An Imam in France
Tareq Oubrou

One of the most remarkable developments affecting Islam in Europe are to a large extent shaped by national dynamics. In France, the call for a French Islam which dominates public debates has forced Muslim leaders to re-position themselves.

Relativizing the sharia
Oubrou engages in his work both the Islamic tradition and wider non-Muslim debates. His starting point is the same as most French observers: is Islam compatible with a secular democracy like France? How can Muslims be integrated? Oubrou’s answers seem to be a conditional yes: as long as Islamic normativity (sharia) is relativized.

Oubrou’s construct could also be called sharia relative, unfolding as circles of variances and relativity. First of all, the importance of the normative dimension is minimized by sub-ordinating sharia to theology. For the imam of Bordeaux, the normative approach is predicated upon a hermeneutical posture that tries to decipher the meaning of the Text, which lies hidden in the form of its manifestation during the “Qur’anic moment.” At each point in time the Muslim scholar must search for the adequate equivalence between “the historical destiny” and “the normative will.” Given the Quran’s “foundational scriptural mutism,” Muslim scholars have constructed the science of usul al-fiqh. This science, according to Oubrou, is located between the reading of the names and attributes of God on one hand, and fiqh (law or jurisprudence) on the other. Since the sharia must “reflect the Legislator,” the sharia being “but one name and attribute of God,” one cannot know the Law if one ignores the Legislator. This is why, Oubrou concludes, theology is the foundation of sharia. In displacing the normative question into the theological realm (apparently sideling the traditional fiqh schools), Oubrou argues for the pertinence of broader questions of free will and destiny in elaborations of the sharia: ideas about human freedom have thus consequences on the mechanisms of legal interpretation, allowing for the departure from “the substantial textual limits” in order to achieve “the realization of trans-cultural and trans-historical permanencies.” The synthesis must be both intrinsic (“an unchanging Islamic reason, with universal principles”) and historical (“since Islamic knowledge renews itself, expands, but also invents itself, in disciplines, techniques, perceptions, processes, and new applications”).

The second level of relativity concerns the “ethicization of sharia,” reducing Islamic norms to the moral dimension and justifying recourse to French legal institutions. This is built on a distinction within sharia between law (fiqh), which necessitates an Islamic framework, and ethics (shari’ah), which does not. Here Oubrou is drawing upon, and resisting, contemporary Islamic thought on Muslim minorities. His carefully-worded shari’ah de minorité is an implicit critique of the transnational construct of fiqh al-qālīyyat (jurisprudence of minorities), which he considers “an inadequate description of the legal status of Muslims in Europe.” If the terminological difference may seem subtle, its applications—in terms of the relationship between Islamic normativity and French/European law—are important: whilst proponents of fiqh al-qālīyyat call for the state recognition of Muslim personal law in Europe on grounds of legal pluralism, Oubrou rids Islam of its claims to legality by proposing to “incorporate French law into the metabolism and the economy of the sharia” through the means of juridical fictions (fiqh al-hiyyal). Furthermore, Oubrou universalizes the term “minority”—disagreeable to orthodox French political discourse—by relating it not to a “demographic category” but to a “posture of spatio-temporal exception,” devised in France but (arguably) legitimate worldwide.

Devising a “legal” practice of Islam
Given the wide French expectation of an Islamic aggiornamento (renewal), it is interesting to note that “reform” is a word virtually absent from Oubrou’s writings. Oubrou locates instead his thought firmly in
the Islamic tradition. As a mufti, he reflects within limits imposed by his scholastic tradition: he is concerned with adapting Islam to the French context as much as with maintaining the boundaries of legitimate religious authority.

The fatwa was the central mechanism of Oubrou’s theory. The classical distinction between hukm and fatwa, situated at opposite ends of the Islamic normative spectrum, constitutes the third level of relativity of sharia. While the former enunciates the rule, the latter adapts it to the circumstances. In principle, for Oubrou, the fatwa is auto-biodegradable, in that “it contains in its very formulation the ingredients and time-space criteria of its validity and life-length.” The fatwa adapts Islamic normativity to the social and cultural foundations of the French society. In contrast to some earlier descriptions of the muftiship, which emphasized retreat from the mundane world, the mufti according to Oubrou needs to be geographically and sociologically implicated in his environment, in order to mobilize the appropriate “normative subjectivity.” Among the criteria a mufti must fulfill beyond Islamic scholarship, Oubrou cites an accurate perception of the psychological reality of Muslims, and a strong grasp of French laws, and an awareness of European legal integration—conditions which would possibly disqualify most of the current practitioners in the field.

Contemporary muftis often take into consideration the media impact of their work, choosing between targeting a specific individual and aiming at mass consumption. Oubrou partly echoes this distinction between private/individual and public/collective fatwas, but goes a step further, establishing an original typology of Muslim normative opinions. Oubrou’s fatwas are of two types: “positive by articulation” or “negative by omission.” Positive fatwas may be directed at a community, in which case they relate to an average level of religiosity—a community which, interestingly, Oubrou defines nationally: French Muslims, and the French [Muslim] national average religious practice (preferably, according to Oubrou, based on a scientific survey!). Or, alternatively, positive fatwas may be “situational,” enunciating a norm that takes into consideration not only legal but also social constraints, and is individual in scope. Oubrou elaborates this distinction between legal and social constraints in relation to the problems caused by the visibility of Islam when discussing the building of minarets (legally allowed but sometimes socially rejected). He must also have had in mind the question of Muslim headscarfs in public schools.

Negative fatwas, on the other hand, should be seen as Oubrou’s attempt to counter the proliferation of conflicting fatwas in the European market. Driven by fierce competition between domestic and transnational producers, and enabled by mass media, this market has created the conditions for product diversification, with muftis marketing their—and each other’s—work as “authentic,” “moderate,” “easy,” “European.” Tareq Oubrou is worried the resulting fatwa wars may lead to a normative saturation and erode all forms of religious authority, including “sincere and benign ones.” Negative fatwas seek to break the spiral by refusing to materialize under the pressure of demand or by articulating “anti-fatwas,” suspending norms in order to avoid burdening a community of believers already fragilized by its socio-economic condition. This is Oubrou’s final degree of relativity of sharia.

Fatwas are Oubrou’s tools in the elaboration of a minimalist orthodoxy (a “spiritual minimum wage,” as Oubrou puts it) that is sensitive to “the moral state of the local Muslim communities.” Hence to a non-practising Muslim Oubrou recommends one prayer a day, while to a youngster who spends the day in worship at the mosque, Oubrou advises he find a job. The shari’a de minorité allows the imam of Bordeaux to provide an Islamic cover for new and unorthodox Muslim practices, forging a “legal Islam” adapted to the current situation. This reordering of knowledge inevitably constructs a relation of discursive dominance: here, as in other theological discourses, the aim is not only to reconcile Islamic Law to the secular context, but also—and quite explicitly—to counter the secularization of Islam in Europe, ensuring Muslims remain connected to Islamic normativity as enunciated by authority figures. Seemingly, underlying Oubrou’s work, is a much widely-shared distrust of the personalized—and therefore unmonitored and uncontrolled—religious practices of the Muslim individual.

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