Loyalty to a non-Muslim Government:

An Analysis of Islamic Normative Discussions and of the Views of some Contemporary Islamicists

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During the last years several scholars have attempted to qualify the position of Muslim minorities in contemporary Western Europe and their institutions in the terminology of the classical Islamic Law. In doing so, these scholars claim to give expert interpretations of the norms and values of Islam which have direct relevance for the social, juridical, and political position of Muslims in non-Muslim secular societies. Because of their political nature these interpretations may, in the end, exercise great influence on the daily life of the groups concerned in all the societies of Western Europe. The opinions to be discussed refer, by way of example, to Belgium, Great Britain, Germany, France, Europe in general, and North America.

Our first example is related to the role of the mosque in a non-Muslim, West-European society. The Belgian anthropologist of law, Foblets, attributed to the mosques in Belgium "a role in the preservation of identity in front of the non-Islamic space of the host-country (*Dâr al-Harb*)".[1] *Dâr al-Harb* ("the Territory of War") is a concept derived from the classical Islamic dichotomy of the world into *Dâr al-Islâm* (the "Territory of Islam"), on the one hand, and *Dâr al-Harb* ("the Territory of War") or *Dâr al-Kufr* ("the Territory of Unbelief"), on the other. In the section on *Siyar* or international law of classical Islamic jurisprudence, the quoted dichotomy plays an important role, especially in relation to war and peace. This dichotomy is also significant in terms of the position of Muslims who, for one reason or another, happen to live outside the "Territory of Islam". The image of the mosque in Belgium which is portrayed by Foblets by qualifying Belgium as part of the so-called "Territory of War" is that of a safe haven in the midst of an ocean of enemies. This image tends to legitimize the negative view of the mosque which exists among many members of the non-Muslim majorities, because it tells us that the surrounding society is perceived, from within the mosque, in a hostile manner, as well. Foblets does not base her interpretation on references to any Islamic sources or to any other kind of information obtained directly from Muslims in Belgium.

The second example is related to the efforts of British Muslims to have Rushdie's book banned on the basis of the existing laws on blasphemy in Great Britain. According to Ruthven, it was "somewhat ironic that Muslim activists have tried, so far unsuccessfully, to have *The Satanic Verses* banned under Britain's arcane blasphemy laws, laws that would originally have condemned them as heretics. Under Islamic law they do not have a leg to stand on: the classical jurists would tell them that they were living in *Dar al Harb*. Their duty is not to uphold the honour of Islam in secular infidel courts, but to migrate to a country where the writ of the Divine Law still runs".[2] This view not only fails to notice the element of a struggle for equal rights in having the Christian-rooted British laws of blasphemy applied to Islam as well, but states plainly, in the name of Islam itself, that Muslims should stop their campaign to uphold the honour of Islam in the West and emigrate right away to the Muslim world. It should be noticed that Ruthven bases her view exclusively on Majid Khaddouri's study on *War and Peace in the Law of Islam*, which deals mainly with Islamic law during the medieval period, and on one medieval polemical pamphlet about the punishment of blasphemy. There is no reference whatsoever to any modern discussion of the issue. The author apparently assumes that no relevant changes concerning the issue have taken place in Islamic thought since the Middle Ages.

The third example is the advice drafted by the German orientalist Nagel about the status of Muslims in Germany, within the context of the German "Quranschuledebatte". The central issues of this debate concerned whether the teachings of Islam are compatible with the German Constitution and whether Muslims in Germany could be obliged to respect the German Constitution if Islamic religious education were to be introduced in German schools. According to Nagel, a Muslim living abroad, for instance in Germany, is seen [in Islam] as a *Musta'min*, which means that they are living in an area qualified by the classical tradition of Islamic Law as *Dâr al-Amân* ("the Territory of Security") or *Dâr al-ᶜAhd* ("the Territory of a Treaty"). Muslims living in such an area enjoy the protection of the State concerned. This protection is interpreted by Islam as the mutual relation resulting from a treaty. In their capacity as proteges (*Musta'minîn*), Muslims in Germany are bound by German law. "As long as the host country does not tolerate attacks on the life and property of the *Musta'min*, the latter is obliged to respect the totality of the legal order of the non-Islamic host state, even if it would decree something which is inadmissible in the legal world of Islam".[3]

Our fourth example is related to pleas in France, directed to the French Government and the French public opinion, for the creation of a state-founded Faculty of Islamic Theology for the formation of imams and religious scholars. This Faculty should develop and teach a theology of Islam in accordance with the demands of modernity and with the norms and values of the French Republic in which Muslims are living as a minority. One of the spokesman in this discussion was Soheib Bencheikh, a Muslim modernist theologian of Algerian background living in France.[4] In a recent article on *The Theological Formation of Muslims*, he stressed that the situation of Muslims living as a minority in a multiconfessional and secular state with strong Christian influences was without historical precedent. No Sunnite or Shiᶜite legal-religious school had ever foreseen it: "How can one teach in France a theology which is derived from a division of the world into a `House of Islam' and a `House of War', as is affirmed by all legal schools of Islam? These are archaistic and dangerous views, elaborated during the age of the great military-imperialist conflict which used to oppose Christianity against Islam and to reduce the history of these two worlds to episodes of conquests and reconquests".[5] Elsewhere, Bencheikh repeated exactly the same argument and concluded: "Therefore, a new theology has to be elaborated; our patrimony has to be desacralized in order to discover the authentic divine message. The one that can match no matter what custom, including the French custom. It is up to us to demonstrate in France of today that Islam is really a universal religion".[6] What Bencheikh is really doing here is projecting an image of Islamic normative thought as being hostile and dangerous to French society. His major argument is the classical dichotomy of *Dâr al-Islâm* and *Dâr al-Harb*. The French State should create a Faculty to develop and teach a completely different kind of Islamic theology.

The fifth example is the view expressed by the report published in 1987 entitled *Islamic Law and its Significance for the Situation of Muslim Minorities in Europe*. It stated that "the classical Islamic tradition had no substantial experience of Muslims living in a minority situation, since the elaboration of the mainstream of classical shariah law assumed that the normal state of affairs was one whereby a Muslim lived in a society whose structure and fundamental concepts were islamically based".[7] At the same time the report mentioned that most Muslim leaders *in Europe* today regard the old concepts of *Dâr al-Harb* and *Dâr al-Islâm* as outmoded and irrelevant.[8] In the vein of this report it is stressed by many scholars today that it is very difficult or even impossible to know the teachings of Islam regarding the position of Muslims within a non-Muslim state. The "simple reason" for this, says for instance Christie, is that, while much is said [by Islamic Law] on the treatment of non-Muslim minorities within an Islamic state, there are no specific reciprocal guidelines for the behaviour of Muslim minorities within a non-Muslim state".[9]

Our sixth and last example is related to North America, whereto Muslims started to migrate in significant numbers in the late 19th century. In a recent study of Islamic proselytism in the West, Poston explains that Muslim theology "divides the world into two spheres of influence: the Dar al-Islam ('The Abode of Islam') and the Dar al-Harb, or Dar al-Kufr ('The Abode of War', or `Unbelief'). Only under special circumstances is the Muslim allowed to live for any time in a non-Muslim land".[10] "Why then did Muslims choose to immigrate to North

America?", asks Poston. The answer he gives is that the closer contacts between the Muslim world and the West during the 19th century brought about a mitigation of the longstanding tradition which forbade permanent residence in Dar al-Kufr. With reference to the admiration of Western civilization by leaders like Al-Afghânî, ᶜAbduh, and Ridâ, Poston stipulates that the Dar al-Harb "was no longer a `dangerous, uncertain and annoying' place but was instead becoming a model for Muslim advance". He concludes that in this manner "the ideological and theological impediments to residence in a non-Muslim country were removed", so that "the nineteenth century Muslim was free to examine the material advantages of emigrating to North America".[11] He does not specify, however, how this removal actually took place, neither on the ideological nor on the theological level. According to Poston the availability of personal rights and freedoms in non-Muslim countries further served to break down the distinction between the Abode of Islam and the Abode of Unbelief.

From the above quoted six examples it becomes clear that there exists a great confusion among many contemporary scholars of various disciplines and backgrounds concerning the normative ideas of Islam about the position of Muslims living as a minority in a non-Muslim society or state, especially in the West. Usually, their understanding of the new and relevant developments within Islamic thought is completely absent or very superficial, at best. The purpose of the present contribution is to clarify these new developments and trends by answering the following central question: What guidelines have been developed in Islamic thought for the behaviour of Muslim minorities in a non-Muslim state?

The main historical phases during which the Islamic views concerning Muslim minorities have been developed are dealt with in the first section (**I**: *Historical Background*). We shall then focus on the contemporary Islamic discussions about the position of Muslim minorities in Western countries. These discussions are a continuation, within a new historical context, of the age-old historical tradition of Islamic jurisprudence. Here we shall first deal with the discussion about the validity, in the present time, of the classical legal-religious qualifications of the different parts of the world, such as Dâr al-Islâm, Dâr al-Harb, etcetera (**II**: *Europe and the West in Islamic Political Thought*). In the following sections we shall pay attention to specific topics figuring prominently in these discussions (**III**: *Staying in the non-Muslim World*, and **IV**: *Naturalization, Political Participation, Military Service, and Family Law*).

Historical background

Through various periods of the history of Islam specific events have provoked a series of discussions among the legal scholars of Islam about the attitude to be adopted by Muslims who were, for one reason or another, living in an area ruled by a non-Muslim government. Should they attempt to leave their dwelling places in order to migrate to a country ruled by a Muslim government or were they allowed to continue to live under non-Muslim rule, and if so, under what conditions? The different answers provoked by various historical circumstances were crystallized as precedents in Islamic jurisprudence. Incidentally, reference is made to these precedents in contemporary Islamic discussions concerning the position of Muslims living in the West.

During the *pre-colonial era* we can distinguish two different types of historical situations. *First of all*, there was the case of *individual Muslims, or of small numbers of Muslims, who were living -temporarily or for an indefinite period of time- in a country ruled by a non-Muslim government.* We are dealing here, among others, with captives of war, merchants, diplomats, and local inhabitants converted to Islam. As for the captives of war, Islamic law developed a set of rules to which they should abide, if possible, before they could safely return to their country of origin.[12] Concerning the other categories of Muslims, the legal scholars discussed, among others, the purposes for which it was allowed to travel to non-Muslim territory and the conditions under which one could stay there. Many different modalities were taken into account. In principle, though, the legal scholars of Islam accepted such a stay on the condition that the Muslims concerned were able to perform overtly the basic religious prescriptions of Islam (prayers, fasting, collecting and distributing alms, etcetera)[13] and that their own safety as

well as that of their family was not endangered.[14] Moreover, the classical scholars of Islamic legal thought explain that such Muslims are obliged to obey the laws of the land in which they are residing. They also have the duty to respect scrupulously the condition under which the non-Islamic state granted them *amân* (safety) during their stay in its territory.[15] Here lies the historical precedent for modern Islamic discussions on respecting the rules of visa issued by Western states.[16]

The *second type of historical situation* which provoked discussions on the position of Muslims under a non-Muslim government occurred with *the conquest of sections of Muslim territories by non-Muslim rulers, where, as a consequence, the original Muslim population came under non-Muslim rule.* Examples are the Muslim communities of Christian Sicily and Spain from the 11th through the beginning of the 17th centuries.[17] It was also the case of Bosnia when, at the end of the 19th century, it was brought under Austro-Hungarian rule. The legal scholars who discussed the position of these communities, developed different views. Many of them thought that these Muslims, if they could, should leave their dwelling places and emigrate to the "Territory of Islam"; others found ways to permit them to remain, allowing them, in times of oppression and persecution, to practice the principle of religious dissimulation.[18] At the end of the 19th century, for instance, the Bosnian mufti Azapagic was convinced that the "Territory of War" would become the "Territory of Islam" if Islamic religious rites and observances like Friday prayers and feast prayers would be practised there. It would become the "Territory of Islam" even if infidels were to remain in that country and even if it were not linked to other parts of the "Territory of Islam". He therefore resisted the view that Bosnian Muslims were obliged to emigrate to Istanbul.[19] His view was supported by no one less than Rashîd Ridâ, who stressed that the "Hijra is not an individual religious incumbency to be performed by those who are able to carry out their duties in a manner safe from any attempt to compel them to abandon their religion or prevent them from performing and acting in accordance with their religious rites".[20] Such views are tantamount to legitimizing the existence of Muslim communities under non-Muslim rules under certain conditions, and they are directly relevant to the present situation of Muslim minorities in the West.

In the third place there was the historical occurrence of an even more drastic change *when Muslim governments were totally replaced (by force) by a non-Muslim government or subjected to it.* The first precedent of this situation occurred during the early years of the rule of the Mongols in the Near East. Legal scholars in Baghdad, under the pressure of the conquest of the city, confirmed the authority of the non-Muslim conquerors by signing a fatwâ which stated that "a just infidel was, in fact, preferable to an unjust Muslim".[21] On a much wider scale, however, *this was the situation during the Colonial Era.* Almost every country with a Muslim majority was affected by it. This new situation resulted in a stream of discussions concerning the relations between Muslim subjects and their respective non-Muslim governments. Some of these historical events, and especially the fate of the Andalusian Muslims, are reflected in discussions of the Colonial Era and even in contemporary discussions of religious scholars regarding the position of Muslim minorities in Western Europe of today.

First of all, there was the problem, similar to that of the Andalusian and Bosnian Muslims, whether one was allowed to give up fighting and to remain living under non-Muslim rule, or whether one was obliged to continue the armed resistance and/or to emigrate to an area governed by a Muslim ruler. This problem was discussed all over the Muslim world during the late 19th and the early 20th centuries. Ample details concerning Algeria, India, Lybia, Nigeria, and Sudan were provided by Peters.[22] The historiographer Al-Mannûnî mentions no less than five works written by Moroccan scholars on this subject during the first decades of the 20th century.[23] There are also several fatwâs from Indonesia discussing the same complex of problems related to the expansion of Dutch colonial rule.[24] In Egypt, the Malikite scholar of Al-Azhar, ᶜIllaysh -to be quoted below- also wrote an extensive treatise about this problem. He, among others, referred to *fatwâs* of the Moroccan scholar Al-Wansharîsî about the position of Muslims who had remained in Christian Spain after the fall of Granada in 1492. Al-Wansharîsî had urged the Andalusian Muslims under Christian rule to emigrate to the "Territory of Islam".[25]

The close interaction between (non-Muslim) Europeans and the Muslim inhabitants of the

colonies induced a long series of discussions among the Islamic religious scholars about the issue of "assimilation to the Infidels".[26] The discussion of this issue appeared for the first time during the second half of the 19th century and still plays a certain role in some contemporary debates about the position of Muslims in the West. In the early sixties of the nineteenth century Muslim students in Paris wondered whether it was acceptable, from a religious point of view, to adopt Western dressing habits. Al-Harâ'irî, a scholar of Tunisian descent who was teaching Arabic in the *Ecole des Langues Orientales Vivantes* in Paris,[27] defended a liberal point of view in several *fatwâs* which he published in printed editions in Paris. His *fatwâ* concerning the French hat of 1862 was entitled `Answers to the perplexed ones concerning the statute of the hat of the Christians'.[28] It is stated in its preface that the more than 300 Muslim students in Paris had various practical reasons for discussing the permissibility of wearing the French hat. In the streets and during the lectures Frenchmen were gazing at them full of astonishment because of their strange appearance. They pointed out that the wearing of the French hat had several clear advantages, since France was a very cold country and the brim of the French hat gave extra protection to the eyes. However, some of the students had stressed that by wearing this hat one in fact committed apostasy with all its consequences. Wives in the countries of origin would be divorced automatically and, after returning to the Islamic world, one would have to convert to Islam again, and to remarry officially with one's own spouse. The author, on the other hand, saw no objection whatsoever in the wearing of the `hat of the Christians', because this practice did not imply any form of assimilation in strictly religious matters. It was only the form of religious assimilation which was forbidden by Islam.

Quite a different attitude was reflected, however, in the writings which aimed to preserve unadulterated the traditional norms of Islam. Al-Harâ'irî's *fatwâ* of 1862 was apparently sent to the Near East soon after its publication, and was brought to the attention of the orthodox Malikite scholar of Al-Azhar, Muhammad ᶜIllaysh.[29] In contrast to Al-Harâ'irî, Muhammad ᶜIllaysh defended an outspokenly anti-Western political point of view. He took part in the anti-British Urabi-revolt and died in prison in 1882. His opinion was capsulized in an unpublished *fatwâ* entitled: `Refutation of the Epistle "Answers to the Perplexed concerning the statute of the Hat of the Christians".[30] The author states that the "Christian hat" is forbidden for a Muslim for various reasons. First of all, one cannot perform the *salât* while wearing it due to the fact that its brim hinders the worshipper to touch the ground with his forehead during the prostration. Furthermore, as outer apparel it signifies the low position proper to Christians, but not fitting for Muslims. Thirdly, one cannot claim that wearing this hat is a matter of necessity, which could be argued if these students would be obliged to study outside their own countries. This is not the case, however, since the only sciences which are obligatory from a religious point of view are the religious disciplines. Since it is impossible for these disciplines to be studied outside the Muslim world, students should return to their countries of origin as quickly as possible: they must perform the `emigration' (*hijra*) to the `territory of Islam' (*Dâr al-Islâm*) and no longer commit the offence of assimilation to the Infidels.

A second problem, closely related to the issue of "assimilation to Infidels", concerned the adoption of citizenship and nationality of the colonizing state. This problem arose in only a few of the colonized countries, especially in countries of the Maghreb colonized by France. The European concept of nationality was alien to the classical Islamic legal tradition. But since the second half of the 19th century, and especially since the Law of Ottoman Nationality of 1869, it was gradually penetrating into the political and legal systems of the Muslim world. Notwithstanding occasional conflicts, this penetration can be seen, initially and to a certain extent at least, as a mere process of translating the existing social and political realities into a new legal terminology[31]. However, a completely new dimension was added in Tunisia and Algeria, when the French authorities introduced Laws of Naturalization in 1923 and 1927. These laws offered French nationality and the full rights of French citizenship to Tunisian and Algerian Muslims who accepted French civil law instead of Islamic law.[32] This measure met with fierce resistance from the side of many Muslim scholars. The scholars of the Zaytouna in Tunis issued a fatwâ which qualified the person who adopted French citizenship under the said law as an apostate. Their view was supported by similar fatwâs issued by scholars of Al-Azhar and other scholars in Egypt, among them Shaykh Shâkir, the former wakîl of Al-Azhar;[33]

Rashîd Ridâ, editor of Al-Manâr; Shaykh ᶜAlî Surûr al-Zankalûnî; and Shaykh Yûsuf al-Rajawî. By virtue of this view a Muslim in the town of Binzert who had accepted French nationality was not buried in the graveyard of the Muslims. His apostasy was confirmed by the local mufti, Shaykh ᶜAlî al-Sharîf. Consequently, he was buried by the French in the section, which was reserved in the graveyard of the Muslims for foreigners and unidentified people. Other scholars, however, merely stated that he had committed a grave sin. The French stipulated the adoption of French citizenship as a condition for anyone who wanted to acquire a position of some importance in the colonial society. This was part of the French assimilation policy.[34] The arguments which were forwarded by the scholars who condemned the acquisition of French nationality during the colonial era as an act of apostasy have been repeated in several recent discussions published in France and the Netherlands concerning the subject of naturalization within the wider context of the integration of Muslim immigrants into Western European societies.[35]

All these discussions resulted gradually, to begin with in India, in the reformulation by reformists of Islamic political views. This reformulation involved, among other aspects, the reinterpretation of the jihâd as a strictly defensive institution.[36] Ultimately, such views also implied a crisis of the age-old concepts of the existence of a "Territory of Islam" alongside a "Territory of War" (sometimes also called the "Territory of Unbelief"), etc. The eventual abolishment of such concepts had, of course, major implications for the Islamically underpinned ideas about the status of Muslims living outside the Muslim world in a minority position.[37] At the same time, however, other scholars continued and still continue to formulate their political ideas with these concepts, as, e.g., the well-known scholar Nasîruddîn al-Albânî, who in 1993 urged the Palestinians to perform a *hijra* from Israël (being *Dâr al-Kufr* or "Territory of Unbelief") to the "Territory of Islam" in order to mobilize their resources and return victoriously to their homeland.[38] Other examples include the works of M.G.S. Hodgson and B. Lewis.[39]

The fourth and final stage in the development of Islamic political views concerning the relation between a non-Muslim government and Muslim subjects occurred *mainly during the postcolonial period.* It is related to *the emergence of the phenomenon of Islamism.* Influential thinkers such as Sayyid Qutb developed the idea that countries with a Muslim majority population could no longer be regarded as part of the "Territory of Islam", since their present legal system was mainly derived from non-Islamic, especially Western, sources which to a large extent were contradictory to the values of Islam. These countries had in fact fallen back into a situation of "Heathendom"; their governments lacked legitimacy from a religious point of view. A re-islamization process of society and government was to be broached, principally through various forms of preaching and participation. At the same time, however, some offshoots of the Islamist revival movement defended the use of violence for the same purpose.[40] Similarly, there are examples of groups pleading for the performance of the duty of "Emigration" (*hijra*) from the society which they consider, for various reasons, as having become a "Territory of War" (*Dâr al-Harb*). Other groups propound that *jihâd* should be waged against the offending society until it is restored to *Dâr al-Islâm.*[41] Echos of these arguments may be heard in contemporary discussions concerning the position of Islam in the West, as well.

Europe and the West in Islamic political thought

Contemporary Islamic discussions which focus on the position of Muslim minorities in Western countries are a continuation, within a new historical context, of the above-mentioned age-old tradition of Islamic jurisprudence. These discussions reflect on the validity in the present time of the above-mentioned legal-religious qualifications of the different parts of the world, especially with regard to Europe and the West in general. In this respect four different attitudes can be observed.

First of all, there is the *pragmatic* viewpoint which (implicitly or explicitly) rejects the classical dichotomy while taking the existing division of the world into nation-states as its point of departure. The conviction that Western countries which have made pacts and treaties with Muslim states are no longer (part of the) "Territory of Unbelief" (*Dâr al-Kufr*) was defended

and is shared by many distinguished scholars of Islamic law in the Middle East, such as Abû Zahra (1898-1974), ᶜAbd al-Qâdir ᶜAwda (d. 1954), and Wahba al-Zuhaylî.[42] This is also the implicit position of the Egyptian scholar Al-Qardâwî (to be mentioned below) and of the Malaysian scholar Doi. Doi states explicitly that it would be improper to classify a country as *Dâr al-Harb*, when Muslims within that country can uphold the principles of "enjoining good" and "forbidding evil", i.e. when they can publicly defend the moral values of their religion, and when they can perform the obligatory salat, observe the fasting, give alms, go for *hajj*, build mosques, and maintain other religious institutions.[43] On the basis of the same pragmatic position Doi applies the principle of personal investigation (*ijtihâd*) in order to develop a set of rules for the duties and responsibilities of Muslims in non-Muslim states. In doing so he often follows the example of fatwâs from India, where a similar situation applies.

Secondly, there is the *idealistic* or *utopian* viewpoint which also does not discuss the old dichotomy, but which introduces the (classical) concept of the *Ummah* to refer to the ideal of the transnational and universal unity of all Muslims in the world. An example is the position of the director of the Muslim Institute in London, Kalim Siddiqui, who expressed his views in a document entitled *The Muslim Manifesto*.[44] Nielsen explained that the Muslim Institute in London has identified itself increasingly during the eighties with the so-called "Islamic Movement", an informal conglomerate of rather closely cooperating groups who sympathised with the Islamic Revolution in Iran. Siddiqui does not refer to categories like *Dâr al-Islâm* and *Dâr al-Harb* at all. On the contrary, he makes a distinction between actually existing states (Muslim or non-Muslim), on the one hand, and the universal, transnational, "Nation" or "Ummah" of Islam, on the other. He underlines that Islam is a "political religion", which, according to him, implies that Muslims in the West, for instance in Great Britain, should develop their Islamic identity and culture as part of the worldwide *Umma*. The first step towards this goal is to create and institutionalize a unity at the national level, which was attempted by Siddiqui by his creation of a "Muslim Parliament", in 1992.[45] It is also possible, however, to speak of an Islamic *Ummah* in a national sense, viz., as a unified and well-organized community of Muslims living within one non-Muslim state. This notion can, for instance, be observed among British Muslims of South Asian, especially Indo-Pakistani, background, who thereby project their own cultural history onto the situation in British society.[46]

In the *third place*, there is the most widely spread attitude which aims at *reinterpretation of the Islamic tradition* in the light of the prevailing conditions of the modern age. This attitude explicitly rejects the validity in the present time of the ancient dichotomy of the concepts of a "Territory of Islam" (*Dâr al-Islâm*) and a "Territory of War" (*Dâr al-Harb*) or "Territory of Unbelief" (*Dâr al-Kufr*), and tries to replace it with a new terminology. Thus far, however, no consensus has been reached among the adherents of this view about the precise nature of the new terminology. This position is represented by many scholars who explicitly reject the ancient dichotomy and attempt to replace it with new concepts to be derived from the Islamic tradition. An eloquent spokesman of this view is Shaykh Faysal Mawlawî, advisor of the Sunnite High Court in Bayrout. According to him, the principle which really should regulate the relations between Muslims and non-Muslims is not strife, but preaching (*daᶜwa*). The application of the classical dichotomy of the "Territory of Islam" and the "Territory of War" is very problematic in the present day. First of all, how should one define which country can be reckoned to belong to the "Territory of Islam"? If the condition would be a complete observance of the religious prescriptions, then most of the "countries of the Muslims" can no longer be considered to be part of the "Territory of Islam". The same holds true for several other countries, like Turkey, if the mere application of Islamic family law would be used as the criterium. Only if one would use as a criterium the freedom for Muslims to practise the religious ceremonies and observances can most "countries of the Muslims" indeed be reckoned to belong to the "Territory of Islam". But how should one judge, if this be the criterium, the many non-Muslim countries where Muslims live safely and practise their religious ceremonies, sometimes with greater freedom than in some "countries of the Muslims"? According to Mawlawî, it is not even possible to define exactly the "Territory of War" in the present age. In line with the terminology designed by Al-Shâfiᶜî, any non-Muslim country might belong to the

third category of the "Territory of Treaty" (*Dâr al-ᶜAhd*). In view of the existing network of international treaties, this seems to be the case of most countries. He prefers, however, to coin the new term *Dâr al-Daᶜwa* ("Territory of Preaching"), which refers to the position of the Prophet and his followers before their Emigration to Medina in 622. At that time the Muslims only formed a small group which preached Islam, but they had to respect non-Muslim laws at the same time. According to Mawlawî, the whole world can be said to be a "Territory of Preaching" at the present time. If some accept the message of Islam and apply the Islamic laws, then one can speak of a "Territory of Islam"; the rest of the world, however, remains in relation to them a "Territory of Preaching".

The Moroccan scholar ᶜAbd al-ᶜAzîz ibn al-Siddîq[47] adopted an attitude which is similar to that of Mawlawî.[48] Describing the liberties enjoyed and the numerous religious institutions (mosques, institutes, schools, etcetera) created by Muslims in Europe and America, including the preaching of Islam and the conversion of Europeans and Americans to Islam, he concludes that *"Europe and America, by virtue of this fact, have become Islamic countries fulfilling all the Islamic characteristics by which a resident living there becomes the resident of an Islamic country in accordance with the terminology of the legal scholars of Islam"*.[49] Ibn al-Siddîq thus revives the old Shâfiᶜite doctrine which states that *Dâr al-Islâm* exists wherever a Muslim is able to practise the major religious rites and observances. According to Ibn al-Siddîq, the safety enjoyed by the inhabitants of Europe (including Muslims) can be illustrated further by the fact that Muslims, who are afraid to profess their religious convictions in their own countries, fly to Europe as refugees from those who claim to be Muslims.[50] This vision of Ibn al-Siddîq was also adopted by Rached al-Ghannouchi, the main intellectual leader of the Tunisian Islamist Nahda-movement. In 1989, at the occasion of a congress of the Union of Islamic Organisations in France (UOIF), al-Ghannouchi declared that France had become *Dâr al-Islâm*.[51] The leading circles of the UOIF adopted this view which was to replace the doctrine, previously adhered to, that France was merely part of *Dâr al-ᶜAhd*.[52] This view was confirmed in 1991 by the Committee for the Reflexion about Islam in France (CORIF), when it proclaimed in a circular letter of February 1991 that France had become *Dâr al-Islâm* due to the fact that deceased Muslims could be buried in its territory in special sections of cemeteries destined for Muslims.[53]

Finally, there is the *traditionalist* view which adheres to the old dichotomy of the world into *Dâr al-Islâm* and *Dâr al-Harb*. Within the European context this attitude occupies a marginal position. A representative of this view is a Moroccan imam in Amsterdam, ᶜAbd Allâh al-Tâ'iᶜ al-Khamlîshî, who recently published a collection of his religious admonitions.[54] His ideas show close resemblance to those of Morocco's strict and puritanical *Sunni* movement, which is described in detail by Munson.[55] In the vein of this traditionalist attitude, Al-Khamlîshî attempts to apply the classical dichotomy to the position of Muslims in the West today, as if they were concepts valid for every time and place. The same holds true for a booklet on naturalization, published in Paris in 1989 by a certain Muhammad ibn ᶜAbd al-Karîm al-Jazâ'irî, entitled "Changing nationality is apostasy and treason".[56]

Staying in the non-Muslim world

The second subject dealt with in contemporary discussions on the position of Islam in the Western world is the problem of the permissibility of *staying, for the purpose of work, study, commerce, etc.*, in a land ruled by non-Muslims. The participants in the discussions who follow the pragmatic viewpoint described above, take this permissibility for granted; it is a well-established fact that about one third of the total number of Muslims in the world today are living in a minority situation. From this perspective, the very discussion of the acceptability of residing in a non-Muslim country is nothing less than an anachronism and an anomaly.

According to Siddiqui Islam permits Muslims to accept protection of their life, property, and freedom by non-Muslim rulers and their political systems. Muslims who are living in that situation are allowed to pay taxes to a non-Islamic State. They are also obliged to abide by the laws of that state as long as such an obedience does not conflict with their loyalty to Islam and the *Ummah*. According to the *Manifesto*, other minorities, such as Jews and Roman-Catholics,

are adopting an identical attitude. The *Manifesto* stresses, moreover, that the duty of *jihâd* remains valid, also for Muslims of the British nationality. This duty may result in active service in an armed conflict abroad and/or to the lending of material or moral assistance to those who are engaged in such a struggle for Islam, wherever they may be in the world.

The Moroccan scholar ᶜAbd al-ᶜAzîz ibn al-Siddîq, who possesses direct knowledge of the situation of the Muslims in Belgium, published a study of no less than 66 pages on this subject in Tangier, in 1985. He addressed this subject at the request of Algerian students who had brought up the matter during his stay in Mecca in the same year.[57] They had told him about the numerous disputes on this subject in Algeria and among the Algerians in Europe and brought to his attention that Algerian legal scholars upheld contradictory views concerning it. According to the author, the view that it is forbidden to stay in countries like Europe and America is devoid of any proof derived from the authoritative sources of Islam. The rule of Islam is that it is permissible to stay in a non-Muslim country, if and as long as a Muslim can perform his religious duties overtly and is not exposed to the danger of losing his belief. The most important of these duties is the performance of prayers and fasting, and the same applies to the other obligatory duties.[58] With the conquest of Mecca, the duty of emigrating from non-Muslim territory was abrogated. Ibn al-Siddîq follows the view of the Shafiᶜites which states that a "Territory of Unbelief" becomes a "Territory of Islam" by the mere fact that a Muslim can overtly perform his religious duties in that place. According to this view, it is better for a Muslim to remain there, because, through his presence, others might accept Islam as well. Moreover, the area might lose its Islamic character again, if he leaves. The author quotes a whole series of classical authorities to substantiate this view. He reminds the reader of the early emigration undertaken by several Companions of the Prophet, by his order, to Abyssinia, a Christian land, where they enjoyed greater liberty to profess their faith than in polytheist Mecca. Moreover, while the *jihad* by the sword is no longer valid, the *jihad* by the tongue (i.e., the preaching of Islam to non-Muslims) continues to be. In this case, then, the preaching of Islam (*daᶜwa*) is an additional duty imposed on the Muslims. However, it is only possible to fulfil this duty by staying among them.[59] This was also the view expressed by Syed Abul Hasan Ali Nadwi, a distinguished Indian scholar from Lucknow, in his book *Muslims in the West*.[60] The popular preacher and controversialist Ahmad Deedat from South Africa, who frequently visits Great Britain and other Western European countries, holds a similar opinion. He argues that the only rationale for migration to a non-Muslim state was the desire to invite others to Islam.[61]

The idea of the *daᶜwa*, in fact, occupies a central position in many Islamic writings on the position of Muslims who are living in a minority situation. The Moroccan scholar Al-Kattânî analyses the duty of *daᶜwa* of Muslim minorities as their duty (1) to organize themselves, and (2) to arrange for Islamic education. It is his view that "a Muslim cannot live in the Territory of Infidelity if he fosters no serious hope that Islam will survive among his children and offspring and will be spread to the non-Muslims. If a Muslim is unable to defend and maintain his belief, it becomes his duty to emigrate".[62]

A more hesitant view, however, was published in 1994 by the editors of the Birmingham journal *Al-Sunna*, which, first of all, reproduced the opinion of the famous Hanbalite scholar Ibn Taimiyya (died 1328). According to this article Ibn Taimiyya was of the opinion that Muslims were allowed to stay wherever they wanted, including the "Territory of Unbelief", as long as they remained obedient and pious to God and they and their family enjoyed security. In addition to the opinion of Ibn Taimiyya, the journal published the viewpoints of two contemporary Saudi scholars, Ibn Sâlih al-ᶜUthaymîn and Al-Jubrîn.

Ibn Sâlih al-ᶜUthaymîn permits a Muslim to stay in the Land of the Infidels on two conditions: (1) the Muslim concerned feels safe in his adherence to the Islamic faith, which implies that he should refrain from creating bonds of friendship and love with infidels, which contradicts faith;[63] (2) he is able to practice openly and without any impediment the essential religious ceremonies of Islam, including the prescribed almsgiving, fasting, performance of the pilgrimage to Mecca, etc.

Shaykh al-ᶜUthaymîn further distinguishes six purposes why Muslims are staying in the Territory of Unbelief: (1) to preach Islam (*daᶜwa*), which is a collective duty of the Muslims

because it is a kind of *jihâd*. (2) To study the circumstances of the Infidels in order to warn the Muslims against the danger of being dazzled by them. This is also a kind of *jihâd*. (3) To serve as a representative of a Muslim nation. The legal status of this stay must be judged in the light of its purpose. (4) For another specific, permissable purpose, as, e.g., commerce and medical treatment. (5) For the purpose of study, which is more risky in that it may have a detrimental impact upon the faith of the person staying there for this purpose. (6) In order to settle there, which is even more dangerous since it implies a complete intermingling with the infidels and an awareness that one is a fellow citizen who is bound by sympathy and friendship and by the obligation to strengthen the ranks of the infidels required by citizenship. Moreover, his family will be raised among the infidels. Consequently, they will adopt their manners and customs. Perhaps they will even imitate them in their belief and worship. No explicit prohibition is formulated, but it is clear that Shaykh ᶜUthaymîn does not approve the presence of the last category of Muslims in a non-Muslim country.[64]

Another relevant case published by *Majallat al-Sunna* in Birmingham concerned the answer of Shaykh ᶜAbd Allâh ibn ᶜAbd al-Rahmân al-Jubrîn to a Palestinian who had asked whether he could stay in the USA or should return to a nation like Jordan "while the attitude of its government does not differ much from that of the governments of the Arab countries".[65] The answer was that there is no objection against staying in these countries if one is able to practice openly the Islamic faith, to earn one's living in a way which is permissable in Islam, and one's life is not endangered.[66]

According to Al-Khamlîshî (1995), the preliminary question to be answered before passing judgment about the permissibility of naturalization is whether or not it is permissible for a Muslim to live outside the Muslim world, in the "Territory of Unbelief".[67] A distinction should be made between the person who cannot partly or completely perform the prescribed rituals of his religion, on the one hand, and he who is able to perform all the rituals of his religion and fulfill all his duties, both in private and public.[68] The first person is not allowed to stay in the "Territory of Infidelity", according to the unanimous opinion of the religious scholars. In doing so, he commits a grave sin. According to the most plausible interpretation, the second person is not permitted to stay in the "Territory of War" either.[69] Apart from the Shafiᶜites, the three most widely spread Sunnite madhhabs forbid staying in *Dâr al-Harb* absolutely. The Shafiᶜites stipulate, however, that this residence is only permitted if a Muslim can practice his whole religion. How is the position of Muslims in Europe to be judged? Are they able to manifest their religion completely? According to the author, this is not the case. They may, for instance, have acquired permission to establish prayer halls and mosques publicly, but they have not been able to acquire permission to manifest the ritual of the prayer call in accordance with the way prescribed by the Sharîᶜa. In this case, they perform the prayer call inside the mosques, which is contradictory to the Sharîᶜa. In addition to this, even the mosques which have been built with the permission of local governments (without the right to perform the public prayer call) are not safe from various expressions of fanaticism and terrorism, let alone what would happen if they would have the right to perform the public prayer call. How many of them (the Europeans) are not warning the Muslims in writing not to adhere to the religion of Islam in these countries? How many of them are not demonstrating against the opening of mosques in their countries? In short, for a Muslim minority there will never be any safety in any place of the world, neither in its religious nor in its non-religious life, from the fanatic Infidels.[70]

Naturalization, political participation, military service and family law

Finally, attention is given in several of these discussions to the issue whether it is permitted to *adopt the nationality of a non-Muslim state, to participate actively in its political life*, to *perform military service in its army*, and to *accept the prevailing (secular) rules of its system of family law.*

Among the defenders of the pragmatic line of thought, the Egyptian scholar Yûsuf al-Qardâwî expressed his opinion on naturalization during a congress on the subject of integration which took place in France in 1992.[71] As a point of departure he stressed that Islam is an international religion, which was revealed for the whole world, as can be clearly derived from

many passages of the Quran. The presence of Muslims outside the Muslim world is a matter required by the nature of this religion. The duty to emigrate from an area ruled by a non-Muslim ruler to part of the "territory of Islam" was, moreover, abrogated after the conquest of Mecca, as is clearly demonstrated by the saying of the Prophet: "There is no emigration after the conquest (viz., of Mecca), but [only] jihad and [good] intention". The prophetical saying: "I have no responsibility for any Muslim who is living among the polytheists" cannot be quoted to invalidate this conclusion, since the Prophet was referring here to Muslims among polytheists who were engaged in warfare against Islam. The presence of Muslims outside the Muslim world is a prerequisite for the preaching of Islam and can serve as a form of support for those members of the local population who convert to Islam. Moreover, these Muslims can look after the affairs of the Islamic Community in the West. If they are unified they can exercise considerable political influence. However, Muslims are only permitted to live in the West, if they are able to preserve their identity, uphold their religion, and protect their family.

As for the problem of naturalization, Shaykh al-Qardâwî proposes to weigh its positive implications against its detrimental implications. In doing so, one should take into account the fact that circumstances have changed since the Colonial Era. In the present day the advantages a Muslim may acquire in adopting the nationality of his guest-country are, in fact, quite considerable, since it opens to him possibilities and opportunities which are equal to those of other citizens (which was not the case during the Colonial Era). In this way, the influence Muslims may exercise will also increase. As for its detrimental implications, one cannot claim, thus al-Qardâwî, that naturalization implies a kind of clientage and loyalty to infidels forbidden by the Quran. The Quran only forbids clientage and loyalty to infidels who fight against Islam.[72] This is no longer the case in the present era, which is "an era of mutual trust and peaceful settlement; [it is] the era of the symbiosis between ideologies".[73] Moreover, the Quran only forbids the creation of bonds of clientage and loyalty with infidels *instead of* with Muslims.[74] This is not the case when a Muslim preserves his original (Islamic) nationality when adopting a second, Western nationality. According to al-Qardâwî, there is also no harm in fulfilling the duty of military service following the adoption of a Western nationality. The risk of being obliged to take up arms against Muslim brethren also exists in the Muslim world itself, as can be demonstrated by recent wars between Muslims, such as the Iraqi-Iranian war or the Gulf War. Integration, involving naturalization (but without loss of religious identity), Al-Qardâwî concludes, is a desirable matter in view of the advantages which result from it for the Muslims. Possible disadvantages should be overstepped and overcome by the Muslims themselves.[75] Al-Qardâwî's view thus sanctions naturalization in Europe, particularly in the case of the acquisition of a European nationality in addition to that of the Muslim country of origin.

A similar view was defended by Dr. Syed Mutawalli Darsh in the British Muslim weekly *Q-News*, of 11-17 August 1995. First of all, he confirmed that Muslims living in Britain can take the Oath of Allegiance to the Queen. According to him, this oath "is simply putting in legal terms the real situation of the Muslims, that is, to be law abiding, peaceful, and to live in a decent respectable manner, since the Queen represents these basic moral qualities which are supposed to be the fabric of the society in which we live. So when people take the Oath of Allegiance to the Queen, they are promising to act according to the laws of the country, as happens when people are granted British nationality. There is no way for a person seeking British citizenship to avoid being loyal to the Crown and the land". When asked whether it is allowable for Muslims in Britain to join the army and even be ready to fight against fellow Muslims if ordered to do so, he first of all stressed that the British army is one of volunteers. As such, Muslims are not under obligation to join it. "But at the same time, being part of the society they live in and a citizen of the state, it is their basic duty, too, to defend the country in which they live. As far as fighting Muslim countries is concerned, supposing there is an aggressive country, as happens from time to time, when we see a Muslim country occupying another Muslim country by force and against the will of the population, and that country appeals to Britain for help, Muslims in the British army are obliged to help in much the same way as any Muslim army has to help in repelling such aggression. In these circumstances there is no difficulty. But when it comes to fighting a Muslim country for no Islamic reason, we then

say that, in the light of present circumstances and under the Declaration of Human Rights, in particular the European Convention, Muslims are allowed on conscientious grounds to abstain from that fighting. But remember that once a person is a member of that society here, it is part of their duty to defend that society".[76]

A recent fatwâ of the Shaykh al-Azhar, Jâd al-Haqq ᶜAlî Jâdd al-Haqq touched more explicitly upon the political participation by Muslims in Western Europe, both in elections and as members of political parties and councils. The questions posed to him by Muslims from Denmark can be summarized as follows: (1) Is it permitted for a Muslim to become a member of a secular or Christian political party in Denmark in order to become a candidate in the elections of the municipal councils (in which all residents of Denmark have the right to participate regardless of their nationality, while those who possess Danish nationality, including Muslims, can participate as candidates if they attach themselves to one of the political parties)? (2) The same question was posed with regard to the parliamentary elections, in which only Danish nationals can participate. (3) Is it permitted for Muslims to participate in the elections with their votes to the benefit of one of the Danish political parties? (4) Is it permitted to conclude an agreement with one or more political parties to the effect that the party or parties concerned pledge to take certain measures for the benefit of the Muslims if they win the lections, while the Muslims grant them their votes in exchange?

The Shaykh al-Azhar commenced his answers with a quotation from *Sûrat al-Mumtahina* (60: 5-8)of which the last verse was related by him to the situation of the Muslims in Denmark: "Allah forbiddeth you not that he should deal benevolently and equitably with those who fought not against you on account of religion nor drove you out from your homes; verily Allah loveth the equitable". This verse points to the permissibility of all kinds of social cooperation between Muslims and non-Muslims in one state. In addition, verse 5 of *Sûrat al-Mâ'ida* (4) points to the permissibility of a marriage between a Muslim and a Jewish or Christian woman, and to the fact that the food of Jews and Christians is permitted to Muslims, whether they acquire it from them by way of purchase, as a present, or as their guests. The Shaykh al-Azhar further drew the attention to several articles of the *Constitution of Medina*, ratified by the Prophet between his own followers and the tribes of Medina (including Jews), in which Muslims and non-Muslims were mentioned as members forming together one Nation. This Constitution contained 47 articles with various rules and prescriptions which structured the political order. Generally speaking, the political and administrative structures of the countries where Islam has spread in history have been widely diversified. Rules pertaining to these matters do not pertain to the category of prescriptions which have a permanent character; they have not been mentioned in detail in the Quran which means that they may change.

We are presently dealing in most states of the world with political parties who are competing with each other to rule their country. There are also many cooperative foundations and trade unions, whose purpose it is to promote social, class, or political goals connected to the proper and general interests of their members within the general context of the State. Thus, there is no objection whatsoever against the participation of Muslims in these organizations as long as those Muslims who are participating in political life as elected members of councils and parliaments do not endorse measures which are against the faith of Islam or against the interests of the Muslims. They should refrain from sanctioning measures which permit something which is forbidden by Islam or is contradictory to the principles of the Islamic creed.[77]

Doi defines joining the army in a non-Muslim state as a matter of necessity. He considers it unwise to advise Muslims living in a non-Muslim state not to join the army. Whenever the army is deployed for the purpose of keeping internal peace, a Muslim soldier can prevent atrocities against Muslims at the hand of non-Muslims. Usually, wars are not about religion, but about land disputes, etc. Muslim soldiers will therefore have to show their loyalty to their country even if it is a non-Muslim state fighting against a Muslim state.[78] Doi does not give an explicit view on family law, but merely states that the interference of a number of non-Muslim states with the Personal Law of Muslim minorities is "the most sensitive issue" (of the list of issues mentioned by him).[79]

The *Muslim Manifesto* of Kalim Siddiqui condemned Muslims who stimulated accommodations to and compromises with British society, and who were against the decree of

Khomeiny concerning Rushdie.[80] It pleaded for the establishment of a *Muslim Law Commission* which would be given the competence to decide about matters of marriage, divorce, and inheritance on the basis of an Islamic legal system. Its decisions should be recognized under British law. As is pointed out rightly by Nielsen, the *Manifesto* had, above all, a propagandistic nature: it aimed at mobilizing the younger generation into supporting the Islamic Revolution in Iran. They adopted here a claim expressed towards the British Government at the beginning of the eighties by the *Union of Muslim Organisations of the United Kingdom and Eire* (UMO)[81] of which little had since been heard, with the exception of a study in which the British lawyer Sebastian Poulter analyzed both the technical and the fundamental problems of a possible recognition of Islamic family law in Great Britain.[82] In view of the problems discussed by Poulter, the official recognition of Islamic family law in the countries of the European Union is a possibility to be excluded. A feasible possibility, however, is the institutionalization of Islamic councils of religious scholars which can give advice on the basis of Islamic Law or can suggest decisions in conflicts which could be followed and/or accepted by parties on a strictly voluntary basis.[83] This is actually what we see happening. Such Islamic "courts" can be seen as parallels of the existing rabbinical "courts" which have fulfilled the same functions in Western Europe for many years, on the basis of the religious Jewish Law. As is illustrated by a recent enquiry in France, by far the greater majority of inhabitants with an Islamic background rejects the introduction of a separate statute of Islamic family law for Muslim citizens. This idea was only supported by 17% of the people interrogated, while 78% rejected such a separate statute for the arrangement of marriage, divorce, and other aspects of family law.

Muhammad Hamidullah, a religious scholar who has been working for many years in Paris, adopted the more radical view which rejects any form of nationality based on language, common descent, etc. He states that "in Islam, the community of the philosophy of life is the basis of nationality (Islam itself being that philosophy of life)".[84] However, Muslims have insufficiently adopted this supra-regional and supra-racial brotherhood. Also, they have principles of nationality contradictory to Islam. "Naturalization is now in use among all `nations'. But to be naturalized in a new language, a new colour of skin, a new fatherland, is impossible without a more or less humiliating form of renunciation, and it is not so genuine as adhering to a new ideology. Among others [i.e, non-Muslims], nationality is essentially an unavoidable accident of nature, but "in Islam is a matter that depends exclusively on the will and the choice of the individual [viz., by believing in the Islamic faith]".[85]

In a similar sense Raza states that "every Muslim must have two sets of identity. This first set of identity will be with Allah, His Messenger and Islam. By virtue of this identity the Muslim will belong to the *Ummah* (community), which is the global Islamic community, irrespective of any national and international boundaries. (...) In terms of Islam, the *Ummah* (community of Islam) exists first, which can then lead to the creation of the Islamic state. The second set of identity will be with the state of which they are naturalized citizens. Muslims are expected to become good citizens of the country in which they are resident, and follow its laws".[86] Raza stimulates British Muslims towards political participation in order to improve their circumstances. He also discusses the possibility of being persecuted as a Muslim, in the same way that the Jews were persecuted in Nazi Germany. According to him Muslims have, in this case, three options: to migrate, to fight the state through its political system, or "to wage a political struggle through legal means". However, "in Britain the first and the third option are not applicable because no Muslim is being persecuted as the Nazis persecuted the Jews. Such options are applicable in many Muslim states from which Britain's Muslims may have come".[87]

Finally, according to Al-Khamlîshî, the Muslim who has adopted the nationality of a non-Muslim country deprives his Muslim mother-state of his own qualities and abilities, as well as those of his children, who will end as apostates. He or his children may be forced to perform military service and, in the end, to combat Muslim brethren of other countries. Naturalization further implies accepting the rule of foreign law. However, this law must be identified with the Tyrant mentioned in the Quran to whom Muslims, by order of God, should not give their loyalty.[88] Furthermore, naturalization implies the strengthening of an infidel nation which is forbidden by the Prophet.[89] Therefore, naturalization is to be rejected on religious grounds. This is also the opinion of a fatwâ published in Paris, whose author identified naturalization with

apostasy and high treason.[90]

A recently published study of the preaching of Moroccan imams in the Netherlands shows that "naturalization is an important issue in the religious discourse among Moroccan Muslims in the Netherlands".[91] This study refers to the views of four anonymous imams, the first of whom can be identified with the already-mentioned imam Al-Khamlîshî,[92] whose sermons are now available in printed form. The other three imams show various degrees of willingness to accept naturalization.[93] Arguments transpiring in these views include: (1) Naturalization is only permitted for the sake of propagation of the Islamic faith. However, if it takes place for purposes of a more worldly nature, it does not imply apostasy automatically, especially if the person involved is able to preserve his Islamic identity and that of his children (1990). Islam is a universal religion. Naturalization enables Muslims to contribute to the propagation of the Islamic faith outside the Muslim world (1992, 1993). (2) Naturalization is a matter of papers only. It does not actually affect the (inner) Islamic identity of the person involved (1991). It is not forbidden by Quran and Sunna (1992). (3) Naturalization can be accepted as a matter of papers in a situation of necessity. True naturalization, which, among other aspects, implies the abandoning of religion, is forbidden (1992). (4) The positive results of naturalization outweigh its negative effects. Therefore, it is permitted according to one of the basic principles of the Islamic religious Law (1993).

A sociological study of the Moroccans in the Netherlands of 1979 contained a Guttman scale with eight items which not only represent an evaluation of traits of the original culture, but also the degree of desirability of change in the direction of a Dutch cultural pattern. The result of the analysis implied "that the marriage of a Moroccan girl to a Dutch man is the most difficult item to accept. The one that is next on this scale is naturalization. Reasons for rejecting the latter were nationalism and religion; answers such as `we are Arabs' and `we are Muslims' were frequently given. On the other hand, those who do not object to naturalization state that such a step should be considered purely instrumental; they emphasize that true feelings and identity stand apart from nationality".[94] The same study demonstrated a close correlation between the disapproval by Moroccans in the Netherlands of naturalization (both for oneself and for others), on the one hand, and of the emancipation of women, the contact between sexes, the marriage with Dutch women, and the evaluation of Western clothing for women, on the other hand.[95]

Notes

1. Foblets 1990, 88.
2. Ruthven 1991, 52.
3. Mahler 1989, 384-5. H.P. Füssel, "Islamischer Religionsunterricht an deutschen Schulen", *Recht der Jugend und des Bildungswesens*, 1985, Heft 1, 74-77.
4. Concerning Bencheikh, see Gozlan 1994, passim.
5. Bencheikh 1994, 58.
6. Apud Gozlan 1994, 177.
7. Cf. Z. Badawi, *Islam in Britain*, London 1981, 27: "Muslim theology offers, up to the present, no systematic formulations of the status of being in a minority".
8. El-Manssoury 1989, 72.
9. Christie 1991. See also Poston 1992, 39, who states that American Muslims received a training in the Islamic religious sciences in Cairo, Mekka, Karachi, or other such cities that "was seldom applicable to the situation of Muslims residing in the Dar al-Harb. Questions concerning how such Muslims should cope with the problems of living in a non-Muslim culture were either poorly answered or unanswered".
10. Poston 1992, 31-2.
11. Poston 1992, 33.
12. Gräf 1963; Sadan 1980, 106-107; cf. Van Koningsveld 1995[2].
13. The fixed technical expression used in this respect by Islamic jurisprudence is "izhâr mashâ^{c}ir al-islâm", which literally means: "to manifest the signs of Islam". The precise definition and modalities of the manifestation of these signs was a subject of further discussion among the scholars.
14. Ibn al-Siddîq 1985, passim; Fierro 1991, 13-19; Lewis 1992, 21-26; Masud 1990.

15. Salem 1984, 150-1.
16. See below in our discussion of the views of Mawlawî.
17. On the Islamic statute of the Muslims living under Christian rule in Spain, see Van Koningsveld and Wiegers in *Al-Qantara* (forthcoming).
18. Mu'nis 1957; Harvey 1975; Fierro 1991, 20-22; Lewis 1992, 28-29; Wiegers 1994, 2-11.
19. Al-Arnaut 1994, 249-250.
20. Ibidem, 253. Ridâ made these statements in a pamphlet he published in 1909 in his journal "Al-Manâr" concerning the situation of the Bosnian Muslims, entitled: *Al-Hijra wa-hukm muslimî al-Bûsna fîhâ*.
21. Sadan 1980, 114, quoting Ibn al-Tiqtaqâ (writing circa 1301 A.D.), *Kitâb al-Fakhrî fî 'l-âdâb al-sultâniyya*, Paris 1895, 21.
22. Peters 1979, 39-89; see also Masud 1990, 38-52 and Fierro 1991, 23-28.
23. Mannûnî 1989, 148-151.
24. Van Koningsveld 1990.
25. ᶜIllaysh 1901-1903 [1319-1321 H.], vol. 1, 313-334. Cf. the printed edition of Al-Wansharîsî's fatwâ in Mu'nis 1957.
26. The Arabic term used in Islamic religious literature is *"al-tashabbuh bi-'l-kuffâr"*.
27. He had been appointed *ra'îs al-kuttâb* (approximately secretary-general) of Tunisia by the Bey of Tunis in 1840. He was a specialist in the natural sciences, medicine, and mathematics. In 1857 he was 'notaire et secrétaire arabe au Consulat général de France à Tunis, membre de plusieurs Sociétés savantes de Paris, auteur de plusieurs ouvrages arabes, de traductions du français en arabe, etc.' (cf. al-Harâ'irî 1857, title-page). In the preface to this work, the translator defends, among other points, the legitimacy of social relations with Christians and Jews, including the participation in meals, if they do not wage war against the Muslims for the purpose of making them abandon their religion (al-Harâ'irî 1857, XV). He defends cooperation with the French and praises their wise and just administration and their promotion of culture and science (al-Harâ'irî 1857, XV). He lists the various kinds of French scientific books which he translated into Arabic (al-Harâ'irî 1857, XXV). He is proud of being the first to translate a French grammar into Arabic. In Paris, he edited also the journal entitled *Birjîs Barîs* [The 'Jupiter of Paris'], published by Rushaid Dahdâh, a Lebanese-Christian scholar. This form of interreligious cooperation was characteristic of the budding Arabic nationalism of this period. Apart from these activities, Al-Harâ'irî published several literary texts. He was, however, not a religious scholar. (Some biographical data may be found in Al-Ziriklî's encyclopedia *Al-Aᶜlâm*, vol. 3, 131).
28. The only copy known to me so far is preserved in the Bibliothèque Nationale in Paris.
29. Muhammad ibn Ahmad ibn Muhammad ᶜIllaysh (1802-1882) was of Moroccan descent. For more information on him, see the article in the *Encyclopaedia of Islam* (2nd edition) by F. de Jong (1985).
30. *Al-Radd ᶜalâ Risâlat ajwibat al-hayârâ ᶜan hukm qalansuwwat al-nasârâ*, manuscript nr. 236 in the General Library of Tetouan (Morocco), 26 pages. This text does not appear in the collection of *fatwâs* of ᶜIllaysh published in 1901-1903.
31. Löschner 1971, 1-38: "Staatsangehörigkeit und islamisches Recht". An edict of the Ottoman Grand-Vizir of 1894 still stipulated that the mere act of conversion to Islam was a legal ground for the acquisition of Turkish nationality, which demonstrates that the distinction between the concepts of religion and nationality had not yet been fully completed (Löschner, *op. cit.*, p. 36). In 1905, a Muslim from Tunisia who had settled in Morocco claimed the right to be legally recognized as a Moroccan Muslim, stating that the "Muslim empires are only fractions of one and the same society subjected to this single Law; that there is no nationality in the European sense, which belongs especially to each Muslim state; that only Islam constitutes the Muslim nationality and that the Muslim becomes the subject of the Muslim state he is living in", so that by the mere fact of his residence in Morocco, he had acquired the local nationality "in accordance, both with Islamic law in general and Tunisian Islamic law" (*ibidem*, p. 7).
32. A similar but more discretely applied policy was followed by the Dutch authorities in the Dutch East Indies where "Natives" could have themselves officially "equalized" (in Dutch: "gelijkgesteld") with "Europeans", which implied the acceptance of European civil law instead of Islamic law, but not the acquisition of Dutch nationality.
33. The *fatwâ* of Shaykh Shâkir was republished in Al-Jazâ'irî 1989, 193-8.
34. Al-Khamlîshî 1995, 455-7; Benomar al-Hasanî 1992-1993, 35-37.
35. See our analysis of the ideas of Al-Jazâ'irî and Al-Khamlîshî below.

36. Peters 1979, 135ff; Sadan 1980, 103-104 and the extensive literature mentioned there.
37. See also our discussion below of the views of Ibn al-Siddîq, Mawlawî, and Al-Qardâwî, all of whom stand in this modern reformist tradition of Islamic political thought.
38. Al-Arnaut 1994, 242.
39. Marshall G.S. Hodgson, The venture of Islam, vol. 3 (Chicago 1974) and B. Lewis, The Middle East and the West, 2nd printing, New York 1966.
40. The terms used in these discussions to denote the means by which the goal is to be reached include: (1) *da^{c}wa*, which excludes the use of violence, and (2) *jihâd*, which includes the use of violence for the same purpose.
41. Recent examples (from Pakistan and Egypt) can be found in Masud 1990, 29. For our further treatment of the subject it is relevant to point out that the Pakistani young men referred to by Masud made their point on the basis of the argument that in Pakistan the Family Laws Ordinance governed the personal lives of the Muslims instead of the *Sharî^{c}a* law.
42. Cf. Masud 1990, 43.
43. Doi 1992, 120.
44. Nielsen 1991.
45. See also Lewis 1994, 52-3.
46. See, for instance, Raza 1993, 53, who concludes that British Muslims have not consolidated their community into an *Ummah*.
47. For more information on his life and works, see Ibn al-Hâjj al-Sulamî (1992, 428-430).
48. Ibn al-Siddîq 1985.
49. Ibidem, p.30; see also p.61.
50. Ibidem, pp. 49-50.
51. Apud Kepel 1994, 208. See also Ghannouchi 1990, 60: "In fact, when the term Dar al-Islam is used it connotes one nationality for those residing in it, Muslims and non-Muslims".
52. Kepel 1994, 271ff.
53. Kepel 1994, 261.
54. Khamlîshî 1995.
55. 1993, 153-158; cf. Van Koningsveld 1995.
56. I have not been able to find any further information about the author. In view of the contents of the book, one cannot exclude that we are dealing with a pseudonym.
57. Ibn al-Siddîq 1985.
58. Arabic: "Wa-awwaluhâ bal ahammuhâ al-salât wa-'l-siyâm ma^{c}a ^{c}adam al-tamakkun min izhâr sha^{c}â^{c}ir al-islâm al-ukhrâ kwafan min al-idhâya" (Ibn al-Siddîq 1985, 14). The author aims at the *individual duties* imposed upon every Muslim. See below in our discussion of the views of Mawlawî.
59. Ibidem, p. 62.
60. In his book *Muslims in the West*, Leicester, The Islamic Foundation, 1983, especially chapter 10 (pp. 125-33): 'Main duty of Muslim immigrants'. Cf. Lewis 1994, pp. 218-9, note 15.
61. Speech delivered at St. George's Hall in Bradford, August 8, 1991 (quoted by Lewis 1994, 52).
62. Al-Kattânî 1988, 25.
63. "Mubta^{c}idan ^{c}an muwâlâtihim wa-mahabbatihim mimmâ yunâfî al-îmân": 90.
64. Majallat al-Sunna (Birmingham 1994), 90-91.
65. The implication being that the American and Arab governments have more or less the same attitude towards the application of Islamic law; in neither part of the world does a truly Islamic government exist.
66. *Al-Sunna*, Ramadan 1414, 92.
67. Arabic: *"Dâr al-Kufr"*.
68. Arabic: "immâ an yakûna ^{c}âjizan ^{c}an izhâr sha^{c}â'ir dînihi kullihâ aw ba^{c}dihâ wa-immâ an yakûna qâdiran ^{c}alâ izhâr sha^{c}â'ir dînihi kullihâ wa-adâ' wâjibâtihi sirrihâ wa-^{c}alâniyyatihâ" (p. 468).
69. The author prefers the rule he attributes to the Hanafites, Malikites, and Hanbalites which forbids the Muslim to stay in the "Territory of Infidelity" even if he can manifest religion over the (pragmatic) view of the Shafi^{c}ites who state that the territory where a Muslim can manifest his religion becomes ipso facto part of the "Territory of Islam". According to the Shafi^{c}ites it is even recommendable for a Muslim to stay there, because his presence might stimulate others to convert to Islam. (Khamlîshî 1995, 470-474).
70. *Ibidem*, pp. 474ff.

71. The following summary of Qardâwî's views is based on the extracts provided by Benomar al-Hasanî 1992-1993, 38-40.
72. Shaykh al-Qardâwî quotes here Sûrat al-Mumtahina, verses 1 and 8-9.
73. Al-Qardâwî clearly stands in the tradition of the reformists' reformulation of Islamic political theory mentioned earlier. This involves, among others, the interpretation of the *jihâd* as a strictly defensive institution. Cf. Peters 1979, 135ff; Sadan 1980, 103-104). Such views imply also the abolishment of the age-old concepts of *Dâr al-Islâm* and *Dâr al-Harb*, etc. See also our discussion below of the views of Mawlawî.
74. This view is based by Al-Qardâwî on Sûrat Al ^{c}Imrân, verse 28.
75. Apud Benomar al-Hasanî 1992-1993, 39-40.
76. "What you ought to know", *Q-News*, 11-17 August 1995, p. 5.
77. Jâdd al-Haqq ^{c}Alî Jâdd al-Haqq (1995), 335-347. The authors would like to thank their colleague, Dr. J. Michot (Louvain-la-Neuve), for having made available to them this important source.
78. Doi 1992, 113-135.
79. Doi 1992, 126.
80. Criticism has been levelled against the *Muslim Manifesto* of Siddiqui, also from the side of Muslim circles. See Raza 1993, 104.
81. UMO, *Why Muslim family law for British Muslims?* London 1983.
82. *The claim to a separate Islamic system of personal law for British Muslims*. In: C. Mallat and J. Connors (ed), "Islamic Family Law", London 1990, 147-166.
83. Vgl. M.I.H.I. Surty, *The shar^{c}îah family law courts in Britain and the protection of women's rights in Muslim family law with special reference to the dissolution of marriage at the instance of the wife*. In: "Muslim Educational Quarterly" 9(1991), 59-68.
84. Hamidullah 1992, 153-154.
85. Hamidullah 1992, 154.
86. Raza 1993: ...
87. Raza 1993, 84-5.
88. The author quotes Sûrat al-Nisâ' verse ca. 63 (?): "Yurîdûna an yatahâkamû ilâ 'l-tâghût wa-qad umirû an yakfurû bihi". The same verse was quoted by the religious scholars who, in the twenties, qualified the person who had adopted French nationality as an apostate (see Benomar al-Hasanî 1992-1993, 36; see also Al-Jazâ'irî 1989, 40).
89. Khamlîshî 1994, 458-63.
90. Al-Jazâ'irî (1988).
91. Remmelenkamp (1995).
92. Ibidem, 82-86.
93. We fail to understand why Remmelenkamp does not mention the names of these imams, the exact dates of the emissions of the local weekly radio-program directed towards Moroccan Muslims in Amsterdam during which they publicly expressed their views, nor even the name of the radio station involved (cf. Remmelenkamp 1995, 86-91).
94. Shadid, 1979, 216.
95. Ibidem, 245.

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