



UvA-DARE (Digital Academic Repository)

Conclusion

Bader, V.; Maussen, M.

Publication date

2011

Document Version

Final published version

Published in

Colonial and post-colonial governance of Islam: continuities and ruptures

[Link to publication](#)

Citation for published version (APA):

Bader, V., & Maussen, M. (2011). Conclusion. In M. Maussen, V. Bader, & A. Moors (Eds.), *Colonial and post-colonial governance of Islam: continuities and ruptures* (pp. 233-248). (IMISCOE research). Amsterdam University Press.
<http://www.oapen.org/search?identifier=408876>

General rights

It is not permitted to download or to forward/distribute the text or part of it without the consent of the author(s) and/or copyright holder(s), other than for strictly personal, individual use, unless the work is under an open content license (like Creative Commons).

Disclaimer/Complaints regulations

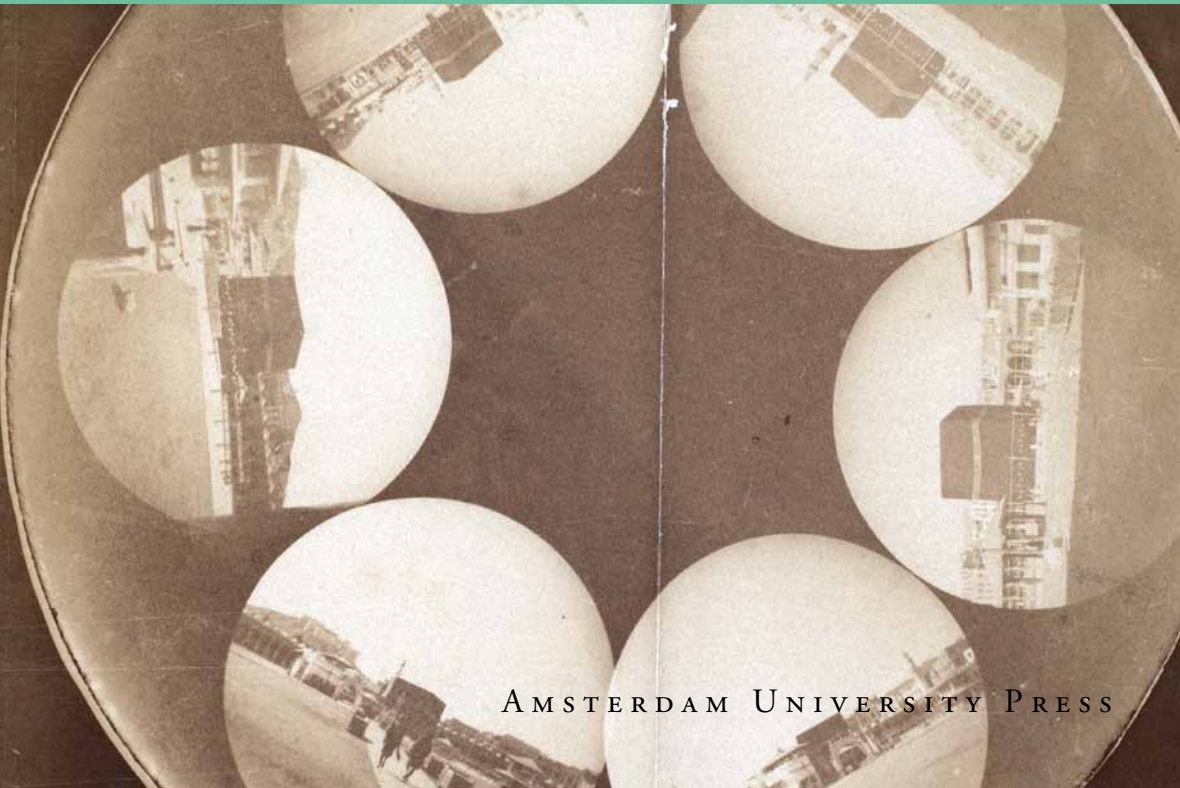
If you believe that digital publication of certain material infringes any of your rights or (privacy) interests, please let the Library know, stating your reasons. In case of a legitimate complaint, the Library will make the material inaccessible and/or remove it from the website. Please Ask the Library: <https://uba.uva.nl/en/contact>, or a letter to: Library of the University of Amsterdam, Secretariat, Singel 425, 1012 WP Amsterdam, The Netherlands. You will be contacted as soon as possible.

IMISCOE
RESEARCH

Colonial and Post-Colonial Governance of Islam

Continuities and Ruptures

MARCEL MAUSSEN, VEIT BADER
& ANNELIES MOORS (EDS.)



AMSTERDAM UNIVERSITY PRESS

Colonial and Post-Colonial Governance of Islam

Continuities and Ruptures

edited by Marcel Maussen, Veit Bader and Annelies Moors

IMISCOE Research

AMSTERDAM UNIVERSITY PRESS

The cover image of the Kaaba in Mecca was taken in c. 1884 by Dutch Arabist and Islam expert Christiaan Snouck Hurgronje. The picture was taken surreptitiously by a camera hidden in the button-hole of his coat, using a 'revolver method' whereby six images were taken successively (*NRC Handelsblad* 28 April 2011). Such a view of one of Islam's most significant spots – coming from one of the most important advisors on Dutch colonial policy towards Islam in the East Indies – nicely adds to the perspectives on Islam in colonial and post-colonial periods covered in this book.

Cover design: Studio Jan de Boer BNO, Amsterdam
Cover image: Photo of the Kaaba in Mecca by Christiaan Snouck Hurgronje, c. 1884, Universiteitsbibliotheek Leiden, the Netherlands
Automated make up: Philos®

ISBN 978 90 8964 356 8
e-ISBN 978 90 4851 494 6
NUR 741/763

© Marcel Maussen, Veit Bader, Annelies Moors/
Amsterdam University Press 2011

All rights reserved. Without limiting the rights under copyright reserved above, no part of this book may be reproduced, stored in or introduced into a retrieval system, or transmitted, in any form or by any means (electronic, mechanical, photocopying, recording or otherwise) without the written permission of both the copyright owners and the authors of the book.

Contents

Preface	7
1 Introduction <i>Marcel Maussen and Veit Bader</i>	9
PART 1: HISTORICAL PERSPECTIVES ON COLONIAL GOVERNANCE OF ISLAM	27
2 Governance of Islam in colonial Mozambique <i>Liazzat J. K. Bonate</i>	29
3 Educating Sudanese ulama for colonial sharia <i>Shamil Jeppie</i>	49
4 Ruptures? Governance in Husaynid-Colonial Tunisia, c. 1870-1914 <i>Julia Clancy-Smith</i>	65
5 Governing Islam by tribes and constitutions: British mandate rule in Iraq <i>Michiel Leezenberg and Mariwan Kanie</i>	89
6 The idea of a Muslim community: British India, 1857-1906 <i>Faisal Devji</i>	111
PART 2: CONTINUITIES AND RUPTURES IN THE GOVERNANCE OF ISLAM IN POST-COLONIAL SITUATIONS	133
7 Colonial traces? Islamic dress, gender and the public presence of Islam <i>Annelies Moors</i>	135

8	Seeing like an expert, failing like a state? Interpreting the fate of a satellite town in early post-colonial Pakistan	155
	<i>Markus Daechsel</i>	
9	Continuities and ruptures in the governance of Islam in Malaysia	175
	<i>Karen Meerschaut and Serge Gutwirth</i>	
10	Angare, the ‘burning embers’ of Muslim political resistance: Colonial and post-colonial regulation of Islam in Britain	199
	<i>Maleiha Malik</i>	
11	Portuguese colonialism and the Islamic community of Lisbon	211
	<i>Mário Artur Machaqueiro</i>	
12	Conclusion	233
	<i>Veit Bader and Marcel Maussen</i>	
	Contributors	249

Chapter 12

Conclusion

Veit Bader and Marcel Maussen

The governance perspective as set out in our introduction can help to complement and alter government approaches that focus too much on formal policies and regulations and look at conflicts and encounters primarily at the level of the state. In these concluding remarks, we elaborate on five analytically distinct but overlapping foci of the governance perspective on colonial and post-colonial regulation of Islam. We use elements from the various contributions in this volume to demonstrate how and why this pre-theoretical framing helps to observe and analyse our empirical findings more adequately.

12.1 Questionable ‘stateness’ of colonial government and transnationalism

In our analysis of the authoritative regulation of Islam in colonial contexts, we need to be aware of the different forms of political power, institutionalised and otherwise. At the same time, we should not assume that there is a modern state in the sense commonly associated with stable and minimally coherent government, and we should keep looking at the transnational dimension of organised power and authority.

Despite the fact that Portugal’s presence in Africa lasted for almost 400 years, Bonate (all author citations refer to their contributions in this volume unless specified otherwise) shows that it was not until the twentieth century that ‘a modern colonial regime was established’ with the goal of transforming Mozambican Muslims into colonial subjects. From 1895 onward, the Portuguese undertook failed campaigns of ‘effective occupation’ – the *Indigenato* system, attempts to ‘Portugalise’ or ‘nationalise’ colonial subjects, and to control and domesticise *Islão negro* – assuming full administrative and political control over the conquered territories. Until the late 1960s, however, Portuguese rule had no distinctively Muslim or Islam-oriented policies.

Leezenberg and Kanie not only point out the conceptual problems of applying ‘state’ to ‘pre-modern polities’ such as the Ottoman Empire (for the sultanates before British conquest in Malaysia, see also Meerschaut & Gutwirth this volume), they also demonstrate that British colonial domi-

nance in Iraq ‘was relatively brief, erratic and by no means all-determining’.

Clancy-Smith shows that former practices, policies, ways of doing things and social arrangements of the Ottoman Regency in Tunisia from 1881 onward continued to have an impact on the French colonial regime. She questions the ‘very notion of a fixed and stable “colonial state”’ and proposes a disaggregated analysis of ‘colonialism continually in the making’ in opposition to the ‘the rhetoric of empire’ that still ‘overwhelms “facts on the ground”’. She demonstrates how patterns of governance, views of Islam and policies and practices aimed at Muslims were formed in the interactions between protectorate authorities, indigenous Tunisians, Catholic missionaries and non-French Italian/Mediterranean resident communities. A detailed look at contestations in the domains of schooling and religious properties shows different alliances and balances of power, some of which went back to pre-colonial configurations. For example, Catholic missionary orders had been protégés of the Husaynid Dynasty and, when their antipathy towards the colonial regime and the metropole grew (after the French disestablishment laws of 1901 and 1905), they could refresh positive relationships with Muslim princes and communities.

Hence, more often than not, colonial administration was weak, absent, superficial or solely depended on the deployment of brute force. Post-colonial government can also be extremely weak, and can be primarily concerned with attempts to uphold a symbolic façade of power. Daechsel’s case study on a project for slum clearing and urban rehabilitation in Pakistan demonstrates how there were strong continuities with colonial governmental practices and how, on the other hand, the post-colonial state had few instruments and power to see to the realisation of the project objectives. Local residents could shape their own institutions at the neighbourhood level and resist the attempts of urban planners to use architectural norms and careful planning to reshape community life. Yet, ‘this is not to say that the Pakistani state was not powerful as such ... The case of Korangi demonstrates that it was simply not powerful in the way that states of twentieth-century Europe are powerful’. In this regard, comparisons should be fair instead of comparing models – a ‘Western’ ‘reified mega-state’ (‘an integrated Foucauldian package that combines sovereign, disciplinary and security power to maximum effect’) – to post-colonial ‘muddle’.

12.2 Heterogeneity, incoherence and inconsistencies of colonial policies

In order to understand colonial governance, we need to work with a very loose concept of public policies and analyse the heterogeneity, incoherence

and inconsistency of colonial policies and strategies (in other words, the 'contingencies' and even 'madness' of policies). As Clancy-Smith observes, there were very few 'unified imperial policies'. Rather, there were 'templates of governance' that can be reconstructed *ex post* and located in the stream of interventions and adaptations that characterised 'colonialism continually in the making'. The case of Tunisia demonstrates how the French pursued a 'doubling strategy', maintaining Tunisian offices and officials that were already in place, imitating earlier Husaynid systems of administration and employing Arabic systematically as a junior partner to French in the colonial administration. As a result, instead of colonial rule installing a new and consistent governmental order, a mixed and multi-centric legal and administrative system emerged.

Leezenberg and Kanie explain that there was no single, coherent vision guiding British governance of Iraq because of rivalries between various sources of colonial policy located in Delhi, Cairo and London. They characterise local British policies as 'haphazard, contradictory and based on conventional stereotypes' rather than as based on empirical data and rational policymaking processes. A similar point is made in Bonate's discussion of the ways in which the Portuguese used an understanding of African Islam that was similar to that of the French, claiming that 'black Islam' (*Islam noir*, *Islão negro*) was syncretistic in nature and that African Muslims were only superficially religious. Nonetheless, whereas the French believed that Sufism could be equated with *Islam noir* and sought to set up strategies of co-opting and institutionalising its main precepts and proponents, the Portuguese had far more limited knowledge of Islam and were unable to discern or understand Sufism and Sufi orders for a long time. The development of Portuguese governance vis-à-vis Islam was hardly the result of concerted long-term strategies, but rather of general colonial legal regulations such as labour and administration laws and the Indigenato system. The idea of creating a domesticated, nationalised form of Islam in Mozambique developed relatively late,¹ in the late 1960s, in the context of attempts to combat the liberation movements.

Obviously, as Moors observes, 'the governance of Islam (and its effects) depended on length, depth and the general nature of colonial involvement, on the ways in which colonisers and colonised populations engaged with religion and on the particular historical moment'. In this regard, it cannot even be expected that colonial administrations could apply context-independent, consistent policies and strategies. Rather, like the land-based empires, they exhibit shifting mixes of at least four different strategies towards ethno-religious communities: 'toleration, persecution, assimilation, and expulsion' (Barkey 2008: 21). Often, colonial administrations claimed and also practised toleration or 'non-interference with the "customs" of the local population' (Moors; for Mozambique, see also Bonate; for Sudan, Jeppie; for India, Devji; for Malaysia, Meerschaut & Gutwirth),

but in other contexts or times they did not hesitate to massively interfere, persecute, or assimilate, as Moors has shown with regard to dress. At times, the shifts and mixes of policies can be a sign of 'madness', but they can also be a prudent devise of flexible adaptation.

12.3 Dilemmas of institutionalising Islam in colonial contexts

Three points are highlighted when we analyse the governance of Islam, particularly the institutionalisation of Islam as top-down and bottom-up processes, as the changing result of contentious collective actions of heterogeneous colonial administrations (external governance), internally heterogeneous Muslim populations (internal governance) and other relevant collective actors (such as the Catholic Church, settlers, national liberation movements and organisations such as the Indian Congress or Frelimo). These points are: 1) processes of categorisation and self-categorisation of Muslims, Islam(s); 2) dilemmas of institutionalisation for colonial administrations; and 3) dilemmas of institutionalisation for Muslims.

12.3.1 *Processes of categorisation and self-categorisation of Muslims*

If, or as soon as, colonial administrations move beyond neglect towards explicit non-interference or toleration of colonised populations that show a more or less high degree of heterogeneity in terms of class, status and regional, linguistic, ethnic and religious cultural diversity, they explicitly start to categorise them. The categories appear as 'ethnic' or 'religious' groups or communities and – most often as a response – colonised populations define themselves in similar terms. That and how categories of Muslims or Islam have been produced in the course of contestations between colonisers and the colonised is analysed by Bonate for Mozambique. Here the Muslim population, broadly speaking, 'was comprised of three major groups – Africans, the mixed-race descendants of the earlier Indian immigrants and Indians' practising different varieties of Islam (Sunni, Sufi, Deobandi and Wahabi) and building their own associations and organisations partly in response and rivalry to each other and to the divergent policies of the colonial administration (see following section).

Devji analyses the emergence of the Muslim 'community' 'as a direct consequence of colonial rule', particularly to Anglo-Mohammedan law and to the 1909 law (which introduced limited franchise to India, with legislative seats being reserved along religious lines). With the destruction of royal and aristocratic Muslim rulers, religious ones have displaced indigenous sources of profane authority. This separation from political authority made Muslims a religious entity in the modern sense. The new

name '*qawm*' (meaning something like 'tribe' or 'people') eventually became an equivalent for 'nation'. The *sharif*, the 'wellborn' in Northern India – Urdu-speaking Sunni clerics and their relatives among the laity sharing the same class position of minor landholders, administrators and bureaucrats – 'set out to recast Islam in their own image, thus lending the *qawm* some substance as an ethnic category'. The Aligarhists defined the *qawm* as a non-political entity replacing older terms for governance such as *siyasat*, *hukumat* and *saltanat*. The story of the Aligarh Movement tells the eventual conflictive replacement of this non-political, elitist, non-representative and parochial ethos-based *sharif* association by a political, more representative, all-Indian organisation of Muslims, the Muslim League, in rivalry and competition with the Indian National Congress. Leezenberg and Kanie show that by the late nineteenth and early twentieth centuries, both religious and ethnic or national identities were in the process of being created and far from consolidated. Hence, 'one should beware of prematurely reifying labels such as "Sunni" or "Shiite", "Arab" or "Kurd" into social realities'; sectarian intermarriages and tribes consisting of both Sunni and Shiite members were quite common in Iraq. Whereas British communalist policies in India 'solidified sectarian differences between Muslims and Hindus into politically significant communalist identities', in mandate Iraq 'it was less communalist differences between religious defined groups or ethnic differences between Arabs, Kurds and others, than a strict, and politically decisive, cleavage between rural and urban or tribal and non-tribal social groups that informed British policy' (see p. 101): 'tribal communalism'. In both cases, however, the British did not and could not 'create ethnicities' or religions 'out of nothing',² and colonised people also used and transformed existing categorisations and self-definitions in associating, organising, mobilising and fighting.

12.3.2 *Dilemmas of institutionalisation of Islam for colonial administrations*

External governance of Islam by internally heterogeneous colonial administrations and their various strategies in rivalry with local factions and other actors is a complex, highly contextual process. Still, colonial administrations face some general dilemmas concerning institutionalising Islam:³ problems of recognition (to include, exclude or religionise), representativity, cooptation and delegitimation, ironies and backfiring strategies ('communalising' and the creation of rivalling and fighting 'religious' or 'ethnic' groups and organisations, attempts to create a 'moderate' or 'civilised' Islam resulting in radicalisation, etc.).

Bonate shows that the Portuguese, like other colonial powers, perceived a 'true' and 'orthodox' Islam to be 'Arabic' or 'Asian', while *Islão negro* in

northern Mozambique was ‘syncretic’, ‘mixed with gross superstitions’. Unlike the French, however, they did not discern or understand Sufism and did not acknowledge the two Sufi orders of the twentieth century in Mozambique, the Shadhuliyya and the Qadiriyya. Only after the failure of attempts to ‘Portugalise’ Muslims and to ‘domesticate’ *Islão negro* by isolating it from the ‘foreign brands’ of Islam – e.g. by exploring the possibility of a central command of the *turuq* (each *tariqa* turned out to lead a quasi-autonomous existence not willing to obey) – they tried to create a centralised Islamic organisation from scratch, first called *ijma*, later the Concelho de Notaveis (‘council of the notables’), which also did not materialise. The internal, intra-Muslim governance of Islam – mainly by African and mixed-race Muslims engaged in an intensive rivalry and competition over Islamic authority, first that of Sufi orders and later over the definition of Islamic ‘orthodoxy’ that pitted Sufis against Salafis – ‘remained largely outside the radar for most of the twentieth century’. Only in 1968 did they show a more positive attitude towards Islam and Muslims by building and restoring mosques and sponsoring hajj – at this point, they could ‘take advantage of the internal Muslim rivalry for the sake of counteracting the encroaching independence movements’.

As Jeppie shows, the British were extremely uncertain about their dominance of the Sudan. One way of fostering acceptance of British hegemony was to make alliance with influential ulama. ‘Therefore, organising the ulama into an identifiable, accountable body and ensuring their reproduction into collaborative qadis into the future was a primary task of the British colonial authorities’, but it required them ‘to be clear about who spoke for the ulama. The numerous Sufi *turuq* and their sheikhs appeared to be far too diffuse, and thus difficult to bring into a reliable alliance’ (see p. 51). Hence, they focused on the education and training of a new cohort of ulama and qadis to work in the new colonial sharia legal system. The new Al-Maahad Al-Ilmi in Obdurman was meant to play an important role in this strategy. By offering Islamic education and judicial training, ‘they were possibly giving the Sudan more of a deeper and specific kind of Islamic legal consciousness than even under the Mahdiyyah’. But then they backtracked: ‘The beginnings of modern nationalist resistance mobilisations made them attempt to bring less “Islamic” and more “local” elements into much greater prominence ... But they could not roll back the Islamic educational process at Al-Maahad Al-Ilmi, the academic institution that they themselves had started’ (see p. 61).

Machaqueiro’s case study on the leader of the Islamic Community of Lisbon, Valy Mamede, demonstrates how competing strategies to organise Muslims in the Portuguese colonies collided. Valy Mamede pursued a strategy of uniting Muslims in order to give Islam a comparable status as Catholicism within the Portuguese colonial order and to get for it a symbolic and institutional centre in Lisbon. Portuguese authorities,

however, feared such a union of all Muslims and preferred to co-opt local Muslim leaders in order to create allies to local Portuguese authorities. Ultimately, Mozambican Muslim leaders rejected the self-acclaimed position of Valy Mamede and sought to maintain their own autonomous position.

Devji discusses how British rule destroyed royal and aristocratic forms of Muslim authority, triggering a wider competition about defining the Muslim community and its leadership in India in the process. The leaders of the reformist and pro-British Aligarhist Movement saw their relation to the Muslim community as purely didactic, meaning they should give form to it via resolutions and laws. Devji demonstrates how different understandings of leadership existed: the Aligarhists considered their leadership to be a kind of moral obligation, whereas the British idea was that they were representative leaders whose authority was based on a consensual relationship with the *qawm*. The Mohammedan Educational Conference, a voluntary association based on the individual autonomous will, acted in its early phase as a refuge for practices such as poetic recitation. This 'early *sharif* organisation' – presuming a special relationship between Christians (the British) and Muslims but excluding Hindus – did not allow the conception of a realistic Hindu-Muslim relationship; it has been put under pressure 'when groups such as the Indian National Congress and non-*sharif* societies across the country began claiming to speak for Muslims'. Then, 'representation – or at least a representative character – suddenly became a major issue and the gentry's *qawm* was destroyed forever' (see p. 115). In October 1901, young and old members of Aligarh, all from the north, tried to found an All-India Mohammedan Political Association, but the desire to preserve a North Indian *qawm* informed the reformists' ambivalent relations with other Muslim organisations. In 1906, as a response to the Morley-Minto Reforms, something like a Muslim political party had to be formed and Aligarh's leaders petitioned their rulers for the right to become political, granted by the Viceroy. The policy of separate electorates not only 'effectively counterposed the Muslim community to congress' representative claims', it also led to a new, non-Aligarhist Muslim elite. Aga Khan, a Shia leader from Bombay, broke with Aligarh's parochialism, leading to a new kind of community under the auspices of the Muslim League, a political nation by the end of the 1930s, to partition and to the declaration of Pakistan as the world's first Islamic Republic.

Malik argues that by banning the *Angare* book because it was blasphemous and offensive to Muslims, the British entered into an alliance with the ulama to censor and control Muslim dissent, thereby granting the ulama the status of representatives of the Muslim population at large. This alliance between colonial authorities and patriarchal male clergy served to simultaneously suppress criticism of British rule and of male

religious leaders. In contemporary Britain, one finds similar attempts to grant 'state recognition' to selected Muslim representative organisations that are willing to 'agree with liberal values' and are thus positioned as gate-keepers of the British Muslim community.

12.3.3 *Dilemmas of institutionalisation for Muslims*

The dilemmas faced by colonial administration are mirrored by those for ethno-religious groups. As in 'the West', they face the trade-off between internal autonomy and both privileges and limited political influence. Colonial administrators more or less openly intervene in organisational and ideological matters, playing an active role in the selection of 'moderate', 'responsible' and 'representative' leaders and organisations, excluding and marginalising others. By doing so, they provide material and symbolic resources and relations and networks in the rivalry between competing leaders and organisations of colonised people (see Bonate and Meerschaut & Gutwirth). The price for privileges and some political influence may be increasing isolation and delegitimation of the moderates (traitors or puppets of the colonial regime; for Aligarhists, see Devji) and loss of initiative, motivation and mobilisation powers. Yet cooperating leaders and recognised and subsidised organisations use these resources not only in the fight against external competitors, but also inside their associations or organisations (for 'learned Sufi' scholars and qadis versus unruly and illegible Sufi *turuq*, see Bonate and Jeppie; for the use of British law and jurisprudence as powerful external resources by the conservative ulama against dissident Muslims in India, see Malik; for the rivalling law schools and Muslim lawyers in Malaysia, see Meerschaut & Gutwirth).

In sum, the outcome of these dilemmatic conflicting strategies and actions of colonial administrations, ethno-religious elites and organisations of internally heterogeneous colonised people and other relevant collective actors is not predetermined. Rather, it is the structured result of 'encounters' or 'interactions' under conditions of power asymmetries, as is made quite clear in the contributions by Clancy-Smith and by Leezenberg and Kanie. The latter focus on local forms of agency and situate different kinds of interactions in the context of the specific form of colonial rule that characterised the British mandate in Iraq (1920-1932). Like many other contributors in this volume, they emphasise the role of power struggles and the contingent nature of the outcomes of the various encounters. Their discussion of the various roles played by Iraq's Shiite clergy, for example, shows how they emerged as political leaders in the wake of the Ottoman constitutional revolution (1906) and how, later on, British legal reforms and political manoeuvring by King Faysal and successive Iraqi cabinets resulted in the isolation of the Shiite clergy.

12.4 Multiple fields and institutions and various practices of governance

As a consequence of the first two points, the shaping of opportunities and obstacles for Islam and Muslim life requires an analysis of a multiplicity of fields, domains and institutions and a variety of practices of governance, including institutionalised forms of surveillance and monitoring of indigenous society, the management of space and the constructed environment, the steering of local legal-institutional arrangements and practices and regulations and ideological assumptions in all kinds of fields or domains (hygiene, education, dress, nation-building).

The focus on formal, institutionalised Islam policy is too narrow if our aim is to analyse the structuring of opportunities for Muslim life. As Bonate observes, Portuguese colonial governance in Mozambique shaped these opportunities long before any kind of intentional Muslim policy existed. In his contribution, Daechsel analyses the way in which ordering space and creating an urban environment that provided for 'authentic' Muslim community life, including the building of neighbourhood mosques, were tools of governance in post-colonial Pakistan, as well as a site of contestation of official policy goals. Moors has done this in a contextual analysis of gendered dress codes, and Jeppie with regard to higher Muslim education. All these fields have their own 'logics' that fracture general colonial politics and policy dilemmas. This holds true for the field of law and jurisprudence, in particular. Malaysian law has always been a hybrid legal system, as is shown by Meerschaut and Gutwirth: in pre-colonial times of indigenous adat and of a rudimentary Islamic religious structure at a village level in Malayan sultanates; in colonial times of English law, of a systematised Islamic law and courts run by an Islamic religious bureaucracy and of non-institutionalised adat; and in post-colonial times by a constitutionally recognised legal pluralism of parallel secular, Islamic and adat family law. British 'indirect rule' in India is famous for creating and institutionalising Islamic codified family law, referred to by Devji and Malik (see extensively Wilson 2008; Menski 2000). The Tunisian protectorate's legal system has been 'multi-centric in the extreme' (see p. 75), combining Islamic law, beylical law, capitulatory concessions, consular courts, codes and practices and international treaty law, which made it difficult and tricky, to say the least, to decide cases of personal law as well as of property law. Even in French colonies, Benton's (2002) thesis that colonial states have been characterised by a historical movement from truly plural legal orders to state-dominated legal orders has to be seriously qualified. The Tunisian examples indicate that the colonial state was unable to completely dismantle the culture of legal pluralism created by 'people in motion' in the pre-colonial and colonial eras. Leezenberg and Kanie remind us (see also Emon 2006) that codifi-

cation and 'etatisation' of Islamic laws not only took place under the auspices of colonial powers, but has been a central part of the Tanzimat Reforms in the Ottoman Empire and Egypt (see p. 94ff). The Mecelle code was valid in Iraq until 1959 (see also p. 104 for the replacement of Ottoman jurisprudence in Iraq and Egypt by a system of mixed courts rather than of purely state-based courts as in Turkey).

This is not the place to engage in debates on weak or strong legal pluralism in colonies, so we confine ourselves to three issues. 1) Contrary to the widespread assumption that legal pluralism would be a special characteristic of British (or Dutch) 'indirect rule', we can now see clearly that a certain, sometimes fairly high degree of pluralism can be found in all colonial regimes – and, by the way, also in self-stylised 'monist' 'modern Western, secular' legal systems, as all empirically interested legal scholars should know by now. 2) Contrary to the legal illusions of Austinian or Kelsenian 'positivists', the law is always uncertain. Yet, in highly pluralist legal systems not only the 'law is uncertain', but also uncertain and very much contested is which of the valid laws applies.⁴ 3) Strong legal pluralism clearly involves serious 'conflicts of laws'. Meerschaut and Gutwirth make this plain for the recent developments in Malaysia. Speaking normatively:

The very thin line that exists between the accommodation and imposition of differences makes judicial review and the role of independent courts so important... The most serious problem seems to be that the courts seized by Muslim dissidents do not show any sensitivity towards the rule of law, nor do they make use of the possibility of constitutional review... They are even ruling against the core of a constitutional state upholding the rule of law, where the right to leave one's religion is a necessary and minimum condition. Both the Islamic and civil judges are not showing an active commitment to the Constitution and international human rights. From our analysis of case law (Meerschaut 2006: 293-297), it appears that the Malaysian courts are not, in fact, actually reviewing any state law provisions that conflict with equality or other fundamental rights enshrined in the Constitution. And when a review is carried out, the courts generally interpret the fundamental rights and freedoms very narrowly. (see p. 189)

The syncretic legal system of Malaysia is an institutionally imperfect system, indeed, '[n]ot because it is a pluralistic legal system in which religious and other law is recognised, but because the rule of law is seen as a competitive value system rather than as a basic condition' (see p. 189).

12.5 Travelling of colonial models, policies and ideas

Colonial models, policies and related ideas travelled across time and space, both during the age of imperialism and in the post-colonial period. Templates of governance that were developed 'elsewhere' shaped strategies pursued locally. We should focus on distinguishing more substantial similarities from more shallow ones, explore whether similarities in ideas and approaches indeed point in the direction of relations of cause and effect and, finally, describe the processes and mechanisms that generate these relations of influence across space and time. The concept of 'diffusion', which has been theorised in social movement literature, is valuable to analyse these mechanisms and processes.

From the various contributions, it is clear that there are striking similarities in forms of colonial governance of Islam that could become starting points for comparative studies. Not altogether surprisingly, we find the returning motive of a dichotomous mapping of Islam and Muslims in terms of 'good' and 'bad' Islam. In the literature, this motive has been signalled repeatedly, for example, for French colonialism in Algeria (Lorcin 1995), in West Africa (Harrison 1988) and in relation to Christiaan Snouck Hurgronje's distinction between Islam as a religion and Islam as a political doctrine (Benda 1958). In this volume, we find similar oppositions of 'desirable and undesirable forms of Islam' (Moors), Arab versus African, Sufi versus Wahabi. It seems interesting to further compare the ways in which this dichotomous mapping developed differently in the context of imperial policies and to explore how it informed attempts to govern Islam. These attempts included limiting the transnational nature of Islam, for example, by shielding the local forms from Arab influences and by domesticating or creating national forms of Islam. Colonial authorities established alliances with specific ethnic and religious groups, such as Berbers in Algeria and Indians in Mozambique (Bonate), as they set up alternative, state-controlled educational institutions (Jeppie). In the post-colonial period, the 'secular' nation-state was often represented as a modern alternative to Islam-based models of political organisation. We need to be precise, especially with regard to the exploration of continuities and ruptures across larger time frames.

In our view, the way to proceed would be to begin by identifying similarities – as well as the absence of similarities where we would have reason to expect them – to then investigate their nature and depth and, finally, to raise the relevant explanatory questions. A next step would be to investigate the mechanisms of diffusion that may have caused similarities across time and space. One could, firstly, explore relatively straightforward processes of 'policy learning', in which ways of doing things, ideas, models and institutional templates are more or less

deliberately and consciously introduced in new contexts. These processes are facilitated by the rotation of colonial administrators between colonies. As Jeppie argues, 'colonial practice travelled great distances, over time and space'. He provides the example of Lord Lugard, who had a career in colonial India before his arrival in East Africa, and used experiences in South and South-East Asia as a 'working model' to integrate the local systems of rule to be their own instruments of rule in the Sudan (see pp. 6off). One can analyse processes in which there occurs an intentional process of 'mimicking of policies' and explore how the respective approaches are changed in the process (as is demonstrated by Bonate's discussion of French and Portuguese policies vis-à-vis 'black Islam'). One can discuss, as Clancy-Smith does, whether Tunisia furnished 'templates of governance' for Morocco or Syria and even for British-ruled Egypt. Or one can compare British-mandate Iraq with French-mandate Syria, or with other British colonies such as Egypt and India. Leezenberg and Kanie rightly highlight that 'one should not overemphasise the coherence or hegemony of any one vision or policy', also given the fact that among British policymakers for and in Iraq, there were often fierce rivalries (see p. 104) between the Delhi-based India Office, the Cairo-based Arab Bureau and the political office of the India Office in London. Conversely, one can analyse attempts to avoid the mimicking of specific policies, for example when the French used their Algerian experiences as a 'counter model' or an 'abject lesson in what not to do' for their approaches in Tunisia (for Louis Machuel, see Clancy-Smith see p. 68).

Secondly, mechanisms of diffusion can also be institutional in nature. Meerschaut and Gutwirth's detailed analysis of transformations of legal arrangements in Malaysia is an example of an attempt to identify institutional mechanisms of continuities and changes across time. A focus on institutional changes, for example, in the legal and administrative sphere, can also reveal continuities between pre-colonial and colonial forms of governance. Jeppie's contribution illustrates how the British introduced an institute for Islamic educational and legal training that in part built on pre-existing native institutions and that they ultimately could not control.

Thirdly, one could analyse cultural mechanisms of diffusion, notably in discourse. Some of the contributions in this volume draw upon a Foucauldian 'genealogical approach' in view of identifying broader mechanisms of diffusion over a larger period of time. Leezenberg and Kanie trace conceptual changes relating to notions like religion, the state and society, and the way these changes work together with reforms of institutions and practices. Devji explores how understanding of the Muslim community and the nation changed in India in reaction to British colonial interventions. Moors examines how the present-day governance of Islamic dress 'resonates with' colonial forms of governance. Finally,

Malik argues that a similar will to regulate Muslim subjectivity informs British colonial and post-colonial attitudes and practices of governance of Muslims. The power of this approach is based, on the one hand, on tactical alliances between British rulers and selected Muslim representatives (both in colonial and in contemporary British society) and, on the other, on the strength of the discourses that sustain it. Actually, those who challenge these practices of restriction of Muslim self-expression often reproduce prevailing political concepts and categories. Genuine cultural resistance would require, so Malik argues, forms of political engagement and institutional frameworks that enable subdominant voices to change the terms of discourse.

Our sketch of the main elements of our pre-theoretical mapping of the field of colonial/post-colonial governance of Islam in the introduction, in combination with some of the important aspects in the contributions to this volume, may demonstrate how this approach can constitute a fruitful perspective to analyse what otherwise merely appears to be a bewildering collection of events and processes. In our view, this is a first step in the reflexive reduction of complexity, which is necessary to develop a framework with a set of interrelated concepts that can serve as a basis to critically evaluate existing theories, to formulate more precise questions for empirical research and to develop minimally coherent partial theories (Bader 1991: 26ff). As the setup of this volume shows, we believe that the way to go is the meaningful juxtaposition of historical and qualitative case studies, the gradual development of these into relevant comparative studies and, finally, the attempt to ask relevant explanatory questions and build partial theories to answer at least some of these why-questions.

Two points of a quasi-theoretical agreement are visible. The first is an alternative approach to methodological statism and nationalism. One aspect of it may be called 'interactionism' (Leezenberg & Kanie), which highlights that empires as well as nation-states have been in constant rivalry, conflict and cooperation right from the start. These clearly unequal relationships among different polities have usually been 'pluri-directional', not only 'two-directional'. Methodological statism is also a non-starter for the study of most 'religions' (their leaders, networks, associations and organisations), which have been fairly 'international' and, increasingly, 'need no passports' (Levitt 2007). Another shared approach among the involved theoretical perspectives may be called actor-centred institutionalism (the term was coined by Scharpf 1998) or a 'theory of structuration of action' to analyse the changing relationship between societal 'macro'-structures – including 'political opportunity structures' and institutionalised regimes and state-organised religions relationships – intermediary 'meso'-structures, such as networks, associations and organisations, and collective action. This approach promises to avoid the pitfalls of 'structuralism' and of 'path dependency' that also have plagued

comparative sociology of religion and comparisons of religious regimes or modes of governance of religions.

The second point is the stress on historical and empirical comparisons, which also helps to avoid false historical, evolutionary or 'structural' necessities by inquiring about 'continuities' and 'ruptures', both of which are created by actions that reproduce, change or abandon existing structures. Complementing an actor-centred institutionalist approach with historical depths by focusing on encounters, contestations and interactions and the contingent outcomes they produce is also characteristic for Barkey's linkage of historical institutionalism with network analysis. As Barkey (2008: 17) explains, this is 'because the mechanisms of institutional continuity, flexibility, and change are embedded in the meso-level network structures that link macro-level events and phenomena to macro social and political outcomes'. In her admirable comparative study of land-based 'empires of difference', Barkey has demonstrated a new and productive combination of 'sociology and history' that may also serve as an example for other comparative and historical research of colonial and post-colonial governance of Islam. Such research could focus more specifically on sea-based empires,⁵ on specific fields, domains, institutions and practices across colonies and post-colonial states (either small n-case qualitative comparisons or large n-case quantitative ones) or on more aggregated comparisons of clusters of colonies and post-colonial states. In a nutshell, this is how the future research agenda might look for studies of colonial and post-colonial governance of Islam beyond the obvious limitations of this volume.

Notes

- 1 The French had developed strategies to maintain the specific features of African Islam already in the first decades of the twentieth century, notably under the influence of Governor William Ponty (see Harrison 1988; Conklin 1997; Triaud 2006).
- 2 The anti-essentialist argument that 'categories' and 'communities' are not just 'naturally given' should not be misunderstood – as it often is by 'radical constructivists' – as though they were 'invented' from scratch. Processes of real-world categorisation and self-definition selectively build on and transform existing categories and definitions (see Bader 2001 criticising Baumann).
- 3 For a general analysis of dilemmas of institutionalisation, see Bader (2007: chapter 8).
- 4 For the attempts in International Private Law to domesticate this uncertainty, see Kruger (2010).
- 5 In comparison with modern 'nation-states', the institutional logic of empires generally allows for much more toleration of ethnic and religious diversity as well as institutional pluralism, which is characterised by a fair amount of internal legal and cultural autonomy of different minorities all lacking fully equal legal and

political status (for this institutional logic, see Bader 2003, 2007: 195-198 and Walzer 1997). In addition to the Ottoman Empire, we originally had planned to include a comparison of two other land-based empires, the Russian and the Habsburg. As a follow-up to the admirable study by Barkey (2008), we urgently need a broader and deeper historical and comparative study of the fracturing of this 'institutional logic of empires' along different axes: land-based versus sea-based empires (in our cases, the British, the Portuguese, the French and the Dutch), monotheistic empires (all Christian and Islamic ones) versus polytheistic empires (e.g. the Roman; see Meijer 2007, the Hellenistic, the Maurya (particularly under Ashoka; see Bader 2011) and the Chinese).

References

- Bader, V. (2011 forthcoming), 'Excluded? Included? Foundational? Religions in liberal democratic states', in G. D'Costa, M. Evans, T. Modood & J. Rivers (eds.), *Religion in a Liberal State: Cross-Disciplinary Reflections*. Cambridge: Cambridge University Press.
- Bader, V. (2008), 'Secularism, post-structuralism or beyond? A response to my critics', *Krisis* 1: 42-52.
- Bader, V. (2007), *Secularism or Democracy? Associational Governance of Religious Diversity*. IMISCOE Research Series. Amsterdam: Amsterdam University Press.
- Bader V. (2003), 'Democratic institutional pluralism and cultural diversity', in C. Harzig & D. Juteau (eds.), *The Social Construction of Diversity*, 131-167. Oxford: Berghahn.
- Bader, V. (2001), 'Culture and identity: Contesting constructivism', *Ethnicities* 1 (2): 251-273.
- Bader, V. (1991), *Kollektives Handeln: Protheorie sozialer Ungleichheit und kollektiven Handelns, Teil II*. Opladen: Leske and Budrich.
- Barkey, K. (2008), *Empire of Difference: The Ottomans in Comparative Perspective*. Cambridge: Cambridge University Press.
- Benda, H. (1958), 'Christiaan Snouck Hurgronje and the foundations of Dutch Islamic policy in Indonesia', *The Journal of Modern History* 30 (4): 338-347.
- Benton, L. (2002), *Law and Colonial Cultures: Legal Regimes in World History, 1400-1900*. Cambridge: Cambridge University Press.
- Conklin, A. L. (1997), *A Mission to Civilise: The Republican Idea of Empire in France and West Africa, 1895-1930*. Stanford: Stanford University Press.
- Emon, A. E. (2006), 'Conceiving Islamic law in pluralist society', *Singapore Journal of Legal Studies* December: 331-355.
- Harrison, C. (1988), *France and Islam in West Africa, 1860-1960*. Cambridge: Cambridge University Press.
- Kruger, T. (2010), *Religare. Work Package 3: State of the Art*. June <http://www.religare-project.eu/content/state-art-report-family>.
- Levitt, P. (2007), *God Needs No Passport: Immigrants and the Changing American Religious Landscape*. New York: The New Press.
- Lorcin, P. (1995), *Imperial Identities: Stereotyping, Prejudice and Race in Colonial Algeria*. London/New York: I. B. Tauris Publishers.
- Meijer, F. (2007), *Vreemd volk: Integratie en discriminatie in de Griekse en Romeinse wereld*. Amsterdam: Atheneum.
- Menski, W. (2000), *Modern Indian Family Law*. Richmond: Curzon Press.

- Scharpf, F. (1998), *Games Real Actors Play: Actor-Centered Institutionalism in Policy Research*. Boulder: Westview Press.
- Triaud, J. L. (2006), 'Politiques musulmanes de la France en Afrique subsaharienne à l'époque coloniale', in J. P. Luizard (ed.), *Le choc colonial et l'islam: Les politiques religieuses des puissances coloniales en terres d'islam*, 271-282, Paris: Éditions la découverte.
- Walzer, M. (1997), *On Toleration*. New Haven/London: Yale University Press.
- Wilson, J. (2008), *The Domination of Strangers: Modern Governance in Eastern India, 1780-1835*. Houndmills: Palgrave Macmillan.