CHAPTER 9

Territoriality, Authority, and Identity

Are Muslims permitted to sell alcohol when living “outside dār al-islām,” and may a fatwa on mortgages issued specifically for Muslims in Europe be transferred to a Muslim majority country? As the case studies discussed in the preceding chapter have illustrated once more, the discourse about territoriality and the validity of Islamic norms has not remained unaffected by the unprecedented flow of information and communication around the globe. Both cases are exemplary of how the global dynamics at play in contemporary legal discourse have facilitated the crossing and blurring of traditional discursive boundaries, such as those between “Islamic” and “non-Islamic” territory. Not only has the increase of online communication and transnational mobility enabled Muslims to request fatwas from muftis all over the world and led to a rapid dissemination of fatwas across continents, but it has also intensified debates among scholars and activists from different parts of the world. Nonetheless, adherence to imaginative boundaries and the charting of geo-religious maps have by no means lost their significance, but have, on the contrary, gained new currency in the contemporary discourse on Muslims in the West. While the previous chapter has shown that territoriality plays a crucial role in debates about the legitimacy for Muslims to reside in the West and in the justification of fiqh al-aqalliyyāt, this chapter takes a closer look at its implications for the legitimization of religious authority and for the construction of a “Muslim identity” in a globalized world.

As the above case studies indicate, the vibrant discussions that erupted as a result of the rapid spread and accessibility of fatwas via the internet, newspapers, and other media throughout the world, have engendered a new consciousness of the question of religious authority and the need for it to be regulated. When the Egyptian scholar Şalāḥ al-Dīn Sulṭān urged the Grand Muftī of Egypt, ‘Ali Jum’a, to consult with fiqh councils in non-Muslim majority countries before issuing a fatwa on the selling of alcohol in the West, and when the Moroccan High Council of Scholars denied al-Qaraḍāwī the right to issue a fatwa on the permissibility for Muslims in Morocco to take out

---

1 For the role of online media in Islamic legal discourse, see, e.g., Gräf, Medien-Fatwas@Yusuf al-Qaradawi; Gary Bunt, Islam in the Digital Age: E-Jihad, Online Fatwas and Cyber Islamic Environments (London: Pluto, 2003); and Kutscher, “The Politics of Virtual Fatwa Counseling in the 21st Century.”
interest-bearing bank loans, the bone of contention was not primarily what Jum’a and al-Qaraḍāwī had actually said in their fatwas. The point at issue was rather the question of who determines whether Europe or Morocco may be compared to dār al-harb in order to justify certain legal rulings. In other words, what was at stake in these controversies was first and foremost the prerogative of interpretation, that is, who has the authority to draw geo-religious boundaries and decide on the territorial status of modern states, and who is authorized to give religious guidance to Muslims in which part of the world. At the same time, the various ways in which these and other scholars classify the West – as a “territory of treaty,” or “war,” as part of the “territory of Islam” etc. – raise the questions of how these different geo-religious conceptualizations are reflected in the ways in which the authors construe Muslims’ relations to the predominantly non-Muslim societies in which they live, and how they impact on their understanding of Muslims’ religious identity and sense of belonging.

9.1 Territoriality and the Question of Religious Authority in a Globalized World

As I have shown, based on the case studies discussed in Chapter 8, the debates about territoriality that have been part and parcel of the Islamic legal discourse on Muslims in the West in the past two decades are intrinsically linked with the scholars’ quest to protect or expand their spheres of activity and impact. In a world that has, in the course of their lifetime, turned into a “global village,” as al-Qaraḍāwī himself remarks, the reconsideration of geo-religious territories thus constitutes an important element in these scholars’ attempts to justify their claims to religious authority.2

Territorial Othering as a Means to Legitimize Religious Authority

When al-Qaraḍāwī declared in the first fatwa collection of the European Council of Fatwa and Research that there was no greater difference between two places than “between dār al-islām and what lies outside it,”3 he did so to justify the introduction of fiqh al-aqalliyyāt as the official doctrine of the ECFR, suggesting that different territorial contexts require different kinds of fiqh. At the same time, however, this territorial binary serves to legitimize the Council’s very existence. By conceptualizing Europe, or the West more broadly, as a distinct jurisdiction located “outside” dār al-islām, al-Qaraḍāwī and his colleagues

2 Al-Qaraḍāwī, Fī Fiqh al-aqalliyyāt al-muslima, 150.