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INTRODUCTION

THE PARTY-STATE ENTERS THE MOSQUE

> *There is a conflict. Communism is a belief. One cannot have two beliefs. Even if we don't think of Communism as a belief and rather as political thought, then it says no one can have a religious belief. The two are mutually exclusive.*
>
> A Muslim cleric in Linxia

THE LETTERS ON THE WALL

The quiet courtyard of the mosque where Nasim[1] is a cleric will soon be filled with the faithful arriving for the noon prayer. As a member of the Yihewani "teaching school," which sees itself as tied to the Hijaz (the western portion of Saudi Arabia containing Mecca and Medina), he prefers his Arabic name over his Chinese one. I sit in Nasim's office in the mosque where he is a cleric (*ahong*[2]) in Linxia (formerly Hezhou), a city in Gansu Province in Northwest China.[3] Hui, the largest of China's Muslim minority groups, call Linxia, a trading city on the historic Silk Road, "China's Little Mecca," as it has served as the center for all the revivalist strains of Islam that have entered China since the seventeenth century.

When Nasim returns from a late morning meeting with the Bureau of Religious Affairs (BRA) to prepare for prayer, he finds three people waiting for him. One is a student loitering in the mosque library. The second person is a plainclothes policeman, sitting and waiting for Nasim while sipping a thermos full of green tea and looking at the posters of the Sacred Mosque in Mecca that hang on the wall of the reception room.

[1] All names of the living are pseudonyms, unless they are of public record.
[2] *Ahong* is the Chinese transliteration for the Persian word *ākhūnd* (the learned).
[3] By Northwest China, I refer to Gansu Province, the Ningxia Hui Autonomous Region ("Ningxia"), Qinghai Province, and the Xinjiang Uyghur Autonomous Region ("Xinjiang").

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Also sitting in the reception room is the third person, who, unexpectedly, is a stranger—a white, non-Muslim American anthropologist, no less.

Nasim goes to the policeman first, and the two enter the cleric's inner chamber, where they talk and then reemerge to the outer reception room. The policeman nods to Nasim and then leaves the mosque courtyard in his unmarked, black Santana. Meanwhile, the student, realizing this is not the time to ask which sura (Qur'anic chapter) is the subject for tomorrow's lesson, returns to his dorm room just across the courtyard, where he lives with eighty other young Chinese Muslim men studying Islam.

Nasim glides into the room where I sit, takes my hand warmly, and sits next to me. He wears the white skullcap commonly worn by Muslim men, called *bai maozi* in standard Chinese and pronounced *bei homo* in the local dialect. Like most of Linxia's clerics, he is not yet forty. The walls of the reception room prominently display the laws and regulations governing areas of religious activity. The national, provincial, and prefectural laws hang from top to bottom, a kind of visual hierarchy of the legislative sources. On an adjacent wall hang passages from the Qur'an, written in elegant black Arabic calligraphy. Nasim sits in a hard-backed armchair, the People's Republic of China (PRC) regulations above his right shoulder and the prescriptions from the revealed sources of Islam to his left—the word of the Party-State and the word of God.

With no small amount of caution, I turn to Nasim sitting next to me. It is the summer of 2009, and the worst interethnic riots in modern Chinese history have just rocked the country. On July 5, 2009, over a thousand Uyghurs (Turkic Muslims) and Han Chinese in Urumqi, the capital of Xinjiang, had cut each other down in the streets, resulting in 197 people, including Han and Uyghur, being killed and approximately 1,700 more injured. In the aftermath of the riots, Uyghurs had fled Xinjiang for nearby provinces, and the security forces had instructed Hui clerics and mosque leaders to expel any Uyghurs for fear that they were terrorists. Several times during the early part of my fieldwork that consisted of visiting mosques, Hui had turned me away after misidentifying me as a Uyghur. The multiple levels of surveillance were so pervasive as to ensnare even me, someone who looks very little like a Uyghur.

Nasim smiles at my nervousness. After introducing myself, I ask him why the policeman came to see him and if there was any danger in my being there. Nasim smiles his small, compact smile: "No, there is no

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danger. He is a member of the Linxia City Public Security Bureau who came to consult me. I will go soon to the police headquarters to give further assistance." He continues, "This happens frequently. They often come to consult me on cases that touch on a matter of religious law [*jiaofa*]. The municipal police, the traffic police, the judicial organs at the city and prefecture level—they all come. In this matter, a Chinese Muslim man has been run over by a Han Chinese taxi driver, just two days earlier. The bereaved family sought 30,000 yuan[4] in compensation, which the taxi driver was unable to pay. The policeman sought my help in resolving the dispute."

When I ask why the need for a cleric, Nasim explains, "Linxia is a Muslim city. It is majority Muslim. As Muslims, we abide by religious law [*jiaofa*] and state law [*guofa*]. Most people, in the event of an accident, will want to resolve the problem by invoking religious law, the rule here being that compensation is owed to the family. When the amount of compensation is at issue, a compromise is made. So, I told the policeman to suggest to the family that they lower the amount to something the Han can afford. Islamic law [Yisilanfa] requires justice, not revenge."

This scene is repeated throughout Linxia: public security officers, officials of ethnic and religious affairs, and other cadres of the Chinese Communist Party (CCP, or "the Party") regularly solicit the aid of clerics who are the leaders of mosque communities. The acquiescence of a non-Muslim Han wrongdoer to the extralegal jurisdiction of a Muslim cleric is likewise frequent in Linxia. Also common: clerics such as Nasim would leave no record of the dispute and thus provide no written basis for an indigenous jurisprudence. Cases like these comprise everyday life in Linxia.

Yet, as the PRC is a socialist legal system, it provides no legal basis for religious law. At periods in the PRC's history, the Party-State has been outright hostile toward any institution or person that would endorse religious authority. In Nasim's office, however, the seemingly inimical letters of two legal orders, Islamic law and state law, are showcased side by side. On the surface, there is no conflict. Nonetheless, the actions of Nasim and the policeman suggest their agreement may not accord with the letter of state law. Personalistic relationships between representatives of Muslim communities and the Party-State fill the gaps between their respective legal orders. Such collaborations, however, are fragile. Visits by police officers could just as well result in the cleric being detained, rather than

[4] At the time of my fieldwork, 6.83 yuan was equal to 1 US dollar.

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consulted, as happened several times during my fieldwork. The line that divided permissible from prohibited behavior seemed to shift; as a result, violence, while not visible in such encounters, was nevertheless latent and unpredictable. Nasim's confidence that there was "no danger" struck me as misplaced, or perhaps it was my own ability to fathom where lines were drawn (and by whom) that was inadequately attuned.[5]

As someone who is trained as a lawyer, in addition to being an anthropologist, I found that the scene in Nasim's office certainly did not conform to my expectations of law. In the United States, Americans learn that police officers are the face of the law. In Linxia, however, not only did state law and therefore the police appear to have limits, the cleric also seemed to have considerable influence, because there was an entirely different type of law that operated in the mosque office. While working for an international law firm in Beijing in the mid-2000s, I came to appreciate the Chinese lawyers who had previously worked in such governmental bureaus as the Ministry of Commerce, upon whom the firm relied to glean information from their former governmental colleagues concerning the implementation and enforcement of a regulation that would impact a deal. I learned in China, to a greater degree than in US legal practice, that it was relationships that gave meaning to law, and while actors operate within asymmetries of power, there are asymmetries within asymmetries. Depending on the context, the application of local rules could result in power relations being inverted even if they are not overturned.

It was my earliest exposure to the practice of law in China that propelled my interest in understanding the operation of law in Chinese society, and what such a study could teach about law more generally. Further, I wanted to study law beyond the glassed-in cubicles and recycled air of a corporate law firm to where Chinese outside the urban cores of the east coast encountered the law in their everyday. This impulse led me to Linxia. Yet in Linxia the nature of the controlling law itself was at question. What was this "law" that Nasim called *jiaofa*? How did Hui practice this form of Islamic law? Under what conditions did the state tolerate it? What could be learned from Linxia to understand Islam? China? And how could someone such as Nasim live with such uncertainty, of not knowing where collaboration ends and conflict begins?

[5] Another possibility is that Nasim and others intentionally misrepresented themselves to me. As I conducted my fieldwork during a period of anti-American sentiment in many Muslim communities across the globe, including Hui regions, the degree to which my interlocutors were forthcoming was a constant concern.

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This book considers how a historically marginalized minority group that has a vision of "the good" that differs from that of the majority pursues that vision under a condition of arbitrary rule, in reform-era China.[6] This problem occurs at the overlap of two critical global trends: the revival of Islam and the ascendance of China. Whereas an expanding literature studies Muslim minorities and their law in Western liberal states,[7] I address this question through the case of Hui in China. In China, state law severs religion from religious law, yet following Islamic law is central to Muslim minorities' ideas of the good life, defined by such values as authenticity, piety, orthodoxy, and purity. This book is a study about how Hui exercise this capacity when the Party-State, backed by its monopoly on force, mobilizes considerable institutional and discursive resources to make Islam conform to Chinese socialism and nationalism.

Much of the public perception of Islam following the attacks of September 11, 2001 has been informed by the "clash of civilizations" thesis,[8] a thesis that has been rigorously criticized.[9] In recent years, the problem has been reframed by the radicalization of Muslims and the conversion of non-Muslims to neofundamentalist strains of Islam in continental Europe, the United Kingdom, and the United States who may or may not have affiliations with overseas groups such as al-Qaʿida and the so-called Islamic State in Iraq and Syria. "Homegrown terror" has led to attacks in a number of countries in North America, Europe, and Asia. The danger, as understood, is no longer "us versus them" but rather "we are becoming them."[10] Instead of national interests and citizens being

[6] The term *reform-era* refers to the "opening and reform" inaugurated by Deng Xiaoping in 1978, which has modernized the state economy and sought to integrate China into the global economic order. This era continues to the present day.

[7] For a partial selection, see Shah (1994), Moore (2002), Mamdani (2002), Abdo (2006), Rohe (2007), Emon (2006, 2007), An-Naʿim (2008a, 2008b), Fadel (2009), Shryock (2010), Christoffersen (2010), Nielsen (2010), Esposito and Kalin (2011), Giunchi (2014), and Grillo (2015).

[8] Samuel Huntington (1993) argued that following the end of the Cold War, warfare would increase along civilizational lines, which he defined as Western, Confucian, Japanese, Islamic, Hindu, Slavic-Orthodox, Latin American, and "possibly" African. Later, Huntington (1996) changed the civilizations to Western, Sinic, Orthodox, Islamic, Hindu, Japanese, and African.

[9] Important criticisms of the "clash" thesis include Mottahedeh (1996), Rashid (1998), and Abrahamian (2003). For an illuminating critique based on evidence from China, see Gladney (1998).

[10] The shift from Islamic radicalism as a purely foreign policy matter to one that is also domestic is reflected in the approach of the US government. A 2008 report by the United States Senate Committee on Homeland Security and Governmental Affairs concludes, "Violent Islamist ideology and the terrorism it inspires pose a substantial threat to America's homeland security. The core tenets of this violent ideology are straightforward, uncompromising, and absolute. The ideology calls for the pursuit and creation of a global Islamist state—a Caliphate—that unites all

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harmed "over there," the fear is that the enemy is the next-door neighbor, a politician, or a sister.[11] Perceptions of Islamic law and its impact in state legal systems are central to such global currents of fear. Public concern stems from some groups' neofundamentalist views of Islamic law, including corporal punishment such as public flogging, stoning, and beheading, and the influence of such practices on domestic legal orders. Anxieties have caused pundits to reduce the complexity and diversity of Islamic law to the law-of-terror that is infiltrating state law, and have deemed Muslims and Islamic law to be incompatible with the law of the modern state.[12]

This book questions whether the relationship between Muslim minorities and the modern state is one of irreducible antagonism because of conflicts between Islamic law and state law. Muslims and the state can work toward a common ground—however precarious—where they *both* pursue their vision of "the good," partly by accessing Islamic law. I use China as an unlikely testing ground for this assertion. China is distinct, because it is a socialist legal system that formally excludes religious law, and yet, for purposes different from those of Muslim minorities in China, the Party-State mobilizes Islamic law for its own ends.

Hui of various "teaching schools" (*jiaopai*), communities of believers, and representatives of the Party-State have created an environment for the flourishing of nonradical forms of Islam. Muslims in Northwest China are unique among Muslims elsewhere in China and in other places in the world in that all Muslims, down to the last child, identify with a teaching school. At the same time almost all Hanafi,[13] the teaching schools that have formed in China, are distinguished by their particular views of doctrine and law. Teaching schools are not physical places of instruction, although they do operate schools in this sense. Rather, they are ideologically driven groups of Muslims who establish mosques or Sufi tomb complexes[14] to cultivate specific understandings of Islam.

Muslims—the *Ummah*—and is governed by Islamic law—*Sharia*" (Lieberman 2008: 2). Following several post-9/11 actual or attempted terrorist attacks in the United States, in February 2015 the Department of Homeland Security convened a "Countering Violent Extremism" summit in three US cities to address the problem of homegrown terrorists, including those who have received training from groups abroad.

[11] On the problem of radicalization of Muslims in Europe and North America and the conversion of non-Muslims to extremist Islam, see Roy (2004), Abbas (2011), and Goerzig and al-Hashimi (2015).

[12] A number of writers, academic and popular, with a variety of agendas, have assumed this position. See, e.g., Lewis (1990), Horowitz (2004), Spencer (2008), McCarthy (2012), and Bostom (2012).

[13] Hanafi is one of the four traditional schools of jurisprudence in Islamic law, named after its founder, Imam Abu Hanifa (699–767 CE).

[14] Sufi tomb complexes (*gongbei*) are sites where a founder or an important member of the Sufi order is buried. The complexes, which may include grand courtyards, prayer halls, dining halls, and

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Thus, the picture from the Northwest is not a binary of "Hui-state relations" but rather a number of relationships between and among teaching schools and the Party-State, who are all jostling to realize their view of the good life.

Led by the orientation of their teaching school, Hui work toward a middle ground through negotiation and collaboration with officials and cadres, translation, vernacularization, localization, and gendering of Islamic law as well as mediation of conflicts between state law and Islamic law. Yet to call the result a "depoliticized" Islam may be going too far. Although Hui and the Party-State's views of the good life may overlap, they are not seamless; as a result, the process by which actors on the ground use Islamic law is riddled with micro-conflicts. Thus, the boundaries that the state constructs between the private realm of belief and the public sphere of secular nationalism are unclear. Ongoing interpretive contests over what Islamic law means and what role it should play in China's reengagement with the global *umma* (Ar. lit. "people, community," meaning "the Muslim community"), among Hui as well as with the Party-State, constantly redefine the parameters of Islam in public life in contemporary China.

The study of Hui contributes to deepening contemporary understandings of Muslim minorities in secular societies. More specifically, it does so through their practice of law. At the outset, I underscore that my use of "law" is deliberately broad. This book extends understandings of law that are based on religious rather than state authority, as I explain in more detail below. My approach thus weighs the subjective along with the objective, the "emic" beside the "etic," and the users' view of the law in addition to familiar conceptions. In the remainder of this introduction, I provide the context of China's Islamic revival, of which Islamic legal practice is a constitutive part. I then provide a framework, broadly anthropological, through which to understand problems, attendant to the study of law, of terms, translation, and analytics that balances Hui views of law with received accounts of law. The China case resonates with concerns in both the study of Islam and of ethics; and I situate the Hui within converging theoretical views. Following this, I assess the political aspects of the question of Hui law via the Party-State's approach to governing ethnic minority regions. Lastly, I discuss my methodology, and I conclude with an overview of the subsequent chapters.

residential quarters for students, are vital not just for ceremonial observances but also for the broader social life of Sufi orders.

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CHINA'S ISLAMIC REVIVAL

Following postcolonialism and the popular revolutions known as the "Arab Spring" in the Middle East, Islamic law is gaining traction in political reform across the region. China's Islamic law revival differs from those in such Muslim-majority contexts as the Middle East, where Muslims have a thick repertoire of public symbols with which to make arguments about ways to achieve a good life in accordance with Islam. Whether by Islamic political parties, public intellectuals, Islamic courts and qadis (judges), or academic and popular media, Muslims in such states can pursue their ethical projects in accordance with Islamic law, because Islam saturates institutional life. Islam is present in formal law as well. Constitutions, for instance, may formally recognize Islamic law as a source of law in general.[15]

What is remarkable about the Hui Islamic revival is that they are reintegrating China into the global *umma* largely without formal political representation, participation in policy formation, or religious associations independent of the state. Before analyzing how Hui do so, I first address the question of Hui themselves. As of 2010, the date of the most recent census, China has more than twenty-three million Muslims, more than Libya, Malaysia, or Russia, a population that falls between the number of Muslims in Syria and that in Saudi Arabia. The Party-State identified ten distinct Muslim ethnic groups as part of its nation-building efforts in the 1950s. In contemporary China, the largest group is Hui, of whom there are over ten million, followed by Uyghurs, of whom there are slightly fewer (see Table 1.1). When English-speaking audiences hear "Muslims in China," they tend to think of Uyghurs. This book is not about Uyghurs. However, as events in the recent history of Xinjiang have cast a pall over non-Uyghur Muslim minorities, some familiarity with the situation of Uyghurs is essential to understand China's Islamic revival and the place of Islamic law in it.

Uyghurs and Hui have had different historical relationships to the Han majority and the Chinese state. Uyghurs are geographically concentrated in Xinjiang, especially in such oasis cities in southern Xinjiang as Kashgar and Shache (Yarkand). They speak their own language, which is a Turkic language, and physically they look more like Central Asians than like Han Chinese. As a result, Uyghurs identify strongly with Turkic-speaking

[15] Regarding constitutional reform from the Middle East before and after the "Arab Spring" to Southeast Asia, where Brunei adopted Islamic law in 2014, shari'a is gaining salience in state legal systems (Lombardi 2006, 2013; Feener and Cammack 2007; Rabb 2008; Hefner 2011; Crouch forthcoming).

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TABLE 1.1 Population size of officially recognized Muslim minority ethnic groups over time. One possible factor in explaining the decrease in Uzbek and Tatar populations is immigration to Kazakhstan and the other newly independent states following the dissolution of the Soviet Union in 1991. As a whole, these statistics most likely under-report the actual number of Muslims in China

Muslim minority	1982 population	2010 population	Percent change
Hui	7,228,398	10,586,087	+46
Uyghur	5,963,491	10,069,346	+69
Kazakh	907,546	1,462,588	+61
Dongxiang	279,523	621,500	+122
Kyrgyz	113,386	186,708	+65
Salar	69,135	130,607	+89
Tajik	26,600	51,069	+92
Bonan	9,017	20,074	+123
Uzbek	12,213	10,569	−13
Tatar	4,122	3,556	−14
Total	14,613,431	23,142,104	+58

Sources: 1982 and 2010 Censuses (Population Census Office 1985: 18–19; 2012: 74).

Muslims of Central Asia. Their practice of Islam is one element of their Central Asian heritage. Uyghurs were not always Muslim, and pre-Islamic faiths continue to influence the Uyghur practice of Islam, particularly among Sufis in southern Xinjiang. Many urban Uyghurs today identify as "Sunnis" (by which they mean "other than Sufis"). In terms of political organization, from the ninth to the thirteenth centuries CE, Uyghur kings ruled over much of the northern Turpan basin, and in the seventeenth century Naqshbandi Sufis consolidated power over the southern Tarim basin until Qing soldiers overthrew them in the mid-eighteenth century. Xinjiang was thus incorporated rather late into the Chinese Empire. The result of these linguistic, racial, religious, and political traits is that Uyghurs have a strong sense of identity, one that is largely defined against that of the Han (and Hui) migrants in Xinjiang.[16]

[16] For readings on Uyghur history, including Islam and contacts with Central Asia, see Rudelson (1997), Millward (1998, 2007), Bellér-Hann *et al.* (2007), and Thum (2014). For literature on Uyghur politics in the socialist period, see Becquelin (2000), Starr (2004), Gladney (2004b), and Bovingdon (2010).

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Unlike Uyghurs, Hui[17] are geographically dispersed throughout China. Hui identify as the descendants of the Persian and Arab merchants, migrants, and envoys who entered China beginning in the Tang Dynasty (618–907 CE).[18] Following a long history of movement throughout present-day China and along the historic Silk Road, both the overland route that connected western China to Central Asia and the maritime version that enabled trade with merchants from origins as diverse as Southeast Asia to the Arabian peninsula, today's Hui are found in almost all major cities in China. However, there are larger concentrations of Hui in Gansu, Ningxia, Qinghai, and eastern Xinjiang. As a result of their dispersion, Hui have had a much longer history of interaction and intermarriage with Han as well as with other ethnic groups, including Mongolians and Tibetans. Consequently, Hui outwardly look like Han; furthermore, they speak Mandarin (although their language is often inflected with Arabic, Persian, and other languages).

Hui are often perceived as the model minority, who are complicit with state power—the "good Muslims" in contrast with the Uyghurs as "bad Muslims." Such analogies suffer from historical amnesia, however, since the relationship between Hui in the Northwest and the historic state has hardly been one of quiescence. There were movements by Hui leaders to establish sultanates in southwestern China during the Qing Dynasty, and Hui originally from Linxia founded their own governments in the 1930s throughout Northwest China, governments that were anti-Communist. Generally, however, Hui today do not wish to establish their own political state. Hui have enjoyed a higher degree of integration into the Chinese state than have Uyghurs. In the Ming Dynasty (1368–1644), for instance, Hui attained positions of prominence in the official bureaucracy, particularly as astronomers.[19]

[17] As with most ethnonyms in China, the designation Hui is partly a product of nation building, although the term predates the founding of the PRC. Hui today may refer to themselves as "Musilin" (Muslim) and thus privilege their religious identity in association with Muslims elsewhere. From the view of the state, Hui are an aberration, because they are the only ethnic group in China defined by religion (Nationality Problem Research Committee [1941] 1980). I retain the use of "Hui" not to reinforce official ethnic categories but to observe that Hui, who also use the term in self-descriptions, consider the name to refer to their particularly Chinese form of Islam.

[18] All dates are Gregorian calendar and Common Era unless otherwise stated.

[19] For background reading on Hui, see Bai (1944), Lipman (1996), Dillon (1999), Gillette (2000), Chang (2001), Israeli (2002c), Benite (2005), and Gladney (2008, 2009).

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