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Defining Shari'a in China: State, Ahong, and the Postsecular Turn

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Show us the straight path. The path of those whom Thou hath favored. Not of those who earn Thine anger nor of those who go astray.

—Quran 1:6–7, cited in a collection of sermons produced by the Chinese government (Anon. 2011)

Abstract

Just as shari'a (Islamic law) has been demonized globally, so too, paradoxically, have governments sought to appropriate Islamic authority for secular rule. Based on nineteen months of field research in northwest China, this article offers some preliminary thoughts on the ways in which the party-state manipulates shari'a for purposes of rule. Through the example of the China Islamic Association, an organization constituted under the Chinese Communist Party in 1953, the author argues that the party-state's evolving relationship to Islamic authority demonstrates what he calls the "postsecular." Rather than discursively demarcating (legitimate) secular law from (illegitimate) religious law, the China Islamic Association has, since 2001, a watershed year in the relationship between secular and Islamic authority, sought to expound law from the revealed sources of Islam that are congruent with Chinese socialism and nationalism.

Keywords: Islamic law, Northwest China, China Islamic Association, postsecular, ethnography

Introduction

In his *Public Religions in the Modern World*, sociologist José Casanova argues that religions have undergone a process he calls "deprivatization" (1994, 6), the (re)emergence of faith in the public sphere, traditionally understood in modernization theory as the realm of deliberative rationality. Eminent philosopher Charles Taylor, however, claims that we inhabit a secular age, defined by the decentering of God in the public sphere, the decline of belief in the transcendent, and the engendering of "new

conditions of belief" ([2007] 2009, 20). On the one hand, an empirically rich and globe-spanning study heralds religious revival; on the other hand, a leading philosopher meditates on the eclipsing of the sacred by the secular. How to make sense of these two views? Should they be reconciled? And why would such an accommodation matter?

German sociologist and philosopher Jürgen Habermas provides a third and intermediary view in his remarkable essay "Notes on a Post-Secular Society," in which the champion of rationalism observes a change in global consciousness through the experience of religion (2008). Casanova, Taylor, and Habermas each offer a different critique of modernization theory, the presumption that modernity—as secularism, rationality, and science—supplants primordial affections. Habermas's essay demonstrates that what he terms the "post-secular" may share affinities with the novel and creative forms of thought and being that Taylor defines as secular, but that coexist and perhaps even depend on resurgent faiths.

Each of the writings focuses on the issue of religion in the West. In particular, the arguments are premised on the political philosophy of Western liberalism and democratic institutions. Law plays an important role in mediating relations between the state and religion in this model. Liberalism has traditionally been equated with universal rights that are negative (i.e., held against the state) and borne by the individual as rights holder (Bobbio 1996). That is, through law, citizens limit the state's power to intrude on their capacity to cultivate their own cultured identity, as expressed in the aspiration "the separation of church and state." Multiculturalists, neo-Marxists, culture critics, and anthropologists, however, have chipped away at the edifice of liberalism and its assumptions (Kymlicka 1989, [1996] 2001; Turner 1994; Brownlie 1995; Tully 1995; Gledhill 1997; Thompson 1997; Niezen 2003). The transformative processes observed by Casanova, Taylor, and Habermas, and particularly the expansion of the domain of religions beyond the state-sanctioned private sphere, suggest categorical confusion regarding where the line between "secular" and "non-", "a-", or "postsecular" is drawn. Most strikingly, it is not just state law that shapes the relationship between the state and religion but also evolving interpretations of religious or non-state law that have emerged from primordialism to color the postsecular.

The religious law most commonly associated with challenges to secularism is that of Islam. A wellspring of studies has demonstrated the normative, ethical, and legal pluralism practiced by Muslim minorities living in Western states (Ramadan 1999; Emon 2006, 2007; Maurer 2006; Ramadan 2008; Fadel 2009; Rohe 2009; Christoffersen 2010). A touchstone of analysis among the literature on Muslim minorities is the status of shari 'a² under state law, especially in the areas of what civil law terms "personal status," or what common law in the Anglo-American tradition calls "family law" (Pearl and Menski 1998; Ferrari and Bradney 2000; Rohe 2007; Bowen 2011; Macfarlane 2012). One of the world's leading experts on shari 'a, Abdullahi Ahmed An-Na'im has advocated the position that Muslims (minority or majority) can pursue their conviction to abide by shari 'a only under a secular state (An-Na'im 2008a, 2008b). Professor An-Na'im argues that the secular state, which he defines as one that maintains neutrality toward any single religious doctrine or creed, guarantees freedom of individual choice (An-Na'im 2008a, 4).

Professor An-Na'im's thesis is compelling, but how does the argument for the necessity of a secular state as guarantor of religious freedom hold up against Habermas's assertion that we have entered a postsecular age? The neutrality of states vis-à-vis religion and religious law has been eroded in the post-9/11 era (Leigh and Ahdar 2012). The reduction of Islam to extremism and fundamentalism, whether in the most intimate matters (e.g., male domination in marital relations) or in the public sphere, as most acutely perceived in the threat of terrorism, is not only an effect of media and its misrepresentations but of state policy and law, domestic and international. Everywhere, the state seems to show its preferences, whether in the French government's ban of head scarves in public schools (Bowen 2007) or the U.S. government's support of faith-based initiatives (Wuthnow 2006). Indeed, following religious laws' blurring of the private and public domains, many states have moved from a stance of neutrality to one of actively manipulating non-state laws, practices, and customs, particularly of minority populations, to legitimize rule (see, e.g., Povinelli 2002).

I argue that the shift from the state's defining itself against religion to operationalizing religion as a form of governance lies at the heart of the postsecular. In recent years, there has been a sea change in writings in anthropology investigating "the

secular," "secularism," "the postsecular," and "postsecularism" (Asad 2003; Mahmood 2006; Ferrara 2009; Agrama 2012). While Talal Asad's use of Foucault's critique of genealogies of ideas as power has gained significant purchase in anthropological circles, my approach recognizes the significance of discourse but also seeks to underscore the centrality of social relations in generating and circumscribing power, a view espoused by Weber and Marx. While the writings of Asad and others understand secularism as manipulating religion (rather than standing apart from it), the Chinese data shows a distinction between secularism (as defined against religion) and postsecularism, extending state authority through religion. Consequently, unlike Habermas's definition, which equates the postsecular with a "change in consciousness" (Habermas 2008, 20), I define the postsecular as a technique of rule—specifically, one that employs religion in the name of secular authority and power. While past treatments of such an approach invoke Foucault's notion of governmentality (see e.g., Ghatak and Abel 2013), I ground my understanding of the postsecular in Max Weber's thought.

Scholarship on Weber's sociology of law has emphasized his use of "ideal types." Ideal types are taken to be characteristics of an economy in which all social behaviors are dominated by tradition, a system of ethics or religious values, or of market behavior. Often these sources are assumed to be discrete, mutually exclusive, and even evolutionary or teleological (Rheinstein 1967, xxix). However, Weber's writings on the "routinization of charisma" show the transformation and appropriation of diverse forms of authority (Weber [1922] 1978a, 246-251). Weber finds in the Islamic gadi the embodiment of the "revolutionary nature" of charisma, as the authoritative figure of a system of theocratic justice that is both rationalized and part of an abstract natural law (Weber [1922] 1978b, 1116). Similarly, of the Chinese official-scholar bureaucracy, Weber observed that much of the prestige of officialdom rested on the charisma of the high mandarins (Weber [1951] 1968, 135). Weber noted that traditional charisma could be rationalized to serve as the basis for the legitimacy of political and economic organization (Weber [1922] 1978a, 251-252), as in the example of democracy in the United States (Weber [1922] 1978a, 267). Thus, for Weber, the mobilization of traditional authority (whether hereditary, magical, or religious) for governance was immanent to the process of modernization. Nonetheless, in Weber's analysis, personal charisma often subsisted outside of or independent of a system of laws.³ Following Weber, this article poses the following question: What do "higher-order" organizations (e.g., nation-states) do with the law of ethnoreligious communities subsumed by such organizations? In short, while the routinization of religious (i.e., charismatic) authority may underlie modernization and secularization, the invocation of the "premodern" law of charismatic authority by nation-states may be one hallmark of the postsecular.

In the remainder of this article, I provide evidence for the postsecular not in the West (where the notion originated) but in the most unlikely of places: Communist China.⁴ From its establishment of power in 1949, the Chinese Communist Party (CCP) has largely denied the existence of shari'a in China. Rather, the Communists dismantled all Islamic political and legal institutions and adopted a discourse that interpellated shari'a as xiguanfa 习惯法 (customary law), an apolitical, ethnicized, desacralized, and localized concept. During this period, the China Islamic Association (CIA), an organization constituted under the authority of the CCP, has functioned as a bridge between the partystate and the Muslim masses and implemented CCP rules and state law in Muslim communities. However, in 2001, as a response to both the global discourse on Islamic terrorism and domestic interethnic violence involving the Uyghurs (Turkic Muslims) in Xinjiang, the CCP established the Educational Administration Guidance Committee (Jiaowu zhidao weiyuanhui 教务指导委员会, hereinafter EAGC) under the CIA, which has sought to cultivate an indigenized Islam in China that adheres to the party line through a body of teachings in accordance with shari'a. The formation of the sub-CIA body therefore marks a significant turn in the party-state's governance toward Islam and its legal authorities, one that rules through religious authorities rather than in opposition to them.

China's Islamic Renaissance

The Chinese Communist approach to Islam in general, and to shari'a in particular, is predicated on the primacy of rule by the party and the nullification of any alternative authority. One of the earliest activities of the CCP when it began consolidating power in the early 1950s was to dismantle the remnants of Islamic institutions in northwest China.

Among Chinese Muslims, or Hui, the institution of the qadi had already faded after the fourteenth century. ⁵ Qadi survived until the Republican period (c. 1930), however, among the Salar, a Turkic Muslim minority in Qinghai Province (Erie 2013, 134–135), and until the early 1950s among the Uyghur in southern Xinjiang (Bellér-Hann 2003, 189). During the Cultural Revolution (1966–1976), families who had exercised leadership in mosque communities were particularly targeted for public criticism and attacked. The Red Guard, the paramilitary youth of the CCP, burned mosques and desecrated Muslim cemeteries (Erie 2013, chapter 2).

Deng Xiaoping's economic reforms commencing in 1978 ushered in a period of religious liberalization and relaxation of the party-state's hostility toward public religions. Amendment of the PRC Constitution in 1982 guaranteed freedom of religion and protection of "normal religious activities," thereby providing the state with a legal basis for determining the norm (Potter 2003, 325). Over the past thirty years, China has experienced religious revivals of all creeds (Chau 2006, 2011; Yang 2008; M. Yang 2011; F. Yang 2011), including Islam⁶ (Gladney [1991] 1996, 2004b, 2008; Gillette 2000). Throughout China, and particularly in the northwest provinces, Hui have built mosques, constructed Sufi tomb complexes, established state-run madrasas, and financed and formed private Arabic and Farsi schools. Halal (Ch. qingzhen) restaurants can be found in nearly every Chinese city. Major cities and ones dominated by Muslims in the northwest and in Yunnan Province in the southwest also have Islamic bookstores and semipublic sites for assembly, prayer, and discussion. Thus, the Chinese Islamic renaissance confirms Casanova's thesis, in part, although Chinese Muslims have encountered difficulties in penetrating public discourse, monopolized by party propaganda and nationalist rhetoric.

At the center of the Islamic revival is the figure of the *ahong* 阿訇. The *ahong*, as the lifeblood of the $jam\bar{a}$ (community), plays a central role in the well-being of the mosque community. The *ahong* assumes the tasks of the imam (one who leads prayer) and the $khat\bar{\imath}b$ (one who gives the Friday sermon). To some extent, the *ahong* has additionally taken on the duties of the qadi $\mathring{\imath}$ (Islamic judge) and mufti (legal scholar who interprets shari a) in addressing the panoply of legal concerns of the community, or

jamā 'a. One ahong I spoke with analogized himself to a general practitioner physician, saying that his role was "comprehensive." The legal issues that ahong mediate include those between members of the jamā 'a, inter-jamā 'a conflicts, and relations with governmental bureaus and party organs. The ahong is community leader, problem solver, public relations expert, storehouse of Islamic knowledge, and judge. He is the touchstone of communitarian values (Eickelman 1985, 125; Rosen 1989, 58) and therefore a focal point of the party-state's propaganda. As such, he is the pivot between Islamic law and state law.

Reform-era China is certainly not inimical to the growth of Islam. As part of China's "going out" policy in Africa and the Middle East (Kurlantzick 2006; Alden 2007; Bello 2007; Manji and Marks 2007; Kemp 2012; Olimat 2012), the party-state has encouraged limited connections between Chinese Muslims and Muslims elsewhere. Xinjiang, the gateway into Central Asia, is the focus of China's "New Silk Road" policy of accessing markets across the border (Rudelson 1997; Bovingdon 2002b; Gladney 2004b; Simpfendorfer 2009). In 2010, for instance, the central government nominated Kashgar, China's westernmost city and center of Uyghur culture, as the first inland special economic zone (SEZ). Infrastructural projects, such as a railway modernization program linking Kashgar to Pakistan, and incentives, such as tax-free zones and other preferential policies, have attracted injections of state and private capital.

In the major cities along the eastern coast, such as Shanghai, Shenzhen, and Guangzhou, Muslim businesspeople from North Africa and the Middle East, as well as Central Asia and Southeast Asia, have established communities where they purchase products wholesale for resale in their respective countries, often assisted by young Chinese Muslim translators, fluent in Arabic, from cities in Ningxia, Gansu, and Yunnan Provinces. A gem in China's export-driven economy, the city of Yiwu in Zhejiang Province, for instance, has established the world's largest small commodities market. Yiwu, a city of 1.2 million, has twenty thousand itinerant foreign Muslims. Walking down the street of the Bin Wang Commercial and Entertainment Zone in the summer of 2010, I saw tall, thin Egyptian men, short, round Uzbeks, Iranian women in full veil, and Uyghur boys selling lamb kabobs. Foreign Muslims purchase US\$49.23 billion per year worth of clocks, stationery, sandals, religious paraphernalia, stuffed animals, cell phones,

jewelry, picture frames, and sex toys for resale in their home countries. These foreign Muslims are one segment of a network of vendors, business trade companies, translators, middlemen, transporters, and distributors that link Yiwu to consumers from Marrakech to Jayapura.

The Ningxia Hui Autonomous Region has a population of 6.3 million, 35 percent of which is Chinese Muslim. In 2003, its government built a halal food industrial zone, and three years later, it established trade relations with Saudi Arabia, Kuwait, the United Arab Emirates, Egypt, and Malaysia, among other Muslim countries. Since 2008, Ningxia halal food production has benefited from US\$6.28 million in foreign investment. In 2009, halal food production enterprises had realized a total output value of twenty billion RMB (US\$2.94 billion). Since 2010, thirty-seven halal enterprises have received approvals and special loans from the finance administration.

Nonetheless, these economic opportunities and the links they establish between China and Muslim communities in the Middle East and elsewhere are hardly infinite. Many Muslim minorities in Qinghai Province and Gansu Province complain that the government prevents such ties for fear that they foster Islamic radicalism in northwestern China. In Xinjiang, most Uyghurs I interviewed in 2011 said that the benefits of the SEZ would be enjoyed primarily by Han Chinese who migrate to southern Xinjiang in large numbers. Likewise, in southern Gansu, one Hui entrepreneur with whom I met regularly from 2009 to 2010 complained that the process of obtaining the proper licenses and permits to export halal products abroad is prohibitive, both in terms of money and red tape. Chinese governance prioritizes control of Muslim minorities' external contacts over economic prosperity.

The Status of Shari'a in the Party-State

The approach to incorporating Muslim minorities into the nation-state differs in socialist China from the model adopted by Western liberal democracies in several respects. Since China's "opening and reform" in 1978, the CCP has sought to build a "socialist rule of law" engineered not to protect individuals from state encroachment but to bolster state power through the leadership of the CCP (Wang 1997; Lubman 1999; Peerenboom 2002). Thus, the Chinese approach to rights focuses on economic and social

rights as well as group rights, rather than individual and negative rights held against the state (Svensson 1996; Bauer and Bell 1999; Potter 2001).

One variant of group rights that the Communists adopted from the Soviets is the concept of *zizhi* 自治 (lit. "self-rule"), or "autonomy," as applied to China's Muslim population that resides in certain geographically concentrated areas in the northwest, including Ningxia Hui Autonomous Region and Xinjiang Uyghur Autonomous Region. Autonomy has become the cornerstone of the party-state's policy on ethnic minorities and Islam (Cooke 2008). Autonomy theoretically confers discretion to the governments of minority regions to modify national legislation in light of local conditions (Dreyer 1976; Mackerras 1994; Kaup 2000). However, in practice, the CCP has curtailed the capacity of autonomous governments to enact legislation in accordance with religious law—for instance, shari'a (Erie 2013). Thus while, on their face, PRC law and policy are neutral toward Islam, the empirics suggest that neutrality, like "rule of law" itself, may operate ideologically as a form of control.

Chinese laws and regulations, in fact, do not recognize shari'a. Rather, in the Chinese legal lexicon, the preferred term is *xiguanfa*, or "customary law." Customary law is understood as premodern and predisposed to reproduce a set of behaviors tied to the past and to a specific group or locality (Yang 2003; Jiang 2007, 2010). Furthermore, ethnicized customary law plays an important ideological role as a foil to legal modernity, an aspirational marker of national progress, as engineered by the ethnically invisible Han Chinese and the party-state. In political and academic discourse, customary law pertains to a body of rules addressing matters of diet, hygiene, and sometimes marriage and inheritance. However, the concept of customary law excludes the following: the textual traditions of shari'a, the sacred nature of its primary sources, the Quran and the hadiths (sayings and acts of the Prophet Muhammad), its body of jurisprudence, and the transnational and transcendent nature of its jurisdiction. Theoretically, customary law is protected under state law. But such instances of local laws, administrative regulations, or other rules enforcing or encoding customary law are exceptionally few (Ghai and Woodman 2009; Xia 2009).

The China Islamic Association, 1950 to 2001

Central to the party-state's governance over Muslim minorities is the China Islamic Association. The CIA, known colloquially as *yi-xie* 伊协, is introduced by CIA propaganda as the "patriotic religious group of all Chinese Muslim ethnicities." As mentioned above, the CIA functions as a bridge between the people's government and all Muslims and promotes the harmonization of Islam with the modern socialist system and legal system. The National Representative Assembly of the China Islamic Association, the highest organ within the organization, first met in Beijing on May 9, 1953, and passed the General Regulations of the CIA. The General Regulations of the CIA lays out the aims of the association, including implementing party-state religious policies, developing the fundamental spirit and great traditions of Islam, representing the lawful rights of all Muslims, training Islamic talent, producing scholarship, providing consultation in developing new laws and regulations, and developing Islamic curricula.



Figure 1. Quranic verse 3:103 (with Chinese translation)—"And hold firmly to the rope of Allah all together and do not become divided"—in the front entrance hall of the China Islamic Association in Beijing. (Anon. 2009)

The CIA is headquartered in Beijing's Muslim quarter, known as Oxen Street (figure 1). To facilitate its mission to coordinate with the party-state, the association exists at all administrative levels. Its branch offices in the northwest, such as the Ningxia Islamic Association (IA) and the Linxia Prefectural and Linxia City (Hezhou) IAs are housed in offices attached to influential mosques. ¹⁰ IAs at the autonomous region, prefectural, county, or city levels are usually administered under the corresponding Bureau of Religious Affairs (and party organs behind them), at the same administrative level. Thus, their funding and resources come from governmental sources rather than via the CIA in Beijing.

One of the major functions of the CIA is to unite China's diverse Muslims, differentiated by ethnicity, region, and doctrinal orientation, under the leadership of the party-state. Ethnic separatism in Xinjiang has been a focus of the work of the CIA. Since its incorporation into the Chinese nation-state, Xinjiang has been the most contentious border region outside of the Tibetan Autonomous Region (Becquelin 2000; Bovingdon 2002a; Starr 2004; Clarke 2007). While the People's Liberation Army and the armed police (wujing 武警) have a visible presence in many parts of Xinjiang, particularly in the Uyghur-concentrated southern oasis cities, the CIA also plays an important role in the party-state's approach to rule in the westernmost province. The CIA is responsible for coordinating with the Bureau of Religious Affairs and the United Work Front, a party organ, to vet imam appointments, oversee prayer and the contents of sermons, and regulate the use of religious spaces and activities (for example, Sufi activities have been tightly constrained in cities like Kashgar and Hotan).

Whereas Xinjiang presents the party-state with a challenge that has religious, ethnic, cultural, and racial dimensions, and that have taken the form, among some Uyghurs, of a political movement in the East Turkestan Islamic Movement (Bovingdon 2010), the practice of Islam by Hui elsewhere in the northwest has frustrated the party's dream of a united multiethnic state in a different way. One of the dominant characteristics of Islam as practiced by Hui in the northwest is the presence of multiple and competing "teaching schools" (*jiaopai* 教派) and Sufi organizations (*menhuan* 门宦), defined by their different interpretations of Islamic law and doctrine (e.g., the use of incense during

prayer, the reading of the Quran at grave sites, the practice of *fidya* [lit. "ransom," or atonement], and modes of prayer and remembrance). These teaching schools, including the traditionalist Gedimu, mystical Sufis, modernist Yihewani, and neoconservative Salafiyya, have historically fought against one another for membership and resources, sometimes in bloody and violent conflicts that have required state intervention (Ma [1979] 2000). For these reasons, the CIA's mission is unity, and it promotes this mission by appropriating the texts, symbols, and authorities of Islam.¹¹

Most *ahong* in Islamic centers in the northwest, like Linxia City, for example, are members of their local IA, both at the prefectural and municipal levels. The exam to obtain an *ahong* certificate was historically administered by the local IA (e.g., Linxia City Islamic Association), but in 2010, in Gansu, the rule changed such that only the CIA in Beijing had the authority to administer the test, making it much more difficult to obtain a license.¹²

Furthermore, the CIA is responsible for the education and training of ahong. CIA oversight over Islamic education assumes various forms. Chiefly, the CIA coordinates the curriculum for the state-run madrasas known as Islamic Scriptural Study Institutes (yisilanjiao jingxueyuan 伊斯兰教经学院). There are ten such institutes across the country and four in the northwest. The Lanzhou Scriptural Study Institute, in Gansu Province, was founded in 1984, and teachers there consider it as one grade above a madrasa—that is, as a college. The students in 2010, all boys, numbered 220. They attend the Lanzhou Scriptural Study Institute for three to four years. The curriculum of the school includes the Quran hadiths, figh (jurisprudence), doctrine, Arabic, Chinese, computing, and "thought and morality." Law instructors use a variety of sources to teach shari'a, including the fourteenth-century Central Asian text Sharh al-Wiqāya¹³ and its Chinese translations (see, e.g., Ibn Mas'ūd, 'Ubayd Allāh (Sadr al-Shari'at') 2008). Most students work in the government as civil servants after graduation. Only a minority completes the required extra year of training to become ahong. Based on a survey I conducted in Linxia City from 2010 to 2011, only one ahong among Linxia City's thirtyfour mosques had graduated from a state-run scriptural study institute. All others had received their training in mosques that operate as a parallel track for *ahong* and one that is more loosely administered by the relevant IA, governmental, and party units.

Additionally, the CIA, beginning in the mid-1990s, has held competitions for Quran reading (1994) and sermons (1995) that the Chinese Muslims call wo'erzi 卧尔兹 after the Arabic wa'z (admonition). These competitions, which occur at the city, provincial, autonomous region, and national levels, are often televised, videotaped, and uploaded to Internet sites, both official and popular, such as www.2muslim.com, a forum for Chinese Muslim discussions and news. Beginning in 1999, sermons sanctioned by the CIA were collected and published as Wo'erzi ji 卧尔兹集 (Collections of Wa'z) and disseminated to mosques. Ahong were expected to model their Friday sermons on such prize-winning examples. Additionally, since 1957, the CIA has published a bimonthly magazine called Zhongguo Musilin 中国穆斯林 (China Muslim), which contains news relating to meetings of the CIA, well-documented visits by Chinese leaders to Islamic institutions, and events depicting Muslims' engagement in national affairs; 14 interpretations of Islamic law; 15 exemplary sermons, op-eds and discussion pieces; and educational matters. Such "mediascapes" (Appadurai 1996, 35) are hardly unique to China and shape notions of ethical behavior, social responsibility, pious comportment, and devotional practice in Muslim majority states past and present. However, these mediascapes are less "counterpublics" (Hirschkind 2006, 106-107) that cut across state and society, part deliberation and part discipline, and more one-way messages from the state-supported CIA to Muslims. The media use forms like the sermon and magazines to communicate Islam's compatibility with state socialism and Chinese nationalism.

Thus, the CIA monopolizes the space for civil society between the state and Muslim communities. It directs and channels Muslim relations with various state bureaus and party organs. In so doing, it marginalizes grassroots Muslim organizations, based either in the *jamā* 'a of the mosque, inter-mosque "teaching schools," or Sufi solidarities. *Ahong* become the voice of the party-state through their involvement in the CIA. According to Weber's sociology of law, what distinguishes law in a particular context is the means by which it is made. In Weber's typology, the party-state's use of *ahong* as mouthpieces of religious policy is substantive rationality squared: Islamic law and

Communist law both "make law" by following a set of precepts external to the law (i.e., the teachings of the Quran and the deeds and sayings of the Prophet, on the one hand, and the leadership of the party, on the other). Weber underscored the role of those who dominate legal thought and enforce the order that law exists to reproduce (Weber [1922] 1978b, 784–808). In the example of the *ahong*, a charismatic Muslim leader is the sermonizer of religious law, but one that is specifically filtered through the dictates of Chinese socialism and nationalism and state law and policy. The result is that the principles of CCP rule dominate those of Islam in shaping Chinese Muslims' shari'a consciousness.

The Educational Guidance Committee, 2001 to 2014

To summarize, for the first fifty years of Communist rule (i.e., 1950 to 2000), the CCP adopted an approach to shari'a that demarcated the secular state from religious societies by discursively labeling shari'a as customary law and therefore below state law. This approach continued into the reform era, but with economic liberalization, religious policy was also (partly) relaxed, which led to a second and different approach. Rather than engineering an opposition between state and religion, this approach began to mobilize religion as a tool of governance. Specifically, the CIA positioned *ahong*, Islamic authorities, as the spokespeople of party policy and socialist law.

The party-state's approach to governing Islam, and the key role of the CIA, changed in 2000 to 2001, as a response primarily to domestic affairs but also to international events regarding Islam, Muslim minorities, and the so-called War on Terror. By the late 1990s, violence between Uyghurs and Han Chinese in Xinjiang had become a constant in everyday life in the westernmost province. In 1999, there were a reported sixteen incidents in Xinjiang (Bovingdon 2002b, 186–188). The so-called three evil forces—religious extremism, splittism (territorial secession), and terrorism—informed the government's policies toward Xinjiang. Following the 9/11 attacks in the United States, the state's depiction of violence in Xinjiang as "terrorism" was given greater support, partly by the Bush administration, which, in 2002, added the Eastern Turkestan Islamic Movement to its list of outlawed terrorist organizations. Turmoil in Xinjiang had long predated the People's Republic of China or the 9/11 conception of "terrorism."

Nonetheless, after 9/11, any violence or antistate behavior by Uyghurs in Xinjiang has been couched as "terrorism." For instance, after knife attacks in Kunming, Yunnan, on March 1, 2014, allegedly committed by Uyghurs, that resulted in the death of 33 people, with 140 others injured, Guo Chengzhen, vice chairman and secretary general of the CIA, called the acts "a grand conspiracy" (*dayinmou* 大阴谋) and recommended that the state promulgate a counterterrorism law (Anon. 2014).

As a consequence, beginning in 2001, policies toward Islam in China focused on the Xinjiang problem. ¹⁷ While inaugurated by dynamics in Xinjiang, state policy following 2001 has, in fact, impacted Muslims outside of Xinjiang, including the Chinese Muslims, or Hui. Although conflicts between Hui communities and Han-Han or Hui-Tibetan communities are not uncommon in the northwest and occasionally require state intervention, rarely have state media called such conflicts "terrorist." Nonetheless, changes pursuant to domestic and international antiterrorist policies in the aftermath of 9/11 similarly affected all Muslim minorities in China.

While political and academic discourses that produce shari'a as customary law continue to the present day, the CIA has stepped up its efforts to instill "patriotic education" in *ahong* through both formal instruction and state-sanctioned weekly prayer sermons. Beginning with curricular reform in the Islamic Scriptural Study Institutes, in 2001, the CIA convened the Symposium on National and Local Scriptural Study Institutes' Teaching Materials Work (*Quanguo he difang jingxueyuan jiaocai gongzuo zuotanhui* 全国和地方经学院教材工作座谈会) and the following year established the Office for Coordinating the Editing of the China Islamic Association Teaching Material (*Zhongguo yisilanjiao xiehui jiaocai bianshen xietiao bangongshi* 中国伊斯兰教协会教 材编审协调办公室). After five years of work, the CIA published a series of textbooks (see table 1).

The ten textbooks were designed to unify curricula across the Islamic Scriptural Study Institutes. The textbooks provide a state view of Islamic law, history, and doctrine, and seek to consolidate understandings of shari'a through established state discourses. Thus, *A Concise Course in Islamic Law* includes a section on "Islamic Law in China," which uses the trope of domestication (*bentuhua* 本土化) (Yang 2003; Ma 2005),

common in academic writings on Islam in China, to describe shari'a not as a transcendent order of law that unites the global *umma* (global community of Muslims) but as a localized and ethnicized religious (defined in the Chinese context as nonpolitical) belief (Zhongguo Yisilanjiao xiehui quanguo jingxueyuan tongbian jiaocai bianshen weiyuanhui 2008, 103–105). Furthermore, *A Concise Course in Islamic Law* excludes any discussion of shari'a in China following the Republican period.

Table 1. List of Textbooks for Reform of Scriptural Study Institute Curriculum

	Original Chinese Title	English Translation of Title
1	Gulanjing jichu jianming jiaocheng 古兰经基础简明 教程	A concise course in the basics of the Quran
2	Shengxun jichu jianming jiaocheng 圣训基础简明教程	A concise course in the basics of the hadiths
3	Gulanjing fenlei jianming jiaocheng 古兰经分类简明教程	A concise course in the classifications in the Quran
4	Shengxun fenlei jianming jiaocheng 圣 训分类简明教程	A concise course in the classifications of the hadiths
5	Yisilanjiaoyi jianming jiaocheng 伊斯 兰教义简明教程	A concise course in Islamic doctrine
6	Yisilanjiaofa jianming jiaocheng 伊斯 兰教法简明教程	A concise course in Islamic law
7	Shijie Yisilanjiao shi jianming jiaocheng 世界伊斯兰教史简明教程	A concise course in global Islamic history
8	Zhongguo Yisilanjiao shi jianming jiaocheng 中国伊斯兰教史简明教程	A concise course in Chinese Islamic history
9	Gulanjing songduxue jianming jiaocheng 古兰经诵读学简明教程	A concise course in Quranic recitation
10	Alabo wenshufa jianming jiaocheng 阿拉伯文书法简明教程	A concise course in Arabic calligraphy

The textbooks demonstrate the CIA's attempt to expound the norms of Islam through the directives of Chinese socialism. The CIA took a further step in operationalizing shari'a for the purpose of enforcing socialist policy by establishing a committee specifically to interpret shari'a in accordance with party policy and state law. The EAGC, formed in 2001, ¹⁸ was conceived to be China's *ulama*, the most learned of China's *ahong*, who would advise the state on matters of Islamic law. According to internal CIA memoranda, the EAGC was created to "actively guide innovative measures for the adaptation of Islam to socialist society" (*jiji yindao Yisilanjiao yu shehuizhuyi*

shehui xiang shiying de chuangxin cuoshi 积极引导伊斯兰教与社会主义向适应的创新措施). Significantly, the EAGC was to accomplish such harmonization through "correctly expounding the classical religious doctrine" (zhengque jieshi jingdian jiaoyi 正确解释经典教义).¹⁹

The EAGC is headed by Chen Guangyuan, an *ahong* groomed in the Beijing Islamic Scriptural Study Institute and former director of the CIA.²⁰ Chen Guangyuan has headed the three committee sessions of the EAGC since its founding. While scholars have argued that the CIA recruits disproportionately from the Yihewani, or modernist, "teaching school" (Berlie 2004; Israeli and Gardner-Rush 2007)²¹, and there may have been evidence of such overrepresentation from the 1950s to the 1990s, the CIA today, and the ESC in particular, recruits *ahong* without preference for any particular "teaching school." The main criterion for recruitment is advanced study and standing in the Muslim community. Appointments to party organs like the Chinese People's Political Consultative Conference are also deemed valuable.

The ESC centers around the concept of *jiejing* 解经 (lit. "expound the classic"), or explanation of shari'a. While the Chinese word may appear to be a cognate for methods of deriving law in the Islamic tradition, a closer examination of the sources produced by the EAGC demonstrates that its intellectual labor is more a form of postsecular propaganda than a Chinese Islamic jurisprudence. The EAGC performs the work of *jiejing* through two main forms or media. The first one is familiar—the sermon. The EAGC has published some forty-six sermons in several edited volumes called *Collections of Newly Edited Wo'erzi Speeches (Xinbian wo'erzi yanjiangji* 新编卧尔兹演讲集) (Chen 2011, 13). These collections of sermons, of which some eight hundred thousand copies have been distributed to mosques throughout China, explain state interests through the Quran and the hadiths (Chen 2011, 13–14). In particular, the sermons communicate such principles as "love state, love religion" (aiguo aijiao 爱国爱教), "maintain ethnic unity" (weihu minzu tuanti 维护民族团体), "social stability" (shehui wending 社会稳定), and "[state] law dignity and national unity" (falü zunyan he

guojia tongyi 法律尊严和国家统一). The members of the ESC, China's "ulama," explain Chinese socialist ideology through reference to the teachings of Islam.

Modifying Weber, members of the EAGC and *ahong* who use their sermons exercise substantive rational thinking—that is, explaining Islam not necessarily through a set of principles expounded by the Prophet Muhammad, but through party propaganda. For instance, one sermon entitled "Islam Advocates Unity and Harmony" (*Yisilanjiao tichang tuanjie hemu* 伊斯兰教提倡团结和睦) begins with the favored Quranic verse of the CIA that commands, "And hold firmly to the rope of Allah all together and do not become divided" (*nimen dangquanti zhichi Zhenzhu de shengsuo, bu yao fenlien* 你们当全体支持真主的绳索,不要分裂), and the hadith that states, "Muslim to Muslim just like structurally sound architecture, reinforcing each other" (*Mumin zhiyu mumin, youru jiegou yanjin de jianzhu, bici xianglian* 穆民之于穆民,犹如结构严谨的建筑,彼此相联). After these references, the remainder of the sermon reads like an official statement on religion by Hu Jintao, then-general secretary of the CCP and president of the PRC, pursuant to this theory of "harmonious society":

From the above teachings derived from the classics, we can grasp that Islam advocates unity and opposes division. Unity is the virtue of us Muslims, it is the core of one family, one collective, one society, and the source of Muslims' strength. The early Muslims obeyed the commands of Allah and the teachings of the Prophet. They were of universal agreement in creating, in the history of humanity, the great Islamic civilization. With the lapse of time, we cannot fail to see that there are a few among us for whom the scriptures' call for unity and opposition to division has faded from memory. (Chen 2003, 90)

If the authorities of Islam (i.e., Allah, the Prophet, scriptures) are replaced by the "state," the sermon recalls earlier Leninist techniques of the "mass line" that used persuasion, exhortation, and propaganda to create solidarity vis-à-vis class (Lubman 1999, 42) or, in this case, sinful and divisive "enemies." Rather than use Maoist slogans to raise class consciousness or glorify the proletariat, the CIA sermons employ the language of Islam to elevate shari'a consciousness among Chinese Muslims as interpreted through the lens of socialism. The result of either is to unite followers under the authority of the party that itself has undergone significant transformation over the last

sixty years (Li 2008). As with capitalism, Islam is an inevitable force shaping modernity in China. The party's response has been not to ideologically exclude Islam, but to assimilate it. Just as entrepreneurs and capitalists were welcomed into the CCP in 2000 via then-general secretary Jiang Zemin's slogan "the three represents," the reliance on religious leaders to communicate party policy and state law to religionists has increased in the reform era.

The second product of the ESC's "expounding of scriptures" takes the form of a body of what it deems "Islamic law," broadly defined through the mandates of Chinese socialism in order to buttress governmental power among Muslim minorities. From 2001 to 2011, the EAGC produced some six collections of what it terms "fatwa," or legal opinions on specific matters. These so-called fatwa are published in the *Jiaowu zhidao* tongxun 教务指导通讯 (EAGC Communications, hereinafter tongxun). It should be emphasized that the tongxun are not fatwa, according to the requirements of Muslim jurists. Originally, Islamic jurisprudence required that only mujtahids, those trained in "independent reasoning" (ijtāhid), could issue these nonbinding sources of law, although this requirement was later modified to include all trained jurists. However, the members of the EAGC do not meet even that requirement. The *tongxun* address a range of issues, from defining jihad to prescribing proper dress for Muslims. Furthermore, the tongxun claim that the members of the EAGC consulted foreign sources in compiling the *tongxun*. For example, in 2003, when the severe acute respiratory syndrome (SARS) epidemic spread through China, the EAGC consulted bodies of legal authorities in Islamic countries to gain insight on minimizing its spread, particularly with reference to legal regulations, derived from shari'a, regarding disposal of the remains of SARS victims (Chen 2011).

Like the overall concept of "expounding the scriptures," the *tongxun* are Chinese Islamic versions of Islamic legal methods. A minority of *ahong* I spoke with in northwest China agreed that the EAGC was the Chinese *ulama* (almost always these *ahong* held senior positions in their respective Islamic Associations). Furthermore, they viewed the members of the EAGC as producing an indigenous *fiqh*, or body of Chinese Islamic jurisprudence specifically tailored to the condition of Islam in China. Indeed, some of the

Islamic sources valued as compatible with Chinese socialism have "trickled down" and permeated Muslim communities. When asked if there were conflicts between socialism and Islam, a common response among Hui who had worked in governmental departments was the Quranic verse, "You must submit to Allah, submit to the messenger and the person who takes charge among you" (4:59), interpreting the third authority as the Chinese government.

Conclusion

In reform China, while the official policy is religious freedom, the state tightly regulates all aspects of religious life. For Muslims, whereas state law recognizes aspects of shari'a, mainly dietary rules, and allows Muslims to exercise ritual aspects of shari'a, including ablutions, prayer, and recitation, other aspects of shari'a, including those pertaining to family matters (e.g., marriage, divorce, inheritance, and property) fail to receive protection under state law. Thus, the experience of Muslim minorities in China is a state policy that is not neutral (as Western liberal states claim to be) but of selective recognition, if not hostility. Nonetheless, even in authoritarian China, the state has turned to religious authorities, including *ahong*, to supplement party rule.

The China case shows an arc of legal pluralism. Beginning in the 1950s and heightening in the decade of the Cultural Revolution, the state sought to excoriate religious law, including shari'a. During this period, shari'a became naturalized as "customary law," a parochial and ethnic-bound set of apolitical rules. The CIA was established to communicate state law and party policy to Muslim communities, but its role in the public sphere was sharply limited. Next, with the reforms in the 1980s, the discursive denigration of shari'a continued with only a gradual relaxation as *ahong* studied abroad in Muslim countries, more Chinese performed the hajj, and economic ties between China and the Middle East grew stronger. The CIA's position increased in importance as the state sought to depoliticize sermons and shari'a itself by monopolizing their definitions.

Finally, after the late 1990s, a period of turmoil in Xinjiang, and the aftermath of 9/11 on the international response to "terrorism," the state has operationalized shari a for secular rule. Muslims comply with the speech and model of the charismatic authority of

the *ahong*. The state, recognizing the predisposition of Muslim masses to obey their *ahong*, has appropriated their religious authority for that of the atheist party. The *ahong* have become spokesmen (they are almost all male in the northwest) for a shari'a that is interpreted through the tenets of Chinese socialism, national belonging, and Muslim unity. The domination by one set of areligious principles (i.e., that of Chinese socialism) over one that is derived from sacred texts (i.e., that of Islam) underlies postsecularism as a method of rule. In an interview conducted after riots between Uyghurs and Han Chinese in Urumqi on July 5, 2009, during which nearly two hundred people were killed, Chen Guangyuan, as both a Hui leader and member of the Chinese People's Political Consultative Conference National Ethnic and Religious Affairs Committee, concluded of the rioters:

They were influenced by external separatist forces [jingwai fenlie shili 境外分裂势力]. The external and internal structures colluded to beat, smash, loot, torch, and kill. So this is not a religious problem, and it is not an ethnic problem. Rather, it's a deeply rooted struggle between separatism and counterseparatism and safeguarding the national unity and undermining the national unity. (Zhang 2010)

Through such communications, charisma, as embodied in the authority of Chen Guangyuan, becomes, as Weber remarked, "part of everyday life" ([1922] 1978b, 1123) for Muslim minorities in reform-era China.

None of the above, however, is to conclude that postsecularism as governance is one-way, inevitable, hegemonic, or even wholly effective. The party-state's approach to governing Islam through Muslim elites and a selective translation of shari'a faces several problems. The limits of the postsecular are seen, for example, in the failure of the EAGC to gain widespread support. Most *ahong* and almost all Hui scholars discredit the EAGC as China's *ulama*, citing the committee members' lack of credentials to interpret shari'a. The *tongxun* no longer circulate and are nearly impossible to find in China. Ironically, their material has most likely been rendered too sensitive and therefore been censored by state religious authorities. As a result, the EAGC has stopped producing the *tongxun*.

The limits of the EAGC's project to use Islamic scripture to expound socialism to Muslim minorities demonstrate that the party-state does not act with one mind. As experienced in the Chinese context, postsecularism, as the state's appropriation, rather

than exclusion of religious law, invites a multiplicity of voices to define religion and religious law in the public sphere. Actors that are not strictly under the state, including quasigovernmental institutes like the EAGC, may derive solutions to issues that diverge from state prescriptions. Despite the growing pluralization of China's public sphere, the state nonetheless retains its power of censorship. If non-state actors exceed their mandate of authority, the state censor intervenes. To return to Casanova, rather than deprivatization, such projects that veer from state agendas can still be thoroughly and authoritatively privatized. Yet in postsecularism, jurisdictional lines are increasingly blurred as the state depends on religious authorities to communicate policy to the faithful.

As additional evidence of the limits of postsecularism, nearly all *ahong* still prefer to receive training in a popular or unofficial mosque rather than in the state-run Islamic Scriptural Study Institute, with its set of standardized texts. Most remarkably, small cabals of Hui who have studied abroad are actively translating Arabic texts on legal issues into Chinese versions that circumvent the official censure. If there is a "jurisprudence of minorities" being written in China, it is more likely to be authored by these grassroots scholars than simulacral *ulama*. Postsecular logics may undo themselves. The multiplication and diversification of channels for making law may decenter the state and its monopoly on law.

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Notes

Following the Boston Marathon bombings on April 15, 2013, motivated, according to most reports, by anti-American views inspired by radical Islam, the relationship between the secular and the religious was again thrust into national and global debates, both popular and academic.

- For Arabic Romanization, I use the *International Journal of Middle Eastern Studies* style.
- An exception, of course, is the rules of succession that may be rooted in a formal procedure of rules (e.g., the succession of the Dalai Lama) or may remain simply a function of the individual choice of the charismatic leader (Weber [1922] 1978a, 246–247).

- 4 Research for this paper is based on nineteen months of fieldwork, conducted from 2009 to 2012 in northwest China, with support provided by the Fulbright-Hays Doctoral Dissertation Research Program and the National Science Foundation.
- Qadi administered justice as the lowest level of the official administration throughout the Tang and Song periods (618 C.E.—1279 C.E.). In the Mongolian-dominated Yuan period (1271—1368), the qadi were incorporated into the judicial administration as the Bureau of the Qadi (*Huihui hadesi* 回回哈的司). The end of the qadi is not well understood in Chinese history but is most likely a combination of Sinicization and reliance on non-Muslim Han Chinese magistrates as resolvers of disputes, as well as imperial policy antagonistic to Muslim authority, particularly in the Qing period (1636—1911) (Lipman 1999, 2005).
- China has approximately twenty million Muslims, including Chinese Muslims (Hui), Turkic Muslims (e.g., Uyghurs), and Mongolian Muslims (Dongxiang), the vast majority of whom are Sunni and adhere to the Hanafi school of jurisprudence. Although the Hui live throughout China, most Hui and almost all Turkic Muslims and Mongolian Muslims live in the northwest region, including Ningxia Hui Autonomous Region, Gansu Province, Qinghai Province, and Xinjiang Uyghur Autonomous Region.
- 7 Ahong is the Chinese transliteration of the Persian word meaning "the learned." Note that *ahong* were mosque leaders before the CCP's assumption of power and for most of Islam's history in China.
- The term *xiguan* 习惯 has a long genealogy in legal modernization in China. The Communists borrowed the term from the Republicans who ruled China from 1911 to 1949 and who, in turn, adapted the concept from late-Qing legal reformers who themselves received the word from Japanese jurists (Dicks 1990, 366–367; Bourgon 2005).
- General Regulations of the China Islamic Association (*Zhongguo Yisilanjiao xiehui jianzhang* 中国伊斯兰教协会简章), passed May 11, 1953. In accordance with broader shifts in party-state reform from the 1950s to the 1980s, the name of the governing rules was changed from the Soviet-sounding "General Regulations" (*jianzhang* 简章) to the more globally fashionable "Constitution" (*zhangcheng* 章程) in the 1980s. See also the Report on the Work of the Planning Committee of the China Islamic Association (*Zhongguo Yisilanjiao xiehui choubei weiyuanhui gongzuo baogao* 中国伊斯兰教协会筹备委员会工作报告), passed May 11, 1953.
- The Ningxia CIA was based at the Yihewani mosque named Zhongsi 中寺 (Central Mosque) in Yinchuan until 2009–2010, when it moved to a new office building elsewhere. The Linxia Prefectural and Linxia City IA are housed next to the Salafiyya mosque called Xin Wang Si 新王寺 (New Wang Mosque). The Salafiyya have been a source of governmental scrutiny since they entered China in the 1930s. It is little wonder that the current location of the IA headquarters is a stone's throw away from the oldest Salafiyya mosque in Hezhou.

- 11 Upon entering the CIA building in Beijing, one is confronted with the Quranic verse 3:103, written in Chinese and Arabic: "And hold firmly to the rope of Allah all together and do not become divided."
- Similarly, the CIA, in coordination with the Bureau of Religious Affairs and the United Work Front, limits the movements of Muslim students, or *manla* 曼拉. In 2011, *manla* were required to register at one mosque or Sufi institution only. Uyghur students who, since the July 2009 riot in Urumqi, sought to study Islam in neighboring provinces were particularly subjected to surveillance and monitoring.
- The *Sharh al-Wiqāya* (Explanation of the protection) is a synopsis of a thirteenth-century manual of legal rulings in the Hanafi school called the *Hidāya*.
- For example, a 2008 issue had one section on "The Beijing Olympics and Me" and depicted athletes from Middle Eastern countries visiting with Hui in Beijing (Ma 2008).
- Such analyses are usually topical summaries of the Quran or hadiths or answers to specific questions, such as why Muslims abstain from eating pork and whether women can join the hajj.
- The incidents range from gunfights and stabbings to religious incitement and organized protests. Most incidents involved a handful of people; others, such as the riot in Lop on August 9, 1999, involved some six thousand people (Bovingdon 2002b, 187).
- Scholarship has, accordingly, concentrated on state policy in Xinjiang following 9/11, with particular reference, for example, to the Shanghai Cooperation Organization (SCO). The SCO was founded in 2001 in Shanghai by its members, including China, Kazakhstan, Kyrgyzstan, Russia, Tajikistan, and Uzbekistan. The multilateral organization coordinates security, military, and economic affairs in the region and has consistently identified antiterrorism measures as one of its unifying objectives (Bovingdon 2002b; Gladney 2004a; Rudelson and Jankowiak 2004).
- The EAGC was formed on April 23, 2001, and thus its establishment predated the 9/11 attacks; however, the committee appears to have taken on greater significance following the Chinese government's response to perceived terrorist activity in Xinjiang.
- 19 Internal CIA memoranda.
- Chen Guangyuan began his Islamic training at a mosque in Shenyang in 1944. In 1952, for two years, he studied Arabic at a Hui academy in Beijing. In 1955, he studied at the China Islamic Scriptural Study Institute. In 1958 to the beginning of the Cultural Revolution in 1966, he served as *ahong* at several mosques in Beijing. Subsequently, he served as president of the CIA, dean of the China Islamic Scriptural Study Institute, vice-premier of the China Religion and Peace Committee, and consultant to the China International Friendship Contact Committee. His leadership of the CIA was constant beginning in 2000, when he also took up positions in the Chinese People's Political Consultative Conference (CPPCC). Most recently, he was elected member of the Standing Committee of the CPPCC in March 2013.

- The standard argument is that because the Yihewani "teaching school" endorses a modernist vision of Islam and opposes the practices of Sufis, such as veneration of the saint, it has received greater support from the state than Sufi or Salafiyya groups.
- 22 Quran 3:103.

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