Chinese Shariah: Islamic Law in China

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Introduction

Chinese Islam is often misunderstood, both by the West and by China itself. To begin with, the sheer size of the Muslim population in Asia is frequently underappreciated. “Despite its global profile, Islam in the popular imagination—and often in the media—still tends to be disproportionately identified with the Arab world or the Middle East. Yet, in fact, the vast majority of Muslims are in Asia and Africa.”

Among Asia’s Muslims, those in China constitute one of the largest blocs:

Though small in population percentage (about 2 per cent in China), their numbers are nevertheless large in comparison with other Muslim states (just over 20 million). For example, there are more Muslims in China than Malaysia, and more than every Middle Eastern Muslim nation except Iran, Turkey and Egypt.

More strikingly and dangerously erroneous is the long-held Chinese belief in the inability of Muslims to co-exist with the Chinese state and society. The extensive history of Muslim contributions to major achievements of Chinese culture has been matched by an equally extensive history of Chinese prejudice. During the Ming dynasty (1368–1644 CE), it was a Muslim admiral, Zheng He, who led the seven seafaring expeditions responsible for extending Chinese influence and trading routes throughout South Asia. Nevertheless, it was also during the early part of that same dynasty that “officials within the Ming government changed the character used to denote the Muslims (hui), by adding the dog radical…this is the only known case in which a derogatory radical

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was added to an ethnonym.”

During the subsequent Qing dynasty, several Muslim rebellions helped shape what Jacqueline Armijo calls “the common, pernicious, and damaging stereotype[] about Muslims in China: that they are inherently violent.” This belief in turn inspired violence from both individuals and the Chinese state towards what they perceived as communities of hostile interlopers.

It is a belief that persists in China to this day, and which derives in large part from Chinese anxieties over Muslim law (Shariah). Scholars and politicians both in the West and in China regard the “totalizing” philosophy of Islam—i.e., the fact that it purports to govern both temporal and spiritual matters—as rendering the religion incapable of peaceful coexistence with non-Islamic governments. In China, this view has been fuelled by political and military conflicts in China’s northwestern desert region, Xinjiang, populated by the Sino-Muslim Uighur (or “Uyghur”) ethnic group. “On February 5, 1997, thousands of Uyghurs . . . took part in one of the largest ethnic uprisings in the history of the People’s Republic. Over 200,000 state military personnel were mobilized to swiftly strike back; dozens of Uyghur activists were executed immediately, and hundreds were detained indefinitely.” A similar conflict erupted in July of 2009, resulting, according to the New York Times, in 197 deaths and 1,600 injuries and provoking a second declaration of martial law by the Chinese government. Despite the fact that the Uighurs represent only one of China’s 10 Muslim minorities, it is the activities of their independence movement—which frequently cites the dictates of Shariah—that most strongly influence contemporary attitudes towards Muslims in China.

The view to which this movement gives rise does a disservice to the historical importance of Shariah in China in binding together Chinese and Muslim culture. It is not entirely without reason that non-Islamic Chinese view their Muslim compatriots as outsiders, but they have far more and far better reasons to see Chinese Muslims as an integral part of Chinese civilization: Chinese Muslims have made extraordinary efforts to incorporate Islam into Chinese culture and philosophy, in large part by reference to Islamic legal tradition. It is vital that these efforts be recognized, not just so that the historical role of Islam in general and Shariah in particular can be properly appreciated, but to ensure that the future of the relationship between China and its Muslim communities does not continue to be defined by the acrimony of its past and

3 Esposito, supra note 1, at 200.
4 Id. at 201.
5 Jay Dautcher, Down a Narrow Road: Identity and Masculinity in a Uyghur Community in Xinjiang China, 252 (2009).