the Porte and London alike.[398] On the Afghan army, Aybek writes,

> [T]he foundations of an organized army began during the era of Amir ʿAbd al-Raḥmān; before that however during times of war the chiefs of assorted tribes would send a specific number of warriors to fight alongside the amir; after the development of an organized army however, every young Afghan male was subject to conscription, for every eight young males one was drawn to serve in the military, such that the applied system became known as 'hesht-neferi,' but as it turned out, some would pay out in order to have others take their place, for this reason conscription became a means of income for some people.[399]

Aybek further notes that many tribes complained in regard that conscription as applied was discriminatory and unfair, especially because the tribes which made up of the Afghan king's family—the Muḥammadzai, the Mangal, the Jidran, and the Sadozai—and were exempt from conscription.[400] Aybek's first days in Afghanistan after entering the country through the Khyber Pass were inauspicious and frustrating. The lines of his memoir from immediately after his arrival in Jalalabad reads of a sense of anti-climax, or even worse, utter disappointment and sense of dashed expectations—a reoccurring theme on this mission as a whole. On the conditions of his first stay in an inn on the outskirts of Jalalabad, Aybek writes,

> We stayed in an inn on the outskirts of the Celalabad. As soon as morning came, we entered the city and set out to read the news, but it turned out we couldn't find anyone with interest in newspapers. In those days in Afghanistan the only type of news periodical was an illustrated Persian weekly. This newspaper was known as Siraj al-akbar. State employees were required to buy this newspaper and the price of the newspaper was subtracted from their wages. The majority of Jalalabadis did not know how to read or write and generally the population's spoken tongue was Pashtu, for this reason Sirāj al-akhbār was not frequently read or sold in the market. For this reason we did not receive the recent news of the war.[401]

In this way Aybek was particularly upset with not only by what he viewed as low educational levels, but what is more, the general sense of malaise or apathy vis-à-vis developments on the international scene. Most shocking to his own political consciousness, however, was the reactions he received when he attempted to obtain the latest news on the war front.

> When we asked the people of the city about new developments with the war, they would respond, 'War goes on, that's all!' We had imagined Afghanistan to be a cultured and civilized place. When people gave us these types of responses we were immersed in shock and sadness! We were nourished by hopes of Afghanistan helping India on the path to independence and fighting against the British. Here as soon as we arrived we saw that nobody had even a single piece of news about the World War, they were far and detached from the world. We learned that not even

---

[398] Ibid., 152-53.

[399] Ibid., 153 (translation mine).

[400] Ibid..

[401] Ibid., 153-54 (translation mine).

> a single store could be found that sold paper and envelopes, pen, inkwell or lead pencils to write letters. According to what we were told, they sell paper in the butcher's store, but no one has a pen or inkwell.[402]

In the first days at Celalabad, Zafer Ḥasan went out one night to see more of the city with Şahağası Ali Khan, who introduced him to a group of people conversating that included Amān-Allāh's Khan's paternal uncle and someone he could converse with in Urdu. Zafer Ḥasan found that among this group were men speaking of joining the Ottomans on the war front. Zafer was happy to join this conversation, but according to what happened next in his memoir, Şahağası Ali Khan, accompanied by Afghan soldiers, then took the men to a Kabul police station where they were kept inside an adjacent building.[403] Zafer Hasan, even though called "the King's guest" by the police director himself, was not given permission to leave the building, and even when he had to perform ablution from the water fountain outside he complained that he was accompanied by a soldier.[404] Not long after, the leader of the group Abdulhamid Khan who had fallen seriously ill during the journey died on April 19, 1915 as he and his friends including Zafer Ḥasan waited for a doctor. Abdulhamid's death, in a foreign country, among foreigners, without any help remained a great source of sadness for Ḥasan for a long time after.[405]

Upon arriving in Kabul, Hasan's estimate of the population of the city was 78,000; 100-150,000 if including the surrounding suburbs. In his memoirs, Zafer Ḥasan describes the layout of the city, its important sites, markets, streets and alleys in detail, as well as his reaction, and in some cases surprise, as a Punjabi Muslim in Kabul. In describing one of the city squares, for example, he was shocked at the sight of prospering Hindu merchants selling among the city's main market square, described as follows,

> In the square Hindu money-changers had set up shop. They had taken jewelry and gold wedding gifts/jewelry from the people as collateral against the loans which they were giving out to them. Moreover Bukharan and Afghan nobles (eşrefileri) were changing English and Russian pounds and gold coins. In those days one English pound equalled sixteen Kabul rupees. It is said that the Afghan government, in order to prevent the Afghan people from misbehaving towards to these Hindus', ordered the Hindus to wrap yellow-covered turbans around their heads. Like in the North-West Frontier Province, in Afghanistan much care is taken to protect the Hindu storeowners and money-changers.[406]

The relatively fair conditions of Hindus in Kabul for Aybek appears to have been a shock, probably owing to his early life in the more polarized, and polemical, Punjab where Hindu-Muslim relations were far more politicized and at a much deeper impasse in comparison. Aybek's tendency to polemicize the conditions of Hindus in Kabul within his own frame of reference is likely attributable to his experience in India. Most disturbing for Aybek, however, was the state of education in the country. As Aybek notes,

---

[402] Ibid., 153-54 (translation mine).

[403] Ibid., 154.

[404] Ibid., 155.

[405] Ibid.

[406] Ibid., 155-56 (translation mine).

> In that period, education and learning was not that widespread. Outside of Kabul there was not a single school of the modern kind (yeni tarzda). People were taught according to the old methods of reading the Qurʾān in the mosques. Known as "mirzas" in Afghanistan, employees working in the state offices reached there with their own efforts, having taken lessons from private tutors.[407]

Zafer Hasan then proceeds to discuss how following his tour of India, Amir Ḥabīb-Allāh Khan began implementing plans for a modern educational system in his country. The monarch built the Ḥabībīyah college, Aybek notes proudly, with the assistance of Indian teachers invited to Kabul, including "Mawlawī ʿAbd al-Ghanī, his brother Chirāgh al-Dīn and Mawlawī Ḥusayn Khan Alighari."[408] Aybek then laments how these very same individuals, along with some Afghans accused and convicted of participating in a conspiracy to overthrow Amir Ḥabīb-Allāh from the throne and establish a republican government, were summarily arrested and brutally punished.[409]

In this way Aybek identified Amir Ḥabīb-Allāh Khan's most important service to modern education in Afghanistan as the Ḥabībīyah high school.[410] Founded in 1904, in later years this school would play a crucial role in providing administrative cadres for the government, and it also became a breeding ground for political dissidents (intentionally or not). Only male students were admitted, who were instructed in English, Urdu, Turkish, and Pashtu languages.[411] The school's humble library was at the same time Afghanistan's first public library. Among the school's first teachers, the majority were Indian Muslims or Afghans educated in India (Hindistan'da tahsil görmüş Afganlılar), who thereby established an educational system that from the beginning followed the British-Indian model of education. After World War I, however, Turkish teachers arriving in Afghanistan brought the Turkish-French model which became accepted during the rule of Amān-Allāh Khan.[412]

Before commissioning the Ḥabībīyah high school, Amir Ḥabīb-Allāh Khan had established a military school for Afghan princes and the children of notables.[413] Aybek offers an account of the turbulent early history of these institution, along with its complementary military academy, the Ḥarbīyah (Harbiye). Initially, an Ottoman Turkish captain (yüzbaşı) named Hayri

---

[407] Ibid., 156 (translation mine). Aybek notes some were some executed by being blown from a cannon. This form of punishment particularly horrified Zafer Hasan, as this was taken from a favorite form of British punishment of Indian rebels, and a good many innocents as Dalrymple has written, in suppressing the 1857 Indian Rebellion. Others suspects, including Dr. ʿAbd al-Ghānī, were given imprisonment for life. Ibid. On the extremely brutal quashing of the 1857 Sepoy Rebellion and British reprisals across scores of north Indian cities, towns, and villages, see William Dalrymple Dalrymple's *The Last Mughal: The Fall of a Dynasty, Delhi 1857* (New York: Vintage, 2008).

[408] Töker, 156. (translation mine).

[409] Ibid.

[410] Ahmetbeyoğlu, 246.

[411] Ibid.

[412] Ibid., 246.

[413] Töker, 158.

Bey was at the head of the Ḥabībīyah. According to Aybek and Ahmetbeyoğlu, Hayri Bey was soon joined in Kabul by some Ottoman officers of Arab background from Baghdad, and other parts of the empire. When some of these officers' Arab nationalist inclinations surfaced, misunderstandings and incompatibilities broke out with Hayri Bey. Among these Arab officers was Mahmud Sami, who went on to establish the Harbiye.[414]

On the Indo-Turkish and German Mission to Kabul, Zafer Ḥasan writes in his memoirs, that the commission's goal was to encourage the Afghan king to prepare for an attack on India. In this way cause, the Afghans would open a third front of the war and cause the British forces to be divided yet again. British forces destined for the European or Middle Eastern fronts would have to remain in India, allowing German and Ottoman forces to more easily press the war against Russia. In the end, so Aybek states, both Afghanistan and India could together win their freedom from the British.[415] As for the notable members of the delegation (Aybek was a student of the Deobandi scholar Mawlānā Ubeydullah Sindhī, one of the delegation's leaders), the young student recalls in his memoirs the remarkable individuals who orchestrated the transnational conspiracy, as well as the early days of the mission's arrival in Kabul as follows,

> When we were staying in the same home on October 7, 1915, the Indo-Turkish and German Commission to Afghanistan (Hint-Türk ve Alman Heyeti) that had set out from Europe and passed through Iran, reached Kabul. This commission's president was a noble from a land near Benares known as Hathras, Raja Mahandar Pratap, who during World War I joined the Germans in Europe against the British. Beside him was the Mevlana Bereketullah of Bhopal. After working to spread Islam in Japan, Mawlānā Barakat-Allāh joined anti-British activities of the Gadr Party formed in America. When the war broke out he also joined the Germans. The Turkish representative was Leiutenent Captain Kazım Bey. The German representative was Von Heintisch and the Austrian representative was Neidermayer.[416]

---

[414] Ibid., 156-157. On the power hierarchy in the Afghan royal family, Aybek claims that Amir Ḥabīb-Allāh, in his last years (1915-1919), had the country firmly in his hands and completely cut off from developments in internal or external affairs. He describes the Crown Prince ʿInāyat-Allāh of having "a weak character," who, "like his father he drew near the English and did not want be used against the British in Afghanistan." Aybek describes the Amir's younger younger brother, Serdar Naṣr-Allāh Khan, on the other hand as a formidable rival for the throne. Aybek then describes the extreme concern of British officials with this individual in the court in particular, particularly for his connections with the ʿulamāʾ and students of Deoband. Aybek describes him as "a far-sighted man of the highest degree." Notably, Aybek describes the Amir's third son, Serdar Amān-Allāh Khan, as "respected by all", largely because of the influence of his powerful mother however, who was experienced in many state matters. Ibid., 157. On the burgeoning role of the secret Young Afghan party, he notes,

> Some of the young intellectuals (aydın gençler) sought to establish a constitutional government (anayasal hükümet) and liberate Afghanistan from the British. . . In this way three political factions came into shape in the country. The first was represented by Amir Ḥabīb-Allāh and Crown Prince ʿInāyat-Allāh, the second Naṣr-Allāh Khan, and the third by Amān-Allāh Khan's supporters. The Amir's addiction to amusement and entertainment and prodigal life became a reason for the people's bad feelings growing against him. There were two attempts to assassinate him [during these years] but they were not successful.
>
> Ibid., 157-158.

[415] Ibid., 159.

[416] Ibid., 158. (translation mine).

On October 15, 1915, shortly after this commission came into being, Zafer Hasan's teacher and ideological inspiration Mevlana Ubeydullah Sindhī reaches Kabul on October 15, 1915. Mawlānā Ubeydullah played a great role in the political thought of Zafer Hasan. Ubeydullah Sindhī was one of the leaders of the Indian freedom movement (Hindistan özgürlük hareketi) and upon leaving India, he was in the forefront of important individuals taking part in anti-British activities in Afghanistan, Russia, and Turkey. After coming to Afghanistan, he had interviews with the Tarzi family, crown prince ʿInāyat-Allāh Khan, Amān-Allāh Khan and Amir Ḥabīb-Allāh Khan in order to persuade them to lead the Afghans in an attack against the British, and united with those fighting for a free India. On his attempts to persuade them, Aybek writes in his memoirs,

> In order for India to achieve freedom, it was necessary that Afghanistan join the war against the British. Amir Ḥabīb-Allāh Khan, was a friend of the British and he took a salary from them. To convince a person like this to enter the war against the British was virtually impossible. Even just his listening to our ideas was a concession. As we learned many years later Mevlana Ubeidullah Sindhī himself proposed to the Afghan Amir, "If Afghan soldiers attack the British and liberate India from their sovereignty, an Afghan prince could be a constitutional monarch sitting on the throne of Delhi. With the Amir's approval, this prince would be Amān-Allāh Khan. Moreover, with the formation of a constitutional monarchy in Afghanistan, a framework for unity between India and Afghanistan could be established.[417]

Afghanistan's Pan-Islamic and anti-British activists were overjoyed at the arrival of the Ottoman commission in Kabul. Ultimately, however, the decision to enter Afghanistan into the war did not rest with the masses, but the Amir himself, and the commission was unable to persuade the Afghan government to oppose London or Delhi in this regard. In this way Amir Ḥabīb-Allāh successfully negotiated a political minefield by maintaining cordial relations with both the Ottoman and British governments through the conflict. On one hand, the Amir would say that if the Turkish and German army reached the Afghan frontier he would immediately declare war against the British; on the other hand he would continue to give information of his interviews with the commission to the British Government.[418]

Throughout the ordeal of the first world war, in order to uphold a position of neutrality—and thereby preserve the financial and political support he received from the British—when the Amir learned of anti-British activities breaking out among the frontier tribes, he would issue the following propaganda, saying "Jihad requires the approval a king and people of authority (ulü'l-emr), without them entering the war against the British would be a war for worldly purposes and would not be considered a Jihad, and those fight and die in such a war cannot attain the lofty station of martyrdom (şehitlik makamını elde edemeyeceği)!"[419] These various kinds of propaganda had a great effect on the frontier tribes, such that during the entire First World War,

---

[417] Ibid., 159-60 (translation mine).

[418] Ibid., 160.

[419] Ibid. (translation mine). Amir Ḥabīb-Allāh's financial assitance from the British Raj was in line with an Anglo-Afghan agreement of March 21, 1905. Amir Ḥabīb-Allāh signed this agreement with the British Raj, which he considered to have recognized him as an independent ruler, but in fact renewed protectorate-like conditions of his father's agreement with the British (including British control of foreign affairs in exchange for British subsidies). Ahmetbeyoğlu, 245.

surprisingly, the frontier tribes largely did not clash with the British in any dramatic ways, and the Pan-Islamic, cross-border menace Raj officials were afraid of did not come about either. As an India Office Records document from 1917 notes, Turkish emissaries to the Indo-Afghan frontier were also unsuccessful in rousing Pashtun tribes to rise against the British.[420] Meanwhile, putting their consciences at ease, the Amir would often say that anytime an appropriate occasion arose for Jihad then he would declare the jihad and direct it himself, a proposition pro-Ottoman Afghans and Indians in Kabul found increasingly hard to believe.[421]

Under the Surface: Indo-Ottoman Tensions in Kabul

But as hinted at in the previous section, not all was peachy with the Ottomans and Indian Muslims and their service in Kabul. This was not some grand Pan-Islamic conference. Rather, tensions emerged between the certain members of different groups of Muslims foreigners in Afghanistan, in particular the Turks and Indians, over directions of reform. British Indian Foreign Department records documents dated as early as February 1909 noted rising tensions between the different factions in the Kabul court. For example, a Secret Foreign Department file from February 1909, reveals how the British were constantly on the look out for, but indeed also found, tensions between Turks and Indian Muslim expatriates in Kabul. The report, which discussed Information supplied by the British Agent at Kabul in reply to questions put by the Intelligence Branch regarding affairs in Afghanistan, shows also that the British were *looking* out for tensions between Turks and Indian Muslims; there is some rivalry here and this was also in the interest of the British. Note the following exchange of leading questions and answers,

> [Q:] Is it true that there is great jealousy between the Turkish instructors under Mahmud Sami and the Indian instructors Shahwali, Muḥammad Ḥasan and Amir Muhammad?
> [A:] There is jealousy between the Turks and Indian instructors but very mild. They show courtesy outwardly to each other, and do not interfere in one another's work.
> [Q:] Who is this Shahwali?..Is it true that Brigadier Nādir Khan (son of Sardār Yūsuf Khan) supports the Indians?...
> [A:] General Nādir Khan supports the Indian instructors, and considers the Turks his rivals…"[422]

In this way, perhaps the British and Russians had less to worry about some kind of Pan-Islamic explosion than they anticipated. British reports also give us an indication that far from a euphoric Pan-Islamic festival in Kabul, Turks and Indians alike brought cultural, professional, juridical , and political baggage with them that could not be disassociated from their expertise. British records in particular note the rise of tensions between Indian and Turkish experts and trainers in Kabul. Given our understanding of the long trajectory and genealogy of the Indian and Turkish streams, this should not be surprising. Though all Muslim, they brought different perspectives, priorities, and methods for pursuing their goals and imparting their advice towards

---

[420] IOR-R/12/LIB/107, *Precis on Afghan Affairs*, (para. 16, p. 6). Machonachie reports Turkish emissaries were sent to the Kuki Khels in Tirah, and the Kambar Khel tribes along the Indo-Afghan frontier in 1917, but according to his report, were hardly successful in raising any support for the Ottoman war effort.

[421] Töker, 160.

[422] NAI-FD/SEC/F February 1909 20-21 ("Information supplied by the British Agent at Kabul in reply to questions put by the Intelligence Branch, regarding affairs in Afghanistan").

different visions of the good society. In some cases, for example, Turks were seen to be more political reliable and trustworthy than some Indians. For example, Mehmet Fazli states that "the Moslem representative of the Indian Government at Kabul is distrusted by the Afghans where a Turk is trusted."[423] While there was significant self-interest in stating so, there is arguably reason to seem some truth to it.

Similarly, a dispatch from the British Secretary of State for India, dated November 1, 1912, discusses hidden tensions emerging from the employment of Turkish officers by the Afghan Government. Commenting first on the estimated number of Ottoman officers, the report states,

> M. Sazanow states that the number of Turkish military instructors in Afghanistan "actually amounts to 80 officers", but this is clearly an exaggeration. In his "Final Report on Afghanistan", September 1910, the late British Agent gave us some detailed information in regard to the Turks, and the total number of Turkish officers at that time in Afghanistan was only 15. Since then there have been a few arrivals and departures, but the number furnished in 1910 has probably never been exceeded. The most important man among the Turks in Afghanistan is Colonel Mahmud Sami, Effendi, late Principal of the Sirajiya Military School; and we have just heard that this gentleman, with two other Turkish officers, has got into trouble, has been treated with ignominy , and is to be turned out of Afghanistan.[424]

In this way, after divulging his estimate of the size of the Ottoman officer community in Kabul, the report proceeds to describe how even the most influential Ottoman in Kabul, colonel Mahmud Sami, could fall out of grace with the Afghan authorities. Such incidences contrasted with the romanticized portraits of harmonious brotherhood and selfless service described in comments by Ottoman sojourners to Kabul like Ali Fehmi and Mehmed Fazlı. This also matches developments described by British reporters as a decline in Pan-Islamic activity in Kabul following the Young Revolution in the Ottoman empire. Attempting to offer a more sober account than those authored by the more Islamophobic personnel, one British intelligence report from 1913 notes,

> [T]he statement of M. Sazanow that these Turkish officials obtain land in Afghanistan, excite the fanaticism of the Afghans, and are occupied in a Pan-Islamic propaganda, are not substantiated by our records. There is no *proof* that the Turks are political emissaries of the Sultan: in 1909 we heard that, since the change of régime in Turkey, the Pan-Islamic propaganda had, to a certain extent, lost is force.[425]

While this would be a premature statement with regard to the Pan-Islamic movement as a whole, British records do identify sources of tensions not only within the Ottoman community in Kabul, but between Turks and Indians. Always on the look out for incipient tensions between Turks, Afghans, and Indian Muslims, the British reporter proceeds to describe some more details of rising tensions between the Ottoman and Indian officers in particular. Such comments augment the earlier observations made in 1909 by a British informant on not only the decline in

---

[423] NAI-FD/SEC/F September 1910 1-12 ("Employment of Turks in Afghanistan").

[424] NAI-FD/SEC/F May 1913 1-23 ("Russo-Afghan relations").

[425] Ibid.

Ottoman Pan-Islamic activity in Kabul, but the growing rivalry between Afghan General Nādir Khan and the Ottoman officers, as well as Nādir Khan's preference for Indian Muslim military instructors,

> It is true that the Military Attaché at Constantinople wrote, at the beginning of 1910, suggesting that the visit of certain Turkish officers to Afghanistan had some connection with the Pan-Islamic propaganda; but, in his report, already referred to, the late British Agent does not say anything about this. On the contrary, he states that the Turkish officers at Kabul had not succeeded in exercising any great influence in the Durbar, or with the public. The Afghan military officers were jealous of them, (this is corroborated by the present Agent, who states that the downfall of Mahmud Sami was the result of this jealousy), and the city people would not communicate freely with them owing to their western manners.[426]

The above report gives us a more textured picture of the substance of the burgeoning Indo-Turkish rivalry in Kabul. While the above report cites "Western manners" as a source of division and tension, another British intelligence report from 1911 cites the Turks' own frustrations with conditions of their employment, or life in general in Kabul. The Diary of the British Agent at Kabul reports on March 12, 1911, that,

> The Turk employés of the Afghan Government are apparently not satisfied with their lot here. They complain of inadequacy of pay and no promotion. Three of them—Yakub Beg, Jalaluddin Beg, and Asif Beg, who joined in 1909—recently returned to their country being disgusted of the inactive life they were leading here, as no work was given them. Mahmud Sami finds General Muḥammad Nādir Khan a rival too formidable to match and may have also gone away but for the Muin-al-Saltanat who takes up his cause. Abbas Beg, the Drill Instructor, openly complains of the treatment he receives. Ḥasan Hilmi, an old man and past work, is the only one who has assumed an air of dignified quiet.[427]

The above passage gives us some of the more specific portraits of key individuals in the Ottoman officer community in Kabul. In the process, the reporter again brings up Nādir Khan as a "formidable" rival within the Afghan military establishment. We will return to a more in-depth explanation of Indo-Ottoman tensions in the juridical field in the next chapter.

It is also important to recognize at this juncture how our sources tell us that not all Ottoman subjects were even accepted into Afghanistan to begin with. A NWFP Diary Entry for the week ending April 9, 1910, reports that "Elhadj Elseid Hassan Tahsin Baba Bektachi of Constantinople, who is said to have been formerly a Colonel in the Turkish Army, arrived at Peshawar on 6th April 1910, *en route* to Kabul."[428] Yet, the very next entry (NWFP Diary for week ending April 23, 1910), discloses the following update,

---

[426] Ibid.

[427] NAI-FD/FRNT/B August 1911 40-42 ("Information regarding the Turks in Kabul").

[428] NAI-FD/SEC/F September 1910 1-12 ("Employment of Turks in Afghanistan").

> Elhadj Elseid Hassan Tahsin Baba Baktachi, who asked the Amir for permission to visit Kabul, has received a reply in the negative. He returned on 23rd April 1910 from Peshawar to London, where he proposes to stay for a week and then to go back to Constantinople.[429]

In this way, we cannot surmise that a wide-open, unrestricted corridor existed between Istanbul and Kabul at this time, whether for Ottoman officers or lay subjects seeking employment. The above document indicates, first of all, that it was necessary for the said individual to receive permission from the Afghan Amir for entry into Afghanistan. Second, such petitions could be denied, as was the case with this particular Ottoman subject.

Other Turks who did not even come to Afghanistan but had planned to complained of not getting paid. One disgruntled Turk even filed a lawsuit in a British court against the Amir Ḥabīb-Allāh under these very circumstances. For example, a secret Foreign Department file from April 1910 reports of a Letter from the Amir regarding a claim brought against the Afghan Government by Suleiman Midhat, a Turkish Electrical Engineer. The Amir of Afghanistan, in his response by letter dated 11 Rabīʿ al-awwal 1328 (March 23, 1910), rejected the claim that pay is due to Suleiman, saying he never came to Afghanistan, stating,

> It is not the rule of any Government that a person should be given a salary without being engaged or doing any service. [Our] reply to him is that he has not yet entered the service of the God-granted Government of Afghanistan and that no pay can be given to him.[430]

We can imagine the story must be more complicated than this, and we do not have Suleiman's side of the story. The point here is again we see not all was smooth with employment of Turks in Afghanistan.[431] But a March 1910 Secret Foreign Department file tells us a little more of Suleiman Midhat's side of the story regarding his engagement by the Afghan Government as Electrical Engineer. This document and law case tells Suleiman's Midhat's side of story. He claims his contract promised to pay for his travel expenses to Kabul, which never came, which is why he never went. Could this be a story of meaning lost in translation, or something else? Either way it shows unglamorous, everyday stresses, tensions, and conflicts of Ottoman employment in Kabul. A Letter of British Ambassador at Constantinople dated January 4, 1910, provides us with his version of the fact summary,

> Suleiman Midhat represents that by a firmān from Sardār Nasrulla Khan, dated 21st November 1908, his services were engaged by the Afghan Government, as electrical engineer, on 1,500 francs a month for the first year, and 2,000 francs the second year, but that the funds promised for his journey have not reached him, and that he can obtain no answer to any letters that he now

---

[429] Ibid. Strangely enough, when we look at a later report during the Amāni era in the Turkish Red Crescent society's archive from 1922, we see that a Captain (Yüzbaşı) Ḥasan Tahsin had not only arrived in Kabul, but was an instructor in the prestigious Harbiye military academy, where many other Ottoman military officers also taught and worked. TKA 1361/72 (10 Şubat 1340) ("Vakit gazetesinde çıkan "Afganistan Emiri ve Türkler" ismindeki makalede Kabil harbiye mektebinde muallimlik yaptığı bildirilen yüzbaşı Ḥasan Tahsin hakkında tahkikat talep edildiğine dair"). It is probable this is the same person; either way, the aforementioned report of denial of entry still reflects the more strict attitudes towards arrival in Afghanistan during the Ḥabīb-Allāh era.

[430] NAI-FD/SEC/F April 1910 5-6 ("Letter from the Amir regarding a claim brought against the Afghan Government by Suleiman Midhat, a Turkish Electrical Engineer").

[431] Ibid.

> writes on the subject. He therefore asks the Ambassador to inform the Afghan Government that he considers himself engaged as from 21st November 1908, and that he claims 20,000 francs as salary to the end of December 1909, and 12,000 francs as indemnity for the first six months of 1910, if the Afghan Government do not now require his services.[432]

Weighing in on the matter, the British Ambassador proceeds to offer the following commentary in his own analysis. "No doubt, Suleiman Midhat has not been well treated," the Ambassador states unequivocally.[433] According to the French translation sent by the engineer, the Afghan prince Sardār Nasrulla Khan's letter says that a sum of 2,000 francs is being sent to him on account of traveling expenses, on receipt of which he should start *viá* Meshed, for Kabul, where, the letter continues, "after you have been presented to the Amir, and your identity and professional qualifications are established, you will certainly be provided with a post according to your wish and on the terms for which you have stipulated."[434] The British ambassador then proceeds to identify what is sees as the core problem and misunderstanding: an error in translation. According to the ambassador, the British Persian Office produced a different translation than the one relied upon by Süleyman Midhat. According to the Persian Office's version, Midhat is told to come to Kabul and that only *after* he has amply demonstrated his proficiency, arrangements will be made "to fix your pay suitably." No where does the Persian Office's translation distinctly state that Midhat was already contracted to be engaged on the terms for which he himself stipulated.[435] In sum, the British ambassador offers the following assessment, highlighting not only the problems of translation, but the potential misunderstandings that could arise in Turco-Afghan correspondence over employment in Kabul,

> The traveling expenses never having reached Suleiman Midhat, he naturally never started, and the whole arrangement fell through. The contention of the Afghan Government would probably be that their offer of employment was conditional, and as none of the conditions was fulfilled, they have no liability in the matter.[436]

In this manner the British Ambassador to Turkey recognized that a translation error played into creating this legal dispute. When it came to providing a solution, the ambassador suggested providing the Amir with a new translation, commenting,

> The Government of India cannot make any representation to the Amir on the subject. But there would be no harm in sending to the British Agent at Kabul a translation of Suleiman Midhat's letter… and request him to hand it to the Amir, without making any comment, except that it had been sent to him to be handed to His Majesty, for such action as His Majesty may deem desirable.[437]

---

[432] NAI-FD/SEC/F March 1910 4-7 ("Representation from on Suleiman Midhat, a Turk, regarding his engagement by the Afghan Government as Electrical Engineer").

[433] Ibid.

[434] Ibid.

[435] Ibid.

[436] Ibid.

[437] Ibid.

What is even more revealing, however, are the following comments from the ambassador on the British course of action at this juncture, and the "advantages" offered by increasing disputes between the Turks and Afghans. There is little doubt that the service of Ottoman subjects in Amir Ḥabīb-Allāh's court was an escalation of Pan-Islamic activity which the British were uncomfortable with, and they sought ways to reduce its occurrence. British ulterior motives surface even more clearly in the following passage,

> This would let the Amir know we are aware of his attempts to engage Turkish subjects—such attempts, as a rule, are managed secretly... From the point of view of the Government of India, who do not wish to see a lot of Turkish Officers in the Amir's service, this incident is not without advantages. The more Turks who are treated in this shabby manner, the less likely will others be to volunteer for service in Afghanistan.[438]

In this way the documents do establish an unquestionable rivalry between the Ottoman and Indian elements in the Kabul court. Moreover, some documents even point to outright lack of trust between the two major foreign Muslim factions in the Kabul court, a tension the British were particularly keen to highlight, encourage, and exploit to their utmost advantage. Perhaps the Ottomans were wary of Afghans given their ambivalent political stance in the first world war. Ottoman continued to keep detailed surveillance of Afghans in and out of their domains, for example, particularly in light of their ambiguous relationship to the Caliph in light of them not entering the world war on the Ottoman side. An Ottoman Archives document from 1918 reports the arrival and departure of Afghans to Istanbul, in particular the Afghan sufi lodge (*tekke*) in Üsküdar. For example, Ottoman records display a keen interest in the cousin of Amir Ḥabīb-Allāh Ghulām Rasūl Khan at the Üsküdar Afghan sufi lodge.[439] In the same year Ottoman records reported the movement of three Afghans from the Istanbul tekke to Konya, only after the trio requested permission for the trip, however.[440] Outside of Istanbul, two Ottoman archive documents of February 8 and 13, 1917, reveal instances of Ottoman police following the movements of an Afghan prince through the Anatolian and Syrian cities of Aleppo, Adana, and Konya.[441]

It appears from these instances of Ottoman espionage on Afghans that the Ottomans did not blindly trust any and all Muslims from India and Afghanistan that were expressing some

---

[438] Ibid.

[439] BOA-DH.EUM.5.Şb 69/2 (1336 Z 09) ("Üsküdar'daki Afgan Kalenderhanesi'nde misafir olarak bulunun Afgan Amiri Habibullah Han'ın amcası oğlu Gulam Resul Han'ın harb-i umumi nedeniy;e memleketine gidememesine binaen maişet sıkıntısı çektiği").

[440] The three Afghans named were Ḥājī Abdurresul, Ḥājī Alaeddin, and Ḥājī Sayyid Jalal Efendi. BOA-DH.EUM.5.Şb 70/17 (1336 Z 24) ("Üskudar'da Afgan Tekkesi'nde mukim Afganlı Hacı Abdurresul, Hacı Alaeddin ve Hacı Sayyid Celal Efendilerin Konya'ya gitmelerine müsaade edildiği").

[441] BOA-DH.ŞFR 72/177 (1335 R 15) ("Emniyet-i Umumiye Müdüriyeti'nden Haleb, Adana ve Konya Vilayetleriyle Eskişehir ve İzmid Mutassarrıflıklarına çekilen 'Afgan Presni oradan geçeceğinden, vürudunda hakkında hürmet-i mahsusada bulunulması' şeklindeki telgraf"). See also, BOA-DH.ŞFR 72/230 (1335 R 20) ("Emniyet-i Umumiye Müdüriyeti'nden Adana Vilayeti'ne çekilen 'Afgan Prensi'nin oradan tarih-i hareketiyle maiyyetinin kaç kişiden ibaret bulunduğunun işar ile Konya Vilayeti'ne de derhal malumat itası' şeklindeki telgraf").

reason to work together. There were reasons to be suspicious, after all; a great number did serve in the British army, as well as British informants, as our documents from the Indian archives illustrate. For example, an Ottoman archives document from June 1918 describes the presence of an Afghan prisoner in the Bursa garrison.[442] The document proceeds to describe his desire to pay back two merchants from Peshawar who he owed a debt to before he was taken into captivity by Ottoman authorities. In contrast to the more idealized notions of Pan-Islamic euphoria, such reports offer a more sober, complex picture of how Muslim subjects from diverse geographic, cultural, and political backgrounds negotiated the contours of their interactions, and competition, in practice.

In January 1916, Amir Ḥabīb-Allāh made a public announcement of Afghanistan's neutrality in the First World War. Less than six months later, the Ottoman-German Mission leaves Kabul.[443] While we have thus far in this section discussed emerging tensions between Ottomans and Indian Muslims brewing under the surface of a cordial Pan-Islamic solidarity in Kabul, Amir Ḥabīb-Allāh's unpopular declaration of neutrality was widely seen in Afghanistan and India as a betrayal of the Ottomans by a fellow Muslim sovereign. With it critical attention in Kabul became focused on the Amir himself. His controversial decision, sure to have ingratiated the British, was something that disappointed a sizeable number (if not majority) of Muslims in both Ottoman and Indian camps at Kabul. In the end, it was not difficult for pro-Ottoman Afghans to blast Amir Ḥabīb-Allāh for his lack of commitment to the Pan-Islamic Caliphate and Ottoman cause. Maḥmūd Ṭarzī's articles in Sirāj al-Akhbār are but the most prominent example.[444] In the eyes of the Afghan ruler himself, though, the matter was far more complex than ideology could make room for.

Afghanistan under the Burden of Neutrality

On a more local level, the Afghan Amir's rejection of the mission had profound consequences *within* Afghanistan, and even within the court at Kabul. Given the popularity of the Ottomans in India and Afghanistan, at an all time high since the Italo-Turkish war and with new technologies of communication and transportation, Amir Ḥabīb-Allāh was faced with his most difficult decision. And it would probe to be fateful.

Historians argue Amir Ḥabīb-Allāh's decision to reject the Ottoman call for jihad sent waves of disgruntlement throughout Kabul, Afghanistan, and the Indo-Afghan frontier. But sources indicate there was already serious disgruntlement against Amir Ḥabīb-Allāh as early as 1912, when the Times reported a revolt broke out along the frontier in opposition to Amir Ḥabīb-

[442] BOA-HR.SYS 2230/50 (1918 06 02) ("Bursa garnizonunda esir bulunan Afganlı Abdülgani oğlu Nur Ekber Han'ın esaretten once Hindistan'ın Peşaver kentindeki ili tüccara olan borcunun ödemek istemesi").

[443] Nawid, *Religious Response,* 40.

[444] For the most comprehensive study of Maḥmūd Ṭarzī's thought and writings in the *Sirāj al-Akhbār*, see May Schinasi, *Afghanistan at the Beginning of the Twentieth Century: Nationalism and Journalism in Afghanistan, A Study of Seraj ul-akhbar, 1911-1918* (Naples: Istituto Universitario Orientale, 1979). See also Louis Dupree, "Maḥmūd Ṭarzī: Forgotten Nationalist." *American Universities Field Series Report: South Asia Series*, Vol III, No. 1 (1964) and Vartan Gregorian, "Maḥmūd Ṭarzī and the Saraj-al-Akhbar: Ideology of Nationalism and Modernism in Afghanistan, 1880-1946," *Middle East Journal* 21 (1967): 345-68.

Allāh's policies, an article even the Ottomans took interest in.[445] It likely played a turning point role in the assassination of Amir Ḥabīb-Allāh, given the extreme frustration and anger by many Afghan nobles for what they saw as Ḥabīb-Allāh tipping toes to the British and failing to come to the Ottomans' aid at their greatest time of need. The Ottoman defeat in World War I, and moreover the harsh treatment by the Allied powers, would have lasting consequences not just for Turkey, but for Afghanistan and India as well.

The following documents from the British Indian archives reveal the secret negotiations between Amir Ḥabīb-Allāh and the British. This should not be surprising given the same was already taking place with the Sherif Huseyin of Ḥijāz, the French through the Sykes-Picot agreement, and the Zionist Federation of Britain all in roughly the same period. This marked a moment of high British confidence given their success in wooing Sherif Huseyin of Ḥijāz to their side. For example, a secret Foreign and Political Department War branch document of March 1917 entitled, "Letters from the late Capt. Shakespear on the political situation in Central Arabia, Communications with Bin Saud and connected matters", includes a letter from Captain W.H.I. Shakespear, I.A., Political Officer on Special Duty, to the Political Resident in the Persian Gulf, Basrah, who writes on January 4, 1915,

> It will be of interest to note here that the attitude of Central Arabia, so far as I am able to gauge it in this camp, is very sympathetic towards Great Britain, antagonistic to Germany and one of hatred to Turkey combined with a sense of relief and a hope that at last the machinations of the Ottoman Government in Nejd may come to an end… It will be evident from the above that the general situation politically throughout Bin Saud's territories is as favourable to Great Britain as can be desired.[446]

But the British were not comfortable for long. While they may have been successful in fomenting the profoundly strategic and consequential Sherif Ḥusayn revolt in the Ḥijāz against the Ottomans, their ability to curb and control Pan-Islamic activities even within their own territory of India was far from mastery. A Secret Foreign and Political War branch document of May 1916 entitled, "Situation in Persia. Proposed alliance between Persian and Great Britain and Russia. Movements of Germans and Austrians in Persia and Afghanistan. Neutrality of Afghanistan and increase in the subsidy of the Amir" includes a telegram from the Viceroy (Foreign and Political Department), Delhi, to the British Secretary of State for India, London, dated December 24, 1915, which reads,

> While we must be prepared, if necessary, to deal generously with the Amir in the matter of subsidy, we propose to await communication from him in regard to this question before taking further action. . . The Amir's conversation, as described by the British Agent at Kabul, is regarded by us as satisfactory, and the somewhat grasping attitude adopted by him in regard to

[445] BOA-HR.SYS 5/19 (1912 06 14) ("Times gazetesinin Afganistan'da isyan çıktığı hakkındaki haberi"). This was a French translation of an article in the Times newspaper dated June 13, 1912 submitted by a correspondent in the Ottoman ministry of Foreign Affairs Aasim Bey, on the breakout of a revolt in Afghanistan, entitled "La Révolte en Afghanistan: Le Prestige de l'Ameer est sur le décline." The article claims that Amir Ḥabīb-Allāh's influence was already on the wane in the Pashtun heartland, Indo-Afghan frontier and other regions of Afghanistan.

[446] NAI-FP/SEC/War/B March 1917 283-284 ("Letters from the late Capt. Shakespear on the political situation in Central Arabia, Communications with Bin Saud and connected matters").

> the subsidy, which was not unexpected, would appear to indicate confidence in our stability and to afford us, at the same time, a further political lever in Afghanistan.[447]

This document shows what a tremendous threat even the mere idea of Afghanistan joining the Central Powers against Britain would have been to the Crown, especially the British Raj. Similarly, a telegram from the British Consul at Sistan, Persia, to the Secretary to the Government of India in the Foreign and Political Department, Delhi, on November 4, 1915, reads,

> If Baluch Sardārs join us and Afghanistan remains neutral our position here would be secure until Germans and Turks arrive in force, but if jehad is taken up at once by the Afghans we should, I think, have to make as quickly as possible for British territory hardly waiting for the contingent at Birjand who perhaps would do better to go to Meshed and join the Russians.[448]

The urgent tone of this message underscores the seriousness with which British officials viewed all movements of Turks and Germans in Iran, Afghanistan, and the Indo-Afghan tribal frontier. And even after the formal conclusion of hostilities, the fear continued, and so did the reports on "Pan-Islamic intrigue." As late as October 8, 1919, the British Consul General of Iran at Meshed reported that Kazim Bey, "a Turkish agent in Afghanistan," has influenced Naib Salar and certain merchants in Afghanistan into not remitting money to India, and that in consequence, merchants are drawing large sums from the Meshed Bank instead of remitting money to India as usual."[449] Though the war was over, economic warfare between the Turks and British continued as fiercely as the battles in the trenches. The message was confirmed by the British Consul-General and Agent to the Government of India in Khurāsān, Meshed, in his telegram to Secretary of the Government of India, Foreign and Political Department, Simla, who wrote on 8 October 1918 that "According to recent news from Herat Kazim Beg has convinced Naib Salar and through him certain merchants who trade with Meshed that Indian banks will all shortly be bankrupt and that therefore no money should be remitted to them."[450]

Perhaps Amir Ḥabīb-Allāh did not realize, as Tarzi, Amān-Allāh and other pro-Turkish elements in the Kabul court did, that imperial powers could be fickle in their alliances. The covert dealings between the Crown's Indian agents with the Amir, while simultaneously engaging in a dizzying array of separate Near Eastern promises, including to the French in the Sykes-Picot Agreement (1915-1916), Sharīf Ḥusayn in the latter's correspondence with High Commissioner in Egypt Sir Henry McMahon (1915-1916), and the Zionist Federation of Britain in the Balfour Declaration (1917). The India Office Records at the British Library contains the remnants of correspondence of these secret, conflicting, and mutually exclusive negotiations

---

[447] NAI-FP/SEC/War May 1916 1-288 ("Situation in Persia. Proposed alliance between Persian and Great Britain and Russia. Movements of Germans and Austrians in Persia and Afghanistan. Neutrality of Afghanistan and increase in the subsidy of the Amir").

[448] Ibid.

[449] NAI-FP/FRNT/B November 1919 50 ("Report that Kazim Beg, a Turkish agent in Afghanistan, has influenced Niab Salar and certain merchants in Afghanistan not to remit money to India").

[450] Ibid.

taking place at the same time.[451] We can only imagine what Amir Ḥabīb-Allāh and those promoting in the Kabul court promoting Afghan neutrality at the time would have said upon seeing such signs of duplicity on London's part. Still, they might dismiss alternative conclusions as ones drawn with the benefit of hindsight—a luxury of historians, not politicians acting in the moment.

– • –

On February 2, 1919, Amir Ḥabīb-Allāh pressed British officials that because of his neutrality during the war the British should recognize Afghanistan's full independence and right to exercise full control over the conduct of its foreign affairs. It was likely his most forceful request for an independent Afghanistan in the international field. Citing the November 1917 Bolshevik revolution in Russia, and British fear of it spreading to Afghanistan, the British rejected Ḥabīb-Allāh's request and insisted on controlling its foreign relations with the outside world.[452] It is hard for us to imagine the sense of betrayal Amir Ḥabīb-Allāh must have experienced at that moment. Complicating matters even further for the Amir was the fact public opinion in Kabul and other major cities was decisively against Ḥabīb-Allāh's neutral stance, widely seen as a betrayal of the Ottomans in their darkest hour. While he successfully navigated the political minefield of Afghan neutrality during the most brutal and devastating war in human history, Amir Ḥabīb-Allāh's unpopular position caught up with him. Most dangerously of all, his brother Naṣr-Allāh, his son Amān-Allāh, and a number of Afghan notables in the Kabul court grew estranged from Ḥabīb-Allāh, and his prestige fell significantly. The high price he paid for neutrality during the world war in terms of domestic unpopularity was about to take an ultimate toll. In the dark hours of the night of February 19-20, 1919, Amir Ḥabīb-Allāh was shot and killed in his camp by an unknown assassin while on a hunting trip in Laghman region, outside Jalalabad in the Eastern Province.[453]

CONCLUSION

On October 1, 1901, when the "Iron Amir" ʿAbd al-Raḥmān Khan died from natural causes, with his passing ended two decades of autocratic rule the likes of which Afghanistan had never seen in its history. Yet, even more significantly, with the immediate coronation of his eldest and most trusted son, Ḥabīb-Allāh, to the throne, Afghanistan also witnessed the most peaceful transition to power in its history. As discussed in Chapter 3, the juridical institutions the "Iron Amir" had built during his rule led to a degree of centralization the country had not seen before. Moreover, the stable foreign relations between Russia and Britain, and the level of internal sovereignty ʿAbd al-Raḥmān had secured from both countries also kept foreign intervention to a new low.

---

[451] IOR-L/PS 11/161 (November 12, 1919-February 21, 1920). This extraordinarily large file is by no means exclusively on Afghan affairs, but rather a range of crucial strategic information on British clandestine activities and negotiations—including the now-famous Hussain-McMahon correspondence during World War I.

[452] Ahmetbeyoğlu, 249; Saray, 88-90.

[453] Ahmetbeyoğlu, 249; Saray, 88-90.

In this chapter we explored how the peaceful transition of power from Amir ʿAbd al-Raḥmān to his heir Amir Ḥabīb-Allāh led the latter to experiment with initiatives historians of Afghanistan in the twentieth century have called, "the first steps towards modernization." In particular I examine the groundbreaking effect of the return of Afghan refugees from two profoundly significant intellectual, cultural, and professional streams, and the very same ones discussed in the previous chapter: Ottoman Turkey from the west, and British India from the east. We begin the tracing the activities and contributions of the Tarzi family of Maḥmūd Ṭarzī, who returned to Kabul from Ottoman Damascus, and the Muṣāḥibān family of Nādir Khan, who returned to Kabul from Dehradun, the hill station in northern India and home to the British Raj's elite military academy. Significantly, these individuals did not return to Afghanistan with their families, but with a torrent of experts from both streams.

Eschewing the modernization theory and development studies paradigm, this chapter argued Amir Ḥabīb-Allāh added new dimensions to the centralization program that his father had so vigorously launched and defended. In particular, it was during the Ḥabīb-Allāh period that Afghanistan "opened" more channels for foreign influence in the Kabul court and environs, but still in a strictly controlled manner. In particular, unlike the ʿAbd al-Raḥmān era, Ottoman and British Indian influence begins to surface in a more open and unrestricted manner in the Afghan cultural environment only during the Ḥabīb-Allāh era.[454] Using Ottoman and British Indian archives, I illustrate how the return of each exile and their families also brought with it a torrent of doctors, teachers, lawyers, journalists, and military experts from their land of sponsorship for the last two decades, and all competing for the patronage and attention of the Amir in Kabul. Ottoman experts begin to be invited to Afghanistan for the first time, and likewise, the British took advantage to send as many experts as they could to Afghanistan to advance their own interests. Hence begins the early history of an Indo-Ottoman rivalry in Kabul.

There are a few early decisions that led to this shift in the Afghan cosmopolitan scene. In one of his first acts as sovereign, Amir Ḥabīb-Allāh issued an amnesty to the large number of prominent Afghan families banished and sent into exile during his father's rule. The first two parts of this chapter explored the role of the consequences of the return of these refugees to Afghanistan, and their rich contributions to the expansion of Afghanistan's social and cultural life, and state structure. Moreover, Afghan refugees were not the only travelers and itinerants to enter "the forbidden kingdom," as British newspapers liked to refer to the country in the nineteenth and early twentieth century. British and Ottoman records documents a host of travelers entering the country from as diverse as Egypt, Turkey, India, and even the United States—a country that has not commenced official relations with Kabul at the time.

The reinvigorated transborder movement of Afghans led to heightened anxieties on the part of the British, and increased interest on the part of the Ottomans, of the dangers and opportunities that Afghanistan presented in the realm of geopolitics and Pan-Islamism. Using documents gathered from the Indian archives in Delhi, Indian Office records in London, and Ottoman archives in Istanbul, we explored the continuing and intensifying problem of jurisdictional tensions between the British and Ottomans over Afghans in their territories and spheres of influence, while the issue of Pan-Islamism again brewing in the background. We then illustrated the dramatic effects of Amir Ḥabīb-Allāh's visit to India in 1907, and in particular his taking note of educational and juridical advances in the British colony. Meeting with Indian Muslim leaders and visiting such prominent educational institutions as Aligarh Muslim

[454] Ünal et al., *Türk-Afgan İlişkileri,* 32.

University, Mayo College in Ajmer, and Lahore College, Ḥabīb-Allāh returned with a new vision of educational and legal reform under Islamic auspices.

Finally, we examined the role of the second Ottoman mission to Kabul, again in a context of war, but this time one of global proportions. The chapter concludes with the causes and consequences of the secret joint German-Ottoman delegation to Kabul, and the burdens of neutrality Afghanistan faced under Amir Ḥabīb-Allāh's ultimate decision vis-à-vis entry into the first world war. At the outbreak of the Great War, Amir Ḥabīb-Allāh would continue to play his cards adroitly amidst the most savage human conflict in history, giving false pretenses to both Ottoman and British envoys, and maintaining his neutrality. This all in spite of successive waves of Indo-Afghan volunteers and revolutionaries congregating in Kabul in support of the Ottoman-declared jihad and the unprecedented level of Pan-Islamic revolutionary activity against British rule in India which even the 1857 Mutiny did not witness. In the end, however, Amir Ḥabīb-Allāh's unpopular stance vis-à-vis the Ottomans, or his duplicity, caught up to him, and he was assassinated in the darkness of the night on February 20, 1919. The combination of increasing Ottoman influence in the region, rising anti-British sentiment in India amidst British behavior in the Turco-Italian war, and ultimately, Ḥabīb-Allāh's unpopular decision resulting in his assassination dramatically altered the geopolitical landscape in Afghanistan, as well as India. These events set the stage for the dramatic ascent of Ḥabīb-Allāh's ambitious son, Amir Amān-Allāh Khan, and the culmination of our study.

CHAPTER FIVE

Networks to Nexus

The Constitutional Confluence of Afghan Jurists, the Last Ottomans, and "Indo-Afghans" in Kabul, 1919-1923

> Following the example of leaders of Islam, I enacted a set of *niẓāmnāmā* as a guideline, because the only way to free the oppressed is through the rule of law.[1]
>
> - Amir Amān-Allāh Khan (1919-1929)

> In all the face of the earth, it is impossible to find a suitable place to launch a revolution in India other than Afghanistan.[2]
>
> - Cemal Paşa (1872-1922)

> It is not clear whether he is Indian, Turk, or Afghan at present.[3]
>
> - British official, detaining a traveler seeking entry into Afghanistan (1919)

> **constitution. 1.** The fundamental and organic law of a nation or state, establishing the conception, character, and organization of its government, as well as prescribing the extent of its sovereign power and the manner of its exercise.[4]
>
> - *Black's Law Dictionary* (2001)

– • –

On the night of February 19, 1919, Amir Ḥabīb-Allāh Khan—a monarch who had steered Afghanistan through the political minefield of neutrality during the world's most devastating war—was shot and killed in his tent by a mysterious assailant. The Amir was on a hunting trip in Laghman province, near the city of Jalalabad in the Eastern Province, when he was

[1] From the Amir's address to the nation on the occasion of 'Īd-al-Fitr, *Irshād-i Niswān* (Kabul), vol 1, no. 12, Hut 1302 [March 1923], quoted in Senzil Nawid, *Religious Response to Social Change in Afghanistan, 1919-29: King Aman Allah and the Afghan Ulama* (Costa Mesa: Mazda Publishers, 1999), 72.

[2] "Bütün dünya yüzünde bir Hindistan inkılabı için hariçte çalışabilmeğe Afganistan'dan müsait saha bulmak yoktur." Mehmet Saray, *Afganistan ve Türkler* (İstanbul: Edebiyat Fakültesi Basimevi, 1987), 111.

[3] IOR/L/PS/161 File 8391/1919 (1919) ("The Pan-Islamic Movement in Moslem Countries (30th November, 1919) (No. 6217, 681-682).

[4] *Black's Law Dictionary, 2d. pocket edition* (St. Paul: West Publishing Co., 2001), 135.

assassinated.[5] Among the prominent Afghan officials in the camp at the time of his death were the brother of Amir Ḥabīb-Allāh, Naṣr-Allāh Khan, Ḥabīb-Allāh's son ʿInāyat-Allāh, and the late amir's commander-in-chief, Sepahsālār (General) Nādir Khan. Within a day of Ḥabīb-Allāh's death, Naṣr-Allāh Khan and the remainder of the late amir's party traveled to Jalalabad where he declared himself the new king, with the support of Ḥabīb-Allāh's eldest son, ʿInāyat-Allāh. Meanwhile in the capital on the same day, Prince Amān-Allāh Khan, governor of Kabul and in control of the central arsenal and military command, also declared his succession to the throne. What followed was a brief internecine struggle in which Amān-Allāh succeeded in imprisoning many of Naṣr-Allāh's supporters and gaining the loyalty of the army. When the news of Ḥabīb-Allāh's death reached Zafer Hasan, the Indian Muslim migrant to Kabul, he and those around him feared a civil war was going to break out, and that all foreigners such as himself would be rounded up and imprisoned. Their fears would soon be replaced by an exuberant outbreak of joy, however.[6] In his autobiography, Zafer Ḥasan describes Amān-Allāh's brisk and astute moves to rapidly secure the throne for himself, as follows,

> When Kabul's acting governor Prince Amān-Allāh Khan learned of his uncle's declaration of accession to the throne, he declared himself king and prepared to march to Jalalabad. In this way it appeared as if a civil war was going to break out. Amān-Allāh Khan immediately raised his soldiers' monthly pay from fifteen Kabuli rupees to twenty. Whereas his uncle only promised his Jalabad soldiers a pay raise of two rupees. For this reason the Jalalabad soldiers revolted against Naṣr-Allāh Khan causing him to fall from the throne. In this way Amān-Allāh Khan became the ruler of Afghanistan without shedding any blood. The Jalalabad soldiers then put Naṣr-Allāh Khan and those in favor of his bid for the throne, as well as ʿInāyat-Allāh Khan, in prison.[7]

By February 28, one week after his father's assassination and the brief internecine struggle with his uncle Naṣr-Allāh was clearly over, Amir Amān-Allāh proclaimed himself Amir of Afghanistan. On March 3, he had officially Naṣr-Allāh arrested and imprisoned in Kabul. Roughly a month later, on April 13, the new Amir launched an investigation into what transpired during the hunting trip in Laghman that resulted in his father's death. Until this day, historians continue to speculate as to the possible suspects, and conspiracy theories abound in Afghan common lore until this day. The assassin has never been reliably determined, however, though suspects were quickly rounded up in the aftermath, including an Afghan captain in charge of the king's security detail the night of his assassination, who were then quickly tried and executed. Among those imprisoned for suspicion including the late Amir Ḥabīb-Allāh's own brother and rival to the throne, Naṣr-Allāh Khan, who had accompanied the Amir on his hunting trip, and was ousted from power barely a week after his declaration of assumed the amirate. While these facts have led some to suspect the forty-five year-old younger brother of Ḥabīb-Allāh, who was sentenced to life imprisonment for his alleged complicity in the assassination, others note that this was a convenient scapegoat for the former prince and now Amir, Amān-Allāh Khan, who held strategic control of the country's central arsenal, military barracks, and civil administration

---

[5] Saray, *Afganistan ve Türkler*, 88-90; Halil Bal, "Afganistan-Türkiye İlişkilerinin Başlıca Yönleri," in Ali Ahmetbeyoğlu, ed., *Afganistan Üzerine Araştırmalar* (İstanbul: Tarih ve Tabiat Vakfı Yayınları, 2001), 249.

[6] Ibid, 161.

[7] Ibid., 161-162.

in Kabul. Sardār Naṣr-Allāh died roughly a year later in the royal prison, fueling suspicions and conspiracy theories all the more.

In comparison to the murky events which transpired on the evening of February 19, 1919, what we can be far more certain of is that towards the end of his reign Amir Ḥabīb-Allāh had alienated himself from leading members of his court, including members of the avowedly pro-Ottoman "Young Afghan" constitutionalists led by Maḥmūd Ṭarzī, and the conservative ʿulamāʾ establishment led by Prince Naṣr-Allāh. The Amir's unpopularity largely stemmed from two extremely controversial positions: his increasing persecution of constitutional activists, including his imprisonment and execution of many prominent and respected intellectuals—such as Mawlawī Muḥammad Sarwar Wāṣif, a martyr of the Young Afghans constitutional movement (and not the only one)—to his unpopular foreign policy which many in Kabul saw as subservient to British imperial rule, a lost chance to win back lands historically part of Afghanistan, and promote Pan-Islamic unity with the Ottomans. What is more, with Amir Ḥabīb-Allāh's death, powerful leaders in the Afghan royal family from each of these diverse camps now stood to benefit from the new political vacuum in the capital. It is in this context that in Amir Amān-Allāh Khan three groups of Muslim modernist reformers—the Young Afghans in Afghanistan, the last Ottomans in exile, and transnational Indian Muslim Khilāfatists in India (or "Indo-Afghans", as I will call them in this chapter), found an ideal king—or at least many of them thought so in the dynamic early years of his decade-long reign. In Amān-Allāh Khan, the aforementioned groups found not just a new amir of Afghanistan, but a rare sovereign Muslim ruler—one of the only in the region after the remaking of the Middle East following World War I—to implement their visions of reform.

As Zafer Ḥasan writes in his memoirs, "Amān-Allāh Khan, as soon as he sat on the throne promised to address two particular matters facing the army and people. First, to find his father's killer and impose the death penalty on him, and the other, to gain Afghanistan's independence from the British."[8] Regarding King Amān-Allāh Khan's attempt to fulfill the first promise, as referred to earlier, the officer entrusted with serving as watchman the night of the assassination, Captain Sayyid Ali Reza Shah, was found guilty and hanged. As for the second promise, he informed the country that preparations were being made to begin a war of independence against the British.[9]

Per earlier agreements signed during the reign of Amir ʿAbd al-Raḥmān, especially the Durand Line Agreement of 1893, Afghanistan was technically not a fully-sovereign nation given Britain retained the right to control the landlocked country's foreign affairs. According to this agreement, which made the country a British "protectorate" in London's eyes, no Afghan embassies or consulates could be constructed abroad and all foreign correspondence with foreign sovereigns had to pass through the supervision of the British Raj authorities in Calcutta and Simla, and after 1912, Delhi. The 1893 Durand Line Agreement was also a source of immense resentment among Afghan nationalists due to the siphoning off nearly half of the country's Pashtun population, and the territories where they resided including the strategic frontier cities of Peshawar and Quetta, among others, to British India.

From this viewpoint the first goal the former Young Afghan prince and now Amir Amān-Allāh Khan set his mind on upon ascending the Afghan throne was securing the state's external

[8] Ibid., 162.

[9] Ibid.

independence. At first, Amir Amān-Allāh attempted to secure independence through the usual diplomatic channels, akin to the style of his father Ḥabīb-Allāh. On March 3, 1919, Amir Amān-Allāh dispatched a letter to Lord Chelmsford, Viceroy and Governor-General of India, expressing the wishes of the people of Afghanistan to conclude a "treaty of friendship" with the British. Amān-Allāh's March 3 letter to the Viceroy not only announced his accession to the Afghan throne, but in the closing lines inserts a tacit proclamation of comity and parity between King V's Government of England (not British India, notably), and his own, as follows,

> [L]et this remain unknown to that friend that our independent and free Government of Afghanistan considers itself ready and prepared, at every time and session, to conclude, with due regard to every consideration for the requirements of friendship and the like, such agreements and treaties with the might Government of England as may be useful and serviceable, in the way of commercial gains and advantages, to our Government and yours.[10]

For British officials in India, unaccustomed to being addressed on equally sovereign terms with the Amir in Kabul, these were strange and impolite words at best, extremely presumptive and hostile at worst. When Amir Amān-Allāh did not receive a reply, he then demonstrated, if anything, that he knew how to pick a fight. So as to remove any doubt of his intentions for his country's complete independence from Britain, Amir Amān-Allāh issued a proclamation, this time intended for his own people, but forward to the British Indian government to send a message. In one of the rare records we have attributed to Amir Amān-Allāh at this time, his proclamation sent to Afghan Envoy to British India on March 11, 1919, reads,

> O nation with a sense of honour! O brave army! While my great nation was putting the crown of the kingdom on my head, I declared to you with a loud voice that I would accept the crown and throne, only on the condition that you should all co-operate with me in my thoughts and ideas. These I explained to you at the time, and I repeat here a summary thereof:--First that the Government of Afghanistan should be internally and externally independent and free, that is to say, that all rights of Government, that are possessed by other independent Powers of the world, should be possessed in their entirety by Afghanistan.[11]

One week later, on March 19, 1919, having spurned Amir Amān-Allāh's declarations of independence, the Third Anglo-Afghan War had begun.

– • –

The third Anglo-Afghan war, like the two ones before it, is the subject of a large literature by professional historians in the European and American academy, authors and journalists, but most of all, military historians.[12] As such, it will not be a focus in this chapter.

---

[10] IOR-R/12/LIB/107 ("R. Machonachie, Foreign and Political Department, Government of India, *A Precis on Afghan Affairs: From February 1919 to September 1927*. Simla: Government of India Press, 1928"), 13.

[11] IOR-R/12/LIB/107, *Precis on Afghan Affairs*, 13.

[12] Kazmi, S.A. Akhtar. *Anglo-Afghan Tussle*. Islamabad: National Book Foundation, 1984; Molesworth, *Afghanistan 1919: An Account of Operations in the Third Afghan War* (1962). For a rare contemporaneous Ottoman account in Turkish, see *Afgan İngiliz Muharebesi-1919* (İstanbul: 1341), a copy of which I discovered, interestingly enough, in the School of Theology (İlahiyat Fakültesi) at Ankara University.

While Afghan troops led by Generals Salih Muḥammad Khan and Nādir Khan clashed with British forces along the Info-Afghan frontier, as well as skirmishes near the major cities of Jalalabad and Qandahar, tribal irregulars on both sides of the Durand line joined the Afghan war effort against the British, an unconventional strategy that was cited to have played a critical role in bring the British to the negotiation table.

The war lasted barely five months, with a peace agreement signed in Rawalpindi on August 8, 1919.[13] Western historians have largely described the war as a "stalemate" on the battlefield, though in light of the massively disproportionate military power between the British Raj's imperial army and the Afghans, such descriptions tend to play down the tremendous political victory secured by Amir Amān-Allāh's gamble. That this victory came at time when British and French armies were occupying Arab territories of the Ottoman empire, and European colonial rule continued unabated over India, the Middle East, and North Africa, underscored its salience, and not just for the Afghans.

Assembling his negotiation team for the peace talks at Rawalpindi, Amir Amān-Allāh selected none other than his mentor and father-in-law, Sardār Maḥmūd Ṭarzī, the returned exile from Damascus, to represent Afghanistan as the newly independent state's first Minister of Foreign Affairs. Only months before the summit at Rawalpindi, Maḥmūd Ṭarzī's first decisions as Foreign Minister was to send Muḥammad Walī Khan as head of diplomatic missions to Russia and Europe to secure Afghanistan's recognition abroad. Upon reaching Moscow on October 10 1919, they were met warmly by Soviet authorities.[14]

As for the meeting at Rawalpindi, Tarzi and his colleagues were to be disappointed, however, when British officials, led by chief negotiator Sir Henry Dobbs, intimated an agreement would not be forthcoming until certain stringent conditions were met by the Amir. On the Rawalpindi negotiations, as British Indian Foreign and Political Department officer R. Machonachie notes in his *Precis on Afghan Affairs* (1928), "The Treaty of Rawalpindi was intended, as has been seen, to be the 'first chapter'—peace, followed, after a period of six months during which the Amir was to be on probation, by the 'second chapter'—friendship."[15]

In spite of the Rawalpindi Agreement's references to "friendship" on seemingly equal terms, the more troubling proposed "probation" smacked of a ward-warden relationship—as well as an attempt to delay a more comprehensive agreement—neither of which suited the greater ambitions of the delegation from Kabul.[16] As sporadic skirmishes continued along the Indo-

---

[13] Bal, "Afganistan-Türkiye", 251.

[14] Ibid., 249-250; Saray, *Afganistan ve Türkler*, 91.

[15] IOR-R/12/LIB/107, *Precis on Afghan Affairs*, (para. 86, p. 33-34).

[16] On the thorny issue of cross-border raids, the Governments of India and Afghanistan well knew that the agreement at Rawalpindi could hardly be a lasting peace. As the following declassified memorandum from a Foreign and Political Department file of November 1920, composed by a British officer privy to the talks at Rawalpindi conference, states,

> [T]he Government of India will not believe that the peace recently signed at Rawalpindi means the end of the Afghan trouble. All the conspirators are still at large, full of an immense capacity for evil, and behind them are the very busy figures of Enver Pasha and the Bolsheviks, who have joined hands in one of the ugliest facts known to history. The recent troubles on the Frontier may be only wavering gusts compared to the storm that is to come. The storm may blow over, of course, but we dare not remain unprepared for it.

Afghan border between Indian Army soldiers and non-commissioned tribal levies in the frontier through 1920 and early 1921, the latter's command of the terrain, rootedness in the local population, and keen ability to pinpoint weaknesses in the cumbersome, top-heavy Indian Army ultimately brought the British to the bargaining table for peace talks again in Mussoorie, India in 1921. According to Machonachie, the Afghan view of the previous year's arrangement was then concisely rephrased by General Nādir Khan as follows,

> You expected that within six months the Bolsheviks would have been smashed, Ireland pacified, the Indian troubles settled, and Turkey finally partitioned. You thought that after six months you would be in a much stronger position towards us, and would be able to impose your will on us. The opposite of all this has occurred. Every one of these difficulties has increased; and you are in a much weaker position towards us than if you had made an immediate and final treaty with us at Rawalpindi.[17]

At Mussoorie, the most contentious issues continued to be the problem of cross-border raids by Pashtun tribes. More specifically, the British accused the Amir of instigating and rewarding the Indian-side tribes for revolting against British authority. That cross-border activity was upper-most in the minds of British negotiators can be seen in the following excerpt from Machonachie's precis, where he reflects on the events of 1919-1920,

> How badly the administration of the North-West Frontier Province in the tribal areas has been shaken by the Third Afghan War, was shown by the orgy of successful raiding, which continued in the settled districts long after peace had been concluded… In 1919-20 611 raids were reported, with casualties amounting to 690 British subjects killed or wounded, and 463 kidnapped. In 1920-21 the figures, although showing an improvement to 391 raids, 310 killed and wounded, and 56 kidnapped, afforded clear evidence that much still remained to be done for the restoration of order.[18]

Serious as the transborder Pashtun activity was to the Raj, it was not the only concern or stumbling block in the negotiations, however. Possibly even more troubling to the Amir's support for Pan-Afghan causes, was his Pan-Islamic activity, tangled up as it was with Amān-

---

NAI-FP/SEC/F November 1920 1-582 ("Afghan Situation, Part IV"). While even London officials might agree "one of the ugliest facts known to history" was hyperbole, the ostensible threat of a Pan-Islamic entente linking Turkish revolutionaries in Anatolia and Central Asia with Indian Muslims in an independent Afghanistan was likely an additional geopolitical factor bringing the British back to the bargaining table with the Afghans time and again.

[17] IOR-R/12/LIB/107, *Precis on Afghan Affairs*, (para. 86, p. 33-34). Based on his comments in the same extensive file, it seems Machonachie would largely agree with Nādir Khan's cutting remarks here. On the raging nationalist movements from Anatolia, to Syria, Palestine, Persia and Afghanistan, Machonachie notes,

> In Delhi it was perhaps easier than in London to appreciate the significance of the [eastern nationalists'] movement; and, during the negotiations precedent to the Anglo-Afghan Treaty, the Government of India had frequently to sound a warning that, so long as Amān-Allāh Khan was in power, the idea of a return to the old system, under which Great Britain controlled Afghan foreign relations, was illusory.
>
> IOR-R/12/LIB/107, *Precis on Afghan Affairs*, (para. 3, p. 2).

[18] Ibid., 48.

Allāh's outspoken stance vis-à-vis the fate of the Caliphate and Ottoman empire. Additional controversies and concerns centered around Afghanistan's relations with Russia, and jurisdiction over British subjects accused of crimes or facing civil suits in Afghanistan. As British and Afghan negotiators tackled these issues face-to-face and one-by-one in Mussoorie in late autumn 1921, it soon became clear that the most important issue to the team from Kabul was an absolute and unambiguous recognition of Afghanistan's independence from the British Crown. This had, been after all, Sardār Maḥmūd Ṭarzī's adamant demand proclaimed during the very first meeting which, as quoted by Machonachie, stated "the British Government, the old friend of Afghanistan, should make plain its intentions with regard to the freedom and complete independence of Afghanistan, on the analogy of the freedom and independence of other nations."[19] The Amir's diplomatic cabinet had already achieved just as much from other countries following with a dizzying campaign of shuttle diplomacy that included the capitals of Europe and America in the months leading up to Mussoorie—including Moscow and Berlin in March (in addition to the earlier mentioned meetings with the Soviets in October 1919), Rome in May, Paris in June, and Washington D.C. in July—all in spring and summer of 1921.[20] With the pressure on, and treaties of recognition already signed with the Soviet Union (February 28, 1921), Turkey (March 1, 1921) and Persia (June 22, 1921), the Afghans finally won what they had set out to achieve: a complete recognition of independence from Britain in the Anglo-Afghan Agreement of November 22, 1921.[21] In review of the 1919-1921 years, Machonachie aptly summarizes,

> The Amir thus found his gamble justified. Not only has he, contrary to all expectation, emerged from the war with India without losing his throne, but he was also able to display an official acknowledgement of his independence, which enhanced his prestige and was of great value for propaganda. The war had shown him both his weakness and his strength. For, if his regular troops had been unable to stand against the Indian Army, he had discovered his ability to raise the Frontier tribes a lever of which he was to make full use in subsequent negotiations.[22]

In spite of the landmark nature of the Mussoorie Agreement of 1921, it is important to recognize that for most Afghans, and even populations of the greater Islamic world, Amir Amān-Allāh Khan's greatest victory had already been won two years earlier in August 1919 with the earlier mentioned Rawalpindi Agreement—the same month and year which Afghanistan marks its independence until this day. As for many Muslims, and burgeoning nationalist movements across the Middle East and Asia, August 1919 marked the rare independence of an Asian, Eastern and Islamic state, and a victory over the world's greatest imperial power that was celebrated across the greater Middle East and Islamic world.[23] It is appropriate to note that

---

[19] Ibid., (para. 94, p. 37).

[20] Ibid., (para. 705, p. 399-300).

[21] Bal, "Afganistan-Türkiye", 251. The original British copies of the agreement, with annotated notes in the margins by the Queen's envoy Sir Henry Dobbs, rests in the India Office Records. The notes give us an indication of British perspectives and priorities vis-à-vis peace talks with the Afghans, as well as how seriously (and not so seriously) they took the Afghans on certain points of tension.

[22] IOR-R/12/LIB/107, *Precis on Afghan Affairs*, 28.

[23] Aydin, Cemil. *The Politics of Anti-Westernism in Asia: Visions of World Order in Pan-Islamic and Pan0Asian Thought*. New York: Columbia University Press, 2007; *Afgan İngiliz Muharebesi-1919* (İstanbul: 1341).

official recognition from Britain was forthcoming or not, for purposes which we will unravel and explore in this chapter, it was the widespread recognition of Afghanistan's independence in August 1919 by Ottoman and Indian Muslim transnationals in particular that made all the difference.

– • –

In this final chapter, we examine the unique historical tripartite nexus formed by three independent nationalist movements emerging—and to a certain extent, I will argue, converging—in the immediate aftermath of the first world war. Overlapping and mutually reinforcing, they included Turkey and Afghanistan fighting simultaneous wars of independence against the British (among others for the Turks), and the Indian Khilāfat movement, all three of which coincided between 1919 and 1923. As three distinct national movements occurring at exactly the same time, for historical reasons which we will examine in this chapter, the primary convergence point for all three movements became Kabul, Afghanistan.

We began this chapter Amir Amān-Allāh's dramatic declaration of Afghan independence from Britain in spring of 1919, followed by a successful campaign against the British Raj's Indian Army and subsequent peace talks in Rawalpindi (1920) and Mussoorie (1921) where the young Amir achieved exactly what he set out for. In Part I ("Amir Amān-Allāh's Court") and of this chapter, we explore how after an astounding political victory over Britain in August 1919 that was celebrated from the Balkans to Bombay, Afghanistan became one of the world's only independent and fully-sovereign "Islamic states."[24] Part I outlines the influential personages and institutions Amir Amān-Allāh established in this regard.

Meanwhile in Turkey, when the Allies occupied Istanbul and captured the Ottoman seat of government, several key members of the Ottoman war government and the former Committee for Union and Progress (CUP) fled Turkey for distant locales including Germany, Russia, Central Asia, and even Afghanistan. Part II ("The Last Ottomans") explores the roles of some key Ottoman individuals who fled to Afghanistan, and worked in an official capacity as subjects of the Amir, or remade themselves as representatives of the new Turkish Republic based in Ankara. We explore the arrival of three influential Ottoman officers in particular—the Naval

---

[24] "Islamic states" are a modern creation of the twentieth century, and speak to the normative and presumptive, rather than descriptive, attempt in independent/post-colonial Muslim-majority countries to co-opt the disciplinary machinery of the modern state for such loosely-defined goals as disseminating Islamic values, preserving independence vis-à-vis colonial powers, and in its often more violent manifestations, "guiding" the masses. In this respect, apart from the late Ottoman empire, Afghanistan under Amir Amān-Allāh (particularly the 1919-1923 years), can be considered the twentieth century's first "Islamic state", well before the more well-studied cases of Saudi Arabia (1932), Pakistan (1947) and most famously, the Islamic Republic of Iran (1979). For an incisive critique of "Islamic States" as they manifest in juridical strategies—codification, the bureaucratization of ʿulamāʾ, and the modern state's commandeering of the historically non-centralized praxis of Islamic law in Muslim societies, including the critiques of influential orthodox Sunnī ʿulamāʾ, see Hallaq (2009, 355-499), Zaman (2002, 87-110), and Messick (1996, 54-72, 167-192). For critiques of subsequent and tenuously-related juridical developments from the middle of the next century—Islamism, Islamist political movements, and the much more recent concept of "Islamic states"—see Hallaq (2012), Roy (1994) and Halverson (2010). For a slightly different argument, illustrating continuities *within* the ruptures from late Ottoman and especially Hamidian society to twentieth century Islamist movements, see Kemal Karpat's *The Politcization of Islam: Reconstructing Identity, State, Faith, and Community in the Late Ottoman State* (New York: Oxford University Press, 2001).

commander Cemal Paşa, the Istanbul lawyer Osman Bedri Bey, and the General Fahrettin Paşa (setting up for their juridical contributions, explored later in Part IV). In this way, in the 1920s Turkey continued to play a major role in the development of Afghanistan's educational institutions, sending a number of teachers to Afghanistan to open schools and provide educational services.[25] As we saw with earlier incidents of Ottoman activity in Afghanistan in Chapters 3 and 4, however, and contrary to dominant historiographical depictions of Turks newly arriving in the Kemalist era, the late (and indeed, the last) Ottomans that came in the Amān-Allāh era were a *continuation* of relationships cultivated during the Amir ʿAbd al-Raḥmān and Ḥabīb-Allāh eras. It was Ottoman Turks—as well as Ottoman *Arabs*, like Colonel Mahmud Sami, to be precise—who continued to contribute bureaucratic expertise to Amir Amān-Allāh's new government in Kabul. In following the stream of Ottoman exiles who made their way to Kabul, I track how their attempts to seek asylum, employment, or even visions of a glorious comeback converged with Amir Amān-Allāh's own quest for his own "rule of law" experts.

Similarly but in the *opposite* cardinal direction, in Part III ("The Hindustani Crescent"), we examine how Indians and Afghans continued to traffic westward to Ottoman (and later, former-Ottoman) territories such as Anatolia, Iraq, and the Ḥijāz in the aftermath of the first World War. Some of them, even after the tumult and humiliation of the Allies' post-war partition of the empire, continued to apply for Ottoman citizenship.[26] But that is not all. From the east of Afghanistan came one of the most remarkable migrations in modern south Asian history. In an uncanny foreshadowing of the trauma and dislocations of Indian partition a quarter-century later, an estimated 60,000 Indian Muslims, mostly poor farmers from the Punjab, migrated to Afghanistan in the Hijrat movement of 1919-1921. As the broader political and demographic contours of this movement have been studied by others such as Gail Minault, Dietrich Reetz, and Naeem Qureshi, I focus on the overlooked juridical aspects, and roots, of this remarkable migration.[27]

Beyond the large-scale *Hijrat* movement, the shuttling of envoys, both secret and proudly proclaimed, by the new Turkish and Afghan governments, as well as Indian Muslim associations, or *anjumāns*, between each other reveal a sense of shared struggles at a fluid and unpredictable time for all three countries. Meanwhile, I show, both the Ottoman archives in Istanbul and Turkish Republic Archives in Ankara reflect a sustained interest in Afghanistan, with both governments' foreign ministry repositories containing references to Afghan affairs inside the country along with events in neighboring Bukhara, India, and Iran through the 1920s. The

---

[25] Özlem Korkmaz, "Afganistan'a Türk Yardımı (1920-1960)," in Ali Ahmetbeyoğlu, ed., *Afganistan Üzerine Araştırmalar* (İstanbul: Tarih ve Tabiat Vakfı Yayınları, 2001), 205.

[26] For two examples Afghans accepting Ottoman citizenship well after the conclusion of the war, see BCA 30.18.1.1/2/32/9/1-52 (26 01 1921) ("Afganistan'ın Pişava[r] kasabası halkından Osman oğlu Ali'nin Osmanlı uyruğuna kabulü") and BCA 30.18.1.1/2/23/18/1-16 (12 12 1920) ("Afganistanlı Hizrullah oğlu Osman'ın Osmanlı uyruğuna kabulü").

[27] Gail Minault, The Khilāfat Movement: Religious Symbolism and Political Mobilization in India (New York: Columbia University Press, 1982); Dietrich Reetz, *Hijrat: The Flight of the Faithful, A British File on the Exodus of Muslim Peasants from North India to Afghanistan in 1920* (Berlin: Arbeitshefte, 1995); M. Naeem Qureshi, *Pan-Islam in British Indian Politics: A Study of the Khilāfat Movement, 1918-1924* (Leiden: E.J. Brill, 1999).

Ottoman interest in Afghanistan continued until the very last years of the collection, and last days of the Ottoman dynasty itself in 1924.[28]

In Part IV ("In the Name of a Law"), the culmination of the dissertation, I show there was far more than a mere political nexus of nationalists at play here, political histories of which have been contributed by the scholarship of Minault, Qureshi, Özcan, and others. Rather, in this section I focus on the previously unexplored *juridical nexus* of Afghan ʿulamāʾ, an Ottoman Turkish lawyer, an Aligharian teacher, and Deobandi Indian ʿulamāʾ who formed the constitutional commission assembled by Amir Amān-Allāh Khan. Using hereto untapped Ottoman, British Indian, and Afghan sources, I offer insights into the individuals who served on the commission, their background and training, and overall professional habitus they brought to one of the twentieth century's first and most understudied projects in the modern codification of Islamic law. While the historiography of each of these three movements has focused on the most elite politicians in the forefront of each movement—Mustafa Kemal in Turkey, Amān-Allāh Khan and Maḥmūd Ṭarzī in Afghanistan, as well as Mahatma Gandhi, Mawlānā Azād and the ʿAlī brothers in India, to name the most prominent examples—less attention has been devoted to the legal actors from all three streams that converged in a juridical nexus to produce the first Constitution of Afghanistan (and associated niẓāmnāmā codes) under the patronage of Amir Amān-Allāh Khan.[29]

---

[28] For example, see BOA-ŞD 2142/23 (1340 R 02).

[29] Turkish historiography on Afghanistan in general, and the Amāni era in particular, is exceedingly focused on the personal relations between Amir Amān-Allāh Khan and Mustafa Kemal. This manifests in the topics of books, articles, and dissertations produced in Turkish. See, for example, Bilal Şimşir, *Atatürk ve Afganistan* (Ankara: Avrasya Stratejik Araştırmalar Merkezi, 2002); Mehmet Köçer, *Emanullah Dönemi Afganistan (1919-1929)* (Istanbul: Manas Yayınları, 2009); Salim Cöhce, "Atatürk Döneminde Afganistan ile İlişkiler ve İngiltere," in Ali Ahmetbeyoğlu, ed., *Afganistan Üzerine Araştırmalar* (İstanbul: Tarih ve Tabiat Vakfı Yayınları, 2001); Behice Tezçakar, "Afgan Prensesi Naciye: Babam ve Atatürk Aynı Halayi Paylaştı ama İngilizler Bağımsız Afganistan İstemedi," *Atlas Tarih* 3 (Eylül 2010): 42-49; Nadire Safdari, "Atatürk ve Emanullah Han Devrinde Türk-Afgan Münâsebetleri," *Doğu Dilleri* III/4 (1983): 169-180. We should not conclude, however, that this is a recent phenomenon. Late Ottoman and early Turkish republic newspapers also focused in on the relations between these two "larger than life" figures. See, for example, "Afgan Emiri Hazretlerinden Gazi Mustafa Kemal Paşa Hazretlerine." *Hakmiyet-i Milli* (19 C 1340 [18 February 1922]); "Afgan Emir Mühteremi Emanullah Han Hazretlerinden Gazi Reisimiz ve Başkumandınımıza mektubları."; "Afgan Emiri Emanullah Han Hazretleri tarafından Mustafa Kemal Paşa'ya gönderilen name ihlas ve mevedet." *İkdam* (21 C 1340 [19 February 1922]); *Yeni Gün* (19 C 1340 [17 February 1922]); "Emanullah Han ve Mustafa Kemal Paşa."; *Tevhid-i Efkar* (20 C 1340 [18 February 1922]); "Afgan Emirinin Nam-ı Mahsusa." *Tevhid-i Efkar* (21 C 1340 [19 February 1922]); "Afgan Emiri Emanullah Han Hazretlerinin Mektubları." *Türkiye Büyük Millet Meclisi Zabıt Ceridesi* 16 (1338 [1922]): 243-244; Reşit Saffet. "Türklük görüşünden Afganistan." *Türk Yurdu* 15/16 (1929): 6-9. After the ties between Atatürk and Amān-Allāh, the second most favored topic in the late Ottoman press and, some two decades later, Turkish press, appears to have been the still significant activities of former Ottoman CUP "Triumverate" members Enver and Cemal Paşas. See, for example, "Iki ehbab paşalar." *Vakıt* (1 S 1337 [6 November 1918]), about the correspondence and relations between Enver and Cemal paşas after fleeing Anatolia. Notably, in 1945 the Istanbul newspaper *Tanin* published a daily series of letters exchanged between Cemal, Enver, and Mustafa Kemal Paşas during the Turkish war of Independence. For two representative samples, the first between Cemal and Kemal, and the second between Cemal and Enver, see "Tarihî Mektuplar: Cemal Paşanın Mustafa Kemal Paşaya yazdığı mektuplar." *Tanin* 26 Ocak 1945, 1, 3, and "Tarihî Mektuplar: Cemal Paşanın Enver Paşaya Kâbilden yazdığı enteresan bir mektup." *Tanin* 5 Ocak 1945, 1, 3. The letters, transcribed from Ottoman to Modern Turkish, are extremely relevant for our purposes as they offer a rich source into the nature of Cemal's activities in Kabul, as well as Kemal and Enver's support for those activities. It is also an example of the Turkish press revisiting relations between the last Ottoman paşas, Enver and Cemal, much of which centers on the latter's correspondence with Enver and Mustafa Kemal while in Kabul. We will be citing many of these articles from the 1945 *Tanin* series released

In the second half of Part IV, I provide an overview of the first Afghan constitution and the Niẓāmnāmā codes themselves as a product and process of the Indo-Ottoman juridical nexus. I argue that by means of clearly enunciated, carefully crafted "Sharīʿah-compliant" codes, Amir Amān-Allāh sought the ever-elusive goal of reconstituting Afghan society in a manner conducive to the efficient administration of a centralized, territorial nation-state, all the while hoisting the modernist and populist banner of an "Islamic rule of law" in Afghanistan. That is to say, in promulgating the Niẓāmnāmā codes, Amir Amān-Allāh sought a "modernized" Sharīʿah, a sacred law instrumentalized to fulfill the prerogatives of sovereign power—maintaining civil order, supervising officials, subjects, and markets, and settling property disputes. But unlike several of his contemporaries, Amir Amān-Allāh pursued these goals while being sensitive to prevailing cultural norms in Afghanistan, or as flexibly stated in the constitution itself, "in light of actual living conditions of the people and the exigencies of the time."[30]

Beyond the language of its articles, I argue, the premium Amān-Allāh placed on promoting a modern Muslim identity for the Afghan state emerges most compellingly from information I gathered about the composition of the Niẓāmnāmā drafting commission—an eclectic group of jurists and politicians that included liberal bureaucrats from the palace administration, conservative *mawlawīs* (Islamic religio-legal scholars) linked to Deobandi madrasahs in India, Pashtun notables of the influential Muḥammadzai tribe, and Ottoman legal advisors, including Osman Bedri Bey—an Istanbul lawyer who Amir Amān-Allāh appointed as the Niẓāmnāmā commission's director. Notably, this was at a time when most states relied on European advisors for judicial reform and state-building, underscoring Amān-Allāh Khan's references to the Turks as "elder brothers and guides" in charting alternate paths to modernization.[31] In Part V ("*Où sont les Français?*"), I bolster this argument by exposing the absence of evidence for the nevertheless widespread claim in Afghanistan historiography that "French legal experts" drafted the first Constitution.

In conclusion, while the transnational circulation and flow of people, products, and ideas across the formidable political boundaries of Ottoman Turkey, Iran, British India, and Afghanistan is as old as the eighteenth century when Afghanistan became a recognized political entity, there was also something *new* about the nature of itinerant Muslims between Turkey, India, and Afghanistan at this time. It was not merely just the impact individuals crossing borders that produced the zenith of an Indo-Ottoman nexus in Kabul. Rather, international

---

during World War II in this chapter. A more recent development has been revisionist scholarship complicating what we know about the relationships between Young Turk officials and the CUP "triumberate." Hanioğlu, M. Şükrü. *Preparation for a Revolution: The Young Turks, 1902-1908*. New York: Oxford University Press, 2001 and *The Young Turks in Opposition*. New York: Oxford University Press, 1995; Aksakal, Mustafa. *The Ottoman Road to War in 1914: The Ottoman empire and the First World War*. New York: Cambridge University Press, 2010. Finally, the third most popular topic, through the course of the twentieth century, appears to have been the acitivites of the charismatic general and "Defender of Madīna", Fahrettin Paşa. Kandemir, Feridun. *Medine Müdafaası: Peygamberimizin Gölgesinde Son Türkler*, İstanbul: Yağmur Yayınları, 2010; Şerifoğlu, Ömer Faruk. "Kabil'de Yangın Söndüren İki Türk: Medine Müdafii Fahreddin Paşa'nın Afganistan yılları." Çavdar, Ayşe. "Türk Paşası Afganistan'da." *Atlas* 115 (2002): 138-150.

[30] Article 72, Constitution of Afghanistan, 1923 (*Niẓāmnāmā-yi asāsī-yi dawlat-i ʿalīyah-i Afghanistan*, 20 Ḥamal 1302 [April 9, 1923]).

[31] This phrase was included in Amān-Allāh Khan's speech in Istanbul on May 19, 1928, hailing the fraternal ties between Afghanistan and Turkey. Leon Poullada, *Reform and Rebellion in Afghanistan: King Amān-Allāh's Failure to Modernize a Tribal Society* (Ithaca: Cornell University Press, 1973), 258.

relations and developments created the social and political conditions that facilitation an Indo-Ottoman nexus of unprecedented *juridical* degree during the early Amān-Allāh era. The Indian Khilāfat movement, of which Afghanistan played a crucial role, had much to do with contributing to Pan-Islamic ties and activity at this fluid time. Moreover, in the maze of extremely fluid politics during the Turkish war of independence, the Soviet government initially believed Cemal and Enver pashas in exile still represented the Ottoman government, and so in the case of Cemal they helped facilitate his journey to Afghanistan in the hope of promoting their own interests. However, when Turkey's War of Independence revealed that Mustafa Kemal Paşa was the emergent leader of Turkey's new government, Moscow's behavior towards them completely changed.[32] Beyond the individual contributions of Ottomans in Afghanistan, as well as Indian Muslims who also played a major role in Afghan constitutional developments at this time, it is important to recognize that it was the *nexus* of late Ottoman, Afghan, and Indian Muslim actors, rather than more isolated networks (as discussed in Chapters 4 and 5) which led to the drafting and promulgation of the first Constitution of Afghanistan in 1923.

With this overview of the independence struggles of Turkey and Afghanistan being intertwined, we now turn to explore the persons who authored his most ambitious project, the Niẓāmnāmā law codes. This was a diverse, even eclectic, group made up of Afghan ʿulamāʾ, Kabuli intellectuals, an Indian Muslim doctor, and at its helm, an Ottoman Turkish lawyer from Istanbul. We begin with developments internal to Afghanistan, starting with Amir Amān-Allāh Khan's establishment of a reformist cabinet, and the various juridical actors he pulled together within Afghanistan for his ambitious reform program.

I
AMIR AMĀN-ALLĀH KHAN AND HIS COURT: AFGHAN ʿULAMĀʾ MEET THE YOUNG AFGHANS IN POWER

Amān-Allāh Khan, the third son of the Afghan Amir Ḥabīb-Allāh Khan, was born on June 2, 1892 in Paghmān, a hilltop resort just west of Kabul. Amān-Allāh's mother, Sarwar Sulṭān (d. 1965), also known as ʿUlyā Ḥaḍrat Sirāj al-Khawātīn, is widely remembered by historians as Amir Ḥabīb-Allāh's "favourite and most influential" wife.[33] Her powerful status in the Kabul court is cited to have played a pivotal role in positioning Amān-Allāh in several key posts in Ḥabīb-Allāh's cabinet, including governor of Kabul and commander of the army at the time of Ḥabīb-Allāh's assassination in February 1919.

As a youth Amān-Allāh Khan attended the Haribiye military academy, the very institution which the Ottoman colonel Mahmud Sami Bey helped establish between 1904 and 1906.[34] Like its counterparts with the same name in Ottoman domains of Istanbul, Baghdad, and

[32] Nevertheless, the Soviets decided to still use the Ottoman paşas' fame in the Islamic world to their advantage, especially when it came to stirring anti-British policies of Afghan and Indian Muslims. Abidin Ünal, İskender Özbay, Rezzan Ünalp, Alev Keskin, and Nilüfer Altın, *Geçmişten Günümüze Türk-Afgan İlişkileri,* (Ankara: Genelkurmay Askeri Tarih ve Stratejik Etüt Başkanlığı Yayınları Basimevi, 2009), 36.

[33] Senzil K. Nawid, "Amānallāh Shāh," *Encyclopaedia of Islam, THREE*, Gudrun Krämer, Denis Matringe, John Nawas, Everett Rowson, eds., Brill Online Edition (2013), available at http://referenceworks.brillonline.com/entries/encyclopaedia-of-islam-3/amanallah-shah-COM_23429.

[34] Bal, "Afganistan-Türkiye", 246.

Damascus (Mekteb-i ʻAnbar) among other locales, Kabul's Harbiye was modeled off the new Ottoman educational system established during the Hamidian era.[35] As a British intelligence report notes, an Englishman visiting Kabul in 1910 "was greatly struck with the excellence of the arrangements at the Harbia school where eighty cadets belonging to good families are instructed in military subjects and trained in habits of discipline under the supervision of a Turkish Colonel."[36] This was also precisely the time Amān-Allāh Khan was completing his studies there, reflecting the strong Ottoman connections he was building at a young and impressionable age.[37]

Amān-Allāh's ideological identification with Muslim modernism, Afghan nationalism, and Pan-Islamism came not only from his Ottoman and Young Turk military officers at the Harbiye, nor from his many Young Afghan and constitutionalist colleagues and professors there. Rather, one of his personal mentors was none other than Maḥmūd Ṭarzī, the returned Afghan exile from Ottoman Damascus. In addition to the Pan-Islamic and pro-Turkish atmosphere in Kabul intensified by the Ottoman entry into first world war, Amān-Allāh's Turcophilism would only grow stronger with his marriage to Sorayya Tarzi (d. 1968) in 1916, the daughter of Maḥmūd Ṭarzī, herself born and educated in Syria. As Amān-Allāh Khan's best biographer, Senzil Nawid, notes,

> As a result of Tarzī's influence, Amānallāh became acquainted with Muslim reformist ideas of the late-nineteenth and early-twentieth centuries and developed a passionate desire to modernise Afghanistan and free it from British control. In contrast to his father's pro-British proclivities, Amānallāh expressed strong anti-British sentiments during the First World War. In defiance of his father's cautious policy of neutrality during the war, he supported the Ottoman sultan's call for *jihād* and Afghanistan's entry into the war against the Allies.[38]

In spring of 1919, having won the stunning political victory described in the introduction to this chapter and securing Afghanistan's recognition as a fully-sovereign and independent state abroad, Amir Amān-Allāh did not rest on his laurels. Similar to his grandfather, Amir ʿAbd al-Raḥmān, he turned his attention inward towards the administration of the country. He reorganized the royal cabinet into an expansive government bureaucracy that included the establishments of brand new ministries in Kabul, including Ministries of the Interior, Foreign Affairs, Education, Finance, Justice, Trade, Public Works, Public Health, and a Postal and Telegraph Office.

Unlike his grandfather, however, Amir Amān-Allāh's methods were not nearly as brutal. The Amānī regime certainly did employ its share of state violence, particularly following the outbreaks of rebellion in 1924 and 1928-1929 in which aerial bombardment was resorted to for

---

[35] Benjamin C. Fortna, *Imperial Classroom: Islam, the State, and Education in the Late Ottoman empire* (New York: Oxford University Press, 2002); Selçuk Akşin Somel, *The Modernization of Public Education in the Ottoman empire* (Leiden: Brill, 2001).

[36] NAI-FD/SEC/F February 1910 5 ("Return to India from Afghanistan of Dr. Saise, Mineralogist. Note by the Political Agent, Khyber, of an interview with Dr. Saise").

[37] Aliye Yılmaz, "Emanullah Han'ın Islahatları ve Atatürk," *SDÜ Fen Edebiyat Fakültesi Sosyal Bilimler Dergisi* 21 (2010): 156 ("Emanullah, Emir Habibullah Han'ın, harbiye okulunda eğitim gören ve orduyla yakın temas içerisinde bulunan tek oğluydu").

[38] Nawid, "Amānallāh Shāh."

only the second time in the country's history (the first being by the British RAF in the Third Anglo-Afghan War of 1919). Nonetheless, in comparison to the state-building and "nation-building" campaigns of his predecessors, and his contemporaries, Amīr Amān-Allāh's internal "conquest" was one forged in ink, and therefore largely on paper, rather than through the "blood and steel" methods of other twentieth century "modernizers" and "men of order" from Russia and China to Turkey and Iran. In this way, compared to the state-building campaigns of Mustafa Kemal "Atatürk" of Turkey or Reza Shah Pehlavi in Iran, or even British and French mandatory rule in the post-Ottoman Near East, Amir Amān-Allāh's route followed a *persuasionist* model.[39] That is to say, Amir Amān-Allāh focused far more on education and legal reforms than building his military, a "soft power" strategy later commentators, including his mentor Maḥmūd Ṭarzī and his partial role-model, Mustafa Kemal, would sympathetically find fault in him for.[40]

This section explores the dynamic, contested, and catalyzing relationship between the reformist king, Amir Amān-Allāh Khan, his Young Afghan supporters, and the Afghan ʿulamāʾ in the first half of his rule. The historiography of constitutionalism in Afghanistan has hitherto focused on the political movements of the Young Afghan secret society and other *anjumāns* from the Ḥabīb-Allāh era to the Amān-Allāh era. Such historiography focuses on the anti-monarchical ideologies of an underground movement of politicians, intellectuals and military cadets, led by Maḥmūd Ṭarzī but also other key influential political actors in Kabul during the Ḥabīb-Allāh era. Works by Ḥabībī, Pūhanyār, Hashimī, and Nawid have focused on the politicians involved in the constitutional movement during the Ḥabīb-Allāh era at length and will not be recounted here.[41] Others focus on the military, and Amān-Allāh's alleged neglect of this important institution in the country.[42] Far less attention, by contrast, has been devoted to the impressive conglomeration

---

[39] Touraj Arabaki and Erik J. Zürcher, *Men of Order: Authoritarian Modernization under Atatürk and Reza Shah* (London: I.B. Tauris, 2004).

[40] For example, note the famous words attributed to Maḥmūd Ṭarzī, by Rheat Stewart, "Amanullah has built a beautiful monument without a foundation. Take out one brick and it will tumble down." Stewart, *Fire in Afghanistan*, 452. Note also the following 1929 New York Times article, with a title as self-explanatory as it is effusive. "Turkey Exultant Over Dictatorship. Rejoicing in Kemal's Success, People Pity Struggling Balkan Countries. Sorry about Amanullah. Ameer, They Think, Would Have Done Better if He Had Used the Strong Arm in Afghanistan," *New York Times* (Feb. 17, 1929), 58.

[41] ʿAbd al-Ḥayy Ḥabībī, *Junbush-i Mashrūṭiyat dar Afghanistan* (Qum: Ihsānī, 1993); Masʿūd Pūhanyār, *Ẓuhūr-i mashrūṭīyat va qurbāniyān-i istibdād dar Afghānistān* (Peshawar: Sabā Kitābkhānah, 1375 [1996]); Sayyid Saʿd al-Dīn Hashimī, *Junbush-i mashrūṭiyat khwāhi dar Afghanistan* (Kabul: Shūrā-yī farhangī Afghanistan, 2001).

[42] The latter works largely mimic, or rely too heavily, on British colonial officials' obsession with the state of the Afghan military. For example, On the Afghan army during Amān-Allāh's early reign, Machonachie writes,

> The Army was perhaps the only section of the Afghan people with whom Amir Ḥabīb-Allāh was popular at his death… [I]t rose against Naṣr-Allāh largely on account of his omission to take action against the murderers of Ḥabīb-Allāh, and was won over by Amir Amān-Allāh with the offer of a generous rate of pay… [A]ll those recently recruited were determined to desert and run away either to India, Persia, or Russia. They only receive at present, in addition to a scanty ration of bread and rice, four Kabuli rupees (three Indian rupees a month); and of this hald is cut for the cost of their uniform… So they have nothing to buy tobacco with, or to send to their families. Underfed and despondent they are being drilled and dragooned more and more by Jemal Pasha and his Turkish officers.

Not surprisingly, the "failed military reform" narrative is only exacerated when it comes to British analysis of the 1924 rebellion against Amān-Allāh's reforms. Here Machonachie writes,

of juridical actors—the jurists in particular—who drafted the first Afghan constitution of 1923, and the scores of associated regulatory codes, or *niẓāmnāmā*, referred to collectively as the *Niẓāmnāmā-yi Amānīyya*.[43]

This chapter focuses on these individuals who made up the lawmaking commission that drafted the first constitution of Afghanistan, or the *Niẓāmnāmā-i asāsī dawlat-i ʿaliyya-yi Afghanistan*, as it is officially entitled in Persian, between 1919 and 1923. The individuals who served on this most ambitious project was an eclectic group made up of Afghan ʿulamāʾ, liberal members of the Young Afghan party, an Indian Muslim doctor, and last but not least, an Ottoman Turkish lawyer as the director of the constitutional drafting commission. Examining each part of the heterogeneous commission sub-group by sub-group, we first turn to the complexity of Amir Amān-Allāh's court and the rise of the Young Afghans to power in particular.

Unity and Division at the Court of Amān-Allāh Khan

During the reign of Amir Ḥabīb-Allāh Khan (1901-1919), the Afghan monarch kept a tight lid on public expressions of dissent, though he relaxed some restrictions concerning the press. The most glaring example is seen in the publications of Maḥmūd Ṭarzī in the latter's Persian newspaper, *Sirāj al-akhbār*, a publication which would have been unthinkable under the reign of his Ḥabīb-Allāh's, Amir ʿAbd-al-Rahman Khan. In recognition of the boiling political tensions beneath the surface, especially in Kabul, a British Agent reporting on Ḥabīb-Allāh in 1913 wrote, "His Majesty the Amir is sitting on a volcano which may burst out at any moment."[44] As discussed in Chapter 4, that "volcano" was actually an amalgam of diverse Afghan political interests, networks, and factions that came together temporarily to oppose what

---

> By the outbreak of the Khost rebellion (March 1924) 'the Army had been ruthlessly cut down, and the system of conscription by which it was recruited worked unfairly, and was most unpopular. In August the 'unheard rate of Rs. 30 a month' was offered to attract recruits, but was probably largely illusory… Nor could the insurrection have become the real menace it undoubtedly has been, if the Afghan Army had not been reduced far below the margin of safety, and its interests neglected. The Afghan soldier is miserably housed, badly paid, and treated as a menial servant, even by the clerks in the Government offices. His military training is utterly inadequate, while the state of the medical organisation in the field beggars description.
>
> Finally, at the close of the rebellion, Sir F. Humphrey's writes,
>
> The Afghan Army has been totally discredited by its failure to make any headway against ill-armed and badly-led tribesmen… The staff and the senior regimental officers are at present mainly recruited from among the young Afghans who have received a smattering of modern military education, either in Europe or in the Military College recently established in Kabul. They are wholly lacking in experience, and are not even remarkable for professional keenness, while the junior officers, who are for the most part much older soldiers, are not unnaturally discontented at being superseded.
>
> IOR-R/12/LIB/107, *Precis on Afghan Affairs*, (para. 337, p. 155).

[43] For other major personages in Amir Amān-Allāh's cabinet not related to judicial reforms, see IOR-R/12/LIB/107, *Precis on Afghan Affairs*, (para. 20, p. 7).

[44] For other major personages in Amir Amān-Allāh's cabinet not related to judicial reforms, see IOR-R/12/LIB/107, *Precis on Afghan Affairs*, (para. 20, p. 9).

they collectively saw as Amir Ḥabīb-Allāh's Anglophilia, autocracy, and someone who did not fight enough, or hard enough, for Afghanistan's independence. The Young Afghan organization was one—but not the only—organization based in the capital which set out to correct these maladies, by force or persuasion.

With the ascent of Amān-Allāh Khan to the Afghan throne, the oppositional and constitutionalist forces known as the Young Afghans were now firmly entrenched in power. The ascent of liberal politicians to power initiated a new era of increased press freedoms. Newspapers began to proliferate, in relative terms, when compared to the more tightly controlled reign of Amir Ḥabīb-Allāh.[45] At the same time, increased freedoms brought increased political fragmentation, and the Kabul-based government witnessed an intensification of factionalism in the capital, court, and eventually, Amir Amān-Allāh's own cabinet. We will return to the full extent of this factionalism in the conclusion. It suffices to note here that divisions between disparate factions—divisions that were hidden by their tenuously united opposition to British imperial control over Afghanistan, Amir Ḥabīb-Allāh's increasing despotism, and what many Afghans and Indian Muslim viewed as his betrayal of the Turks—began to tear at the fabric of the Amir Amān-Allāh government over the course of his reign.[46]

In general, we may divide Amān-Allāh's court in the early years of his reign (1919-1923) into three factions: (1) "The Radicals", led by Maḥmūd Ṭarzī and made up of mostly Young Afghan journalists, bureaucrats and politicians; (2) "the Conservatives", led by sardārs Abdul Quddus and Naṣr-Allāh Khan, a party dominated by the Afghan ʿulamāʾ; and (3) the Moderates," led by General Nādir Khan, the appointed head of the Afghan army, and who eventually cultivated stronger ties frontier tribes in both Afghanistan and India. Replacing the value-laden term "Progressives" with "Radicals", we follow this tripartite division in providing an overview of the factionalism in the Afghan court below.

The "Radicals": Young Afghans in Power

In the last chapter we discussed how the return of Maḥmūd Ṭarzī to Afghanistan was not simply a return of a prominent exile and his family to their homeland. Rather, Tarzi's arrival prompted a torrent of Ottoman influence at the highest echelons of the Afghan government, including Kabul's burgeoning palace elite and intelligentsia. The latter was seen most profoundly in rise of the Young Turk-inspired secret "Young Afghan" party.

---

[45] Among the most prominent were the *Amān-i Afghan*, *Afghan*, *Ashab-un-Niswan*, and *Majmūʿ-i ʿAskarī* in Kabul, the *Ittiḥād-i Mashriqī* in Jalalabad, the *Ṭulūʿ-i Afghan* in Qandahar, *Ittifāq-i Islam* in Herat, *Iṣlāḥ* in Khanabad, and *Ittiḥād-i Islam* in Mazar-i Sharif. To this list Machonachie adds the "fanatical" but "at present defunct" newspaper, *Al-mujāhid*, in Chamarkand, reported to be a Bolshevik newspaper. Of these, *Amān-i Afghan* of Kabul was likely the most widely read, was is largely remembered as the voice of the Amān-Allāh government. IOR-R/12/LIB/107, *Precis on Afghan Affairs*, (para. 339, p. 157). See Appendix L for a list of Afghan and foreign newspapers in circulation in Afghanistan during the early Amānī era.

[46] Hence, R. Machonachie writes in his Precis (1919 to 1927) that "Amān-Allāh, by his hasty release of the 'Muṣāḥibān' family, found himself threatened with a hostile combination of the Army and the Mullahs." IOR-R/12/LIB/107, *Precis on Afghan Affairs*, 27. In fact, Machonachie goes so far as to argue that itnernatl divisions in the Afghan royal court were so severe that he offers a "wag the dog" explanation for Amān-Allāh's declaration of jihad against the British that led to independence in the first place. That is to say, the goal was to distract the population from his own domestic legitimacy problems, and suspicions surrounding his succession and ideology. In light of the generally amiable relations between Amir Amān-Allāh Khan and General Nādir Khan at this time, however, this is likely a projection backwards and overexaggeration.

The previous chapter also illustrated how Maḥmūd Ṭarzī's towering intellectualism, journalism, and erudition was matched by equally brawny political clout. The latter was manifestly clear in his robust political connections to the Afghan royal family and court, including the marriage of his daughter Süreyya to prince, and now Amīr, Amān-Allāh Khan. He also married another daughter to Amān-Allāh's brother, Prince ʿInāyat-Allāh. Both marriages, but particularly the former, would have profound ramifications not just for his family, but the future of Afghanistan and Turkey as states in one of the most influential and powerful marriages in the country's history.[47] Tarzi's relationship with Amir Amān-Allāh proved to be a pivotal, though complicated one, with lasting consequences for Afghanistan's international relations and internal political development. Now an influential patriarch in the Afghan royal family, Maḥmūd Ṭarzī had an even more respected, and protected, platform to disseminate his ideas among palace elites in the form of personal lectures, meetings of the burgeoning Young Afghan Party, as well as his supreme journalistic achievement, the *Sirāj al-Akhbār*.

It is his leadership in the Young Afghan party, however, that had the most profound immediate impact on politics in Afghanistan during the early Amānī era. Having firmly resettled into Kabul and palace life under Amir Ḥabīb-Allāh, as discussed in the previous chapter the returned exile Maḥmūd Ṭarzī forged contacts with Kabul's increasingly active educated elite to form a secret society modeled on the Young Turks known as the "Young Afghan" party within a few years of his arrival. The society was generally made up of a coterie of young and "progressive-minded" intellectuals who sought to establish a constitutional government in Afghanistan, whilst liberating the country from the British.[48] On Maḥmūd Ṭarzī, the Young Afghans, and so-called "Progressives" party (I prefer the term "radical"), Machonachie summarizes,

> Its champion S. Maḥmūd Ṭarzī, had special facilities, as father-in-law of ʿInāyat-Allāh and Amān-Allāh, for making his views known at court. These, as editor of the 'Siraj-ul-Akhbar' he preached, in season and out, with constant attacks on Great Britain; not, as he has plausibly explained, because of any constitutional antipathy to the British, but because British control formed the single obstacle to the achievement of his life's ideal, the independence of Afghanistan. His influence as leader of the 'Young Afghan Party' was reinforced by the propaganda emanating from the foreign internees and the Turco-German Mission, who urged that Afghanistan in remaining neutral, and declining to take advantage of Great Britain's difficulties, was throwing away a unique opportunity. Such arguments must have found many listeners in Kabul.[49]

Pan-Islamic unity was also a prominent theme in the thought and activities of Maḥmūd Ṭarzī and the Young Afghans, as well as Amir Amān-Allāh's speeches and in the projects he supported, especially in his early rule. The following Foreign and Political Frontier branch file

---

[47] Ünal et al., *Türk-Afgan İlişkileri*, 58; Rahmanhoca İmamhocayev (trans., Osman Mert), "Afgan Aydını ve Yazarı Mahmut Tarzi ve Osmanlı-Türkiye," *Atatürk Üniversitesi Türkiyat Araştırmaları Enstitüsü Dergisi* 9 (2002): 347-352; Süleyman Özmen, "Maḥmūd Ṭarzī'nin Hayatı, İnkılapçılığı ve Faaliyetleri," (Ph.D. diss., Marmara University (Istanbul), Türkiyat Araştırmaları Enstitüsü, 2008), 67.

[48] Ahmetbeyoğlu, 157-158; Aybek, 89-90. Ḥabībī, ʿAbd al-Ḥayy. *Junbush-i Mashrūṭiyat dar Afghanistan*. Qum: Ihsānī, 1993; Pūhanyār, Masʿūd. *Ẓuhūr-i mashrūṭīyat va qurbāniyān-i istibdād dar Afghānistān*. Peshawar: Sabā Kitābkhānah, 1375 [1996]. Hashimī, Sayyid Saʿd al-Dīn. *Junbush-i mashrūṭiyat khwāhi dar Afghanistan*. Kabul: Shūrā-yī farhangī Afghanistan, 2001.

[49] IOR-R/12/LIB/107(Para 23, p. 9)

of September 1920 includes a file entitled, "Views of the Amir of Afghanistan on the unity of Islam: Question of a Central Asian Moslem Confederation" which includes from Intelligence Bureau, Peshawar, February 17, 1920, a translation of an article in *Amān-i Afghan* dated January 9, 1920 on the subject of the Khuṭba (See Appendix L).[50] This document is effused with the same Muslim modernist ideology and themes which splashed the pages of Tarzi's *Sirāj al-Akhbār* in Kabul, as well as *Sebîlürreşad* in Istanbul, among many others, stressing the formation of a modern, *purposeful* Muslim existence by struggling for independence vis-à-vis colonial powers externally, and combining the moral uplift of Islam with the West's educational "enlightenment" and scientific advancement internally, "guiding" the masses along in the process.

Slogans such as Islam as the complete way of life, the unity of Muslims, and the new practice of delivering the khuṭbah in Persian as opposed to solely Arabic, "so that people may understand," were manifestations of Muslim modernist ideology and practice in Afghanistan during the Amān-Allāh era. The idea of "purpose-ful" education of the masses such that they achieve a political consciousness in line with the modernizing ethos of the state is a core tenet of Muslim modernism from Ottoman Turkey to Afghanistan, with manifestations not only in education, but in the complementary realms of literature and law.[51]

The "Conservatives": Naṣr-Allāh Khan and his supporters

By far the most formidable rival and contestant to Amir Amān-Allāh's Khan's ascent to power was his uncle and former Nāʾib al-Ṣalṭana, Sardār Naṣr-Allāh Khan (1874-1920). This was not only because of Naṣr-Allāh's seniority in age and experience over the relatively young Amān-Allāh, but the powerful connections the powerful court leader had with some of Afghanistan's preeminent ʿulamāʾ. Since an early age Naṣr-Allāh had been educated by some of Kabul's preeminent ʿulamāʾ, and was reported to have memorized a great portion of the Qurʾān; two Afghan historians describes him as "deeply religious" and "a profoundly pious Muslim."[52] Naṣr-Allāh's ties with the ʿulamāʾ of Afghanistan, and Kabul in particular, were to be strengthened not so much from his credentials as a student of religious law and ethics, and much as his robust political connections. For these reasons, along with the piety attributed to him, many prominent ʿulamāʾ who had been more constrained by the more brutal and authoritarian ʿAbd al-Raḥmān saw in his son Naṣr-Allāh a promising ally.[53] Likely for the same reasons, the British Agent at Kabul wrote about Sardār Naṣr-Allāh in 1913, "He has the whole priestly class at his back, and the Itimad-ud-Dauleh (Abdul Quddus) and the conservative party on his side," along with his great "influence with the Mullahs and Tribes."[54]

---

[50] NAI-FP/FRNT/B September 1920 98 ("Views of the Amir of Afghanistan on the unity of Islam. Question of a Central Asian Moslem Confederation").

[51] We will return to a discussion of this theme in light of Wali Ahmadi's work on modern Persian literature in Afghanistan in the conclusion.

[52] Amin Saikal, *Modern Afghanistan: A History of Struggle and Survival* (New York: I.B. Tauris, 2006), 40; Senzil Nawid, "The State, the Clergy, and British Imperial Policy in Afghanistan During the 19th and Early 20th Centuries," *IJMES* 29 (1997): 596.

[53] Saikal, *Modern Afghanistan*, 40.

[54] IOR-R/12/LIB/107, *Precis on Afghan Affairs*, (para. 20, p. 7).

There was much more to Naṣr-Allāh's religious aura and clerical connections that made him a formidable opponent, first to Amir Ḥabīb-Allāh, and then the son, Amir Amān-Allāh. He also had extensive international experience, including audiences with Ottoman and British statesmen, and stateswomen, including none other than Queen Victoria herself. In 1895, Naṣr-Allāh's internal prestige soared when Amir ʿAbd al-Rahmān's selected Naṣr-Allāh as an envoy to Britain, where he was welcomed by Queen Victoria in Windsor Palace and was awarded an honorary medal, the Knight Grand Cross of St. Michael and St. George.[55] Beyond medals and honors from the Queen, the voyage had long-lasting significance, being one of the first official delegations of the Afghan government outside beyond the neighboring states of Iran, India, and Turkistan (central Asia). On this trip Naṣr-Allāh also made important contacts with Muslims of Britain, including the prominent English Muslim Abdullah Quilliam, the "Shaykh al-Islam of the British Isles" as the Sultan once called him, and visited mosques and Muslim community centers in Liverpool.[56]

When Ḥabīb-Allāh assumed the Afghan throne peacefully following ʿAbd al-Raḥmān's death, many ʿulamāʾ continued to look upon Naṣr-Allāh as a potential contestant to the throne. And so did Amir Ḥabīb-Allāh. But choosing a strategy of appeasement than confrontation (in contrast to Ḥabīb-Allāh's virtual imprisonment of Naṣr-Allāh's younger brother, Muḥammad ʿUmar Jān), the Amir named Naṣr-Allāh commander of the Afghan army, as well as President of the State Judicial Council and Minister of Education.[57] In a somewhat surprising move, Naṣr-Allāh was even named heir to the throne over and above Ḥabīb-Allāh's own sons, a precedent ignored by Amān-Allāh in his own campaign for the throne in 1919.[58]

While we have given him the rather unsatisfactory title of "conservative" in the Kabul court, this one-dimensional terminology perhaps overshadows his cosmopolitan and dynamic political orientation. Sardār Naṣr-Allāh was the individual who commanded and empowered Maḥmūd Ṭarzī to recruit Ottoman experts and other exiles from outside Afghanistan, including Ottoman dissidents and exiles living in other countries inviting them to come to Afghanistan and work. The result of this invitation was that a group of Turkish experts came through Iran and Russia to Afghanistan, among them governor Ḥasan Hüsnibek. Interestingly, a secret Foreign Department file from January 1909/an officer writes in the Peshawar Confidential Diary, on December 15, 1908 notes that "The idea of introducing efficient Turks into Afghanistan for

---

[55] Prince Naṣr-Allāh's tour of London also found to be "fit to print" in the New York Times, attesting to his popularity well outside Afghan domains. See the "Afghanistan Ameer's Prince: Nasr Ullah Khan is to Become London's Guest at Dorchester House," *New York Times* (May 24, 1895), and the less enthusiatic, if not less flattering, news brief later that year, "At Last the Shahzada Goes Away," *New York Times* (September 4, 1895).

[56] On the Serdar's travels within England, see NAI-FD/SEC/F July 1895 934-945 ("Visit of Sardār Naṣr-Allāh Khan to England") which outlines the schedule of Serdar Naṣr-Allāh's visits as follows (in chronological order): London, Manchester, Birmingham, Liverpool, Glasgow, Edinburgh, Elswick, Leeds, Sheffield, and finally his return to London, Ascot, and a visit to the Woolwich Arsenal. (No. 935). For an account from Ottoman intelligence records, also keen to track the Afghan prince's travels, see BOA-Y.A.HUS 329/32 (1312 Z 2) ("Afganistan emirinin ikinci oğlu Naṣr-Allāh Han'ın Londra'ya seyahat maksadı ve Kabul surety hakkında") and Y.A.HUS 332/27 (1313 M 20) ("Afganistan emirinin oğlunun Liverpol'da bulunan Cemaat-i İslamiye tarafından merasimle istikbal edildiği").

[57] Ludwig W. Adamec, "Ḥabīb-Allāh," *Encyclopaedia Iranica*, Vol. XI, Fasc. 4 (2002): 427-428.

[58] Saikal, *Modern Afghanistan*, 45.

employment on posts of responsibility and trust was originated by Sardār Nasrulla Khan and approved by the Amīr" and that "Naṣr-Allāh Khan prefers Turks to natives of India."[59]

Even British records highlight Naṣr-Allāh's cosmopolitanism and "progressive" orientation. They note that "even" Naṣr-Allāh's party were interested in technological advancements for the sake of empowerment. As a certain "Dr. Saise", a mineralogist serving in Afghanistan for the Amir, observed in an interview with the British Agent at Khyber,

> The Amir's progressive policy in itself is not at all unpopular. The people show pride in the excellent roads, the factories and the well-trained troops. Even Nasrulla and his Mullas countenance the policy of internal development. Dr. Saise formed the opinion that Naṣr-Allāh would undoubtedly succeed to the exclusion of Inayatulla should the throne fall vacant, and he declares this to be the general opinion in the country. There is, however, no doubt that Inayatulla is popular with the troops, so that a struggle between progressive Militarism and conservative Islam might ensue. At present complete harmony reigns in the Royal family.[60]

The above report notwithstanding, it appears most of Naṣr-Allāh's also enjoyed strong contacts with the Afghan ʿulamāʾ, Indian ʿulamāʾ, the Ottomans, and many Indian-educated Afghans. For example, Ali Aḥmad Khan, who was said to be a favorite of Naṣr-Allāh, was educated at Muree.[61] A file in the Ottoman archives on the 1915 Hüseyin-Niedermayer mission to Kabul contains Naṣr-Allāh's response written in Persian to a letter from the German captain Niedermayer and secretary of the legation, Von Hentig, concerning the idea of a joint German-Turkish mission to Kabul.[62] It is significant that the Ottomans corresponded with Naṣr-Allāh, more than any other Prince including Amān-Allāh, about the secret mission of immense weight and importance.

On the power hierarchy in the Afghan royal family, Aybek claims that Amir Ḥabīb-Allāh, in his last years (1915-1919), had the country firmly in his hands and completely cut off from developments in internal or external affairs. He describes the Crown Prince ʿInāyat-Allāh of having "a weak character," who, "like his father he drew near the English and did not want be used against the British in Afghanistan." Aybek describes the Amir's younger younger brother, Sardār Naṣr-Allāh Khan, on the other hand as a formidable rival for the throne. Aybek then describes the extreme concern of British officials with this individual in the court in particular, particularly for his connections with the ʿulamāʾ and students of Deoband. Aybek describes him as "a far-sighted man of the highest degree." Notably, Aybek describes the Amir's third son, Sardār Amān-Allāh Khan, as "respected by all", largely because of the influence of his powerful mother however, who was experienced in many state matters.[63] On the burgeoning role of the secret Young Afghan party, he notes,

---

[59] NAI-FD/SEC/F January 1909 74-76 ("Information regarding certain Turks in the employ of the Amir").

[60] NAI-FD/SEC/F February 1910 5 ("Return to India from Afghanistan of Dr. Saise, Mineralogist. Note by the Political Agent, Khyber, of an interview with Dr. Saise").

[61] IOR/L/PS 20/B220/1 ("*Confidential: Who's Who in Afghanistan, 1914*"), 17.

[62] BOA-HR.SYS 2312/1 (1917 03 31) ("Afganistan'a gönderilen heyet").

[63] Töker, "Zafer Ḥasan Aybek", 157.

> Some of the young intellectuals (*aydın gençler*) sought to establish a constitutional government (*anayasal hükümet*) and liberate Afghanistan from the British. . . In this way three political factions came into shape in the country. The first was represented by Amir Ḥabīb-Allāh and Crown Prince ʿInāyat-Allāh, the second Naṣr-Allāh Khan, and the third by Amān-Allāh Khan's supporters. The Amir's addiction to amusement and entertainment and prodigal life became a reason for the people's bad feelings growing against him. There were two attempts to assassinate him [during these years] but they were not successful.[64]

In the juridical field, we recall that in 1902, Amir Ḥabīb-Allāh called for the establishment of a *Maḥfil-i mīzān wa taḥqīqāt* (Bureau of Assessment and Research). The bureau was founded in Kabul under the direct supervision of Nāʾib al-Ṣalṭana Naṣr-Allāh Khan and consisted of nine ʿulamāʾ.[65] The choice of commission members and its supervisor reflect Naṣr-Allāh's strong connections with the ʿulamāʾ establishment of Afghanistan's preeminent urban centers, Kabul and Qandahar. The bureau was commissioned to formulate and publish legislation in the form of binding law codes for the central state government in Kabul as well as provincial governments, a process that began first in the ʿAbd al-Raḥmān era, but was expanded under Amir Ḥabīb-Allāh.[66] Among the authors who served on this preeminent law commission were the influential Afghan Islamic jurists Mawlawīs Ḥājī ʿAbd-al-Rāziq and ʿAbd al-Raḥmān Baiktutī.[67] These individuals would also play a major role in the Niẓāmnāmā legislation of the Amānī era, to which we turn to in Part V.

It should be noted here that while as might be expected many of the Afghan ʿulamāʾ would be most aptly characterized as belonging to the "Conservative" camp of Afghan court politics led by Sardār Naṣr-Allāh during the late Ḥabīb-Allāh and early Amānī eras, it cannot be said that all did. It would be a gross generalization to say all ʿulamāʾ were de facto aligned with Sardār Naṣr-Allāh and the conservatives. Some, for political or ideological reasons pertaining to the extent of representative government or other controversial issues among the oppositionalists, were actually members of the Young Afghan movement, with some even considered to be among the "Radicals." A primary example to whom we will return to in this chapter is Mawlawī Muḥammad ʿAbd al-Wasīʿ Qandahārī, a member of the Young Afghan party during the Ḥabīb-Allāh era, and a hand-picked jurist to serve on Amir Amān-Allāh Khan's constitutional drafting commission.

As discussed in the introduction to this dissertation, Senzil Nawid's work, *Religious Response to Social Change in Afghanistan* (1999), is the most recent work on the topic of the relationship between Afghanistan's monarchy and Afghan ulema. As an examination of the understudied role of ʿulamāʾ in the revolts against King Amān-Allāh, Nawid's study is unsurpassed when it comes to the meticulousness and thoroughness of research using both Persian and Pashtu manuscripts from the Afghan archives, India Offices records, and National

---

[64] Töker,"Zafer Ḥasan Aybek", 157-158.

[65] Nawid, *Religious Response*, 77; ʿAzīz al-Dīn Wakīlī Fufalzai, *Dār al-qazā dar Afghanistan: az awāyil-i-ʿahd-i-islam ta ʿahd-i jumhurīyat* (Kabul: Government Printing House, 1369 [1990]), 413.

[66] According to Afghan historian ʿAzīz al-Dīn Wakīlī Fufalzai, the compilation of *Sirāj al-Aḥkām* began under Amir ʿAbd al-Raḥmān but was completed under Amir Ḥabīb-Allāh. Fufalzai, *Dār al-qazā*, 406-407; Nawid, *Religious Response,* 77.

[67] Fufalzai, *Dār al-qazā*, 406-407; Nawid, *Religious Response*, 77.

Archives of India. She also deftly utilizes private family papers that she received as heirlooms and from the generosity of prominent Afghan donors. Nawid's work argues that souring state-ʿulamāʾ relations and the determined opposition of religious forces to the reforms were the pivotal factors in Amān-Allāh's downfall. At the same time, unfortunately, much of Nawid's argument draws from a progress-vs.-tradition binary and a linear telos of secular-liberalism, with a focus on what she sees as the particularities of an essentialized conflict between Islam and modernity. "Resistance to social change in the Middle East originates from the Islamic perception of law and order and epistemological view of the Qurʾān," a sweeping statement she introduces in the opening pages to the work.[68] Beyond commencing on this rather awkward note, what is more problematic is a reoccurring binary between progressive modernists and regressive traditionalists, in which the latter becomes the box which the ʿulamāʾ primarily fall in Nawid's scheme of categorization. This persistent binary is particularly salient in the following passage on modernity in the Muslim world, for example,

> Since the mid-nineteenth century there has been an attempt in various parts of the Muslim world to redefine traditional Islamic institutions to meet the exigencies of the modern world. Efforts to change the medieval picture of Muslim societies have been met with resistance from traditional sectors, who fear the impact of change on the Islamic family structure and Islamic culture generally.[69]

In this fashion, some of Nawid's descriptions of "the Afghan ʿulamāʾ" tend to construct a monolithic, regressive Muslim bloc lagging behind the rest of the world, with a progressive group leading the herd while change-fearing traditional elements hold the pack back in past traditions. A progressive-regressive and modern-traditional dialectic is central to Nawid's analysis of the conflict that undermined Amān-Allāh's government, and as the most recent book-length study of the era, it speaks to the dialectic's persistence through nearly seventy years of historiography on the Amānī era. As Nazif Shahrani has incisively argued, Nawid's framework overlooks the dynamic and heterogeneous population that constitute the "ʿulamāʾ" class of Afghanistan during the Amān-Allāh era.[70] A survey of juridical and political activity during the Amān-Allāh era will reveal that the ʿulamāʾ were far from homogenous. When it came to their opinions on Amān-Allāh's reforms. As we will see in Part IV with the ʿulamāʾ who participated in the drafting of the Niẓāmnāmā constitution and Niẓāmnāmā codes, the class was internally stratified and we cannot make monolithic generalizations even about them.[71]

---

[68] Nawid, *Religious Response*, xvii.

[69] Ibid., ix.

[70] Shahrani, M. Nazif. "King Aman-Allah of Afghanistan's Failed Nation-Building Project and its Aftermath (Review Article)." *IRS* 38 (2005): 661-675.

[71] As Nazif Shahrani illustrates, that this class was internally stratified also emerges in the fact they cannot be blamed in whole for the revolts that broke out against the Amir in 1924 and ultimately in 1928-1929. Shahrani shows how the revolts were largely localized, and many ʿulamāʾ sided with Amir Amān-Allāh against the rebels. Shahrani, "King Aman-Allah", 661-675. In a comparative parallel, Hamid Algar has exposed the similar error of historiographical generalizations about the diverse Iranian ʿulamāʾ in the Tobacco revolts of the early 1890s, the Iranian constitutional revolution of 1906-1911, and most dramatically, the lead-up the Iranian Revolution of 1979. Hamid Algar, *Religion and State in Iran, 1785-1906: The Role of the Ulama in the Qajar Period* (Berkeley: University of California Press, 1969) and "The Oppositional Role of the 'Ulama in Twentieth Century Iran," in Nikki R. Keddie, ed., *Scholars, Saints and Sufis* (Berkeley: University of California Press, 1972); Ḥabībī, *Junbesh-e*

The "Moderates: Nādir Khan as a Rival in the Court

As introduced in Chapter 5, in addition to the Tarzi family returning to Afghanistan from Turkey, a second most prominent Afghan exile and family to return to Kabul was Nādir Khan of the Yaḥya-khel (later "Muṣāḥibān") Afghan family exiled in India. Machonachie describes the Muṣāḥibān Family, as "the most able, educated, and influential family in the country consisting of the two brothers, Muḥammad Asaf and Mihammad Yusuf, with their sons."[72] Like Maḥmūd Ṭarzī, Nādir Khan did not return to Afghanistan by himself, but brought his family members and relatives with him (to be more precise, as a relatively young family member at the time, Nādir Khan was brought along by his elderly father and uncle, Muḥammad Āṣaf and Muḥammad Yūsuf). Furthermore, like Maḥmūd Ṭarzī, Nādir Khan did not just bring his relatives, but prompted an entourage of Muslim experts from British India to Afghanistan that would play a role in the political, juridical, and military development of the country for the next three decades.

Born and educated in the northern Indian town of Dehradun, the location of the elite British Indian military academy, soon after his arrival to Kabul Nādir Khan quickly scaled up the Afghan military establishment. By 1912 Nādir Khan was promoted to the prestigious rank of Lieutenant General (*nāyebsālār*), and subsequently General (*sepahsālār*) in 1914. He would enjoy a thundering success in the Third Anglo-Afghan War, or Afghan War of Independence, particularly in his ability to rally the Masʿud and Waziri tribes on the Indian side of the Durand Line to secure victory over the British at Thal in Waziristan in May 1919. This would earn him the exalted *nishān-i almār-i aʿlā* medal under Amir Amān-Allāh Khan.[73]

In contrast to his more subtle activities during the Ḥabīb-Allāh era, Nādir Khan emerges more forcefully in our story during the reign of Amir Amān-Allāh Khan (1919-1929). Some may see this as a prelude to his actual assuming the Afghan throne as Nādir Shah from 1929-1933, but our concern here is to explore his activities in the early Amānī era period on its own terms. Amir Ḥabīb-Allāh had opened Afghanistan's doors—cautiously and slowly, but nonetheless, opened—to foreign experts. While we discussed the role of Ottoman arrivals and experts following Maḥmūd Ṭarzī's return from exile above, Nādir Khan's return to Kabul, correspondingly, prompted the arrival of Indian Muslims and Indian-educated Afghans to Kabul as a counter-balancing force to the spread of Ottoman influence in Afghanistan. That Indians were also successful in courting influence in the court of Kabul, and on the Amir himself, is evident in the vigorous recruiting of Indian Muslim teachers, doctors, and other professionals by Amir Ḥabīb-Allāh—a practice he continued from his father, ʿAbd al-Raḥmān Khan. This is a process most powerfully illustrated in the posting of Indian Muslims to prominent positions in the cabinet of Amir Ḥabīb-Allāh and Amān-Allāh, including most famously, Dr. ʿAbd al-Ghanī. We will return to Indian Muslims in Afghanistan during the Amānī era in Part III. For now we continue with Nādir Khan's Indo-centric policy, particularly with regard to the border tribes.

---

mashrūṭiyat; Pūhanyār, *Ẓuhūr-i mashrūṭīyat*. As with the Afghan 'ulamā' during the Amānī era, there was significant differentiation and fragmentation between the scholars, and often even more so among their students, to cause us to pause before generalizing.

[72] IOR-R/12/LIB/107(para. 20, p. 7).

[73] May Schinasi, "Moḥamed Nādir Shah," *Encyclopaedia Iranica*, Online edition (2008), available at http://www.iranicaonline.org/articles/mohammad-nader-shah-king-of-afghanistan.

Machonachie's Precis discusses the influence of Nādir Khan on Amir Amān-Allāh's policy vis-à-vis the borderland tribes.

> It is also highly probable that Nādir Khan, whose belief in the tribes of the Indian frontier as Afghanistan's first line of defense was well known, had urged the Amir that, in order to maintain his influence over them, he must make some gesture in their direction, and check the steady consolidation of British control over Waziristan.[74]

In Chapter 4, we discussed the seeds of a nascent rivalry between the Ottoman Turkish military advisors in Afghanistan like Mahmud Sami, and Indian-trained Afghan officers like Nādir Khan. The above document illustrates how in spite of a growing rivalry, Nādir and the Turks could agree on some key issues, such as checking British influence in tribal areas. This was a nexus that formed vis-à-vis the struggle to make, and then keep, Afghanistan independent of British control. The sovereignty imperative would not always be predominant, however, especially following Afghanistan's securing of independence. Once Amir Amān-Allāh's government began to focus on domestic issues, the stage was set for severe conflict over policy, especially vis-à-vis the controversial issues of the central state extending its mandate over the largely autonomous tribes in the south and east of the country. Such conflicts would be waged not in the battlefield—Amir Amān-Allāh had already firmly established himself on the Afghan throne—but in the constitution and associated Niẓāmnāmā codes themselves.

We will return later in this chapter (Part IV) to naming and discussing the specific individuals among these three camps from whom Amir Amān-Allāh drew as appointees to serve on the committees that ultimately drafted the first Afghan Constitution and Niẓāmnāmā law codes. Before we can do that, however, we must turn to other political developments outside of Afghanistan—in Turkey and India, namely—that would have a crucial impact on the formation of a new juridical field in Afghanistan under Amān-Allāh. Put together, and coming from both eastern and western directions, these developments taking place outside Afghanistan would eventually create the conditions for a confluence of juridical actors in Kabul that eventually drafted the first Afghan constitution and associated Niẓāmnāmā codes of Amān-Allāh Khan.

II
THE LAST OTTOMANS:
TURKEY'S WAR OF INDEPENDENCE AND AN OTTOMAN TRIUMVERATE IN KABUL

Ottoman Turkey in the Aftermath of the World War I

In January 1918, as Woodrow Wilson clarified the American war aims with the famous Fourteen Points, most notable for recognizing the right to self-determination of nations, less than ten months later the tide of the war turned irreparably against the central powers. Following the conclusion of the war, Wilson's principles became rather unpopular with the French and British governments, wary of the threat to their extensive colonial empires; on the other hand, a number of emergent Turkish and Arab nationalists welcomed the proclamation, waging, as they were, struggles of independence against precisely these colonial powers. This was especially the case

[74] IOR-R/12/LIB/107, *Precis on Afghan Affairs*, 94.

because the Fourteen Points, taken on their face, appeared to set out principles for a just and fair post-war treatment of the former territories of the Ottoman empire in Anatolia, the Levant, Mesopotamia, as well as the Arabian peninsula.

Meanwhile in Istanbul, on October 14, 1918, wartime leaders of the CUP handed over power to a new cabinet under Ahmet İzzet Paşa. Exactly two weeks later, on October 30, 1918, the Ottoman government signed the Armistice of Moudros, effectively bring an end to hostilities between the Ottoman government in Istanbul and the Allied powers. The treaty was a virtual admission of defeat by the Porte to the Allied powers. Among the stringent terms was the surrender of all Ottoman garrisons outside of Anatolia to the Allies, who also assumed control of forts along the ultra-strategic Dardanelles and Bosphorus straits. A generic clause granting the Allies the right to occupy any Ottoman territory in case of any "security threat" or "disorder" was also included in the terms, as with the demobilization of Ottoman ports and railways. Most devastating of all, the treaty was eventually followed by the actual Allied occupation of Istanbul and the partition of the empire's Arab-majority regions. These conditions were to be affirmed in the subsequent Treaty of Sèvres on August 10, 1920. This was the Peace treaty between Ottoman empire and Allies at end of World War I. Allied signatories included France, Italy, Japan, UK, Armenia, Belgium, Czechoslovakia, Greece, the Kingdom of Ḥijāz, Poland, Portugal, Romania and Yugoslavia. On paper the agreement severely divided up Ottoman territories and distributed them to France, Britain, Armenia, and Greece, but the latter was ultimately not enacted due to the outbreak of a national resistance against the terms, and the partition of Anatolia. Beginning in the northeastern region of Asia Minor and later spreading throughout the Anatolian plateau, that national resistance came to be called among its adherents as the Turkish War of Independence.

Though an armistice had been signed, and the top leadership of the wartime Ottoman government had fled the country, in Anatolia, a new war had only just begun.[75] In an alternative view—and this was the view of Enver Paşa—the Turkish war of independence was merely an extension of the first World War into a Pan-Turkic (and to an equally unforthcoming extent, Pan-Islamic) guerilla phase. While Enver Paşa's visions of an Ottoman comeback were clearly far-fetched, Turkish resistance to the post-war terms imposed on the Ottoman empire can be framed as the second phase of an extended war in which eastern Anatolia, Caucuses, and central Asia would play a significant role. As the House of Osman in Allied-occupied Istanbul lost its credibility as an independent government after over six centuries of continuous rule, newly established centers of resistance began to spring up in the Anatolian interior—in former Ottoman *provincial* towns like Trabzon, Sivas, Erzerum, Konya, but eventually most of all, Ankara. While former Ottoman wartime leaders and CUP officials Cemal and Enver would continue to joust for dominance in an attempt at an Ottoman comeback, these power pursuits were largely eclipsed by the meteoric rise of a rival leader on the scene, and someone was far better placed than they could ever be in exile: an Ottoman general named Mustafa Kemal Paşa.

---

[75] "Enver ve Cemal Paşaların Firarı," *Vakıt* (28 M 1337 [November 3, 1918]); "Eski hükümet erkanının firarı." *Vakıt* (29 M 1337 [November 4, 1918]). For Enver Paşa's interpretation of the conflict after 1918, as well as his letters exchanged with Cemal and Mustafa Kemal Paşa, see also Masayuki Yamauchi, *The Green Crescent Under the Red Star: Enver Pasha in Soviet Russia, 1919-1922* (Tokyo: Institute for the Study of Languages and Cultures of Asia and Africa, 1991).

Mustafa Kemal Paşa, the Fall of the CUP, and the Beginning of Turkey's War of Independence, 1919-1920

On February 10, 1918, the deposed Ottoman sultan and arguably most famous caliph of Pan-Islamism, Abdülhamid II, passed away in Istanbul. The ceremony of his funeral was quite possibly the last display of a cohesive Ottoman government gathered in one place. Proponents of linear Ottoman decline in the long nineteenth century will no doubt judge the nature of the ceremony as symbolic—the "Sick Man" was now the "Dead Man of Europe." The evocative imagery and Ottoman "decline" motif aside, the entire top brass of the wartime CUP leadership followed the funeral casket of someone who had been their arch-nemesis until the Young Turk revolution of 1908. Less than a year later, the war having turned decisively against the central powers, the threat of capture led to the flight of top Ottoman Unionist officials, most notably the CUP "triumvirate" of Talat, Enver, and Cemal Paşas, a development of profound significance to our story, and which we will return to in several sections of this chapter. With the first world war over and arrest warrants issued by the Allies and post-war Ottoman government for the wartime leadership whom had fled the country, by November of 1918 the key figures of the CUP regime had scattered the world over, in seek of asylum and work.

In spite of Wilson's Fourteen Points, the end of World War I did not result in self-determination for the majority of the inhabitants of the greater Middle East. Instead, what resulted was the division of former Ottoman territories of greater Syria and Mesopotamia between the British and French under notions of "mandates"—a form of colonial tutelage proclaimed to prepare regions not "ready" for self-government. As for Anatolia itself, vast portions of the Asia Minor were allotted to Russia, Italy, Greece, and Armenia in the east; Istanbul itself was occupied by the Allies and declared to be under a new international administration. On May 15, 1919, Greek forces had landed at Izmir (Smyrna), and soon thereafter were already advancing into the interior. By late summer, less than a year after the conclusion of the war, a British official concluded, "the Allies appeared to have the future of Turkey at their mercy."[76]

On the first of November, 1918, less than 48 hours after the armistice was concluded, Cemal, Enver, Talat, Bahaettin Şakir, Dr. Nazım "and three others" boarded a German warship at night and fled for Odessa, bearing with them a great deal of responsibility for the Ottoman entry into the Great War, and the atrocities that accompanied it, on all sides.[77] What is more, the ensuing Allied occupation of Istanbul was near certain to indict them as war criminals, charging them with orchestrating (or turning a blind eye to) forced deportations and massacres of Armenians in eastern Anatolia and Syria during the war.[78] As early as 1915, the Allied powers

[76] IOR-R/12/LIB/107, *Precis on Afghan Affairs*, (para. 70, p. 29).

[77] "Enver ve Cemal Paşaların Firarı," *Vakıt* (28 M 1337 [November 3, 1918]); "Eski hükümet erkanının firarı." *Vakıt* (29 M 1337 [November 4, 1918]). The articles report that Talat, Enver, and Cemal Paşas as well as other "most important" figures of the Union and Progress Society, Bahaeedin Şakir, Doctor Nazım Azmi and Bedri Beys left the country. Recep Karacakaya, *A Chronology of the Armenian Problem, With a Bibliography (1878-1923)* (Ankara: T.C. Başbakanlık Devlet Arşivleri Genel Müdürlüğü, 2002), 144.

[78] While none of the suspects who fled were brought to trial, every one of them, with the exception of Enver and possibly Bedri, were tracked and killed by Armenian assassins. Erik J. Zürcher, *Turkey: A Modern History* (London: I.B. Tauris, 1997), 134.

had announced their intention to do precisely that, and the self-imposed exiles seem to have taken the threat fairly seriously.[79] While a good number of the former Ottoman leaders fled to Berlin, their continued involvement in various plots and attempts to return to power in Turkey led them to engage in complex political projects as far and wide as Italy, Russia and Afghanistan.[80] We will return shortly in this section to three key Ottoman officers in particular who made it to Afghanistan in the aftermath of the war—the Naval Commander Cemal Paşa, the Istanbul lawyer and Police Commissioner Osman Bedri Bey, and retired General Ömer Fahrettin Paşa. The first two individuals were Ottoman exiles (and to the Allies, fugitives); the third, by contrast, was widely respected by both the Allied and Central powers as a principled military leader, and admired for his honorable defense of Madīna during the war. In spite of the former two CUP officials' pursuit of power, it was eventually Fahrettin who was chosen to be the first ambassador of the Turkish Republic to Afghanistan.

Our focus in this chapter, however, is not merely to recount the fascinating adventures and travels of these three individuals, men who—given their prolific careers as late Ottoman officers who continued to be intensely engaged in political activities abroad in service of both the Turkish war of independence and the Sultan-Caliph in Istanbul (until its abolition in 1922)—we may consider to be among "The Last Ottomans." Rather, our view is specifically geared towards their role in producing a culmination of the Indo-Ottoman nexus in Kabul during the early Amānī years (1919-1923). In order to fully understand their contributions to the newly independent Afghanistan's juridical field under Amir Amān-Allāh Khan, we must historicize their arrival with international relations and developments that created the social and political conditions allowed for a constitutional nexus to develop in Kabul. In particular, early on in the Turkish war of independence, the new Soviet administration in Russia believed the three pashas in exile still represent the Ottoman government, and so they support with a hope of promoting their own interests. However, events over the next three years and Turkey's War of Independence would reveal that Mustafa Kemal Paşa was the *de facto* representative of Turkey's new government, and so their behavior towards the three pashas eventually changed. Nevertheless, the Soviets decided to still use the three pashas' fame in the Islamic world to their advantage, especially when it came to stirring anti-British sentiment and activism among the Afghans and Indian Muslims.[81] As subsequent events would show, former Ottoman Fourth Army Commander and Minister of the Navy Cemal Paşa in particular would play a large role in developing friendly relations between the Turks and Afghans, as his activities in Afghanistan from 1920-1921 demonstrate.[82]

Meanwhile in Istanbul the occupied Ottoman government continued to issue criminal decrees on the wartime Ottoman leadership. On January 1, 1919, the post-war Ottoman government, attempting to turn a new page along with the new year in its recent inglorious history, declared Enver and Cemal Paşas to be officially expelled from the Ottoman army.[83] On May 5, 1919, the Legal Advisory of Bâb-ı Ali (Center of the Ottoman government in Istanbul)

---

[79] Ibid.

[80] Ibid.

[81] Ünal et al., *Türk-Afgan İlişkileri*, 36.

[82] Ibid.

[83] Ibid.

issued a reminder to the Ministry of Foreign Affairs concerning the return of Talat, Enver, Cemal, Şakir, Nazmi, Bedri, Aziz efendis who had escaped to Germany.[84] Exactly two months later, on July 5, 1919, Cemal, Enver, and Talat Paşas were sentenced to death in absentia by the Ottoman government in occupied Istanbul.[85] Clearly, there was not to be a place for the former wartime leaders in the official Ottoman domains any longer. Hence one by one, they sought out paths of asylum, and employment, from Geneva to Kabul. Inside Anatolia, this had the effect of strengthening Mustafa Kemal's leadership over the fledgling independence movement and alternative government all the more. As the top CUP leadership fled the country, a vacuum opened in Istanbul and other major cities where only a weak and subjugated Ottoman government remained. This is not to say former top CUP officials were not still in competition for leadership, particularly those in former command of the military like Enver and Cemal Paşas, who would continue to rival Mustafa Kemal for power until their deaths in July and August of 1922, respectively.

As a very fluid political situation unraveled, it is important to keep in mind that only six days before the May 5 indictment of the top CUP leadership by the Legal Advisory at Bâb-ı Ali, on April 30, 1919, Ottoman Brigadier General Mustafa Kemal Pasha was assigned to be Inspector of the Ottoman Ninth Army troops, a development of immense significance. The function of this eminent position was to reorganize what remained of the Ottoman military units and to improve internal security. Officially, he was tasked with the responsibility of disbanding the remaining Ottoman forces—a function which he exploited to pursue quite opposite purposes.[86] Mustafa Kemal Paşa adeptly took advantage of this position, as well as the help of friends and sympathizers, to eventually become the inspector of *all* Ottoman forces in Anatolia. Though he was not the only leader and contestant for power in an extremely fluid late Ottoman political vortex, through circumstances and guile, he was already emerging in the forefront of an independence movement looking for a leader. On May 16, 1919, Mustafa Kemal and his carefully selected staff departed Istanbul aboard the *SS Bandirma* for the Black Sea coastal town of Samsun, arriving ashore three days later. In Turkish national historiography, the May 19, 1919 landing at Samsun—no doubt enhanced by the evocative imagery of yet another dramatic sea-landing in our story—marks the beginning of the Turkish War of Independence (*Kurtuluş Savaşı*).

What followed can be summarized for our purposes here as a series of political milestones achieved by the fledgling Turkish national movement in remarkably rapid succession, again, illustrating the fluid circumstances of Anatolia in the aftermath of Sevres and the partition of the Ottoman empire. On July 11, 1919, Mustafa Kemal was declared an outlaw by the Ottoman government in Istanbul, "and there was as yet little indication of his approaching triumph," a British intelligence officer reflects in his reporting on the movement.[87] On September 13, a fledgling "Nationalist Congress" met at Sivas, where they formulated the vision and goals of the movement.[88] On January 28, 1920, the Anatolian resistance movement led by

---

[84] Karacakaya, *A Chronology*, 165.

[85] Zeki Sarıhan, *Kurtuluş savaşımız'da Türk-Afgan ilişkileri* (Istanbul: Kaynak, 2002), 67; Ünal et al., *Türk-Afgan İlişkileri*, 36.

[86] Zürcher, *Turkey*,141-42, 147-52.

[87] IOR-R/12/LIB/107, *Precis on Afghan Affairs*, (para. 70, p. 29).

[88] Ibid.

Kemal adopted an official statement of aims. Known as the National Pact (*Misak-i Milli*), we may consider it a "manifesto" of the independence war that followed.[89] On March 16, 1920, British troops occupied Istanbul, intending to prevent collaboration between the official Ottoman government institutions in Istanbul, especially the former Ottoman military, and the Turkish nationalist forces in the Anatolian interior.[90] On April 23, 1920, the Grand National Assembly of Turkey (*Türkiye Büyük Millet Meclisi*, or TBMM) opened its first session in Ankara. Ten days later, on May 3, 1920, the TBMM declared the Ankara-based government as the official representative of the Turkish people, escalating its competition for international recognition with the Ottoman Government in Istanbul, and thereby hoisting the leadership of Mustafa Kemal even further in process.[91]

As mentioned above, however, although Mustafa Kemal had consolidated his authority over the fledgling national movement in Turkey, and effectively sidelined his greatest rivals to power—the former CUP officials Enver and Cemal Paşas—this did not mean the latter two did not have a large role to play *outside* Turkey. As subsequent events would show, former Ottoman Fourth Army Commander and Minister of Navy Cemal Paşa would play a significant, if not incomplete, role in developing friendly relations between the Turks and Afghans, as his activities in Afghanistan from 1920-1921 demonstrate.[92] In order to understand the complex relations negotiated between Turkey and Afghanistan in the crucial 1919-1923 years, we now turn to relations between the nascent nationalist movement based in Ankara, and the one simultaneously emerging in Kabul.

Sister Cities, Fraternal Struggles: Ankara and Kabul in Revolutionary Contact, 1920-1923

On March 3, 1918, the Ottoman government in Istanbul, together with its allies Germany, Austria-Hungary, and Bulgaristan along with the Soviet Union signed the Treaty of Brest-Litovsk. According to the seventh article of the agreement, the five aforementioned countries promised to recognize and respect the political and economic integrity and independence of Persia and Afghanistan.[93] The agreement, officially at least, was largely moot however, for over the next six months the tide of war turned irreparably against the Ottomans and other central powers. Bogged down by post-war negotiations and obligations, not to mention the Allied occupation of Istanbul, the building of relations with an independent Afghanistan became a task largely assumed by the fledgling independent and revolutionary government in Ankara.

In the realm of foreign relations, one of the most consequential decisions of the fledgling Ankara Government for our story was the sending of representatives to Azerbaijan's capital, Baku, and Afghanistan's capital, Kabul, in order to establish official relations with these countries very early in the new government's history. Along with the Soviet Union following Vladimir Lenin's victory in the Russian Civil war, these were the first countries in the world to

---

[89] Zürcher, *Turkey*, 1997, 138.

[90] Zürcher, *Turkey*, 1997, 139.

[91] IOR-R/12/LIB/107, *Precis on Afghan Affairs*, (para. 70, p. 29).

[92] Ünal et al., *Türk-Afgan İlişkileri*, 36.

[93] Bal, "Afganistan-Türkiye", 248-249; Selamı Kılıç, *Türk-Sovyet İlişkilerinin Doğusu* (İstanbul: Dergah Yayınları, 1988), 379.

share an official and mutual recognition with the new Ankara-based government of Turkey, beginning with Azerbaijan and then Afghanistan.[94] This is not to say, of course, that relations between Turkey and Afghanistan were novel or even path breaking. Rather, we must emphasize, and as explored in Chapters 3 and 4, Turco-Afghan relations *continued* to be formed and strengthened during the early reign of Amir Amān-Allāh Khan. Government records, books and manuals in the ANA dating to the early Amān-Allāh period, including military training manuals and children's books for teaching and learning Turkish, attest to a continued Ottoman presence through the first world war and rise of Amān-Allāh Khan. Most histrographical attention, however, has been given to the waves of Ottoman arrivals—the first after Maḥmūd Ṭarzī's return in 1905, and the second with Cemal Paşa's mission to Kabul after the ascent of Amir Amān-Allāh and the more prominent individuals in those waves, to whom we also will be focusing on but with a juridical perspective.[95]

Returning to Anatolia, on July 23, 1919, Mustafa Kemal Paşa delivered a famous speech at Erzerum, where he notably spoke of "fraternal" nationalist resistances in Afghanistan, Syria, Iraq, and Russia, especially neighboring North Caucusus, Aizerbaijan, and Georgia. Summarizing the situation in Afghanistan, he is reported to have said,

> The army of Afghanistan is battling against British policies aimed at the annihilation of their nation. Also, the border tribes, whom the British expected to receive support from, have joined the Afghan [army], and this is why the British soldiers were compelled to withdraw as the newspapers are admitting.[96]

Less than a month later, Afghan forces would be celebrating their victory over British Indian forces, and declare independence. That Mustafa Kemal took an avid interest in domestic and foreign affairs of Afghanistan, India, and Iran is also evident in documents uncovered from the Archives of the Institute for the History of the Turkish Revolution (Türk İnkilap Tarihi Enstitusu, or "TİTE"). A number of documents held in this archive attest to a frequent requesting of information about Afghanistan by Kemal, as well as frequent dispatches to him concerning Afghanistan.[97] It is shortly after this time that Mustafa Kemal begins to correspond

---

[94] Ünal et al., *Türk-Afgan İlişkileri*, 39.

[95] See, for example, the following Turkish works in the ANA and ADL: ADL 0298 (1298 [1919]) (Omer Naji, *Muʿallim: taʿlīm-i qirāʾat: üçüncü kısım*); ADL 0299 (1299 [1920]) (Ḥusayn Hifzi, *Istifadalı dersler: ehlak*); ADL 0302 (1299 [1920]) (Muḥammad Nazif, *Kitāb-i alifba-i Turki*); ADL 0309 (n.d.) (Ziya Bey, [Program of military instruction translated from Turkish by Muḥammad Amin])

[96] Ünal et al., *Türk-Afgan İlişkileri,* 35; Sarıhan, 43-44)

[97] For a sample of such correspondence, see TİTE 2538/333/6 (13/08/1920) ("Mustafa Kemal Paşa'ya gönderilen, Türkistan ve Afganistan hakkında tafsilatlı bilgi veren mektup"); TİTE 2539/324/30 (11/12/1920) ("İran ve Afganistan arasında imzalanan, 11 Aralık 1920 tarihli anlaşma surety. İngiletere ve Afganistan arasında imzalanan, 23 Ekim 1921 tarihli anlaşma sureti")' TİTE 2574/326/30 (26/07/1921) ("Afganistan'ın genel durumu, İngiltere ve Rusya'nın Afganistan üzerindeki siyasi nüfuzlarının derecesi, Afganistan ve Afganistan'ın çevresindeki Hindistan, Türkistan Çini ve sair ülkelerde İngiltere ve Rusyanın birbirlerine karşı yaptıkları propagandalar, Cemal Paşa ve arkadaşlarının Afganistan'daki çalişma tarzları, Anadolu Hükümetine karşı hissiyatları konularında, Moskova Sefiri Ali Fuad Paşanın Türkiye Büyük Millet Meclisi Hükümetinin Kabil'de Afgan Devleti nezdindeki Mümessili ʿAbd al-Raḥmān Beyden bilgi isteği"); TİTE 2594/326/21 (05/10/1921) ("Doktor Nazım'ın Enver Paşa ile görüşmek üzere Afgan sınırına gelişi"); TİTE 2599/326/20 (17/10/1921) ("Cemal Paşa'nın Afganistan'dan çıkması nedenleri ve Cemal Paşa'nın bazı önemli beyanlarına dayanarak"); TİTE 2607/326/11 (14/11/1921) ("Afgansitan'la İngiltere arasında yapılan bir anlaşmayla Cemal Paşanın Afganistan'dan çıkarıldığı haberinin Afgan

with former CUP triumvirate member, Cemal Paşa, concerning the latter's activities in Russia and Afghanistan, as well as politics within Afghanistan—above all, the friendship of Amir Amān-Allāh Khan, because of whom Cemal Paşa stated about Afghanistan, "Turkey's lucky star is about to be born in the east."[98]

Roughly a week after the Treaty of Sèvres was signed, severely dividing Ottoman territories and distributing them to France, Britain, Armenia, and Greece, on August 18, 1920 the Ankara-based Turkish government led by Mustafa Kemal took the first step towards strengthening relations with Afghanistan, seeing a common struggle against colonial powers in their midst. The transitional Turkish parliament (Türkiye Büyük Millet Meclisi, or TBMM) issued a *talimatname*, or instructions, to ʿAbd al-Raḥmān Ṣamadānī Bey, an Ottoman officer of Afghan Wazir origin from Peshawar, to be appointed Turkey's representative to Afghanistan.[99] Ṣamadānī Bey had served in the Ottoman army during the Balkan War. During the Balkan War and First World War years, he was one of the Afghan volunteers. For years he served as an officer in the Turkish army and won Mustafa Kemal Paşa's trust.[100] He would serve as Turkish diplomatic representative to Afghanistan from August 1920 to June 25, 1922, when he was replaced by Ömer Fahrettin Paşa.[101]

On August 20, 1920, ʿAbd al-Raḥmān Ṣamadānī Bey, Turkey's appointed envoy to Kabul, set out from Ankara for Kabul. Passing through Erzerum, Nahcivan, and Moscow, he eventually arrived in Kabul in July 1921, personally carrying a letter written by Mustafa Kemal Paşa.[102] The letter was addressed to Amir Amān-Allāh Khan and offered the Turks' solidarity in struggle against British. This letter would begin a long correspondence between Mustafa Kemal and Amān-Allāh Khan, and with it he invited the Afghans to join them in unity of action against the British.[103] Turks of Afghan origin like ʿAbd al-Raḥmān Ṣamadānī Bey were not alone, nor

---

Moskova Sefiri tarafından tekzib edildiği, yapılan tahkikata göre Cemal Paşanın Rusların Afganistan'a vermeye söz verdikleri halde vermedikleri malzemenin verilmesini sağlamak"); TİTE 2612/326/12 (12/12/1921) ("Cemal Paşa'nın dürüst hareket ettiği, aynı tarzda devam etmesi halinde kendisinin takviye edileceği, Afganistan'daki faaliyetlerinin millete yavaş yavaş anlatılacağı; Cemal Paşanın Enver ve Afgan emirine yazdığı mektuplarla hazırladığı raporları sefarete vereceğine söz verdiğine dair").

[98] Ünal et al., *Türk-Afgan İlişkileri,* 36-37; Sarıhan, Zeki. *Kurtuluş savaşımız'da Türk-Afgan ilişkileri*. Istanbul: Kaynak, 2002, 77; for letters between Cemal and Mustafa Kemal, see "Tarihî Mektuplar: Cemal Paşanın Mustafa Kemal Paşaya yazdığı mektuplar." *Tanin* 26 Ocak 1945, 1, 3; "Tarihî Mektuplar: Cemal Paşa M. Kemal Paşaya Afganistandaki Ankara mümessilinin değiştirilmesini teklif ediyor." *Tanin* 3 Şubat 1945, 1, 7; "Tarihî Mektuplar: Cemal Paşa, Afgan Emiri hakkında dolaşan rivayetleri naklediyor." *Tanin* 31 Ocak 1945, 1, 6.

[99] Ahmetbeyoğlu, 256).

[100] Ünal et al., *Türk-Afgan İlişkileri,* 39; Şimşir 2002, 38, 39)

[101] Ünal et al., *Türk-Afgan İlişkileri,* 135; Şimşir 2002, 92)

[102] Ünal et al., *Türk-Afgan İlişkileri,* 39); Ahmetbeyoğlu, 256).

[103] Ünal et al., *Türk-Afgan İlişkileri,* page?) . For letters attributed to Mustafa Kemal and Amir Amān-Allāh, see Ahmetbeyoğlu. For example, in one letter addressed to the Afghan Amir and sent by Kemal, Kemal opens his letter by stating,

> All hostile nations, in particular Western Christian nations have perpetuated a war against Turkey, possessor of the Islamic Caliphate; ever since the start of their wars with Britain, Afghanistan and Turkey share a common enemy; ever since they occupied India, at times through plots and trickery, at times through raw force and violence, but always and constantly dashing the hopes and aspirations of the Asian

extremely remarkable. Late Ottoman records report of Afghans serving in the Ottoman army, even at the level of officer. For example, one Ottoman document from 1920 describes the activities of a certain Afghan Elif Khan, a graduate of the Harbiye, and commissioned to Europe.[104] Afghan support of the Turks was not limited to the battlefield, but also in the battle for hearts and minds. An Ottoman archives file of 1921 notes with interest an article written in Persian by the Afghan ambassador to Turkey condemning the Greek occupation of Turkish territory. The article was published in an Istanbul magazine.[105] In response, Amān-Allāh Khan wrote a letter to Mustafa Kemal, which was read to the Turkish Parliament (TBMM) in Ankara and included the following passage,

> The Parliament's (Meclis's) representative ʿAbd al-Raḥmān Bey has arrived. Our wait has ended. Turkey shares ties of Islamic spirit (İslamiyet) with Afghanistan which can never erode. Turkish officers from time to time come here and provide their services to Afghanistan. Together, for the love of God, let us work towards our main goal. I pray for the people of Islam to increase in unity.[106]

In response, the Turkish parliament in Ankara decided to send Amān-Allāh Khan a written expression of thanks.[107] As noted, the Ankara Government was first represented by ʿAbd al-Raḥmān Ṣamadānī Bey Peshawari, described as "a well-known Indian revolutionary," who had arrived in Kabul in the spring of 1921. In June 1922 he would be succeeded by General Fahrettin Pasha, who had won distinction by his defense of Madīna during the war, and had also been imprisoned in Malta by the British at the conclusion of the war.

In this way Turks in Kabul utilized the warm relations with Amān-Allāh Khan and his government to bolster their own struggle for independence in Anatolia, using Kabul as a base to monitor the British from India as well, as one Ottoman archives document illustrates.[108] On September 9, 1922, Turkish forces ousted the Greek army from Izmir. On September 15, 1922,

---

> world, the British in recent years have especially attempted to strike at the revival of Islamic peoples, their literature and feelings of solidarity, and for centuries have attempted to destroy a sword in the service of the people of faith: the Ottoman Turks' national and political existence… Whereas in a straightforward manner, the Turkish nation has given much importance and attention to the struggle for its national sovereignty, that of whole Islamic world, and especially Afghanistan's freedom, but success is dependent on unity, solidarity and cooperation.

Bal, "Afganistan-Türkiye", 256-257 (translation mine); For the TBMM's intructions to ʿAbd al-Raḥmān Bey, and Mustafa Kemal's letter to Amān-Allāh, see Bilal Şimşir, *Atatürk ve Yabancı Devlet Başkanları, vol. I* (Ankara: Türk Tarik Kurumu, 1993), 5-7.

[104] BOA-HR.SYS 2464/28 (1920 08 19).

[105] BOA-HR.İM 59/31 (1921 12 31).

[106] Ahmetbeyoğlu, 257; TBMM Zabıt Ceridesi, 16, s. 282, 16 Şubat 1922; Hakimiyet-i Milliye, 17 Şubat 1922; Tevhid-i Efkar, 18 Şubat 1922; İkdam 19 Şubat 1922; Yeni Gün, 17 Şubat 1922)

[107] Ahmetbeyoğlu, 257; TBMM Zabıt Ceridesi, 16, s. 282, 16 Şubat 1922; Hakimiyet-i Milliye, 17 Şubat 1922; Tevhid-i Efkar, 18 Şubat 1922; İkdam 19 Şubat 1922; Yeni Gün, 17 Şubat 1922).

[108] BOA-HR.İM 20/162 (1923 08 30).

to celebrate the victory against Greece, the Turkish embassy in Kabul hosted a grand banquet.[109] Afghanistan's Foreign Affairs Minister and Kabul's Diplomatic Corps participated in the celebration banquet and delivered speeches praising Turkey's momentous victory.[110] From this period on the heads of state of Turkey and Afghanistan would continue to dispatch messages to each other, "sharing their pains and joys alike," as one Turkish historian of the era describes.[111] Beyond congratulations, warm wishes, and other expressions of friendly sentiments, in this chapter we pay more close attention to a policy of far greater and more lasting significance: the travel and contributions of experts from late Ottoman turkey and the early Turkish Republic to Afghanistan.

Ankara and Kabul in Pan-Islamic Context

While Turks and Afghans continued to court relations for the strategic interests of their new states, they also played a role in fostering Pan-Islamic connections beyond bilateral relations and towards a more global scale. An India Office Records document dated November 30, 1919 entitled, "The Pan-Islamic Movement in Moslem Countries" contains a cache of British reports in large Pan-Islamic movements and the role of Turkey and Afghanistan therein. Among the documents is a copy of a Telegram from the Viceroy, Foreign Department, entitled "Afghan Intrigues" dated December 19, 1919, to the Secret Political Department, which reads, "Further information has reached me that Afghans are endeavoring to induce Mohammedans of Fergana Sardinia and Russian Pairs to join them and Bolsheviks in compact directed against the British."[112] Similarly, a booklet in the India Office Records entitled "The Rise of the Turks: The Pan Turanian Movement," a confidential handbook of February 1919 proceeds to track with alarm the rise of pan-Turanian movements into Central Asia and Afghanistan.[113] A secret Foreign and Political Department file of November 1920 entitled "Afghan Situation" contains a number of reports of frenzied Pan-Islamic activity from the eastern Anatolia to Kabul. A file on the Kabul Workshops by an Indian informant who had been working there, on February 1, 1920, reports,

---

[109] On the victory celebrations in Kabul, no doubt raising suspicions among some British officers in Kabul, Machonachie notes, "On October 9, a dinner was given to celebrate the Turkish victories, and all the diplomatic representatives were invited. In view of the official neutrality of Great Britain in regard to Graeco-Turkish hostilities the British Legation did not attend." IOR-R/12/LIB/107, *Precis on Afghan Affairs*, FN4 Kabul dispatch 9-A. (3-4-1923).

[110] Ünal et al., *Türk-Afgan İlişkileri*, 50; Şimsir, *Atatürk ve Yabancı*, 109, 111.

[111] Ünal et al., *Türk-Afgan İlişkileri*, 50.

[112] IOR/L/PS/161 File 8391/1919 (1919) ("The Pan-Islamic Movement in Moslem Countries"); IOR/L/PS/161 File 8446/1919 (1919) ("Central Asia: Afghan intrigues").

[113] L/PS/20/C191 (February 1919) ("The Rise of the Turks: The Pan Turanian Movement. Confidential Handbook"). This handbook is a historical essay authored by British intelligence officers on the "history of Turks" and pan-Turanian movements across the world.

> The total number of men employed in all the Factories is 3,000. They include 19 Indians and 1 Turk, Raza Beg. No other foreigners employed in any factory up to the end of November 1919.[114]

In the opposite direction, a report from the General Officer Commanding, Army of the Black Sea, Constantinople, to the Commander in Chief in India, Delhi, December 9, 1919, states,

> Turkish nationalists at Sivas are reported to be in close co-operation with Afghans who have promised to send Abdulla Mumalik Khan and Habib Khan as delegates to the Pan-Islamic conference at Sivas. . . It is reported that a Secret Afghan Committee has been founded at Constantinople under one Wali Muḥammad Khan, an Afghan who has been appointed librarian at the palace as a cloak to political activities. Wali Muḥammad Khan has been in Turkey for several years and is acting as a post-box for Abdur Rab.[115]

The presence of Afghans and Indians at the historic Sivas conference is also confirmed by a record in the archives of the Institute for the History of the Turkish Revolution in Ankara.[116] Ever-watchful of Bolshevik encroachment in southern Asia, British Indian intelligence files from this era readily interpreted such movements as either Pan-Islamic, Communist, or in their worst nightmares, *both*. In another example, a telegram from General Malleson, Meshed, to Chief of the General Staff, Delhi, January 23, 1920, writes,

> Last night's Tashkent wireless gives press account of meeting there of society for liberation of the East. It was attended by Kasim Beg, Afghans and Indian Revolutionaries. Latter called on people of India to rise and help Bolsheviks in freeing enslaved races. Afghan Consul-General spoke of efficacy of Afghanistan in working with Bolsheviks. . .This was followed by a theatrical performance in which the horrors of British rule in India were depicted.[117]

Similarly, a weekly report of the Director, Central Intelligence, dated from Simla on September 15, 1919, provides the following alarmist report on an impending Afghan invasion of India. The urgency is palpable.

> From a most reliable source comes information of what has been said before. Within the last two or three months Afghan emissaries from Obeidullah and Muḥammad Mian are reported to have visited Deoband and interviewed influential personages there. From these emissaries the following information has been derived :--- The Amir Amān-Allāh is not conducting himself in a statesmanlike way and has made peace with Naṣr-Allāh and Inayatulla. He has received letters from Enver Pasha and other Bolshevik leaders who told him that he had committed a great error in invading India and putting the Indian Government on alert. They advised him to sue for peace and to accept any terms he could obtain. In six or eight months there is to be a fresh and better organised invasion in which inhabitants of Turkestan and the frontier tribes will take part. Three

---

[114] NAI-FP/SEC/F November 1920 1-582 ("Afghan Situation, Part IV").

[115] Ibid.

[116] TİTE 2448/325/20 (00/12/1337) ("Türkistan ve Afganistan'ın durumları ile ilgili ajans haberlerinde fazla bilgi olmadığı konularında kanun-ı sani 1337 tarihli Sivas'tan gönderilen bir yazı müsveddesi").

[117] NAI-FP/SEC/F November 1920 1-582 ("Afghan Situation, Part IV").

> or four thousand men have undertaken to enter India during the peace, and on a particular day they will destroy the railway lines. On that day Peshawar will be attacked.[118]

The above report reflects one side of the spectrum of perspectives British intelligence produced in reports that ranged from the alarmist to the more cautious and empirical. While the above report veers to the former, a telegram from Officer in Charge, Intelligence Bureau, Peshawar, to Foreign Secretary to the Government of India in the Foreign and Political Department, Delhi, February 16, 1920, simply states that an article on "Khilāfat" was produced in the January 9 edition of the *Amān-i Afghan* newspaper of Kabul. The report also states that the Khuṭba was read in Kabul in the names of "various Moslem rulers including the Sultan of Turkey," causing concern to British officials who, apparently perturbed, noted, "Khuṭba used only to be read in name of the Amir formerly."[119] A secret extract from April 1920 writes that "a party of 15 Turkish theologians have been sent from Turkey to Afghanistan for the purpose of proclaiming there a *jehad* or holy war."[120] In this same month, a priority telegram from the Chief Commissioner and Agent to the Governor-General of NWFP, Peshawar, to Foreign Secretary to the Government of India in the Foreign and Political Department, Simla, April 29, 1920, reads,

> *Priority*. Khilāfat agitation. Belief that Amir and Afghan delegates are hotly championing the cause has given their movements serious stimulus in this province. Amir's order forbidding the killing of kin, his speech on anniversary of Ḥabīb-Allāh's death and Maḥmūd Ṭarzī's speech at Dehradun, have all helped to bring this about. Feeling is running high even in rural areas and series of inflammatory meetings have been held at Mansehra at which it was decided that emissaries should be sent to Kohistan and Kagan. I have ordered arrest of ringleaders and security proceedings under Section 40, Frontier Crimes Regulations. Situation in this province may be very serious should announcement of Turkish peace terms synchronise with outbreak of hostilities with Afghanistan: and it is possible that younger Moslem troops may be considerably affected. I would request, therefore, that I may be given a free hand temporarily to increase ordinary police to such extent as I may think necessary.[121]

There are also included in this file a number of reports on Bolshevik intrigue in this region, adding to the complexity, and to British officials' consternation at what seemed to have become a bee's hive kicked out of anyone's control. It must also be kept in mind here that Pan-Islamism was not "religious fanaticism" in a vacuum. It was directly related to geopolitical interests, particularly Great Game politics and anti-imperial politics. For this reason we see Muslim and Pan-Islamic interest in such issues as Irish politics and their anticolonial struggle. For example, a 1921 edition of the *Amān-i Afghan* newspaper of Kabul published an article entitled "Free Ireland," illustrating Afghan interest in finding common cause with anti-imperial

---

[118] Ibid.

[119] Ibid.

[120] Ibid.

[121] NAI-FP/SEC/F November 1920 1-582 ("Afghan Situation, Part IV").

activity practically anywhere, but especially so close to Britain itself.[122] Not surprisingly, the Irish cause is similarly championed by Ottoman newspapers as well. [123]

While the Bolshevik threat was perhaps most ominous to British administrators in India given the current state of international affairs and London's persistent fear of Russia's southern expansion into the Mediterranean, Persia, and India, British officials assumed as, if not more, precaution with regard to a new class of Muslim "Eastern nationalists," of whom they grouped together as diverse and eclectic a group as Mustafa Kemal, Ibn Saud, and Amir Amān-Allāh Khan. For example, in his *Precis on Afghan Affairs* (1928), Machonachie lumps together Kemal, Ibn Saʿūd, Zaghlūl Pasha of Egypt, Reza Khan of Iran, ʿAbd al-Karīm of Morocco, and Amir Amān-Allāh Khan all as "Eastern nationalists." In spite of his labeling them as "Eastern", however, Machonachie is adamant on the ideological underpinnings and "origin" of these movements. "The idea of nationalism is essentially western in origin," he states, "and derives its existence in the East from the impact of Western civilization."[124] It is due to their simultaneous activities, often highly localized and geared for specific, local gains, that British intelligence officers from Iran to India nevertheless exaggerated the emergence of a new post-Ottoman Pan-Islamic threat of "Eastern nationalists." For example, on December 24, 1923, the bazars in Tehran were closed in protest against the alleged British 'ultimadum' to Afghanistan."[125] There were also worried reports of "anti-British" visitors from Arab countries arriving in Afghanistan, including representatives of Shaykh Ismāʿīl al-Sanūssī from Libya, who arrived in Kabul in August 1922.[126] In analyzing the revival of Pan-Islamism in this period, British administrators again focused on the "scaffolding" of "political" objectives with "religious" garb. As one India Office Report notes,

> [T]he Pan-Islamic movement itself, however, as distinct from the doctrine of Moslem brotherhood, is actually political rather than religious in origin. Its foundation by Sultan Abdülhamid and its revival in the recent 'Khilāfat' agitation, were both inspired by political, rather than religious, motives... But since fanaticism is more powerful than patriotism in its appeal to the masses of the East, the Oriental statesman frequently finds it necessary to popularize his programme by giving it a religious colouring.[127]

In analyzing the prominent roles of Turkey and Afghanistan in the Pan-Islamic movement, British administrators struck parallels between Amir Amān-Allāh Khan and Mustafa Kemal of Turkey, in "using" the Khilāfat issue for their own purposes then discarding when no longer need it.[128] Again, such commentators often saw a conflict inherent in the alliances being

---

[122] *Amān-i Afghan*, No. 45, 46 (1921), 20.

[123] For example, see "Ireland istiklalınılın tasdik eden millet," *Yeni Gün* (18 C 1340 [16 February 1922]).

[124] IOR-R/12/LIB/107, *Precis on Afghan Affairs*, 2.

[125] Ibid., 115.

[126] As Machonachie notes, for example, "A party of Arabs, under the leadership of one Shaykh Ismail-es-Senussi, who called himself the nephew of the Grand Senussi, arrived in Kabul in August 1922. They made no secret of being violently anti-British but received little sympathy, and left in December." Ibid., 93.

[127] Ibid., 3-4.

[128] Ibid., 4.

made, however, particularly between Muslim "Nationalism" and "Orthodox Islam." "As might be expected from its Western origin," one British commentator notes, "the motive force of nationalism in the East is modernist and secular, and, when it gets free play, often comes into conflict with the rigid tenets of Islam."[129] Yet such obsessions with "modern nationalists" versus "traditional Muslims" is not a discourse employed in actual Ottoman documents; rather, generalized calls invoking "Islam" and "the Muslims" are far more common. See, for example, an Ottoman archives document from 1921, though discussing Ottoman Pan-Islamic activities and conditions in various countries abroad, also contains a few paragraphs on the relations between the government of Afghanistan the Ankara government, and formation of another Ottoman delegation to Afghanistan to be led by Muḥammad Wali Khan.[130] The Russians were also concerned about possible Tripartite Muslim Alliance between Turkey, Iran, and Afghanistan, as the following report noted in Machonachie's Precis observes, "In January 1923 there is evidence to show that the Soviet was seriously alarmed at the idea of an alliance being concluded between Turkey, Persia and Afghanistan, without the participation of Russia."[131]

Finally, for a case illustrating the fluid movements and even national identities of Turks, Afghans, and Indian Muslims at this time, see the case of detained traveler Zackaria Khan. Beyond the coalescing relations on a state-to-state level, British administrators expressed concern with the increasingly blurred lines between Turks, Afghans, and Indians at this time among travelers and others on the ground. One such symbolic case is that of Zakarīya Khan, the "Afghan Prince" A minute paper of the Secret Political Department entitled "Afghanistan: Proceedings of the so-called 'Afghan Prince' Zakaria Khan" includes scattered intelligence reports and telegrams re travels and claims of Zakarīya Khan and his desire to return to Afghanistan via India. It also shows the fluid identities and transnationalism of Indian, Afghans, and Turks at this time.[132] As a Telegram from Simla to Cairo, dated the 11th of September 1919, following an interrogation of the said Mr. Khan, concluded,

---

[129] Ibid., 3.

[130] BOA-HR.SYS 2310/10 (1921 09 12).

[131] IOR-R/12/LIB/107, *Precis on Afghan Affairs*, 78.

[132] IOR/L/PS/161 File 8391/1919, "The Pan-Islamic Movement in Moslem Countries"; IOR/L/PS/161 File 8391/1919 (1919) File 8450/1919 ("Afghanistan: Proceedings of the so-called 'Afghan Prince,' Zakaria Khan"). In a telegram from the General Officer Commanding, British Expeditionary Force, Constantinople to The Commander-in-Chief in India, Delhi, dated December 23, 1919, an "interview" with Khan produced the following statement from the said individual, about whom British official had a difficlt time determining the origins or nationality of:

> ZAKARIA KHAN, with party of 8 Persians, families and servants, arrived CONSTANTINOPLE from EGYPT in November. He has visa dated October 4th 1919 signed by military controlling officer ALEXANDRIA District, permitting journey to AFGHANISTAN via INDIA. Party was apparently sent here in error. ZAKARIA has been interviewed and has given unsatisfactory statement. He poses as an Afghan Prince, Bārakzai Clan, born and brought up in Kabul. Was private in Afghan Army but received promotion successively to Sergeant, Lieutenant, Captain and Major. Visited India several times; stayed in Bombay at house of ABDUL AHMIAN KHAN DWANI in 1904, 1909 and 1913. In 1913 he also stayed in Hyderabad State with SIR AFSUR-UL-MULK. In same year went on pilgrimage to MECCA but visited Constantinople prior to pilgrimage. . .At outbreak of war was studying and throughout the war he stayed in TURKEY. He denies having received money from anyone but sold family jewellery for expenses. Also denies having made any acquaintances, either Turks or Indians. Admits he was given a house and land in AFION KARA HISSAR, but denies this was in return for services rendered. Admits TALTarzi, "The Judicial State",offered him large sums of money to take letters to AMIR~~(AAD)~~, which he refused. . .

> It seems that, if Prince Zackeria Khan is the individual referred to, he has adopted Turkish domicile and there appears to be no reason why he should go to Kabul. We would like to know more of this reasons for wanting to go there, and further particulars of his family before permission can be granted [sic]. It is not clear whether he is Indian, Turk, or Afghan at present.[133]

In this way, the above exchange between the British imperial administrations in Simla and Cairo over the case of Prince Zakaria Khan highlights how a fluid sense of identities and transnationalism—in the eyes of the British and many Muslims—could result in the blurring of Ottoman, Afghan, and Indian ethnicities at the same time.[134]

A Treaty Extravaganza in Moscow: The Turk-Afghan Alliance becomes official

On September 12, 1919, signaling warming ties between the Afghans and Soviets, the Soviet Government dispatched Michael Bravin as a permanent ambassador to Afghanistan, reaching Kabul on September 12, 1919.[135] Meanwhile, Ottoman exiles abroad continued to court ties with the Soviet government. As Machonachie writes in a 1921 entry in his *Precis on Afghan Affairs*,

> It is not easy to state with certainty the precise nature of the relations between the leaders of the Union and Progress Party, comprising Enver, Talaat, Jemal, Khalil, and Nuri Pashas, and the Soviet Government at this time. In January 1921, Talat was in Switzerland and in touch with Berlin, Khalil at Tashkent, Jemal at Kabul, Nuri in the Caucuses, and Enver at Moscow all co-operating with the Bolsheviks in a campaign of anti-British intrigue and propaganda, and supplied with Bolshevik funds for the purpose. It seems highly probably, however, from Enver's subsequent activities and death in Turkestan, that the Turkish leaders were in reality pursuing some Pan-Turanian designs of their own, and only waiting for a favourable turn of events to discard their role of Bolshevik agents. So far as the Pan-Islamic movement, as promoted by the

---

> Independent information shows that he was well-known to both TALTarzi, "The Judicial State",and ENVER and was in receipt of subsidy from TASHKILAT. . . He is at present destitute and military authorities are lodging and feeding whole party pending disposal of case. . . Please wire urgently what you wish done with him.
>
> Ibid.

[133] IOR/L/PS/161 File 8391/1919, "The Pan-Islamic Movement in Moslem Countries", No. 1714-S), 684. Similarly, a telegram from His Excellency the Viceroy, Foreign and Political Department to the British Secretary of State for India, London, dated December 20, 1919, in the same file reads,

> It is certain that Zakaria Khan is not an Afghan Prince and it is very doubtful whether he is of Afghan nationality. After searching enquiries no definite information about him was elicited and he was disowned and refused pecuniary assistance by the references given by him in Bombay.
>
> Ibid.

[134] IOR/L/PS/161 File 8391/1919, "The Pan-Islamic Movement in Moslem Countries", No. M.1.301/4 M.O.3.

[135] Bal, "Afganistan-Türkiye", 250.

> C.U.P. leaders, served to damage British interests in the East, it suited the policy of the Soviet Government to support and finance it.[136]

In this way an alliance of converging short-term interests, rather than long-term ideas or ideology, brought for Ottoman CUP exiles, Mustafa Kemal's new nationalist party, and the Soviet government in a tacit alliance against the British. As Machonachie proceeds to further note, however, beneath the surface of this alliance of convenience were subterranean tensions ready to burst forth at almost any moment, cracks which the British were more than ready to exploit. As Machonachie states,

> There is evidence however to show that the Bolsheviks did not altogether trust either Enver or Jemal, and suspected them of Pan-Turanian designs which threatened Russian predominance in the Central Asian states and Trans-Caucasia. Mustapha Kemal while approving the Pan-Islamic movement as a cover for the Pan-Turanian, and consequently to this extent in sympathy with the C.U.P. leaders, was personally jealous of their influence, as endangering his own position. The Angoran Nationalists, C.U.P. leaders and Soviet Government were thus all co-operating in an uneasy association, based on their common hostility to Great Britain and the willingness of the Bolsheviks to finance any intrigue which would damage British interests, but tempered by mutual suspicion.[137]

On October 10, 1919, Afghanistan's new Minister of Foreign Affairs Maḥmūd Ṭarzī dispatched Muḥammad Wali Khan as head of diplomatic missions to Russia and Europe to secure Afghanistan's recognition abroad as an independent state.[138] Prominent Afghan statesmen Muḥammad Aslem Khan, Fayz Muḥammad Khan and Muḥammad Siddiq Khan also served in Muḥammad Wali Khan's commission, and upon reaching Moscow on October 10, 1919, they were received extremely cordially by Soviet authorities. Given the shared tensions held by the Soviets and the Turks against the British, it was not surprising for the Soviets to consider the Afghans and Turks, who were then both fighting wars of independence against the British, as allies. On the other side, the Soviets sent Michael Bravin as a permanent ambassador to Afghanistan, and he reached Kabul on September 12, 1919. In this way consultations began over mutual recognition, which they duly proceeded to announce. The result of these consultations was the signing of the February 28, 1921 Russo-Afghan Agreement.[139] While the Soviets were the first to sign a formal treaty, they would soon be outmatched in closeness, commitment, and friendship to the new government in Kabul by Turkey, as indicated by the warming Turco-Afghan ties occurring at the same time.

On February 19, 1921, Turkish Parliament member Yūsuf Kemal Tengirşek and Dr. Rıza Nur met with Soviet officials in Moscow with the aim of signing a friendship agreement. The conference in Moscow was not significant for its generating a Turco-Soviet treaty only, however. At exactly the same time Amir Amān-Allāh dispatched a commission headed by Muḥammad Wali Khan to secure a friendship agreement with the two states—Soviet Russia and Turkey.

---

[136] IOR-R/12/LIB/107, 45.

[137] IOR-R/12/LIB/107, 45.

[138] Ahmetbeyoğlu, 249-250; Saray, 91).

[139] Ibid., 250)

Beyond the prestige factor of official political recognition, the Afghans hoped secure material support from each.[140]

On February 28, 1921, an Afghan-Soviet Friendship Treaty was signed in Moscow. As the result of mutual correspondence taking place since autumn of 1919, Soviet Russia became the first state to recognize Afghanistan.[141] Out a dozen principles framed by the agreement, the most important were: (1) The Soviet government agrees to assist Afghanistan in meeting its need of weapons, ammunition, and funds; (2) the Afghan and Soviet governments are in full agreement on the freedom and independence of all Eastern nations; (3) Both parties accept the actual independence and freedom of Bokhara and Khiva, whatever may be the form of their government, in accordance with the wishes of their peoples; and (4) Afghanistan borderlands seized by Russia in the previous era (since 1885) will be returned to Afghanistan.[142]

Turkey and Afghanistan signed their first document establishing official relations on March 1, 1921 in Moscow, known as the Friendship Agreement.[143] In this early period of Turkey's national struggle, it is significant to our story that among the first and foremost among Muslim states to establish close relations with Turkey was Afghanistan.[144] The agreement was signed by the Turkish delegates Yūsuf Kemal Tengirşenk Bey and Rıza Nur Bey, and Special Afghan Ambassador to Moscow, Wali Khan. With this agreement, Afghanistan became the first country to recognize the Ankara government.[145] Commenting on this agreement, and as is

---

[140] Ibid., 257.

[141] The Soviet signatories were Georgy Vasilievich Chichérin and Lyov Mihailovich Karahan, and the Afghan signatories were General Wali Khan, Mīr za Muḥammad Khan, and Ghulām Siddik Khan. That the Ankara Government took a sharp interest in the Russian-Afghan agreement is evident in correspondence concerning the translation of the Russo-Afghan agreement. See, for example, BCA 30.18.1.1/7/14/7/435-5 (27 03 1923) ("Afganistan ile Moskova'da imzalanan anlaşmanın Farsça metnindeki tercüme hatalarının düzeltilmesi"). A similar avid interest is also manifest in the letters exchanged between Cemal, Kemal, and Enver Paşas, "Tarihî Mektuplar: Ruslar Afgan muahedenamesinden henüz haberdar olmadıklarını bildirdiler." *Tanin* 4 İkinciteşrin 1944, 1, 3; "Tarihî Mektuplar: Rusların yeni Sefaret Başkâtibi Rosenberg, Moskovada hükûmetçe tastik edilmiş Rus-Afgan muahedesini Kâbile getirdi." *Tanin* 9 Ocak 1945, 1, 3; "Tarihî Mektuplar: Efgan Hariciye Nazırı muahede hakkında görüşmek üzere Rus sefirini dâvet edecekti." *Tanin* 10 Ocak 1945, 1, 6; "Tarihî Mektuplar: Cemal Paşaya Efgan Emirine Rus muahedesini tastik etmesini söylüyor." *Tanin* 12 Ocak 1945, 1, 3. Not surprisingly, both the Ankara government and Turkish press followed Kabul's relations with the Afghans' neighbors—Iran and India—just as closely, if not more. See, for example, "İran-Afganistan Muahedesi." *Yeni Kafkasya* 9 (1924): 12-13; "Iran ve Afganistan: iki İslam hükümet arasında münasebet." *Yeni Gün* (25 C 1340 [23 February 1922]); "Hindustan'da." *Yeni Gün* (25 C 1340 [23 February 1922]); "Hind Hilafet Komitesinin Dört Kararı." *Hakmiyet-i Milli* (15 L 1341 [31 May 1923]). Yet another realm of contact—Afghan ambassadors in Europe—provided additional chances for the late Ottoman and early Turkish Republic press to correspond with, write about and foster representations of Afghanistan at a time that where communications on global events was still largely through the newspaper, journal, and still being decades before the prevalence of transistor radio and television. See for example, a *Tevhid-i Evkar* contributor's article on a meeting with the Afghan ambassador in Paris, "Afganistan'ın Paris sefireyle mülakat." *Tevhid-i Evkar* (11 C 1340 [9 February 1922]).

[142] Ahmetbeyoğlu, 250-251; English Translation in Adamec, 188-191; Saray, 95)

[143] For the Persian copy of the treaty, see ADL 0106 (26 Mizan 1301) (*Sawād-i muʿāhadah-i dawlatayn-i ʿalīyatayn Afghanistan wa Turkiyah*). For a copy of the Turkish version see Ünal et al*., Türk-Afgan İlişkileri*, 40 (Appendix EK-Ç).

[144] In fact, after Aizerbaijan, Afghanistan was the second state in the world to bear this distinction.

[145] Ünal et al*., Türk-Afgan İlişkileri,* 40; Armaoğlu, 331; Sonyel, 164).

somewhat prevalent in this genre of Turkish historiography for this period, Ünal et al. rather nostalgically write, "In signing it two great brothers and independent states came to one understanding."[146] Documents in the Turkish Republic archives in Ankara describe the signing of the treaty in Moscow, and the Afghan Amir's signature to officially ratify it later that year in Kabul.[147]

According to the treaty's ten principles, both states agreed to recognize the rights of absolute independence for all "Eastern" countries. With the Ankara government's official recognition of Afghanistan's independence, Afghanistan in return recognized the Ankara Government as being the legitimate representative of Turkey.[148] This was one of Mustafa Kemal Paşa's first concrete results in the field of international relations. In the case of Afghanistan, this agreement also renewed educational and professional assistance that would continue, albeit rather interruptedly, for the remainder of Amān-Allāh Khan's reign. In this way, Afghanistan became the first Asian country to which the Republic of Turkey would send successive delegations of teachers and military officers.[149] An Ottoman archives file of March 14, 1921 contains an original copy of the treaty's ten articles.[150]

One of the necessary conditions King Amān-Allāh Khan stressed in the agreement he ratified was the establishment of an ambassadorial mission in Ankara.[151] Not long thereafter, plans were laid for the construction of an Afghan Embassy in Ankara—one of the first foreign

---

[146] Ünal et al., *Türk-Afgan İlişkileri,* 40; Sarıhan 1986, 597).

[147] On July 21, 1921 the TBMM ratified the agreement, bringing it into effect in Turkey. On October 22, 1922, King Amān-Allāh Khan also approved the agreement in front of his people in Kabul's Eidgah Mosque.[147] BCA 30.18.1.1/3/29/11 (03 07 1921) ("Türkiye Afganistan Muahedenamesi Hakkında Kanus Tasarısı"); BCA 30.10.0.0/257/731/2/435 (22 11 1922) ("Türkiye-Afganistan antlaşmasını Emir Emanullah Han'ın 12 Ekim 1922 tarihinde Kabil'de imzalayıp tasdik ettiği"). For the Persian copy of the treaty, see ADL 0106 (26 Mizan 1301) (*Sawād-i muʿāhadah-i dawlatayn-i ʿalīyatayn Afghanistan wa Turkiyah*).

[148] Notably, Article 3 of the 1921 Afghan-Turk Treaty, which states Turkey as seat of the Caliphate was "a model/leader to be followed", would later become become controversial in Afghanistan after Turkey's abolition of the Caliphate in 1924. Article 3 states, "Yüce Afganistan Devleti, yüzyıllardan beri İslamiyet'e önderlik ve ona üstün görevler yapmış olan, hilafet dünyası elinde tutan Türkiye'nin bu alanda lider olduğunu, bu fırsattan yararlanarak da açıklar," which translates as, "The Sublime State of Afghanistan recognizes the leadership of Turkey, in connection to having given guidance to and rendered distinguished services to Islam for centuries, and holding in her hand the standard of the Caliphate." We will return to the significance of this clause, and the problems it created for Turco-Afghan relations, in the conclusion of the dissertation.

[149] Ünal et al., *Türk-Afgan İlişkileri,* 40; Salim Cöhce, "Atatürk Döneminde Afganistan ile İlişkiler ve İngiltere," in Ali Ahmetbeyoğlu, ed., *Afganistan Üzerine Araştırmalar* (İstanbul: Tarih ve Tabiat Vakfı Yayınları, 2001), 135. It is worth mentioning that Turkish professional and development assistance, especially in the realm of education but also in army and police training, continued throughout much of the twentieth century. In light of Turkey's membership in NATO, as well as Ankara's stengthened ties with post-Soviet Central Asian republics, both have resumed quite vigorously until the present day. The volume by Ünal et al., *Türk-Afgan İlişkileri,* published by a Turkish military and strategic history institute in Ankara (Genelkurmay Askeri Tarih ve Stratejik Etüt Başkanlığı) in 2009, is very much a tribute to the longstanding friendship and strategic alliance between the two Muslim states. Notably, however, the work focuses on relations following the establishment of the Turkish Republic, and the earlier history of relations during the Ottoman era are either overlooked or ignored.

[150] BOA-HSD.AFT 6/101 (1339 B 04).

[151] Ünal et al., *Türk-Afgan İlişkileri,* 41; Şimşir, 1993).

legations in the new Turkish capital.[152] The head of the Afghan Embassy in Turkey was to be the competent Afghan statesman Sultan Ahmed Khan. A December 1922 document in the Turkish Republic Archives in Ankara describes Sultan Ahmed's energetic presence in Anatolia, citing his desire to tour much of the peninsula, especially the western coast and areas bordering Greece.[153] The Ottoman newspaper *Hakmiyet-i Milli* also took an interest in the Afghan ambassador, publishing an article on Sultan Ahmed's visit to Ankara.[154] Turkish press interest in visiting Afghan delegations was not new, of course. The Islamic modernist journal *Sebîlürreşad* closely followed an earlier Afghan delegation's visit to Turkey, including a meeting with Sultan Reşad.[155] The same periodical would then even publish articles written by the official Afghan ambassador himself.[156]

Meanwhile in Delhi, British reactions to the Turco-Afghan entente appears to have ranged from avid concern to denial. For his own part, Sir Henry Dobbs, the lead British negotiator at Mussoorie, seems to have underestimated the depth and strength of the relationship between Ankara and Kabul. As Machonachie notes,

> On April 21, Sir H. Dobbs states his opinion that provided sufficient inducement were offered so as to outbid Russia it would be 'possible for us to win Afghanistan to our side completely. Her need of money now is so great, and the discontent of army is so serious, that it is possible that for immediate adequate sum and promise of arms in the event of Russian aggression, she would sacrifice to some extent her power of independent action, would forego her tribal pretensions, and break with the Turkish Nationals and Russia sufficiently for our purposes. [157]

In fact, Dobbs was far off the mark. The Turco-Afghan treaty promised mutual material and moral support and partnership in times of prosperity or disaster; faithful unity and eastern alliance. The agreement promised mutual friendship and aid side by side against imperialist states ("emperyalist devletlere karşı"), with mutual consultation before concluding any treaties with foreign adversaries. In this way, a premium was placed on the "awakening, independence and freedom" ("uyanış, bağımsızlık, ve özgürlük") of all eastern nations. The Turkish government also promised educational assistance. According to Article 8, Turkey promised to

---

[152] BCA 30.18.1.1/6/42/19/114-13 (31 12 1922) ("Afganistan'ın Ankara'daki elçilik binası kirasının hükümetçe ödenmesi")

[153] BCA 30.10.0.0/131/936/7/114 (22 12 1922) ("Yunan tahribatını yakından görmek için Afganistan sefiri Ahmet Han'ın, Afyonkarahisar ve çevresine yaptığı seyahat").

[154] "Afgan sefiri." *Hakmiyet-i Milli* (22 N 1341 [8 May 1923]).

[155] Eşref Edib. "S. Reşad Heyetinin Afgan Sefirini Ziyareti." *Sebîlürreşad* 19/478 (1921): 101-102; Mīr za Ahmed Han. "Afgan Sefiri Hazretlerinin Mütalaat-ı Fazilaneleri." *Sebîlürreşad* 19/487 (1921): 212.

[156] For an example of one of the Afghan ambassador's articles published in Turkish in the periodical, see Sultan Ahmed. "Uhuvvet-i İslamiye: Afghanistan Sefiri Hz.nin Tebrikatı." *Sebîlürreşad* 20/517 (1922): 274-275. For additional articles on Afghanistan from the same journal in the same era, see Zeydan Efendi, "Afganistan'da Hareket-i İlmiye" *Sebîlürreşad* 20/509 (1922): 172-174, about "scientific progress" being made in Afghanistan. A similar theme, but in economics, is presented in an article in a Turkish Economic journal, "Afganistan'ın İktisadî Vaziyeti," *Türkiye İktisad Mecmuası* 14 (1923): 6-7.

[157] IOR-R/12/LIB/107, *A Precis on Afghan Affairs*, 60. An English text of the Turco-Afghan treaty is included in Ibid., 70-75.

provide educational and cultural aid, sending teachers and officers for terms of at least five years, after which Afghanistan may again request more educators. The Turk-Afghan friendship agreement signed in Moscow had tremendous political significance, for in it one independent Islamic country recognized the new Ankara-based government of Turkey as the legitimate government of the Turkish state. The agreement was ratified by both the Afghan government and the Ankara government, and became the model for future relations between Turkey and Afghanistan, establishing unity of aims and exchange of moral and material support between the two states that would continue for many years.[158] We now turn to how these promises were fulfilled in practice.

Turco-Afghan Relations Enter a Critical Juncture: A Step-by-step Chronology

On April 25, 1921, Mustafa Kemal Paşa, in his capacity as head of state, accepted the establishment of the Afghan Embassy, in a letter to newly appointed Afghan Ambassador to Ankara, Sultan Ahmed Khan.[159] On May 19, 1921, Mustafa Kemal wrote a response to the letter from Amān-Allāh Khan, apparently personally delivered by the Afghan ambassador in Ankara. In Kemal's letter, he welcomed Sultan Ahmed Khan's appointment, and stated that his government, too, would soon be sending an ambassadorial mission to Afghanistan. Kemal also informed the Amān-Allāh Khan that together with this commission the amir would find the military commission the king had asked for. That group of officers would eventually arrive in Afghanistan in summer 1922.[160]

On June 10, 1921, the Afghan Embassy in Ankara held an opening ceremony. At the ceremony Mustafa Kemal, members of the Council of Ministers, TBMM deputies, and some members of Soviet Embassy were present. During the ceremony Mustafa Kemal is reported to have personally raised the Afghan flag at the newly opened Afghan embassy, after which the Afghan Ambassador and Mustafa Kemal gave reciprocal speeches in praise of the strengthening of ties between the two "brother" countries.[161]

---

[158] Bal, "Afganistan-Türkiye", 258-259.

[159] Ünal et al., *Türk-Afgan İlişkileri,* 41

[160] Ünal et al., *Türk-Afgan İlişkileri,* 44-45; Şimşir 2002, 68-78)

[161] The Afghan Ambassador Sultan Ahmed Khan stated at the ceremony:

> I thank all who are participating in this ceremony. The Afghan nation's dream of sending an ambassadorial commission to Turkey, whom the Afghan nation is nourished by eternal respect for, is guided by and considers a leader for itself, has finally come true. This embassy, which represents the 10 million-strong Afghan nation establishing ties with you, brings happiness … The acceptance of our ambassadorial commission, by Turkey's Grand National Assembly and it's President makes us proud…

Ünal et al., *Türk-Afgan İlişkileri,* 43 (translation mine); Şimşir 2002, 66-67. Mustafa Kemal Paşa had this to say in response:

> [A]s has happened in Afghanistan, in Turkey our hearts beat together in brotherhood. For some reasons these ties were prevented from developing into a concrete form. Until recently official relations were not able to be established. Thankfully during this Antatolian independence struggle we have succeeded in doing so. The arrival of your commission has been a source of pride for all of us. Hand in hand, working together, it is crucial that Turkey and Afghanistan's efforts as partners to establish equilibrium in the political world be cared for and upkept…

In July 1921, Ankara's envoy to Afghanistan, ʿAbd al-Raḥmān Ṣamadānī Bey, arrived in Kabul to deliver Mustafa Kemal Paşa's offer of solidarity to Amir Amān-Allāh Khan.[162] Within the same month, Amir Amān-Allāh wrote Kemal another letter, informing him that three Ottoman officers who had been taken prisoner by the Tsarist Russian Army during World War I—Ziya Bey, Rıfat Bey and Hüseyin Cahit Efendi—had arrived on Afghan soil via Turkistan and Bukhara. In the letter Amir Amān-Allāh stated that after escaping Czarist Russian captivity, the three officers arrived in his country, and he happily retold their offer to provide military services to the Afghan king, which he proudly accepted. The amir then stated he was very pleased with and appreciated their service, and accepted their expressed desire to return to Turkey after completing their duties in Kabul. Amān-Allāh used their return to Turkey as an opportunity to deliver a special message to the Ankara government: his request for a military commission to be sent to Afghanistan to help organize and train the Afghan army.[163]

On January 1, 1922, with the Turkish army preparing for a major assault, Mustafa Kemal Paşa sent Cemal Paşa a letter stating, "Your service in Afghanistan will be beneficial to the Turkish nation and homeland," but did provide a detailed response concerning Cemal's request for more officers to be sent to Kabul.[164] Nonetheless, with a small coterie of Ottoman officers, Cemal Paşa departed the historic city Herat along the Afghan-Iranian border for Kabul. He would become the first member of what we may call the "Late Ottoman triumvirate" in Kabul during the early Amānī era.

Cemal Paşa (1872-1922) in Kabul

Cemal and Kemal in re Kabul

We have discussed the role of a frenzied exchange of envoys between the fledgling governments of Ankara and Kabul during the simultaneous independence struggles beginning in 1919. These were not, however, the only means Mustafa Kemal and Amir Amān-Allāh communicated, nor was Mustafa Kemal always seen as the sole leader of the Turkish national movement. As hinted at earlier, he still had formidable rivals in the former CUP leaders Enver and Cemal Paşas, exiles and fugitives from the Allies and post-armistic Ottoman government as they were.

Most historians of the late Ottoman empire and World War I are aware that Cemal Paşa's reputation in modern Middle East history is not a favorable one. Notoriously dubbed as *as-Saffāh*, the "Butcher of Syria," for his treason trials and executions of Arab dissidents in Damascus, as well as his widely held role in orchestrating (or turning a blind eye to) the forced deportations and massacres of Armenians during the first World War, Cemal is less known for his activities in Afghanistan after the armistice. Along with Mahmud Sami, the Ottoman Arab colonel from Baghdad who had already been active in Kabul since the late Hamidian era (see

---

Ünal et al., *Türk-Afgan İlişkileri,* 41-43 (translation mine); Şimşir 2002, 66-67); Sarıhan 2002, 151; Özmen, 158-159. A historic photograph of the flag-raising ceremony at the Afghan embassy in Ankara, attended by Kemal as well some notable Afghan ʿulamāʾ, can be found in Ünal et al., *Türk-Afgan İlişkileri,* 42.

[162] Ahmetbeyoğlu)

[163] Ahmetbeyoğlu, 255; Atatürk Milli Diş Politikası, 340-342)

[164] Ünal et al., *Türk-Afgan İlişkileri,* 38; Sarıhan 1996, 147, 213).

Chapter 4), it was Cemal Paşa who reorganized and trained the Afghan army along modern lines in late Ottoman "Sulṭānī" style. Crucially, Cemal's contributions to a more disciplined, ordered, and regular army were important contributions not only to the nascent Afghan national army, but to the development of an entirely new juridical field in Afghanistan under Amir Amān-Allāh. The fact several of the Niẓāmnāmā refer to the military are illustrative cases in point.[165] Before examining his contributions to the juridical field in Afghanistan, let us explore the story of how he reached there in the first place.

Journey to Kabul

Cemal Paşa was one of the leaders in the forefront of the CUP party and when that party assumed control of the Ottoman government, he was appointed as Commander of the Navy and subsequently Commander of the Fourth Army, primarily responsible for the Palestine and Sinai fronts. On November 1-2, 1918, together with the CUP's seven leaders he fled Turkey to Berlin and Munich, where the Unionists struggled to prepare an amalgam of ambitious, if not desperate, operations. During his short stay in Europe, he received word of an invitation from the Afghan king Amān-Allāh Khan. The invitation fell on ager ears, and Cemal departed soon thereafter for Afghanistan via Russia.[166] While in Russia, notably, he met with Soviet leaders before proceeding to Kabul.[167]

On June 11, 1920, Cemal Paşa wrote a letter to Mustafa Kemal Paşa from Kabul, suggesting for the first time in the Turkish national struggle the idea of sending a military delegation to Afghanistan. As described earlier, while the proposal was initially ignored, Cemal would insist on this again in several future letters to the same effect.[168] In this letter, Cemal stated that "the Islamic Caliphate and western Turks were in danger of subjugation, collapse and division at the hands of the Entente powers," and the entire Islamic world's support was needed in strengthening the resistance.[169] As he further stated in his own words, his real purpose in Afghanistan was "to make contacts with Indian revolutionaries and bring about a tremendously large and important revolution in India."[170]

---

[165] Per Bourdieu, the juridical field consists of competing personnel and institutions for the authority to define what "the law", and in this sense the jostling of the military, especially in times of crisis in the form of martial or emergency law, very much becomes a permanent part of a society's juridical field. As evident in modern practices of conscription, civilian government's deference to the military in matters of the public defense, and occasionally "internal security" matters, such competition for authority is in no way limited to times of war. In this way Cemal was very much an important new player in Afghanistan's new juridical field following the ascent of Amān-Allāh Khan and independence from Britain.

[166] Ahmetbeyoğlu, 169, 252)

[167] Ibid., 252).

[168] Ibid., 111, 252; Ünal et al., *Türk-Afgan İlişkileri,* 37.

[169] Bal, "Afganistan-Türkiye", 252. Ali Fuat Cebesoy, *Moskova Hatıraları* (Ankara: Kültür ve Turizm Bakalığı, 1982), 61-63; Aydemir, *Makedonya'dan Orta Asya'ya Enver Paşa*, *vol. III* (İstanbul: Remzi, 1985), 530-531.

[170] Bal, "Afganistan-Türkiye", 252; Cebesoy, *Moskova Hatıraları*, 61-63; Aydemir, *Makedonya'dan Orta Asya'ya Enver Paşa*, 530-531.

During the next few years, the letters exchanged between Amān-Allāh Khan and Cemal Paşa and Mustafa Kemal Paşa illustrate the depth of Turkish influence in Afghanistan at this time. Meanwhile, Cemal Paşa makes several attempts to obtain and secure international recognition of Afghanistan by European countries, especially Germany and France.[171] Before long the Afghans would establish consulates and regular diplomatic correspondence in several of these European countries.[172] After departing Turkey for Germany at the end of WWI, Cemal Paşa departs to Russia. After informing them of his intentions to make a Turkish-Soviet partnership against the British, he obtains permission from the Russian leaders to travel to Kabul through via Turkistan in summer of 1920.

On June 16, 1920, while in Moscow, Cemal Paşa writes a long letter to Mustafa Kemal Paşa, including the following passage:

> My Brother Mustafa Kemal Paşa,
> The Russian Government has accepted my proposed activities in the interior of Turkistan, Afghanistan and India. From that direction I, and Halil Paşa from Iran, will work to liberate the Eastern peoples who have been living for ages under oppression and despotism.[173]

On July 2, 1920, Cemal Paşa sends another letter to Mustafa Kemal from Bakü.[174] On September 1920, on the way from Tashkent to Kabul, Cemal Paşa comes across a group of Ottoman officers (subaylar) who were captured and taken prisoner during World War I by the Russian Czarist forces, but later freed by the Soviets. Cemal Paşa enlisted a group of them into his service, posting six in Khiva and six in Bukhara to coordinate military training courses for Turkistani youth there, and taking 15-20 Turkish officers (zabitler) with him to Kabul.[175]

On September 29, 1920, after nearly two years in exile following his flight from Turkey at the conclusion of the first world war, we find Cemal Paşa, writing from Herat, Afghanistan, in a letter to Mustafa Kemal Paşa which opened with the statement, "Islam's lucky star is about to be born in the East."[176] Cemal praised both the official government reception and the enthusiasm of the Kabul public, stating, "The King's warm reception [for the Turks] in Afghanistan, and the invitation to Kabul, were given great importance by the Afghan newspapers, appearing on the first page."[177] Soon thereafter, Cemal was appointed by Amir Amān-Allāh as General Inspector for the new Afghan Army.[178] Following this appointment, Cemal Paşa was entrusted with

---

[171] Ünal et al., *Türk-Afgan İlişkileri,* 36)

[172] For example, the following document from the Prime Ministry Ottoman Archives discusses the activities of the Afghan consulate in Paris, much of which was devoted to facilitating financial affairs, bank accounts, and loans of Afghans and even Turks abroad, especially in Germany and France. BOA-HR.İM 93/41 (1923 12 27).

[173] Ünal et al., *Türk-Afgan İlişkileri,* 36; Şimşir 2002, 44)

[174] Ahmetbeyoğlu, 252).

[175] Ibid., 254; Togan, *Bugünkü Türk İli Türkistan ve Yakın Tarihi, 2. Baskı*. İstanbul: Enderun Yayınlari 1981, 424-426, 429; Saray, 101)

[176] Ünal et al., *Türk-Afgan İlişkileri,* 36-37; Sarıhan, 77) (translation mine)

[177] Ünal et al., *Türk-Afgan İlişkileri,* 36-37; Sarıhan, 77) (translation mine)

[178] Ünal et al., *Türk-Afgan İlişkileri,* 38)

reforming and re-ordering the Afghan army. With the goal of acquiring technical assistance for Afghanistan from outside his new home, Cemal Paşa immediately sent Mustafa Kemal Paşa a letter again informing him of the amir's needs for more Turkish officers, saying everything from salaries in gold, expenses, and comforts would be paid by Kabul.[179] They would only have to pay for their expenses until reaching Baku, he noted, indicating Amir Amān-Allāh Khan offered to foot the costs of these programs from Afghan state coffers.[180]

Arrival in Kabul

On October 27, 1920, Cemal Paşa arrived in Kabul, whereupon Amir Amān-Allāh Khan received him warmly. In accordance with the Afghan king's wish, Cemal Paşa began establishing a new model regiment, the "*Kita-i Numune*" in Ottoman Turkish ("Örnek Alayı" in modern Turkish), employing the latest Turkish training methods, drill patterns, and even uniforms.[181] In a letter dated the same day (October 27, 1920), Mustafa Kemal Paşa responded to Cemal's previous letters thanking him for his efforts and in agreement with the notion that Turkey was in a shared struggle with the Afghans. However, Kemal declined the proposition to send officers to Afghanistan, emphasizing the national struggle in Anatolia was extremely severe, with the Turks "facing enemies from all cardinal directions," and thereby requiring all the officers he could muster for the time being. Nonetheless, Kemal insisted on still receiving continuous information from Cemal on the latter's activities in Afghanistan.[182]

On December 21, 1920, convinced of the benefit of Cemal Paşa's activities in Afghanistan, and two months after initially turning down Cemal's proposition to send officers to Kabul, Mustafa Kemal Paşa wrote secretly to the National Minister of Defense (Milli Müdafaa

---

[179] Cemal's letters requesting Ankara send officers—as well as weapons and supplies—to Kabul can also be found in "Tarihî Mektuplar: Cemal Paşa, Afganistana on kişilik bir zabit heyetinin gönderilmesini istiyordu." *Tanin* 27 Ocak 1945, 1, 6; "Tarihî Mektuplar: Cemal Paşa, Afganistana yeni bir zabit heyetinin daha gönderilmesini isliyor." *Tanin* 2 Şubat 1945, 1, 3; "Tarihî Mektuplar: Cemal Paşa, Afganistana silâh ve teçhizat gönderilmesinde ısrar ediyordu." *Tanin* 6 Ocak 1945, 1, 6. For triangular correspondence between Enver, Cemal, and Mustafa Kemal, see Yamauchi, *The Green Crescent under the Red Star*.

[180] Ünal et al., *Türk-Afgan İlişkileri,* 37; Şimşir, 44-45) Meanwhile, notably, the Afghan government was in intense negotations with the British. One of the major stumbling points was Afghan asylum to former CUP officials and war-time leaders, namely Cemal Paşa. On January 13, reiterating Britain's concern pver Kabul's policy vis-à-vis pan-Turkic and Pan-Islamic activity underway with the activites of Enver and Cemal Paşas in Central Asia, Dobbs telegrammed the Amir and Foreign Minister Maḥmūd Ṭarzī information concerning his knowledge of the Russo-Afghan negotiations, as well as Cemal Pasha's Mission to Kabul. He then pressed for a statement of Afghan policy on these sensitive matters. According to Machonachie, "the Amir evaded a direct reply, but offeread an assurance that the Bolshevists would not be allowed by treaty to undertake action considered to be hostile to the British Government." IOR-R/12/LIB/107, *Precis on Afghan Affairs,* 56. Notably, On January 18, at a conference of Dobbs and Colonel Muspratt with S. Maḥmūd Ṭarzī and Nādir Khan, the Afghan representatives have assurances that "Jemal Pasha's mission was to reorganize the Afghan Army, and he would not be permitted to intrigue with the Frontier Tribes. Nādir Khan pressed for some concession to Afghan pretensions in connections with the British frontier tribes." Ibid. Revealingly, while Tarzi was courting Turkish activity, Nādir Khan was resorting to his extensive ties with the British Indian frontier tribes. This would be a reoccurring tension within the court of Amān-Allāh Khan.

[181] Ünal et al., *Türk-Afgan İlişkileri,* 36)

[182] Ünal et al., *Türk-Afgan İlişkileri,* 37; Ahmetbeyoğlu, 111, 252-253; Cebesoy, 72-74)

Vekili) Fevzi Paşa Çakmak, informing him of Cemal's letter and instructing him to prepare a military delegation to send to Afghanistan.[183] "As a strong army in Central Asia is very important to protecting Anatolia," Kemal is reported to have noted in his instructions to the delegation, "it will be a means of bogging down the British in India far from Anatolia."[184] Moreover, Mustafa Kemal Paşa instructed the Turkish officers being sent to be especially careful in their duties with regard to the following:

> 1. This commission must not in any form take part in political struggles; you are to engage in strictly military duties, and you will find yourself becoming extraordinarily dear to the Afghan, Turkistani, and Bukharan people and soldiers,
> 2. Turkish officers must appear to the Afghan Government as united and always together, bound to the Turkish Government's orders, possessors of manners and strength, to this extent Turkish officers will find themselves advancing in serving Afghanistan,
> 3. This commission will work to set up a wired or wireless telegraph system of communication.[185]

Meanwhile British officials responded with grave concern to the rumored news of Cemal's reception in Kabul, viewing his arrival as "transform[ing] the situation radically."[186] British records reveal the former Ottoman Naval officer's movements through Russia and Central Asia were so covert and discreet as to have largely slipped under British intelligence radars. Nevertheless, to the increased dismay of British officials, British spies eventually discovered his intentions, and that of the new Amir in Kabul. In summary of objectives attributed to him, Machonachie notes,

> The immediate objects of Jemal Pasha's mission to Kabul are known to have been the reorganization of the Afghan army, and the prosecution of intrigue, both among the tribes of the Indo-Afghan frontiers, and in India itself, through the agency of Ḥājī Abdul Razzak, the Khilāfat Committee, and Indian revolutionaries. One of these, Barakat-Allāh, accompanied him to Kabul.[187]

Once settled in Kabul, Cemal Paşa was entrusted with organizing the Afghan army (Afganistan ordusunu tanzim etme görevini vermiştir). With his Turkish officers he established a model regiment that taught the arts and sciences of modern warfare which earned Amān-Allāh's appreciation. Though Amān-Allāh was himself pleased with their progress, some Afghan officials who were close to the British became uncomfortable and started to chaff. Cemal Paşa believed he could build Afghanistan into a strong, modern Islamic state and help the

---

[183] Ahmetbeyoğlu, 111-112; Ünal et al., *Türk-Afgan İlişkileri,* 37; Ahmetbeyoğlu, 253). Mustafa Kemal Paşa is reported to have said to Fevzi Paşa in this regard, "Our defense and finance render it crucial and must to put in order a commission of officers for the Afghan army." Ünal et al., *Türk-Afgan İlişkileri,* 37/Ahmetbeyoğlu, 253-254, (translation mine).

[184] Ünal et al., *Türk-Afgan İlişkileri,* 37/Ahmetbeyoğlu, 253-254) (translation mine).

[185] Ünal et al., *Türk-Afgan İlişkileri,* 37-38/Ahmetbeyoğlu, 253-254; Atatürk'ün Milli Diş Politikası, 215-219; Sarıhan 2002, 112-113; Cöhce, 137) (translation mine).

[186] IOR-R/12/LIB/107, *Precis on Afghan Affairs*, 43.

[187] Ibid., 45.

Indian Muslims and tribes living under British rule in India. These ideas are expressly stated in his letters to Amān-Allāh Khan, Soviet officials, and TBMM president Mustafa Kemal Paşa.[188]

Upon arrival in Kabul, Cemal Paşa was received and hosted as a prince of Amān-Allāh Khan. He resided in the 'Aynu'l-ammâre Palace, which would later be used as the Turkish Embassy, and with his new principles rapidly established a model new regiment, reformed management practices, and was entrusted with the power of a director as he initiated institutional reform in several ministries, the most important being modernization of the War Ministry, but with regard to the latter this made the Afghan Commander in Chief Nādir Khan especially uncomfortable.[189]

While in Kabul Cemal Paşa also endeavored to be a thorn in the side of any attempted Anglo-Afghan negotiations. "Throughout his stay in Kabul he was apparently in close liaison with the Russian Legation," comments Machonachie, "and his influence was reported by Sir H. Dobbs to be consistently directed to the obstruction of the Anglo-Afghan Treaty negotiations."[190] On December 21, 1920, believing in the benefit of Cemal Paşa's activities in the Muslim world, and two months after rejecting Cemal's proposition to send officers to Afghanistan, Mustafa Kemal Paşa writes secretly to National Minister of Defense (Milli Müdafaa Vekili) Fevzi Paşa Çakmak, informing him of Cemal's letter and instructing him to prepare a military delegation to send to Afghanistan.[191] Mustafa Kemal is reported to have said in his instructions, "A strong army in Central Asia being very important to protecting Anatolia, it will be a means of bogging down the British in India far from Anatolia."[192]

Departure from Kabul

On March 15, 1921, Talat Paşa was killed in Berlin by Armenian assassins. During these same days, the British government in India sent a commission led by Sir Henry Dobbs to Kabul for secret talks with the Afghan government to iron out some of the difficult points plaguing relations and the state of the Anglo-Afghan agreement. It was natural for the British to be very uneasy with Afghan attempts to negotiate with the Russians on their own. By means of Cemal Paşa the Russians strove to make the Anglo-Afghan meetings unsuccessful, and having promised Afghanistan financial and military aid, they waited for the Anglo-Afghan talks to come to an end. During this tense period Cemal Paşa was aware that something needed to be done. Zafer Ḥasan writes in his memoirs in this regard,

> Finally Cemal Paşa concluded that if Russia did not provide the Afghan government with supplies and money on a large scale, he was certain the Afghan government's agreement with the British could not be prevented. The Russians, to counter any Afghan agreement with the British, committed to establishing a gunpowder factory. Cemal Paşa, working to establish the factory, summoned a Dr. Abdulhafiz from Europe to Afghanistan; however in order to procure the

[188] Ahmetbeyoğlu, 254; Cebesoy, 359)

[189] Ahmetbeyoğlu, 170-171).

[190] IOR-R/12/LIB/107, *Precis on Afghan Affairs*, 49.

[191] Ahmetbeyoğlu, 111-112; Ünal et al*., Türk-Afgan İlişkileri,* 37; Ahmetbeyoğlu, 253).

[192] Ünal et al*., Türk-Afgan İlişkileri,* 37/Ahmetbeyoğlu, 253-254)

necessary materials for the factory in the shortest amount of time he himself prepared to depart for Russia." Here Aybek recalls that when Cemal Paşa was about to depart from Afghanistan he gave Zafer Ḥasan a photograph of himself in Afghan clothes).[193]

Later in the same month, March 1921, Cemal Paşa departed Afghanistan.[194] Toker writes that "On the heels of his departure the Afghan government immediately signed a peace agreement with the British."[195] According to Zafer Hasan, the Russians then cancelled the assistance they had promised to send to the Afghans.[196] However, neither of these accounts can be accurate because though Anglo-Afghan talks began in March, negotiations were long and grueling, and the peace agreement was not signed until November 22, 1921. The Afghans may well have been trying to put pressure on the Soviets for a better deal, or to expedite procurement of arms and supplies and other aid.

On September 2, 1921, seeking to acquire weapons and necessary supplies from Germany and Russia for Afghanistan, in early September 1921 Cemal Paşa set out for Moscow from Kabul.[197] In accordance with the agreement signed with the Soviets, he worked strenuously to ensure the promised aid to Afghanistan indeed went through. He requested weapons, ammunition, and other technical equipment. In addition, for the sake of Afghanistan's development he struggled to attract the interest of several capital-rich countries and investors in not only Soviet Russia but Europe as well. In Cemal's vision the first stage would be establishing a bank in Afghanistan, building a railroad line between Kabul and Mazār-i Sharīf, and attracting investors to exploit minerals and precious metals in Afghanistan. On November 12, 1921, with these goals in mind, Cemal Paşa had written Mustafa Kemal Paşa a letter stating, *inter alia*, "My efforts concerning Afghanistan have been very successful. After staying in Germany for a short period, I will return to Afghanistan again." Two days later, Cemal Paşa wrote Amir Amān-Allāh Khan a long letter dated November 14, 1921, also with the

---

[193] Ahmetbeyoğlu, 171; Aybek, 197) (translation mine)

[194] Ünal et al*., Türk-Afgan İlişkileri,* 38; Şimşir 2002, 53; Sarıhan 2002, 92).

[195] Ahmetbeyoğlu, 171).

[196] Ahmetbeyoğlu, 171; Aybek, 198)

[197] IOR-R/12/LIB/107, *Precis on Afghan Affairs*, 45. Ünal et al*., Türk-Afgan İlişkileri,* 38; Şimşir 2002, 53; Sarıhan 2002, 92). A document in the archives of the Institute for the History of the Turkish Revolution in Ankara provides some further evidence of Cemal's reasons for departure. TİTE 2599/326/20 (17/10/1921) ("Cemal Paşa'nın Afganistan'dan çıkması nedenleri ve Cemal Paşa'nın bazı önemli beyanlarına dayanarak"). For a document on Cemal Paşa's clandestine travels from Kabul, usually under a pseudonym and seeking to return to Europe, see TİTE 2605/326/17 (10/11/1921) ("Kabil'den Moskova'ya dönen ve Moskova'dan Berlin yoluyla İsvicre ve İtalya'ya hareket ederken Cemal Paşa'ya talebi üzerine Muallim Ahmed Cemal ve Muallim Cemal Efendi adlarıyla düzenlenmiş iki ayrı pasaport verildiğine dair").

For declassified documents on Cemal Paşa's activites in Russia *after* departing Kabul, as well as the various plots he was privy to, and *not* privy to but surrounding him, see TİTE 2607/326/11 (14/11/1921) ("Afgansitan'la İngiltere arasında yapılan bir anlaşmayla Cemal Paşanın Afganistan'dan çıkarıldığı haberinin Afgan Moskova Sefiri tarafından tekzib edildiği, yapılan tahkikata göre Cemal Paşanın Rusların Afganistan'a vermeye söz verdikleri halde vermedikleri malzemenin verilmesini sağlamak"); TİTE 2612/326/12 (12/12/1921) ("Cemal Paşa'nın dürüst hareket ettiği, aynı tarzda devam etmesi halinde kendisinin takviye edileceği, Afganistan'daki faaliyetlerinin millete yavaş yavaş anlatılacağı; Cemal Paşanın Enver ve Afgan emirine yazdığı mektuplarla hazırladığı raporları sefarete vereceğine söz verdiğine dair").

aforementioned subjects in mind, and informing him of his discussions with Soviet authorities.[198] Among a vast array of subjects, he is reported to have stated,

> In order to strengthen Afghanistan, there is no other solution than to secure the interior modernization (dahili teşkilatını asrileştirmek), organization of the army (ordusunu tanzim etmek) and development of the economy (iktisadi terakkiler). These three points must be pursued at full speed. I am working to the fullest extend of my ability to invite Turkish and German experts (mütehassısları) to Afghanistan. I have begun a large operation to organize and reform the army.[199]

As Töker has noted, Cemal's letters from Russia to both Kemal and Amir Amān-Allāh demonstrate how the main purpose for his coming to Afghanistan was not only to organize a new Afghan army, but to set new eyes on Britain's prize colony, India, with a view towards liberating Muslims there from colonial rule. Rather than a goal in itself, however, this rather ambitious vision was predicated upon improving Turkey's strategic position vis-à-vis Britain in Anatolia and the Near East. As Cemal unambiguously states in another passage of the same letter,

> For the sake of revolution (inkılap) in Afghanistan and India, it is necessary to establish a center of operations (merkez). The insurrection must be nurtured here. In all the face of the earth, it is impossible to find a suitable place to launch a revolution in India other than Afghanistan.[200]

These words again indicate the importance Cemal Paşa gave to Afghanistan, and its role in wider regional aspirations and geopolitics.[201] In a long letter dated November 14, 1921 from

---

[198] Ahmetbeyoğlu, 255)

[199] Ahmetbeyoğlu, 170; Mehmet Saray, *Afganistan ve Türkler*, 111) (translation mine)

[200] Ahmetbeyoğlu, 170; Mehmet Saray, *Afganistan ve Türkler*, 111) (translation mine)

[201] Cemal's enthusiasm for Afghanistan, and the immense importance he gave the country—and the ruler Amān-Allāh Khan—in offering his own formulations of Turkey's geopolitical strategy in the post-war world is also the subject of many of his letters to Ankara. He also gave the impression that the feeling was mutual. See for example, "Tarihî Mektuplar: Amânı Afgan Cemal Paşanın gelmesini pek mânidar bir lisan ile ilân ediyor." *Tanin* 1 Şubat 1945, 1, 6; "Tarihî Mektuplar: Kâbilde bulunan Türkler şerefine Hariciye Nezaretinde bir ziyafet tertip olunuyor." *Tanin* 13 Ocak 1945, 1, 6. Similarly, some of his letters also delve into the significance of Afghanistan to *India* in the same regard. "Tarihî Mektuplar: Cemal Paşa, PaMīr yaylasından, ihtilâl kıtaatı ile Hindistana akınlar yapmağı kararlaştırmıştı." *Tanin* 3 Ocak 1945, 1, 6; "Tarihî Mektuplar: Efgan Emîri Cemal Pasanın ihtilâl ve Hindistana taaruz projesini kabul ediyor." *Tanin* 8 Ocak 1945, 1, 3; "Tarihî Mektuplar: Cemal Paşa, Hindistan ihtilâlini kendine gaye edinmişti." *Tanin* 30 Birincikânun 1944, 1, 6; "Tarihî Mektuplar: Cemal Paşaya göre Afganistan Hint ihtilâline nasıl yardım edebilir." *Tanin* 15 Ocak 1945, 1, 3. Needless to say, this was a view shared by many Indian Muslims and Afghans since the time of Sayyid Aḥmad Khan of Rai Bareli's eighteenth century campaign in the Northwest frontier province, to the "Silk Letter Conspiracy" of World War I, to the Khilāfat Movement of 1919-1924; Cemal may have well been influenced by the views of Indian revolutionaries in Kabul like Ubeydullah Sindhī and Zafer Ḥasan in the regard. That Zafer Ḥasan published an article later in his life, as a Turkish citizen, recalling Cemal's activities in Kabul and the relationship tp revoltioary activities in India, lends support to this theory. Zafer Ḥasan Aybek, "Cemal Paşa; Afganistan'ın teşkilâtanma ve Hindistan meseleleri." *Resimli Tarih Mecmuası* 7 (1950): 260-263. Cemal also dispatched letters to Enver in the same regard, requesting assistance of men or supplies to be directed to Kabul, a request that was practically impossible for the latter, absorbed in his own central Asian campaign. "Tarihî Mektuplar: Enver Paşa Afganistan'a dışarından malzeme getirmenin imkânsız olduğuna kaniydi." *Tanin* 30 Birinciteşrin 1944, 1, 7; "Tarihî Mektuplar: Enver Paşa, Afganistan'da bulunan Cemal Paşa'ya teşkilât için rehber gönderiyor." *Tanin* 5 İkinciteşrin 1944, 1, 6. Meanwhile, Amir Amān-Allāh did not passively wait on a Turkish response, of course—he was busy sending similar requests to other "friendly" countries

Moscow, Cemal Paşa writes Amir Amān-Allāh Khan informing him of his discussions with Soviet authorities. In another letter he sent to Mustafa Kemal Paşa by means of Turkey's ambassador in Moscow, Ali Fuat Paşa, he discussed his activities in Afghanistan, and his future plans for doubling up his efforts in building a modern Afghan army.[202] On November 16, 1921, Cemal Paşa again writes Mustafa Kemal Paşa reiterating his request for officers.[203] On January 1, 1922, as the Turkish army was preparing for a major assault, Mustafa Kemal Paşa sends Cemal Paşa a letter dated January 1, 1922 saying "Your service in Afghanistan will be beneficial to the Turkish nation and homeland," but still did not give a positive response concerning Cemal's request for more officers to be sent to Kabul.[204]

The Demise of Cemal Paşa

By July 1922, in spite of an initial reapprochment with the Soviet government following Moscow's withdrawal from the first World War and their hosting Ottoman exiles after the armistice, both of the former Ottoman CUP oligarchs Enver and Cemal Paşas had found themselves increasingly alienated from the Kremlin. This was mainly due to Moscow's reorientation towards Mustafa Kemal as the recognized leader of the new Ankara-based Turkish government, and away from the former leading CUP officials, but also the brutal Soviet expansion into Muslim majority-regions of central Asia, to which both took stern exception, as did even Amir Amān-Allāh Khan. Alienated from the Soviet leadership and his relationship with Moscow soured to an irreparable state, like Enver, Cemal eventually decided to join the resistance struggles of Muslims in Central Asia and the Caucuses against Soviet incursions taking place in these regions. In the end, Cemal Paşa soon found himself in a quagmire there, too, and opted to return to Afghanistan to resume his service in Kabul. He was prevented from doing so after being shot and killed on July 21, 1922 in Tiblisi, Georgia by Armenian

---

like Germany, for example. "Tarihî Mektuplar: Efgan Emiri Almanyadan harp malzemesi celbetmek istiyordu." *Tanin* 2 Ocak 1945, 1, 6.

[202] Ahmetbeyoğlu, 255; "Afganistan ve Cemal Paşa," İkdam, 18 Teşrinievvel 1922, nr. 9190; Cebesoy, 370-378; Saray, 104-110; Hülya Baykal, "Milli Mücadele Yıllarında Mustafa Kemal Paşa ile Cemal Paşa Arasındaki Yazışmalar", Atatürk Araştırma Merkezi Dergesi, c. V, Sayı 14 (Mart 1989, Ankara), 379-381.)

[203] Ünal et al., *Türk-Afgan İlişkileri,* 38; Sarıhan 1996, 147, 213).

[204] Ünal et al., *Türk-Afgan İlişkileri,* 38; Sarıhan 1996, 147, 213). This is not to say Cemal and Afghan officials, including those in the Afghan Foreign Ministry, always saw eye to eye. Rather, as the following letters illustrate, there was still much room for different perspectives and opinions, healthy or otherwise, especially in the role of Afghan domestic policy . "Tarihî Mektuplar: Cemal Paşaya Afgan Hariciye Nazırının siyasetini tenkit etmişti." *Tanin* 11 Ocak 1945, 1, 6; "Tarihî Mektuplar: Cemal Paşanın Afgan Hariciye Nazırına yazdığı tezkere." *Tanin* 14 Ocak 1945, 1, 6. Nonetheless, we can imagine Cemal was upset by a lack of forthcoming assistance from Ankara at this early stage. From this point on we see letters describing Cemal's "serious" and "thorough" involvement and busying himself with local project that he could do on his own in Kabul without relying on outside assistance—training Afghan officers by himself and the coterie of Ottoman officers around him. "Tarihî Mektuplar: Cemal Paşa Efganistandaki mücadeleleri." *Tanin* 7 Ocak 1945, 1, 6; "Tarihî Mektuplar: Cemal Paşa Afganistanda iyi bir mevki kazanmış, ciddî ve esaslı bir surette çalışmaya başlamıştı." *Tanin* 18 İkinciteşrin 1944, 1, 3; "Tarihî Mektuplar: Cemal Paşa Efgan'da bir ordu ve bir devlet teşkiliyle meşgüldü." *Tanin* 26 İkinciteşrin 1944, 1, 3; "Tarihî Mektuplar: Cemal Paşa Efganistanda yapmak tasavvurunda olduğu işlerianlatıyor." *Tanin* 25 Birincikânun 1944, 1, 3.

assassins.[205] After nearly two decades as one of the most frequently mentioned persons in the Ottoman and even British archives for the Near East, one of the last references to Cemal Paşa in the Turkish Republic archives in Ankara is an August 12, 1922, document describing the Ankara Government granting permission for his burial in Turkey.[206]

Our sources are mixed on the Afghan response to Cemal Paşa's death, the news of which reached Kabul in August. British sources, keen to demonize one of their arch-nemeses in the early twentieth century, generally present the unlikely, if not exaggerated, picture of Afghans in Kabul celebrating upon the paşa's death. One British intelligence report from Kabul, for example, writes that Cemal's death "was received with joy by the populace, who regarded him as largely responsible for the detested system of 'hasht nafari' conscription."[207] In fact, October 2, 1922 was observed as a national day of mourning in Afghanistan for Cemal and Enver Paşas, but British sources report that the shops in Kabul remained open as usual, and there were no signs of any public interest.[208] This is similar to the mixed assessments of Afghan public opinion in light of Ottoman defeat in the first World War.[209]

The Afghan government, on the other hand, announced a day of mourning for the fallen paşa (mourning rites were also announced for Enver after his demise). In a similar light, articles in the *Amān-i Afghan* official newspaper offer large sections of the edition following Cemal's death to his life and a sense of mourning. For example, an October 23, 1921 (30 Mīzān 1300/ 21 Ṣafar 1340) edition published a list of students of the *Mekteb-i Harbiye*, the Ottoman styled military academy in Kabul.[210] Similarly, an October 7, 1922 (15 Mīzān 1301/ 16 Ṣafar 1341) edition of the *Amān-i Afghan* includes a photograph of Enver Paşa and other Turks accompanying him in his central Asian militant expedition against the Soviets. Another article in the edition has a discussion of Cemal Pasha's death with a corresponding eulogy him. The newspaper then turns to more optimistic news, however, with a picture of Afghanistan independence (*istiqlāl*) celebrations in Ankara, symbolizing the close ties between Turkey and Afghanistan once again.[211] These articles would indicate that ties were not icy as the British were trying to make it seem. At the same time, *Amān-i Afghan* was the official voice of the Kabul government, and hardly can be seen as an accurate representation of Afghan public opinion at the time. We are therefore left with a murky picture of the general Afghan public's

---

[205] Ahmetbeyoğlu, 255-256; AydeMīr 1985, 641-647; Saray, 114); Ünal et al., *Türk-Afgan İlişkileri,* 39; Sarıhan 1996,503)

[206] BCA 30.10.0.0/204/392/17/245 (12 08 1922) ("Tiflis'te öldürülen Cemal Paşa'nın cenazesinin Türkiye'ye getirilmesine izin verildiği"). A letter attributed to be the last ever he ever wrote was published in the 1945 *Tanin* series, "Tarihî Mektuplar: Cemal Paşanın yazdığı en son mektup." *Tanin* 17 Ocak 1945, 1, 6.

[207] IOR-R/12/LIB/107 (FN3: Kabul dispatch 2 (6-1-1923) (Machonachie, 119).

[208] IOR-R/12/LIB/107, Precis on Afghan Affairs, 119).

[209] NAI-FP/SEC/War December 1919 1-187 ("Situation in Persia, the Caucasus and Trans-Caspia"). For example, a secret war Foreign and Political War branch document of December 1919 entitled "Situation in Persia, the Caucasus and Trans-Caspia" offers mixed reports on Herat's view of Turkish defeats. Some say Herati sunnis were "in dismay" other say things were normal and people were indifferent.

[210] *Amān-i Afghan*, No. 18 (23 October 1921/ 30 Mizan 1300/ 21 Safar 1340), 4-5.

[211] *Amān-i Afghan*, No. 18 (23 October 1921/ 30 Mizan 1300/ 21 Safar 1340), 4-5; No. 19; No. 47-48 (15 Mizan 1301/ 16 Safar 1341/ 7 October 1922).

reaction; though later events in 1924 (discussed in Conclusion) might lead one to project an anti-Turkish sentiment in Afghanistan backwards in history to this time, there is little evidence to suggest Afghan public opinion had turned against Turkey at this time.

While Cemal Paşa had died, the legacy of his mission in Kabul survived him in some important respects. The model regiment, or *Kita-ı Numuna*, he established continued to be upheld as the exemplary model for the new Afghan army, for a bit longer at least. On one hand, the Afghan king wanted to re-order the Afghan army and for this reason he sought a Turkish military commission; on the other hand, mistrust of Turkish officers and the dismantling of Cemal Paşa's Numune Alayı created tensions and rivalries between those favoring Turkish ("Sultani"-styled drills and training), and those favoring the traditional British model espoused by Nādir Khan and others.[212] Machonachie goes so far as to say in his Afghan Precis that in September of 1922, "Jemal Pasha's scheme of army reorganization appears to have been definitely discarded, and shortly afterwards his new formation, the 'Qita Namuna', was disbanded."[213] In light of the continue presence and activity of Turkish officers in Kabul, however, this is likely an overstatement. Moreover, in spite of this tense environment in the court and military of Amān-Allāh Khan, Mustafa Kemal Paşa continued with his plans to send a delegation of military officers to Kabul and in summer 1922 they departed Turkey for Afghanistan. In accordance with the agreement signed between Turkey and Afghanistan, officers from Afghanistan would be sent to Turkey for training and experience.[214]

While Cemal's mission and the continued delegation sent by Mustafa Kemal represent Turkish military training and assistance in Amān-Allāh's Afghanistan, military networks are aspects that have been overly focused on by the historiography of Turco-Afghan relations.[215] Less attention has been devoted to the contributions of late Ottoman Turks in the Afghan *juridical* field during the early reign of Amir Amān-Allāh. This is ironic given that the Turkish military role became largely negligible in light of growing tensions in the army between Turkish and Afghan officers during the Amān-Allāh era, ultimately resulting in the departure of most Turks from Kabul in 1924-1925, a development we will return to in the conclusion.[216] To highlight these juridical contributions, we must turn to an Ottoman lawyer who accompanied Cemal's mission to Kabul. Though not nearly as well known or high-ranked as Cemal, he would have a far more significant impact in Afghanistan's modern history than any other Turk in the country during Amān-Allāh's reign. This was not only because he stayed longer in Kabul, and certainly with less than interruptions, but because of his particularly immense contributions to Afghanistan's juridical field during the early Amānī era. His name was Osman Bedri Bey, an Ottoman lawyer from Istanbul who Amir Amān-Allāh appointed to head the Niẓāmnāmā drafting commission.

---

[212] Ünal et al., *Türk-Afgan İlişkileri,* 39, Appendix EK-B, EK-C; Şimşir 2002, 357)

[213] IOR-R/12/LIB/107.FN4: Kabul dispatch 9-A. (3-4-1923). Machonachie further notes in his footnote, "Fakhri Pasha continued to be unsuccessful in his efforts to get his military instructors employed." Ibid.

[214] Ünal et al., *Türk-Afgan İlişkileri,* 39, Appendix EK-B, EK-C; Şimşir 2002, 357).

[215] Ünal et al., *Türk-Afgan* İlişkiler; Korkmaz, Özlem. "Afganistan'a Türk Yardımı (1920-1960)," in Ali Ahmetbeyoğlu, ed., *Afganistan Üzerine Araştırmalar* (İstanbul: Tarih ve Tabiat Vakfı Yayınları, 2001).

[216] This might be a projection of stronger ties in more recent years backwards on to history.

Bedri Bey (c. 1880-1923) in Kabul

Prior to the current study, the little information Afghanistan historiography has provided on Bedri Bey, the second most influential Turk in Afghanistan during the early Amānī era, is that he was a former Ottoman official associated with Cemal Paşa's mission to Kabul in the early 1920s. We also know that the "Turkish legal authority Bedri Bey", as Stewart tersely refers to him in her magnum opus on Afghanistan during the Amānī era, was somehow involved with the drafting of the Nizāmnāmā law codes in Afghanistan under the reign of Amir Amān-Allāh Khan.[217] As my research has uncovered, the Ottoman archives contain a number of disparate documents on this still largely unknown individual, who turns out to be *the* most prominent Ottoman juridical actors participating in the drafting of the first Afghan constitution. Osman Bedri Bey, an Ottoman Turkish lawyer and former Police Commissioner from Istanbul, as well as governor of Aleppo, was no other than the director of the Niẓāmnāmā commission which drafting the first Afghan constitution. In this section we examine untapped documents from his personnel profile in the Ottoman Civil Service Employment Registry (Siccil-i Umumi) to learn more about his employment positions in various legal, administrative, and police offices in Istanbul, and his most prestigious Ottoman assignment before traveling to Afghanistan, the governorship of Aleppo. The archives also include his will following his death in Kabul in 1923. Beyond facts of his educational background and employment history, most crucial to our story is the professional and juridical *habitus* that he brought to the Afghan constitutional drafting process.

Birth and Education

Osman Bedri Bey was born in Istanbul in the Islamic lunar year of 1298 [1880/1881]. He was the son of an civil servant named Fuad Bey, an employee in the Ottoman military retirement pension bureau in the capital.[218] Bedri graduated from the prestigious Mekteb-i Mülkiye Şahane İdade high school in Istanbul, followed by the Imperial Law School (*Mekteb-i Hukuk Şahane*), founded by the great Ottoman jurist, codifier, and administrator Ahmed Cevdet Paşa in 1880, just around the time of Bedri's birth.[219] A document from 1896 in the Ottoman archives is likely his marriage certificate, though it is difficult to ascertain given his shared name with other influential individuals in the Ottoman bureaucracy at the same time.[220] He soon found work

---

[217] Stewart, *Fire in Afghanistan,* 162-63, Nawid, *Religious Response*, 78-79; McChesney, *Kabul Under Siege,* 13-14, 277. While these sources mention a "Badri Baig" having participated in the drafting of the codes, none of them provide any information on his personal background, education and training, juridical experience, or the professional *habitus* he brought to the constitutional and codification project.

[218] BOA-DH.SAİDd 110/493 (1298 Z 29).

[219] His graduation from the law school is stated in his transfer certificate, contained in BOA-İ.AZN 72/1325Ca-28 (1325 CA 15). Strangely, this important aspect of his educational background is not mentioned in his employment profile in the Siccil-i Umumi.

[220] BOA-EV.VKF 4/12 (1313 Z 29). Demonstrating the perils and traps of working uncritically in the Prime Ministry Ottoman Archives, there are over eight distinct Bedri Bey's in this log, many overlapping with our figure of attention. Coincidentally, two other "Bedri Beys" also worked in the Istanbul Police Directorship; what is more, they were in overlapping years of Osman Bedri Bey's tenure there. Apparently the first was a Mehmed Bedri Bey, former bureaucrat in the Çatalca public hospital and was transferred to the Istanbul Police Directoship In 1334/1915. Information on Mehmed Bedri Bey surfaces in the following documents of the BOA-DH.EUM.MH

thereafter in the civil bureaucracy of the Hamidian state. Bedri quickly moved up through the ranks, earning positions in the Ottoman juridical field, including both the Şeriat and Niẓāmiye courts alike. The following discussion outlines details of his birth, education, and early work experience, based on a key hereto unstudied employment profile in the Ottoman archives.[221] Essentially a late Ottoman civil servant's *curriculum vita*, the document reveals just how quickly he moved up the juridical ranks, not holding one job longer than five years, with most appointments being for less than two years.

Early Employment: Clerk to Public Prosecutor

On December 29, 1898, he received his first job listed in Siccil-i Umumi, a civil officer in the Military Retirement and Pensions Office ("askeri tekaüt sandığı mektubi kalemine tayın oldu").[222] The next several jobs appear to have been mid-level clerical in nature, though in increasingly prestigious courts. On July 6, 1901, he was promoted to a lower-mid-rank position in an Istanbul appeals court for the fifth district ("istinaf beşinci kısım mülazım sınıfına tayın").[223] On August 26, 1901, he was promoted to a higher appeals court also in the fifth district ("mahkeme-i istinaf hukuk kısmı beşinci sınıf zabt kitabetine").[224] On August 27, 1906,

---

126/44 (1334 C 25); BOA-DH.EUM.MH 126/83 (1334 C 28); DH.EUM.MH 127/73 (1334 B 06); and BOA-DH.EUM.MH 138/74 (1334 Za 25). Yet another potential source of confusion for researchers is the figure of an Erzerum Police Commissioner also named Bedri Bey (BOA-DH.EUM.THR 81/24 (1330 L 09), but he also is not the Osman Bedri Bey we are discussing for our story. Finally, another potential source of confusion is Mülazım (Lieutenant) Bedri Efendi of the Dersaadet (Istanbul) Police Department, who is described as "one of the elder teachers" in the department in the following document. DH.EUM.MH 247/34 (1330 Za 03). This (third) Bedri Bey (sometimes Bedri Efendi) referred to in the Prime Ministry Ottoman Archives, contemporary with our Osman Bedri Bey, is referred to as a teacher in the Istanbul Police Force. For example, BOA-DH.EUM.MH 247/34 (1330 Za 03). While it is possible he is the same person as our own Bedri Bey, it is unlikely given the latter's training as a lawyer and very short service in the Istanbul police department—and at an administrative, rather than educational, capacity at that. It is also uncertain if he is the author of the police manual, authored by a "Bedri", entitled *Polis mektebine mahsus musattah kroki ve plan dersleri* (İstanbul: Cihan Matbaası, 1327 [1909/10]).

Another pair of Ottoman archives documents refers to a Mülazım (Lieutenant) Bedri Bey who served as an assistant teacher in the Mekteb-i Harbiye and was assigned to the Dersaadet Police Command Station as an instructor. BOA-DH.EUM.MH 2/82 (1327 N 12) and BOA-DH.EUM.MH 247/34 (1330 Za 03). Given the military title of Mülazım (there are no records of Osman Bedri Bey having served in the military), and the lack of any mentioning of teaching in his Siccil-i Umumi profile or later documents, these documents are probably referring to yet another (and third) Bedri Bey working in the bureaucracy of the Istanbul Police Force at roughly the same time, or just a few years apart from overlapping tenures. It also goes without saying that an initial search of "Bedri" in the Ottoman Employment Records (Siccil-i Umumi) records turns up 64 profiles of distinct individuals (including eight distinct Mehmed Bedri Beys), all who worked in the Ottoman bureaucracy at one point or another. Our other two "Bedris" are likely among them.

[221] This most crucial document for our purposes is found in the Ottoman Siccil-i Umumi record log, at BOA-DH.SAİDd 110/493 (1298 Z 29).

[222] BOA-DH.SAİDd 110/493 (1298 Z 29). An Ottoman archives document from June 1900 reports of a "Bedri Bey" as a secretary in the Law of Finance Consultancy Office (Maliye Hukuk Müşavirliği), but it is not clear if this is the same individual. BOA-ŞD 970/38 (1318 S 16).

[223] BOA-DH.SAİDd 110/493 (1298 Z 29).

[224] Ibid.

he was promoted to a higher rank court in the same district ("temyiz hukuk mahkemesi beşinci sınıf kitabetine tayın").[225] On September 1, 1906, he was promoted to the Üsküdar Criminal Court of First Instance ("Üsküdar Bidayet Mahkemesi Ceza Dairesi kitabetine tayın").[226] On June 26, 1907, significantly, he was promoted to his most powerful position yet: public prosecutor for the prestigious, wealthy, and extremely cosmopolitan district of Beyoğlu ("Beyoğlu Bidayet Mahkemesi Müddei-i umumi muavinliğine tayın").[227] A thick file in the Ottoman archives contains a deed of the transfer to the new employment from the Ottoman Ministry of Justice (*Adliye ve Mezahib Nezareti*), also indicating facts of Bedri Bey's employment history and legal education not included in the Siccil-i Umumi profile.[228] On September 23, 1909, he was promoted to an executive administrative position in Istanbul Niẓāmiye court ("Dersaadet İlamat-ı Niẓāmiye İcra memuriyetine tayın").[229] On January 25, 1911, he was promoted to a senior position in Beyoğlu district's Court of First Instance ("Beyoğlu Bidayet Mahkemesi azalığına").[230] The official deed for this appointment from the Ministry of Justice can also be found in the Ottoman archives, and speaks to Bedri's experience in the Niẓāmiye court system.[231]

On September 9, 1911 Bedri Bey was promoted for the first time to an Ottoman Şeriat court ("İlamat Şer'iye icra memuriyetine tayın"), providing him with experience in this parallel system of courts to the Niẓāmiye courts in a now-bifurcated Ottoman judicial system.[232] On April 30, 1912, he was promoted to Public Prosecutor, this time for Beyoğlu district ("Beyoğlu Bidayet Mahkemesi Müddei-i Umumiliğine tayın").[233] The official deed for this appointment from the Ministry of Justice is found in the Ottoman archives, and again speaks to his ability to navigate and transfer between *both* the Niẓāmiye and Şeriat courts, thereby indicating his dynamic experience in both tracks of the Ottoman judicial system.[234] On September 6, 1913, Bedri was promoted as Public Prosecutor for the entire city of Istanbul, no doubt his most powerful position yet ("Dersaadet Bidayet Mahkemesi Müddei-i Umumiliğine tayın").[235] The official deed for this appointment from the Ottoman Ministry of Justice can also be found in the Ottoman archives.[236] Finally, on November 29, 1913, he reached the uppermost echelons of

[225] BOA-DH.SAİDd 110/493 (1298 Z 29).

[226] Ibid.

[227] Ibid.

[228] BOA-İ.AZN 72/1325Ca-28 (1325 Ca 15). The appointment, or rather transfer from the Üsküdar Ceza Dairesi Zabıt Kitābeti is also referred to in BOA-BEO 3087/231504 (1325 Ca 16).

[229] BOA-DH.SAİDd 110/493 (1298 Z 29).

[230] Ibid.

[231] BOA-İ.AZN 99/1329M-20 (1329 M 24)

[232] BOA-DH.SAİDd 110/493 (1298 Z 29).

[233] Ibid.

[234] BOA-İ.AZN 106/1330Ca-15 (1330 Ca 12)

[235] BOA-DH.SAİDd 110/493 (1298 Z 29).

[236] BOA-İ.AZN 113/1331L-01 (1331 L 04)

administrative power in the Porte's civil administration with his appointment as Commissioner of Police for the entire city of Istanbul ("İstanbul Polis Müdüriyet-i Umumiliğine tayın")—the capital of the entire Ottoman empire.[237] This is his last position of employment listed in Siccil-i Umumi. With a remarkable twelve positions in a mere fifteen years, and each position appearing to reflect an upwardly mobile and increasingly prestigious status, this was a remarkable scaling of the Ottoman civil administration and bureaucracy at an extremely rapid speed.

Police Commissioner and Mayor of Istanbul

In spite of his appointment to the Public Prosecutor position being his last entry of employment listed in the Ottoman Siccil-i Umumi, it was certainly not his last. In fact, Bedri Bey's career was about to take its most prolific turn—in the Ottoman domains, at least. Following his legal experience in the Şeriat and Niẓāmiye courts of Istanbul, Bedri Bey was promoted to the joint position of Police Chief and Mayor of Istanbul (İstanbul Polis Müdir-i umumisi ve Şehremini vekili), a position that also included considerable juridical influence as Director of the Legal Affairs department (Umur-ı Hukukiye Müdürü).[238] While this tripartite position appears to have begun as a temporary replacement to the Police Chief and Mayor Cemil Paşa, who was visiting Europe for two months, the position ended up being a more permanent one. It was also a watershed appointment and transition point for Bedri Bey to enter the uppermost echelons of the Ottoman CUP war-time power structure.[239] Ottoman archives documents are clear that Bedri Bey eventually remained Police Commissioner and Mayor of Istanbul for much longer than two months, with some observers, given his influence in this powerful position, even mistakenly referring to him as a member of a CUP Triumverate of Istanbul.[240] A May 26, 1914 document in the Ottoman archives describes an Ottoman medal being awarded to "Polis Müdür-i Umumisi Bedri Bey", the Second Degree Mecidi Order (ikinci rütbeden Mecidi Nişanı), for his services to the state, in a deed signed by the Ottoman Grand Vizier Mehmet Said Paşa and Interior Minister Talat Paşa.[241]

A February 27, 1915 Article in the *New York Times* was published about Bedri Bey's work as Police Chief of the Ottoman empire's most important city.[242] On September 14, 1915, another article in the *New York Times* was published about Bedri Bey as part of "An Autocratic

---

[237] BOA-DH.SAİDd 110/493 (1298 Z 29). A close rendition of this position in would be Public Prosecutor or District Attorney.

[238] BOA-İ.DUİT 39/55 (1334 B 09); BOA-İ.DUİT 40/36 (1334 B 11); BOA-İ.DUİT 40/39 (1336 Ra 05).

[239] BOA-DH.UMVM 90/1 (1332 Ra 08).

[240] BOA-İ.DUİT 39/55 (1334 B 09). The Ottoman CUP "Triumverate", also referred to by western historians as the "Three Pashas" of the Young Turk and World War eras of the late Ottoman empire, consisted of Interior Minister and later Grand Vizier Talat Paşa (1874-1921), War Minister Enver Paşa (1881-1922), and Naval Minister Cemal Paşa (1872-1922).

[241] BOA-DH.KMS 22/26 (1332 B 01). BOA-İ.TAL 493/1332C-40 (1332 C 28) also describes the awarding of the Mecidi Nişanı to "Polis Müdür-i Umumisi Bedri Bey." This particular award to Bedri Bey is also scribbled on a note in BOA-DH.KMS 28/7 (1332 Za 14).

[242] "Curve White Slavery in Constantinople: Ambassador Morgenthau's Efforts Effectively Seconded by the Sultan's Police." *The New York Times* (February 27, 1915) (re Bedri Bey).

Triumvirate" of Istanbul.[243] A history of the Istanbul Mayor's Office (İstanbul Büyükşehir Belediye Başkan) states in its organizational history timeline that from May 13, 1916 to July 20, 1917 Bedri Bey served as President of Istanbul Metropolitan Municipality (İstanbul Büyükşehir Belediye Başkanı), essentially the mayor of the Ottoman empire's capital and greatest city.[244] This is confirmed by a historical document in Ottoman Turkish stating Bedri Bey served in the powerful position of "Umr-u Belediye" (Director of Administration) of the Ottoman capital, a position also known in Ottoman parlance of the time as "İstanbul Vali Vekili" (Governor of Istanbul Province) or "Şehremini/Şehremaneti" (Municipal President) of Istanbul, for the exact same dates.[245] Bedri Bey's employment as mayor of Istanbul is also confirmed in a series of file in the Ottoman archives from 1916 describing various responsibilities and activities in the role of "Vali Vekili", or governor, of Istanbul.[246]

There are also documents in the Ottoman Prime Ministry archives discussing Bedri Bey's role as Mayor of Istanbul during these two years, many of them as we might expect addressing war-time exigencies. An August 27, 1916 memorandum from the Interior Minister Talat Paşa to Bedri Bey addresses the latter as Municipal President (Şehrimini) for Istanbul.[247] A DATE file discusses a communication between Bedri Bey, again described as Municipal President (or Mayor) of Istanbul, the Bulgarian Ambassador in İstanbul, and Bulgarian Ministry of Foreign Affairs concerning the purchase of coal and other supplies.[248] A DATE file documents his communications with German and Austrian diplomats and the Ottoman Ministry of Public Health concerning the transport of both civilian and military supplies through Ottoman territory.[249] A DATE file discusses Bedri Bey's responsibility for the purchase and delivery of soap for the Ottoman military.[250] Another document from DATE discusses Bedri Bey's responsibility for reporting on the number of deaths from typhus and fever in the entire city and possibly even surrounding environs of Istanbul, describing him as "İstanbul Vali Vekili Bedri Bey" (Governor of Istanbul Province).[251] Bedri's experience as a former prosecutor and police commissioner continued to surface in his role as mayor of the city. In a grisly report DATED,

---

[243] "An Autocratic Triumvirate." *The New York Times* (Sept 14, 1915) (mistakenly includes Bedri Bey in CUP "triumverate").

[244] "Geçmişten Günümuze İstanbul Belediye Başkanları," *Toplumsal Analiz* (20 Ekim 2012), available at http://www.toplumsalanaliz.net/2012/10/gecmisten-gunumuze-istanbul-belediye.html.

[245] http://www.archive.org/stream/mecelleiumrubele01ergiuoft#page/n3/mode/2up. The original Hicri and Rūmī dates provided for Bedri Bey's employment in this position are, respectively, 10 Rajab 1334 - 30 Ramazan 1335 Hicri and 30 Nisan 1332 – 7 Temmuz 1333 Rumi.

[246] BOA-DH.İ.UM.EK 26/41 (1335 Ra 6).

[247] DH.İ.UM 98-3/196 (1334 L 27).

[248] DH.İ.UM.EK 25/53 (1335 S 22).

[249] BOA-DH.İ.UM.EK 26/91 (1335 Ra 27); Also see BOA-DH.İ.UM.EK 28/102 (1335 Ca 9).

[250] BOA-DH.İ.UM.EK 28/101 (1335 Ca 9).

[251] BOA-DH.İ.UM.EK 28/119 (1335 Ca 12).

Bedri Bey is reported to have headed an investigation behind the discovery of several corpses along the banks of the sea in Alacalı, a village in the waterfront district of Şile, Istanbul.[252]

While one of the most powerful Ottoman officers in Istanbul, Bedri Bey also coordinated policies with other Ottoman cities, such as one report which documents correspondence with the Governor of Erzerum.[253] An early 1917 document addressed to Bedri Bey includes a dire request for bread from the people of Bursa and Gallipoli, devastated from the ravages and shortages of war.[254] A DATE letter exchanged between Interior Minister Talat Paşa and Bedri Bey discusses the administration of water works and other public works, including the Terkos Lake Water Corporation (Terkos Su Şirketi).[255] Each of these documents build a picture of a man entrusted with some of the weightiest responsibilities of the war—namely, governing the Ottoman empire's capital and greatest city during quite possibly the most deadly war in human history up to that time. The aforementioned archival documents provide a mere glimpse into the broad range of duties he was responsible for, including securing materials of subsistence and survival for an entire urban population during the rampant devastation, scarcity, and widespread disease of the first world war. These documents and the broad range of acitivities described therein also reflect an additional aspect of Bedri Bey's professional history: his diverse work experience, including coordinating substantial public works projects with multinationals, a trait he would put to good use his later work in Afghanistan.

Governor of Aleppo

Bedri Bey's most prestigious promotion, however, was still yet to come. In summer 1917, Bedri Bey was transferred to the powerful appointment of Governor of Aleppo (Haleb Valisi), apparently to replace the ailing former governor of the strategic province, Mehmed Tevfik Bey.[256] Other documents from the Ottoman archives, including a coded telegraph from 1917 Ottoman Fourth Army Commander and Naval Officer Cemal Paşa (then Bey) indicate the powerful commander was personally involved in Bedri Bey's transfer to the prestigious post.[257] This is not surprising given Cemal was granted almost unchallenged power in both military and civilian affairs in Syria for most of the war. An Ottoman provisional law granted Cemal emergency powers in May of 1915, and all cabinet decrees from Istanbul related to Syria became subject to his approval. A document from the Sublime Porte indicates Interior Minister Talat Paşa also personally approved Bedri Bey's new assignment to Aleppo.[258] Another document

[252] BOA-DH.İ.UM.EK 26/41 (1335 Ra 6).

[253] BOA-DH.ŞFR 58/9 (1334 M 06).

[254] BOA-DH.İ.UM.EK 29/13 (1335 Ca 19).

[255] BOA-DH.İ.UM.EK 33/20 (1335 Ş 6).

[256] BOA-DH.KMS 44-2/16 (1335 Za 29). On Mehmed Tevfik Bey's illness and the Porte's acceptance of his resignation, see DH.KMS 45/4 (1335 N 21). A more brief document describing the assignment of Bedri to Aleppo is contained in BOA-MV.247/62 (1335 N 11).

[257] BOA-DH.ŞFR 558/24 (1333 H 29); BOA-DH.ŞFR 559/2 (1333 T 09); BOA-DH.ŞFR 571/42 (1333 Ts 13) .

[258] BOA-DH.ŞFR 77/205 (1335 N 07).

from the Sublime Porte's Office of the Grand Vizier contains the latter's official appointment letter, with signatures from the prestigious individuals of the Grand Vizier, Shaykh al-Islam, Foreign Minister, Interior Minister, Justice Minister, Minister of the Post and Telegraph, and Minister of Commerce and Agriculture, among others.[259] This long list of powerful and influential signatories from the highest eschelons of the Ottoman government reflect the strategic importance place on the provice, especially at this extremely tumultuous and violence-ridden juncture.

Documents in the Ottoman archives in Istanbul and Republican Archives in Ankara are scarce on Bedri Bey's activities in this post, though one can imagine he was likely embroiled in promoting the Ottoman war effort above all other duties.[260] One rare document discussing his activities in Aleppo concern an investigation into the purchase of weapons through the Ottoman Ziraat Bank.[261] Another discusses the shortage of basic supplies, including gas and sugar, and the distress this was causing in the province.[262] We can imagine this was only one of a devastating array of shortages and civil strife contributing to what can be described in no less terms than an absolute humanitarian catastrophe in Syria during the war.[263] And yet, three brief documents in the Ottoman archives pertaining to Bedri Bey's service in Aleppo bear a strikingly opposite tone: one of congratulations and rewarding for his dedicated service. This includes the reward of a Mecidi medal from the Ottoman government,[264] another honorary distinction from the German government,[265] and finally, recognition from the Ottoman humanitarian organization, the Hilal-ı Ahmer Cemiyeti (Red Crescent Society).[266] Another Ottoman archives document from autumn 1917 describes the congratulations and appreciation ("arz-ı teşekkür ve bil-mukâbele beyan-ı tebrikât") of the Interior Ministry's Kalem-i Mahsus department showered upon Ottoman governors and commanders in Anatolia, Syria, and Mesopotamia, including the Governor of Aleppo Osman Bedri Bey. Incidentally, while the document is signed by the then-Grand Vizier

---

[259] BOA-İ.DUİT 41/51 (1335 N 15).

[260] It is possible, though not certain, that documents from Bedri Bey's governorship in Aleppo are in Syrian state archives in Aleppo or Damascus. While our sources in Istanbul are very sketchy, given the timing of his governorship in Aleppo at the height of the first World War, it is possible he was involved in some of the CUP wartime leadership's most tragic, brutal, and catastrophic policies, particularly with regard to Ottoman Armenians. Based on our sources in Istanbul and Ankara, it is difficult to say with any reliability how accurate are Allied accusations of his alleged role in the deportations, forced marches, and ultimately, massacres of Armenians in eastern Anatolia and Syria. More research is needed, and deserving, on problems exceeding the scope of our study here, however, we can claim to have arrived at the truth of the matter.

[261] BOA-DH.İ.UM.EK 41/41 (1336 M 25).

[262] BOA-DH.ŞFR 559/36 (1333 T 12).

[263] The few documents in the Prime Ministry Ottoman Archives in Istanbul on Bedri Bey's employment in Aleppo are telegraphed messages from the Interior Ministry of Sublime Porte and Interior Minister Talat Paşa, mostly concerning his appointment but also the coordination of requisitioning supplies and other wartime needs with the neighboring Ottoman cities of Damascus, Beirut, Akka, and Nablus. See BOA-DH.ŞFR 82/197 (1336 Ra 12), BOA-DH.ŞFR 88/136 (1336 N 04); and BOA-DH.ŞFR 88/145 (1336 N 07).

[264] BOA-İ.DUİT 65/11 (1336 Ra 16).

[265] BOA-İ.DUİT 72/23 (1335 C 29).

[266] BOA-İ.DUİT 74/39 (1335 Ş 29).

Talat Paşa, also included in the document and in fact immediately above the name of Bedri Bey is none other than the name of Commander of the Seventh Ottoman Army, Mustafa Kemal Paşa.[267]

While we do not know exactly for what services Bedri Bey was being singled out in appreciation for, surprisingly, a document dated June 23, 1918, discusses Bedri Bey's resignation from the post of Aleppo governor.[268] A telegraphed message signed by Bedri Bey describes his intention to send his family to Istanbul in June 1918 and for authorities to make the proper arrangements.[269] Given he ultimately resigned later the same month, the early dispatch of his family to Istanbul signals Bedri Bey was already making preparations for his resignation from the Aleppo Governate. What explains Bedri Bey's sudden decision to resign as Governor of Aleppo, and return to Istanbul? Possibilities range from serious illness in famine-stricken Syria, to Allied advances in Syria and Palestine which by 1918 were rendering Ottoman chances to hold the Levant increasingly dismal; or, he may have been transitioning to an even more senior position at the Porte itself. Or could he have been experiencing remorse for enacting policies as governor of Aleppo that may have resulted in the deaths and suffering of countless people around him? As mentioned, the documents available on Bedri's tenure in Aleppo in the Prime Ministry Ottoman archives in Istanbul are far and in between. The next time he surfaces in this repository is as a subject of war crimes investigation and trial by the post-armistice Ottoman government in Allied-occupied Istanbul. Until more research is unearthed on Bedri Bey's policies as governor of Aleppo during the war, we cannot know for certain.

Nonetheless, it is as "former Governor of Aleppo" that Bedri Bey is referred to in the Ottoman archives records from 1917 on.[270] It also begins a rather shadowy period in the life and activities of the former Istanbul prosecutor and police commissioner from the persepctive of Ottoman archival records. Beginning in 1919, the Şura-yı Devlet (Ottoman State Council) documents refer to Bedri Bey as subject to an international Allied search to arrest and try him for war crimes, with a trial in absentia planned for autumn 1920.[271] A large file in the Ottoman archives includes a judgment in absentia of Bedri Bey written in French, with a rare photo of Bedri Bey attached.[272] As a prominent leader in the CUP Wartime government, and a close ally of Cemal and Talat Paşas, Bedri Bey was on the list of fugitives wanted by the British-supervised Ottoman government in Istanbul after the war. Having little doubt as to what awaited

[267] BOA-DH.ŞFR 80/16-01 (1335 Z 15).

[268] BOA-DH.KMS 47/71 (1336 N 14).

[269] BOA-DH.ŞFR 585/66 (1334 T 26).

[270] For example, see BOA-DH.HMŞ 3/1-112 (1337 C 01).

[271] BOA-DH.HMŞ 3/1-112 (1337 C 01) and BOA-HR.HMŞ.İŞO 216/2 (1339 M 08). The latter is a large file containing a judgement in absentia for Bedri Bey, likely for his wartime activities as Police Commissioner of Istanbul and Governor of Aleppo, or merely being a prominent official and close associate of Cemal and Enver Paşas in the Ottoman CUP government during the war.

[272] BOA-HR.HMŞ.İŞO 216/2 (1339 M 08).

them upon capture, Bedri Bey and his colleagues secretly fled Istanbul into exile on the eve of the British (followed by French and Italian) occupation of Istanbul in early November 1918.[273]

Exile in Europe, Russia, and…Afghanistan

Following his flight from occupied Istanbul, records in the Prime Ministry Ottoman archives maintain a light trace of Bedri Bey's international whereabouts. In August 1919, the Ottoman Ministry of Foreign Affairs reported on rumours of Bedri Bey's travels through Switzerland.[274] A pair of documents from 1920 and as late as 1922 discuss the ongoing investigations and search for Bedri Bey, among others, in Europe.[275] A document from the *Meclis-i Vukala* (Ottoman parlimanet) contains a judgment to sequester the "major pillars of the previous regime" ("sabık hükümet erkanı"), and includes the names of the prominent CUP "triumverate" of Talat, Enver, and Cemal Paşas, but also Bedri Bey, among others.[276] What is more, beyond tracking his whereabouts, there is a cache of documents from the Şura-yı Devlet accusing him of various economic crimes, including corruption and unjust takings from Ottoman subjects.[277]

After his flight from Turkey, and given the scatttered documentary trial in the Ottoman archives just described, Bedri Bey appears to have headed first for Switzerland.[278] He then likely traveled to Germany, given the congregation of several other prominent CUP officials here, including Talat and Cemal.[279] Given what we know of Cemal's activities at the very same time, and the latter's travels from Germany to Russia and finally, Afghanistan, it appears Bedri was in close coordination with, if not physically accompanying, Cemal throughout this period.[280] We also learn from Masayuki Yamauchi's meticulous study of private letters between CUP exiles in Europe, Russia, and Afghanistan, that Bedri Bey arrived in Afghanistan in 1920 via Soviet Russia and the same mission organized by Cemal Paşa, described in detail in the previous section.[281]

---

[273] An article in the Istanbul Ottoman newspaper, *Vakıt*, on October 28, 1918 poses the question why did the official disappear and leave his passport behind. "Bedri ve Azmi Beyler Meselesi: Neden passaportsiz harekat luzüm görmüşler?" *Vakıt* (22 M 1338 [28 October 1918]).

[274] BOA-MF.MKT 1239/52 (1337 Za 25).

[275] BOA-MF.MKT 1241/30 (1338 Z 30) and BOA-MF.MKT 1244/9 (1340 C 08).

[276] BOA-MV 213/41 (1337 S 27).

[277] BOA-ŞD 2252/9 (1338 R 12).

[278] BOA-MF.MKT 1239/52 (1337 Za 25).

[279] BOA-MF.MKT 1241/30 (1338 Z 30) and BOA-MF.MKT 1244/9 (1340 C 08).

[280] Masayuki Yamauchi has painstakingly transcribed the secret letters exchanged between former CUP wartime officials, particularly Enver Paşa, but also Cemal, Talat, and Bedri in exile during this period, providing us with an illuminating picture of their international travels and objectives in this extremely fluid period. Masayuki Yamauchi, *The Green Crescent Under the Red Star: Enver Pasha in Soviet Russia, 1919-1922* (Tokyo: Institute for the Study of Languages and Cultures of Asia and Africa, 1991).

[281] Yamauchi, *The Green Crescent Under the Red* Star. Senzil Nawid also describes Bedri's arrival as closely coordinated with Cemal's in this regard. Among the Turks in Kabul in the early Amānī era, she notes a

In Afghanistan, given his extensive legal experience, Amir Amān-Allāh appointed him as director of the constitutional commission that produced not only the first Afghan constitution of 1923 but the over seventy supplementary Niẓāmnāmā codes. In this way Bedri was to the new Afghan constitution what Cemal was to the new Afghan army, both developed between the crucial years of 1920 and 1923. Furthermore, in Bedri Bey we see the culmination of Ottoman juridical modernization launched in the late Tanzimat and early Hamidian era launched by the Ottoman "transitional" Ahmed Cevdet Paşa (Chapter 2). As a graduate of Istanbul's *Mekteb-i Hukuk* (est. 1880), Bedri was a late Ottoman lawyer without a traditional Ottoman madrasah training, but years of experience in both the Ottoman Şeriat and Niẓāmiye law courts of the empire's capital city. Most relevant to his tenure as a constitutional and legal advisor in Aghanistan, he brought a thorough knowledge and professional experience with the daily operation of a highly centralized system of courts as had existed in the late Ottoman empire, including both civil litigation and criminal prosecutions. This highly-centralized form of juridical praxis and professional *habitus* would manifest itself again in a meticulous commitment to drafting and codifying procedural rules in his tenure as director of the Niẓāmnāmā commission in Kabul.

Based on a few passing references in the historiography of the Amānī era, we are able to cobble together some rare glimpses into Bedri Bey's diverse professional repertoire. It appears, for example, that the former Ottoman lawyer, Istanbul police commissioner, and governor of Aleppo, also had an artistic side. During his service in Afghanistan, for example, Rhea Stewart notes that a certain "Turkish legal authority" in Afghanistan named Bedri Bey, "who has also compiled the Niẓāmnamas" wrote the script of a play which was played in Jalalabad one evening at a charity fundraiser, and as entertainment in the amir's palace. The evening play was attended by a large number of officers and foreign representatives, each being charged 100 Rs. a seat with proceeds donated for the cause of builing schools in Afghanistan. On the play itself, Stewart relates,

> [T]he plot concerned the moral downfall of a Moslem Prince who divorced his Moslem wives to marry a European actress. The role of the actress was taken by the wife of a German government employee; the Moslem wives kept purdah… In one scene a mullah was depicted as a monster of corruption, obviously as prototype of the depravity of all mullahs. Amān-Allāh enjoyed it thoroughly and showed his pleasure. So did most of the audience. The Persian minister privately expressed his surprise that such a presentation, which would have created an uproar in Tehran, should have been shown in Afghanistan, which was supposed to be a hotbed of fanaticism.[282]

While the Iranian minister's comments may well indicate a level of *avant-garde* or *nouveu-riche* eclecticism on the Amir's part when it comes to artistic taste, Bedri Bey's play was not well received outside the theatre halls. As Stewart proceeds to note,

> The mullahs preached from their pulpits the next Friday against plays which showed religion in disrespect. Finally, Amān-Allāh found some mullahs so openly hostile to all his policies that he put several under arrest. These had two chief complaints: the education of the young by Europeans who might fatally flaw their religious natures, and the tendency to give undue freedom

---

certain "Badri Baig, the former Istanbul police chief who had come to Kabul as a member of Jamal Pasha's mission." Nawid, *Religious Response,* 79.

[282] Stewart, *Fire in Afghanistan,* 198.

> to women. While visiting the power station at Jabal-ul-Seraj, Amān-Allāh met with the leading mullahs of Kohistan, the area north of Kabul, and tried to reassure them about his policy, saying that he was not trying to destroy Islam…From his point of view, Amanulah was keeping his pledge to the tribes to do nothing against their religion. To him, these mullahs were not religion.[283]

As we will briefly discuss in the conclusion of the dissertation, Bedri Bey's play was not the only product of his pen which caused a stir among certain segments of the diverse ʿulamāʾ establishment in Afghanistan during the Amānī era. In fact, it paled in comparison to the response of the Shinwarī and Mangals in the revolts that were to soon follow in response to Bedri Bey's greatest achievement in Kabul—the drafting and promulgation of the first Afghan constitution and associated Niẓāmnāmā codes. We will turn to Bedri Bey's role and participation in the drafting of the first Afghan constitution and supplementary Niẓāmnāmā legal and administrative codes in Part IV of this chapter.

If we have followed the ebbs and flows of Bedri Bey's life and remarkable career with some attention to detail until now, readers may be disappointed with the abruptness of their end. On May 5, 1923, just weeks after the promulgation and publication of the first *Niẓāmnāmā* codes, including Afghanistan first constitution on April 9, 1923, Osman Bedri Bey died in Kabul under circumstances that are not entirely clear. As for this sudden dénouement of Bedri Bey's life and career, a late 1923 secret file from the Foreign and Political Department External Branch of the British Indian Government entitled "reports regarding miscellaneous matters concerning Turkey" contains a small number of documents on the late Osman Bedri Bey's activities in Afghanistan, including his demise in Kabul.[284] One of the documents in this file is a brief new telegram informing British intelligence authorities in India of the former Aleppo governor's death in Kabul, attributing it to illness (pneumonia). The file also includes rumors of Bedri Bey's hostility to Fahrettin Paşa, the first official ambassador of the Turkish Republic to Kabul (and whom we will turn to shortly), and the British belief that Bedri had sought the post of Turkish ambassador to Kabul in Fahrettin's place. Similarly, an earlier document signaling tensions within the Turkish camp in Kabul, with particular regard to between Bedri Bey and Fahrettin Paşa, is from November 1922, roughly six months before Bedri's death. A telegram in the British Indian archives, from the British Ambassador at Kabul, to the British Secretary of State for Foreign Affairs in London writes on November 13, 1922,

> Reliable information reaches me that Colonel Sheriff Bey, Military Attache, Angora Legation, Kabul, left ten days ago for Turkey. His departure is said to have been assisted by Bedri Bey, and he is said to have gone without consent or knowledge of Fahkri [Fahrettin] Pasha. Bedri Bey is reported to be hostile to Fakhri and to wish to be appointed Turkish Minister, Kabul, in his place.[285]

---

[283] Stewart, *Fire in Afghanistan*, 198. Unfortunately, this is one of the sections in her book where Stewart does not provide any references for occurrence of the above events. It is also one of the only places in her lengthy study of the 1914-1929 era where Bedri Bey is mentioned. Other portions of her book, however, are far more well-referenced, usually citing American and European newspapers as her sources nonetheless.

[284] NAI-FD/EXT/A 1923 477-X (108).

[285] Ibid.

British reports, keen to identify weaknesses and divisions in the Turkish camp, or manufacture them, therefore provide indications of tensions between Bedri and Fahrettin Paşa in particular. As for Bedri's actual demise, there are a number of documents confirming Bedri Bey's death in Kabul under suspicious circumstances in the first week of May 1923. A telegram from E.B. Howell, Officer in Charge of the Intelligence Bureau, Peshawar, dated May 14, 1923, reads,

> The death of Badri Bey was reported by Minister, Kabul… No further action is required. Last year it was updated that Bedri Bey was hostile to Fakhri Pasha + wished to be appointed Turkish Minister, Kabul in his place… We know that Badri Bey had rendered himself obnoxious alike to Fakhri and Raskolnikoff. But we have no information as to the cause of death.[286]

Similarly, an extract from the Military Attache's Kabul Weekly Diary for the week ending May 8, 1923, reads,

> Bedri Bey died of pneumonia on May 7th. He was adviser to the Afghan Government on the framing of Constitutional Law, and, it is believed, his advice was much valued by the Amir… His funeral was attended by the chief local notables; the Amir being represented by one of his brothers. It is reported that Fakhri Pasha, who has been on bad terms with him for some time, was not present.[287]

A smattering of additional telegrams and news briefs in British Indian archival records and intelligence reports confirms the May 5 death of Bedri Bey in Kabul. In a telegram from the chief officer of the Peshawar Intelligence Bureau to the Foreign Secretary of the Government of India in the Foreign and Political Department, May 14, 1923 states, "I have received unconfirmed report of death in Kabul of Badri Baig."[288] Another India Office Records of 1923 reports that Bedri Bey died in Kabul on May 5, 1923. A handwritten note from the Secret Political Department writes, dated May 24, 1923, entitled "Afghanistan. Death of Bedri Bey, at Kabul, on 5th May", reads,

> It is difficult to surmise what will be the likely effect, if any, of the disappearance of Bedri Bey from the scene. He was closely "in" with Jamal Pasha; and more recently was a principal link between Enver and the Afghan govt. In this connection he was a nuisance to Raskolnikoff, to whom however he seems to have been useful at times in their connections. But probably Bedri had become rather a [partially illegible: silent/spent] force.[289]

Most reports on the demise of Bedri Bey are brief and summary. Even R. Machonachie, who otherwise discusses the Ottoman Turk in Kabul more than most British officers in their

---

[286] NAI-FP/SEC/EXTL 477 (2)-X 1922-1923 ("Reports regarding miscellaneous matters concerning Turkey"); NAI-FP/SEC/EXTL 727-X 1922-1923 ("Reports regarding miscellaneous matters concerning Turkey").

[287] NAI-FP/SEC/EXTL 477 (2)-X 1922-1923 ("Reports regarding miscellaneous matters concerning Turkey"); NAI-FP/SEC/EXTL 865-X 1922-1923 ("Reports regarding miscellaneous matters concerning Turkey").

[288] NAI-FP/SEC/EXTL 477 (2)-X 1922-1923 ("Reports regarding miscellaneous matters concerning Turkey"); NAI-FP/SEC/EXTL 727-X 1922-1923 ("Reports regarding miscellaneous matters concerning Turkey").

[289] IOR-L/PS/11/233 1923, P1730/1923 (No. 1730/23) ("Death of Bedri Bey").

reports, tersely writes in his *Precis for Afghan Affairs* (1928) that Bedri Bey died on May 7, 1923.[290] Here even the date is incorrect, as the majority of telegrams and intelligence reports at the time establish the date as May 5. A telegram from the British Minister at Kabul to the Secretary of State for Foreign Affairs in London on May 6, 1923, reads, "Death is reported at Kabul yesterday of pneumonia of former Prefect of Police, Constantinople, Bedri Bey."[291] Here too, however, nothing else is mentioned concerning the circumstances of his death. Returning to the previously mentioned May 24 India Office memorandum, however, a peculiar and rather cryptic telegram of the British Minister at Kabul to Secretary of State for Foreign Affairs in the India Office lay buried within the notes. Dated from Peshawar, May 7, 1923, and received the same day at 4 o'clock p.m., the handwritten note, with lines crossed out but partially visible, reads,

> May 6th. Bedri Bey, formerly Prefect Police at Constantinople, died yesterday at Kabul of ~~(corrupt group)~~ *pneumonia*
> Humphrys 54
>
> ~~N.B. The corrupt group will be further examined.~~
> *It does not matter much, unless the corrupt group implies the possible agency of one of his un-friends.*[292]

Strangely, in the first paragraph of the telegram "corrupt group" is crossed out by hand, and "pneumonia" is handwritten afterwards. The "N.B." note above is also crossed out by hand, followed by the perhaps even more puzzling handwritten note that "it does not matter much." Without no coronary or autopsy records in sight, we have little to no ability to determine the precise circumstances of Bedri Bey's death in Kabul. Considering the above documentary record, however, including Bedri Bey's relatively young age (42-43 years), no previous mention of illness, and the exceedingly complex rivalries he was entangled in as well as enemies he created in and outside Turkey and Afghanistan, there is circumstantial evidence to indicate a degree of foul play, conspiracy or collusion in the former Aleppo governor and Istanbul police commissioner's death, to say the least.[293] This would not be be a terribly surprising conclusion, but in the absence of concrete evidence, we make conclusions at the historian's, and judge's, risk.[294]

---

[290] Machnochie's has several references to a "Badri Bey", including his role in the Niẓāmnāmā commission (See references to "Fundamental Codes" in IOR-R/12/LIB/107, *A Precis for Afghan Affairs*, paras. 273, 281, 300, 302, 357, 655, and 732-742). Machonachie does mention, however, that Fahrettin's Paşa's absence at the funeral was resented by Amir Amān-Allāh; the Amir himself, however, also failed to personally attend, sending his brother in his place. NAI-FP/SEC/EXTL 477 (2)-X 1922-1923 ("Reports regarding miscellaneous matters concerning Turkey"); NAI-FP/SEC/EXTL 865-X 1922-1923 ("Reports regarding miscellaneous matters concerning Turkey").

[291] NAI-FP/SEC/EXTL 477 (2)-X 1922-1923 ("Reports regarding miscellaneous matters concerning Turkey"); NAI-FP/SEC/EXTL 670-X 1922-1923 ("Reports regarding miscellaneous matters concerning Turkey").

[292] IOR-L/PS/11/233 1923, P1730/1923 (No. 1730/23) ("Death of Bedri Bey").

[293] For additional details and theories surrounding the mysterious circumstances of Bedri Bey's death in Kabul, see Cebesoy, Ali Fuat. *Moskova Hatıraları*. Ankara: Kültür ve Turizm Bakanlığı, 1982, 61-63.

[294] We do know that tensions and fragmentation existed within the Turkish community in Kabul. We know this since the early Ḥabīb-Allāh era, when questions probably emerged among the mostly Young Turk exiles whether any among the Turkish community in Afghanistan were in fact pro-Hamidian loyalists, a historical nuance

Illustrating strong transnational connections in the Ottoman administration even at this desperate time, within a year of Bedri Bey's death a number of documents in the Ottoman archives deal with the late Bedri Bey's will, belongings, and inheritance.[295] Described as the late governor of Aleppo, his top position before fleeing Turkey, the documents are so detailed they include a complete list of his personal items and wealth when he died, giving us an indication of the amount of wealth he amassed. Another series of documents detail the procedure for transferring these items from Kabul to his inheritors in Istanbul, including three daughters and a son-in-law.[296] It is clear form the Ottoman archives document that Bedri Bey died a relatively rich man, though this is hardly surprising given the extremely elite positions he reached in the Ottoman bureaucratic structure.

More important, in Bedri Bey, it is crucial to note, we see the culmination of Ottoman juridical influence and activities in Afghanistan, beginning with Ahmed Hulusi Efendi's voyage to Kabul in 1877, to the arrival of Ottoman experts in a variety of fields following the ascent of Amir Amān-Allāh to the Kabul throne. We also see the culmination of Islamic legal modernism in action, from Ahmed Cevdet Paşa's establishment of the Mekteb-i Hukuk Şahane (Imperial Law School) in Istanbul during the Hamidian era—from which Bedri Bey had graduated—to the Mecelle Civil Code which Ahmed Hulusi Efendi served in drafting, and which Bedri Bey had experience in administering as a lawyer in the Ottoman Niẓāmiye courts. Our understanding of Bedri Bey's career in Kabul, the Turkish community in Afghanistan, and the Late Ottoman "triumvirate" in Kabul will not be complete, however, without discussing its third—and most venerated—member, Ömer Fahrettin Paşa.

Fahrettin Paşa (1868-1948) in Kabul

Ömer Fahrettin Paşa Türkkan, nicknamed reverentially as "the Tiger of Madīna" (Çöl Kaplanı) by his contemporaries as well as Turkish historians, was also a famous late Ottoman officer with the near-fame of Enver, Cemal, and Mustafa Kemal. But unlike Enver and Cemal, and a host of other prominent late Ottoman officials who have been largely blamed for the empire's disastrous entry to the war and the persecution of Armenians, Fahrettin Paşa's standing among historians as well as twentieth century collective memory has been a far more favorable and positive one—both in and outside Turkey. As Turkish and British sources attest, he was remembered as a brave but principled general in an otherwise shameful and dehumanizing

---

addressed in Chapter 4. I am not at all convinced, however, that the Turkish ambassador in Kabul at the time, Ömer Fahrettin Paşa (1868-1948), had a role in Bedri Bey's death. Apart from the aforementioned insinuating comments of British intelligence officials—some of whom were not even in Afghanistan but were analyzing events based on reading second-hand sources in India—we have no evidence of foul play at his hand, not to mention the increasingly large number of enemies Bedri had accrued since his tenure as Istanbul Police Commissioner. Moreover, what we do know about Fahrettin Paşa, a decorated general in the prime of his career, and a man who was praised by both Ottoman and Allied governments for his noble defense of Madīna during the war (and whom we will turn to in more detail in the following section), leads us to view the British officers' rumors with skepticism.

[295] BOA-HR.İM 96/2 (1924 01 28); BOA-HR.İM 119/66 (1924 10 07); BOA-HR.İM 120/97 (1924 10 20). The original will is contained in BOA-HR.İM 115/14 (1924 08 31), with a transcribed copy notarized by the Turkish Republic's Ministry of Foreign Affairs available in BOA-HR.İM 133/35 (1925 02 21). More items are included in a subsequent addendum to the will, available at BOA-138/44 (1925 04 07).

[296] BOA-HR.İM 174/18 (1926 01 28); BOA-HR.İM 133/35 (1925 02 21); BOA-HR.İM 155/25 (1925 08 19); BOA-HR.İM 174/18 (1926 01 28).

conflict. Fahrettin's most famous feat in this regard was his epic defense of Madīna from near nightly attacks by the British-allied Bedouin forces led by Sharīf Ḥusayn, and more famously, T.E. Lawrence. In the face of this nearly three-year siege (June 1916- January 1919), among the longest in recorded history, British archival records from London to Delhi indicate Fahrettin Paşa earned the respect, and possibly even admiration, of his very own British adversaries. A secret British government handbook on leading Ottoman personalities—published in London by the Admiraty War's Staff's Intelligence Division in 1916 at the height of the war, and therefore never intended for public consumption—describe the general as "a good man", "moderate", "a quiet, studious soldier", and "Nationalist, but not Union and Progress."[297] Eight years later, the British Minister in Kabul in an August 1922 would describe Fahrettin as no less than "heroic."[298] This was primarily for the latter's tenancious defense and ability to maintaiin discipline among his own troops, but also efforts to protect the city's homes from looting in the face of starvation and lack of supplies, temperatures regularly reaching 47° celsius, and the nearly nightly sabotage attacks by Lawrence and Ḥusayn's militias.[299]

---

[297] IOR-L/PS/20/C132 January 1916 ("Personalities: Turkey, Second Edition. Secret. Admiralty War Staff, Intelligence Division"), 17.

[298] NAI-FP/SEC/EXTL 477 (2)-X 1922-1923 ("Reports regarding miscellaneous matters concerning Turkey") (No. 6328 Ext.A). Descriptions of Fahrettin Paşa from a variety of sources are sometimes so glowing in both Turkish and British historiography that some have concluded he stands out as one of the few "good men"—to use one British intelligence official's description of the general—during one of the most inhumane conflicts in human history. For a British officer's description of Fahrettin Paşa as "a good man"—flattering compliments, if ever, when coming from a fierce wartime enemy—see the full biographical entry for him in a secret handbook composed by the British Admiralty War Staff Intelligence Division on prominent Ottoman officials during the war,

> FAKHRI PASHA. Probably now a Pasha. A General. Was a member of the Russo-Persian-Turkish Boundary Commission. A quiet, studious soldier. Is Nationalist, but not Union and Progress. Moderate views. Had command of one of the divisions at Lule-Burgas and later at Chatalja, the one nearest the Marmora. Is a good man. Left for the Caucasus last September, and is now in Syria, as second in command to Jemal Pasha.

IOR-L/PS/20/C132 January 1916 ("Personalities: Turkey, Second Edition. Secret. Admiralty War Staff, Intelligence Division"), 17. Notably, this description was penned even before his more famous tenure as head of the Ḥijāz expeditionary force beginning on July 17, 1916 and subsequent Commanding Officer in Madīna. Eight years later, the British Minister in Kabul would write in an August 1922 letter to the Secretary of State for Foreign Affairs in London that the newly formed Ankara government had made "an excellent selection" in appointing Fahrettin Paşa as the first official ambassador of the Turkish Republic to Afghanistan. In the same letter the British Minister also describes Fahrettin as "the heroic defender of Medina." NAI-FP/SEC/EXTL 477 (2)-X 1922-1923 ("Reports regarding miscellaneous matters concerning Turkey") (No. 6328 Ext.A).

[299] These deeds and more are the subject of several detailed (if not passionately told and therefore somewhat romanticized) books by Turkish authors on Fahrettin Paşa's epic defense of Madīna, including his famous refusal to hand over the sacred city even after the orders from Istanbul had commanded him to do so, followed by his two-year internment in a British prison in Malta. The first major work was Naci Kaşif Kiciman's *Medine Müdafaası: Hicaz bizden nasıl ayrıldı* (İstanbul: 1971). The two most popular renditions, also identically titled "The Defense of Madīna" and now in paperback edition in Turkey, are Feridun Kandemir's *Medine Müdafaası: Peygamberimizin Gölgesinde Son Türkler* (İstanbul: Yağmur Yayınları, 2010) and İsmail Bilgin's *Medine Müdafaası*: *Çöl Kaplanı Fahrettin Paşa* (İstanbul: Timas Yayınları, 2009). For more brief articles in English, see Elie Kedourie's "The Surrender of Medina, January 1919," in *Islam in the Modern World* (London, 1980): 277-296 and S. Tanvir Wasti, "The Defence of Medina, 1916-1919," *Middle Eastern Studies* 27 (1991): 642-653.

Again dissimilar to Enver and Cemal in this respect, Fahrettin's career and reputation survived both the collapse of the Ottoman empire and the Kemalist revolution in Turkey, such that even today the most polarized of political factions continue to remember "the Defender of Madīna" (Medine Müdafii) as a hero until this day.[300] There is little doubt that this reputation stems from his now-legendary defense of Madīna during the Allied attack on Ḥijāz during World War I, but also more subtle anecdotes such as his two-year internment by the Allies in Malta, where he is reported to have impressed several of his captors.[301] In a lesser-known *similarity* to Cemal, however, Fahrettin Paşa was one of the few late Ottoman officers to travel to Afghanistan following the first World War and Turkish war of independence, serving as the Turkish Republic's first ambassador to Afghanistan from 1922 to 1926.

As Machonachie notes in his *Precis for Afghan Affairs* (1928), the Ankara Government was first represented by ʿAbd al-Raḥmān Samadānī Bey Peshawarī, an Indian Pashtun migrant to Anatolia who served in the Ottoman army during the first world war. Described as "a well-known Indian revolutionary" in the Turkish Republic archives, Samadānī Bey had arrived in Kabul in the spring of 1921 to represent the fledgling Ankara government during the Turkish war of indepedence.[302] Subequently, there followed two major Turkish missions to Kabul, both led by prominent late Ottoman paşas and military leaders. The first was under the command of Cemal Paşa and Ziya Bey in 1920-1921 (described above), and the second was the new Turkish

[300] Recently published historical articles in Turkish on the Fahrettin Paşa's activities in Kabul reflect a continuing admiration and lionization of the "Tiger of Madīna," as well as his transnational activities in service of not only the Turkish Republic, but other "eastern" and Muslim nations. See, e.g., Ömer Faruk Şerifoğlu, "Kabil'de Yangın Söndüren İki Türk: Medine Müdafii Fahreddin Paşa'nın Afganistan yılları," *Toplumsal Tarih* 95/16 (2001): 6-8 and Ayşe Çavdar, "Türk Paşası Afganistan'da," *Atlas* 115 (2002): 138-150. For a brief biography, see his enclopedic entry at Adnan, ed. "Fahrettin Paşa," *Büyük Larousse Sözlük ve Ansiklopedisi* 7 (1986): 3952-3953. On a less academic note, it is revealing that "Fahrettin" (shorthand: Fahri) remains a popular boy's name in Turkey until this day, in sharp contrast to "Cemal" and "Enver", which although common in the Ottoman era were seen as somewhat tainted and taboo to name one's children after in the post-Kemalist era. Needless to say, there are exceptions to this rule, nor does it apply to all territories of the former Ottoman empire, as some scholars have observed with the not-coincidental first names of Egypt's first two presidents. Juan R. Cole, *Colonialism and Revolution in the Middle East: Social and Cultural Origins of Egypt's 'Urabi Movement* (Princeton: Princeton University Press, 1993.)

[301] For Ottoman records on Fahrettin Paşa's World WarI I assignment to the defense of Madīna, the Prophet's city, see the following report, BOA-DH.KMS 44-1/8 (1335 C 01) ("Medine-i Münevvere Muhafızlığına vekaleten Fahri Paşa'nın tayini"). For additional correspondence from his post in Madīna to Istanbul and other locales, see BOA-DH.ŞFR 74/176 (1335 Ca 26) ("Fahri Paşa Medine Muhafızlığı'na tayinine dair Cemal Paşa'ya çekilen telgraf"); BOA-DH.ŞFR 74/248 (1335 C 01); BOA-DH.ŞFR 74/290 (1335 C 05); BOA-DH.ŞFR 74/295 (1335 C 05); BOA-DH.ŞFR 76/135 (1335 B 23); BOA-DH.ŞFR 82/121 (1336 Ra 02). For Fahrettin Paşa's many highly decorated honors, see BOA-İ.DUİT 151/38 (1334 N 16); BOA-İ.DUİT 154/4 (1335 Ca 12); BOA-İ.DUİT 17/42 (1337 Ra 25); BOA-İ.DUİT 69/10 (1335 R 11).

[302] One could debate whether ʿAbd al-Raḥmān Peshawari was actually the first Turkish ambassador to Kabul, or Fahrettin Paşa. Most tend to present Fahretttin Paşa as the first, probably due to his fame and eminent status, but also possibly because ʿAbd al-Raḥmān Peshawari was of Afghan descent, and given the circumstances in which he arrived in Kabul—during the Turkish war of independence and before the Turco-Afghan Frienship Agreement was signed—he played the slightly less formal role of an emissary than a stable ambassador, in comparison to Fahrettin at least. Nontheless, Turkish Republic Archives contain documents attesting to the Ankara government's financial support to ʿAbd al-Raḥmān's "embassy" (Sefaret) in Kabul in 1921. BCA 30.18.1.1/3/31/3/114-4 (29 07 1921) ("Afganistan Sefareti'ne borç para verilmesi")

Republic's first officially appointed ambassador to Kabul, General Fahrettin Paşa, from 1922-1926.[303]

The Last Ottoman General in Afghanistan

Continuing a then two-decade-old practice of late Ottoman military officials traveling to Afghanistan, an October 27, 1921 document from the Turkish Republic Archives in Ankara describes Fahrettin Paşa's assignment to the post of Turkish ambassador to Kabul.[304] From January 1, 1922 to early spring of the same year, a series of documents from the same repository describe the Ankara government's organization of a delegation of officers, led by general Fahrettin Paşa, to be sent to Kabul, along with the necessary preparations for their journey's costs and daily allowances.[305] In June 1922 ʿAbd-al-Rahman Ṣamadānī Bey was officially replaced by Fahrettin Paşa (also known as Fahri Paşa), who had recently been awarded medals of distinction for his defense of Madīna during the war, and was also recently released after two years of internment in the Allied prison at Malta.[306] In August 1922 the British Minister in Kabul described Fahrettin Paşa as an Anglophobe "to the verge of monomania."[307] More important to our story, the Minister described his arrival in Kabul as having a catalyzing effect on Turkish activity in the Afghan capital, and his early influence on the Amir as profound. [308] The most prominent figure in Kabul at the moment is Fakhri Pasha," notes Machonachie, who also quotes an August 17, 1922, British intelligence memo that the former Ottoman general and Turkish Republic ambassador was "in the Amir's closest confidence, and with his arrival Turkish influence has attained its zenith."[309]

Fahrettin Paşa is important to our story not only because of his prominent role in the second Turkish mission to Kabul during the Amānī era, but because he soon began to rival Cemal and Bedri in considerable ways during his tenure in Kabul, revealing another layer of

---

[303] IOR-R/12/LIB/107.FN4: Kabul dispatch 9-A. (3-4-1923). Machonachie further notes in his footnote, "Fakhri Pasha continued to be unsuccessful in his efforts to get his military instructors employed." According to WW 1930, p. 1, an former Indian Muslim in the British Army who deserted to the Ottoman side during battle in Mesopotamia accompanied Fahrettin Paşa to Kabul.: "3. Abbas Effendi, *Indian*.—Real name is Surkhra, sowar, No. 2773, Hodson's Horse, son of Alam Sher of Shahpur. Deserted to Turks from Consular Guard, Kermanshah, June 1925, and later took Turkish nationality. Came to Kabul with Fakhruddin Pasha, *via* Herat in 1921. Employed as interpreter in Turkish Legation, Kabul to 1927. In February 1927, appointed cavalry instructor at reorganised Harbiyeh cadet college."

[304] BCA 30.18.1.1/3/34/4/107-4 (27 10 1921) ("Kabil Mümessilliği'ne Erkan-ı Harbiye generallerinden Fahreddin Paşa'nın tayini"); BCA 30.18.1.1/4/48/4 (15 02 1922) ("Afgan Sefareti Heyeti'nin 1338 yılı Kabil'de banka olmaması ve postada gecikme olması dikkate alınarak bir defada ödenmesi").

[305] BCA 30.18.1.1/4/43/3 (01 01 1922) ("Afganistan Elçiliğ'nde görevli maaşlarının para olarak ödenmesi"); BCA 30.18.1.1/4/50/11 (26 02 1922) ("Kabil Sefareti'ne tayin edilen Fahri Paşa ile Afganistan'a gönderilecek general ve subaylara verilecek harcırah ve yevmiye miktarlarının tesbiti").

[306] Fahrettin was soon joined by, or with, a Turkish doctor and courier. BCA 30.18.1.1/4/52/1/39-28 (08 03 1922) ("Kabil Sefareti'ne gönderilecek doctor ve kurye ödeneğinin Hariciye").

[307] IOR-R/12/LIB/107, *Precis on Afghan Affairs*, FN2: Kabul dispatch 11 (17-8-1922).

[308] Ibid.

[309] Ibid.

complexity to the late Ottoman presence in Kabul. British records indicate that there was some competition between him and Bedri, or at least perceived so by British officials. Whether personal or political, or both, it appears to have been real enough to the degree that Fahrettin Paşa did not attend Bedri's funeral in Kabul, a remarkable decision by the ambassador of the Turkish Republic in Afghanistan at the time, and an omission which even the Amir himself is reported to have resented.

Fahrettin Paşa's leadership in Kabul primarily were in the fields of military and diplomatic organization. Under his ambassadorship, military officers of the new Turkish republic would largely pick up where the late Ottoman empire had left off and continue to make their way to Afghanistan as trainers for the new Afghan army, teachers in the Harbiye academy, and other civil or administrative services.[310] In this fashion Fahrettin Paşa was an example of a late Ottoman-early Turkish Republic "transitional" in the 1920s, much in the same way Ahmed Cevdet Paşa (1822-1895) was an "Ottoman transitional" from the Tanzimat to Young Ottoman eras in the mid-to-late nineteenth century. Fahrettin Paşa also bears the distinction of holding prominent offices in both the late Ottoman government of the Porte and the new Republic government in Ankara. While certainly not alone in this regard, his less widely-known stature in the historiography of modern Turkey speaks to a continuity often overlooked by overemphasizing the more polarizing figures of the CUP's "Three Pashas" Talat, Enver, and Cemal, and their subsequent Republican counterparts, Mustafa Kemal (1881-1938), Ali Fathi Okyar (1880-1943), and İsmet İnönü (1884-1973), to name only the most famous examples frequently cited in leading Turkey's great "rupture" beginning in the mid-1920s.

Fahrettin Paşa and Pan-Islamism

Beyond titles and offices, Ottoman-Republican continuities are perhaps best reflected in Fahrettin's Paşa's participation in Pan-Islamic causes as ambassador of the new Turkish Republic. A secret Foreign and Political Department External branch file of 1923 entitled, "Remittances to Angora by the Central Khilāfat Committee, Bombay of funds collected in India for Ghazi Mustafa Kemal Pasha" presents us with a particularly revealing telegram from the North-West Frontier Province Intelligence Bureau Diary for the week ending January 25, 1923, Kabul, including an article on Pan-Islamic activity in Kabul from the *Ittiḥād-i Mashraqī* newspaper of January 19. The article includes a note from the Afghan Foreign Minister and a copy of the Fahrettin Pasha's acknowledgment of Rs. 12,350 received from Indian Muslims (see Appendix N). The latter amount was submitted to the Afghan Consul at Bombay, on account of the "Angora Fund," an Indian Muslim fundraising campaign in support of the Ottoman Caliphate *and* the Turkish war of independence (the two were hardly ever separate Indian Muslim Pan-Islamic consciousness). In acknowledging receipt of the funds, Fahrettin Paşa congratulated and expressed appreciation to the Indian Muslims for "carrying on Jihad for centuries."[311] He also added he would forward the money to Ankara, and furnish a receipt when the funds reached their intended destination in Turkey.

[310] For example, see BCA 30.18.1.1/6/49/5/51-16 (04 02 1923) ("I. Dünya Savaşı'nda esir düştükleri Rusya'dan Afganistan'a geçen ve hizmetleri süresince oradan tahsisat alan subaylara ayrıca tahsisat verilmemesi").

[311] NAI-FP/SEC/EXTL1923 669-X, No. 1-38 ("Remittances to Angora by the Central Khilāfat Committee, Bombay of funds collected in India for Ghazi Mustafa Kemal Pasha").

Meanwhile, British administrators in India, also upholding a tradition of vigilance ever since the 1857 Mutiny (Chapter 2), and Hulusi Efendi's mission to Kabul in 1877 (Chapter 3), continued to be extremely wary of such transfers of material support between Indians and Turks. They were especially wary of where the funds would actually go. For example, the above report cynically notes,

> In view of the fact that the Indian revolutionaries on the Frontier are trying hard to divert the "Angora Fund" money to themselves by the argument that it is intended for the prosecution of war against the enemies of Islam, and that that object can be more speedily and effectively achieved by financing a Frontier rising, it would be interesting to know what was the real intention of those who sent this large sum to Fakhri Pasha and how he actually disposes of it.[312]

The use of the pro-Caliphate language in this document—and as late as 1923—is revealing here in that it illustrates how powerful the institution still resonated in Indian Muslim, as well as many Turkish officers' consciousness. The following document speaks to not only to the rising influence of Fahrettin Paşa in Kabul, but to the continuity of Pan-Islamic activity linking India, Afghanistan, and Turkey in spite of the emergence of two rival governments within the latter, the last remnants of the House of Osman in Istanbul, and a fledgling Replublican government in Ankara. In a dispatch from the British Minister, Kabul to the British Secretary of State for Foreign Affairs, dated August 17, 1922, reads,

> The alliance between Angora is based mainly on sentiment and religion, and as such makes a strong appeal to the people at large, and to the orthodox party in particular… Politically, both Governments consider themselves threatened on either side by the aggression of non-Moslem powers, while personally the Amir, as the self-acclaimed victor in a holy war is bound to display the closest sympathy with the heroic defender of Medina. Unfortunately Fakhri, largely for private reasons, appears to be an Anglo-phobe to the verge of monomania, and it must be admitted that the Angora Government have made an excellent selection for their purpose.[313]

In the above assessment the British official recognizes the areas of common ground and foreign policy convergence between Ankara and Kabul, represented most dramatically in the selection of a celebrated Ottoman war hero and defender of Madīna, Fahrettin Paşa, as the Turkish Republic's first ambassador to Afghanistan. Notably, there is also continuity here with Sultan Abdülhamid's selection of Ahmed Hulusi Efendi—a widely respected jurist and religio-legal scholar—as first Ottoman envoy to Kabul in 1877 (Chapter 3). Both Hulusi Efendi and Fahrettin Paşa, after all, appear to have been selected as emissaries to Afghanistan not for their extensive diplomatic experience, but for their impeccable "Islamic credentials." Not surprisingly, the British minister focuses on the shared "anti-British" sentiments of Amir Amān-Allāh and many of the Turks in Kabul starting with the chief Turkish diplomat in Kabul, Fahrettin Paşa. This emphasis on "Anglophobioa" and a shared common enemy in the British, however, ignores or overlooks other key points of convergence between Ankara and Kabul—namely, a modern Muslim etatist ideology that stressed national independence from European powers, a strong centralized state and "rule of law", enabled by technological and scientific

---

[312] Ibid.

[313] NAI-FP/SEC/EXTL 477 (2)-X 1922-1923 ("Reports regarding miscellaneous matters concerning Turkey") (No. 6328 Ext.A).

"progress" and "enlightenment" of the country's citizens above all other concerns, religious or otherwise.

At the same time, as the British minister does highlight, it would be incorrect to go to the other extreme and claim the Turks and Afghans represented an unbreakable Pan-Islamic entente at this time. As the same official astutely notes, continuing tensions between distinct policies and approaches of the Turks and Afghans surface nonetheless. The following Foreign and Political Department memorandum from British India drafted in 1922-1923 reveals Delhi's constant desire to uncover elements of possible discord in Turco-Afghan relations.

> There is no historical or geographical connection between the two countries, while the Pan-Turanian programme must necessarily entail the absorption of Afghan Turkistan in the Turkish dominions, and is therefore a direct threat to the integrity of Afghanistan. . . Persia with the imminent menace of Turkish aggression in Azerbaijan before her eyes, has already realized the danger involved in this movement, masquerading as it does in Pan-Islamic guise, and if a Turkish conquest of Azerbaijan becomes an accomplished fact, it is possible that Afghanistan may take the warning to heart. . . Again, were the Angora Government to carry out their alleged design of reducing the Sultan to the status of a puppet Caliph without a vestige of temporal power, the alliance might be severely tested by the resentment which such a policy would arouse among orthodox Afghans.[314]

As it turns out, the above remarks by a British Indian analyst do contain some rather astute observations, and even farsighted predictions (as we will return to in the Conclusion), on the complexity of Turco-Afghan relations following Ottoman collapse and within the Turkish presence in Kabul during the early Amānī era. Other reports also claim that Fahrettin Paşa's influence with the Amir was not so substantial after all. A telegram from the British Minister, Kabul, to the British Secretary of State for Foreign Affairs, London, November 17, 1922, for example, notes that "There are indications that Fakhri Pasha's personal popularity with the Amir is on the wane."[315] The report goes so far as to claim that the Turkish ambassador in Kabul, ʿAbd al-Raḥmān Samadānī Bey, departed for Kabul for Herat en route to Istanbul, where "he intends to report to Kemal that Fakhri's mission to Kabul has failed."[316] Similarly, British intelligence reports throughout 1923 claimed to describe an impending "failure" and "breakdown" theme. British sources provide few references for their claims in this regard other than rumors and wishful interpretations, and ever-ready to employ stereotypes. For example, an aforementioned British Indian Foreign and Political Departemnt intelligence memorandum on Afghanistna writes,

> It may be noted that the manners of the Angora Turk are not ingratiating, and the Afghan officers of the old school do not conceal their jealousy of the Turkish instructors who are displacing them. The present *rapprochement* between Angora and Afghanistan appears then rather to be due to a political accident than to rest on a natural and permanent bond of union. When the lack of

---

[314] Ibid.

[315] NAI-FP/SEC/EXTL 477 (2)-X 1922-1923 ("Reports regarding miscellaneous matters concerning Turkey") (No. 7277 Ext.A).

[316] Ibid.

> common secular interests has become apparent, the religious tie may be found inadequate to hold the two countries together.[317]

Part false optimism, but also part fair observation on the complxity of Turco-Afghan relations, the aforementioned commentaries by British officials on an imminent breakdown of Turco-Afghan relations reflected the Raj's keenness and eagerness to exploit differences between the Afghans and Turks, as they were between the Afghans and Indians, in the name of combating the spectre of Pan-Islamism. That these assessments were premature is evident in Machonachie's reading of the "breakdown" of the Turkish presence in Kabul immediately following Cemal Paşa's death in 1921.[318] As we will see with the publication of the Niẓāmnāmā codes in 1923, this was a premature assessment that overlooks the remarkable achievement of an Afghan-sponsored Indo-Ottoman nexus in Kabul. As one of the twentieth century's most robust and successful episodes of "juridical Pan-Islamism" in action, this juridical nexus produced the first Afghan constitution and the over seventy supplementary Niẓāmnāmā law codes.

In this way, British records hint at rising tensions within the Turkish presence in Kabul, and predicted an eventual rupture in relations, precisely on the Caliphate question. In late 1922 and early 1923, this was not so much a false prediction on the part of British officials monitoring the situation, as they were premature. Meanwhile, how much of Briitsh reports of an imminent collapse of the Turco-Afghan entente was wishful thinking on the part of the British, versus an accurate description of tensions within the Turkish and Afghan camps is difficult to tell. They may have often been both. What we can say with more certainty for this period, however, is the constantly evolving state of relations between Turkey, Afghanistan, and Britain in the early Amānī period. Far from static alliances written in stone, an Ottoman archives document from the Foreign Affairs Ministry (Hariciye Vekaleti) discusses some of the logistics of the new foreign minister's duties and activities in Kabul; in the process it reflects the delicate balance of negotiating the *new*, and improved, post-bellum relations with Britain, while also upholding Turkey's prestigious role among Muslims worldwide as defenders of the faith and Caliphate.[319]

---

[317] Ibid.

[318] Machonachie goes so far as to claim Anglo-Afghan tensions emerged from the very signing of the friendship treaty. Note his oveview of the "breakdown" of Turco-Afghan relations under the tenure of Fahrettin Paşa below:

> On October 20, the Amir at Friday prayers announced the ratification of the Turco-Afghan Treaty. In spite of a display of mutual cordiality between the Amir and Fakhri Pasha, the impression that there had been considerable difficulties over the wording of the treaty was confirmed by definite information. . . On November 3, the military instructors who had come with Jemal Pasha left Kabul. . . Those brought by Fakhri Pasha remained unemployed. Fakhri, at this time, quarreled with Bedri Bey, Jemal's lieutenant, who was in high favour with the Amir, and assisting in the preparation of the Niẓāmnāmā or Fundamental Code. . . Bedri Bey died on May 7, 1923, and the omission of Fakhri Pasha to attend the funeral was resented by the Amir. . . About the same time the relations between Fakhri Pasha and the Russian Legation appear to have become strained, partly owing to the murder in March of two Turkish officers in Russian territory.

IOR-R/12/LIB/107, *Precis on Afghan Affairs*, 119. Machonachie further notes in a footnote, "Fakhri Pasha continued to be unsuccessful in his efforts to get his military instructors employed." Ibid., FN4: Kabul dispatch 9-A. (3-4-1923), 119.

[319] BOA-HR.İM 119/6 (1924 10 01).

By mid-1923 London and Ankara began to veer towards more regular exchanges and diplomatic ties in ways that began to resemble the pre-war era. An Ottoman archives document from 1923, for example, displays how the Turkish Ministry of Foreign Affairs had taken the precaution and courtesy of asking the British Consulate in Istanbul whether they had permission to send encrypted telegraphs, using the Eastern Telegraph Company—a British multinational communications services company—from Peshawar to their own Turkish representative in Kabul.[320] The British High Commissioner Henderson responded in French, still the most commonly shared language between London and the Turks,

> Je n'ai pas manqué de fair part de votre demande au Foreign Office, lequel vient de m'informer en réponse qu'il ne voit pas d'objection à ce que la Société en question transmette ces dépêches à condition que les frais de transmission jusq'à Peshawar soient payés d'avance à Constantinople.[321]

Mr. Henderson, the interim British High Commissioner in Istanbul responded that the Foreign Office had informed him that they saw no problem that the Eastern Telegraph Company transmit the dispatches, provided the transmission charges for the mails in question were prepaid in Istanbul, and not in Peshawar. We see in this a similarity to the 1880s and 1890s when the Ottomans politely "requested" the British whether they could award honorary medals on Indian Muslims for their outstanding service to the Caliphate, and the British would in suit reply with a cautious affirmative, as long as they were not worn publicly.[322]

Similarly, An Ottoman archives document from August 1923 describes the issue of an inquiry by the Turkish Ministry of Foreign Affairs as to whether the British would allow the family of Fahrettin Paşa to disembark at Bombay en route to joining him in Kabul.[323] Two and a half weeks later, they had received their answer: the Ottoman archives contain a pair of memos from the High British Commissioner in Istanbul informing the Turkish Ministry of Foreign Affairs that Fahrettin Paşa's family would be allowed to disembarked safely at the port of Bombay, but they would have to present their passports to British Consulate General in Istanbul for visas and official authorization, before departing for Bombay and Kabul.[324]

Nearly half a century after the Ottoman envoy to Afghanistan Ahmed Hulusi Efendi had disembarked at the same port, en route to the same destination, Fahrettin Paşa's family was now doing the same. It is not clear from these sources whether an Indian Muslim crowd awaited them too, but given the private nature of the trip, it was unlikely. Like the 1877 arrival of Hulusi

---

[320] BOA-BEO HR.İM 86/11 (1923 10 15) ("Türk Hükümeti tarafından Kabil'e çekilecek şifreli telgrafların ulaştırılması işinin Peşaver'e kadar ulaşım ücreti İstanbul'da peşinen ödenmek şartıyla Eastern Telegraph Company tarafından Kabul edilmesi").

[321] Ibid.

[322] I explore these issues based on correspondence between the Porte and London in the Ottoman and British archives in a separate and forthcoming article, "Adjudicating Afghans: Contested Citizenries and Jurisdictional Tussles in the Anglo-Ottoman Cold War over Afghanistan, 1880-1914."

[323] BOA-HR.İM 77/74 (1923 07 05).

[324] BOA-HR.İM 80/2 (1923 08 05) ("Türkiye'nin Kabil Sefiri Fahri Paşa'nın ailesinin Kabil'e seyahatine İngilizlerce izin verilip verilmeyeceğinin komiserlikten öğrenilmesi"); BOA-HR.İM 81/52 (1923 08 22) ("Fahri Paşa ailesinin Bombay tarikiyle Kabil'e azimetleri için pasaportlarının İngiltere Konsoloshanesi'nde vize edileceğinin tahkik kılındığı").;

Efendi, however, a proper escort, with accompanying formalities and etiquettes were followed with respect to shuttling guests of a friendly foreign government while passing through India. Beneath the surface of such polite diplomatic exchanges, however, a degree of suspicion and fear, but also hope and anticipation, remained operative on both sides.[325]

– • –

In the above section we discussed the role of a new Ottoman "triumvirate" in Kabul, Afghanistan during the first half of the Amānī era. Together, the three men described in this section represented the continuation of the late Ottoman empire's stream of experts to Kabul during the first half of Amir Amān-Allāh's ten-year reign. As discussed above, each contributed in unique ways to the furtherance of late Ottoman juridical influence in Afghanistan, as epitiomized in the compilation of the Niẓāmnāmā reforms by the former Istanbul lawyer, prosecutor, police chief, and governor of Aleppo, Osman Bedri Bey.

Whether we call them late Ottomans, or early Turkish Republicans, the Turks in Kabul were rivaled by an equally significant juridical force in Afghanistan at the same time. We will recall that in Chapters 2, 3, and 4, we discussed the role of two profoundly influential Indian Muslim institutions of learning and law not only in India, but in Afghanistan. These two educational institutions were the Dār al-'Ulūm madrasah at Deoband, and the Anglo-Oriental Muhammadan University at Aligarh. We have paid special attention the role these two institutions played in training Afghan intellectuals, teachers, and bureaucrats beginning in the 1860s and 1870s and continuing even through World War I. As with their Ottoman counterparts, the stream of Indo-Muslim professionals and experts into Afghanistan did not begin during the Amān-Allāh Khan era, but culminated with it. Yet, as discussed in Chapters 3 and 4, compared to the Ottoman presence in Afghanistan, Indian Muslims participated in the Kabul court began much earlier and in greater numbers. By way of comparison to Ottoman subjects in Afghanistan—who began arriving in large numbers only after the return of Maḥmūd Ṭarzī to Afghanistan and in the years 1907-1915 in particular—recorded instances of Indian Muslims serving in the courts of Afghan Amirs exist since the nineteenth century.

There are several reasons to explain the greater role of Indian Muslims in Afghanistan in comparison to Turks. The most obvious is the proximity of India to Afghanistan, but lesser-known factors are the British policy of stationing an Indian Muslim representative in the court at Kabul since the era of Amir ʿAbd al-Raḥmān Khan. There is the additional factor of linguistic ties (most educated Indian Muslims learned Persian, which was the language of administration since Mughal times) and cultural proximity (Afghans have a long history of settlement, trade, and even established kingdoms in India, as discussed in Chapter 2). Professionally-speaking, as

[325] In concluding this section it is important to note that the aforementioned late Ottoman "triumvirate" in Kabul were not the only influential Turks in Kabul during the early reign of Amir Amān-Allāh Khan. In fact, the Turks in Kabul can hardly be said to have been a monolithic group or community. Rather, they continued to experience internal rivalries and fragmentations, such as those in support of the Sultan and Ottoman monarchy, versus the Young Turk party during the Ḥabīb-Allāh era. The 1920 edition of the British Indian Government's secret booklet, *Who's Who in Afghanistan* (declassified and available in the India Office Records in London) is one of the most comprehensive, detailed, and organized primary documents on foreign personnel working in Afghanistan during the Amān-Allāh era. In total, the book contains 747 entries, across 220 pages, with entries organized by nationality and occupation in Afghanistan, including several Turks, Indians, Egyptians, and others from a variety of countries, continuing Chapter 4's theme of "Cosmopolitan Afghanistan."

McChesney observes, "Indian Muslims had long been an influential force in Afghanistan as educators, bureaucrats, and merchants and were an important line of communication between the highlands of Afghanistan and the northern Indian plain."[326] The establishment of preeminent institutions of higher learning by modern Muslim revivalist movements at Deoband (est. 1867) and Aligarh (est. 1875), where many Afghans studied and even taught (Chapter 2) remind us that there were *already* elite educational and juridical networks connecting Afghans with Indian Muslims well before Ahmed Hulusi Efendi's visit to Kabul in 1877 and Amir ʿAbd al-Raḥmān's turning to the Ottomans for administrative models during his reign (1880-1901). All put together, these factors led to a much stronger presence of Indians in Kabul in comparison to both the Ottoman and Persian presence in Kabul.

The Indian Muslim presence in Kabul increased during the Ḥabīb-Allāh era, and was radicalized by World War I with the arrival of Indian revolutionaries and even the establishment of a Provisional Government of India rivaling the British Raj.[327] These developments spilled

---

[326] McChesney 11)

[327] With regard to Indian Muslims and the Ottomans, similarly, there were a number of broad polticial movements and institutional linkages that fostered strengthened Indo-Afghan and Indo-Ottoman ties in Afghanistan. Some of the more concrete means of Indo-Ottoman Connection in the early Amānī Era included Indians serving in the Turkish independence struggle in a martial capacity. For example, a a secret Foreign and Political Department file of November 1920 notes, a telegram from the General Officer Commanding Army of Black Sea, to Commander in Chief in iIdia, Delhi, January 28, 1920, reads,

> The following Indians are reported to have left Sivas recently for Afghanistan and India. They may visit Baghdad or Sʿulamāʾniyah *en route.* It is believed they are on a Pan-Islamic mission from Turkish Nationalists and may be accompanied by certain unknown Afghans, who were lately in touch with Nationalists. Date of departure unknown, but almost certainly subsequent to 15th December last:-- (1) Arab Abdur Rashid, of the Turkish Army, son of Maulvi Abdur Rab, the Indian renegade, mentioned as No. 23, page 4, Baghdad Ghadr case report. Age about 35, height medium, thin sunken cheeks, faint boil mark on right cheek. (2) Maqbul Hussain of Azimabad, Bihar and Orissa, mentioned as No. 17, page 2, Baghdad Ghadr case report. Lance Dafadar Malik Ghulām Aḥmad of 9th (Hodson's) Horese and 85 (?) sowars of that regiment all of whom deserted from the Kermanshah Consular Guard in 1915.

NAI-FP/SEC/F November 1920 1-582 ("Afghan Situation, Part IV"). One of the most common means of Indo-Ottoman and Afghan-Ottoman activism was the organization of delegations to London to lobby on the Turks' behalf. Machonachie notes that on February 23, 1920, Amir Amān-Allāh wrote to the Viceroy in India concerning the subject of the Caliphate, inquiring whether an Afghan delegation to London on the subject would be favorably received. Meanwhile, the Afghan Amir also corresponded with the vigorously active ʿAlī Brothers who were at the forefront of the transnational Khilāfat movement, organizing campaigns to address their concerns directly to British officials in London. For a revealing exchange of letters between Mr. H.R.C. Dobbs, Foreign Secretary to the Government of India, and the Afghan Envoy in India, dated October 9-11, 1920, see NAI-FP/FRNT/B December 1920 71-73 ("Exception taken to the Afghan Envoy corresponding with Shaukat Ali, and Indian agitator, regarding the plans of the Central Khilāfat Committee to leave and finance the Hijrat movement to Afghanistan"). In this exchange the British express their outrage at the Afghan envoy corresponding with Shaukat Ali regarding Indo-Afghan relations without consulting with British Indian government. The Afghan response was to argue no permission was needed to pursue religious affairs between Afghans and Indian Muslims.

In this way the posturing over "religious" versus "political;" matters—a dialectic originally imposed by the British as early as the 1877 Hulusi Efendi mission to separate the Ottoman Sultan's "religious" from "political" power, was now being by Afghan and Indian Muslims to their own advantage. Indian Muslims lobbied on behalf of not only the Turks, but Afghans as well. But the central issue was preservation of the Ottoman Caliphate. A secret Foreign and Political External branch document of 1923 discusses questions of the revision of the Peace Treaty with Turkey with a view to conciliation of Moslem opinion in India and the delegation of non-office holding Indian Muslims to present their views before the Peace Conference. British officials even interviewed Mawlānā Mahmud-

over into the Amān-Allāh era in the form of actual appointments of Indian Muslims in the Amir's cabinet, most notably in the example of Dr. ʿAbd al-Ghanī, a member of the Young Afghan constitutionalist party and, later, constitutional drafting commission. Moreover, beyond elite appointments, Amān-Allāh's declaration of independence conjured utopian visions not only for radical Indian revolutionaries, but also tens of thousands of Indian Muslim farmers , in no small part due to newly imagined social and economic opportunities in one of the only independent "Islamic states." Together these internally complex strands of political and economic migrants to Afghanistan—it is difficult to know what factor was predominant and for whom—converged in the form of two movements from India also in the crucial years of 1919-1924. Known in India as the Khilāfat and Hijrat movements, both developments were brewing at exactly the same time as the Turkish war of independence and Amir Amān-Allāh's successful campaign in Third Anglo-Afghan war of 1919, described in the previous sections of this chapter, respectively. We now turn to how both struggles for independence—in Ankara and Kabul, that is—constituted a major impetus behind tens of thousands of Indian Muslims migrating to the latter in record numbers during the early reign of Amān-Allāh Khan, with dramatic consequences for Afghanistan as one of the world's only fully sovereign Muslim states.

III
THE HINDUSTANI CRESCENT:
INDIAN MUSLIMS, TRANSBORDER AFGHANS, AND THE BIRTH OF KHILĀFATISM

> "As regards the Mussulmans in general. . . there could be no doubt that if the Turkish Empire perished, and a great blow was thus dealt against their religion, they would attribute the event in a great measure to England."[328]
>
> - Secret Memorandum, British Indian Foreign Department, 1878

> "Kabul became the hub of this game and the news of these Pan-Islamists and revolutionaries shuttling between Istanbul, Berlin, Moscow, Kabul and other European and Middle Eastern capitals heartened those who wished to see the British ousted from India."[329]

---

ul-Hasan in this regard, as the file reports. A November 1, 1920, Note by C.A. Silberard, Collector of Saharanpur, who interviewed the Mawlānā on August 9, 1920, reads, "Mawlānā Mahmud-ul-Hasan of Deoband (District Saharanpur) is undoubtedly a man of very considerable importance, being the head, or at least one of the chief, of the Ulemas of India, the Frontier and Afghanistan, and apparently if he avowed himself satisfied with any arrangement regarding the Khilāfat they would accept his word as satisfactory." NAI-FP/SEC/EXTL 1923 File No. 172-X-Secret. Nos.1-26 ("Questions of the revision of the Peace Treaty with Turkey with a view to conciliation of Moslem opinion in India. Delegation of non-official Indian Moslems to place their views before the Peace Conference"). As discussed in Chapters 3 and 4, another major means of Indo-Ottoman connection was the Ottoman Red Crescent Society. This continued well into the Turkish war of independence. A British correspondent says of the Ottoman Red Crescent society. As a British officer in Aligarh noted on January 13, 1921, "Funds for the relief of sufferers from Smyrna during severe Anatolian winter are badly needed and may be sent to the various Khilāfat Committees for immediate remittance to the Ottoman Red Crescent Society, the only reliable and Muslim agency for distributing of relief." Ibid.

[328] NAI-FD/SEC April 1878 163-164 ("State of feeling among the Mahomedan population of Constantinople").

- Naeem Qureshi, describing Kabul in the early 1920s

The morning of Saturday, August 14, 1920 will likely not ring a bell in the memory of most South Asians today. Indeed, other than sharing the same calendar day as Pakistan's independence, few would consider anything else remarkable about it. And yet, as described in the opening pages of his manuscript on the Indian *Hijrat* movement—27 years to the day before the cataclysmic violence and migration of India's Partition began—Dietrich Reetz describes the scene of a dramatic migration of Muslims from several western provinces of British India to recently independent Afghanistan,

> An excited and highly 'truculent' wave of roughly 7,000 people moved from the small frontier town of Landi Kotal to the Khaiber Pass bent on crossing the border from India into Afghanistan against all resistance to fulfill their religious duty of emigration from the Land of the Infidels, the Land of War, Dar-ul-Harb, to the Land of Islam, Dar-ul-Islam, which to them Afghanistan seemed to be. They were chanting religious slogans and hymns to the tune of martial music, some of it Islamic and some profoundly British. . .Imbued with a holy spirit and a festive mood, they were not to be stopped by the Afghans who had blocked the road at the border with a guard of 50 men. The Afghans who first invited them now feared they would be swept off their feet by the storm which they had unleashed.[330]

Who were these pre-Partition, modern-day *muhājirīn* (migrants), and why did they leave the comfort of their homes, protection of their properties, and in some cases their own families in India, for *Afghanistan*? What was the result of this dramatic migration? While the individuals in that particular caravan numbered a few thousand, historiography on the 1919-1924 Indian Hijrat Movement to Afghanistan offers various estimates that due to poor border-crossing records range from anywhere from 60,000 upwards to hundreds of thousands of migrants eventually reaching Afghanistan. Unlike those who did migrate through the winding Khyber Pass that particular morning, and many more just like them, today we have the luxury of gazing in hindsight as to how the movement eventually did unravel and fare for the majority of the muhājirs. In her fascinating study on the same movement, Gail Minault offers a more sobering perspective of the end-results of the Hijrat:

> [T]housands took their advice, sold their property, and started for the Afghan border in the blazing heat of July and August. . .Soon the Khyber Pass was clogged with caravans of bullock carts, camels, and people afoot, carrying their few worldly belongings toward the promised land. Tribesmen fell upon the stream of migrants, looting their possessions and rustling the livestock. Others were felled by hunger, thirst, and heat. As the tide of the immigrants reached 30,000, the Afghan amir issued a proclamation urging no more Indians to come. Eventually, several

---

[329] Qureshi, 192

[330] Dietrich Reetz, *Hijrat: The Flight of the Faithful: A British File on the Exodus of Muslim Peasants from North India to Afghanistan in 1920* (Arbeitshefte: Berlin, 1995), 9.

thousand of disillusioned muhājirin returned penniless to the plains of India; many others died en route.[331]

While some Pashtun migrants from Peshawar eventually settled in the area of Kunduz, and Sindhis were resettled in the northeastern environs of Balkh, as Adamec has noted, some even went further west or north, migrating the Soviet Union and Europe. Most of the muhājirīn, however, ultimately decided to return to India.[332]

What were the causes, motivations, and interests at work that led such high expectations to meet such dismally disappointing results and dire consequences? This question haunts the study of the Hijrat Movement, the migration of tens of thousands of Indians to Afghanistan from in 1920, a particularly dramatic episode of one of the most dynamic, cosmopolitan, and politically savvy movements in modern Indian history: the Indian Khilāfat movement of 1919-1924. This section adds to the discussion on the Khilāfat movement and especially Hijrat movement by asking the following questions: What were the various interests propelling the Hijrat movement—on the Indian, and Afghan side? Why did Amir Amān-Allāh of Afghanistan support the Hijrat movement, and why did it fall apart? Why did several Indian ʿulamāʾ and Muslim organizations such as the Jami'yyat al-ʿulamāʾ-e Hind participating within the broader Khilāfat movement *oppose* the Hijrat?

This movement brought a host of Indians to Kabul, from political revolutionaries to poor Punjabi farmers seeking a better life in an "Islamic state." In describing the constituent components of the migrants, Machonachie mentions at least four distinct groups of Indians who were previously domiciled on the British side of the line and crossed over into Afghanistan, as follows, (1) the "Muhājirīn proper"; (2) Indian Revolutionaries; (3) British tribesmen who were granted land in Afghanistan, and (4) deserters from the Frontier Militias.[333] In addition to this diversity of actors and purposes among the migrants themselves, there is the question of the Afghan government's interests, and role in the movement. In particular, the Hijrat also became a key strategic chess piece for Amān-Allāh Khan in his negotiations with the British, reaching across the Durand Line once again to invite, and appeal to, Indian Muslims who were technically subjects of the British Crown. We will also examine how the movement represented an attempt of the Afghan government to attract professionals—especially doctors, teachers, bureaucrats, and *lawyers*—to staff the spectrum of various new ministries the amir had just established upon his ascent to power.

---

[331] Gail Minault, *The Khilāfat Movement: Religious Symbolism and Political Mobilization in India* (Columbia: New York, 1982), 106-07. On the Hijrat movment, Machonachie provides a similar overview, though he reports only a third of what later day scholars have.

> In June [1920] the 'Hijrat' movement began in the North-West Frontier Province, and during that month and July some 18,000 persons, persuaded that it was an Islamic duty to abandon a country ruled by a sacrilegious Government, left their homes for Afghanistan. The first refugees were welcomed by the Amir but their numbers soon became embarrassing, and admission to Afghanistan was finaly refused. By August the movement had lost its force, and the emigrants began drifting back to their homes. The peculiar difficulties of the internal situation increased the anxiety of the Government of India to ensure that their dealings with the Amir should give no cause for a further alienation of Muslim sentiment.
>
> IOR-R/12/LIB/107, *Precis on Afghan Affairs*, 31.

[332] Adamec*, Afghanistan,* 110.

[333] IOR-R/12/LIB/107, *Precis on Afghan Affairs*, (para. 504, p. 270).

Accordingly, in this section I argue that for Indian Muslims, the Hijrat movement represented a temporary fusion of heterogeneous interests, as opposed to a monolithic and uniformly sustained bloc of Muslim (or Indian, for that matter) political will. These diverse interests included the desire manifested by many Indian Muslims to protect the territorial integrity of the Ottoman empire, as well as protest British policy vis-à-vis the Ottomans, in particular the imperial carving of the holy lands of the Ḥijāz, Palestine, and Iraq (Baghdad, Najaf and Kerbala). This was parallel, but not necessarily linked to the militant motivations of some to destabilize and oust the British from India, and possibly even invading India with Afghan forces to reestablish Muslim political rule in India. An even strong emphasis was the desire by a new burgeoning Indian Muslim elite to create a unified Indian Muslim electoral bloc (and thereby one voice to speak for all Indian Muslims). Finally, the Hijrat movement also reflected the urgency with which some Indians sought to escape what many Indian Muslims saw as the colonial administration's unfair demonization and targeting of Muslims since 1857, a fear that was articulated jointly with the purist hope to live under the rule of the Sharīʿah or a modern "Islamic state."

For Amān-Allāh and the Kabul government, some interests clearly overlapped with the Indian Muslims—namely, support of Turkey and the desire to weaken and secure gains from the British Raj, and possibly even invade India itself. On the Amir's support of Turkey, a brochure written in French, printed in Paris, and found in the Ottoman archives is a telling example of the Amir's staunch support of the Ottoman Caliphate. The brochure, published in French in Paris and therefore intended to demonstrate to western powers the strong international support for preservation of the Turkish Caliphate, discusses the position of Amir Amān-Allāh Khan vis-à-vis Islam and the Caliphate. Amir Amān-Allāh's robust sponsorship of the Indian Khilāfat movement, especially the first two years of his reign, signify the independent Muslim political support Indian Muslims and the Khilāfatists were seeking to bolster the Ottoman caliph.[334]

Nevertheless, in spite of these common interests, the Afghans held unique own interests which eventually conflicted with several of the Khilāfatists, and muhājirs in particular, which contributed to the collapse of the mass migration movement. In particular, Amān-Allāh's exclusive interests were to expand his sphere of influence in the eastern, southern, and northern frontiers, and thereby possibly carve out new lands to expand Afghanistan's territory, destabilize frontier areas under Pakhtun tribal control along the border (and attempt to redraw or remove the Durand Line once again), increase his Pan-Islamic credentials and thereby his own domestic legitimacy, but most of all, he most likely sought to use as the Hijrat a bargaining chip against the British to secure bonus gains for his fledgling state in negotiation of crucial territorial, economic, and diplomatic treaties with the British, Russians, and possibly other European powers.[335]

---

[334] BOA-HR.SYS 5/21 (ca. 1919-1929)

[335] There is evidence to suggest that the British did not oppose the Hijrat movement initially. For example, a British Indian Foreign and Political Department records contains instructions for British borderland administrators to not oppose the migrant movement.

> I take it that there should be no official interference of any kind here with persons desirous of proceeding on *Hijrat* to Afghanistan or tribal territory ; and I am acting on this assumption. In the case, however, of any Government servants who resign or leave their posts and proceed on *Hijrat*, I propose to make it a rule that should such persons return and wish to be re-employed in Government service, this should be refused except for very special reasons.

Again, here the law-related aspects of this dramatic episode of Pan-Islamism have again largely been overlooked. From the beginning of the movement and at the heart of the Hijrat migration a critical jurisprudential debate was taking place over the future of Muslims in India as minorities, one of the first instances of Indian Muslims' engagement with some of the earliest institutions of modern international law, as well as a moment-of-truth test for one of the solely independent Muslim sovereigns at the time, Amir Amān-Allāh Khan of Afghanistan, and his wavering between transnational 'Islamic state' citizenship (something akin to Ottoman transnational identity) versus modern territorial nationalism. In the end, short-term political interests and real politick trumped the commitment to a genuine transnational, "Pan-Islamic" rule of law movement. In the end, this contributed to the further entrenchment of the nation-state system as the model not only in the Afghan Niẓāmnāmā codes but subsequent Muslim modernist thought in India as well. In this way the disintegration of this transnational Muslim project heralded the eclipse of Pan-Islamism in the mainstream of Indian Muslim political and legal thought by more ethnically nationalist ideologies for decades to come.

The Khilāfat Movement: Disparate Interests Tied by a Loose Proto-National Thread

> The feeling now aroused has come to stay: and though the hijrat movement and the non-co-operation movement may die a natural death, these movements will be replaced by others of perhaps a more dangerous kind; and we shall not again secure the whole-hearted loyalty of the Muslim community until we have done something to redress what, rightly or wrongly, they consider a breach of faith, a bitter wrong, and a deep injury to their religion.[336]

Following the announcement of post-war treaties and agreements in which the Allies revealed their plans for the post-war partition of the Ottoman empire, most notably at Paris, Versailles, and Sèvres, a surge of public onion in India and Afghanistan denounced the treaty—as well as the Allies' apparent encouragement given to Greek offensives in western Anatolia—as contrary to a pledge which Lloyd George was widely advertised to have given during the war. Observing public opinion on this matter, Machonachie writes from India, "Seldom if ever can Great Britain's reputation for fair play and good faith have stood lower, in Indian estimation, that it did at this time."[337] It is this context that the 1919-1924 "Khilāfat" movement gathered momentum and robust force.

It is important to recognize from the beginning that for Indians Muslims, in spite of omnipresent thematic emphases on Pan-Islamic unity, the Khilāfat movement was not a monolithic, uniform national movement of Muslims, nor was it composed of or supported only by Indian Muslims. Rather, the movement represented the heterogeneous conglomeration of short and long-term political interests by an array of Indian, and Afghan, political actors. Included *within* the broader movement was the aforementioned *Hijrat* migration to Afghanistan. But it also included the high-level lobbying by Indian Muslim delegations to London as well as

---

NAI-FP/SEC/F November 1920 1-582 ("Afghan Situation, Part IV"). It is plausible that London knew it would later falter and be a logistical nightmare that could bog down the young Afghan government.

[336] Reetz, 49

[337] IOR-R/12/LIB/107, *Precis on Afghan Affairs*, (para. 70, p. 29).

by Afghan delegates giving special prominence to the question of the Khilāfat and the post-war peace terms in their negotiations with the British at Rawalpindi and Mussoorie.[338]

This diversity within the movement is evident even within individual sub-groups that contemporary writers often take for granted as monolithic, e.g. "Pan-Islamists", while a vertical slice of this group will reveal the heterogeneity of motivations, class backgrounds, and political ideologies of even this group. M. Naeem Qureshi, for example, in his landmark study of the Khilāfat movement—and undoubtedly the most thoroughly researched manuscript—writes, that "Riding the crest of the Pan-Islamic waves were the ardent young radicals who counted among them some of the most outstanding men in Muslim India—politicians, lawyers, journalists, businessmen, and ʻʻulamāʾ—covering almost the entire spectrum of the society from liberal modernists to religious conservatives."[339]

Nevertheless we can say there was a common political and discursive thread tying these amalgam of differentiated and disparate groups of people together in common interests and alliance. Perhaps the singular most common and unanimous goal uniting the groups was the preservation of the caliphate as an institution for the global Muslim faithful. But how was this to be achieved? In light of the springing of successor states and claims to the caliphate, as had been the case with by the Sherif of Mecca (and later Ibn Saud), was support for an *Ottoman Turkish* caliphate unanimous? Even in this fundamental goal underlying the movement, fractures emerged. For example, even the basic question of who should be caliph was subject to debate among the Khilāfatists. As Qureshi notes,

> Despite the Khilāfatists' insistence that both from the religious and political points of view the continuance of the caliphate was essential, there was no unanimity as to how this was to be achieved. Among the various suggestions, ranging from forcing Ankara for Abdülmecid's restoration to electing as caliph the Amir of Afghanistan or the Niẓām of Hyderabad or even Muḥammad ʿAlī, the one for a world Muslim congress seems to appeal to an overwhelming majority.[340]

Similarly, Peter Hardy, in his informative study on the Muslims of British India challenges the idea that there was any uniformity of purpose among the leaders and rank-and-file participants of the Khilāfat movement. "It would be wrong indeed," Hardy warns, "to believe that all Muslims who supported the Khilāfat movement were imbued with the same ideas and purposes.[341] Even with regard to *Hijrat* movement alone, for example, in describing the constituent components of the migrants, Machonachie mentions four groups of Indians who were previously domiciled on the British side of the line and crossed over into Afghanistan, as follows, (1) The Muhajirin proper; (2) The Indian Revolutionaries; (3) The colonies of British tribesmen who were granted land in Afghanistan, and (4) The deserters from the Frontier

---

[338] IOR-R/12/LIB/107, *Precis on Afghan Affairs*, (para. 70, p. 29).

[339] M. Naeem Qureshi*, Pan-Islam in British Indian Politics: A Study of the Khilāfat Movement, 1918-1924* (Brill: Leiden, 1999), 7

[340] Qureshi, *, Pan-Islam*, 382.

[341] Peter Hardy, *Partners in Freedom and True Muslims: The Political Thought of Some Muslim Scholars in British India, 1912-1947* (Greenwood: Westport, CT 1971), 191.

Militias.[342] In light of considerable differences of social background, visions, and strategy, which we will unpack a bit later in this section, the question might well be justified as to whether we can even consider this amalgam of disparate political movements to even have been *a* movement. Without falling into singular versus plural semantics, the point is there was diversity and factionalism *within* the broader Khilāfat movement, with the centrally unifying and universally recognized point among "Khilāfatists" being the preservation of the Ottoman Caliphate and the Islamic holy lands. "Nevertheless," as Hardy continues, "the Muslim leaders of the Khilāfat movement came together on a religious platform; their appeal to their followers was in religious terms—that only by joining to support the independence of the Ottoman sultan as khalifa of all Muslims could they hope to live as Muslims in obedience to God."[343]

In this manner, a closer analysis of the movement's vast and often-conflicting network of political dynamics that produced the movement reveals two broad social, political, and legal interests at the heart of the movement—what I will call the "global" and "local" interests fueling the Khilāfat movement, and Hijrat episode in particular. These interests were overlapping to some extent, but distinct enough to warrant separate treatment. The global and more commonly discussed motive was protecting the pre-war Ottoman domains, especially the holy lands of Ḥijāz, Palestine, and southern Iraq (Najaf, Kerbala). The second, "local", motivation was creating a united bloc of Indian Muslims (for electoral and mobilizational purposes). A third motive, the drive to restore Sharīʿah law under a modern form of Muslim political rule, will be discussed in the last part of this section.

Protecting the Sublime Ottoman Domains: Indian Muslims as "Unarmed Turks"

The common interest articulated by Indian Muslim politicians mobilizing in support of the Turkish War of Independence and fueling the Indian Khilāfat movement was the imperative of Indian Muslims to adamantly protest British post-war policy vis-à-vis the Ottoman caliphate, in particular the carving of former Ottoman territories into colonial mandates.[344] Speaking in

---

[342] IOR-R/12/LIB/107, *Precis on Afghan Affairs* (para. 504, pp. 270).

[343] Peter Hardy, *Partners in Freedom and True Muslims: The Political Thought of Some Muslim Scholars in British India, 1912-1947* (Greenwood: Westport, CT 1971), 191

[344] In tracing the broader political origins and complex historical antecedents of the Khilāfat movement, it is all too easy to lose sight of the profound sense of emotion, myriad motivations, and personal texture of individual persons who devoted their lives to the movement. In this light the following document provides a rare and rich andecote of one particular Muslim soldier in the Indian Army, and the diverse, as well as conflicting, activities, roles, and political positions he assumed in the early twentieth century. From a British Indian subject and decorated soldier in the Raj's Indian Army, to an avid supporter of the Ottoman Sultan, to a combabtant against the Turks, before ultiamtely throwing his lot behind the Khilāfat movement. The description below also illustrates the profound sense regret many Indian Muslims felt after serving on the British side in World War I.

> 526. RUKUN DIN, *Indian Awan.*—Late *Risaldar* of the 17th Cavalry in which he served more than 32 years. He was for sometime 'drill major' and in 1905 he was promoted *Jemadar* and appointed Indian Adjutant. During the Greco-Turkish war (1905) he raised funds for the Turks. At the beginning gof the Great War he volunteered to fight against the Turks and served with distinction in Mesopotamia. He retired as a *Risaldar* about the end of 1919 and went to his village, where he became very seditious. He was an efficient cavalry officer, and an excellent horseman and polo player. On 13th May 1920 at Kushab he prayed to God to forgive him for the great help he had given to the British Government in fighting for the *Kafirs* in the war, and in future he would mend his ways. He is described as a 'very bigoted and fiery Muḥammadan.' Also 'as a staunch worker for the *Khilāfat* cause and is considered to be a mischief-

audiences with some of the highest offices of political power in Europe, including at one point Lloyd George at 10 Downing Street, the dynamic journalist, intellectual, and political activist Muḥammad ʿAlī Jauhar (1878-1931), together with his brother Shaukat ʿAlī (1873-1939), boldly but carefully articulated what he presented as clear obligations imposed on Muslims by their faith with regard to the caliphate. Describing the jointly spiritual and temporal nature of the sublime institution of Khilāfat, Muḥammad ʿAlī stressed the fusion of both elements in the hearts and minds of the global Muslim faithful—and most relevant to London—in *Indian* Muslim consciousness. For example, Qureshi summarizes some of his main points as follows:

> Islamic outlook on life being supranational rather than national, the Muslims had always had two centres—personal and local. The personal centre was the caliph, the successor of the Prophet of Islam, and the local was the Jazirutu'l-'Arab as delimited by Muslim geographers. The institution of the caliphate embodied both the temporal and the spiritual duties and it was incumbent upon the entire Muslim nation to preserve it. Hence the connection of the Indian Muslims with the Ottoman caliphate. As the 'Commander of the Faithful' the caliph's temporal power, especially after the Balkan Wars, had been reduced to a minimum with which he could maintain his dignity and act as the 'Defender of the Faith.' Therefore, the irreducible minimum was the restoration of territorial status quo ante bellum.[345]

In this manner the Indian activist and politician Muḥammad ʿAlī assiduously maneuvered around the controversy of whether Indian Muslims paid allegiance to a foreign sovereign (and could thereby be guilty of treason as British subjects in Indian courts) by presenting the question of preserving Ottoman lands—in particular the Arabian Peninsula's holy sites of Mecca and Madīna, but also Jerusalem (*Al-Quds/Küdüs*), Najaf, and Kerbala (all under British mandates after the war)—in strictly religious terms. This strategy was also aimed at silencing the more hawkish (or we might say Islamophobic, in contemporary terms) British Indian officials looking for signs of Muslim militancy and rebellion in order to justify completely crushing the movement. This was an additional motivation behind Muḥammad ʿAlī presenting the question of the post-bellum treatment of the Ottoman empire, Palestine and the Ḥijāz as fundamentally *religious* issues—a strategy that, ironically in the case of Palestine, was shared by many strands of the Zionist movement in Europe who sought to shield settler colonialism in the holy land from international critique. Nonetheless, in the case of Muḥammad ʿAlī's promotion of the Khilāfat cause, and in a veiled threat, he did not shy away from describing the potentially explosive political consequences should the British fail to uphold their promises of equity and sensitivity to Muslim public opinion in the aftermath of World War I.[346]

Furthermore, Muḥammad ʿAlī proceeded to argue that if the Ottoman caliph retained control of the Arabian peninsula (Jazīrat al-ʿArab), and if British prime minister and President Woodrow Wilson of the United States proved true to their promises, "the restoration of the

---

> maker.' He disappeared in September 1920 and served as a *Qumaidan* in the *Qita Namuna* battalion of the Afghan Army. He was said to be a great favourite of the General Nādir Khan, and to attend his *Darbars* regularly. In Bajaur, 1923.

General Staff of the Government of India (Declassified), *Confidential: Who's Who in Afghanistan* (Simla: Government of India Press, 1930), 200-201.

[345] Qureshi, 146

[346] Qureshi, 146

territorial *status quo ante bellum* would be achieved automatically."[347] Muḥammad ʿAlī also went out of his way to assure Europeans and the Americans that within a scheme of Turkish sovereignty, "reasonable guarantees could be taken for the autonomous development of all communities, whether Muslim, Christian or Jewish."[348] At the same time, and this not soothe the sensibilities of most British Indian officials, he also did not hesitate to state that Muslims' "allegiance to God and his Prophet took preference over allegiance to any earthly sovereign."[349]

Though Muḥammad ʿAlī was one the most vocal, assertive, and staunchly anti-British spokesmen for the Khilāfat movement, he was not the only one.[350] Indian Muslim activists for the Khilāfat movement also traveled to Anatolia to meet and correspond with the Ankara government, including the Indian Khilāfat Party's General Secretary—referred to as "Mirza Bey in documents of the Ankara Government.[351] Both the Turkish Republic Archives and archives of the Institute for the History of Turkish Revolution in Ankara contain correspondence, reports, or other official records of the young Ankara government concerning visiting Indian Muslim delegations, especially members of the Khilāfat movement.[352] Such movements to Anatolia—there is no indication Mirza Bey went to Istanbul—signal a recognition in the subcontinent that Mustafa Kemal's government was being recognized as the new representative of the Turkish

---

[347] Ibid., 146

[348] Ibid., 146

[349] Ibid., 146

[350] The preservation of the caliphate was such a popular demand among nearly all Muslims – across Sunnī-Shi'i lines, and even a substantial portion of Indian nationalists who were Hindu, that the Muslim League sponsored the following Resolution XXI at the All India Muslim League Session at Delhi in December of 1918:

> Having regard to the fact that the Indian Musalmans take a deep interest in the fate of their co-religionists outside India, and that the collapse of the Muslim Powers of the world is bound to have an adverse influence on the political importance of the Musalmans in the country, and the annihilation of the military powers of Islam in the world cannot but have a far-reaching effect on the minds of even the loyal Musalmans of India, the All India Muslim League considers it to be its duty to place before the Government of India and His Majesty's Government the true sentiments of the Muslim community, and requests that the British representatives at the Peace Conference will use their influence and see that in the territorial and political redistribution to be made, the fullest consideration should be paid to the requirements of the Islamic law with regard to the full and independent control by the Sultan of Turkey, Khalifa of the Prophet, over the holy places and over the Jazirat-ul-Arab as delimited in the Muslim books. The League further hopes that in determining the political relations of the Empire, for the future, His Majesty's Ministers shall pay the fullest consideration to the universal and deep sentiment of the Musalmans of India, and that resolute attempts should be made to effect a complete reconciliation and lasting accord between the Empire and Muslim states, based on terms of equality and justice, and in the interests alike of the British Empire and the Muslim world.
>
> Qureshi, 98-99.

[351] BCA 30.10.0.0/200/365/1/239 (10 07 1920) ("Hindistan Hilafet Partisi Genel Sekreteri Mīr za Bey'in Ankara'ya gelişine dair").

[352] In addition to the aforementioned document from the Turkish Republic Archives, for an example from the archives of the Institute for the History of Turkish Revolution, see TİTE 2568/333/43 (15/07/1921) ("Bombay'daki Hilafet Cemiyeti ile olan temaslarını, tekrar Istanbul'a dönüşünü ve Ankara hükümetinin vereceği herhangi bir görevde çalışmak istediğini bildiren raporu").

people, in spite of the Ottoman Caliph-Sultan s and Ottoman government still being in Istanbul. Other delegations, such as representatives of the Bombay Khilāfat Committee, visited both Istanbul and Ankara, indicating a more diplomatic approach or desire to not interfere in internal Turkish politics.[353]

Beyond the ʿAlī Brothers' activities in and outside the Indian subcontinent in support of the Ottoman caliphate, the seeds for another powerful coalition of Indian Muslim actors were being sown in the fertile soil of World-War I Pan-Islamic fervor. Mawlānā ʿAbd al-Bārī "Firangī Maḥalī" (1878-1926), an eminent scholar of the Firangī Maḥal madrasah of Lucknow, was dispatched by Mawlānā Maḥmūd al-Hasan to the Indo-Afghan borderland in an effort to coordinate the ʿulamāʾ in developing unified stance on the Khilāfat issue. With the Paris peace conference already deliberating as of January 1919, ʿAbd al-Bārī sought to strengthen the Khilāfat movement by seeking a fatwā on behalf of the *Anjumān-i Muʿīd al-Islam*, a critical step in the subsequent formation of the profoundly influential pan-Indian Muslim scholarly council *Jamʿīyat al-ʿulamāʾ-i Hind*. The latter would serve to empower the movement with the depth and prestige of *'ijmā'*, a scholarly juridical consensus on the question of the Khilāfat.[354] Attached to the request for a fatwā (*istiftā'*) were the opinions of eleven Firangī Maḥal ''ʿulamāʾ, including ʿAbd al-Bārī himself, stating, "(a) the appointment of an imam or caliph was obligatory irrespective of whether he was a Quraishi or a non-Quraishi; (b) the boundaries of the Jazirut'l-'Arab were exactly as detailed by Dr Anṣārī in his address and it was their duty to expel Christians, Jews and idolaters from that land; and (c) it was incumbent upon good Muslims to come to the aid of a Muslim country if it was under attach from non-Muslims.[355]

All in all, sixty-six ʿulamāʾ affixed their signatures to the fatwās. Qureshi further notes that in sum, in spite of some notable abstentions, the clarity of motives for protecting the Ottoman domains could not be more clear from the very constitution of the Central Khilāfat Committee itself (CKC).[356] According to the constitution, the objectives of the CKC were

> To secure for Turkey a just and honourable peace; to obtain the settlement of the Khilāfat question; also of the holy places of Islam and the Jazirut-ul-Arab in strict accordance with the requirements of the Shariat; to secure the fulfillment of the pledges of Rt. Hon. Mr Lloyd George, given on 5th January, 1919, and of Lord Hardinge, regarding the preservation of the integrity of the Turkish Empire; for the above purpose to approach the British Ministers, the Viceroy of India and the British public; to carry on propaganda work in and out of India; to take such further steps as may be deemed necessary.[357]

What was the British response to these delegations? The standard response from Delhi, and London, was to mollify the Khilāfatists by assuring the British would "fully respect" Muslim sentiments in Palestine and Iraq, as well as point out that Sherif Ḥusayn was in command of the Holy Places in the Ḥijāz, not the British. The latter was a point many Indian Muslims, and

---

[353] In addition to the aforementioned document from the Turkish Republic Archives, for an example from the archives of the Institute for the History of Turkish Revolution, see TİTE 2568/333/43 (15/07/1921).

[354] Qureshi, 101.

[355] Ibid., 101.

[356] Ibid., 101.

[357] Ibid., 122

Afghans, in light of their negative view of the Ḥijāz uprising against the Ottomans, hardly took seriously.[358] The predominant British response seems to have been annoyance, more than anything. Despite pleas from many India Office officials to take Indian Muslim sentiments into consideration for the sake of an efficient administration of empire, in the realm of policy at least the delegations seem to have been largely ignored.

At the same time, this is not to say the British *Indian* Government did not attempt to recruit, or manufacture, Islamic juridical opinions in support of the British position vis-à-vis the Ottoman Caliphate. One file from the British Indian Foreign Department, for example, includes a published pamphlet, forwarded to the Home Department for their "perusal", entitled "Facts about the Khalifate," and translated from the original manuscript of Moulana Faizul Karim with a cover note stating "authenticated by the principal Pirs and Ulemas of Sind." Printed in Karachi, the pamphlet is a polemic against Ottoman claims to the Caliphate, citing some interpretations that the Caliph must hail from the Quraysh tribe, among other classical arguments cited against opponents of the "Turkish Caliphate." The pamphlet concludes such exhortations as, "Be it remembered that the greatest monuments of the Prophet are the two Holy Places, and whosoever is their keeper has greater right to the Khalifate than his rivals."[359] The curious omission of Jerusalem—Islam's third holiest city and occupied by British by the end of the War, and the timing of Sherif Hussein's rebellion against the Ottomans and assuming control of the Ḥijāz, renders the argument highly suspicious. Topping it off, the pamphlet makes a final call for Indian Muslims to obey the British,

> In conclusion, we should remember that in accordance with the word of God and the Prophet it is incumbent on us Mussulmans to remain loyal and obedient to the ruler of the time, and abstain from all sorts of agitation and disturbance… We should be thankful that friendly relations subsist between the British Government and the King of Hedjaz. This is a fact which confirms the great prediction of the Qoran that the Christians, in comparison to other non-Muslims, will be better friends of Mussulmans.[360]

An accompanying British note from the Central Intelligence Dept dated July 16, 1919, writes that "the criticism is particularly directed against Maulvi ʿAbd al-Bārī and Dr. Ansari." The very next day, the same author laments that the author, Moulana Faizul Karim, "is also not known. It would be a good thing if the pamphlet is the spontaneous work of the Maulvis. The signatories are also not known outside their province." He ultimately concludes, "It is premature to say how far this attach on the Turkish Caliphate will succeed but so far as the merits of the case are concerned reasonable people must follow the advice contained… The case at the present state is of academical interest and unfortunately the Sheriff [Hussein] from many points of view is a broken reed."[361] Needless to say, that this exchange was included in a declassified British

---

[358] For example, note the scathing editorial articles in Kabul's *Amān-i Afghan* and other papers criticizing what they saw as empty words and false pretenses of the League of Nations, as well as "British-manufactured sultans." A few sample articles which caused concern to the British intelligence in this regard are included in NAI-FD/EXT/A 1923 477-X. A report in this file discusses possible claims of Sherif Ḥusayn to Caliphate, but that he prefers to not be "a claimant among claimants" but rather support should come from the Muslim world as a whole.

[359] NAI-FD/EXT/A 1923 477-X (15).

[360] Ibid.

[361] NAI/FP/EXTL/SEC/B May 1920, 816-817.

Indian intelligence document during the Khilāfat Movement, speaks to how seriously Delhi took the movement, as well as their attempt—feeble in the end—to enlist some Muslim scholars to support their position.

The Marginal Role of Militancy

Mushiral Ḥasan and Margrit Pernau rich collection of documents in *Regionalizing Pan-Islamism: Documents on the Khilāfat Movement* (2005) also speak volumes to the consistent desire of the Khilāfatists to oust non-Muslim (i.e. European imperialists) from occupying Holy sites of Ḥijāz, Jerusalem and Najaf. While even Muḥammad ʿAlī's actions were civilly oriented and employed a persuasionist model of political change, the Khilāfat Movement included in this group, but less common, militant radicals who professed the actual desire to fight for the Ottomans, destabilize the British from within, or possibly invade India with help of Amir Amān-Allāh and the Afghans. These elements would invariably play a role in adding a militant strand to the largely peaceful Hijrat movement. As we discussed in Chapters 2, the roots of north Indian Muslim militancy waging wars for autonomy bear a genealogy to the jihad of Sayyid Ahmed of Rai Bareli in the late eighteenth century. In Chapter 4, we traced a flare-up of this lineage in the movement of Indian revolutionaries to Afghanistan, Arabia and the Ottoman empire, most dramatically in the Silk Letter Conspiracy during World War I. As Qureshi notes on the latter movement, Pan-Islamic propaganda did have an effect on aspiring Indian revolutionaries, as appeared in February 1915, when,

> [I]nstigated by the mujahidin agents, a group of Lahore students (later joined by some of the Frontier) crossed into Afghanistan, with the object of proceeding to Turkey and fighting for the caliph. Some of these students, particularly Zafar Ḥasan Aybek (1895-1989), later played a significant role in the Turco-German and Pan-Islamic revolutionary schemes. The 'extremists' among the Pan-Islamists aligned themselves with the German-assisted Indian revolutionaries in Batavia and the Ghadr party based in San Francisco, and stretched the plot to the tribal belt, Afghanistan and several other parts of Asia and Europe.[362]

Contrary to contemporary notions often projected backwards, Muslims taking up arms against the British in India was on the whole discouraged by a plurality if not majority of Indian ʿulamāʾ, many of whom still openly professed loyalty to the British Raj's government since the brutal suppression of the 1857 rebellion and ensuing years of retaliation. Much of this had to do with the fact that in the early stages of the Great War's outcome, many Indian Muslims assumed (erroneously) that the British would honor its promises of respecting the territorial integrity of the Turkish empire, especially with regard to the holy lands. That this dissonance between hopes and realities, and increasing militancy stems from the shattering of Indian Muslims' early confidence in British promises to respect Muslim religious sentiment in the cataclysmic aftermath of World War I for the Ottoman. At the same time, there is little doubt such disappointment stemmed from putting too many hopes the often fickle statements of British officials at war, such as the case of Lloyd George's January 5, 1918 war-aims speech that unequivocally declared Britain was not fighting to "deprive Turkey of its capital, or of the rich

---

[362] Qureshi, 78

and renowned lands of Asia Minor and Thrace, which are predominantly Turkish in race."[363] While Indian Muslims "took this as an unalterable pledge and tenaciously clung to it," according to Qureshi, it also demonstrates how Indian Muslims could also overlook the fact such statements indicated other intentions with the Arab-majority provinces of Syria and Palestine and Mesopotamia, as well as Eastern Anatolia and the Ḥijāz.[364]

While it is no simple matter to estimate the exact number of migrants who passed through the Khyber Pass or other less known routes straddling the porous Durand Line—let alone estimating how many migrated to actually fight for the Ottomans in the war fronts of Iraq, Anatolia, or Egypt—there is no question that pro-Ottoman militancy and the ousting of the British from India was one strand in the diverse range of activities of resistance employed under the blanket term of "the Hijrat." In this way, Kabul became of "hub" of Pan-Islamic, pan-Asian, and anti-imperial revolutionaries from locales as diverse as Istanbul, Berlin, Moscow, and Tokyo, with a chief unifying aim being the expulsion of the British from India.[365] At the same time, as will be discussed in a subsequent section, the "Afghan-connection" became a hot-button issue that gradually cut at the Muslim-Hindu entente at the heart of uniting the simultaneous twin Khilāfat and non-co-operation movements. On one such occasion where when one of the most outspoken leaders of the Indian Khilāfat movement, Muḥammad Ali Jauhar, referred to the role of Afghanistan in the anti-imperial struggle, it could make some non-Muslim Indians nervous. As Qureshi observes, "taken in conjunction with the declared objectives of the hijrat, the mounting 'jihad' raids of the Frontier tribes on the Indian territory, the slow progress of the Anglo-Afghan talks on a treaty of friendship and the increasing Bolshevik and Turkish influence in Afghanistan, the speech created alarm in some Hindu circles."[366]

In an uncanny prediction that foreshadowed future developments when indigenous militant resistance against colonial rule was carried to its logical extreme in South Asia and the Middle East, then Northwest Frontier Chief Commissioner Sir Hamilton Grant commented, in an astute warning to British administrators in the imperial center, had the following to say about ignoring the impetus and root causes that propelled such dramatic movements as the Hijrat and non-cooperation movements:

> The feeling now aroused has come to stay: and though the hijrat movement and the non-co-operation movement may die a natural death, these movements will be replaced by others of perhaps a more dangerous kind; and we shall not again secure the whole-hearted loyalty of the Muslim community until we have done something to redress what, rightly or wrongly, they consider a breach of faith, a bitter wrong, and a deep injury to their religion.[367]

---

[363] Ibid., 87.

[364] Ibid., 87.

[365] Aydin; Qureshi, 192.

[366] Qureshi, 285. British records indicate a near-paranoid obsession with Muḥammad Ali's activities abroad, and in particular any connections with the Amir of Afghanistan, Amān-Allāh Khan. As onde document notes, "Mr. Muḥammad Ali, for instance, in a speech at Madras stated that, if the Amir of Afghanistan invaded India to free her from the infidel, it would be the duty of Moslems to assist him." IOR-R/12/LIB/107, *Precis on Afghan Affairs*, 47.

[367] Reetz, 49

Though not representing a majority of Khilāfatists, militancy demonstrated yet another example of how, in Muḥammad ʿAlī's warning to Downing Street, "Pan-Islamism would cause a lot of difficulties for England in the next 10 to 20 years."[368] On the whole though, however, Indian Muslim militancy paled in comparison to the larger, and more threatening, forces of political resistance and civil disobedience at the core of the Non-cooperation and Khilāfat movements in the early 1920s. We now turn to this more *local*, political motivation driving the Hijrat movement.

"Local"-izing Pan-Islamism: Building a United Indian Muslim Political Bloc

While many of the most consistent and clearly articulated objectives of the Khilāfat and Hijrat movements concerned the far-off Ottoman heartlands of the Levant, Arabian peninsula, and Iraq, Gail Minault and Naeem Qureshi argue the core objectives of the movement concerned local, national, and exclusively *Indian* interests. In her instructive study on the Khilāfat movement, Gail Minault argues that the Indian Khilāfat movement must be understood as a mobilization articulated in universalizing Pan-Islamic terms but founded and envisioned for distinctly *Indian nationalist* purposes. Unpacking her argument a bit, the reason for this view lies in the perspective that an underlying political motive behind the Khilāfat movement was to create a united Indian Muslim bloc (with one voice to speak for all Indian Muslims, for electoral or other mobilizational purposes). Calls for saving the Caliph in far-off Turkey therefore become a constitutive act for the large and fractured Muslim community in *India*, and an attempt to reclaim sovereign government for Indian Muslims.

To understand the implications of Minault's argument on the post-World War I Indian Khilāfat movement, it is necessary contextualize the historical development of Indian Muslim political consciousness before after the war. We turn again to Peter Hardy's prior study of the panoply that was Indian Muslim politics during the British Raj for some background context to the movement. Hardy was among the first western historians to make the important point that the Khilāfat movement was not a homogenous or universal bloc of Indian Muslims united by single Pan-Islamic goal. For Hardy, the fact that many Indian Muslims had supported the British through World War I—many serving in the Indian Army but also several prominent politicians condemning the Ottoman position in the war—was telling.[369] Moreover, with the exception of Mahomed Ali's fiery *Comrade* and Abū al-Kalām Azād's similarly staunchly anti-British *al-Hilal*, in the decades preceding the Great War, the tone of the Muslim vernacular press deemed to be on the whole "pro-British."[370] And yet, following the war, Muḥammad ʿAlī and Azād's views appear to have become much more popular and widely held by India's heterogeneous Muslims. In this manner, the prosecution and outcome of the first world war served as a watershed period and pivotal transformation for tens of thousands of mostly but not exclusively urban Indian Muslims mobilizing politically vis-à-vis British subjecthood and religio-political ties to the Ottoman sultan.

Similar to the complex and multifaceted legal debates that emerged in the cataclysmic aftermath of the 1857 Rebellion for Indian Muslims as discussed in Chapters 2 and 3, the British

---

[368] Qureshi, 93

[369] Peter Hardy, *The Muslims of British India* (London: Cambridge University Press, 1972, 189-98.

[370] Hardy, *Muslims of British India*, 175-197.

and Ottoman entry into the first world war has also raised to the fore previously simmering tensions, difficult questions, and interminable debate about what it meant to be Hindustanis, subjects of the British crown, and modern Muslims faithful to the Ottoman Islamic caliphate and prophetic *ummah*. While Hardy tends to emphasize pro-British Muslims for the duration of the war, Qureshi's more cautious approach that focuses on Indian Muslims in the early stages *before* the Ottoman entry into the conflict nonetheless highlights the some perhaps surprising stances, as follows,

> [P]aradoxically, when in August 1914, England, too, joined on the side of Serbia and Russia, the Muslim sympathies veered round to its side. Mass meetings of Muslims were held throughout the country offering prayers for the success of British arms and pledging their services as a mark of 'unswerving allegiance and unflinching devotion to the British Crown.' At some places overenthusiastic maulavis went so far as to declare that those who fell in the war for Britain would be shahids. Efforts were also made to organize a Red Crescent mission of Muslim volunteers to assist the British troops and the equipment of Ansari's Balkan medical mission were handed over to the government.[371]

In the absence of data on matters extremely difficult to quantify in any case—the degree of Indian Muslim "loyalty" to the British during the first world war—as Hardy, Qureshi, and Ayesha Jalal have argued, by the time of the emergence of the Khilāfat movement in the aftermath of the war, historians make generalizations on the still nascent "Indian Muslim" national community at their peril. This is particularly the case in light of the diverse movements, ideologies, and politics that mobilized thousands of Indian Muslims to rally for the preservation of the Ottoman Caliphate after the war. As Hardy notes, we can glean simultaneously divisive and uniting aspects of the Khilāfat movement from the sheer diversity and heterogeneity of its actors even among just the Indian ʿulamāʾ,

> Conservatives wished merely to influence the British government towards a more lenient treaty of peace with Turkey and to escape the odium of standing aloof from the popular cause; the conceptions of Dr Anṣārī (1880-1936) and ʿAbd al-Bārī, Mazhar ak-Haq (1866-1929) and Abū al-Kalām Azād, as to how and by whom the law of Islam was to be interpreted, were as different as those of Sir Saiyid Aḥmad Khan and Mawlānā Muḥammad Qāsim. Some Muslims had reservations about the demand for immediate independence for India. The Bareli ʿulamāʾ and the Bahr ul-'ulum ʿulamāʾ at Firangī Maḥall were hostile to non-co-operation. Nevertheless, the Muslim leaders of the Khilāfat movement came together on a religious platform; their appeal to their followers was in religious terms—that only by joining to support the independence of the Ottoman sultan as khalifa of all Muslims could they hope to live as Muslims in obedience to God.[372]

In addition to the movement's internal heterogeneity and factionalism, or "diversity within unity" to adopt a less didactic characterization, we must also keep in mind the movement's earlier roots and precedents. That is to say, at this particular juncture the "Caliphate card" which was employed so vociferously by Indian Muslim politicians like the ʿAlī Brothers and Mawlānā Azād was not a completely new development in history of Pan-Islamic politics in

[371] Qureshi, 70

[372] Hardy, *The Muslims of British India*, 191.

India, nor the complex intrigues and strategizing of Indian Muslim politics during the British Raj. Rather, the Khilāfat movement of the twentieth century built on the Pan-Islamic, pro-Ottoman sympathies of Indian Muslims during the nineteenth century, sympathies that surely intensified following the collapse of the last vestige of (albeit nominally-sovereign) Muslim power with the last Mughal emperor Bahadadur Shah Zafar II in 1857. Indeed, for example, Indian Muslim response during Russo-Turkish war in 1870s-80s was the largest public political expression of Indian Muslims since 1857. As Qureshi describes,

> There was an all-out effort to generate Pan-Islamic feelings. The thrust was on reiterating that the sultan of Turkey was their caliph and the British had better side with him or else resign their interests in the East. But since the tsar appeared to be the main aggressor in the latest crisis the public opinion was wildly anti-Russian. Large public rallies were held to demonstrate solidarity with Turkey at places as separately situated as Bombay, Madras, Calcutta, Ghazipur, Meerut, Patna, Amritsar, Chiniot, Lahore and Peshawar.[373]

What does appear to be new here was the co-optation to create a unified Indian Muslim bloc vote. Gail Minault expands on this argument in her book on the Khilāfat movement. For example, she writes that the Khilāfat movement "sought to reconcile Islamic identity with Indian nationalism, and hence comparable in many of its aspects to other nationalist, as opposed to supranationalist, movements."[374] In this sense it was about the use of Pan-Islamic symbols to forge a pan-Indian Muslim constituency, i.e. "a quest for pan-Indian Islam." Arguing it was driven by a desire for a united block Muslim vote in British India, she writes,

> Muslims in India had always been divided by regional, linguistic, class, and sectarian differences. This lack of homogeneity is a factor which needs to be borne constantly in mind while examining the actions and pronouncements of the Khilāfat leaders. But Indian Muslims had a common denominator, Islam, and with it a set of symbols of solidarity: the community of believers, the ummah; its symbolic head, the caliph; its central place of pilgrimage, Mecca; its scripture, the Qurʾān ; its sacred law, the shari'a; and its local reference point, the mosque. This common faith and common set of symbols offered a way to articulate a common identity based on religion, and the means for an astute set of political leaders to mobilize Indian Muslims as a political constituency.[375]

In this manner, Minault concludes the Khilāfat movement was a constitutive sociopolitical act for the (especially North) Indian Muslim community—in disarray and shambles since the convulsions of 1857. "Muslim self-assertion, in the Khilāfatist view, thus did not conflict with Muslim collaboration in Indian nationalism; it actually *made it possible*. [emphasis mine]."[376] This is an important point she argues that we must understand local Indian dynamics to understand the Khilāfat movement. It was not just a Pan-Islamic movement, rather it was more of a local Indian movement for Indian purposes geared to the local and national level, as opposed to global level. As she proceeds to elaborate,

---

[373] Qureshi, 28-29

[374] Minault, 2

[375] Ibid., 3.

[376] Ibid.

> This was the age of the emergence of the professional politician in India, part journalist, part orator, part holy man. During the Khilāfat movement, communication of political issues took place mostly at the local level: in the vernacular press, by oratory on the public platform, in local mosques and bazaars, by means of handbills and pamphlets, in verse, slogan, and song, by processions and demonstrations, many organized by local associations and groupings which were not primarily political, but rather were cultural, religious, or personal networks.[377]

In this sense, Minault argues the "local" interests were the real driving engine behind the ambitious Khilāfat and Hijrat movements. Though the Khilāfatists wielded the powerful symbols of the caliphate, the successor political, legal, and spiritual institution to the Prophet himself, these were not merely abstract religious symbols, nor insincere real politick by pro-Ottoman Turkish forces either. "The locus of the caliphate and the person of the caliph mattered little; it was the existence of the caliphate which was essential, as a symbol to which homage was rendered, as a banner for Muslim rulers to wave when threatened by conquest or internal dissension."[378]

This brings us to the politics of the Hijrat movement itself, where the classical Islamic theme of migration from Dār al-Islam to Dār al-Ḥarb were likewise exploited for local Indian Muslim political objectives (and in many cases regional Indian Muslim causes, i.e. cross-border Pakhtun politics). In his study of the Hijrat movement *Flight of the Faithful* (1995), Diedrich Reetz argues in this regard,

> [O]n the Indian side, Hijrat at first was no more than an idea floated in the course of a political and religious debate. Few could think of it as a reality…Why Indian Muslim leaders had come to think of hijrat as a means of dealing with an intolerable situation, had more to do with the situation of Indian Islam than with that of Islam in general.[379]

Cross-border Pakhtun nationalism, lasting bitterness at British discrimination against Muslims since 1857, influence of ʿulamāʾ jostling with the rising secular or modernist Indian Muslim intelligentsia, or the desire to reinstate Muslim political rule itself—these were only some of the most trenchant hot-button issues in a tumultuous and fluid post-war milieu from which the Hijrat movement sprang in the late summer of 1920.[380] In this manner, the Khilāfat movement provided a dynamic vehicle to thrust ʿulamāʾ—of diverse ideological strands, but particularly modernist ʿulamāʾ—into the political limelight like never before in modern Indian history, empowering them to challenge the authority of a half-century's generations of emerging British-educated, more secular-leaning Indian Muslims. It also provided the platform for a new breed of Indian Muslim political actors who fit into neither box: the Muslim modernists. The ʿAlī Brothers certainly fell into this box of dynamic new actors. And yet the Khilāfat Movement also provided an idea political platform for others—outside India but in the neighborhood—to exploit for their own objectives as well.

---

[377] Ibid.

[378] Ibid., 5.

[379] Reetz, 33

[380] Minault, 106-07

Playing with Fire: Amān-Allāh's Invitation to the Indian Muhajireen

Beginning in the summer of 1920, when the amalgam of Indian nationalists, Hindu and Muslim, Pan-Islamists, and even Bolsheviks were still debating different courses of action with regard to British rule in India, thousands of Indian Muslims began emigrating to the neighbouring Muslim country of Afghanistan in what became known as the Hijrat movement. "Believing that India was no longer safe for Islam," writes Qureshi, "they had sought refuge in the classical tradition of hijrat as the only course left open to them."[381] In spite of these associated links with the classical Islamic tradition of Hijrat tracing to the life of the Prophet himself, the Indian Hijrat to Afghanistan was not an antiquated, backwards-looking phenomenon. When viewed through the lens of one of its primary initiators, Amir Amān-Allāh of Afghanistan, it becomes evident that the ambitious project of a twentieth-century Hijrat incorporated distinctly modern motives and objectives that had to do with nation-state-building, anti-colonial politics, and Islamic modernism in power.[382]

Having just discussed some of the interests of those Indian Muslims who partook in this adventure and propelled it forward, it is now pertinent to ask: what were the interests driving Amān-Allāh Khan to invite the muhājirs in the first place? One perspective holds this mass exodus was prompted, or stoked, by an invitation from the Amir of Afghanistan himself, Amān-Allāh Khan. As Qureshi writes,

> If any incident was needed, it was provided by Amir Amān-Allāh Khan (1892-1960) of Afghanistan, who had been trading on the excited state of mind of Indian Muslims for his own dreams of a greater Afghanistan enveloping Central Asia and parts of British India. In a speech delivered at Kabul on the anniversary of the murder of his father (20/21 February) the Amir undertook to welcome all those Muslims and Hindus who intended to migrate. He even offered to sacrifice his own life for the defence of the faith and the caliphate, vehemently opposing any suggestion for the settlement of the Khilāfat question by 'infidel powers.[383]

Amān-Allāh's invitation was not an isolated gesture given on one or two occasions. It became Afghan state policy, and calls to emigrate were repeated in various instances and forms. Indeed, much of this had to do with the fact Amān-Allāh was a staunch supporter of the Khilāfat Movement and the support for the Ottoman caliph in his own right. For example, Baksh-Allah Yusufi describes how Amān-Allāh attended a Khilāfat Committee meeting in Bombay:

> Amān-Allāh Khan arrived and was warmly received by the gathering. Just after stepping on the platform he learnt how the [British Indian] Government officials had played hide-and-seek with the Khilāfat Committee to defeat the object of his reception, but had been miserably failed. The ʿAlī Brothers were the first to receive and greet Amān-Allāh Khan on his arrival and Shaukat Ali

---

[381] Qureshi, 174

[382] A brief comment is in store here how the Hijrat movement ties into my dissertation project on the politics of Amir Amān-Allāh's *Niẓānāmā* law reform program—an attempt to establish a modern nation-state on the premises of the Sharīʿah and Islamic modernist ideology—a project embodied in the law codes of Ahmed Cevdet Paşa, and to a lesser extent, the Iranian Constitutional revolution of 1906-1911.

[383] Qureshi, 181

> welcoming the King addressed him in Persian, 'We the Indian Muslim, are helpless.' The King used the Qurʾān ic verse [*La taqnatu min rahmati Allah*] meaning 'don't lose hope in the help of God.[384]

And so thus began (or rather, intensified) the transnational relationship between the Indian Khilāfatists and Amir Amān-Allāh of Afghanistan with such auspicious introductions. The shared ideological leanings between the two broad parties are evident in Yusufi's continued description summarizing the meeting that followed:

> The First address on behalf of the Khilāfat Committee was read by the President for the year, Abū al-Kalām Azād; the Second on behalf of the Citizens of Bombay by Sir Ibrāhīm Rahimatullah and the Third on behalf of the Jamia Millia Dehli by Hakim Mohamed Ajmal Khan. Amān-Allāh Khan received the Addresses in a most dignified way, befitting a young monarch, and replied in the spirit of a well-wisher, and sympathizer, expressing himself as one of the commoners present. Gandhi being indisposed could not attend the function and was represented by his wife, Mrs. Kasturabai Gandhi, and when Muḥammad ʿAlī introduced her to the King he received the lady with all respect. Muḥammad ʿAlī had also inspired Muslim ladies of Bombay to present an Address to Queen Surayya, but the authorities were unbending as has already been described. However, with the backing of the ʿAlī Brothers they fought for their rights and were, with great difficulty, allowed to present the Address to the Queen at the Government House in a limited number…[385]

The above passage reveals some of the shared ideological underpinnings of early twentieth century modern Muslim activists, thinkers, and even monarchs across different contexts—calls for Pan-Islamic unity and protecting the Ottoman caliphate, anti-British politics and fierce independence, and the articulation of *progress*-oriented goals within an avowedly "Islamic" framework. In this case Muḥammad ʿAlī and Amir Amān-Allāh Khan shared much. Perhaps this shared ideological drive for "modern Muslim progress" propelled Amān-Allāh to increase his support for the Khilāfat Movement in the year after the Bombay conference through the means of encouraging Hijrat. While Amān-Allāh paid nor more visits to India for the purpose of caliphate, as Qureshi narrates, he continued his support through other means:

> Further weight to the earnestness of the Amir's offer was lent by the professed support for the Khilāfat movement and Turkey by the Afghan delegation, which had arrived in India in April 1920 for negotiations with the Indian government on the resumption of friendly relations. Maḥmūd Ṭarzī (1855-1935), the Afghan foreign minister and head of the mission, in a speech on 16 April after the Friday prayers at the Landour mosque near Mussorie, was reported to have remarked that the principal object of the delegation in coming to India was to secure just and favourable treatment for Turkey. He referred to the Amir's speech of the preceding February reassuring his audience that he would welcome Muslims who felt compelled to leave British India.[386]

In this light, Amān-Allāh's assurances to the Indian Khilāfatists was one additional factor in the fusion of elements that produced the Hijrat movement. A.C. Niemeijer, in his work *The Khilāfat Movement in India, 1919-1924* (1972), agrees that a substantial motivation for the Indian impetus for Hijrat stemmed from the Amir's invitation. "They were stimulated by a declaration from the Amir of Afghanistan who promised them an asylum in his country and

---

[384] Bakhsh Yusufi, Mawlānā Muḥammad ʿAlī Jauhar: The Khilāfat Movement (1984), 295-96.

[385] Ibid.

[386] Qureshi, 181

every kind of help, and the Afghan delegation at Mussoorie encouraged the movement."[387] Accordingly, an examination of Amān-Allāh's interests in the Hijrat reveal motivations that *in some instances* overlapped with that of the Indian Khilāfatists, but in other instances—to the chagrin of the muhājir committees—certainly did not.

As cleverly stated in a handwritten note in the margin of the treaty, Dobbs observed the following about the flexible Afghan position on the Indian revolutionaries in Afghanistan, "The Afghan delegation pointed out that anyone had a right of asylum in a Moslem country, but added that 'if our material interest were involved, and substantial friendship shown to us, we might perhaps be willing to waive some of these moral scruples." [388]

Shared Visions—for now: The Intertwining of Pan-Islamism, Indo-Afghan Nationalism and Anti-British Politics

On February 23, 1920, Amir Amān-Allāh wrote to the Viceroy proposing a Khilāfat deputation to England regarding "Religious" and "Political" motivations for their support of the Khilāfat movement, more equitable Turkish Peace Terms and preservation of the Holy Places:

> As regards Mecca and Madīna, it was explained by the Chief British Representative that the Sharif was entirely independent, that conditions in the Hedjaz had improved, that there had never been any British forces in the Hedjaz, and that the Khilāfat had nothing to do with the British Empire. British policy in regard to the Turkish Empire was governed by political and not religious motives. No modification in the Turkish Peace terms could be made out of respect for Afghan sentiment. A neutral had no *locus standi* in the matter. The feelings of Moslems in the matter has however been fully represented. No assistance could be given towards sending an Afghan delegation to the Peace Conference, membership of which was confined to the belligerent Powers. . . At the Thirteenth meeting the Chief British Representative objected to the Afghan project of giving financial help to Khilāfat Committees in India, on the ground that these were political organizations. The Afghan delegation maintained that they were religious in character.[389]

Amān-Allāh Khan's outspoken support for the Indian Khilāfat movement, and the grievance at that movement's heart—preservation of the Muslim holy lands under the protection of the Ottoman Caliphate—is a prime example of how the young and newly independent Afghan government had several interests overlapping with the motives of the Indian migrants. These included support of a severely-crippled Ottoman Turkey, generally held anti-British sentiment, with the added desire to weaken if not altogether oust the British Raj, including according to some sources, a possible invasion of India from the northwest to enlarge the Afghan kingdom and/or (depending on who is talking, Afghans or Indians) re-establish Muslim political authority in northern India. Amān-Allāh's overtures were not ignored in India, and led to much excitement and expectation. As Naeem Qureshi describes,

---

[387] A.C. Niehmeiher, *The Khilāfat Movement in India, 1919-1924* (Martinus Nihjoff, 1972)

[388] IOR-R/12/LIB/107, *Precis on Afghan Affairs*, 40 (FN1: Appendix to Chief Br. Rep. report 6-8-1920, Proceedings of the 4th meeting).

[389] IOR-R/12/LIB/107, *Precis on Afghan Affairs*, 38.

> [T]he 'invitation' evoked great response in India. The Indian Muslims were led to believe that the Afghans would welcome them with open arms. The asylum given by the Afghans in the past to Indian Pan-Islamists, revolutionaries, and runaway students had further encouraged them in this belief. Impressed by the attitude of the Afghan mission, a number of Khilāfatists got in touch with the delegates. The real enthusiasm for hijrat, however, developed at the Khilāfat Workers Conference which was held at Delhi on 18 and 19 April 1920 at the bidding of Hasrat Mohani.[390]

The British had fears of this very early on, for they knew this was not some passing religious fervor with no serious political ramifications. Rather, as Qureshi again notes, they "also apprehended that in their bitterness the Khilāfatists might accept even the Amir of Afghanistan as caliph should the office be offered to him in accordance with the reported suggestion at the Bolshevik-sponsored Baku conference (September 1920)."[391] But what form did Amān-Allāh's Pan-Islamism take? It began with his support for Pashtun tribes across the Indian-Afghan Durand Line border. Dietrich Reetz notes in this respect,

> Besides Pakhtun unity, Pan-Islamic ambitions were the other major plank of the Afghan campaign to enhance its status vis-à-vis Britain. The facets of the Amir's Pan-Islamism were numerous. There major directions could be discerned: they were (1) aimed at Indian Muslims, (2) at Afghanistan's position in the Muslim world, the ummah, and (3) at Central Asia. It is not difficult to see that crude realpolitik was behind these considerations. Afghanistan, like other regional contenders, dreamed of filling the power vacuum created by the dissolution of the Ottoman empire.[392]

Indeed Amān-Allāh's burgeoning territorial ambitions emerged to the surface in his support for tribal skirmishes along the Durand Line border against British garrisons during his drive for independence in 1919. During the Hijrat movement, however, his support for what began as anti-British border activity would expand to an even more ambitious full-blown Pan-Islamic war to curb British and even Russian imperial expansion into the Muslim-majority lands of India and Turkistan, respectively. As Reetz observes,

> Of much more value to the Afghans than these pin-pricks of localised opposition was the broadly-based religious and political movement in defence of the Khilāfat. This issue seemed useful to strengthen the Afghan position both in the Muslim world and vis-à-vis India. Right from the beginning of his reign Amān-Allāh took the posture of a true Islamic ruler, both grieved about British policies against Turkey and the plight of Muslims in India. Pan-Islamic ideals were revived which tallied well with Amān-Allāh's intentions to play a key role in the restructuring of a region in which Islamic states predominated.[393]

In this fashion, Amir Amān-Allāh of Afghanistan was able to project—not only in his own mind, notably—a form of virtual "wardenship" over the Muslims of India. The same might also be said for the adjoining Muslim regions of Turkistan and southern Russia, in the early years of his rule preceding agreements with the Soviets, at least. Minault, however, does not place too much weight on Pan-Islam as a dominant force in either Indian Muslims reaching out

---

[390] Qureshi, 182

[391] Ibid., 274.

[392] Reetz, 31

[393] Ibid., 32.

to the Afghan Amir, or even Amir's Amān-Allāh's early rule itself. In contrast to the aforementioned Pan-Islamic dimensions of Amir Amān-Allāh's rhetoric and policies, she argues the Indian Khilāfat movement represented, above all, "a quest for a pan-Indian Islam." Emphasizing the proto-nationalist aspects of the movements on either side of the Durand Line, Minault would likely portray Amān-Allāh's quest as being one of "a pan-Afghan Islam", rather than Pan-Islam per se. That is to say, Amān-Allāh needed a state-friendly, modern, and pliable Pan-Islam for the purposes of his specific nation-building project. It is in this light Minault concludes that in the end, "The locus of the caliphate and the person of the caliph mattered little; it was the *existence* of the caliphate which was essential, as a symbol to which homage was rendered, as a banner for Muslim rulers to wave when threatened by conquest or internal dissension. [emphasis mine]"[394] Pan-Islam therefore, when viewed through this lens, becomes "a kind of protonationalism."[395]

And yet, as we shall see, Amān-Allāh placed a unique emphasis on his role as a potential Pan-Islamic ruler and head of state, with even paternalistic, supervisory qualities over the Muslims of India. While this may have disturbed a few Indian Muslims, it was far more prone to causing discomfort among Khilāfatism's Hindu supporters in India, rehashing tropes of India's successive Afghan and Turkic invasions during the medieval period. Indeed, auspicious and helpful to the Indian Khilāfat movement as it may seem at first glance, especially to the movement's Muslims, Amān-Allāh's aggressive cross-border activism (or the threat thereof) actually leads to the first major fissure in the Afghan-Indian Muslim relations under the auspices of the Khilāfat movement: the threat to a robust and emergent Hindu-Muslim entente in India. Indeed it was this common cause of jihad between Amir Amān-Allāh and the Indian Khilāfatists that made many Hindu nationalists nervous. As Qureshi argues, the Hindu-Muslim entente formed from the dynamic and visionary alliances between the likes the ʿAlī Brothers, Mawlānā Azād, and Mahatma Gandhi, among many other prominent Muslim, Hindu, and Sikh politicians promoting both Khilāfat and Non-cooperation movements is apt to be romanticized, or overblown. That the entente "essentially a combination of parties whose real aims were divergent," Qureshi argues, can be seen in a series of sensitive fault lines over which the unity movements carefully treaded ranging from Muslim-Hindu social and economic tensions within Indi to Muslim relations with Afghanistan and the greater Islamic world. As Qureshi elaborates,

> Causes such as the Hindu fears of an Afghan invasion and a possible Muslim domination, the Muslim apprehensions of Hindu predominance after the attainment of swaraj, the unfortunate Mappila outbreak of 1921, the ever-disputed question of cow-killing, clashes during the religious festivals and celebrations, playing of music before the mosques, all combined to widen the breach. But it was the reaction, consequent upon the failure of the non-co-operation experiment, that really tore the communities apart. The religious overtones of the Khilāfat movement and the policy of 'Hinduizing' the Congress espoused by Hindu leaders like Malaviya, Moonje, Shraddhanand, Lajpat Rai and others, had unwittingly laid the foundations of Hindu-Muslim discord.[396]

As it turned out, it was towards the middle of 1922 that Hindu-Muslim relations in the Khilāfat Movement began to worsen. While Hindus and Muslims remained united on a national,

---

[394] Minault, 5

[395] Ibid., 6.

[396] Qureshi, 345

pan-Indian level focused on collective gains vis-à-vis their foreign British rulers, when both the Khilāfat and Non-cooperation movements began to lose steam and stumble from events occurring in and outside India, the entente began to break down. [397] It took a full year before the gulf widened and yet another year before it finally became unbridgeable.[398] As the famous Turkish author Halide Edip Adıvar (1883-1964) once ironically but quite accurately wrote, the Khilāfat movement had "two curiously contradictory results in India, that of uniting the Muslems and Hindus around a common activity; and that of dividing them."[399] Peter Hardy has the following description to elaborate on the source of fissures underlying the appearances of the broader anti-British Non-cooperation coalition:

> Hindus and Muslims were fairly launched not upon a common struggle but upon a joint struggle; they worked together, but not as one. The philosophy of the Khilāfat movement was not that of territorial nationalism, but of community federalism, and of a federalism wherein one party, the Muslim, looked outside the common habitat, India, for the raison d'etre of the federal relation of the federal relationship. To adapt Muḥammad 'Ali's later simile, the wider Muslim world and India were to be two non-concentric circles, with an overlapping segment in which the Indian Muslims had their being.[400]

Having discussed the common interests that secured Afghan involvement in the Indian Khilāfat movement, including an invitation that prompted or encouraged the Hijrat, we now turn to the exclusively Afghan interests.

Amān-Allāh and the Hijrat: Pan-Afghanism meets Pan-Islamism

Though Amān-Allāh shared in the Pan-Islamic zeal following the cataclysmic results of World War I, as a fully independent and sovereign government—a rare thing to say for a largely Muslim society at the time—the Amānī regime pursued its own exclusive interests which eventually conflicted with the Indians' and contributed heavily to the collapse of the movement. Amān-Allāh's interests were foremost to expand his sphere of influence and possibly carve out new lands to incorporate into Afghanistan (along with northern lands) destabilize areas under Pashtun (Afghan) tribal control along the border and thereby possibly remove the Durand Line again. Qureshi contextualizes these motives as follows,

---

[397] Ibid. Without going into an extensive study on the rise and fall of the Khilāfat and Non-cooperation movements, such factors as Amir Amān-Allāh 's withdrawal to a more nationalistic, Afghan-centric stance vis-à-vis Indian revolutionaries in particular, Mahatma Gandhi's horror at the increasing use of violence by Indians in challenging British rule, and of course, the abolition of the Caliphate in the Republic of Turkey played significant roles in the collapse of these movements. In addition to Qureshi and Jalal, Gail Minualt and Mushiral Ḥasan as well as A.C. Niejmeijer have already addressed the political contours of the movement in depth. Minault, Gail. *The Khilāfat Movement: Religious Symbolism and Political Mobilization in India*. New York: Columbia University Press, 1982; Hasan, Mushiral and Margrit Pernau. *Regionalizing Pan-Islamism: Documents on the Khilāfat Movement*. New Delhi: Manohar, 2005. Niejmeijer, A.C. *The Khilāfat Movement in India, 1919-1924*. Hague: Martinus Nijhoff, 1972.

[398] Qureshi, 421

[399] Ibid.

[400] Hardy, *Muslims of British India*, 190.

> Quite apart from its religious aspect the aim of the hijrat was political. In addition to the internal dynamism of the Khilāfat-non-co-operation movement, the political turmoil in the adjoining territories of Central Asia and the Caucasus following the fall of tsarist Russia had left a vacuum which had sucked in the Indian Pan-Islamists and revolutionaries just as it had drawn the British and the Bolsheviks into a renewed 'Great Game,' like in the nineteenth century.[401]

Similarly, Reetz contextualizes the territory-grab opportunities—to the north, south, east, and west—for the leader of a newly independent state of Afghanistan at the uncertain and tumultuous aftermath of World War I (and anti-Tsarist Soviet Revolution):

> A more practical dimension of the Afghan Pan-Islamism were the designs on Central Asia. Unmoved by parallel talks with the Bolsheviks, they aimed at control over the Khanates, or even at annexing parts of their territories for which at one time practical moves were made. He wanted to either forge a Central Asian confederation under Afghan leadership or establish Afghan suzerainty over parts of Central Asia in the course of the turmoil prompted b the Bolshevik quest for control over Turkestan. These intentions met with both suspicions by Britain and Russia. Bolshevik advances quickly rendered them obsolete. The vacillations of the Afghans made it difficult to locate their position reliably. Their concerns were manifold, their ambitions varied and often worked at cross-purposes.[402]

The fact Amān-Allāh was waging a simultaneous struggle against both the British Raj to the east and south, and Soviets in Central Asia to the north, speak to his ambitious drive for absolute independence and the desire to increase Afghanistan's territory. They also speak to a possible strategic blunder that might have hurt the Khilāfat movement. It remains a curious aspect of Amān-Allāh diplomatic and military strategy that he waged simultaneous cross-border wars against the Soviets to the north and British in the south and east, when he could have played them off each other—rather than supporting uprisings against *both* empires! Nevertheless, Amān-Allāh eventually settled down his expansionist fervor and quelled his support for the Muslim "Basmachis" rebels in Soviet Central Asia in order to shore up and stabilize his northern border to focus on securing gains from the British.

Auspicious Promises, Poor Preparations, and a Bargaining Chip against the British

An even stronger, and arguable more likely interpretation, as to why Amān-Allāh supported the Hijrat is he sought to use the Pan-Islamic card as a bargaining card against the British to secure gains in treaties determining the extent of his new state's territory, foreign relations, and relationship with the tribal frontier across the Durand Line in particular. This partially explains why the joint Indian-Afghan alliance eventually fell apart. Indeed, Qureshi goes so far as to hold that "The gesture was, in fact, never meant seriously by the Afghan government. Their motive in encouraging hijrat was to embarrass the British and thereby to strengthen their own bargaining position at the Mussoorie talks."[403] Evidence for this view lays the fact the Afghan government appears to have made poor preparations for a full-scale migration.

---

[401] Qureshi, 191-92

[402] Reetz, 33

[403] Qureshi, 182

So how were the migrants treated upon arrival in Afghanistan? Qureshi argues that while some reception and resettlement programs were hastily assembled, in the larger scheme there was a lack of governmental preparation for a full-scale migration, evident in the contrast between Kabul's promises and preparations to fulfill them:

> [T]he Afghan consul sent a royal farman and nizamname containing instructions to the effect that on entering Afghanistan the muhājirin would be entitled to the same rights as the Afghan nationals. Every muhājir would receive six to eight jaribs of land with the facility of taqawi loans payable after three years in several easy instalments. In the meantime they would receive free rations on a modest scale. The muhājirin would be sent to Jabal-us-Siraj, at the mouth of the Panjsher valley, where they would stay for two months. Thereafter, they would be settled in areas wherever the Afghan government desired and they would not be permitted to take part in politics. Obviously, the Afghans did not want the muhājirin to gain a position from where they could influence local politics.[404]

This lead Amir's plans to resettle them in Jabal Saraj and Turkestan, a largely unwelcomed move by the muhājirs. In sum Qureshi illustrates the ups and downs of Afghan government policy towards the muhājirs as follows, arguing that the evolving stance of the Amānī regime towards the migrants reflected the lack of genuine commitment to the Pan-Islamic project as the Hijrat progressed.

> Their extraordinarily warm reception in the Punjab and the Frontier had created among them an impression that they would be received with the same enthusiasm in Afghanistan. But the reality of the situation was too painful and shocking. Already exhausted by their nightmarish journey, they decided to languish in Kabul rather than opt for an uncertain life in far off Turkestan. The prospect of tilling land there or serving in the army in some remote inhospitable region did not appeal to them. Those among them who had joined the army at Jalalabad found that life in Afghanistan was no picnic. Others became weary of idle life and held protest meetings. The young hot-heads, particularly those from the Frontier, delivered an 'ultimadum' to the Afghan government to provide them with weapons for a jihad against the British or else allow them to leave for Anatolia or return home. There was a wide gap between the Indian and Afghan perceptions. The miracle that the Indians were expecting did not come about.[405]

And yet, things only got worse for the muhājirs, and the Afghan government, Kabul municipality in particular. Qureshi's narrative continues as follows,

> Meanwhile, by early August 1920, the number of muhājirin in Afghanistan had grown to more than 40,000 of which Kabul received the bulk. Even these estimates were not accurate as large numbers had been emigrating without the assistance of the Hijrat Committee and many had not even bothered to notify the Afghan authorities. Besides, a number of them had wound their way through routes other than the Khyber. On top of this, hijrat was still continuing and the muhājirin were pouring in at the rate of seven to eight thousand a week. Within the next few weeks Kabul was going to receive several thousand more muhājirin who were heading for the capital from different directions. It was impossible to make arrangements for sixty thousand or more. Quite justifiably, the Afghan authorities panicked."[406]

---

[404] Ibid., 190-91.

[405] Ibid., 215.

[406] Ibid.

If a whole-scale and long-term Hijrat was intended, why were there such insufficient preparations? Though incompetence arguments can be made, these facts also speak to auspicious promises but poor preparations made by the Amānī regime for the Hijrat movement—perhaps because no long term expectations were seriously being entertained of a full-scale, permanent long-term migration. Qureshi argues this ethos was reflected in nearly all of Amān-Allāh's programs for the migrants when they began arriving, especially after several thousand Indian peasants made their way to Kabul, to the consternation of government officials and local citizens who may have felt they were already hard-pressed to support those already arrived. In sum, Qureshi's account portrays a confluence of, at best good intentions (or as he says, "commendable proposals"), at worst real politick, and for certain, poor preparations, of the Amānī government for the size and magnitude of a full-scale migration.

> These were commendable proposals, but the postponement order sent wrong signals. Already, there had been misgivings about the Afghan intentions; the farman proved to be the last straw and signaled the start of a mad rush back to India. Nobody bothered to appreciate the Afghan position or ponder as to how British India, pronounced daru'l-harb so vehemently, had suddenly become daru'l-Islam again.[407]

What follows was sheer pandemonium in the Khyber. If the original hijrat movement to Afghanistan was unprecedented in scale and speed, so was the sudden *volte-face* that occurred just as tumultuously. As feelings of fear, distress and disappointment took over the Indian migrant camps, there began a massive exodus *back* to India. When Nādir Khan at Jalalabad and even the Amir in Kabul entreated on the migrants to remain calm and not leave the country, even proclaiming their ability to settle in lands of their choice within Afghanistan, the abrupt repatriation seemed to only accelerate. As Qureshi describes,

> The muhājirin began to return in the same impetuous manner in which they had left their homes. They were following each other like blind sheep. Even those few who had enlisted in the Afghan army or had joined the faculty of the Ḥabībīyah College deserted or resigned to join the trail back to Peshawar. The Amir was perturbed as was the Anjumān-I Muhajirin. As the 'Id durbar especially, he expressed his disapproval of what was going on. He instructed his officers to try and dissuade the muhājirin from returning home and allow them to settle wherever they wanted but that did not work. At Jalalabad, Nādir Khan's friendly persuasions also fell on deaf ears. On the contrary the number of the returning muhājirin suddenly increased when the fifteen thousand newly arrived from Peshawar also joined them. Fear and disappointments had taken such a firm hold of the muhājirin that no persuasion worked.[408]

In this manner we can see Amān-Allāh's Pan-Islamism as geared for his government's Afghan domestic political interests, and not some abstract colorless Pan-Islamic agenda. This was of course a trait shared by the leaders of the Indian Khilāfat and Hijrat movements, who used the card of Pan-Islamism for distinctly local Indian interests. This does not mean to paint the movement as merely a "tool" of elite politicians insincerely exploiting the movements for parochial or provincial interests. Indeed, there was one other frequently overlooked common

[407] Ibid., 216

[408] Ibid.

interest at the heart of the Hijrat that deserves discussion here, and that the jurisprudential aspects under girding the causes, and legacy, of the movement.

Rethinking Pan-Islamism: The Role of Law in Khilāfatism and the Hijrat

In light of the shifting alliances, due to unique interests, both between Indian Muslims and other Indian Muslims, between Muslims and Hindus, between Indians and Afghans, and between Indians and Turks, it becomes clear that the Khilāfat movement was not simply a religious movement. Qureshi writes, "The hijrat episode was nothing but a religiously-inspired movement with clear political objectives directed against the British when all other methods seemed to have failed."[409] In a section on Indian Muslim compromises with their co-religionists the Republican Turks, again Qureshi notes "The Khilāfatists' volte-face was an example of undisguised political expediency because they had known all along that the tussle between the sultan-caliph and Mustafa Kemal was leading to an ugly show-down."[410] He also adds regarding the ultra-controversial annulment of the Sultanate that early on, in spite of the TBMM's dramatic departure from the classical concept of the caliphate, both the CKC and even Jami'yyat-i ʿulamāʾ-i Hind "not only endorsed the Ankara decision but also strained every nerve to reconcile the Indian Muslim opinion to the new situation."[411] In this final analysis, Qureshi reveals an overly heavy, perhaps, emphasis on the politics and populism of the movement, overlooking its more subtle juridical aspects. For example, in retrospect on the movement as a whole, he writes,

> [O]ne can say that the movement unwittingly bequeathed a pattern of politics with which the Muslims of India have been familiar ever since. Its most important feature was the massive scale on which religion was imported into politics. The enormous response it evoked showed how potent the religious symbols could be in mobilizing popular support for political purposes. This enabled the Muslims later to strengthen the case for Muslim nationalism as distinct from Indian nationalism.[412]

In sum, there were clearly political interests involved in this dramatic episode of Pan-Islamism. The Hijrat movement was a political movement to address political grievances of Indian Muslim community; as opposed to a global religious Pan-Islamic movement per se. Similarly, Amān-Allāh's Pan-Islamism was geared for his government's exclusive domestic political interests, as opposed to an abstract, allegedly universal Pan-Islamic agenda. In a similar light, the earlier Ottoman sultan-caliph Abdülhamid II's Pan-Islamism emerged from the very *particular* context of Ottoman political weakness vis-à-vis an exansionist Europe, rather than an unsophisticated or utopian idealism. This may lead us to observe that Pan-Islamism arises at moments of Muslim sovereigns' political weakness and sense of siege, and as a response to European colonialism (as was the case in all three cases: the Hamidian reign, Amir Amān-Allāh Khan's reign, and the Indian Khilāfat movement). The problem seemed to be they were top-down attempts to galvanize and drum up support for central governments, as opposed to a

[409] Qureshi, 229

[410] Ibid., 338.

[411] Ibid., 339.

[412] Ibid., 423.

grassroots social reform movements from the ground up. The lack of a grassroots base led to their being easily discarded when no longer expedient.

While most histories of nineteenth and early twentieth century Pan-Islamism—as with the historiography of modern Turkish, Afghan, and Indian national struggles—have been preoccupied with the overt political dimensions of each constituent movement, less attention has been given to the legal and jurisprudential aspects of Pan-Islamism in this era. This dimension of the movement seems to surface at times in the historiography, but with little sustained attention, and usually lodged in the same discussion as "religious sentiment" fueling the movement. In contrast, this section of the paper suggests the perspective that perhaps the attempt to reinstitute purist Islamic rule, i.e. Sharīʿah, was also a "rule of law", or "government of laws, not men" movement, but from a Muslim modernist, as opposed to Western European, secular-liberal jurisprudential tradition. As this section will now argue, it is important to not overlook the *juridical* aspects of the movement. At the heart of the Hijrat movement was a crucial jurisprudential debate about the future of Muslims in India as minorities of a secular, non-Muslim government. The movement was also an early test for the initial pronouncements of transnational Islamic citizenship by Amir Amān-Allāh Khan (i.e. was Afghanistan to be an "Islamic state" for all Muslims who desired to live there, or a national state for the Afghans only?). While it is true every common man was not discussing jurisprudential fineries, and to a certain extent jurisprudential debates remained limited to higher echelons of the ʿulamāʾ only, nevertheless, this is a real and overlooked aspect of the movement. It also sets the state for our discussion in Part V on the involvement of Indo-Afghans in the drafting of the Afghanistan's first constitution and Niẓāmnāmā codes in the first five years of the Amir Amān-Allāh's reign.

In particular, there were three legal strands to the Hijrat movement: First, there was the issue of rethinking the Muslim minority status in India: was British India the abode of Dār al-Islām or Dār al-Ḥarb? Second, the movement demonstrated early Indian Muslim involvement in the fledgling Wilsonian international legal institutions that were born in the wake of World War I. The Khilāfat delegation's visits and speeches in European capitals and meetings with heads of state speak to a certain belief, or hope, in international diplomacy for the peaceful resolution of otherwise intense political conflicts between previously-warring states. The Khilfatists' hopes in these institutions were shattered by the results of their delegations to Europe, and this perhaps explains partial future hesitation of ʿulamāʾ and Muslim modernist thinkers to access the international legal bodies when they did take more concrete form after the second world war.

Third, the movement stirred discussions among ʿulamāʾ of the future of Muslim politics: are Muslims obligated to live under one Caliphate system? Who should be the caliph? Where is allegiance directed to in the nation-state age? Particularly, what was the role of Khilafa to be in the modern nation-state system? A new confederation of Muslim states under one political head? Is the "ummah" a spiritual tie only, or are there still concrete political manifestations of the idea? The Khilāfat movement, at its heart, posed these questions for being resolved in the newly (or nascently) independent Turkish, Afghan, and Indian Muslim political and juridical fields.

A Reoccurring Debate: British India—Dār al-Islam or Dār al-Ḥarb?

In his study of the Hijrat movement, Diedrich Reetz traces the legal arguments concerning British India's status as Dār al-Islām or Dār al-Ḥarb to debates initially emergent in

the midst of path breaking reformer Shah Walī-Allāh and even more forcefully, those who claimed to follow in his footsteps (and there were many).[413] As Reetz notes,

> The debate whether British rule limited religious freedom of Muslims had continued ever since Shah Abdul Aziz (1746-1824), a follower of Shah Walliullah alleged that Britain had turned India to darul harb. His reason for doing so was connected with British interference in administration and law-making challenge the theoretical supremacy of the sharia, the Islamic law.[414]

The contours of the debate are long and nuanced, and a rehashing of classical doctrine on Dār al-Islām versus Dār al-Ḥarb from the Umayyad, Abbasid or even early modern Ottoman eras do not capture the modern nuances articulated by jurists operating in a world where Muslims no longer ruled India and British political rule went largely unchallenged following the crushing of the rebellion of 1857. But first, explaining the classical view, Qureshi provides a generic synopsis of some of the predominant classical doctrinal view that would later become revisited and negotiated in the modern context, as follows,

> Conceptually, the obligation of hijrat stems from the Ḥanafī view that the world is set apart in two divisions—*daru'l-Islam* and *daru'l-harb*. The *daru'l-Islam* is a territory where Muslim law and rule is supreme and *daru'l-harb* where it is not so, especially in matters of worship and security of life and property of the faithful and *zimmis*. According to jurists, a Muslim must reside only in daru'l-Islam. When a daru'l-Islam does become daru'l-harb as a result of non-Muslim occupation or domination, it is incumbent upon Muslims to withdraw to a daru'l-Islam and reconquer the daru'l-harb (erstwhile daru'l-Islam) whenever possible.[415]

---

[413] That these terms have often been misconstrued as delineating "perpetual war against the infidel" in one realm, and utopian society on the other hands, has been aptly noted by Hamid Algar, who writes on the *juridical* nature of the term as referring to, "lands not under Islamic rule, a juridical term for certain non-Muslim territory, though often construed, especially by Western writers, as a geopolitical concept implying the necessity for perpetual, even if generally latent, warfare between the Muslim state and its non-Muslim neighbors." On this historical application of the term in practice, Algar further notes,

> Abū Ḥanīfa held that three conditions must obtain: implementation of laws other than those of Islam, contiguity to other lands ruled by non-Muslims, and loss of security by Muslims and *ḏemmī*s (non-Muslim subjects of the Islamic state) inhabiting the territory (Saraḵsī, V, pp. 1856-57). Later Ḥanafīte jurists maintained that, as long as any ordinance of Islam remained in effect, territories lost to non-Muslim rule still counted as *dār al-Eslām*; Muslims did not have to emigrate from such territories, and even nomination of Muslim judges and other dignitaries by the non-Muslim rulers, considered usurpers, was permitted (Ḵonjī, p. 396). Such views became particularly relevant to Persia after the Mongol conquest in the early 13th century. Similarly, any part of *dār al-ḥarb* might be transformed into *dār al-Eslām* without military conquest, simply by the implementation of some laws of Islam. Abu'l-Ḥasan ʿAlī Māwardī (d. 450/1058), for example, held that, if a Muslim was able to practice his religion openly, the place where he lived was *dār al-Eslām* (Nawawī, p.10).
>
> Algar, Hamid. "Dār-al-Ḥarb", *Encyclopaedia Iranica* Vol. VI, Fasc. 6 (1993): 668-669.

[414] Reetz, 34

[415] Qureshi, 175. Notably, in qualifying this general view with recognition of the nuances and juristic disagreement among the different schools of law, and even within the Ḥanafī school, Qureshi, also comments,

> The doctrinal basis of hijrat notwithstanding, the variations between the Ḥanafīs and the other schools of jurisprudence rest on the fiqh, i.e. the Qurʾān , hadis, ijmaʿ and qiyas. The Qurʾān ic injunction on this point centres on the sura 4:97-100 while its affirmation rests on several sayings of the Prophet. Additional avowal comes from the consensus of the Islamic community which also points to hijrat as a duty. Since it

To be sure, the above classical articulation of a dichotomous distinction between the "Abodes of Islam and War" lay in the background of reoccurring debates among Indian Muslims living under British rule from the time of Sayyid Ahmed of Rai Barailly's militancy campaigns on the Indo-Afghan frontier, to Sayyid Ahmed Khan of Alighar's vociferous support for the British Raj as the greatest Muhammadan empire. Revived in the 1920s, the classical debate also lay at the heart of Indians' support for the Hijrat movement or not. It is also crucial to understand, however, that such classical debates were not "frozen" into the dichotomous positions described by Qureshi above, but rather underwent significant reinterpretation and rearticulation by nineteenth and twentieth century Indian Muslim jurists. The issue of "freedom of religion", or the ability to practice one's religion in safety, became a prominent new discourse in the debate, for example.

As for understanding the long and complex jurisprudential debates concerning the role of Muslims in minority contexts, and the connection with the issue of hijrat, Qureshi also provides a useful overview of how this debate surfaced in many instances through Muslim history, and not just in India. He begins by explaining how hijrat debates have had several manifestations in different from, from the twelfth century following the fall of Sicily and the Reconquista in Spain after the fifteenth century, when Muslims began seeking and ʿulamāʾ began writing fatawa about the permissibility, obligations, and choices of Muslims living under Christian rule.[416] With regard to the Indian context, Qureshi notes it was General Lord Lake's capture of Delhi in 1803, and the virtual house arrest of the then elderly and blind Mughal Shah Alam II, that sparked waves of ʿulamāʾ writings and jurisprudential debates concerning the lives of Muslims in now British India.[417]

---

is a jihad-related obligation and the conquest of Makkah (631) an ideal model, the supporters of the hijra of 1920, when undertaking emigration to Afghanistan, had indeed the concept of jihad in view.

Ibid.

[416] Ibid., 175-77.

[417] In overview of the emergence of the debate, Qureshi writes how even Shah ʿAbd-al-Aziz's fatawa were interpreted in different directions,

> The ʿulamāʾ, who were already disturbed by the marauding Sikhs and Marathas as well as the progressive European interference with the shari'at, were overwhelmed by the East India Company's latest success. This necessitated a reexamination of the whole question of the Muslim-non-Muslim relations. When a reference was made to Shah Abdul Aziz (1746-1824), the son and successor of Shah Waliulah of Delhi, he is reported to have pronounced the Company's possessions in India daru'l-harb. But the fact is that his ruling was completely misunderstood as its context was economic rather than political and at best flaunted as a legal distraction to satisfy the religious qualms of the faithful who had been forced to live under Christian rule. Otherwise, there was already among the Muslim elite and ʿulamāʾ a certain degree of surface acquiescence' in the British system which did not at first appear potentially detrimental to their interests. Apparently, Shah Abdul Aziz, in line with the tenor of his other fatawa, was trying to hedge in on the possible implications of his ruling and ignored both hijrat and jihad and disallowed usury transactions that the Ḥanafīs permit in daru'l-harb. Evidently, he had realized that for the Muslims a certain degree of accommodation with the British was advisable and as such avoided a confrontation with them. But since the early nineteenth-century writings and fatawa generally exuded an air of antagonism to the British rule, Shah Abdul Aziz's fatwā was interpreted as preaching jihad or hijrat, a view which some modern Muslim writers have enthusiastically supported.. . .From then on the controversy kept raising its head time and again.

And hence, after a temporary lull in the late nineteenth century, decades where the dominant trend was acquiescence and political quietude in the face of British rule, Muḥammad and Shaukat Ali revived the debate concerning India's status as Dār al-Islām or Dār al-Ḥarb in the new century and in particular following British conspiracies against the Ottoman caliphate during and after World War I. According to Reetz, the Ali brothers argued with the Viceroy in their memorial in April 1919 from their internment,

> When a land is not safe for Islam a Muslim has only two alternatives, Jihad or Hijrat. That is to say, he must either make use of every force God has given him for the liberation of the land and the ensurement of perfect freedom for the practice and preaching of Islam, or he must migrate to some other and freer land with a view to return[ing] to it when it is once more safe for Islam…In view of our weak condition, migration is the only alternative for us.[418]

In this manner the Ali brothers added a new element of twentieth century transnational Pan-Islamism and anti-imperialism to the old debate, one that would come to be seen as having dire political consequences by British Raj administrators. Not to mention, the Ali brothers were merely two of an increasingly confident and assertive class of Indian Muslim journalists, thinkers, ʿulamāʾ, and various other political agitators, of whom Mawlānā Abū al-Kalām Azād (1888-1958) was another pillar. As for Mawlānā Azād's argument, his own summation of "what is to be done" was perhaps of the most powerful because of his clear, consistent, and comprehensive socio-legal message to the faithful Muslim masses of India. As Reetz relates,

> The main thrust of his argument stems from his theological position on the Khilāfat. Defending the Khilāfat was of central importance to Azād for being a true Muslim, any threat to the Khilāfat was a threat to Islam. 'The belligerent British armies are in occupation of the Holy Places; where according to the Turkish peace terms they should not be. He was enraged that the Dar-ul Khilāfat, the land of the Khilāfat, was 'in British possession' and the defending Muslim forces were opposed by the British. True to classical Islam knowing no distinction between the spiritual and worldly aspect of religion, Azād here extended the spiritual importance of the Khilāfat to the worldly fate of the Ottoman empire and to Turkey. Any British action against the Ottoman power and the Turkish state was a therefore a threat to Islam. He concluded that 'under these circumstances, the term of 'the enemies of Islam' is fully applicable to British Government.[419]

As for the connection to Hijrat, similarly Mawlānā Azād did not pull any punches when it came to encouraging migration. Unlike the slightly more cautious ʿulamāʾ like Mawlānā ʿAbd al-Bārī, or others totally opposed to the movement, Azād was a staunch and unapologetic supporter of the Hijrat, though he also did not shy from giving participants important advice to steer any potential migrants from recklessness.

> From there it was only a small step to make the hijrat obligatory. 'There is no other course open to Indian Muslims but to migrate, and those who are unable to migrate should devote themselves to the services of the muhājirs.' Those who remained in India were 'not allowed to have any co-operation or connection with the body known as 'the enemy of Islam,' and one who fails to do this will, in accordance with the holy Qurʾān also be counted as 'the enemy of Islam.' Though this injunction

---

Ibid.

[418] Reetz, 34

[419] Ibid., 35-36.

> was obviously referring to the non-co-operation movement he maintained that his opinion was not at all based on political grounds. His object was not (the temporal aim of) saving Constantinople but saving the Muslim faith. . .His only reservation about the hijrat was regarding its conduct. It 'should be made in an organised form and not in a haphazard manner.'[420]

Mawlānā ʿAbd al-Bārī (Firangī Maḥalī), on the other hand, advocated a more cautious approach, encouraging only educated and skilled Muslims to migrate to serve and to not be a burden on Afghanistan.[421] "All those who find that while living in India they cannot freely perform their religious duties, can emigrate to such places where they think that they will not find any hindrances."[422] Practically speaking, this was not a very strong encouragement for, nor a very strong discouragement against, the Hijrat. In a preview of some of the pitched intellectual debates between Muslim modernists, Reetz notes that an even more perturbing challenge for the Khilāfatists to face was the opposition of even some leading Indian 'ulamā. While Mawlānās ʿAbd al-Bārī and Abū al-Kalām Azād provided a veneer of religious sanctimony to the movement in the early 1920s, the universal support of orthodox 'ulamā likely created doubts as to the soundness of their stance.[423] As Qureshi notes, there were scholars who did *not* participate or advocate for either the Khilāfat or non-cooperation movements, and they had their legal reasoning as well.

> The non-co-operating ʿulamāʾ had built their case on the Qurʾānic injunctions which prohibit affection or co-operation with unfriendly non-Muslims. Those who disputed this contention, argued differently. Even the Barelwis and the followers of Ashraf Ali Thānawī were one on this issue though they were expected never to agree on anything. The Barelwis, for instance, found no sanction in the shari'at for muwalat with the Hindus while prohibiting them with the Christians. Ahmad Raza Khan maintained that the Islamic injunctions in sura Muntahina were applicable equally to the mushrikin and the kuffar and it would be wrong to target the Christians and spare the Hindus. Here he was taking issue with Abul Kalam Azād and others who had given an opposite interpretation of the sura.[424]

In this way, jurisprudential debates at the center of the Khilāfat movement cannot be dismmised as theoretical exercises or abstract legalese of Indian Muslim jurists. Instead, there were admittedly political questions subject to the scrutiny of the Islamic legal tradition, as interpreted by some of the most eminent ʿulamāʾ of India. The high stakes involved are reflected in the passion with which ʿulamāʾ debated many of these points. For example, Qureshi relates some of the at-times bitter and heated exchanges that took place among Indian ʿulamāʾ at the time:

> The non-co-operators, on their part, hit back at Ahmad Raza Khan and Ashraf Ali Thānawī and dubbed them as superstitious communalists and indeed agents of the British. Muin-ud-din Aḥmad Ajmeri (1882-1940) was particularly critical of them for indulging in 'useless wordy discussions.' In

---

[420] Ibid.

[421] Ibid., 37.

[422] Ibid.

[423] Qureshi, 235-36

[424] Ibid. Here he is referring to Mawlānā Ashraf ʿAlī Thānawī's distinction on the interpretation of the terms *muwalat* (friendship and affection) and *muʿāmalat* (civil interaction and co-operation).

> his view the debate on the meaning and import of muwalat and mu'amalat was irrelevant. The real issue was whether or not the withdrawal of co-operation was incumbent on good Muslims. Ajmeri argued that the fataw from Bareli and Thana had confused the issue and restricted the orbit of the mu'amalat. The Jami'yyatul-'ʿulamāʾ-I Hind had clearly laid it down that any cooperation or transaction which might strengthen the enemies of Islam was haram. As to the rumours of difference of opinion among the Deoband ʿulamāʾ themselves, Muḥammad Anwar Shah Kashmiri, a teacher at Deoband, later announced that the dar'ul-Islam was unanimous on non-co-operation and all speculations to the contrary were baseless.[425]

In this way, the fomenting jurisprudential debates described in the above exchanges reveal that such *legal* questions—and not only religious matters of faith—were also intensely contested and debated among the Indian ʿulamāʾ. This lack of consensus among the ʿulamāʾ concerning the status of the Hijrat and Pan-Islamic activists.

Towards an "Islamic Rule of Law, Not Men"

A major motive propelling the Hijrat movement was the desire to escape the increasingly perceived demonization and targeted persecution of Muslims by the new British rulers ever since the Mutiny of 1857, coupled with the Salvationist, in some instances utopian, desire to live under (pure) "Islamic rule" and Muslim social-legal-political supremacy. When viewed in a comparative light, this essentially constituted a rethinking of the Sharīʿah as the "rule of law" under a centralized, modern nation state.[426] In British India in the early twentieth century, the Indian Muslim modernist view was linked to the idea of modern rule, under "Islamic" principles. But this was more than just securing the right for Muslims to practice their daily ritual practices—the movement stirred discussions among ʿulamāʾ of the future of Muslim politics, the particular the question of: Caliphate or Nation-State? Particularly, what was the role of Khilafa to be in the modern nation-state system—a new confederation of Muslim states under one political head? Or an apolitical, loose, and merely spiritual tie, akin to a Muslim Pope?

Founded to address some of these pressing issues for global Muslim faithful, but particularly for the Muslim minority of India, the *Jamʿīyat-i ʿUlamāʾ-i Hind* (Association of Islamic Scholars of India) was founded in November 1919, mainly on the initiative of Mawlānā ʿAbd al-Bārī of the Firangī Maḥall, Lucknow, but including the similarly eminent ʿulamāʾ Mawlānā Abū al-Kalām Azād, Mawlānā ʿAbd al-Majīd Badaunī, Mawlānā Daʿūd Ghaznawī, Mawlānā Shabbīr Aḥmad ʿUthmānī and Mawlānā Hifẓ al-Raḥmān who were among the other leaders.[427] Peter Hardy provides an overview of the scholarly organization's objectives and its pivotal role in pushing the drive for a new legal order for India's Muslims, noting that while the Khilāfat movement called for a new India free of foreign, British rule, and proclaimed the need for such a polity to "satisfy the requirements of Islam," the leaders stopped short of a

---

[425] Ibid.

[426] Interestingly enough, Noah Feldman adopts this very argument in his recent work focusing on the Ottoman middle east entitled "The Fall and Rise of the Islamic State," where he argues late Ottoman legal reformers were essentially Muslim modernist constitutionalists calling for a rule of law, limits on the sultan's autocratic capabilities, and parliamentary rule all from an Islamic epistemological and jurisprudential tradition.

[427] Hardy, *Partners in Freedom*, 31.

"constitution" or other founding charter, even for the Indian Muslim community.[428] Indeed, apart from advocating the preservation and continued loyalty to the Ottoman Sultan-Caliph, and a challenge to the legitimacy of British rule, there was little other *juridical* about it. Those tasks would be fulfilled by the aforementioned, proto-national body of Indian ʿulamāʾ formed the early 1920s, Jamʿīyat-i ʿUlamāʾ-i Hind. As Hardy proceeds to describe,

> According to its original 'statement of intent' the Jam'iyyat aimed to guide the millat (community) of Islam from an 'Islamic point of view' (islami nuqta-I nazar) and in particular to achieve the following: to protect the Ḥijāz and the Arabian peninsula and to defend Islamic nationality (qaumiyat) from all ills; to obtain and protect the religious and patriotic (watani, i.e. relating to their homeland India) rights and interests of Muslims; to bring the ʿulamāʾ together at one centre; to organize the Muslim community (millat) on a shari'a footing and to establish shari'a courts; to bring about to complete freedom of the country (mulk) in accordance with shari'a objectives; to seek the religious, educational, moral, social and economic welfare of Muslims and to propagate Islam inside India so far as they are able in terms of Islam; to strengthen the bonds of brotherhood and unity with the Muslims of other lands; and to establish in conformity with the mandates of the shari'a co-operative and comradely relations with their non-Muslim brothers living in their common homeland (watan).[429]

In sum, from the Jamʿīyat's perspective Islam itself demanded the freedom and independence of British India and that only in a genuine state of freedom and independence from British rule would the prerogatives and rulings of Islam (Islami ahkam)—with the critical condition of being interpreted by the ʿulamāʾ—be implemented in their society.[430] Also evident in the Jamiyyat's resolutions and writings of Khilāfatists is the fact that at the heart of the Hijrat movement, were fermenting ideas of how to establish a modern "Islamic state" under "Islamic principles" of governance and law. This can be seen in the mapping of various cabinets and modern political institutions such as various ministries by Khilāfatists writings, and across the border, as implemented in the Niẓāmnāmā program of Amir Amān-Allāh himself. For example, note the structural divisions and subdivisions of the Jami'yyat described by Hardy, which almost resembles the cabinet of a modern state with various ministries:

> In the organization of the Muslim community, the Amir-i Hind was to create a bayt al-mal or welfare treasury, establish qazis' courts (and enjoy powers of appointment and dismissal over their officers) and to appoint superintendents to manage pious endowments (auqaf). He was to prepare the annual budget of the organizing committee of the Jami'yyat. The Amir's powers were, however, to be exercised in accordance with the advice of a consultative assembly (majlis-i shura) to be appointed by the Jami'yyat al-ʿulamāʾ-i Hind: this would have seven members, two whom would not be ʿulamāʾ but experts in politics (mahirin-i-siyasat).[431]

In this manner, Peter Hardy, in *Partners in Freedom and True Muslims: The Political Thought of Some Muslim Scholars in British India* (1971) provides important insights to the complexity and dynamic roles of some of the most prominent ʿulamāʾ of the Subcontinent in the Indian Khilāfat movement as a "rule-of-law" movement. This was perhaps one of the most

---

[428] Ibid., 31-32.

[429] Ibid.

[430] Ibid.

[431] Hardy, *Partners in Freedom*, 33.

ambitious transformations taking place during the Khilāfat and Hijrat movements—a transformation of the ʿulamāʾ and modern Muslim intelligentsia themselves. Linked to this was the attempts by modernists to mold "a new modern Muslim." As Hardy comments,

> To this extent, the ʿulamāʾ discussed were expressing, consciously or unconsciously, a change in the concept of Muslim solidarity, a change from a religious to a political, from a nomocratic to a 'nomo-democratic.' The classical picture was one of Muslims, individually committed to obedience to God, living together and performing their religious duties together because that has been commanded by God, but in practice leaving the obligation to bid to the good and to forbid the evil (an obligation laid upon every Muslim individually) to be performed by the divinely instituted caliph or sultan. The nationalist ʿulamāʾ now expect that Muslims, through persuasion and the rallying of wills, shall actively combine to designate authority, e.g. the Amir-I Hind, and to support sharia institutions – e.g. qazi's courts.[432]

While the traditional role of ʿulamāʾ tends to monopolize (and at times purposefully work to exclude) the interpretation of the mandates of the law from popular access of manipulation—as with judges, legal scholars, and law professors in the West jealous of their own jurisdiction—nevertheless the authority of the ʿulamāʾ as the leaders of the community inevitably rests upon Muslim public opinion.[433] In the case of Indian Muslims after World War I, the Jamʿīyat-i ʿulamāʾ-i Hind sought to reflect, mold, and use public opinion to meet the aforementioned goals. Hardy elaborates a bit more on the modern legal and political ramifications and historical precedence of the Jamʿīyat's activities:

> It has been often said that the sunni ʿulamāʾ of classical times did not devise constitutional (political) means whereby the Muslim community could ensure that it was governed only by those Islamically qualified to do so. The proposals of the Jami'yyat subcommittee which met at Bada-un, for the appointment and dismissal of the Amir-I Hind tried to do so. In their proposals was implicit the growth of an active political life, but within the limits of the shari'a as interpreted by the ʿulamāʾ.[434]

Yet as with the Khilāfat movement as a whole, the juridical "consensus" with the Hijrat was far from uniform. It remained an issue of lively debate and differences. Qureshi comments on the diversity of thought concerning rule of law initiatives among the ʿulamāʾ, where "divisions among the ʿulamāʾ reflected the conflicting points of view in Indian Islam, different schools of though, and different sufi allegiances."[435] The ʿAlī Brothers' initial search for a prominent orthodox Indian 'ālim to bolster the movement proved not so easy in the end, when their first enquiry was addressed to Mawlānā ʿAbd al-Bārī, who responded in the negative. Reflecting the nuanced evolution of Indian Muslim thought on the status of British India since the great forefather of Indian Muslim revivalist thought, Shah Walī-Allāh (Chapter 2), Qureshi outlines the contours of Mawlānā ʿAbd al-Bārī's position as follows,

> ʿAbd al-Bārī was convinced that India under the British was not darul-harb…In June 1919, for instance, he had expressed his disagreement with the Ali brothers who wanted to undertake either

[432] Ibid., 40-41.

[433] Ibid., 40-41.

[434] Hardy, *Partners in Freedom*, 40-41.

[435] Qureshi, 183

> jihad or hijrat in case the Khilāfat demands were not accepted. Abdul bari's stance against hijrat from British India was despite the fact that doctrinally Firangī Maḥal had been favorably disposed towards the fatwā of Shah Abdul Aziz. The pith of his argument was that: India was a country which had been bequeathed to them by their great men. It was where their forefathers lay buried. They now belonged to that place and would never leave. They had spread the kalmia and had turned the country into darul-Islam from where hijrat was not mandatory. Even under duress it could not be declared as totally binding. It was especially not desirable for those whose exodus would harm the interests of Islam and benefit the enemies of the din. Hijrat was not an end in itself; it was to be undertaken solely for the defence of the faith.[436]

The emotional appeals by ʿulamāʾ to Indian Muslims to hold their ground and reclaim the land of their ancestors for the sake of Islam dovetailed with arguments for Hindu-Muslim rapprochement and cooperation, discourses that went hand-in-hand with British non-cooperation. This was an argument echoed in the works of other prominent Indian Muslim scholars like Mawlānā Ḥusayn Aḥmad Madanī, whom according to Yohanan Friedman, considered,

> [T]he British the most dangerous enemy that Islam and the Muslims have ever faced. . .The British are a far stronger and more dangerous enemy than the Hindus. Not only did they transform Indian from dar al-islam to dar ak-harb and carried out all of the crimes which are described above; they also subjugated the Muslim countries of the Middle East in order to safeguard the transport routes between Britain and India. The subjugation of India, therefore, led to the subjugation of other Islamic countries.[437]

And yet the British were not the only targets of the ʿulamāʾ's multi-faceted attacks. Nor were the British the only target in the Hijrat program. Rather, overtly "secular" Muslims also fell into their orbit of criticism. As Qureshi explains,

> The ʿulamāʾ also wished to use non-co-operation against the onslaught of secularism: the legislative bodies would be replaced by a committee of ʿʿulamāʾ, the 'infidel' law courts by shari'at court and government schools by daru'l-'ulum. Consequently, the Jami'yyat met at Delhi on 19-21 November 1920, under the chairmanship of Maḥmūd Hasan, and reaffirming its decision on non-co-operation, drew up a fatwā mainly on the lines of the one issued in October by the chairman himself. The fatwā, attested unanimously by about 120 prominent ʿʿulamāʾ, supported the entire non-co-operation programme, item by item, on the basis of the Qurʾānic text (mainly chapter Mumtahina) and sayings of the Prophet. It was a detailed fatwā and dealt with all aspects of tark-I muwalat from the religious point of view. For the time being, however, the proceedings of the Jami'yyat were kept confidential and it was not until the following year that the muttafiqa fatwā, as the decision came to be known, was published. In the meantime, the leaders concentrated their energies on getting more signatures on the decree.[438]

The desire to press alternative juridical systems to that of the British courts was not limited to Indian Muslims, of course. Hindu Indian nationalists also advocated for boycotting of British legal and administrative institutions; indeed here Mahatma Ghandi's Non-cooperation movement was the twin sibling of the Khilāfat Movement. In the realm of law, the non-

---

[436] Ibid.

[437] Yohanan Friedman, "The Attitude of Jami'yyat-I ʿulamāʾ-I Hind to the Indian National Movement and the Establishment of Pakistan," 160.

[438] Qureshi, 249

cooperation movement also advocated its own "*our* rule of law" movement, too. As Naeem Qureshi has noted on this juridical aspect of both the Khilāfat and Non-cooperation movements,

> Litigants had been urged not to go to the law courts for the redress of their grievances. Alternatively, a well-graded system of national arbitration, with the age-old-institution of the panchayat as its basic unit, was proposed to decide cases. Some efforts were made to put into practice and lawyers were directed to induce parties not only to refer disputes to arbitration but also to withdraw the pending cases from the government courts and to submit them to the national courts.[439]

– • –

In this fashion, some of the ideas, proposals, and juridical visions debated among Indian ʿulamāʾ and Khilāfatist activists in the early twentieth century, especially following the ruptures of the first world war and independence of Afghanistan, included monolithic Pan-Islamic states, loose coalitions of Muslim countries, and Muslim minority juristic ghettoes. Meanwhile, what import were the simultaneously tumultuous events in post-war Turkey? Events in the late Ottoman/early Republic Turkey under Mustefa Kemal "Atatürk" illustrated fissures within the global Muslim community about these different sociopolitical-legal modernities. While Mustefa Kemal was busy justifying the radical changes he had initiated separating the Ottoman sultanate and caliphate that drew the ire of substantial Turkish, Indian and Afghan supporters of the caliphate, the following illustrates the move towards a loose international Islamic community model, rather than one all-encompassing state or commonwealth or even confederation.

> Far from hurting the country, he [Kemal] maintained, his measures would launch Turkey on a course towards achieving 'a modern prosperous society.' The Ankara law of 1 November 1922 may have been defensive from the Turkish nationalists' point of view but it was, as the excaliph underscored in his proclamation issued from Makkah, misleading theologically because it suggested a dualism which does not exist in Islam. Nor did the caliph exercise any religious function or appoint priests or claim ultimate authority on dogma. Politically, it was risky, and, though in the end the gamble came off, it provoked strong reaction among Muslims everywhere, except perhaps in Albania, Morocco and the territories under the Sherifian family. Within Turkey itself, though intellectuals like Zia Gokalp came out in its support, it initiated nevertheless a power struggle between the ʿulamāʾ and the modernists as to whether the shari'at was supreme or the state shall be a modernized one.[440]

If these were the bitter, and extremely consequential, debates taking place among the Turks and the home of the Caliphate itself, then jurisprudential compromise could be also seen in the Jami'yatt's endorsement of some of the more controversial actions of Mustefa Kemal-separating the sultanate from the caliphate. As Qureshi relates,

> In its resolutions the Jami'yyat refrained from giving any theological exposition of the issue and contented itself with affirming full confidence in Mustafa Kemal and the Ankara assembly. The

[439] Ibid., 250. Similarly, on this formation of an *alternative* juridical modernity in India, for the ʿulamāʾ at least, Hardy observed the central role of Islamic law in not only the Khilāfat movement but the Indian struggle for independence in general, noting "The freedom of India, the ulama declare, is necessary so that Muslims may be free in their religious and legal (shari') life and so that there may be no obstacle to enforcing the Holy Law of Islam." Hardy, *Muslims of British India*, 194.

[440] Qureshi, 335

> Jam'iyyat also expressed the hope that in future 'along with safeguarding Turkey, Islam and Islamic nationalities from personal and bureacreatic rule, [they] would keep intact the real prestige and power of the Khalifa as enjoined by the shari'at. The Khilāfat Conference, too, closely followed the Jam'iyyat in recognizing 'sultan' Abdülmecid II as the new caliph and reiterated its previous stand of full confidence in Mustafa Kemal and the Ankara assembly. Dr Ansari, the president of the Khilāfat sessions, maintained that by their action of the Turks had turned the caliph into 'a constitutional sultan' which was strictly in accordance with the shari'at.[441]

In sanctioning Mustefa Kemal's radical departure from Islamic juridical precedent on the combined temporal and spiritual powers of the sultanate-caliphate, how far would the Indian ʿulamāʾ go? How much were they willing to compromise on "details" in order to save the ship? The precariousness of their situation would become painfully obvious—and this would be a key factor in the decline of transnational Pan-Islamism in India among the next generation of Muslim politicians—when the rug under the Khilāfat Movement was pulled from beneath them. Not from the British, or French—but the Turks themselves, with Atatürk's abolishment of the Caliphate itself in 1924. This also speaks to how disconnected the Indian Khilāfat movement—let alone the Hijrat—had become not only from events in Turkey, but also from the day-to-day needs of Indians in the larger anti-colonial Noncooperation movement around them. Indeed, here Reetz's observation is relevant that "Whether the idea catches on is determined by the responsiveness of the people. But unless it is tied to their problems of daily survival, an abstract cause is seldom convincing enough to create a spontaneous following."[442] In this sense, a major source of the decline of the Khilāfat movement was not just Turkish Republic's abolishment of the caliphate, but the failure to connect the movement's political goals with the daily existences of the majority of Indians on the ground in India.

– • –

This section has sought to examine the concept and practice of Indo-Ottoman Pan-Islamism through a new lens: a case study of the Indian Khilāfat and the Hijrat movements in particular, both of which Amir Amān-Allāh Khan played a crucial role. This section has argued that for Indian Muslims, the Hijrat movement constituted a complex fusion of various and differentiated interests, as opposed to a monolithic, uniform bloc of Muslim political will or even simple religious brotherhood. These complex, multifaceted interests included the call by many Indian Muslims to protect the territorial integrity of the Ottoman caliphate, and simultaneously protest British policy vis-à-vis the Ottomans, in particular the creation of British mandates or proxy governments out of the holy lands of Palestine, Ḥijāz, and Iraq. This motivation ran parallel, but was not necessarily linked to the militant aspirations of some of the muhājirs to link up with Afghan forces, destabilize and oust the British from India, and at one unlikely extreme, even invade India with Afghan forces to reestablish Muslim political rule. More common

[441] Ibid., 341. According to Qureshi, Dr Anṣārī further noted that even if there were more serious problems behind this arrangement in Turkey, as fellow Muslims the issue could be discussed and eventually resolved amicably. In the meantime, the "appointment" of a new caliph in Turkey was likened to early Islamic concepts of election or appointment, and for such a move, the Jamiyyat even went so far as to bestow on Kemal the titles of "Saif-ul-Islam" (Sword of Islam) and Mujaddi-i Khilāfat (reviver of the Caliphate) "in recognition of his services," a symbolic gesture of intense irony given what was to come. Ibid.

[442] Reetz, 77

though was strong emphasis pushed by the new emerging Indian Muslim elite to create a unified Indian Muslim electoral bloc (and one voice to speak for all Indian Muslims). Finally, the Hijrat movement also reflected the urgency with which some Indians sought to escape what many Muslim generations had seen as British demonization and unfair targeting of Muslims, articulated jointly with a somewhat escapist desire to live under Islamic rule and the Sharīʿah—a complex juridical-political platform that was closer to "rule of law" or "judicial reform" movements we see being promoted in Muslim countries under the auspices of legal development today.

For Amir Amān-Allāh of Afghanistan and his recently independent government, though some interests definitely overlapped—support for Turkey, desire to destabilize the British Raj, and possibly invade India—the Kabul government quite expectedly pursued its own interests that ultimately conflicted with that of the Indians Khilāfatists and muhājirs, contributing to the collapse of the movement. Amān-Allāh's exclusive interests were mainly to expand his sphere of influence and carve out new territory to incorporate into Afghanistan, destabilize areas under Pashtun tribal control along the Durand Line and thereby pressure the British to redraw the maps, improve his Islamic credentials and secure greater domestic legitimacy, but most of all, to use the migration of thousands of Indian Muslims as a bargaining chip against the British to secure bonus gains for his fledgling state in his negotiation of treaties not only with the British, but also Soviets and other industrialized powers.

That overt, short-term political interests played a crucial role in this dramatic episode of Pan-Islamism has been largely dealt with and even, perhaps, overemphasized by the historiography. In the face of Weberian notions of Islamic law as "medieval", fossilized, and static, a more nuanced and sophisticated approach to the legal debates surrounding the Khilāfat movement and Hijrat would reveal the continuity with Islamic legal histories in the Subcontinent and Middle East. Such continuities include an internally complex, vibrant, and dynamic juridical tradition, where ʿulamāʾ from Constantinople to Calcutta engaged pressing issues of the day through the lenses of not only their bookish knowledge, but also political astuteness, a sense of moderation, and a constant *negotiation* of what it meant to be a modern Muslim. In India, the latter included negotiating what Muslim *minority* status meant, living peacefully with Hindus (and making anti-colonial alliances with them) under British political rule. Hence there were critical *legal* aspects to the Khilāfat movement and Hijrat – at the heart of both were extremely crucial jurisprudential debates about the future of Muslims in India as minorities, the promise of international law and diplomacy, as well the future of transnational Islamic citizenship to a global caliphate. This was all while, we might crucially add, during the simultaneous of attempts by the young Amir Amān-Allāh of Afghanistan to build "a modern Islamic state," replete with new law codes, administrative regulations, and other Foucaultian disciplinary measures employed by the modern state, but framed and justified through Islamic rhetorical devices and juridical traditions.

In the end, short-term political interests and the temptations of territorial nationalism's real politick trumped the Indian Muslims and Amān-Allāh's professed commitment to a genuine transnational, "Pan-Islamic" rule of law movement. This contributed to entrenching the territorial nationalism as the model forward for not only Amān-Allāh's regime in Kabul, but also the next generation of Indian Muslim politicians. It would be a system that eventually assumed the role of demarcating, guarding, and fighting wars over borders—those of India, Pakistan and Afghanistan to be exact, and border which included those which the roughly 7000 Indian

muhājirs crossed over the morning of August 14, 1920 in route to what—for a variety of complex historical reasons—they saw as being a virtual promised land at the time.

Nor can we say that the Khilāfat movement was a solely Muslim affair. Indian Hindus also participated, in some cases in major ways, in the movement. Mahatma Gandhi's open support of the movement is only the most prominent example. On Gandhi's support for the Khilāfat movement and Afghan independence, Machonachie notes, "when preparations were made for official [Afghan] Peace celebrations on December 13, 1919, Mr. Gandhi announced that the Hindus would observe a '*hartal'* and days of mourning, in support of the Khilāfat movement."[443]

In the broad and diverse political spectrum, Mahatma Gandhi was a moderate participant in the Khilāfat movement in comparison to more radical Hindu and Sikh contributors; take for example Mahendar Pratap's vigorous involvement as Prime Minister of the Revolutionary Indian Government in exile in Kabul, in which Hindus also took part, as well as the predominantly Sikh-led Ghadr Party in San Francisco. In fact, the Ottoman archives take much interest in Mahendra Pretab's enthusiasm and activism in this regard, including Turkish translations of his letters and articles on pan-Asian unity.[444] Turkish enthusiasm and appreciation for Indian contributions during the Turkish war of independence continued into the very last months of the Ottoman era, into the transition to the Republican era. A letter of Mustafa Kemal, President of the Grand National Assembly of Turkey and Commander in Chief, for example to His Excellency Sayyid Junani, President of the Central Caliphate Committee of India, dated February 11, 1923, Angora, states,

> India has a large share of honour in the victory which we have won. The material assistance and the subscriptions furnished by you were of the greatest service in obtaining the success of the cause of Turkey. The continuance of your moral assistance will be of great service in accelerating the conclusion of our peace, whereby we shall obtain the complete realisation of our national aspirations.[445]

In addition to Indian Muslims crossing into Afghanistan during the Hijrat movement, or as a stopover en route to Ottoman Turkey, it is difficult to overstate the role of the transborder Afghans and "Pathans" as not only a means of promoting Indo-Afghan solidarity during the Khilāfat movement, but a near constant source of irritation to British administrators, particularly in the northwest frontier region. Two difficult questions had been raised in the discussions of Afghan "intrigues" in the Indian Frontier in particular: (1) The payment of allowances by the Afghan government to tribes on the Indian side of the border, and (2) the nationality of, and

---

[443] IOR-R/12/LIB/107, *Precis on Afghan Affairs*, (para. 77, p. 31):

[444] BOA-HR.SYS 2462/62 (1919 09 10) contains one such Turkish translation of a letter by Pretab urging for a Pan-Asian unity, to include Turkey, Russia, Germany, and Japan, in order to preserve the Asian and Islamic world. For an excellent study on the intersection of Pan-Islamism and Pan-Asianism under the ideological framework of a burgeoning "anti-Westernism" in the first half of the twentieth century, see Cemil Aydin's *The Politics of Anti-Westernism in Asia: Visions of World Order in Pan-Islamic and Pan-Asian Thought* (New York: Columbia University Press, 2007) and "Beyond Civilization: Pan-Islamism, Pan-Asianism and the Revolt against the West," *Journal of Modern European History* 4 (2006): 204–223.

[445] NAI-FP/SEC/EXTL 1923 File No. 669-X, No. 1-38 ("Remittances to Angora by the Central Khilāfat Committee, Bombay of funds collected in India for Ghazi Mustafa Kemal Pasha").

responsibility for, the Wazir and Mahsud tribes who settled in (i.e., "colonized" to use British parlance) in Afghanistan.[446] On the relationship between Pashtun tribes in Afghanistan and India, complicated by problems of refugees and tribes criss-crossing over, in his response to Sir Henry Dobbs' statement Maḥmūd Ṭarzī simply stated, "Severance of religious intercourse and national ties is impossible."[447] Seeking to allay British fears of continued cross-border intrigue, the Afghan government later stated, "The Government of Afghanistan has no intention of doing anything to instigate unrest in territory of her neighbor the Indian Government, and does not do so," adding "the Exalted Government of Afghanistan will try their best to ensure that the frontier tribes being tranquil shall not take antagonistic steps against the subjects of their friend."[448]

While Amir Amān-Allāh was at pains to assure the British that his government would not instigate the border tribes against Raj's authority in India and thereby cause unrest for both governments, to what extent the Afghan amir in Kabul could actually exercise a dominant influence over the borderland tribes remains uncertain, if not highly questionable. In contrast, what Amir Amān-Allāh could control, to a much greater extent at least, was the make-up of his own cabinet, and the channeling of built-up Pan-Islamic connections and energies in the understudied field of Afghanistan's nascent *juridical* field.

IV
IN THE NAME OF A LAW: THE FIRST AFGHAN CONSTITUTION AND THE *NIẒĀMNĀMĀ* CODES IN SOCIO-LEGAL PERSPECTIVE

> **constitution. 1.** The fundamental and organic law of a nation or state, establishing the conception, character, and organization of its government, as well as prescribing the extent of its sovereign power and the manner of its exercise.[449]
>
> **code.** A complete system of positive law, carefully arranged and officially promulgated; a systematic collection or revision of laws, rules, or regulations.[450]
>
> - *Black's Law Dictionary* (2001)

On April 9, 1923, the *Niẓāmnāmah-i Asāsī-yi Dawlat-i ʿAlīyya-yi Afghanistan*, or the first Constition of the Sublime State of Afghanistan, was "unanimously approved" by a Loya Jirgah at Jalalabad. The document was signed by 872 members of the Jirgah in total, and with the signature of king of Afghanistan, Amir Amān-Allāh Khan himself, became the law of the

---

[446] IOR-R/12/LIB/107, *Precis of Afghan Affairs*, 116-117.

[447] From a January 1922 letter of Sardār Maḥmūd Ṭarzī to Sir H. Dobbs, in Ibid., 266.

[448] Ibid, 69.

[449] *Black's Law Dictionary, 2d. pocket edition* (St. Paul: West Publishing Co., 2001), 135.

[450] Ibid., 106.

land.[451] While the historiography of Afghanistan, limited as it is, has largely focused on the events that followed the landmark ratification of Afghanistan's first constitution, in particular the revolts against some of its provisions, this dissertation has sought to unearth the genealogy of ideas, individuals, and institutions that culminated in the adoption of landmark charter

We recall from our previous chapters that the early codifications promulgated by the rule of Amir ʿAbd al-Raḥmān in the late nineteenth century included codes of criminal and civil procedure. Authored by prominent Afghan ʿulamāʾ of the Ḥanafī school and stamped with the authority of the "Iron Amir" ʿAbd al-Raḥmān, such codes included *Asās al-Qāḍāt* by the Afghan jurist Mawlawī Ali Kuzai. *Asās al-Qāḍāt* was compiled in 1883-1884 by the Afghan legal scholar of Qandahar, Aḥmad Jān Khan ʿAlkuzai.[452] Strikingly similar in some respects to the Mecelle, this code of civil procedure was the first attempt by the government of Afghanistan to extend a regularized judicial system over the whole of the country and to codify Islamic jurisprudence of the Ḥanafī school as the law of the state. The rules in the Fundamentals for Judges were comprehensive, addressing details ranging from which opinions of the Ḥanafī school (and occasionally others) were to be determinative in a given type of case, to where and how far apart the parties were required to sit in court (two meters). In addition to the breakthrough work of *Asās al-Qāḍāt,* Amir ʿAbd al-Raḥmān commissioned four other major juristic codifications to be administered in the newly created network of central courts throughout the country: *Qānūn-i karguzari dar mu'amalat-i hukumati wa ta'in-i jaraim wa siyasat* (Laws on Performing Governmental Affairs and on Sentencing Crimes and Punishment, also called by the five alternative names of *Kitābchah-i Ḥukūmatī*, *Risalah-yi dustur al-'amal-i hukkam wa zubbat*, *Kitāb-i-qawanin-i hukkam, Risalah-yi hukumati,* or *Qa'idah-yi hukumati*), *Ketāb-e neẓām-e Afg̃ānestān* (Military laws of Afghanistan, date unknown), *Dastūr-al-ʿamal-e kōṭhawāla-dārhā* (Instructions to corporals, date unknown), *Qawāʿed-e kār-e meyǰarhā* (Fundamental Duties of Majors, date unknown), *Qawāʿid-i kār-i mīrzāyān* (Fundamental Duties of Clerks, 1899), *Dastūr al-ʿamal-i kalāntarhā-yi goarhā-ye dār-al-salṭanat-e Kabul wa g̃ayroh welāyāt-e Afg̃ānestān* (Guidelines to the headmen of the streets of the capital Kabul and other provinces of Afghanistan, original date of publication unknown) and *Iḥtesāb al-dīn* (Overseeing of religious morals, 1888).[453] As Ashraf Ghani writes on the *Asās al-*

[451] Chishti, 36

[452] For an original copy of the second edition of *Asās al-Qāḍāt*, published in 1893-1894, see ADL 0124/0603 (1311 [1893-94]) (Aḥmad Jān Alkuzai, *Asās al-Qāḍāt, 2nd edition*). For an original copy of the first edition, see ADL 0129 (1303 [1885-86]) (Aḥmad Jān Alkuzai, *Asās al-Qāḍāt; sharḥ-i ḥuqūq wa jazā*).

[453] For an original copy of Kitābchah-i ahkam-i hukumati, also known as Kitābchah-i ahkam-i hukumati, Kitāb-i qawanīn-i hukkam wa zubbat, Risalah-i dastur al-'amal-i hukkam wa zubbat, Risalah-i hukumati, and the title in the following version, see ADL 0204 (1309 [1891]) (Aḥmad Jān Khan ʿAlkuzai and Mawlawī Muḥammad Jan, Qānūn-i kar-guzari dar mu'amalat-i hukumati wa ta'yīn-i jara'im-i siyasat ba-amir). For an original copy of the first edition, see ADL 0129 (1303 [1885-86]) (Aḥmad Jān Alkuzai, Asās al-Qāḍāt; sharh-i huquq wa jaza). An original copy of Ihtisab al-Din can be found in ADL 0201 (1306 [1888]) (ʿAbd-al-Razzāq Dihlawī, Ihtisab al-din; dastur al-'amal-i muhtasib-hā). For an original copy of Taqwīm al-Dīn, see ADL 0004 (1306 [1888-89]) (Mulla Abū Bakr, et al., Taqwīm al-Dīn). For an original copy of the book on the Ottomans commissioned by Amir ʿAbd al-Raḥmān, see ADL 0003 (1887) (Mīr Muḥammad Azim Khan, ed., Sar-rishtah-i Islamiyah Rum). For examples of additional lawbooks and manuals produced in this period, see ADL 0601 (n.d.) (Amir ʿAbd al-Raḥmān Khan, Gul Muḥammad Muḥammadzai, Kitāb-i qanun-i Afghanistan; on the duties of Kotwals) ;ADL 0224 (1317 [1899]) (Gul Muḥammad Muḥammadzai, Kitāb-i qanun-i Afghanistan); and ADL 0228 (n.d.) (ʿAbd-al-Khaliq Muḥammadzai, Qānūn-i hukkam-i dawlat-i Khuda-dad-i Afghanistan).

Qāḍāt, the judge's handbook was "composed of 136 articles, this handbook regulated the public and private conduct of the *qożāt* [judges] as salaried officials of the state. It leaves no doubt that the proceedings of the courts were to be recorded in writing and passed for review to the *qāḍī al-qaḍāt* (the chief *qāżī*)."[454] As Ashraf Ghani has further argued, judicial codification was not a goal in and by itself, but rather was tied to the economic imperative of raising taxes, solidifying control, and making rule efficient to strengthen the central state's authority vis-à-vis opponents in and outside the country. Acquiring new technology, personnel, and expertise required significant expenses, after all. Explaining the relationship between legal codification and state authority, Ghani writes,

> To pay for such purchases, ʿAbd al-Raḥmān brought every part of the country under tight military, administrative, and juridical control. The hallmark of his reign was the bureaucratization of all spheres of administration, involving the clear demarcation of spheres of responsibility based on principles of accountability, hierarchy, and record-keeping. His administration was basically conducted through the written medium. To formalize these changes he issued a whole series of edicts, called *qānūn* or *dastūr al-ʿamal*. Every officer of the army received a published set of rules that defined his functions and responsibilities—e.g., *Kitāb-i niẓām-i Afḡānestān* (the military laws of Afghanistan) for *mīrzāyān* (clerks), *kōtḥawāla-dārhā* (corporals), *meyǰarhā* (majors), etc. These efforts at reorganization also included the civil administration and the judiciary. In 1885, ʿAbd al-Raḥmān instructed Mawlawī Aḥmadǰān Khan, a court official, to compile two handbooks defining the duties of the governors and judges, called *qānūn-e kārgozārī dar moʿāmalāt-e ḥokūmatī* (law of conduct in the affairs of the state) and *asās al-qożāt*(foundation of judges). Under the latter regulations, the *qāżī* became a salaried official of the state whose conduct was strictly regulated and whose decisions were subject to regular review by his superiors. He could only give judgments in a court, not in his house or a mosque, and all the proceedings had to be recorded in writing. An examination of the court records of a district in the Konar valley, eastern Afghanistan, for the years 1885 to 1890, reveals that these measures were in fact implemented.[455]

Similarly, on the juridical centralization promoted by Amir ʿAbd al-Raḥmān, affecting such sensitive areas of social life as family law, Helena Malikyar writes,

> Family law in Afghanistan has developed parallel to the development of the state and political changes. From the inception of the modern Afghan state in 1747, matters pertaining to family law were settled on an ad hoc basis, either in Sharīʿa courts or in tribal assemblies. It was Amir ʿAbd al-Raḥmān Khān (r. 1880–1901) who first attempted to codify Afghan family law and apply it in a uniform manner throughout the country. He banned child marriage, forced marriage, and exorbitant bride-price. He also declared un-Islamic such practices as bride-price and the giving of girls in marriage to end blood feuds. He also restored to women the right to seek divorce in cases of non-support, and to widows their rights to inheritance. Although these were important first

[454] Ghani, Ashraf. "Afghanistan, xi. Administration." *Encyclopaedia Iranica*, Vol. I, Fasc. 5-6 (1983): 558-564.

[455] Ashraf Ghani, "Afghanistan, xi. Administration," *Encyclopaedia Iranica*, Vol. I, Fasc. 5-6 (1983): 558-564.

steps, *qāḍī*s in remote areas of the country continued to issue rulings based on traditional practices and on their own interpretation of the Sharīʿa.[456]

While the Amir ʿAbd al-Raḥmān's heir Ḥabīb-Allāh Khan did not have the charisma, or fear-inducing terror, of his father, he nevertheless inherited the vast administrative structure his father the "Iron Amir" had built over two decades of unprecedented autocratic rule in Afghanistan. Representing a slight moderation of absolutist hold on power, however, Amir Ḥabīb-Allāh opened the country to the return of exiles, as well as Indian and Turkish experts. As discussed in Chapter 4, among the most prominent Afghan refugees returning to Kabul was Maḥmūd Ṭarzī. After nearly two decades of exile in Ottoman Baghdad, Istanbul, and finally Damascus, the latter was an instrumental force in bring Ottoman experts to the Afghan capital and a new vision of a constitutional system in Afghanistan. As Malikyar writes, "[t]his program, designed by Maḥmūd Ṭarzī, the famous Afghan reformer, consisted of publishing books on the Sharīʿa, including rulings on women's rights, regular appearance of articles in the state-run newspaper, *Sirāj al-akhbār* , and publication of manuals for *qāḍī*s.[457]

While Maḥmūd Ṭarzī no doubt played an immense and monumental role in the "modernization" schemes under both Amir Ḥabīb-Allāh and later, Amir Amān-Allāh, Malikyar's attribution of the Islamic juridical manuals to Maḥmūd Ṭarzī here is not quite accurate, or presents an incomplete picture. It mainly overlooks a series of competing actors in and outside the Kabul court that contributed to the codification, and constitutionalization, of law in Afghanistan during the Ḥabīb-Allāh and Amān-Allāh eras. We recall that in the last chapter that one of the first executive acts in the early days of Ḥabīb-Allāh's rule was the appointment of his younger brother, Amīnullāh Khan (not to be confused with Ḥabīb-Allāh's son, Amānullāh) to the crucial judicial ministry he inherited from their father, ʿAbd al-Raḥmān Khan.[458] By delegating

---

[456] Malikyar, Helena. http://referenceworks.brillonline.com/entries/encyclopedia-of-women-and-islamic-cultures/law-modern-family-law-1800present-afghanistan-COM_0114a?s.num=4&s.f.s2_parent=s.f.cluster.Encyclopaedia+of+Islam&s.q=Amān-Allāh

[457] Ibid.

[458] NAI-FD/SEC/F November 1901 1-129 ("Death of His Highness ʿAbd al-Raḥmān Khan of Afghanistan and succession of his eldest son, Ḥabīb-Allāh Khan, as Amir of Afghanistan and its Dependencies") (No. 90). Summarizing the juridical publications during the Ḥabīb-Allāh era, Ashraf Ghani provides the following list,

> A complete collection of the legislation introduced in this period, during which the administrative practices introduced under ʿAbd al-Raḥmān were consolidated, is not available; the following is a list of those publications that have been examined by the present author. *Serāj al-aḥkām fī moʿāmalāt al-Eslām*(Edicts of Serāj [Ḥabīballāh] on affairs of Islam), compiled by Mīr ʿAlīǰān Khan et al.: I. *Adab al-qāżī* (Vocation of the *qāżī*), Kabul, 1327/1909. II. *Ketāb al-šahāda*(Book of testimony or witnesses), Kabul, 1330/1912. III. *Ketāb al-wakāla* (Book of representation), Kabul, 1331/1913. IV. *Ketāb al-daʿwā* (Book of disputes), Kabul, n.d. V. *Ketāb al-eqrār* (Book of confessions), Kabul, 1335/1917. These volumes summarized the existing *Šarīʿa* scholarship and provided the *qożāt* with a readily available and authoritative guide. *Neẓām-nāma-ye mālekān* (Regulations for the headmen), Kabul, 1332/1914. *Qawāʿed-e Serāǰ-al-mella wa'l-dīn fī dastūr-al-ʿamal-e momayyezīn* (Regulations of the Lantern of the Nation and Religion [Ḥabīballāh] for the guidance of inspectors), Kabul, 1323/1905. Attempting to forge special links with the rural power elite, Ḥabīballāh appointed a number of them inspectors to report to him directly on the conduct of the officials of the government; this handbook defines their responsibilities. *Qawāʿed Serāǰ-al-mella fī ṭarīq al-taʿzīa* (Regulations of the Lantern of the Nation on the manner of holding funerals), Kabul, 1321/1903. This work was published with the aim of doing away with elaborate and expensive funeral ceremonies. *Qawāʿed-e rebāṭhā-ye Serājīya*(The Lantern's regulations for caravansaries), Kabul, 1328/1910. Through these measures the movement of people in the country and the construction,

the critical post to his brother, Amir Ḥabīb-Allāh's decision signified the beginnings of a separation of powers in the state structure, a division of bureaucratic labor so to speak, a process which Amir ʿAbd al-Raḥmān was never willing to commence, opting to monopolize all state power in is own hands. Beyond the nascent step towards creating a ministry of justice separate from his own executive branch, however, there is perhaps an even more significant executive act of Amir Ḥabīb-Allāh for the juridical field of Afghanistan. In 1902, Amir Ḥabīb-Allāh called for the establishment of a *Maḥfil-i mīzān wa taḥqīqāt* (Bureau of Assessment and Research). The bureau was founded in Kabul under the direct supervision of Amir Ḥabīb-Allāh and Nāʾib al-Ṣalṭana Naṣr-Allāh Khan and consisted of nine ʿulamāʾ.[459] The bureau was commissioned to formulate and publish legislation in the form of binding law codes for the central state government in Kabul as well as provincial governments, a process that began first in the ʿAbd al-Raḥmān era, but was expanded under Amir Ḥabīb-Allāh. In particular, Amir Ḥabīb-Allāh empowered the Bureau with the mandate of expanding the *Sirāj al-aḥkām* law codes, whose compilation begun under his father's reign, into detailed and comprehensive volumes.[460] These volumes, based on authoritative Ḥanafī lawbooks, were an attempt by the Afghan ʿulamāʾ to produce a streamlined Ḥanafī lawbook to be used by Afghan judges and akin to the Ottoman Mecelle. Among the authors who served on this preeminent law commission were the influential Afghan Islamic jurists Mawlawīs Ḥājī ʿAbd al-Rāziq and ʿAbd al-Raḥmān Baiktutī.[461] These individuals would also play a major role in the Niẓāmnāmā legislation of the Amānī era.

But they were not the only ones. The first half of this chapter gave an overview of three simultaneous struggles for independence taking place in Turkey, India, and Afghanistan in the middle. We tracked the movements of major personalities within each stream, and focused on those who arrived in Afghanistan sometime in the early rule of Amān-Allāh Khan, culminating in an Indo-Ottoman juridical nexus of Ottoman Turkish, Indian Muslim, and Afghan scholars, jurists, and politicians. We now turn to discussing the juridical nexus that was formed between them in a project of unprecedented scope in Afghanistan: the first Constitution of Afghanistan and the Niẓāmnāmā Codes of Amān-Allāh Khan.

---

maintenance, and use of caravansaries were subjected to bureaucratic control.*Naẓām-nāma-ye maktab-e ebtedāʾī* (Regulations for primary schools), Kabul, 1335/1917. These rules provide a glimpse of the program pursued by the students as well as the ideal image of the modern system of education held by Afghan officials of the period. *Dastūr-al-ʿamal-e ahālī-e ḥaram* (Regulations for the members of the [royal] household), Kabul, n.d. This handbook provides interesting details on the ceremonial aspects of the life in the court and rules of hygiene followed there."

Ashraf Ghani, "Afghanistan, xi. Administration," *Encyclopaedia Iranica*, Vol. I, Fasc. 5-6 (1983): 558-564.

[459] Nawid, *Religious Response*, 77; Fufalzai, *Dār al-qazā*, 413.

[460] According to Afghan historian ʿAzīz al-Dīn Wakīlī Fufalzai, the compilation of *Sirāj al-Aḥkām* began under Amir ʿAbd al-Raḥmān but was completed under Amir Ḥabīb-Allāh. Fufalzai, 406-407; Nawid, 77. ADL 0016 (1327 [1910]) (Mīr ʿAlī Jan and ʿAbd al-Rāziq, *Sirāj al-aḥkām fī muʿāmalāt-i Islam; vol 1: Kitāb adab al-qaḍī*); ADL 0013/0157 (1330 [1912]) (Mīr ʿAlī Jan and ʿAbd al-Rāziq, *Sirāj al-aḥkām fī muʿāmalāt-i Islam, vol 2: Kitāb al-Shahada*); ADL 0156 (1331 [1913]) (Mīr ʿAlī Jan and ʿAbd al-Rāziq, *Sirāj al-aḥkām fī muʿāmalāt-i Islam, vol 3: Kitāb al-wikālah, Kitāb al-kafālah, Kitāb al-ḥawālah*); ADL 0014/0155 (1330 [1912]) (Mīr ʿAlī Jan and ʿAbd al-Rāziq, *Sirāj al-aḥkām fī muʿāmalāt-i Islam, vol 4: Kitāb al-daʿwā*); and ADL 0158 (1335 [1917]) (Mīr ʿAlī Jan and ʿAbd al-Rāziq, *Sirāj al-aḥkām fī muʿāmalāt-i Islam, vol 4/5?: Kitāb al-iqrār*).

[461] Fufalzai, 406-407; Nawid, 77.

Enter the Deobandis

In terms of producing influential scholars, teachers, and even administrators in Afghanistan's government since the Amir ʿAbd al-Raḥmān era, after the royal *Madrasah-i Shāhī* in Kabul which trained most of the pro-government 'ulamā for the Afghan court, the most successful educational and scholastic institution in the region was the Dār al-ʿUlūm Deoband madrasah in Saharanpur, India. The latter, through its extensive networks of students, scholars, and unified textual curriculum and methods (*manhaj*/*maslak*) from Bukhara to Bengal, tied even remote villages of Afghanistan to some of northern India's greatest centers of Islamic intellectual and cultural production. Notably, as Barbara Metcalf and Sana Haroon have illustrated and we discussed in Chapter 3, while the foundational madrasah at Deoband continued to enjoy a preeminent status as South Asia's top college of Islamic law, on the whole the "Deobandi" way operated not as a single campus, but proliferated into a complex, integrated network of sister campuses and affiliated madrasahs across the Upper Doab Valley, Punjab, and crucially for our purposes, the Indo-Afghan frontier. In this way, the most influential Indian educational and scholastic network in Afghanistan after the royal Madrasah-i Shāhī in Kabul (which trained many of the pro-government Afghan 'ulamā) were the Deobandi trained Indians and Indian-trained Afghans working in a loose relationship with the court in Kabul. These would include such prominent Afghan scholars in the Afghan courts of Ḥabīb-Allāh and Amān-Allāh Khan as Mullah Muḥammad ʿAbd al-Wāsiʿ Qandahārī, among others. They were appointed to the premier positions of the *Haiyʾat-i Tamīz* that eventually drafted the Afghan constitution and Niẓāmnāmā codes under the directorial supervision of the Ottoman Turk lawyer, Osman Bedri Bey.

Deoband was among the most suspicious institutions to the British administrators, and they would play a prominent role in the World War I revolutionary politics, as well Khilāfat movement in the war's aftermath. They watched it very closely, especially since the "Silk Letter conspiracy" of 1915.[462] As argued in several parts of this dissertation, however, the emphasis on Deoband's militant capabilities, or it "musterings of men and muskets" in times of conflict with the British authorities since its foundation ten years after the rebellion of 1857, have been overemphasized in the historiography, perhaps because of contemporary notions projected backwards, perhaps because of the shadow cast by the 1857 revolt on Anglo-Indian relations ever since. Whatever the case, the juridical aspects of the scholastic revival movement, its

---

[462] For an example from the British Indian archives, A Weekly report of the Director, Central Intelligence, dated Simla, September 15, 1919, provides the following alarmist report on an impending Afghan invasion of India,

> From a most reliable source comes information of what has been said before. Within the last two or three months Afghan emissaries from Obeidullah and Muḥammad Mian are reported to have visited Deoband and interviewed influential personages there. From these emissaries the following information has been derived :--- The Amir Amān-Allāh is not conducting himself in a statesmanlike way and has made peace with Naṣr-Allāh and Inayatulla. He has received letters from Enver Pasha and other Bolshevik leaders who told him that he had committed a great error in invading India and putting the Indian Government on alert. They advised him to sue for peace and to accept any terms he could obtain. In six or eight months there is to be a fresh and better organised invasion in which inhabitants of Turkestan and the frontier tribes will take part. Three or four thousand men have undertaken to enter India during the peace, and on a particular day they will destroy the railway lines. On that day Peshawar will be attacked.
>
> NAI-FP/SEC/F November 1920 1-582 ("Afghan Situation, Part IV").

college and curriculum, and most of all for our story, its graduates, have not been sufficiently examined in the context of Afghanistan during the early Amān-Allāh era, particularly with regard to the production of the Niẓāmnāmā codes. On the topic of the latter, however, a complete picture of the commission's drafters is also not possible without considering the important role of India's other most prominent Muslim educational institution, the Anglo-Oriental Muhammadan College at Aligarh, or Aligarh Muslim University.

Enter the Aligharians

Often forgotten is the role of Aligarh in dispatching graduates and teachers to the schools and court of Kabul. Most influential among them was Dr. ʿAbd al-Ghanī, a graduate of Aligarh and also a member of the Nizmanama drafting commission. A British intelligence report on Afghanistan states on the Indian doctor, educator, and political activist,

> But in the autumn of 1918, a man much more dangerous than the Turkish Colonel [Mahmud Sami] joined the Revolutionaries. This was one Mahomed Tarzi, a wild and very venturesome spirit… one day there appeared in it [[his newspaper]] an article which made the Amir Ḥabīb-Allāh very angry, for it praised the Republican form of Government. Mahomed Tarzi was sent for, but he saved himself by saying that the article had been inserted without his knowledge by ʿAbd al-Ghanī, the Director of Public Instruction. This ʿAbd al-Ghanī, it ought to be stated here, is also an Indian. He used to be an officer of the Punjab Education Department, and was specially invited to Kabul by the Amir. For writing this section, however, he was thrown into jail and was not released till after the death of the Amir Ḥabīb-Allāh, when the Amir Amān-Allāh not only took him out of jail but made him a Minister. It may be remembered that ʿAbd al-Ghanī was one of the Peace Delegates sent to Rawalpindi. He is a quiet, reserved man, greatly aged by his eight years in prison. It is believed that he is not a member of the revolutionary party.[463]

Together, different strands and streams composed the people and institutions of the Niẓāmnāmā commission that drafted the Niẓāmnāmā codes and first constitution of Afghanistan.[464]

– • –

Historiography of the Amānī era has tended to focus on two questions pertaining to the Afghan and Indian socio-religious classes. The first is the role of Afghan and Indian scholars with regard to the rebellions that arose against Amir Amān-Allāh's Niẓāmnāmā legal and administrative codes, first in 1924, and more massively in 1928-1929. The second question, similarly, is the role of the sufi ṭarīqas, predominantly the Qāderīya and Naqshabandīya, in the same events. Both issues are extremely complex, and important, involving considerable overlap

[463] Ibid.

[464] For a rather extensive list of Indians in Afghanistan during the Amānī era, and brief entries of their background and purpose in the country, see the declassified 1920 and 1930 editions of *Who's Who in Afghanistan* handbooks of the Government of India's Afghan intelligence bureau. General Staff of the Government of India (Declassified), *Confidential: Who's Who in Afghanistan* (Simla: Government of India Press, 1920); General Staff of the Government of India (Declassified), *Confidential: Who's Who in Afghanistan* (Simla: Government of India Press, 1930).

(raising the issue of them actually being the same question). After the work by Senzil Nawid, Robert McChesney, Leon Poullada, Vartan Gregorian and Rhea Stewart on these questions, much more work still needs to be done before generalizations can be made (and they will likely never be able to be made) on the role of Afghan and Indian ʿulamāʾ in the watershed social, political, and juridical developments of the Amān-Allāh Khan era. Nawid's work in particular has adeptly used Dari and Pashtu sources in the Afghan national archives as well as rare privately held papers to offer a magnum opus work on the nexus of the aforementioned issues during the Amānī era. And it remains the best work on the first focus issue of the Amānī era (ulema and rebellion) until this day. Sana Haroon's work, on the other hand, remains the best academic study of crossborder Sufism and the role of tariqas in politics of Indo-Afghan borderlands, as well as the imperial capital of Kabul. With regard to the first question, the historiography has tended to focus on the relationship between the Indo-Afghan ʿulamāʾ and the rebellion against Amān-Allāh's reforms, first in 1924 in Khost, followed by a reconciliation and extensive amendment process to the Niẓāmnāmā in the 1924 Loya Jirga, and thirdly, in the final rebellion of 1928-1929 that ultimately overthrew the reformist king.

In this chapter we will not delve into these issues as they have been focused on at length in the aforementioned works. We will, rather, focus on an issue that has *not* been examined at all: the nexus of Ottoman, Indian, and Afghan jurists who drafted the first Niẓāmnāmā codes. We will briefly touch upon the dramatic events of 1924 and the ensuing Loya Jirga of 1924 in which many of the reforms were repealed or amended, in the conclusion, but in order to focus on the unstudied aspects of the first constitution of Afghanistan—the Niẓāmnāmah-i Asāsī of 1923 and associated Niẓāmnāmā produced between 1919 and 1923—we will limit our attention to the original Niẓāmnāmā commission drafters and these years.

Formation and Establishment of the High Judicial Council (*Hayʾat-i Tamīz*)

In early 1919, one of the first executive decisions by the new Amir Amān-Allāh Khan was to establish the *Maḥfil-i Shūrā-yi ʿUlūm*, or Council of Islamic Sciences, and the High Council for the Codification of Law (*Maḥfil-i Waḍʿ-i Qawānīn*, also known as the *Maḥfil-i Waḍʿ-i Qawānīn*, or Codification Council). These councils were made up of some of Kabul's preeminent ʿulamāʾ. Their purpose was to compile a set of comprehensive law codes based on the Ḥanafī school of Islamic jurisprudence study Ḥanafī jurisprudence as well as the codifications of the late Ottoman empire. As Nawid notes,

> [T]he Religious Council for Religious Sciences (*shura-i-'olum*) and the Legislative Council (*mahfel-i-qanun*) were set up to study Ḥanafī jurisprudence and the codified Turkish laws. The councils consisted of government-appointed ʿulamāʾ of the High Religious Committee (Hayʾat-i Tamīz), mostly headed by two scholars from Qandahar—Mawlawīs ʿAbd-al-Wase' and Muḥammad Ebrahim Bārakzai, the minister of justice. They also included a group of writers belonging to the Young Afghan Party, including the radical liberal ʿAbd al-Raḥmān Lūdīn; a number of Muḥammadzai Sardārs; and Badri Baig, the former Istanbul police chief who had come to Kabul as a member of Jamal Pasha's mission. The same council later undertook the codification of the nezam-namas.[465]

[465] Nawid, *Religious Response,* 79; McChesney, *Kabul Under Siege,* 13-14, 277.

The above paragraph constitutes one of the most extensive discussions in an academic work on the constitution of the Niẓāmnāmā lawmaking commission. What we do not get is a sense of the professional habitus, institutional connections, and tensions and rivalries between the aforementioned judicial experts. More surprisingly, there is no citation or refernce given for the above members, nor any delineation of who the "Muḥammadzai Sardārs" were. Even after my extensive research, I found no sources delineating who the "number of Muḥammadzai Sardārs" actually are, presuming they existed on the Niẓāmnāmā drafting commission. McChesney's passage on the members of the original Niẓāmnāmā drafting commission, drawing from Fayḍ Muḥammad Kātib's account, mention a few additional personages, but likewise suffering from simply a brief list of names with no information about their background.[466] According to Fayḍ Muḥammad's account,

> In 1303, equivalent to 1924 in the Christian calendar, a manual on public punishments translated from Turkish was published with corrections and addenda. It was prepared by a great military officer from Turkey, Jemal, was approved by the Consultative Assembly (*hay'at-i shūrā)*, and a group of ʿulamāʾ, the Chief Justice, ʿAbd al-Shukūr Khan, Mulla ʿAbd-al-Wasiʿ Kakari [sic], qāḍī ʿAbd al-Raḥmān Begtuti, and other scholars of the Ḥanafīte school, and so took effect. Some of its provisions were very controversial among pseudo-mullas who lacked any knowledge of the Shariʿah. These included the prohibition of polygamy and child marriage, the imposition of property taxes, and other regulations aimed at ending strife and violence…[467]

As McChesney correctly notes, Fayḍ Muḥammad mistakes the Ottoman military officer Cemal Paşa for the Ottoman lawyer Bedri Bey. As for the particular code invoked, it was like the criminal code, or *Niẓāmnāmā-yi Jazā-yi ʿUmūmī*.[468] While McChesney's rendition of Fayḍ Muḥammad's account (double translated from Persian to Russian to English, possibly accounting for some of the spelling errors) provides some additional important names—two to be exact the Chief Justice, ʿAbd al-Shukūr Khan and qāḍī ʿAbd al-Raḥmān Begtuti—we do not have any other information about these men, what their training was, or professional qualifications. They likely were graduates of the Madrasah-i Shāhī in Kabul, but we cannot be certain until further evidence on these individuals' backgrounds is uncovered.

What I did uncover, however, is previously unknown information on the Ottoman director of the commission, Osman Bedri Bey. We have already discussed the broader context of how he arrived in Afghanistan. Putting all our sources together, we turn now to outline the individual members of the Niẓāmnāmā Commission, the institutions they represented, and the professional habitus they brought to the commission.

The Framers of the First Afghan Constitution: A Transnational Nexus of Scholars, Lawyers, and Politicians

---

[466] For an original copy of the third volume of Fayẓ Muḥammad's magnum opus, *Siraj al-tawārīkh* (1915), see ADL 0009 (1333 [1915]) (Fayẓ Muḥammad Kātib, *Siraj al-tawārīkh vol. 3*). An entire copy of the handwritten manuscript also rests in Rare Collections section of New York University's Bobst Library.

[467] McChesney, 13-14, citing Fayẓ Muḥammad, *Kniga upominaniia o miatezhe* (Moscow: Nauka, 1988), 33-34.

[468] Ibid., 277.

As mentioned in Chapter 3, one of our best sources on Afghanistan's modern legal history from an Afghan scholar, written in Persian, and based on Afghan government sources is ʿAzīz al-Dīn Fufalzai's *Dār al-Qaḍāʾ dar Afghanistan*, published in Kabul in the Afghan solar year of 1369 [1990 or 1991].[469] Fufalzai's work provides one of the most thorough lists of the *Afghan* jurists and politicians who participated in codification and juridical centralization activities from the late nineteenth century to the Amān-Allāh Khan era.[470] Fufalzai notes that not long after Amān-Allāh Khan's ascent to the throne in Kabul, he organized a *Maḥfil-i Waḍʿ-i Qawānīn* (Commission for the Compilation of State Law Codes), which was made up of many of the preeminent ʿulamāʾ of the country, along with the Ottoman lawyer Bedri Bey, to codify the laws of the state according to Islamic jurisprudence.[471] This was the commission that drafted the Niẓāmnāmā law codes and the first Afghan constitution of 1923. Fufalzai's source for the members of the constitutional commission is a rare manuscript entitled *Tārīkh-i Qaḍā dar Afghanistan* (The History of the Judiciary in Afghanistan), published on 24 Sunbula 1299 [September 15, 1920] which includes a list of the names of the members of the *Maḥfil-i Waḍʿ-i Qawānīn*.[472] According to Fufalzai and the *Tārīkh-i Qaḍā dar Afghanistan*, the *Maḥfil-i Waḍʿ-i Qawānīn* was a dynamic lawmaking commission that was made up of two primary component parts—each representing two different groups of contributors to the compilation of the Niẓāmnāmā law codes and first Afghan constitution. Though all Muslim, the first group was made up of some of the most preeminent ʿulamāʾ of Afghanistan, though as we will also see, at least one Indian Muslim scholar was among the group. This group was selected by the Amir himself and endowed with the name, *Maḥfil-i Shūrā-yi ʿUlūm*, or Council of Islamic Sciences. The members of the *Maḥfil-i Shūrā-yi ʿUlūm*, all ʿulamāʾ, included the following:

(1) Mawlawī ʿAbd al-Shukūr Khan, qāḍī al-Quḍāt (Chief Justice)
(2) Mawlawī Sayf al-Raḥmān, qāḍī ʿAskar (Military Judge)
(3) Mawlawī Muḥammad ʿAbd al-Wāsiʿ Qandahārī (Justice)
(4) Mawlawī ʿAbd al-Ḥamīd Khan, Qaḍī Murāfaʿa-yi Ḥuqūq (Justice, High Provincial Civil Court)
(5) Mawlawī ʿAbd al-Raḥmān, qāḍī Murāfaʿa-yi Jazāʾ (Justice, High Provincial Criminal Court)
(6) Mawlawī Muḥammad Amīn Khan, qāḍī Ibtidāʾīya-yi Ḥuqūq (Judge, Civil Court of First Instance)

---

[469] Fufalzai, ʿAzīz al-Dīn Wakīlī. *Dār al-qaza dar afghanistan: az awayil-i-ʿahd-i-islam ta ʿahd-i jumhuriyat*. Kabul: Markarz-i Tahqiqat-iʿUlum-i Islami, 1369 [1990/1991].

[470] See, for example, his list of members of the *Taʾsīs-i maḥfil-i waḍʿ-i qawānīn* (Foundation for the Compilation of State Law Codes) of Kabul in Fufalzai, *Dār al-Qaḍāʾ,* 518-519. For a summary of Amir Amān-Allāh's proclamation praising the noble work of the commission and extolling their qualifications and mission in line with Islamic law, see Ibid., 519.

[471] Ibid., 518.

[472] It is unclear if this document was indeed a published book, or a special manuscript. Either way I have been unable to locate any existing copies of this text. Many of the names in Fufalzai's list are corroborated by partial lists included in works by Pūhanyār, Hāshimī, Nawid, Poullada, and Gregorian. None of the latter mentioned works have as extensive a list as that provided by Fufalzai.

(7) Mawlawī ʿAbd-al-Jalīl Khan, qāḍī Ibtidāʾīya-yi Jazāʾ (Judge, Criminal Court of First Instance)
(8) Mawlawī ʿAbd-al-Rashīd Khan, qāḍī (Judge)

The *Maḥfil-i Shūrā-yi ʿUlūm*, of whose eight members are listed above, represented one segment of the *Maḥfil-i Waḍʿ-i Qawānīn* codification committee, however. Reflecting Amir Amān-Allāh's vision of a dynamic, cosmopolitan and well-rounded group of "Rule of Law experts" who would bring both a prolific knowledge of Islamic jurisprudence, *and* the administrative proficiency and experience in a centralized state like the late Ottoman empire and British India, the Amir also included what we would call modern bureaucrats or administrators. While the Amir did not organize these members into a specifically named and honored group like the aforementioned ʿulamāʾ members of the *Maḥfil-i Shūrā-yi ʿUlūm*, these additional members of the *Maḥfil-i Waḍʿ-i Qawānīn* codification included a lawyer, several bureaucrats, teachers and even a physician. In addition to the above leading members of the Afghan ʿulamāʾ establishment who participated in the compilation of the Niẓāmnāmā codes, the additional *non-ʿulamāʾ* contributors included,

(1) Sardār Ibrāhīm Aḥmad Khan, President, *Maḥfil-i Waḍʿ-i Qawānīn*
(2) Osman Bedri Bey (Turk), Managing Director, *Maḥfil-i Waḍʿ-i Qawānīn* [473]
(3) Nayk Muḥammad Khan
(4) Fatḥ Muḥammad Khan
(5) Jumʿah Khan
(6) Ḥabīb-Allāh Khan, Public Prosector
(7) ʿAbd al-Ghanī Khan (Indian), Physician and College Administrator
(8) Najafʿ Alī Khan (Indian), College Professor (Brother of ʿAbd al-Ghanī)
(9) Muḥammad Qāsim Khan
(10) Amir Muḥammad Khan
(11) ʿAbd al-Raḥmān Khan Ludīn, Afghan journalist and politician

We now turn to a more detailed discussion of the foremost individuals who served on the *Maḥfil-i Waḍʿ-i Qawānīn* constitutional commission, in order to understand the diverse strands of education, employment experience, and professional *habitus* they brought to the first Afghan constitution and juridical field of Afghanistan during the Amānī era.

Mawlawī ʿAbd-al-Wāsi' Qandahārī, Afghan Islamic Scholar

The Afghan historian Sayyid Masʿūd Pūhanyār has provided a rare and brief biography of Mawlawī ʿAbd-al-Wāsi' Ākhundzādeh Qandahārī, and his vigorous role in both the first

[473] Notably, Fufalzai mentions Bedri Bey as "Vice President and Member" (*Nā'ib-i Ra'īs-i wa 'aḍū-yi īn maḥfil*) of the *Maḥfil-i Waḍʿ-i Qawānīn*. This is the only source mentioning Bedri Bey in a deputy or "vice-" position on the commission. All our other sources indicate he was the Director, President, or Chief Author. In all likelihood, given his foreign background and non-fluency in Persian (though it is likely he studied Persian in his early education), Bedri Bey was probably given a role akin to "Managing" or even "Executive" Director, with Sardar Sardār Ibrāhīm Aḥmad Khan or another capable Afghan statesman or jurist in a more senior "Chief Officer" role in name, but complementary role in practice.

Afghan constitutional movement during the Amir Ḥabīb-Allāh Khan era, as well as the drafting of the Niẓāmnāmā under Amir Amān-Allāh.

Mawlawī Muḥammad ʿAbd-al-Wāsiʿ Ākhundzādeh Qandahārī was born in the year 1290/1873 in Qandahar. He was the son of the prominent and respected scholar of Kabul, Mawlawī ʿAbd-al-Raʿūf Ākhundzādeh Qandahārī, who was president of the Madrasah-i Shāhī—Kabul's most prestigious college—and one of Emir Ḥabīb-Allāh's professors when the young Ḥabīb-Allāh studied there as a prince.[474] Mawlawī ʿAbd-al-Wāsiʿ was also the brother of Mawlawī ʿAbd al-Rabb Ākhundzādeh. Punhanyar notes that when the two brothers—who were distinguished for their knowledge but also fiery speeches and political activism from the minbar (mosque pulpit)—became especially involved in the constitutional movement during Amir Ḥabīb-Allāh's reign, they were arrested and imprisoned in Sheyrpur. Out of the Amir's deep respect for their father, however, Ḥabīb-Allāh Khan ordered them released—a "right" of his teacher and professor, Punhanyar states.

Exemplifying his constitutional activism from the pulpit, Pūhanyār relates that one of the Fridays when Mawlawī ʿAbd-al-Wāsiʿ has ascended the minbar in Kabul's central and largest *Pul-i Khishtī* mosque, he proceeded to orate with eloquence and power, moving the packed audience. On one such occasion, according to Pūhanyār, Mawlawī ʿAbd-al-Wāsiʿ then proceeded to recite the verse, "O you believe, obey God and obey His Messenger and the people of authority (*ūlil-amr*) amongst you." While this verse has been most often interpreted by official preachers to support the monarch or regime's authority and thereby a legimitation of the status quo, Pūhanyār then relates how Mawlawī ʿAbd al-Wāsiʿ proceeded to proffer a different interpretation, arguing the "people of authority" here were in fact not the de facto rulers, but the *scholars and intellectuals* (*ʿulamāʾ-yi munawwar wa rūshānfikrān*). His evidence was both empirical and discursive, he argued: because of the latter group's knowledge, they were best qualified to guide the people to what is best for their welfare, as well as protect them from the ways of wrongdoing and misguidance. For these reasons it was the scholars and intellectuals, i.e. the possessors of knowledge and guidance, not the holders of worldly power, that were the true people of authority and the ones deserving to be obeyed. The political ramifications were obvious: the constitutional movement, led by Afghanistan's intelligentsia, were the true authority and the king was an illegitimate wielder of unjust authority. Needless to say, it was precisely such pronouncements—coupled with his tremendous influence and power as a respected scholar and preacher—that Amir Ḥabīb-Allāh likely found extremely threatening.[475]

Pūhanyār notes that Mawlawī ʿAbd al-Wāsiʿ received his early education from his father, a prominent scholar as already mentioned, as well as some schooling in Qandahar. After Amān-Allāh's ascent to the throne, the new reformist Amir called Mawlawī ʿAbd al-Wāsiʿ to Kabul and appointed him to serve on the code-drafting commission led by the Ottoman lawyer Bedri Bey. Pūhanyār notes that Mawlawī ʿAbd al-Wāsiʿ was specifically recruited for this position in 1920 to ensure that the new codes would be in compliance with the sacred Sharīʿah. Mawlawī ʿAbd al-Wāsiʿ's eminent position on the Niẓāmnāmā commission, as well as the role of Islamic law, notes Pūhanyār, is evident in the fact that at the end of nearly every code produced in the early

[474] For a brief biography of the father, also a member of the first Agfhan constitutional movement during the Ḥabīb-Allāh era, see Ḥabībī 282-284. For a biography of the brother, see Pūhanyār, 58-59 and Ḥabībī, 269-271.

[475] Pūhanyār, 53-57; Ḥabībī, 276-277

1920s, is the signature and seal of the Amir, along with that of the "Servant of the Scholars" (*Khādim al-ʿulamāʾ*), Mawlawī Muḥammad ʿAbd al-Wāsiʿ Ākhundzādeh Qandahārī. [476]

According to Masʿūd Pūhanyār, in addition to his service on the Niẓāmnāmā drafting commission, Mawlawī ʿAbd al-Wāsiʿ helped establish a school of law (*maktab-i quḍāt*) and a school of administration (*maktāb-i ḥukkām*), where he also served as professor law Islamic law (ʿAqrab 1300). In 1920-1921 he published one of the first and most important codifications of civil procedure of the Amānī period, the judge's handbook *Tamassuk al-Quḍāt*, one of the most important judicial texts of the era, containing 1113 articles was published in Kabul. Akin to Mawlawī Alkuzai's earlier manuals for judges such as *Asās al-quḍāt* (1883), this work was more detailed and customized for the new conditions of Afghanistan at the time, as well as the more innovative ideals of Amir Amān-Allāh Khan.[477] The text was subsequently approved by members of the High Religious Council (Hayʾat-i Tamiz), who declared that it conformed with the Shariat. In application of the rule of *taʾzīr* (administrative discretion), *Tamassuk al-Quḍāt* left great discretion to the ruler, as the uli al-amr and fountainhead of order, to protect the public interest (*maṣlaḥat*) and maintain public order (*niẓām-i mulk*). Toward that end, the General Penal Code (*Niẓāmnāmā-yi Jazā-yi ʿUmūmī*) and the Military Penal Code (*Niẓāmnāmā-yi Jazā-yi ʿAskarī*) were later promulgated in 1923.[478]

In 1301 (October 1922) he authored a book on Pashtu grammar, and served as a Muftī in the Arg palace. After that, in ʻAqrab 1302 he became president of the courts (Rais-i-Mahkemat). Mawlawī ʿAbd al-Wāsiʿ's fortunes and career were to take an abrupt turn in 1924, however, with the outbreak of the 1924 Khost rebellion, arguably a revolt against the Niẓāmnāmā codes which he had played such a major role in producing. While the revolt was eventually crushed, it was not without great price to Amān-Allāh, including his abandonment of many of his cherished reforms following the 1924 Loya Jirga which overturned many of the Niẓāmnāmā codes in which Mawlawī ʿAbd al-Wāsiʿ played such a prominent role drafting. At the Loya Jirga negotiations, Mawlawī ʿAbd al-Wāsiʿ represented the side of the government and defended the Islamic legitimacy of the Niẓāmnāmā. This put him in a very vulnerable position once the tide turned in favor of the oppositionists. Following the ratification of the Loya Jirga's amendments to the Niẓāmnāmā, Mawlawī ʿAbd al-Wāsiʿ was removed from all offices; what is more, due to political pressure and the animosities unleashed by the re-entrenchment of the oppositional ʿulamāʾ, and perhaps the need to find a scapegoat from the government perspective, he was imprisoned in the Afghan solar year 1305 [1926] for one year. Following this experience he resettled in Qandahar. [479]

When the rebellion of Ḥabīb-Allāh Kalakānī emerged, Mawlawī ʿAbd al-Wāsiʿ threw his support behind Amir Amān-Allāh once again and published fatwās in support of the king and condemning the brigand rebel Kalakānī . This time, however, the scholar found himself in far more serious danger. When Kalakānī 's forces finally captured Qandahar in 1928-1929. and the rebel leader Kalakānī himself confronted the scholar, Mawlawī ʿAbd al-Wāsiʿ refused to recant

---

[476] Pūhanyār, 53-57; Ḥabībī, 276-277

[477] Pūhanyār, 53-57; ; Ḥabībī, 276-277. An original copy of the manual has been preserved and digitized by the Afghanistan Digital Library. ADL 0317 (1300 [1921]) (Muḥammad ʿAbd al-Wasiʿ Qandahārī, et al., *Tamassuk al-quzat-i Amaniyyah, vol. 2*)

[478] Nawid, 97-98

[479] Pūhanyār, 53-57; Ḥabībī, 276-277

his fatwā, and in fact was in more defiant, describing him as a brigand and usurper of the saltanat, who by Islamic law must be opposed. Kalakānī had him bound in chains and taken to Kabul, where he was ordered to be executed. He was blown from a canon in Sheyrpur in Jawza 1308 [1929].[480]

In addition to *Tamassuk al-Quḍāt* and the Pashtu grammar book, Mawlawī ʿAbd al-Wāsiʿ authored a philosophical work entitled *Ḥikmat-i Islāmī* (1334 [1955]), the manuscript of which rests in the Afghanistan National Archives; a Commentary on Surat Fatiha and Baqara in Persian and Pashtu (published posthumously in 1329 [1950]) and was, interestingly, translated into English by Abdul Wahhab Kāmawi in 1300; *ʻAnwān Asāsī Dīnīyāt dar Mazmun[e ta'līm felsefe Islami Qurʾān i* (Kabul, 1300); *Risale Shunakht Khuda Mushtamal bar Ma'ani Asmaʿ Al-Husna* (Kabul, 1300/1921) and *Manzume ta'āwun bizibane pashtū*, published posthumously in Kabul in 1326 [1982].[481]

Mawlawī Muḥammad Ibrāhīm Khan Bārakzai, Afghan Islamic Scholar and Statesman

After Mawlawī Abdul Wase' Qandahārī, the second most influential Afghan member of the Niẓāmnāmā drafting commission was Mawlawī Muḥammad Ebrahim Bārakzai. Together, the pair were of the most influential, creative, and productive ʿulamāʾ in Kabul during the Amān-Allāh era. In my research on the Afghan members of the commission, apart from his name being mentioned with respect to the compilation of the first Afghan constitution and accompanying Niẓāmnāmā codes, I did not extensive biographical information on Mawlawī Ibrāhīm Bārakzai from Afghan sources. I did find, however, a declassified intelligence file on him in the India Office Records, a relic of British intelligence on Afghanistan from an earlier era.[482]

According to this source, Muḥammad Ibrāhīm Khan was the son of Sardār Muḥammad Sarwar Khan, a former Governor of Herat. He was, notably, the brother of Ulya Hazrat—one of the wives of Amir Ḥabīb-Allāh Khan—and therefore the maternal uncle of Amir Amān-Allāh Khan. In March 1919, perhaps owing to his close relations with his nephew, Muḥammad Ibrāhīm was appointed *Nāẓir-i ʿAdalīya* (minister of justice) by Amir Amān-Allāh. In the same critical year and shortly after Amir Ḥabīb-Allāh Khan's death, Amān-Allāh Khan dispatched Mawlawī Ibrāhīm to the strategic frontier city of Jalalabad to proclaim his accession to the throne. He was later appointed Governor of Kabul, also in the same year of 1919. The source also notes Amir Amān-Allāh dispatched Mawlawī Ibrāhīm to Jalalabad to command troops in Pusht-i-Rud and Farah, but was later recalled to Kabul for unstated reasons. The source notes that beginning in August 1919 Mawlawī Ibrāhīm was promoted to the eminent position of *Muʿīn al-Ṣalṭanat*, a post previously held by Amān-Allāh's brother ʿInāyat-Allāh Khan.[483]

---

[480] Pūhanyār, 53-57; ; Ḥabībī, 276-277

[481] Original copies of ʿAbd al-Wāsiʿ's additional works have also been preserved and digitized by the Afghanistan Digital Library. They include the following: ADL 0318 (1300 [1921]) (Muḥammad ʿAbd al-Wāsiʿ Qandahārī, *ʿUnwān-i asāsī dīnīyāt dar mazmūn-i taʿlīmī falsafah-i Islāmī Qurʾān ī yamānī īmānī*); ADL 0319 (1300 [1921]) (Muḥammad ʿAbd al-Wasiʿ Qandahārī, *Kullīyāt wa iṣtilāḥāt-i fiqhiyah*), the latter's reprint in ADL 0188 (1300 [1921]) (Muḥammad ʿAbd-al-Wāsiʿ Qandahārī, *Kullīyat wa iṣtilaḥat-i-fiqhīya-bi-ra-yi niṣāb-i mahākim-i murā*); and ADL 0332 (1341 [1923]) (Muḥammad ʿAbd al-Wasiʿ Qandahārī, et al., *Yūzānī Pashtu/Khāṣ-i Afghānī*).

[482] *Who's Who in Afghanistan (1920)*, 129.

[483] *Who's Who in Afghanistan (1920)*, 129.

In this way we see that far from a jurist only in the strict sense of the term, Mawlawī Ibrāhīm also held a number of political and military positions in the Amān-Allāh government, speaking to the diverse experience he also brought to the codification project and juridical project. Unfortunately, I was unable to gather sufficient information on his educational background, but given his title of "Mawlawī", we can surmise he had an extensive religious education, likely in the Madrasah-i Shāhī given his mother's high status in the royal family in Kabul.

Osman Bedri Bey, Ottoman Lawyer, Istanbul Police Commissioner, and Governor of Aleppo

After Mawlawīs ʿAbd al-Wāsiʿ Qandahārī and Ibrāhīm Bārakzai, the most influential person on the commission appears to be the Ottoman Turk, Osman Bedri Bey. Appointed as the director of the commission, this does not necessarily entail he was the most powerful; it simply signifies the Afghan Amir wanted him to be so. Nonetheless, scattered references indicate the Istanbul lawyer Bedri Bey was either director or "Vice-President" of the Niẓāmnāmā commission. Prior to the current study, the only information we had on this individual from the historiography of Afghanistan and the Amānī era is that he was a Turk associated with Cemal Paşa's mission to Kabul in the early 1920s. Part II of this chapter provided more biographical detail on this powerful individual in the Indo-Ottoman juridical nexus. As mentioned earlier, during World War I, Bedri Bey was appointed to the powerful posts of Police Commissioner of Istanbul, and ultimately Governor of Aleppo province. It is as "former Governor of Aleppo" that Bedri Bey is referred to in the Ottoman archives records from 1917 on.[484] This begins an inauspicious period in the Ottoman archives on the life of and activities of Bedri Bey. What is more, it is what the Şura-yı Devlet documents refer to Bedri Bey in their search for him to try him for war crimes beginning in early 1919, and ultimately a trial in absentia in autumn 1920.[485] A large file in the Ottoman archives includes a judgment in absentia of Bedri Bey written in French, with a rare photo attached.[486] As a prominent leader in the CUP Wartime government, and a close ally of Cemal and Talat Paşas, Bedri Bey was on the list of wanted accused by the British-supervised Ottoman government in Istanbul after the war. As if he and his colleagues knew what was to come, Bedri Bey and his colleagues secretly fled Istanbul into exile on the eve of the British occupation of Istanbul.

The Ottoman archives maintain a light track record of his whereabouts after this point. In August 1919, the Ottoman Ministry of Foreign Affairs reported on suspected travels of Bedri Bey in Switzerland.[487] A pair of documents from 1920 and as late as 1922 discuss the ongoing investigations and search for Bedri Bey in Europe.[488] A document from the Meclis-i Vukala contains a judgment to sequester the "major leaders of the previous regime" (sabık hükümet

[484] For example, BOA-DH.HMŞ 3/1-112 (1337 C 01).

[485] BOA-DH.HMŞ 3/1-112 (1337 C 01);BOA-HR.HMŞ.İŞO 216/2 (1339 M 08).

[486] BOA-HR.HMŞ.İŞO 216/2 (1339 M 08).

[487] BOA-MF.MKT 1239/52 (1337 Za 25).

[488] BOA-MF.MKT 1241/30 (1338 Z 30); BOA-MF.MKT 1244/9 (1340 C 08).

erkanı), which includes the names of major Wartime CUP leaders Talat, Enver, Cemal, and Bedri Bey, among others.[489]

After fleeing Turkey, hardly surprising in light of his implication by the Allies for war crimes, he departed for Germany, then Russia, and finally Afghanistan. In Afghanistan, given his extensive legal experience, Amir Amān-Allāh appointed him as director of the constitutional commission that produced not only the first constitution but the over seventy Niẓāmnāmā codes. Bedri Bey was to the new legal and constitutional field what Cemal was to the new military field in Afghanistan. In Bedri we see the culmination of Ottoman juridical influence in Afghanistan, a lawyer without a traditional Ottoman *medrese* training, yet years of experience in the Şeriat and Niẓāmiye Ottoman-Islamic courts of Istanbul. He brought experience with law codes, centralized networks of courts, and a commitment to procedure.

As discussed in Part II, there are a number of documents confirming Bedri Bey's death under suspicious circumstances on May 5, 1923 in Kabul. In a twist of historic irony, his death followed less than a month after the promulgation of the Afghan constitution and several of the first published Niẓāmnāmā codes which he helped draft.

Dr. ʿAbd al-Ghanī, Indian Physician, College Administrator, and Prominent Advisor to Amir Amān-Allāh

If an Ottoman lawyer from Istanbul does not speak to the cosmopolitan nature and diverse professional background of the Niẓāmnāmā drafting commission members, then the presence of an Indian physician among them should. ʿAbd al-Ghanī was born in the town of Gujrat (not to be confused with the south Indian province), Punjab, located in present-day Pakistan. British intelligence reports describe him as the son of an Islamic scholar, Mawlawī Dosandh Khan, a resident of Jalalpur Jattan, Gujrat, in the Punjab.[490] He received his early education in Gujrat, most likely from his father or other local teachers, and it appears to have been a dynamic one. It was likely here that he learned not only Urdu and Persian, still conventional for well-educated Muslims of his age, but also English, given his subsequent educational history. In 1885, he traveled to England, where he is reported to have met Sardār Naṣr-Allāh Khan, son of Amir ʿAbd al-Raḥmān. The Afghan prince was impressed with the Indian youth, apparently, because he provided him with a scholarship to study at Cambridge University. It is likely here that he completed an education in medicine—Hāshimi simply notes he was "successful in his final exams"—though as we will see, the field was not to be his primary profession nor what he is most remembered for.[491]

In 1890, perhaps as a condition of the scholarship, out of a sense of personal gratitude, or simply seeking out opportunities of employment, ʿAbd al-Ghanī traveled to Kabul and accepted a post as secretary to the "Iron Amir," ʿAbd al-Raḥmān Khan.[492] It was not clear how long he stayed in this position, but our sources indicate at some point he returned to India, where he served as principal of the Islamia College at Lahore for three years. While in Lahore, ʿAbd al-

[489] BOA-MV 213/41 (1337 S 27).

[490] *Who's Who in Afghanistan (1920),* 47.

[491] Hāshimī, 274; Adamec*, Afghanistan,* 7)

[492] Adamec*, Afghanistan,* 7)

Ghanī maintained contacts and relationships with influential persons in Kabul. British intelligence records also indicate ʿAbd al-Ghanī served as a personal news-writer to Amir Ḥabīb-Allāh himself.[493]

ʿAbd al-Ghanī's return to his original homeland, Punjab, was again to be short-lived. After the death of ʿAbd al-Raḥmān and the ascent of Amir Ḥabīb-Allāh Khan to the throne in Afghanistan, ʿAbd al-Ghanī returned to Kabul. This time, Adamec notes, reflecting both the Amir's high esteem for ʿAbd al-Ghanī and the latter's restlessness, he served in three positions at once: chief medical officer, director of public instruction in Afghanistan, and principal of newly established Ḥabībīyah academy.[494]

Not content with these personal accomplishments, ʿAbd al-Ghanī would eventually become known among sympathetic—and not so sympathetic—members of the Kabul court for his underground constitutional activities. As Adamec notes, he became "a champion of political and social reform and attracted a circle of 'Young Afghans' who formed a secret organization called *Sirr-i millī* (Secret of the Nation)."[495] He also had two brothers—Najaf Ali, who was a schoolmaster at Rawalpindi, and Ghulām Haidar, of Lahore—and both of them joined ʿAbd al-Ghanī in Kabul during the Ḥabīb-Allāh era, where, again in spite of their Indian background, vigorously participated in "Young Afghan" constitutional activities.[496] As mentioned earlier, both of his brothers would also to participate in the commission appointed to draft the first Afghan constitution and Niẓāmnāmā codes, the *Maḥfil-i Waḍʿ-i Qawānīn*.[497]

In 1909, ʿAbd al-Ghanī's activities with the Young Afghans appear to have finally gotten on the wrong side of Amir Ḥabīb-Allāh's attention. The physician, along with a number of his followers, were arrested for hatching an alleged conspiracy to assassinate Amir Ḥabīb-Allāh (and his brother, prince ʿInāyat-Allāh) and establish a constitutional government in its place. British intelligence records for Afghanistan note that his case appears to have been "re-opened" in 1913 and again in 1915, but for unclear reasons—most likely pertaining to the outbreak of the war and arrival of Indian revolutionaries—he was not released.[498] We have no information about ʿAbd al-Ghanī's remaining years in prison until January 1919—one month before Ḥabīb-Allāh's assassination—when British intelligence files report his "condition improved somewhat, both, as regards food and clothing," under orders from Amān-Allāh Khan, who was then Inspector of Prisons. In April of the same year, two months after the amir's death, brief ensuing internecine war, and coronation of Amir Amān-Allāh Khan, the latter had Abdul-Ghani officially released from prison.[499]

---

[493] *Who's Who in Afghanistan (1920),*47; Hāshimī, 274-276; Pūhanyār 98, 106-110

[494] Adamec*, Afghanistan,* 7); Hāshimī, 274-276; Pūhanyār 98, 106-110

[495] Adamec*, Afghanistan,* 7); Pūhanyār 98, 106-110

[496] *Who's Who in Afghanistan (1920),* 47. For brief biographies of his two brothers Mawlawī Najaf Ali and Mawlawī Muḥammad Chirāgh, and their constitutional as well as educational activites at the Ḥabībīa school, see Pūhanyār 98-100; , 106-110; Hāshimī, 274-276

[497] Fufalzai, 518

[498] *Who's Who in Afghanistan (1920),* 47.

[499] Ibid.

ʿAbd al-Ghanī's newfound fortunes were not limited to his release from prison, but resulted in a rapidly rehabilitated and energetic return to Afghan political—and juridical—life. Machonachie notes ʿAbd al-Ghanī would go on to be "one of Amān-Allāh's closest advisors," probably stemming from the latter's days as a young and idealistic prince who was enamored with the Young Afghan party.[500] The new amir proceeded to appoint him to a variety of high-profile and influential positions. In August 1919, in spite of his Indian background, he was appointed to represent the Afghan delegation in peace talks with the British at Rawalpindi.[501] He also found time to write, apparently, as Machonachie notes that he authored a book on Afghanistan and Central Asia, in English, entitled *A Review of the political situation in Central Asia* (1921, with a second edition published in Lahore in 1980). Upon his return from India, ʿAbd al-Ghanī was appointed Director of Public Instruction in September 1919."[502] Most significant, he served on the preeminent state policymaking committee, the *Majlis-i Shūrā*, an associate body to the *Maḥfil-i Shūrā-yi ʿUlūm Maḥfil-i Waḍʿ-i Qawānīn*, the legislative entities responsible for promulgating the first Afghan constitution and associated Niẓāmnāmā codes.[503] After the tumult of the latter period of Amir Amān-Allāh Khan's decade-long rule, he subsequently returned to India, where he appears to have returned a journalist's life, authoring articles on Afghanistan and Central Asia. He died in 1945.[504]

As for his status in British archival records, we must note here a sense of ignorance at best, contempt at worst, for his juridical activities in Afghanistan. Note, for example, the following excerpt from the 1930 *Who's Who in Afghanistan* declassified report from the India Officer Records, where the entry for Dr. ʿAbd al-Ghanī writes,

> Unemployed in 1920 except as a member of the *majlis-i-Shora*. Returned to India in September 1920. Still in India, November 1921. Had not returned to Afghanistan up to May 1927.[505]

As with other members of the prestigious lawmaking body, the document fails to mention the significance of the Majlis-i Shūrā and its role in promulgating the first Afghan constitution and associated Niẓāmnāmā codes. Like Ahmed Hulusi Efendi nearly half a century earlier, amazingly, the commentary above is one of longest descriptions offered by a British official on Dr. ʿAbd al-Ghanī's juridical contributions to Afghanistan. Evident is the disregard for his eminent status in the *Majlis-i Shūrā*, Afghanistan's preeminent legislative (and semi-judicial) body, the writer seems wholly ignorant of ʿAbd al-Ghanī's service on the Majlid, including role in the promulgation of Afghanistan's first constitution. The fact no mention is made on this significant aspect of his experience, and the entry tends to focus on his status as "unemployed…except as a member of the *majlis-i-Shora*" is a very curious decryption indeed. Similar to our discussion of Ahmed Hulusi Efendi, and as Curtis (2009), Nader (2005), Kroncke

---

[500] IOR-R/12/LIB/107, *Precis on Afghan Affairs,* (para. 53, p. 19).

[501] Adamec*, Afghanistan,* 7)

[502] *Who's Who in Afghanistan (1920)*, 47.

[503] *Who's Who in Afghanistan (1920)*, 47; Pūhanyār 98, 106-110

[504] Adamec*, Afghanistan,* 7)

[505] *Who's Who in Afghanistan (1930),* 14.

(2004), and Ruskola (2002) have illustrated following Said (1978), such attitudes represent a continued "legal Orientalism" of lesser-informed British colonial administrators, sure of themselves and their civilizing mission while being convinced Muslim legal actors—sweepingly generalized by the-lesser-informed-Weberian notions of "*kadijustiz*" from Constantinople to Calcutta—had little to offer for "the rule of law."[506] It is also a blind spot that perhaps explains why historians have missed where the greatest impact of Ottoman and Indian Muslim participation in Afghanistan has been in the long term: the Afghan *juridical* field.

ʿAbd al-Raḥmān Lūdīn, Young Afghan journalist, poet, and administrator

One of the most dynamic constitutionalists—in both the political and juridical realms—during the first three decades of the twentieth century was the Afghan journalist, administrator, and poet, ʿAbd al-Raḥmān Lūdīn. Pūhanyār notes that Lūdīn served a member on the High Judicial Council (Merkez Qānūn Guzārī) in 1300/1921, the very year in which many of the Niẓāmnāmā codes were being drafted. In 1302/1923 he served as an envoy to Bukhara, as well as holding a number of other administrative positions. In 1305/1926 he was mayor of Qandahar (Rais baladiye Qandahar), and from 1306/1927 to 1307/1928, he served as Director of Customs for Kabul (Rais Gumruk Kabul).[507]

During the Ḥabīb-Allāh Khan era (1901-1919), Abd al-Rahmān Lūdīn was an outspoken critic of the amir's policies of "modernization." Publishing articles in Maḥmūd Ṭarzī's *Sirāj al-akhbār,* he argued the Amir's lofty speeches of progress failed to materialize in practice because the ruler's obeisance to foreign powers, especially the British, and his own autocracy at home. Though a close colleague of Tarzi, Ahmadi notes, when it came to his political thought in comparison Lūdīn "went even further in his criticism of the powers of the Amir, pointing not only to his lack of determination in implementing 'genuine' modernization in the country and to his despotism, but also to his 'reliance' on foreigners and his compromise of the independence of the 'national homeland.'[508] In this sense Lūdīn stands out above the rest of the Young Afghans for his fiercely independent, consistent, and principled stances vis-à-vis the struggle to establish a constitutional form of government in Afghanistan. Lūdīn also shared the conservatives' biting critique of the Amir as having swindled Afghanistan's best opportunity at independence and a chance to overthrow the British overseer during the first world war. Symbolizing his devotion to an Afghanistan independent of any foreign power, Lūdīn's bitter critiques of the British—Afghanistan's "great enemy" number one, as he called them—were followed by his intense suspicion of the Russians, who he also saw as colonial power, dominating the Muslims of central Asia just north of Afghanistan.

---

[506] Nader, Laura. "Law and the Theory of Lack." *Hastings International and Comparative Law Review* 28 (2005): 191-204. Kroncke, Jed. "Substantive Irrationalities and Irrational Substantivities: The Flexible Orientalism of Islamic Law." *UCLA Journal of Islamic and Near Eastern Law* 4 (2004-2005): 41-73; Ruskola, Teemu. "Legal Orientalism." *Michigan Law Review* 101 (2002): 179-234; Said, Edward. *Orientalism*. Vintage: New York, 1979. See in particular Michael Curtis's *Orientalism and Islam* for an excellent discussion of British East India Company administrator Burke's attitude towards Islamic law and the role it played in the development of British attitudes towards colonial India. Curtis, Michael. *Orientalism and Islam: European Thinkers on Oriental Despotism in the Middle East and India*. New York: Cambridge University Press, 2009.

[507] Pūhanyār, 244-249

[508] For examples of his fiery poetry during the Ḥabīb-Allāh era, see Ahmadi, *Modern Persian Literature in Afghanistan,* 33-34.

The brunt of Lūdīn's literary attacks—in prose and poetry—were largely reserved for Afghanistan's internal matters, however. The lackluster and halfhearted trajectory of Amir Ḥabīb-Allāh's "modernization" campaign—limited to treaties, an elaborate tour of India, and outward tokens of progress and conspicuous consumption, in Lūdīn's eyes—was a common theme of his writings.[509] Like the Indian Young Afghan ʿAbd al-Ghanī, ʿAbd al-Raḥmān Lūdīn and a number of liberal intellectuals were accused of concocting a plot to assassinate Amir Ḥabīb-Allāh in 1918, and imprisoned.[510] Also like ʿAbd al-Ghanī, he was released after the ascent of Amān-Allāh Khan, and rewarded with prominent positions in the new government.

Over time, however, it became clear Lūdīn's greatest concern was not the intervention of the British or Russians, though on this he plenty of venom to heap on the evils of imperialism. Rather, even during the Amān-Allāh era, his primary concern was the tyrannical quality of the monarchy, and state itself, for that matter. Senzil Nawid describes ʿAbd al-Raḥmān Lūdīn as among the radical leftist wing of the *Jawānān-i Afghān*¸ also known as *Jumhurīyat-Khwāhān* (Republicans), who would later form one of the chief factions within the liberal camp of Amān-Allāh's court that even opposed Amān-Allāh's later single-party rule under his own leadership. Nawid further notes that far from a impractical ideologue, ʿAbd al-Raḥmān was profoundly pragmatic, and even opposed some of the more radical social reforms pertaining to women, holding these would threaten the passage of fundamental constitutional and political reforms limiting the power of the monarch—his main objective. As Nawid notes,

> Some liberals disapproved of the women's emancipation movement as a specific agenda for reform and openly criticized the king's stand on unveiling and other feminist issues. ʿAbd-al-Hadi Dawi and ʿAbd al-Raḥmān Lūdīn vociferously opposed unveiling, claiming that the unveiling of women in the capital would produce negative repercussions in the country and would provide ample opportunity for the British to foment another popular uprising against the government.[511]

While Nawid's comments above reveal a sense of pragmatism, or priorities we might say, in ʿAbd al-Raḥmān Lūdīn's vision of modern reform for Afghanistan, we nonetheless see a consistent concern with the abusive power of the modern state, and his sense of obligation as an intellectual, to speak truth to power. As mentioned, even during the amirate of his fellow Young Afghan Amān-Allāh Khan—a reign which would have provided plenty of opportunity to enrich himself or earn lavish titles given the close nature of their relationship—his primary concern was the tyrannical quality of the monarchy, and state itself, for that matter. As Ahmadi insightfully notes, this often produced a series of acute moral and political dilemmas for Lūdīn, especially upon the ascent of the Young Afghan prince par excellence, Amān-Allāh Khan, and his mentor Maḥmūd Ṭarzī to the reins of the state,

> With the rise of the reformist Young Afghan prince Amān-Allāh Khan to power, to the oppositional intellectuals like Abd al-Rahman Lūdīn, Dawi, and others, Islamic modernism in power "posed an acute dilemma: whether to acquiesce to the cultural policy of the regime and work within it, and implicitly strengthen the state institutions; or whether to strive to reshape the

---

[509] Ibid.

[510] Ibid., 153.

[511] Nawid 151, citing Ḥabībī, 191).

> official ideology through dissent and cultural resistance. So potent and pervasive the 'nationalist' discourse emanated by the state proved itself to be such that a great number of prominent intellectuals were indeed drawn to participate in it, although so many others continued to defy it and, instead, offered alternative modalities for socio-cultural change…"[512]

As Ahmadi proceeds to show in the remainder of his study of modern Persian literature in Afghanistan, literary production in twentieth century Afghanistan following independence and the Amānī era bifurcated into two competing directions, a "state-delineated institutional one" and an "oppositional, dissident" one. While Ahmadi incisively tracks this development in the realm of Persian literature, examining the works of journalists and poetry in a broad range of genres, we may cite a similar phenomenon in the realm of Afghan politics, and law, taking place during the Amānī era as well. That is to say, within Amān-Allāh's coterie of supporters in the government he established, at least two groups of juridical actors appear to have emerged vis-à-vis the Niẓāmnāmā reforms—those who saw the law as tool to *empower* the state, and those who saw it as a means to *restrain* the ruler and enshrine certain political rights for the citizenry not only in paper, but in practice. While we may see the role of the Bedri Bey, and mawlawīs ʿAbd al-Wāsiʿ ' Qandahārī and Ibrāhīm Bārakzai as belonging to the former given their role as the foremost drafters of the *nizamname* state codes, ʿAbd al-Raḥmān Lūdīn emerged as an outspoken member of the latter group.

Lūdīn would remain true to his oppositional and dissenting stance to the very end. He was imprisoned at the time of the revolt of 1928-1929.[513] In the beginning of Nādir Shah's rule it was initially decided he would serve as mayor of Kabul (*Raʾīs Baladīyah Kabul*), but enmity between him and the king no sooner surfaced than he was ordered to be executed.[514]

Other Contributors—Named and Unnamed

To the extent my research has shown, the aforementioned individuals constituted the leading and most prominent members of the first Afghan constitutional commission. They were not, however, the only ones. In addition to these above prominent players, there were other Afghan ʿulamāʾ, some of whose names we find mentioned in connection to the drafting of the Niẓāmnāmā codes, others whom we do not. With respect to the former, most prominent among the names of Afghan ʿulamāʾ, though hardly mentioned in any depth in Afghan, Ottoman, Indian, or British archives, include Mawlawī ʿAbd al-Shukūr Khan and Mawlawī and qāḍī ʿAbd al-Raḥmān Begtuti.[515] British Indian intelligence records from the India Office Records in

---

[512] Ahmadi, *Modern Persian Literature in Afghanistan,* 37.

[513] Pūhanyār, 244-249

[514] Ibid.

[515] Both Punhanyar and McChesney mention "Chief Justice" (Qāḍī al-Quḍāt) ʿAbd al-Shukūr Khan taking part in the Niẓāmnāmā codes, but fail to provide any background information on this individual. Nor could I find any sources on his background and activites in the archives I worked in. McChesney, 14; Pūhanyār, 54. Similarly, McChesney mentions the participation of qāḍī ʿAbd al-Raḥmān Begtuti in the compilation of the codes, but no background information is provided, nor available from my research in the aforementioned archives. McChesney, 14. Poullada describes Begtuti as the "chief qazi" of Kabul in 1928, the latter era of the Amānī period, and it is unclear whether he participated before or after 1924 revolts. Poullada, 128-129. The events leading to Mawlawī ʿAbd al-Raḥmān Begtuti's arrest and execution are also recounted in Stewart, 391-396.

London occasionally provide scattered references to prominent juridical actors in Afghanistan during the Amān-Allāh era, particularly in the declassified *Who's Who in Afghanistan* manuals for years 1920 and 1930. Most relevant for our purposes are those entries pertaining to Afghans and Indians who served on the *Majlis-i Shūrā*, the advisory legislative body, many of whom served on the Niẓāmnāmā drafting commission. The most prominent among these include Mawlawī Sayf al-Raḥmān, an Indian and graduate of Delhi Madrasa, believed to be exile in from India due to involvement in "seditionist" activities against the British.[516] In addition, there appears to a notable role also appears to be played by a certain Aḥmad Jān, also an Indian doctor, of Peshawar, and a Civil Brigadier in Afghanistan during the Ḥabīb-Allāh era.[517]

---

[516] On Sayf al-Raḥmān, the 1930 edition of *Who's Who in Afghanistan* states,

> SAIF-UR-RAHMAN, *Indian, of the Delhi Madrasa, seditionist*.—Has for some years resided in Afghanistan and on the North-West Frontier, associating with all the *anti*-British elements and doing his best to stir up trouble. Accompanied the *Haji*of Turangzai when the latter endeavoured to raise the Bunerwals in 1915. In the summer of 1916 he was in Kabul, but departed for Jalalabad in September, being disgusted by the pro-British attitude adopted by *Amir* Ḥabīb-Allāh Khan. When the court removed down from Kabul in the winter he disappeared from Jalalabad and went to stay with the *Ḥājī* of Turangzai in Mohmand country. In 1917, however, he was reported to have been settled in Ningrahar with an allowance of Rs. 3,000 *per annum.* Later he was living with the Hindustani Fanatics at Chamarkand. About the beginning of April 1919 he was given the appointment of qāḍī *Askar*, or judge for settling disputes among soldiers, and commenced his duties by openly preaching *jihad* to the Afghan troops. Reported to have attended the All-Moslem Conference in Turkestan, September 1919. In Kabul, March 1920. Was in Moscow in February 1921. Arrived in Kabul on 5th June 1921 with a Turkish officer, Raza Beg. Employed in Kabul drafting legal codes, 1925."

Who's Who in Afghanistan (1930), 205. The above individual is also believed to be same person as described in the 1920 edition as follows,

> 565. SAIF-UR-RAHMAN, *Maulvi.—Qazi* of the Afghan Amy visit Quetta in the summer. Has a large following both in India and Afghanistan. In touch with Indian seditionists. Appointed translator to the new religious school in Kabul, January 1922.

Who's Who in Afghanistan (1920), 178.

[517] On Aḥmad Jān, the 1930 *Who's Who in Afghanistan* provides one of our only extant sources,

> 145. AHMAD JAN, *Indian, Peshawari, Civil Brigadier*.—Was Court Physician to Amir Ḥabīb-Allāh Khan, over who he had some influence. Does not generally practice as a physician. First went to Kabul in 1880 as Hospital Assistant with British tropps. Resigned his post under British Government and some time later went to Kabul. In 1905 he was appointed *Hakim* of Kataghan under *Sardār* Hayatullah Khan. In July 1906 he was summoned to Kabul on a charge of extortion, but was subsequently promoted Civil Brigadier. Was emploued in the *Khassadars'* pay office at Kabul and was appointed member of the *Shaura.* Acted as adviser to *Sardār* Amān-Allāh Khan. In 1915 it was reported that he had been ordered not to attend the *Shaura*, in order to avoid all faear of leakage, as he was not an Afghan. Reported to have been appointed *Hakim-ul-tahqiq* at Jalalabad in the spring of 1917, but also said to have been appointed *Hakim* of Faizabad in January of that year. Suspended in December 1919 and now doing no work. Placed in charge of the *Muhajirin* arriving in Kabul, June 1920. Reported to have applied several times to go to India, but refused by the *Amir*. Said to be of Tarzi's party and in favour of a Treaty of friendship with the British. A member of the *Majlis-i-Shaura,* 1921. His son, Mahfuz Khan, was appointed Commandant of Police in Herat, January 1925. Deported from Afghanistan by order of King Nadir. December 1929. Deportation order canceled, April 1930.

Who's Who in Afghanistan (1930), 60.

Finally, the Ottoman archives include a number of documents from the early Amānī period on a Mehmed İsmail Han, an advisor to the Afghanistan Ministry of Education, including a description of duties. Included among them are advising in the overlapping areas of law, administration, and education ("kanun, nizamat, ve talimatlardan birer nüshanın gönderilmesi").[518] Curiously, however, I did not find a trace of name in Afghan, Indian, or British archival records. Like others who served in the *Majlis-i Shūrā,* Amir Amān-Allāh appears to have taken an active interest in Aḥmad Jān's extensive *administrative* experience. The amir likely saw this dynamic experience in drafting policy as crucial to the drafting of dozens of *Niẓāmnāmah* codes geared not strictly to jurisprudential matters, i.e. solving disputes between private parties, but to much broader administrative matters involving social policy for the new Afghan state.

– • –

As seen in the above list and descriptions, the members of the elite commission that drafted the first Afghan constitution and supplementary Niẓāmnāmā codes were not uniform or homogenous in background or outlook in any way. Rather, they represented a diversity of educational institutions, professional qualifications and *habitus*, and socio-political networks. One interpretation of having such a diverse cast of personnel was this may have been an attempt on the Afghan Amir to keep the constitution's restraint on the monarch weak, arising from differences from the commission members. This is not a strong argument, however, given the fanfare, attention, and resources Amān-Allāh lavished on the Niẓāmnāmā as the hallmark project of his reign.

While the commission succeeded in completing the Niẓāmnāmā codes and publishing them for state use, this did not mean there was not intense controversy, and ultimately, discord between the members, as well as with the greater Afghan society. As Senzil Nawid has observed, "The ʿulamāʾ's condemnation of the members of the *Hayʾat-i Tamīz* arose partly from longstanding competition between the ʿulamāʾ trained in Afghanistan, in particular, graduates of the Madrasah- i-Shahi, who filled most important religious positions in the capital, including membership in the Hayʾat-i Tamīz, and the Deoband-trained ʿulamāʾ."[519] But when it comes to crafting a dynamic space of "creative adaptation", the diverse jurists who participated in legal codification projects during the Ḥabīb-Allāh Khan but especially Amān-Allāh Khan eras share a core similarity with Afghan literati of the time. This was most evident in the jurists' resourceful, selective, and innovative pulling from a variety of models and sources for their own crowning achievement: the first constitution of Afghanistan and the over seventy associated Niẓāmnāmā codes. It also speaks to their ability to simultaneously contest, collaborate, and compromise. While the jurists largely maintained a staunch loyalty to the Ḥanafī school of *fiqh* (Islamic jurisprudence) which formed the jurisprudential substance of the codes on the one hand, on the other hand the organization, structure, and layout of the codes largely resembled the influence of more recent Ottoman law codes such as the *Mecelle*. Though the latter, as discussed in Chapter 2, was drafted by jurists also working within a predominantly Ḥanafī training and jurisprudential tradition, it was the creative adaptation of Ḥanafī *fiqh* for substantive legal provisions in the

[518] BOAMF.MKT 1244/46 (1341 S 04); BOA-MF.MKT 1244/38 (1340 Z 27).

[519] Nawid, *Religious Response*, 107. On aspects of the Niẓāmnāmā which many Deobandi trained ʿulamāʾ found particularly troubling, see Ibid., 107-113.

aesthetic format of European law codes such as the Code Napoleon that made the *Mecelle* particularly *new and distinct*.

In this way, when it comes to the drafting of the first Afghan constitution and associated Niẓāmnāmā codes, the jurists who participated in this landmark project fostered attempts to form an authentic, modern expression of Afghan Islamic culture—in the juridical field. The jurists who participated in the Niẓāmnāmā project—dynamic as it was—however, were ultimately *not* as successful in averting the politicization of the Afghan juridical field for reasons having to do with the official-conformist nature of their appointments, the ruptures associated with the Turkey's transition to a secular republic, the sudden collapse of the Indian Khilāfat movement, and the politics of opposition in center-periphery relations in Afghanistan as well as Deobandi Islam, among other complex factors. We will return to the consequences of these rivalries in the conclusion to the dissertation. For now we turn to an overview of some of the outstanding features of the codes.

Prominent Features, Organization and Structure

Rather than a single cohesive document or code, the Niẓāmnāmā Amaniyya in fact consist of over seventy disparate and separately-binded law codes, judicial manuals, and administrative regulations drafted by the eclectic judicial commission described above. Truth be told, though collectively known with the Persian plural, "*Niẓāmnāmā*" (singular, *nizamname*) of Amān-Allāh Khan, or *Niẓāmnāmā-yi Amāniyya*, not every code or guidebook in the series is called a "nizamname" per se. Some titles are named by the alternative and more or less synonymous "*qānūnnāmah*" (or just "*qānūn*"), or even simply "*Kitāb*" (book), followed by the subject of the code. The topics covered in the Niẓāmnāmā Amaniyya are vast and ambitious. They range from civil and criminal procedure codes to commercial treaties and foundational charters for new ministries in the government of Amān-Allāh Khan, to proclamations by the Amir himself, usually on an aspect of administration or matter entailing country-wide scope.[520] Reflecting the modern state's unprecedented reach into all aspects of Afghan social life, some of the most prominent codes introduce such foundational modern bureaucratic pillars as the organization of ministries and municipal administration, a ministry of finance, the close regulation of state employees, the regulation of marriage ceremonies and celebrations, a standard system of measurements, as well as identity cards (*tezkirah*) and passports.[521]

---

[520] For examples of the latter kind, see ADL 0609 (1298 [1919]) (Amir Amān-Allāh Khan, *Kitābchah-i qānūn-i kārguzārī-yi ḥukkām*); ADL 0600 (1298 [1919] (Amir Amān-Allāh Khan, *Kitābchah-i dastur al-ʿamal-i mahsul-i tujjaran*). These concern administrative laws dealing with the collection of revenue and regulation of employees and governors.

[521] Several (but not all) of the selected Niẓāmnāmā I examined in length in the ANA have similar or identical versions digitized and freely available in the Afghanistan Digital Library collection, including *Niẓāmnāmā-yi jazā-yi ʿumūmī* (Kabul: Maṭbaʿah-i Dāʾirah-i Taḥrīrāt-i Majlis-i ʿĀlī-i Wuzarā, 1303 [1924]); *Niẓāmnāmā-yi jazā-yi ʿumūmī* (Kabul: Maṭbaʿah-i Rīyāsat-i Shirkat-i Rafīq, 1306 [1927]); *Niẓāmnāmā-yi baladīyah* (Kabul: Maṭbaʿah-i Dāʾirah-i Taḥrīrāt-i Majlis-i ʿĀlī-i Wuzarā, 1302 [1923]) (ADL 0064); *Qānūn-nāmah-i haẓirī*, (Kabul: Shirkat-i Rafīq, 1305 [1927]) (ADL 0051); and *Niẓāmnāmā-yi uṣūl-i muḥākamāt-i jazaʾīyah-i maʾmurīn* (Kabul: Maṭbaʿah-i Shirkat-i Rafīq, 1305 [1926]) (ADL 0671). See the Bibliography for a complete list of relevant Niẓāmnāmā available in the ADL collection.

As for the document that is widely held to be the first "Constitution" of Afghanistan, both inside and outside Afghanistan, it was published in 1923.[522] Like many but not all of the Niẓāmnāmā, it was officially published in both the Persian (Darī) and Pashtu languages. The Pashtu version, *Asāsī niẓāmnāmah dalūṛ dawlat da Afghānistān*, is often cited to be the "official version", though the Dari (Afghan dialect of Persian) version, *Niẓāmnāmah-i Asāsī-yi dawlat-i ʻaliyye-i āfghānistān* (20 Ḥamal 1302/April 9, 1923) is probably more commonly cited in practice.[523] Adamec considered the landmark charter a "bill of rights" for Afghan citizens, and the "first written document dealing [with] the prerogatives of the ruler and the rights of the ruled." The charter which, consisted of 73 articles, for the first time clearly articulated the rights and prerogatives of the King, as well as the responsibilities of government officials, the organization of financial affairs, and the scope of authority of provincial government. On the latter note, as Nighat Mehroze Chishti observes, the charter described three basic principles of provincial administration to govern the country outside of Kabul (1) Decentralization of authority, (2) Clear delineation of duties, and (3) a clear determination of responsibilities."[524] The charter also established the foundation of representative institutions in Afghanistan, including advisory committees and provisional councils, half of whose members were to be elected by the people—thereby laying the seeds for an Afghan parliament—as well as a supreme court *(diwān-i ʿālī*).[525]

---

[522] On the Niẓāmnāmah-i Asāsī being considered a modern "constitution", Poullada writes,

> [E]ven if Amān-Allāh had done nothing else, the juridical base he provided for Afghannistan was of considerable important since it gave the country the skeleton of the government it was eventually to develop. In this sense the 1923 Constitution was unquestionably a landmark document. Joseph Schwager, a recognized authority on constitutional law, is of the opinion that this constitution was the result of a Loya Jirgah called by Amān-Allāh in 1921. Schwager states that the dates that the dates of its compilation and its coming into force are not known. He notes that in some versions the document is designated as a *qanun* or law. The Appendix copy, however, was labeled as a Niẓāmnāmāh or regulation, presumably in deference to the usage which reserves the term *qanun* for Shari'a (religious law). Schwager states that 'in spite of the designations as a *Qānūn* or a *Niẓāmnāmāh*, there can be no doubt that it was in substance a judicially valid constitutional law, which by its provisions for legislation was designed to lead to an autonomous development of secular law-making and to show the way to the separation of secular from canonical jurisprudence.
>
> Poullada, *Reform and Rebellion*, 92-93.

[523] For some of the earliest versions of the Niẓāmnāmah-i Asāsī, or first Afghan Constitution, all individually handwritten and identical, see ADL 0502 (8 Hut 1301) (*Nizamama-yi Asāsī*); ADL 0675 (8 Hamal 1302) (*Nizamama-yi asasi-yi dawlat-i Afghanistan*); ADL 0076 (20 Hamal 1302) (*Nizamama-yi asasi-yi dawlat-i Afghanistan*). For probably the first English translation of the document ever, see IOR-R/12/LIB/107, *Precis on Afghan Affairs*, (para. 732-742) (73 articles total).

[524] Chishti, 35.

[525] Adamec*, Afghanistan,* 58. In summary of the charter's salient features, Adamec further notes,

> King Amān-Allāh was the chief executive, commander-in-chief, and last court of appeals. He appointed the ministers and presided over cabinet meetings, unless he delegated this task to the prime minister. He was the 'defender of the faith,' had the sole right to issue currency and have his name invoked in the Friday sermons (*khuṭba*) during noon prayers. His power was absolute, but he established the institutions which could have evolved in representative government and a constitutional monarchy. The constitution promised civil rights to all, abolished slavery, granted non-Muslims religious freedom (but missionary activity was forbidden), and declared the homes of citizens immune from forcible entry. A number of later

On the thirteen most salient features of the 1923 Afghan Constitution, Nighat Mehroze Chishti in *Constitutional Development in Afghanistan* (1998) tops the list with the fact the charter was a *written* constitution, thereby enshrining the fundamental juridical and political principles of the state in a written document consisting of ten sections and 73 articles. The written nature of the charter again speaks to the centralizing impetus behind the constitutional project, such that the historic autonomy that existed de-facto in Afghanistan's provinces would begin to be constrained and the "patchwork" of conflicting legal systems consolidated and uniformalized by the central interpretive authority of a supreme court (Diwan-i ʿĀli), the members of which would be appointed by the Amir himself.[526]

Proceeding to the substance of the charter itself, the 73 articles of the Niẓāmnāmah-i Asāsī, or first constitution of Afghanistan, can be divided into the following three major sections: first, the King's Powers; second, Fundamental Rights of Citizens; and third, the Duties and Powers of the Cabinet. As to the King's Powers, they are divided into four sub-powers (or "branches", to use American constitutional language): (1) Executive, (2) Legislative, (3) Military and (4) Judicial. The King's Executive Powers were to include: Reading of the King's name in the Friday Sermon; Minting of coins in his name; Deciding the ranks of officials in accordance

---

statutory enactments (*nizam-nama*) further defined the powers and composition of parliament, which was housed in a new building just completed in Darʿulamāʾn. Social reforms, such as the emancipation of woman and free compulsory education, were decreed. King Amān-Allāh's constituition was never completely implemented and his reforms were abandoned in a wave of reaction under a coalition of forced led by Ḥabīb-Allāh Kalakānī .

Ibid.

[526] As for the constitutional lawyer Chishti's remaining "top twelve" distinguishing features of the first Afghan constitution of 1923, they are delineated as follows,

2. It declared categorically the independence and sovereignty of Afghanistan in its external and internal policies.
3. It declared Islam as the religion of Afghanistan and the Ḥanafī rite as its official rite.
4. …Guaranteed fundamental rights to the citizens of Afghanistan. These rights included freedom of profession, freedom of press, personal liberty, inviolability of dwelling, personal security and right of knowledge.
5. To some extent, the constitution put an end to the controversy, as to who is Afghan, by laying down that every person who is residing in Afghanistan is the citizen of Afghanistan. Here the words 'residing in Afghanistan' definitely mean to reside permanently in Afghanistan.
6. It established monarchy as the form of Government.
7. It provided for the establishment of a cabinet. The principle of collective ministerial responsibility was adopted in the constitution.
8. In addition to the Ministers, the Constitution also laid-down rules about Government Officials.
9. Advisory Bodies in the form of State Council and Provincial Councils were established in Capital and District Centres respectively.
10. A novelty of the Constitution was "The High Assembly" (Darbar-e-Aalia) which was established to review the achievements of services of the Ministers. It served as a check on government.
11. The Constitution provided for a free and independent Judicial System.
12. The Constitution made elementary education compulsory for all citizens of Afghanistan.

Chishti, 22-23.

with the law; Awarding of honorary medals and other distinctions and the "Selection, appointment, dismissal and transfer of Prime Minister and other Ministers."[527]

As for the King's Legislative Powers, they included "Ratification of public laws, promulgation and protection of public law or laws of Sharīʿah."[528] His Military Powers included his rank as Commander-in-Chief of all armed forces in Afghanistan; the right to promulgation and enforcement of military rules or regulations; declaration of war; and the signing of treaties.[529] Finally, the King's Judicial Powers included grants of amnesty, and the pardoning or commuting punishments by law.[530]

As to fundamental rights of citizens, Article 8 sought to resolve the perennial controversy over "who is an Afghan", stating categorically that any and all permanent inhabitants of Afghanistan, regardless of religion, were considered citizens.[531] Article 10, essentially a "due process of law" clause, declared every citizen's personal freedoms to be guaranteed. According to Article 16, "All subjects of Afghanistan have equal rights and duties to the country in accordance with *Sharīʿat* and the laws of the state." Together these clauses in the constitution concerning individual rights, including the guarantee to every citizen of Afghanistan, without regard to religion or gender, the same basic rights, are some of the most celebrated by legal historians of Afghanistan, citizens and otherwise.[532] This was an unprecedented grant of equality to the citizens of Afghanistan. The definitions and details, however, remained vague and were to be filled in by supplementary law codes, or *Niẓāmnāmā*.[533]

Additional groundbreaking promises of fundamental rights, outlined in Articles 9-24, included: Personal Liberty (protection from rights being infringed by another other person) (Art. 9); Personal Freedom (no person may be arrested or punished other than pursuant to an order from a Court of Law) (Art. 10); Freedom of Press and Publications (Art. 11); Right to Form Private Companies (Art. 12); Right to Petition (Art. 13); Right of Free Education (Art. 14); Equality before the Law (Art. 16); Equal Opportunities of employment in the Civil Service, in accordance with qualifications and needs of the government (Art. 17); Lawful Taxation (Art. 18); Right to Property (Art. 19); Sanctity and Inviolateness of Homes from search (Art. 20); Prohibition of confiscation of property and forced labour, except in War (Art. 22) and the Prohibition of torture, as provided in the General Penal Code and Military Penal Code (Art. 24).[534] Balland notes that in the economic realm, "For the first time in Afghan history

---

[527] Ibid., 24.

[528] Ibid.

[529] Ibid.

[530] Ibid.

[531] In between the lines, however, this also implied Pashtuns residing on the western side of the Durand Line would continue to be British Indian, and not Afghan, subjects. This was not, however, explicitly stated, nor is it clear from the document what the drafters' intentions were to this interminable irredentist issue.

[532] Balland, D. "Afghanistan, Political History," *Encyclopaedia Iranica*, Vol. I, Fasc. 5 (1983): 547-58.

[533] Leon Poullada has provided an incomplete list of the Niẓāmnāmā promulgated during the reign of Amir Amān-Allāh Khan in *Reform and Rebellion in Afghanistan, 1919-1929*, 99-103. He also is one of the first western historians to refer to the *Nizāmnāmā-yi Asāsī* (Fundamental law) as Afghanistan's first constitution.

[534] Chishti, 25-27)

encouragement was offered to all private initiatives in economic matters; plots of public land were sold at low prices to strengthen the class of small land-owners, and joint import-export companies were created."[535] Notably, all the above rights were to be interpreted in line with the "Sharīʿah Clause" of Article 21: All disputes and cases will be decided in accordance with the principles of Sharīʿah and prevalent law.

Articles 27-39 cover the Powers and Responsibilities of Ministers and Government officials (Arts. 27-38), as well as the Provincial and State Councils (Arts. 39), which we will not delve into greater detail here. We will, instead, focus on aspects pertaining to the organization of the Judiciary. Taken in their entirety, the main structural contribution of the Niẓāmnāmah-i Asāsī in the juridical realm is to establish for the first time a country-wide and unitary national system of courts. While Amir ʿAbd al-Raḥmān had laid the foundation for such an attempt, his more complex and varied system was not as hierarchical, streamlined and unitary as that modeled by Amir Amān-Allāh's Niẓāmnāmā. Amir ʿAbd al-Raḥmān's "national" or proto-national court system still allowed for extensive personal intervention, as seen in his personal attention the Sanduq-i Adalat petitions, as well periodic internvention in even provincial cases that came to his attention. The system was also not as consistent and symmetric, if you will, even on paper. Amir Amān-Allāh's national judicial system, by contrast, established a hierarchical four-tier system: the Court of Reconciliation (*Maḥkamah-i Iṣlāḥīya*), the Court of First Instance (*Maḥkamah-i Ibtidāʾīya*), Provincial Court (*Maḥkamah-i Murafaʿīya*), the Court of Cassation (*Maḥkamah-i Tamīz*), or Supreme Court. Explaining the jurisdictional breakdown of each tier, Chishti writes,

> All Civil and Commercial litigations were referred to the Mahkema-e-Islaheya which tried to reconcile the interests of parties and settle the cases with their consent. If it failed, it would refer the cases to the trial Court, which would hear and decide the case. In each District and Headquarters of the Provinces there was one reconciliation court and one Trial Court. The Mahkama-e-Murefia, one in each Province, and appellate jurisdiction over all cases, brought before it, through appeals. If one of the parties to the litigation was not satisfied with the judgment of the Court of appeals, he could lodge an appeal against this judgment in the Court of Cassation, within fifteen days.[536]

With regard to civil and criminal procedure, all courts were to administer criminal trials and render judgments in accordance with the provisions of the General Penal Code, compiled and written by the Istanbul lawyer Osman Bedri Bey. For civil and commercial cases, judicial personnel were to operate according to *Tamassuk al-Quḍāt*, the guide book for the Judges in Civil matters, compiled by Mawlawī ʿAbd al-Wasīʿ Qandahārī in 1920.[537]

Significantly, the Constitution declared that the courts were to free of political interference and intervention (Article 53), and no courts for hearing and adjudicating special cases were to be established outside the established frame work in the constitution (Art. 55). Of all the auspiciously-sounding articles, these two articles were exceedingly impractical in

---

[535] Balland, D. "Afghanistan, Political History," 547-58.

[536] Chishti, 34

[537] ADL 0317 (1300 [1921]) (Muḥammad ʿAbd al-Wasiʿ Qandahārī, et al., *Tamassuk al-quzat-i Amaniyyah, vol. 2*) ADL 0078 (Asad 1300) (*Nizamama-yi jaza-yi ʿumumi*); ADL 0640 (Sunbulah) (*Nizamama-yi jaza-yi ʿaskari)*.

practice. Other notable articles, or loopholes some might say, included Article 67, which allowed the king to proclaim martial law in any part of the country in case of necessity for security.[538] Cancellation of the Constitution, in whole or part, was prohibited, but amendments could be proposed with 2/3 of the total members of the State Council, along with approval of the Council of Ministers and ratification by the King.[539] This was the mechanism invoked in the 1924 Loya Jirga, where many provisions were rescinded, amended, or cancelled, and to which we will return to in the conclusion of the dissertation.

Jurisprudential Sources

The Niẓāmnāmā Amaniyya, like the *Mecelle* and Fatawa-i ʻAlamgiri before it, prides itself on drawing from Islamic jurisprudence, particularly of the Ḥanafī school of jurisprudence. In some of the codes, brief references in parantheses follow the statement of a rule. For example, in parentheses at the end of individual articles references to such monumental texts of the Ḥanafī school as the *Hidaya, Fatawa qāḍī Khan*, the *Fatawa Alamgiri*, and the famed Ottoman jurist Ibn ʿĀbidīn's *Radd al-Mukhtar*. Apart from these inter-textual references, it is difficult otherwise to glean a comprehensive list of the entire compendium of jurisprudential sources consulted by the Niẓāmnāmā commission members. This does not, however, mean we do not have a general idea of the *kinds* of sources the Niẓāmnāmā commission members worked with and draw upon in producing their landmark code. It also does not mean we do not have specific references to texts and commentaries, which as mentioned above, we do. As such, based on a cumulative review of the Niẓāmnāmā codes and related citations from books published at the time, we get a general picture of the Niẓāmnāmā drafters drawing from the major lawbooks and manual, commentaries, and glosses of the Ḥanafī school of jurisprudence. As we will discuss below, this was akin to the codification processes at the heart of the Fatāwā-yi ʿĀlamgīrī project of late Mughal India, and even more famously, the Ottoman Civil Code, or Mecelle, from the late Ottoman period.

Senzil Nawid notes in her study that the following textbooks were employed in the drafting of the Niẓāmnāmā: *Hedayya*, *Fath al-Qadir*, *Nahaya*, *Al-Tahawi*, *Fatawa-i-`Alamgiri (also known as Fatawa al-Hindīyah)*, *Fatawa-i-Qāḍī Khan*, *Al-Badi`*, *Mohit al-Sarrakhsi*, *Jame` al-Romuz*, *al Seraj al-Wahaj*, and *Khazanat al-Rawiyya*.[540] Notably, these were the major lawbooks, compilations, and commentaries of the Ḥanafī school of jurisprudence. It is not comprehensive however, given the absence—in this list at least—of other significant texts of the Ḥanafī school, such as *Hashiyat Ibn Abidin*, *Radd al-Mukhtar*, *Aqūd Rasm al Muftī*, and Tumurtashi's *Tanwir al-Absar*, a relatively later Ḥanafī text with a widely accepted definition of Zakat. Other notable texts not mentioned that might have consulted were the well-known Ḥanafī handbook on Islamic Jurisprudence, *al-Manar* by Ibn Habib al-Halabi, one of the most famous commentaries of which is Ibn Qutlubugha's (802-879 AH) *Sharh Mukhtasar al-Manar*. Still others yet include 'Ala al-Dīn Abū Bakr Muḥammad b. Aḥmad al-Samarqandi's *Mizan al-Usul fi Nataij al-'Uqul*,[541] and Abū al-Barakat Hafızuddin Abdullah ibn Aḥmad ibn Maḥmūd al-Nasafi's

[538] Chishti, 36

[539] Ibid.

[540] Nawid, *Religious Response*, 97.

[541] (d. 539/1144), *Mizan al-Usul fi Nataij al-'Uqul* (ed. Muḥammad Zaki ʿAbd-al-Barr), Qatar 1404/1984, p. 194

(710/1310), *Kashf al-Asrar Sharh al-Musannif 'ala al-Manar*.[542] Also not mentioned are famous early Ottoman compilations, such as *Multaqa al-Abhur* (1648-1687).[543] It is possible these texts were simply overlooked in Nawid's study. If this was the case, Senzil Nawid more than makes up for it with her insightful research into texts, also from the Ḥanafī school, that were employed in the curricula of Amir Amān-Allāh's new schools for Kazis. In her magnum opus study on the Amānī period, she cites the following textbooks were employed in the instruction of Qazis in the new state constructed during the reign of Amān-Allāh Khan: *Fosul-i-Akbari, Kafiyya, Sharh-i-Molla, Kanz Sharh-i-Waqayya, Hedayya, Osul-i-Shahi, Nur al-Anwar, Seraji, Akhlaq-i-Mohseni, Tamassok al-Qozat (1920), Nezamnama-i-Asasi, Nezamnama-i-Jaza-i-`Omumi, Qa`eda-i-Baghdadi, Panj Ketab, Mahmud-Nama, Golistan, Bostan,* and *Anwar-i-Sohaili*.[544]

On the controversial issue of juridical eclecticism, or occasionally leaving the Ḥanafī school for opinions of others schools, also known as *talfīq* (i.e. *when* can a jurist adhering to Ḥanafī school legitimately leave the position of the school's eponymous founder Imam Abū Hanifa, and if do, how does one determine the relied-upon position of the school), it is important to recognize that this issue was not novel to the Amānī period or even the Mecelle, but was already dealt with by the later scholars of the Ḥanafī School. For example, Ibn Abidin in his famed primer on the principles and etiquettes of the Muftī, *Sharh Rasm al-Muftī*, which states that the method of establishing the Relied-Upon Position for an issue is to refer to, above all, the reliable books of the school. As contemporary Ḥanafī jurists Farraz Rabbani and Farraz Khan have explained, in the Ḥanafī school this would include, Imam Sarakhsi's *Mabsut*, Imam Kasani's *Bada`i al-Sana`i*, Imam Zayla`i's *Tabyin al-Haqa'iq*, Imam Marghinani's *Hidaya* along with its commentaries, especially the *Inaya* of Imam Babarti and *Fath al-Qadir* of Imam Kamal ibn Humam. One of most notable accomplishments of the famed Ottoman jurist Ibn Abidin was his meticulous and comprehensive combing through of all the major works of the Ḥanafī school and verifying the relied-upon position in his renowned *Hashiya Radd al-Muhtar*. According to Khan, Ibn Abidin relied "heavily" on the above books, as well as the main primary texts (mutun) of the school, including *Mukhtasar Quduri*, *Kanz al-Daqa'iq*, the *Mukhtar*, the *Wiqaya*, and *Multaqa 'l-Abhur*, the latter being the influential seventeenth century Ottoman compilation. Significantly, the *Fatawa Hindīyah* was also reported to have been "indispensable" in the compilation process.[545]

For more specialized areas, Faraz Khan notes the following influential texts within the Ḥanafī school, and for our purposes, we can glean they were likely consulted in the drafting of the Niẓāmnāmā codes. For matters of worship, and notably there is not among the Niẓāmnāmā a major publication on this topic, the most consulted books are Imam Shurunbulali's *Nur al-Idah* and its commentaries, Imam Tahtawi's *Hashiya on Maraqi 'l-Falah*, and the *Hadiyya 'l-Ala'iyya*. For commercial transactions, a far more commonly addressed issue in the Niẓāmnāmā than personal worship, notably the Ḥanafī school still relies on the Majalla and its commentaries,

---

[542] Kashf al-Asrar Sharh al-Musannif 'ala al-Manar, Beirut: Dār al-Kutub al-'Ilmiyye 1986. From Senturk, Sociology of Rights (2005). Thanks to Sadia Yacoob for her astute observation of a textual lacuna in this regard.

[543] Akgündüz states this was the first official legal code of the Ottoman state (Akgündüz, 47).

[544] Nawid, *Religious Response*, 92-93.

[545] Many thanks to the scholars of Ḥanafī jurisprudence and legal history, Faraz Rabbani and Faraz Khan, as well as Sadia Yacoob for their insightful explanations of these texts and their role in the Ḥanafī school until this day.

particularly those by Imams Ali Haydar and Attasi. For personal law, Qadri Basha's *Ahkam Shar'iyya fi Ahwal Shakhsiyya*, along with Imam Abyani's commentary are widely influential. For general matters of the lawful and prohibited, Khan notes Imam Nahlawi's *Durar Mubaha fil Hadhr wal-Ibaha*. Finally, Khan makes the crucial rejoinder that while the above overview provides some insight into the meticulous, systematic, and rigorous method of the modern production of juridical opinions in the Ḥanafī school, a system that like any great juristic tradition builds on precedent *as* it puts forth novel interpretations and readings, nonetheless it is akin to a larger "shell" of the process and does not sufficiently grasp the kernel of the matter, which is the person-to-person transmission of not only texts, but sensibilities, approaches, and etiquettes associated with the revered texts of Islamic law.[546]

Similarly, Recep Şentürk has provided us with insights into the jurisprudential sources consulted in the production of the Ottoman Mecelle, the preeminent modern codification of Islamic law, also based on the major texts of the Ḥanafī school. The influential and dynamic Ottoman jurist, administrator, and President of the High Judicial Ordinances Commission which promulgated the Ottoman Civil Code, Ahmed Cevdet Paşa, along with his eminent jurists who participated alongside him like Şirvanizade Sayyid Aḥmad Hulusi Efendi also drew from major works of Ḥanafī fiqh, such as Ibn Nujaym and Khādimī, and the commentaries on their works within the Ḥanafī school.[547] In Cevdet Paşa's writings, especially his memoirs *Tezâkir*, we get a glimpse of his intellectual vision of a modern Muslim society governed by modern law that is built on the precedent of the Islamic juridical tradition. Like the late Mughal empire's *Fatāwā-yi ʿĀlamgīrī*, that the *Mecelle* itself produced a commentary genre of its own in several languages—mostly Arabic, Turkish, and Urdu—across the Muslim world speaks to its influence beyond late Ottoman Turkey.[548]

---

[546] On this crucial point, Farraz Khan has made the critical point,

> With respect to modern fatawa, one follows the qualified scholarship of his time and place, as their verdicts are based on the criteria explained above. This knowledge is not taken [only] from the ink of books but rather from the hearts of humans.

Personal communication, March 11, 2011. The above points on textual and non-textual processes of transmitted learning are also discussed at lenth in Brinkley Messick's *The Calligraphic State.* The issue of talfiq is also addressed extensively and authoritatively within the Ḥanafī school today by contemporary scholar Mufti Taqi Usmani (Allah preserve him) of Pakistan in his *Usul al-Ifta'* (Principles of Issuing Fatwā), which is based primarily on Ibn Abidin's *Sharh Rasm al-Mufti*.

[547] Şentürk 2007, 195. The full name of the formerly mentioned major Ḥanafī scholar is Zeynüddin Zeyn b. Ibrāhīm Muḥammad Misri Ḥanafī Ibn Nujaym (970 [1563]), and one of his canonical texts is al-Ashbah wa an-Naẓā'ir, ed. Muḥammad Muti' Hafiz (Damascus: Dal al-Fikr, 1983 [1403]). One of the foremost commentaries on it also noted by Şentürk, probably consulted alongside the original text by the *Mecelle* drafters, is Abū al-Abbas Shahabuddin Aḥmad b. Muḥammad Hamawi (1098 [1687]), *Ghamz 'Uyun al-Basa'ir: Sharh Kitāb al-Ashbah wa an-Naza'ir* (Beirut: Dar al Kutub al-ilmiye, 1985 [1405]). Şentürk 2007, 195. For the latter scholar, Abū Said Muḥammad b. Mustafa b. Uthman al-Khadimi, Şentürk notes his revered *fiqh* manual, *Majāmi' al-Haqāiq*, a work that has itself produced voluminous commentaries, including by the author himself entitled, *Manafi' al-Daqa'iq Sharh al-Haqa'iq*. Notably, Şentürk observes, Khadimi's work and commentaries were translated into Turkish by the author's son, Abdullah b. Muḥammad b. Mustafa Ḥanafī al-Khadimi (1192 [1778]), *Usul-i Fıkıhdan Haşiyeli Macami al-Hakaik* (Istanbul: Maḥmūd Bey Matbaası, 1318 [1899]), and was "one of the most popular Islamic Jurisprudence manual[s] during this period." (295).

[548] The most famous commentaries on the *Mecelle* are in Arabic and include at the top of the list Imams Ali Haydar and Attasi. Amazingly, I found in the Library of Congress an edition of the Haydar's commentary on the *Mecelle* in Arabic, published in Kabul in 1923! In addition to the aforementioned works, Şentürk notes the

What is more, the fact that Ahmed Cevdet Paşa established the Mekteb-i Hukuk, from which the Ottoman lawyer and director of the Niẓāmnāmā Commission Osman Bedri Bey was a graduate of, bring us full circle to the long durée influence of Ottoman Islamic legal modernism not only in the Sultan's domains, but in distant Afghanistan as well. When combined with the meticulous, cumulative tradition of the Ḥanafī school *ḥāshīya* (juristic commentary) genre, we get merely surface glimpse, but a sufficient one, to see just how deeply intertwined Ḥanafī juridical traditions had become in locales as diverse as Istanbul, Aleppo, Delhi, and Kabul. It also illustrates, as we will now turn to, where the Niẓāmnāmā commission was *not* looking.

V
Ou sont les Français? The Curious Question of French Legal Experts in Afghanistan during the Amānī Era

The Exaggeration of French Influence in Afghanistan Historiography

As mentioned in the introduction to this dissertation, the limited historiography of the Amānī era and the first constitution of Afghanistan has largely overemphasized "French" influence in Amān-Allāh's court. In his classic study of the Amānī era, Leon Poullada, for example, writes,

> Although Amān-Allāh employed some French advisers in his legislative program, he relied principally on Turkish jurists led by a 'Young Turk,' Badri Bey, who had been director of the Constantinople police. Badri Bey drew heavily on the Turkish codes, which were in turn based on the Code Napoleon.[549]

Amazingly, Poullada provides no reference or evidence to support his contention of "French experts" working on the Niẓāmnāmā codes. Yet, the contention is widespread, and reproduced itself in other works on the era Nighat Mehroze Chishti, for example, similarly writes in *Constitutional Development in Afghanistan* (1998), "Amir Amān-Allāh Khan employed some French advisors to help him in the legislative programme," and cites the very same passage from Poullada above as the source.[550] Similarly D. Balland, one of Europe's foremost experts on Afghanistan's administrative history, writes,

---

following Turkish commentaries on the Mecelle, Emin Efendizade Küçük Ali Haydar Efendi, *Dürerü l-Hükkam Şerhu Mecelleti l-Ahkam* (Istanbul: Matbaa-i Ebu Ziya, 1912), 'Abdüssettar, *Mecelle Şerhi Teşrih* (Istanbul: Mihran Matbaası, 1879), Mehmed Ziyaeddin, *Mecelle-i Ahkam-ı Adliyye Şerhi* (İstanbul: Kasbar Matbaası, 1894). Recep Şentürk, "Intellectual Dependency: Late Ottoman Intellectuals between Fiqh and Social Science," *Die Welt des Islams* 47 (2006): 294-298.

[549] Poullada, *Reform and Rebellion*, 93-94.

[550] Chishti, 21. The "French expert connection" allegation may be due to confusion over the Ottoman Tanzimat drafters complex relationship with the Code Napoleon, a document some may have taken for the aesthetic motivation for compiling ordered codes citing simple rules of law, as was the case with the *Mecelle* for example. Needless to say, it is a totally different contention and uninferable conclusion to draw that this means "French experts" helped draft the Afghan Niẓāmnāmā. It is even a baseless contention to hold that Bedri Bey relied on the Code Napoleon or French juridprudence in general, as there is no evidence to support this conclusion.

> The first Afghan constitution, approved in 1303 Š./1924 by the 1,052 members of the *lōya ǰerga* (a grand assembly of the country's leaders), defined the general legal frame for an unprecedented revolution in administrative, judiciary, military, and fiscal affairs. With the aid of French and Turkish experts, more than seventy ordinances (*neẓām-nāma*) were published over a period of nine years.[551]

When I followed the footnotes of these assertions and similar ones made in the work by Gregorian, Stewart, and Nawid, amazingly, I found there was no primary source evidence of Frenchmen in Afghanistan helping write the first Constitution. What I did find was secondary and tertiary references to Ottoman jurists consulting copies of the Code Napoleon in the Tanzimat reforms of the nineteenth century nearly seventy years earlier. Apart from the blatant historical errors—the Turkish republic was not established until *after* the ratification of the first Afghan constitution, and Mustafa Kemal Atatürk's famous etatist legal reforms were not launched until firmly consolidating his power over the Ottoman religious scholar class and sufi lodges in 1924-1926—this thesis suffered from a one-dimensional view of foreign, outside forces invading a territory and "influencing" it. It also leaves little room for transcending passive notions of "adoption" of foreign texts, ideas, models, and using a more useful conceptual framework of *creative adaptation*.

This process led me to the questions of my dissertation and presentation today, questions whose answers, remarkably, have yet to be established in Afghanistan historiography until my project. Who served on the Constitutional drafting commission? What were their educational backgrounds, professional qualifications, and sources of jurisprudential inspiration? Part of the reason I was led to these "socio-legal" inquiries was the lack of information on the social and intellectual roots of the first Afghan constitution, or the *Niẓāmnāmah-i Asāsī*. On the Niẓāmnāmah-i Asāsī (20 Ḥamal 1302 [April 9, 1923]), Poullada himself admits,

> The history of this document is obscure. It was apparently approved by a Loyah Jirgah held in the Eastern Province and the original draft was in Pashtu. Later it was translated into Persian but apparently no English version was ever made. After Amān-Allāh's overthrow the Constitution sank into oblivion. Though its provisions were extensively copied in the 1931 Constitution drawn up under Nādir Shah, no mention of the 1923 one was made and the document itself was found only after an extensive search in the Kabul booksellers' bazaar.[552]

As noted in the introduction, the above passage, in fact, became one of the first sparks of curiosity that led me to embark on this dissertation. The above comments withstanding, I am not arguing French influence was entirely absent or spectral in the Amānī era of Afghanistan. The following document from the British Indian archives, for example, indicate that the French had a place in Amān-Allāh's cosmopolitan vision of bringing foreign experts to Afghanistan. Notably, however, the vision for French recruits was not in the juridical realm. The Foreign and Political Department file from the National Archives of India in Delhi entitled, "Education of Afghan youths in Afghanistan under French Auspices" does shed some light, however, on the appeal of France as a European ally to offset British influence in the region. Needless to say, the fact that France was a key western rival and competitor with the British was a crucial factor, rather than

---

[551] Balland, D. "Afghanistan, Political History," *Encyclopaedia Iranica*, Vol. I, Fasc. 5 (1983): 547-58.

[552] Poullada, *Reform and Rebellion*, 93.

any revered "westernness" per se. M.M. Shadi, on June 18, 1922, notes, "It is no use disguising from ourselves the fact that the Amir's preference for the French is the result of the pro-Turkish and pro-Muslim policy adopted by France and of the unfortunate effect produced in independent Muslim countries of the attitude adopted by the British Foreign Office in connection with the Near Eastern problems." [553]

In this manner we see the politics of Amir Amān-Allāh's technical appointments. Far from the exercise of neutral, scientific expertise, foreign experts was a means to not only build Afghanistan's infrastructure and skilled capital, but to balance foreign powers off one another. The goal was for Afghanistan to benefit from the rivalries of the foreign powers. With the Afghan amir's historic rival in Britain, France therefore became a prominent go-to power to balance British influence. D. Bray, on July 2, 1922, notes, "France is actuated (*i*) by a desire for commercial expansion, hitherto Afghanistan has been a closed country to her; on the principle of *omne ignotum pro magnifico* she thinks that Afghanistan must contain untold possibilities which England has tried in vain to keep to herself as a close preserve, and (*ii*) by a desire to use Afghanistan as a pawn in her pro-Islamic and lever-against England policy."[554] Continuing on the British attempt to compete with the French in Afghanistan,

> A little quiet courtesy…shown every now and then, is calculated to have great effect particularly on an oriental mind… Major Humphrys might be instructed to sound the Amir if the latter would be willing to accept an Honorary Degree from the Aligarh Muslim University in recognition of his great interest in promoting the cause of education in Afghanistan. Moreover, facilities might be provided in India for the education of Afghan youth in our centres of education.[555]

In spite of the Afghan Amir's perceived benefit on balancing France against Britain, the extent of French influence in Afghanistan has been exaggerated at this time. Machonachie's *Precis on Afghan Affairs, 1919-1927* (1928) summarizes the mixed results but overall unsatisfactory integration of the few French experts who had achieved in Kabul in the early Amānī era. "By January 1923," he notes, "three French professors had reached Kabul, and had 150 boys under 12 years of age in their school. By May the number had risen to over 300. At the end of 1922 proposals were made for the dispatch of a French military mission to Afghanistan, but were not followed up."[556] Indeed, the most specific account of French individuals in Kabul at this time were a French architect, M. Godard, and an archaeologist, M. Foucher. Surprisingly, The following British report provides one of the most extensive reports of French individual in Kabul during the early Amānī era,

> In February 1923 M. Godard, an architect, joined M. Foucher to assist his archaeological researches, and was later employed by the Amir to revise the designs for the new public buildings at Dar-ul-Aman… In September 1923 the French Minister M. Foucher reached Kabul with two Secretaries and an interpreter… A Military Attaché joined his staff in December… In November

---

[553] NAI/FP File No. 21 (II)-F 1923 ("Education of Afghan youths in Afghanistan under French Auspices"), 3.

[554] Ibid., 4.

[555] Ibid., 5.

[556] IOR-R/12/LIB/107, *Precis on Afghan Affairs*, 117.

> M. Mme. Foucher left Kabul to carry out archaeological research in the Balkh area... The Afghan Government refused at this time to allow the French Legation to erect a wireless receiving apparatus.[557]

In a revealing record in the Ottoman archives, a correspondence exchanged between the Ottoman embassy in Paris and the French Foreign Ministry discuss the possibility of a French legation in Kabul ("Création d'une legation française à Caboul").[558] Needless to say, this means that as late as 1922, the French still did not have an embassy or consulate in Kabul—something the Turks could boast as having for nearly two years at this point, by means of comparison. What is more, the two page-letter—one of the longest Ottoman records on France's activities in Kabul during the early Amānī era—indicates the French were working with, if not dependent on, the Ottomans to achieve this goal. This was not only because the Afghans at this time still lacked diplomatic stations in European capitals, but speaks to the high regard and influence both the Istanbul and fledgling Ankara governments had vis-à-vis the Amir in Kabul.

In another revealing statistic, a report dated August 14, 1922 in the same file states 91 Afghan students have gone to Europe; 48 to Germany, 36 to France, 6 to Italy, and a single student to England.[559] The fact only one student was sent to Britain is extremely revealing. Not surprisingly, the British were very concerned with this lack of a strong educational relationship and trust. After all, the statistic illustrates only one family was comfortable sending their children to Britain, or only one family had the right contacts. We must contrast this with the relative comfort of Afghans with education from Indians (by far the most common), followed by Persians and Turks.

For example, Machonachie also notes in his *Precis Afghan Affairs* (1928) that in May 1922, a Persian arrived in Afghanistan and subsequently became a private secretary to the Amir.[560] On Persians in Kabul, a November 1923 file from the British Indian Foreign and Political Department includes an article printed in the November 14, 1923 edition of the *Amān-i Afghan* state newspaper.[561] The article is essentially a position piece arguing in favor of Afghan education at the hands of Persians, and to which we will return to shortly. Meanwhile, with much less success, the British and French continued to rival each other to receive even those few limited opportunities of providing experts in the field of education. In the increasingly important modern science of archaeology, British and French competed over excavation rights. As Machonachie notes in his precis,

> The conclusion of the Franco-Afghan archaeological convention clearly made the project of a visit to Balkh by Sir Aurel Stein….more difficult of accomplishment….Mr. McHaffie, the representative of a British engineering firm, who visited Kabul in July 1922, was unable to secure a reasonable contract and left in disgust; other representatives of British concerns, who came

---

[557] IOR-R/12/LIB/107, *Precis on Afghan Affairs*, 118.

[558] BOA-HR.SYS 2471/59 (1922 08 07) ("Fransa'nın Kabil'de ortaelçilik açması").

[559] NAI-FP File No. 21 (II)-F 1923 ("Education of Afghan youths in Afghanistan under French Auspices"), 8.

[560] IOR-R/12/LIB/107, *Precis on Afghan Affairs*, 117.

[561] Extract from the *Amān-i Afghan*, No. 28 (November 14, 1923). NAI-FP 1923 636-F 1-70 ("Foreigners other than ex-enemy aliens in Afghanistan").

> subsequently, had the same experience.. . In January 1923 the construction of the telegraph line from Torkham to Kabul was completed by a staff deputed from India and paid by the Afghan Government. . . By April 1923 several Indian medical practicioners, who had accepted employment under the Afghan Government, either had returned to India or were anxious to do so.[562]

Even Indian Muslims began to feel the brunt of anti-British sentiment in Afghanistan, given their connections to British India, and perhaps because their allegiances were seen as suspect in this regard. For example, Machonachie notes in his precis,

> In May two engineers, McKenna, an Englishman, and Lahiri, a Bengali, were engaged for an irrigation project in the Eastern Province, and application was made for the services of Muḥammad Qāsim, who had been in charge of the telegraph construction already mentioned, for the survey of a new line to Herat. .. His refusal to reenter Afghan service is an example of the difficulties which beset the employment of Englishmen and Indians in this country. On the one hand, Afghan officials have at present no idea of training their employees with ordinary justice or courtesy……On the other hand, in spite of the Foreign Minister's professed willingness to consult me regarding the qualification and character of Englishmen and Indians to whom appointments are offered, there have been several instances of such appointments being made without awaiting the result of a previous reference to me. Consequently, while Afghan service is growing deservedly more and more unpopular in India, in Afghanistan the prejudice against applicants from India is in process of being confirmed by experience.[563]

Even more important and competitive than archaeology and engineering projects, was the education of Afghan youth. E.B. Howell notes in a August 15, 1922 memo, "…it is better for Young Afghanistan to get its education in England that on the continent of Europe."[564] Yet, even here the British Indian administrators seemed to have a ready explanation. F.H. Humphrys, British Legation, Kabul, July 29, 1922, in a telegram to Earl of Balfour, His Majesty's Secretary of State for India, the Government of India, notes, "It cannot be denied that the Continental attitude both official and private, towards the Oriental, is more ingratiating that the British, and in the eyes of any one as naturally vain and sensitive as the Afghan, this difference in national characteristics is liable to assume an exaggerated significance."[565]

Here the British official boils down the anti-British/pro-French bias towards some innate culturalism, ignoring political differences in the process. They ignored the fact that the Afghans preferred the French over the British, due to the former's more sympathetic politics in re the Caliphate. For example, Machonachie notes in his precis,

> The 'Amān-i Afghan' of November 21, 1922 accused Great Britain of having been willing to ruin Turkey in the interests of Greece, and praised France and Italy for 'their firmly just attitude which left Great Britain with the choice only of abandoning her evil designs, or of pursuing them

---

[562] IOR-R/12/LIB/107, *A Precis on Afghan Affairs*, 116.

[563] Ibid., 116-117.

[564] NAI-FP File No. 21 (II)-F 1923 ("Education of Afghan youths in Afghanistan under French Auspices"), 8.

[565] Ibid.

> unsupported, which would have been strictly against her political traditions.' Once more Great Britain was left in a position which caused her to be represented as the sole obstacle to Turkish ambitions, and consequently as the real enemy of Islam. . . It appeared that Great Britain was the single Power who now stood between Islam and the fulfillment of her hopes.[566]

The above documents also reveal the British desire to compete in this field with their old archrivals in Europe. More than simply outbeating their French counterparts to the economic opportunities of the moment, the British were thinking of long-term policy. "In a country like Afghanistan," notes Denys Bray in an September 11, 1922 memo, "the westernised student of the day is the shaper of public policy in the next generation."[567] This is a revealing quote not only in the context of British strategy in Afghanistan, but a wider colonial policy of lulling local elites through education.

We also see in the above report a keen sense of competition with the French in Afghanistan. As with other British Indian records from the early Amānī period, the British were very wary of French involvement in Afghanistan out of colonial power competition. British intelligence in Afghanistan and the Northwest Frontier of India were very meticulous when it came to keeping track of all foreigners who came in and out of Afghanistan at this time. They lend credence to the probability that British records were thorough and reliable in this regard, and therefore a boon for our historical purposes.

But what was the actual nature of the French involvement in Afghanistan during the Amān-Allāh era? The 1920 British Indian government's Who's Who in Afghanistan provides an extensive list of "Europeans" in the early Amān-Allāh era but there are no Frenchmen in the list.[568] One of the few files discovered on French activities in Afghanistan during the Amānī era was the following: a Foreign and Political File of 1923 discussing the education of Afghan youths in Afghanistan under French Auspices. An Extract from Military Attache, Kabul, Diary No, 18 for the week ending July 18, 1922, notes that a certain Madame Foucher, French, is teaching French and helping to organize a school for girls in Kabul. The fact a military intelligence bureau is reporting these facts is revealing. The report continues to note that her husband, presumably, Mr. Foucher is advising the Afghan Government on the subject of the University and is engaged in examining and cataloging the exhibits in the Museum at Bagh-i-Bala. The report then notes his remark, "He says that French interests in Afghanistan are purely educational and archaeological."[569]

The British also had strict protocols about all British and Americans visiting Afghanistan, indicating a sense of competition with yet another ally from first world war. For example, a Foreign and Political Department Frontier branch file of 1923 entitled "Visits of Europeans to Kabul" includes the comment of a Denys Bray, on April 28, 1922, who states, "We should ask the N.W. Frontier to telegraph to the Minister, Kabul, whenever a European or American proceeds to Kabul and to instruct all British subjects to call at the Legation on arrival."[570]

---

[566] IOR-R/12/LIB/107, *Precis on Afghan Affairs*, 77.

[567] NAI-FP File No. 21 (II)-F 1923 ("Education of Afghan youths in Afghanistan under French Auspices"), 9.

[568] *Who's Who in Afghanistan* (1920).

[569] NAI-FP File No. 21 (II)-F 1923 ("Education of Afghan youths in Afghanistan under French Auspices").

[570] NAI-FP/FRNT1923 312-F ("Visits of Europeans to Kabul"), 57.

Similarly, a Foreign and Political Department Frontier branch file from 1923 discusses a loan to the Afghan Government of Engineers and Sub-Overseers for road making and bridge building in Afghanistan.[571] If this level of scrutiny was the policy for British and American nationals, the British in Afghanistan were just as wary, if not more, of French subjects in Afghanistan. A telegraph cable from Peshawar, stamped January 11, 1923, reads,

> FOUR FRENCH SUBJECTS M TENIBRE M FURON AND M. AND MADAME GIRARD HAVE ARRIVED HERE WITH INTENTION OF PROCEEDING TO KABUL TO OPEN FRENCH SCHOOL THERE.[572]

There are even copies in British intelligence files for Afghanistan of visa approvals for French tourists, such as a certain Monsieur Dupree, who applied to visit Kabul in 1924.[573] On January 13, 1923, another document in the file reports of French subjects proceeding to Kabul at invitation of Afghan government. However, no name or purpose is given.[574] Machonachie notes in his Precis that in May 1922, M. Foucher, a French archaeologist, arrived in Kabul from Herat with his wife."[575] Ottoman archival documents also provide limited, anecdotal evidence of French visitors in Afghanistan in the early 1920s. In the rare cases where Frenchmen did travel to Kabul at this time, it mostly to serve in the aforementioned mercantile or technical capacities (and a very limited role at that in comparison to Germans). An even more rare case was to observe the world-famous "mystique" and "exotic" nature of the "forbidden kingdom." A lone Ottoman archives document from 1923 discusses the desire of a French writer, Pierre Benoit, to visit Turkey and Afghanistan, and his coming to Istanbul with that intention and seeking aid in this regard.[576] Apart from the school teachers, archaeologists, and a small number of engineers and merchants, I have found no evidence otherwise of French involvement in juridical projects in Afghanistan during the Amānī era.

In conclusion, it is notable that the British Intelligence officer R. Machonachie, in his *Precis on Afghan Affairs* (1928)—one of the most detailed primary sources on the Amān-Allāh era, years 1919-1927 in particular—describes the connection between France and Afghanistan as "slight." "In view of the slight connection which France really has with Afghanistan," Machonachie notes, the status of those selected as Afghan ambassadors to France, such as Nādir Khan, should be seen as a *demotion*. This also fits into what we know of the larger scheme of tensions between the Afghan general and Amir Amān-Allāh. A similar point relates to Nādir Khan when he was replaced by none other than Sardār Maḥmūd Ṭarzī, following the latter's own

---

[571] NAI-FP/FRNT 1923 File no. 435-F nos. 1-8 ("Loan to the Afghan Government of Engineers and Sub-Overseers for roadmaking and bridgebuilding in Afghanistan").

[572] NAI-FP/FRNT 1923 312-F ("Visits of Europeans to Kabul"), 57.

[573] Ibid., 65.

[574] Ibid., 93.

[575] IOR-R/12/LIB/107, *Precis on Afghan Affairs*, 117.

[576] BOA-HR.İM 234/62 (1923 01 6).

differences of opinion, albeit respectful but no less serious, with the increasingly isolated Amān-Allāh Khan towards the second half of his reign.[577]

A Cornucopia of Nationalities

If extant historiography has exaggerated or in some cases entirely manufactured notions of French influence in Afghanistan during the early Amānī era, a problem especially acute in the juridical realm where no French experts can be found to have contributed to the drafting of the Niẓāmnāmā, then it has also missed the cosmopolitan and dynamic nature of Amān-Allāh's recruitment policy in general, especially when it came to fields outside the juridical field.

To return to our research methodology on this question, the British had strict protocols about all British and Americans visiting Afghanistan. For example, a Foreign and Political Department Frontier branch file of 1923 entitled "Visits of Europeans to Kabul" includes the comment of a Denys Bray, on April 28, 1922, who states, "We should ask the N.W. Frontier to telegraph to the Minister, Kabul, whenever a European or American proceeds to Kabul and to instruct all British subjects to call at the Legation on arrival."[578] Similarly, in his precis on Afghan affairs Machonachie discusses the small but growing number of foreign expatriates in Afghanistan (described as including Indians, French, Germans, Italians, Turks, Russians, Bokharans, Americans, Chinese, and Persians).[579] The professions represented were as diverse and varied, ranging from Italian engineers to even a Norwegian philologist who made his way to Afghanistan in the Amān-Allāh era.[580] In an example from other British sources, a Foreign and Political Department Frontier branch file of December 1920 includes correspondence received from the India Office relative to the proposed visit of a United States Citizen to India and Afghanistan. One of the document discusses a client (name unmentioned), of a Mr. S.E. Phelps, Attorney at Law, of Casper, Wyoming. Mr. Phelps' client was seeking permission to enter Afghanistan in order to proceed on a hunting expedition, and for these reasons he cites the need to carry a rifle and revolver into the country. Regardless of his actual intentions, the point here is to illustrate the extreme caution with which British officials treated all visitors to Afghanistan.[581]

These strict rules and detailed documentary records are relevant for our purposes because they reveal that the British were very meticulous with keeping track of all foreigners who came in and out of Afghanistan at this time. They lend credence to the probability that British records were thorough and reliable in this regard, and therefore a boon for our historical purposes. Furthermore, a Foreign and Political Department file of 1923 entitled "Foreigners other than ex-enemy aliens in Afghanistan" provides the list of roughly two dozen visitors to Afghanistan, with a focus on Europeans.[582] The list of aliens is a useful historical source on the few Europeans

---

[577] IOR-R/12/LIB/107, *Precis on Afghan Affairs* (para. 340, p. 157).

[578] NAI-FP/Front 1923 312-F ("Visits of Europeans to Kabul"), 57.

[579] IOR-R/12/LIB/107, *Precis on Afghan Affairs*, 116-122.

[580] From an article by Dr. Morgenstierne, Norwegian philologist visiting Afghanistan, entitled "Afghanistan and world politics." NAI-FP/ 1923 636-F 1-70 ("Foreigners other than ex-enemy aliens in Afghanistan").

[581] NAI-FP/FRNT/B December 1920 38 ("Correspondence received from the India Office relative to the proposed visit of a United States Citizen to India and Afghanistan").

[582] NAI-FP/ 1923 636-F 1-70 ("Foreigners other than ex-enemy aliens in Afghanistan").

who did travel to Afghanistan, and the even fewer who served in an official or advisory capacity, especially in comparison with the much larger number of Turkish and Indian experts.

In spite of the few European travelers to Afghanistan, relatively speaking, the country was generally a safe destination for most travelers. It definitely did not have the reputation the country has garnered in recent decades. For example, a Foreign and Political Department Frontier branch file of 1923 entitled "Visits of Europeans to Kabul" includes an anecdotal story of the great levels of safety in a very different Afghanistan than today. The file includes an article from the C&M Gazette, dated November 6, 1923, entitled "By Tum-Tum to Kabul. American Lady Undeterred." The article proceeds to describe the resolve of one American woman to travel to Afghanistan by motor vehicle "alone and unescorted." The article reports that,

> About a month ago an American lady "Globe-trotter" set out from Peshawar in a tum-tum on a sight-seeing visit to Kabul. She was alone and unescorted and was quite undeterred at the prospect of the 200-mile journey into an unknown country which was before her. She reached Kabul safely, however, and is now said to be staying at the new hotel which was recently opened in the capital, the first hotel ever known in Afghanistan.[583]

Citing a telegram from the Foreign Secretary to the Government of India to Consul-General for the United States of America, Calcutta, dated October 18, 1923, the article also reports that she proposed to journey to Qandahar by "tonga" (a two-wheeled vehicle used in rural areas of India). This proposal was strongly discouraged, to say the least, by the American Vice Consul at Calcutta, Harold Shantz. [584] In yet another instance of American tourist adventures in early twentieth century Afghanistan, a certain Miss Van Coover, "an American tourist with journalistic connections" was found traveling in Afghanistan and returning through Indian to Calcutta.[585]

While British and French rivalry was indeed a driving factor, it was not the only one. Evidence suggests that rather than supporting one country only, Amir Amān-Allāh was astute enough to try to play off countries off one another, such that none but Afghanistan itself would have the overwhelming influence. On Amān-Allāh's drawing from a multiplicity of countries, Machonachie observes in his *Afghan Precis* reports from 1919-1927, "In the employment of foreign personnel by the Afghan Government may clearly be seen. . .One of the fundamental principles of the Amir's policy by which, while Afghanistan is to be developed through the agency of foreigners, no single foreign country is to be allowed a position of predominance over the rest."[586] Machonachie further notes that a similar policy is evident with regard to the education of Afghan youths in foreign countries, and even in Kabul itself, as follow,

---

[583] NAI-FP/Front 1923 312-F ("Visits of Europeans to Kabul"), 57.

[584] Ibid.

[585] This incident is reported in a note from R.J. Macnabb, Foreign and Political Department, Delhi, to Mr. R.E. Holland, Agent to the Governor-General in Rajputana and Lieutenant-Colonel D.B. Blakeway, Agent to the Governor-General in Central India, dated December 28, 1923. Ibid., 59.

[586] IOR-R/12/LIB/107, *Precis on Afghan Affairs*, 122.

> A makeweight to the French professors was formed in the German school under first, Professor Beck, and later Dr. Iven; the German doctors and engineers were balanced by the Italians of the same professions; the design for the new capital prepared by the German engineer Harten was revised by M. Godard, the French architect, and so on. . . A similar principle seems to underlie the distribution of Afghan youths for purposes of education among foreign countries. The whole question of such education, and of British policy in regard to it was discussed in 1922 by the Minister in a dispatch, in which he wrote: 'According to my information the total number of such students is now ninety-one; of which forty-eight are allotted to Germany, thirty-six to France, six to Italy, and one, the son of the *ex*-Foreign Minister, to England.[587]

From the above examples, we can glean how Amir Amān-Allāh's administration recruited experts from a variety of countries for his modernization scheme, not only to gather the sufficient expertise, but to maintain a sense of independence and healthy competition among the various countries with the intention of Afghanistan itself being the beneficiary of that competition. We now turn to a offer a few more comments on the major individual nationalities represented among foreign professionals and "experts" in Afghanistan at this time.

Persians

On September 7, 1923, the Government of Afghanistan signed a treaty of friendship with its western neighbor, Iran.[588] Beyond the official treaty of friendship which Amān-Allāh's

---

[587] Ibid. Over the next few years, however, Machonachie claimed to have observed a tilt in favoritism towards German experts, at least in the significant fields of large engineering and infrastructural projects, writing,

> Although the original idea appears to have been to hold the balance even between the various countries, as time went on, Germany seems to have come more and more into favour with the Afghan Government, both for the education of Afghan boys, and for the recruitment of technical personnel. One of the reasons for this preference may be found in the combination of cheapness and efficiency which Germany had to offer… It is also possible that the Foreign Minister's personal admiration for German character and methods, and the influence of the present Afghan Minister at Berlin, who was a member of his staff during his mission to Europe, have given a stimulus in the same direction…

Notably, Machonachie observes the contrast between Kabul's friendly attitudes towards Germany, and the rather cold and suspicious attitude towards both Britain and Russia, as follows,

> The Afghan attitude towards the admission of personnel from Great Britain and Russia was, in view of the geographical proximity of these countries to Afghanistan, naturally more guarded. An instructive instance of this attitude is afforded by the facilities given to Mr. Foucher, the French archaeologist, and the refusal of them to Russian and British applicants... At his period such prejudices seem to have been less marked in the case of the British, than in that of Russian, subjects. Russians were in superintending charge of the Kabul wireless, although the operator were Afghans; and were also engaged it was believed in the construction of a telegraph line in the neighbourhood of Herat. Both these cases would seem however to be covered by the supplementary clauses of the Russo-Afghan Treaty... On the other hand there were few signs of antipathy on the part of the Afghan Government to the employment of British Indians, as such, although subsequently the careless recruitment of individuals by Afghan officials tended to discredit the whole category… The main obstacle to the employment of British personnel by the Afghan Government seems to have been of a financial kind.

Ibid.

[588] For a copy of the treaty, see ADL 0108 (15 Subulah 1302) (Sawād-i muʿāhadah-i dawlatayn-i ʿalīyatayn Afghanistan wa Iran)

government signed with Iran, we must contrast the Afghan government's extreme caution with Englishmen, Russians, and other Europeans with the relative comfort of the government (and population) with not only Indians and Turks, but also Persians. An example of Amir Amān-Allāh's enthusiasm for experts from Iran is reflected in the aforementioned article in the *Amān-i Afghan* issue of November 14, 1923, which we will return to here. The memo argues in favor of education at the hands of Persians, following the advice of Āgha ʿAlī Akbar Khan Daftrī, an Iranian of a prominent Tehrani family himself, and Legal Advisor to the Foreign Ministry of Afghanistan. The fact the memo was printed in such a public forum is a stark contrast to the prevailing public opinion, and the palace opinion, about education at the hands of French teachers. As memo proceeds to state,

> We are of opinion that of the best educated and able men of foreign countries our Persian brothers are more suited for service and advice to Afghanistan, because the Persian and Afghans are equally situated as regards climatic conditions of their countries, morals, habits, language, etc. Therefore a Persian in Kabul has no difference with an inhabitant of Kabul. . . As said above, our opinion has received strength by the arrival of Ali Akbar Khan (alias Daftri). He belongs to a famous noble family of Tehran. Aqa Masdiq-us-Saltanat the Foreign Minister of Persia who is one of the famous gentlemen of the country is the uncle of Aqa Daftri. Aqa Daftri was educated in the German College at Tehran where Dr. Ivan was the professor. He is well up in German, French and English and is capable of translating these languages into Persian fluently. In mathematics he has a special taste. He is also well up in Law and holds a certificate from the Law College. . .After a few days by his energy, zeal and knowledge of laws he was made the Legal adviser to the Ministry. We congratulate the Aqa and hope that many Persians will be appointed to Departments in Afghanistan and will prove themselves useful to us like Aqa Daftri and in a short time attain the higher grades in service.[589]

Interestingly, in spite of his legal experience, there is no evidence of this individual taking part in any of the Niẓāmnāmā compilation activities. This is not very surprising, given the staunch Sunnīsm of the Bārakzai dynasty and indeed all Afghan monarchs. Indeed, we may also interpret the recruiting of predominantly Deobandi and Ottoman jurists for the Niẓāmnāmā drafting commission as an attempt to bolster the Sunnī credentials of the of the Afghan state, or in another view, a capitulation of the Amir in this regard.[590] Nevertheless, the presence of courtiers, advisors, and other kinds of experts from Iran continued to enjoy a presence in the Afghan court. Machonachie, for example, notes in his precis for Afghan affairs that in May 1922, Ẓīya Humāyūn, a Persian, arrived in Kabul, soon thereafter becoming a Private Secretary to the Amir.[591] Machonachie also notes that a Persian minister arrived in Kabul in January 1922, noting that although "treated with great consideration by the Amir, he wielded little influence."[592]

---

[589] NAI-FP 1923 636-F 1-70 ("Foreigners other than ex-enemy aliens in Afghanistan").

[590] The enshrinement of Sunnīsm, and particularly Hanifism, in the Niẓāmnāmā was a controversial point and one of the contested points in the 1924 renegotiation of the codes (the post-1924 version specifically articulated the Ḥanafī school as the official school of the Afghan state). Even in the original 1923 version, however, the predominant Sunnī narration of the Hadith *thaqalayn* ("the two weighty items") on the cover of the first Afghan constitution (Niẓāmnāmā-i Asasi) and many other Niẓāmnāmā codes lends support to this interpretation.

[591] IOR-R/12/LIB/107, *Precis on Afghan Affairs*, 117.

[592] Ibid., 121.

Ottoman records, as early as the ʿAbd al-Raḥmān era, also indicate a strong and consistent presence of Persian officers, scholars, and courtiers in Kabul. Sometimes, the Porte's recorders exhibit an even greater degree of suspicion than their British counterparts in this regard. One Ottoman archival report from 1893, for example, discusses the analysis of Ottoman intelligence officials monitoring some Persians they suspected of suspicious activities even in distant Afghanistan.[593]

Egyptians

On Egyptian subjects in Afghanistan, a Foreign and Political External Branch document of 1923 details the return to Cairo from Afghanistan (via India) of Ḥusayn Mustafa Ibrāhīm, Ibrāhīm Abdul Khalik and Zidran Badran, Egyptian Nationals. The teaching trio arrived in Peshawar on May 24, 1923 and left by Bombay on 26. Mohamed Umar, and official in the Afghan Foreign Office, accompanied them as far as Bombay as guest officer. Their purpose, according to the file, was to teach Arabic and Turkish in Kabul.[594] The declassified 1920 edition of *Who's Who in Afghanistan* reports that an Egyptian named Ḥasan Isa was in service in Afghanistan as a compositor in the *Sirāj al-akhbār* press, later renamed *Amān-i Afghan* during the Amān-Allāh era.[595]

Russians

On Russians in Afghanistan, British and Indian archives describe a small and scattered contingent of mostly, but not all, Bolshevik subjects in Afghanistan during the Amān-Allāh era, occupying odd jobs and prestigious positions alike. Machonachie reports in his Afghan Precis for 1919-1927 that Moscow's attempts to build stronger relations with the Amir vis-à-vis experts were largely unsuccessful,

> It appeared that the Russian Legation had achieved no very tangible results, although there is reason to think that the funds which found their way to the Waziristan tribes during 1923 were largely drawn from Bolshevik sources. In January 1923 it was reliably reported that the Russian Minister was making efforts to secure the admission of a Russian Archaeological Mission into Northern Afghanistan. These were however unsuccessful. Throughout 1923 Russo-Afghan relations remained outwardly friendly, although the dismissal of the Indian revolutionaries in October 1922 was 'a serious blow to Russian intrigue,' and the Afghan press continued occasionally to warn it readers against what the 'Ittihad-i-Mashriqi' called 'the bloody flow of Bolshevism.' It was reported from Moscow in June, that 'strong resentment' was 'felt by the Afghan Government at the disloyal activities of M. Raskolnikov, who is alleged to be intriguing with seditious persons, with the object of encouraging disaffection within the country'.[596]

---

[593] BOA-DH.MKT 2058/78 (1310 Ş 17) ("Kabil şehrinde ve İran tebeasından Ebamüslim evladından Ḥasan Basri isimli fakir adamın, memleketine gönderilmesini istirham ettiği, başka bir maksadının bulunmadığı").

[594] NAI-FP/Extl 1923 825-X ("Return to Cairo from Afghanistan (via India) of Ḥusayn Mustafa Ibrāhīm, Ibrāhīm Abdul Khalik and Zidran Badran, Egyptian Nationals").

[595] *Who's Who in Afghanistan (1920),* 124.

[596] IOR-R/12/LIB/107, *Precis on Afghan Affairs*, 120.

The *Who's Who in Afghanistan for 1920* reports the following Russians, mostly Bolsheviks, were active in Afghanistan: a Russian Bolshevik businessman named Bravine[597]; a Russian Bolshevik doctor named Jacob Suritz,[598]; a Russian commercial agent named Kulikov[599]; and a Russian wireless telegraphist named Mosiuk.[600] The same source also mentions a certain Kamensky (Russian Bolshevik)[601], Karandashvil (Russian Bolshevik)[602], Stepourski (Nur Aḥmad) (Russian),[603] Truskovorsky (Russian)[604], and Slevitski (Russian Bolshevik).[605] On Bokharans, soon to be under the imperial rule of the Soviets, Machonachie reports in his Afghan Precis for 1919-1927 that,

> At the beginning of the period there was a Bokharan Legation with Hāshim Shaiq as Minister, while Usman Khwāja, an *ex*-President of the Bokharan Soviet, who had fled on being detected in intrigue with the Basmachies, was also in Kabul. In December 1922 Hāshim Shaiq, having been ordered, nominally by the Bokharan Government, to break off the pending negotiation of an Afghan Treaty with Bokhara, resigned as he saw 'no encouraging light on the horizon of his Central Government'. In June 1923 his successor Muḥammad Sharif resigned, as 'Bokharan independence had ceased to exist'. The flag on the Bokharan Legation was then hauled down. The *ex*-Amir of Bokhara had arrived on April 1921, and become a pensioner of the Afghan Government. . . In July 1923 he applied for permission to visit India, which, under the orders of His Majesty's Government, was refused.[606]

Germans

As mentioned earlier, there was a significant contingent of German citizens in Afghanistan during the Amān-Allāh era, occupying odd jobs and prestigious positions alike. Machonachie reports in his Afghan Precis for 1919-1927 that,

> A German engineer, Harten, reached Kabul early in 1922, and was followed in September by a professing Moslem of German nationality, named Beck, and Oertel, a former associate of Wassmuss in Persia. By November 1923 a further batch of five engineers and six or seven doctors had arrived. One of the doctors took over charge of the Kabul Civil Hospital from a Turk, who had formerly been the chief medical officer.[607]

---

[597] *Who's Who of Afghanistan (1920)*, 101-102.

[598] Ibid., 204.

[599] Ibid., 143.

[600] Ibid., 153.

[601] Ibid., 137.

[602] Ibid.

[603] Ibid., 201.

[604] Ibid., 206.

[605] Ibid., 201.

[606] IOR-R/12/LIB/107, *Precis of Afghan Affairs*, 120.

[607] Ibid., 121.

In December 1923, British diplomatic records for Kabul indicate a certain Dr. Grobba, who had been appointed the German Chargé d'Affaires for Afghanistan, arrived in the Afghan capital and had began his duties. By the end of March 1924 the German colony comprised of "Five representatives of the German and Oriental Trade House (Bremen), three professors, seven doctors one of whom is a lady, two airmen, eight engineers, one architect, and one electrician." Machonachie notes the Germans in Kabul "give the impression of being far more efficient that their Italian rivals," revealing the constant sense of competition and comparison among the European delegations in Kabul.[608] Notably, the German delegation soon founded a school in Kabul, "evidently designed as a counterpoise to the French educational mission," notes Machonachie, revealing yet another layer of inter-European competition among the nascent European "experts" industry in Afghanistan.[609]

Americans, Chinese, and Italians, et al.

There was also a trickle of Americans in Afghanistan during the Amān-Allāh era. Machonachie reports in his Afghan Precis for 1919-1927,

> Mr. Van Engert, a member of the American diplomatic service, visited Kabul in May 1922. His object was apparently to ascertain and report whether there were any openings for America trade in Afghanistan, and any justification for the appointment of an American Consul. His decision on both points appears to have been in the negative, and in conversation he remarked that the State Department would never encourage American nationals to reside in a country which had no civilized system of law. . .Mr. W.B. Vanderlip, a company officer of shady antecedents, reached Kabul in July 1922 and talked bigly of a project for a railway from Angora…. to Pekin *viâ* Persia and Afghanistan. After a short stay he left for Herat, to look for oil, it was said, and nothing more was heard of him.[610]

In summer of 1922, a Chinese mission was reported to have arrived in Kabul.[611] As Machonachie reports in his Precis,

> On July 7, 1922 a Chinese Mission arrived in Kabul, and left again on August 30. About the same time one Muḥammad Sharif Khan was sent by the Afghan Government to Chinese Turkestan with the object, it was believed, of negotiating a Trade Agreement with the Chinese authorities. Without the concurrence of the latter, he was then designated Afghan Consul-General, and establishing himself at Yarkand, successfully resisted the efforts of the Chinese Government to secure his withdrawal. His chief duties are understood to have been connected with the illicit traffic in Afghan opium; and it is possible that it is in this direction that the Afghan Government have found a market for their surplus stocks of this drug. Their anxiety on the point had been expressed at the Mussoorie Conference.[612]

---

[608] Ibid.

[609] Ibid., 118.

[610] Ibid., 120-121.

[611] Ibid., 121.

[612] Ibid.

There was also a small contingent of Italian citizens in Afghanistan during the Amān-Allāh era, occupying odd jobs and prestigious positions alike. Machonachie reports in his Afghan Precis for 1919-1927,

> On June 1, 1922, the members of the Afghan Mission to Europe returned to Kabul, arriving with the Italian Minister the Marquis di Paterno. In addition to his diplomatic staff the latter was accompanied by some commercial representatives. Of these Vanni, and Reinach, a member of a Milan oil firm, left in July for Rome apparently disillusioned as to the prospects of business in Afghanistan…Dr. Scarpa, the Commercial Attaché, after a tour in Northern Afghanistan with Ferrari, a mineralogist, took up an appointment in Bombay… It was not followed with any active exploitation, as the mines inspected by him were too remote from communications to make production profitable… In June 1922 a consignment of arms purchased by the Afghan Government in Italy was diverted to Massowah, as the Afghans refused to take delivery on the ground that the arms were of inferior quality. . .In November twelve Italians reached Kabul; these were mostly engineers and were to be followed by thirty more later... By the end of March the number of Italians in Afghanistan had arisen to seventy-one. These included six sericulture experts, fourteen doctors, three of whom were ladies, five engineers, and an employee of the Post and Telegraph Department.[613]

While we have discussed the diversity of nationalities represented among expert recruits working in Afghanistan in the early Amānī era, we should be careful to not exaggerate the nature and extent of European employment in Kabul at this time. It was still a relatively new, novel, and often resented development in Afghanistan, especially in comparison to the longer and more deeply integrated presence of Indian Muslims, and to a lesser extent, Persians, Ottoman Turks, and Egyptians. On the whole, as even British records illustrate, European employment was widely resented in Kabul because of the jobs perceived to have been taken by foreigners. As Machonachie notes in this regard,

> The wholesale displacement of Afghans in Government employ by Europeans was highly unpopular, and it is worthy of remark that the 'Amān-i Afghan' could venture to express the opinion that Persians were 'the most suitable foreigners to employ', as they were accustomed to similar conditions as obtain in Afghanistan, and shared 'the habits and language of the Afghans.'[614]

Here the words of a British intelligence officer reporting on Afghan affairs lead us to the conclusion that Europeans in Kabul—Englishmen, Frenchmen, Italians and Germans in the main—were far being the sole foreign experts in Afghanistan during the first half of the decade long rule of Amir Amān-Allāh Khan. This is *especially* the case in the juridical field, in which we see a virtual absence of foreign juridical advisors, other than the aforementioned Ottoman and Indian jurists on the Niẓāmnāmā drafting commission, and a Persian in the Afghan Ministry

---

[613] Ibid., 118-119. Machonachie further notes on the Italians in Kiabul, "In many instances their qualifications for their new duties are certainly not apparent, and in one is led to suspect that they have been selected mainly owing to the Fascist complexion of their political convictions." Ibid.

[614] Ibid., 121.

of Foreign Affairs. If we read close enough and Machonachie's words do not convey this point, then perhaps the slightest trace of jealousy and resentment between the lines would.

CONCLUSION

In this culminating chapter, we examined the unique historical tripartite nexus formed by post-world war I Turkey and Afghanistan fighting simultaneous wars of independence against the British (and other powers for the Turks), and the Indian Khilāfat movement in full steam. The focal point of this nexus was once again Kabul. With Amir Amān-Allāh securing independence in summer 1919, the Muslim world had one of its only remaining independent and fully-sovereign states. What followed was one of the most remarkable migrations in modern South Asian history; in an uncanny foreshadowing of the trauma and dislocations of Partition a quarter-century later, an estimated 60,000 Indian Muslims, mostly poor farmers from the Punjab, migrated to Afghanistan in the Hijrat movement. But there was more than just a political nexus at play here, which has been studied at length by historians Gail Minault, Naeem Qureshi, and Azmi Özcan, among others. In this chapter I focus on the previously unexplored *juridical nexus* of Afghan ʿulamāʾ, an Ottoman Turkish lawyer, an Aligharian teacher, and Deobandi Indian ʿulamāʾ who formed the constitutional commission assembled by Amir Amān-Allāh Khan. Using hereto untapped Ottoman, British Indian, and Afghan sources in Sections I, II, and III, I offer insights into the individuals who served on the commission, their background and training, and overall professional habitus they brought to one of the twentieth century's first and most understudied projects in the modern codification of Islamic law.

In Part IV of the chapter, I examined the first Afghan Constitution itself—the *Niẓāmnāmah-i Asāsī*—as a product and process of the Indo-Ottoman juridical nexus. I argue that by means of a clearly enunciated, carefully crafted "Sharīʿat-compliant" constitution, Amir Amān-Allāh sought the ever-elusive goal of *reconstituting* Afghan society in a manner conducive to the efficient administration of a centralized, territorial nation-state, all the while hoisting the modernist and populist banner of an "Islamic rule of law" in Afghanistan. That is to say, in promulgating the first Afghan constitution and over seventy supplementary Niẓāmnāmā codes, Amir Amān-Allāh sought a "modernized" Sharīʿah, a sacred law instrumentalized to fulfill the prerogatives of sovereign power—maintaining civil order, supervising officials, subjects, and markets, and settling property disputes. But unlike several of his contemporaries, Amir Amān-Allāh pursued these goals while being sensitive to prevailing cultural norms in Afghanistan, or as flexibly stated in Article 72 of the constitution itself, "in light of actual living conditions of the people and the exigencies of the time."

Beyond the language of its articles, the premium Amān-Allāh placed on promoting a modern Muslim identity for the Afghan state emerges from information I gathered about the composition of the Niẓāmnāmā drafting commission—an eclectic group of jurists and politicians that included liberal bureaucrats from the palace administration, conservative *mawlawīs* (Islamic religio-legal scholars) linked to Deobandi madrasahs in India, Pashtun notables of the influential Muḥammadzai tribe, and Ottoman legal advisors, including Osman Bedri Bey—an Istanbul lawyer who Amir Amān-Allāh appointed as the Niẓāmnāmā commission's director. Notably, this was at a time when most states relied on European advisors for judicial reform and state-

building, underscoring Amān-Allāh Khan's references to the Turks as "elder brothers and guides" in charting alternate paths to modernization.[615]

In the 1920s Turkey continued to play a major role in the development of Afghanistan's educational institutions, sending a number of teachers to Afghanistan to open schools and provide educational services.[616] Historians of Turco-Afghan relations often begin their histories with the Amān-Allāh Khan era, such as Özlem Korkmaz, who writes, "Turkey's technical and educational assistance to Afghanistan began in the era of Emanullah Han."[617] As the previous chapter has shown, however, Turkish assistance to Afghanistan began earlier, though on a more individual and less systematic manner, during the late Ottoman period. During the Ḥabīb-Allāh and Amān-Allāh eras primary and middle schools were established and on the increase, but provisions were insufficient. Graduates of the lycees immediately found jobs in government service, but the shortage of properly trained professionals continued. In particular, the need for doctors, administrators (idareciler), and legal professionals (hukukçular) increased by the day.[618]

In this way, the Turks that came in the Amān-Allāh era were a *continuation* of relationships began during the Ḥabīb-Allāh era, and these Turks continued to bring bureaucratic expertise to Kabul. The shuttling of ambassadors, secret and public envoys, and public speeches by their leaders about each other reveal the shared sense of struggle at a precarious time for both young countries. The Ottoman archives reflect a continued interest in Afghanistan, containing occasional references to events there along with events in Bukhara and India through the 1920s until the very last years of the collection.[619] Meanwhile, ordinary Afghan and Turks continued to travel to each other's countries and back, as the return of Hüseyin Hanoğlu from Kabul to Izmir illustrates.[620] In some cases, they traveled to each other's country, settled, and formally applied for citizenship, as with the case of Afghan Bahadur Khan, who settled in Üsküdar, on the Asian side of Istanbul, and applied for Ottoman citizenship in 1920, an Ottoman archive document reports.[621] The two page document illustrates the Ottoman government's openness, and indeed embrace, of such petitions, signaling its increasingly wide reach to Muslims around the world.

When the Allies occupied Istanbul and captured the Ottoman government, several key members of the Ottoman war government fled Turkey for such locales as Germany, Russia, Central Asia, and even Afghanistan. Part III explored the roles of some key Ottoman individuals who fled to Afghanistan, or worked in an official capacity as the representative of the new Republican government based in Ankara. The major actors in the forging of an Ottoman-Afghan nexus were three individuals, though there were several more involved. Part II explores the role of three key Ottoman officers following the catastrophic defeat in World War I: Cemal Paşa, Bedri Bey, and Fahrettin Paşa.

---

[615] This phrase is in fact taken from Amān-Allāh Khan's speech in Istanbul on May 19, 1928, hailing the fraternal ties between Afghanistan and Turkey. Poullada, *Reform and Rebellion*, 258.

[616] Ahmetbeyoğlu, 205)

[617] Ibid. (translation mine)

[618] Ibid., 205-206

[619] For example, see BOA-ŞD 2142/23 (1340 R 02).

[620] BOA-DH.EUM.5.Şb 57/49 (1336 C 29).

[621] BOA-DH.EUM.ECB 31/9 (1339 S 07).

British records continue to track itinerary Turks at this time, especially in the borderlands of Iran, Afghanistan, and Central Asia near India. A Foreign and Political Department Frontier branch file of January 1919 entitled, "Arrival of Turkish Emissaries in Persian Baluchistan", includes a handwritten note of July 20, 1918, stating with characteristic perplexity and vexation, "We know so little about these messengers that it seems doubtful whether we should authorize their arrest."[622]

While there was much continuity with previous administrations and eras in Afghanistan's early modern and modern history, there was also something *new* about the nature of itinerant Muslims between Turkey and Afghanistan after the ascent of Amir Amān-Allāh Khan. It was not merely just the impact individuals crossing borders that produced the zenith of an Indo-Ottoman nexus in Kabul. Rather, international relations and developments created the social and political context that allowed for it to happen at an unprecedented degree during the early Amān-Allāh era. The Indian Khilāfat movement, of which Afghanistan played a crucial role, had much to do with contributing to Pan-Islamic ties and activity at this fluid time. Moreover, during a time of blurry governments and politics early on in the Turkish war of independence, the new Soviet administration in Russia believed the three pashas in exile still represent the Ottoman government, and so they support with a hope of promoting their own interests. However, Turkey's War of Independence revealed that Mustafa Kemal Paşa was the true representative now of Turkey's government, and so their behavior towards the three pashas changed. Nevertheless, the Soviets decided to still use the three pashas' fame in the Islamic world to their advantage, especially when it came to stirring anti-British policies of Afghan and Indian Muslims.[623]

Moreover, it is essential to recognize that the Muslims or northern India, also played a major role at this time, and we will address this network of the Indo-Ottoman nexus's acme in the next section. It was the *nexus* of late Ottoman, Afghan, and Indian Muslim forces, rather than the more isolated networks discussed in Chapters 3 and 4, particularly in the juridical field, that this chapter took up. With this overview of the independence struggles of Turkey and Afghanistan being intertwined, we see how a political nexus led to a juridical nexus which authored his most ambitious project, the Niẓāmnāmā law codes. This was a diverse, even eclectic, group made up of Afghan ʿulamāʾ, Kabuli intellectuals, Ottoman Turkish lawyers, and Indian Muslim ʿulamāʾ and intellectuals.

We have in this dissertation examined the genealogy, and the socio-legal history, of the Niẓāmnāmā Codes and first Afghan constitution. As for accounts of what happened once the

---

[622] NAI-FP/FRNT/B January 1919 30-36 ("Arrival of Turkish Emissaries in Persian Baluchistan"). Similarly, a memo from Agent to the Governor General and Chief Commissioner in Baluchistan, Ziarat, to Secretary to the Government of India in Foreign and Political Department, Simla, dated July 17, 1918, reads,

> [T]hree Turks named Aslam, Ayub, and Mahomed Usman were in Sibon July 12th accompanied by one Mahomed Amin and three other Afghas. Mahomed Usman speaks Urdu and dresses like Baluch. They said that they had come from Kabul via Chaman and Kharan with letters from Amir of Afghanistan for Bahram Khan and other Chiefs, and were going to Bampur and thence cia Bint, Rodbar and Jask to Barkat Khan of Bashakard, who was expected to arrange their forward journey to Arabia or Persia. Intended port of embarkation or future route uncertain."
>
> Ibid.

[623] Ünal et al., *Türk-Afgan İlişkileri,* 36)

codes were published and the attempts made at their implementation in practice, that is a story that has been, in comparison, far more often told. It is also the subject of a number of academic studies, including Leon Poullada, Vartan Gregorian, and most recently, Senzil Nawid. And yet, as alluded to earlier in this chapter, it was precisely the lacunae and gaps in the historiography concerning the diverse juridical actors behind the first Afghan constitution—the social history *before* and *up to* 1923, that is—that this dissertation aimed to provide.

In unearthing the social and intellectual seeds of Afghanistan's first constitution, the dissertation contributes a long overdue corrective to the scarce scholarly literature on Afghan legal history. The study also problematizes literature on the modern Middle East that silences the non-Ottoman "periphery" as passive objects caught between the colonial rivalry of Britain and Russia. Similarly, the dissertation's focus on an emergent transnational Islamic legal culture—or *juridical* Pan-Islamism—between the late Ottoman empire, British India, and Afghanistan does not simply serve to shed light on how modern notions of law, administration, and statecraft transcended politically-bounded territories. More specifically, it examines how urban centers within the vast socio-cultural zone stretching from the Balkans to Bengal came to be increasingly linked through specific networks, institutions, and processes of expertise associated with Islamic legal modernism. In tracing the social and institutional genealogy of the first Afghan constitution (1923), the dissertation illustrates how modern Muslim legal practices developing in Istanbul, Kabul, and greater Delhi in the long nineteenth century could simultaneously overlap, intersect, and co-evolve into distinct Ottoman, Afghan, and Indian juridical fields. Finally, as a socio-legal history it shows how a diverse cast of actors—Turks and Arabs, Indians and Persians, but most of all, Afghans—shaped the fields of constitutional law and politics in the greater Islamic world.

Relics of Rupture

Afghanistan's First Constitution and the Indo-Ottoman Nexus between History, Memory, and Oblivion

One day an earthly throne soars to the heavens, روزی شود بلند سریری بر آسمان
Only to be smashed to smithereens the next.[1] روزی دگر به خاک بینی و خوار

- Khalīl-Allāh Khalīlī (1907-1987)

The boundaries of modern nation-states and the blinkered view of area studies scholarship have tended to obscure both important areas of shared experience and significant systems of connection between the Middle East and South Asia.[2]

- Francis Robinson, *The ʿUlama of Farangi Mahall* (2001)

[T]he global institutional order has its origins in the stories that people tell themselves about others.[3]

- Lauren Benton, *Law and Colonial Cultures* (2001), 263

– • –

On the summer afternoon of August 19, 1919, Amir Amān-Allāh Khan, the newly coronated monarch of Afghanistan, was likely to be basking in his glory. He was, arguably, the most popular man alive in Afghanistan, having just led his country to an auspicious military victory against the British in a war for independence. At the country's first independence celebration ever held in the resort city of Paghman, multitudes of Afghans across ethnic groups,

[1] Khalīl-Allāh Khalīlī, "ʿIshq wa parākandagī," in *Dīvān Khalīl-Allāh Khalīlī* (Tehrān: Intishārāt ʿIrfān, 1378 [1999]), 245. For a biography and summary of Khalili's remarkable career as a poet, historian, and Afghan ambassador to Iraq and Saudi Arabia, see Wali Ahmadi, "Ḵalili, Ḵalil-Allāh," *Encyclopaedia Iranica* Vol. XV, Fasc. 4 (2010): 399-403. Notably, Khalīlī also served as a member of the 1964 Afghan constitutional assembly. An informative obituary was also placed in the New York Times. See "Khalīl-Allāh Khalīlī; Afghan Poet and Ex-Official," *New York Times* (May 14, 1987).

[2] Francis Robinson, *The 'Ulama of Farangi Mahal and Islamic Culture in South Asia* (Delhi: Permanent Black, 2001), 211.

[3] Lauren Benton, *Law and Colonial Cultures* (2001), 263.

provincial regions, and tribal affiliations gathered to celebrate Amān-Allāh's name for having restored Afghanistan's honor and prestige as one of the only independent Muslim states in the world.

Amir Amān-Allāh's success and influence even transcended the borders of his landlocked country. In neighboring India, and as far as Turkey and Egypt, Muslims hailed the anti-imperialist champion as *Ghāzī* Amān-Allāh, the fiercely-independent warrior king who defied the British empire just as the Ottoman empire staggered from its losses in the Great War. Amir Amān-Allāh's popularity across the Islamic world was no doubt reinforced by the exceptional status of Afghanistan as an entirely free and independent Muslim state at this particular historical juncture. As Allied armies proceeded to occupy greater Syria, Mesopotamia and North Africa, and indeed many parts of Anatolia itself, a 1907 Anglo-Russian Convention still loosely divided Iran into two respective "spheres of influence", and European imperial bureaucracies continued to administer colonial possessions in India and Egypt, among other countries with large Muslim populations, Amān-Allāh's Afghanistan truly stood out as an island of Islamic sovereignty. Attesting to his elevated standing in Pan-Islamic circles, by the early 1920s there was even growing support among Indian and Turkish Muslims for the Afghan king to accept the auspicious position of Caliph, for the Afghan amir was widely recognized as one of the last remaining sovereign Muslim rulers who governed his own territory free of foreign domination.[4] It would probably not be an exaggeration to state that no other single ruler enjoyed such widespread, euphoric even, support across so many segments of the Muslim population at the time.

Though firmly entrenched on the Afghan throne, Amān-Allāh did not rest on his laurels. He exploited his popularity as a springboard for enacting a series of socio-legal reforms with the goal of "modernizing" Afghanistan. After securing Afghanistan's sovereignty abroad, Amir Amān-Allāh turned his attention inward, and launched an ambitious reform program with the goals of reordering his kingdom into a constitutional monarchy. Within a year of his rise to power Amān-Allāh Khan commissioned an elite team of Afghan, Ottoman Turkish, and Indian Muslim jurists with a singular mandate: to lay the juridical foundations for a modern state. By 1923, Amir Amān-Allāh had promulgated not only Afghanistan's first constitution, but a total of seventy-eight codes known collectively as the *Niẓāmnāmā*, or "Regulations." In addition to civil, criminal, and commercial law statutes, the Niẓāmnāmā incorporated sweeping plans for a centralized network of courts with newly trained judges salaried by Kabul, a national army raised through conscription, and an individuated tax system that abolished exemptions for powerful Pashtun tribes. The Niẓāmnāmā also mandated universal primary education, including schools for girls and young women.

The resemblance to reconstruction policies being formulated in Afghanistan today has led many observers and even some historians to project contemporary notions of progressive politics backwards, describing Amir Amān-Allāh as "secular", "ahead of his time", "a pro-Western modernizer," or even "Afghanistan's Justinian." What these readings often elide or ignore, I argue, was the monarch's resolve that Afghanistan's constitutional reforms comply with the sacred Islamic law. As stated in Articles 4, 16, and 21 of Amir Amān-Allāh's 1923 Constitution, the king and his courts were to "rule in accordance with the principles enunciated in the

[4] Selim Deringil's notation of Hourani's quote on the late Ottoman state, could well apply to Afghanistan in 1919: "Even more than before it appeared to Muslim citizens, whether Turks or Arabs, as the last manifestation of the political independence of a Muslim world beleaguered by enemies." *The Well-Protected Domains*, p. 47.

Sharī'at." Beyond the language of its articles, the premium Amir Amān-Allāh placed on promoting a modern Muslim identity for the Afghan state is evident in the composition of the Constitutional drafting commission, as well as prominent officials in his cabinet—an eclectic group which included jurists, politicians, and military officers not only from Afghanistan's two largest cities, Kabul and Qandahar, but as far as Istanbul, Damascus, Cairo, Baghdad, and Lahore. The only unifying element was their coming from highly literate professional classes, and graduating from esteemed modern Muslim educational institutions in the Ottoman empire, India, or Afghanistan.

In 1924, a year of profound ruptures not only in Afghanistan, Amān-Allāh faced the first of two major revolts in his reign. The uprising erupted in the southeastern town of Khost, a rebellion which the Amānī regime was only able to quell after offering major concessions to rival tribes, who eventually helped Amān-Allāh crush the Mangal tribe rebels. The second rebellion ended even less favorably for Amān-Allāh. In autumn of 1928, two tribal revolts—one from the north led by a Kuhistani brigand named Ḥabīb-Allāh Kalakānī ("Bacha-yi Saqoa"), and one from the southeast led by the Pashtun Shinwarī rebels—headed towards Kabul. Kalakānī 's northern faction reached Kabul first, eventually ousting Amān-Allāh from the capital and forcing him to flee to the southern city of Qandahar. Overwhelmed by the betrayal of his closest advisors and increasing intensity of the revolts, this was the seal on the end for Amān-Allāh's decade-long rule. On May 25, 1929, the former king secretly fled Qandahar for Quetta, India, subsequently relocated to Italy, and finally, Zurich, Switzerland where he died in exile.[5] In one of the most meteoric rises and thundering crashes in a short period of time the Middle East had ever seen, Amān-Allāh Khan was largely marginalized in Afghan history textbooks during the Muṣāḥibān era, though he is often romanticized as a tragic hero among Afghan nationalists and western modernization theorists until this day.

– • –

The 1924 and 1928-1929 revolts against the Niẓāmnāmā are topics which have already received a great deal of attention by scholars of both Afghanistan and modernization theory.[6] Focusing on Amān-Allāh Khan's overthrow at the hands of violent tribal revolts that shook portions of southeastern Afghanistan in the late 1920s fall too easily into conventional frameworks of the Afghanistan as the world's failed state *par excellence*. What these commonplace and uncritical perspectives ignore is that Amir Amān-Allāh Khan's Niẓāmnāmā project laid the foundation for one of Asia's most stable Islamic states in the first half of the twentieth century. In this fashion by promulgating the Niẓāmnāmā codes Amir Amān-Allāh

[5] "Amanullah Abdicates From Afghan Throne; Flees by Plane, Leaving Brother to Rule," *New York Times* (Jan. 15, 1929); "Amanullah Abandons Fight to Regain Throne; Afghan King and Queen Seek Refuge in Europe," *New York Times* (May 25, 1929); "Amanullah Reaches Bombay on Flight: Mullahs and People's Objections to Westernization Cost Him Throne, Deposed King Says," *New York Times* (May 28, 1929).

[6] Poullada, Leon. *Reform and Rebellion in Afghanistan: King Amān-Allāh's Failure to Modernize a Tribal Society*. Ithaca: Cornell University Press, 1973; Gregorian, Vartan. *The Emergence of Modern Afghanistan, 1880-1946*. Stanford: Stanford University Press, 1969; Stewart, Rhea Talley. *Fire in Afghanistan 1914-1929: Faith, Hope and the British Empire*. Garden City: Doubleday, 1973; Nawid, Senzil K. *Religious Response to Social Change in Afghanistan, 1919-29: King Aman-Allah and the Afghan Ulama*. Costa Mesa: Mazda Publishers, 1999; McChesney, Robert D. *Kabul Under Siege: Fayẓ Muḥammad's Account of the 1929 Uprising*. Princeton: Markus Weiner, 1999.

sought a "modernized" Sharīʿah, a sacred law instrumentalized to fulfill the prerogatives of sovereign power—maintaining civil order, supervising officials, subjects, and markets, and settling property disputes—while being sensitive to prevailing cultural norms in Afghanistan, or as flexibly stated in the constitution itself, "in light of actual living conditions of the people and the exigencies of the time."[7] Beyond the language of its articles, the premium Amir Amān-Allāh placed on promoting a modern Muslim identity for the Afghan state is evident in the little we know of the composition of the Niẓāmnāmā drafting commission, as well as prominent officials in his cabinet—an eclectic group which included jurists, politicians, and military officers not only from Afghanistan's two largest cities, Kabul and Qandahar, but as far as Istanbul, Damascus, Cairo, Baghdad, and Lahore.

This study, instead of focusing on a presumed "failure" of the first Afghan constitution by focusing on the revolts which followed it, has aimed to tell an untold story: a genealogy of the ideas, individuals, and institutions that culminated in the adoption of Afghanistan's first constitution in 1923. My findings shed light on the origins of Afghanistan's first constitutional commission, biographical information on its multinational members, and the sources of controversies their work generated. The latter, I argue, stemmed from the drafters' diverse educational and professional backgrounds, social and institutional rivalries, and the politics of law in Afghanistan at this time. What is more, my research unearthed a deeper history of juridical links between Ottoman Turkey, British India, and Afghanistan as early as the 1860s, which I argue laid the foundations for Amān-Allāh's path-breaking project decades later.

– • –

While the profound transformation and ensuing disintegration of the Ottoman empire from 1839-1923 has been conventionally summarized as an interim stage before the ultimate triumph of ethnic nationalism and secular modernity in the Middle East, this popular narrative elides the fiercely *contested* nature of institutional changes in the region. In particular, such accounts of linear decline and "westernization", both in and outside Ottoman domains, marginalize the acute struggles of scholars, statesmen, and everyday citizens to constitute alternative modernities not rooted in strictly secular-liberal or Eurocentric cultural epistemes. The "Niẓāmnāmā" codes of King Amān-Allāh Khan of Afghanistan (r. 1919-1929) and his transnational team of Muslim jurists represented one such project. Compared to the nation-building campaigns of Mustafa Kemal "Atatürk" of Turkey or Reza Shah Pehlavi in Iran, or even the British and French mandates of the inter-war Near East, Amān-Allāh's route shares many parallels but in the end represented a *different* path of modern state formation. Though also an attempt at "social engineering" through law, in contrast to the aforementioned regimes the Niẓāmnāmā codes of the 1920s constituted an endeavor to circumvent the widening gulf between "Islamic" and "Secular," a dualism whose roots were laid in several Muslim-majority countries at precisely the same time, and have been hotly debated ever since.

As histories of Afghanistan during the Amānī era (1919-1929) have largely focused on the second half of king Amān-Allāh's decade-long rule, particularly his violent overthrow at the hands of "tribal" revolts, there has been scarce work on the history *behind* the first Afghan constitution, the over seventy supplemental "Niẓāmnāmā" legal and administrative codes, and

[7] Article 72, Constitution of Afghanistan, 1923 (*Niẓāmnāmā-yi asāsī-yi dawlat-i ʿalīyah-i Afghanistan*, 20 Ḥamal 1302 [April 9, 1923]).

the conditions under which they were produced. This dissertation sought to address the considerable gap in Afghanistan's legal historiography, by providing a transnational *longue durée* history of the individuals, ideas, and institutions behind the Niẓāmnāmā codification project in Afghanistan. Based on archival research in Turkey, England, India, and Afghanistan, the dissertation unearthed a deeper history of juridical links between Ottomans, Afghans, and Indian Muslims as early as the 1860s, which I argue laid the foundations for Amān-Allāh's path-breaking project roughly half a century later. The study culminated with an exploration of the competing roles of Ottoman lawyers from Istanbul and Islamic legal scholars from northern India who traveled to Kabul to participate in the production of the first constitution of Afghanistan and associated Niẓāmnāmā codes from 1919 to 1923.

It is now well-established that the transformative advances in technology and communications of the nineteenth century—in particular the telegraph, the transcontinental railroad, the coal-powered steamship, as well as enhanced technologies of print—no doubt increased the *intensity* of traffic between diverse populations of the Arab, Indo-Persianate, Turkic, Slavic and greater Islamic worlds during the long nineteenth century.[8] So as to not overstress to role of new technologies, however, It is important in our conclusion to stress, however, that the circulation and intermingling of people, products, and public spheres was long an integral part of urban life in the greatest cities and also some towns of the early modern Muslim empires. Stephen Dale captures it quite well in his recent comparative study of Ottoman Turkey, Safavid Iran, and Mughal India, where he writes,

> Muslims in these contiguous empires jointly inherited political, religious, literary, and artistic traditions; their shared inheritance was reinforced by the circulation of individuals along well-established and protected trade routes linking Istanbul with Isfahan and Delhi. Merchants, poets, artists, scholars, religious vagabonds, military advisors, and philosophers all moved with relative ease along the caravan routes and across political boundaries.[9]

What I have sought go bring attention to in this dissertation, however, is the historiographical blindspot when it comes to *Afghanistan* and its widely ignored or simply overlooked role in what I call the growth of transnational Islamic modernism of the long 19th century. Furthermore, just as Afghanistan has been largely marginalized in scholarship on the modern Middle East—especially the country's history prior to the 1979 Soviet Invasion, let alone 9/11 and the current US-led war—the particular angle from which I will be approaching the country's role in transnational Islamic modernism during the long 19th c. addresses

---

[8] This theme has been superbly explored by Hamid Algar, Azmi Özcan, and most recently, Nile Green. See Hamid Algar, "*Tarîqat* and *Tarîq*: Central Asian Naqshbandîs on the Roads to the Haramayn," in Alexandre Papas, Thomas Welsford and Thierry Zarcone, eds., *Central Asian Pilgrims: Ḥajj Routes and Pious Visits between Central Asia and the Ḥijāz.* Berlin: Klaus Schwarz Verlag, 2012; Azmi Özcan, *Pan-Islamism: Indian Muslims, the Ottoman and Britain (1877 -1924)* (Leiden: Brill, 1997); Nile Green, *Bombay Islam: The Religious Economy of the West Indian Ocean, 1840-1915* (New York: Cambridge University Press, 2011); Nile Green, "The Trans-Border Traffic of Afghan Modernism: Afghanistan and the Indian 'Urdusphere.'" *Comparative Studies in Society and History* 53 (2011): 479-508. For a fantastic just-published study precisely on this topic (and therefore, auspiciously, as relevant to this dissertation as it is hot off the press!), see Nile Green's "Spacetime and the Muslim Journey West: Industrial Communications in the Making of the 'Muslim World'," *AHR* 118 (2013): 401-429.

[9] Stephen F. Dale, *The Muslim Empires of the Ottomans, Safavids, and Mughals* (New York: Cambridge University Press, 2010), 3.

unexplored realms of social and cultural history that do not usually come to mind in conversations about Afghanistan today: law, constitutionalism, and legal history.

At the same time, my aim in this study was not only to tell an untold story and provide a unique historical perspective on Afghanistan. Rather, one of the persistent themes in all give chapters has bee how modern processes of the consolidation and bureaucratization of central authority—primarily through the codification of law—were *shared* processes of modernity linking late Ottoman Turkey, British India, and Afghanistan at the hip. Depending on our favored discipline or theoreticians—the modern processes I am referring to at the heart of the first Constitution may be referred to as the Weberian rationalization of law and society, the state's disciplinary technologies per Foucault, or for a more Middle East-history focused example, modern technocracy and the rule of experts per Tim Mitchell. Following recent work in the burgeoning field of social network theory, the dissertation also employs Annelise Riles' analysis of the network "inside out" to explore the institutionalization of sacred knowledge in the social and legal history of Islam, in particular how knowledge of the law by authoritative experts—the ʿulamāʾ—is not only originated, shaped, and reified within particular societies, but also becomes a key means for the transnational circulation of Islamic juridical models across them.[10]

I present the history of the first constitution of Afghanistan and the collaborative efforts of Ottomans, Afghans, and Indian Muslims who spearheaded it as a project of *transnational Islamic juridical modernism*. Transnational has, I think, become a relatively self-explanatory, if not trendy, concept in the academy by now, referring to "an approach focusing on movement, flows, and circulation that transcended politically bounded territories."[11] But by transnational I mean to signify not only how modern notions of law, administration, and statecraft transcended politically-bounded territories, or as transatlantic historian Lisa Lindsay has recently written, "people, things, processes and ideas in the past were mobile."[12] Rather, the study examines how particular regions within the vast socio-cultural zone stretching from the Balkans to Bengal came to be increasingly linked through specific networks, institutions, and processes of expertise that would intersect and co-evolve into the modern Ottoman, Afghan, and Indian juridical fields. "Rather than highlight abstract processes and aggregates," to persist with Lindsay's elegant description, the paper contributes to genres of world history that "give us intimate portraits of men and women experiencing and affecting larger-scale political, economic, social, or intellectual formations. And like the best social histories, they emphasize the dignity and agency of the individual."[13]

---

[10] Annelise Riles, *The Network Inside Out* (Ann Arbor: University of Michigan Press, 2004).

[11] Lisa A. Lindsay, "The Appeal of Transnational History," *Perspectives on History* 50 (2012): 48-49, 48.

[12] Ibid.

[13] Lindsay, 49. I am also indebted in this regard to Lauren Benton's work on law and colonial cultures in this regard, in particular her notion of legal norms "encoding" *both* culture and property within local and transnational contexts. For example, on the relationship between "culture" and "structure" in transnational legal contexts, Benton insightfully notes,

> [C]ulture does not cohere at the local level and structure reveal itself as a map of international connections. Legal and cultural contests simultaneously produce institutional patterns and expectations about cultural and legal ordering elsewhere. To borrow and revise a phrase from Geertz, the global institutional order has its origins in the stories that people tell themselves about others.

By Islamic juridical modernism I mean the largely etatist project of making a Muslim-majority society legible, economically efficient, culturally cohesive, and of course, governable, through the formation of "Islamic codes and constitutions" (a term we do not see in the pre-modern era but is more characteristic of modern hubris, similar to prefacing all nouns with the adjective "Islamic", in general). Apart from the individuals and institutions that orchestrated the complex constitutional process in Kabul, what is most crucial in my argument is that these goals of juridical modernism embodied in the first Afghan Constitution were articulated, contested, and ultimately negotiated *within* a discourse of modern Islam. That is to say, as an Islamic modernist charter, the first Afghan constitution professed loyalty to upholding the legitimacy and relevance of the sacred Islamic texts of the Qurʾān and Prophet's example, while tackling the challenges of modern life and statehood—it advanced on understanding of sacred law instrumentalized to fulfill the prerogatives of sovereign power—maintaining civil order, supervising officials, subjects, and markets, and settling property disputes. My argument therefore directly challenges narratives of transplantation, mimicry, or passive borrowing from West to East as the social and intellectual engines of juridical modernism in the Middle East and greater Islamic world.

– • –

Though the present study has come to a close, the story of the first constitution of Afghanistan does not end in 1923, nor was it ever limited to Afghanistan to begin with. In this concluding chapter I briefly discuss the post-script to the remarkable story of Afghanistan's first constitution, and the Indo-Ottoman juridical nexus that authored it. I also offer some reflections on the long-term legacies of the era. We discuss what happens to the Indo-Ottoman constitutional commission and the government of Amān-Allāh Khan himself, developments that are completely intertwined, I argue, with the formation of an ultra-secular Kemalist Republic in Turkey, and the collapse of the Khilāfat movement in India in 1923-1924. What effects did the expulsion of the Ottoman Sultan in 1922, the declaration of a Turkish republic in autumn 1923, and most dramatically, the abolition of the Caliphate in 1924, have on the Indo-Ottoman Constitutional commission in Afghanistan? These questions as well the longer juridical legacy bequeathed by Amir Amān-Allāh's and the Indo-Ottoman-Afghan drafted Constitution not only in relation to Afghanistan, but the formation of Constitutions and law codification projects in subsequent Arab and Islamic states.

POST-SCRIPT: 1924-1929

Ruptures in Turkey, Ripples in Afghanistan

On November 1, 1922, the Turkish Grand National Assembly in Ankara, led by Mustafa Kemal "Atatürk", abolished the office of the sultanate, thereby ending 631 years of rule by the Ottoman empire, and officially formalizing the dissolution of the Ottoman empire. The last Ottoman Sultan, Mehmed IV, was forced into exile and died in San Remo, Italy and later died in the same year. In spite of the removal of the sultanate, Abdülmecid II continued to be officially

---

Lauren A. Benton, *Law and Colonial Cultures: Legal Regimes in world history, 1400-1900* (New York: Columbia University Press, 2001), 263.

acknowledged in Afghanistan as the *caliph* of all Muslims. As a document from the Foreign and Political Department of 1923 notes, from an extract from the NWFP Intelligence Bureau Diary No. 1 for the week ending January 4, 1923, reports,

> The new Khalifa, Abdul Majid, has been officially acknowledged in Afghanistan. It is reported that the Amir has sent a congratulatory message. Two diplomatic couriers for the Afghan Legation at Angora passed through Peshawar on December 28th.[14]

Early on, Afghans and Indian Muslims were circumspect, and perhaps troubled, but not overtly critical of the landmark decisions being made in Ankara that yet seemed to effect the rest of the Muslim world in so much as they concerned the Pan-Islamic Caliphate. According to Machonachie's precis, Sir F. Humphrys noted in July 1923 that the khuṭbah was read in Sultan Abdülmecid II's name in Kabul following accession to the Caliphate and endorsement by the Ankara government. "By the ratification of the Treaty with Angora," Humphrys notes, "and the use of Abdul Majid's name in the *Khuṭba*—the only prayer offered for the Caliph in this country—the Afghan Government have publicly endorsed the appointment made by the Angoran Government."[15] Sultan Abdülmecid would be the last Ottoman caliph to bear this distinction.

In spite of Afghan unease at the Turkish parliament's decision vis-à-vis the Ottoman sultanate, on March 27, 1923, the Government of Afghanistan awarded Mustafa Kemal Paşa an honorary medal.[16] A corresponding document in the Turkish Republic Archives describes the Afghan Amir's awarding of honorary medals to Turkish leaders Fevzi Çakmak, İsmet İnönü, and a number of other prominent officers for their outstanding service in the Turkish war of independence.[17] Upping the ante, reports in the Afghan and Indian press even hinted at rumors that Amir Amān-Allāh was about to visit Ankara in the near future.[18] With regard to the much anticipated "Islamic Congress" to be held in Ankara in 1923, Amir Amān-Allāh initially sent word of possible attendance but respectfully declined. An article from *The Statesman* of Simla on May 18, 1923, entitled, "ISLAMIC CONGRESS IN ANGORA, AMIR NOT TO PARTICIPATE" notes,

> For some time reports have been current that H.M. the Amir of Afghanistan may attend the Pan-Islamic Congress which it is said, the Turkish Government proposed to hold in Angora to discuss the formation of a league of Moslem nations and the future of the Khilāfat… It is stated in a well-informed quarter that His Majesty has no such intention his time being too fully occupied with

---

[14] NAI-FP/SEC/EXTL 477 (2)-X 1922-1923 ("Reports regarding miscellaneous matters concerning Turkey") (No. 210 Ext.A).

[15] IOR-R/12/LIB/107, *Precis on Afghan Affairs*, (para. 496, p. 262):

[16] Turkish historiography names the medal awarded to Kemal by Amān-Allāh Khan as the "Aliyülala Nişanı." Abidin Ünal, İskender Özbay, Rezzan Ünalp, Alev Keskin, and Nilüfer Altın, *Geçmişten Günümüze Türk-Afgan İlişkileri,* (Ankara: Genelkurmay Askeri Tarih ve Stratejik Etüt Başkanlığı Yayınları Basimevi, 2009), 52; Nusret Baycan, *Atatürk'ün Nişan ve Madalyaları* (Ankara: Gnkur. Basımevi, 1986), 117.

[17] BCA 30.18.1.1/7/13/19/235-21 (27 03 1923) ("Afganistan Emiri Gazi Emanullah Han'ın Atatürk, Fevzi Çakmak, İsmet İnönü ile bazı ordu, kolordu ve fırka kumandanlarına verdiği nişanlarıaları")

[18] For example, An April 19, 1923 article in Fatul Arab Arabic paper says that the Amir of Afghanistan intends to visit Angora in the near future. NAI-FP/SEC/EXTL 477 (2)-X 1922-1923 ("Reports regarding miscellaneous matters concerning Turkey"), 84. Notably, this file also contains a number of translations of articles from Afghan and Indian press including *Amān-i Afghan*, *Ittihad-i Mashraqi*, *Vakīl* and others.

effecting improvements in the administration of his country and with furthering its advancement in the paths of civilization.[19]

Similarly, a telegram from the British Minister at Kabul to the Secretary of State for Foreign Affairs in London, dated May 5, 1923, states, "Amir told me that his attention was absorbed by administrative reforms and that it was impossible for him to leave Afghanistan. He told me definitely that he would not attend Congress at Angora."[20] With the first constitution being promulgated a month earlier on 20 Ḥamal 1302 [April 9, 1923], and various other Niẓāmnāmā still in production, the amir's response was quite understandable.

Meanwhile in Turkey, on July 24, 1923, the Treaty of Lausanne Peace treaty signed in Lausanne, Switzerland settling the Anatolian and East Thracian parts of the partitioning of the Ottoman empire by annulment of the Treaty of Sèvres (1920) that was signed by the Istanbul-based Ottoman government. The treaty of Lausanne was ratified by the Greek government on February 11, 1924, by the Turkish government on March 31, 1924, followed by the governments of Britain, Italy and Japan on August 6, 1924. It was registered in the League of Nations Treaty Series on September 5, 1924. The treaty was the consequence of the Turkish War of Independence between the Allies of World War I and the Ankara-based Grand National Assembly of Turkey (TBMM) led by Mustafa Kemal Paşa "Atatürk". The treaty also led to the international recognition of the sovereignty of the new Republic of Turkey as the successor state of the defunct Ottoman empire.

On the very same day as the Lausanne treaty (July 24), following the signing of the agreement, Afghan Ambassador in Ankara Sultan Ahmed Khan sent a telegraph to Mustafa Kemal Paşa in Izmir offering him congratulations in the name of King Amān-Allāh Khan and the Afghan nation. In this way Afghanistan's king Amān-Allāh Khan was the first and only foreign head of state to celebrate Mustafa Kemal Paşa's signing of the Lausanne Agreement.[21] The Treaty of Lausanne and new political station of Turkey, including an entirely new ruling cabinet in the former Ottoman state, also led to a renegotiation of the Turkey's relationship with Afghanistan. An Ottoman archives document reveals the complexity and sensitivity of the renewal of the treaty between the two staunch allies, and the dispatch of Turkish statesmen Şevket Bey to Kabul in this regard.[22]

On October 29, 1923 the Republic of Turkey was formally established, with Mustafa Kemal Paşa securing an overwhelming triumph as the first president of Turkey. On November 2, 1923, the Afghan Ambassador in Ankara Sultan Ahmed Khan, writing on behalf of Amān-Allāh Khan and the Afghan "state and nation," dispatched a diplomatic note in Turkish to Turkey's Ministry of Foreign Affairs celebrating and congratulating the establishment of the Republic of Turkey.[23] In the message he wrote, "This Turkish-born Republic is the star of the

---

[19] NAI-FP No. 477 (2)-X. (Secret). 1922-1923. Reports regarding miscellaneous matters concerning Turkey.

[20] NAI-No. 477 (2)-X. (Secret). 1922-1923. Reports regarding miscellaneous matters concerning Turkey. No 477(2)-X, No. 662-X

[21] Ünal et al., *Türk-Afgan İlişkileri,* 52.

[22] BOA-HR.İM 48/90 (1923 08 29).

[23] Ünal et al., *Türk-Afgan İlişkileri,* 52-53; Şimşir, *Doğu'nun Kahramanı*, 228-229.

earth, illuminating all the Islamic countries" and wished "the Republic of Turkey all success on the path to progress and advancement."[24]

By the same time next year, public opinion of the Turkey in India and Afghanistan had taken one of the most dramatic volte-faces in the history of relations between the three countries. In comparison to Sultan Ahmed Khan's comments in praise of "the Turkish-born Republic" as "the star of the earth, illuminating all the Islamic countries", meanwhile in Afghanistan and India, the predominant opinion seemed to indicate a different assessment of the situation. Arguably the greatest factor in this tidal wave of opinion was the TBMM's decision to eliminate the Ottoman Caliphate, among other reforms launched by President Mustafa Kemal.

From 1923-1945, after the signing of the Lausanne Agreement, Mustafa Kemal Paşa entered a period of internal modernization (yurt içinde çağdaşlaşma hareketlerine girişmiştir). Thereafter, in Turkey the rate of "reform" accelerates and targets traditional institutions. In late 1922, the Caliphate was first demoted to a symbolic religious position and subsequently abolished in 1924. Schools of religious learning, sufi lodges (*tekkeler*), Islamic courts (*Şeriat mahkemeleri*), as well as the juridical offices of the Ottoman *muftī* were eliminated. The Ministry of Religious Affairs and Islamic charitable endowments (*evkaf*) shared the same fate. All members of the Ottoman dynasty were expelled. In the juridical realm, the new government of the Turkish Republic adopted the Swiss civil legal code in 1926, the Italian penal code and a new commercial code largely based on the German and Italian commercial codes.[25]

Though the vast majority of the population of Turkey were Muslims (all the more so following horrific violence, population exchanges, and overall demographic catastrophe of the first World War), Kemal's government assumed control of religious institutions in order to remake them anew and ensure "religious affairs" would not interfere in the matters of "state."[26] In the first wave of decrees, Turkey abolished the offices of its religious head of state, the Pan-Islamic Caliphate, as well as the Islamic law courts (*Şeriat mahkemeleri*). Separate educational and judicial systems were subsequently introduced. The government adopted Sunday as the official weekend holiday (as opposed to Friday, as observed in most of the Muslim world), as well as the Western calendar. Mehmed Sayyid (1866-1925), a law professor, CUP deputy, former teacher at Darülfünun, and Minister of Justice, advises Mustafa Kemal Paşa on legal aspects of the secular Republic.[27]

On the response in Afghanistan, Machonachie notes, "Turkish Government severely criticized for their action regarding Khalifate", and petitions were drawn up and raised even in the Kabul court to amend Article III of Turco-Afghan Treaty, which acknowledged, ironically, Turkish religious leadership as the upholder of the Islamic Caliphate for centuries.[28] Outrage

---

[24] Ünal et al., *Türk-Afgan İlişkileri,* 53; Şimşir 2002, 128, 229 (translation mine)

[25] Murat Gül, *The Emergence of Modern Istanbul*, 73.

[26] In so doing, as Talal Asad has argued, the new Republic created "religion" before it created the "secular." Talal Asad, *Formations of the Secular: Christianity, Islam, Modernity* (Stanford: Stanford University Press, 2003).

[27] On this subject he is reported to have published a work entitled *Hilafet ve Hakimiyyet-i Milliye* (Istanbul, 1923) and *Hilafetin Mahiyeti Hakkında Nutuk* (a published speech in the Grand National Assembly, 1924) (Feroz Aḥmad, 179).

[28] IOR-R/12/LIB/107, *Precis on Afghan Affairs*, (para. 357, pp. 169-170). Article 3 of the 1921 Afghan-Turk Treaty stated Turkey, as seat of the Caliphate, was "a model [or leader] to be followed", would later become

was not limited to the diplomatic level and re-writing of treaties. Nawid notes, for example, how quickly Afghan opinion turned against the Turks in Kabul upon learning of the TBMM's decisions. Of all the controversial proclamations, some of which no doubt reached Afghanistan—accurately or in exaggerated rumors—the elimination of the transnational, Pan-Islamic institution of the caliphate was at the top of the list. As Nawid relates,

> [T]he most important contributing factor to the decline of Pan-Islamism was Kamal Ataturk's abolition of the caliphate in 1924. The news of the repudiation of the caliphate became known in Kabul in early March of that year, shortly before the outbreak of the Khost Rebellion, and created outrage among the ʿulamāʾ and other supporters of the caliphate in Afghanistan.[29]

Similarly, having personally witnessed the effects of Ankara's decisions on the ground even in distant India, Machonachie is unambiguous in it causing a precipitous decline in Afghan public opinion about Turkey in his *Precis on Afghan Affairs, 1919-1927*,

> The decline in Turkish prestige and influence in Kabul during the tenure of his post by Fakhri Pasha has been most marked…but the main reasons for it are probably to be found in the abolition of the Caliphate by Mustapha Kemal...[30]

While Machonachie also mentions the role of the Afghan public's identification of the Turkish advisers in Kabul with the most unpopular aspects of Niẓāmnāmā codes such as the new system of conscription, these complaints were largely generalized, exaggerated, and enabled by the easy-to-criticize decision of the Turkish Republic vis-à-vis the Pan-Islamic caliphate—an issue affecting Muslims worldwide. The fact a "wave of anti-Turkish feeling" unleashed in the 1924 Khost rebellion came just weeks after the Ankara government's decision and expulsion of Abdülmecid II, the last Ottoman caliph, might be instructive, rather than coincidental, in this

---

become controversial in Afghanistan after Turkey's abolition of the Caliphate in 1924. The original Turkish of Article 3 states, "Yüce Afganistan Devleti, yüzyıllardan beri İslamiyet'e önderlik ve ona üstün görevler yapmış olan, hilafet dünyası elinde tutan Türkiye'nin bu alanda lider olduğunu, bu fırsattan yararlanarak da açıklar," which translates as, "The Sublime State of Afghanistan recognizes the leadership of Turkey, in connection to having given guidance to and rendered distinguished services to Islam for centuries, and holding in her hand the standard of the Caliphate." For original Turkish copies of the treaty, see BCA 30.18.1.1/3/29/11 (03 07 1921) ("Türkiye Afganistan Muahedenamesi Hakkında Kanus Tasarısı"); BCA 30.10.0.0/257/731/2/435 (22 11 1922) ("Türkiye-Afganistan antlaşmasını Emir Emanullah Han'ın 12 Ekim 1922 tarihinde Kabil'de imzalayıp tasdik ettiği"). For the Persian copy of the treaty, see ADL 0106 (26 Mizan 1301) (*Sawād-i muʿāhadah-i dawlatayn-i ʿalīyatayn Afghanistan wa Turkiyah*).

The clause was indeed not only subsequently amended, but an entire new agreement was formed between Amir Amān-Allāh's government and the Republic of Turkey on May 27, 1928. For a copy of the treaty in Persian, see ADL 0694 (27 May 1928) ("Qarārdād-i ʿirfānī bayn-i Afghanistan wa Turkīyah"); ADL 0700 (18 Sunbula 1307) ("Muʿāhadah-i widādīyah wa ta'mīnīyah bayn-i ḥukūmat-i shāhī-yi Afghanistan wa ḥukūmat-i jumhūrīyah-i Turkiyah"). For original Turkish documents from Ankara on the agreement, see BCA 30.18.1.1/29/46/20 (22 07 1928) ("Türkiye-Afganistan Muhadenet ve Teşrik-i Meai Muahedenamesi Kanus Tasarısı"). On the domestic side of this issue in Afghanistan, this "anti-Turkish" feeling manifested in the fourth resolution of the Loya Jirga held in July 1924, which called for a complete rethinking of the relationship with Turkey, not just a rewording of the treaty document.

[29] Nawid, *Religious Response to Social Change*, 127.

[30] IOR-R/12/LIB/107, *Precis on Afghan Affairs*, (para. 357).

regard. As Machonachie further notes, such outpouring of anger against the expulsion *and* the Niẓāmnāmā reforms often resulted in extreme anti-Turkish statements, as, "The provisions of the Niẓām Nama or Fundamental Code which had been drafted by Bedri Bey were first misrepresented, and then denounced as the work of a nation which had deposed the Caliph and turned its back on Islam."[31] While the aforementioned kinds of statements are no doubt hyperbolic and unfair if taken at face value, they do speak to the sense of outrage and indignation felt in Afghanistan and India, by Muslim populations who, politically speaking, never lived under the rule of a single Ottoman sultan or caliph.

As to the broader effects on the Indo-Afghan Khilāfat and Indian Non-Cooperation movements, the Ankara government's Caliphate decision had an almost immediately chilling effect on the Khilāfat movement in India and Afghanistan in particular, as if the rug was pulled from beneath them from the most unlikely of directions. As Machonachie notes in his Precis *for Afghan Affairs* (1928),

> The abolition of the Caliphate had a paralysing effect…upon the Khilāfat agitation… With the defeat of [Sherif Hussein's] son Ali by Ibn Saud, and the election of the latter as King of the Hedjaz in January 1926, this weapon too was removed; and the Indian Moslem leaders, humbled by the earlier cavalier treatment accorded by Ibn Saud to their representatives, thereafter tended more and more to devote themselves to domestic problems, and to their own communal interests."[32]

In this way the dramatic ruptures unleashed by the new Kemalist government in Turkey sent shockwaves through much of the Muslim world, including India and Afghanistan. The trauma of this shocking and seemingly unnecessary decision that impacted Muslims worldwide was so severe in Afghanistan that it nearly derailed Turkish-Afghan relations, even perturbing the Turcophile king Amir Amān-Allāh Khan, given the devastating impact it had on his own Pan-Islamic policies and continuing power struggle with the British. For these reasons, or simply a sense of shock shared with his people, Amir Amān-Allāh condemned Ankara's treatment of the caliphate and even published an article in the government-sponsored newspaper, *Amān-i Afghan* to this effect.[33] As Poullada summarizes, the cataclysmic nature of this *rupture*—and no other word can fully capture such a dramatic shift in international relations, public opinion, and foreign policy in such a short span of time—is evident when contrasted with celebrations held in Kabul in light of Turkey's victory in its war of independence and declaration of a Republic in 1923.

> The following year the Turks abolished the Caliphate. This undermined the position of the Indian Muslims and their Khilāfat party. It also strengthened British power in India and incidentally shattered Amān-Allāh's Pan-Islamic aspirations. Britain's position in India had been further strengthened by the failure of the Non-Cooperation Movement and her prestige as a paramount power had been restored in Mesopotamia and to a large extent in Persia."[34]

---

[31] Ibid.

[32] Ibid., (para. 292, p. 130)

[33] Nawid, *Religious Response to Social Change*, 127.

[34] Poullada, *Reform and Rebellion,* 67.

It is after these dramatic series of policy shifts in an ultra-secularizing direction in Kemalist Turkey—again, representing a true sociopolitical rupture if there ever was one—that had dramatic consequences even in distant India and Afghanistan.[35] More specific to our story, soon after it, along with domestic developments pertaining to the unpopularity of the some of the Niẓāmnāmā laws in some aspects of the country, the Indo-Ottoman nexus completely collapses. Relations between Turkey and Afghanistan also sour, and the 1921 friendship treaty was seen to be needing adjustment, if not entirely void. Meanwhile on the ground, for large numbers of Indian and Afghan Muslims—above all the "Khilāfatists" who had advocated tirelessly not only in support of their Turkish brethren in faith, but for the Sultan-Caliph—far from "an illuminating star in the east," many were beginning to feel they had just witnessed Turkey's eclipse.

The situation was not helped when Amir Amān-Allāh, after a cooling off period of about a year in which the king distanced himself from Ankara on the Caliphate and other issues of Pan-Islamic concern, began steering his government and pronouncements towards his model in Mustafa Kemal Atatürk in Ankara, as reflected in some of his more whimsical "reforms", such as banning certain kinds of headgear and forced western attire. This did not impress his opponents from the ʿulamāʾ establishment, or even some of his pragmatic liberal supporters. Beyond these artificial and superficial proclamations, most troubling however was his leaning closer towards Kemalist Turkey. As Machonachie notes,

> Despite the strong anti-Turkish feelings that emerged during the rebellion and were expressed during the Loya-Jerga of 1924, Aman-Allah now strengthened diplomatic and political ties with Kamalist Turkey, doing just the opposite of what the ulama had wished. The years 1926 and 1927 witnessed a dramatic rise in Turkish influence in Kabul as evidenced by a large influx of Turkish advisors, educators, and administrative personnel. In spring of 1926, Fakhri Pasha was replaced by Nabil Baig as Turkish minister. In a cordial speech, the new minister emphasized the marked increase in friendship between Kabul and Ankara. In subsequent years, Turks occupied various high positions in the State Council, the Ministry of Foreign Affairs, and the Ministry of Finance. The legal advisor to the Foreign Office was Javid Baid, a close associate of Mostafa Kamal and husband of the sister of Latifa Khanom, Kamal's divorced wife. Afghan religious leaders began to suspect that Aman-Allah was following the path of Ataturk, who had abolished the caliphate and secularized the Turkish state.[36]

---

[35] My use of the term rupture here—as ever, with a blush when uttered by historians—does not overlook the excellent work by recent historians of modern Turkey on the significant *continuities* between the late Ottoman empire and the Kemalist Republic. See in this regard Şukru Hanioglu, *Preparation for a Revolution: The Young Turks, 1902-1908*. New York: Oxford University Press, 2001, and *The Young Turks in Opposition*. New York: Oxford University Press, 1995; Erik Zürcher, *The Unionist factor: the role of the Committee of Union and Progress in the Turkish national movement, 1905-1926*. Leiden: E.J. Brill, 1984, and *Political Opposition in the Early Turkish Republic: The Progressive Republican Party 1924-1925*. Leiden: E.J. Brill, 1991; Özoğlu, Hakan. *From Caliphate to Secular State: Power Struggle in the Early Turkish Republic*. Santa Barbara: Praeger, 2011; and most recently, Ardic, Nurullah, *Islam and the Politics of Secularism: The Caliphate and Middle Eastern Modernization in the Early 20th Century*. New York: Routledge, 2012. While these thoroughly-researched works complicate and revise our received understandings of developments *internal* to Turkey in the watershed period between 1923 and 1945, my point here is to emphasize the dramatic and catalyzing social and political effects of the Ankara government's decision *in Afghanistan and India*, and specifically relations between the populist Indo-Afghan Khilāfat movement and the new government in Turkey—a process nonetheless, but one which I can think of no better word to describe than "rupture."

[36] IOR-R/12/LIB/107, *Precis on Afghan Affairs*, 132.

In the late 1920s, the Republic of Turkey continued to play a major role in the development of Afghanistan's educational institutions, sending a number of teachers to Afghanistan to open schools and provide educational services.[37] Even after the turning of Afghan public opinion against the Turkish government in 1924, Turkish citizens continued to arrive in Kabul on a range of infrastructural projects. A 1926 document from the Ottoman archives discusses Turkey sending doctors to Afghanistan for various jobs in public health.[38] In the same year, İsmail Hakkı Bey led a military mission of Turkish Officers to Kabul.[39] Yamauchi describes him as one of the chief agents of the Unionists.[40] An Ottoman archives document of 1926 discusses the expenses made in preparation for this mission.[41] In 1928, a Turkish commission was yet again formed to be sent to Kabul to advise and assist in various governmental programs. Ottoman archives document the preparations made and travel documents prepared in this regard.[42] Due to the political upheaval in Afghanistan in 1928-1929 that eventually toppled the king, the commission was unable to fulfill its purpose.

Özlem Korkmaz notes in his article on the history of Turco-Afghan relations, "Turkey's technical and educational assistance to Afghanistan began in the era of Emanullah Han."[43] As our study has shown, however, Turkish assistance to Afghanistan began considerably earlier, though on a more individual and less systematic manner, during the late Ottoman period. Korkmaz, on the Amānī era, writes "In spite of Atatürk's warnings, the impassioned Afghan ruler's mistakes and the breaking out of civil strife in the country prevented him from reaching his goals." Turkish assistance would begin again under the tenure of Turkish ambassador to Kabul Yūsuf Hikmet Bayur, but by that time, Amān-Allāh Khan was no longer in the country, nor was he king.[44]

Reforms to Rebellions: Afghanistan in the late Amānī Era

In his decade-long rule, Shah Amān-Allāh, as he refashioned his title and preferred to be called in the second half of his reign, twice faced a conflagration of major revolts. The first erupted in 1924, roughly a year after the promulgation of the first Afghan constitution, and just

---

[37] Ahmetbeyoğlu, 205

[38] BOA-HR.İM 205/33 (1926 11 30).

[39] IOR-R/12/LIB/107, *Precis on Afghan Affairs*, 163.

[40] Masayuki Yamauchi, *The Green Crescent Under the Red Star: Enver Pasha in Soviet Russia, 1919-1922* (Tokyo: Institute for the Study of Languages and Cultures of Asia and Africa, 1991), 374.

[41] BOA-HR.İM 254/125 (1926 10 11).

[42] BOA-HR.İM 24/73 (1928 10 31). An Ottoman archives document from 1926 disusses the decision to send two advisors Nusret Bey and Kemal Atıf Bey to Afghanistan. BOA-HR.İM 255/24 (1926 10 31). A pair of Ottoman archives document from 1929, written in the new script though still in the Prime Ministry Ottoman Archives, discusses the return of Turkish judicial advisor to Afghanistan, Mehmed Cevad Bey. BOA-HR.İM 229/74 (1929 02 05); BOA-HR.İM 255/91 (1926 12 29).

[43] Ahmetbeyoğlu, 205

[44] Ahmetbeyoğlu, 205

months after the announcement of Turkey eliminating the Caliphate. Erupting from the southeastern town of Khost, the rebellion was one the Amānī regime was only able to quell after offering major concessions to rival tribes, who eventually helped Amān-Allāh crush the Mangal tribe rebels. The second rebellion ended even less favorably for Amān-Allāh. In autumn of 1928, two tribal revolts—one from the north led by a Kuhistani brigand named Ḥabīb-Allāh Kalakānī (Bacha-yi Saqao), and one from the southeast led by the Pashtun Shinwarī rebels—headed towards Kabul. Kalakānī 's northern faction reached Kabul first, eventually ousting Amān-Allāh from the capital and forcing him to flee to the southern city of Qandahar. Overwhelmed by the betrayal of his closest advisors and increasing intensity of the revolts, it only got worse for Amān-Allāh. On May 25, 1929, the former king secretly fled Qandahar for Quetta, India, subsequently relocated to Italy, and finally settled in Zurich, Switzerland where he died in exile.[45]

Historians of Afghanistan have offered four main theories to explain Amān-Allāh's fall: (a) Muḥammad Ghubār and Rhea Stewart argue it was the covert activities of the British against Amān-Allāh's regime, (b) Leon Poullada argues the ambitious leader's fall was due to the dramatic clash between "stagnant tribal traditions" and "modern forces of change", (c) Vartan Gregorian focuses on Amān-Allāh's lack of a strong financial base and centralized army, and most recently, and (d) Senzil Nawid cites souring state-ʿulamāʾ relations and the determined opposition of "religious resistance" to the reforms. Though these historians do discuss a multiplicity of factors that generated revolts in the country, primary emphasis is laid on these factors.[46]

There is a common dialectical thread running though each of these analyses. That is, present historical scholarship on the Amān-Allāh era of Afghanistan (1919-29) frames the period as one of conflict between progressive "modernity" versus stagnant "traditions." Westernized bureaucrats and advisors fall into the dynamic, progressive category of "modernizers" while "mullahs" and tribal leaders fall into the stagnant, regressive category of "tradition." Moreover, this conventional historiography argues premodern mullahs led the revolts, and that they were fighting Amān-Allāh because of the latter's alleged anti-Islamic, western reforms. What this dichotomous scheme fails to account for is the heterogeneity and complexity of forces Amān-Allāh marshaled for his social and legal reforms, including many urban ʿulamāʾ as well as leaders of a number of Afghan tribes that did *not* rise up against Amān-Allāh at any time during his reign. In focusing on some innate "cultural" conflict between western modernizers and traditional actors, conventional scholarship on the era overlooks the fact that the 1924 Khost Rebellion and 1928 Shinwarī uprising were largely localized revolts limited to eastern and southern portions of Afghanistan, in particular the heavily Pashtun belt where tribal sovereignty was most dominant. Indeed, as Nazif Shahrani illustrates in his insightful article on the Amānī revolts, whole swaths of the country did not rise up against Amān-Allāh either during the 1924

[45] "Amanullah Abdicates From Afghan Throne; Flees by Plane, Leaving Brother to Rule," *New York Times* (Jan. 15, 1929); "Amanullah Abandons Fight to Regain Throne; Afghan King and Queen Seek Refuge in Europe," *New York Times* (May 25, 1929); "Amanullah Reaches Bombay on Flight: Mullahs and People's Objections to Westernization Cost Him Throne, Deposed King Says," *New York Times* (May 28, 1929).

[46] M.G.M. Ghubār, *Afghanistan dar Massir-i Tarikh* (1967); Rhea Talley Stewart, *Fire in Afghanistan 1914-1929: Faith, Hope and the British Empire* (1973); Leon Poullada, *Reform and Rebellion in Afghanistan: King Amān-Allāh's Failure to Modernize a Tribal Society* (1973); Vartan Gregorian, *The Emergence of Modern Afghanistan* (1969); Senzil K. Nawid, *Religious Response to Social Change in Afghanistan, 1919-29: King Aman-Allah and the Afghan Ulama* (1999).

or 1928 revolts.[47] It also overlooks the fissures between Ḥabīb-Allāh Kalakānī 's northern forces (which eventually besieged Kabul land and overthrew Amān-Allāh) and various eastern and southern Pashtun tribes who allied with Nādir Khan.[48]

In summary of the Afghan public' series of complex responses from to the Niẓāmnāmā as manifest in the 1924 Khost Rebellion and the subsequent Loya Jirga at Paghman, Robert McChesney notes,

> Although he asserted the underlying authority of the Shari'ah for this legislation, the ordinances presented in this legislation were seen by man as actually contravening the spirit of the Shariah and removing much legal authority from the hands of Muslim judges, the *qazis*. Particularly troublesome to the delegates were the rules governing marriage. Polygamy was discouraged by taxing second, third, and fourth wives. Marriages had to be registered, child marriages were forbidden, and proposals were made to regulate the payment of bride price. The regulation of the place of women in society proved to be the most explosive issue of Aman Allah's reign and the one most easily exploited by opponents of greater central government control of the countryside.[49]

In a British intelligence cable from Kabul on July 3, 1924, exactly three months after the Ankara parliament's expulsion of the last Ottoman caliph, it was suggested that the chief reasons for the prevalent discontent were to be found in the "'hashtnafari' system of conscription, the introduction of the 'Niẓāmnamaʿ or Fundamental Code, and the introduction of female education."[50] To the above factors, Machonachie adds financial exhaustion, internal disunion,

---

[47] Shahrani, M. Nazif. "King Aman-Allah of Afghanistan's Failed Nation-Building Project and its Aftermath (Review Article)" *IRS* 38 (2005): 661-675.

[48] Where, then, do the cause of these rebellions? Notwithstanding the above factors, little has been said on the *political* factors of Amān-Allāh's modernist regime threatening tribal sovereignty of the Afghan provinces. In particular, conventional historiography overlooks the political threat of centralization to tribal sovereignty. This historiography elides the extremely politically threatening reforms of mandatory military conscription, centralized taxation, and universal education to tribal form of governance and social organization. These measures, if successfully applied, would have eventually eviscerated tribal forms of governance in Afghanistan, something tribes were willing to resist and challenge with significant losses. Such state-tribal tensions are perhaps most evident in the politicization of women's affairs, where Afghan women became the contested terrain in the struggle between the modernizing state and autonomous tribes. The narrow focus on "anti-Islamicity" or "pro-Westernness" of the reforms does not adequately explain the extremely political motivations for the reforms, and the inherent threat those reforms posed to tribal governance at the time.

[49] McChesney 12-13

[50] IOR-R/12/LIB/107, *Precis on Afghan Affairs*, (para. 302, p. 137). Machonachie claims this opinion was "confirmed" by the decision of the subsequent Loya Jirga held at Paghman in July 1924, as follows,

> '(1) Abolition of conscription not agreed to, but exemption fees to be reduced to Rs.
> 300 Kabuli, with alternative of producing substitute.
> '(2) Female education to be restricted to girls under 12 years of age.
> '(3) All courts to follow religious law; clauses of Fundamental Code, relating to
> marriages, right of girls to select husbands, and number of wives admissible to be cancelled forthwith.'
>
> Ibid.

discredit of the Afghan Army, deterioration of administration, and obstacles to "schemes for moral and educational progress."[51]

On internal disunion, one of the greatest signals that something may have been irreparably wrong in the royal court was Maḥmūd Ṭarzī's appointment as Ambassador to France in July 1922—a sort of honorable exile, as was the case with Nādir Khan's travel there about the same time. This fragmentation in the Afghan Court itself leads to Amān-Allāh's increasing isolation and trying to be on two boats at the same time. Nawid notes that by 1928, following Amān-Allāh's return from Europe, even liberal members of his government were organizing to oppose his increasingly single-man rule. Among the liberals alone, two major factions emerged within the already loosely-organized "Young Afghan" liberals. As Nawid describes,

> The first was the moderate liberal group *Mashruta-Khwahan* led by Mīr Sayyid Qasem, a former editor of *Amān-i Afghan*, and by ʿAbd-al-Hadi Dawi, a close associate of Tarzi, who had been imprisoned by Amir Habib-Allah along with several other suspects after an assassination attempt on the amir's life. Dawi had been released from prison shortly after King Aman-Allah's accession to the throne and had been appointed to important positions, such as Afghan minister to London and later as minister of finance. This association grew from a social club that met at Café Wali in Kabul with the objective of establishing a constitutional monarchy… The second group was the radical leftist wing of the *Jawanan-i-Afghan*, also known as *Jamhurriyat Khwahan* (Republicans).[52]

In this way the Young Afghans, already a loosely-organized coterie of intellectuals united only in their dedication to a Afghanistan free from foreign subjection, but also an "enlightened, modern" form of government, split into "moderate" and "radical" branches, to use Nawid's terminology. Members of the radical branch, such as Lūdīn, openly criticized Amān-Allāh Khan's new policies. At the same time, factionalist trouble was already stirring in the court itself, among his closest advisors, and this was far more serious than public critique. It also resulted in the alienation and eventual departure of "powerful and capable men" and "the fulcrum of state power in the early 1920s", including Maḥmūd Ṭarzī, General Nādir Khan, and General Muḥammad Wali Khan.[53]

Isolated and unpopular, even among friends, Amir Amān-Allāh found himself in deeper water with vast segments of his own people, and courtiers. In autumn of 1928, two tribal revolts—one from the north led by the Kuhistani brigand Ḥabīb-Allāh Kalakānī, and one from the southeast led by the Pashtun Shinwarī rebels—headed towards Kabul. Kalakānī's northern faction reached Kabul first, eventually ousting Amān-Allāh from the capital and forcing him to flee to the southern city of Qandahar. Overwhelmed by the betrayal of his closest advisors and increasing intensity of the revolts, this was the seal on the end for Amān-Allāh's decade-long rule. Without an operational bureaucracy, police, or army to enforce his laws, Amān-Allāh's government collapsed as a conflagration of tribal revolts converged on Kabul, deposing the king in 1929. It was the last time an Afghan government imposed reforms of such broad scale until the communist coup d'état of 1978 and ensuing decade of Soviet occupation.

---

[51] Ibid., (para. 303, p. 138).

[52] Nawid, *Religious Response to Social Change,* 150-151.

[53] Ibid., 151.

Beyond Rulers and Rebels: Rediscovering Afghanistan's Constitutional Heritage

As discussed in the introduction to the dissertation, the historiography of modern Afghanistan has offered four main theories to explain the tumultuous events of the Amānī era (1919-1929) and the dramatic overthrow of Amir Amān-Allāh in particular. Ghulām Muḥammad Ghubār and Rhea Stewart argue it was the covert activities of the British against Amān-Allāh's regime. Leon Poullada argues the ambitious leader's fall was due to the dramatic clash between "stagnant tribal traditions" and "modern forces of change." Vartan Gregorian focuses on Amān-Allāh's lack of a strong financial base and centralized army. Finally, and as the most recent book dedicated to the subject, Senzil Nawid cites souring state-ʿulamāʾ relations and the determined opposition of "religious resistance" to the reforms. Though these historians do discuss a multiplicity of factors that generated revolts in the country, primary emphasis is laid on these factors.

With the De Certeau's "problem-space" in mind, there is a common dialectical thread running though each of these analyses. That is, present historical scholarship on the Amān-Allāh era of Afghanistan (1919-1929) frames the period as one of conflict between progressive modernity versus stagnant tradition. Westernized bureaucrats and advisors fall into the dynamic, progressive category of modernizers while mullahs and tribal leaders violently-opposed to all change fall into the stagnant, regressive category of the tradition-bound. "Such reactive violence," to quote Timothy Mitchell's path breaking and prescient work in *Rule of Experts* (2002), "is a perennial theme in discussions of the countryside: the violence of the peasantry, its resistance to change, and its reluctance to accept authority, whether expressed in great rebellions or in everyday forms of refusal."[54] Later in the dissertation, we will return to how aspects of Mitchell's arguments, particularly on the construction of the "economy" as a discourse and structure of power in modern Egypt, can also be extended to "the rule of law" not only in the colonial Middle East and South Asia, but also within Islamic juridical discourse in Afghanistan under Amir Amān-Allāh Khan.

Beyond Afghanistan historiography's preponderant tendencies to drift towards (if not be firmly anchored in) modernization theory and the associated pitfalls with the categories it imposes, there are also certain empirical errors in much of the literature on the revolts during the Amānī era. For example, while much of the literature argues mullahs screaming "blasphemy" led the revolts, or that "the religious establishment" was led to overthrow Amān-Allāh because of the latter's "anti-Islamic, pro-western" reforms, this dichotomous scheme fails to account for the heterogeneity and complexity of forces Amān-Allāh marshaled for his social and legal reforms. As the last two chapters of the dissertation will show, the latter point can be seen in the fact that many urban ʿulamāʾ as well as prominent Afghan tribal confederations did *not* rise up against Amān-Allāh at any time during his reign. In focusing on some innate "cultural" conflict between western modernizers and traditional actors, conventional scholarship on the era overlooks the fact that the 1924 Khost Rebellion and 1928 Shinwarī uprising were largely localized revolts limited to eastern and southern portions of Afghanistan, in particular the heavily Pashtun belt where tribal sovereignty was most dominant. Indeed, as Nazif Shahrani illustrates in his article on the revolts, and Sana Haroon in her study of Pakhtun tribes along the Indo-

[54] Timothy Mitchell, *Rule of Experts: Egypt, Techno-Politics, Modernity* (Berkeley: University of California Press, 2002), 14.

Afghan borderland, whole swaths of the country did not rise against Amān-Allāh either during the 1924 or 1928-29 revolts.[55]

More important, historiography to date ignores the pivotal role of a diverse transnational cast of ʿulamāʾ, bureaucrats, and jurists from a broad spectrum of ideological backgrounds who all supported, and indeed drafted, the Niẓāmnāmā code project. In framing the era as a romantic conflict between "progressive western modernizer" versus "stagnant tribal-religious traditions," works on the Amānī era have promoted a stark modern-traditional binary, eliding the discursive nature of Islamic law and the crucial role of a dynamic, transnational team of Muslim scholars and politicians in producing the Niẓāmnāmā codes. In this manner the dissertation seeks to challenge a singularized, secular-liberal model of modernity in Afghanistan that either "succeeds" or "fails" based on proximity to Euro-American instantiations of the rule of law. Rather than asking what forces conspired to "resist modernity" in Afghanistan in the 1924 and 1929 rebellions, more fruitful questions might ask: who stood to benefit from the reformist program outlined by the Niẓāmnāmā commission? What *kinds* of governance and social organization were threatened? Did the commission only represent one vision of governance and law in Afghanistan? This leads to a series of further questions. How did the authors of the Niẓāmnāmā negotiate such diverse legal and ideological perspectives on one commission? From where did they draw inspiration in pursuing this monumental task of modern law reform and constitutionalism from within an Islamic legal tradition? Do the Niẓāmnāmā codes and the first Afghan Constitution of 1923 speak to possibilities for bringing together a broad spectrum of actors and perspectives under the rubric of a modern "Islamic rule of law" in Afghanistan?

While the historiography of Afghanistan has tended to focus on the spectacular violence and disorder caused by the 1924 Khost Rebellion, and combination of uprisings in 1928-1929 that eventually overthrew Amir Amān-Allāh from power, this is perhaps understandable given the dramatic nature of these events, particularly when examining the contrast between Amān-Allāh's lightning rise to power and the era of optimism he unleashed in the country, and the unflattering collapse of his cabinet and government. But focusing on Amān-Allāh Khan's overthrow at the hands of violent tribal revolts that shook portions of southeastern Afghanistan in the late 1920s fall too easily into conventional frameworks of the Afghanistan as the world's failed state *par excellence*. What these commonplace and uncritical perspectives ignore is that Amir Amān-Allāh Khan's Niẓāmnāmā project laid the foundation for one of Asia's most stable Islamic states in the first half of the twentieth century. In this fashion by promulgating the Niẓāmnāmā codes Amir Amān-Allāh sought a "modernized" Sharīʿah, a sacred law instrumentalized to fulfill the prerogatives of sovereign power—maintaining civil order, supervising officials, subjects, and markets, and settling property disputes—while being sensitive to prevailing cultural norms in Afghanistan, or as flexibly stated in the constitution itself, "in light of actual living conditions of the people and the exigencies of the time."[56] Beyond the language of its articles, the premium Amir Amān-Allāh placed on promoting a modern Muslim

[55] Shahrani, *King Aman-Allah*, 661-675. Sana Haroon examines the role of specific sufi pīr-murīd networks in the Pakhtun borderlands, highlighting the particularistic alliances involved in the revolts against Amān-Allāh. For example she tracks the role of the Wazirs, Mahsuds, Mohmands and Afridis in supporting Amān-Allāh against Mangals and Ahmedzai Ghilzais. Sana Haroon, *Frontier of Faith: Islam in the Indo-Afghan Borderland* (New York: Columbia University Press, 2007), 117-124.

[56] Article 72, Constitution of Afghanistan, 1923 (*Niẓāmnāmā-yi asāsī-yi dawlat-i ʿalīyah-i Afghanistan*, 20 Ḥamal 1302 [April 9, 1923]).

identity for the Afghan state is evident in the little we know of the composition of the Niẓāmnāmā drafting commission, as well as prominent officials in his cabinet—an eclectic group which included jurists, politicians, and military officers not only from Afghanistan's two largest cities, Kabul and Qandahar, but as far as Istanbul, Damascus, Cairo, Baghdad, and Lahore.

Even where the rebellions are concerned, not enough scholarly attention has been given to the juridical transformations unleashed by the rebellion, particularly the intense negotiations that took place at the 1924 Loya Jirga where the Niẓāmnāmā were being fiercely debated. Amān-Allāh ultimately backed down and rescinded many of the laws in order to stay in power. As discussed earlier, Mawlawī ʿAbd al-Wāsiʿ took the fall, and was blamed for approving laws contrary to the Sharīʿat. While the historiography has focused on the controversial reforms pertaining to women, less attention has been given to the central-versus-periphery conflict I argue was at the heart of the conflict, as well as the juridical arguments made by the oppositionists.[57] More work needs to be done on how the oppositional ʿulamāʾ representing those fighting the Niẓāmnāmā then became part of the new legislative committees—a juridical coupe which left ʿAbd al-Wāsiʿ Qandahārī in prison, and his most bitter opponents—Mawlawīs Ibrāhīm Kāmawī, , Mawlawī ʿAbd-al-Ghafūr, and other mostly Deobandi ʿulamāʾ from both the Afghan and Indian sides of the Durand line in a legislative capacity, amending and drafting new codes.

These are issues which take us beyond the scope of our study, here, however, which has been the story behind the first constitution of Afghanistan and the associated Niẓāmnāmā codes drafted between 1919 and 1923. While many of the supplementary reforms were rescinded, and there were certain amendments to the Fundamental Code, in structure the *Niẓāmnāmah-i Asāsī* remained, and became the bulwark of all future Afghan constitutions. It also laid the governmental structure for future regimes, including the establishment of a modern bureaucracy with a multi-tiered cabinet and various ministries. Most significantly, as Leon Poullada has examined, the actual text was "extensively copied" in the 1931 Constitution drawn up under Nādir Shah, though no mention of the original 1923 constitution was made in the document, nor, indeed, Afghan historiography for decades to come. As Poullada notes on this foundational contribution,

> [E]ven if Amān-Allāh had done nothing else, the juridical base he provided for Afghanistan was of considerable important since it gave the country the skeleton of the government it was eventually to develop. In this sense the 1923 Constitution was unquestionably a landmark document.[58]

---

[57] This evident in the general historiographical preoccupation with the overt political dimensions of these struggles, to the exclusion of juridical developments, across eras and countries. Gregorian and Adamec focus on the role of secret political societies during the reign of Amir Ḥabīb-Allāh (and not the jurisprudence of constitutionalist ʿulamāʾ like Mawlawī ʿAbd al-Wāsiʿ Qandahārī). Qureshi, Minault, and Özcan focus on the politics of the ʿAlī Brothers in the Indian Khilāfat movement (and not the juridical aspects of the Hijrat movements and building an "Islamic rule of law, not men" in Afghanistan). Finally, Nawid, Poullada, and Gregorian focus on the political factions who ousted Amān-Allāh from power in the mid-to-late 1920s, and not the jurisprudence behind the Niẓāmnāmā codes.

[58] Poullada, *Reform and Rebellion,* 92-93.

The 1923 Constitution of Afghanistan, therefore, represents one of the greatest legacies of the Niẓāmnāmā Amaniyya, though future regimes hardly recognized it. Beyond the actual text, the supplemental legacy that always attaches to the constitutional charter itself, is the document's socio-legal history; more specifically, the Indo-Ottoman juridical nexus. The publication of a constitution and over seventy associated law codes spanning commercial law to criminal procedure by a diverse group of Ottoman, Afghan, and Indian jurists, lawyers, and politicians is a success; it demonstrated how a diverse and multinational body of juridical actors could find a common ground to negotiate complex juridical structures for a modern state. As we understood from this socio-legal history, from Ottoman jurist and High Judicial Council member Ahmed Hulusi Efendi's visit to Kabul in 1877, to the establishment of Ottoman, Deobandi, and Aligharian educational institutions in Kabul, to the contributions of the Istanbul lawyer Osman Bedri Bey as Vice-President of the Niẓāmnāmā codification commission, the document was the culmination of decades of increasing Indo-Ottoman collaboration, and competition, in the Afghan juridical field.

The First Afghan Constitution and the Dialectics of Modernism in Retrospect: Parallels between Modern Afghan Law and Literature

In works making up the historiographical "canon" on Afghanistan during the Amānī era—Vartan Gregorian (1969), Leon Poullada (1973), Rhea Stewart (1973), and most recently, Senzil Nawid (1999)—one finds a consistent binary paradigm of a forward-looking modernism (read: Amir Amān-Allāh and his Young Afghan reformers) versus a stubborn, retrogressive traditionalism (read: the Afghan ʿulamāʾ) in epistemological, and eventually, quite literal battle. In contrast to this binary lenses, heavily indebted to modernization theory we might surmise, the work of Wali Ahmadi posits a more subtle portrayal of Afghan modernism and its historical agents through a series of nuanced readings of the poetry and prose of Afghan literati writing in Dari (Afghan dialect of Persian) in the twentieth century. In the process he identifies a parallel between the literature of ethnocentric modernization theorists and the anti-colonial writers. "The study of modernism in non-Western literatures," notes Ahmadi, "often draws from an essentially binary perspective, from certain generalizations that insist on the dichotomous and inherently antagonistic relations between such abstractions as autochthonous (native) traditions and imported (Western) innovations, and assumes a view where either literary innovation irreversibly triumphs over various manifestation of *démodé* traditions, or indigenous heritage resists the penetration of some gratuitous novelty."[59] Ironically, the binary trope he describes here is one that both modernization theorists, and the postcolonial authors writing against them in the mid to late twentieth century, largely shared in their approach to modernity in "third-world" societies such as Afghanistan.

In contrast to such binary perspectives to Afghan modernism (and its discontents), an examination of Afghan literati in early twentieth century Afghanistan presents a unique case of modern Muslims in a non-colonial context—the modern Afghan state was not a colonial construct, nor was its government ever run by foreign administrators or native proxies until the Soviet occupation of the 1980s—rendered the already suspect binary approaches to modernity even less appropriate in the case of Afghanistan. By analyzing the uniquely modernist interventions in the literary field—in particular what he describes as the *purposeful* union of

[59] Ahmadi, *Modern Persian Literature in Afghanistan,* 5.

aesthetics and politics—*Modern Persian Literature in Afghanistan* convincingly illustrates how Afghan intellectuals in the twentieth century successfully evaded the "Manichean" paradigms of "foreign" versus "indigenous" that characterized the revolutionary thought of many other prominent anti-colonial writers and activists in other "third-world" contexts, from Franz Fanon to Mahatma Gandhi. Describing the limits and pitfall of such dualistic approaches to modernity in "third-world" societies, Ahmadi critiques the commonplace postcolonial thesis, that if applied to Afghanistan lock, stock, and barrel, would hold that Afghan literature is "true" or "authentic" in so far as it is rooted in some imagined pre-modern, pre-colonial, non-Western self. The corollary of such a thesis, he notes, produces a one-dimensional conception of modernity, underscored by the notion that,

> Whatever is 'influenced' (i.e. diluted) by Western literary works and movements ought to be discarded as inauthentic and unoriginal. Since modernity is regarded as an imposed order that came about in conjunction with Western colonial encroachment and imperial domination, modernism and modernist aesthetics and poetics are also seen as alien, expressing the alienated selves of a few deracinated writers and poets who are intellectually disconnected from the masses, the vast subaltern classes, and their collective history, memory, and identity.[60]

This nuanced and incisive reading of the works of Afghan poets, novelists, short-story writers, and journalists writing in the twentieth century thereby demonstrates how Afghan litterateurs, far from dualistic hybrids, lived "in a world of multiple determinations, not of single or predominant ones," effectively evading the dual polarities of anti-colonial (and postcolonial) Manichaeism.[61] Given the constraining conditions of the Cold War and its politics of polarization that beleaguered the overlapping Arab, Muslim, and "third" worlds, this was no marginal feat on the part of twentieth century Afghan intellectuals. It also partially explains Afghanistan's significant role in the non-aligned movement a few decades later in the century, a posture of "positive neutrality" that is usually attributed to the insights of individual leaders and elites. The latter "great men" theories of modern history, for example, would have Afghanistan's last monarch, Muḥammad Ẓāhir Shah—and his more powerful uncles and *de facto* policy-makers, sardārs Muḥammad Hāshim Khan (1885-1953), Shah Maḥmūd Khan (1890-1959), Shah Walī Khan (1888-1977), and later Prime Minister Muḥammad Dāwūd Khan (1909-1978)—as the brave pioneers or brilliant architects of a more nuanced politics during the Cold War, joined of course by the other nationalist "father-figures" of nonalignment as Egypt's Gamal ʿAbd-al-Nasser, India's Jawaharlal Nehru, Yugoslavia's Josip Broz Tito, Indonesian president Sukarno, and Ghanian president Kwame Nkrumah. In contrast to such elite, top-down views of history, *Modern Persian Literature Afghanistan* de-centers the attention on kings and presidents to explore deeper social, cultural, and intellectual currents in Afghan society that go much further in explaining the unique historical emergence of a poetics and politics of not only non-alignment in twentieth century Afghanistan, but an intellectual cosmopolitanism and pluralistic approach to modernity by its intellectuals.

What explains Afghanistan's distinctions in this regard? Apart from the country's uniquely non-colonial features in the early twentieth century, Afghan literati averted the overt politicization and "official-conformist" co-optation of the literary field in Afghanistan by

[60] Ibid.

[61] Ibid., 6.

promoting, through literature, their own political visions and projects for the reformation of society that at times engaged, and other times radically critiqued—but rarely uncritically embraced—the modern Afghan state and its prescriptive reforms for society. Using Goankar's idea of "creative adaptation," or "the site where people 'make' themselves modern, as opposed to being 'made' modern by alien and impersonal forces," Ahmadi argues that a burgeoning Afghan intelligentsia from the Amir Ḥabīb-Allāh to Ẓāhir Shah eras "questioned and complicated the past heritage, explored alternative routes to cultural change, and positioned themselves as vanguards of modernity and modernization, was not along the exclusive lines of either assuming or rejecting a modern identity."[62] More specifically, through a complex process of appropriation, incorporation, and a multiplicity of visions of reform, he shows, "the main objective of the intellectuals was to reformulate a dynamic *cultural-political* agenda for a potential shift from coercive state domination to a more benign, more viable, more persuasive (and, therefore, more hegemonic) kind of infrastructural power of the modern, centralized national polity within the bounds of a civil society."[63]

In this way Afghan intellectuals, or the *rushan-fikrān* (luminaries) as they are reverentially termed in Dari, promoted a sophisticated cultural-political agenda that contrasted with the brutally centralist state project of Amir ʿAbd al-Raḥmān Khan. In the process they laid the foundations of constitutionalism (*mashrūṭiyat*) in Afghanistan, the latter being defined as the goal of limiting, constraining, and regulating the highly arbitrary powers of the monarchy. By pointing to, underscoring, and cultivating pervasive consensual ties within society rather than consolidating and reinforcing the dominant state, Afghan literati and political martyrs such as the early nineteenth century journalist and constitutionalist Muḥammad Sarwar Wāṣif helped the *rushan-fikrān* avert the stifling "official-conformist" versus "resistance-oppositional" polarities that beleaguered so many other anti-colonial and postcolonial movements in Asia, Africa, and Latin America in the same century.[64] In a crucial historical development, this dynamic and cosmopolitan class of modernist Afghan intellectuals in the early twentieth century would have lasting consequences for Afghan civil society not only by inspiring and engaging their peers and own generation of writers and political activists, but by unleashing the imaginative possibilities and ambitions of a range of students, including a young prince named Sardār Amān-Allāh Khan, and a number of other members of the Young Afghan constitutionalist party who were thrust into power after the latter's coronation in 1919.

As we touched upon in the introduction, Wali Ahmadi's study of Afghan literati is a pioneering contribution to modern Afghanistan studies not only on its own terms, but for its contribution to inspiring the studies of parallel movements and social networks. In relation to our present inquiry, and throughout much of my process writing it, in retrospect my own study provides potential comparisons between the Afghan literati examined in *Modern Persian Literature in Afghanistan* and other intellectuals writing at the same period but who are *not* a focus of Ahmadi's innovative work—the jurists who participated in the Niẓāmnāmā lawmaking commission. When it comes to crafting a dynamic space of "creative adaptation", the jurists who participated in legal codification projects during the Ḥabīb-Allāh Khan but especially Amān-Allāh Khan eras share a core similarity with Afghan literati—primarily poets, journalists,

[62] Ibid., 20.

[63] Ibid., 28.

[64] Ibid., 30-31.

and fiction-writers of the era. Indeed, in some cases, as with the jurist and author Muḥammad ʿAbd al-Wāsiʿ Qandahāri, or even the martyr to Young Afghan constitutionalism, Muḥammad Sarwar Wāṣif, the distinction between the two groups is not so obvious. Overlooking the significant and frequent overlap between both groups, the strongest parallel with the Afghan literati is the Niẓāmnāmā jurists' resourceful, selective, and innovative pulling from a variety of models and sources for their own crowning achievement: the first constitution of Afghanistan and the over seventy associated Niẓāmnāmā codes they authored. While the jurists largely maintained a staunch loyalty to the Ḥanafī school of *fiqh* (Islamic jurisprudence) which formed the jurisprudential substance of the codes on the one hand, on the other hand the organization, structure, and layout of the codes largely resembled the influence of more recent Ottoman law codes such as the *Mecelle*. Though the latter, as discussed in Chapter 2, was drafted by jurists also working within a predominantly Ḥanafī training and jurisprudential tradition, it was the creative adaptation of Ḥanafī *fiqh* for substantive legal provisions in the *aesthetic* format of European law codes such as the Code Napoleon that made the *Mecelle* particularly *new and distinct*.

In this way, when it comes to the drafting of the first Afghan constitution and associated Niẓāmnāmā codes, the jurists who participated in this landmark project fostered attempts to form an authentic, modern expression of Afghan Islamic culture—in the juridical field. The jurists who participated in the Niẓāmnāmā project—dynamic as it was—however, were ultimately *not* as successful in averting the politicization of the Afghan juridical field for reasons having to do with the official-conformist nature of their appointments, the ruptures associated with the Turkey's transition to a secular republic, the sudden collapse of the Indian Khilāfat movement, and the politics of opposition in center-periphery relations in Afghanistan as well as Deobandi Islam, among other complex factors what take us beyond the scope of our present study.

In discussions of Islamic modernism, the historiographical focus has largely been on Egypt, Turkey, Iran and India, and as the largest and most populous countries in the region, for good reason of course. Afghanistan, however, also had an important role and a *unique* role as a critical conduit of conversations and dialogues among Muslim moderns, particularly in the juridical field. Constitutions, civil law codes, modern law schools and educational syllabi—these are documents I pay close attention to as articulations and experiences of modernity in the Middle East that often get lost, overlooked, or forgotten amid the more spectacular, more dramatic, and of course more militant expressions of modern Islam that unfortunately get most of the spotlight in public and even academic circles in our contemporary moment. Needless to say, these problems in the field are especially acute with regard to literature and scholarship on Afghanistan. In this way, my dissertation takes the first steps towards highlighting Afghanistan as a crucial player in the history of transnational Islamic juridical modernism during the long nineteenth century.

Of course, the story of the first constitution of Afghanistan does not end in 1923, nor was it ever limited to Afghanistan to begin with. We still need to discuss what happens to the Indo-Ottoman constitutional commission and the government of Amān-Allāh Khan himself, developments that are completely intertwined, I argue, with the formation of an ultra-secular Kemalist Republic in Turkey, and the collapse of the Khilāfat movement in India in 1923-1924. What effects did the expulsion of the Ottoman Sultan in 1922, the declaration of a Turkish republic in autumn 1923, and most dramatically, the abolition of the Caliphate in 1924, have on the Indo-Ottoman Constitutional commission in Afghanistan? 80 years later, these questions as well the longer juridical legacy bequeathed by Amir Amān-Allāh's and the Indo-Ottoman-

Afghan drafted Constitution not only relate to the modern juridical history of not only Afghanistan, but resonate and echo with the formation of Constitutions and law codification projects in subsequent Arab and Islamic states, from Saudi Arabia in 1932, to Pakistan in 1947, to Iran in 1979, to the very processes underway in Tunisia, Egypt, and Libya as I write today.

– • –

Closing Thoughts

As the notion of what constitutes an "archive" for historians has undergone significant transformation in the past century—from parish records in rural England or France, to the Islamic court *sijjil* records in provincial Ottoman Syria or Anatolia—so, too, have historians' eyes tend to drift, or linger, on the most curious of sites. In pursuing answers to the questions that make up the heart of this dissertation, I had the privilege, the pleasure, and the near-death experience, all-in-one, of performing historical research work in some of the greatest cities of the Middle East, South Asia, and Europe: Istanbul, Ankara, London, Kabul, Karachi, and Delhi. But beyond the muggy corridors, the dusty shelves, and the endless cups of tea—taken in at least four different ways depending on locale—what I found myself repeatedly drawn to in each of these destinations was how little I would have known about any of the remarkable individuals, institutions, and their intertwining histories that culminated in a single document, the first constitution of Afghanistan, had I just focused on the text of that historic charter alone. In this way, while an individual historian and a lawyer might approach this subject differently, each from a unique and valuable perspective of her own, as a student of legal history I had the overwhelming opportunity, and challenge, to combine both.

On a more extra-textual note, viewing the entire earth as an archive, at some undefined moment in the midst of my years of research for this dissertation I realized that even just a glimpse as to where some of the most influential actors of the Indo-Ottoman nexus were born, and where they were laid to rest, can tell us a great deal. As only a partial list, the gravestones of the following influential individuals who contributed to the formation of an "Indo-Ottoman" nexus in Kabul as discussed in this dissertation are also "archival" evidence of the tremendous diversity, breadth, and transnational nature of connections being formed and culminating in the Afghan capital during the Amānī era.

Name	**Birth**	**Death**
Osman Bedri Bey	Istanbul, Turkey 1880/81	Kabul, Afghanistan, 1923
Muḥammad Barakat-Allāh	Bhopal, India, 1854	Sacramento, California, 1927
Mahmud Sami Bey	(?), Iraq, 18??	Kabul, Afghanistan, 1930
Maḥmūd Ṭarzī	Ghazni, Afghanistan, 1865	Istanbul, Turkey, 1933
Nādir Khan	Dehradun, India, 1883	Kabul, Afghanistan, 1933
Amir Amān-Allāh Khan	Paghman, Afghanistan, 1892	Zürich, Switzerland, 1960

Beyond gravestones from Sacramento to Jalalabad (where Amān-Allāh Khan, the promulgator of Afghanistan's first constitution, was finally interned), our more conventional definition of Afghan, Indian, British, and Turkish archives continue to give us glimpses of the legacies of the Indo-Ottoman nexus and transnational Islamic juridical modernism, after the Amān-Allāh Khan era. The Afghanistan Digital Archives (ADL) contain, for example, a photocopy of a work by Maḥmūd Ṭarzī composed in exile in Istanbul—not in the nineteenth century as a young Afghan student, but as a retired diplomat, political advisor, and journalist. The work is entitled *Zhūlīdā: Majmūʿah-i ashʿār*, and has a publication date of 1933.[65] After spending the tender years of his youth in Ottoman Baghdad, Istanbul, but most of all Damascus, he then spent the prime of his career serving in Kabul, only to return to the former domain of the Sublime Porte in the last years of his life. Disheartened at the state of affairs in his homeland, Allama Maḥmūd Ṭarzī passed away quietly in Istanbul in the very same year of this publication.[66]

It is in one sense revealing that a man with such ambitious goals and high ideals of reform for his country should be buried so far from one homeland, yet at the very heart of another. It was in the latter locale, after all, where Ṭarzī's worldly travels and education began in the Ottoman empire, and where he owed much of his education and political ideas to in general. In this sense, and in a way, there is something fitting to Afghanistan's most famous twentieth-century intellectual Maḥmūd Ṭarzī being buried alongside some of the Ottoman empire's (and Islamic history's) most eminent scholars, jurists, and intellectuals, including Ebussuud Efendi (1490-1574), the famous Ottoman Chief Justice, Shaykh al-Islam, and compiler of the *kanunname* codes of Sultan Süleyman I "the Lawgiver." It was precisely the latter two men—through the administrative device of *qānūn, kanunname,* and *niẓāmnāmah* codes—who reorganized, remade, and reconstituted the Ottoman empire's juridical field from a loose patchwork of extreme legal pluralism to a more cohesive, centralized, and authoritarian legal framework in the early modern period. Four centuries later, this is precisely what Amir Amān-Allāh Khan and the Istanbul lawyer Osman Bedri Bey sought to do with the Niẓāmnāmā codes in Afghanistan under the banner of what we may summarize as "an Islamic rule of law," a statist project which Maḥmūd Ṭarzī very much encouraged and facilitated via his longstanding connections with Ottoman officials in Damascus and Istanbul. On the topic, it also behooves us to remember here that while future historians might be tempted to remember Amir Amān-Allāh and Bedri Bey as Afghanistan's "Justinian" and "Tribonian", respectively, in fact the pair far more closely resemble the Ottoman empire's Süleyman and Ebussuud, respectively.[67]

As if these remarkable intersections were not enough, Ṭarzi's grave rests in what many today would probably deem to be the country's most venerated Islamic site: the historic Eyüp

---

[65] ADL 0453 (1933) ("*Zhūlīdā: Majmūʿah-i ashʿār*").

[66] Louis Dupree, *Afghanistan* (Princeton: Princeton University Press, 1973), 19.

[67] Tribonian (c. 485-547) was the preeminent jurist and codifier of the Roman Empire under Justinian I (482-565). He is most famous for drafting and compiling the monumental Roman law codes, the *Codex Justinianus*, the Digest, the Institutes, and the *Corpus Juris Civilis*, forming the very foundation of Roman law and indeed, European civil law for centuries to come. Needless to say, the parallel is limited to the realm of the successful production of constituional and legal codes, not actual reshaping of the juridical field on the ground in the case of Amir Amān-Allāh Khan, Bedri Bey, and Afghanistan.

Sultan cemetery of Istanbul, celebrated for its grave and memorial to the revered companion of the Prophet, Abū Ayūb al-Anṣarī (576-674), reported to have been buried at the base of the hill. Ṭarzī's grave rests in a tranquil meadow overlooking Istanbul's rapidly expanding skyline not far from the Bosphorus strait, the literal meeting point of the European and Asian continents, and the proverbial nexus point "where east meets west."

In another revealing document from our post-script period, one of the latest documents in the ADL collection is a 1929 proclamation from the newly founded Jamʿīyat-i ʿUlamāʾ-yi Afghanistan ("Association of Islamic Scholars of Afghanistan"), an organization somewhat modeled off the identically-named organization of India, the Jamʿīyat-i ʿUlamāʾ-yi Hind (est. 1919).[68] While both organizations were founded with the explicit goal of fostering the preservation and promotion of Islamic education and values as well as the social and political interests of Muslims in their respective countries, the Indian *jamʿīyat* was formed at the most nascent stages of the Indian Khilāfat, Non-cooperation, and Indian independence movements in 1919, while the Afghan version was formed a decade later under the patronage of the newly crowned Nādir Shah (r. 1929-1933)—with the entire Amānī era sandwiched in between both dates. In the case of Indian Muslim scholars after World War I, and their Afghan counterparts in the late 1920s, both organizations sought to reflect, mold, and use public opinion to meet the aforementioned goals. Both Jamīʿyat's were also adamant that Islam demanded the freedom and independence of India, Afghanistan, and former territories of the Ottoman empire from British (or French) rule, and that only in a genuine state of autonomy could the prerogatives and rulings of Islam—with the critical condition of it being interpreted by the ʿulamāʾ—be implemented in their respective societies.[69] In this way, both the Jamʿīyat-i ʿUlamāʾ-yi Hind and the Jamʿīyat-i ʿUlamāʾ-yi Afghanistan represent the continuity of ideas hailing from the Islamic revival movement of the Dār al-ʿUlūm madrasah at Deoband (est. 1867, Chapter 3), from which many of both organizations' prominent leaders indeed graduated from or affiliated with.

At the same time, it is revealing to note how the two organizations, in spite of their identical names, Islamic scholarly constituency, and parallel commitment to expounding a theological basis for nationalism, actually manifested quite distinct socio-legal, juridical, and indeed constitutional roles over the twentieth century in their respective states. In addition to the aforementioned expected goals of preserving and propagating Islamic values and education in new national states, India's Jamʿīyat-i ʿUlamāʾ-yi Hind was established with the unique purpose of upholding a mutual contract (*mūʿāhadah*) of preservation, equality, and respect between Muslims and non-Muslims in a secular state. This idea would later be embodied in the Constitution of the Republic of India (1949).

As for the Jamʿīyat-i ʿUlamāʾ-yi Afghanistan, representing an almost entirely Muslim state, the goals in some crucial respects appear to be patently different from their Indian counterpart. Originally conceived in the aftermath of the Khost Rebellion of 1924, and established in 1929 with the official government backing of King Nader Shah, the aforementioned proclamation refers to the founding principles of the organization. As Senzil Nawid has observed on the Afghan Jamʿīyat-i ʿUlamāʾ,

[68] ADL 0659 (25 Qwas 1308/15 Rajab 1348 [) ("Maramnamah-i Jamʿīyat-i ʿulamāʾ-yi Afghanistan").

[69] Ibid.

> The society's platform, promulgated on December 17 of that year, stipulated a membership of individuals appointed from among top religious leaders. Its functions included everything from implementation of the *al-amr bi al-marʿruf* to supervision of every detail of public and private religious life. So at the end of the 1920s, the role of the ulama in government was stronger than ever.[70]

Notably, in spite of their distinct national contexts and objectives, both the Jamʿīyat-i ʿUlamāʾ-yi Hind (1919) and the Jamʿīyat-i ʿUlamāʾ-yi Afghanistan (1929), as firm believers in the power of precedent, raised the *Saḥīfat al-Madīna* (622)*,* better known as the Constitution of Madīnah (Chapter 1), as their model for a modern Muslim state and juridical order.[71]

Moving on to a post-script document from Turkey, a 1937 document in the Republican Archives in Ankara discusses the appointment of none other than the Punjabi migrant to Afghanistan, "Tğm. Zafer Hasan", as both an international representative of the Ankara government and officer in the army of the new Turkish Republic. This document teaches us that following his migration from India to Afghanistan at the height of the first world war (Chapter 4), Hasan would later settle in Turkey, proceed to accept Turkish citizenship in the new Republic, and even receive rank in the Turkish military. Zafer Hasan "Aybek" published a work on English and Turkish military vocabulary, probably useful in joint military exercises with the United States, Britain, or other countries of NATO. More academically, Hasan authored an article on Ubeydullah Sindhī in Afghanistan, the Deobandi scholar and his teacher from a young age, as well as the history of an Indian *tekke*, or sufi lodge, in Istanbul.[72] As the April 1937 document in the Turkish Republican Archives in Ankara reports, "Tğm. Zafer Hasan" returned to Kabul to represent the Ankara government as a military instructor for the Afghan army under the reign of the new king Muḥammad Ẓāhir Shah (r. 1933-1973). The purpose of the archival record was to document the preparation of Zafer Hasan's diplomatic passport in this regard. In spite of all the disappointments he experienced in his first adventure in Afghanistan during the Ḥabīb-Allāh and early Amānī eras, something had brought this restless and transnational former Indo-Ottoman, and now Indo-Turk, back to Kabul.[73]

As for the once lionized *ghāzī* king who won Afghanistan's independence, overwhelmed by the betrayal of his closest advisors and increasing intensity of the revolts, on May 25, 1929, the former Afghan *pādshāh*—as he ceremoniously changed his title to from the more traditional "Amir" in 1926—secretly fled Qandahar for Quetta, India, subsequently relocated to Italy, and

---

[70] Nawid, *Religious Response*, 185.

[71] No doubt the later, pro-Pakistan *Jamīʿyat ʿUlamāʾ-yi Islam* (est. 1945) and Islamic Republic of Pakistan (1947) provide additional models for modern Islamic "rule of law" and constitutional orders that also hail from the geneology discussed here, but this takes us beyond the historical confines of even this dissertation's "post-script."

[72] Zafer Ḥasan Aybek, "Ubayd-Allah Sindhī in Afghanistan," *Journal of the Regional Cultural Institute* VI/384 (1973): 129-136; Zafer Ḥasan Aybek, *Söyleyişli İngilizce-Türkçe Askerî ve Teknik Sözlük* (İstanbul: Askerî Basımevi, 1948); Zafer Ḥasan Aybek, "Hindiler Tekkesi," *Hayat Tarih Mecmuası (Istanbul)* 7 (1977): 96.

[73] BCA 30.18.1.2/73/30/5/112-192/2 (14 04 1937) ("Öğretmenlik yapmak üzere Afganistan'a gidecek Tğm. Zafer Hasan'a siyasi pasaport verilmesi").

finally settled in Zurich, Switzerland where he died in exile.[74] According to an April 29, 1935 document in the Turkish Republican Archives, in one of the last public appearances, the former Afghan King Amān-Allāh Khan was found in Mecca, in the newly formed state of Saudi Arabia, performing the rites of the Ḥajj pilgrimage.[75] While some may have interpreted his travel as an attempt to rehabilitate his credentials for a potential comeback, others see an act of personal devotion and piety. Others, still, see the symbolism of a king who bolstered Pan-Islamic alliances, recruited experts from Constantinople to Cairo, and—for a moment at least—won the hearts of Muslims across three continents, performing the *ṭawāf* (circumambulation of the Kaʿbah) not as a king, but as an "ordinary" Muslim pilgrim. This is the last reference to the former Afghan shah that we find in the Turkish archives.

Finally, in closing, we turn to a spring 1929 document from the National Archives of India in New Delhi. In a declassified file of the Frontier Branch of the British Indian Government's Foreign and Political Department rests the dusty and faded but still legible remnants of a transnational letter exchange. The first document, dated May 17, 1929, is a handwritten letter from a high school student in Los Angeles, Edison Ostrom, writing to the British Consulate in Washington D.C. Notably, this was exactly a decade after the aforementioned amir of Afghanistan, Amān-Allāh Khan, had launched his drive for independence from the British described in the opening lines of this dissertation. Edison's inquires as to state of government in Afghanistan, as well as the alleged covert activities of British spy T.E. Lawrence in the Indo-Afghan frontier, just over a decade after the latter's role in the Ḥijāz revolt against the Ottomans.[76] Less than two months later, the young student from Los Angeles already received a response, but from a source much closer to the subject at hand: the Foreign and Political Department of the British Raj's Government in Simla, India. The brief but pithy transcontinental letter exchange reads on the next page as follows.

[74] "Amanullah Abdicates From Afghan Throne; Flees by Plane, Leaving Brother to Rule," *New York Times* (Jan. 15, 1929); "Amanullah Abandons Fight to Regain Throne; Afghan King and Queen Seek Refuge in Europe," *New York Times* (May 25, 1929); "Amanullah Reaches Bombay on Flight: Mullahs and People's Objections to Westernization Cost Him Throne, Deposed King Says," *New York Times* (May 28, 1929).

[75] BCA 30.10.0.0/258/733/13/435 (29 04 1935) ("Eski Afgan Kralı Emanullah Han'ın hac için Hicaz'da bulunduğu")

[76] NAI-FP/FRNT 1929 217-F ("Enquiry by one Mr. F. Edison Ostrom of California in regard to the recognized Central Government in Afghanistan and the part played by Mr. Lawrence in the Afghan rebellion")

(Letter from an American high school student to the British Consulate)

Los Angeles
May 17, 1929

English Consul.
Dear Sir,

This is no doubt a long way to go for information but still it is bound to be the most satisfactory method.

Our class here in school has been studying Asia but has been unable to get any up to date material on Afghanistan. Would you please inform me what the present form of government is. Also, if possible, the part played by Mr. Lawrence in the last revolution.

We have been instructed to obtain source material and I beleive [[sic]] this is getting down to the "source."

Hoping you will pardon me I remain,

Yours truly
[signed] *Edison Ostrom*

(Forwarded Response from the British Consulate)

Foreign and Political Department
Dated Simla, the 3rd July 1929.

Dear Sir,

In reply to your letter of the 17th May, the enterprise displayed in which undoubtedly deserves encouragement, I am desired to inform you that at present there is unfortunately no generally recognized central Government in Afghanistan, which is in a state of civil war.

Your enquiry as to the part played by a Mr. Lawrence in the Afghan rebellion has doubtless reference to Press rumours connecting the name of Aircraftsman Shaw of the Royal Air Force (formerly Colonel Lawrence) with the troubles in Afghanistan. These rumours, which were partly due to anti-British propaganda and partly to sensationalism pure and simple are absolutely without any foundation of any kind.

Yours truly,

Sd. J.G. Acheson,
Deputy Secretary.

– • –

Upon discovering the above letter exchange in the Indian National Archives in New Delhi transcribed above, my reaction could be described as bittersweet, melancholy, and reflective. On the one hand, the young Californian high-school student displays a tenacious resolve to "get down to the source" in his research, to use his own words, along with a curiosity and initiative for knowledge-seeking that would make many a history teacher proud. Sadly, however, not a word in either the initial inquiry, or the response, is said about the Afghan constitution of 1923. Instead, the student is left with an ahistoric portrayal of perennial civil war raging in the country, as if to say the "troubles in Afghanistan" boil down to either anti-British propaganda, or by implication, the country's own "failures" as a state, country, or people.

Perhaps, however, we might overlook the young student's attentiveness to revolution, militant conspiracies, espionage, and civil war. We might even excuse a British Indian colonial official's focus on Afghanistan's internal turmoil and conflict in the same regard. Too many scholars, politicians, and experts, after all, have proven to be invested in the same theme.

APPENDIX A

Indian Muslim leaders receiving letters from Ottoman territories (1881)

Name	Origin of Letter	Number of Letters
Muḥammad Jamāl al-Dīn	Cairo	25
	Constantinople	3
	Alexandria	1
	Suez	1
The Turkish Consul at Bombay	Constantinople	13
Muḥammad Siddīq Ḥasan	Cairo	9
	Constantinople	2
The Nawāb of Hayderabad	Constantinople	2
The Nawāb of Rampur	Constantinople	2
The Begum of Bhopal	Constantinople	1
Sir Salar Jung	Constantinople	1
The Nawāb of Bhawulpur	Constantinople	1
The Nawāb of Dacca	Constantinople	1
The Nawāb of Dera Ismail Khan	Constantinople	1
The Nawāb of Surat	Constantinople	1

Source:
NAI FD/SEC March 1881 92-103 (No. 97) ("Mahomedan intrigues; Correspondence between Constantinople and Mussulmans in India").

APPENDIX B

Number of British Indian Subjects living in Ottoman Baghdad and its vicinity (1882)

KERBALA: permanent residents

Natives of Lucknow and the North West Provinces

	Males	Females	Boys	Girls
	341	584	129	134

Kashmiris	Males	Females	Boys	Girls
	130	101	71	65

Punjabis	Males	Females	Boys	Girls
	60	56	58	39

TOTAL	Males	Females	Boys	Girls
	531	741	258	238

NAJAF: permanent residents

Indian domicile unknown

Males	Females	Children
51	53	76

Source:
NAI FD/GNL/B April 1882 14 ("Approximate number of British Indian subjects residing at Baghdad and its vicinity").

APPENDIX C

British Subjects employed in Kabul and their respective occupations (1892)

Name	**Occupation**
Dr. Gray	Physician
C.L. Collins	Geologist
F.H. Clemence	Supt. of Horse Depôt
F. Walters	Tailor
A. Cameron	Mechanic
J.G. Edwards	Mechanic
F.S. Smith	Mechanic
W. Tasker	Tanner
E.T. Thornton	Currier
J. Wild	Gardener
W.E. Skinner	Lapidary
H. Middleton	Miner
J. McDermot	Mechanic (on leave)

Source:
NAI FD/FRONT/B Oct 1892 151-57 ("List of Europeans in the Amir's service").

APPENDIX D

Translation Sections of Amir ʿAbd al-Raḥmān's *Kitābchah-i Ḥukūmatī* (1903)

Though printed in 1903, the document is entitled "A few sections of the "Kitābcha-i-Hukumati", a law manual drafted and promulgated under rule of Amir ʿAbd-al-Raḥman (1880-1901) for the guidance of governors (*ḥakīms*). It was reported by British Indian sources to have still been in force in parts of Afghanistan during the reign of Amir Ḥabīb-Allāh.

– • –

A few sections of the "Kitabcha-i-Hukumati" enacted by the late Amir for the guidance of Hakims and still in force in Afghanistan.

1. When a person having a claim or grievance against another person appears before a Hakim and states that the defendant or accused declines to accompany him to court, the Hakim shall furnish him with an *ilam namah* requiring the accused's appearance in court. If he still fails to attend, a sepoy called *muhassıl* will be deputed by the Hakim and 1 *abbasi*, three annas, per mile will be charged from the accused or defendant.
2. Every Hakim shall give a receipt for money paid on account of revenue or fine. IF he fails to do so, and it is proved by the payer that the amount due for him has been paid, the Hakim shall pay Rs. 500 fine in addition to the amount paid by the payer.
3. Any persons that may be found using wrong weights other than those usually in vogue in the country shall be punished with Rs. 500 fine.
4. Any person or persons who may have a dispute or quarrel with another person or persons without any of the party being injured, he or they shall be arrested and detained with the opposite party till such time as they come to an arrangement.
5. If two persons fight with each other, and one of them receives a simple hurt, the Hakim shall refer the case to a council of elders called *adils* with a view to fixing the amount of blood money, which shall be paid to the wounded person. A fine equal to the amount of blood money shall also be paid by the accused.
6. If the hurt received by the wounded person is a previous hurt, the case will be decided according to Shara. Blood money will be fixed by the Kazi, and a fine equal to the amount of blood money shall be realized by Government.
7. Any person who may subject another person to illegal confinement without Hakim's order shall be fined Rs. 500.
8. Any person who may kidnap or abduct a child (boy or girl) of another person, shall be sentenced to fine, which will be fixed according to accused's position. He shall also be sentenced to 60 strokes and 3 months' imprisonment. The punishment of the child shall rest with his father.
9. If any prisoner escapes from jail, the guard or sentry must undergo the punishment inflicted upon the prisoner.

10. Whoever is found moving about in bazár and streets in a state of drunkenness shall be sentenced by Kazi to scourging according to Shara, and by Hakim to five of Rs. per scourge.
11. Whoever abuses any person, shall be sentenced by Kazi to scourging, and by Hakim to five of Rs. 5 per scourge.
12. Whoever breaks teeth of any person shall be sentenced by Hakim to fine of Rs. 500 per tooth, after proceedings having been taken by Kazi according to Shara.
13. Whoever with intent to commit theft climbs up the wall of a house, without trespassing into the house, shall be sentenced to 40 stripes, two months' imprisonment and Rs. 200 fine.
14. Whoever with intent to commit theft trespasses into a house, and is arrested shall be sentenced to 3 months' imprisonment, Rs. 300 fine, and 60 strokes.
15. Whoever commits theft and is arrested for the first time, shall be punished with fine, *i.e., diyat* for one hand, and placed under security for good behaviour.
16. Whoever commits theft a second time, his right hand shall be cut off.
17. Whoever commits theft a third time, his left foot shall be cut off.
18. When a dead body is found in a Muhalla, *diyat* for murder and fine equal to *diyat* shall be realized from the people of the Muhalla.
19. Whoever causes death of any person with a stone or instrument other than instruments of murder, shall be liable to pay Shari *diyat* (blood money) with fine equal to *diyat*. If accused is unable to pay, *diyat* and fine shall be realized from his tribe.
20. Whoever causes death accidentally shall be liable to pay *diyat* to the heirs of the deceased, and a fine equal to *diyat* to Government.
21. When a person is murdered with a murderous weapon and the heirs of the deceased are willing to accept *diyat*, fine equal to halt the *diyat* shall also be realized from the murderer.
22. Where the heirs of a murdered person forgive the murderer, no fine even shall be imposed by Government.
23. Every Hakim is entitled to receive Rs. 2 out of every twenty rupees of *diyat* realized from convicts.
24. When an *'amil* (revenue assistant) or *zábit* (minor Hakim) is summoned by the Amir to Kabul, he shall be sent by the Hakim in proper custody. Receipt shall be obtained for him when such *ámil* or *zábit* is made over to officials in Kabul.
25. No person convicted and sentenced to death under the provisions of *shara* shall be made over to the murdered person's heirs for being killed unless the sentence is confirmed by the Amir.
26. If a prisoner escapes from jail, and is detected by the Hakim or his officials, he shall be sent at once to Kabul in proper custody.
27. Whoever is found to be in possession of a forged deed or document, shall be sent by the Hakim at once to Kabul in proper custody.
28. If a report is made to a Hakim that a certain named person is in possession of property belonging to refugees or is in communication with refugees, the Hakim shall make enquiries and on proof being given by the informant refer the matter to the Amir for orders. If the informant fails to adduce proof, he shall be arrested at once and sent to Kabul in proper custody. This does not apply to news-writers.

29. Any point or question not covered by the provisions of *Kitābcha-i-Hukumati*, shall not be disposed of by a Hakim at his own discretion. It shall be referred to the Amir for orders.
30. Where a powerful influential man causes hurt to or accidentally causes death of any person, he shall be punished with double the ordinary amount of fine.
31. When a Hindu has a claim against a Mussalman or Mussalman against a Hindu, it rests with the Hindu to have his case decided according to Shara or by reference to Panchái t.
32. Fines shall originally be realized from the offenders convicted, and, if there be no hope of realization from them, from their relatives, and on the latter failing to pay, from their clansmen.

Source:
NAI FD/SEC/F July 1903 8-9 ("Notes on the administration of Law and Justice in Afghanistan, by Mīr Abdul Rashid, Mīr Munshi to the Chief Commissioner in the North-West Frontier Province").

APPENDIX E

Article in *Al-Moayyid* newspaper, by Muḥammad Munir-uz-Zaman, a member of the Educational Society in Bengal and writing "on behalf of the Indian Muslims" to the Sublime Porte (1903)

This article was published in Arabic on December 24, 1903.

– • –

"We request you to be the means of bringing together the Moslem nation and bind them in a common bond of the protecting Khilāfat.

We solicit you to consider our wishes and place them on the threshold of the Supreme Khalida. The request has been often made before, and we feel sure that it will be approved and granted in the interests of the Moslem nation.

We request that "Urdu", which is the language of the Indian Mussulmans, should be taught in some of the colleges, in Turkey or at least in the new technical school, which was established in honour of His Majesty's silver Jubilee of his reign, in Constantinople. This will facilitate interchange of communication and mutual conference between the Indians and Turks, and will improve their mercantile relations, and benefit them in their religion and worldly affairs.

We request also that the Turkish Government should appoint a number of Turkish Consuls and Consular Agents in the important cities of India, particularly in Calcutta, so that we may be able to communicate with him in matters affecting our interests, and express our public opinion, and assure him of the strong bond with which we are attached to the throne of our Khalifa and Amir-ul-Momineen.

The political, national and religious advantages which will accrue by such consular appointments, are clearly understood by the wise and sagacious. We hope that you will help us in this our earnest request, and also that other papers will join their voice to yours in order to secure this object.

We ask for another thing also, which is really for the benefit of the public and the enterprising persons who may be engaged in the world. It is this viz., that a Turkish merchant should come here to establish a big mercantile firm, in which all thinks and articles manufactured in Turkey should be stocked and exposed for sale in Calcutta. The people in these days are very patriotic and are moved by national feelings and they want to buy and use things made in Eastern countries. They have now discarded the use of turbans, and adopted Turkish caps, not for the sake of their beauty but because they have become the distinguishing mark of a Moslem. Indeed it would have been great deal better if these caps, instead of coming from Austria, had come from Turkey.

Be up and doing, oh the youth of Islam, and stem this destructive torrent from bringing your ruin. Why cannot we recover some of the lost ground by uniting together in this way and acting to secure other benefits ourselves?

If our brethren in Turkey were to know how we always talk about them, and how joyful we feel to be in their company, how glad we are to hear good news about them and how jealous we are about the honour of our Khalifa, they would fly to meet us with open arms and live among us, and benefit us and themselves.

The Indian Moslems are energetic people and they are very strongly bound to the "Khilāfat". These people, although they are so far removed from Turkey, are enquiring about Turkish news, whenever a paper is opened before them and they discuss their affairs, whether young or old, men or women, rich or poor; they are equally eager to learn the news and to show their sincere sympathy to them. If some Turkish merchants open shops here none of us would buy an article or thing from any other shop, if the required article could be found in the Turkish shop.

WE say these words after our personal experience and knowledge of the feelings of the people.

It could be suggested that one of our merchants could open transactions with merchants in Constantinople and thus derive immense profit. We say, this can be done. But our object is to have a merchant of Turkish nationality, whose presence and appearance among the the [[sic]] people here, would have a great deal better effect and prove highly stimulating.

We send this communication to Al-Moayyid so that Turks may know that we are very friendly and sincere to them.

In the end we say that you should not lose this valuable opportunity, and neglect this matter. "Man shall get what he works for" and peace be on our Moslem brethren both in the East and the West."

Source:
NAI FD/EXTL/B March 1904 109 ("Article in the newspaper 'Al-Moayyid' written by Muḥammad Munir-uz-Zaman suggesting that the Moslem Nation should join together in a common bond. From Al-Moayyid, No. 4143, dated 24 December 1903").

APPENDIX F

Speech of Amir Ḥabīb-Allāh Khan on the unsatisfactory state of education at the Ḥabībīyah high school and in Afghanistan in general (1906)

– • –

"The Habeebiya school was opened nearly three years ago, but now we observe its work retrogressing; it is the Government officers that are especially to blame.

If education be the qualification for service, as it is all over the world, then indeed out of ten Afghan officials, under the present circumstances, even two are not fit for any service in the State. They think: "We have gained the highest honour and we are well nigh the end of our lives, as education is the only path to service in the State, the educated sons of peasants will gain distinction and our children will become obscure men.

Our officials, not caring for education and keeping view for their children their inherited honour alone, wish the work of the school to come to naught."

With regard to their attitude, We say: "the ignorant sons of the Vizier went abegging before rustics. The wise (educated) children of the rustics become Viziers of the King."

And as to their sons, we cite those who take a pride merely in their ancestors who are like dogs pleasing themselves with bones. The superiority of one man over another is through knowledge and good breeding and not through wealth and high lineage.

However, when the truth is revealed falsehood is exposed [Qurʾānic verse]. Therefore, we strongly desire the progress of the school, by God's help, and we will, please God, personally give it our fullest attention.

Addressing the present staff of the school we say :--Give us a complete account of the defects of the school as it has gone on till now and of your future plan as to its progress, that we may remove its shortcomings and improve it, God willing the Habeebiya school will rise to a very high level of efficiency."

Source:
NAI FD/FRNT/B September 1906 141 ("H.H. the Amir's speech at Kabul on education in Afghanistan").

APPENDIX G

Letter of The Muhammadan Literary Society of Calcutta to Amir Ḥabīb-Allāh (1907)

The following letter was submitted by Hafez Mohamed Musa, Secretary of the Anjumān-e-Khademul Islam (Organization for the Servant of Islam) of Calcutta, to the Secretary of Foreign Department of the Government of India on January 23, 1907.

– • –

"Amongst the brilliant and distinguished galary of the living sovereigns of the world, Your Majesty occupies an exalted position as one of the foremost of the Moslem potentates, under whose beneficient and enlightened sway the Arts and Sciences of the West are achieving signal triumphs amongst a people who are no less distinguished for an affectionate regard for all that is best and noblest in Islamic culture and civilization.

To us, the Indian Mussulmans, Your Majesty possesses an additional interest and fascination as the friend and ally of the British Government, which, at the present day, commands the allegiance of more Mussulman subjects that any other sovereign in the world. We, therefore, rejoice that cordial relations subsisting between Your Majesty's Government and that of His Gracious Majesty the King Emperor of India, is increasing day by day and we sincerely hope and trust that the present visit of Your Majesty may serve to knit the two Governments still more closely together, to the lasting good of Your Majesty's people and of the people of India.

The Muhammadan Literary Society of Calcutta, which now has the honour of welcoming Your Majesty, was established more than half a century ago by the late Nawab Bahadur Abdool Luteef Khan, C.I.E., with a view to enable the Indian Mussulmans to take the fullest advantage not only of the wealth of their own Oriental literature, but also of the facilities of Western education placed at their disposal by the Government of the country. Under the steady impulse afforded by the efforts of our Society, and by the generous encouragement given by successive Viceroys and Lieutenant-Governors, our co-religionists have begun to recognize to benefit by the advantages of British administration in becoming more and more equipped with all the weapons of modern culture and modern civilization, so as to be able to content successfully in the race of life with the more advanced communities of India."

Source:
NAI FD/SEC/F June 1907 34-52 ("Desire of certain Muḥammad Communities to present addresses of welcome to the Emir of Afghanistan on the occasion of his visit to India").

APPENDIX H

Translation of Amir Ḥabīb-Allāh's address to the Indian Muslims at the Muhammadan Anglo-Oriental College at Aligarh (1907)

This speech was the Amir's reply to an address presented by the Trustees of the College during his visit to Aligarh in early spring of 1907.

– • –

"Many people spoke all manners of things about this College, but I came here to learn the truth. I am grateful to the Government of India that it permitted so many musalmans to assemble here and see me. Now I come to the point. I came here to see things for myself and am pleased with all I saw. I questioned many of the students about the Principles of Islam, and I thank God that they are well-versed in matters of faith, and that their beliefs are according to Islam. Henceforth the man who will shut the mouths of the evil speakers will be myself." (Here the oriental rules of etiquette were forgotten and a good British cheer filled the air. There was thundering applause which the Afghan interpreter tried to stop in vain. Seeing this King Ḥabīb-Allāh told him to let them cheer on their own way as much as they liked. When the cheers subsided, His Majesty began once more.) I shall never tell a man not to study the lore of Europe. Study it and once more I say study it. But this should be when you have acquired a fair knowledge of your faith of Islam. Similarly, I have opened the Ḥabībīyah College in Afghanistan, in which I have permitted men to study western lore, after they have learned enough of the Principles of Islam to make them pure Musalmans. The students I have examined today were all pure Musalmans. But I regret that I cannot help the College as much as I wish to do, for I myself am much in need of money for the encouragement of education in my own land. But I fise in perpetuity for this College a monthly grant of Rs. 500/-" (Great applause.) I shall offer only this advice that all the students should know as much of their faith as I asked questions about today. After this turn their faces whatsoever way you like; yes, whatsoever way you like. I give you also 20000/- twenty thousand rupees, as a lump sum, over and above the monthly grant," (Thundering applause). "Now I bid you all who are present here, Goodbye. I shall be happy to dine with the Trustees present, who are twenty-nine in number, this evening. I go to my place now and you all I leave in God's care."

Source:
NAI/FD/FRNT/B March 1907 36 ("Result of the Amir's visit to Aligarh").

APPENDIX I

Letter from the London All-India Muslim League to Under Secretary of State, Foreign Office (1912)

The following letter was composed at or delivered to Queen Anne's Chambers at Westminister, on May 10, 1912.

– • –

TO: THE UNDER-SECRETARY OF STATE
INDIA OFFICE

SIR,

The Committee of the London All-India Moslem League beg respectfully and earnestly to draw the attention of the Right Honourable the Secretary of State for Foreign Affairs to the extreme gravity of the situation the latest development of Italian activity in the Dardanelles and the Aegean Sea is creating in the East.

The Committee submit that failure to conquer Libya, with which object the enterprise, condemned by the unanimous moral conscience of Europe, was undertaken, furnishes no justification for endeavouring to set in flame the whole of the Eastern World, to create an irreconcilable hostility between two great religions and to involve neutral Powers ruling over large Mussulman populations in difficulties by placing their policy in conflict with the cherished sentiments of their subjects.

The Committee have reason to fear that the direct and immediate result of Italian action against the Asiatic possessions of the Sultan, coupled with the report that some of the neutral Powers intend to take advantage of Turkey's difficulties to her detriment, will be to impel large bodies of Mussulmans from India as well as the Frontier to endeavour to reach the seat of war as volunteers, and it would be impossible for His Majesty's Government to repress the movement without risk of great unpopularity.

So long as the war was confined to the regions for the conquest of which it was undertaken the Asiatic Mussulmans were not brought into direct touch with the conflict; and the influence of this League and of other Mahommedan bodies in India and elsewhere was directed to allaying the natural excitement among their own people by pointing to the evident desire of His Majesty's Government to use their good offices at the first favourable opportunity to bring about a termination of the war on equitable terms to Turkey. But the extension of hostilities to the Dardanelles and places within reach of Constantinople, which is regarded by the bulk of the Mussulman world as the seat of the Caliphate, is calculated to act as an incentive to the war-like

elements alike in the neighboring States and in India to organize a system of volunteering for the assistance of Turkey.

The Secretary of State is aware of the extreme inconvenience to Mussulman pilgrims and the loss to Indian commerce that has been occasioned by the Italian blockade of the Red Sea ports. The Committee are requested by many of their Indian co-religionists to submit that the injury caused by the Italian action has been far greater than is usually imagined; for large bodies of pilgrims have been unable to leave Hedjaz for fear of capture by the Italian ships of war, and that the suffering and distress among them is very great. The present hostilities by intensifying the hatred against Italy will further aggravate the difficulties that stand in the way of an early restoration of peace.

The whole Mussulman world, not without reason, looks upon His Majesty's Government as the upholder of justice and fair play, and the Committee believe that the interests of England are directly involved in the maintenance of peace, not only in the Balkans, but in the whole of the Near East.

In view of these considerations the Committee earnestly pray that His Majesty's Government may be pleased to take such steps as they may consider expedient to prevent the further development of a situation which they really fear will prove most prejudicial to the interests of humanity and to progress in the Eastern World.

I have &c.,

(Signed) M. Kazim Hasain.
Honorary Secretary.
(London All-India Muslim League)

Source:
IOR L/PS 10/196 ("Turco-Italian War of 1911: Political and Secret Department Correspondence: P4327-3/11).

APPENDIX J

Translation of a pro-British speech made by Sher Khan Sahib at the meeting of Muslims at Honnali during World War I (1915).

– • –

"The Almighty is His Divine wisdom has entrusted the destinies of India to the British Government, whose administration is conducive to the welfare and good of every community and religion, and in a place like India, where there is such a diversity of religions and communities, the British Government in essential. There is no doubt that under the auspices of our benign Government, India will attain to a prominence, the like of which the world has not see.

The security of life and property that we are all enjoying under the British Government is too well known to need repetition. The High Roads, the Telegraph, the Railway, and the Electric Light and the Educational and Technical Institutions in the various parts of the country cannot be enumerated in the short time at my disposal. These boons are seldom enjoyed by the subjects of any other Government.

Religious liberty which us so much valued by the Mahomedans is another boon which we enjoy under the British Government, where there is no sort of interference in our Religion. This however is not the case in Russia where the condition of the Mahomedans in most deplorable.

It is to be regretted that the young Turks did not act with tact and foresight, nor have they acted as per advice of that able and experienced monarch, the last Sultan Abdul Hamid; they have on the contrary at the instigation of the Germans embroiled themselves in this war.

We pray Almighty God that the present condition of war between Turkey and Great Britain may soon be replaced by those of peace. Should the will of God be otherwise, is the duty of Mahomedans, to remain faithful and loyal to the Government under which we live. Should we forge these duties we should be rendering ourselves guilty, and should we adopt a hostile attitude or rebel against the Government, then we should be incurring a great sin in the eyes of God.

Brethren! You should know that this is not a religious war but a war undertaken by the Turks owing to the evil influence of Germany. Even in Turkey there is difference of opinion, and His Majesty the Sultan and many of the Ministers and Noble men are against this war which has been forced on them by Enver Bey.

It is thus the wish of the 10 crores of Indian Mussalmans, that Turkey should even now modify her attitude. Otherwise we could neither legally nor from a religious point of view render her any help.

In the end we respectfully pray that in the event of war with Turkey the British Government may kindly save the holy places of Islam, most of which are under the Government of the Turks, from all molestation so that the feelings of the Mahomedan world may not be injured."

Source:
NAI FP/INTL/B April 1915 259-305 ("Expressions of loyalty from the Mohammedans and Mahommedan Bodies in India on the outbreak of war with Turkey").

APPENDIX K

Translation of the draft Proclamation to be published by His Highness the Niẓām of Hyderabad, from a pre-circulated draft approved by British Indian government officials (1915-1916)

– • –

"God be praised that the Rulers of Hyderabad, Deccan, have from generation to generation always been staunch supporters of the Muhammadan religion and obedient to its commandments; and though following the example of the first four Khalifahs and other great Rulers of olden days, they have ever treated their subjects of all classes and creeds with equal favour, they have kept the maintenance of the true Islamic spirit always before them as the unique object of their ambition; and have at all times in common with the majority of Muhammadans all over the world held the Sultan of Turkey—"May his dominion last forever"—in high esteem as the guardian of the two Holy Precincts—"May God exalt their dignity and highness".

It is therefore much to be regretted that, owing to the evil influence of the German leaders of the Turkish army, perhaps under coercion at their hands, the Turkish Parliament has stepped out of the limits of national and religious well-being and joined an aggressive and despotic Power and declared war against England and her allies in defiance of timely prudence and good counsel.

When the Government of Great Britain had solemnly promised to respect the integrity of Turkey in this war, and it is well known to the whole world that England has always been a friend of Turkey and has ever enjoyed the reputation of adhering to her engagements, the interference of Turkey in this iniquitous war can by no means meet with the approval of any sane mind….

At this critical period it is bounden duty of all the Muhammadans of India to adhere firmly to their old and tried loyalty to the British Government and never waver in their obedience to their Rulers, especially when they know that there is no Moslem or non-Moslem Power in the world under which they enjoy such personal and religious freedom as in India."

Source:
NAI FP/SEC/INTLOct 1916 13-34 ("Declarations of loyalty by the leading Musalman Princes in India on the outbreak of war with Turkey").

APPENDIX L

Translation of an article on the views of the Amir Amān-Allāh Khan pertaining to the *khuṭbah* (Friday sermon) and the unity of Muslims (1920)

The following article was published in the 12 Jadi 1298/16 Rabīʿ al-Thānī [January 9, 1920] edition of the *Amān-i Afghan* newspaper of Kabul. It was translated and transcribed by the Intelligence Bureau, Peshawar, on February 17, 1920 and attached in a secret memorandum to the Foreign and Political Department of the British Indian Government in Delhi.

– • –

12th Jadi 1298
16th Rabi-ul-Sani 1338.
9th January 1920.
From: Aman-i-Afghan. Issue No. 13.

"Islam is not only a religion (i.e. perfection of soul is not its only object) but it is a law also that binds together all those who believe in it. It takes under its shelter the whole Muḥammadan Community and gathers them round one axis. We are justified in saying that it is the best of the laws that have been constituted by men or communicated by inspiration since the creation of the world; and it will remain the best of all the laws and regulations that will be framed to the end of the world. The European nations who are staunch materialists have grown so tired of waging war one against the other that they are on the look out for such regulations, or some other remedy of the kind, that would have the effect of removing malice and hatred from the hearts of people; and long for an administration that all nations would welcome with equal warmth. Some of the sincere hearted Europeans have gone so far that they declare openly the principles of Islam are the only remedy that would smooth down the differences. Islam is a law that is applicable to all nations and regards all its followers as the members of one community and creates a natural inclination of brotherhood among them. Some of the sincere non-muslims even now envy the equality that is found even in this broken condition of Islam. But others seeing this miserable plight of Islam question if its doctrines are practicable. In reply to this we will say 'Yes'. The Muḥammadans followed these doctrines and made incomparable progress but unfortunately after a time jealousy and rivalry [came] up in the tribes and nations, but inspite of this the [?] axis, i.e. the Khilāfat was looked upon with reverence. Then there came a time of darkness when [the] importance [of the] Khilāfat also decreased, and the limbs that were [*page cut off/text missing*]… This seems to be an enigma but it is easy to solve. Every one of the members of the Muslim Community became mindful of his personal gains and losses. The Turks, the Arabians, the Afghans and the Indians all began to think of their own countries and nations and there was none to take care of the Khilāfat. But God has grown merciful again in these days of calamities and has sent to the world some of the blessed personalities to work for the salvation of Islam. The name of this Majesty Amir Aman Khan Ghazi shines forth at the top of the list of those selected ones of God.

His Majesty the Amir has revived in his country the Doctrine of Islam, described above, which had sunk into [a] pit of oblivion for sometimes past.

God be praised.

May the King live long, happily and successfully; May his wealth, strength and honour increase.

Thanks to God that now-a-days, on account of the consideration of our Ghazi King, Khutba in the Jumma prayers is read in the name of the Khalifa-tul-Muslamin and other Muḥammadan rulers. We are highly pleased to see the revival of the old doctrine and the buds of hope have blossomed in our bosoms.

The deed of His Majesty has no parallel in the modern history of the Muḥammadans as it is the root of the unity of Islam which embodies three things: -

1) The Muḥammadan confession of faith "There is no god except Allah and Muḥammad is his Prophit".
2) The Holy Qurʾān.
3) The magnificent Holy Kaba

Every Muḥammadan, wherever he be, is so closely and firmly connected with these three things that no power of the surface of the earth can sever his link with them. No body, unless he is connected with these things, can be called a Mohammedan and the invitations of the unity of Islam in that case are ineffectual.

Although the benefits of these affections and gifts do not require meditation, nevertheless it is with the feelings of regret that we confess that our theories are put into practice by others. Even when we talk of union to one another our rivals really make, double, triple and quadruple alliances. So it appears that like many other things, Islam has lagged behind in practical unity also, and even has sunk so deep that it cannot appreciate the real unity. May God lift us up from this wretched condition by means of wise men like our Ghazi King, Amen.

May God give us unity which is essential for the existence of Islam.

The above mentioned splendid step that the Muḥammadans have taken in the way of progress will restore the shattered political condition of Islam to some extent.

In the past Khutba was read in Arabic but as the majority of the inhabitants did not understand that language, His Majesty the Amir gave orders that a Persian version of the Khutba should also be read for the benefit of the people. And as a result of this change the public now begin to understand what the unity of Islam means and the names of the Muhammadan Kings with their distinguishing deeds are related there and the public holds them in high esteem.

God willing I will express my further humble views on this subject in the next issue of the "Aman-i-Afghan."

We five brothers who branch out from one trunk are five fingers in the field of time. If we separate ourselves we are five flags and if we join together we form the palm of a hand to snatch away things."

By Fazal Ahmad
Manager, Aman-i-Afghan
Student, Maktab-i-Habibiya

Source:
NAI FP/FRNT/B September 1920 98 ("Views of the Amir of Afghanistan on the unity of Islam. Question of a Central Asian Moslem Confederation").

APPENDIX M

List of Officially-Approved Newspapers in Afghanistan during the Amān-Allāh era (1921)

Afghan Newspapers

NAME	HEADQUARTERS	DISTRIB.	PRICE (in Kabuli Rupees) Internal	Foreign
Afghan	Kardan Sarayi, Kabul	Daily	12	16
Maʿrif-i Maʿārif	Darul Aman, Kabul	Monthly	6	6
Tulūʿ-i Afghan	Qandahar	Weekly	6	5
Ittiḥād-i Mashraqī	Jalalabad	Weekly	5	5
Ittifāq-i Islam	Herat	Weekly	6	6
Jaride Sharīfe Ghazi	Khost	Weekly	6	5
Majelle Majmūʿ-i ʿAskarīyye	Wizarat Jalile Harbiye	Monthly	4	4
Islāḥ	Khanabad Qataghan	Weekly	6	8
Ittiḥād-i Islam	Mazar-e Sharif	Weekly	6	6
Irshād al-Niswān	Kardan Sarayi Kabul	Weekly	5	7

Foreign Newspapers

Majelle Chahrnāmā	Cairo (Misr)	Monthly	10 rupiye kildar
Sharq-i Iran	Tus	Weekly	6 tuman Iran
Majelle Adabī Armaghān	Tehran	Monthly	1 English lira
Majelle Akhbār	Isfahan	Weekly	70 qiran
Akhbār Chaman	Meshed	Yearly	free

Source:
Amān-i Afghan, No.1 (23 Jawza, 1300/6 Shawāl 1339/12 June 1921); No. 2 (31 Jawza, 1300/14 Shawāl 1339 /20 June 1921)

APPENDIX N

Memorandum of Turkish Ambassador to Afghanistan, Fahrettin Paşa, extolling the contributions of Indian Muslims and acknowledging receipt of donations to Turkey (1923)

– • –

The 15th January 1923

Text of Embassy's Acknowledgment.

Esteemed gentlemen, Ḥājī Azim Qāsim Piri, Ahmed Shuleman Jewa, Muhammad Qāsim Piri, Ismail Muhammad Saleh Machla and Companions, may your honour increase. The sum of Rs. 12,350 (Indian coin) which you had sent to the Afghan Consulate at Bombay through Seth Medni and Muhammad Qāsim Murad of Bombay for remittance to the Turkish Embassy in Afghanistan, as subscription, has been received from the Foreign Office of Afghanistan. I am very much pleased with this manifestation of cordiality and sincerity with which you and the other Musalmans of India have been making Jehad since centuries for the spread of the Muslim Profession of faith and defence of the holy creed. May Almighty God accept your efforts and those of all the inhabitants of India and may He protect the whole Islamic world against all cruelties and aggressions. I, on behalf of the Khilāfat and the Turkish nation and Government, present my cordial gratitude to you. The above amount will shortly be remitted to Angora and when its acknowledgment is received it will be sent to you. Salams.

(Sd.) FAKHRI PASHA,
Turkish Ambassador in Afghanistan.

Source:
NAI FP/SEC/EXTL1923 669-X, No. 1-38 ("Remittances to Angora by the Central Khilāfat Committee, Bombay of funds collected in India for Ghazi Mustafa Kemal Pasha").

BIBLIOGRAPHY

I. ARCHIVAL COLLECTIONS

Afghanistan

Arshīf-i Millī-yi Afghanistan (National Archives of Afghanistan). *Kabul: Afghanistan*
Afghanistan Digital Library. *http://afghanistandl.nyu.edu/index.html*

India

National Archives of India. *New Delhi, India*
Muḥāfiẓ-khānah (Records Office) of Dār al-ʿUlūm Deoband. *Deoband, India*

Turkey

Başbakanlık Cumhuriyet Arşivi (Prime Ministry Republican Archive). *Ankara, Turkey*
Başbakanlık Osmanlı Arşivi (Prime Ministry Ottoman Archive). *Istanbul, Turkey*
Türk İnkilap Tarihi Enstitüsü Arşivi (Archive of the Institute for the History of the Turkish Revolution). *Ankara, Turkey*
Türk Kızılayı Cemiyeti Arşivi (Archive of the Turkish Red Crescent Society). *Ankara, Turkey*

United Kingdom

India Office Records. *London, England*

II. PUBLISHED PRIMARY SOURCES

Government Publications

Afghanistan

a. Books and Manuals (ADL Code in Parentheses)

ʿAbd al-Qādir, (Qāḍī). *Tuhfat al-'ulamā'*. Kabul: Maṭbaʿah-i Amīr Shīr ʿAlī Khān, 1292 [1875] (ADL 0126).

ʿAbd al-Rabb, (Mawlawī). *Iṭāʿāt-i ulū al-amr*. Kabul: Maṭbaʿah-i ʿInāyat, 1334 [1916] (ADL 0151).

_____. *Risalāh-i-awwal-i dīniyyāt*. Kabul: Maṭbaʿ Sangī, 1335 [1916] (ADL 0150).

ʿAbd al-Raḥmān Khan, Amir, and (Mawlawī) Gul Muḥammad Muḥammadzai. *Kitāb-i qānūn-i Afghanistan*. Kabul: Dār al-Salṭanah, 1890-1900 (ADL 0601).

ʿAbd al-Razāq, (Ḥājī), and (Mawlawī) ʿAbd al-Rabb. *Sirāj arkān al-Islam*. Kabul, Maṭbaʿah Māshīn Khānah, 1334 [1916] (ADL 0143).

ʿAbd al-Wāsiʿ Qandahārī, (Mawlawī) Muḥammad. *Kullīyāt wa iṣtilāḥāt-i fiqhīyah*. Kabul: Maṭbaʿah-i Ḥurūfī-i Māshīnkhānah, 1300 [1922] (ADL 0319).

_____. *Tamassuk al-quzāt-i Amanīyyah, vol. 2*. Kabul: Maṭbaʿah-i Sangī-i Māshīnkhānah, 1300 [1921 or 1922] (ADL 0317).

_____. *ʿUnwān-i asāsī dīnīyāt dar mazmūn-i taʿlīmī falsafah-i Islāmī Qurʾānī yamānī īmānī*. Kabul: Maṭbaʿah-i Sangī-i Māshīnkhānah, 1300 [1921 or 1922] (ADL 0318).

_____. *Yūzānī Pashtu/Khāṣ-i Afghānī*). Kabul: Dār al-Salṭanah, 1341 [1923] (ADL 0332).

Abū Bakr, (Mullā), (Mawlawī) ʿAbd al-Razāq Dihlawī, and (Mawlawī) Mīr Muḥammad ʿAẓīm Khān. *Taqwīm al-Dīn*. Kabul: Dār al-Salṭanah, 1306 [1888/89] (ADL 0004).

Alkuzai, (Mawlawī) Aḥmad Jān Khan. *Asās al-Qāḍāt: sharh-i huquq wa jaza*) Kabul: Maṭbaʿah-i Dār al-Salṭanah, 1303 [1885/86] (ADL 0129).

_____. *Asās al-Qāḍāt (2nd edition)*. Kabul: Dār al-Ṣalṭanah, 1311 [1893/94] (ADL 0603).

ʿAẓīm Khan, Mīr Muḥammad, ed., *Sar-rishtah-i Islāmīyah Rūm*. Kabul: Dār al-Salṭanah, 1304(?) [1886/87?] (ADL 0003).

Jān Khan, Mīr ʻAlī, (Mawlawī) ʿAbd al-Rāziq, and (Mawlawī) Muḥammad Sarwar Khān. *Sirāj al-aḥkām fī muʿāmalāt-i Islam ,vol 1: Kitāb adab al-qāḍī*. Kabul: Maṭbaʿah-i Shāhī, Dār al-Salṭanah, 1327 [1909] (ADL 0016).

_____. *Sirāj al-aḥkām fī muʿāmalāt-i Islam, vol 2: Kitāb al-Shahada*. Kabul, Maṭbaʿ-i Shāhī, Dār al-Salṭanah, 1909 (ADL 0013).

_____. *Sirāj al-aḥkām fī muʿāmalāt-i Islam, vol 3: Kitāb al-wikālah, Kitāb al-kafālah, Kitāb al-ḥawālah*. Kabul, Maṭbaʿah-i Shāhī, 1910 (ADL 0156).

_____. *Sirāj al-aḥkām fī muʿāmalāt-i Islam, vol 4: Kitāb al-daʻwā*). Kabul, Maṭbaʿah-i Shāhī, 1910 (ADL 0014).

_____. *Sirāj al-aḥkām fī muʿāmalāt-i Islam: Kitāb al-iqrār*). Kabul: Maṭbaʿah-i Shāhī, Dār al Salṭanah, 1909 (ADL 0158).

Kushkākī, Burhān al-Dīn. *Rūydād-i lūyah jirgah-i dār al-salṭana*. Kabul: Dār al-Salṭanah, 1303 [1924] (ADL 0012).

Muḥammad Kātib, Fayḍ. *Sirāj al-tawārīkh, vol. 3*. Kabul: Maṭbaʿah-i Ḥurūfī Dār al Salṭanah, 1912 – 1914 (ADL 0009).

Muḥammadzai, (Mawlawī) Gul Muḥammad ʿAbd al-Subḥān, ed., *Jang-i Rūm wa Rūs* Kabul: Dār al-Salṭanah, 1308 [1888] (ADL 0203).

Nazif, Muḥammad. *Kitāb-i alifbā-i Turkī*. Kabul: Niẓārat-i Maʿārif, 1299 [1920] (ADL 0302).

_____. *Qirā'āt zabān-i Turkī*. Kabul: Maṭbaʿah-i ʿInāyat, 1336 [1917] (ADL 0275).

_____. *Ṣarf-i Turkba tarjumah-i Darī*. Kabul: Maṭbaʿah-i ʿInāyat, 1336 [1917] (ADL 0274).

Sami Bey, Mahmud. *Amthilāh dār bāb-i qumāndah-hā-yi shiṭārat yaʿnī qumānda-hā-yi chālāk*. Kabul: Maṭbaʿah-i Maktab-i Funūn-i Ḥarbīyah, 1300 [1921] (ADL 0313).

_____. *Āz taʿlīm-nāmah-i piyādah*. Kabul: Maṭbaʿah-i Maktab-i Funūn-i Ḥarbīyah, 1299 [1920] (ADL 0303).

_____. *Jughrāfīya-yi ʿaskarī*. Kabul: Maṭbaʿah-i Maktab-i Funūn-i Ḥarbīyah, 1302 [1923] (ADL 0607)

_____. *Jughrafīya-yi ʿumūmī-yi ibtidāʾī barā-yi shāgirdān-i makātib-i ʿaskarīyyah-i Afghanistan*. Kabul: Maṭbʿa-ʾi Maktab-i Funūn-i Ḥarbīyah, 1337 [1919] (ADL 0610).

_____. *Khadamāt-i safarīyah*. Kabul: Maṭbaʿah-i Dāʾirah-i Arkān-i Ḥarbīyah, 1302 [1923] (ADL 0348)
_____. *Khulaṣah-i baḥth-i tīt-i niẓām āz kutub-i ʿaskarīyah-i ʿUthmānīyah*. Kabul: Maṭbaʿ-i Maktab-i Funūn-i Ḥarbīyah, 1302 [1923] (ADL 0345).
_____. *Masāʾil dar bāb-i taʿlīm wa tarbīyah-i akhpuri-yi munfarid*). Kabul: Maṭbaʿ-i Maktab-i Funūn-i Ḥarbīyah, 1300 [1921] (ADL 0323).
_____. *Miqyāsāt-i jadīdah*. Kabul: Maṭbaʿah-i Maktab-i Funūn-i Ḥarbīyah, 1300 [1921] (ADL 0337)
_____. *Mukhtaṣar-hā-yi taʿlīm-nāmah-i suwārī*. Kabul: Maṭbaʿah-i Maktab-i Funūn-i Ḥarbīyah, 1302 [1923] (ADL 0347)
_____. *Mukhtaṣar magar mukammal: ṣarf wa naḥwi fārsi bih ṭarz-i jadīd*. Kabul: Maṭbʿa-ʾi Maktab-i Funūn-i Ḥarbīyah, 1301 [1922] (ADL 0602).
_____. *Prughrām-i durūs-i fann-i andākht*. Kabul: Maṭbaʿah-i Maktab-i Funūn-i Ḥarbīyah, 1301 [1922] (ADL 0333).
_____. *Prughram-i ʿilm-i ḥisāb barā-yi shāgirdān-i makātibʿaskarīyah*. Kabul: Maṭbʿa-ʾi Maktab-i Funūn-i Ḥarbīyah, 1298 [1921] (ADL 0709).
_____. *Prūghrām-i naẓarīyat-i taʿlīm*. Kabul: Maṭbah-ʾi Maktab-i Funūn-i Ḥarbīyah, 1302 [1923] (ADL 0346).
_____. *Taʿbīyah*. Kabul: Maṭbaʿah-i Maktab-i Funūn-i Ḥarbīyah, 1302 [1923] (ADL 0344)
_____. *Taʿlīm-nāmah-i mukhābarah ba wāṣiṭah-i aʿlāma yaʿnī bayraq*. Kabul: Maṭbaʿ-i Maktab-i Funūn-i Ḥarbīyah, 1337 [1919] (ADL 0296).
_____. *Ṭabkh-i ṭaʿām bi-rā-yi Maktab-i Funūn-i Ḥarbīyah*. Kabul: Maṭbaʿah-i Maktab-i Funūn-i Ḥarbīyah, 1337 [1919] (ADL 0278).
Ziya Bey. *Programme* (Military instruction guide translated from Turkish by Muḥammad Amin). Kabul?: 1920-1929 (ADL 0309).

b. Official Niẓāmnāmā, Qānūnnāmā, and other Legal/Administrative Codes

Asāsī niẓāmnāmah dalūṛ dawlat da Afghanistan. Kābul], Maṭbaʿah-i Dāʾirah-i Taḥrīrāt-i Majlis-i ʿĀlī-i Wuzarā, 1302 [1923] (ADL 0676)
Hidāyāt-i ṣūrat-i fayṣalah-i qatl wa ḥabs-i dawām kih bi-maḥākim-iʿadlīyah āyandah bar wifq-i ān fayṣalah taḥrīr shawad. Kabul: Shirkat-i Rafīq, 1305 [1927] (ADL 0053).
Hidāyāt-i ṣūrat-i fayṣalah-i qatl wa ḥabs-i dawām kih bi maḥākim-i ʿadlīyah āyandah bar wifq-i ān fayṣalah taḥrīr shawad. Kabul: Shirkat-i Rafīq, 1307 [1928] (ADL 0103).
Kitābchah-i qānūn-i kārguzārī-yi ḥukkām. Kabul : Dār al-Salṭanah, 1298 [1919] (ADL 0609).
Kitābchah-i dastūr al-ʿamal-i maḥṣūl-i Tujjārān. Kabul: Chahāpahkhānah-i Sangī, 1298 [1919] (ADL 0600).
Lāyiḥah-i taʿlīmāt-i īdārīyah-i Majlis-i Lūyah Jirgah-i 1307. Kabul: Maṭbaʿah-i Shirkat-i Rafīq, 1307 [1928] (ADL 0041).
Niẓāmnāmāh-i asāsī-yi dawlat-i ʿalīyah-i Afghanistan. Kabul: Maṭbaʿah-i Dāʾirah-i Taḥrīrāt-i Majlis-i ʿĀlī-i Wuzarā, 1303 [1924] (ADL 0675).
Niẓāmnāmāh-i asāsī-yi dawlat-i ʿalīyah-i Afghanistan. Kabul: Maṭbaʿah-i Dāʾirah-i Taḥrīrāt-i Majlis-i ʿĀlī-i Wuzarā, 1302 [1923] (ADL 0076).
Niẓāmnāmā-yi baladīyah. Kabul: Maṭbaʿah-i Dāʾirah-i Taḥrīrāt-i Majlis-i ʿĀlī-i Wuzarā, 1302 [1923] (ADL 0064).

Niẓāmnāmā-yi baladiyah. Kabul: Shirkat-i Rafīq, 1307 [1928] (ADL 0039).
Niẓāmnāmā-yi jazā-yi ʿaskarī. Kabul: Maṭbaʿah-i Sangī, 1300 [1921] (ADL 0640)
Niẓāmnāmā-yi jazā-yi ʿaskarī. Kabul: Maṭbaʿah-i Dāʾirah-i Taḥrīrāt-i Majlis-i ʿĀlī-i Wuzarā, 1302 [1923] (ADL 0641).
Niẓāmnāmā-yi jazā-yi ʿaskarī. Kabul: Maṭbaʿah-i Shirkat-i Rafīq, 1306 [1927] (ADL 0536).
Niẓāmnāmā-yi jāzā-yi ʿumūmī. Kabul: Maṭbaʿah-i Sangī, 1300 [1921] (ADL 0078).
Niẓāmnāmā-yi jazā-yi ʿumūmī. Kabul: Maṭbaʿah-i Dāʾirah-i Taḥrīrāt-i Majlis-i ʿĀlī-i Wuzarā, 1304 [1925] (ADL 0526).
Niẓāmnāmā-yi jazā-yi ʿumūmī. Kabul: Maṭbaʿah-i Rīyāsat-i Shirkat-i Rafīq, 1306 [1927] (ADL 0537).
Niẓāmnāmā-yi madrasah-i mubārakah-i Ḥabībīya. Kabul: Maṭbaʿah-i Ḥurūfī-i Dār al-Salṭanah, 1332 [1913] (ADL 0467).
Niẓāmnāmā-yi maḥkamah-i sharʿīyah dar bāb-i muʿāmalat-i tījāratī. Kabul: Maṭbah-ʾi Ḥurūfī Māshīnkhānah, 1301 [1922] (ADL 0490).
Niẓāmnāmā-yi maḥkamah-i sharʿīyah dar bāb-i muʿāmalāt-i tijāratī. Kabul: Shirkat-i Rafīq, 1307 [1928] (ADL 0040).
Niẓāmnāmā-yi maktab-i khurd ḍābiṭān-i Afghanistan. Kabul: Maṭbaʿah-i Tīpūgrāfī, 1300 [1921] (ADL 0680).
Niẓāmnāmā-yi mālīyah. Kabul: 1920-1929 (ADL 0468).
Niẓāmnāmā-yi mālīyah, īdārah-i duwwum. Kabul: Shirkat-i Rafīq, 1299 [1920] (ADL 0079)
Niẓāmnāmā-yi nikāḥ, arūsi, khatnah-sūrī. Kabul: Maṭbaʿah-i Dāʾirah-i Taḥrīrāt-i Majlis-i ʿĀlī-i Wuzarā, 1303 [1923] (ADL 0060).
Niẓāmnāmā-yi qānūn-nāmah-i taʿdād yaʿnī qānūn-nāmah-i haẓirī. Kabul: Maṭbaʿah-i Maktab-i Funūn-i Ḥarbīyah, 1301 [1922] (ADL 0491).
Niẓāmnāmā-yi rukhṣatī-yi maʾmurīn. Kabul: Maṭbaʿah-i Dāʾirah-i Taḥrīrāt-i Majlis-i ʿĀlī-i Wuzarā, 1302 [1923] (ADL 0686).
Niẓāmnāmā-yi ruṭbah-hā-yi ʿaskari dawlat ʿalīyah-i Afghanistan. Kabul: Maṭbaʿah-i Tīpūgrāfī, 1299 [1920 or 1921] (ADL 0682).
Niẓāmnāmā-yi tadhkīrah-i nufūs wa uṣūl-i pasapurt wa qānūn-I tabʿīyat. Kabul: Maṭbaʿ-i Dāʾirah-i Taḥrīrāt-i Majlis-i ʿĀlī-i Wuzarā, 1302 [1923] (ADL 0507).
Niẓāmnāmā-yi tadhkīrah-i nufūs wa uṣūl-i pasapurt wa qānūn-i tābʿīyat. Kabul: Maṭbaʿ Vizārat-i Jalīlah-ʾi Muʿārif, 1303 [1925 or 1926] (ADL 0094).
Niẓāmnāmā-yi tafrīq-i waẓāyif-i ḥukkām wa maʾmurīn-i mutaʿālliqah-i ān. Kabul: Maṭbaʿ-i Vizārat Jalīlah-i Ḥarbīyah, 1302 [1923] (ADL 0685).
Niẓāmnāmā-yi taʿlīmāt tafrīq-i waẓāyif-i ḥukkām wa maʾmurīn-i mutaʿāllaqah-i ān. Kabul: Maṭbaʿah-i Sangī, 1301 [1922] (ADL 0077).
Niẓāmnāmā-yi taʿlīmat-i tafriq-i wazayif-i hukkam wa ma'murin-i mutaʿalliqah-i ān. Kabul: Maṭbaʿah-i Shirkat-i Rafīq, 1307 [1928] (ADL 0037)
Niẓāmnāmā-yi taʿlīmgāh-i ʿamīran wa ḍābiṭān-i Afghanistan. Kabul: Maṭbaʿah-i Tīpūgrāfī, 1300 [1921 or 1922] (ADL 0681)
Niẓāmnāmā-yi taqsīmāt-i mulkīyah-i Afghanistan. Kabul?: 1300? [1921?] (ADL 0080)
Niẓāmnāmā-yi tarbīyah-i aṭfāl-i yatīm. Kabul: Maṭbaʿah-i Shirkat-i Rafīq, 1305 [1927] (ADL 0097).
Niẓāmnāmā-yi tashkīlāt-i asāsī-yi Afghanistan. Kabul: Maṭbaʿah-i Tīpūgrāfī, 1300 [1921] (ADL 0475).
Niẓāmnāmā-yi tashkīlāt-i asāsīyah-i Afghanistan. Kabul: Maṭbaʿah-i Dāʾirah-i Taḥrīrāt-i

Majlis-i ʿĀlī-i Wuzarā, 1302 [1923] (ADL 0075).
Niẓāmnāmā-yi tashkīlāt asāsīyah-i Afghanistan. Kabul?], Maṭbaʿah-i Shirkat-i Rafīq, 1305 [1926] (ADL 0636).
Niẓāmnāmā-yi tashkīlāt-i asāsīyah-i Afghanistan. Kabul?], Maṭbaʿah-i Shirkat-i Rafīq, 1307 [1928] (ADL 0639).
Niẓāmnāmā-yi uṣūl-i maḥkamāt-i jazāʾīyah-i maʾmurīn. Kabul: Maṭbaʿah-i Dāʾirah-i Taḥrīrāt-i Majlis-i ʿĀlī-i Wuzarā, 1302 [1923] (ADL 0063).
Niẓāmnāmā-yi uṣūl-i muḥākamāt-i jazāʾīyah-i maʾmurīn. Kabul: Maṭbaʿah-i Dāʾirah-i Taḥrīrāt-i Majlis-i ʿĀlī-i Wuzarā, 1302 [1924] (ADL 0656).
Niẓāmnāmā-yi uṣūl-i muḥākamāt-i jazaʾīyah-i maʾmurīn. Kabul: Maṭbaʿah-i Shirkat-i Rafīq, 1305 [1926] (ADL 0671).
Niẓāmnāmā-yi uṣūl-i maḥākamāt-i jazāʾīyah-i maʾmurīn. Kabul: Maṭbaʿah-i Shirkat-i Rafīq, 1306 [1927] (ADL 0101).
Qānūn-i pasapurt. Kabul: Maṭbaʿah-i Ḥurūfī-i Māshīnkhānah, 1301 [1922] (ADL 0503).
Qānūn-nāmah-i hāẓirī. Kabul?], Maṭbaʿah-i Dāʾirah-i Taḥrīrāt-i Majlis-i ʿĀlī-i Wuzarā, 1302 [1923] (ADL 0520).
Qānūn-nāmah-i haẓirī. Kabul: Shirkat-i Rafīq, 1305 [1927] (ADL 0051).

c. Treaties

Sawād-i muʿāhadah-i dawlatayn-i ʿalīyatayn Afghanistan wa Turkīyah (26 Mizan 1301 [Oct 19, 1922]) (Afghanistan and Turkey) (ADL 0106).
Sawād-i muʿāhadah-i dawlatayn-i ʿalīyatayn Afghanistan wa Iran. (15 Sunbulah 1302 [Sept. 7, 1923]) (Afghanistan and Iran) (ADL 0108).
Qarārdād-i ʻirfānī bayn-i Afghanistan wa Turkīyah (6 Jawza 1307 [May 27, 1928]) (Afghanistan and Turkey) (ADL 0694).
Muʿāhadah-i widādīyah wa taʾmīnīyah bayn-i ḥukūmat-i shāhī-yi Afghanistan wa ḥukūmat-i jumhurīyah-i Turkīyah) (18 Sunbula 1307 [Sept. 9, 1928]) (Afghanistan and Turkey) (ADL 0700).

Britain/India

Confidential: Biographical Accounts of Chiefs, Sardars, and Others of Afghanistan. Calcutta: Government Printing, 1888.
Confidential: Who's Who in Afghanistan. Simla: Government of India Press, 1914.
Confidential: Who's Who in Afghanistan. Simla: Government of India Press, 1920.
Confidential: Who's Who in Afghanistan. Simla: Government of India Press, 1930.
Machonachie, R., Foreign and Political Department, Government of India. *A Precis on Afghan Affairs: From February 1919 to September 1927*. Simla: Government of India Press, 1928.
Windham, C.J. *Precis on Afghan Affairs*. Calcutta: Superintendent Government Printing, 1914.

Articles, Books, and Memoirs

(Author unknown). *Afganistan: Küçük Seyahatlar*. İstanbul: Matbaa Ahmed İhsan, 1321.
Adıvar, Halide Edip. *The Turkish Ordeal: Being the further memoirs of Halidé Edib*. Westport:

Hyperion Press, 1928.
Alkan, Ahmet Turan, ed. *Sıradışı Bir Jön Türk: Ubeydullah Efendi'nin Amerika Hatıraları*. İstanbul: İletişim Yayınları, 1989.
Amedroz, H.F. "The Office of Kadi in the Ahkam Sultaniyya of Mawardi." *The Journal of the Royal Asiatic Society of Great Britain and Ireland* (1910): 761-796.
Aybek, Zafer Hasan. *Āp-bītī*. Lahore: Mansur Book House, 193?.
Bahadoor, Moulvie Abdool Luteef Khan. *The Muhammadan Law of Marriage and Dower*. Calcutta: E.M. Lewis & Calcutta Central Press, 1869.
Baz, Salim Rustum. *Sharḥ al-Majalla*. Beirut: al-Maṭbaʿ al-Adabīyya, 1923.
Beck, Sebastian. *Das Afghanische Strafgesetzbuch vom Jahre 1924: mit dem Zusatz vom Jahre 1925*. Berlin: Deutsche Gesellschaft für Islamkunde, 1928.
Bedri. *Polis mektebine mahsus musattah kroki ve plan dersleri*. İstanbul: Cihan Matbaası, 1327 [1909/10].
Bogdanov, L. "Notes on the Afghan periodical press," *Islamic Culture* 3 (1929): 126-152.
Cebesoy, Ali Fuat. *Moskova Hatıraları*. Ankara: Kültür ve Turizm Bakanlığı, 1982.
Cemal (Paşa), (Ahmet Zeki İzgöer, ed.). *Hatırat*. Istanbul: Nehir Yayınlari, 2006.
Cemal (Paşa). *Memories of a Turkish Statesman, 1913-1919*. New York: George H. Doran Company, 1922.
Cevdet (Paşa), Ahmed. *Tezâkir*. Ankara: Türk Tarih Kurumu, 1986.
_____. *Faideli Bilgiler*. İstanbul: Hakikat Kitābevi, 2010.
_____. *The Sunni Path*. İstanbul: Hakikat Kitābevi, 2001.
Cox, Samuel Sullivan (Gül Çağalı Güven, trans.). *Bir Amerikan Diplomatının İstanbul Anıları, 1885-1887*. İstanbul: İş Bankası, 2010.
Dar al-ʿUlūm Deoband, *Rū-dād-i Sālānah*. Deoband: 1336-1345.
Elphinstone, Mountstuart. *An Account of the Kingdom of Cabul and its Dependencies in Persia, Tartary, and India*. London: Richard Bentley, 1839.
Fazlı, Mehmet (Kenan Karabulut, trans.). *Afganistan'da bir jöntürk: Mısır Sürgününden Afgan Reformuna*. Türkiye Bankası Kültür Yayınları, 2007
_____. *Resimli Afgan Seyaheti*. İstanbul: Matbaa Ahmed İhsan, 1325 AH.
Ghani, Abdul. *A Review of the Political Situation in Central Asia*. Lahore: Aziz Publishers, 1980 (reprint of original 1921 edition).
Gray, John Alfred. *At the Court of the Amir: A Narrative*. London: Richard Bentley, 1895.
_____. "Progress in Afghanistan." *The Imperial and Asiatic Quarterly Review* (Woking) VII (13 & 14) (1894): 305-311.
Hakki, Ibrahim. "Is Turkey Progressing?" *The Imperial and Asiatic Quarterly Review and Oriental and Colonial Record* 3/2 (April 1892): 55-64.
Hamdi (Efendi), Ahmed. *Hindistan, Swat ve Afghanistan Seyahatnamesi*. İstanbul: Mahmud Bey Matbaası, 1300 [1882/3].
Hamilton, Angus. *Afghanistan*. London: W. Heinemens, 1906.
Haydar, ʿAli. *Dürer ül-Hükkam: Sherh Medjellet ül-Ahkam, 4 vols.* Istanbul 1911.
Jewett, A.C. "The Sum of All Wisdom: Ḥabīb-Allāh Khan." *Asia* (New York) 20 (1920): 277 83.
MacMullen, Sir George. *Afghanistan: From Darius to Amān-Allāh*. London: G. Bell & Sons, 1929.
Orbay, Hüseyin Rauf. *Cehennem Değirmeni: Siyasi Hatıralarım*. İstanbul: Emre Yayınları, 1993.

_____. *Siyasî Hatıralar*. İstanbul: Örgün Yayınevi, 2009.
Shah, Ikbal Ali. "Afghanistan and the War." *The Near East* (February 15, 1918), 324-30.
_____. "Afghanistan in 1919." *Journal of the Royal Central Asian Society* 7 (1920): 3-18.
_____. *Afghanistan of the Afghans*. London: Diamond Press (1928).
_____. "The Federation of the Central Asian States under the Kabul Government." *Journal of the Royal Central Asian Society* 8:1 (1921): 29-48.
Shah, Sardar Walī Khan. *My Memoirs*. Lahore: Punjab Educational Press, 1970.
Sultan Mohammad (Mir Munshi). *The Constitution and Laws of Afghanistan*. London: John Murray, 1900.
Süreyya Bey, Mehmet. *Sicill-i Osmani, I. Cild*. İstanbul: Matba'-i 'âmire, 1890.
Tarzi, Mahmud. *Che Bayad Kard*. Kabul: Matba'ai Dar al Saltanta, 1330.
_____, (Wahid Tarzi, trans. and ed.), "Reminiscences: A Short History of an Era (1869 1881)." *Afghanistan Forum Occasional Paper No. 36* (1998).
Tarzi, Pakize I. *Anılar*. İstanbul: P.I. Tarzi Kliniği, 1992.
Tevfik Tarık. *Usul-i muhakemat-ı hukukiye ve mevad-ı müzeyyele ve izahnamesi*. İstanbul: Şems Matbaası, 1327/1329 [1911].
_____. *Yeni kanun-ı ceza*. Dersaâdet: Şems Matbaası, 1327/1329 [1911].
_____. *Zabıtaya malumat-ı kanuniyye*. İstanbul: Şems Matbaası, 1326 [1908/09].
Togan, Zeki Velidi. *Hâtıralar: Türkistan ve Diğer Müslüman Doğu Türklerinin Milli Varlık ve KültürMücadeleri*. İstanbul: 1969.
Ubeydullah Efendi, Mehmet (Ömer Hakan Özalp, ed.). *Mehmed Ubeydullah Efendi'nin Malta, Afganistan ve Iran Hatıraları*. İstanbul: Dergah Yayınlari, 2002.
Von Hentig, Werner Otto. *Meine Diplomatenfahrt ins verschlossene Land*. Berlin: 1918.
_____. *Mein Leben Eine Dienstreise*. Göttingen: Vandenhoeck & Ruprecht, 1962.
Von Sanders, Otto Liman. *Fünf Jahre Türkei*. Berlin: August Scherl, 1920.
Wheeler, Stephen. *The Ameer ʿAbd al-Raḥmān*. New York: Frederick Warne & Co., 1895.

Periodicals Consulted

Afghanistan

Amān-i Afghan
Irshād-i Niswān
Iṣlāh
Ittiḥād-i-Mashriqī
Serāj al-akhbār

Britain

Journal of the Royal Central Asian Society
The Journal of the Royal Asiatic Society of Great Britain and Ireland

India

Aligarh Gazette
Times of India (Calcutta)

Hamdard
Comrade

Turkey

Hakmiyet-i Milliye
Hilal-i Ahmer Gazetesi
Yeni Gün
Tevhid-i Efkar
Vakıt
Takvim-i Vekayı
Sebîlürreşad
Tanin
Türkiye Büyük Millet Meclisi Zabıt Ceridesi

United States

The New York Times
The American Moslem

III. PUBLISHED SECONDARY SOURCES

Abdul Qadir Khan. "Afghanistan Since the Revolution." *Journal of the Royal Central Asian Society* 17(1930): 331-333.

Abou-El-Haj, Rifa'at 'Ali. *Formation of the Modern State: The Ottoman Empire, Sixteenth to Eighteenth Centuries*. Syracuse: Syracuse University Press, 2005.

Abrahamian, Ervand. *Iran between Two Revolutions*. Princeton: Princeton University Press, 1982.

Adamec, Ludwig W. *Afghanistan, 1900-1923*. Berkeley: University of California Press, 1967.

_____. "Ḥabīb-Allāh," *Encyclopaedia Iranica*, Vol. XI, Fasc. 4 (2002): 427-428.

_____. *Historical Dictionary of Afghanistan*. Metuchen: Scarecrow Press, 1991.

_____. "Mission of an Afghan Prince to London: Naṣr-Allāh Khan's Visit to Britain as Reflected in the Press." *The Afghanistan Forum* (New York) *Occasional Paper* No. 33 (1994).

_____. Reform and Modernization, 1880-1946." *Oriens* 23/24 (1974): 541-42.

_____. "Review of Vartan Gregorian, The Emergence of Modern Afghanistan: Politics of

_____. *Who's Who of Afghanistan*. Graz-Austria: Akademissche Druck-u. Verlagsanstalt, 1975.

Afary, Janet. *The Iranian Constitutional Revolution, 1906-1911*. New York: Columbia University Press, 2005.

Ahmad, Aziz. *Islamic Modernism in India and Pakistan, 1857-1964*. London: Oxford University Press, 1967.

Ahmad, A. "Afghani's Indian Contacts." *Journal of American Oriental Society* 89:3 (1969): 476 504.

Ahmad, Feroz. *From Empire to Republic: Essays on the Late Ottoman Empire and Modern*

Turkey. Istanbul: Istanbul Bilgi University Press, 2008.
_____. *The Young Turks; the Committee of Union and Progress in Turkish Politics 1908-1914*. Oxford: Clarendon Press, 1969.
Ahmadi, Wali. "Fiction, ii(g). in Afghanistan." *Encyclopaedia Iranica* Vol. IX, Fasc. 6 (1999): 603-06.
_____. "Ḵalili, Ḵalil-Allāh." *Encyclopaedia Iranica* Vol. XV, Fasc. 4 (2010): 399-403.
_____. "Ḵalil, Moḥammad Ebrāhim." *Encyclopaedia Iranica* Vol. XV, Fasc. 4 (2010): 384.
_____. *Modern Persian Literature in Afghanistan: Anomalous Visions of History and Form*. New York: Routledge, 2008.
Ahmed, Akbar S. *Pukhtun Economy and Society: Traditional Structure and Economic Development in a Tribal Society*. London: Routledge & Kegan Paul, 1980.
Ahmed, Faiz. "Afghanistan's Reconstruction, *Five Years Later*: Narratives of Progress, Marginalized, Realities, and the Politics of Law in a Transitional Islamic Republic." *Gonzaga Journal of International Law* 10 (2007): 269-314.
_____. "Judicial Reform in Afghanistan: A Case Study in the New Criminal Procedure Code." *Hastings International and Comparative Law Review* 29 (2005): 93-134.
_____. "Shari'a, Custom, and Statutory Law: Comparing State Approaches to Islamic Jurisprudence, Tribal Autonomy, and Legal Development in Afghanistan and Pakistan," *Global Jurist* 7 (2007): 1-54.
_____. "The Forgotten Anniversary: 10/7 and America's Longest War." *Jadaliyya* (8 Oct. 2011).
Ahmetbeyoğlu, Ali, ed. *Afganistan Üzerine Araştırmalar*. İstanbul: Tarih ve Tabiat Vakfı Yayınları, 2001.
Akbaş, İsmail. "Afgan Kralı Emanullah Han'ın Türkiye Gezisi." *Çağdaş Türkiye Tarihi Araştırmaları Dergisi* VII (2008): 311-333.
Akgündüz, Ahmed. *Introduction to Islamic Law*. Rotterdam: Islamitische Universiteit Rotterdam, 2010.
Aksakal, Mustafa. *The Ottoman Road to War in 1914: The Ottoman Empire and the First World War*. New York: Cambridge University Press, 2010.
_____. "Why did the Ottomans enter a European War in 1914? New Sources, New Views." *Osmanlı Araştırmaları: The Journal of Ottoman Studies* 36 (2000): 187-194.
Akşin, Sina. *Turkey: From Empire to Revolutionary Republic: The Emergence of the Turkish Nation from 1789 to Present*. New York: New York University Press, 2007.
Alam, Muzaffar. *The Language of Political Islam, India 1200-1800*. Chicago: University of Chicago Press, 2004.
_____. "Sharʿa Governance in the Indo-Islamic Context," in David Gilmartin and Bruce B. Lawrence, eds. *Beyond Turk and Hindu: Rethinking Religious Identities in Islamicate South Asia*. Gainesville: University of Florida Press, 2000.
_____. *The Crisis of Empire in Mughal North India: Awadh and the Punjab, 1707-48*. New York: Oxford University Press, 1993
_____. *The Mughal Nobility Under Aurangzeb*. New Delhi: Oxford University Press, 2001.
Al-Azmeh, Aziz, ed. *Islamic Law: Social and Historical Contexts*. London: Routledge, 1988.
Ali, Mohammad. *Progressive Afghanistan*. Lahore: Punjab Educational Press, 1933.
Algar, Hamid. "Amir Kabīr, Mīrzā Taqī Khan." *Encyclopaedia Iranica* Vol. I, Fasc. 9 (1989): 959-63.
_____. "Anjoman-e Saʿādat," *Encyclopaedia Iranica* Vol. II, Fasc. 1 (1985): 89.
_____. "Dār-al-Ḥarb", *Encyclopaedia Iranica* Vol. VI, Fasc. 6 (1993): 668-669.

_____. *Mīrzā Malkum Khān: A Study in the History of Iranian Modernism*. Berkeley: University of California Press, 1973.
_____. *Religion and State in Iran, 1785-1906: The Role of the Ulama in the Qajar Period*. Berkeley: University of California Press, 1969.
_____. "*Tarîqat* and *Tarîq*: Central Asian Naqshbandîs on the Roads to the Haramayn," in Alexandre Papas, Thomas Welsford and Thierry Zarcone, eds., *Central Asian Pilgrims: Hajj Routes and Pious Visits between Central Asia and the Hijaz.* Berlin: Klaus Schwarz Verlag, 2012.
_____. "The Oppositional Role of the 'Ulama in Twentieth Century Iran," in N.R. Keddie, ed., *Scholars, Saints and Sufis.* Berkeley: University of California Press, 1972.
al-Qattan, Najwa. "Dhimmis in the Muslim Court: Legal Autonomy and Religious Discrimination," *IJMES* 31 (1999): 429-444.
Anderson, Benedict. *Imagined Communities: Reflections on the Origin and Spread of Nationalism*. London: Verso, 1983.
Anderson, M.S. *The Eastern Question, 1774-1923*. New York: St. Martin's Press, 1966.
An-Na'im, Abdullahi Ahmed. *Islam and the Secular State: Negotiating the Future of Shari'a*. Cambridge: Harvard University Press, 2008.
Arabaki, Touraj, and Erik J. Zürcher. *Men of Order: Authoritarian Modernization under Atatürk and Reza Shah*. London: I.B. Tauris, 2004.
Ardic, Nurullah. *Islam and the Politics of Secularism: The Caliphate and Middle Eastern Modernization in the Early 20th Century*. New York: Routledge, 2012
Arjomand, Said Amir. "Constitution-Making in Islamic Iran: The Impact of Theocracy on the Legal Order of a Nation-State," in Starr, June and Jane F. Collier, eds. *History and Power in the Study of Law: New Directions in Legal Anthropology*. Ithaca: Cornell University Press, 1989.
_____. "Shari'a and Constitution in Iran: A Historical Perspective," in Amanat, Abbas and Frank Giffel, *Shari'a: Islamic Law in the Contemporary Context*. Stanford: Stanford University Press, 2007.
Arthurs, H.W. *Without the Law: Administrative Justice and Legal Pluralism in Nineteenth Century England*. Toronto: University of Toronto Press, 1985.
Asad, Talal, ed. *Anthropology & the Colonial Encounter*. Amherst: Humanity Books, 1973.
_____. *Formations of the Secular: Christianity, Islam, Modernity*. Stanford: Stanford University Press, 2003.
_____. "Two European images of non-European rule." *Economy and Society* 2 (1973): 263-277.
Atcil, ʿAbd al-Raḥmān. "The Route to the Top in the Ottoman Ilmiye Hierarchy of the Sixteenth Century," *Bulletin of School of Oriental and African Studies* 72 (2009): 489-512.
Aybek, Hasan Zafer.
Zafer Ḥasan Aybek, "Hindiler Tekkesi," *Hayat Tarih Mecmuası (Istanbul)* 7 (1977): 96.
_____. *Söyleyişli İngilizce-Türkçe Askerî ve Teknik Sözlük* (İstanbul: Askerî Basımevi, 1948);
_____. "Ubayd-Allah Sindhi in Afghanistan." *Journal of the Regional Cultural Institute* VI/384 (1973): 129-136.
Aydin, Cemil. "Beyond Civilization: Pan-Islamism, Pan-Asianism and the Revolt against the West" *Journal of Modern European History* 4 (2006): 204–223.
_____. *The Politics of Anti-Westernism in Asia: Visions of World Order in Pan-Islamic and Pan-Asian Thought*. New York: Columbia University Press, 2007.
Aziz, K.K. *The Indian Khilafat Movement, 1915-1933: A Documentary Record*. Lahore: Sang

e-meel, 2006.
Baer, G. "The Ulama in Modern History," *Asian and African Studies* 7 (1971): 94-98.
Baha, Lal. *N.W.F.P. Administration Under British Rule, 1901-1919*. Islamabad: National Commission on Historical and Cultural Research, 1978.
Baillie, Neil B.E. *A Digest of Moohummudan Law*. Lahore: Premier Book House, 1957.
Bajpai, P. and S. Ram, eds. *Encyclopedia of Afghanistan, Vol. 3: Kingship in Afghanistan*. New Delhi: Anmol Publications, 2002.
Bal, Halil. "Afganistan-Türkiye İlişkilerinin Başlıca Yönleri," in Ali Ahmetbeyoğlu, ed., *Afganistan Üzerine Araştırmalar*. İstanbul: Tarih ve Tabiat Vakfı Yayınları, 2001,
Balland, Daniel. "Afghanistan x. Political History," *Encyclopaedia Iranica*, Vol. I, Fasc. 5 (1983): 547-558.
Baljon, *Religion and Thought of Shah Wali Allah Dihlawi, 1703-1762*, Leiden: EJ Brill, 1986.
Barfield, Thomas. *Afghanistan: A Cultural and Political History*. Princeton: Princeton University Press, 2010.
_____. "Afghanistan: The Local and the Global in the Practice of Shari'a," in Hefner, Robert W., ed., *Shari'a Politics: Islamic Law and Society in the Modern World*. Bloomington: Indiana University Press, 2011.
Barkey, Karen. *Bandits and Bureaucrats: The Ottoman Route to State Centralization*. Ithaca: Cornell University Press, 1994.
_____. *Empire of Difference: The Ottomans in Comparative Perspective*. New York: Cambridge University Press, 2008.
Bashir, Shahzad and Robert D. Crews. *Under the Drones: Modern Lives in the Afghanistan Pakistan Borderlands*. Cambridge: Harvard University Press, 2012.
Bayat, M., H. Algar and W.L. Hanaway, Jr., "Anjoman," *Encyclopaedia Iranica* Vol. II, Fasc. I (1985): 77-83.
Baycan, Nusret. *Atatürk'ün Nişan ve Madalyaları*. Ankara: Gnkur. Basımevi, 1986.
Baykal, Hülya. "Milli Mücadele Yıllarında Mustafa Kemal Paşa ile Cemal Paşa Arasındaki Yazışmalar."*Atatürk Araştırma Merkezi Dergesi* V/14 (1989): 379-381.
Bayly, C.A. *Indian Society and the Making of the British Empire*. Cambridge: Cambridge University Press, 1988.
Baysun, M. Cavid. "Şirvanizade Ahmed Hulusi Efendi'nin Efganistan Elçiliğine Aid Vesikalar." *Tarih Dergisi (İstanbul Üniversitesi Edebiyat Fakültesi* IV (1952): 147-158.
Bayur, Yusuf Hikmet. *Hindistan Tarihi, III. Cilt*. Ankara: Türk Tarih Kurumu, 1950.
_____. *XX. Yüzyılda Türklüğü Tarih ve Acun Siyasası Üzerindeki Etkileri*. Ankara: Türk Tarih Kurumu, 1989.
Behbahani, Mirza Abdul-nabi Shaykh al-islam, *Badīʿah al-akhbār: waqāyaʿ behbahān dar zamān-i ḥamle-yi Maḥmūd Afghan*. Tehran: Miras Maktub, 1389/1944.
Bein, Amit. *Ottoman Ulema, Turkish Republic: Agents of Change and Guardians of Tradition*. Stanford: Stanford University Press, 2011.
Beinin, Joel, and Joe Stork, eds. *Political Islam: Essays from Middle East Report*. Berkeley: University of California Press, 1997.
Bellah, Robert N. "Religious Aspects of Modernization in Turkey and Japan." *The American Journal of Sociology* 64 (1958): 1-5.
Benard, Alexander K, Jason T. Berg, Benjamin G. Joseloff, Anne Stephens, and Eli Sugarman.

Introduction to the Law of Afghanistan, Second Edition. Online Publication, 2008, by the Afghanistan Legal Education Project (ALEP) at Stanford Law School, updated edition available at http://alep.stanford.edu/.
Benton, Lauren A. *Law and Colonial Cultures: Legal Regimes in world history, 1400-1900*. New York: Columbia University Press, 2001.
Berkes, Niyazi. *The Development of Secularism in Turkey*. Montreal: McGill University Press, 1964.
Bilgegil, M. Kaya. "Cemâleddîn Afgânî ve Türkiye." *Kubbealtı Akademi Mecmûası* 6 (1977): 53-66.
Bilgrami, Ashgar H. *Afghanistan and British India, 1793-1907*. New Delhi: Sterling Publishers, 1972.
Bilici, Abdülhamit. "Sultan Abdülhamid II and American envoy." *Today's Zaman* (March 1, 2013).
Bosworth, C.E. "Review of Ludwig W. Adamec, Afghanistan 1900-1923, A Diplomatic History." *Oriens* 23/24 (1974): 542-44.
Bourdieu, Pierre, (Richard Terdiman, trans.). "The Force of Law: Toward a Sociology of the Juridical Field," *Hastings Law Journal* 38 (1987): 805-853.
_____. *Logic of Social Practice*, trans. Richard Nice. Stanford: Stanford University Press, 1990.
Bozdoğan, Sibel, and Reşat Kasaba, eds. *Rethinking Modernity and National Identity in Turkey*. Seattle: University of Washington Press, 1997.
Brown, Nathan J. *Constitutions in a Nonconstitutional World: Arab Basic Laws and the Prospects of Accountable Government*. Albany: SUNY Press, 2002.
_____, and Adel Omar Sherif. "Inscribing the Islamic Shari'a in Arab Constitutional Law," in Haddad, Yvonne Yazbeck and Barbara Freyer Stowasser, eds., *Islamic Law and the Challenges of Modernity*. Walnut Creek: AltaMira Press, 2004.
_____. "Law and Imperialism: Egypt in Comparative Perspective," *Law and Society Review* 29:1 (1995)
_____. *The Rule of Law in the Arab World: Courts in Egypt and the Gulf*. Cambridge, UK: Cambridge University Press, 1997.
Bullard, G. "The Power of Menace: Soviet Relations with South Asia, 1917-1974." *British Journal of International Studies* 2:1 (1976): 51-66.
Bulliet, Richard. *Conversion to Islam in the Medieval Period: An Essay in Quantitative History*. Cambridge: Harvard University Press, 1979.
Benk, Adnan, ed. "Fahrettin Paşa," in *Büyük Larousse Sözlük ve Ansiklopedisi, 7. Cilt*. İstanbul: Gelişim Yayınları, 1986 (3952-53).
_____. "Namık Kemal," in *Büyük Larousse Sözlük ve Ansiklopedisi, 14. Cilt*. İstanbul: Gelişim Yayınları, 1986 (8525-26).
Can, Lale. "Connection People: A Central Asian sufi Network in turn-of-the-century Istanbul." *MAS* 46 (2012): 373-401
Caroe, Olaf. *The Pathans, 550 B.C.-A.D. 1957*. New York: St. Martin's Pres, 1958
Caron, James. "Afghanistan Historiography and Pashtun Islam: Modernization Theory's Afterimage." *History Compass* 5 (2007): 314-329.
Castel, J. G. "Review of Bernard Schwartz's *The Code Napoleon and the Common Law World*" *Michigan Law Review* 55 (1957): 472-478.
Chakrabarty, Dipesh. *Provincializing Europe: Postcolonial Throught and Historical Difference*. Princeton: Princeton University Press, 2000.

Chambers, Richard L. "The Ottoman Ulema and the Tanzimat," in Nikkie Keddie, ed. *Scholars, Saints, and Sufis: Muslim Religious Institutions in the Middle East since 1500*. Berkeley: University of California Press, 1972

_____. "The Education of a Nineteenth-Century Ottoman Alim, Ahmed Cevdet Paşa." *IJMES.* 4 (1973): 440-464

Chandra, Satish. "Jizya and the State in India During the Seventeenth Century." In *India's Islamic Traditions, 711-1750*, edited by Richard M. Eaton, 133-49. New Delhi: Oxford University Press, 2003.

Chanock, Martin. *Law, Custom, and Social Order: The Colonial Experience in Malawi and Zambia*. New York: Cambridge University Press, 1985.

Chatterjee, Partha. *Nationalist Thought and the Colonial World: A Derivative Discourse*. Minneapolis: University of Minnesota Press, 2001.

Chishti, Nighat Mehroze. *Constitutional Development in Afghanistan*. Karachi: Royal Book Company, 1998.

Chitaley, D.V., and N. Ramaratnam. *The Fifty Years' Digest, 1901-1950 (Civil, Criminal & Revenue)*. Bombay: Bombay Chronicle Press, 1952.

Christelow, Alan. *Muslim Law Courts and the French Colonial State in Algeria*. Princeton: Princeton University Press, 1985.

Clancy-Smith, Julia. *Rebel and Saint: Muslim Notables, Populist Protest, Colonial Encounters (Algeria and Tunisia, 1800-1904)*. Berkeley: University of California Press, 1994.

Clark, David. "The Many Meanings of the Rule of Law," in Kanishka Jayasuriya, ed., *Law, Capitalism, and Power in Asia: The Rule of Law and Legal Institutions*. London: Routledge, 1999.

Clark, Edward C. "The Ottoman Industrial Revolution." *International Journal of Middle East Studies* 5 (1974): 65-76.

Codd, R. A. "A Critical Analysis of the Role of Ijtihad in Legal Reforms in the Muslim World." *Arab Law Quarterly* 14 (1999): 112-131.

Cohn, Bernard S. *Colonialism and its Forms of Knowledge: The British in India*. Princeton: Princeton University Press, 1996.

_____. "Law and the Colonial State in India," in June Starr and Jane F. Collier, *History and Power in the Study of Law: New Directions in Legal Anthropology*. Ithaca: Cornell University Press, 1989.

Cole, Juan R. *Colonialism and Revolution in the Middle East: Social and Cultural Origins of Egypt's 'Urabi Movement*. Princeton: Princeton University Press, 1993.

Collier, Jane. "Intertwined Histories: Islamic Law and Western Imperialism." *Law and Society Review* 28 (1994): 395-408.

Commins, David Dean. *Islamic Reform: Politics and Social Change in Late Ottoman Syria*. New York: Oxford University Press, 1963.

Corrigan, Philip, and Derek Sayer, "How the Law Rules", in *Law, State and Society*, ed. Bob Fryer et al. London: Croom Helm, 1981.

Cöhce, Salim, "Atatürk Döneminde Afganistan ile İlişkiler ve İngiltere," in Ali Ahmetbeyoğlu, ed., *Afganistan Üzerine Araştırmalar* (İstanbul: Tarih ve Tabiat Vakfı Yayınları, 2001).

Cullather, Nick. "Damming Afghanistan: Modernization in a Buffer State." *Journal of American History* 89 (2002): 512-37.

Curtis, Michael. *Orientalism and Islam: European Thinkers on Oriental Despotism in the Middle East and India*. New York: Cambridge University Press, 2009.

Çağlayan, K. Tuncer. "Afganistan'da Bir Türk-Alman Heyetin Faaliyetlerine Karşı İngilitere'nin Politikaları." *Atatürk Araştırma Merkezi Dergisi* 17 (2001): 409-428.
Çankaya, Ali. *Yeni Mülkiye Tarihi ve Mülkiyeliler (8. Cild)*. Ankara: Mars Matbaası, 1970-71.
Çavdar, Ayşe. "Türk Paşası Afganistan'da." *Atlas* 115 (2002): 138-150.
Dale, Stephen F. *The Muslim Empires of the Ottomans, Safavids, and Mughals*. New York: Cambridge University Press, 2010.
Dalrymple, William Dalrymple, *The Last Mughal: The Fall of a Dynasty, Delhi 1857*. New York: Vintage, 2008.
Datla, Kavita. *The Language of Secular Islam: Urdu Nationalism and Colonial India*. Honolulu: University of Hawaii Press, 2013.
Dawn, C. Ernest. "From Ottomanism to Arabism: The Origin of an Ideology." *Review of Politics* 23 (1961): 378-400.
Davison, Andrew. "Secularization and Modernization in Turkey: the Ideas of Ziya Gokalp," *Economy and Society* 24:2 (1995): 189-224.
Davison, Roderick H. *Reform in the Ottoman Empire, 1856-1876*. Princeton: Princeton University Press, 1963.
_____. *Essays in Ottoman and Turkish History, 1774-1923: The Impact of the West*. Austin: University of Texas Press, 1990.
De Certeau, Michel, "The Historiographical Operation," in Tom Conley, *The Writing of History*. New York: Columbia University Press, 1988.
_____. *The Practice of Everyday Life*. Berkeley: University of California Press, 1984.
De Lauri, Antonio. "Legal Reconstruction in Afghanistan: Rule of Law, Injustice, and Judicial Mediation." *Jura Gentium: Journal of Philosophy of International Law and Global Politics* VI (2010): 1-28.
Derrett, J. D. M. (1968) *Religion, Law and the State in India*. London: Faber & Faber, 1968.
Deringil, Selim. *The Well-Protected Domains: Ideology and the Legitimation of Power in the Ottoman Empire, 1876-1909*. New York: I.B. Tauris, 1999.
Devereux, Robert. *The First Ottoman Constitutional Period: A study of the Midhat Constitution and Parliament*. Baltimore: Johns Hopkins Press, 1963.
Dirks, Nicholas. *Scandal of Empire: India and the Creation of Imperial Britain*. Cambridge: Harvard University Press, 2006.
Doumani, Beshara, ed. *Family History in the Middle East: Household, Property, and Gender*. Albany, NY: State University of New York Press, 2003.
_____. *Rediscovering Palestine: Merchants and Peasants in Jabal Nablus, 1700-1900*. Berkeley: University of California Press, 1995.
Dupree, Louis. *Afghanistan*. Princeton: Princeton University Press, 1973.
_____. "Mahmud Tarzi: Forgotten Nationalist." *American Universities Field Series Report: South Asia Series*, Vol III, No. 1 (1964).
Eaton, Richard. *India's Islamic Traditions, 711-1750*, edited by Richard M. Eaton, 133-49. New Delhi: Oxford University Press, 2003.
_____. *Rise of Islam and the Bengal Frontier, 1204-1760*. Berkeley: University of California Press, 1996
Edwards, David B. *Heroes of the Age: Moral Faultlines on the Afghan Frontier*. Berkeley: University of California Press, 1996.
Ekinci, Ekrem B. "Hukuk Tarihimizin Abide Eseri: Mecelle." *Tarih ve Medeniyet* 38 (1997): 54-56.

Enayat, Hamid. *Modern Islamic Political Thought*. Austin: University of Texas Press, 1982.
Erdem, Sami. "Ali Suavi'nin Usul-i Fıkh'a Dair Bir Risalesi," in *Diwan* 2 (1988): 283-296.
Erden, Ömer. *Mustafa Kemal Atatürk Döneminde Türkiye'yi Ziyaret Eden Devlet Başkanları*. Ankara: Atatürk Araştırma Merkezi, 2006.
Ergene, Boğaç A. *Local Court, Provincial Society and Justice in the Ottoman Empire: Legal Practice and Dispute Resolution in Çankırı and Kastamonu (1652-1744)*. Leiden: E.J. Brill, 2003.
Erickson, Edward J. *Ordered to die: A History of the Ottoman Army in the First World War*. Westport: Greenwood, 2001.
Esmeir, Samera. *Juridical Humanity: A Colonial History.* Stanford: Stanford University Press, 2012.
Fadel, Mohammad. "Back to the Future: The Paradoxical Revival of Aspirations for an Islamic State." *Review of Constitutional Studies* 14 (2009).
Fahmy, Khaled. *All the Pasha's Men: Mehmed Ali, His Army, and the Making of Modern Egypt*. New York: Cambridge University Press, 1997.
Fanon, Frantz. *Black Skin, White Masks*. New York: Grove Press, 1967.
Fareed, M. "Against Ijtihād" Vol. 91 *MW* 91 (2001): 355–370.
Farhadi, Rawan. *Afghanistan dar panjah sāl-i akhir*. Kabul: Muʾesessa-i Tabʿi Kutub, 1968.
_____. *Maqalat-i Mahmud Tarzi dar Seraj al-Akhbar-i-Afghanistan*. Kabul: Baihaqi Printing Institute, 1355/1976.
Farhang, Mir Muhammad Siddiq. *Afghanistan dar panj qarn-i akhir, vol 1*. Tehran: Kitābkhanah Millī Iran, 1380 [2001].
Faroqhi, Suraiya. *The Ottoman Empire and the World Around It.* New York: I.B.Tauris, 2004.
Farooqi, Naimur Rahman. *Mughal-Ottoman Relations.* Delhi: Idarah-i Adabiyat-i Delhi, 2009.
Faruqi, Zia ul Hassan. *The Deoband School and the Demand for Pakistan*. London: Asia Publishing House, 1963.
Faruq, Hanif. *Some Resemblances in the Emergence of Modern Turkey and Pakistan*. Ankara: Türk Tarih Kurumu, 1994.
Feldman, Noah. *The Fall and Rise of the Islamic State*. Princeton: Princeton University Press, 2008.
_____. "Why Shariah?" *New York Times* (March 16, 2008), MM46.
Findley, Carter V. *Bureaucratic Reform in the Ottoman Empire: The Sublime Porte, 1789-1922*. Princeton: Princeton University Press, 1980.
_____. *Ottoman Civil Officialdom: A Social History*. Princeton: Princeton University Press, 1989.
Finkel, Caroline. *Osman's dream: the story of the Ottoman Empire, 1300-1923*. New York: Basic Books, 2005.
Firth, Ann. "From Economy to the 'economy': Population and Self-Interest in Discourses of Government." *History of the Human Sciences* 11 (1988): 19-35.
Fisch, Jeorg. *Cheap Lives and Dear Limbs: The British Transformation of the Bengal Criminal Law, 1769-1817*. Wiesbaden: F. Steiner, 1983.
Fleischer, Cornell H. *Bureaucrat and Intellectual in the Ottoman Empire: The Historian Mustafa Âli, 1541-1600* (1986)
Floor, Willem. *The Afghan Occupation of Safavid Persia 1721-1729*. Paris: Association pour l Avancement des Études Iraniennes, 1998
Fufalzai, ʿAzīz al-Dīn Wakīlī. *Dār al-qaḍaʾ dar Afghanistan: āz awāyil-i-ʿahd-i Islam tā ʿahd-i*

jumhurīyat. Kabul: Markaz-i Taḥqīqat-i ʿUlūm-i Islāmī, 1369 [1990/1991].
Fortna, Benjamin C. *Imperial Classroom: Islam, the State, and Education in the Late Ottoman Empire*. New York: Oxford University Press, 2002.
Foucault, Michel. *Discipline and Punish: The Birth of the Prison*. New York: Vintage Books, 1995.
_____. *Society Must Be Defended: Lectures at the College de France, 1975-1976*. New York: Picador, 1997.
Fraser-Tytler, W.K. *Afghanistan: A Study of Developments in Central and Southern Asia*. London: Oxford University Press, 1953.
Galanter, Marc. *Law and Society in Modern India*. New York: Oxford University Press, 1989.
Gankovski, Urii Vladimirovich. *A History of Afghanistan*. Moscow: Progress Publishers, 1982.
Gardner, James A. *Legal Imperialism: American Lawyers and Foreign Aid in Latin America*. Madison: University of Wisconsin Press, 1980.
Garner, Bryan A., ed., *Black's Law Dictionary, Second Pocket Edition*. St. Paul: West Publishing Co., 2001.
Gautier, Théophile (trans N. Yiğitler). *İstanbul: Dünyanın En Güzel Şehri.* İstanbul: Profil Yayınlar, 2007.
Geertz, Clifford. *The Interpretation of Cultures*. New York: Basic Books, 1973.
Gellner, Ernest. *Nations and Nationalism*. Ithaca: Cornell University Press, 1983.
Gelvin, James. *Divided Loyalties: Nationalism and Mass Politics in Syria at the Close of the Empire*. Berkeley: University of California Press, 1998.
Gerber, Haim. *State, Society, and Law in Islam: Ottoman Law in Comparative Perspective*. Albany: State University of New York Press, 1994.
_____. "*Sharia, Kanun* and Custom in the Ottoman Law: The Court Records of 17th-Century Bursa." *IJTS* 2 (1981): 131-147.
Ghani, Ashraf. "Islam and State-Building in a Tribal Society: Afghanistan 1880-1901." *Modern Asian Studies* 12 (1978): 269-284.
_____. "Disputes in a Court of Sharia, Kunar Valley, Afghanistan: 1895-1890." *IJMES* 15 (1983): 353-367.
_____. "Afghanistan, xi. Administration." *Encyclopaedia Iranica*, Vol. I, Fasc. 5-6 (1983): 558-564
Gheissari, Ali. *Iranian Intellectuals in the 20th Century*. Austin: University of Texas Press, 1998.
Ghubār, Mīr Ghulām Muḥammad. *Afghānistān dar masīr-i tārīkh*. Qūm: Payām-i Muhājir, 1980.
Gommans, Jos. J.L. *The Rise of the Indo-Afghan Empire, 1710-1780*. Leiden, 1995
_____. "Afghāns in India." *Encyclopaedia of Islam, THREE,* Gudrun Krämer, Denis Matringe, John Nawas, Everett Rowson, eds., Brill Online Edition (2013), available at http://referenceworks.brillonline.com/entries/encyclopaedia-of-islam-3/afghans-in-india-COM_0013.
Gordon, Robert. "Critical Legal Histories." *Stanford Law Review* 36 (1984): 100-116.
_____, and Jon H. Sylvester. "Deconstructing Development." *Wisconsin International Law Journal* 22 (2004): 1-98.
Gözübenli, Beşir. "Türk Hukuk Tarihinde Kanunlaştırma Faaliyetleri ve Mecelle," in *Ahmet Cevdet Paşa Sempozyum: 9-11 Hazıran 1995*. Ankara: Türkiye Diyanet Vakfı Yayınları, 1997.
Green, Nile. *Bombay Islam: The Religious Economy of the West Indian Ocean, 1840-1915*.

New York: Cambridge University Press, 2011
_____. *Islam and the Army in Colonial India: Sepoy Religion in the Service of Empire*. Cambridge University Press, 2009.
_____. Making Space: Sufis and Settlers in Early Modern India. Oxford University Press, 2012
_____. "The Trans-Border Traffic of Afghan Modernism: Afghanistan and the Indian 'Urdusphere.'" *Comparative Studies in Society and History* 53 (2011): 479-508.
_____. "Blessed Men and Tribal Politics" Notes on Political Culture in the Indo-Afghan World." *Journal of the Economic and Social History of the Orient* 49 (2006): 344-360.
_____, and Nushin Arbabzadah, eds., *Afghanistan in Ink: Literature Between Diaspora and Nation*. New York: Columbia University Press (forthcoming, 2013).
Gregorian, Vartan. *The Emergence of Modern Afghanistan, 1880-1946*. Stanford: Stanford University Press, 1969.
_____. "Mahmud Tarzi and the Saraj-al-Akhbar: Ideology of Nationalism and Modernism in Afghanistan, 1880-1946." *Middle East Journal* 21 (1967): 345-68.
Gross, Ariela. *Double Character: Slavery and Mastery in the Antebellum Southern Courtroom.* Athens, GA: University of Georgia Press, 2000.
Guenther, Alan M. "Ḥanafī Fiqh in Mughal India: The Fatawa-i Alamgiri," in *India's Islamic Traditions, 711-1750*, edited by Richard M. Eaton. New Delhi: Oxford University Press, 2003.
Guha, A. "The Economy of Afghanistan during Amān-Allāh's Reign, 1919-1929." *International Studies* 9 (1967-68): 161-182.
Guha, Ranajit. *A Rule of Property for Bengal: An Essay on the Idea of the Permanent Settlement.* Paris: Mouton, 1963.
Gül, Murat. *The Emergence of Modern Istanbul: Transformation and Modernization of a City*. London: Tauris, 2009.
Habermas, Jürgen. "Religion in the Public Sphere." *European Journal of Philosophy* 14 (2006): 1-25.
Ḥabībī, ʿAbd al-Ḥay. *Junbesh-e mashrūṭiyat dar Afghānistān*. Kabul: Iḥsānī, 1346 [1967].
Haddad, Yvonne Yazbeck, and Barbara Freyer Stowasser, eds. *Islamic Law and the Challenges of Modernity*. Walnut Creek: Alta Mira Press, 2004.
Halis, İsa. *Tanzimat Dönemi Eğitim Sistemi ve Yeniden Yapılanma Çabaları.* Konya: Serhat Kitābevi, 2005.
Hall, Lesley. *A Brief Guide to Sources for the Study of Afghanistan in the India Office Records*. London, 1981.
Hallaq, Wael B. *A History of Islamic Legal Theories: An Introduction to Sunnī* ušūl al-fiqh. New York: Cambridge University Press, 1999.
_____. *An Introduction to Islamic Law*. New Delhi: Cambridge University Press, 2009.
_____. "From Fatwas to Furu': Growth and Change in Islamic Substantive Law." *Islamic Law and Society* 1 (1994): 17-56.
_____. "'Muslim Rage' and Islamic Law," *Hastings Law Journal* 54 (2003): 1705-1719.
_____. *Shari'a: Theory, Practice, Transformations*. New York: Cambridge University Press, 2009.
Hanifi, M. Jamil. "Editing the Past: Colonial Production of Hegemony Through the 'Loya Jirga' in Afghanistan." *IRS* 37 (2004): 295-322.
Hanifi, Shah Mahmoud. *Connecting Histories in Afghanistan: Market Relations and State Formation on a Colonial Frontier*. Stanford: Stanford University Press, 2011.

_____. "Impoverishing a Colonial Frontier: Cash, Credit, and Debt in Nineteenth Century Afghanistan." *IRS* 37 (2004): 199-218.
Hanioğlu, M. Şükrü. *A Brief History of the Late Ottoman Empire*. Princeton: Princeton University Press, 2008.
_____. *Preparation for a Revolution: The Young Turks, 1902-1908*. New York: Oxford University Press, 2001.
_____. *The Young Turks in Opposition*. New York: Oxford University Press, 1995.
Hanssen, Jens. *Fin de Siecle Beirut: The Making of an Ottoman Provincial Capital*. Oxford: Clarendon Press, 2005.
Hardy, Peter. *Partners in Freedom and True Muslims: The Political Thought of Some Muslim Scholars in British India, 1912-1947*. Westport: Greenwood Press, 1971.
_____. *The Muslims of British India*. London: Cambridge University Press, 1972.
Haroon, Sana. *Frontier of Faith: Islam in the Indo-Afghan Borderland*. New York: Columbia University Press, 2007.
_____. "The Rise of Deobandi Islam in the North-West Frontier Province and Its Implications in Colonial India and Pakistan," *Journal of the Royal Asiatic Society*, 18.1 (2008).
_____. "Reformism and Orthodox Practice in Early Nineteenth-Century North India: Sayyid Ahmed Shaheed Reconsidered," *Journal of the Royal Asiatic Society*, 21.2 (2011).
_____. "Intersections of Religious Revivalism: Shari'a and jihad across the Durand Line in the Twentieth Century," in Robert Crews and Shahzad Bashir eds., *Alienated Nations, Fractured States: Afghanistan and Pakistan* (Cambridge: Harvard University Press, 2012).
Hasan, Farhat. *State and Locality in Mughal India: Power Relations in Western India, Circa 1572-1730*. Cambridge: Cambridge University Press, 2004.
Hasan, Mushiral and Margrit Pernau. *Regionalizing Pan-Islamism: Documents on the Khilafat Movement*. New Delhi: Manohar, 2005.
Hasan, Mushiral and Rakhshanda Jalil. *Partners in Freedom: Jamia Millia Islamia*. New Delhi: Niyogi Books, 2006.
Hashimī, Sayyid Saʿd al-Dīn. *Junbush-i mashrūṭiyat khwāhi dar Afghanistan*. Kabul: Shūrā-yī farhangī Afghanistan, 2001
Heathcote, T.A. *The Afghan Wars, 1839-1919*. London: Osprey Publishing, 1980.
Helmreich, Paul C. *From Paris to Sèvres: the partition of the Ottoman Empire at the peace conference of 1919-1920*. Columbus: Ohio State University Press, 1974.
Ho, Enseng. *The Graves of Tarim: Geneaology and Mobility across the Indian Ocean*. Berkeley: University of California Press, 2006.
Hoffer, Peter Charles. *Law and People in Colonial America*. Baltimore: Johns Hopkins Press, 2008.
Hodgson, Marshall G.S. *The Venture of Islam: Conscience and History in a World Civilization*. Chicago: University of Chicago Press, 1958.
Holdich, T. Hungerford *The Indian Borderland: 1880-1900.* Delhi: Gian Publishing House, 1987.
Hopkins, Benjamin D, and Magnus Marsden. *Fragments of the Afghan Frontier*. New York: Columbia University Press, 2012.
Hopkirk, Peter, *Like Hidden Fire: The Plot to Bring Down the British Empire*. New York: Kodansha, 1994.
Hourani, Albert. *Arabic Thought in the Liberal Age, 1798-1939*. New York: Cambridge

University Press, 1983.
Hughes, L. Thomas. "German Mission to Afghanistan, 1915-1916." *German Studies Review* 25 (2002): 447-476.
Hussain, M. Hadi. *A Message From the East: Iqbal's* Payām-i Mashriq. Lahore: Iqbal Academy Pakistan, 1971.
Hussain, Nasser. *The Jurisprudence of Emergency: Colonialism and the Rule of Law*. Ann Arbor: University of Michigan Press, 2003.
Hülagü, M. Metin, *The Hejaz Railway: Construction of a New Hope*. New York: Blue Dome, 2010.
İmamhocayev, Rahmanhoca. "Afganistan ve Türkiye ." *Atatürk Üniversitesi Türkiyat Araştırmaları Enstitüsü Dergisi* 17 (2001): 261-266.
_____. "Afgan Aydını ve Yazarı Mahmut Tarzi ve Osmanlı-Türkiye." Çev. Osman Mert, *Atatürk Üniversitesi Türkiyat Araştırmaları Enstitüsü Dergisi* 9 (2002): 347-352.
Imber, Colin. *Ebu's-su'ud: The Islamic Legal Tradition*. Stanford: Stanford University Press, 2009.
İnalcik, Halil, and Donald Quataert. *An Economic and Social History of the Ottoman Empire, 1300-1914*. Cambridge: Cambridge University Press, 1994.
İnan, Afet. *Atatürk Hakkında Hatıralar ve Belgeler*. İstanbul: Türkiye İş Bankası Kültür Yayınları, 2007.
Işık, Tamdoğan. "Sulh and the 18th Century Ottoman courts of Uskudar and Adana." *Islamic Law and Society* 15 (2008): 55-83.
İslamoğlu, Huricihan, ed. *Constituting Modernity: Private property in the East and West*. New York: I.B. Tauris, 2004.
_____ and Peter C. Perdue, eds. *Shared Histories of Modernity: China, India, and the Ottoman Empire*. New York: Routledge, 2009.
_____. "Modernities Compared: State Transformations and Constitutions of Property in the Qing and Ottoman Empires." *Journal of Early Modern History* 5 (2001): 353-386.
_____, ed. *The Ottoman Empire and the World Economy*. New York: Cambridge University Press, 1987.
_____, "Propety as a Contested Domain: A Reevaluation of the Ottoman Land Code of 1858," in Roger Owen, ed, *New Perspectives on Property and Land in the Middle East*. Cambridge: Harvard University Press, 2000.
İzgöer, Ahmet Zeki. *Ahmet Cevdet Paşa*. İstanbul: Şûle Yayınları, 1999.
Jackson, Sherman A. *Islamic Law and the State: The Constitutional Jurisprudence of Shihab al Din al Qarafi* (1996).
_____. "Shari'ah, Democracy, and the Modern Nation-State: Some Reflections on Islam, Popular Rule, and Pluralism." *Fordham International Law Journal* 27 (2003): 88-107.
_____. "Literalism, Empiricism, and Induction: Apprehending and Concretizing Islamic Law's Maqasid al-Shariah in the Modern World." *Michigan State Law Review* (2006): 1469-86.
Jaeschke, Gothard (Niyazi Recep Aksu, trans.). *Türk İnkılâbı Tarihi Kronolojisi, 1. Cilt: 1918 1923.* İstanbul: Millî Mecmua Basımevi, 1939.
_____. *Türk İnkılâbı Tarihi Kronolojisi, 2. Cilt: 29.10.1923 – 1.1.1930.* İstanbul: Millî Mecmua Basımevi, 1941.
Jalal, Ayesha. *Self and Sovereignty: Individual and Community in South Asian Islam since 1850*. New York: Routledge, 2000.
Johansen, Baber. *Contingency in a Sacred Law: Legal and Ethical Norms in the Muslim Fiqh*.

Leiden: E.J. Brill, 1999.
_____. *The Islamic Law on Land Tax and Rent: The Peasants' Loss of Property Rights as Interpreted in the Ḥanafīte Legal Literature of the Mamluk and Ottoman Periods*. London: Croom Helm, 1988.
Johnson, Chalmers. *Blowback: The Costs and Consquences of American Empire*. New York: Henry Holt and Co., 2000.
Kafadar, Cemal. *Between Two Worlds: The Construction of the Ottoman state*. Berkeley: University of California Press, 1995.
_____. "The Question of Ottoman Decline." *Harvard Middle Eastern and Islamic Review* 1-2 (1997-1998): 30-75.
Kahn, Paul W. *The Reign of Law: Marbury v. Madison and the Construction of America*. New Haven: Yale University Press, 1997.
Kakar, M. Hasan Kawun, *Government and Society in Afghanistan: The Reign of Amir ʿAbd al Rahman* Khan. Austin: University of Texas Press, 1979.
_____. *A Political and Diplomatic History of Afghanistan, 1863*-1901. Leiden: Brill, 2006.
_____. "Constitutional History of Afghanistan," *Encyclopaedia Iranica*, Vol. VI, Fasc. 2 (1992): 158-162.
_____. "Afghanistan from Disintegration to Reunification: 1880-1884." *Afghanistan* (Kabul), 23 (1970): 12-23.
Kamali, Mohammad Hashim. *Law in Afghanistan: A Study of the Constitutions, Matrimonial Law and the Judiciary*. Leiden: E.J. Brill, 1985.
_____. *Maqāṣid al-Sharīʿah Made Simple*. London: IIIT, 2008. (on googlebooks)
_____. *Principles of Islamic Jurisprudence*. Cambridge: Islamic Texts Society, 2003.
_____. *Shariʿah Law: An Introduction.* Oxford: Oneworld Publications, 2008.
_____. "Methodological Issues in Islamic Jurisprudence" *Arab Law Quarterly*, Vol. 11, No. 1 (1996): 3-33.
Kandemir, Feridun. *Medine Müdafaası: Peygamberimizin Gölgesinde Son Türkler*, İstanbul: Yağmur Yayınları, 2010.
Karacakaya, Recep. *A Chronology of the Armenian Problem, With a Bibliography (1878-1923)*. Ankara: T.C. Başbakanlık Devlet Arşivleri Genel Müdürlüğü, 2002.
Karpat, Kemal H. *"The Politicization of Islam: Reconstructing Identity, State, Faith, and Community in the Late Ottoman State."* New York: Oxford University Press, 2001.
_____. "The Transformation of the Ottoman State, 1789-1908." *International Journal of Middle Eastern Studies* 3 (1972): 243-281.
Kayalı, Hasan, *Arabs and Young Turks: Ottomanism, Arabism, and Islamism in the Ottoman Empire, 1908-1918*. Berkeley: University of California Press, 1997.
Kazmi, S.A. Akhtar. *Anglo-Afghan Tussle*. Islamabad: National Book Foundation, 1984.
Keddie, Nikki R. "Afghani in Afghanistan." *Middle Eastern Studies* 1 (1965): 322-349.
_____. *Sayyid Jamal al-Din "al-Afghani": A Political Biography*. Berkeley: University of California Press, 1972.
_____. *An Islamic Response to Imperialism: Political and Religious Writings of Sayyid Jamal ad-Din "al-Afghani"*. Berkeley: University of California Press, 1983.
_____. *Roots of Revolution: An Interpretive History of Iran*. New Haven: Yale University Press, 1981.
_____, ed. *Scholars, Saints, and Sufis: Muslim Religious Institutions in the Middle East since 1500*. Berkeley: University of California Press, 1972.

Kelsen, Hans. *Pure Theory of Law*. Berkeley: University of California Press, 1967.
Kerr, Malcolm H. *Islamic Reform: The Political and Legal Theories of Muhammad 'Abduh and Rashīd Riḍā*. Berkeley: University of California Press, 1966.
Khadurri, Majid. *The Islamic Conception of Justice*. Baltimore: Johns Hopkins University Press, 1984.
Khalid, Adeeb. *The Politics of Muslim Cultural Reform: Jadidism in Central Asia*. Berkeley: University of California Press, 1998.
Khalidi, Rashid. "From Ottomanism to Arabism", in Khalidi, et al., *The Origins of Arab Nationalism*. New York: Columbia University Press, 1991.
Khan, Hamid. *Constitutional and Political History of Pakistan*. Karachi: Oxford University Press, 2001.
Khan, Maimul Ahsan. *Human Rights in the Muslim World: Fundamentalism, Constitutionalism, and International Politics*. Durham, NC: Carolina Academic Press, 2003.
Khoja, Ali Muhammad. *Elements of Islamic Jurisprudence: An Outline of the Evolution and Principles of Islam*. Karachi: Mirror Press, 1977.
Khoury, Dina Rizk. *State and Provincial Society in the Ottoman Empire: Mosul, 1540-1834*. New York: Cambridge University Press, 1997.
Khoury, Philip. *Urban Notables and Arab Nationalism: The Politics of Damascus 1860-1920*. New York: Cambridge University Press, 1983.
Kim, Marie Seong-Hak. "Civil Law and Civil War: Michel de l'Hôpital and the Ideals of Legal Unification in Sixteenth-Century France," *Law and History Review* 28:3 (2010): 791-826.
Kılıç, Selamı. *Türk-Sovyet İlişkilerinin Doğusu*. İstanbul: Dergah Yayınları, 1988.
Kolsky, Elizabeth. "Codification and the Rule of Colonial Difference: Criminal Procedure in British India." *Law and History Review* 23 (2005): 631-683.
Korkmaz, Özlem. "Afganistan'a Türk Yardımı (1920-1960)," in Ali Ahmetbeyoğlu, ed., *Afganistan Üzerine Araştırmalar*. İstanbul: Tarih ve Tabiat Vakfı Yayınları, 2001.
Kostal, Rande W. *A Jurisprudence of Power: Victorian Empire and the Rule of Law*. New York: Oxford University Press, 2006.
Köçer, Mehmet. *Emanullah Dönemi Afganistan (1919-1929)*. Istanbul: Manas Yayınları, 2009.
Kösoğlu, Nevzat. *Şehit Enver Paşa*. İstanbul: Ötüken Neşriyat, 2008.
Kroncke, Jed. "Substantive Irrationalities and Irrational Substantivities: The Flexible Orientalism of Islamic Law." *UCLA Journal of Islamic and Near Eastern Law* 4 (2004-2005): 41-73.
Krusiński, Judas Thaddaeus. *The history of the Revolution of Persia.* Dublin: S. Power, 1729.
Kugle, Scott. "Framed, Blamed and Renamed: the Reshaping of Islamic Law in Colonial South Asia."*MAS* 35 (2001): 257-313.
Kuran, T. "The Provision of Public Goods under Islamic Law: Origins, Impact, and Limitations of the Waqf System" *Law and Society Review* 35 (2001): 841-898.
Kurzman, Charles, ed. *Modernist Islam, 1840-1940: A Sourcebook*. New York: Oxford University Press, 2002.
Kushner, David. *The Rise of Turkish Nationalism, 1876-1908*. London: Frank Cass, 1977.
Kutay, Cemal. *Osmanlıdan Cumhuriyete: Yüzyılımızda Bir İnsanımız, Hüseyin Rauf Orbay (1881-1964)*. İstanbul: Kazancı Kitap Ticaret, 1992.
Lafi, Nora. "The Ottoman Municipal Reforms between Old Regime and Modernity: Towards a New Interpretive Paradigm" in *First International Symposium on Eminönü*. Istanbul: Eminönü Belediyesi, 2007.

Laghari, Mawlana ‘Abdullah. *Mawlana Ubeydullah Sindhi ki sarguzesht-i Kabul*. Islamabad: National Institute of Historical and Cultural Research, 1980.
Lal, Brij J., ed., *The Encyclopedia of the Indian Diaspora*. Honolulu: University of Hawai’i Press, 2006.
Landau, J.M. “Al-Afghani’s Pan-Islamic Project.” *Islamic Culture* XXVI (1952): 50-54.
La‘lzād, Ghulām Muhammad. *Shi‘r-i Mu‘āsir-i Darī dar Afghanistan*. Delhi: Bunyād-i Farhang wa Tamaddun-i Afghanistan, 1998.
Lapidus, Ira M. *A History of Islamic Societies*. New York: Cambridge University Press, 1988.
Lawrence, Bruce and David Gilmartin, eds. Beyond Turk and Hindu: Rethinking Religious Identities in Islamicate South Asia. Gainesville: University of Florida Press, 2000.
Lee, Dwight. “A Turkish Mission to Afghanistan, 1877.” *The Journal of Modern History* 13 (1941): 335-356.
_____. “The Origins of Pan-Islamism: Part II.” *AHR* 47 (1942): 278-87.
Lelyveld, David S. *Aligarh’s First Generation: Muslim Solidarity in British India*. New Delhi: Oxford University Press, 1996.
Levy, Noemi, Nadir Özbek, and Alexandre Tourmarkine. *Jandarma ve Polis: Fransız ve Osmanlı Tarihçiliğine Çapraz Bakışlar*. İstanbul: Tarih Vakfı Yurt Yayınları, 2009.
Lewis, Bernard. *The Emergence of Modern Turkey*. New York: Oxford University Press, 1968.
Lewis, Franklin D. *Rumi: Past and Present, East and West: The Life, Teachings, and Poetry of Jalal al-Din Rumi*. Oxford: Oneworld Publications, 2008.
Lieberman, David. “Codification, Consolidation, and Parliamentary Statute”, in John Brewer and Eckhart Hellmuth (eds.), Rethinking Leviathan: the Eighteenth-Century State in Britain and Germany. New York: Oxford University Press, 1999.
Liebesny, H. *The Law of the Near and Middle East: Readings, Cases and Materials*. Albany: State University of New York Press, 1975.
Lindsay, Lisa A. 2012. “The Appeal of Transnational History.” *Perspectives on History* 50: 48-49.
Lockhart, Laurence. The Fall of the Safavi Dynasty and the Afghan Occupation of Persia. London: Cambridge University Press, 1958.
Lockman, Zachary. *Contending Visions of the Middle East: The History and Politics of Orientalism*. Cambridge: Cambridge University Press, 2004.
Macrory, Patrick *Retreat from Kabul: The Incredible Story of How a Savage Afghan Force Massacred the World’s Most Powerful Army*. Gulford, CT: Lyons Press, 2002.
Magnus, Ralph H., and Eden Naby. *Afghanistan: Mullah, Marx, Mujahid*. Boulder: Westview Press, 1998.
Mahmood, Saba. *The Politics of Piety: The Islamic Revival and the Feminist Subject*. Princeton: Princeton University Press, 2005.
_____. “Hermeneutics, Secularism, and Empire: Reformation of Islamic Politics.” *Public Culture* 18 (2006): 323-347.
Makdisi, Ussama, “Ottoman Orientalism,” *American Historical Review* (2002): 768-796.
Malinowski, Bronislaw. *Argonauts of the Western Pacific*. Long Grove: Waveland Press, 1984.
Malikyar, Helena. "Law: Modern Family Law, 1800–Present: Afghanistan." *Encyclopedia of Women & Islamic Cultures*, Suad Joseph, ed., Brill Online, 2013, available at http://referenceworks.brillonline.com/entries/encyclopedia-of-women-and-islamic-cultures/law-modern-family-law-1800present-afghanistan-COM_0114a.
Rama Mani, *Beyond Retribution: Seeking Justice in the Shadows of War*. Cambridge, UK:

Polity Press, 2002.
Mardin, Ebül'ulâ, "Development of the Sharī`a under the Ottoman Empire" in *Law in the Middle East*, vol. 1, edited by Majid Khadduri and Herbert J. Liebesny. Washington, D.C.: The Middle East Institute, 1955.
_____. *Medeni Hukuk Cephesinden Ahmet Cevdet Paşa*. İstanbul: T.C. Mardin Valiliği, 2011.
Mardin, Şerif. *The Genesis of Young Ottoman Thought: A Study in the Modernization of Turkish Political Ideas*. Syracuse: Syracuse University Press, 2000.
_____. "Some Explanatory Notes on the Origins of the 'Mecelle'" *The Muslim World* 51 (1961): 189-196.
_____. "Some Explanatory Notes on the Origins of the 'Mecelle.'" *The Muslim World* 51 (1961): 274-279.
Marghinānī, Burhān al-Dīn ʿAlī ibn Abī Bakr, (Muḥammad Tamir, Hāfiẓ ʿAshur Hāfiẓ, eds.). *Al-Hidāyah: Sharḥ Bidāyah al-Mubtadī*. Cairo: Dar al-Salam, 1420 [2000].
_____, (Charles Hamilton, trans.). *The Hedaya, or Guide: a commentary on the Mussulman* law. Lahore: Premier Book House, 1975.
Marsden, Magnus, and Benjamin D. Hopkins. *Fragments of the Afghan Frontier*. Columbia University Press, 2012.
Massad, Joseph A. *Colonial Effects: The Making of National Identity in Jordan*. New York: Columbia University Press, 2001.
_____. *Desiring Arabs*. Chicago: University of Chicago Press, 2007.
Massel, Gregory J. *The Surrogate Proletariat: Moslem Women and Revolutionary Strategies in Soviet Central Asia, 1919-1929*. Princeton: Princeton University Press, 1974
Masud, Muhammad Khalid. *Shātibī's Philosophy of Islamic Law*. Kuala Lumpur: Islamic Book Trust, 2000.
_____. "Adab al-Mufti: The Muslim Understanding of Values, Characteristics, and Role of a Mufti," in Masud, Messick and Powers, eds. *Islamic Legal Interpretation: Muftis and their Fatwas*. Cambridge: Harvard University Press, 1996.
Matar, Nabil. *Confronting Decline in Early Modern Arabic Thought*. Leiden: E.J. Brill, 2001.
Mattei, Ugo. *Comparative Law and Economics*. Ann Arbor: University of Michigan Press, 1998.
Maurer, Bill. *Recharting the Carribean: Land, Law, and Citizenship in British Virgin Islands*. Ann Arbor: University of Michigan Press, 1997.
May, Lini S. *The Evolution of Indo-Muslim Thought after 1857*. Lahore: Sh. Muhammad Ashraf, 1970.
Mayer, Ann Elizabeth. "Universal versus Islamic Human Rights: A Class of Cultures or a Clash with a Construct?" *Michigan Journal of International Law* 15 (1994): 304-404.
McCarthy, Justin. *Death and Exile: The Ethnic Cleansing of Ottoman Muslims, 1821-1922*. Princeton: Darwin Press, 1995.
_____. *Muslims and minorities: The population of Ottoman Anatolia and the end of empire*. New York: New York University Press, 1983.
McChesney, Robert D. *Kabul Under Siege: Fayz Muhammad's Account of the 1929 Uprising*. Princeton: Markus Weiner, 1999.
_____. *Waqf in Central Asia: 400 Years in the History of a Muslim Shrine, 1480-1889*. Princeton: Princeton University Press, 1991.
_____. "A Farman Issued by Amir Shah 'Ali Khan in 1877." *Journal of Asian History* (Wiesbaden) 17 (1983): 136-158.

McLennan, Rebecca. *The Crisis of Imprisonment: Protest, Politics, and the Making of the American Penal State, 1776-1941*. New York: Cambridge University Press, 2008.
Meeker, Michael E. *A Nation of Empire: The Ottoman Legacy of Turkish Modernity*. Berkeley: University of California Press, 2002.
Mehta, Uday S. *Liberalism and Empire: A Study in Nineteenth-Century British Liberal Thought*. Chicago and London: University of Chicago Press, 1999.
Merry, Sally Engle. *Colonizing Hawai'i: The Cultural Power of Law*. Princeton: Princeton University Press, 2000.
_____. "Legal Pluralism." *Law & Society Review* 22 (1988): 869-896.
Messick, Brinkley. *The Calligraphic State: Textual Domination and History in a Muslim Society*. Berkeley: University of California Press, 1993.
Metcalf, Thomas. *Ideologies of the Raj*. New York: Cambridge University Press, 1997.
_____. *Imperial Connections: India in the Indian Ocean Arena, 1860-1920*. Berkeley: University of California Press, 2007.
_____. *The Aftermath of Revolt: India, 1857-1870*. Princeton: Princeton University Press, 1964.
_____, and Barbara D. Metcalf. *A Concise History of India.* New York: Cambridge University Press, 2006.
Metcalf, Barbara Daly. *Islamic Revival in British India: Deoband, 1860-1900*. Princeton: Princeton University Press, 1982.
_____. *Husain Ahmad Madani: The Jihad for Islam and India's Freedom.* Oxford: Oneworld Publications, 2009.
_____. "Deoband," *Encyclopaedia Iranica*, Vol. VII, Fasc. 3 (1994): 296-297.
Mill, J.S. *Writings on India*. Robson, J.M., Moir, M. and Moir, Z., editors. Toronto: University of Toronto Press, 1990.
Miller, R.A. "Apostates and Bandits: Religious and Secular Interaction in the Administration of Late Ottoman Criminal Law" *Studia Islamica* 97 (2003): 155-178.
Minault, Gail. *The Khilafat Movement: Religious Symbolism and Political Mobilization in India*. New York: Columbia University Press, 1982.
Mines, Mattinson. "Courts of Law and Styles of Self in Eighteenth-Century Madras: From Hybrid to Colonial Self." *Modern Asian Studies* 35 (2001): 33-74.
Mirow, Matthew C. "The Power of Codification in Latin America: Simon Bolivar and the Code Napoleon," *Tulane Journal of International and Comparative Law* (2000)
_____. "Borrowing Private Law in Latin America: Andrés Bello's Use of the Code Napoléon in Drafting the Chilean Civil Code." *Louisiana Law Review* 61 (2001) 291-329.
_____. "The Code Napoleon: Buried But Ruling in Latin America." *Denver Journal of International Law and Policy* 33 (2005): 179-194
Mirsepassi, Ali. *Intellectual Discourse and the Politics of Modernization: Negotiating Modernity in Iran*. New York: Cambridge University Press, 2000.
Mitchell, Timothy. *Colonising Egypt*. Berkeley: University of California Press, 1988.
_____. *Rule of Experts: Egypt, Techno-Politics, Modernity*. Berkeley: University of California Press, 2002.
Moaddel, Mansoor. *Islamic Modernism, Nationalism, and Fundamentalism: Episode and Discourse*. Chicago: University of Chicago Press, 2005.
Moberly, F.J. *Operations in Persia, 1914-1919*. London: HMSO, 1987.
Moore, Sally Falk. *Law as Process: An Anthropological Approach*. Piscataway, NJ:

Transaction Publishers, 2000.
Mottahedeh, Roy and Kristen Stilt. "Public and Private as Viewed through the Work of the Muhtasib." *Social Research 70* (2010): 735-748.
Mughul, M.Y. "Turco-Pakistan Relations in Historical Perspective," in *Grassroots*, 13-14 (1988): 1.
Mundy, Martha, and Richard Saumarez Smith. *Governing Property, Making the Modern State: Law Administration and Production in Ottoman Syria*. London: I.B. Tauris, 2007.
Murteza, B.(2004) "Fikih to Law: Secularization Through Curriculum" 11 *Islamic Law and Society* (2004): 378-401.
Nader, Laura. *The Life of the Law: Anthropological Projects*. Berkeley: University of California Press, 2002.
_____. "Law and the Theory of Lack." *Hastings International and Comparative Law Review* 28 (2005): 191-204.
_____, ed. *Law in Culture and Society*. Berkeley: University of California, 1997.
_____. "Promise or Plunder: A Past and Future Look at Law and Development." *The World Bank Legal Review: Law, Equity, and Development* 2 (2006): 87-111.
_____. "What the Rest Thinks of the West—Legal Dimensions." *Global Jurist* 9 (2009): 1-7.
Nadolski, Dora Glidewell. "Ottoman and Secular Civil Law." *International Journal of Middle East Studies* 8 (1977): 517-543.

Nair, Janaki. *Women and the Law in Colonial India*. New Delhi: Kali for Women/National Law School of India University, 1996.
Nawid, Senzil K. *Religious Response to Social Change in Afghanistan, 1919-29: King Aman Allah and the Afghan Ulama*. Costa Mesa: Mazda Publishers, 1999.
_____. "The State, the Clergy, and British Imperial Policy in Afghanistan during the 19th and Early 20th Centuries." *International Journal of Middle East Studies* 29 (1997): 581-605.
_____. "Amānallāh Shāh," *Encyclopaedia of Islam, THREE*, Gudrun Krämer, Denis Matringe, John Nawas, Everett Rowson, eds., Brill Online Edition (2013), available at http://referenceworks.brillonline.com/entries/encyclopaedia-of-islam-3/amanallah-shah-COM_23429.
_____. "Tarzi and the Emergence of Afghan Nationalism: Formation of a Nationalist Ideology." 2009, Boston University paper, http://www.bu.edu/aias/nawid_article.pdf
_____. "Comparing the Regimes of Amān-Allāh (1919-1929) and the Afghan Marxists (1978 1990): Similarities and Differences." *Critique* 1:2 (1993): 15-31.
_____. "The Khost Rebellion: The Reaction of Clerical and Tribal Forces to Social Change." *Annali* 58:3 (1966): 311-319.
Neumann, Cristoph K. "Whom did Ahmed Cevdet Represent?" in Elisabeth Özdalga, *Late Ottoman Society*. New York: Routledge, 2005.
Neumann, Franz L. *The Rule of Law Under Siege: Selected Essays of Franz L. Neumann and Otto Kirchheimer*. Berkeley: University of California Press, 1996.
Newberg, Paula R. *Judging the State: Courts and Constitutional Politics in Pakistan*. New York: Cambridge University Press, 2002.
Nicolson, Harold. *Curzon: The Last Phase, 1919-1925: A Study in Postwar Diplomacy*. London: Constable, 1934.
Niejmeijer, A.C. *The Khilafat Movement in India, 1919-1924*. Hague: Martinus Nijhoff, 1972.
Nigam, Sanjay. "Disciplining and Policing the 'Criminals by Birth', part 1: The Making of

Colonial Stereotype- the Criminal Tribes and Castes of North India." *Indian Economic Social History Review,* 27, no.2 (1990): 131-164.
_____. "Disciplining and Policing the 'Criminals by Birth' part 2: The Development of a Disciplinary System, 1871-1900." *Indian Economic and Social History Review*, 27, no.3 (1990): 257-287.
Nizam al-Mulk, trans. Hubert Drake. *The Book of Government, or Rules of Kings: Siyar al Muluk, or Siyasat-nama of Nizam al-Mul (Persian Heritage Series, vol. 32)*. London: Routledge and Kegan Paul, 1978.
Noelle, Christina. *State and Tribe in Nineteenth Century Afghanistan: The Reign of Amir Dost Muhammad Khan, 1826-1863*. London: Curzon Press, 1997.
Nyazee, Imran Ahsan Khan. *Bibliography of Islamic Law: The Original Sources*. Islamabad: Niazi Publishing House, 1995.
Oaikar, K. Pamir. *Zuhur wa suqut Alihazrat Amān-Allāh Khan*. Toronto: Pagah, 2002.
Okoth-Ogondo, H.W.O., Constitutions Without Constitutionalism: Reflections on an African Political Paradox, in Jackson, Vicki C and Mark Tushnet, *Comparative Constitutional Law* 222-33 (1999).
Olesen, Asta. *Islam and Politics in Afghanistan*. Richmond Surrey: Curzon, 1995.
_____. "The Political Use of Islam in Afghanistan during the Reign of Amir ʿAbd al-Raḥmān," in C. Baraae and K. Ferdinand (eds.), *Contributions to Islamic Studies: Iran, Afghanistan and Pakistan*. Armus: Armus University Press, 1987.
Olson, Robert. *The Emergence of Kurdish Nationalism and the Sheikh Sait Rebellion, 1880 1925*. Austin: University of Texas Press, 1989.
Omissi, David E. (1990). *Air Power and Colonial Control: The Royal Air Force, 1919–1939*. New York: Manchester University Press.
Onar, S.S. "The Majalla," in M. Khadurri and H.J. Liebesny, eds., *Law in the Middle East*. Washington D.C.: The Middle East Institute, 1955.
Otto, Jan Michiel, ed. *Sharia Incorporated: A Comparative Overview of the Legal Systems of Twelve Muslim Countries in Past and Present*. Leiden: Leiden University Press, 2011.
Owen, Roger. *The Middle East in the World Economy, 1800-1914*. London: Methuen, 1981.
_____, ed. *New Perspectives on Property and Land in the Middle East*. Cambridge: Harvard University Press, 2000.
Öke, Kemal, *The Turkish War of Independence and the Independence Struggle of the South Asian Muslims: The Khilafat Movement, 1919-1924*. Ankara: Türkiye Repübliki, 1991.
Özbudun, Ergun. *The Constitutional System of Turkey: 1876 to the Present.* New York: Palgrave Macmillan, 2011.
Özalp, Ömer Hakan. *Ulemadan Bir Jöntürk: Mehmed Ubeydullah Efendi*. İstanbul: Dergah Yayınları, 2005.
Özcan, Azmi. *Pan-Islamism: Indian Muslims, the Ottoman and Britain (1877 -1924)*. Leiden: Brill, 1997.
_____. "1857 Büyük Hind Ayaklandması ve Osmanlı Devleti." *İslam Tetkikleri Dergisi* IX (1995): 269-280.
_____. "Sultan II. Abdülhamit ve Hindistan Müslümanları," in *Sultan II. Abdülhamid ve Devri Semineri: 27-29 Mayis 1992*. İstanbul: İstanbul Üniversitesi Edebiyat Fakültesi Basımevi, 1994.
_____. "Sultan II. Abdülhamid'in 'Pan-İslâm' Siyasetinde Cevdet Paşa'nın Tesiri," in *Ahmet*

Cevdet Paşa Sempozyum: 9-11 Hazıran 1995. Ankara: Türkiye Diyanet Vakfı Yayınları, 1997.
_____. "Jamaladdin Afghani's Honourable Confinement in Istanbul and Iran's Demands for his Extradition." *Journal of Ottoman Studies* XV (1995): 285-291.
_____. "Şeyh Şüleyman Efendi Bir Double Agent mi idi?" *Tarih ve Toplum* XVII (1992): 100-121
Özdalga, Elisabeth, ed. *Late Ottoman Society: The Intellectual Legacy*. New York: Routledge Curzon, 2005.
Özervarlı, M. Sait. "Transferring Traditional Islamic Disciplines into Modern Social Sciences in Late Ottoman Thought: The Attempts of Ziya Gokalp and Mehmed Serafeddin" *MW* 97 (2007): 317-330
Özoğlu, Hakan. *From Caliphate to Secular State: Power Struggle in the Early Turkish Republic*. Santa Barbara: Praeger, 2011.
Pamuk, Şevket. *The Ottoman Empire and European Capitalism, 1820-1913: Trade, Investment and Production*. Cambridge: Cambridge University Press, 1987.
Parashar, Archana. *Women and Family Law Reform in India: Uniform Civil Code and Gender Equality*. New Delhi: Sage Publications, 1992.
Parker, D. "Sovereignty, Absolutism, and the Function of Law in Seventeenth-Century France." *Past and Present* 122 (1989): 36-74.
Perenbroom, Randall. *China's Long March toward Rule of Law*. New York: Cambridge University Press, 2002.
Peirce, Leslie. *Morality Tales: Law and Gender in the Ottoman Court of Aintab*. Berkeley: University of California Press, 2003.
Pitts, Jennifer. "Legislator of the World? A Rereading of Bentham on Colonies," *Political Theory* 31 (2003): 200-234.
Polk, William, and Richard L. Chambers. *Beginnings of Modernization in the Middle East: The Nineteenth Century*. Chicago: University of Chicago Press, 1968.
Pollard, Lisa. *Nurturing the Nation: The Family Politics of Modernizing, Colonizing and Liberating Egypt, 1805-1923*. Berkeley: University of California Press, 2005.
Pottage, Alain. "The Originality of Registration," *Oxford Journal of Legal Studies* 15 (1995): 385-400.
Poullada, Leon. *Reform and Rebellion in Afghanistan: King Amān-Allāh's Failure to Modernize a Tribal Society*. Ithaca: Cornell University Press, 1973.
Poulos, John W. *Constitutions of the Countries of the World: Democratic Republic of Afghanistan*. New York: Oceana Publications, 1980.
Poulton, Hugh. *Top Hat, Grey Wolf, and Crescent: Turkish Nationalism and the Turkish Republic*. New York: New York University Press, 1997.
Povel, A.A. "Maulana Rahmat Allah Kairanawi and Muslim-Christian Controversy in India in the Mid-19th Century." *Journal of the Royal Asiatic Society* (1976): 42-63.
Provence, Michael. *The Great Syrian Revolt and the Rise of Arab Nationalism*. Austin: University of Texas Press, 2005.
Pūhanyār, Masʿūd. *Ẓuhūr-i mashrūṭīyat va qurbāniyān-i istibdād dar Afghānistān*. Peshawar: Sabā Kitābkhānah, 1375 [1996].
Qadri, Anwar A. *Islamic Jurisprudence in the Modern World*. Lahore: Sh. Muhammad Ashraf, 1963.
Qasmi, Muhammad Ubeidullah al-As'adi. *Dār-al-ʿUlūm Deoband*. Karachi: Fazl Rabi An-

Nadwi, 2005.
Quataert, Donald. *The Ottoman Empire, 1700-1922*. New York: Cambridge University Press, 2000.
_____. *Social distengration and popular resistance in the Ottoman Empire, 1881-1908: Reactions to European Economic Penetration*. New York: New York University Press, 1983.
_____. "The Age of Reforms, 1812-1914", in Suraiya Faroqhi, Bruce Mcgowan, Donald Quataert and Sevket Pamuk (eds.), *An Economic and Social History of the Ottoman Empire, Volume II, 1600-1914* (1994)
_____. "Dilemma of Development: The Agricultural Bank and Agricultural Reform in Ottoman Turkey, 1888-1908." *International Journal of Middle East Studies* 6/2 (April 1975: 210-27).
Qureshi, Ishtiaq Hussain. *Ulema in Politics: A Study Relating to the Activities of Ulema on the South Asian Subcontinent from 1556 to 1974, 2nd edition*. Karachi: Ma'aref Limited, 1974.
Qureshi, M. Naeem. *Pan-Islam in British Indian Politics: A Study of the Khilafat Movement, 1918-1924*. Leiden: E.J. Brill, 1999.
Rahman, Fazlur. "A Survey of Modernization of Muslim Family Law." *IJMES* 11 (1980): 451-465.
_____. *Islam & Modernity: Transformation of an Intellectual Tradition*. Chicago: University of Chicago Press, 1982.
Rashid, Haroon. *History of the Pathans*. Islamabad: Haroon Rashid, 2002.
Rastogi, R.S. *Indo-Afghan Relations, 1880-1900*. Lucknow: Nav-Jyoti Press, 1965.
Reetz, Dietrich. *Hijrat: The Flight of the Faithful, A British File on the Exodus of Muslim Peasants from North India to Afghanistan in 1920*. Berlin: Arbeitshefte, 1995.
Reid, Anthony. "Nineteenth Century Pan-Islam in Indonesia and Malaysia." *Journal of Asian Studies* XXVI (Feb. 1976): 267-283.
_____. "Some Observations on the Development of the Ottoman Learned Hierarchy," in Nikki Keddie, ed. *Scholars, Saints, and Sufis: Muslim Religious Institutions in the Middle East since 1500*. Berkeley: University of California Press, 1972.
Annelise Riles, *The Network Inside Out*. Ann Arbor: University of Michigan Press, 2004.
Rizwi, Sayyid Mahbub. *Tārīkh-i Dē'ōband*. Deoband, [1952].
_____. *History of the Dar al-Ulum Deoband*. Deoband, India : Idara-e Ihtemam Dar al Ulum, 1980-1981.
Robinson, Francis. *The 'Ulama of Farangi Mahal and Islamic Culture in South Asia*. Delhi: Permanent Black, 2001.
_____. "Aḥmad Khān, Sayyid," *Encyclopaedia of Islam, THREE,* Gudrun Krämer, Denis Matringe, John Nawas, Everett Rowson, eds., Brill Online Edition (2013), available at http://www.encquran.brill.nl/entries/encyclopaedia-of-islam-3/ahmad-khan-sayyid-COM_23098.
Rogan, Eugene L. *Frontiers of the State in the Late Ottoman Empire: Tranjordan, 1850-1921*. Cambridge: Cambridge University Press, 1999.
_____, ed. *Outside In: On the Margins of the Middle East*. London: I.B. Tauris, 2002.
Roy, Olivier. *Islam and Resistance in Afghanistan*. New York: Cambridge University Press, 1986.
_____. *The Failure of Political Islam*. Cambridge: Harvard University Press, 1994.

Rubin, Avi. *Ottoman Nizamiye Courts: Law and Modernity*. New York: Palgrave Macmillan, 2011.
_____. "From Legal Representation to Advocacy: Attorneys and Clients in the Ottoman Nizamiye Courts." *IJMES* 44 (2012): 111-127.
Rubin, Barnett. *The Fragmentation of Afghanistan: State Formation and Collapse in the International System*. New Haven: Yale University Press, 2002.
Ruskola, Teemu. "Legal Orientalism." *Michigan Law Review* 101 (2002): 179-234
Said, Edward. *Orientalism*. New York: Vintage, 1979.
Saikal, Amin. *Modern Afghanistan: A History of Struggle and Survival.* London: I.B. Tauris, 2006.
_____. "Kemalism: Its Influence on Iran and Afghanistan." *International Journal of Turkish Studies* 2 (1982): 25-32
Saleh, Nabil. "Civil Codes of Arab Countries: The Sanhuri Codes." *Arab Law Quarterly* 8:2 (1993): 161-67.
Salzmann, Ariel. "An Ancien Regime Re-Visited: Privatization and Political economy in the 18th Century Ottoman Empire." *Politics and Society* 21 (1993): 393-423.
Sanyal, Usha. *Devotional Islam and Politics in British India: Ahmad Raza Khan Barelwi and his Movement, 1870-1920.* New York: Oxford University Press, 1996.
Saray, Mehmet. *Afganistan ve Türkler*. Istanbul: Edebiyat Fakültesi Basımevi, 1987.
_____. *Dünden Bügüne Afganistan*. İstanbul: Boğaziçi Yayınları, 1981.

_____. *Osmanlı Devleti ile Türkistan Hanlıkları Arasındaki Siyasi Münasebetler (1775-1875)*. İstanbul, 1984.
_____. *Türk-Afgan Münasebetleri*. İstanbul: Veli Yayınları, 1984.
Sarıhan, Zeki. *Kurtuluş savaşımız'da Türk-Afgan ilişkileri*. Istanbul: Kaynak, 2002.
_____. *Kurtuluş Savaşı Günlüğü, III*. Ankara: Türk Tarih Kurumu, 1995.
_____. *Kurtuluş Savaşı Günlüğü, IV*. Ankara: Türk Tarih Kurumu, 1996.
Schacht, Joseph. "Problems of Modern Islamic Legislation." *Studia Islamica* 12 (1960): 99-129.
Schinasi, May. *Afghanistan at the Beginning of the Twentieth Century: Nationalism and Journalism in Afghanistan, A Study of Seraj ul-akhbar, 1911-1918*. Naples: Istituto Universitario Orientale, 1979.
_____. "Moḥamed Nāder Shah." *Encyclopaedia Iranica*, Online edition (2008), available at http://www.iranicaonline.org/articles/mohammad-nader-shah-king-of-afghanistan.
Schmidt, G. "The Transnational Umma- Myth or Reality? Examples from the Western Diasporas." 95 *MW* (2005): 575–586.
Schmitt, Carl. *Constitutional Theory*. Durham: Duke University Press, 2008.
Scott, David. *Conscripts of Modernity: The Tragedy of Colonial Enlightenment*. Durham: Duke University Press, 2004.
Scott, James C. *Seeing Like a State: How Certain Schemes to Improve the Human Condition Have Failed*. New Haven: Yale University Press, 1998.
Sen, S.P., ed. *Dictionary of National Biography*. Calcutta: Institute of Historical Studies, 1974.
Sen, Amartya. *The Idea of Justice*. Cambridge: Harvard University Press, 2009.
Sewell, William Hamilton. *Logics of History: Social Theory and Social Transformation*. Chicago: University of Chicago Press, 2005.
Seyitdanlıoğlu, Mehmet. *Tanzimat devrinde Meclis-i Vâlâ (1838-1868)*. Ankara: Türk Tarih Kurumu, 1991.

Shah, Ikbal Ali. *The Tragedy of Amān-Allāh*. London: Alexander Ousely, 1933.
Shahrani, M. Nazif. "King Aman-Allah of Afghanistan's Failed Nation-Building Project and its Aftermath (Review Article)." *IRS* 38 (2005): 661-675.
Shalakany, Amr. "Between Identity and Redistribution: Sanhuri, Genealogy and the Will to Islamise." *Islamic Law and Society* 8 (2001): 201-244.
_____. "Islamic Legal Histories," *Berkeley Journal of Middle Eastern and Islamic Law* 1 (2008): 1-82.
Shaw, Stanford. *History of the Ottoman Empire and Modern Turkey, Vol. 2: Reform, revolution, and republic: the rise of modern Turkey 1808-1975*. Cambridge: Cambridge University Press, 1977.
Sims-Williams, Ursula (1980), *The Afghan Newspaper Sirāj al-Akhbar. Bulletin (British Society for Middle Eastern Studies), Vol. 7, No. 2. (1980), pp. 118-122*, London, Taylor & Francis Ltd,
Singer, Andre. *Lords of the Khyber: The Story of the Northwest Frontier.* London: Faber and Faber, 1984
Singha, Radhika. *A Despotism of Law: Crime and Justice in Early Colonial India*. New York: Oxford University Press, 1998.
_____. "'Providential' Circumstances: The Thuggee Campaign of the 1830s and Legal Innovation," *Modern Asian Studies* 27 (1993): 83-146.
Singhal, D.P. *India and Afghanistan, 1876-1907: A Study in Diplomatic Relations*. New Delhi: South Asian Publishers, 1963.
Sinha, R.K., *The Turkish Question: Mustafa Kemal and Mahatma Gandhi*. Delhi: Adam Publishers, 1994.
Sirat, A. S. "The Modern Legal System of Afghanistan." *The American Journal of Comparative Law* 16:4 (Autumn 1968): 563-569.
Sirma, İhsan Süreyya. "Sultan II. Abdülhamid ve Çin müslümanları." *İslâm Tetkikleri Enstitüsü Dergisi* 7 (1979): 199-205.
Sistani, Mohammad 'Azam. *Allama Mahmud Tarzi, Shah Amān-Allāh wa ruhaniyat mutanafaz*. Peshawar: Kitābkhane Danesh, 2004.
Skovgard-Petersen, Jakob. "A Typology of State Muftis," in Yvonne Yazbeck Haddad and Barbara Freyer Stowasser, *Islamic Law and the Challenges of Modernity*. Walnut Creek: AltaMira Press, 2004.
_____. *Defining Islam for the Egyptian State: Muftis and Fatwas of the Dar al-Ifta*. Leiden: Brill, 1997.
Somel, Selçuk Akşin. *The Modernization of Public Education in the Ottoman Empire*. Leiden: Brill, 2001.
Sonyel, Salahi R. "Kurtuluş Savaşı Günflerinde Doğu Siyasamız (Nisan 1920 – Mart 1921)." *Belleten XLI* (1977): 717-718.
Soysal, İsmail. *Türkiye'nin Siyasal Andlaşmaları, I. Cilt (1920-1945)*. Ankara: Türk Tarih Kurumu, 1989.
Starr, June and Jane F.Collier, eds. *History and Power in the Study of Law: New Directions in Legal Anthropology*. Ithaca: Cornell University Press, 1989.
Starr, June, and Jonathan Pool. "The Impact of a Legal Revolution in Rural Turkey." *Law & Society Review* 8 (1974): 533-560.
Stewart, Rhea Talley. *Fire in Afghanistan 1914-1929: Faith, Hope and the British Empire*. Garden City: Doubleday, 1973.

Stilt, Kristin. "Islamic Law and the Making and Remaking of the Iraqi Legal System." *George Washington International Law Review* 36 (2004): 695-756.
Strauss, Johann. "Who Read What in the Ottoman Empire (19th-20th Centuries)?" *Arabic Middle Eastern Literatures* 6/1 (2003): 39-76.
Swedenburg, Ted. *Memories of Revolt: The 1936-1939 Rebellion and the Palestinian National Past*. Fayetteville: University of Arkansas Press, 2003.
Swenson, Victor R. "Review of Ulrich Trumpener, Germany and the Ottoman Empire, 1914 1918." *The Journal of Modern History* 41:4 (1969): 628-30.
Sykes, Percy. *A History of Afghanistan, Vol. II*. London: Macmillan & Co., 1940.
Şentürk, Recep. "Intellectual Dependency: Late Ottoman Intellectuals between Fiqh and Social Science." *Die Welt des Islams* 47 (2006): 283-318.
_____. "Sociology of Rights: 'I Am Therefore I Have Rights.' Human Rights in Islam between Universalistic and Communalistic Perspectives." *Muslim World Journal of Human Rights* 2 (2005): 1-33.
_____. "Minority Rights in Islam: From Dhimmi to Citizen," in *Islam and Human Rights*,
Shireen T. Hunter and Huma Malik, eds. Washington, D.C.: Center for Strategic and International Studies, 2005.
_____. "*Adamiyyah and'Ismah*: The Contested Relationship between Humanity and Human Rights in the Classical Islamic Law." *Turkish Journal of Islamic Studies* 8 (2002): 39-70.
_____. *İslam Dünyasında Modernleşme ve Toplumbilim*. İstanbul: İz Yayıncılık 1996.
Şerifoğlu, Ömer Faruk. "Medine Müdafii Fahrettin Paşa'nın Afganistan Yılları." *Toplumsal Tarih* 16/95 (2001): 6-8.
Şimşir, Bilal. *Atatürk ve Afganistan*. Ankara: Avrasya Stratejik Araştırmalar Merkezi, 2002.
_____. *Atatürk ve Yabancı Devlet Başkanları, 1. Cilt: Afganistan-Çin*. Ankara: Türk Tarih Kurumu, 1993.
_____. *Doğu'nun KahrAmāni Atatürk*. Ankara: Bilgi Yayınevi, 1999.
Şimşirgil, Ahmed, and Ekrem Buğra Ekinci. *Ahmed Cevdet Paşa ve Mecelle*. İstanbul: Adem Eğitim Kültür ve Sosyal Hizmetler Derneği İktisadi İşletmesi, 2008.
Tabassum, Farhat. *Deoband Ulema's Movement for the Freedom of India*. New Delhi: Manak Publications, 2006.
Tapper, Richard. *Conflict of Tribe and State in Iran and Afghanistan*. London: Croom Helm, 1982.
Tayyib, Maulana Muhammad Qaari, trans. Mufti Afzal Hossen Elias. *The Maslak of the Ulama of Deoband*. Karachi: Zam Zam Publishers, 2005.
T.C. Başbakanlık Devlet Arşivleri Genel Müdürlüğü. *Belgelerle Osmanlı-Türkistan İlişikileri (XVI—XX. Yüzyıllar)*. Ankara: Başbakanlık Basımevi, 2004.
T.C. Kültür Bakanlığı. *Atatürk'ün Milli Diş Politikası*. Ankara: Kültür Bakanlığı Yayınları, 1981.
Tezçakar, Behice. "Afgan Prensesi Naciye: Babam ve Atatürk Aynı Halayi Paylaştı ama İngilizler Bağımsız Afganistan İstemedi." *Atlas Tarih* 3 (Eylül 2010): 42-49.
Thompson, E.P. *Whigs and Hunters: The Origins of the Black Act*. New York: Pantheon, 1975.
Thompson, Elizabeth. *Colonial Citizens: Republican Rights, Paternal Privilege, and Gender in French Syria and Lebanon*. New York: Columbia University Press, 2000.
Togan, Zeki Velidi. *Bugünkü Türk İli Türkistan ve Yakın Tarihi, 2. Baskı*. İstanbul: Enderun Yayınlari 1981
Tomlins, Christopher. "The Many Legalities of Colonization: A Manifesto of Destiny for Early

American Legal History," in Tomlins, Christopher L. and Bruce H. Mann, *The Many Legalities of Early America*. Chapel Hill: University of North Carolina Press, 2001.
_____. *Law, Labor, and Ideology in the Early American Republic*. New York: Cambridge University Press, 1993.
Töker, Halil. "Zafer Hasan Aybek ve Afganistan Anıları (1915-1922, 1933-36, 1937)," in Ali Ahmetbeyoğlu, ed., *Afganistan Üzerine Araştırmalar*. İstanbul: Tarih ve Tabiat Vakfı Yayınları, 2001.
_____. "Hindistan Hicret Hareketi." *Dîvân İlmî Araştırmalar* 17 (2004): 147-162.
Tribe, K. "Cameralism and the Science of Government." *Journal of Modern History* 56 (1984): 263-284.
Tripathi, G.P. *Indo-Afghan Relations 1882-1907*. New Delhi: Kumar Bros., 1973.
Trumpener, Ulrich. *Germany and the Ottoman Empire, 1914-1918*. Princeton: Princeton University Press, 1968.
Tucker, Judith E. *In the House of the Law: Gender and Islamic Law in Ottoman Syria and Palestine*. Berkeley: University of California Press, 1998.
Tunçay, Mete. *Türkiye Cumhuriyeti'de tek parti yönetiminin kurulması (1923-1931)*. Istanbul: Cem, 1989.
Turan, Namık Sinan. "Osmanlı Hilafetinin 19. Yüzyılda Zorlu Sınavı: II. Meşrutiyet'e Giden Süreçte ve Sonrasında Makam-ı Hilafet." *İstanbul Üniversitesi Siyasal Bilgiler Fakültesi Dergisi* 38 (2008): 281-322.
Türköne, Mümtaz'er. *Siyasî İdeoloji Olarak İslâmcılığın Doğuşu*. İstanbul: İletişim Yayınları, 1991.
Tyser, C.R., D.G. Demetriades, and Ismail Haqqi Effendi. *Mejelle, Being an English Translation of Majallah el-Ahkam-i-adliya and a Complete Code of Islamic Civil Law*. Kuala Lumpur: Other Press, 2001.
Unger, Robert Mangabeira. *Law in Modern Society: Toward a Criticism of Social Theory*. NewYork: Free Press, 1976.
Usmani, M. Taqi "The Islamization of Laws in Pakistan: The Case of Hudud Ordinances" *MW* 96 (2006): 287–304.
Usta, Emine Şeyma. *Atatürk'ün Hazırlattığı Türkçe Hutbeler*. İstanbul: Hoşgörü Yayınları, 2010.
Ülkütaşır, M. Şakir. *Cevdet Paşa: Hayatı, Şahsiyeti, Eserleri (1822-1895)*. Ankara: Doğuş Matbaası, 1945.
Ünal, Abidin, İskender Özbay, Rezzan Ünalp, Alev Keskin, and Nilüfer Altın. *Geçmişten Günümüze Türk-Afgan İlişkileri*. Ankara: Genelkurmay Askeri Tarih ve Stratejik Etüt Başkanlığı Yayınları Basimevi, 2009.
Vambery, A. *The Travels and Adventures of the Turkish Admiral Sidi Ali Reïs in India, Afghanistan, Central Asia, and Persia, during the years 1553-1556*. Lahore: Al-Biruni, 1975.
Vogal, Frank E. "The Trial of Terrorists under Classical Islamic Law" 43 *Harvard International Law Journal* (2002): 53-64.
Von Jhering, Rudolph. *The Struggle for Law*. Chicago: Callaghan and Company, 1879.
Ward, Robert E. and Dankward A. Rustow, eds. *Political Modernization in Japan and Turkey*. Princeton: Princeton University Press, 1964.
Wardak, Ali. "Building a Post-War Justice System in Afghanistan." *Crime, Law and Social Change* 41 (2004): 319-341.

Watenpaugh, Keith. *Being Modern in the Middle East: Revolution, Nationalism, Colonialism, and the Arab Middle Class*. Princeton: Princeton University Press, 2006.
Watson, Alan. *Legal Transplants: An Approach to Comparative Law* (*2nd ed)*. Athens: University of Georgia Press, 1993.
_____. *Society and Legal Change*, 2nd ed. Philadelphia: Temple University Press, 2001.
Weber, Max. *Economy and Society: An Outline of Interpretive Sociology*. Berkeley: University of California Press, 1978.
Weiker, Walter F. "The Ottoman Bureaucracy: Modernization and Reform." *Administrative Science Quarterly* 13 (1968): 451-470.
Weiner, Myron and Ali Banuazizi, eds. *The Politics of Social Transformation in Afghanistan, Iran and Pakistan*. Syracuse: Syracuse University Press, 1994.
Weiss, Bernard G. *The Spirit of Islamic Law*. Athens: University of Georgia Press, 2006.
Wild, Roland. *Amān-Allāh: Ex-King of Afghanistan*. London: Hurst & Blackett (1932).
Yamauchi, Masayuki. *The Green Crescent Under the Red Star: Enver Pasha in Soviet Russia, 1919-1922*. Tokyo: Institute for the Study of Languages and Cultures of Asia and Africa, 1991.
Yasamee, Feroz Abdullah Khan. *Ottoman Diplomacy: Abülhamid II and the Great Powers, 1878-1888*. Istanbul: Isis Press, 1996.
Yavuz, Hulûsi. "Ahmed Cevdet Paşa and the Ulema of his Time," *İslâm Tetkikleri Enstitüsü Dergisi* 7 (1979): 177-198.
_____. "Mecelle'nin Tedvîni ve Cevdet Paşa'nın Hizmetleri," in Kütükoğlu, Mübahat (haz.), *Ahmed Cevdet Paşa Semineri 27 – 28 Mayis 1985*. İstanbul: İ.Ü. Edebiyat Fakültesi Basımevi, 1986.
_____. "Events Leading to the Compilation of the First Ottoman Civil Code," *İslâm Tetkikleri Enstitüsü Dergisi* 8 (1984): 89–122.
Yılmaz, Aliye. "Amān-Allāh Han'ın Islahatları ve Atatürk." *SDÜ Fen Edebiyat Fakültesi Sosyal Bilimler Dergisi* 21 (2010): 155-165.
Young, George. *Corps de droit ottoman*. Oxford: Clarendon Press, 1900-1906.
Yousufzai, Hassan M. and Ali Gohar, *Towards Understanding Paskhtoon Jirga: An Indigenous Way of Peacebuilding and More*. Peshawar: Just Peace International, 2005.
Yusufi, Allah Bakhsh. *Maulana Mohammad Ali Jauhar: The Khilafat Movement*. Karachi: Mohammad Ali Educational Society, 1980.
Zaman, Muhammad Qasim. *Custodians of Change: The Ulema in Contemporary Islam*. Princeton: Princeton University Press, 2002.
_____. *Religion and politics under the early ʿAbbāsids : the emergence of the proto-Sunnī elite*. Leiden: E.J. Brill, 1997.
Zarinebaf, Fariba. *Crime and Punishment in Istanbul, 1700-1800*. Berkeley: University of California Press, 2010.
_____. "From Istanbul to Tabriz: Modernity and Constitutionalism in the Ottoman Empire and Iran." *Comparative Studies of South Asia, Africa, and the Middle East* 28 (2008): 154-169.
Ziadeh, Farhat J. *Lawyers, the Rule fo Law, & Liberalism in Modern Egypt*. Stanford: Stanford University Press, 1968.
Zilfi, Madeline C. "The Ilmiye Registers and the Ottoman *Medrese* System Prior to the Tanzimat," in *Contribution a l'histoire economique et sociale de l'Empire ottoman*. Leuvin: Editions Peeters, 1993.

Zubaida, Sami. *Law and Power in the Islamic World*. New York: I.B. Tauris, 2005.
Zürcher, Erik J. *Turkey: A Modern History*. London: I.B. Tauris, 1997.
_____. "The Ottoman Conscription System in Theory and Practice, 1844-1918." *International Review of Social History* 43:3 (1999): 437-439.
_____, ed. *Arming the State: Military Conscription in the Middle East and Central Asia 1775 1925*. 1997
_____. *The Unionist factor: the role of the Committee of Union and Progress in the Turkish national movement, 1905-1926*. Leiden: E.J. Brill, 1984.
_____. "Young Turks, Ottoman Muslims and Turkish nationalists," in Kemal H. Karpat, ed. Ottoman past and today's Turkey. Leiden: E.J. Brill, 2000.
_____. *Political Opposition in the Early Turkish Republic: The Progressive Republican Party 1924- 1925*. Leiden: E.J. Brill, 1991.

IV. DISSERTATIONS AND THESES

Agrama, Hussein. "Law Courts and Fatwa Councils in Modern Egypt: An Ethnography of Islamic Legal Practice." Ph.D. Dissertation, Johns Hopkins University, Department of Anthropology, 2005.
Akbaş, İsmail. "Afgan Kralı Emanullah Han'ın Türkiye Gezisi ve Türk Afgan İlişkileri." M.A. Thesis, Dokuz Eylül Üniversitesi (İzmir), Atatürk İlkeleri ve İnkılap Tarihi Enstitüsu, 2008.
Asova, Aynur Turk. "The Nineteenth Century Reform Movements in the Ottoman Empire." M.A. Thesis, Southeastern Louisiana University, History, 1997.
Atcil, ʿAbd al-Raḥmān. "The formation of the Ottoman learned class and legal scholarship (1300-1600)." Ph.D. Dissertation, University of Chicago, Near Eastern Languages and Civilizations, 2010.
Beverley, Eric Lewis. "Muslim Modern: Hyderabad State, 1883-1948." Ph.D. Dissertation, Harvard University, Department of Near Eastern Languages and Civilizations, 2007.
Chambers, Richard. "Ahmed Cevdet Pasa: the formative years of an Ottoman transition." Ph.D. Dissertation, Princeton University (1968).
Datla, Kavita. "Making a Worldly Vernacular: Urdu, Education, and Osmania University, Hyderabad, 1883-1938." Ph.D. Dissertation, Department of History, 2006.
Esmeir, Samera. "The Work of Law in the Age of Empire: Production of Humanity in Colonial Egypt." Ph.D. Dissertation, Institute for Law and Society, New York University, 2005.
Ferguson, Heather Lynn. "The Circle of Justice as genre, practice and objectification: a discursive re-mapping of the early modern Ottoman empire." Ph.D. Dissertation, U.C. Berkeley, Department of History, 2009.
Ghani, Ashraf. "Production and Domination: Afghanistan, 1747-1901." Ph.D. Dissertation, Columbia University, 1982.
_____. "State-Building and Centralization in a Tribal Society: Afghanistan, 1880-1901." M.A. Thesis, American University of Beirut, 1977.
Hamşioğlu, Oğuz. "Afgan Modernleşmesi ve Türkiye (1880-1933)." Ph.D Dissertation, Hacettepe Üniversitesi (Ankara), Atatürk İlkeleri ve İnkılap Tarihi Enstitüsu, 2006.
Jan, Najeeb A. "The Metacolonial State: Pakistan, the Deoband 'Ulama and the Biopolitics of

Islam," Ph.D. Dissertation, University of Michigan, Department of History, 2010.
Korkmaz, Özlem. "Turkiye'nin Afganistan'a Olan Yardımları (1920-1960)." M.A. Thesis, Istanbul University Edebiyat Fakültesi, Türkiye Cumhuriyeti Tarihi Anabilim Dalı, 2000.
Musa, Farid Ahamad. "Atatürk Dönemi Türkiye-Afganistan Münâsebetleri ve Afganistan'ın Modernlesme Çabaları." M.A. Thesis, Süleyman Demirel Üniversitesi, Sosyal Bilimler Enstitüsü: İslâm Tarihi ve Sanatları Anabılım Dalı, 2004.
Naim, Hakeem. "The Ottoman Empire and Afghanistan: A Record of Failure and Great Power Intrigue." Hass Scholars Honors Thesis, U.C. Berkeley, Department of Near Eastern Studies, 2010.
Özmen, Süleyman. "Mahmud Tarzi'nin Hayatı, İnkılapçılığı ve Faaliyetleri." Ph.D. Dissertation, Marmara University (Istanbul), Türkiyat Araştırmaları Enstitüsü. 2008.
Tarzi, Amin. "The Judicial State: Evolution and Centralization of the Courts in Afghanistan,1883-1896." Ph.D. Dissertation, New York University, Department of Middle East Studies, 2003.
Tezcanlı, Merve. "Re-thinking *Mecelle-i Ahkam-i Adliyye:* Legal Transformation in the Nineteenth Century Ottoman Empire." M.A. Thesis, Boğaziçi University, Department of History, 2007.