

## SHARIA AS A PLATFORM FOR ESPOUSING VIOLENCE AND AS A CAUSE FOR WAGING ARMED JIHAD

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## INTRODUCTION

*Sharia*, the Islamic legal system or, more broadly, a religiously sanctioned “code of conduct” based on the *Quran*, the *Hadiths*, and the *fiqh*, is a prominent feature of Islam.<sup>1</sup> The Muslim holy book does not directly mention *sharia*; rather, it is a legal system based upon an interpretation of Islam.<sup>2</sup> Moreover, *sharia*’s scope differs across Muslim societies because of variations in the interpretation and adaptation of thousand-year-old texts. Given this broad understanding of *sharia*, its influence naturally extends from government and law to the lives of Muslims through the *fatwas*.<sup>3</sup>

The public seems to identify predominantly with clerical interpretations of *sharia*. For instance, an overwhelming number of *fatwas* are issued by clerics.<sup>4</sup> Moreover, in a 2013 Pakistani poll of those who feel that *sharia* should be the law of the land, eighty-seven percent said that they favor giving clerics the power to judge family and property disputes.<sup>5</sup> This view may be explained by clerics conveying the impression that they have studied Arabic source materials on the *Quran* and *jihad*,<sup>6</sup> along with exegetical works related to *sharia* and *jihad* in specialized schools called *madrasas* (Muslim religious schools).<sup>7</sup> Of

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<sup>1</sup> See ABD AR-RAHMAN I. DOI & ABDASSAMAD CLARKE, SHARIAH ISLAMIC LAW 27, 78–79, 81–83, 131 (2d ed. 2008) (describing how the *Hadiths* chronicle the sayings and actions of Islam’s founder Muhammad, and the *fiqh* is traditional jurisprudence law based upon an interpretation of Islam).

<sup>2</sup> *Id.* at 27–28, 131, 133.

<sup>3</sup> See generally Neil Macfarquhar, *Fatwa Overload: Why Middle East Sheikhs Are Running Amok*, FOR’GN POL’Y (Apr. 16, 2009), <http://www.foreignpolicy.com/articles/2009/04/16/fatwaoverload> (explaining that a *fatwa* is a clerical ruling or an edict based upon an interpretation of *sharia*).

<sup>4</sup> See Peer Muhammad, *Conference on Fatwas: Discouraging Issuance of Edicts by Non-State Actors*, THE EXP. TRIB., Dec. 3, 2012, <http://tribune.com.pk/story/474259/conference-on-fatwas-discouraging-issuance-of-edicts-by-non-state-actors/>; Macfarquhar, *supra* note 3.

<sup>5</sup> See JAMES BELL ET AL., THE WORLD’S MUSLIMS: RELIGION, POLITICS AND SOCIETY 50 (2013), <http://www.pewforum.org/files/2013/04/worlds-muslims-religion-politics-society-full-report.pdf> [hereinafter THE WORLD’S MUSLIMS: RELIGION, POLITICS AND SOCIETY].

<sup>6</sup> See generally C. Christine Fair et al., *Faith or Doctrine? Religion and Support for Political Violence in Pakistan*, 76 PUB. OPIN. Q’LY 688, 695 (2012) [hereinafter *Faith or Doctrine?*]. In this context, the clerics’ uniquely advantageous position in non-Arab countries, such as Pakistan, stems from the low literacy rates of the general populace and the presence of cultural injunctions that discourage reading the *Quran* in local languages.

<sup>7</sup> *Id.*

particular interest are *jihadist* clerics and leaders who espouse armed *jihad*<sup>8</sup> in the name of religion in order to advance a political agenda; their *dicta* range from prominent calls for religious war to the leadership pronouncements of Islamist militant groups.<sup>9</sup>

Jihadist clerics are of concern even in Egypt and Saudi Arabia, where governments have long co-opted religious institutions. For instance, Richard Nielsen has noted that a significant subset of the local clerics in these countries have espoused armed *jihad*.<sup>10</sup>

<sup>8</sup> See GILLES KEPPEL, *JIHAD: THE TRAIL OF POLITICAL ISLAM* 146, 208, 218, 432 (Anthony F. Roberts trans., 2002); Noor Mohammad, *The Doctrine of Jihad, an Introduction*, 3 J. L. & RELIG. 381, 384–90 (1985). In general, the word “*jihad*,” the use of which can be traced back to the *Quran*, can refer to internal struggles, inner spiritual battles, or the striving to improve oneself or one’s community. However, *jihad* can also refer to an externally directed armed struggle, such as an (offensive) religious war waged to conquer unbelievers and their land, or a call to defend Muslims under attack by non-Muslim forces. Armed *jihad* in the name of religion is *not* an outlier for four main reasons: (1) according to David Cook, “Muslims have been waging jihad in both military and spiritual forms for 14 centuries,” (David Cook, *The Implications of ‘Martyrdom Operations’ for Contemporary Islam*, 32 J. L. & RELIG. ETHICS 129, 134 (2004)); (2) violent jihadists can find theological justification for their deeds, as both non-violent orthodox Muslims and violent jihadists interpret the same *jihad* doctrines very differently to support their respective causes, (Quintan Wiktorowicz, *Anatomy of the Salafi Movement*, 29 STUD. CONFLICT & TERR. 207, 208 (2006)); (3) the Afghan *jihad* of the 1980s, directed at countering the Soviet occupation of Afghanistan and the ongoing sectarian warfare in Syria, became popular recruitment tools for jihadists around the world, (BRUCE RIEDEL, *DEADLY EMBRACE: PAKISTAN, AMERICA, AND THE FUTURE OF GLOBAL JIHAD* 24–25 (2011); William R. Polk, *Understanding Syria: From Pre-Civil War to Post-Assad*, THE ATLANTIC, Dec. 10, 2013, available at <http://www.theatlantic.com/international/archive/2013/12/understanding-syria-from-pre-civil-war-to-post-assad/281989/>); and (4) for decades, Saudi Arabia, the birthplace of Islam, has propagated the *Wahhabi* version of Islam, which advocates armed *jihad* (See generally Claude Moniquet, European Parliament Directorate-General for External Policies: Policy Dept., *The Involvement of Salafism/Wahhabism in the Support and Supply of Arms to Rebel Groups Around the World* 4, 5 (2013), available at <https://docs.google.com/viewer?a=v&pid=sites&srcid=ZGVmYXVsdGRvbWFpbnoYWLkZXJub3Rlc3xneDo3NDEwMDI3NjViZTNjODZm>; Press Release, USCIRF, Saudi Arabia: USCIRF Confirms Material Inciting Violence, Intolerance Remains in Textbooks Used at Saudi Government’s Islamic Saudi Academy (June 11, 2008), available at [http://www.uscirf.gov/index.php?option=com\\_content&task=view&id=2206&Itemid=1](http://www.uscirf.gov/index.php?option=com_content&task=view&id=2206&Itemid=1)).

<sup>9</sup> See generally SHEIKH ABDULLAH AZZAM, *DEFENSE OF THE MUSLIM LANDS*, <http://www.kalamullah.com/Books/defence.pdf> (last visited Jan. 17, 2014); Saima Mohsin, *Islamist Leader, Who Offered Aid After Sandy, Speaks to CNN*, CNN (Nov. 3, 2012), <http://www.cnn.com/2012/11/03/world/asia/pakistan-mumbai-suspect/>.

<sup>10</sup> See Richard Nielsen, *Jihadi Radicalization of Muslim Clerics* 2, 4–5, 9–10 (Aug. 31, 2012) (unpublished manuscript), <http://www.mit.edu/~rnielsen/jihad.pdf>.

However, jihadist clerics also have another prominent role in the Muslim community: they are sought out for their expertise in *sharia*. Naturally, this brings up the question of whether *sharia*'s popularity plays a role in advancing the agenda of these clerics. This particular angle—the general role of clerics and *sharia* in the radicalization process—has yet to be addressed by scholars, although a 2009 survey conducted in Pakistan attempted to address *sharia*'s role in violence. The survey found comparable levels of public support for militant groups among those who wanted *sharia* to play a greater role in Pakistani law versus those who wished it to have a lesser one.<sup>11</sup>

A retrospective analysis reveals several limitations of this study. First, a majority of Pakistani Muslims are pious and supportive of *sharia* law, yet opposed to violence. This is evident in polls conducted in 2012 and 2013,<sup>12</sup> wherein ninety-four percent of respondents considered religion to be very important in their lives,<sup>13</sup> eighty-one percent regarded *sharia* as the revealed word of God,<sup>14</sup> and eighty-four percent envisioned making it the law of the land (the pious, more so);<sup>15</sup> only thirteen percent of those surveyed supported suicidal terrorism in the defense of Islam.<sup>16</sup> Second, even those who do not back a greater scope for *sharia* may still support the militant groups associated with popular causes, such as the *Kashmir jihad*.<sup>17</sup> The null result, a likely consequence of these two overlooked correlations, does not

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<sup>11</sup> See *Faith or Doctrine?*, *supra* note 6, at 705.

<sup>12</sup> *Id.* at 702 (noting that the statistical support for *sharia* to play a greater role in Pakistani law was at 67.5%); JAMES BELL ET AL., THE WORLD'S MUSLIMS: UNITY AND DIVERSITY 8 (2012), <http://www.pewforum.org/files/2012/08/the-worlds-muslims-full-report.pdf>; THE WORLD'S MUSLIMS: RELIGION, POLITICS AND SOCIETY, *supra* note 5, at 46 (noting that in a 2013 Pew poll, eighty-four percent were in favor of making *sharia* the law of the land). Compare Juliana Menasce Horowitz, *Declining Support for Bin Laden and Suicide Bombing*, PEW RESEARCH (Sept. 10, 2009), <http://www.pewglobal.org/2009/09/10/rejection-of-extremism/> (showing that in 2009, support for suicide bombings in defense of Islam was at five percent), with THE WORLD'S MUSLIMS: RELIGION, POLITICS AND SOCIETY, *supra* note 5, at 70 (showing that in 2013, support for suicide bombings was at thirteen percent). Hence, given the consistently high level of support for *sharia* and the low level of support for suicide bombings, it is reasonable to use the survey data of 2012 and 2013 to analyze the 2009 poll results.

<sup>13</sup> See JAMES BELL ET AL., *supra* note 12, at 8.

<sup>14</sup> See THE WORLD'S MUSLIMS: RELIGION, POLITICS AND SOCIETY, *supra* note 5, at 42.

<sup>15</sup> *Id.* at 46.

<sup>16</sup> *Id.* at 70.

<sup>17</sup> See C. Christine Fair et al., *Islam, Militancy, and Politics in Pakistan: Insights From a National Sample*, 21 TERR. & POL. VIOL. 495, 511–13 (2010).

in itself warrant Fair, et al.'s summary rejection of the potential links of *sharia* and violence, as expressed in the following statement: "The prospect of [*sharia*-promoting] Islamist parties coming to power in the wake of the Arab Spring should not necessarily be viewed with alarm."<sup>18</sup> The authors' view arises from an excessive focus on the peaceful majority of respondents; thus, the survey is insensitive to a unique medium of radicalism by a small segment of the public that benefits from *sharia*'s popularity. The hasty rejection is all the more surprising given that the authors themselves admit a limitation of their study by referring to the effect of "coalitional-commitment," in which a subpopulation of the public is associated with *mosques* that are run by clerics who express support for violent groups.<sup>19</sup>

One wonders whether jihadist clerics form such a unique medium. This leads me to advance the following testable hypothesis: *Sharia*'s popularity forms a platform for jihadist clerics and militant groups to advance a violent agenda.

This study uses Pakistan as its main case study of violent radicalism. It distinguishes itself from other studies of the growing clerical influence in Pakistan<sup>20</sup> by explaining the mutual reinforcement of clerical influence and *sharia*'s popularity, and the assistance that this pairing brings to the cause of jihadist clerics and militant groups. Several other important reasons motivate a study of clerical influence in the context of Pakistan. In the 1970s, *Sunni*<sup>21</sup> Saudi Arabia's export of armed-*jihad* and a *sharia*-emphasizing *Wahhabi* version of Islam started on a large scale in Pakistan,<sup>22</sup> before expanding worldwide. The early Saudi efforts in Pakistan involved the funding of jihadist groups as part

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<sup>18</sup> See *Faith or Doctrine?*, *supra* note 6, at 713.

<sup>19</sup> *Id.* at 691. Although, in a slightly different context.

<sup>20</sup> See generally S.V.R. Nasr, *The Rise of Sunni Militancy in Pakistan: The Changing Role of Islamism and the Ulama in Society and Politics*, 34 MOD. ASIAN STUD. 139, 140 (2000).

<sup>21</sup> See *Mapping the Global Muslim Population*, PEW RESEARCH (Oct. 7, 2009), available at <http://www.pewforum.org/2009/10/07/mapping-the-global-muslim-population/#sunni-and-shia-populations>. *Sunnis* are the dominant Muslim population, constituting about eighty-five percent of the total Muslim populations of Saudi Arabia, Pakistan, India, and Turkey, and about eighty percent of Muslims worldwide.

<sup>22</sup> See generally INTERNATIONAL CRISIS GROUP, PAKISTAN: MADRASAS, EXTREMISM AND THE MILITARY 7–8, 12 (2002), <http://www.crisisgroup.org/~media/Files/asia/south-asia/pakistan/Pakistan%20Madrasas%20Extremism%20And%20The%20Military.pdf> [*hereinafter* PAKISTAN]; Nasr, *supra* note 20 at 142, 144.

of the campaign directed at Soviet-occupied Afghanistan.<sup>23</sup> An outward manifestation of this *Wahhabi* influence on Muslim communities worldwide is the growing embrace of Arab customs, dress code, facial hair, and so on that is commonly called “Arabization.”<sup>24</sup> It is pertinent to note the scope and motives for Saudi Arabia’s global promotion of *Wahhabism*. According to government publications, Saudi Arabia has spent billions “to finance some 1,350 new mosques, 210 Islamic centres and hundreds of universities in Europe, the Americas, Asia, and Africa” in order to spread *Wahhabism* among Sunni Muslim communities.<sup>25</sup> Even the religious texts prepared by the Saudi Arabian government for use abroad particularly emphasize *sharia* and call violent *jihad* a “pinnacle of Islam.”<sup>26</sup> The Muslim World League, a leading Saudi government-funded charity that is involved in the spread of *Wahhabism*,<sup>27</sup> calls on “individuals, communities, and state entities to abide by the rules of the Sharia (Islamic Law).”<sup>28</sup> This position is not altogether surprising, given that Saudi Arabia uses *sharia* as a major source, or indeed the only source, of its laws.<sup>29</sup> As a result, Pakistan is one of the nations that experienced an early descent into the global phenomenon of Muslim radicalism.<sup>30</sup> As a measure of its impact on Pakistan, the terrorist attacks of radical groups, nurtured or tolerated by successive governments in Pakistan, have killed more than 30,000 people between 2003 and 2011, including more than 3,000 security officers, 9,000 civilians, and 20,000 militants.<sup>31</sup>

This study is organized as follows: After validating the primary hypothesis by using Pakistan as a case study, I evaluate its

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<sup>23</sup> See PAKISTAN, *supra* note 22, at 8–9, 12.

<sup>24</sup> See Baladas Ghoshal, *Arabization: Changing Face of Islam in Asia*, INST. OF PEACE & CONF’T STUD. (Aug. 2008), [http://www.ipcs.org/pdf\\_file/issue/2023599142IB81-Baladas-Arabization.pdf](http://www.ipcs.org/pdf_file/issue/2023599142IB81-Baladas-Arabization.pdf).

<sup>25</sup> Brian Eads, *Saudi Arabia’s Deadly Export*, AUSTL. READER’S DIG. 119–125, Feb. 2003, available at <http://www.johnm.multiline.com.au/submit/saudi.htm>.

<sup>26</sup> See Press Release, USCIRF, *supra* note 8.

<sup>27</sup> Moniquet, *supra* note 8, at 5.

<sup>28</sup> THE MUSLIM WORLD LEAGUE, <http://www.themwl.org/Profile/default.aspx?l=EN#cred> (last visited Jan. 19, 2014).

<sup>29</sup> See Toni Johnson & Lauren Vriens, *Islam: Governing Under Sharia*, COUNSEL ON FOREIGN REL. (Jan. 9, 2013), available at <http://www.cfr.org/religion/islam-governing-under-sharia/p8034> (last visited Aug. 12, 2013).

<sup>30</sup> See generally Bruce Riedel, *Al Qaeda is Back*, DAILY BEAST (Jul. 26, 2013), <http://www.thedailybeast.com/articles/2013/07/26/al-qaeda-is-back.html>.

<sup>31</sup> See *Pakistan Assessment 2011*, SATP (2011), <http://www.satp.org/satpor/gtp/countries/pakistan/assessment2011.htm>.

robustness and consistency by exploring the radicalization of Pakistani immigrants in the United Kingdom, Muslim minorities in India, the socioeconomic impact of the radicalization process, and the Turkey exception.

## I. PAKISTAN AS A CASE STUDY

### A. Clerics: Education, Growth, and Identification

What is the educational background of clerics who identify with *sharia* and armed *jihad* in Pakistan? Clerics in South Asia<sup>32</sup> typically study in a *madrasa*<sup>33</sup> and employ an Islamic syllabus designed in the seventeenth century (with *sharia* among its foci).<sup>34</sup> As noted previously, the 1970s saw the establishment of *Wahhabi madrasas* that teach and advocate armed *jihad* and emphasize *sharia*.

Clerics receive Islamic education, primarily in *madrasas*, where they work also as teachers; so, it follows that the increase in the number of clerics can be correlated with the growth in the number of *madrasas*. Today, there are about 13,000 *madrasas* in Pakistan—a nearly hundred-fold increase since 1947—with ten to fifteen percent of them linked to sectarian militancy (*Sunni* vs. *Shia*) or international terrorism.<sup>35</sup> Here is one measure of the extent of the street-power, numbers, standing, and prestige of clerics: they have stymied the efforts of the successive Pakistani governments to modernize *madrasa* education.<sup>36</sup>

To what extent do the Pakistani public and the clerics identify with *jihad* in an armed context? The relative popularity of armed

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<sup>32</sup> *Peoples*, GLOBAL PERSPECTIVES: A REMOTE SENSING & WORLD ISSUES SITE, <http://www.cotf.edu/earthinfo/sasia/SApeo.html> (last visited Jan. 21, 2014) (stating that South Asia includes Pakistan, India, Nepal, Bangladesh, Sri Lanka, Bhutan, and the Maldives).

<sup>33</sup> Mumtaz Ahmad, *Madrasa Education in Pakistan and Bangladesh*, in RELIG. RADICALISM & SEC. S. ASIA 101, 101–02 (Satu P. Limaye et al. eds., 2004). The reality is more complicated; many clerics are not even literate and most have not completed a rigorous course of religious study. See C. Christine Fair, *Increasing Social Conservatism in the Pakistan Army: What the Data Say*, 38 ARMED FORCES & SOC'Y 438, 448 (2012).

<sup>34</sup> Ahmad, *supra* note 33, at 102–03.

<sup>35</sup> ZAHID HUSSAIN, FRONTLINE PAKISTAN: THE STRUGGLE WITH MILITANT ISLAM 79 (2007).

<sup>36</sup> See Nosheen Abbas, *Pakistan's Madrasa Reform 'Stalls'*, THE GUARDIAN (Oct. 11, 2011), <http://www.theguardian.com/education/2011/oct/11/pakistan-stalls-madrasa-reforms-english>; Moniza Khokhar, *Reforming Militant Madaris in Pakistan*, 30 STUD. CONF'T & TERR. 353, 358–59 (2007).

*jihad* in Pakistan may in part stem from the characterization of the nation's conflict with India in jihadist terms by successive governments<sup>37</sup> and from the jihadic response to the Soviet invasion of Afghanistan.<sup>38</sup> While I am not aware of any data on the clerics' outlook, sixty-nine percent of the Pakistani public views *jihad* as an armed context and more (with twenty-five percent seeing it only as the former), and forty-two percent feel that non-state actors can legitimately invoke armed *jihad*.<sup>39</sup> Moreover, *madrassa* students in Pakistan were found to be more supportive of violent extremism than non-*madrassa* students.<sup>40</sup> Hence, it is reasonable to conclude that the clerical view of armed *jihad* is at least as favorable as that of the public and that the clerical espousal of armed *jihad*, especially in a defensive context, is a gainful proposition in the eyes of the public. Further, it appears that a large number of mainstream clerics have taken to advocating violent radical agendas. For instance, a thousand *Sunni* clerics signed a letter to the Pakistani president in which they asked him to pardon a police man sentenced to death for assassinating a governor who was a blasphemer under *sharia*.<sup>41</sup>

### B. *Jihad, Sharia, and Clerical Influence in a New Nation*

From the time of its inception, Pakistan had a disposition toward *sharia* and armed *jihad*. For instance, in the year following its partition from British-ruled India in 1947, Pakistan invoked *jihad* to wage war against the newly independent India, aiming to gain control over the Muslim-majority region of

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<sup>37</sup> A detailed study of why Pakistan is sponsoring jihadist groups is outside the scope of this study and is not central to the discussion here. It suffices to note that many Muslim militant groups have formed without the support of local governments or despite their efforts, as, for example, in Nigeria. See Bill Roggio, *US Adds 3 Boko Haram Leaders to List of Global Terrorists*, LONG WAR J. (Jun. 21, 2012, 9:31 AM), [http://www.longwarjournal.org/archives/2012/06/us\\_adds\\_three\\_boko\\_h.php](http://www.longwarjournal.org/archives/2012/06/us_adds_three_boko_h.php); Moses Rono, *Boko Haram: Is Terror Designation a Badge of Honour?* BBC NEWS AFRICA (Nov. 15, 2013), <http://www.bbc.co.uk/news/world-africa-24959207>; *Investigators Track Boko Haram Funding*, UNITED PRESS INTERNATIONAL (Feb. 13, 2012, 10:58 AM), [http://www.upi.com/Top\\_News/World-News/2012/02/13/Investigators-track-Boko-Haram-funding/UPI-25221329148725/](http://www.upi.com/Top_News/World-News/2012/02/13/Investigators-track-Boko-Haram-funding/UPI-25221329148725/).

<sup>38</sup> See Anna Mae D. Simmons, *Afghanistan, Islam and the Origins of a Global Jihad*, GSN (Jul. 15, 2010, 10:42 AM), [http://www.gsnmagazine.com/article/21068/afghanistan\\_islam\\_and\\_origins\\_global\\_jihad](http://www.gsnmagazine.com/article/21068/afghanistan_islam_and_origins_global_jihad).

<sup>39</sup> See Fair et al., *supra* note 17, at 508–09.

<sup>40</sup> See C. Christine Fair, *The Enduring Madrasa Myth*, 111 CURR. HIST. 135, 138 (2012).

<sup>41</sup> See Press Trust of India, *1,000 Pakistani Clerics Seek Pardon for Governor's Assassin*, BUS. STANDARD, Aug. 1, 2013.

Kashmir.<sup>42</sup> The following quotation indicates the view of *sharia* by the non-clerical elites of the newly created Pakistan. In 1948, Pakistan's founder, Mohammed Ali Jinnah, remarked:

Why this feeling of nervousness that the future [C]onstitution of Pakistan is going to be in conflict with Shariat laws? Islamic principles today are as applicable to life as they were 1,300 years ago. Islam is not only a set of rituals, traditions and spiritual doctrines. Islam is also a code for every Muslim, which regulates his life and conduct[,] [even in] politics and economics[,] and the like.<sup>43</sup>

The influence of clerics also became apparent soon after Pakistan's founding. For example, in 1951, the United States Department of State noted their influence in shaping Pakistan's development, deeming them "reactionary groups of landholders and uneducated religious leaders . . . [who] favour[ed] a return to primitive Islamic principles."<sup>44</sup>

### C. *The Growing Influence of Clerics and Sharia*

In the late 1950s and the early 1960s, Ayub Khan's government attempted to contain clerical influence by limiting the autonomy of *madrasas* and their funding sources.<sup>45</sup> In addition, it also proposed modernization of the syllabi of *madrasas*.<sup>46</sup> However, these attempts had only limited success because of a lack of cooperation by religious parties.<sup>47</sup> Since then, the clerics' institutional influence and power have grown over time, regardless of their jihadist inclinations, in part because of the increasing importance of *sharia*.<sup>48</sup> In 1962, the Pakistani government established the Advisory Council of Islamic Ideology, later changed to the Council of Islamic Ideology in 1973, to ensure that its laws conformed to *sharia*.<sup>49</sup> Political scientist Ishtiaq

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<sup>42</sup> See HUSAIN HAQQANI, *PAKISTAN: BETWEEN MOSQUE AND MILITARY* 29 (2005).

<sup>43</sup> See Aakar Patel, *Jinnah After August 11, 1947*, *THE NEWS* (Sept. 28, 2008), <http://www.thenews.com.pk/TodaysPrintDetail.aspx?ID=138344&Cat=9&dt=9/30/2008>.

<sup>44</sup> AYESHA JALAL, *THE STATE OF MARTIAL RULE* 127 (1990) (citations omitted) (alteration in original).

<sup>45</sup> See *PAKISTAN*, *supra* note 22, at 6–7.

<sup>46</sup> See *id.*

<sup>47</sup> Sarfraz Husain Ansari, *Forced Modernization and Public Policy: A Case Study of Ayub Khan Era (1958-69)*, 18 *J. POL. STUD.* 45, 56 (1970).

<sup>48</sup> See Nasr, *supra* note 20, at 140, 142.

<sup>49</sup> See History, The Council of Islamic Ideology, <http://www.cii.gov.pk/about/cii/History.aspx> (last visited Jan. 29, 2014).

Ahmed points out that the consistent and decades-long claim of Abdul Maududi—a prolific religious scholar, an advocate of armed *jihad*, and the leader of the Islamist party, Jamaat-e-Islami—that *sharia* is “all-embracing divine law,” has led to the adoption of Islamist narratives in the political space.<sup>50</sup> Such narratives, as Vali Nasr has argued, weakened secular politics in the 1960s.<sup>51</sup> In 1973, during the reign of Zulfikar Ali Bhutto, the Council of Islamic Ideology (in part staffed by clerics) was mandated to propose measures to Islamize the country.<sup>52</sup> This initiative further intensified in the 1980s during the reign of Zia ul-Haq, which saw the enactment of new *sharia* laws and new independent channels to indoctrinate school children with ideas that favored armed *jihad*.<sup>53</sup> The motto of the Pakistani Army was changed during the reign of *ul-Haq*, from “Unity, Faith, and Discipline” to Faith, Obedience of God, and *Jihad* in the path of Allah (“Iman, Taqwa, Jihad fi sabeelillah”).<sup>54</sup> Moreover, the Federal Shariat Court of Pakistan, in part staffed by clerics trained in *sharia*, was established in 1980.<sup>55</sup> This court has the power to determine whether the laws of the country conform to *sharia*.<sup>56</sup>

All of this suggests that it is in the clerical interest to promote *sharia* as divine law. For instance, the 2008 All India Anti-Terrorism Conference, attended by thousands of *Sunni* clerics in Darul Uloom (a preeminent *Sunni* seminary located in Deoband),<sup>57</sup> called upon Muslims “to spend their lives in the

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<sup>50</sup> ISHTIAQ AHMED, THE CONCEPT OF AN ISLAMIC STATE: AN ANALYSIS OF THE IDEOLOGICAL CONTROVERSY IN PAKISTAN 112, 176 (1987).

<sup>51</sup> Vali Nasr, *Military Rule, Islamism and Democracy in Pakistan*, 58 MIDDLE E. J. 195, 196 (2004).

<sup>52</sup> PAKISTAN, *supra* note 22, at 7 (citations omitted).

<sup>53</sup> *See id.* at 10; Paul Watson, *In Pakistan's Public Schools, Jihad Still Part of Lesson Plan*, L.A. TIMES (Aug. 18, 2005), <http://articles.latimes.com/2005/aug/18/world/fg-schools18>.

<sup>54</sup> SHUJA NAWAZ, *CROSSED SWORDS* 384 (2008).

<sup>55</sup> Homepage, FEDERAL SHARIAT COURT, <http://www.federalshariatcourt.gov.pk/> (last visited Jan. 29, 2014).

<sup>56</sup> *See* Objectives & Functions, FEDERAL SHARIAT COURT, <http://www.federalshariatcourt.gov.pk/Obj.html> (last visited Jan. 29, 2014).

<sup>57</sup> *See generally* Ahmad, *supra* note 33, at 102–03 (the training and background of clerics in Pakistan and India are similar); Ramashray Upadhyay, *Saudi Export of Wahhabism to India*, S. ASIA ANALYSIS GRP. (Mar. 19, 2010), <http://intellibriefs.blogspot.com/2010/03/saudi-export-of-wahhabism-to-india.html> (last visited Jan. 29, 2014) (the Saudi *Wahhabi* influence, another factor that played a role in influencing the clerical outlook in Pakistan, has been present in India since the 1970s).

country following Islamic sharia and [Islam's] teachings with full confidence."<sup>58</sup> At least one consequence of the *sharia*-based edicts of clerics may be the distortion of the rational thinking processes associated with modernity,<sup>59</sup> since these edicts undercut the cause-and-effect sequence and associate all decisions and practices with "God's will." Once a following for such an outlook is generated it is not hard to see why some members of the public become receptive to the calls for religiously inspired *jihads*, issued by a subset of clerics and militant groups. Hence, in a community where *sharia* is popular (see the introduction section, paragraph four), an outlook can take hold that views *sharia*-based governance as an appealing and plausible ideological alternative to modernity in many walks of life. This aspect, too, helps the cause of the militant groups that invariably frame their goals as striving for a more *sharia*-based society.

Vested interests, such as clerics, tend to elevate *sharia*'s importance by characterizing it as divine "law," perhaps fully knowing the significance of modern law in governing a society. However, unlike rigorously defined modern law, immense variations inherent in what constitutes *sharia* law (see the introduction section, paragraph one) has led to the generation of rampant, contradictory, and confusing (*sharia*-derived) *fatwas*.<sup>60</sup> This occurrence raises the question of whether it is appropriate to characterize *sharia* as a law at all. Moreover, there is at least one troublesome consequence of this characterization of *sharia*: militants find it convenient to invoke popular *sharia* to justify acts of terrorism and extract *fatwas* from sympathetic clerics to suit their violent causes. These salient points are explored in the next two sections.

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<sup>58</sup> Ramashray Upadhyay, *Anti-Terrorism Conference Dar-ul-Uloom Deoband—A Failed Exercise?*, S. ASIA ANALYSIS GRP. (Mar. 27, 2008), <http://intellibriefs.blogspot.com/2008/03/anti-terrorism-conference-dar-ul-uloom.html>.

<sup>59</sup> See ANTHONY GIDDENS & CHRISTOPHER PIERSON, CONVERSATIONS WITH ANTHONY GIDDENS: MAKING SENSE OF MODERNITY 94 (1998) (for a discussion on societal modernity). In a sociological context, modernity represents the modern world led by an industrial civilization with a complex web of institutions that are open to transformation by human intervention. A modern society, unlike any preceding one, lives in the future, rather than the past. While the view associated with modernity, despite variations, emphasizes personal (and familial) socioeconomic advancement and advocates pluralism, the narratives of *sharia* tend, in general, to be retrogressive. It is reasonable to presume that the members of the public in Pakistan, because of their exposure to a broader education than clerics, have a better exposure to modernity.

<sup>60</sup> See Muhammad, *supra* note 4; Macfarquhar, *supra* note 3.

*D. Jihadist Clerics' Leveraging of Sharia's Popularity and Esteem*

Of interest is the presence of clerics or religious scholars in high-level government positions, such as the courts, who are vocal advocates of armed *jihad*. The cleric Taqi Usmani—a former judge of the Shariat Appellate Bench of the Pakistani Supreme Court for twenty years—was prominent in passing of a bill in 1974 that declared the more tolerant and inclusive *Ahmadiyya* community a non-Muslim minority.<sup>61</sup> Among the reasons for this designation, he claimed that this community falsely interpreted the concept of *jihad*, since it opposed offensive *jihad*.<sup>62</sup> Through this action, Usmani effectively declared armed *jihad* to be one of the most significant obligations of Islam.<sup>63</sup> Since retiring in 2002, his expertise in *sharia* has helped him obtain and retain membership in the internationally prestigious *Fiqh* Academy of the Organization of Islamic Cooperation,<sup>64</sup> a political umbrella body representing fifty-seven Islamic nations, even as he has continued to espouse offensive armed *jihad* aimed at Muslim territorial expansion on divine considerations.<sup>65</sup>

Because of jihadist clerics' credible invocation of *jihad* doctrine,<sup>66</sup> and their perceived expertise in *sharia*, it is advantageous to have such clerics with *mosque* or *madrassa* affiliations in leadership positions in militant groups. For instance, a prominent jihadist cleric named Abdullah Aziz called on Pakistanis in 2009 to wage armed *jihad* until *sharia* law was fully implemented in the entire nation.<sup>67</sup> Saeed Mohammed, chief

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<sup>61</sup> See Mufti Muhammad Taqi Usmani & Maulana Samiul Haq, *Qadianism on Trial: The Case of the Muslim Ummah Against Qadianis*, available at [http://kitaabun.com/shopping3/product\\_info.php?products\\_id=2147](http://kitaabun.com/shopping3/product_info.php?products_id=2147) (last visited Jan. 29, 2014).

<sup>62</sup> See generally John H. Hanson, *Jihad and the Ahmadiyya Muslim Community: Nonviolent Efforts to Promote Islam in the Contemporary World*, 11 NOVA RELIGIO: J. ALT. & EMERGENT RELIG. 77, 77 (2007).

<sup>63</sup> See generally QADIANISM ON TRIAL 11 (Mohammed Wali Ra'zi trans., 1977).

<sup>64</sup> See H.E. Justice Sheikh Muhammad Taqi Usmani, THE MUSLIM 500, available at <http://themuslim500.com/profile/shaykh-muhammad-taqi-usmani> (last visited Jan. 20, 2014).

<sup>65</sup> See Andrew Norfolk, *Our Followers 'Must Live in Peace Until Strong Enough to Wage Jihad'*, TIMES (London), (Sept. 8, 2007), <http://www.thetimes.co.uk/tto/faith/article2098586.ece>.

<sup>66</sup> See generally C. Christine Fair, *Lashkar-e-Taiyba and the Pakistani State*, 53 SURVIVAL 4 (2011) (Jihadist clerics are known to utilize exegetical tools to promote armed jihad at the expense of inner jihad).

<sup>67</sup> Bill Roggio, *Red Mosque Leader Preaches Jihad After Release*, LONG WAR J.

of the militant group *Lashkar-e-Taiba* (now known as *Jamaat-ud-Dawa*), is known for delivering sermons that call for the implementation of more *sharia* laws and for armed *jihad*.<sup>68</sup>

### *E. Sharia as a Catalyst for Militant Groups*

Militant groups consult clerics or are led by them for several reasons: 1) Clerics support armed *jihad* and *sharia*, 2) their exposure and status in the community permits them to act as bridges to sponsoring entities, and 3) their religious backgrounds are perceived as credible for *sharia*- and *jihad*-based agendas. Indeed, these groups tend to define their activities, in part, by invoking the *jihad* doctrine,<sup>69</sup> and even invoke *sharia* to justify terrorist attacks, such as the bombing of a church in Pakistan,<sup>70</sup> and they have clerics to issue *fatwas* to suit their violent causes.<sup>71</sup> They are also known for recruiting young men who are attracted to the idea of “enforcing [s]haria . . .”<sup>72</sup> Of course, the jihadist clerics also need armed groups of their own to carry out their agendas. Indeed, many leaders or founders of prominent jihadist groups, both state-sponsored and independent, are clerics (e.g., *Lashkar-e-Taiba*’s Saeed Mohammed, *Jaish-e-Muhammad*’s Masood Azar, *Harakat-ul-Mujahideen*’s Fazlur Rahman Khalil, and the *Sunni* sectarian militant outfit *Sipah-e-Sahaba*’s Haq Nawaz Jhangvi).<sup>73</sup>

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(Apr. 17, 2009), [http://www.longwarjournal.org/archives/2009/04/red\\_mosque\\_leader\\_pr.php](http://www.longwarjournal.org/archives/2009/04/red_mosque_leader_pr.php).

<sup>68</sup> Bill Roggio, ‘*We do Jihad, Says Lashkar-e-Taiba Emir Hafiz Saeed*, LONG WAR J. (Apr. 7, 2012), [http://www.longwarjournal.org/archives/2012/04/we\\_do\\_jihad\\_lashkar.php](http://www.longwarjournal.org/archives/2012/04/we_do_jihad_lashkar.php); *Let Founder Backs Radical Clerics’ Demand for Sharia Law*, ZEE NEWS, [http://zeenews.india.com/news/south-asia/let-founder-backs-radical-clerics-demand-for-sharia-law\\_365737.html](http://zeenews.india.com/news/south-asia/let-founder-backs-radical-clerics-demand-for-sharia-law_365737.html) (last updated Apr. 14, 2007).

<sup>69</sup> See Fair et al., *supra* note 17, at 507.

<sup>70</sup> See Sonia Rana, *Peshawar Church Attack was According to Sharia: TTP*, PAKISTAN TRIB., Oct. 5, 2013, <http://www.pakistantribune.com.pk/5810/peshawar-church-attack-according-sharia-ttp.html>.

<sup>71</sup> Muhammad, *supra* note 4.

<sup>72</sup> PTI, *Taliban Using Mosques as Recruitment Centres: Media Reports*, TIMES OF INDIA (Apr. 13, 2009, 1:37 PM), [http://articles.timesofindia.indiatimes.com/2009-04-13/pakistan/28027317\\_1\\_buner-sultanwas-taliban-militants](http://articles.timesofindia.indiatimes.com/2009-04-13/pakistan/28027317_1_buner-sultanwas-taliban-militants) (alteration in original).

<sup>73</sup> See *Terrorist Groups: Jaish-e-Mohammed (JEM)*, NCTC, <http://www.nctc.gov/site/groups/jem.html> (last visited Feb. 3, 2014); *Sipah-e-Sahaba Pakistan*, SATP, <http://www.satp.org/satporgtp/countries/pakistan/terroristoutfits/ssp.htm> (last visited Feb. 3, 2014); *Mapping Militant Organizations: Harkat-ul-Mujahideen*, STAN. UNIV, <http://www.stanford.edu/group/mappingmilitants/cgi-bin/groups/view/219> (last visited Feb. 1, 2014);

The importance of *sharia* to militant groups cannot be overstated, given that it serves as a common cause for both militant activists and the public. In 2009, a militant group called *Tehreek-e-Taliban* threatened to attack Pakistan—and eventually did<sup>74</sup>—unless the region from which it operates was governed under a harsher form of *sharia*.<sup>75</sup> Eighty percent of the public supported this *sharia* demand,<sup>76</sup> presumably because, as a recent poll shows, forty-five percent of Pakistanis believe that their country's laws do not closely enough follow *sharia*,<sup>77</sup> and eighty-eight percent of those who want it as the law of the land support harsh *sharia* laws.<sup>78</sup>

## II. THE INFLUENCE OF SHARIA AND CLERICS ELSEWHERE

The above analysis projects a picture of a Pakistan wherein clerics, by pushing a self-serving narrative of *sharia* for decades, have gradually positioned themselves as a major power bloc. They have thus created the optimal conditions for a subset of jihadist clerics and militant groups to thrive. Outside of Pakistan, the Qatar-based cleric Yusuf Qaradawi, whose rise to international fame and prestige was in part aided by the top-rated television program, *ash-Shariah wal-Hayat* (Sharia and Life), that he hosts, has called for armed *jihad*.<sup>79</sup> The

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Declan Walsh, *Pakistani Militant, Price On Head, Lives In Open*, N.Y. TIMES, Feb. 6, 2013, <http://www.nytimes.com/2013/02/07/world/asia/lashkar-e-taiba-founder-takes-less-militant-tone-in-pakistan.html?pagewanted=all&r=0>.

<sup>74</sup> See Fair et al., *supra* note 17, at 515. The government of Pakistan and most others elsewhere in the Muslim world govern with a mix of secular and *sharia* laws. This is for a good reason; the ruling elite tend to be non-clerical and have a lifestyle dictated by both modernist and religious values.

<sup>75</sup> *Id.* at 515–16. By 2013, the emboldened militant group escalated its attacks within Pakistan as part of waging armed *jihad* for the cause of implementing *sharia* laws in the entire nation. See *Taliban Vows to Wage Jihad to Implement Sharia in Pakistan*, NITI CENTRAL, Apr. 8, 2013, available at <http://www.niticentral.com/2013/04/08/taliban-vows-to-wage-jihad-to-implement-shariah-in-pakistan-63165.html>; Amir J. Bobra, *TTP Negotiators Put Sharia Spoke in Peace Wheel*, NATION (Feb. 6, 2014).

<sup>76</sup> *Id.*; IRI *Index Pakistan Public Opinion Survey 20*, THE INT'L REPUBLICAN INST. (2009), <http://www.iri.org/sites/default/files/2009-News-Release-Files/2009%20May%2011%20Survey%20of%20Pakistan%20Public%20Opinion,%20March%207-30,%202009.pdf>.

<sup>77</sup> THE WORLD'S MUSLIMS: RELIGION, POLITICS AND SOCIETY, *supra* note 5, at 57.

<sup>78</sup> *Id.* at 52.

<sup>79</sup> See Al-Arabiya, *Top Cleric Qaradawi Calls for Jihad Against Hezbollah, Assad in Syria*, AFP (June 2, 2013), <http://english.alarabiya.net/en/News/middle-east/2013/06/02/Top-cleric-Qaradawi-calls-for-Jihad-against-Hezbollah->

transnational group *al-Qaeda's* stated aim is to unify the Muslim world under *sharia*-based governance through a revolution rooted in armed *jihad*.<sup>80</sup> As noted in the introductory section, Saudi Arabia has played a major role in exporting the armed-*jihad* and *sharia* emphasizing, *Wahhabi* version of Islam and thereby in influencing Muslim communities worldwide.

The extension of this study beyond Pakistan logically entails a look at the large Pakistani immigrant population in Britain and the Muslim minorities of India. As we will see in the next section, it is notable that these communities, as the public in Pakistan, have fallen under the influence of clerics educated in South Asia. Hence, a question of immense scholastic and political relevance arises: Is the radicalization of these communities influenced by clerics and *sharia*? If the response to this question is in the affirmative, could the socioeconomic stagnation of these communities, at least in part, be induced by these very influences? It is perhaps relevant to note that the sway of clerics and *sharia* have yet to be considered as contributory factors in a significant strand of published scholarship on the socioeconomic stagnation of Pakistan<sup>81</sup> and the violent radicalization and socioeconomic stagnation of Pakistani immigrants in Britain.<sup>82</sup> Moreover, while a study of the onset of socioeconomic stagnation in Muslim communities is relevant in its own terms, evidence indicates that the conditions leading to underdevelopment also increase the support and recruiting capabilities of militant groups among the poor and other disadvantaged sections of society.<sup>83</sup>

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Assad-in-Syria.html; Thomas Hegghammer & Aaron Y. Zelin, *How Syria's Civil War Became a Holy Crusade*, FOREIGN AFFAIRS (July 7, 2013), <http://www.foreignaffairs.com/articles/139557/thomas-hegghammer-aaron-y-zelin/how-syrias-civil-war-became-a-holy-crusade>.

<sup>80</sup> See Bill Roggio, *AQAP Commander Says 'the Islamic Caliphate is Coming'*, LONG WAR J. (Jan. 20, 2012), [http://www.longwarjournal.org/archives/2012/01/aqap\\_commander\\_says.php](http://www.longwarjournal.org/archives/2012/01/aqap_commander_says.php); David Barnett, *Al Qaeda Official Says Force Needed to Establish Sharia Law in Egypt*, LONG WAR J. (Dec. 10, 2013), [http://www.longwarjournal.org/archives/2013/12/al\\_qaeda\\_official\\_ji.php](http://www.longwarjournal.org/archives/2013/12/al_qaeda_official_ji.php).

<sup>81</sup> Cf. Nadia Naviwala, *Pakistan Needs More than Three Cups of Tea*, SOUTH ASIA CHANNEL (Jan. 7, 2010), [http://afpak.foreignpolicy.com/posts/2011/01/07/pakistan\\_needs\\_more\\_than\\_three\\_cups\\_of\\_tea](http://afpak.foreignpolicy.com/posts/2011/01/07/pakistan_needs_more_than_three_cups_of_tea).

<sup>82</sup> Cf. CHANGE INST., STUDIES INTO VIOLENT RADICALISATION; LOT 2 THE BELIEFS IDEOLOGIES AND NARRATIVES 61 (2008); KEN CLARK & STEPHEN DRINKWATER, ETHNIC MINORITIES IN THE LABOUR MARKET: DYNAMICS AND DIVERSITY (2007), <http://www.jrf.org.uk/sites/files/jrf/1986-ethnic-minorities-employment.pdf>.

<sup>83</sup> See Ajmal Kasab: *The Terrorist Caught Alive During 26/11 Attacks*, NDTV, <http://www.ndtv.com/article/people/ajmal-kasab-the-terrorist-caught->

The fellow *Sunni* Muslim majority nation of Turkey stands out in a stark contrast to Pakistan, both in terms of the extent of its radicalization and socioeconomic development. In this context, an intriguing question arises: Compared to Pakistan, how influential are clerics and *sharia* in Turkey? The brief study outlined below provides the foundation for a more detailed future investigation of this issue in Turkey, the United Kingdom, and India and confirms the consistency and robustness of my primary hypothesis.

A. *The Case of Pakistani Immigrants in Britain*

The United Kingdom has a significant Pakistani immigrant population.<sup>84</sup> A 2007 study commissioned by the BBC News and the BBC Asian Network reveals that fifty percent of British Muslim clerics came from Pakistan (twenty percent from Bangladesh and fifteen percent from India) and that fifty-two percent of *mosque* sermons were delivered in *Urdu*, the national language of that nation.<sup>85</sup> Moreover, television programs from Pakistan, including religious ones, have long been beamed to diaspora audiences. The appearance of British Muslims who are favorable to radicalism is a recent phenomenon.<sup>86</sup> Nonetheless, the following data identifies Saudi Arabia-originated *Wahhabi* influence as one of the channels associated with the radicalization process. An undercover investigation led by a television channel

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alive-during-26-11-attacks-295097 (last updated Nov. 21, 2012). In socioeconomically disadvantaged communities, where young men find limited opportunities for personal growth, the thrill of adventurism can also incentivize some to become jihadists. See Dina Temple-Raston, *Jihadi Cool: Terrorist Recruiters' Latest Weapon*, NPR, Mar. 26, 2010, available at <http://www.npr.org/templates/story/story.php?storyId=125186382>.

<sup>84</sup> Muslims of Pakistani origin constitute about forty-three percent of the total Muslim population in the United Kingdom. See CHANGE INST., *THE PAKISTANI MUSLIM COMMUNITY IN ENGLAND* 30 (2009), <http://www.communities.gov.uk/documents/communities/pdf/1170952.pdf>. While in ideal circumstances it would be more appropriate to have specific data on this subgroup, the limited information available shows similar trends as those of the overall Muslim population (mostly *Sunni*) in the United Kingdom. See EHSAN MASOOD, *BRITISH MUSLIMS* 6 (2006), <http://www.britishcouncil.org/scotland-enews-june-2006-british-muslims-book-mailing.pdf>.

<sup>85</sup> See *Ban Foreign Language Imams-Peer*, BBC NEWS, [http://news.bbc.co.uk/2/hi/uk\\_news/6275574.stm](http://news.bbc.co.uk/2/hi/uk_news/6275574.stm) (last updated July 6, 2007).

<sup>86</sup> See Michael Burleigh & Sarah Rainey, *The 7/7 Widow and a Boom in British Jihad*, *THE DAILY TELEGRAPH* (London) (Mar. 3, 2012), <http://www.telegraph.co.uk/news/worldnews/africaandindianocean/somalia/9118784/The-77-widow-and-a-boom-in-British-jihad.html>.

revealed that a prominent *mosque* in the United Kingdom—which has claimed to be espousing moderation—in closed-door gatherings, promoted a harsher form of *sharia* and advocated intolerance and violence (and *jihad*).<sup>87</sup> Moreover, the investigation was able to link the teachings and materials found at the *mosque* with the Saudi religious (*Wahhabi*) establishment.<sup>88</sup>

Given their background and outlook, it is not hard to see why clerics originating from Pakistan and India (see the next section) are well suited to espouse *Wahhabi*-based ideologies. A survey conducted by the Policy Exchange found that thirty-seven percent, thirteen percent, and thirty-six percent of British Muslims between the ages of sixteen and twenty-four preferred to be governed by *sharia* laws, and admired organizations like the *al-Qaeda* that were prepared to fight the West, and felt that apostates should be killed, respectively.<sup>89</sup> However, only seventeen percent, three percent, and nineteen percent, of those aged fifty-five or more years reported these preferences, respectively.<sup>90</sup> This data is consistent with the findings of the British intelligence agency MI5 that radical ideas are embraced by young mainstream Muslims and that those who become suicide bombers are often highly educated, with sixty-six percent, fifty percent, and ninety percent of the terrorism suspects coming from middle or upper-middle class families, are married, and are described sociable, respectively.<sup>91</sup> In particular, the increased radicalization of younger Muslims appears to correlate with their growing attendance in evening Islamic schools, often held in *mosques*, where they are taught the basics of *sharia*.<sup>92</sup> A 2012 secret report of the British government revealed that about

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<sup>87</sup> See Duncan Gardham, *Channel 4's 'Undercover Mosque' Returns*, THE TELEGRAPH (Aug. 22, 2008, 7:58PM), <http://www.telegraph.co.uk/news/uknews/2604023/Channel-4s-Undercover-Mosque-returns.html>; Jamie Doward, *Revealed: Preachers' Messages of Hate*, THE GUARDIAN (Jan. 6, 2007), <http://www.theguardian.com/media/2007/jan/07/broadcasting.channel4>.

<sup>88</sup> Gardham, *supra* note 87; Doward, *supra* note 87.

<sup>89</sup> See MUNIRA MIRZA ET AL., *LIVING APART TOGETHER: BRITISH MUSLIMS AND THE PARADOX OF MULTICULTURALISM* 5 (2007), <http://www.policyexchange.org.uk/images/publications/living%20apart%20together%20-%20jan%2007.pdf>.

<sup>90</sup> *Id.*

<sup>91</sup> See Abul Taher, *The Middle-class Terrorists: More than 60pc of Suspects are Well-educated and from Comfortable Backgrounds, Says Secret M15 File*, DAILY MAIL, Oct. 16, 2011.

<sup>92</sup> OPEN SOC'Y INST., *BRITISH MUSLIMS AND EDUCATION* 133 (2005), <http://www.quest-learning.org/BritishMuslimsEdHals.pdf> [*hereinafter* BRITISH MUSLIMS AND EDUCATION] (citations omitted).

100,000 Muslim children attend these schools, at which they are taught to hate Jews and Hindus; and at least three *al-Qaeda* incidents have involved students who were enrolled in such schools.<sup>93</sup> Three of the four homegrown jihadists associated with the July 7 London suicide bombings were from ethnic Pakistani Muslim communities,<sup>94</sup> and one in four British Muslims sympathize with the feelings and motives of the perpetrators of the London bombings.<sup>95</sup> In 2008, the then British Prime Minister remarked that seventy-five percent of terror plots in the United Kingdom originated in Pakistan.<sup>96</sup>

The significant support for *sharia* among the younger generation of British Muslims and the spreading of *Wahhabism* in the United Kingdom has two consequences: One, clerics find themselves in an influential role as the primary interpreters of *sharia*, and two, many young Muslims are exposed to the idea of armed *jihād* through their local *mosques*. As a result, local jihadist clerics such as Sheikh Abdullah el-Faisal and foreign-based ones such as Anwar Al-Awlaki (now deceased) were able to reach out and encourage young Britons into waging armed *jihād*.<sup>97</sup> As in Pakistan (see section E), here again, young British Muslims of South Asian origin are motivated to become militants or jihadists due to their desire to institute *sharia*-based governance in Muslim communities; over three-hundred jihadists from Britain<sup>98</sup> are said to be fighting in Syria as part of *al-Qaeda*

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<sup>93</sup> See Duncan Gardham & Tom Whitehead, *Extremism Unchecked in Schools, Secret Briefing Reveals*, THE TELEGRAPH (UK) (Dec. 31, 2012), <http://www.telegraph.co.uk/education/educationnews/9750428/Extremism-unchecked-in-schools-secret-briefing-reveals.html>.

<sup>94</sup> See Amit Roy, *7/7 Report Links Bombers to Pak*, THE TELEGRAPH (India) (May 11, 2006), [http://www.telegraphindia.com/1060512/asp/foreign/story\\_6214208.asp](http://www.telegraphindia.com/1060512/asp/foreign/story_6214208.asp).

<sup>95</sup> See *Yougov Survey: Muslims on Islamic Terrorism*, YOGOV.COM (2005), [http://d25d2506sfb94s.cloudfront.net/today\\_uk\\_import/YG-Archives-pol-dTel-Muslims-050725.pdf](http://d25d2506sfb94s.cloudfront.net/today_uk_import/YG-Archives-pol-dTel-Muslims-050725.pdf).

<sup>96</sup> See Gaby Hinsliff, *Gordon Brown: 75% of UK Terror Plots Originate in Pakistan*, THE GUARDIAN (Dec. 14, 2008), <http://www.theguardian.com/world/2008/dec/14/mumbai-terror-attacks-india>.

<sup>97</sup> See Jamie Doward, *Cleric Who Urged Jihad to be Freed from Prison*, THE GUARDIAN (Aug. 19, 2006), <http://www.theguardian.com/uk/2006/aug/20/terrorism.world>; Richard Watson, *Briton 'Doing his Duty' by Fighting for Group Linked to al-Qaeda in Syria*, BBC NEWS (UK) (Nov. 20, 2013), <http://www.bbc.co.uk/news/uk-25022097>.

<sup>98</sup> See Aaron Y. Zelin, *Up to 11,000 Foreign Fighters in Syria; Steep Rise Among Western Europeans*, THE WASH. INST. FOR NEAR EAST POLY (Dec. 17, 2013), <http://www.washingtoninstitute.org/policy-analysis/view/up-to-11000-foreign-fighters-in-syria-steep-rise-among-western-europeans>. (When adjusted

affiliated Islamist militant groups.<sup>99</sup> Strikingly, consistent with what is discussed in this section, most British jihadists operating in Syria are said to be “in their 20s, university-educated and Muslims of British Pakistani origin.”<sup>100</sup> It is notable that these militant groups seek to establish *sharia* as the governing law in Syria<sup>101</sup> and some of them are armed by *sharia*-promoting Saudi Arabia.<sup>102</sup>

### B. *The Case of Muslim Minorities in India*

I noted in section D that a well-attended Indian clerical conference commanded the local Muslims to live their lives by following *sharia*. This naturally leads to the following question: How effective are clerics in influencing the public into accepting their dictums? Pradeep Chhibber and Jasjeet Sekhon demonstrate that Indian Muslims, at least in recent times, have been more personally influenced by their clerics than the Hindu majority by its religious leaders.<sup>103</sup> This is troubling, especially in light of the fact that prominent Indian clerics have issued *fatwas* that increasingly advocated violent punishments. For instance, a cleric that associated with an influential Islamic center, issued a *fatwa* against homosexuality and live-in relationships by invoking *sharia*.<sup>104</sup> He pronounced the following punishments: “A person

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for population, compared to the United Kingdom, more militants are coming from the likes of Belgium, Denmark, Netherlands, Sweden, Norway, and Austria to fight in Syria. In fact, it is estimated that the Western Europeans constitute about eighteen percent of the “foreign fighter population in Syria.”

<sup>99</sup> See Watson, *supra* note 97; Jenny Cuffe, *Who are the British Jihadists in Syria?*, BBC NEWS (Oct. 15, 2013, 6:01AM), <http://www.bbc.co.uk/news/uk-24520762>.

<sup>100</sup> See Cuffe, *supra* note 99.

<sup>101</sup> See Bill Roggio, *Al Nusrah Front Imposes Sharia in Eastern Syrian Town*, LONG WAR J. (Jan. 30, 2013), [http://www.longwarjournal.org/archives/2013/01/al\\_nusrah\\_front\\_impo.php](http://www.longwarjournal.org/archives/2013/01/al_nusrah_front_impo.php).

<sup>102</sup> See Reese Erlich, *With Official Wink and Nod, Young Saudis Join Syria's Rebels*, NPR (Mar. 13, 2013), <http://www.npr.org/2013/03/13/174156172/with-official-wink-and-nod-young-saudis-join-syrias-rebels> (encouraged by local clerics and tacitly backed by the authorities, young Saudis are moving to Syria to wage armed *jihād*).

<sup>103</sup> See Pradeep Chhibber & Jasjeet S. Sekhon, *The Asymmetric Role of Religious Appeals in India* 6 (Travers Dep't of Pol. Sci. and Dep't of Statistic, and Ctr. for Casual Inference and Program Evaluation, Inst. of Governmental Stud., UC Berkley, Working Paper), [http://sekhon.berkeley.edu/papers/ChhibberSekhon\\_identities.pdf](http://sekhon.berkeley.edu/papers/ChhibberSekhon_identities.pdf) (last visited Jan. 27, 2013).

<sup>104</sup> See Shailvee Sharda, *Bareilly Cleric Issues Fatwa Against Homosexuality, Live-in Relationships*, TIMES OF INDIA (Dec. 20, 2013, 1:15 AM), [http://articles.timesofindia.indiatimes.com/2013-12-20/india/45416848\\_1\\_live-in-](http://articles.timesofindia.indiatimes.com/2013-12-20/india/45416848_1_live-in-)

may be burnt alive, pushed from a high wall or be beaten publically with stones if he indulges into either of the two [behaviors].”<sup>105</sup> While many prominent clerics backed this *fatwa*, notably, *none* of the other Indian clerics opposed it.<sup>106</sup> This may be an indication that the radical powerbase in India has grown strong enough for some clerics to be confident in defying law and for others to support it.

What can one say about the clerical role in advancing armed *jihad* in Hindu-majority India, knowing that even if most of them do support it, they cannot say so prominently? The following analysis explores this angle. The speakers of the aforementioned anti-terrorism conference (attended by thousands of clerics, see section D) blamed the Indian government for discriminating against the Muslim minorities and took a dim view of the United States and Israel’s role in conflicts involving Muslims, but they failed to take to task Muslim-majority Pakistan’s well-known sponsorship of militant groups that have killed scores of Indian citizens with active connivance of the local Muslim recruits.<sup>107</sup> Later that year, at another gathering called Anti-Terrorism and Global Peace Conference, the aforementioned previous conference leadership consisting of clerics issued a *fatwa* against terrorism (specifically, it rejected “all kinds of unjust violence”), while characterizing terrorism as “destructive,” it put a positive spin on *jihad*,<sup>108</sup> by calling it “constructive.”<sup>109</sup> Here again, the clerical leadership failed to identify Pakistan’s role in terrorism conducted in India (which is by far the dominant national security consideration there), but deliberately chose to castigate America—a nation targeted by Muslim radicals and friendly to

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relationships-fatwa-cleric.

<sup>105</sup> *Id.*

<sup>106</sup> *Id.* (emphasis added).

<sup>107</sup> See Upadhyay, *supra* note 58.

<sup>108</sup> See PTI, *Don’t Carry Out Attacks Inside Pakistan as it is Not Jihad*, Hafiz Saeed Says, TIMES OF INDIA, (Jun. 17, 2013), [http://articles.timesofindia.indiatimes.com/2013-06-17/pakistan/40027196\\_1\\_hafiz-saeed-quetta-pakistan](http://articles.timesofindia.indiatimes.com/2013-06-17/pakistan/40027196_1_hafiz-saeed-quetta-pakistan). (It is not that, for religious reasons, Indian clerics are prohibited from issuing a fatwa against armed *jihad*; for instance, the Pakistan-based prominent jihadist cleric and head of *Lashkar-e-Taiba*, Saeed Mohammed, had no qualms in issuing the following fatwa: “Militant activities in Pakistan do not fall in the category of jihad. I appeal to all jihadi organizations not to carry out attacks inside Pakistan as it is not *jihad* (holy war).”).

<sup>109</sup> *Deoband First: A Fatwa Against Terror*, TIMES OF INDIA, (Jun. 1, 2008), [http://articles.timesofindia.indiatimes.com/2008-06-01/india/27765954\\_1\\_islamic-seminary-darul-uloom-deoband-fatwa-jamiat-ulema-e-hind](http://articles.timesofindia.indiatimes.com/2008-06-01/india/27765954_1_islamic-seminary-darul-uloom-deoband-fatwa-jamiat-ulema-e-hind).

India.<sup>110</sup> Therefore, a nuanced view of the *fatwa* and the statements surrounding it suggests that the gathering served two key purposes: it conveyed to the common people that clerics did indeed oppose terrorism, but to Muslim radicals it sent a powerful tacit public endorsement of terrorism (such as aiding Pakistan-sponsored violence directed at India), as long as a terrorist act is couched as a justifiable *jihad*. Certainly, some of the available evidence supports such a premise (e.g., a local cleric was arrested by Indian authorities as a front man for Pakistan based jihadist group, *Lashkar-e-Taiba*;<sup>111</sup> and typically, the Islamic radicals claim to have conducted terrorist acts as part of a just cause of retaliating against Indian government's alleged discrimination of their Muslim brethren (clerics have a role in generating this sense of grievance, see the above) and by invoking *jihad*<sup>112</sup>).

Since the 1970s, Saudi Arabia has also spread *Wahhabi* influence in India.<sup>113</sup> Consistent with the data presented in the preceding pages, there is every reason to believe that, along with clerics, *Wahhabism*, too, has influenced the Muslim minorities. A recent poll in Mumbai, likely to be representative of the Muslim community in the rest of India, revealed that almost ninety percent of the Muslims rejected a secular civil code, preferring *sharia* law instead.<sup>114</sup> In 2007, Kashmir, India's only Muslim-majority state, was brought under the influence of *sharia*.<sup>115</sup> Moreover, there exists at least one recent incident in which some local Muslims have "confessed" to conducting a robbery in order to finance armed *jihad*.<sup>116</sup> Further, radical Indian Muslims are

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<sup>110</sup> See *id.*

<sup>111</sup> Prawesh Lama & Rahul Tripathi, *Police Claim Lashkar 'Plot' to Target Delhi, Arrest Mosque Imam*, FINANCIAL EXPRESS, (Dec. 13, 2013), <http://www.financialexpress.com/news/Police-claim-Lashkar-plot-to-target-Delhi-arrest-mosque-Imam/1207171>.

<sup>112</sup> See Bahukutumbi Raman, *More on the Indian Mujahideen*, OUTLOOK INDIA, (Sep. 12, 2011), <http://www.outlookindia.com/article.aspx?278279>; Praveen Swami, *Indian Mujahideen Doesn't End with Yasin Bhatkal's Arrest*, FIRST POST, (Aug. 30, 2013), <http://www.firstpost.com/india/indian-mujahideen-doesnt-end-with-yasin-bhatkals-arrest-1069161.html>.

<sup>113</sup> See generally Upadhyay, *supra* note 57.

<sup>114</sup> See Aakar Patel, *Where Indian Muslims Have Gone Wrong*, MID-DAY, Sept. 5, 2004.

<sup>115</sup> See Mukhtar Ahmad, *J&K Assembly Passes Shariat Bill*, REDIFF NEWS (Feb. 9, 2007), <http://www.rediff.com/news/2007/feb/09mukhtar.htm>.

<sup>116</sup> *Trio Killed Man for Jihad Fund-Raising*, INDIAN EXPRESS, Dec. 4, 2013, available at <http://www.newindianexpress.com/cities/chennai/Trio-Killed-Man-for-Jihad-Fund-raising/2013/12/04/article1926588.ece>.

said to be undergoing arms training in Pakistan.<sup>117</sup> For instance, dozens of Muslim youths from the South Indian city of Hyderabad were suspected to have gone to Pakistan for that very purpose, with a “wall of community silence” protecting the clerics behind the youths’ indoctrination.<sup>118</sup> Hence, for all of the above reasons, it is hardly surprising that almost all of the prominent terrorist acts conducted in India have been attributed to entities of Muslim origin, whether external (such as Pakistan-originated) or indigenous.<sup>119</sup>

It would appear that the decades-long radicalization process underway in India<sup>120</sup> has created conditions that are ripe for emergence of an indigenous Islamist militant group dedicated to waging armed *jihad* aimed at, among other things, creating separate homelands for Indian Muslims. Indeed, for the first time in India (outside of the disputed Kashmir region), the formation of such a jihadist group was reported.<sup>121</sup> While it is too early to tell fully what its goals are, the fact that it is said to be modeled after *Tehreek-e-Taliban* (a Pakistani group, see section E) suggests that implementing a harsher form of *sharia* in India would likely be one of its key goals.<sup>122</sup> As we have seen, both in Pakistan and the United Kingdom, and now in India, fighting for

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<sup>117</sup> See Swami, *supra* note 112.

<sup>118</sup> Damien McElroy, *Mumbai Attacks: How Indian-Born Islamic Militants are Trained in Pakistan*, TELEGRAPH (Dec. 13, 2008, 10:49 PM), <http://www.telegraph.co.uk/news/worldnews/asia/india/3741868/Mumbai-attacks-How-Indian-born-Islamic-militants-are-trained-in-Pakistan.html>.

<sup>119</sup> See, e.g., Jason Burke, *Pakistan Intelligence Services Aided Mumbai Terror Attacks*, THE GUARDIAN (Oct. 18, 2010, 4:07 PM), <http://www.theguardian.com/world/2010/oct/18/pakistan-isi-mumbai-terror-attacks>; Raman, *supra* note 112.

<sup>120</sup> See generally MOORTHY MUTHUSWAMY, *DEFEATING POLITICAL ISLAM: THE NEW COLD WAR* 81–133 (2009).

<sup>121</sup> See Mubarak Ansari, *New Terror Outfit Takes to Social Media*, PUNE MIRROR (Dec. 14, 2013), <http://www.punemirror.in/printarticle.aspx?page=comments&action=translate&sectid=2&contentid=20131214201312141008013495f6479b4&subsite>. It is notable that this outfit calls the central Indian city of Aurangabad as its home, which in 2006 saw one of the largest arms hauls—enough to equip a small band of Islamic militants—allegedly sent from Pakistan. See Rebecca Samervel, *Abu Jundal ‘Brain’ Behind 2006 Aurangabad Arms Haul Plot*, TIMES OF INDIA (Nov. 4, 2012, 2:13 AM), <http://timesofindia.indiatimes.com/india/Abu-Jundal-brain-behind-2006-Aurangabad-arms-haul-plot/articleshow/17081348.cms>; Stavan Desai, Anuradha Nagaraj & Sagnik Chowdhury, *Cops Follow Aurangabad Arms Trail, Arrest Four and Look for Key Lashkar Man on the Run*, INDIAN EXPRESS, (Jul. 15, 2006), <http://archive.indianexpress.com/news/cops-follow-aurangabad-arms-haul-trail-arrest-four-and-look-for-key-lashkar-man-on-the-run-----/8545/>.

<sup>122</sup> *Id.*

the cause of *sharia* is one sure and clever way of gaining legitimacy and support in communities that hold *sharia* in high regard and view it as a necessary guide in their daily lives.

*C. The Roles of Clerics and Sharia in Socioeconomic Stagnation*

1. Socioeconomic Stagnation of Muslim Communities in Pakistan and India

The following information is suggestive that the influence of clerics and *sharia* existed well over a century ago in South Asia. A study by Timur Kuran and Anantdeep Singh reveals the social impact of *sharia* in late British India, where Muslim residents, under its influence, made the transition to modern economic life more slowly than did Hindus.<sup>123</sup> Moreover, when the British colonizers floated a proposal on setting up a *Sansrit* college in Kolkata in 1823, some influential Hindu leaders urged that it teach science (in English), since they realized that modernizing the country and acquiring greater global influence required knowledge in this field.<sup>124</sup> However, when the British announced a program in 1835 to introduce English schools and modernize education, Muslim clerics opposed the move, claiming that education imparted in English was at variance with the tenets of Islam, including those of *sharia*.<sup>125</sup> One has to wonder if the following developments may be a consequence of such an outlook: In the period 1871–1872, the British administration found that the proportion of Muslims in schools was substantially lower than the Muslim proportion of the population in Punjab, Bengal/Assam, Chennai, and Mumbai.<sup>126</sup> It is hard to even

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<sup>123</sup> See Timur Kuran & Anantdeep Singh, *Economic Modernization in Late British India: Hindu-Muslim Differences* 26–28 (Economic Research Initiatives at Duke Working Papers Series, ERID Working Paper No. 53, July 2010), <http://www.iefpedia.com/english/wp-content/uploads/2011/04/Kuran-et-Singh-Eco-modernization.pdf>.

<sup>124</sup> See Raja Rammohan Roy, Address to Governor-General in Council, William Pitt, Lord Amherst (Dec. 11, 1823), <http://sdstate.edu/projectsouthasia/loader.cfm?csModule=security/getfile&PageID=853836> (last visited Jan. 30, 2014).

<sup>125</sup> See Balbir K Punj, *Islamists Block Social Reform*, SATYAKATHA BLOG, available at [http://creative.sulekha.com/islamists-block-social-reform\\_375143\\_blog](http://creative.sulekha.com/islamists-block-social-reform_375143_blog) (last visited Feb. 18, 2014).

<sup>126</sup> See Rajesh Kochhar, *English Education in India: Hindu Anamnesis versus Muslim Torpor*, 27 *ECON. & POL. WKLY.* 2609, 2610–14 (1992).

remotely consider the Muslims a disadvantaged community at that time, since they had been the ruling class for several centuries before the British gained dominance in the second half of the eighteenth century.

Since the literacy rate of British-ruled India at the time of partition was only about twelve percent,<sup>127</sup> its improvement and the advance of higher education were the primary requirements for national empowerment and prosperity. India's progress resulted directly from its investment in higher educational institutions in the fields of engineering, technology, and management in the 1950s and 1960s.<sup>128</sup> During this period and until the end of the 1990s, however, Pakistan largely neglected the development of modern education<sup>129</sup> and even to this day has failed to ensure that religious practices do not disrupt academics in Pakistan's public universities.<sup>130</sup> Moreover, in a 2003 poll, forty-one percent of respondents surveyed in Pakistan stated that religious education of their young children was their first educational priority (over even elementary education).<sup>131</sup> While these facts do not show that clerics and *sharia* directly caused Pakistan to institute such retrograde policies or for Pakistani parents to develop such an outlook, they do indicate that they were consistent with an environment that was under clerics' and *sharia's* influences. For self-serving reasons, it is in the interest of clerics to promote religious education; the view of *sharia* as an interpretation of Islam and its perception as a necessary divine "guide to life" may be driving the parental desire for a strong religious education.

While many measures of socio-economic stagnation of Pakistan and of the Muslim community in India exist, I want to focus on

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<sup>127</sup> See JAY P. NAIK & SYED NURULLAH, A STUDENTS' HISTORY OF EDUCATION IN INDIA (1800-1973) 376-77 (6th ed. 1974).

<sup>128</sup> See generally PERTH EDUC. CITY, REPORT ON EDUCATION SECTOR IN INDIA 1-7 (2012), [http://www.dsd.wa.gov.au/documents/India\\_Education\\_Report\\_January\\_2012.pdf](http://www.dsd.wa.gov.au/documents/India_Education_Report_January_2012.pdf).

<sup>129</sup> See *Musharraf for Developing Knowledge-based Economy*, DAILY TIMES (Pakistan) (Nov. 19, 2006), <http://archives.dailytimes.com.pk/lahore/19-Nov-2006/musharraf-for-developing-knowledge-based-economy>.

<sup>130</sup> Even in many existing institutions of higher learning, such as Pakistan's public universities, religious practices such as the call to prayer in the middle of an ongoing lecture are seen to dump down academic standards. See generally Gohar Abbas, *Islamization Fears at Top Pakistan University*, JAKARTA GLOBE, (Jan. 14, 2014, 10:48 AM), <http://www.thejakartaglobe.com/international/islamization-fears-at-top-pakistan-university/>

<sup>131</sup> Matthew J. Nelson, *Muslims, Markets, and the Meaning of A "Good" Education in Pakistan*, 46 ASIAN SURV. 699, 701, 710 (2006).

the extent of female literacy, which may partially be affected by the regressive influence of clerics and *sharia*. Clerical *fatwas* that prohibit Muslim girls from receiving modern education<sup>132</sup> may have impacted female literacy in Pakistan. For example, the ratio of girls to boys receiving primary education in Pakistan is just seventy-six percent, while in Hindu-majority India, which shares many of its cultural, ethnic, language underpinnings with Pakistan, it is eighty-nine percent.<sup>133</sup> In India, an influential clerical body issued a *fatwa* that prohibited Muslim girls from riding bicycles,<sup>134</sup> which creates an uneven playing field between boys and girls. There has been a long documented history of clerics resisting government-led efforts to introduce job-oriented modern education in the Indian *madrasas*.<sup>135</sup> The cause-and-effect of this clerical influence is widely recognized<sup>136</sup> and takes in the form of a gross Muslim under-representation in the education sector and in jobs that require modern schooling (this is particularly true of Muslim women).<sup>137</sup>

## 2. Socioeconomic Stagnation of Muslim Pakistani Immigrants in Britain

After the Second World War, the first generations of Muslims from Pakistan and Hindus from India immigrated to the United

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<sup>132</sup> See Marvaiz Khan, *Attack on Girls' Education in Northwest Pakistan*, OHMY NEWS (Apr. 14, 2007, 3:46 PM), [http://english.ohmynews.com/article/view/article\\_view.asp?at\\_code=404262](http://english.ohmynews.com/article/view/article_view.asp?at_code=404262).

<sup>133</sup> DOUGLAS LYND, *THE EDUCATION SYSTEM IN PAKISTAN: ASSESSMENT OF THE NATIONAL EDUCATION CENSUS 24, 27* (2007), <http://unesco.org.pk/education/teachereducation/files/sa4.pdf>.

<sup>134</sup> Sanjay Pandey, *Now, a Fatwa Against Cycling by Muslim Girls*, DECCAN HERALD (Jul. 17, 2010), <http://www.deccanherald.com/content/82002/now-fatwa-against-cycling-muslim.html>.

<sup>135</sup> See generally Firoz B. Ahmed, *Why Are Our Madrasas Dithering on Reform?*, DNA INDIA (Jul. 26, 2010, 1:47 PM), <http://www.dnaindia.com/analysis/main-article-why-are-our-madrasas-dithering-on-reform-1414569>.

<sup>136</sup> *Id.*

<sup>137</sup> See *Social, Economic, and Educational Status of the Muslim Community in India: A Report*, NEW DELHI: PRIME MINISTER'S HIGH-LEVEL COMMITTEE, CABINET SECRETARIAT, (Nov. 2006), [http://www.eaber.org/sites/default/files/documents/NCAER\\_Shariff\\_2006.pdf](http://www.eaber.org/sites/default/files/documents/NCAER_Shariff_2006.pdf). Another measure of socioeconomic stagnation is the Muslim representation in prison. Like the Muslims in United Kingdom (see the next section), Muslims are overrepresented in Indian prisons. See Seema Chishti, *Prison is the Only Place Where Muslims are Over-Represented*, INDIAN EXPRESS (Oct. 29, 2006, 3:37 AM), <http://archive.indian-express.com/news/prison-is-the-only-place-where-muslims-are-overrepresented-15622/>.

Kingdom to find employment in blue-collar industries,<sup>138</sup> and, arguably, they had largely comparable lifestyles. Nearly sixty years later, the income and educational levels of Hindus have moved closer to those of the native-majority whites.<sup>139</sup> However, the Muslims of Pakistani origin not only tend to be poorer and less educated than their Hindu counterparts, they also are among the poorest and least educated segment of the population (this again is particularly true of Muslim women).<sup>140</sup> In addition, British Muslims are three times more likely to be unemployed than the overall population.<sup>141</sup> Although the Muslim population in Britain is about three times the size of the Hindu population, British prisons contain approximately twenty times more Muslims than Hindus (in 2002, 5,379 Muslim men were incarcerated, compared to 256 Hindus<sup>142</sup>). It has been pointed out that the after-school *Mosque* or Islamic schools, which 100,000 Muslim children attend for up to two hours a day, may be compromising their academic performances.<sup>143</sup> In contrast, however, Hindus have complained about the “scant educational resources available about Hindu traditions” in the United Kingdom.<sup>144</sup>

In sum, the radicalization process of Muslim communities in Pakistan, India, and the United Kingdom has a *common* denominator: the influences of *Sunni* Muslim clerics educated in the *madrasas* in South Asia and the Saudi propagation of *Wahhabism*. While the socioeconomic differences between the Muslims of Pakistani origin and Hindus of Indian origin in the United Kingdom have various causes,<sup>145</sup> the data outlined here indicate the need to study this phenomenon in the context of the influence of Muslim clerics and *sharia*.

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<sup>138</sup> Pnina Werbner, *Pakistani Migration and Diaspora Religious Politics In a Global Age*, in *ENCYCLOPEDIA OF DIASPORAS* 475, 478–90 (Melvin Ember et al. eds., 2004).

<sup>139</sup> See generally CLARK & DRINKWATER, *supra* note 82.

<sup>140</sup> *Id.* at ix, 9–10.

<sup>141</sup> MASOOD, *supra* note 84, at 6.

<sup>142</sup> *Id.* at 29.

<sup>143</sup> See BRITISH MUSLIMS AND EDUCATION, *supra* note 92, at 105, 137.

<sup>144</sup> ROMILA SANTOSH & SAVITA VIJ, THE HINDU YOUTH RESEARCH PROJECT 2001 38 (2003), <http://www.ochs.org.uk/sites/ochs.drupalgardens.com/files/hindu-youth-research-project.pdf>.

<sup>145</sup> See generally Werbner, *supra* note 138, at 478–80.

*D. The Turkey Exception*

In this context, how can we explain the fact that the *Sunni*-majority nation of Turkey is often commended for its impressive post-war growth and moderation, while the *Sunni*-majority Pakistan is not? That Arab and Turkic descendants have historically formed the influential sections of the Muslim populace in South Asia may explain *sharia*'s early popularization in Pakistan.<sup>146</sup> When Pakistan was created in 1947 as a land for Muslims, this influential class saw elements of traditional Arab culture in *sharia* and, therefore, worked for its implementation in the new nation.<sup>147</sup> As noted, the nation in the 1970s went through an intense, government-initiated Islamization drive. Furthermore, the Saudi-sponsored Islamization push in Pakistan in the 1980s had a somewhat different character from that in other countries, as, for example, in the funding of jihadist groups.<sup>148</sup> In Turkey, on the other hand, Kemal Ataturk and the secular leaders who followed him took deliberate steps to marginalize *sharia* and banished *madrassas*,<sup>149</sup> although in 1980 the ruling military regime reintroduced Islam on a large-scale to counter the rising tide of, among other things, communism.<sup>150</sup> These are probably among the reasons why Turkey has not been significantly radicalized, despite the push to popularize *sharia*.<sup>151</sup>

One would expect, given this apparent lack of radicalization, a reduced support for *sharia* in the Turkish society. Indeed, just twelve percent of the Turkish public voice support for making

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<sup>146</sup> See generally Ramashray Upadhyay, *The Legacy of Syed Ahmad Bareilvi in India*, INTELLIBRIEFS (Oct. 29, 2010), <http://intellibriefs.blogspot.com/2010/10/legacy-of-syed-ahmad-barelvi-in-india.html>.

<sup>147</sup> See generally *id.*

<sup>148</sup> See generally PAKISTAN, *supra* note 22, at 12.

<sup>149</sup> See Vakur Versan, *The Kemalist Reform of Turkish Law and Its Impact, in ATATURK AND THE MODERNIZATION OF TURKEY* 249 (Jacob M. Landau ed., 1984).

<sup>150</sup> See CEMAL KARAKAS, *TURKEY: ISLAM AND LAICISM BETWEEN THE INTERESTS OF STATE, POLITICS, AND SOCIETY* 18 (2007), <http://www.hsfk.de/downloads/prif78.pdf>.

<sup>151</sup> See generally Robert Tait, *Turkey: Secularism Battles it Out with Sharia*, THE HINDU (Jul. 29, 2008), <http://www.thehindu.com/todays-paper/tp-opinion/turkey-secularism-battles-it-out-with-sharia/article1313464.ece>. Not only secularism, Fethullah Gulen's growing *sufi* Islamic movement that emphasizes modern education has also retarded the growth of *Wahhabism* in Turkey. See generally Barney Zwartz, *A Different Jihad*, THE AGE (Jul. 22, 2009), <http://www.theage.com.au/world/a-different-jihad-20090721-ds12.html>; Bayram Balci, *The Gülen Movement and Turkish Soft Power*, CARNEGIE ENDOWMENT FOR INTERNATIONAL PEACE (Feb. 4, 2014), <http://carnegieendowment.org/2014/02/04/gülen-movement-and-turkish-soft-power/h04s>.

*sharia* the law of the land and just thirty-six percent for increasing the role of clerics in politics, compared to eighty-four percent and fifty-four percent, respectively for Pakistan.<sup>152</sup> Moreover, Turks appear to possess a more nuanced view of *sharia*. For instance, twenty-eight percent view it as man-made law based on the word of God, and thirty-six percent say that it is subject to multiple interpretations; only eight percent and seventeen percent, respectively, of Pakistani's hold such views.<sup>153</sup> Along similar lines, the high female literacy rate (which, as noted, is a measure of socioeconomic development) of ninety percent in Turkey<sup>154</sup> (compared to forty percent in Pakistan<sup>155</sup>) is consistent with the reduced support for *sharia* and clerics there.

### III. CONCLUSION

The challenge we face is that violent extremism invoked in the name of religion appears to be a complex phenomenon. Moreover, religious practice itself varies from place to place. Nonetheless, a salient feature of Islam is that violence conducted in its name is preponderant (compared to other religions) and that it cuts across geographic, ethnic, and linguistic fault-lines. Further, in espousing and conducting violence, many radical Muslims have invoked the following prominent features of Islam: *sharia* and *jihad*. Hence, it is only logical to study the means by which the source(s) that popularize these ideologies attain power and influence. Such a study naturally leads to investigating the influence of clerics, who clearly are one such source.

This study reveals two key findings. First, it demonstrates that *sharia's* popularity constitutes a platform for espousing violence, regardless of how it is interpreted. This has ranged from elevating the prestige and relevance of jihadist clerics and militant groups to providing a powerful cause for militants when the public perceives the laws as being not fully "*sharia-compliant*." This study shows how the clerical influence grew through a self-serving narrative of *sharia* as divine law. The stark contrast between Pakistan and Turkey on the extent of

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<sup>152</sup> See THE WORLD'S MUSLIMS: RELIGION, POLITICS AND SOCIETY, *supra* note 5, at 46, 64.

<sup>153</sup> *Id.* at 42, 44.

<sup>154</sup> See *The World Factbook: Turkey*, CIA, <https://www.cia.gov/library/publications/the-world-factbook/geos/tu.html> (last visited Jan. 23, 2014).

<sup>155</sup> See *The World Factbook: Pakistan*, CIA, <https://www.cia.gov/library/publications/the-world-factbook/geos/pk.html> (last visited Jan. 23, 2014).

home-grown militancy extends to the support for *sharia* laws in the respective nations. This is no coincidence. As evident in the preceding sections, any Islamist militant group that envisions a system of governing based on *sharia* would be better off in a community where *sharia* is popular than in one where it is less so. Moreover, the cause of advancing *sharia*-based governance is shown to be a powerful tool for recruiting militants and to wage armed *jihād*. In the socioeconomically well-developed United Kingdom where significant support for *sharia* exists among its younger Muslim population, we have seen evidence that even many socially well-integrated (at least within the community itself) and well-off young Muslims are being radicalized and that modern education and access to resources can transform some of them into potent jihadists.

Second, the study demonstrates the overall influence of jihadist clerics in Pakistan, including their leadership, ideological guidance, and inspiration of militant groups, the public, and government entities. A direct cause-and-effect relationship exists between their leadership and the violence of groups. While there are a multitude of sources and motivations behind the violence in Pakistan, the results presented here suggest that jihadist clerics constitute *one* medium of violent radicalization, aided in part by *sharia's* popularity. Here again, the stark contrast between Pakistan and Turkey on the extent of home-grown militancy extends to the support for clerical role in politics in the respective nations.

This study thus contends that the contributions of jihadist clerics and *sharia* toward the process of violence cannot be overlooked. These observations have substantive research and policy implications. For instance, this study has shown that opinion polls that broadly focus on the public are likely ill-prepared to identify a subpopulation that may be behind the radicalization phenomenon. As hinted in the introductory section, these conclusions discount Fair et al.'s sweeping assertion that we should not view with alarm the prospect of (*sharia*-promoting) Islamist parties coming to power.<sup>156</sup> Similarly, Nielsen overlooks the possibility that clerics, in part, derive their influence as interpreters of *sharia* and that this aspect needs to be taken into any consideration in mitigating their influence.<sup>157</sup>

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<sup>156</sup> See Fair et al., *supra* note 6, at 713.

<sup>157</sup> Cf. Nielsen, *supra* note 10, at 33.

Chhibber and Sekhon, too, fail to consider the role of *sharia* as a platform for clerical influence in a community, which may have significant ramifications on their findings.<sup>158</sup> The results of the present study are inconsistent with Paul Kapur and Sumit Ganguly's policy prescriptions for addressing violent radicalization in Pakistan and India, since their study largely overlooks the roles of clerics and *sharia* in the radicalization process.<sup>159</sup> From this study—when comparisons of Pakistan-India and Muslim-Hindu communities in the United Kingdom and India are made—one sees that the violent radicalization and socioeconomic stagnation of Muslim communities is partly due to the influence of clerics and *sharia*. However, the work of Kapur and Ganguly explains the growing radicalization and socioeconomic stagnation of the Indian Muslim minority community *only* in terms of the discriminations faced by it in all walks of life.<sup>160</sup> Moreover, even on the issue of discrimination, the authors fail to examine critically how the self-induced “Arabization” process of the members of this community<sup>161</sup> may have alienated them from the majority population.

The latest report published by the British government, while singling out four strategic factors that have enabled violent radicalism to grow and flourish among local Muslim communities,<sup>162</sup> ignores the clerical role (via *sharia*) in the radicalization process and that the cause of advancing *sharia*-based governance itself can lead Muslims to embrace armed *jihad*. Even the latest pronouncement of Prime Minister David Cameron in late 2013, which indicated the official plan “to classify ‘Islamic extremism’ as a distinct ideology” (apart from traditional religious practice),<sup>163</sup> in order to curtail the activities of

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<sup>158</sup> Cf. Chhibber & Sekhon, *supra* note 103, at 34–35.

<sup>159</sup> See Paul S. Kapur & Sumit Ganguly, *The Jihad Paradox: Pakistan and Islamist Militancy in South Asia*, 37 INTER. SECUR. 111, 139–41 (2012).

<sup>160</sup> See *id.* at 141 (the Indian government, too, has mostly bypassed the need to address the self-induced aspects of the socioeconomic stagnation of its Muslim minorities, and instead, is looking to enact special reservation schemes for them in education and jobs. See generally Sanjay Jha, *UPA Works on Quota for Muslims*, TELEGRAPH (India) (Nov. 24, 2011), [http://www.telegraphindia.com/1111124/jsp/frontpage/story\\_14793066.jsp](http://www.telegraphindia.com/1111124/jsp/frontpage/story_14793066.jsp).

<sup>161</sup> See Ghoshal, *supra* note 24.

<sup>162</sup> See THE HOME DEPARTMENT, CONTEST: THE UNITED KINGDOM'S STRATEGY FOR COUNTER TERRORISM 21, cm. 8123 (2011).

<sup>163</sup> Andrew Osborn, *Britain to Tackle 'Islamist Extremism' After Soldier's Murder*, REUTERS (Dec. 3, 2013), <http://www.reuters.com/article/2013/12/04/us-britain-islam-security-idUSBRE9B300720131204>.

radical preachers and the distribution of radical material, failed to delineate the role of *sharia* in a radical platform. In fact, the British government has taken steps to legitimize and enhance *sharia's* and clerics' roles in the community by establishing *sharia* courts to rule on cases ranging from divorce and financial disputes to those involving domestic violence,<sup>164</sup> and according to a 2007 report, since 2002, by almost doubling the number of clerics serving in the United Kingdom by importing them from the likes of Pakistan and India.<sup>165</sup> In the United States, the Treasury Department has shown an active interest in facilitating *sharia*-compliant financial schemes.<sup>166</sup> Successive U.S. leaders, including President Obama in a major speech directed at Arab nations,<sup>167</sup> have focused on enacting political and economic reforms as a strategy toward mitigating radicalism and promoting democracy, while not delineating the ideological influence of clerics and *sharia* and the Saudi propagation of the *Wahhabi* version of Islam. The President failed to indicate that any *sharia*-favoring entity, in the interests of its self-preservation and in order to expand its sphere of influence, must view modernity—represented most predominantly by American military, economic, and cultural influence throughout the world—as a threat and a stumbling block. In the context of the analysis outlined here, one has to question the wisdom of the counterterrorism strategy pursued by the Malaysian government that aims to disengage violent Muslim extremists by assuring them that the government itself is working gradually to implement fully *sharia*.<sup>168</sup> In sum, the inability of scholars—almost without exception—to recognize the role of *sharia* in influencing a thriving violent radicalism has left policymakers ill-informed, and hence, ill-equipped to address the growing Islamist

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<sup>164</sup> See Abul Taher, *Revealed: UK's First Official Sharia Courts*, TIMES (Sept. 14, 2008), <http://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=2&ved=0CDEQFjAB&url=http%3A%2F%2Fwww.ctwilcox.com%2Farticles%2Fukshariacourts.pdf&ei=8vraUt-aHurksASMwIHICA&usg=AFQjCNGE3lHdmr6HinKDPvs3uznh8SaKEg&bvm=bv.59568121,d.cWc>.

<sup>165</sup> See *Ban Foreign Language Imams*, *supra* note 85.

<sup>166</sup> See *U.S. Interest in Shariah Finance Opens Dangerous Doors, Critics Say*, FOX NEWS.COM (Nov. 13, 2008), <http://www.foxnews.com/story/2008/11/13/us-interest-in-shariah-finance-opens-dangerous-doors-critics-say/>.

<sup>167</sup> See *Remarks by the President on the Middle East and North Africa*, FOXNEWS.COM (May 19, 2011), <http://www.whitehouse.gov/the-press-office/2011/05/19/remarks-president-middle-east-and-north-africa>.

<sup>168</sup> See ANGEL RABASA ET AL., DERADICALIZING ISLAMIST EXTREMISTS 105 (2010).

threat.<sup>169</sup>

Conversely, this analysis suggests that strategies that work to reduce the prestige and significance that the Muslim public attaches to *sharia* is one important way of weakening the radical platform and for communities to govern themselves and develop their societies by embracing modernity (the information presented before on Turkey appears to support this premise<sup>170</sup>). The issue of rampant and confusing *fatwas* and the militants' ability to extract *fatwas* to their liking is a topic of concern in some Muslim communities.<sup>171</sup> This development offers an avenue to weaken the radical platform by initiating a discussion that critically revisits the role of *sharia* and clerics in a community.

The role of clerics and *sharia* in effecting socioeconomic stagnation is a new avenue for research, one for which the results presented here could serve as a foundation. Does this analysis suggest that *sharia's* high popularity and wide perception as an all-embracing divine "code of conduct" are among the *necessary* precursors of a large scale violent radicalization of a community? In my view, while the present analysis is consistent with such a premise, a definitive answer awaits further research that focuses on the belief in armed *jihād*; the support for militant groups; the popularity; the educational background; outlook on *sharia* and modern education; and the extent of *sharia*-related activism among clerics, religious scholars, and *madrassa* students, rather than *merely* among the general public.

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<sup>169</sup> Cf. Jason Seher, *Terrorists are Gaining Ground, Intelligence Committee Heads Say*, CNN (Dec. 1, 2013), <http://politicalticker.blogs.cnn.com/2013/12/01/terrorists-are-gaining-ground-intelligence-committee-heads-say/>.

<sup>170</sup> See MUTHUSWAMY, *supra* note 120, at 210. While the most significant economic growth in Turkey occurred during the past ten years under pro-growth Islamist party of AKP, the decades of rule by modernist secularists set the stage for a functional democracy to institute itself by educating the populace, setting up the infrastructure, and deliberately marginalizing regressive religious forces.

<sup>171</sup> See Muhammad, *supra* note 4.