

THE PROPHET AND THE PARTY:  
SHARI'A AND SECTARIANISM IN CHINA'S LITTLE MECCA

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## THE PROPHET AND THE PARTY:

### SHARI'A AND SECTARIANISM IN CHINA'S LITTLE MECCA

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Based on eighteen months of fieldwork in Hezhou (Linxia), Gansu province, from 2009 to 2010 and one month of follow-up research in 2012, this historical legal ethnography argues that Chinese Muslims (Hui) practice a form of shari'a, heavily influenced by Chinese custom and constrained by socialist law, that is, in turn, formative of a mixed legal subjectivity. In the reform era or what I call 'uncanny China,' academic and political discourses label shari'a "Hui customary law," a foil to legal modernity.

I propose an alternative to Hui customary law in Han shari'a, an amalgamation of revealed sources and Han Chinese-influenced customs that is limited by socialist law. Han shari'a illustrates legal creolization, marked by the collapse of categories and the emergence of novel forms. Han shari'a nevertheless demonstrates the familiar division between ritual and transactional aspects of Islamic law. The operation of these areas of law varies in the context of the Northwest. Whereas purity law unites the Hui against the non-Muslim Han, devotional aspects of law vary between the *jiaopai* (teaching schools) and *menhuan* (Sufi organizations). *Jiaopai* are differentiated "instituted fantasies" that link Hui to various Muslim heartlands, partially through orthopraxis. Hence, ritual matters are the basis for *jiaopai*'s imagined diasporas vis-à-vis multiple Islamic authorities.

In the area of social transactions, including family law, marriage, divorce, inheritance, and property, *jiaopai* differences matter less. However, adherence to such areas of law is no less fundamental to being Hui. Han shari'a demonstrates plural patriarchies in both substance and procedure. Local Muslim leaders called *ahong* mediate disputes regarding family law and, in so

doing, mediate the variant sources of Han shari‘a. Procedurally, their patriarchal authority is appropriated by that of the Party-State. Ethnographic data, including interviews, observations of ritual process, legal transactions and disputing, and analysis of textual and archival material shows Han shari‘a to be a field of contest. Drawing from semiotics, practice theory and psychoanalysis, this dissertation shows that the diverse and occasionally contradictory sources of law, authority, and power in Han shari‘a are reflected in Hui subjectivity—a source of ambiguity and sometimes melancholia.

## BIOGRAPHICAL SKETCH

Matthew S. Erie was born in Hartford, Connecticut in 1976. He completed a B.A. with honors at Dartmouth College in 1999, with a double major in English and History and a minor in Anthropology. In 2000, he volunteered in the Philippines, India, Thailand, Burma, and Nepal. In Dharamsala, he worked with Tibetan refugees. He traveled to China to understand the Chinese side of the argument regarding Tibet and ethnic minorities more generally. He began his graduate study at Cornell in 2002 and started the Ph.D. program in anthropology at Cornell in 2004. In that year, he first traveled to China, living there for a year studying Mandarin. From 2005 to 2008, he pursued a J.D. at the University of Pennsylvania Law School, one year of which was spent at Tsinghua University School of Law where he completed an LL.M. in Chinese law. He conducted preliminary field research on minority issues in Northwestern China, traveling extensively through Ningxia, Gansu, Qinghai, and Xinjiang. Funded by Fulbright-Hays and the National Science Foundation, his dissertation research was based in Hezhou (Linxia) from 2009 to 2010. In 2012, he studied intensive classical Arabic in Amman, Jordan. He currently practices law in New York City.

To Teacher Feng who started me on this journey,  
and Yaej for seeing me through it.

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## NOTES ON ORTHOGRAPHY AND ABBREVIATIONS

For all foreign terms, I follow the *American Anthropological Association Style Guide* (2009). For Chinese terms, depending on the use, I either first provide the Chinese term in its romanized (i.e., *pinyin*) form and then the English equivalent in parentheses or vice versa. I have kept Chinese words in their singular even when they are pluralized (e.g., multiple *jiaopai*). If a reference to an historical document or artifact is missing a character in a Chinese word or name, I have replaced the *pinyin* for the missing character with the symbol for an empty box (□).

For Arabic terms, I provide the Romanized form following the convention of the *International Journal of Middle Eastern Studies*, followed by the English meaning in parentheses. Persian and Tibetan are of secondary importance to this study. Persian words follow the treatment of Arabic terms. Tibetan terms are provided using Wylie transliteration, followed by their English equivalent.

As the most important foreign languages for this study are Chinese and Arabic, the appendix includes a trilingual glossary of important terms in which the Chinese, Arabic, and English equivalents are provided. The glossary includes the Chinese, Arabic and, in rare cases, the Persian scripts. As Tibetan and Uyghur terms appear in the text only in a few instances, I provide Romanization only. Abbreviations for foreign languages in the body of the text:

Ch.	Chinese
Ar.	Arabic
Pr.	Persian
Tb.	Tibetan
U.	Uyghur

Lastly, for the local dialect of Hezhou called Bafanghua, for which there is no standardized system of romanization, I have followed the basic guidelines of *pinyin*. More systematic studies of

Bafanghua and problems of transliteration can be found in local gazetteers (La 1993; Linxia shi difang zhi bianzuan weiyuanhui 1995) and Wang Ping's recent study (2012).

I have translated quotations from the Chinese into English and have decided in most cases to not include the *pinyin* transliteration. I have decided to exclude the transliteration as it clutters the text. In the event that a reader wants to see the original quotation, I am able to provide the original.

For citation format, I have followed parenthetical documentation pursuant to the *American Anthropological Association Style Guide*. I have coded material from my field notes (either observations, descriptions, or interviews), as follows: (location date). The locations are the following:

DX	Dongxiang Ethnic Autonomous County, Gansu
HZ	Hezhou (Linxia City), Gansu
LC	Linxia County, Gansu
LZ	Lanzhou, Gansu
TZ	Taozhou (Lintan), Gansu
XH	Xunhua Salar Autonomous County, Qinghai
XN	Xining, Qinghai
YC	Yinchuan, Ningxia Hui Autonomous Prefecture
YJC	Yang jiacun (Yang Family Village), Gansu

## INTRODUCTION

### *The Argument*

This dissertation is an historical ethnography of the practice of shari‘a and the importance of *jiaopai* (lit. “teaching schools” or, simply, “schools”) among Chinese Muslims (Hui) in the city of Hezhou (Linxia), Gansu, one of the historic centers of Islam in China. At first blush, this would seem to be a strange pairing — shari‘a and *jiaopai* — for the *jiaopai* are largely not differentiated by *madhāhib* (jurisprudential schools). Further, even the claim for the survival of shari‘a, which may seem like a basic assumption, is a contentious assertion in China. Hence, not only the relationship between the two objects of analysis but their very existence (or relevance) appears problematic.

The thesis of this dissertation is that Hezhou Hui not only practice a form of shari‘a, but their practice, heavily influenced by Chinese custom and constrained by socialist law, is formative of what I call a mixed legal subjectivity. Influenced by post-structuralist thought, semiotics, and psychoanalysis, my argument is that in the culturally heterogenous context of Hezhou, diverse sources of law and authority, through discourse and practice, provide different subject positions, and that Hui negotiate and transform these plural positions. I call the patchwork practice of shari‘a among Hezhou Hui Han shari‘a. Shari‘a in China has been influenced by centuries of interculturalization with the dominant culture of Han Chinese; consequently, like shari‘a among Muslim minorities elsewhere, local custom figures predominately in its everyday practice. I use the prefix *han* in the older sense of the word as “Chinese,” as in language (*hanyu*) and not as the majority ethnic group (*hanzu*). The precedent for my usage is the Han Kitāb, a syncretic term from the Chinese *han* and the Arabic word for “book” meaning the canonical texts developed by Muslim literati from the 1630s to 1730s that explain Islamic theology, doctrine, and law through the lexicon of Neo-Confucianism. Almost all Hui accept the Han Kitāb (the appellation and the texts) as orthodoxy. Like the Han Kitāb, Han shari‘a exhibits a thorough admixture and blending of Islamic

and Chinese referents. In this vein, *han* refers to the repertoire of cultural forms that shape principles, doctrines, norms, rules, and procedures of shari‘a among Hui. Its sources are not just the Qur‘ān and the *aḥādīth*, the sayings of the Prophet, the revealed sources, but also Chinese customs, namely, unwritten rules on family relations, inheritance, and property, most often summarized as Chinese patriarchy. Additionally, Han shari‘a has been limited by sixty years of socialist rule. In summary, Hui legal culture is comprised of religious law, custom and state law, or, the divine, the local, and the socialist.<sup>1</sup>

Nonetheless, in employing the term *han*, there is ambiguity and uncertainty in signification and representation. The descriptor Chinese and ethnonym *han* exhibit slippage in contemporary usage (i.e., Han Chinese). If there is equivalence between Chinese and *han*, then is it possible to be the former without being the latter? Or, how can Hui be Chinese without being like Han? These questions gain immediate traction (with sometimes violent effects) in conflicts over ritual law among Hui. Shari‘a distinguishes Hui from Han. Adherence to shari‘a maintains the boundary between Muslims and non-Muslims in mixed communities such as Hezhou. Yet is it the very means of boundary maintenance that may also be a vector of *hanhua* (becoming like the Han). The presence (or predominance) of Han customs in Hui legal culture injects self-*uncertainty* in adhering to rules and their sources. Thus, I define mixed legal subjectivity (see Chapter 4) as the construction of different subject positions by diverse and sometimes antagonistic sources, discourses, and practices of law through which individual persons constitute themselves. Such constitution is never complete and entails conflicts as well as their repression or sublimation. Negotiation between

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<sup>1</sup> I do not take these terms for granted. One of the aims of the dissertation is to demonstrate the social constitution of divine rules. That is, pursuant to Steven Sangren’s use of the Marxist notion of the alienating properties of ideology (2000a), while Hui attribute a kind of transcendental efficacy to Qur‘ānic rules, they are nonetheless enscribed and comprehensible within social relations, as defined by the family, mosque community, and *jiaopai*. Similarly, scholars have questioned whether China can still be labeled “socialist” (Huang 2008; Liu 2002; Zhang and Ong 2008). While the state still owns all land in China and most experts put the percentage of the national economy in the industrial and services sectors comprising “state-owned enterprises” to be thirty to 40 percent, I attribute the co-existence of socialist and capitalist forms of property ownership to the uncanniness of China (see below).

different subject positions begets a desire for wholeness. Hezhou Hui view adherence to shari‘a, one imaginary among many, as the path toward God-sanctioned unity.

A defining feature of Han shari‘a is its multiple sources of authority. Holy texts, unwritten rules of local society, and, containing both, socialist law and policy each inform behavior among Northwest Muslims. Hui social organization is predominantly patriarchal, as men occupy most positions of power in households, mosques, Sufi tombs, and schools. Hui fathers and leaders exercise rule not just through patriarchal principles in shari‘a, but also through Chinese culture, which exhibits strong male preferences. Local Hui patriarchy is often reinforced by what I call the patriarchy of the Party-State. Although New China was founded on gender equality, not only does the Party-State select for male representatives at the local level in the Northwest, but in the social category of ethnicity (Ch. *minzu*), the Han majority have adopted a paternalistic approach to rule over ethnic minorities, including Chinese Muslims. Despite constitutional guarantees of legal autonomy for many Hui areas including Linxia, the Party continues to rule either directly or by proxy, allowing for little meaningful autonomy. Specifically, the Party governs through Hui leaders—one patriarchy superimposed upon another. Nevertheless, Hui elite do not always abide by the demands of the Party-State. The result, in Hui leaders and lay alike, is conflicts between injunctions, one consequence of which is enduring melancholia, often experienced unconsciously.

The *jiaopai* play a critical role in organizing the confusion of Hui legal subjectivity. In a social environment in which authenticity and religiosity are constantly contested and doubted, the *jiaopai* each claim orthopraxis, that is, the correct practice of shari‘a. The *jiaopai* exhibit a bewildering diversity in their practice of Han shari‘a, specifically in the area of ritual and doctrine. One goal of this dissertation is to explain why members of *jiaopai* invest tremendous affective and psychic importance into apparently insignificant doctrinal differences. While I argue that *jiaopai* are primary forms of identity among Hezhou Hui and have far-reaching structural implications for

individuals' practice of Islam, individuals should not be reduced to *jiaopai*. As such, a second objective is to assess the relationship between Han shari'a and *jiaopai* in informing modes of personhood or subjectivity in Hezhou Hui. A third goal of this dissertation is to describe the operation of Han shari'a in the area of social transactions where *jiaopai* differences do not take on such significance.

The following questions frame this dissertation: how do Hui in Hezhou, called "China's Little Mecca," abide by their obligations under shari'a while adhering to the law of the socialist state that, by definition, cannot recognize religious law? How do Hui inhabit the contradictions of multiple laws, ethics, and authorities, not of just shari'a and state law but Han-influenced custom, too? What descriptive and analytical devices best explain the practice of shari'a among the Hui—legal pluralism, legal creolization, legal diaspora, or some combination thereof? If the assumption holds that law is one form of power that informs subjectivity, then how do different sources of law constitute mixed legal subjectivity? How do Chinese Muslims sublimate conflicts between rules? Under what conditions do conflicts emerge? And how is authority produced at the local level where there are diverse and often conflicting referents for power?

This historical legal ethnography of Hezhou describes the operation of Han shari'a, its sources, fields, procedures, institutions, and the forms of consciousness it generates in Hezhou Hui. As part of this description, the dissertation addresses the issue of the state's representation of shari'a as "Hui customary law" (*Huizu xiguanfa*) and offers an ethnographically grounded alternative in Han shari'a (Chapter 3). Second, it develops the idea of mixed legal subjectivity through the paramount role of the *jiaopai*, as imagined community, organizing schema and instituted fantasy, in the lives of Hezhou Hui (Chapters 4 and 6). The first and second aims are inter-dependent. Han shari'a resists analytical categories; it is divine and transcendent, yet thoroughly localized and contingent. It is one of a number of localizations of shari'a among Muslim

minorities living in secular states. As with classical shari‘a, Han shari‘a includes such areas of law as purity (Ar. *ṭahāra*), worship and devotion (Ar. *‘ibādāt*) and the law of social relations or interpersonal transactions (Ar. *mu‘āmalāt*). However, the substance, procedure, and production of Han shari‘a as Hui law have undergone thorough adaptation in the context of the Han majority culture and the Chinese nation–state. At the same time, Islamic revivalism through both the introduction of new schools into China and, most recently, the state’s own relaxed policies in the 1980s have animated interest in shari‘a. In regards to the legal subject, Han shari‘a is one of a number of cultural practices whose very production, in turn, reproduces the mixed legal subject. The third aim is thus to explain the mixed legal subject, its causes and effects. To this end, the dissertation describes *han shari‘a* as embedded in and productive of multiple patriarchies. The tension between patriarchs, Islam and the Party-State, embodied in local Hui elite cadres, manifest discord in the making of Hui legal subjects.

At the outset, I draw attention to the difficulty of developing analysis appropriate for both the object Han shari‘a and for how it can inform discussions about Hui nature, beginning with the politics of naming. Emic categories may or may not re-inscribe political discourse in China. In Chapter 3, I address the issue of how Hui themselves view their law. I use the term Han shari‘a to capture the internal contradictions of Hui law: a revealed law that, in most revivalist strains, presumes its own purity, but which is dependent on, if not constituted by, non-Muslim Chinese social organization, namely, the family and patriline. Hezhou Hui often describe shari‘a as a *shenghuo guilü* (regularizing pattern of life) that orchestrates the daily rhythms of prayer as well as the observance of holy festivals. It determines what Hezhou Hui eat and who they marry, what part of the city they inhabit, their source of income and how they use their money, the formation and disunion of families, and the establishment and maintenance of property and the devising of inheritance. Moreover, it regulates all the micro-expressions of ritual and everyday life including the use of incense in prayer, modes of commemorating the dead, whether one breaks fast before

prayer or vice versa, hair length, the reception of hajjis—in short the panoply of practices that evidence one’s commitment to Islam. At the same time, Hui practices evidence strong affinities with a body of customary rules most often attributed to non-Muslim Chinese. Thus, without reference to the prevailing political and academic discourse of *bentuhua* (domestication or indigenization), shari’a as practiced by Hui necessitates the prefix *han* signifying the Chineseness of Hui law.

Unlike the analytical or etic term Han shari’a, I use *jiaopai*, which is an emic term familiar to all Hezhou Hui. Although the category *jiaopai* (like ethnicity, law, or custom) is partly a state construction (see Chapter 2), I nevertheless employ the term to recognize its salience to Hezhou Hui while at the same time historicizing lay usage (see Munasinghe 2001:xii). In the discussion below, I examine the term more closely and particularly the English cognate “sect.”

In this Introduction, I begin by situating the dissertation in a field of overlapping (sub)disciplines that frame the argument. I next describe the chronology of field research and the methods and sources I used. Lastly, I provide an overview of chapters.

### *Parties to Dispute: Theories and Literatures*

This inter-disciplinary dissertation positions the mixed legal subject of Hezhou Hui as interlocutors with a number of literatures deriving from multiple disciplines and sub-fields, including (1) Islam in China, (2) Chinese law, (3) China anthropology, (4) legal anthropology, and (5) the emergent study within Islamic studies of the law of Muslim minorities. The study of the practice of Han shari’a illuminates questions that originate from these fields. In this section, I first situate the dissertation in these bodies of literature and briefly describe the ways in which the dissertation extends inquiries, challenges convention, or otherwise contributes to growing bodies of knowledge.

The first question addresses the place of law in 'Islam in China.' One assumption of this dissertation is that there are many Islams in China, that is, there are a profusion of sometimes radically diverse interpretations and localizations of Islam in Hezhou not to say anything of Islam elsewhere in China. Nonetheless, from the vantage point of scholarship, composed of the works of scholars from a number of fields including anthropology, history, religious studies, and linguistics, on this question, the existence of shari'a in China is doubtful. While a review of the field falls outside the scope of this Introduction and there are several bibliographies that accomplish this task (Aubin 1986; Chang 1960; Israeli and Gorman 1994; Leslie 1986; Leslie, Daye, and Youssef 2006; Loewenthal 1963; Pickens 1950; Pratt 1962), many such overviews omit the topic of law in the study of Islam in China.

Where law is discussed in the literature, scholars do so, broadly speaking, in one of four ways. First, shari'a is mentioned in terms of de-contextualized, broad, and potentially outdated legal theory as in *Dār al-Islām* (house of Islam) versus *Dār al-Ḥarb* (house of war) and *jihad* (struggle) (Israeli 2002a; Israeli 2002b:19–23).<sup>2</sup> Second, contemporary scholars of the Qing era *Han Kitāb*, a collection of works written by Muslim literati that made Islam cognizable in the Confucian lexicon, assess the limited role of ritual law in the historical process of translation (Frankel 2009; Frankel 2011; Murata 2000; Murata, Chittick, and Tu 2009). Third, scholars emphasize the use of imperial courts by Hui to solve their disputes, instead of non-state, community-based or Muslim mechanisms of dispute resolution (Allès 2000:163–181; Lipman 1988; Lipman 1997; Lipman 1999). Or, fourth, in a marked divergence from Western scholarship, Chinese experts, many from the field of "ethnic studies" (*minzuxue*), have described shari'a among Hui as customary law, including family life, property inheritance, marriage relations, death rituals, and food taboos (Jiang 2007; Liu 2000; Yang 2003b). Exceptions to this schema are Dru Gladney's seminal work on the impact of the meta-

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<sup>2</sup> Ironically, the doctrines of *jihad* and *hijra* (to migrate), the Qur'ānic injunction to leave non-Muslim lands, are back in vogue following a renewed interest in the subject of Muslim minorities under secular law (Abou El Fadl 1994; Hallaq 1997; Masud 1990; Wheeler 2000).

symbol of Hui *qingzhen* (lit. pure and true, halal) on diet, hygiene, and spiritual purity (1987b; 1996[1991]), Maris Gillette's ethnography of food taboos and consumption practices among Xi'an Hui (2000:114–143), and Ma Kelin's (2006b) outstanding study of "Hui traditional legal culture," which manages to escape the epistemological straightjacket of *xiguanfa* and has been an important secondary source for this dissertation. The study of the Han shari'a of Hezhou Hui, including both its ritual aspects and the law of social relations, within the context of China's state-led "rule of law" movement, not only fills a gap in the Islam in China literature, but provides an ethnographic account of the practice of Chinese law.

Thus the second question is the analysis of legal modernity (or modernity-as-law) in uncanny China. I substitute "uncanny China" for the convention "reform era China" as I believe the former better approximates the return of the repressed (organized and popular religions, heterodox practices, local deity cults, ancestor worship, "superstitions," and novel forms of the uncanny such as the cultification of Mao Zedong) in mainland China since the late 1970s. Those "feudal" beliefs and practices that were repressed from the 1950s to the 1970s, particularly during the Cultural Revolution (1966–1976), were negated through brute force and violence. In uncanny China, the repressed have returned to be regulated by law. Law has supplanted the originary violence, that, following Walter Benjamin (2000[1921]; see also Derrida 1990) gave birth to the law, as a legitimate force. As enshrined in the 1982 PRC Constitution, China has sought to engineer a modern legal system including courts, a procuratorate, legal education, lawyers, legislation, and legal propaganda and popularization, collectively apotheosized as "rule of law" (Alford 1990; Alford 2003; Cheng and Rosett 1991; Cohen 1966; deLisle 2003; He 1998; Liebman 1999; Lubman 1999; Peerenboom 2002a; Wang 1997a). The regulation of religion, including Islam, takes the form of limited religious freedom (Cooke 2011; Potter 2003). Religious freedom means the choice not to

believe in religion;<sup>3</sup> it entails restrictive registration requirements for places of worship, clerics, and religious property; and even determines what is permissible as “normal” religion. As such, my view of PRC religious law and policy (and “rule of law,” generally) is broadly consonant with E. P. Thompson’s structural Marxist analysis of the eighteenth-century enclosure movement in England (1975). In uncanny China, law has returned in the guise of class ideology against which the Maoists struggled, except the Qing landowners have been replaced by real estate tycoons and the *nouveau riche*. Yet law cannot simply be reduced to class power, as Thompson notes, or law would never sustain itself. Law as ideology is the starting point but not the conclusion of analysis.

To understand the ideology of law, that is state secular law, in uncanny China requires an examination of its double, religious law and the doppelgänger relationship between the two laws. Since the “rule of law” movement beginning in the 1980s and intensifying in the 1990s, the Party-State has firmly identified law with rationality, that is, the operation of legal procedure through fixed rules that are applied to problems through logical analysis. That the Party-State has not subjected itself to the operation of laws does not impinge on the rationality of the system, in the eyes of its engineers. Nonetheless, as this ethnography demonstrates, so-called rationality through state law depends on that which it thoroughly contains, limits, frustrates, represses, and demonizes—religious law. Uncanny China, then, is defined not just as the return of shari‘a in the Northwest (enabled, in part, by the rational action of national development), but as the discomfiture accompanying a teleology of legal modernity that elliptically returns reformist China to its “premodern” roots. In the Northwest, these roots include a system of law based on divine commandment and law-finding grounded in qadi justice. As such, my use of ‘uncanny China’ draws upon not only Sigmund Freud’s definition of the uncanny (2003[1919]), but also Max Weber’s sociology of law.

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<sup>3</sup> A standard provision in religious regulations is the right to believe or not to believe in religion.

I make a distinction between legal modernization and legal modernity. The premises of legal modernization were already staked out by Weber in his encyclopedic *Economy and Society* (1978[1922]:880–882), including *inter alia* the administration of justice on the basis of systematic legislation, characterized by particularism or specialization driven largely by commerce, and applied by a procedure marked by its rationality. In neo-authoritarian East Asian states like China, legal modernization has taken the form of a state-led program of legal system reform where law is viewed instrumentally to increase wealth (Ginsburg and Moustafa 2008; Pei 2006). The metric of legal modernization is indexed by quantifiable factors (GNP, income distribution, family net worth, etc.; see e.g., Peerenboom 2007). Legal modernity (Gellhorn 1987) is an aspirational quality that is central to a nation–state’s sense of itself. To wit, legal modernization is objective, descriptive, and calculable whereas legal modernity is subjective, affective, and transcendent. Legal modernization is a means to the end of economic prosperity; legal modernity is a means unto itself. “Rule of law” straddles both—it is at once a statist scheme and, as Peking University law professor Zhu Suli wrote, a “public belief (*gongzhong de xinyang*)” (Zhu 2000:1),<sup>4</sup> and so sustains power as ideology.

Most analyses of China’s “rule of law” movement focus on the modernization side, through analysis of institutions such as courts and judicial independence (and its corollary Party corruption) as a measure of legal development. The main debate has been over the nature of an illiberal rule of law (Lubman 1999; Peerenboom 2002a). Analyses proceed by textual analysis of PRC legislation, reference to indices of legal and economic development from reports conducted by supranational organizations, and from personal experience in legal practice in China’s metropolises. One of the common assertions of this scholarship is the utilitarian or functionalist approach to law adopted by the Party–State as part of the shift in mandate from Maoist socialism and class consciousness to Deng Xiaoping’s state-led capitalism and economic modernization (Lo 1995; Shen 2000; Zweig, Hartford, Feinerman, and Jianxu 1987). Generally speaking, in order to track the

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<sup>4</sup> See also Wang 2006; Zhang 2006.

regime's legal functionalism, analyses adopt the perspective of the Party-State, and evaluate law's role in creating an environment of predictability for contract formation, property rights, and foreign direct investment. This reflexive reaffirmation of lawyers' preeminent role as institutional engineers is, partly, an effect of the ascendancy of institutional economics and law and economics in the academy (American and Chinese) with vast implications for China's "law and development."

In past years, the study of Chinese law has shifted the perspective to that of law and society. The question is not whether China has rule of law, but what law means to those who make claims based on law. The focus is less on state organs and institutions and more on *legal consciousness*, meaning the ways in which ordinary citizens think about and use (or decide not to use) the law. New questions have been driven by distinct methodologies. Using social science methods, Western and Western-educated Chinese scholars have inverted state-centric paradigms to consider the operation of law from the demand-side (Diamant, Lubman, and O'Brien 2005; Erie 2007; Erie 2009; Gallagher 2006; Liu 2006; Michelson 2006; O'Brien and Li 2006; Rooij 2006; Svensson 2006; Xin 2005; Y.K.Woo and Gallagher 2011). As part of the social-scientific approach, there has been a turn to social constructivist theories to comprehend the relationship between *law* and *power* (Biddulph 2007; Erie 2012; Greenhalgh and Winckler 2005; Sapio 2010). These studies suggest that aspects of daily life are themselves constructs of state programs and that law plays a role in designing the social life of the citizen, as legal subject, as well as the organs of the state as law-giver. These studies provide accounts of the everyday in China's imagined legal modernity.

Transitioning from the second set of questions to the third, China anthropology has been less engaged than other social sciences, such as political science (e.g., O'Brien 2008; O'Brien and Li 2005; Perry and Selden 2001) or history (e.g., Allee 1994; Ocko 2004; Ocko 1991; Ocko 2000; Wakefield 1998; Zelin 2004), in making law an explicit object of ethnographic inquiry. The traditional strength of China anthropology, on the other hand, has been in popular religion and the

many ways in which religion may intersect with politics at local, regional, and national levels (Duara 1988; Feuchtwang 2001; Feuchtwang 2003; Gates and Weller 1987; Harrell 1987; Sangren 2000a).

Closely related, China anthropology has developed a number of studies on the nature of Chinese civil society and its relationship to such “traditional” modes of non-state government as lineage, clan, corporate groups, deity cults, and other forms of associational life (Sangren 1984; Sangren 1987a; Weller 1999). Anthropological studies have demonstrated the ways in which religious rites have effects in multiple registers, namely, through reproducing “local” and/or “official” rule (Ahern 1981; Feuchtwang 1992; Jing 1996; Sangren 1987b). Not surprisingly, where anthropologists have examined law, it is out of primary interests in the study of family, lineage, or domestic group. See, for example, Maurice Freedman’s path-breaking research on lineage in Southeast China (1958; 1966) or Myron Cohen’s studies in Taiwan (1970) and North China (2005).<sup>5</sup> Paul Katz (2009) has written of Chinese legal culture in Taiwan through a notion of the “judicial continuum,” illustrating the ways in which common values such as retribution animate both “judicial rituals” (e.g., oaths, chicken-beheadings, and underworld indictments) and more formalized venues of justice such as mediation and courts. Still, the ethnographic study of legal practice in mainland China has proven elusive primarily due to numerous obstacles to conducting long-term field research on law, particularly in areas outside major cities.

One area in which China anthropology has made significant contributions to the larger discipline, in addition to the study of popular religion, is in the examination of ethnic minorities, religious policy, and the state. Anthropologists have produced ethnographies that examine the articulation of *minzu* (“nationality” or “ethnicity”) through the dialogic relationship between

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<sup>5</sup> There are exceptions on both accounts. One of Freedman’s earliest publications is a little-read work on the relationship between British law and Chinese custom in Singapore in the context of marriage law (1950), and Cohen has argued for a Chinese notion of written contract in the context of a nineteenth-century Taiwanese village (2004).

minority and state, as in the case of the Miao (Diamond 1995), Mongols (Bulag 2002; Bulag 2004), Yi (Harrell 2001b; Mueggler 2001), Yao (Litzinger 2000), Wa (Fiskesjö 2009), Uyghur (Dautcher 2009; Rudelson 1997), and Hui (Allès 2000; Gillette 2000; Gladney 1996[1991]; Gladney 2004). Scholars view the construction and maintenance of *minzu* as a vital aspect of China's "civilizing project" (Hansen 1999; Harrell 1995) or "internal orientalism" (Schein 1997), the somewhat paradoxical containment, predicated on ethnic difference, of traditions, practices, or identities that are potentially anti-state or counter to the master narrative, for the purposes of, one, cohering China's vastly diverse and disparate population to the "the big Chinese family" (*zhonghua da jiating*), and, two, ordering non-Han groups, along majority/minority lines, within the nation-state. My approach differs from studies on *minzu* in that I foreground law as the object of my ethnographic inquiry and not any one *minzu*. Of course, law cannot be understood out of context—its institutional arrangements, the social relationships within which it is embedded, its "users" and so on—but I view law not only as an instrument that constructs order, but also as a means for the production of selves. That is, while Islam cannot be reduced to law or doctrine (Eickelman and Piscatori 1990:8), I foreground the law's contextualization in Hezhou and the multiple and competing interpretations to which the *jiaopai* system gives rise.

For example, *minzu* itself is a legal construct, an identity, created by law that confers rights and duties. Rights in the form of "preferential policies," mainly in the fields of education, employment, and family planning, vary according to *minzu* (Hansen 1999; Postiglione 1999; Sautman 1998; Sautman 1999; Zhou and Hill 2009). In addition to *minzu*, another legal construct that affects minorities including the Hui is "legal autonomy" or "self-rule" (*zizhi*). A concept borrowed from the Soviets, legal autonomy has become the cornerstone of the Party's policy on ethnic minorities and Islam (Cooke 2008). Legal autonomy theoretically confers discretion to the governments of minority regions to modify national legislation in light of local conditions (Dreyer 1976; Kaup 2000; Mackerras 1994). However, in practice, the CCP has curtailed the capacity of

autonomous governments to enact legislation in accordance with religious law, for instance, shari‘a. The study of Hezhou Hui, who reside in Linxia Hui Autonomous Prefecture, illustrates the relationship between legal autonomy and shari‘a or, as it is countenanced under PRC law, “Hui customary law.” I argue that state law’s treatment of shari‘a undergoes a process akin to what Elizabeth Povinelli calls the “cunning of recognition” (2002) by which PRC law and policy grants Hui customary law in a kind of acceptance of difference but one which nevertheless both determines which customs are acceptable to socialist legality (*shehui zhuyi fazhi*)<sup>6</sup> and also hierarchizes custom beneath state law (Chapter 3).

This dissertation brings the insights of legal anthropology to bear on the problem of Hui law in Northwest China.<sup>7</sup> Thus, the fourth body of literature upon which the dissertation builds is the anthropology of law, and specifically, the analytical tool of legal pluralism. Legal pluralism posits that rules, principles, norms, and procedures of various legal orders exist in the same social field (Benda-Beckmann and Benda-Beckmann 2006; Chiba 1989; Geertz 1983; Greenhouse, Yngvesson, and Engel 1994; Griffiths 1986; Hooker 1975; Merry 1988; Moore 2001; Nader 2002; Pospisil 1978; Santos 1987; Starr and Collier 1989). I follow Franz von Benda-Beckmann in thinking of legal pluralism as a descriptive analytical tool rather than an explanatory theory (2002:40). However, legal pluralism requires qualification in the study of Hui law as both “legal” and “plural.” As for the question of ‘what is law,’ debates about legal pluralism spring from the dog-eating-its-tail question of whether law is a product of the state. In a sustained critique, Brian Tamanaha has argued that legal pluralism is based on a conceptual weakness: proponents want to include the “non-legal” in the legal, that is, non-state forms of normative ordering as “law” (1993; 2000; 2008). Legal

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<sup>6</sup> “Socialist legality” remains one of the commonly used yet infrequently defined coded words of uncanny China. A handbook for rural cadres in Gansu provides the following tautological definition: “the rational concept of socialist legality is the leadership of the Party, the [means for] the people to be master of their own affairs, and the unity of the thought ‘rule the country according to law’” (Han 2010:169). The antecedent of “socialist legality” is the 1936 Soviet Union Constitution that served as template for the first PRC Constitution promulgated on 20 September, 1954 (Chen 1973:59-60).

<sup>7</sup> By Northwest China, I refer to Ningxia Hui Autonomous Region, Gansu province, Qinghai province, and Xinjiang Uyghur Autonomous Region.

pluralists seek to delink law from the state, but, the critique goes, to do so would allow *any* form of social sanction under the category of “law.” Consequently, law loses its analytical purchase. Recognizing these limitations, scholars have proposed alternatives such as “normative pluralism” (Bowen 2005; Woodman 1999) and “authoritative pluralism” (Zhao 2003). These alternatives may in fact have greater proximity to the empirics. My use of *legal* pluralism is intended to confront the state’s monistic definition of law. By “law,” I mean the opposite of law in Austin’s or Hobbes’s narrow sense of positivist law, that is, law consists of the demands of the sovereign. Rather, I draw upon a tradition in legal anthropology that sees law as existing in a nexus of signs that include authority, legitimacy, orthodoxy, and sovereignty and even morality and ethics (Beidelman 1961; Bohannan 1957; Gluckman 1955; Llewellyn and Hoebel 1941; Radcliffe-Brown 1950). Law cannot be reduced or equated to any one of these, but is bound up in their production and signification through day-to-day practice (Comaroff and Roberts 1981; Conley and O’Barr 1990; Merry 1990; Moore 1978; Nader 2002). In defining law broadly, I note that in the case of China, both Western and Chinese scholars have traditionally denigrated the status of law in society in favor of Confucian ethics (Ch’u 1965; Dull 2000; MacCormack 1996). While a long-standing observation of Chinese legal studies is that Chinese distrust the law, recent scholarship has argued that academics have overlooked the role of law in imperial and contemporary China (Alford 1984; Alford 2000; Allee 1994; Cohen 1966; Cohen 2005; Ruskola 2002). Thus, I do not wish to equate law with ethics, as is fashionable in Islamic legal studies (see Conclusion) but rather, reassess the survival and resurgence of law in producing ethical behavior (Cheng and Rosett 1991; Peerenboom 2002b).

Tamanaha’s critique is partially based on his argument that what legal pluralists call the ideology of legal centralism is, in reality, a “non-existent enemy” (1993:197). In the case of the PRC,

however, legal centralism is very much alive in the principle of the unitary political system.<sup>8</sup> Legal autonomy in ethnic minority areas including those of the Hui is not a carve-out to this rule, but rather sustains it. The unitary principle that determines the order between the central and regional or local governments is repeated in the concept of the Chinese nation as “historically legitimated territory plus the whole population on this territory” (Heberer 1989:22), especially Xinjiang, Tibet, and Taiwan. The unity of Islam under (as opposed to against) the Party-State is a further instance of the ideology of legal centralism.<sup>9</sup> One premise of my argument is that legal centralism and its iterations, the unitary principle, the indivisible nation-state, and the oneness of Islam are all predicated on a notion of the unitary subject, under PRC law and policy. As I argue in subsequent chapters, the misrecognition of the mixed legal subject evidences what Jacques Lacan called the “illusion of autonomy” (2006c:80) crystallized in the Party-State’s solution to the “nationality problem” through the institutionalization of “autonomy” (*zizhi*),<sup>10</sup> and increasingly maintained by privileging the rational actor model of legal behavior.

One effect of Chinese legal centralism is the labeling of all alternative legal orders as “custom,” “customary law,” or “social customs and habits” (*fengsu xiguan*). The great legal traditions of the Mongolians, Tibetans, Chinese Muslims, and Turkic Muslims, to name a few, are labeled by the state and Chinese scholarship as sub-law custom. In this capacity, ethnic minority customs play the other to modern law. Marx meets Maine in the notion of legal modernity,<sup>11</sup>

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<sup>8</sup> The Preamble of the Common Program of the Chinese People’s Political Consultative Conference, adopted 29 September 1949, states that “all local people’s governments throughout the country shall obey the Central People’s Government.”

<sup>9</sup> See chapter 4.

<sup>10</sup> Since the early 2000s and particularly after the 2008 Tibet riot and the 2009 Xinjiang riot, some Chinese academics have called for widespread reform of preferential policies for ethnic minorities and regional or legal autonomy. The Peking University Hui sociologist Ma Rong has led many of these efforts. He argues that autonomy is based on an outdated Soviet concept that divides ethnic groups and frustrates membership in a common nation (Ma 2004c:126; Ma 2010c).

<sup>11</sup> Sir Henry Sumner Maine, one of the founders of legal sociology, famously posited that societies develop “from status to contract” (1920[1861]). His teleology is parallel to those of other early sociologists, such as Émile Durkheim’s schema from mechanical solidarity to organic solidarity (1933) and Ferdinand Tönnies’ transition from *Gemeinschaft* to *Gesellschaft* (1887).

premised on a divorce from the legal past (i.e., status, custom, feudal law, and personalistic ties) and seeks an affiliation with an imagined global community. The power/knowledge nexus in the state production of (Han) law versus (ethnic minority) customs or what Jacques Derrida would call the “archive fever” of *minzuxue* (“ethnic studies”) as supplement (1997[1974]:141–164) to *minzu* as legal construct has been a foundation of ethnic policy in the PRC. Lately, a small number of Chinese legal anthropologists have used the notion of legal pluralism to produce ethnographic alternatives to state representation of non-state legal orders in China through case studies (Wang 2009a; Zhang and Wang 2003; Zhang 2001) and monographs that theorize legal pluralism in historical and contemporary China (Liang 1999; Wang 1997b; Wang 2009b; Wang 2010; Wu 2010b; Zhao 2003; Zhu 2000; Zhu 2003b).<sup>12</sup> The volume *Falü yu renleixue: Zhongguo duben (Law and Anthropology: A China Reader)*, a collection that features the works of young legal anthropologists, both builds on the writings of Sally Falk Moore, Clifford Geertz, and Sally Engle Merry, who have contributed to the understanding of legal pluralism in the U.S., and also adapts legal pluralism to the Chinese context (Hou 2008). The dissertation is part of this nascent field of the legal anthropology of China’s multiple legal orders.

Yet the critique of legal centrism does not explain why multiple legal orders (assuming they can be called law) are *plural*. Plurality suggests discreet entities operating together, sometimes in accord and at other times with ambivalence, yet maintaining their separateness. One of the predominant features of Han shari‘a, however, demonstrates not the distinctiveness of plural forms but rather the intermixture or invention of new ones (see Chapter 4). In the late 1970s and 1980s, anthropologists working in the Caribbean borrowed from creolization in linguistic analysis, itself a reaction to structural linguistics, to rethink culture in so-called “plural” (i.e., polyethnic) societies as comprising “transformational relationships” (Drummond 1980:355) and “new forms” (Mintz and

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<sup>12</sup> Given the difficulties of conducting research on non-state sources of law in China, Western scholars have largely been unable to conduct longterm fieldwork, with the notable exception of Fernanda Pirie, who focuses on Tibetan law (2005; 2006).

Price 1976:44). In other words, rather than view multi-ethnic societies as composed of distinct groups lumped together and that retain their specific set of defining traits, through the dynamic processes of population shifts, inter-marriage, proselytization and localization among others, such societies are characterized by cultural mixture and blending.

While the Carribeanists analogized from language to ethnicity, I use creole as a metaphor for law. The local dialect of Hezhou Hui, called Bafanghua, a dizzying amalgam of Chinese, Arabic, Farsi, Urdu, Mongolian, Tibetan, Salarhua and Dongxiangyu provides a metaphor for Han shari'a. Legal creolization, as the analysis of the intersystem or interculturalization (as opposed to one-way acculturation) of multiple laws, may help deconstruct the distinctiveness of units that has remained within the analytical concept of legal pluralism since, for example, Leopold Pospisil wrote of "legal levels" (1971). Nonetheless, legal creolization only partly explains Han shari'a as Hui disputants recognize different (and distinct) sources of law, for instance, a wife cites Qur'anic rights while her husband invokes Chinese custom (if not in name). Thus, Han shari'a is both plural and creole. In addition to pluralism and creolization, the ethnographic data suggest another metaphor in diaspora. I find the slow diaspora of the Hadrami from Yemen to Southeast Asia helpful in explaining what I call "legal diaspora." As Engseng Ho has shown, the Hadrami diaspora, which occurred over a period of five hundred years, maintains affective ties to an imagined homeland through collective memory (2006). While Ho views diaspora through the window of genealogical texts, Michael Gilsenan explores the role of "Muslim law in translation" (2012:184) in the transmission of wealth via trust documents, wills, inheritance suits, and settlements as utilized by Hadramis not only to secure property rights but to cultivate (or contest) legitimacy, kinship, and intra-diasporic connections (2009; 2011).

The Hui can be seen as another kind of old diaspora (Benite 2005:16, 18, 206–207). Unlike Hadramis in Singapore, Hezhou Hui have never had protracted legal disputes involving documents

and legal advisors shuttling between their current residence and Central Asia and the Middle East, locales in which they *think* their ancestors originated. In the China case, there are no legal texts and no heads of lineages in the Middle East who anchor kinship claims to property succession. There is no “textual community” to use Gilsenan’s phrase (2012:186).<sup>13</sup> The connections are threadbare, gossamer, *imagined*. Hezhou Hui have varying imagined ties to the Muslim ‘heartland,’ and practice of Han shari‘a sustains such links.<sup>14</sup> While Han shari‘a as legal diaspora provides some insight into the psychic investment in doctrinal differences between *jiaopai*, Hezhou Hui are as much rooted in locality as they are toward an imagined Islamic “over there.” My analysis moves between Han shari‘a as pluralism, creolization, and diaspora.

The fifth and final field in which I situate the dissertation is the emergent study of the law of Muslim minorities in Islamic Studies. It may be in Islam where legal pluralism finds its most common expression (Dahlgren 2010; Dupret, Berger, and Al-Zwaini 1999; Geertz 1983; Messick 1998; Peletz 2002; Rosen 2000). Scholars have named the co-existence of customary law, Islamic law, and state law “Islamic legal pluralism” (Kuran 2004; Sait and Lim 2006:44) and “Muslim legal pluralism” (Yilmaz 2005:4). The reason for the prevalence of legal pluralism among Muslim populations is that, within the global population of Muslims, only a relatively small number live under Islamic law alone.<sup>15</sup> This condition was caused by the historical intervention of colonialism in

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<sup>13</sup> Legal texts, including property deeds, were smuggled out of the mainland before 1949. In one case, the daughter Ma Rongying (b. 1935) and sole heir of Ma Shaoyuan (d. 1949), the grandson of Ma Feng (1878—1911), younger brother to Ma Lin, one of the great “Ma family warlords” of Hezhou, brought with her when she left China in 1949 for Saudi Arabia several legal documents. One of these was a deed (dated 1935) of the estate of Ma Feng which Ma Lin had drafted on his brother’s behalf. A relative living in Hezhou traveled to Jidda in 1989 while on the hajj and obtained copies of the deed and other legal texts from Ma Rongying. However, these have not become the basis of legal suits in Hezhou or elsewhere in China as PRC courts would not recognize them.

<sup>14</sup> The historian Leor Halevi has recently discovered correspondence, dating to 1930, between the Yunnanese Muslim Ma Ruitu (Ar. ‘Uthmān ibn Husayn al-Sīnī) and the Egyptian journal *Al-Manār*. Ma Ruitu, writing in Arabic, asked if China is within Dār al-Islām. The journal’s editor Muhammad Rashīd Ridā responded in the form of fatwas, that China is part of Dār al-Ḥarb, but that such a classification may be economically advantageous to Chinese Muslims (Halevi 2013).

<sup>15</sup> Only Saudi Arabia (1.6 percent of the world’s Muslim population) retains elements of classical Islamic law, while Iran (4.6 percent) has instituted a parliamentary system. Sudan (1.9 percent), Pakistan (11percent),

Muslim territories that has brought about legal pluralism under two situations. The first is in Muslim majority regions where European law was introduced in the seventeenth and eighteenth centuries and the second, following decolonization in the mid-twentieth century, when Muslims began migrating in large numbers to the metropole. The first entailed the imposition of Western law through force and bureaucracy and the second the emergence of Islamic law via the legal diaspora, that is the arrival of shari‘a to the West in the scripture, sacred texts, family histories, and faith of Muslim migrants. The result of this historical process is that most Muslims live under either hybrid systems of secular law and shari‘a (An-Na'im 2000; Bobrovnikov 2001; Brusina 2008; Layish 2006; Na'im 2002) or in plural societies where some observance of shari‘a is permitted by constitutional guarantees (Bowen 2010; Emon 2006; Fournier 2010; King 1995; Macfarlane 2012; Maurer 2006; Modood 2005; Na'im 2008; Ramadan 1999; Yilmaz 2002). The status of Muslim minorities living under legal pluralism has elicited adaptive responses not only from state legislatures, but also from within Islamic law itself, namely, the so-called “jurisprudence of minorities” (*fiqh al-aqalliyāt*) (March 2009).<sup>16</sup>

The study of Muslim minorities in secular states dovetails with the burgeoning field of Islamic legal studies. Following the work of Lawrence Rosen (1984; 1989a; 2000),<sup>17</sup> a student of Clifford Geertz’s interpretivist approach, who analyzed the operation of shari‘a as embedded in

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Indonesia (12.7 percent), Afghanistan (1.8 percent), Egypt (4.9 percent), Morocco (2 percent) and Malaysia (1.1 percent) have hybrid systems of law. While the events in the Middle East and North Africa known as the “Arab Spring,” beginning in late 2010, are still unfolding and their impact on legal reform is unknown, it is most likely that post-revolutionary states will retain some mixture of European-inspired civil law and Islamic law. As of 2010, only one-fifth of the world’s Muslim population (or 19.9 percent) inhabit the Middle East (Center 2011).

<sup>16</sup> The “jurisprudence of minorities” is a controversial *fiqh*, the legal basis of which, *ijtihād* (individual reasoning), is itself debated. The jurisprudence of minorities, dating to the mid-1990s, is traced to the work of Taha Jābir al-‘Alwānī, Khalid Abd al-Qadir, and Yūsuf al-Qaradāwī. The jurisprudence of minorities seeks to address legal problems, but the jurisprudence does not grapple with the relationship between Islamic and secular law. Rather, it seeks to identify solutions to problems faced by Muslim minorities internal to shari‘a. For an excellent overview, see Fishman 2006. Although many Chinese Hui scholars and *ahong* are aware of the writings of Yūsuf al-Qaradāwī (see Chapter 3), the concept of *fiqh al-aqalliyāt* has not yet penetrated Chinese Islam.

<sup>17</sup> For a critique of Rosen’s work, see Powers 2002:23.

local categories of meaning, a number of scholars have examined the practice of shari‘a in diverse contemporary and historical contexts (Dahlgren 2012; Hirsch 1998; Masud, Peters, and Powers 2006; Mir-Hosseini 2000; Peletz 2002; Powers 2002; Stiles 2009; Stilt 2011). These studies have greatly complicated the earliest Orientalist notions of the rigidity and inflexibility of shari‘a as detached from the broader social context.

Shifting the focus of analysis from the position of Muslim minorities in plural legal systems or the practice of shari‘a as realized through local norms of nonlegal nature, gender relations, or other discourses, this dissertation asks how multiple legal orders give form to the legal subject of the Hui. Weber, like Marx, did not offer a theory of the subject, let alone of subjectivity through law. However, while the “rule of law” movement, in the context of Chinese development, including the development of the Northwest, has followed Weberian modernization theory (in the guise of socialism), China’s turn to “law and economics” has offered a model of the legal subject: Homo economicus. Homo economicus is shorthand for the rational actor who maximizes its interests through transactions. This theory has proven attractive to many Chinese legal academics as law plays handmaiden to economic prosperity (see e.g., Li 2010; Ping 2006; Zhu 2003a). However, the theory is only partial. It explains egoistic behavior, what Sigmund Freud would call the agency of pleasure-seeking self-preservation or what Jacques Lacan would name the narcissistic object. What is excluded from the analysis is called, in the tradition of psychoanalysis, the unconscious, desire, or fantasy.<sup>18</sup>

Social and cultural theories, including psychoanalysis, practice, structuralism, semiotics, and deconstruction provide an *initial* entry into the proposed study of Hui legal subjectivity, and, as such, a critical supplement to reigning theories of subject formation under the law. In particular, I

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<sup>18</sup> Note that I am not arguing that only Muslim subjectivity incorporates the unconscious. Rather, I employ Hui mixed legal subjectivity to critically re-examine assumptions in Western epistemology (Strathern 1990; Strathern 1999). Nor is my use of the unconscious and related terms to mean that they necessarily take the form of one-size-fits-all Freudian psychoanalysis, that is, the unconscious as the reservoir of wishful impulses and competing instincts.

find Lacan's critique of the autonomous ego to be an inspiring provocation (2006c; 2006f). Lacanian psychoanalysis is almost synonymous with controversy. Lacan has been subject to extensive criticism from all quarters, from fellow psychoanalysts to Marxists. Still, anthropologists have reworked his concepts, namely, the imaginary, the realm of images associated with fantasy (see e.g., Crapanzano 1980; Moore 2007:14, 45). For Lacan, it is through the imaginary that the child subject misrecognizes itself as a whole, autonomous ego. The unconscious meanwhile disrupts this imago. While the social (what Lacan calls the symbolic) supersedes the imaginary, this process is never complete, allowing for some part of the psyche to remain outside of the social.

Drawing from Lacan, Judith Butler, following Michel Foucault, has proposed "subjection"<sup>19</sup> as the "process of becoming subordinated by power as well as the process of becoming a subject" (1997:2). Butler's project is an ambitious one: to bridge Foucault's idea of the discursive production of the subject, and to a lesser degree Louis Althusser's notion of interpellation by law, with the splitting that undergoes subject formation as understood by psychoanalysis and exemplified in Hegel's Unhappy consciousness. That is, Butler attempts to join Foucaultian power with the psyche of psychoanalysis.<sup>20</sup> Butler has been criticized by many, including Slavoj Žižek, who is perhaps most well known for his re-interpretation of Jacques Lacan, against the tide, as a proponent of Enlightenment thought, and chastises Butler on these grounds (1999:247–312).

Despite her detractors and the specific issue of "how to read Lacan," to borrow Žižek's title (2007), Butler's subjection elucidates what I call, in debt to her, the *psychic life of law*. Saba Mahmood (2005), in her ethnography of an Egyptian women's piety movement, has skillfully adapted Butler's approach to Foucaultian subjection. Egyptian women's activities in mosques, studying the Qur'ān, *aḥādīth*, and other exegetical texts evidence a relationship to patriarchal

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<sup>19</sup> Butler provides the *Oxford English Dictionary* definition of "subjection" as "The act of being subjected, as under a monarch or other sovereign or superior power" (1997:1). Thus another way to ask the question in regards to the present study is, how do Hezhou Hui reconcile their being subjected to multiple sovereigns?

<sup>20</sup> For a Marxist critique of Foucault's notion of power, see Sangren 1995.

norms that is not one merely of reiteration as opposed to subversion, but rather demonstrates how norms are “performed, inhabited, and experienced in a variety of ways . . . to constitute the very substance of [the subject’s] intimate, valorized interiority (2005: 22–3).” In a similar vein, Katharine Pratt Ewing, borrowing from Hegel and Lacan, has identified in Pakistani Sufis, discursively constructed by the nation–state as well as mystical thought, a mode of human subjectivity that is based on recognition by another through “mutuality and accommodation” rather than dualism or agonism (1997:6–7). The theme of recognition features prominently in this dissertation. Competing *jiaopai* seek to gain legitimacy from multiple sources of authority: their congregation and the wider Hui population, rival *jiaopai* and *menhuan*, the state, foreign Muslims, scholars, and even the odd anthropologist. Contests for legitimacy take the form of ritual practice, in accordance with *jiaopai* prescriptions, but also writing *jiaopai* histories, apologia, and other records. Thus, the view from Hezhou shows recognition as the unity of both bodily practice in Pierre Bourdieu’s sense and signification. In other words, *jiaopai* bodies are the repositories for “ingrained dispositions” (Bourdieu 2002[1991]:11) for Islamic rituals whose legitimacy is grounded in the production of signs about those dispositions.

The case of Hezhou shows parallels with these studies of Islam elsewhere, but also striking differences. As I argue in the following chapter, the literature on Islam in China has stood for the claim that Chinese Islam is attuned to developments in Islam in the Middle East. My research in Hezhou shows this to be true in a broad sense. hajjis, missionaries, texts, commerce and, in contemporary China, the Internet are the means through which Chinese Muslims maintain networks with Muslims abroad. These are the various circuits that feed the imaginary. Nevertheless, at the level of the day to day, among Hezhou Hui, there is an overwhelming feeling of alienation from the *umma*. The obstacles are many: historical, financial, linguistic, cultural, and political. Hezhou, as “China’s Little Mecca,” has served as one center of Islam in China since the Yuan dynasty (1271–1368 C.E.). Additionally, Hezhou was the site of the “Ma family warlords” who

acquired vast power throughout Northwest China during the late nineteenth and early twentieth centuries. Successive (and destabilizing) waves of Islam have all sought in Hezhou their base upon which to build a following among Muslims in China. For these reasons, the Communist state has sought to isolate Hezhou from extensive ties (i.e., education, commerce, scholarly exchange, and the hajj) with the Middle East. The frustration of exclusion from the *umma* has given rise to a desire to surmount this disconnect which itself takes many forms. I argue one way to analyze *jiaopai* are as instances of instituted fantasy (Sangren 2009a:307) to suture over the gaps and conflicts that are immanent within mixed legal subjectivity. The *jiaopai* as organizing schema orient Hezhou Hui toward different relationships to perceived centers and peripheries, to Chinese culture, the nation-state, and the imaginary of the *umma*. Although the *jiaopai* offer multiple interpretations of Islam in China, and as such encompass aspects of Muslim life in addition to law, the resolution of tensions between and within legal orders that inhabit the mixed legal subject is one primary effect of the *jiaopai*. Following practice theory, *jiaopai* prescriptions for ritual practice reproduce *jiaopai*-specific fantasies. However, Western social theories take the analysis only so far. I view a theory developed from *jiaopai* as a basis for a “bottom-up” approach to theorizing mixed legal subjectivity in Hezhou Hui.

### *Chronology: An American Anthropologist in Muslim China*

My fieldwork in Northwestern China is as much a result of external constraints in the form of deadly epidemics, natural disasters, ethnic riots, bureaucratic obstacles, and Party-State surveillance (common to most fieldwork conducted by foreign anthropologists in mainland China) as much as it is of enduring research interests. While pursuing a master’s degree in Asian Studies at Cornell University, my study of Chinese began in the most unlikely of places in the summer of 2002: idyllic Middlebury, Vermont. I first sought to travel to Beijing to further pursue language study in

2003, but the language program closed due to the SARS epidemic. I thus postponed my trip for the following year and returned to Middlebury for another summer of intensive Mandarin. In the summer of 2004, I finally reached Beijing where I participated in an intensive Mandarin program at Tsinghua University for a year and a half. It was in that year that I also gained my earliest exposure to issues of Hui identity and religiosity through Teacher Feng. Teacher Feng is a Christian, ethnically Hui grammarian who moonlighted as a translator in a law office in Beijing. Introduced by my landlord, Teacher Feng came to my flat every Saturday for a year to teach me about Chomsky and Jesus as much as Confucius and Muhammad. It was my regular conversations with Teacher Feng that led to me to Oxen Street, the Muslim quarter in Beijing, and, eventually, to travels in the Northwest where Chinese and Turkic Muslims predominate.

In 2004, I took my first trips through Gansu, Ningxia, and Xinjiang, conducting pre-dissertation research on possible field sites. I also conducted pre-dissertation research in Yunnan. I was eventually drawn more to the Northwest as Yunnan is well represented in the ethnographic record whereas the ethnography of the Muslim Northwest is very much nascent (Bellér-Hann 2003; Bovingdon 2002; Bovingdon 2010; Dautcher 2009; Dwyer 2007; Gladney 1987b; Gladney 1996[1991]; Rudelson 1997). In 2005, I participated in the Second Annual Conference of the Consortium for Western China Development Studies in Yinchuan, Ningxia Hui Autonomous Region where I met several Hui scholars with whom I maintained contact.

From 2005 to 2008, I attended University of Pennsylvania Law School, spending one year at Tsinghua University Law School pursuing an LL.M in Chinese law to understand how Chinese law students learn the law. During this period, I began the process of seeking an institutional affiliation that is a requirement for field research in China from the vantage of both PRC law (in terms of acquiring a research visa) and the regulations accompanying funding from U.S. sources. Administrative rules, particularly in the PRC, have the effect of channeling research, closing off

some options and (to a lesser extent) opening others. Formal administrative law is but one source of this channeling. There are myriad other constraints. In 2007, two years before my dissertation field research, I began formally seeking an institutional affiliation. I started at the Ningxia Academy of Social Sciences (NASS), where my ties were strongest. After waiting a year, the (un)official response was that NASS was not accepting scholars from the United States, Britain, or Canada, citing the ban on importing beef from these countries following the mad cow scare.

The following year was not only the summer of the Beijing Olympics but also a series of politically sensitive anniversaries (e.g., the sixtieth anniversary of the founding of the PRC, on 1 October, 2009) that collectively heightened security in China, dampening collaboration with foreign scholars. One of those anniversaries was the 10 March 1959 uprising in Tibet that Tibetans in Lhasa and elsewhere in ethnographic Tibet, including Gansu, commemorated with anti-Han rioting, beginning on 14 March 2008. Nevertheless, upon securing funding for dissertation research, that summer I pursued Hezhou in southwestern Gansu as a possible field site.

Acquiring permits, as recognized by the local Chinese authorities and in compliance with U.S. funding sources, to conduct research in Hezhou became a “struggle” (see also Cooper 2000). As Hezhou has no university-level *danwei* (work unit), I initially sought institutional affiliation with Lanzhou University’s Institute for the Study of Northwest Minorities. Scholars there were receptive to my research, in the beginning. I drafted a contract with Lanzhou University to be a visiting scholar for the year. However, shortly after, on 5 July 2009, ethnic riots broke out in Urumqi, the capital of the Xinjiang Uyghur Autonomous Region. I had intentionally written the contract with broad language, stating that I would do research in “Northwest China.” This approach backfired. I was told by a university administrator in hurried tones one night that I would need approval from the Ministry of Education in Beijing for my research. Never did I receive a formal rejection letter.

Chinese bureaucracies (academic or otherwise) rarely communicate unequivocally and almost never provide responses in writing; instead, communication is done informally, off record.

Nearing the end of my visa, I had to acquire an institutional affiliation or would have to leave the country. I reapplied to NASS hoping that mad cow disease was no longer a valid rationale for rejecting my application, but was this time told that they were not accepting foreign scholars because of the Influenza A (H1N1) pandemic. Fearing the Northwest was too sensitive, I tried Yunnan again. I applied as a visiting scholar at Yunnan University where many graduate students had previously found institutional support. In August, I received word from a faculty member that the foreign affairs office “does not accept any application which is related to ethnic groups and religion.” I tried additional research institutions in Beijing with no results. As a last recourse, I enrolled in Lanzhou University as a Mandarin student, acquiring a yearlong student visa, after paying a hefty tuition.

Still, having registered my permanent residence in Lanzhou, I sought official authorization to conduct research in Hezhou. Soon after my earliest visits to Hezhou, I was contacted by the Linxia City police to inquire about the purpose of my visits. I attended a series of meetings at the police station and procured supporting documents from scholars in Lanzhou, Xi’an, and Beijing, but these were deemed insufficient to obtain official permits. I was told that I needed a local *danwei* to sponsor me. I followed numerous leads, even nearly establishing an international program between the Gannan Tourism Bureau (based in Hezuo, south of Hezhou) and an international development organization in The Hague to support tourism in Linxia Prefecture. All of these leads fizzled. Meanwhile, my Chinese friends (Hui, Han, and Dongxiang) encouraged me to “hang in there.” Taking a cue from my friends who may not necessarily evade the law (Zhu 1996), but certainly mobilize its supplement, *guanxi*, I went back to several scholars outside of Hezhou to make my case for my research.

Ultimately, my ability to conduct long-term ethnographic research in Hezhou was a result of a meeting to which I was not privy. A Hui scholar from Hezhou, now based in Beijing, the head of the Linxia City police, and a member of the local people's congress convened to discuss my case. I had two allies in the meeting (in the Hui scholar and the representative from the neighborhood-level people's congress, also a Hui). The main questions discussed, of which both men later informed me individually, were: do we want a foreigner conducting research in Hezhou? And, do we want a foreigner to write a book about Hezhou? Those in attendance raised possible objections, namely the historical and contemporary sensitivity of Hezhou to Chinese Islam. In the end, I was allowed to stay. No formal recognition was conferred to authorize my field research, however. Rather, I was able to stay on the following conditions;<sup>21</sup> that I periodically update the police on my comings and goings (rendering my residence permit a kind of legal fiction), never discuss religion (later, this was changed to never *spread* religion), and agree to a background check.

I relate the saga of obtaining official (if not 'legal') permission to conduct my field research as ethnographies too often fast-forward through this preparatory step. The account underscores that as a foreign researcher, I am also, to some extent, a "legal subject" (see also Yeh 2006). That is, I am hailed (as a student, a businessman, or a journalist) by the law and must fashion my self to comply with its categories. I mean "legal subject" in the literalized sense and less the allegorical meaning of Butler's subjection, although as I argue in Chapter 4, Han shari'a requires a broadening of the concept. Further, my 'encounter with the law' was emblematic of many Muslim minorities' experience with state law and the various strategies of evasion or supplementation that accompany their encounters (see Chapter 3). In hindsight, I was learning the law from the perspective not of a

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<sup>21</sup> One other American graduate student I knew was conducting field research in a Hui area in northern Gansu was not so fortunate and was forced from his field site in 2010. Additionally, several Christian missionaries in Linxia Prefecture, some of whom had lived there for three years, were likewise made to leave Gansu around the same time.

law student or a would-be lawyer, but as someone subject to the law, and who does not belong to the majority.

The initial step of getting set up in Hezhou was, of course, only the beginning. Although I had gained the tacit approval of the police, there are additional security bureaus that have more authority than the police (and with whom my agreement was neither binding nor persuasive), such as the *anquanju* (security bureau), which monitored my research and interlocutors. Every time I traveled the 140 kilometers through Guanghe from Lanzhou to Hezhou, I had to first register at the bus station, providing photocopies of my passport and visa. If I purchased a cell phone or bought a SIM card, I also had to register. Buying a wireless Internet card also meant registering, and some Internet bars likewise required registration. Registration at these points of connectivity (either physical travel or electronic surfing) meant entering another data point in a surveillance database. Some of these tracking functions of the law apply to PRC citizens (regardless of ethnicity), for example, registering at an Internet bar, but others applied only to foreigners (e.g., providing personal identification documents at bus stations.) As is the case with Chinese citizens, law operates in innumerable almost taken-for-granted ways to monitor movement, speech, and activity: Bentham's panopticon. This is the underside of the utilitarian or functionalist approach to the law that typifies China's legal modernization. Law is an instrument of control and its effects were felt by me as much as by my interlocutors, *a'imma* or *ahong* in mosques and Sufi masters in tomb complexes, certainly, but also schoolteachers, students wishing to travel abroad, and even businessmen.<sup>22</sup>

PRC law and policy is only part of the picture of law's complexity in Hezhou. As a Westerner, I was further hailed as a *fei musulin* (non-Muslim) by Hezhou Hui, a result of their law. While there is a consistent binarism to Hui thought, for example, *musulin* / *fei musulin*, *qingzhen* / *dazhong* ("the

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<sup>22</sup> *A'imma* (s. *imām*) in China are known as *ahong* from the Persian *akhund* (the learned). On the uniqueness of Chinese Islam using this term, see Iwamura 1948.

people” or for Han), Hui/Han, and so on, I presented an anomaly (i.e., I am not Han, the normal placeholder for *fei muslimin*) that had to be quickly rationalized. (In some rural areas outside Hezhou, I was indeed called “Han.”) My nationality was a red flag to my Hui interlocutors.<sup>23</sup> One of the most surprising results of my research was that Hezhou Hui are, in many instances, more nationalistic than their Han peers. Given their religious affiliation, they sense they have to be hyper-nationalistic or they are, by default, a suspect class. Two sources feed the conservatism of Hezhou Hui anti-Americanism, state-owned media within China and news channels from Gulf states that Hui watch on satellite TVs. In Hezhou Hui, Chinese opposition to the United States’ sale of arms to Taiwan, pride in the comparative success of the Chinese economic model through the 2007 financial crisis, and outrage at the allegedly American-made movie *Innocence of Muslims*,<sup>24</sup> are amplified by common Muslim sentiments against the U.S. wars in Iraq (2003–2011) and Afghanistan (2001 to the present) and military intervention in Libya (2011). Such fortified nationalism defined against America is not shared with the same degree of intensity by Hui living in the large coastal cities or by the Uyghur who do not identify as ‘Chinese.’ Moreover, anti-Americanism was not uniform among Hezhou Hui but differed according to their *jiaopai*, education, gender, age, and extent of experience abroad, in short, their relationship to the multiple imaginaries of Islam and the Chinese nation-state. The obvious example is the Hui policeman Officer Ma who headed the foreign affairs bureau at the city police station. Whenever we ate meals together, or when I ran into him on the streets, or when he stopped by my guesthouse to check up on me with a mixture of paternalism and suspicion, Officer Ma would always, no matter our conversation topic, mention China’s overtaking of America. Like Cato the Elder who ended each address to the Senate

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<sup>23</sup> The combination of my faith (Christian, by birth) and nationality (American) in addition to my race (Caucasian), and gender (male) placed me in the suspect class, from the perspective of Hezhou Hui. I have no doubt that if the present study was conducted by someone who does not share my characteristics, that it would have found different results. At the same time, my identity afforded me perspective on many aspects of Hezhou life that may have been taken for granted by someone not in my “suspect class.”

<sup>24</sup> A trailer for the so-called movie was released on the Internet in the summer of 2012 resulting in riots and attacks against U.S. embassies in many countries in the Middle East and North Africa. Although there were no riots in Northwest China, there was no shortage of such anti-American sentiment. During my visit to Hezhou at the time of the trailer’s notoriety, I was stopped on the streets and verbally accosted for being an American.

with the declaration “Carthage must be destroyed,” Officer Ma, who, in an unknowing display of self-deconstruction, wore an American baseball cap every day,<sup>25</sup> asserted America’s inevitable decline.

Enmity could be deflected or redirected in any number of ways, for example humor. An instructor of “business Arabic” at a state-run “ethnic school,” a Salafi man, told me the following, “Here is a joke. Don’t be offended. We say on the Internet that when China surpasses the U.S., we will make all the foreigners study Chinese! Especially *jiaguwen* (oracle bone inscriptions)! Don’t be offended. Are you offended?” (HZ 4/14/2010). The instructor would go on to take me under his wing, teaching me Arabic through Mandarin every other morning for an hour. One day, however, the guard at the gate, who on every day previous to that one had greeted me with a sheepish smile, upon instruction from the principal, denied me entrance, his face expressionless.

My time in Hezhou was punctuated by several events that heightened people’s sensitivities to those around them. The anniversaries of both the Tibetan riots (the so-called “3 • 14 incident”) in 2008 and the Uyghur riots (accordingly, the “7 • 5 incident”) in 2009, along with local events, such as the KTV affair (Chapter 5) and the South Gate Grand Mosque affair (Chapter 6) each resulted in a kind of spasmodic contraction of Hezhou, a more accelerated version of G. William Skinner’s “closed communities” (1971). People everywhere became more alert and closed off. Police conducted room-to-room sweeps in hotels frequented by out-of-town travelers, mainly Hui businessmen, Tibetan monks, and an occasional Uyghur merchant. These were heightened measures in addition to the regular sweeps through heavily used hotels to check for drug trafficking (mainly heroin). For the first several months, as I frequently changed hotels, I barely slept, always ready for the police to knock on my door during their sweeps after midnight.

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<sup>25</sup> Indicative of the rise in Hezhou’s living standard, by 2012, Officer Ma’s baseball cap was replaced by an ill-fitting toupée.

If the 7 • 5 incident marked the beginning of my fieldwork, then the so-called Arab Spring, the succession of popular rebellions in North Africa and the Middle East, that began at the end of 2010, marked the end of my fieldwork. Thus, although Hezhou Hui complained of being isolated (from China's economic development, from the Muslim 'heartland', and so on) multiple specters cast their shadows over Hezhou during my fieldwork. The Tibetan riots were felt two years after the initial violence as anti-Han protests broke out in Hezuo and Maqu in Tibetan Gannan, or southern Gansu, south of Hezhou, on the anniversaries in 2009 and 2010. Thus, authorities closed off these areas to foreigners through 2010. Local security bureaus told *ahong* to eject any Uyghurs from their mosques to prevent infiltration by Uyghur "splittists." In a reversal of the Western stereotype of the Muslim terrorist, I was accused of being a Uyghur terrorist in one mosque for carrying a backpack (my laptop that I carried on my person every day for the duration of my fieldwork).<sup>26</sup> And *ahong* were instructed to be particularly vigilant during the uncertain early period of the Arab Spring to be wary of any such activity in their mosques, as Beijing and other cities underwent an aborted "Jasmine Revolution" on 20 February, 2011. It appears there were no revolts in the Northwest and no Muslims were involved.

### *Methods, Ethics, and Terms*

In this section, I describe my research methods for data collection and the ethical questions provoked by such methods. As there is a certain terminological density (Chinese, Arabic, Persian, and Tibetan among other languages) to the study of law and *jiaopai*, I also introduce the key terms to be discussed in this dissertation (see also the Glossary). In the following chapter in which I describe Hezhou, I give a more thorough treatment of my interlocutors. My initial research design was to describe ethnographically religious life of Hui in the Muslim quarter of Hezhou called

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<sup>26</sup> Such moments of "shock" expose assumptions I made about my interlocutors (Karp and Kendall 1982:260), requiring considerable agility and reflexivity in my approaches.

Bafang. My specific focus was on the mosques that are concentrated in Bafang and the capacity of *ahong*, the leaders of the mosque community, to reconcile tensions between the various legal orders to which Bafang Hui are beholden. I soon realized, however, that the mosque community, called *jamā'a* or *zhemati* in Chinese, belonged to larger teaching schools, the *jiaopai*. The *jiaopai* are found throughout the Northwest, and decrease in importance the farther one travels east. Hezhou is the center of several *jiaopai* including the Salafiyya, two major Sufi *turuq* (“paths”), and is also an active center for the Yihewani and Gedimu. *Jiaopai* is not specific to Chinese Islam, but means, generally, “religious sect” or “denomination.” The word “sect” in Islam is traditionally relegated to the Sunni/Shī'a divide. As the *jiaopai* in China are uniformly Sunni, it is technically improper to call them schools (Israeli and Gardner-Rush 2007). Although their behavior is sectarian, I prefer the English translation “teaching schools” which emphasizes their doctrinal patrimony as a constitutive feature. The *jiaopai* are thoroughly relational, that is, they have developed over time in relation or opposition to the other *jiaopai*, in addition to the state. To understand the Gedimu mosques in Bafang, for example, several of which have affiliations with Sufi orders called *menhuan*,<sup>27</sup> I had to look outside of Bafang. Thus, in shifting my focus from Bafang to the *jiaopai*, I expanded the scope of my ethnographic sample to include other Hui parts of Hezhou, particularly the northwest quadrant of the city where most Sufi tomb complexes are located. As a consequence, I use both “Bafang Hui” and “Hezhou Hui” throughout the dissertation. The former pertains specifically to those living in the old Muslim quarter, while the latter refers to Muslims in greater Hezhou. In total, in and around Hezhou, my survey included 35 mosques (Appendix A) and nineteen Sufi tomb complexes, called *gongbei*,<sup>28</sup> and four Sufi meditation chambers, called *suoma*<sup>29</sup> or *daotang*, hereinafter, collectively “Sufi institutions” (Appendix B).

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<sup>27</sup> For the etymology of this term, see the following chapter.

<sup>28</sup> *Gongbei* refers principally to the domed tomb of the order's founding saint (or successors), which is a pilgrimage site, but also the complex of prayer spaces, dormitories and living quarters, classrooms, and other property of the order where the current *murshid* and his students reside. It has multiple cognates. The first is

At each mosque or Sufi institution, I interviewed individuals who mediate disputes or who are otherwise viewed as authorities of Han shari‘a, including the *ahong*, usually the *kaixue* (teaching) *ahong*, and sometimes the elder members of the *jamā‘a* who form the “democratic mosque administration committee” (*qingzhensi minzhu weiyuanhui* or *siguanhui*, for short). Among the Sufi population, I spoke with leaders of *menhuan* based at Sufi institutions, including the spiritual instructor and leader known, variably in Arabic, as the *shaykh*, *murshid*, or *laorenjia* in Chinese, who instructs initiates, *manla*,<sup>30</sup> in the esoteric knowledge of the *ṭarīqa*; the *dangjiaren*, Northwest patois for the manager who conducts the day-to-day affairs; and the *ahong* who take care of teaching responsibilities in regards to the Qur’ān and *aḥādīth*. Another title used to describe *shaykh* and non-Sufi leaders of *jamā‘a*, often the teaching *ahong* of the school’s largest mosque, is *jiaozhang* (head of *jamā‘a*).

As I explain in the following chapter, the Sufi orders, like *jiaopai*, have extensive networks throughout the Northwest. In fact, these networks enjoy greater prominence among Sufi *menhuan* than the *jiaopai*. As broadening my sample to include all of the Northwest was not practical given the limits on my time and resources, I remained focused on Hezhou. In addition, I made periodic research trips to additional locations where I visited mosques and Sufi institutions in Gansu including Lanzhou, Linxia County, Dongxiang Autonomous County, Lintan (old name Taozhou), and Langmusi. In Qinghai, I visited Xining, an important base for the Yihewani, as well as Xunhua Salar Autonomous County, and Hualong Autonomous County, heavily populated by Yihewani and Sufis, respectively. I also visited several sites in Ningxia Hui Autonomous Region, including Haiyuan

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the Arabic *qubba* (dome) that is the majority view for the word’s root. A minority view holds that it is derived from (or influenced by) Tibetan *dGonpa*, meaning monastery. That several orders require their students to sever ties with the family and live a life of asceticism gives some credence to the latter.

<sup>29</sup> The term *suoma* derives from Arabic *ṣawma‘a* (cloister or monastery). The word is used once in the Qur’ān (22:40) and was translated by Ma Jian (1906-78), the great Hui scholar, as *xiudaoyuan* (monastery) (1986[1930]:337).

<sup>30</sup> There is also ambiguity in tracing the etymology of the word *manla* to its cognate in the original Arabic, as the term *manla* applies equally to both young initiates in a Sufi *ṭarīqa* and to non-Sufi students at a *madrassa* or “scriptural hall education.” It most likely refers to *mullā*, but in the case of Sufi students may connote *murīd*, meaning one committed to a master or *murshid*.

County, which is mainly Jahriyya Sufi, Tongxin County, and the capital Yinchuan. Lastly, as many Sufi *menhuan* in Hezhou and Lanzhou have ties with what are conceived of as bases of Sufi *menhuan*, located in Xinjiang, I additionally traveled to Hami in northeast Xinjiang, where there are many Hui Sufis, and Kashgar, Yarkand, and Hotan in southern Uyghur-dominated Xinjiang. My visits to specific mosques and Sufi tombs were for specific reasons and thus I do not claim to have conducted a survey, randomized or otherwise. However, my visits gave me a sense of common practice within the provinces and how practice may differ between the provinces. The main focus for data collection was Hezhou. Information gathered from other Muslim centers in the Northwest is used to assess ways in which the relationship between Muslims and the state may accord with or differ from Hezhou. In addition to interviews with *ahong*, Sufi instructors, and other elder members of mosque communities, I also interviewed teachers, students, local businessmen, entrepreneurs, and cadre in legal and juridical bureaus. In total, I conducted over 200 semi-structured interviews.

In conjunction with on-site interviews with Muslim religious leaders, I developed relationships with key mosques from each of the *jaopai* and each of the major *menhuan's* Sufi tomb complexes in Hezhou. These became my main source of qualitative data as I collected case studies of legal disputes that highlighted the reconciliation or conflicts within Han shari'a. The chief ethical problem in conducting research on Han shari'a is that its practice, in either substance or procedure, occasionally demonstrates illegal behavior. Thus, I have changed most names, retaining those of the most senior and oldest members of the community who are widely recognized authorities and, due to their age, beyond any kind of reprisal. My overriding aim in both conducting fieldwork and writing has been to protect the identities of my interlocutors.

These sources additionally became important representatives of their respective *jaopai's* views on historical or on-going inter-*jaopai* disagreements and controversies. In conducting research on *jaopai* and their views of law, rite, and orthopraxis, I quickly arrived at the conclusion

that any measure of objectivity (theirs or mine, for that matter) was chimerical at best, a problem well circulated in anthropological debates since the 1980s (see e.g., D'Andrade 1995; Kelly 2000; Marcus 1998; Marcus and Clifford 1986; Scheper-Hughes 1995) if not much earlier. Each *jiaopai* harbors an entrenched set of views towards the others colored by their differences (in addition to the factors of geography, ethnicity, language, and so on.) Thus, I foreground my description and analysis of events in Hezhou as processes of representing the multivocal (Barth 1994a; Barth 1994b:349). However, even *jiaopai* are not uniform. Within *jiaopai* there are important divisions and differences of view. My attempts to distill perspectives on events or other *jiaopai* were occasionally sabotaged by internal divisions. Through multiple interviews with many members both within and across *jiaopai*, I continually triangulated accounts, statements, stories, gossip, histories, myths, and other representations. Ultimately, the very fracturedness of representations, the partiality if not disagreeability of knowledge production, became my guiding methodology. In Hezhou, Truth is refracted through the collective dispositions of the *jiaopai*. In the absence of a final arbiter (the Chinese state sometimes substitutes for this role), truths, filtered through the lens of *jiaopai*, are constantly reiterated, denounced, debated, written down, footnoted, archived and communicated to scholars and the state (see Becker 2002[1979]). Therefore, my approach was less 'getting to the bottom of something' (Geertz 1973c:29) by cobbling together pseudo-coherent narratives, and more highlighting their composition through contestation. Geertz's hermeneutic approach, an adaptation of Weberian social action through Talcott Parsons, recognizes a semiotic concept of culture as "essentially contestable" (1973c:29), but perhaps does not go far enough in acknowledging the multiple interpretations of shared symbols, particularly in encapsulating religion (especially Islam) as a "cultural system" (Asad 1993:29–35; Ortner 1999:8; Varisco 2005:21–52).<sup>31</sup> Thus, I view the practice of Han shari'a as not just "enacting" rules (a proposition common to British structural-functionalism as well as the writings of Émile Durkheim and Talcott

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<sup>31</sup> But see Eickelman 2005; Eickelman and Piscatori 1990.

Parsons) but remaking them through signifying practices (Bourdieu 1977; Giddens 1979; Ortner 2006; Sahlins 1981).<sup>32</sup> In so doing, I emphasize their resistance to any one authoritative interpretation. For example, in the Hezhou case, the hajj, foreign Muslims, incense, tomb decoration (or height), mourning dress, even hair length, are all subject to widely different meanings per *jiaopai*.

In compliance with the American Anthropological Association Code of Ethics (2009), I safeguarded information entrusted to me. Further, my training as an attorney, even if I was not entering into lawyer-client relationships with related privileges, instructed me to protect information in addition to identities. This was not always easy. For instance, many of my conversations centered on the topic of splits between or within *jiaopai*. My research finds that many of the Sufi *menhuan* are in a state of almost continual division with new sub-branches formed with each successive *murshid*. Some of these succession disputes are violent and the resulting two branches are 'born' into enmity. While my earliest endeavors at acquiring information about these disputes bore little fruit, my learning curve in the field was tremendously steep. Most *jiaopai* and *menhuan* I encountered during my fieldwork were in the process of collecting or writing authoritative histories of their school. After speaking to enough people, I acquired a reputation as someone who was collecting *jiaopai* and *menhuan* histories, and in a surprising turn-about, a few Hui came to me for information. Thus, I did not just collect local histories but participated (albeit reluctantly) in their writing, when asked to do so, evidencing the "co-construction" (Heyl 2007:370) of ethnography. Although ethnography has traditionally downgraded textual analysis, particularly in the study of Islam (Messick 1993a; Messick 1993b), such local histories are a vital aspect of the present study.

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<sup>32</sup> By signifying practices, I mean the production of signs about law, legitimacy, order, and authority that are contingent, temporal, agentic and thoroughly political; thus I draw from a tradition stemming from Voloshinov (1986[1929]) just as much as from Saussure.

My engagement with the Beizhuang *menhuan* illustrates one instance that demonstrates the ethical knots in gathering data on law, disputing, and *jiaopai* while striving for neutrality and impartiality, however difficult to maintain. In 2009, Ma Jincheng, the venerated *murshid* of the Beizhuang *menhuan*, located in Dongxiang Autonomous County, 30 kilometers from Hezhou, died leaving ambiguous instructions as to his successor. Two candidates filled the vacuum, one his eldest biological son and the other his spiritual successor or *khalifah*. The ensuing dispute quickly polarized the *menhuan* and there were a series of stand-offs as both divisions sought access to the tomb complex. To strengthen his bid for leadership, the *khalifah* traveled to Yarkand to acquire the *kouhuan* (permission to spread the *ṭarīqa*)<sup>33</sup> from a Uyghur Sufi master. I traveled to the same Yarkand *khanaqah* (Pr. Sufi lodge) where I made a copy of the *silsila* or genealogy of Sufi masters who constitute the order. Upon my return, a local leader of the opposing branch heard of my travels. We had met previously and exchanged information. He sought the *silsila* as he was in the process of writing a history for the branch under the eldest son, as evidence of his legitimacy. Although the *silsila* is not technically confidential information (many Sufi orders publicize theirs in pamphlets and booklets), in an intra-*menhuan* dispute, the *silsila* is fodder for the contest of legitimacy. I did not feel it was my position to share the *silsila* with the opposing faction. My decision was greeted with intense displeasure by the scholar friend of the eldest son and most likely resulted in a permanent severance of any dealings with them.

Confidentiality, what I thought of as a “hard requirement,” and tact, discretion, decorum and even charm, what I thought of as “soft requirements,”<sup>34</sup> were particularly important in dealing with government officials, including members of the legal and judicial organs, who, in Hezhou, are often Muslim. For example, I met a Hui pilgrim at a Sufi *ermaili* (anniversary of a saint’s death date) to

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<sup>33</sup> *Kouhuan* is a word of multiple meanings and uses among Northwestern Hui. Here, I use it in the meaning common to Sufism, that of “permission,” the *ijāza* which is personal authorization to spread the Sufi path.

<sup>34</sup> Soft requirements cannot be taught (or learned) in graduate school or field schools. They are a product of what is often glossed nowadays as “experiential learning,” of prolonged engagement with different types of people, across a spectrum of social interactions. They mean making a hundred mistakes and reflecting on each one in preparation for the next interaction.

discover that he is also the head of the county judiciary. Or, I met a real estate official who turned out to be the son-in-law of one of Hezhou's most revered Sufi masters. These individuals could not openly discuss Islam or Sufism in their respective bureaucracies as, once we entered their office buildings, they were atheistic Party members, like any Han cadre. Thus, conversation topics often depended on location as my interlocutors shifted roles, although in practice this process was not a seamless one.

In addition to interviews, I actively participated in the various annual religious festivals and other events on the ritual calendar (e.g., reception of hajjis) celebrated by all Muslims. As with interviewing, I participated in rites as exercised by different *jiaopai* to inhabit, to the extent possible by a non-Muslim outsider (a position of which I was never disabused), their orthopraxis. I further participated in Sufi *ermaili*,<sup>35</sup> the latter which serve as pilgrimage events for the various orders, gathering people from throughout the Northwest, sometimes upwards of tens of thousands. I took overnight trains with pilgrims throughout Gansu, Ningxia, Qinghai, and Xinjiang, attended observances and feasts, ate boiled mutton, gave donations, slept next to *ahong* on *kang* (brick beds) in the administrative offices of tomb complexes, and interacted with pilgrims. In short, I participated in all aspects of public ritual life of Hezhou Sufis.<sup>36</sup> In all mosques and Sufi institutions I visited, I collected local histories, many of which are unpublished, labeled *neibu ziliao* (internal materials), and have not gone through the censorship process.

I supplemented on-site interviews, participation observation, and material gathering in Hezhou and in other locations in Northwest China with archival research on Hezhou history, the historical formation of *jiaopai* and *menhuan*, and Communist policy in Hezhou. In Hezhou, I visited the Linxia City Library, located in the *Dong gongguan* or East Mansion, the former abode of the

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<sup>35</sup> *Ermali* is from Arabic ' *amala*, meaning "action" or "work" in the sense of performing meritorious acts through the remembrance of a Sufi saint. Chinese Sufis do not use the term *mawlid* (anniversary, denoting "birthday" but which can also be "death day") common among Sufis elsewhere, nor do they use any translation of ' *urs* (meaning, "wedding" as when the soul of the saint joins that of God).

<sup>36</sup> I was inspired in this approach by Valerie Hoffman-Ladd, who studied Sufism in Egypt (1992).

warlord Ma Buqing (1901–1977) that has collections of Ming and Qing era historical documents. The Linxia Prefecture Library, near the Grand Tomb Complex, has some official gazetteers. The Linxia City Archives has collections of official documents from the Republican and early Communist periods. The Northwest Minority Research Center Materials Room in Lanzhou University contains extensive holdings of primary and secondary material on the history of Islam in China. The Gansu Provincial Archive in Lanzhou has collections of early Party policy documents in regards to Islamic religious and educational institutions as well as personnel and leadership. Further, the “Islamic Resources Center” in Lanzhou was exceptionally helpful in orienting my research. I also paid several visits to the Xinjiang Uyghur Autonomous Region Archives in Urumqi.

Just as the foreign researcher is subjected to a regime of surveillance and monitoring through visas, residence permits, and other travel and Internet registrations, so, too, does the law operate at the interface of documents. At archives in Hezhou, Lanzhou and Urumqi, staff required letters of introduction from Chinese institutes. Moreover, the letters had to identify which sources I sought to access, thus prohibiting any exploration through the materials. My attempts to do so were met with a showing of the PRC Implementing Measure of the Archives Law, proving that there is a law for everything.<sup>37</sup> Certainly the most helpful archive I visited was what I call the “Islamic Resources Center,” a pseudonym for an unregistered library in Lanzhou that has material on Islam in Northwest China (see Chapter 2). Additionally, I conducted archival research at the Northwest Minority Research Center Materials Room at Lanzhou University, the National Library in Beijing, and the University Services Center at the City University of Hong Kong, as well as the Harvard-Yenching Library at Harvard University, which has the finest collection of Christian missionary photographs and diaries who visited Hezhou in the tumultuous 1930s.

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<sup>37</sup> The PRC Implementing Measures of the Archives Law (*Zhonghua renmin gongheguo dang'anfa shishi banfa*), approved 24 October, 1990 by the State Council, art. 22 states, “Foreigners or foreign organizations that wish to use public archives must first obtain introduction by relevant Chinese bureaus and agree to the archives’ protection.”

### *Outline of Chapters*

This dissertation, an exercise in historical legal anthropology, takes an inter-disciplinary approach to the study of shari‘a and sectarianism in Hezhou. I explore the intersections between modes of law as sovereignty, authority, and patriarchy—Chinese, Islamic, local, and official— and the local contestations over such sources of power as well as the internalization of such discord in Hui subjects themselves. The dissertation is divided into three parts. Part one, “Locating Islamic Law in China: China’s Little Mecca and the Muslim Northwest,” situates the study of Han shari‘a and mixed legal subjectivity in time and place. Chapter 1 provides a brief history of Hezhou (Linxia City), called “China’s Little Mecca” by Chinese Muslims. Hezhou served as a crossroads for Han, Mongolian, Tibetan, Chinese Muslim Turkic Muslim cultures on the historical Silk Road. It was also the point where the successive waves of Islam entered China that later assumed the form of *jiaopai*. From Hezhou, most *jiaopai* have sought to spread their interpretation of Islam throughout the Northwest. The history of Islam in China shows periods of intense violence whenever a new wave entered China and a *jiaopai* was formed. The Yihewani movement at the start of the twentieth century that spread through the military campaigns of the Ma Family warlords is perhaps the most poignant example of this violence. Chapter 2 assesses Party-State rule over Hezhou. Because of its history and its concentration of Muslims (Hui, Dongxiang, Salar, Bonan, and Uyghur) and the large number of mosques and Sufi tomb complexes in Hezhou, it has presented the Communists with challenges to rule. This chapter examines everyday life between the competing sovereigns of the Prophet and the Party.

Chapter 3 is an historical argument about the status of shari‘a in China. Through discourse analysis, Chapter 3 explains the disjuncture between the everyday importance of Han shari‘a in the lives of Hezhou Muslims and state representations of shari‘a. While comparative law has

historically rested on “legal orientalist” assumptions (Ruskola 2002), the chapter shows that such work is not unique to Western law and Chinese law has also othered shari‘a. The result of this process has been to label shari‘a as “customary law,” a term derived from Marxism–Leninism, the evolutionism of Lewis Henry Morgan, and Chinese socialism. Chapter 3 provides an alternative in Han shari‘a. The chapter periodizes shari‘a in China through historical and textual sources. Thus, while it is partly historical, it also outlines the contemporary practice of Han shari‘a, its institutions, textual sources, educational basis, and legal consciousness. As such, this chapter is a kind of nutshell version of the two later parts. In Chapter 4, I present a heuristic for understanding the inhabitation of Hezhou Hui within mixed legal orders. Following Steven Sangren, I analyze the *jiaopai* as instances of “instituted fantasy” (2009a) that orient their constituency towards different approaches to realizing *qingzhen* (lit. pure and true) and living a life in accordance with Han shari‘a.

Parts two and three are primarily ethnographic. Part two, “Substantive law,” describes the various areas of Han shari‘a most pertinent to Muslims in the Northwest. The law can be roughly divided into two areas: ritual (i.e., purity and worship) and the law of social relations. Ritual law shows both unities and diversities in observance and interpretation. Chapter 5 examines the pork taboo as central to Hui notions of purity (Ar. *ṭahāra*). The pork taboo unites the Hui vis-à-vis the Han majority. At the same time, the “Hui jurisprudence” of ritual law, in the sense of everyday practice rather than elite scholarship, divides Hui along *jiaopai* lines particularly on matters of worship (Ar. *‘ibādāt*). Chapter 6 begins where Chapter 3 left off in developing a theory of *jiaopai* as a symptom of perceived alienation from the Muslim ‘heartland’ and a strategy for surmounting such separation. As such, it is primarily in matters of ritual or worship where there are significant differences in practice between the *jiaopai*. I provide several examples, historical and contemporary, of inter- and intra-*jiaopai* disputes to explain how so-called liturgical minutiae can result in violence.

Next, I assess the other half of substantive law, that is, what is alternately called personal status law, the law of social relations or transactions (Ar. *mu'āmalāt*), or, generally, family law. Family law exemplifies local patriarchy in the practice of Hui law. In particular, I examine marriage law (Chapters 7 and 8) and the status of women under Han shari'a (Chapter 9). These chapters assess the ways in which Hezhou Hui and Muslim minorities in surrounding areas negotiate the various authorities of Han shari'a. Family law shows affinities with practices of Muslim minorities living under secular law elsewhere. The apparent hostility of socialist law to alternate legal authorities that in practice supports local patriarchy may undermine women's position under shari'a. Put another way, Chapters 7 to 9 illustrate one dimension of doubled patriarchy, the ways in which Chinese patriarchy amplifies the patriarchal principles inherent in shari'a.

Part three, "Procedural Law," takes up the procedural aspects of Han shari'a. Chapters 10 and 11 illustrate the Party-State's appropriation of local male Muslim leaders as an exercise in state patriarchy. Chapter 10 outlines a relationship between law and bureaucracy in the interdependence of *ahong* and legal and juridical cadres. The legal and juridical apparatus of the Party-State seeks to bureaucratize *ahong* as the moral authority of mosque communities. Chapter 11 provides ethnographic examples of bureaucratization, assuming a continuum from "unofficial bureaucracy" to an instrument of what I inelegantly term the "spectacle of the law." It provides two ethnographic examples of this continuum to illustrate the thick interdependence between *ahong* and Party legal-judicial organs. As Chapter 7 to 9 examine women's status under one dimension of doubled patriarchy (customary law and shari'a), Chapters 10 and 11 explain the second or procedural dimension of doubled patriarchy: the official appropriation of local male authority. Part three is followed by a conclusion that summarizes the findings of the dissertation.

PART ONE. LOCATING ISLAMIC LAW IN CHINA: CHINA'S LITTLE MECCA AND THE MUSLIM

NORTHWEST

“What the State fears (the State being law in its greatest force) is not so much crime . . . [but] fundamental, founding violence, that is, violence able to justify, to legitimate . . . or to transform the relations of law (*Rechtsverhältnisse*, ‘legal conditions’), and so to present itself as having a right to law.”

–Jacques Derrida (1990:989)

“It is because law *matters* that we have bothered with this story at all.”

–EP Thompson (1975:268)

## CHAPTER ONE: Hezhou at the Crossroads

### *Introduction*

In the geographic center of the Central State, the literal meaning of *China*, there is a Muslim city called Linxia.<sup>1</sup> Linxia is the city's contemporary name, following the Communist's assumption of power in 1949. For much of its history, Linxia was known as Hezhou.<sup>2</sup> Chinese Muslims (Hui) also call Hezhou "China's Little Mecca" (*Zhongguo xiao Majia*)<sup>3</sup> for its large number of Muslims, mosques, and Sufi tomb complexes. I retain the name Hezhou as many Hui who inhabit the city continue to call it by this name.

Contradictions inhere in Hezhou. In a country that is overwhelmingly Han Chinese, Hezhou is primarily a Muslim city. It is both isolated from and peripheral to China's drive to urbanized

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<sup>1</sup> In 2000, the Chinese government named the location at 103.23 degrees east longitude and 35.33 degrees north latitude, 43 kilometers from Hezhou city, the "center of the country." At the spot, the government erected a two-meter-tall monument of 56 pillars symbolizing the 56 nationalities of China.

<sup>2</sup> Many historical documents refer to Hezhou, denoting not just the city (today's Linxia City) but what after 1949 became Linxia Hui Autonomous Prefecture, which includes seven counties (Yongjing County, Dongxiang Autonomous County, Guanghe County, Kangle County, Hezheng County, Linxia County, and Jishishan Bonan, Dongxiang, Salar Autonomous County) in addition to Linxia City. Where the distinction between Hezhou as the city and Hezhou as the "prefecture" is important, I label it as such. When specifically describing a governmental bureau or office in the post-1949 period, I use the name Linxia. For quotations, I retain whichever name was used.

<sup>3</sup> Most Muslims in Hezhou attribute the title to the journalist Fan Changjiang who never actually used the expression. In his *China's Northwest Corner (Zhongguo de xibei jiao)*, written in 1935, he relates:

Hezhou is China's Northwest holy land. Of China's Northwest Islam's most famous personages, whether based on religion, military, or politics, most come from Hezhou. The city wall and moat are not large, and lies on the plains, not a strategic point. Hezhou's fame however reverberates through the eardrums of all ethnicities in the Northwest. When Hui hear Hezhou, they are very happy. This is their home. It is the center of their financial affairs, the concentration of their population, and the base of all movements. (*Hezhou shi Zhongguo xibei Huijiao shengdi. Zhongguo xibei Huijiao zhong zhuyao de zongjiao, junshi he zhengzhi renwu, yi chuyu Hezhouzhe wei duo. Chengchi bing bu teda, er zai pingyuan dishang, yi bu xianjun. Raner Hezhou zhi mingqi, que zhendong xibei gezu ren zhi ergu. Hui ren tingdao Hezhou, feichang de gaoxing. Zhe shi tamen de laojia. Shi tamen caiwu de jizhongdi, shi renkou de jizhongdi, shi gezhong yundong de ceyuandi*). (1991[1937]:89).

Alternately, others like the editors of *Gansu Religion (Gansu zongjiao)* (1989) attribute the expression to the Tongzhi period (1862–74; Li 2006:109). The earliest reference I have found is by David P. Ekvall, Christian missionary father to the famous Robert Ekvall, (1898–1978), who was born in Minchow, Gansu, becoming a missionary and later a Chicago-trained anthropologist. In an entry for the Christian and Missionary Alliance newsletter, dated 21 December 1908, the elder Ekvall writes with undisguised glee, "Hochow, the Mecca of Kansuh Moslems, is finally open to the Gospel!" (1).

modernity and yet central to the history of the Northwest region and remains connected to Muslim centers inside and outside China. In terms of material wealth and conspicuous consumption, Hezhou pales in comparison with other Chinese cities, yet for spiritual life, whether as Sufi pilgrimage site or daily mosque attendance, there are few places in China that compare to Hezhou. It is the capital of a prefectural autonomous region under the laws and regulations of the People's Republic of China (PRC) and the guidance of the Chinese Communist Party (CCP), and yet everywhere the Qur'ān, as basis of Islamic law, is read. Hezhou Muslims demonstrate a degree of unanimity in their idea of the ethical life (e.g., piousness, industriousness, humility), but at the same time, that unanimity is internally marked by radical alterity in interpretations of doctrine and law. A walk down the same street passes several public security bureaus, mosques of various *jiaopai* (teaching schools), the headquarters for the prefectural government, a station for the People's Liberation Army, and multiple Sufi shrines inhabited by living saints, themselves of diverse *turuq* or "paths," each venerated by tens of thousands of believers. As the seat of the Linxia Hui Autonomous Prefecture, nearly half of the Communist government is composed of Muslim cadres. Hezhou is a place of seemingly competing sources of authority, of overlapping sovereignties, and conflicting laws.

As the city of Hezhou is central to the study of Hui law and society, this chapter provides a brief history of the city and its centrality to the imaginary of Chinese Islam. The discussion of the present chapter takes the place of Hezhou (in terms geographic, historical, and imagined) as its focus. Chapter 4 examines the effects of the contradictions inherent in Chinese Islam on the formation of the subject. A complete history of Hezhou falls outside the scope of this dissertation, yet some familiarity with Hezhou's history is paramount to understand its centrality to Chinese Islam and the problem of governing the city and the surrounding areas. Even some of the city's

contemporary controversies<sup>4</sup> have roots that can be traced to the seventeenth century. As a cultural anthropologist, I acknowledge limitations in addressing the challenges of Chinese historiography. Nevertheless, I ground my study of Hezhou in its broader history. I thus provide a general sketch of Hezhou's geography, ethnic composition, and historical importance as a trade center and holy site for Muslims. For sources, I draw upon the *difangzhi* (official local gazetteers),<sup>5</sup> *wenshi ziliao* (literature and historical materials),<sup>6</sup> local histories composed by mosques and Sufi orders,<sup>7</sup> a growing body of secondary literature much of it produced by Muslim scholars from Hezhou,<sup>8</sup> accounts from early twentieth-century Christian missionaries, and interviews with Hezhou Muslims and non-Muslims. The overview addresses the following major phases in Hezhou history: its importance on the Southern Silk Road and trading station in the tea-horse trade, the formation of the Muslim quarter of the city, the arrival of revivalist Islamic movements, the anti-Qing rebellions, and the warlord period. The following chapter addresses the Communist transformation. I note that one of the peculiarities of the history of Islam in Northwest China is the importance of particular

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<sup>4</sup> See, e.g., Chapter 6.

<sup>5</sup> As the primary historical source for Hezhou in imperial and Republican times, there are five gazetteers that were written before the Communist period. These are the *Hezhou Annals in the Period of the Jiajing Emperor* (1546, four volumes), *Hezhou Annals in the Period of the Kangxi Emperor (Kangxi Hezhou zhi)* (1687, two volumes), *Hezhou Annals in the Period of the Kangxi Emperor (Kangxi Hezhou zhi)* (1707, six volumes), *The Continuous Manuscript of the Hezhou Annals (Hezhou xuzhigao)* (1909, six volumes), and the *Continuously Revised Leading River County Annals (Xuxiu daohe xianzhi)* (1931, eight volumes). Additionally, upon the founding of the PRC, the local government produced the 'modern' equivalent in the *Linxia Hui Autonomous Prefecture Gazetteers (Linxia Huizu zizhi zhou zhi)* of which there are multiple versions organized by topic.

<sup>6</sup> The "literature and historical materials," also an official source, consist of short monographs compiled by CCP committees under relevant administrative levels of government. For Hezhou, the series was produced by the Linxia Hui Autonomous Prefecture. The series, consisting of approximately a dozen books, was begun in the mid-eighties running to the most recent volume (no. 12) that was published in 2011.

<sup>7</sup> During my fieldwork from 2009 to 2010, many of the mosques and Sufi tomb complexes were in the process of either writing their local history or had already finished. Such unofficial sources that have not undergone the publication censure present non-state versions of local history. At the same time, any use must follow the caveat that such histories are heavily biased in favor of the mosque or Sufi order.

<sup>8</sup> Such scholars include Gao Zhanfu, who was born in Hezhou and currently serves as researcher in the China Islamic Association in Beijing, Ma Dongping, a female Hui scholar from Hezhou currently at the Gansu Social Science Academy, Wang Ping, born in Hezheng County, close to Hezhou, and received his dissertation degree in "ethnic studies" from Lanzhou University based on fieldwork conducted on Muslims in Hezhou, Hai Xuewang, a Salar cadre who works in the Linxia City government, and Ma Junhua, amateur historian and principal and Party secretary of the Linxia Hui Middle School. While the present study has benefitted from these previous accounts, my approach differs from that of Hui scholars in many respects: research methods, data samples, explanatory theories, analytical, critical, and scholarly reference points, and conclusions.

Muslim lineages. The history of Hezhou is inseparable from specific families. Present-day consciousness of such names accrues hefty symbolic weight in the discourse of Hezhou Hui. Thus, an anthropology of Hezhou Islam, and specifically, its law, unavoidably entails an aspect of social history.

Hezhou rests on the crossroads of the great civilizations in territorial China: the Han Chinese of the Sichuan Basin to the southeast, the Mongolians of the Gobi desert to the northeast, the Turkic Muslims in the Tarim Basin beyond the Altun Mountains to the northwest, and Tibetans of the Tibetan Plateau to the southeast (Map 1).

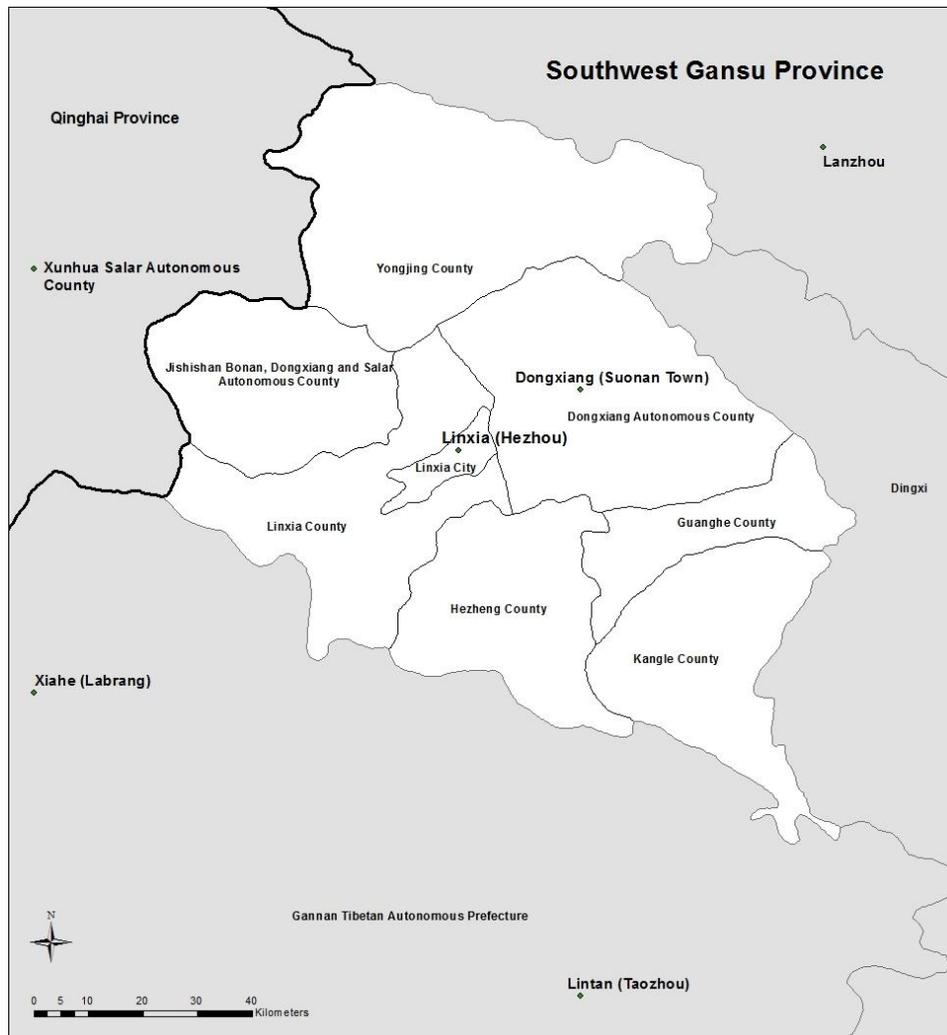


Map 1 Northwest China with contemporary administrative divisions and place names mentioned in this dissertation.

Each of these groups has left its trace in Hezhou's history, religion, ethnic composition, and language. These earliest inhabitants of the area, and their ancestors, proto-Tibetans referred to in the Chinese dynastic histories as Tufan, came to the fertile valley as a resting station, between large monastic centers in Labrang and Tsod (Ch. Hezuo),<sup>9</sup> 100 kilometers and 88 kilometers, respectively, to the southwest and Lanzhou, imperial name Jincheng (Golden City), 140 kilometers to the north. The Ka River or Da Xia in Chinese is a tributary of the Yellow River that originates along the northern rim of the Qinghai-Tibet plateau and flows from Labrang to Hezhou and northeast where it was dammed at Liujia, soon after the Communists assumed power, in the 1950s. Hezhou rests in an oblong valley that follows the Da Xia River, which gives Hezhou its name, "sandbar," east to west. The city has grown along the east-west axis and is bordered to its north by North Mountain (Bei Shan), a loess plateau that rises high above the city and to its south by a series of hills. The valley marks the southern rim of a maze of deeply eroded loess escarpments that continue through the Wushalin hills near Lanzhou (Map 2).

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<sup>9</sup> Labrang Monastery is the largest Tibetan Buddhist monastery outside of contemporary Tibetan Autonomous Region. Historically, there was regular trade between the two centers via the Ka River.



Map 2 Southwest Gansu with contemporary administrative divisions, including place names mentioned in this dissertation.

Situated between the Qinghai-Tibet plateau and the loess plateau formed by the Yellow River that stretches through central Gansu eastward, Hezhou was a natural thoroughfare for trade and commerce well before the Tang dynasty (C.E. 618–907). Named Kachu in Tibetan historical documents (and Baohan in Chinese)<sup>10</sup> for the military camp that marked the northeastern-most reach of the Tibetan empire, culminating in the eighth century C.E., Hezhou connected the Tibetan

<sup>10</sup> Hezhou has had several names in Chinese. The earliest was Baohan, then Hezhou beginning in the Sui dynasty (C.E. 589–618), then Hezhou popularized during the Tang dynasty, then Daohe (“head water”) County from 1913 to 1928, and finally Linxia (“next to the Xia river”) County in 1928 (Ma 1995b:55–56).

grasslands to the south to Lanzhou and to the Hexi corridor that traced the Qinghai-Tibet plateau northwest to Turkmenistan. Hezhou served as a commercial center for goods exchanged from Chengdu, Xining, and Lhasa. In particular, trade with Tibet was conducted through Hezhou and Taozhou (contemporary name Lintan), 175 kilometers south of Hezhou. Beginning with the Tang dynasty, regional trade networks were linked to the Northern Silk Road via the Hexi corridor which served as a highway for merchants, missionaries, soldiers, and envoys, connecting China to Central Asia and beyond to the Levant. According to the *Hezhou Annals in the Period of the Jiajing Emperor (Jiajing Hezhou zhi)* (Wu 2007 [1546]), Tibetan and Han armies clashed over the strategic point on the Da Xia River through the late ninth century C.E. The Tang sought to monopolize the trade routes through the Gansu corridor and capitalize on Silk Road profits by taxing goods (Yu 1967:128). However, for most of the imperial period before the Ming, control over the area was tenuous. The local gazetteers are replete with accounts of rebellions, uprisings, brigands, and internecine attacks on the garrison that was more a military outpost than an administered settlement.

Hezhou served as a kind of backdoor to Lanzhou, a major gateway to the Northern Silk Road in western China, by linking the Silk Road to inner China. Hezhou gained prominence along the so-called Southern Silk Road that led from Lanzhou through Hezhou south into Tibetan territory, through the foothills of the Himalayas, and farther into modern-day Yunnan province following the great river systems of southeast Asia, the Mekong, Irrawaddy, Yangtze, Pearl, Red, and Salween, and on to India. Beginning in the Northern Song period (C.E. 960 to 1127), and subject to greater state regularization in the Ming period (C.E. 1368 to 1644), the tea-horse trade (*chama hushi*) also operated through Hezhou and Taozhou. Nomadic Tibetans coveted lowland teas from Sichuan and Shaanxi. Han and Hui required horses for transportation and military campaigns that could withstand the high altitudes and harsh conditions of the Qinghai-Tibet plateau. These goods were exchanged in the markets of Hezhou. As recorded in the Southern Song dynasty (C.E. 1127–1279) text *Casual Notes on the Ability to Change One's Vegetarian Diet (Nenggai zhai manlu)*, "Silkworm

tea always enters the markets of the Tibetans, and Hu horses come from a great distance” (*shucha zong ru zhu fanshi, huma chang cong wanly lai*)<sup>11</sup> (Ma 1994:108). According to the History of Ming (*Min shi*) and the *Hezhou Annals in the Period of the Jiajing Emperor*, in 1371, the Ming government established a “tea-horse company” (*chamasi*), standardized prices, mediated disputes, and outlawed smuggling, creating a monopoly on the sale of war stallions in the militarized society of the Gansu-Tibet borderlands (Jing 1984[1935]:278–280; Ma 2004d:38). Privately owned trade mule caravans, usually operated by Muslims, called *jiaohu* (households-on-foot) that were based in Hezhou, transported tea, wool, salt, sugar, grains, silks, handwoven cloth, medicines, and sheep-hide and leather throughout Tibet, Yunnan, Sichuan, and the Northwest (Yan 2007:15, 40, 55). Additionally, Hezhou functioned as clearinghouse for opium via the Southern Silk Road.

Thus, in its position along both the Southern Silk Road, linking the Hexi corridor to Yunnan, and the tea-horse trade, connecting the highland Tibetans to the lowland Han and Hui, Hezhou, for most of its imperial history, was a “central market town” in G. William Skinner’s sense of the term (1977:254, 275–256; 1964:7–11; 1997:328). It was a central place embedded in an economic hierarchy (Skinner 1980:3–4) above those Tibetan towns like Tsod and Labrang and below the provincial capital and Silk Road gateway of Lanzhou. Hezhou existed because of its prominence in the regional economy, and not as an administrative seat of imperial rule.

During the Yuan and Ming, the imperial government used a variety of tactics to govern Hezhou. After the Mongolian khanate attacked Hezhou in 1227, the Mongols adopted a pragmatic approach to rule over Gansu. It was during the Yuan that many Arab, Persian, and Turkic Muslims from the Ilkhanate and Chagatai Khanate were forced to migrate east into China. Much has been made of the Mongols’ use of Muslim officials to rule over the Chinese (Morgan 2007:97–98; Papas 2011:267; Rossabi 1981). Foreign Muslims, called Semuren during the Yuan period, were

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<sup>11</sup> The character *hu* means “non-Han peoples in the northwest.”

incorporated into the bureaucracy at all levels and ranked in the imperial hierarchy above the Han and *nanfangren* (southern Han) (Yang 2007a:208–209).<sup>12</sup> However, in the borderland outpost of Hezhou, the Mongols turned not to Muslims but to the Tibetans to continue their tradition of local rule (Franke 1994:298–299) in capacity as *xuanweishi* (a supervisory organ between prefectural and provincial levels of government preoccupied mainly with military affairs) (Ma 1994:104). The Ming appeared to have employed a variety of means of rule, including the *tusi* (local chieftain) system of indirect rule (Ma 1994:104–105; Ma 1995b:177–187), and a system called *tuliucanzhi* (“land flow, participate in rule”) or *tunkun* (stationing troops to open up wasteland) (Wu and Yang 2008:33–34). These latter approaches seem to have combined sending troops to the outpost with forced labor, mainly comprised of convicted criminals from the east.

Most oral narratives of elder Hezhou residents confirm their ancestors migrated to Hezhou from elsewhere, primarily as forced labor. In the words of a Han man, a Hezhou native and amateur historian, born in 1943, who has compiled his family history

My family has been in Linxia for generations. My family came with the first Hanmin to Linxia during the Hongwu Period of the Ming Dynasty. They came from Nanjing city, a place called Da Liu Shu Xiang. Our family genealogy was destroyed in the Cultural Revolution, but I have been compiling it.

During the Yuan Dynasty there was an effort to cultivate the area by settlement and use it as an outpost along the borderlands of the empire, facing Tibet, Xinjiang, and beyond. At that time, there was no cultivated land, there was only forest land. The earliest settlers were sent to cultivate the land and were divided into settlements called *zhai*. . . . At the time, there were two types of cultivated land on the border regions: *tuntian* [station garrisons that grow their own food] and *mindu* [settlements of non-soldiers]. Our family was the latter.

The families that emigrated were all forced to do so. The first emperor of the Ming Dynasty, Zhu Yuanzhang, forced out the families of criminals. If one member of the family was a criminal, then the whole family was forced to move in a policy called *zhulian jizuo* [implicate nine generations of a family] and their lands given to members of the family or officials (HZ 9/13/2010).

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<sup>12</sup> The dominant view in Chinese historiography is that the Chinese Muslims known as Hui today or Huihui in the imperial period formed during the Yuan period from the in-migration of foreign Muslims (see e.g., Bai 1992[1957]). See Chapter 3.

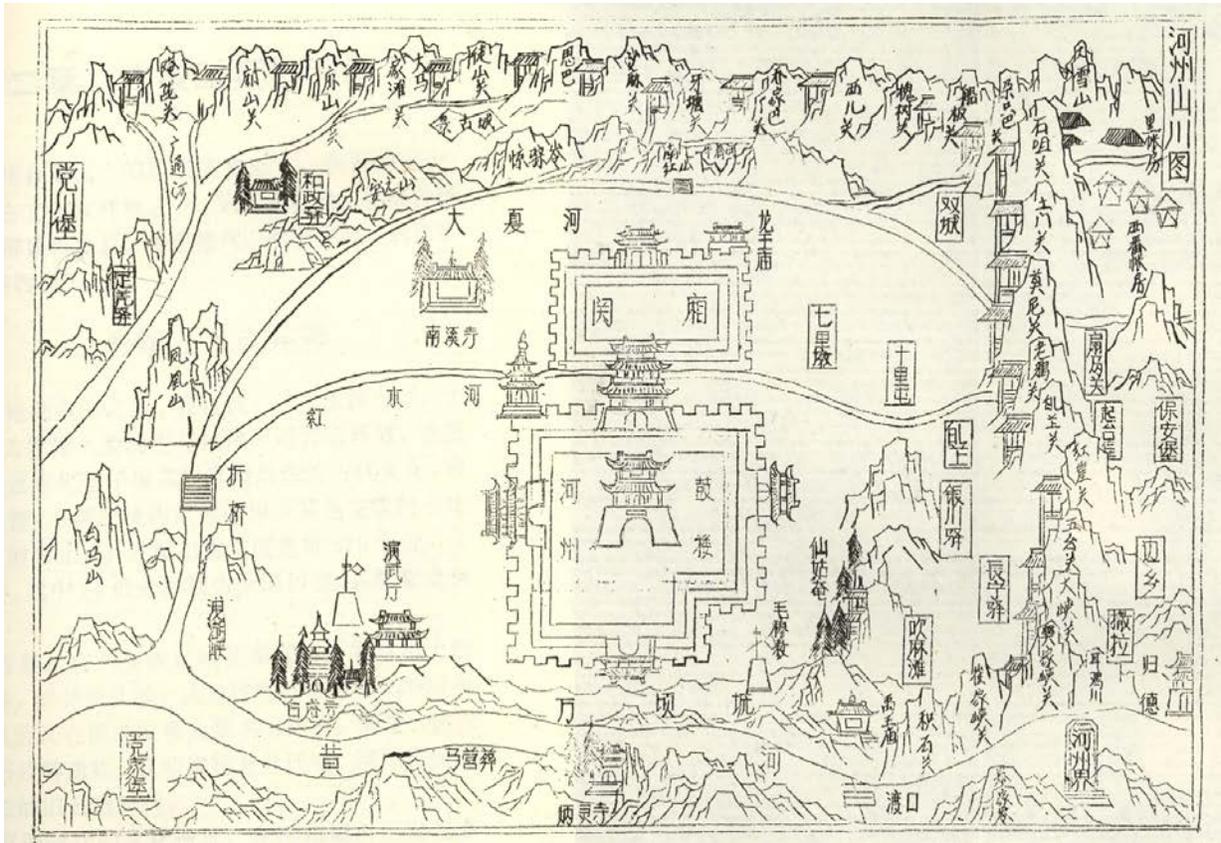
A Hui farmer living in a Sufi village on the eastern outskirts of Hezhou gives a similar account for the origin of his ancestors. He says, “My lineage ‘Mu’ arrived during the early eighteenth century. My ancestors were sent here from Beijing as punishment for their crimes” (HZ 2/4/2010). In fact, Muslims arrived in Hezhou from many different locations over a wide expanse of time. Muslims migrated from Xi’an, Shaanxi, and Nanjing. Muslims congregated in the area southwest of the city wall as they were not allowed to live inside the gated city (Map 3).<sup>13</sup> The Muslim quarter called *Bafang* (eight lanes or precincts) was historically organized around twelve mosques. The oldest South Gate Grand Mosque was built in C.E. 1273, Old Glory Mosque is believed by some to have been built in C.E. 1368, and Old Wang Mosque in C.E. 1377. With the construction of these mosques, a conglomeration of small communities grew into Bafang as a distinctly Hui community.

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<sup>13</sup> Hezhou was not unique in its *Hancheng Huiguan* (Han in the city, Hui outside the gate) pattern. Xining’s east gate, Yinchuan’s south gate, Lanzhou’s west gate, and other major cities in the Northwest all featured this pattern. Some Hui scholars I talked to in Beijing argue that Muslims chose to live outside the city gates as it was more conducive to commerce and easy transport. There is some indirect evidence of this in the local gazetteers. Hezhou’s city walls were built before Muslims congregated in Bafang. However, even if the walls were designed originally to keep marauders out, they may have post facto also served to exclude Muslims. Most eye-witness historical sources before the walls’ destruction in the 1950s state that the city excluded Hui. David Ekvall for instance wrote, “Some of the wealthy Moslems have palatial residences to the south suburb of the city, for none are allowed to live inside the wall of the city proper” (1908:2). Abbot Low Moffat, another eye-witness wrote of Xunhua, the nearby seat of the Salars:

Among other conditions imposed by the Chinese all Muhammads were forbidden to live within city walls, but as no prohibition was placed on the suburbs within their auxiliary walls, these were rapidly filled with a Moslem population. In Hochow, the chief city in the T’ashih country and the chief Muhammadan city in Kansu, the south suburb with its eight mosques and thousands of inhabitants soon greatly exceeded in size and importance the city to which it was annexed (1935:528).

Robert Ekvall, writing thirty years after his father, commented, “Within the well-kept wall, the City of Hochow is Chinese, without the suburb is Mohomedan” (1938:107). Contemporary Hui living in Bafang believe that the Muslims were excluded by the city government. Elder Han residents of Hezhou I spoke to say that particularly during the Tongzhi period (1862–1874) and after, relations between the all-Han local government and the Hui outside the city deteriorated. The Hui often revolted and the militia was exclusively Han. There were frequent clashes between them (HZ 9/13/2010).



Map 3 Rendering of heavily fortified Hezhou during Kangxi Period (1662 to 1723). Note the map is both inverted and reversed. Also, Bafang is not represented (would be located in upper right hand corner of city wall on this map.)  
 Source: *Hezhou Annals in the Period of the Kangxi Emperor (Kangxi Hezhou zhi)*.

While some Muslims concentrated in Hezhou before the Yuan, it was not until Muslim soldiers in the Yuan and Ming armies were deployed by their respective commands to open the land that Hui collected in larger numbers (Ma 1994:111–112). According to the *Hezhou Annals in the Period of the Jiajing Emperor*, 50,000 Muslims occupied Bafang by the sixteenth century (Ma 2010a:12). In addition to military deployment and forced migration among ex-convicts, the main attraction, as

mentioned, was Hezhou's centrality as a market town and the profit to be made from transporting goods through the Gansu corridor.<sup>14</sup>

In terms of administration of mosques and the role of shari'a in solving disputes among Muslims in Bafang, for most of the imperial period mosques were administered by the "three *imām*" system (*san zhangjiao*) comprised of the *imām* who led the prayer, the one who gave the Friday sermon called the *haituibu* (Ar. *khaṭīb*), and the *mu'anjin* (Ar. *muezzin*) who called the faithful to prayer (Ma 2000[1979]:90). Unlike the Salars, Mongols, or Uyghurs for whom there is historical evidence for the institution of the qadi or Islamic judge, such an institution does not seem to have operated in the mosques of Bafang.<sup>15</sup> Rather, the *ahong*, as the shari'a expert, mediated most interpersonal and family disputes, while the majority of crimes were handled by the magistrate.

In the eighteenth century, an alternative to the "three *imām*" system emerged in mosques in Hezhou called *xiangyue* ("local rules and regulations") (Wu and Chen 2006). This second system was comprised of elders in the mosque community who managed the mosque as a form of popular self-rule. There were struggles for power between the *a'imma* (s. *imām*) or *ahong* and the *xiangyue* elders (Lu 2010). As part of the Qing government's attempt to gain tighter control over mosques, the government supported the *xiangyue* elders in a way that was similar to local government's cultivation of *shenshi* (gentry) as sub-officials (Ch'u 1962:339; Fei 1953; Skinner 1977). In addition, the positions of the *xuedong* (manager) and *xuelao* (another name for mosque elders) were instituted (Ma 2000[1979]:90). The *ahong* were hired by the *xuedong* and *xuelao* who themselves were elected by members of the *jamā'a* and took care of all non-religious matters in the mosque, including property management (Ma 2000[1979]:90).

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<sup>14</sup> Profits from the wool trade were so significant that by the early nineteenth-century, Tianjin-based firms from Russia, America, Britain, Japan and Germany had established trading networks throughout the Northwest, including Hezhou, to export wool for foreign markets (Ma 1994:171–172; Millward 1989).

<sup>15</sup> For an overview of the history of the institution of the qadi in China, see Chapter 3.

*From Tides to Jiaopai*

Following the historian Joseph Fletcher's thesis (1985; 1995), a central theme in the study of Islam in China has been the entry of successive tides or waves of revivalist Islam into China through the activity of missionaries and Chinese Muslims' travels via the hajj and study abroad in Central Asia and the Arab peninsula (e.g., Berlie 2004; Israeli 2002d). Fletcher posited three tides that he envisioned as largely one-way modes of intellectual exchange between China and Arabia. The first was the *Gedimu* (Ar. *qadīm* or "old [teaching]"), the descendants of the original Arab and Persian merchants, missionaries, envoys, and soldiers who traveled to China via both the overland Silk Road and maritime Silk Road beginning in the Tang dynasty. The second was Sufi *turuq* that entered China beginning in the seventeenth century and formed the distinctly Chinese Sufi organizations known as the *menhuan*.<sup>16</sup> The third was the Yihewani (Ar. *Al-ʾikhwān al-muslimūn*, "Society of Muslim Brothers," or Ikhwān), the modernist and scripturalist movement who entered China at the end of the nineteenth century. From the Yihewani, another tide broke off, named the Salafiyya (derived from *al-salaf al-salib* "the pious forefathers") who are often characterized as fundamentalists, but who may be more accurately described as neo-conservatives. Dru Gladney adds a fourth tide in what he calls "ethnic nationalism," that is, Chinese Muslims advocating the interests as nationalities, or *minzu*, in the Chinese lexicon (1996[1991]:62).<sup>17</sup> Further, Gladney revises Fletcher's metaphor in favor of a bi-directional dialogic mode of cultural exchange and mutual definition (1999c).

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<sup>16</sup> The term *menhuan* is unique to Chinese Sufism and is not found among Sufis elsewhere, nor does there appear to be a cognate in Persian or Arabic. The term is composed of the two characters *men* which means "door," "gateway," "way to do something," "family," "house," "sect," "school of thought," "class," or "category," each of which bears on the contemporary usage of the term, and *huan* which means "officials." The term has a complex historiography, but emerged with the popularization of Sufism during the end of the nineteenth century with Ma Laichi's Khufiyya order and Ma Mingxin's rival Jahriyya order. Importantly, those Sufi orders were not initially called *menhuan*. The first use of the word appears to be in Hezhou prefectural chief Yang Zengxin's *The Petitioning and Abolishing Islamic Menhuan (Chengqing caige Huijiao menhuan)* (1897) (Feng 1988:245).

<sup>17</sup> Later, Gladney (1999c) revises his model and identifies the Salafiyya as the fourth phase of Chinese Islamic revivalism.

Hezhou became the base for many of these tides, which were more overlapping than temporally successive. These tides, waves, or modes of Islamic revivalism have, in China, assumed the form of the *jiaopai*. The *jiaopai* is organized along both ideational and social structural lines. It is both an interpretation of Islamic doctrine and a collectivity, centered on mosques and *ahong* in residential-based *jamā'a*. In the following, I provide a history of the entry of these different modes into China from the view from Hezhou. I argue that not only are *jiaopai* and *menhuan* mutually defining and interactive (Gladney 1999c:109–110), but they are transient and porous identities rather than permanent categories. As such, they are based on transference relationships and are much more fluid than their exponents would admit (see Chapter 6).

Through the Qing period, Hezhou and Bafang continued to grow in population. All of the Muslims living in Bafang were Sunnī and adhered to the Ḥanafī school of jurisprudence. In contemporary terms, the Bafang Muslims were thus uniformly ethnically Hui and doctrinally *Gedimu*. Among Bafang's twelve mosques there was more similarity than difference. Bafang Hui residents identified with their mosque and their *jamā'a*. The *ahong* as leader of the *jamā'a* had considerable esteem in the community. Beginning in the sixteenth-century, mosques standardized the curriculum for teaching shari'a, Islamic philosophy, and Arabic and Persian languages in what became known as *jingtang jiaoyu* (scriptural hall education). Thus, under the leadership of the *ahong*, the reproduction of Islamic knowledge in the mosque schools, and the boundary maintained between Hui and Han by the ritual law of the former and the city wall of the latter, the *jamā'a* maintained their sense of community.

Areas around Hezhou attracted Muslims of various ethnic groups. The loess hills 30 kilometers northeast of Hezhou became the home of the Dongxiang, a Muslim group descended from Mongolian soldiers from the Yuan army. There is some intermarriage between Hui and Dongxiang. Many Hui, however, view the Dongxiang much like the Shan regarded the Kachin (Leach

1977[1964]) or, more generically, valley people view hill people (Scott 2009). Hezhou Hui pride themselves on Bafang's centrality to Islam in the Northwest and belittle Dongxiang for their relatively lower quality of education and particularly lack of a written language. Fifty kilometers to the west, a smaller group known as the Bonan, also a Mongolian Muslim group, established their base. And farther west in Xunhua, in modern day Qinghai, 100 kilometers over mountainous terrain from Hezhou, the Salar, a Turkic Muslim group, founded their cultural center after allegedly migrating from Samarkand. All of these groups, Dongxiang, Salar and Hui, broadly shared the same set of Islamic doctrines, united by the Ḥanafī *madhhab*.

### *Sufi Paths, Forming Menhuan*

A combination of Sufi missionary activity and Hezhou Muslims traveling and studying abroad introduced radical and long-lasting change beginning in the seventeenth century. One of the earliest figures in bringing Sufism to Hezhou was Ma Laichi (1681–1766), the founder of Glory Mosque *menhuan*. The official history of his tomb relates that Ma Laichi received “the light of teaching” (*zhuan guangzi*) from a twenty-fifth generation descendant of the Prophet Muhammad, Khoja Āfāq (Ch. *Haidaye tonglahai*).<sup>18</sup> According to the order's history, in 1728, Ma Laichi communicated with a Sufi master in Mecca named in their records as Gaju gaizhanbai'er who had been dead for over two hundred years. The spirit of the master told Ma Laichi to travel to Mecca where he rec Muhammad ommended the young Hezhou Muslim to study with several Sufi instructors, such as Shaykh Muhammad ibn Aihamaide Agelei, as known in their records. Ma Laichi studied the four schools of jurisprudence and several Sufi *turuq*, including the Shādhilīya, Naqshbandī, Qādiriyya, and

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<sup>18</sup> The title *khoja* is Persian for “religious leader.” Khoja Āfāq (d. 1693) was an ethnically Uyghur Sufi master and khan of Kashgaria in southern Xinjiang (where his tomb is located). He founded the Agtaghliq (Aq Tahgliq or Āfāqi), in English “White Mountain,” sect of Naqshbandi Sufism (Fletcher 1977:113; Fletcher 1995:9-16; Gladney 1996[1991]:46-47; Millward 2007:86-88; Millward and Perdue 2004:48). For the Glory Mosque *menhuan* account of the origin story of Ma Laichi, see Chapter 4.

Suhrawardīya. Ma Laichi returned to China in 1734 to establish the first great *menhuan* in China, with its base in western Bafang. During Ma Laichi's *ermaili* or commemoration of the death date of the Sufi saint, several members of the order told me that upon his return, Ma Laichi brought back eight precious objects: 1) a sword on which was carved Ma Laichi's status as the vanguard of Islam in China; 2) a gold seal on which is printed, "China's Ma Laichi is among those people who allow others to look forward to the uniqueness of Allah (*jiang yi xie ren yinling zai Anla de duyi shang de ren shi Zhongguo de Ma Laichi*);<sup>19</sup> 3) the Sufi text known as *Mingshale*; 4) a poem celebrating the birthday of the Prophet, *Mawlūd* (Ch. *Moluti*); 5) 800 scriptures; 6) a prayer rug made from date tree palm; 7) a wool garment; and 8) a *ka'bah* covering (HZ 10/16/2010).<sup>20</sup>

The figure traditionally opposed to that of Ma Laichi is Ma Mingxin (1719–1781), another Hezhou native (Bakhtyar 2000:41–42; Fletcher 1975). After studying in the Arab peninsula and Central Asia for several years, Ma Mingxin returned to China with a book of poetry that praises the Prophet, called *Mandanyeh* (Ar. *Madā'ih*).<sup>21</sup> He founded a *menhuan* based on the Jahriyya *ṭarīqa*, which opposed Ma Laichi's *menhuan* over the issues of their hereditary succession, donations to the *murshid*, and their silent *dhikr* or remembrance of God (Atwill 2005a; Lipman 1999:599–665). The multi-generational dispute between the followers of Ma Laichi and Ma Mingxin that spilled over

<sup>19</sup> This language most likely connotes the right to spread the *ṭarīqa*.

<sup>20</sup> Fletcher was the first to speculate about the nature of the Sufi text arguing that the *Mingshale* was a transliteration of *shale* for *sharh* (commentary) and *ming* for "light." Fletcher offers *Sharḥ-i-Lama'āt*, a work by the Turkish Naqshbandī mystic, Mawlanā 'Abd al-Raḥmān Jāmī (d. 1492). This transliteration is the one favored by Professor Zhao Qiudi, a scholar cognizant in both the Chinese and Arabic texts (Zhao 2010:287). Gladney argues for the seventeenth-century work "Commentary on Brightness" by the Indian mystic, Niẓām al-Dīn Thānesarī (d. 1627; Gladney 1996[1991]:352 fn. 133). Lipman offers the thirteenth century work *Fuṣūṣ al-ḥikam* by Muḥyi al-Dīn Muhammad ibn 'Alī ibn al-'Arabī (d. 1240; 1997:67 fn. 22). As Gladney notes, Thenasari's commentary is based on an abridged version of a work based on Ibn al-'Arabī's work. The members of Glory Mosque *menhuan* told me it is a text of the Shādhiliyya *ṭarīqa*, and that Ma Laichi obtained it in Yemen. A copy of the text I collected at Ma Laichi's *ermaili* suggests *Mingshale* may be the *Kitāb al-Mashā'ir* (Book of Metaphysical Penetrations), or a commentary written on the work, composed by Ṣadr al-Dīn Muhammad Shīrāzī or Mullā Ṣadrā (1571–1640), an Iranian philosopher of the *isharqi* tradition who emphasized spiritual inspiration over rational inquiry and whose thought gained prominence throughout Iran, Afghanistan, and the Indian subcontinent.

<sup>21</sup> In Lanzhou, I attended the *ermaili* of Ma Yide (1780–1849), the fourth generation leader of one of the major Jahriyya sub-branches based at the East River Grand Tomb Complex (Dongchuan Da Gongbei). There, the Jahriyya Sufis told me of the importance of the book of poetry to their practice of the *dhikr* (LZ 5/21/2010). Professor Zhao identifies the text as the *Madā'ih* (2010:291).

into Xunhua and implicated the Salars, as well, would result in untold deaths and have grave import for the formation of Sufism in China and its oppression by the Chinese state (Gladney 1987a; Gladney 1999c; Israeli 2002c; Lipman 1984). The Khufiyya Sufis known as *laojiao* (old teaching) were more successful in gaining state support than the Jahriyya, known as *xinjiao* (new teaching). The latter were heavily persecuted for the first eight generations of their leadership and largely pushed out of Hezhou, although a *suoma* (Ar. *ṣawma‘a*), a cloister or monastery, survives in the place where Ma Mingxin lived beginning in 1744, outside the west gate of the city wall.

A third Sufi *menhuan* and one that has received far less scholarly attention is that established by Qi Jingyi (1656–1719), founder of the Grand Tomb Complex *menhuan*. Like Ma Laichi, Qi Jingyi received the blessing of Khoja Āfāq, but would become the *murīd* instead of Khoja ‘Abd Allah (Ch. Huazhe erbudonglaxi), a twenty-ninth generation descendant from the Prophet. Khoja ‘Abd Allah was born in Jiddah, near Mecca, and traveled to Guangzhou in C.E. 1674. One version of the order’s official history adapted from their foundational text *The Roots of the Pure and True (Qingzhen genyuan)*<sup>22</sup> reads

In May of the same year, [Khoja ‘Abd Allah] arrived to Linxia, and after staying at the home of Muyoulin at Little South Gate [Xia Xi Guan, today’s City Corner Mosque], and inquiring after Heiliali [the *jingming* or scriptural name of Qi Jingyi], he exhorted Muyoulin to make inquiries. Muyoulin attended hurriedly to notify City Corner Mosque where Qi Jingyi heard from others and was delighted and went to pay homage, and as soon as the two met they were as old friends, Huazhe erbudonglaxi, on this happy day, proclaimed: “This person, in my mind’s eye, is also me (*ci wu xinmuzhong zhi ren ye*)!”

Stories associated with the rapport between *murshid* and *murīd* are known by heart by all *manla* at the tomb complex, who unlike their Khufiyya and Jahriyya peers, leave the home (*chujia*) and join the *menhuan* as ascetics. Stories like this one combine an attachment to natal place (and sometimes the entity “China”) with the drive to claim legitimacy from the perceived “source” of Islam, in this case Central Asian Sufism.

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<sup>22</sup> This text is similar to the genre of *maāqib* (hagiography) familiar to Sufis. The stories were last edited in 1981, although the date of the original composition of the stories is unknown.

Ma Laichi's Khufiyya Glory Mosque *menhuan* and Qi Jingyi's Grand Tomb Complex *menhuan* are the two main Sufi orders in Hezhou. After their founding, the orders amassed great wealth, land holdings in the form of pious endowments (Ar., *awqāf*, s. *waqf*) and tens of thousands of followers throughout the Northwest. These followers, including Hui, Dongxiang, Salar, and sometimes Uyghur, converted Tibetans and Han, congregate for annual *ermali*. Followers also erected tombs of successors to the founder, members of the holy *silsila*, usually adjacent to the founder's tomb. Over time, tomb complexes evolved as a spatial *silsila*, with the founder tomb (the tallest) in the center and his successors arrayed around him. The tombs radiate *baraka* (blessings) in proportion to the stature of the saint, and all are visited by pilgrims to solicit aid with personal or familial ailments. In their three hundred year history, however, the orders have undergone disaggregation as succession disputes split the *menhuan* into sub-orders.

The division of Sufi *menhuan* is a complicated topic and one that I cannot fully address in this chapter. Division occurred due to a variety of factors. A divisive factor was the uneasy co-existence of competing rules for inheritance among Chinese Sufis. Hereditary succession had become a convention among Arab orders by the fifteenth century (Trimingham 1971:71). However, the hereditary rule sometimes conflicted with the *murshid's* selection of his *khalīfa* when it was his brightest student. Conflicts ensued between the son and the intellectual heir. Additionally, Sufis historically faced pressure from the state that branded them *xiejiao* (heterodox). The official gazetteers reveal that inter-*menhuan* violence constantly threatened social order, and thus the state captured, imprisoned and killed Sufi leaders and sought to minimize their following.

*Enter the Yihewani*

Perhaps the greatest attack on the *menhuan*, however, came in the form of the Yihewani who entered China in the 1880s and gained prominence in the 1920s in Hezhou, Xining, and Yinchuan. The spread of the Yihewani cannot be understood without reference to the “Ma family warlords,” deteriorating relations between the Qing government and Muslims, and pervasive Han-Hui interethnic and intra-ethnic Muslim violence. There were three main lineages—all Mas<sup>23</sup>—who dominated Gansu, Ningxia, and Qinghai from the 1860s to the 1940s. The Hezhou lineage is known as the “Hezhou Three Mas” and includes Ma Zhan’ao, Ma Haiyan, and Ma Qianling (Ma 2004a; see Table 1).<sup>24</sup> Ma Zhan’ao (1830–1886), an *ahong* of Glory Mosque *menhuan*, in opposition to discriminatory laws and the massacre of Muslims in the Shaanxi Muslim rebellion of 1862–1872, led a united Khufiyya–Jahriyya attack against Hezhou in 1862 (Chen 2002:169). After a siege that lasted allegedly 1,000 nights, Ma Zhan’ao broke through the city wall (Hai 1993:26–29). The Qing thereupon dispatched Zuo Zongtang, the general who put down the Taiping rebellion, to retake Hezhou. At a hilltop known by the name of a nearby mosque, after uniting the Hui and Han, Ma Zhan’ao defeated Zuo in 1872 but then surrendered to the Qing forces to mitigate bloodshed (Ma 2004a:32–35). Ma Zhan’ao’s turnabout exemplified the empress Cixi’s policy of “using the Hui to control the Hui” (*yi Hui zhi Hui*). Hezhou residents have a story to explain Ma Zhan’ao’s decision:

Ma Zhan’ao held two bowls before him. One was filled with *wandou* (garden peas) and the other filled with *mizi* (rice grains). The one with garden peas was filled to the top whereas the one with rice grains was not even half full. Ma Zhan’ao said, “Look at these two bowls and tell me which is fuller. The one with garden peas looks fuller because they are larger,

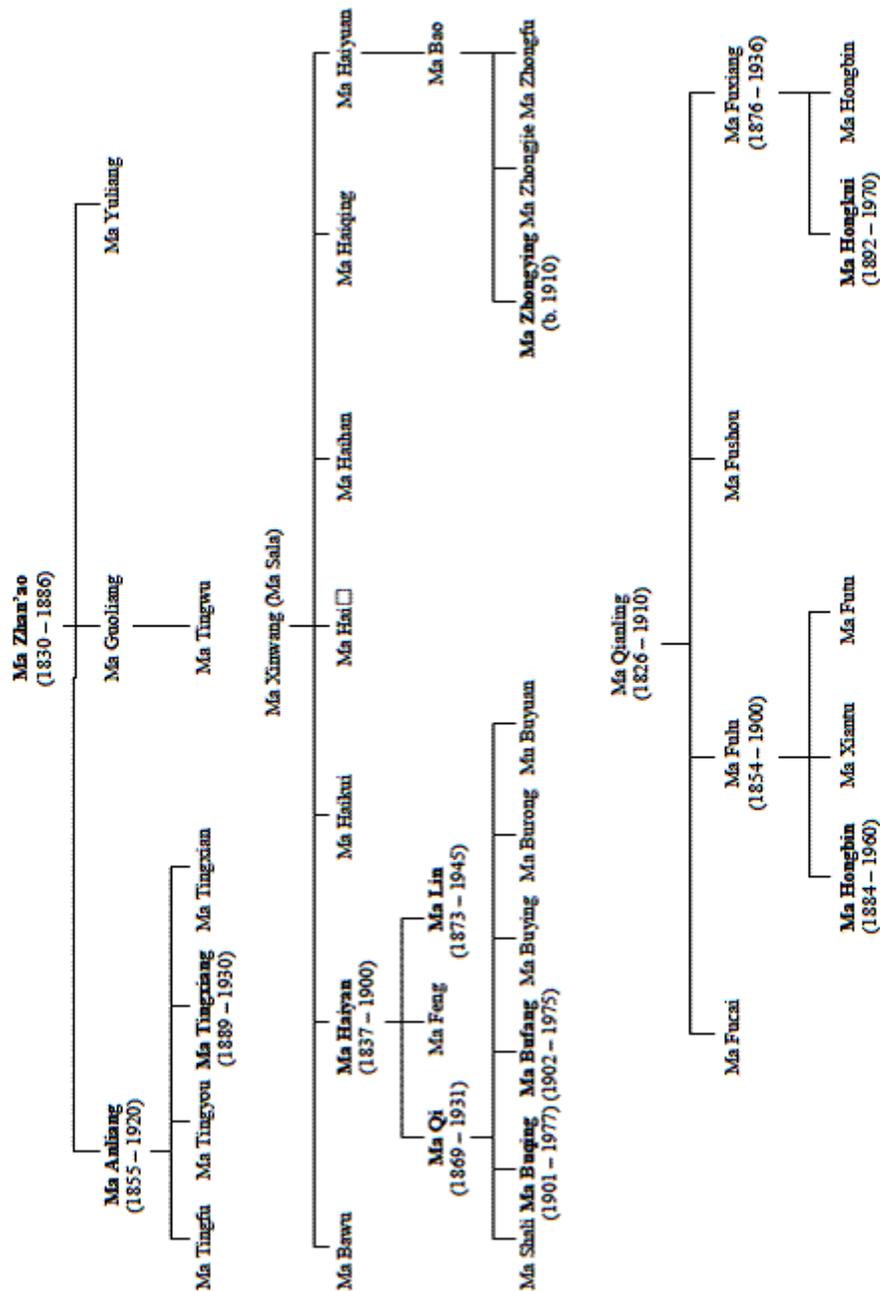
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<sup>23</sup> The preponderance of the surname Ma among Hui is usually explained by Northwest Hui by the fact that the pronunciation of the Chinese Ma most approximates the first syllable of Muhammad.

<sup>24</sup> Lipman (1984) notes that the three lineages all claimed Hezhou as their home, although following one convention in the Chinese historiography, he diagrams the Ma family lineages as three distinct families: first, the Hezhou lineage, beginning with Ma Zhan’ao; second, the Xining lineage, beginning with the brothers Ma Haixiao and Ma Haiyan; and, third, the Ningxia lineage starting with Ma Qianling. As Ma Zhan’ao, Ma Haiyan, and Ma Qianling were all born in Hezhou (what would now be called Linxia Hui Autonomous Prefecture), following a different convention in the Chinese historiography, I consolidate them in reference to natal place as the “Hezhou three Mas” family lineage diagram in table 1.

but in reality, the rice grains are much greater in number. So it is with Huimin and Hanmin”  
(HZ 9/13/2010).

Table 1. The "Hezhou Three Mas" Family Lineages (simplified).  
 Names mentioned in text in bold. References consulted: Lu 1986; Ma 2004a; Shi 2006; Yang 2007; Zhao 2010.



A second Hezhou Ma lineage began with Ma Haiyan (1837–1900). Ma Haiyan made a living as a household-on-foot transporting goods throughout southern Gansu before joining Ma Zhan’ao in the long conflict with the Qing army, and gaining fame for his valor. Ma Haiyan followed Ma Zhan’ao in then joining the Qing army (Ma 2004a:133–134). The following generation, Zhan’ao’s son Ma Anliang (Ma Shiwu [1855–1920]) and Ma Haiyan’s son Ma Qi (1869–1931), themselves rivals, formed powerful armies that gained the support of the Republican government. Ma Qi and his sons, Ma Bufang (1901–1977) and Ma Buqing (1902–1975), who inherited their father’s posts, would provide the military force backing the spread of the Yihewani movement, popularized by its founder, Ma Wanfu (1849–1934).

Ma Wanfu, also known as Guoyuan Hajji, was a Dongxiang born in present-day Dongxiang Autonomous County. Similar to Ma Laichi and Ma Mingxin although with radically different results, Ma Wanfu traveled abroad, performing the hajj in 1886, an experience that transformed his views on Islam. Ma Wanfu returned in 1892, bringing several Wahhabi texts including *Kashf al-Shubuhāt* (Ch. *Keshenfenshu buhaqi*) or *Clarification of the Doubts* written by Muhammad b. ‘Abd al-Wahhāb (Mingde Mosque of Linxia City 2004:4). Ma Wanfu advocated a scripturalist interpretation of Islam based only on the authority of the Qur’ān and the *aḥādīth*. Under the slogans “base the teaching on the scripture” (*pingjing lijiao*) and “respect the scripture, reform customs” (*zunjing gesu*), Ma Wanfa put forth a ten-point program that attacked many of the practices of the Gedimu and Sufis, including prohibiting grave visitations, worship at tombs, and the use of the Qur’ān in the *fidya* or atonement for recently deceased. He further required women to wear the *gaitou* (Ar. hijab). As Jonathan Lipman has shown, Ma Wanfu’s message met with little success until Ma Qi formed an alliance with Ma Wanfu to annihilate the former’s Sufi enemy, Ma Anliang (1997:207). Ma Qi had consolidated his power in Xining where Ma Wanfu accepted a leadership position at East Gate Grand Mosque. For eight hundred years, the mosque had belonged to the Gedimu, managed tomb

complexes, maintained ties with Khufiyya Sufis and even hosted foreign Sufi missionaries like Khoja Āfāq. After being destroyed by the Qing army, Ma Qi had it rebuilt. In 1918, Ma Qi placed Ma Wanfu as a leader in the mosque and it was converted to Yihewani. As chronicled in the mosque's official record, Ma Wanfu gained support among the "ten great *ahong* of the new teaching" in Hezhou. Through implementing a new curriculum in "scriptural hall education" and advocating the new teaching in sermons, the *ahong* proselytized Yihewani doctrine (Xining Donguan Qingzhen Dasi zhi bianzuan weiyuanhui 2004:210–212).

The ten *ahong* were not immediately successful, however, as Hezhou was still in the throes of the on-going war between the National People's Army and Muslim militias. This time, Ma Zhongying (b. 1910), cousin to Ma Bufang and Ma Buqing, laid siege to Hezhou three times. In a time of widespread famine, purported cannibalism (Forbes 1986:53), heavy taxation by the government, and inflamed inter-ethnic violence, in 1928, Ma Zhongying stormed the wall and seized Hezhou (Ma 1994:194–196). Most of the Bafang Hui did not participate in the revolt, but provided supplies and food to the invading Muslim army, many conscripted Salars. In retaliation, the infamous commander of the seventeenth division of the National People's Army Zhao Xiping, under the Shaanxi Han "Christian general" Feng Yuxiang, an ally of the Hezhou government, burned Bafang, including its twelve mosques and most of its Sufi tombs.<sup>25</sup> Elder Bafang Hui still talk about Bafang burning for eight nights, dispersing Bafang's 40,000 Hui.<sup>26</sup>

In the aftermath of the "Yellow River incident" (*hehuang shibian*), Ma Zhongying fled south to Tibet, and Ma Bufang and Ma Buqing filled the vacuum of authority in Hezhou. In 1930, the Republican government appointed Ma Weiliang the garrison commander (*jingbei siling*) of Hezhou (Chen 2002:244). Ma Bufang, having attained the position of committee member of the Qinghai

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<sup>25</sup> For a description, see the report written by Robert Ekvall who lived in southern Gansu during the "Mohammadan Rebellion" of 1928-1929 (1938).

<sup>26</sup> Bafang's Muslim population saw a significant drop from pre-Republican times during this period most likely due to the continuous wars, famine, natural disasters, and dislocation of the early twentieth century. The *Linxia City Gazetteer* (1995) gives the number 11,481 people for the year 1940 (Ma 2010a:12).

province government in Xining, made Ma Weiliang report to him (Shi 1986:110–111). In the 1930s, Republican president Chiang Kai-shek supported Ma Bufang's bid for power of Qinghai as Ma Bufang was seen as both anti-Communist and anti-Japanese. Ma Bufang ruled Hezhou as his own satrapy. During this period, Ma Bufang mobilized the new teaching to replace Gedimu and Sufi leaders with Yihewani *ahong* under his domination. As described by the *Long Ahong* chronicles, a three-volume history of Hezhou, written by members of the Naqshbandī-Mujaddidi Bright Heart *menhuan* in Hezhou whose founder Qi Mingde led the Sufi resistance against the Yihewani,<sup>27</sup> Ma Weiliang forcibly removed Gedimu *ahong* from their positions in mosques and replaced them with Yihewani *ahong* (Mingde Mosque of Linxia City 2004:26–27). Consequently, all mosques in Bafang except for Old Wang Mosque and City Corner Mosque converted to Yihewani. Meanwhile, Ma Buqing, the deputy commander of the fourteenth division of the National People's Army, had conducted a series of successful military engagements against the Red Army in Ningxia, and returned to his native Hezhou. There, he built two magnificent mansions: East Mansion (*Donggonguan*) and Butterfly Villa (*Hudielou*). He took up residence in the former and visited the latter where his fourth wife resided, an actress from Lanzhou, whose stage name was Butterfly. He also built primary schools, including a girls' school, and funded the construction or expansion of several Yihewani mosques, including Lower Second Society Mosque, which began as a *biansi* (side prayer hall), according to their current *ahong* (HZ 6/10/2010) (Map 4).

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<sup>27</sup> See Chapter 6.



Map 4 Hezhou in Republican year 30, 1941 (Linxia shi difang zhi bianzuan weiyuanhui 1995:408).

Thus, the Yihewani movement grew in Hezhou and elsewhere in the Northwest primarily because of the patronage and secular power of the Ma warlords. Most scholars contend that the third Hezhou Ma lineage under Ma Qianling, which produced Ma Hongbin (1884–1960) and Ma Hongkui (1892–1970), both commanders in the Chiang Kai-shek’s army and governors of Ningxia, also backed the Yihewani (e.g., Lipman 1997:208; Popović and Veinstein 1985:24; Snow 1968:307–308). While members of Qi Mingde’s Bright Heart *menhuan* also believe Ma Hongbin and Ma Hongkui were Yihewani,<sup>28</sup> several sources say otherwise. One is Ma Shiying, a fourth-generation

<sup>28</sup> *Long Ahong: Volume 1* states, “Ma Hongbin originally believed in the old teaching, but then converted to Yihewani.” The Sufi history puts the date of conversion at or around 1942 (Mingde Mosque of Linxia City 2004:50).

descendant from Ma Hongbin and currently a doctoral candidate at Lanzhou University, who is writing his family's history. He claims, unlike Ma Bufang, that his great grandfather did not popularize Yihewani doctrine (LZ 12/10/2010), and further evidence militating against his ties with the Yihewani is that Ma Hongbin is buried in Green Dragon Mountain Tomb Complex (Qinglonshan Gongbei) in Lanzhou,<sup>29</sup> a Qādiriyya shrine (Illus. 1).



Illus. 1 Section of the Green Dragon Mountain Complex in Lanzhou. Ma Hongbin's tomb is the tallest in the middle. Source: taken by the author (LZ 12/11/2010).

Another source that disputes Ma Hongkui and Ma Hongbin's affiliation with the Yihewani is Abū Bakr (b. 1930),<sup>30</sup> a Hui Sufi born in Xining who is building a new tomb complex in Hezhou. Abū Bakr claims he served in Ma Hongkui's army as a *fujiang* (vice-general of a brigade) in Ningxia in

<sup>29</sup> Ascetic *manla* (students) of the order said that Ma Hongbin came to the tomb regularly when he was alive. However, they thought Ma Hongkui may have had Yihewani leanings.

<sup>30</sup> Unfortunately, I cannot give Abū Bakr, an extremely controversial figure in Hezhou, the full attention he deserves here. His biography, which I helped him compile in 2010, will be the subject of a forthcoming article.

1945. The following year, Ma Hongkui, Ma Hongbin, and Abū Bakr among others traveled to Kashgar in southern Xinjiang where they met a Uyghur Sufi master named Khoja Ishan Armamedha Mujaddid (Ahmad Khoja; d. 1956), a fifth generation descendant of Khoja Āfāq. At that time, Abū Bakr became the master's *murīd*. Ma Hongkui and Ma Hongbin, Abū Bakr alleged, also developed a relationship with the Uyghur *murshid* although they had ties to the Nai Tuo Sufi *menhuan*, founded by Ma Wenchuan. Abū Bakr's claims would seem fanciful if it were not for a photograph he has of the encounter (Illus. 2).



Illus. 2 Abū Bakr's evidence. Top photograph features a young Abū Bakr with Ahmad Khoja seated. The lower photograph is right to left: Ma Hongkui, Ma Hongbin, Ahmad Khoja, Ma Hongqi (a relative of Ma Hongkui), and Abū Bakr. Kashgar 1946. Source: Abū Bakr's archive.

Abū Bakr asserts that he became a student of Ahmad Khoja during that first visit and subsequently studied under Ahmad Khoja's son, Ani Bingliahai Abudouli Kailimu (Abd al-Karim; d. 2002) who was well known as he spoke 48 languages. Sufis of the Bright Heart *menhuan*, upon looking at the photographs, argue a true *murīd* would not stand over his *murshid* or *'ustād* (master) in such a way and that the encounter was merely political. As one's doctrinal affiliation is one of the chief forms of identity in the Muslim Northwest, such claims about a famous personage's affiliation and the forms of evidence used to buttress such claims (e.g., photographic, textual, and *silsila*) are bitterly contested in Hezhou.

The entry of the Yihewani through the force of Ma Bufang and the Muslim warlords marks a key turning point in the history of Islam in Hezhou and its relationship to the state. The Yihewani were not only effective in gaining the patronage of the Ma family warlords and the National People's Army, but when the Communists finally defeated the Guomindang in 1949, the CCP adopted the Republican policy of favoring the Yihewani (Gladney 1999c:128). When it assumed power, the CCP denigrated Sufis as feudal and superstitious. The Yihewani movement, however, had changed significantly since its origins as the Ikhwān in early twentieth-century Egypt such that in China it assumed a strongly nationalist, pro-government and modernist approach to Islamic education and organization (Lipman 1997:209). One consequence of the perceived Yihewani-CCP "alliance" was the marginalization of a group that split off from the Yihewani in the 1930s.<sup>31</sup>

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<sup>31</sup> In Hezhou, the issue of how non-Yihewani perceive the government's favoring the Yihewani may have more salience than any factual alliance. While in the first decades of CCP rule it is generally accepted that the state favored the Yihewani via the China Islamic Association (*yi-xie*), non-Yihewani participation and leadership in the *yi-xie* in contemporary Gansu and elsewhere militates against such a claim. See Chapter 10.

### *Suppressing Salafiyya*

The Salafiyya are those who promote a neo-conservative ideology that shares affinity with the Yihewani in opposing the Gedimu and the Sufis. However, it rejects what it views as the accommodation of the Yihewani to both the state and Chinese culture. Salafism is a purist movement that tries to return Islam to the situation during the “first three generations” following the Prophet (Lauzière 2010:370; Meijer 2009:3–5). Thus, among Chinese Muslims they are known as the *qiansanbei* (preceding three generations) or as the *santai* for their practice of raising their hands three times to initiate prayer with the *takbīr*. Chief among their features is the Salafiyya’s rejection of the established Sunni schools of jurisprudence (*madhāhib*). Although non-Salafis label them followers of the Hanbalī school for its strictness, Salafis in China reject this category, agreeing with Salafis elsewhere in privileging direct interface with the sources of revelation (*al-‘amal bi-l-dalīl*) (Haykel 2009:42). The history of the relationship between the Ikhwān and Salafiyya is convoluted as the Ikhwān movement used Salafiyya as an ideology to promote its own purposes with much cross-fertilization between the two (Skovgaard-Petersen 1997:155–156). Muslims in Hezhou analytically distinguish the two. They do so with reference to Salafiyya’s historical introduction to China. Following Gladney’s pioneering work on the Salafiyya (1999c), I briefly describe the historical process by which the Salafiyya entered Hezhou.

There are two theories as to the genesis of the Salafiyya in China, both of which, like the hagiographic tales of the Sufis and the earliest account of the Yihewani, stem from the practice of the hajj and missionary activity. In the more common version, the Salafiyya trace the first Chinese Salafis to a group of Muslims who participated in the hajj in 1936 and returned in that year.<sup>32</sup> This group was composed of Ma Debao (called “Beizhuang *ahong*” from Guanghe), Ma Yinusi from

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<sup>32</sup> There are multiple accounts of when the group left for Mecca. Some put the date at 1934 (Bianxiezū 1986:77; Gladney 1999c:132). Others date the departure to 1935 (Hanunai 1986:128).

Bafang, Ma Zhengqing (also called *Lao Alim* or Old ‘Ālim, from Bafang’s Tie Family Mosque), and Ma Lin, who was Ma Bufang’s uncle.<sup>33</sup> Ma Debao met a Salafi missionary named Muhammad Ḥabīb Allah, or Habibullah (Ch. Huzhandi) to Hui, in Mecca. Both Muhammad Ḥabīb Allah and Muhammad ‘Abdu had studied the works of the fourteenth-century scholar Taqī al-Dīn Aḥmad ibn Taymiyya, a jurist of the Hanbalī school. The Chinese hajjis brought back a collection of texts called the “six great [texts of the] Sunni school” (*liu da xunni pai*) (Ar. *Al-Ṣiḥāḥ al-Sitta*): *Bukhārī aḥādīth* (Ch. *Buhali Shengxun ji*), *Kitāb al-Sunan of Abū Dāwūd* (Ch. *Aibu Dawude Shengxun ji*), *al-Jāmi‘ al-Ṣaḥīḥ of Muslim* (Ch. *Musilin Shengxun ji*), *al-Jāmi‘ al-Ṣaḥīḥ of al-Tirmidhī* (Ch. *Tie’ermiji Shengxiun ji*), *Kitāb al-Sunan of Ibn Māja* (Ch. *Yibun mazhi Shengxun ji*), and *Kitāb al-Sunan al-Sughrā of al-Nasā’ī* (Ch. *Ney-sah-yi Shengxun ji*). Upon returning, the men sought to proselytize Salafiyya in the Yihewani mosques of Bafang, but were met with resistance by the established ten *ahong* of Ma Bufang.<sup>34</sup> On 30 February 1949, six months before the arrival of the PLA, the Salafiyya held a public debate with Yihewani leaders over the “*ḥukm*, doctrine, etiquette” (*hukun, jiaoyi, liyi*) from the *aḥādīth* and as their views were irreconcilable, the two formally split (Hanunai 1986:128).

According to the second theory, contemporary Chinese Salafis, like the Yihewani, identify Ma Wanfu as their intellectual progenitor. I first learned of this view while enjoying lunch with six senior Salafis, including an *ahong*, and five officials in the municipal government. They told me Ma Wanfu made a second hajj, along with two other men, one of whom was the grandfather of the Salafi man who told the story at lunch. While in Saudi Arabia, the man’s grandfather met a Salafi teacher with whom he studied. The teacher empowered Ma Wanfu to appoint Salafi *khulafā’* in China. Ma Wanfu returned to Hezhou with this authority (HZ 10/6/2010). Only later after piecing together multiple conversations did I discern that the alleged meeting was between Ma Wanfu and Muhammad Ḥabīb Allah, the same teacher who had supposedly converted Ma Debao and the

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<sup>33</sup> Some accounts also add Bai Jieru and Mao Futing (Hanunai 1986:128).

<sup>34</sup> The foregoing was from an interview with two senior Salafis (HZ 10/15/2010).

others. While the second theory may be a case of wishful genealogical thinking, the Salafis who believe in it despise the current leadership of East Gate Grand Mosque in Xining who, according to the Salafis, has denied the true message of Ma Wanfu.

More importantly, both versions point to Muhammad Ḥabīb Allah as the foreign source of Salafiyya in China. In talking to other Bafang *ahong*, I discovered another dimension of the Salafiyya origin story, that a missionary named Said Buharla (“Mister Bukhara,” after his native place) traveled to Xining in the 1938 and established the first Salafiyya schools in China. I traveled to Xining to learn that the missionary founded two schools, one at South Gate Grand Mosque and the other at North Gate Grand Mosque. An octogenarian named Su Daizheng (Arabic name Dāwūd), associated with the Yihewani Beautifully Decorated Arched Bridge Mosque (Yu Dai Qiao Qingzhensi) met Said Buharla when he was nine years old. He said Said Buharla was none other than Habibullah (i.e., Muhammad Ḥabīb Allah). At South Gate Grand Mosque, Said Buharla taught the *Bukhārī aḥādīth*.<sup>35</sup> Ma Yudao (Ar. Muhammad), the second-eldest son of Ma Wanfu, the founder of the Yihewani *jiaopai* in China, taught the *Faxue dagang* (Outline of Jurisprudence) or *uṣūl al-fiqh*.<sup>36</sup> Students had to memorize these materials and apply the rules to legal problems. After two years, Muhammad Ḥabīb Allah was driven out of Xining by the Yihewani, backed by Ma Bufang, and fled to Saudi Arabia. Moreover, several young *ahong* from Bafang studied at the school. The Bafang *ahong* returned to Hezhou as the *xinshi shi da yimamu* (new style ten great *a’imma* [s. *imam*]), some of whom converted to Salafiyya, in contrast to Ma Bufang’s *laoshi shi da yimamu* (old style ten great *ahong*), who spread the Yihewani creed (HZ 10/15/2010). An advertisement for the Xining

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<sup>35</sup> Many Hui I spoke to made the point that Said Buharla carried this collection of the Prophet’s sayings into China. Most likely he was not the first. Hui hold the collection, collected by the Persian scholar Muhammad ibn Ismā’īl ibn Ibrāhīm ibn al-Mughīra ibn Bardizbah al-Bukhārī (A.H. 196–256/C.E. 810–870) in the highest regard as one of the most complete compilations of the Prophet’s words.

<sup>36</sup> The official history of East Gate Grand Mosque confirms that Ma Yudao taught at several mosques, including South Gate Grand Mosque, from 1931 to 1945 (Xining Donguan Qingzhen Dasi zhi bianzuan weiyuanhui 2004:213).

school dated 1936 and posted on the Gedimu City Corner Mosque lists many of the Bafang along (Illus. 3).



Illus. 3 Newspaper advertisement for one of the first Salafiyya schools in China. The advertisement reads in part: “And the Director (*mudīr*) of the College (*jāmi‘a*) appointed two deputies Muhammad Ḥusayn al-Qūkiyājānī al-Khaḥawī [and] Muhammad Ḥabīb Allah al-Tūjawī.” The identity of the former is unknown. The latter is the missionary from Burkharā. Source: Qi family archives, Hezhou.

The history of the first Salafiyya mosques in Hezhou contrasts sharply with that of the earliest Yihewani enclaves, backed by the warlords. Opinions differ among Hezhou Salafis as to

where the first *jamā'a* formed and by whom.<sup>37</sup> This difference in opinion reflects an historic split within the earliest Salafiyya. The disagreement occurred between two of the pilgrims who had returned from the hajj in 1936: Ma Debao and Ma Zhengqing. The Dongxiang Ma Debao (1867–1977), exercised a more radical view of Salafiyya thought; thus, his *jiji pai* (“radical faction”) encountered a greater degree of resistance from the Yihewani. Ma Zhengqing (1878–1958) held a more moderate view known as the *wenhe pai* (“moderate faction”). He was also more successful in gaining initial government support and was named deputy director of the China Islamic Association of Gansu province. The defining debate between the two factions was the interpretation of the word *istawaā* in the phrase *istawaā 'alai al-'arshi* found in seven verses of the Qur'ān.<sup>38</sup> Ma Zhengqing preferred the Chinese translation *Anla duanzuo zai baozuo shang* (Allah sits rightfully on the throne), whereas Ma Debao advocated the translation *Anla gaoguo le baozuo* (Allah has surpassed the throne).<sup>39</sup> The ambiguity of the Arabic word lies at the heart of what Hui call *renzhuxue* (the science of recognizing the Lord) or *tawhīd*, the oneness of God.<sup>40</sup> The doctrine of one Truth, independent of all creation, was central to Salafiyya thought. Ma Zhengqing's moderate faction grew their hair long to reflect their interpretation of the doctrine whereas Ma Debao's clique cut theirs short. Textual exegesis led to physical markers and, soon, followers of different factions congregated at different mosques. Ma Debao gained a foothold in New Wang Mosque, the earliest Salafiyya mosque in China (est. 1950), whereas Ma Zhengqing was more successful in cultivating students throughout the Northwest and especially in Huangzhong County in Qinghai. In the 1930s and 1940s, several Bafang mosques were converted to Salafiyya including Grand Qi Mosque, North Mosque, Tie Family Mosque, and a home-turned-prayer room Small South Mosque (Ga Nan Si) that was destroyed in the 1940s.

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<sup>37</sup> The following is based on interviews conducted with Salafiyya ahong in Hezhou's major Salafiyya mosques.

<sup>38</sup> See Qur'ān (7:54, 10:3, 13:2, 20:5, 25:59, 32:4, and 57:4).

<sup>39</sup> Dru Gladney has called these the immanentist and transcendalist interpretations, respectively (1999c).

<sup>40</sup> Hans Weir includes the following definition for the eighth form of the verb: “to stand upright, erect, straight; to straighten up; to sit down (on), mount (s.th); to sit firmly” (Cowan 1976:444).

It was not until the 1990s, however, that the conflict erupted into regular violence in the streets of Bafang (Gladney 1999c:102–3). Ma Debao's third son, Ma Fuhai, a dogmatic and ill-liked ahong, established a small mosque called River Rapids South Mosque (Hetan Guan Nan Si). Ma Fuhai failed to cultivate a strong following however, and in 2009, he stepped down allowing River's Edge Front Mosque (est. 1980) to take administrative control over River Rapids South Mosque. Although the intensity of the rivalry between the moderate and extreme factions has dulled since the 1990s, the two remain nominally based, respectively, in the River's Edge Front Mosque (the largest Salafiyya mosque in China) and New Wang Mosque (the oldest surviving Salafiyya *jamā'ā*).

### *Conclusion*

As I have shown, the history of Hezhou is the history of the entry of a succession of “tides” or “modes” of Islam into China. Hajjis, missionaries, texts, and relics have circulated through the Arab peninsula, Central Asia, and China. Given the geographic distance from Mecca, the costs of participating in the hajj, and Qing policies that minimized contact with foreign Muslims, Hezhou Hui, in one sense, feel estrangement from the Muslim heartland (itself a concept subject to multiple definitions, for example, Sufi *khanāqa* in Central Asia).<sup>41</sup> As Zvi Ben-Dor Benite has written, Chinese Muslims are subject to “double displacements,” living on the borders of Dār al-Islām (house of Islam), outside Islamic law's jurisdiction and bereft of direct contact with Islamic world as was the historic case of Turkic Muslims (2005:17). Consequently, Hezhou Hui invest tremendous legitimacy in those people, objects, and writings associated with the Muslim heartland(s). These various interpretations of Islam have sedimented in Hezhou society as Sufi *menhuan* and *jiaopai*. Whether Gedimu, Khuffiyya, Jahriyya, or Qadariya Sufi, Yihewani, or Salafiyya, all Hezhou Muslims identify with their *menhuan* or *jiaopai*. In some cases, *jiaopai* or *menhuan* affiliation trumps ethnicity or

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<sup>41</sup> While the central narrative of the heartland may have fallen out of favor in Islamic studies, not so for the Hui, illustrating “the edge ultimately creates the center” (Bulliet 1995:12).

natal place as the identification of primary importance in Hezhou. Thus, whereas elsewhere Salafiyya, for example, is a political ideology allowing Muslims belonging to different organizations to ascribe to it, in Hezhou, it is an exclusive group.

In contemporary Hezhou, Hui's sense of alienation is even more complex than suggested by Ben-Dor's analysis. First, technically, as a matter of law, the Ḥanafī school, to which Hezhou Hui belong, is the most lax of the schools of jurisprudence and does not require a Muslim living in the Dār al-Ḥarb (abode of war) to abide by legal prohibitions (Abou El Fadl 1994:173–174), nor to migrate (hijra) to land under shari'a (Masud 1990:39–40). However, paradoxically, given the state of Hezhou Hui's consciousness of shari'a, they may not be aware that the law liberates them from its jurisdiction and many believe, in their assertiveness of Islamness vis-à-vis the Han majority, that they are still beholden to it. Historically, Hezhou, at the crossroads of the Silk Road and the tea-horse trade, was pivotal (if not central) to Islamic movements into China. Nevertheless, during particular imperial periods (e.g., Ming and Qing), due to repressive measures, the Hui of Hezhou were effectively cut off from migration to, trade with, or learning from Arab and Persian co-religionists. Additionally, in contemporary Hezhou, Muslims feel marginalized in the state's modernization drive. Lastly, there are the non-political obstacles to Chinese Muslims' realization of a life in accordance with shari'a, mainly cultural and linguistic. Therefore, the Hui experience multiple alienations: from Islam, from Chinese modernity, and from themselves.

The *jiaopai* and *menhuan* fulfill a fundamental need, and do so in importantly different ways. My broader argument is that *jiaopai* and *menhuan* organize or structure the Hui fantasy or desire to surmount the political, economic, linguistic, cultural, and phenomenological obstacles to living a life in accordance with shari'a. In this chapter, I have shown one way in which *jiaopai* and *menhuan* fill a perceived lack in Hui subjectivity. Whether in the hagiographies of Hezhou Sufis or "rationalistic" histories of Yihewani and Salafiyya, *jiaopai* and *menhuan* fulfill a need for

recognition, to be seen by foreign Muslims and recognized as their equals, inheritors, their successors-in-waiting. This relationship may be summarized in Freud's maxim *Wo es war, soll Ich werden* that Lacan translated as "where it was, I must come into being" (2006b:435). Žižek interpreted the phrase as Freud's version of the Enlightenment goal for knowledge (1997:ii). It is also, in Freud's sense, an avowal of the interruptive nature of the unconscious. For Lacan, it appears to be both, and axiomatic in subject-formation. As the authenticating authority states: "This person, in my mind's eye, is also me." All such groups claim *jiaopai* (or *menhuan*) status as a matter of legitimacy and standing in the community as well as an imagined connection to co-religionists in the heartland. And yet, as I have shown, there is a considerable amount of ambiguity, heterogeneity, and uncertainty between and among the *jiaopai*. One way in which *jiaopai* and *menhuan* maintain the contradictory claims that their version of Islam is both continuous with that of Muslims in Dār al-Islām and, at the same time, uniquely Chinese, is through different approaches to following shari'a. To explain the *jiaopai* and *menhuan* as the primary identifiers in Hezhou and the compulsion to demarcate boundaries and argue for clear distinctions between the *jiaopai*, in the next chapter, I describe contemporary Hezhou under the rule of the Party-State.

## CHAPTER TWO: Inheritance and Invention: Hezhou in Communist China

### *Bafang Sounds*

The *adhān* blares out over the mosque's speaker systems calling the faithful to the *jum'a* prayer. The sound unfolds like a blanket over the Muslim quarter of Bafang, and stretches out beyond to the Han section of the city where it contends with the static of pop music, honking cars, and the errant firecracker. Almost immediately, another mosque sounds its call, the second chasing after the first, like racing sound waves. As each mosque keeps time according to a different authority, the calls radiate out from the mosques' minarets in syncopation, one after another. The messages glorifying God are the same, but as their timing and direction are all different, the message loses its coherence to a non-resident. In Bafang, each mosque is the center of a *jamā'a* (Ch. *zhemate* or *jiaofang*) and each *jamā'a* belongs to a *jiaopai* or *menhuan*. As I stand in the intersection of two lanes in the center of Bafang, not far from the Bakou Neighborhood Office, the residents of Bafang come out of their courtyard homes, ambling toward their mosques. The mosque attendees are almost all male, most of them elders having already retired or who work part time in one of the shops along the periphery of Bafang. The younger men, fewer in number, ride their mopeds from work avoiding Bafang's narrow lanes. The elder men wear dark gray suits, not altogether different from the tunic suits mandatory among proletariats through the 1970s, although the Hui men explain that Islam prohibits a man from wearing bright colors. Immaculately white caps (*bai maozi* or *bei homo* in the local dialect Bafanghua, Ar. *ṭāqiyya*) adorn their heads. A group of *manla* congregates in the intersection. The Salafiyya are distinguishable by their dark-colored *thawb* and red-and-white checkered *kūfiyya* whereas the Gedimu and Sufis wear dark or tan-colored overcoats and wrap colorful turbans (Ch. *taisitalei*) around their white cap, some with white tails down their backs. They disburse in several directions to their respective mosques.

The lanes resemble Kashgar's *holta kucha* or Beijing's *hutong*. They have developed organically without reference to an orthogonal or rectilinear urban plan. The lanes are too narrow for cars and, at points, turn at ninety-degree angles. The walls of the lanes are made of an assemblage of brick, concrete, stone, and in some places, adobe and mud plaster. The walls extend several meters overhead ensuring privacy for those who live in courtyard homes within. Once in the lanes, the harsh sounds of the city are muffled and absorbed. I hear the polyglottal Bafanghua, behind the walls of the lanes, the squeaking of unoled bicycles under bearded Hui men late for prayer, and the pigeons' whistles overhead.

All lanes eventually lead to one of the streets that encircle (or, en-square) Bafang. At each mouth, I feel the sounds of the city on my face like an open oven: the beeps and honks of motorized bikes, taxis' horns, the engines of tractors hauling vegetables, raw mutton and beef, trash and compost. I hear the man across the street grinding walnuts outside his shop, then the soft brush as he cleans the wheel, the proprietor next to him banging his tin wok. And too many cars. Some of the entries to the lanes have two large stones at the corners blocking the entry of vehicles, holding back the tide. At each mouth are vendors selling beef noodles, Dongxiang hand-pulled mutton, and *niangao* or *yangao* in Bafanghua (cake made of glutinous rice). Tibetan monks stroll the north side of Bafang where proprietors sell ox-tails, yak butter, corals from Taiwan, and fox pelts. On the east side of Bafang are the tea and spice stalls. Tea leaves, from Yunnan, are used for either "hot tea" that the Tibetans enjoy or "cool tea" that the Han and Hui prefer. Each store has a pneumatic hammer that grinds the raw material for spices into a fine powder which is collected in a large oblong bag. The grinding sends billows of aroma out into the street from the storefront: pungent turmeric, dried longan, pickly ash, wild pepper, dried mushroom, and bay leaves. In addition, there are leather shops selling cowhide saddles, belts, shoes, and harnesses. Rugs made from Qinghai wool are produced in factories in Tianjin, and then sold throughout southern Gansu. At the major intersections, wholesale shops sell everything from tin pans to ceramic vases. Men busily load large

flatbed trucks, parked along the clamorous streets. Intersections are transient parking lots for transport to Tibet, Qinghai, and Sichuan. Households-on-foot are replaced by eight-wheelers. Tea, leather, rugs, and transport: the vestiges of the tea-horse trade.

Bafang residents inhabit single-story tiled homes (*wafang*)<sup>1</sup> that resemble the four-walled courtyard patterned throughout China. The entrances to the courtyards are decorated with Hezhou's famous "carved brick" (*zhuandiao*) made from "white earth" loess from North Plain (Bei Yuan) just north of Hezhou. The carved brick is trimmed with wood carved in floral shapes and painted red, blue, and green. A plaque in gold Arabic letters proclaims "Allahu akbar." Inside, one is greeted by a screening wall, also of carved brick, illustrating a nature scene and painted. The entry then leads to the courtyard, which, depending on the socio-economic status of the family may feature a garden, cypress tree, well, or domesticated animals including chickens and lamb. The rooms are arrayed off the central courtyard. They are organized according to function: kitchen, bedrooms, and guestroom, with a corner retained for a cramped toilet, or simply a pile of loose earth. The building material of the existing older homes is wood-frame adobe, while the newer homes are made of concrete, the walls layered with white tile. Of the homes still featuring the original floor plan, the main room or *shangfang* is on the north side of the courtyard and features a design called *hubaotou* (lit., "tiger-embracing-head"). The *hubaotou* is a concave design whereby there is an indenture before entering the main room. The *hubaotou* serves as the guestroom or the residence of the eldest member of the family. The Bafang household is traditionally comprised of three (or more) generations and features the concentration of authority in the *jiazhang* or head of the family (normally, the father, but sometimes the grandfather). While the head of the family or the eldest member resides in the *shangfang*, the other members are arrayed around the *shangfang* in a hierarchical fashion based on age. Until the reform era, one could still visit a fraternal joint

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<sup>1</sup> Note that *wafang* refers to the tiling of the roofs whereas *pingfang* means "single story."

family. Often, rivalry between the brothers would manifest itself as conflicts over the best rooms in the house.<sup>2</sup>

### *Strategies of Control*

This chapter describes the myriad tactics deployed by the state to impose order over Bafang, the site of numerous sectarian disputes and the natal place of the Ma family warlords. Socialist law and Party policy have contained and isolated Hezhou from significant contact with foreign Muslims and the global *umma*. In addition to law, the Party-State has mobilized knowledge production through bureaucratic and academic channels, the market (both labor and property), and even reorganizing sacred space to manage Hezhou despite a general relaxation of religious regulation since the 1980s. Yet mobilization does not necessarily confer monopoly, and control is a process rather than a fait accompli. Hezhou continues to be central to Hui business, pilgrimage, and teaching networks throughout the Northwest despite enduring control over Islam by the Party-State.

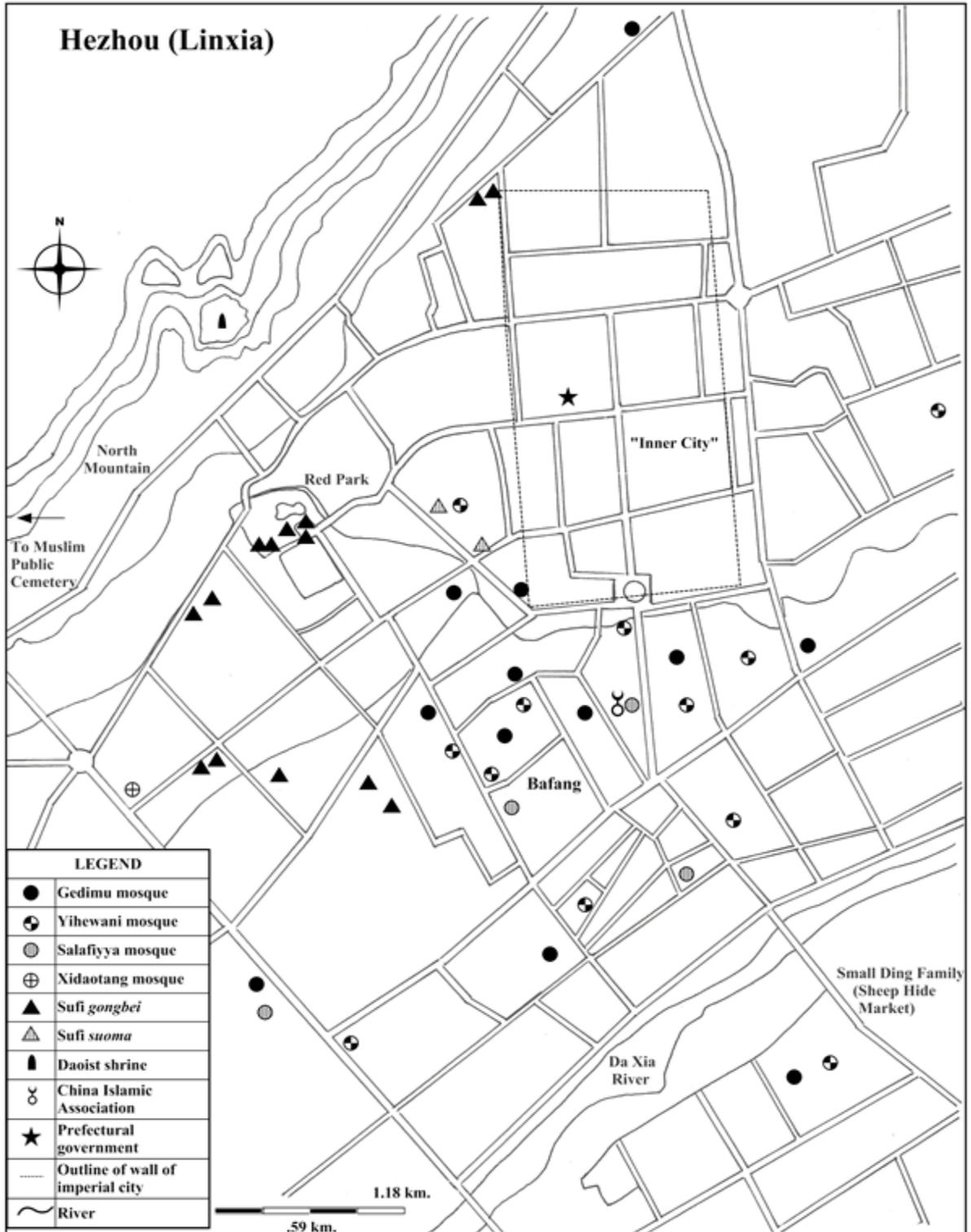
Bafang occupies a total area of 1.24 square kilometers to the immediate southwest of what used to be the south gate of the imperial wall. Although the city wall was razed in 1958 removing the physical boundary, Hezhou has retained a division between Hui and Han space. Residents of Hezhou, Han and Hui, continue to call the portion that used to be inside the imperial walls *chengnei* (inner city). In Hezhou today, this is where the supermarkets and shopping malls are located selling the latest in Euro-American fashion imitations. Bars, clubs, karaoke bars (KTV, in Chinese), and Internet cafés also predominate in *chengnei*. This is also the location for the government buildings for both the Linxia city government and the Linxia prefectural government (although the former was relocated to the eastern suburbs in 2007). Streets are wide and well paved, there are trash bins

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<sup>2</sup> The foregoing is based on observations and interviews with Bafang residents. On the influence of customary law in inheritance disputes, see Chapter 3.

on every corner, and police officers at every intersection. Signs on restaurants read *dazhong* meaning “of and for Han.” Hui decline to move there citing the traffic, noise pollution, scarcity of halal restaurants, frenetic pace, and distance from mosques. Frequently, Hui denounce the moral quality of inhabitants in *chengnei* for their drinking, dancing, gambling, online surfing, smoking, drug use (especially heroin), and other *ḥarām* activities like soliciting prostitutes.

Hui continue to prefer *chengwai* (outer city), where Bafang is located. Hui residential patterns have widened around the city following the construction of more mosques and the general urban sprawl; nevertheless, Bafang remains the core of the Muslim quarter. There are twenty-one mosques in Bafang: nine Gedimu, nine Yihewani, and four Salafiyya (see Appendix A). Additionally, a collection of three Khufiyya tomb complexes is on the western outskirts of Bafang. Farther north is the Qādiriyya cluster of tombs centered on the Grand Tomb complex, featuring five tombs (see Appendix B). Although initially outside the city limits, the modern city has spread around the tombs. Hezhou, in short, presents one of the most doctrinally diverse and densely packed Muslim communities in China or anywhere for that matter (Map 5).



Map 5 Contemporary Hezhou (Linxia City) with mosques and Sufi tombs. Created by the author.

In early August 1949, the People's Liberation Army (PLA) arrived and declared Hezhou, renamed Linxia, liberated. Hezhou's geographic, trans-local, historic, and religious significance presented formidable challenges to Party rule and continues to do so. Following the inter-*menhuan* wars since the seventeenth century, the clashes between the Yihewani and traditionalist Gedimu and Sufis, the anti-Qing Hui rebellions, and the oppressive measures of the Ma warlords, Hezhou is a place of cumulative scarring. Communist rule would add additional layers of scars. I divide the approach of the Party-State into, roughly, two inter-dependent strategies I shorthand respectively as *administration* and *isolation*. The first strategy of administration consists of appropriating and containing the local authority of the *ahong* and Sufi *shaykhs* as well as the jurisdictions of the mosques and Sufi tomb complexes over the daily lives of Hezhou Muslims. The second entails isolating Hezhou from foreign Muslim influence via the hajj, trade, education and intellectual exchange, and civil society. The first strategy assumes the form of a combination of coercion and persuasion in the first decade of CCP rule and, following the reforms after 1980, it assumed the familiar form of governance, that is, laws, policies, and bureaucracy. Spanning the years of Communist rule, the first strategy also includes academic and political knowledge production about Hui identity, not just *minzu* (ethnicity) but specifically *jiaopai* and *menhuan*. The second strategy of isolation also includes, in the last thirty years, laws and Party policy. Additionally, it shows the Party using the market to promote nation-building and de-politicize Islam. I begin with the first strategy of administration.

Party rule in Hezhou has sought to impose greater control over *ahong* and Sufi *shaykhs* as well as reform the mosque *jamā'a* and Sufi *menhuan* organizations. Historically, Bafang was divided into eight *fang* ("lanes" or precincts), under the administration of twelve mosques. The mosques provided education for youth, a social security net for impoverished families through collective

donations, and a local authority to solve disputes within and between families. This non-state form of governance changed with the arrival of the Communists. The years of Ma Bufang's and Ma Buqing's rule in Hezhou are remembered by Hui and Han alike as mainly a period of hardship, although a minority of Hui and Han view Ma Buqing's legacy, for instance his interest in education, as mixed. After the PLA arrived in 1949, they immediately turned to the Islam problem. Troops entered mosques and there propagated the doctrine of Marxism, a novelty in Hezhou. Military units entered mosques armed not with guns but with the "Hui Work Manual" (*Huimin gongzuo shouce*) and report on "Respecting Hui Social Habits and Customs" (*Zunshou Huimin fengsu xiguan*; Zhao 1990:29). Guided by the general principle of "religious freedom," they consulted *ahong* on matters of Hui custom (Zhao 1990:29). In October 1949, The First Representative Meeting of All Nationalities of All Walks of Life (*di yi ci gezu geshi ren daibiao huiyi*) was convened during which Hui would not sit with Han, although they did during the second meeting (Hai 1993:40). At the same time, the Party-State began transforming government at all levels. In 1951, the Bafang Hui Autonomous District People's Government and the West Plain Hui Autonomous Village were established to train Hui cadre. According to Party statistics, in 1958, of 781 cadre, 217 or 27.8 percent were Hui (Zhongguo kexueyuan minzu yanjiusuo Gansu shaoshu minzu shehui lishi diaocha zubian 1964:5). The Linxia People's Government was established for both the prefecture and the municipality. The city was divided into six neighborhoods (*banshichu*), most of which owe their name to pre-Communist place-names: South City, North City, West Gate, East Gate, Bafang, and the exception—Red Park.<sup>3</sup> Bafang neighborhood roughly corresponds in location and dimensions to

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<sup>3</sup> However, some of the names of the mosques were changed to titles that accorded with New China. For instance, the Gedimu mosque currently called Old Glory Mosque used to be called Old Flower Mosque, as with the Khufiyya tomb of Ma Laichi. For both, the homophone was substituted for the character *hua* (华 for 花). I suspect the same for the character *guo* in the name of the Qādiriyya Guo Tomb Complex that now uses the character for "state" or "country." It may have originally been "pot" (i.e., 锅 not 国). Members of the order strongly resist this interpretation, arguing the tomb is named after their founder Chen Baoguo whose name they interpret to mean "Country-Defending Chen." However, documents from the 1950s in the provincial archives list a "Pot Tomb Complex" that is unaccounted for in contemporary Hezhou (Anon. 1952; Anon. 1953).

the Bafang of the Qing period, although Bafang itself had expanded.<sup>4</sup> Bafang neighborhood was administratively sub-divided into four communities (*shequ*): River's Edge Front, Butterfly Villa, Dam mouth, and Wang Mosque. For the most part, the communities do not adhere to the pre-Communist *jamā'a*. Instead, the Communist administration breaks up the *jamā'a*, overriding their jurisdictional lines, and organizes households under the local neighborhood office (i.e., there is one for each of the communities).

In 1956, the government established the Linxia Hui Autonomous Prefecture (Bianxiezu 2008:78). Composed of seven counties including Linxia City (Hezhou), the autonomous prefecture, in accordance with the 1954 PRC Constitution, was empowered to enact legislation in light of local circumstances.<sup>5</sup> Theoretically, the establishment of the autonomous prefecture modifies national law to accord with the customs of the ethnic minorities that in the case of the Hui would seem to include shari'a. However, in the nearly sixty years of Party-State rule, only seven local regulations have been passed pursuant to the power of legal autonomy.<sup>6</sup> The only regulations that address

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<sup>4</sup> It is defined by the General Survey of Bafang Neighborhood as Liberation Road to the east, River's Edge Front Street to the south, West City Loop Road to the west, and North Grand Street to the north.

<sup>5</sup> See Constitution of the PRC (*Zhonghua renmin gongheguo xianfa*), passed by the First Meeting of the First Session of the National People's Congress, 20 September, 1954, art. 3. Autonomous administrative units (regions, prefectures, counties, and villages) would receive their own legislative basis in the Law of the PRC on Regional National Autonomy (*Zhonghua renmin gongheguo minzu quyue zizhifa*), promulgated 31 May 1984, revised 28 February 2001.

<sup>6</sup> Specifically, the autonomous prefectural government can issue two types of regulations: autonomous regulations (*zizhi tiaoli*) that are comprehensive in nature and individual regulations (*daxing tiaoli*) on specific matters. The autonomous regulations were issued first as the Linxia Hui Autonomous Prefecture Autonomy Regulations (*Linxia Huizu zizhi zhou zizhi tiaoli*), passed by the First Meeting of the Ninth Session of the Linxia Hui Autonomous Prefecture Congress 30 June 1987, amended 8 January 2011. Subsequently, six individual regulations have been passed: (1) Linxia Hui Autonomous Prefecture Education Regulations (*Linxia Huizu zizhi zhou jiaoyu tiaoli*), passed by the First Meeting of the Eleventh Session of the Linxia Hui Autonomous Prefecture People's Congress 15 March, 1997, amended 25 October 2003; (2) Linxia Hui Autonomous Prefecture Halal Food Production Administrative Measures (*Linxia Huizu zizhi zhou qingzhen shipin guanli banfa*), passed by the Fourth Meeting of the Eleventh Session of the Linxia Hui Autonomous Prefecture People's Congress 11 April 1999; (3) Temporary Measures of the Linxia Hui Autonomous Prefecture Religious Affairs Administrative Measures (*Linxia Huizu zizhi zhou zongjiao shiwu guanli zanzheng banfa*), promulgated by the Prefectural People's Government 31 December 2001, implemented 7 January 2006; (4) Linxia Hui Autonomous Prefecture Liujia Gorge Reservoir Ecology Environmental Protection Construction Regulations (*Linxia Huizu zizhi zhou Liujia xia kuqu shengtai huanjing baohu jianshe tiaoli*), passed by the Fifth Meeting of the Twelfth Linxia Hui Autonomous Prefecture People's Congress 27 February 2005; (5) Linxia Hui Autonomous Prefecture Fossil Protection Regulations (*Linxia Huizu zizhi zou*

shari‘a (without naming shari‘a) are the Measures on Linxia Hui Autonomous Prefecture Halal Food Administration. The Linxia Hui Autonomous Prefecture Religious Affairs Administrative Measures regulate mosques, mosque property, and mosque communities without reference to their correlates in shari‘a (e.g., mosque property as *awqāf* or pious endowments).

All such regulations pass through the Legal System Office of the Linxia Prefectural Government. I visited the office one cold winter day in late 2009 to learn about the process of passing laws in the autonomous government.<sup>7</sup> Upon knocking on the door, I found two men sitting at uncluttered desks sipping Yunnan tea. A thin layer of dust covered the furniture. The men greeted me pleasantly, ushering me into the warm room, happy to break the ennui. One man explained to me that the autonomous prefecture government allows changes in the law for ethnic minorities and cites the Linxia Hui Autonomous Prefecture Autonomous Regulations’ adjustment of the marriageable age (see Chapter 9). I asked about recent legislative activity. He gave me a booklet on the regulation for the environmental protection of the Liujia Gorge Reservoir, his face beaming with pride. The date given for the law in the booklet was 2005, however, later that evening, I discovered online two more recent regulations. My visit showed the Legal System Office was not a hub of legislative activity.

The city’s total population is 215,700 comprised of 103,800 Han (48.12 percent) and 97,900 Hui (45.39 percent), 10,800 Dongxiang (5 percent), and a smaller number of Salar, Bonan, Tibetan, and Uyghur (Chen 2010:5), meaning that Muslims are a slight majority in Hezhou. In Bafang, there are 4,507 households or 14,384 people according to the statistics of the General

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*gushengwu huashi baohu tiaoli*), passed by the Seventh Meeting of the Twelfth Session of the Linxia Hui Autonomous Prefecture People’s Congress 7 June 2006; (6) Linxia Hui Autonomous Prefecture Administrative Measures on the Dangers of Table Salt Having Excessive or Insufficient Iodine (*Linxia Hui zizhi zhou shiyan jia dian xiaochu dian quefa weihai guanli tiaoli*), passed by the Fifth Meeting of the Thirteenth Session of the Linxia Hui Autonomous Prefecture People’s Congress 15 January 2010.

<sup>7</sup> These observations from field notes dated 12/9/2009.

Survey of Bafang Neighborhood.<sup>8</sup> Official population statistics are based on three people per household, which is most likely an under-estimate. Most households I visited had at least four if not five or more individuals. Ninety-eight percent of the households are Hui. In Bafang, the Linxia government has implemented birth control and family planning policies. Since the 1980s, these have included forced sterilization for Hui women who have given birth to more than two children. Up until 1995, as part of the government's preferential policies (*youhui zhengce*),<sup>9</sup> Hui families could have two children as opposed to Han who could have only one. Since 1995, however, Hui and Han households can have only one child. This rule is enforced through several approaches. I heard of both a monthly reward to households (e.g., 120 yuan per month) that had only one child and also a penalty called a "social expense cost" (*shehui fuyongfei*) for those who exceeded their one child maximum adjusted to the father's income.<sup>10</sup> Residents of Bafang admitted that the system is open to myriad forms of subterfuge, bribery, and evasion, however. Hui officials from one neighborhood-level people's congress said that not only do most families have more than one child, but since the early 2000s, many Hui, and also Dongxiang, Salar, and Bonan, have moved from rural areas in Linxia prefecture to Bafang and elsewhere in Hezhou with the effect of increasing the population beyond officially recognized levels.

Bafang has eight Party branches that function through the neighborhood office to interact with the residents. The official position is that Bafang has "wide-spread and severe poverty, classical vernacular architecture, joblessness, and a floating population" (*pinkun mianda, pinkun chengdu shen, gudian minju duo, wuye rennyuan duo, liudong renkou duo*).<sup>11</sup> Most households in Bafang have an income of 1,000 to 2,000 yuan per month that is under the standard of 30,000 yuan of annual income for low-income families (*dishouru jiating*). According to the Linxia City Bureau of

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<sup>8</sup> Official statistics also distinguish between permanent residents and the "floating population" (*liudong renkou*). The statistics are 2,216 permanent homes or 8,936 people and 1,060 people for the floating population as of 2010, which, however, does not add up to the total of 14,384.

<sup>9</sup> For more on the legal basis of preferential policies, see Chapter 3.

<sup>10</sup> Salar and Dongxiang families residing within Bafang can have two children.

<sup>11</sup> Statement from outside the Bakou Residential Office.

Civil Affairs, 42 percent of the households receive welfare (*zuidi shenghuo baozhang* or *dibao*)<sup>12</sup> (HZ 12/20/2010). Additionally, some families receive government subsidies for housing. As of the 1980s, the government has provided water for all households, but there is no central sewer system, and most households still burn black coal in central stoves, usually in the main room. Thus, the Party has sought to re-orient households away from the mosque, as the center of the community, and rather toward the various organs of the neighborhood office.

Authority in mosques takes chiefly the form of the *ahong*, but prior to 1949, formalized relations between mosques and tomb complexes also have been, and to a certain extent continue to be, a source of authority alternative to that of secular government. The position of the *ahong* or Sufi *shaykh* as the leader in the *jamā'a* has also been a centerpiece of Party reform. *Ahong* are the locus of shari'a. The *ahong* is part *imām* (one who leads the prayer), part *khaṭīb* (one who gives the Friday sermon), and also, to the extent provided by state law (and sometimes exceeding this limit), he is also the qadi (Islamic judge) and mufti (legal scholar who interprets shari'a). Based upon my survey of 34 mosques and 23 tomb complexes in Hezhou, the average *ahong* is a married Hui in his 30s or 40s who studied in "scriptural hall education" most often in Hezhou but sometimes elsewhere in Gansu or Qinghai (see Appendix A). *Ahong* are the central mediators of all disputes in the *jamā'a*, mainly marriage, divorce, inheritance, property, or neighbor disputes. Because of his centrality to the community, the Party-State has identified *ahong* as objects of propaganda and channels their acquisition of Islamic knowledge and professional opportunities through various registration and licensing requirements. Given the centrality of *ahong* and the state's efforts to bureaucratize and thus neutralize their authority, I devote Chapters 10 and 11 to this issue through an analysis of the procedural aspects of Han shari'a.

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<sup>12</sup> The public statistics from the Bafang Neighborhood Office gave a much lower figure for 2010: 1,550 total households or 4,692 people. In all 520,812 yuan per month was given in 2010 or 336 yuan per household. The amount of *dibao*, on average, is 170 yuan per month per household.

The state has also sought to dismantle the *hanyisi* system among mosques and interrupt or impede the process of succession among Sufi *menhuan*. *Hanyisi* or *hanyi dasi* as used among Muslims in Northwest China is one example of the creolization effects of Han shari‘a. Hui explain *hanyisi* as derived from the Arabic *hiy’at masjid* (administrative mosque) although *masjid jāmi‘* (Friday congregational mosque) is more familiar among Arab Muslims. The concept applies to large mosques to which Muslims of different (smaller) mosques go to attend Friday prayer. Additionally, the *hanyisi* may have administrative powers over the smaller mosques. For instance, when Ma Qi endorsed Ma Wanfu as one of the leaders of Xining’s East Gate Grand Mosque in the 1920s, East Gate Grand Mosque became the *hanyisi* of the Yihewani. As a consequence, Ma Wanfu was empowered to place *ahong* in smaller mosques, such as those in Hezhou. South Gate Grand Mosque became the *hanyisi* of the Yihewani at that time. Although Gedimu mosques are, as a rule, more independent than Yihewani equivalents, Hezhou Gedimu consider Old Wang Mosque and Old Glory Mosque to be the *hanyisi* Gedimu mosques. The *hanyisi* also had discretion in terms of selecting the curriculum and texts in the “scriptural hall education” of mosques under it. The *hanyisi* in rare instances also had some discretion in managing the property of subservient mosques, including their donations from followers and *awqāf*.

The Communists interpreted the *hanyisi* system as an expression of feudal privilege, and therefore it was prohibited by law.<sup>13</sup> As explained to me by Officer Ma, a Hui policeman of mixed Tibetan descent of the Gedimu *jiaopai*, “Up until the Republican period, the *hanyisi* was the

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<sup>13</sup> See Measures on Gansu Province Mosque Administration (*Gansu sheng Yisilanjiao qingzhensi guanli banfa*), passed 17 November 1999 by the Sixth Representative Gansu Province Islamic Meeting, art. 2 stating “Mosques must implement the single *fang* system, there cannot be any subordinate relations between mosques. Important issues with a mosque should be decided by the masses of that mosque and in accordance with relevant regulations, outside mosques and people cannot interfere with their decision making” (*qingzhensi shixing danfangzhi, si yu si zhijian bu de cunzai lishu guanxi. Qingzhensi de zhongda wenti you ben sifang Musilin qunzhong an youguan zhengce guiding taolun jueding, waifang qingzhensi he geren bude ganshe*). See also Temporary Measures of the Linxia Hui Autonomous Prefecture Religious Affairs Administration (*Linxia Huizu zizhizhou zongjiao shiwu guanli zanxing banfa*), hereinafter “Linxia Religious Regulations,” passed 31 December 2001 by the prefectural people’s government, revised 1 July 2006, art. 11, stating in part “religious activity areas are all equal” (*zongjiao huodong changsuo yilü pingdeng*).

dominant system, but now through law and policy the system has changed to the *shudi* (belongs to locality) system” (HZ 11/15/2010). Under the *shudi* system each mosque is, by law, equal and independent of all others. In Hezhou, however, Gedimu still refer to Old Wang Mosque and Old Glory Mosque as their *hanyisi*, Yihewani regard South Gate Grand Mosque as theirs, and most Salafiyya consider River’s Edge Front Mosque to be their *hanyisi*. Members of the respective *jiaopai* attend these mosques for jum’a service. The other functions of the *hanyisi* survive in muted form. Upon graduation, a *manla* of a mosque’s “scriptural hall education” will go to a mosque of the same *jiaopai* as that of his school, and he is often hired through the personal connections of the lead teaching *ahong* of the school. The mosque administration of the school he graduates from may have influence over his decisions upon his assumption of his new post. Among the Salafiyya, for example, the current *ahong* at both Fragrant Artisan Village New Mosque and the much smaller River Rapids South Mosque were former *manla* of River’s Edge Front Mosque and continue to meet regularly with the head *ahong* of the *hanyisi* (their former teacher) on administrative matters.

The process of succession of Sufi *murshid* is another area to which I can give only cursory attention. The Chinese Sufi organization of the *menhuan* differs from that of mosque communities in that the former is not based on the *jamā’a*. Although Sufis living in close proximity to a tomb will visit it regularly, the *menhuan* is a dispersed network with members throughout the Northwest. The *ermaili* is the activity that congregates the followers, some traveling 1,500 kilometers or more to attend the event. The *menhuan* gains awareness, in Émile Durkheim’s language, “collective consciousness” (1912:492) of itself as such through the institution of the *ermaili*. As *menhuan* are diffuse, they are harder to control.

The state has not sought to control *menhuan* by banning *ermaili* (although they were stopped from the 1950s to 1970s); rather the state has tried to prevent the spread of Sufi orders. The *menhuan* grows as a result of a *murshid* acquiring *murīd* who in turn become *murshid* to

*murīd* and so on like a branching tree. In fact, the *silsila* is often graphically represented as a tree-like growth. As each *murshid* dies, his tomb acquires a vaulted position in the *menhuan's* cosmological map, collects followers and *murīd*, attracts pilgrims, and becomes a site of devotion. The entire process of the *menhuan's* growth depends on and begins with the ability of the master to proselytize.

The passing of the *kouhuan* is one of the most important links in the process of the spread of a *ṭarīqa*. The *kouhuan* (Ar. *ijāza*, permission) is what a *murshid* gives a *murīd* for the latter to spread the accumulated and secret knowledge of the order. By its nature, the *kouhuan* is oral and, like the initial instruction the *murshid* gave the *murīd* on correct meditation, so too was the *kouhuan* done in private. The *kouhuan* is occasionally accompanied by sacred objects, relics, books, scriptures, clothing, or the text of the *silsila* (initiatic chain), as in the example of Ma Laichi. Religious policy in the Communist era has short-circuited the process of the growth of the *menhuan* by arresting the spread of the *ṭarīqa* at its source. PRC religious policy greatly curbs the proselytizing of religion.<sup>14</sup> The constraints placed on proselytizing make it difficult for a master to attract students. While the regulation of proselytization affects all *jiaopai* equally, it has been particularly deleterious to Sufi groups whose legal status is ambiguous (Gladney 1987a:52).

Almost all Sufi masters I met proselytize. Some younger teachers do so actively by traveling nonstop through Gansu, Qinghai, Ningxia, and even Xinjiang. The current *laorenjia* of a Qādiriyya-Khufiyya *menhuan* based in Lanzhou with a smaller tomb in Hezhou, for example, travels by SUV, driven by his son, on a weekly basis. Others have acquired an age and status such that interested parties travel to them. Qi Jiequan (d. 2012) of Bright Heart *menhuan* hosted guests on a daily basis, some of whom are young would-be *murīd*, from as far away as Gulja, Xinjiang.

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<sup>14</sup> See Linxia Religious Regulations, art. 29, starting in part, “Declaring oneself a missionary and a missionary’s conducting of illegal proselytizing and preaching activities are prohibited” (*jinzhi zifeng chuanjiao, chuandao renyuan de feifa chuanjiao budao huodong*).

Part of dismantling the *hanyisi* system and interrupting the spread of *menhuan* has been the expropriation of their assets, mainly land, in the form of *awqāf* or *sichan* (mosque property), as the basis of mosques' finances. Beginning in the 1950s, the state expended tremendous resources in documenting and archiving all aspects of mosques and Sufi organizations, including number of *ahong* and *manla*, number of followers, and land holdings.<sup>15</sup> From 1952 to 1958, the state "took" the extensive land-holdings of tomb complexes and mosques, not by operation of law, but by force.<sup>16</sup> The effect was to reorganize and secularize space within the city. One example is the Qādiriyya Grand Tomb Complex that held more than 800 *mu* of land in 1952 (Zhonggong Linxia zhouwei tongzhanbu 1952).<sup>17</sup> A large portion of the Grand Tomb Complex's land was a cemetery in the northwest of the city that was claimed by the state in the 1950s. The bodies were exhumed in 1966 and moved to North Mountain and a statue of Mao Zedong was erected on the holy ground. Today, the area is Red Park Public Square, where youth rollerblade and elder Hui men play *fang* (square), a Hui version of checkers, in the sun (Mao has been taken down). Additionally, the state designed Red Park (next to Red Park Public Square) which features a Chinese-style promenade, a pond, zoo of exotic animals, and a de-commissioned PLA helicopter. These hyper-secular spaces literally surround the Grand Tomb Complex that Qādiriyya Sufis consider the holiest ground in Hezhou or anywhere in China.<sup>18</sup>

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<sup>15</sup> For instance, according to an internal report conducted by the Linxia Prefectural Party, as of 1953, for the whole prefecture, there were 1,500 mosques and tomb complexes, 2,500 teaching *ahong* and "heads of teachings" (*jiaozhu*), 3,000 non-teaching *ahong*, and 10,000 *manla*. There were on average one mosque for every 300 people and one *ahong* for every 80 people (Anon. 1953:1).

<sup>16</sup> Almost all modern states, including the PRC, have the constitutional right to "take" land for a public interest (e.g., health, sanitation, and security) (Erie 2012:41), however at the founding of New China, in accordance with the 1950 Agrarian Reform Law, the state confiscated land from the landlords and distributed holdings to landless peasants, conferring upon them private property rights (revoked in 1953 with the First Five Year Plan). This initial confiscation was nominally supported by law, but operated more by administrative fiat than law, and was not expropriation in the contemporary sense (Erie 2007:920 fn. 921).

<sup>17</sup> One *mu* is equal to one-sixth of an acre.

<sup>18</sup> See Chapter 6 for more on the contest between the *menhuan* and the state in designing sacred and profane space, respectively, in the northwest corner of Hezhou.

The land reform had begun in Hezhou in 1951 by confiscating large courtyards from wealthy families and dividing them for multiple poor families. The large courtyards in Bafang were mostly destroyed in 1954 and 1958. Only a few were preserved. In 1958, during the first wave of the anti-rightist movement and the start of the “Great Leap Forward,” the state implemented the “struggle against the privileges of feudalism and religion” (*fanfengjian fanzongjiao tequan douzheng*) to eradicate all “superstitions” in Hezhou with devastating effects. From 1958 to 1961, most mosques in Bafang and Sufi tombs on the outskirts of the city were destroyed; only the Grand Tomb Complex was saved. *Ahong* and Sufi *murshid* were arrested and often paraded in the streets with signs around their necks that they were enemies of the state. There were armed rebellions in 1958 in the Dongxiang Autonomous County and Guanghe County, although the PLA suppressed any rebellion in Hezhou. In 1968, the Red Guard attacked *ahong*, Sufi *laorenjia*, and former members of the National People’s Army. Following Mao’s interpretation of Marxist doctrine, the abolition of private property was an important step in the “people’s war.”

After the reforms beginning in 1978, the state has, at least in law, promised the return of such expropriated property to religious institutions, including mosques and Sufi tomb complexes. The return of property is known under the rubric of *luoshi zhengce* (the working out of the policies) and Bafang Hui speak of it almost in the same terms in which they speak of blessings from Allah.<sup>19</sup> Only the land for the “religious activity area” was returned and not any holdings in land. For example, Red Park Public Square and Red Park have not been returned to the Grand Tomb Complex. Several descendants of officers in the National People’s Army have been petitioning the government for thirty years for the return of their property that they claim is occupied by cadres in the local government. Of the surviving Bafang grand courtyards, some have been converted into low-income housing for poor Hui (Illus. 4).

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<sup>19</sup> My point here is not that Hui are apotheosizing the Party, but that they circumscribe the antinomies of living a life in accordance with Islam and as a citizen of a socialist state in a higher order faith in God.



Illus. 4 A view of the south end of the former home of Ma Tingxiang, son of Ma Zhan'ao. Located in the center of Bafang, the home is one of the few surviving examples of late Qing "mansions" (*dagongguan*) in Hezhou. The courtyard was occupied by his son, then confiscated by the PLA in the 1950s. The original blue stenciled letters are still visible on the face of the pillars: "Dispute the lesson . . . smash the stone-leaning conservatism" (*zeng xunlian* 争训廉 *po shiqing baoshou* 破时清保守). In the 1970s, the PLA turned the property over to the local land administration and it was divided into 37-square-meter sub-units and rented out to poor families for three yuan per month. In 2010, 18 families occupied the courtyard or a total of 42 people. Source: taken by the author (HZ11/4/2010).

Symptomatic of uncanny China, Ma Buqing's East Mansion has been converted into a museum and Butterfly Villa resides in the middle of a military base.

## *Naming Jiaopai*

A central aspect of the Party-State's program of control over Islam in China has been the definition of *jiaopai* and *menhuan* through academic and political knowledge production. The anthropology of China has deconstructed the notion of *minzu* (ethnicity) as an effect of the modern state's production of ethnic others (Bovingdon 2002; Bulag 2002; Bulag 2004; Gladney 1996[1991]; Gladney 1999b; Harrell 2001b; Litzinger 2000; Schein 2000). As Magnus Fiskesjö has shown, such categories as the "civilized" (Han) and "barbaric" (ethnic other) have a long intellectual genealogy in China (1999; 2009; 2012). However, the PRC's deployment of *minzu* (an early twentieth-century loanword from Japan) was crucial to the production of the novel form of the nation-state: a rationalized nomenclature for interpellating cultural diversity within the imagined community of the nation (Dikötter 1992; Fiskesjö 2006; Harrison 2001; Mullaney 2011).<sup>20</sup> Such an anthropologically informed critique of *minzu* can be applied similarly to the construction of *jiaopai* and *menhuan*. While critics of *minzu* have often invoked Michel Foucault's notion of power/knowledge to examine the relationship between social science as constructing a certain set of taken-for-granted categories as domination and its "polymorphous techniques of subjugation" (1980b:96), Foucault's approach has been critiqued from the vantage of Marxism (Sangren 1995), psychoanalysis (Žižek 1999), and gender studies (Fraser 1996). Instead, I find inspiration in Andrew Willford and Eric Tagliacozzo's use of Jacques Derrida's notion of the "archive fever"<sup>21</sup> in

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<sup>20</sup> I use the term in Althusser's sense (1994[1969]:128, 132). I understand *minzu* (and *jiaopai* and *menhuan*, for that matter) as ideologies that hail individuals as subjects. While such ideological or discursive identity place-holders have had considerable traction in the consciousness of Chinese Muslims *as* Hui or *as* members of such and such *jiaopai*, subsequent chapters will demonstrate that such interpellation is never complete. There is considerable complexity and negotiation in Hui subjectivity.

<sup>21</sup> In Derrida's study, nominally about Freud's approach to psychoanalysis as constructing a kind of archive, Derrida describes archives as that which makes claims to authority in a form external to visible forms of authority (i.e., the apparatus of the state) and yet is at the same time authoritatively concealed. The archive, Derrida explains, is troubled by "archive fever," which is a compulsion or desire to return to origins and their

ethnographic truths (2009:3) as helpful in analyzing the academic production of sectarianism in Chinese Islam.

It is rare in the social sciences for one figure to dominate a field as in the case of Ma Tong and the study of Islam in China, and specifically its schools. Ma Tong is a small man with watery eyes behind round-rimmed glasses. He lives in a hospital facility in Lanzhou where he receives treatment. He was born in 1927 in southern Gansu into a Jahriyya Sufi family,<sup>22</sup> although neither his parents nor he had a close relationship to the *menhuan*. He first developed an interest in Islam while studying law at Northwest University in Xi'an in 1946, although he was not interested in Islamic law per se. He recalls spending hours in the university library reading Wang Jingzai's Chinese translation of the Qur'ān and studying Islamic doctrine, law, and basic knowledge. Before this encounter, he did not understand Islam, nor did he know Arabic. He graduated the year the PLA arrived to Xi'an. In that year, he began working for the Gansu Province Nationalities Affairs Commission in Lanzhou where he served as secretary to Ma Qingnian, the vice-minister of the Gansu Province United Front Work Department (UFWD), the Party organ that interfaces most closely with minorities (LZ 9/25/2010). Ma Tong describes Ma Qingnian as the Party secretary of Linxia. Ma Tong was in charge of all matters regarding ethnicity and religion. The relationship between Ma Tong and Ma Qingnian would last until 1962 and define both their careers. Together, they made repeated trips to Hezhou conducting interviews with *ahong* and Sufi leaders. Ma Tong first went to Hezhou at the end of 1949 as the people's governments were being installed, and began collecting data on Muslim minorities and their schools. In one interview, he described his activities at this time as "part work, part research" (LZ 3/10/2010). Another time he said, "The research was not for my work, it was separate. At that time, there was no such thing as social science" (LZ 9/25/2010). Over the next twenty years, he met with many leaders of *menhuan* in

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documentation (1995:91). It is the subsequent archiving (and mapping, census, etc.) of, for instance, ethnic or religious subjects, which sustains the state's rule.

<sup>22</sup> This section is based on a series of interviews I conducted with Ma Tong in 2010. For a biography of Ma Tong, written by a Hui scholar born in the same county as Ma Tong, see Ha 2009.

Hezhou and the Xidaotang (“Hall of the Western Way” or “Western Daotang [place of Sufi instruction]”) in Taozhou, a Muslim group founded by Ma Qixi (1857–1914) remarkable for its communal form of property ownership as well as its emphasis on mastery over the Chinese canon to understand Islam. They practiced collective weddings, defined as multiple couples marrying at the same time who then live together in massive multi-floor courtyards in the countryside around Taozhou. In 1952, he joined the Party, and in that year began working for the Linxia Public Security Bureau. By 1956, Ma Tong had written some 40,000 words on the basic situation of China’s *jiaopai* and *menhuan*, including the Xidaotang. According to his biographer Ha Baoyu, drafts of his writings were circulated by the prefectural Party committee and the UFD (Ha 2009:160). As far as his methodology, Ma Tong identifies his position vis-à-vis his interlocutors as a “common average cadre” (*putong yiban ganbu*) and not as a researcher. He went to mosques or tomb complexes alone or sometimes accompanied by a Muslim leader, such as Qi Mingde, the Naqshbandī–Mujaddidi teacher who led the resistance against the Yihewani attack in the 1930s (see Chapter 6). He denied being part of any political meetings or public trials (*gongshen dahui*) in 1958 designed to elicit information from *ahong* or *laorenjia*. In that year, during the anti-rightist purges, Ma Tong was attacked from within the Party. Again, in 1968, he was forced to do manual labor.

Although he completed a draft of his field-forming study as early as 1954, only in 1983 was his research published as the book *An Historical Record of China’s Islamic Jiaopai and Menhuan System* (*Zhongguo Yisilanjiao jiaopai yu menhuan zhidu shilü*) (hereinafter, the *System*). The reason for the postponed publication was the sensitivity of the content. The study addresses, in remarkable detail and breadth, the historical formation, doctrinal particularities, and interrelationships of “three great *jiaopai* and four great *menhuan*” system. Ma Tong’s study has been foundational for a number of reasons. First, he elaborated a catalogue of schools comprised of *jiaopai*, the Gedimu, Yihewani, and Xidaotang and *menhuan*, the Qādiriyya, Khufiyya, Jahariya, and

Kubriwaya.<sup>23</sup> He generated a set of qualifications for their status, based on their historical composition and presence through the Northwest, including number of followers. He enumerated their specific doctrinal interpretations as reflected in their modes of prayer, for example, or burial rites and commemoration of the dead. He also described their leadership structures. Second, he recognized the Xidaotang as a *jiaopai*. The Xidaotang have struggled since their founding, sometimes violently, with Gedimu and Sufi groups in Taozhou for recognition as an orthodox interpretation of Islam (Anon. 1987b; Min 2007). As far as self-classification, the Xidaotang have resisted assertions that they are Sufi. They denounce such labels even though they practice meditation, valorize the *ṭarīqa*, perform the *dhikr*, and hold *ermali*.<sup>24</sup> They vehemently reject such an association on the basis that they have no *silsila*. One explanation for the Xidaotang repugnance at the category Sufi is that Sufis themselves have long struggled to gain recognition from other Muslims and the state.<sup>25</sup> Although the Xidaotang obtained governmental recognition in 1919, Ma Tong's authoritative inclusion of the Xidaotang in his study catapulted them from *xiejiao*

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<sup>23</sup> Ma Tong was certainly not the first to do so. As Lipman points out, there is a cottage industry within Hui "ethnic studies" for the development of systems for *jiaopai* and *menhuan* (1997:71). The terms *laojiao/laopai* (old teaching), *xinjiao/xinpai* (new teaching), and *xinxingjiao/xinxingpai* (rising teaching) are used loosely and interchangeably with "old" describing whichever group pre-existed the latest arrival. As new teachings arrived, the previous "new" sometimes became "old." One example of a pre-Communist classification system comes from a English translation from the Chinese by Mr. T. M. Chu first appearing in the newspaper *Ta Kung Pao (Da Gong Bao)* in Tianjin on 8 May 1934, entitled "Mohammaden Factions in Northwest China." The author a Lu Chin provides the following classification: Old Religious Faction (*laojiao pai*), Pro-China Faction (*neixiang pai*), and New Religious Faction (*xinjiao pai*). The last one is sub-divided into Hsuan Hua Kang (*Xuanhuagang*), Hsi Tao Tang of Lingtan (Xidaotang), Hung Men Tao Tang (*Hongmen daotang*), Ho Kung Pei (Huo Gongbei), and Hsin Hsin Sect (*xinxingpai*) (Chin 1934). The Reverend Claude L. Pickens, who lived in Hezhou for a short period of time in the 1930s, divides Muslims into "old and new schools" (most likely, from the description, Gedimu and Yihewani; Pickens 1949). Japanese scholarship, for example Iwamura Shinobi's survey on Islam in Mongolia (1950:ch. 5), provides another schema of three *jiaopai*: *laojiao* (Khufiyya), *xinjiao* (Jahriyya), and *xinxingjiao* (Yihewani). Likewise, for the *menhuan*, Ma Tong did not invent the "four great *menhuan*" (see e.g., Tang 1942). What distinguishes the *System* is its scope and comprehensiveness.

<sup>24</sup> Whether or not the leadership rejects the label Sufi, many of the members seem to have Sufi roots. For instance, the Hezhou Xidaotang *jamā'a* was formed when approximately twenty Khufiyya Sufis from Old Glory Mosque *menhuan* broke off from the order in 1905. The current leadership of Hemp Field Mosque, some of whom are the biological descendants of these earliest Hezhou Xidaotang, state that the reason for the secession was the weak leadership of Glory Mosque *menhuan* (HZ 11/21/2009).

<sup>25</sup> Marie-Paule Hille (2008), the first Western scholar to conduct long-term fieldwork in Taozhou on the Xidaotang offers an alternative explanation in her study of the social organization and norm-creation capacity of the Xidaotang.

(heterodoxy) to one of the “three great *jiaopai*.” As remarked by one Xidaotang member, half-jokingly, “Mr. Ma Tong is our saint” (*Ma Tong xiansheng shi women de shengren*; HZ 12/2/2009). Third, Ma Tong’s survey was one of the first studies in China to examine Sufis and their practices without dismissing them as superstitions or tomb worship. Some Sufis today regard Ma Tong’s work as a charter, a public grant of rights to practice as they desire, and cite the *System* in their own written histories.

In short, the *System* has become the authoritative archive of Chinese Islamic schools.<sup>26</sup> Ma Tong’s students occupy positions of influence in research institutes in Lanzhou and Beijing. Foreign scholars have elevated the *System* to the status of near primary source (Dillon 1999:xvii). Yet the sanctification of the *System* is not unanimous. Yihewani and Salafiyya denounce his work, yet their reason for doing so is not based on any evaluative criteria but rather the fact that the *System* recognizes Sufis. Some Sufis likewise criticize his work. Their comments address his methodology and theory. A Qādiriyya Sufi says in his discussion of the Grand Tomb Complex’s land holdings and the agricultural labor members of the order performed for the benefit of the *menhuan*, his writing shows “too deep a Marxist view” (*Makesiyi zhuyi tai shenke*) (HZ 12/19/2010). Similarly, a member of the Xidaotang concludes, “he received the influence of the political environment of the time” (*ta shoudao dangdai zhengzhi huanjing de yingxiang*) (HZ 11/10/2010). A different Qādiriyya Sufi goes further, claiming, “He got his data from the *gong’anju* [police station]. He would go to *gongbei* [tomb complexes] and speak to *laorenjia* using his position as a representative of the state, and particularly during at time when there was much fear about the police arm of the state” (LZ 12/16/2010). Several Sufis at different tomb complexes said Ma Tong never actually visited their order and merely accepted some written accounts given to him, or people simply made things up (HZ 10/19/2010, 12/16/2010).

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<sup>26</sup> A major study conducted by the Chinese Academy of Social Sciences (2008 to 2011), for example, cites the “four great *menhuan*” system (Li 2011:4), citing Ma Tong’s work among others.

What to make of the difference of opinions? It seems likely that many are simply dissatisfied with the way in which Ma Tong represented their *jiaopai* or *menhuan*, or the fact that he assessed *jiaopai* others in the same terms he used to describe them. While on an overnight train from Lanzhou to Guyuan to attend an *ermaili*, one Sufi, a young scholar conversant with the Chinese and English literature on Chinese Sufism, stated: “His perspective is not that of a Sufi” (*tade guannian bu shi Sufei de guannian*) (LZ 5/11/2010). Ma Tong is a technocrat concerned with engineering an analytical system. He is not interested in what Bohannan called the “folk system” (1957:4) or an emic experience of Sufism. Certainly, Marxism colors his vision of Sufis, which he calls “a unique feudal *menhuan* system” (*dute de fengjian menhuan zhidu*) (Ma 2000[1979]:75). Yet it may be too much to consider the *System* as an example of the *littérature de surveillance* or “police report scholarship,” such as the French historiography of North African mystical orders or Russian colonial administrators’ writings on Central Asian Sufis who presided over the pacification of indigenous Muslim populations (Knysh 2002:140; Vikør 1995:11). My point is not to offer judgment on Ma Tong, a man of his times. Without the *System*, academics and non-scholar Chinese Muslims would be bereft of much of Hezhou’s history. Certainly this dissertation will be read in harsher light than those comments by Hezhou Muslims. Ma Tong is himself acutely aware of the negative assessments of the *System* and is currently writing another book to present his primary materials without analysis.

Rather, the importance of Ma Tong’s research leads to two conclusions.<sup>27</sup> First and foremost, Ma Tong designed the *System* with the effect that it introduced clarity and clear-cut categories to what is otherwise an empirically messy array of overlapping, interdigitated, and fissioning relations. In the archive fever, subsequent scholarship has reified and concretized these

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<sup>27</sup> I draw attention to the *importance* rather than the *uniqueness* of Ma Tong’s knowledge production as the process I describe is endemic to colonizations across the spectrum of political-academic projects.

categories, often to inform policy.<sup>28</sup> Ethnographic research has objectified *jiaopai* and *menhuan* much as in the case of *minzu*. Division, difference, and heterogeneity reinforce the disunity of Chinese Islam even if the state's rhetoric calls for unity in Islam. A disunited Islam presents little threat to the socialist state. Archival documents produced by the UFDW and bureaus of ethnic and religious affairs from the early 1950s show the state was developing its own classification system for the *jiaopai* and *menhuan*. Some of these documents refer to Ma Tong's research, at that time before the publication of the *System*.<sup>29</sup> Ma Tong's *System*, initially too sensitive, became, in the 1980s the reference source for academic and political research on schools.<sup>30</sup> Ma Tong led the state, rather than the other way around. He is an "establishment intellectual," in historian Thomas Mullaney's sense (2011:11). The "ethnic identification project" (*minzu shibie*) also began in 1954 and saw scholars, including linguists and historians, traveling to the countryside to catalogue minority cultures. For himself, Ma Tong makes a clear distinction between those scholars whom he defines narrowly as those working under the auspices of the Chinese Academy of Social Sciences (*Shehui kexueyuan*) and his work, as he never regarded himself as conducting social science research on behalf of the state (LZ 9/25/2010) (cf. Lipman 1996:109).

The second conclusion stems from the permeability between academic and political discourses, on the one hand, and lay categories, on the other (Munasinghe 2001:17–22). The

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<sup>28</sup> There was a case in c. 2007 when a Jahariya mosque in Tongxin County, Ningxia changed its affiliation to Salafiyya under the leadership of a man who studied at Hezhou's River's Edge Front Mosque. This *jiaopai* change prompted a scholar in Ningxia to write an unpublished (i.e., *neibu* or internal) report "to get the government's attention" as one Hezhou Salafiya local scholar put it (HZ 10/15/2010).

<sup>29</sup> For instance, Ma Tong was reinstated as an "associate research fellow" (*fuyanjiuyuan*) by the Provincial Party Committee in 1983, the year his book first appeared (Anon. 1983). It appears after the publication of his book, Ma Tong, upon evaluation by the Provincial Ethnic Affairs Committee, was recommended for further employment in the position of "post of high rank" (*gaoji zhuan ye zhiwu*), either associate research fellow or higher (Anon. 1987a).

<sup>30</sup> Only in the last few years have Chinese scholars begun to write studies partially critical of the *System*. The first work, observed Ma Tong, simplified the complexity of the Fa Men *menhuan*'s system of succession (Ma 2007). Ding Shiren has offered an alternative classification system to that of Ma Tong. The most thorough study on *jiaopai* and *menhuan* does without the nomenclature altogether preferring *zongpai* or "denominations" (Zhao 2010:6). One of the first uses of *zongpai* was in Yang Zibai's schema developed in 1939 in which he had six *menhuan* and three *jiaopai*. Interestingly, he called Ma Wanfu's *xinxingjiao* Aihelixundao and not Yihewani (Yang 1984[1939]:441).

*System* has penetrated Bafang. Ma Tong is easily the most recognizable scholar in Hezhou. Every *ahong* and Sufi I talked to had a familiarity with his work and had strong views about how it portrayed their *jiaopai* or *menhuan*. Yet, interpellation does not operate in a unilinear direction. Hezhou Muslims attach primary importance to their *jiaopai* and *menhuan* status. They did so before the *System's* appearance. It would seem, given that Sufis cite the *System* in their own histories, however, that Ma Tong's work has systemized self-identification.<sup>31</sup> That is, the "passion for classifying" (Munasinghe 1997:76) apparent in *jiaopai* and *menhuan* distinctions is not shared only by objectifying scholars but by the objectified Muslims. At the same time, judgment (of Ma Tong, foreign scholarship, etc.) comes from Bafang, not Beijing or any other imperial center. One of the defining features of Islam in Hezhou is the extent to which it is discussed, argued, debated, controversialized, and gossiped about. As I argue in Chapter 6, it is through such everyday lay discourse that *jiaopai* and *menhuan* constitute their boundaries. Yet such bottom-up identity formation and "judgment from below" are conducted *through* the *jiaopai* and *menhuan*, which are partially organized by the authoritative archive. Thus, the archive which is always categorizing, typologizing, line-drawing, and indexing sustains *jiaopai* fever. *Jiaopai* fever is the need for self-certainty defined as Islamness, a history, and an orthopraxis all the more so because of the prevailing pressures of Han culture or Hanification, secularism, and socialist modernization.

Thus, administration through laws, policy and knowledge production is one form of control; another is control through isolation. Among Hui, there is a pervasive sense of disconnectedness from the global *umma*. Hui rarely articulate this sentiment partly out of pride for "China's Little Mecca" but the malaise underlies much of their commentary about the state of affairs in Hezhou. Since the 1980s, following religious reforms, Muslims, like followers of other religions in China "official" or "popular" (Chau 2006; Chau 2011; Cooke 2011; Weller 1999), have enjoyed a greater

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<sup>31</sup> Again, this process is not unique to Ma Tong's impact on Islamic studies in China and specifically in Linxia. Anthropologists of Chinese religion have noted the negotiation between "local" and "imperial" forms of religion as mutually authenticating (Feuchtwang 1992; Sangren 1987a; Wolf 1974).

degree of freedom. This takes the form of prayer, and marriage through the *nikāh*, burying their dead in accordance with Qur'ānic rules, and performing pious acts of charity. However because of Hezhou's volatility, its many-layers of scarring, collective memories of warlords and inter-*jiaopai* conflicts, and enduring potential for violence, the state has sought to moderate religious liberalization in China's Little Mecca.

On the one hand, mosques have greater autonomy to conduct their affairs. A side effect of this autonomy has been the re-emergence of inter-*jiaopai* tension in the early 1980s. From the 1950s to 1970s, *jiaopai* rivalries were effectively suppressed by the Party, particularly in the 1958 anti-religious reforms and during the decade of the Cultural Revolution. In the 1980s with a state's replacement of law for coercion, *jiaopai* animosities were allowed to once again fester. During this time the *jamā'a* of several mosques that had fissioned as early as the 1940s were finally able to formally divide, with one side leaving the mosque to establish its own mosque. This was the case, for example, with Upper Second Society Mosque, a Gedimu *jamā'a*, which split from Lower Second Society Mosque, a predominately Yihewani *jamā'a* as well as Small Ding Family Old Mosque, a Gedimu *jamā'a*, which left Small Ding Family Mosque that had converted to Yihewani. The result is that throughout Hezhou there is a doubling of names signifying the historic division: Old Glory Mosque (est. 1368)/New Glory Mosque (est. 1946), Old Wang Mosque (est. 1368)/New Wang Mosque (est. 1980), Qi Lineal Village Mosque (est. Qianlong period)/Qi Lineal Village New Mosque (est. 1983), Walled Village Mosque (est. 1934)/New Walled Village Mosque (est. 1982), and so on. Additionally, with the religious liberalization, some mosques such as Old Glory Mosque that were forced to convert to Yihewani in the warlord period converted back to their original *jiaopai*. Thus, multi-*jiaopai jamā'a*, which existed since the Yihewani arrived in the 1920s, were historically

unstable. They have existed in an uneasy state of “schismogenesis” (Bateson 1972:126),<sup>32</sup> but were lumped together via the heavy hand of the state.

State governance of Muslim minorities is ethnically and locally specific. In Kashgar, for example, since 2010, the central government has established a series of “special economic zones” to open the Uyghur cultural bastion to international trade and Han in-migration. The strategy in Hezhou has been very much the opposite. Whereas in Xinjiang, the “bamboo curtain” (Khanna 2008:78–84) has fallen, in Hezhou, a protective veil has taken its place. The government has closed Hezhou down from external influence, whether regional, national, or international. Hezhou Hui experience what could be called an “*umma* disconnect” in terms of economic, intellectual, and religious exchange. As with administration, the state employs law and policy and, in addition, the market to isolate Hezhou. The state is not the only source of this isolation, but Hezhou Hui feel culturally and linguistically alienated from the Muslim ‘heartland.’ Thus while the Islam in China literature has emphasized the connectedness of Chinese Muslims to Muslims elsewhere, the view from Hezhou is one of estrangement and discomfiture. The protective veil, in contradistinction to its intended effect, is the wellspring of desire to surmount it as obstacle (see generally Sangren 2009a; Sangren 2009b). This desire takes the form of myriad networks, most in the gray space between legality and contraband.

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<sup>32</sup> In applying Bateson’s typology, *jiaopai* and *menhuan* exhibit symmetrical schismogenesis by which their internal organization is defined by a certain set of qualities that are different from the behaviors they illustrate to rivals. Their rivals, in turn, define themselves by a different set of qualities yet treat others in much the same way they are treated (Bateson 1972:68). Inter-*jiaopai* relations rarely take the form of confrontation but rather subsist on gossip, rumor, behind-the-back talk, and endless comparisons and belittling.

*A Market Town without a Market*

“In the East, there is Wenzhou. In the West, there is Hezhou” (*Dong you Wenzhou, xi you Hezhou*). People in Hezhou often repeat this phrase, meaning that Hezhou is the inland equivalent of the prosperous city of Wenzhou on the coast, first uttered by Chinese sociologist Fei Xiaotong during one of his visits to Hezhou in the 1980s (see e.g., Fei 1987). However, the tone in which they recite the expression, itself reiterated regularly by the local paper *The Ethnic Daily* (*Minzu ribao*), is darkened with sardonicism. According to law, Linxia Hui Autonomous Prefecture of which Linxia City (Hezhou) is the capital has the power to implement national laws in light of local conditions. Yet Hui and Han alike bemoan Hezhou’s economic condition. A common way to pass the time in Hezhou is to sip green tea, tend the coal-burning furnace and gripe about Hezhou. If economic prosperity is the national desire, then Hui in Hezhou feel left behind. Many Bafang Hui complain of the poor condition of their households and blame the local government that they see as favoring the Han. One Hui woman born and raised in Bafang, married to a Hui government official, states a common view: “Linxia never changes. It hasn’t changed in 30 years. You look at cities out east and how modern they are. Our government is controlled by the Han. They don’t want Linxia to develop. They are afraid of so-called China’s Little Mecca attracting terrorists” (HZ 2/1/2010). Other Hui blame the lack of attention to development in Hezhou not to its Islamness, but rather its proximity to Tibet that is a “non-development zone” (*bu kaifa qu*), according to one Salafiyya teacher (HZ 4/14/2010). Hezhou Han hold a different view. A farmer whose land in South Garden Village (Nanyuancun), a peri-urban collection of Han farms on Hezhou’s eastern outskirts, has been requisitioned for development deplores the Hui favoritism of the local government. “If I have money, I can buy you an official, they all want your money” (HZ 11/7/2010). His neighbor, also Han, complains, “It’s a systematic problem, a vicious circle. The Hui benefit from the policies without any true merit or hard work. Once they become *lingdao* [leaders], they have no work ability

nor do they have the cultural level to handle problems (*gongzuo nengli meiyou, chuli wenti genben meiyou wenhua shuiping*)” (HZ 11/7/2010).

A young Dongxiang Sufi cadre in the Linxia city government vents:

Linxia has not received the investment it needs to develop. Places like Yiwu [Zhejiang province] are totally different as all the central government’s money goes there. For Linxia to be a trade center, it would need a highway,<sup>33</sup> railroad,<sup>34</sup> an airport,<sup>35</sup> modern infrastructure,<sup>36</sup> . . . these are just basics . . . but most importantly, it needs resources, *rencai* (human talent), and a necessary production base. It lacks all of these things. Historically, yes, Hezhou played an important role via the tea-horse trade and Silk Road, but that was in the context of the empire. Things are totally different now. Planes, e-commerce, et cetera have all replaced the need for a middle-point in China” [HZ 10/1/2010].

Hezhou’s strategic importance at the threshold of Tibet and Xinjiang has become, since the 1980 economic reforms, outdated. That is, while Hezhou remains a regional crossroads between the Qinghai-Tibet plateau and the Han-dominated lowlands to the east, the nature of the market has changed in the course of China’s economic modernization. Despite the so-called Great West Development Program (*xibu da kaifa*) begun in 2001 (Goodman 2002; Lai 2002), the central government has prioritized capital investment in the southeastern seaboard, in cities like Guangzhou, Shenzhen, and Yiwu, investing in export-oriented commodity production in these cities. Foreign Muslim businessmen concentrate in these areas, too, and have no need to travel to the Northwest. If they do, they may go to Hezhou as tourists. While a few of Hezhou’s hotels have clocks

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<sup>33</sup> As anthropologist Zhang Yinong notes, in the 1990s there was a popular expression, “if you want to get rich, build the road first” (2009:178). Hezhou historically was the hub of a network of roads linking southern Gansu and Tibet beyond to Lanzhou (Ma 1995b:43-50). Because of the steep loess mountains that divide Hezhou from Lashou, the PRC state has been unable to cut highway access through to Hezhou. The route taken by most buses and transport trucks is a “second-class highway” (*guodao*), built in the 1990s, and follows a roundabout route through the “Qur’an belt” of Guanghe County. The second, a shorter route, opened in 2009, cuts an artery through the chalky mountains of Dongxiang Autonomous County but is far too steep and winding for most large trucks or buses that transport commodities or people. In December 2011, a third route, the Kanglin highway, was completed which may meet some of the transportation demand. There is one second-class highway, completed in 2005, that links Hezhou to Hezuo and southern Gansu.

<sup>34</sup> There are no trains that pass through Hezhou although there has been talk for years of putting a line through North Plain.

<sup>35</sup> The nearest airport to Hezhou is over 200 kilometers away.

<sup>36</sup> Where residents of Hezhou see capital investment facilitating traffic and trade, it does not benefit them and may even further marginalize them. A proprietor in Bafang complains that the Qinghai-Tibet railroad, completed in 2006 to much international fanfare, has broken Hezhou’s hold as gateway to Tibet (HZ 4/4/2010).

in the lounge set to times in Cairo, Baghdad, and Riyadh, hotel managers hesitantly admit they have only a handful of foreign Muslim guests per year.

With Hezhou's centrality as a market town threatened by a historical shift in the market, the economy does not benefit from any local industry. The common complaint in *xinxibu* ("information stalls" that line Bafang trading in jobs, real estate, and gossip), mosques, and the city markets is "there is no industry here." The sheep-hide market that was a major industry up to the end of the Qing in contemporary Hezhou is centered south of the city in a district name Small Ding Family (Ga Ding Jia). Small Ding Family district contains several dozen processing centers where sheep-hide and ox-hide from Qinghai and Tibet is processed and transported to tanneries, leather factories, and finally buyers and consumers in Henan and elsewhere in the east. The sheep-hide market, the largest in the Northwest after Guanghe, processes over 5 million hides per year and employs slightly less than 5 thousand people (Bianxiezu 2008:160),<sup>37</sup> but does not generate enough income to sustain the city's growth. Yiwu (pop. 1.2 million with 20,000 foreign Muslim residents) is the center of the world's largest small commodities market that generated \$49.23 billion in total volume of trade in fiscal year 2009 (Wu 2010a:297). Hezhou Hui youth migrate towards opportunity. Scores of Hui youth from Hezhou leave their native city every year to work as translators to Arab and North African businessmen in Yiwu. Hezhou Hui entrepreneurs have established halal food (*qingzhen shipin*) factories. There are about a half dozen such factories in and around Hezhou. Most are family-owned operations that manufacture halal meats, dairy products, cookies, and candies. Yet only one enterprise has been able to acquire the necessary licenses to produce halal foodstuffs for export abroad. Such bureaucratic impediments handicap Hezhou that competes with Ningxia Hui Autonomous Region (pop. 6.3 million, 35 percent Hui). In 2003, the Ningxia Hui Autonomous Region government built the Yinchuan Desheng Halal Food Industrial Zone, and three years later, established trade relations with Saudi Arabia, Kuwait, United

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<sup>37</sup> Interview with member of Linxia City Government (HZ 9/1/2010).

Arab Emirates, Egypt, and Malaysia, among other Muslim countries. Since 2008, Ningxia halal food production has benefited from \$6.28 million in foreign investment. In 2009, halal food production enterprises had realized a total value in output of 20 billion RMB (\$2.94 billion). Since 2010, 37 halal food production enterprises had received approvals and special loans from the finance administration.<sup>38</sup>

The government's solution to Hezhou's economy has been to build. Beginning in 2009, the government began an urbanization project to expand Hezhou eastward, effectively quadrupling the area of the city. In official documents, the project is known as "build a new district in the east, build a park in the west." The proposed eastern district will feature a series of high-rise apartment complexes. Bafang, too, is slated for urbanization or as it is known among Bafang Hui "moving from a single-story to a multi-story." The first high-rise was built in the Old Glory Mosque *jamā'a* in 1995 (illus. 5). Two additional high-rise complexes were constructed in the south end of Bafang in 2010. Upon returning to Bafang in 2012, I discovered high-rises on all four sides of the old Muslim quarter. The developers are mostly from Lanzhou and have made provisions for separating Hui and Han buildings within the complex, with the former close to mosques. Bafang Hui are highly ambivalent about the reconstruction of Hezhou.<sup>39</sup> Some Bafang families aspire to move to a high-rise where they will have a brand-new apartment with central heat and, they hope, a view of Bafang neighborhoods below. Like Han Chinese, they equate a modern apartment with material success.

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<sup>38</sup> The foregoing is from electronic correspondence with a senior member of the Ningxia Academy of Social Sciences (2/20/2012).

<sup>39</sup> The original city plan called for the expansion of the areas southwest of Bafang. However, this plan met with resistance from local Hui in 2005 to 2006 who would not move. Thus, the plan changed to expanding the eastern outskirts. The demolition of homes has equally incurred protests which I documented from 2009 to 2010. The fiercest clashes result from the razing of mosques and Sufi cemeteries that are considered holy ground.

One study, based on a survey of cadres, found 70 percent of respondents to declare urbanized life “good” (Gao 2005:64).<sup>40</sup>



Illus. 5 An aerial view of Bafang looking southeast, taken from Bafang’s first high-rise. Source: the author (HZ 5/29/2010).

On the other hand, urbanization has resulted in the demolition of *wafang* courtyard homes held in families for generations, as well as commercial spaces, such as the *xinxibu* lining New West Street that were destroyed in 2010.<sup>41</sup> In October 2009, in Small South Lane, across from New Glory Mosque, a neighborhood of 60 families, residents organized a “rights defense” (*weiquan*) campaign when developers sought to illegally enter into direct negotiations with the residents, to intimidate them, rather than go through relevant government bureaus. Residents, by employing the rhetoric of

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<sup>40</sup> As of 2010, graduate students have been conducting their own surveys, not exclusively based on government officials.

<sup>41</sup> For studies conducted on the impact of “demolition and relocation” (*chaiqian*) and resettlement on urban Hui, see Bai 2005; Gillette 2000:54-65; Liang 2006; Yang 2007a:370-372, 487-378.

the state and citing local regulations, gained attention from the government and were successful in raising the amount of their “property switch” compensation from a ratio of 1:1.5 to 1:1.7.<sup>42</sup> Unlike conflicts in Han neighborhoods, this collective action was based on the pre-existing residential-based collectivity of the *jamā’a*. One consequence of urbanization is the irritation of *jamā’a* and their internal integrity. Based upon a survey of Bafang’s first high-rise, Gold Grain Flower Garden (*Jinsuihuayuan*),<sup>43</sup> residents of the complex are not the residents of the previous *wafang* homes.<sup>44</sup> Instead, many are wealthier Hui families, with an average monthly income of 4,077 yuan (i.e., twice that of the average Bafang resident), and whose family head is a civil servant (36.2 percent). They are not all Gedimu, the *jiaopai* of Old Glory Mosque, but rather an intermixture of three different *jamā’a* (Old Glory Mosque, New Glory Mosque, and Grand West Mosque), including two *jiaopai* (Gedimu and Yihewani). In 2012, the newly appointed head of Linxia prefecture announced in a speech plans to make Bafang into an “ethnic tourist attraction.” As one Bafang resident stated, “Linxia is developing, yes, there are more apartment high-rises, but this isn’t necessarily good for our religion” (HZ 8/25/12). The long-term impact of urbanization is difficult to predict but will most likely lead to the dissolution of the tight networks within neighborhoods, and the ghettoization of Bafang not unlike Lhasa and Kashgar.

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<sup>42</sup> This means that the residents are given space in the new high-rise that is 1.7 times greater than the surface area of their original home. However, residents must then pay the developer for the difference in property value between their original home and the high-rise apartment. Further, residents must pay for their utilities that are a luxury to most Bafang residents. Source: based on interviews with residents (HZ 4/5/2010, 4/7/2010).

<sup>43</sup> The complex that obtained full occupancy of 238 families in 2006, consists of four towers of fourteen floors. In 2006, the price for an apartment was 1,760 yuan per square meter. In 2010, it had risen to 3,400 yuan per square meter.

<sup>44</sup> My random survey elicited responses from 58 of the 238 families in the complex or 24.4 percent of the total number of residents.

### *A Muslim Civil Society?*

A final example of isolation is the suppression of civil society in Hezhou.<sup>45</sup> The Republican period witnessed the florescence of a Muslim civil society in cosmopolitan centers in Beijing, Nanjing, and even to some extent in the Northwest, in the form of publications (Muslim newspapers, gazettes, journals, and magazines) (see generally Mao 2011), private schools (e.g. Shi 1987), charitable organizations, and *minjian* (unofficial or popular) silver-backed banking institutions (Bianzu lingdao xiaozu 1986). To take one example, the newspaper *Yuehua* (*Moonlight*), founded in Beijing in 1929 by a group of modernist Muslims, had wide circulation among Chinese Muslims throughout the country and discussed a variety of domestic and international political issues, with a focus on the Middle East. I first discovered the newspaper in 2009 conducting archival research in a *minjian* institution in Lanzhou I call the Islamic Resource Center (IRC).

The IRC is an unregistered non-profit organization founded in 1993 by a group of Yihewani Hui. The IRC is part library, part Muslim salon, part charity foundation for Muslim women and the disabled, part prayer space, and part matchmaking agency (see Chapter 7). It embodies Han shari'a: it is founded on a *wagefu* (Ar. *waqf*) and all the books are purchased with money from donations called *nietie* (Ar. *niyyah*) of members. It has the most complete collection of books on Chinese Islam's history, Hui studies, and Hui literature in the Northwest. It also has copies of the Qur'an in over five languages, jurisprudential texts in Arabic and Persian, and books on Chinese Islamic art and architecture. Its holdings include newspapers dating to the early 1990s printed by state-authorized Islamic organizations and associations in China and both Hui periodicals *guanfang*

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<sup>45</sup> As definitions of civil society vary, I note that my use is influenced by Weller's account of traditional associational life as reservoirs of social capital (1999). The topic of a Hui civil society has attracted the interest of many scholars of Islam in China (Gillette 2000:6; Gladney 1996[1991]:192; Ma 2006b:10). Islamic studies scholars have likewise examined civil society in Muslim states most often as public spheres of deliberation for political thought and action (Eickelman 2003; Eickelman 2008; Hashmi 2002; Norton 2001).

(official) and *minjian* Hui periodicals. Over the periodical section is a horizontal scroll upon which is written the hadith “Seek knowledge even unto China” written in traditional Chinese script.<sup>46</sup> In a locked cabinet, the director allowed me to see (but not photograph) a *Yuehua* issue in which an article discussed the “Problems in the Northwest.” He emphasized that during the Republican period, *Yuehua* was not censored and was therefore perhaps the last uncensored Hui periodical.<sup>47</sup>

The juxtaposition of the text of *Yuehua*, a literary product of an effervescent period in Muslim civil society, inside the locked cabinet of the library of an unregistered non-governmental organization in contemporary Lanzhou highlights the uncanniness of religious liberalization in reform era China. There are other educational and philanthropic organizations like the IRC in China. One was founded in Beijing’s Hui enclave Oxen Street in 1936 but was closed in the 2000s. There is another in Lanzhou in Xigu and one in Ningxia but it is for-profit. Hezhou also had a very prominent civil society center called *Ni du shu wu* (You Read Book Room), named after the first line (*iqra*) of the ninety-sixth sura. The short but contentious history of *Ni du shu wu* epitomizes not only the state’s aversion to a Muslim civil society in Hezhou with its connotations of fundamentalism, extremism, terrorism and “splittism,” but also *jiaopai* as multiple and competing regimes of orthodoxy, a perspective on Hezhou law and society I address more fully in Chapter 6.

*Ni du shu wu* was established on North Grand Street, on the north side of Bafang on 6 December, 1994 (Shan 1995). It was founded in part by an *ahong* of a progressive Yihewani mosque, funded by prominent Hui businessmen. The main part of the establishment was a reading room where up to fifteen people could sit. On the walls were over 5,000 books dealing with Qur’ānic exegesis, the study of the *aḥādīth*, and jurisprudence. Young Hui men began congregating at the *Ni du shu wu* where they could purchase and borrow books. The owner began holding classes

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<sup>46</sup> The authenticity of this hadith, heavily cited by Chinese Muslims and the literature on Islam in China, is disputed.

<sup>47</sup> In 2010, Ningxia People’s Publishers edited and bound *Yuehua* as a ten-volume set.

there on topics related to Islam. Eventually, the owner invited *ahong*, Chinese Muslim scholars, and even foreign scholars to give lectures. The reputation of the learning center grew and men came from Shaanxi, Yunnan, Qinghai, and Xinjiang. The center organized courses around the study of the Qur'ān, *aḥādīth*, and the legal text *Weigaiye* (Ar. *Sharh al-Wiqāya*). As the center expanded its services, its internal organization was formalized and a board of directors was formed. Delegations of *ahong*, senior instructors, scholars, teachers at Chinese-Arabic schools, and prominent leaders of mosques from Xi'an, Kunming, Chengdu, Xining, and other cities with large Muslim populations visited *Ni du shu wu*. Luminaries such as famous author Ma Enxin, of Kunming's Islamic Studies Institute (*jingxueyuan*); Ma Kaixian, the vice chairman of the Yunnan Provincial Chinese People's Political Consultative Conference (CPPCC), president of the Yunnan Islamic Association and head of Shadian Grand Mosque; and Wu Huaguo of Xi'an's Islamic Cultural Center all traveled to Hezhou to learn about learning at the center. In a span of a few years, it was well known through Hui intellectual networks spanning most of the country. However, around 2006, the learning center was closed by the government and the *ahong* removed from his seat of authority. This much is generally agreed upon.

Muslims in Hezhou hold a range of opinions as to why the government closed *Ni du shu wu*. Many non-Sufis hold the view that it was closed because Zhang Chengzhi, the famous Maoist revolutionary-turned-Sufi intellectual gave a talk at the learning center in 2005.<sup>48</sup> Zhang Chengzhi is best known as a fiction writer, and specifically his *History of the Soul* (*Xinling shi*) (1991), a mythologized account of the origins of the Jahriyya order in China. Zhang has been an outspoken critic of the Chinese and U.S. governments, and has been under house arrest in Beijing for many years. However, he never gave a talk at *Ni du shu wu*. Because the area was too small to hold the crowd that gathered to hear him, the talk was held at Hezhou's only high-end hotel. Those who blame the closing of the learning center on the controversial Sufi author are not exclusively

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<sup>48</sup> On Zhang Chengzhi's importance to Hui intellectual life, see Choy 2006.

Yihewani and Salafiyya, so I hesitate to draw a definitive correlation between *jiaopai* affiliation and popular attitude, but generally those with whom I spoke about the demise of the learning cell who mentioned Zhang Chengzhi's talk belonged to a progressive *jiaopai*. Sufis, however, relate that the reason for the closing of *Ni du shu wu* was not Zhang Chengzhi's talk but rather that it was run by Salafiyya. They had organized a series of events attracting young converts from Qinghai. "Ten buses for one event!" one Sufi exclaimed. Yet another view, held by Hezhou Hui regardless of *jiaopai* was that *Ni du shu wu* was in the midst of forging ties with young *manla* in Xinjiang. The Xinjiang specter reappears. One man said it was closed in 2008 because of unrest in Xinjiang at that time. (This timing is inaccurate according to most accounts.)

The example of *Ni du shu wu* illustrates the anxiety of the state in allowing underground networks, in this case educational ones, to flourish in Hezhou. Such learning centers threaten the state's monopoly on defining Islam through setting curriculum and licensing teachers (for education, see following chapter.) Yet *Ni du shu wu* further demonstrates an element of religious life that is particularly salient in Hezhou. It shows different collective memories according to *jiaopai* membership. It is not only hagiographic myths or origin stories that are disputed between and among the different *jiaopai* and *menhuan*, but recent events, too. Such collective ways of thinking are formed, in part, by transferring guilt or blame onto *jiaopai* others. Suppression of Muslim civil society operates through the force (and law) of the Party-State. Where Hezhou Hui cannot appeal to the state as the source of the suppression, they tend to allocate to or project wrongdoing (as the provocation of state suppression) onto rival *jiaopais*. In one sense, the state's anxieties about Islamic fundamentalism, radical Muslim youth, or Uyghur violence is infectious. The agents of infection are state-controlled media, including Internet commentary. Through the state's occupation of outlets mobilized by civil society in other societies, the Party propagates not only its own policies, but also state-sanctioned relations within the different Muslim minority groups in China. While "ethnic unity" remains the official slogan, in socialist China, particularly after the 2009

Urumqi riots, Uyghurs are equated with extremism and anti-state violence.<sup>49</sup> Hezhou Muslims, as a response, dissociate themselves with such behaviors. As one Dongxiang mother told me as she, her eight-year-old daughter, and I sat at a noodle shop in Hezhou, “We don’t like those Uyghurs here. They used to come here and do business. But after the *qi wu shijian* [July 5 riots], we don’t let them enter our mosques anymore” (HZ 9/3/2010). Amidst the crossfire of sectarian and ethnic divisions, maintained by mutual accusations, the state purports to maintain a lofty transcendence, a position that is never fully attained.

### *Conclusion*

Hezhou’s population is fractured along ethnic and doctrinal divisions. It has served as the base for the most important Islamic movements in China, including the Ma family warlords, namely Ma Bufang and Ma Buqing, who patronized the Yihewani *jiaopai*. Many of these divisions and movements resulted from Hezhou’s connectedness to Muslim populations in Central Asia, specifically Transoxiana, via the Silk Road and other trading routes. New China has radically shifted Hezhou’s connection to co-religionists in Central Asia and farther in the Middle East. While the so-called maritime Silk Road has been revived in the coastal cities in southeast China, the same cannot be said for most of the Silk Road. The central government is investing in the rebuilding of ties between southern Xinjiang and their neighbors in Kyrgyzstan, Tajikistan, Uzbekistan, Kazakhstan, and Pakistan, although it is yet to be seen whether Hezhou will re-emerge as a central market town so far “inland” from Kashgar’s Special Economic Zone. Thus, the containment of Hezhou through selective or benign development appears to be one of the chief strategies for state rule of the historically intractable city.

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<sup>49</sup> During the July 2009 riots I was in Lanzhou. I recall the near hysteria of Han and Hui alike over “needle-threatening Uyghurs.” Apparently, in the aftermath of the riots, some Uyghurs had used hypodermic needles as weapons to attack Han Chinese, and there was constant media attention placed on this threat to public order.

In addition, the Party-State has dismantled the *hanyisi* system and sought to immobilize Sufi *menhuan*. It has prevented the development of higher learning institutions in Hezhou or publishing houses, whereas Ningxia is in many senses emerging as the government-sanctioned intellectual center of Northwest China. Further, the state has reorganized space within and around Bafang including homes, *awqāf*, Sufi tombs, and other banal or sacred spaces.

The response of Hezhou Hui has been to mobilize pre-existing non-state networks. Many of these are illegal or semi-legal under state law. This chapter has discussed resurgent education networks that once extended throughout Northwest China. In uncanny China, such networks have once again emerged. Through such contacts, Muslim youth gain exposure to domestic and foreign scholars, some of whom are viewed as anti-state. There are other examples of such illegal networks. For instance, a revived heroin trade from Burma through Yunnan to Linxia Hui Autonomous Prefecture, especially the town of Sanjiaji, has been a controversial source of income for local Muslim communities (Xia 2009:111–112).

Another source of tension between Muslim communities and (post)socialist rule is desire to fulfill the requirements of shari‘a. Performing the hajj is not only a required act for all able-bodied Muslims but also one of the main vectors for the entry of reformist Islam into China. Many Hezhou Hui have resorted to illegal means to fulfill their requirements under Islamic law. The following chapter takes up the issue of state regulation of shari‘a through an explanation of the status of shari‘a under Chinese law and the resulting admixture of legal orders constituting what I call Han shari‘a.

### CHAPTER THREE: Han Shari'a

#### *The Letters on the Wall*

The still courtyard of the mosque where the man I shall call Nasim is *ahong* is soon to be flooded with the faithful as the hour approaches for the noon prayer. Nasim is his Arabic name and, as a member of the Yihewani *jiaopai* (teaching school), he prefers his Arabic over his Chinese name. Nasim returns from a late morning meeting with the Linxia Bureau of Religious Affairs to prepare for prayer to find three people waiting for him. One is a student or *manla* loitering in the mosque library, which is filled with books in Chinese and Arabic from the fields of Qur'anic studies, shari'a, doctrine, and Islamic history. 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 Masjid al-Ḥarām in Mecca, on the wall. The third person, unexpectedly, is an anthropologist, a white, non-Muslim American, no less.

Nasim goes to the room with the policeman first. They exchange a few words, the policeman nodding, and then bounds off to the unmarked black Santana he had driven into the courtyard, kicking up a cloud of thick dust behind him. Meanwhile, the *manla* returns to his dorm room, just across the courtyard where he lived with 80 other young Chinese Muslim men studying Islam, realizing this is not the time to ask which sura is the lesson for tomorrow. Nasim comes into the room I occupy, a reception room, with large, polished, back-straightening furniture.

He glides into the room, takes my hand warmly and sits next to me on the wooden seat. He is a small man, with angular black glasses, a small patch of barely noticeable black hair on his chin. He wears a white cap (*bai maozi*), pronounced *bei homo* in the local dialect Bafanghua. His shirtsleeves are rolled at the cuff, pens in his shirt pocket. Everything about the man is efficient and in a state of readiness; there is no waste. Like most of Hezhou's *ahong*, he is not yet 40. The walls of

the reception room prominently display the laws and regulations governing religious activity areas (*zongjiao huodong changsuo*). The national, provincial, and prefectural laws hang, in that order, from top to bottom, a kind of spatial hierarchy of the actual hierarchy of laws. On an adjacent wall hang the text from Qur'ānic sura and passages from the *aḥādīth*, the sayings and deeds of the Prophet, written in thick black Arabic calligraphy. He sits in a cushionless redwood armchair, the People's Republic of China (PRC) regulations above his right shoulder and the Islamic prescriptions off to his left—the word of the Party and the Word of God, like the *jinn* of King Solomon's court.<sup>1</sup>

After introducing myself and mentioning the name of the teacher who referred me, I ask him why the policeman came to see him and if there was any danger in my being there. Nasim turns to me and smiles his small, compact smile, “No, there is no danger. He is a member of the Linxia City Public Security Bureau who came to consult with me. I will go soon to the police headquarters to give further assistance. This happens frequently.”

“*Frequently?*” I repeat, my admiration piqued for a man about whom I had heard much in the provincial capital, but was nevertheless impressed to see him, dealing with local law enforcement with such composure.

“They often come to consult me on cases that touch on a matter of *jiaofa* (religious law)—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 in compensation, which the taxi driver was unable to pay. The policeman sought my help in resolving the dispute.”

“Why is this deemed a matter of religious law? Why the need for an *imām*?” I ask.

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<sup>1</sup> Qur'ān (13:12).

“Linxia is a Muslim city. It is majority Muslim. As Muslims, we abide by *jiaofa* (religious law or shari‘a) and *guofa* (state law). Most Linxia people, in the event of an accident, will want to resolve the problem by invoking religious law, the rule here being 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 they lower the amount to something the Han can afford. *Yisilanfa* (Islamic law) requires justice, not revenge.” Nasim smiles.

Nasim, I would learn, is exceptional among *ahong* in Hezhou for his pedigree (he is a third-generation *ahong*) and his specialized knowledge (inheritance law). However, this scene is repeated throughout Hezhou: public security officers, officials of ethnic and religious affairs, and other cadres of the Chinese Communist Party (CCP) soliciting the aid of *ahong* who are the leaders of mosque communities, called *jamā‘a*. The acquiescence of a non-Muslim Han wrongdoer to the extralegal jurisdiction of a Muslim *ahong* is likewise common in Hezhou. Also common: Nasim would leave no written record of the dispute and thus provide no basis for an indigenous jurisprudence or *fiqh* of disputes settled partially in accordance with shari‘a, yet cases like these are the warp and woof of life in Hezhou. The operation of law in Hezhou is one of contradictions and inversions. In the instant case, the seemingly inimical letters of two legal orders, shari‘a and PRC law, are showcased side by side. Any potential conflict between the two is confided away by their representatives, a religious expert and a state official. That is, those whose authority derives from the two letters, in turn, collude between themselves to agree that there is no conflict of laws between them, at least today.

This chapter addresses the relationships between the multiple legal orders to which Hezhou Muslims are subject. One of the tenacious misconceptions in Chinese studies is that there is no shari‘a in China. I therefore provide a brief history of shari‘a in China. Although the imperial codes, Republican legislation and the laws of the PRC are, in many regards, different, they share a similar,

in fact inherited, approach to regulating shari‘a. This approach operates primarily through “the cunning of recognition” to use Elizabeth Povinelli’s (2002) apt phrase in labeling shari‘a *Huizu xiguanfa* (Hui customary law), another iteration of archive fever. Following the historical appraisal of the state’s representation of shari‘a, I then examine the categories that Hui themselves employ to describe the sources of law, ethics, and custom that order their everyday lives. Following a growing literature on the role of shari‘a in the lives of Muslim minorities in secular states (Emon 2007; Fadel 2009; March 2009; Maurer 2006; Na‘im 2008; Ramadan 1999),<sup>2</sup> I call the complex assemblage of practices that characterize Hui’s adherence to multiple legal orders Han shari‘a. Han shari‘a is a recombinatory or patchwork practice of shari‘a influenced by socialist law “from above” and Chinese customary law “from below.” It includes not only the familiar ritual or devotional rules known as the *‘ibādāt* (e.g., pronouncement of the *shahāda*, prayer, hajj, giving of alms, and recitation) but also the *mu‘āmalāt* or laws of social relations, including marriage, divorce, inheritance, and property. Its institutions are primarily the *ahong* as dispute mediator and also *jingtang jiaoyu* (“scriptural hall education”) as the locus of education about the law. Han shari‘a is also reproduced through texts, either Arabic or Persian texts from abroad or their domestically produced Chinese translations.

Han shari‘a is not reducible to “Chinese shari‘a” for the descriptor over-privileges the cultural singularity of shari‘a practice among Chinese Muslims. While Han shari‘a is culturally constructed by Chinese Muslims and shows elements unique to Chinese Islam, it is more accurate to describe Hui legal culture as a particular and localized set of practices shared by the global *umma*. Likewise, Han shari‘a does not refer to the “shari‘a of the Han Chinese,” the ethnic majority in China. My use of Han shari‘a underscores not the culturalist but rather the seeming psychoanalytic

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<sup>2</sup> Pearl and Menski call shari‘a among Muslims of South Asian descent in Britain *angrezi shariat* (1998:57). Following Pearl and Menski, Saminaz Zaman describes legal practice among American Muslims of South Asian descent *amrikan shari‘a* (2008). Likewise, Mathias Rohe writes of “European shari‘a” (2009). These studies suggest a new branch of the taxonomy of legal systems that is plural, heterogeneous, and intercultural.

tensions that permeate the Hui's practice of a religiously based law. On its face, Han shari'a is produced and reproduced to differentiate Hui from the Han majority, nevertheless, it is the very practice of Han shari'a that dangerously effaces ethnic boundaries. While the Hui lexicon allows for the use of "Han" as in the Han Kitāb, my use of the term Han shari'a brings attention to the percolating unease, at the level of the individual as much as collectivities (namely, the mosque-based *jamā'a* and the *jiaopai* or *menhuan*), originating from the permeation of Han customs and secular socialist rule in religious law, the recognition of which threatens fastly held precepts of ethnic-religious purity. The *jiaopai* and *menhuan* have responded to such anxieties of law, authenticity, and religiosity differently and, in turn, such distinctions have partially defined the *jiaopai* and *menhuan*.

One commonality that cuts across the various sources of Han shari'a, however, is patriarchy. Textual sources of Islam, written by male scholars, as well as the localization of shari'a in Chinese society buttress the authority of men. Hui customs, often shaped by those of the Han, and, in addition, the laws and policies of the state likewise consolidate the concentration of power in men. Thus while the multiple sources of Han shari'a each demonstrate male preferences, patriarchy in Chinese Islam takes several forms which may or may not have the same interests. Part three examines this aspect of Han shari'a in the context of the procedure of local justice. Here, I provide background to that more detailed discussion by staking out the various sources of patriarchal authority and power.

I employ Hui concepts of their law to interrogate analytical categories familiar in legal anthropology. To anticipate my findings, although the rubric of legal pluralism partially explains the multiple sources of authority in Hezhou and elsewhere in the Northwest, Han shari'a provides grounds for rethinking assumptions implicit in the model of legal pluralism. Lastly, I describe Han shari'a in contemporary Hezhou: its institutions, legal consciousness, textual translations, and

reproduction through education. Thus, this chapter mainly follows Talal Asad's discursive approach (1980; 1986; 1993)<sup>3</sup> to examine the intellectual history of the idea of shari'a in China, as represented by the state and its multiple counter-representations by the *jiaopai*. While I make some comparison between discourse and practice in this chapter, in subsequent chapters (4 through 11), I provide ethnographic descriptions of the operation of Han shari'a, its substantive and procedural aspects.

### *The Domestication of Shari'a in China*

A review of the literature on Islam in China may cause the reader to doubt whether Chinese Muslims practice shari'a.<sup>4</sup> Many bibliographies on Islam in China exclude any mention of the place of shari'a in the life of Chinese Muslims (Aubin 1986; Chang 1960; Israeli and Gorman 1994; Leslie 1986; Leslie, Daye, and Youssef 2006; Loewenthal 1963; Pickens 1950; Pratt 1962). The only work on shari'a in China in Western languages, Anthony Dicks's superb study, ends on an optimistic note: that, following the publication of texts on Islamic law for law students,<sup>5</sup> recent translations, and an academic symposium on Islamic law held in Urumqi in 1984 (almost unthinkable after the 2009

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<sup>3</sup> In his works, most famously in *Genealogies of Religion*, Asad takes British social anthropology to task for approaching the study of religious ritual as symbolic, an interpretation Asad traces to Christian exegesis. Asad borrows from Foucault, Bourdieu, and Mauss among others to argue that rites should be understood instrumentally, as not just encoding meaning. I find Asad's critique helpful in examining so-called authoritative representations of religion, and employ his approach to highlight the Chinese state's representations of Islam. However, I find Asad goes too far in excoriating rites as signifying practices.

<sup>4</sup> Shari'a is often shorthanded as a code for "holy law" but such an interpretation is misleading. Shari'a, literally meaning "road" or "way Shari'a," is more a complex yet adaptive legal order, based on the holy texts of the Qur'an and the *ḥādīths* (sayings and acts of the Prophet Muhammad), but also on the body of human-made jurisprudence known as the *fiqh*, compiled over centuries by juris-consults. It holds dominion over both aspects of life, ritual and interpersonal. Shari'a does this through the individual's faith but also through such institutions as the qadi and mufti and its own array of instruments from contract to debt.

<sup>5</sup> The term "Islamic law" is sometimes used interchangeably with shari'a. The difference is that the former is a Western term applied to shari'a that has gained acceptance in most Muslim countries (Abdal-Haqq 2006:3). As I explain below, Chinese Muslims use both terms.

riots),<sup>6</sup> there is greater official recognition of Islamic law in China (1990:384). Since the religious reforms in the 1980s, there has been a surge in scholarship on Islamic law (see generally Ha 2007); however, such studies are geographically predisposed to Islamic law *outside* China. Several scholars, occupying senior academic positions, have written about Islamic law, legal history, jurisprudence, and doctrine.<sup>7</sup> Yet few of these scholars or works touch on the practice of shari‘a in China for the reason that there are still limits on academic freedom, namely the ability to conduct field research on systems of law alternative to that of the state, particularly in the Northwest where there is a perceived secession movement in Xinjiang and on-going ethnic conflicts in Gansu, Qinghai, and Ningxia. If they are able to do field research, it is even more difficult for Chinese scholars to publish results.<sup>8</sup>

While writings in the past two decades have recognized shari‘a outside China, the dominant expression in the academic literature for discussing shari‘a in China is as “Hui customary law” (see e.g., Jiang 2010).” Such a description flattens the complexity of Hui law, a bundle of socialist laws, administrative regulations, Party policies, sacred commandments, juristic interpretations, and regional and local customs of a variety of ethnic groups. It is simultaneously derived from holy texts that transcend locality and yet is thoroughly localized via everyday practices. It combines Weber’s

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<sup>6</sup> On 8 January 2010, five months after the riots, I attended a conference in Urumqi. The conference “Protection and Research on Humanity’s Intangible Cultural Heritage: Manasa,” on the tenth-century Kirghiz oral epic poem, was hardly politically sensitive, yet I was the only foreigner in attendance. As I was invited the day before by a Uyghur friend and did not register, when the dean of the university saw me, he approached me and asked a barrage of questions about the nature of my research, listing the names of American scholars blacklisted from China.

<sup>7</sup> The Han legal scholar Wu Yungui is perhaps the most prolific. A list of his works includes *Outline of Islamic Law* (*Yisilanjiaofa gailüe*), *Contemporary Islamic Law* (*Dangdai yisilanjiaofa*), *One Hundred Questions from the Canon of Islamic Law* (*Yisilanjiao dianji baiwen*), *The Study of Islamic Doctrine* (*Yisilan jiaoyixue*), and *Islamic Law* (*Yisilanfa*). The Chinese Muslim scholar of classical and contemporary Islamic law, Ma Mingxian of Lanzhou University, is regarded by most Chinese Muslims as the greatest expert on Islamic law. Professor Ma Mingxian’s research focuses on the development of Islamic law in Iran and Saudi Arabia and aims to introduce Chinese Muslims to the historical and contemporary study of Islamic law (Ma 1999; Ma 2003a; Ma 2004b; Ma 2008). In his most recent work, he devotes one chapter to Islamic law in China (Ma 2011b). Other works on Islamic law and theory include *Islamic Law: Modernization and Tradition* (*Yisilanfa: Chuantong yu xiandaihua*; 2004) by Tsinghua University Law School’s Gao Hongjun and *Islamic Jurisprudence* (*Yisilan falixue*; 2007) by Chen Yufeng.

<sup>8</sup> One exception is Ma Kelin’s (2006b) study, a secondary source that I draw upon more often than the few direct citations to the text would indicate.

notion of “legal order”<sup>9</sup> with the idea of sacred law in Durkheim (1912) and Mauss (1990[1950]). In other words, the law of Chinese Muslims living in a (post-)socialist state is at once divine and social (*and* godless). Its translocality derives from its basis in the holy texts of the Qur’ān and the *aḥādīth* and the basis it provides for Muslims throughout the global *umma*, and its localization occurs not just through “Chinese culture,” but via the very specific (and differing) practices of regions, towns, and villages.<sup>10</sup> In the history of Muslims in China, shari‘a underwent a long process of localization and interculturalization, that is, adapting Han Chinese custom into Muslim practice. Chinese scholarship often discusses this aspect of shari‘a as *bentuhua* (domestication) (Ma 2006b; Yang 2003a; Yang 2003b; Yang 2006a) one-way acculturation or sinicization. The expression excludes the transcendent qualities of shari‘a and the subjective aspirations located in shari‘a practice through which Hui identify with the global *umma*.<sup>11</sup> In what follows, I trace the genealogy of the term Hui customary law in Chinese laws and political and academic discourse. An assumption of my study is that the Chinese states’ domestication of shari‘a is one expression of the states’ paternalistic and patriarchal approach to rule over Muslim minorities.<sup>12</sup> This sense of state patriarchy turns less on the social category of gender and more on ethnicity. That is, “ethnic law” is inferior to the law of the (Han) state, despite its claims for multi-culturalism.

First, a proviso. “Customary law” in the Chinese lexicon both overlaps with and deviates from its conventional meanings in Islamic legal studies. There are, broadly speaking, two main ways

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<sup>9</sup> Through the idea of legal order, Weber sought to explain why people follow law. He viewed people’s observance of law pragmatically as “corresponding to legal norms, *not out of obedience regarded as a legal obligation*, but either because the environment approves of the conduct and disapproves of its opposite, or merely as a result of unreflective habituation to a regularity of life that has engraved itself as custom” (italics added) (1978[1922]:312).

<sup>10</sup> As Schacht (1964:11, 15, 17, 25, 30) observes, the capacity of shari‘a to adopt and integrate pre-Islamic or local norms and practices was central to the historical formation of shari‘a and has continued to the present day (see also Bowen 2005; Ewing 1988; Na‘īm 2002). As such, this flexibility is not unique to China.

<sup>11</sup> For discussions of the tension between the *umma* and the modern nation-state in Muslim identity formation, see Al-Azami 1994; al-Barghouti 2008; Bilici 2006; Dupret 1995; Schulze 1995.

<sup>12</sup> I use the plural of state here to indicate the succession of Chinese states—imperial, Republican or Nationalist, and Communist—that have each, in ways that both build upon each other and yet at the same time evidence differences, domesticated shari‘a as “Hui customary law.”

Islamic legal scholars write about custom vis-à-vis shari‘a. The first is pre-Islamic custom that is accepted as permissible practice by Muslims. As a matter of Islamic law, shari‘a doctrine permitted a limited application of *‘urf* (lit. “what is known” or custom) as a subsidiary source of law (Coulson 1959:15; Schacht 1964:25, 50, 77) or *‘amal* (practice) (Rosen 1989b:305). Classical theory thus admitted only a relatively small role for customary law, but actual practice has shown that custom was a prevalent source of law (Coulson 1959:14). In later periods of Islamic renaissance, when courts were established under Islamic law, many of these customs were admitted back into the body of law. The second usage is the ‘customization’ of *shari‘a* by colonial, usually European, continental law (Merry 1991; Messick 2003; Pearl and Menski 1998). As a step in empire-building, European colonists classified shari‘a, a complete yet flexible system of law, as native custom (Oba 2002:826) limited usually to family law (Pearl and Menski 1998:41, 51). The result of what John Comaroff has called “lawfare” or the creation of customary law (Comaroff 2001:306; Comaroff and Comaroff 2009:56) was the adat in Malaysia (Rahman 2006), Anglo- Muhammadan law in India (Hooker 1975:94–95) and Hui customary law in China.

From imperial histories and the accounts of foreign visitors to China, it is clear that through the thirteenth century C.E., Muslims living in clustered communities in the seaports in southeastern China practiced shari‘a and even had institutions familiar to the Arab world. The imperial government sought to create an environment conducive to the commercial activities and growth of business networks among the Muslim traders. There were legal sources of restrictions on the personhood of foreign Muslims to enter into marriages with Han Chinese women, own real property,<sup>13</sup> and inherit.<sup>14</sup> In addition to formal law, in the face of increasing conflicts between the

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<sup>13</sup> See *General Mirror for the Aid of Government (Zizhi tongjian)*, compiled by the Northern Song official Sima Guang (d. 1086), stating, “Li Mi [Tang cabinet minister, d. 789 A.D.] knows that the bearded visitors (*huke*) that have lived in Chang’an for a long time, or forty years or more, all have wives, buy real property, profit from holding property rights, and live a peaceful life with no desire to return home” (Lu 2001:51). But see the *Ancient Record of the Tang Dynasty*, vol. 177, indicating that miscegenation was banned: “Your Excellency promulgates the law, in order to distinguish Chinese from barbarian, to outlaw intermarriage, and prohibit barbarians (*manren*) from taking real property” (Qiu 2001b:34). Both the Tang and Song Codes included

growing foreign Muslim population and the Chinese, informal sanctions in the form of prevalent racism and distrust led Arabs and Persians to live in their own communities.<sup>15</sup> Within these enclaves,<sup>16</sup> the Muslims practiced shari‘a. In the Guangzhou Muslim quarters, for example, called *fanfang* (literally, “foreigner lanes”), foreign Muslim residents chose their own leader (*fanzhangsi*) who was considered a local magistrate in charge of all administration, judicial, business, and foreign affairs. This leader, almost always male, was integrated into the Chinese bureaucracy at the lowest level and collected taxes for the imperial government, but exercised discretion and could enact special policies, including mosque-building and religious activities. Further, *fanfangs* had their own courts. In one of the earliest accounts of Islamic law in China,<sup>17</sup> the Arab travelers Abū Zayd Ḥasan ibn Yazīd al-Sīrāfī and Sulaymān al-Tājir, who visited Guangzhou in the ninth century, chronicled in

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prohibitions of foreign Muslims’ ability to return to their countries with their Chinese wives (Dou 1984; Liu 1999:193–194). Further, the Song encyclopedia *The Prime Tortoise of the Record Bureau (Cefu yuangui)*, vol. 999, 1005 A.D., records that the Tang dynasty imposed restrictions on male Muslim-female Chinese relations by outlawing the traffic of women (Zheng 2003:27). The work also records that in Jingzhao (Chang’an or Xi’an), the government proclaimed: “Chinese people shall not in private travel with, conduct business with, marry, have dealings with or receive money from foreigners (*fanke*); as for property and slaves and maid-servants, [foreigners’] possession is strictly prohibited” (Qiu 2001b:34).

<sup>14</sup> In the Song dynasty, efforts were made to ban foreign Muslims from cities by law. In Wenzhou, for example, an assistant prefectural magistrate issued a legal regulation (*falü guiding*) outlawing urban residence for Muslims. The law, however, was largely ignored by foreign merchants and government officials alike (Zhang 2002b).

<sup>15</sup> As opposed to the more common appellation for foreigners “foreign ghost” (*fangui*) that denoted Westerners, many of the official histories use the denigration “foreign animals” (*fanliao*) that was conventionally used to describe Persians. See, e.g., Bai 1995.

<sup>16</sup> As imperial China’s first sites of extraterritoriality, hermetic spheres of bounded foreign law, these Muslim quarters are a precedent of sorts for the extraterritorial zones established in coastal cities by Western powers from the seventeenth to late-nineteenth century. At least one authoritative commentator has made the comparison, arguing that the first of the extraterritorial treaties, the treaty of Nerchinsk (1689), was not met with objection by the Chinese side, “since when the Arabs had traded at Canton, Amoy, Foochow, and Ningpo in the eighth and ninth centuries they had been permitted to retain their own laws” (Keeton 1969:90). The chief differences are two-fold. First, Western settlements were imposed on China by force of law, following the Opium War, in the form of the Treaty of Nanjing (1842). Rather than external enforcement, Islamic law entered China by way of imperial sanction and, indeed, invitation. Additionally, qadi were from the beginning loosely incorporated into the state whereas foreigners living in the Western treaty ports were tried by consuls according to the laws of their own countries that acted independently of the Chinese courts.

<sup>17</sup> One of the earliest descriptions of Islamic law among Arab Muslims by a Chinese observer is that of the traveler Du Huan, captured at the Battle of Talas (C.E. 751). Du Huan traveled from Central Asia to the Mediterranean for over a decade, finally returning to Guangzhou in 762 and there composing his *Record of Travels (Jingxingji)*. He describes in detail the Muslims of the kingdom of an Arab prince named Haomumen as bound to a body of law that touches upon ritual, ethical, penal, and interpersonal affairs.

their *Akhbār al-Šīn wa-l-Hind* (*Ancient Accounts of India and China*, Ch. *Zhongguo Yindu Jianwenlu*)

that the Arabs lived according to their own laws. Sulaymān wrote:

At *Canfu*, which is the principal Scale for Merchants, there is a *Mohammadan* appointed Judge over those of his Religion, by the Authority of the Emperor of *China*; and that he is Judge of all the *Mohamedans* who report to these Parts. Upon Festival Days he performs the public Service with the *Mohammedans*, and pronounces the Sermon or *Kotbat*, which he concludes, in the usual form, with Prayers for the Soltan of the *Moslems* [or *Muslemen*]. The Merchants of *Irak* who trade hither, are no way dissatisfied with his Conduct, or his Administration in the Post he is invested with; because his Actions, and the Judgments he gives, are just and equitable, and conformable to the *Koran* [or *Alcoran*] and according to the *Mohammedan* Jurisprudence (Renaudot 1733:8).

The Tang Code established the precedent for later dynastic legal codes of acknowledging the existence of foreign law among foreigners in the empire. In the earliest legal article dealing with foreign affairs in Chinese legal history, the Tang Code recognized shari‘a as foreign law with its own jurisdiction over the *fanfang* by permitting foreigners to settle disputes according to their own law:

For all those outside the pale of Chinese civilization (*huawairen*), when those of the same group commit a crime against each other, their dispute is to be settled in accordance with their own custom and law (*sufa*). When a member of one group commits a crime against a member of a different group, then their dispute will be settled in accordance with the legal theory [i.e., Tang Code] (Liu 1999).

To satisfy the obligation of daily prayer, the Arab Muslims built the earliest mosques in China during this period. These mosques, such as Cherished Saint Mosque (*Huai sheng si*) Guangzhou, reportedly built by Wan Gesu in C.E. 627 and which remains the oldest extant mosque in China, became centers of the community serving its religious, legal, and diplomatic needs. This pattern—groups of envoys and merchants arriving in China through the maritime route, resulting in small extra-territorial settlements in the coastal cities centered on a mosque and governed by a bounded shari‘a—continued through the Song period.

The Yuan Dynasty (1271–1368) marks a change in the history of Muslims, and with it, Islamic law, in China. The Mongolian army’s campaigns, namely, their destruction of the Kara-Khitans and the Khwarezmids in western Central Asia in 1219–1220, displaced large

populations of Persians and Turks. As a consequence, a wave of Muslims moved from Khwarezm eastward. Eventually, the Mongols saw erudition and business acumen among the educated displaced and these rose to high positions in the Mongolian army and bureaucracy (Morgan 2007; Rossabi 1981). Although the question of when a distinct group of Chinese–Muslims emerged as a cognizable group remains a defining debate in the study of Islam in China,<sup>18</sup> most scholars agree the Yuan dynasty was the first to label a new ethnic group called Huihui as members of the Chinese empire and not outsiders (Qiu 1996).<sup>19</sup> This shift in imperial recognition occurred during a time of widespread inter-marriage of Central Asian Muslims with the Han population. With the large demographic shift of western Asian Muslims eastward into China, the pattern of Muslims living in large cities shifted to one of small settlements dispersed over large areas (*dafensan, xiaojizhong*) in Northwest China that has come to characterize Chinese Muslims to the present day. The emergence of what is today called Hui or Huizu followed divergent trajectories in different parts of China.

The gradual formation of a distinct Chinese Muslim population, the result of intermarriage, conversion, and cultural intermixture saw an attendant adaptation of shari‘a to law and bureaucracy in the Yuan period. Pursuant to the Mongols’ valorization of Muslim talent, the Yuan government implemented the institution of the Bureau of Qadis (*Huihui hade si*)<sup>20</sup> to govern over

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<sup>18</sup> Scholarly opinion varies, in some cases, significantly as to when the Huihui (or its variants—Hui, Huimin, Huizu) first formed as a cognizable group, that is, when Huihui began to think of themselves as belonging to a distinct group. The consensus view among PRC scholars is that the Hui emerged during the Yuan period, although many of the defining features like “scriptural hall education” did not appear until the Ming (Ding 2008; Yang 2006b). Western scholars, like Gladney (1996[1991]) and Lipman (1997), adopting constructivist analyses emphasize the relatively recent construction of the Hui as part of the building of the modern nation.

<sup>19</sup> John Comaroff framed the distinction as two different questions—whether ethnicity is an object of analysis or an explanatory principle, that is, something viewed or something through which life is viewed (1987). The classic theories of ethnicity are primordialism, which posits that ethnicity is rooted in nature (Grosby 1996[1994]; Isaacs 1974; Shils 1957), and constructivism or situationalism, which argues that ethnicity is an effect of modern nation-making (Balibar 1996[1991]; Brass 1996[1991]; Cohen 1996[1969]; Eller and Coughlan 1996[1993]; Geertz 1973b; Horowitz 1985; Verdery 1994; Vincent 1974; Weber 1978b) although ethnicity may not be limited to modern nation-state relations (Barth 1994a). The classification Huihui in the Yuan period, which was primarily a religious one but also incorporated “ethnic” elements, was more than Comaroff’s distinction entails. It was also part of a system of management and control.

<sup>20</sup> The Yuan documents give various transliterations for the word qadi including 哈的, 加的, 嘎最, 嘎锥, and 哈子 among others.

Hui populations.<sup>21</sup> The Bureau of Qadis, like the Muslim officials during the Tang-Song period, was integrated into the lowest level of the administration. The *qādī*, not surprisingly nearly exclusively men, assisted the local officials in handling administrative affairs and adjudicated disputes among Muslims pertaining to marriage, property, and inheritance, in accordance with shari‘a (Liu and Wang 2011; Ma 2005a; Ma 2006b:124–126; Wang 2002). Extant historical documents pertaining to the institution of the Bureau of Qadis refer to its use in the coastal cities, like Wenzhou and Gangzhou, as well as Inner Mongolia,<sup>22</sup> although it is likely that the institution was also used in Gansu. Definitive conclusions await thorough study of the Hezhou local gazetteers, although it seems that the Mongols installed Tibetans as supervisory organs (see Chapter 1) possibly in addition to the Bureau of Qadis.

Although the focus of this dissertation is on the Chinese Muslims or Hui, a discussion of shari‘a in China would be incomplete without some mention of the Turkic Muslims, mainly the Uyghur and Salar, and their practice of shari‘a. After Chinggis Khan conquered the Karakhanids, his son established the Moghul Chaghataid dynasty that ruled over the area later called Xinjiang from the fourteenth to the seventeenth centuries (Millward 2007:60–70; Millward and Perdue 2004:46–47). During this period, Islam flourished throughout the oases. Naqshbandi Sufism, in particular, gained prominence in the sixteenth century. The khojas of the rival schools of the Ishāqiyya or “Black Mountain” sect and Āfāqiyya or “White Mountain” sect accumulated secular power and

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<sup>21</sup> In Southwest China, the Yuan used *foreign* Muslims to govern not only Chinese Muslims but non-Muslims as well. When the Mongols arrived in Yunnan in 1253, they appointed a Central Asian administrator named Sayyid ‘Ajall Shams al-Din to rule over the poly-ethnic and multi-denominational population (Armijo-Hussein 1997; Armijo-Hussein 2001).

<sup>22</sup> In 1983 into 1984, Chinese archaeologists discovered documents in the ancient Tangut city of Eji Nai or Khara-Khoto in Mongolian (Ch. Heicheng, “Black City”), the capital of the Yijinai prefecture in the Yuan dynasty. Called the *Case Documents of Shi Lin’s Marriage Contract* (*Shilin hunshu an wenjuan*), the trove contains some one hundred documents pertaining to lawsuits dated to c. C.E. 1311. Three documents refer to the role of the Bureau of Qadis in adjudicating suits between Huihui in his jurisdiction. In one case, a Huihui man named Awu sued a Han not in the court of the Bureau of Qadis but in the (Han) main administrative center. Scholars have interpreted this forum shopping as Huihui viewing the Bureau of Qadis as not a particularly favorable venue (Hou 2007:110; Qiu 2001a:158), although it is equally possible that the Bureau of Qadis did not have jurisdiction over non-Muslims.

spread Sufism to “inner China,” to centers such as Hezhou (Fletcher 1995:9–11). Although the status of Islamic legal institutions in historic Xinjiang is unclear up until the nineteenth century, scholars generally agree that the oases had a two-tiered system of law: shari‘a enforced through Islamic courts and legal scholars (*‘ulema*) and Uyghur customary law that regulated social relations through informal mechanisms (Bellér-Hann 2003:175). The courts were called qadihana (“house of the qadi,” Ch. *zongjiao fating*) in Uyghur and took many forms: some were formal and permanent venues located inside mosques and others were held wherever the qadi was to be found. In the mid-eighteenth century, the Qing gained control over portions of Xinjiang claiming control in 1759. At that time, the Qing introduced a third source of law through the Ministry of Minority Affairs (*Lifan yuan*) and *Huijiang zeli*, meaning precedents for the region of Xinjiang south of the Tianshan Mountains. In 1874, the Qing court abolished the use of Islamic law in handling penal cases, but continued to allow for Islamic law and local custom to address non-criminal matters through qadis (Yuan and Gao 2001). In 1884, Xinjiang was established as a province. Oasis cities like Kashgar featured a hierarchy of religious courts whose qadis adjudicated cases in accordance with shari‘a (Wang 1992). The Japanese scholar Jun Sugawara has shown, based upon qadi court documents discovered in Kashgar in 2003, that during this period until the early 1950s, qadis often authenticated legal documents although Chinese sought to increasingly standardize such legal forms (2009; 2010). Uyghur fables often feature qadis, sometimes molded onto the populist wise man Afanti,<sup>23</sup> demonstrating the strong position of the institution in Uyghur collective memory.

Less well known is that the Salars, based in Xunhua county, 100 kilometers from Hezhou, had their own tradition of qadis. Jiezi Mosque,<sup>24</sup> located five kilometers from the center of town, is

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<sup>23</sup> In Hotan in southern Xinjiang, I found a VCD series called *Uyghur Popular Stories: Afanti* (*Weiwu’erzu minjian gushi: Afanti*) that feature several films centered on the legendary figure who was half wise man and half fool who dispensed advice and local justice.

<sup>24</sup> The name means “street.” It is also known colloquially as *Gazi dasi*, meaning “Small Lane Grand Mosque.”

one of the oldest Salar mosques. The mosque is built near the site of a holy spring where the Salars say the camel of the two brothers Kharaman and Akhman, who led the Salar to China from Samarkand in the eighth century C.E., turned to stone indicating the land Allah had chosen for them. The tombs of the two brothers are located before the mosque, which is also the location of the oldest hand-written Qur'ān in China.<sup>25</sup> Unknown even to many of the Salars, down the hill from the mosque, covered in elm trees and overgrowth, is a modest mausoleum to several Salar qadis, dated to 1851 (Illus. 6).<sup>26</sup> According to the current head *ahong* of Jiezi Mosque, qadis served until the latter years of the Republican period when Ma Bufang replaced them with *jiaozhang* (heads of *jamā'a*) whom he empowered to enforce Islamic law, mainly on civil matters (XH 10/21/2010). Views differ whether the institution of the qadi was inherited, passed from father to son. The *ahong* says the role was not; rather that of the “one who takes care of the qadi” (*gazui baoguan*), most likely a governmental liaison, was. However, Han Xueye, an 89-year-old fifth-generation descendant of the last qadi, claims the institution was hereditary. According to the elder Salar, there were seven generations of qadis and they were the custodians of the hand-written Qur'ān, following the examples of Kharaman, an expert on Qur'ānic exegesis and Akhman, an imām. Thus, for both the Uyghur and the Salar, the qadi and shari'a were central to collective identities.

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<sup>25</sup> The Qur'ān is kept in a locked exhibition room inside the mosque. The local government spent a considerable sum in designing a preservation chamber for the Qur'ān. Still, I was able to view the Qur'ān. It is a massive 30 volume set the case of which is made of rhinoceros leather. The inside front and back are mounted on azure silk. The calligraphic Arabic is dated to the eleventh century C.E.. The local Salar have several accounts of its history. Some say Ma Bufang stole it while traveling from Xunhua to Xining. Before fleeing the country for Taiwan, he had a pang of conscience and decided to leave the Qur'ān at Jiezi Mosque. In another account, Salars emphasize that Ma Bufang took it by force, and then left it with his wife in Xining who took it to East Gate Grand Mosque. Jiezi Mosque sought to regain it, but was refused. In 1958 at the height of the anti-religious reform, it was taken to Beijing and kept in the Imperial Palace. Years later, a reporter by the name of Chen petitioned Choekyi Gyaltsen, the tenth Panchen Lama, born in Xunhua and a member of the Standing Committee of the National People's Congress. After this, three Salar representatives were sent to Beijing where they gained custody of the Qur'ān in the 1980s.

<sup>26</sup> The inscription on the mausoleum reads *xianfeng yuannian guiyue* or the “eighth lunar month of the first year of the Xianfeng period,” 1851 to 1861.



Illus. 6 Mausoleum containing two graves of qadis, near Jiezi Mosque in Xunhua county. One of the qadis is identified by his descendant as Wu Shisan. Source: taken by the author (XH 10/19/2010).

Among the Hui in the Gansu-Ningxia-Qinghai region, the Ming government dismantled the Bureau of Qadis and pursued generally more restrictive policies toward Muslims and their law. The Ming and Qing dynasties saw periods of heightened repressive policies toward Muslims. While the Great Qing Code gave implicit recognition to shari'a in Mongolia and Xinjiang through the Ministry of Minority Affairs (Yuan and Gao 2001:38), this was not the case for Hui-dominated areas of the Northwest. In the Qing, regular civil officials held jurisdiction over legal matters pertaining to Muslims (Lipman 2005:88). The Great Qing Code contained many provisions specific to Hui, some of which, for example in the area of penal law, set a higher penalty for Hui defendants (Ma

2006b:165). Provisions on civil affairs prohibited inter-marriage between Hui and other Muslims (Ma 2006b: 167). Following Sufi rebellions, such as the 1781 Jahriyya revolt, the Qing restricted Hui movement, banned proselytizing, and reformed mosque administration, implementing the *xiangyue* system in Hezhou (Ma 2006b: 170–1). During this period, the use of qadis in mosques fell out of favor, although it seems this tendency began as early as the Yuan.

A turning point for the history of shari‘a in China occurred in 1904. In that year, in an attempt to modernize the Qing Code in the face of the challenge of Europe and American imperialism, the court conducted an empire-wide survey on the customs of the people. The late Qing legal reform occurred against a backdrop of epochal crisis: war with Russia and Japan and aggression by the Eight-Nation Alliance as well as domestic turmoil in the form of the anti-Manchu, anti-imperialist Boxer Rebellion. Just as Chinese culture, so, too, was Chinese law excoriated as the source of Chinese weakness against foreign and internal forces. The Qing Code was faulted for its lack of sophistication, for not developing separate and distinct substantive and procedural law, and for not distinguishing civil law from criminal law. Local corruption and chronic injustice were the wellspring of popular discontent. In response, the Qing government sought legal modernization in the lessons of Japan, Germany, and France among other foreign nations. Following these foreign models, the Qing modernizers began by taking stock of native legal sources in localized customs for the specific purpose of devising a new (traditional) civil and commercial law code. At this time, shari‘a was labeled *xiguanfa*.<sup>27</sup>

The customary law survey was organized under the Bureau for the Revision of the Laws (*Xiuding falüguan*; hereinafter, “the Bureau”). Pursuant the Guiding Measures for the Revision of the Laws by the High Officials for Legal Revision (*Xiuding falü dachen zouni xiuding falü dagai banfa*

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<sup>27</sup> The generic term *xiguanfa* was borrowed from the Japanese *kanshuhou*. For a comprehensive study of Chinese loanwords from Japan (albeit one which excludes much legal terminology) in the course of modernization, see Liu 1995.

*zhe*, 1907), the Bureau had two main responsibilities: one, compiling and systematizing the state of Qing law for the purpose of either deletion or revision, and two, translating foreign laws. The survey planning began in 1907 and fieldwork began the following year. Each province established a survey bureau under which a legal system department implemented the fieldwork. The survey collected both commercial and civil affairs customs (Hu 2000a:2). The Bureau collected a total of 828 volumes of customs (Sui 2004:45).

The Beiyang Government borrowed this classificatory tool from the Qing.<sup>28</sup> However, in contrast to the Qing, Republican reformers viewed legal reform and the operationalization of *xiguanfa* under completely different assumptions. Gone was the will to succor the frail dynasty; instead, legal modernization was seen in the context of building a modern nation–state. Within the superseding and, indeed, revolutionary frame, *xiguanfa* was invoked as the expression of the spirit of the people. In 1919, the newly formed Ministry of Justice established a committee to conduct the survey that was carried out in nineteen provinces, including Gansu. After these survey results were found unsatisfactory, a second survey was carried out under the reconstituted Bureau for the Revision of the Laws. In 1923, the product was compiled as *The Complete Collection of Chinese Civil Customs (Zhongguo minshi xiguan daquan)*. In 1926, the Beiyang Government issued the *The Detailed List of Documents in Regards to the Civil and Commercial Affairs Customs Survey Report of Every Province and Area (Geshengqu minshangshi xiguan diaocha baogao wenjian qingce)* which contained an additional 72 volumes of customs. In 1930, under the Nanjing Government Ministry of Justice, the complete compilation was finalized and published as *The Record of the Civil and Commercial Affairs Customs Survey (Minshangshi xiguan diaocha lu*; hereinafter, “the Record”). Its abridgment, the *Abstracts of the Record of the Civil and Commercial Affairs Customs Survey*

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<sup>28</sup> The years 1912 to 1927 featured a series of competing cliques and warlords whose reign in Beijing is collectively known as the Beiyang Government. The Beiyang Government was opposed by Sun Yat-sen’s Guomindang government, established in 1917, and was defeated by them in 1928, which led to the Guomindang or Nationalist-led Republic. For an excellent discussion of Islamic law’s customization in this period, see Dicks 1990:366-367.

(*Minshangshi xiguan diaocha baogao lu*; hereinafter, “the Abstracts”) that survives today, catalogues some 3,432 customs.<sup>29</sup>

The Record purports to provide a systematized index of customary law. Legal historian Jérôme Bourgon, however, has argued that due to variety of factors, the project was “a spectacular failure after two decades of patient efforts” (2005:101). Nonetheless, the customary law survey, initially intended to provide the raw ingredients for the laws of the new nation, following the Japanese who borrowed from the German historical school and in particular Friedrich Carl von Savigny (Bourgon 2005:95), the survey created proto-ethnic legal taxonomies. The Abstracts includes three non-Han ethnonyms: Fanmin referring to Tibetans (Fiskesjö 1999:140; Wang 2008:162), Huimin referring to “those who follow Islam” (i.e., today’s Hui and Uyghur) and Samin, denoting Salar. The Abstracts are divided topically into property, debt, and kinship inheritance. Each has a chapter on Gansu. In the Gansu chapter for kinship inheritance, there is explicit reference to *Huijiao xiguan* (Islamic customs) listing customs for polygamy, remarriage and bride price, temporary marriage, adoption, guardianship, and wedding (Hu 2000b:1047–1049). The Abstracts thus do two things. One, they document the practice of family law based on shari‘a and pre-Islamic customs among the Hui and Salar. Second, the Abstracts are a data point in the archive of legal others.<sup>30</sup> It would be the Communists who would not only build on this archive but operationalize Hui customary law in accordance with Marx’s theory of law.

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<sup>29</sup> While my discussion of the survey reports would seem to lay particular emphasis on the Republican era, note that the reports generated by the Republican era survey incorporated survey results from the Qing.

<sup>30</sup> The Republican’s classification of shari‘a as customary law in no way prevented its enforcement by courts. The Japanese scholar Iwamura Shinobu reported a case involving inheritance and polygamy among Hui in Inner Mongolia. In his account, a Hui by the name of Ding Youfu passed away a year before Yan did his fieldwork. Ding’s inheritance went to his legal wife. However, Ding had a second wife, a Han woman, who sued the first wife at the local court for her half of the inheritance. The first wife argued that since the Han woman had not converted to Islam, under Islamic inheritance law, she had no right to any portion of the inheritance. Her mosque’s *jiaozhang* and the *xianglao* (elders) testified to this rule. The court decided in the first wife’s favor effectively enforcing the Islamic inheritance rule (Iwamura 1950:39).

Consistent with recent studies that have identified inheritance between Communist and Republican forms of rule by the bureaucratic classification of the ethnic other (Caffrey 2004; Fiskesjö 2012; Mullaney 2004), the Communists inherited the discourse of *xiguanfa* from the Republicans (and the Qing before them). The 1954 *minzu shibie* (ethnic identification project) identified language as a chief marker of ethnic difference (Mullaney 2011). The collection of customary law was an important goal of the project as well. The reports from the ethnic identification project are hardly uniform in content but generally include the following information for each ethnic group:<sup>31</sup> history, economics, family structure, marriage and burial practices, education, relations of production, holidays, dress, diet, habitation, occupations, and customary law. *Xiguanfa* attains a taken-for-granted status as one of what Clifford Geertz called the “assumed ‘givens’—of social existence . . . blood, speech, custom” (1973b). Geertz’s “givens” are a nod to Edward Shils’ primordial attachments (1957). Like other work in binary modernization theory (e.g., Tönnies’s *Gemeinschaft* vs. *Gesellschaft*, Durkheim’s mechanical solidarity vs. organic solidarity, Maine’s status v. contract, and so on), Shils’s primordial attachments were defined against civil ties, characterized by atomistic, rationalistic, and individualist membership in the modern state. Yet rather than seeing a sequenced, evolutionary, or oppositional transition from primordial to civil, in the case of regional autonomy as the Communists’ answer to the “nationality problem,” there is co-existence and, in fact, dependence of the civil on the primordial. In the “integrative revolution” (Geertz 1973b) of China’s ethnic classification project, the civil stirred the embers of the primordial so that minorities are both included and hierarchized within the nation (Tapp 2002).

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<sup>31</sup> Many of these reports have been collected in the series *A Collection of the Social and Historical Survey Materials of Chinese Ethnic Minorities* (*Zhongguo shaoshu minzu shehui lishi diaocha ziliao congkan*) printed originally in the mid-1980s by provincial social science academies. In the 2000s, the Nationalities Affairs Commission published a series of this same material as part of its *Nationality Problem Five Collections* (*Minzu wenti wuzhong congshu*). However, the recent edition features contemporary scholars writing brief articles on ethnic minorities based on the survey materials and is not a reprinting of the survey materials themselves. See also the volume *Sixty Years of China’s Ethnic Laws* (*Zhongguo minzu fazhi 60nian*; 2009) that commemorates the sexagennial anniversary of Communist rule in minority regions and includes the reports in excerpt.

The ethnic identification survey reports contain ethnographic descriptions of Hui customary law not dissimilar from those of their Republican predecessors. The difference is that the Communists interpreted the Hui customary law through the lens of Marxism. Customary law became a signifier of feudalism and ethnic backwardness that demanded liberation that, in the 1980s, took the form of state (modern) law. Reports on Hui in the Northwest, such as the “Compilation of Gansu Hui Survey Materials” (*Gansu huizu diaocha ziliao huiji*) and the “Compilation of Qinghai Hui Survey Materials” (*Qinghai huizu diaocha ziliao huiji*) categorize Islamic law as *fengsu xiguan* (social habits and customs), the Chinese socialist lexicon for customary law<sup>32</sup> (Zhongguo kexueyuan minzu yanjiusuo Gansu shaoshu minzu shehui lishi diaocha zubian 1964; Zhongguo kexueyuan minzu yanjiusuo Qinghai shaoshu minzu shehui lishi diaocha zubian 1964).<sup>33</sup> Materials from the survey covering Hui include overview summaries describing “Hui family law,” namely, early marriage (*zaohun*), marriage form, the scope of inter-marriage, the process of engagement, divorce, remarriage, and property inheritance (Huang 2009; Xiong 2010:95). Additionally, there are site-specific descriptions for marriage, burial, and “religious belief customary law,” as well as systems of land ownership, leasing, borrowing and lending money, and

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<sup>32</sup> The expression *fengsu xiguan* is strongly inflected with Communist orthodoxy and particularly the thought of Stalin, as code for “culture” without “civilization” (Diamond 1995:97) or, in the case of Chinese Islam “social practice” without “religion.” However, permutations of *fengsu xiguan*, namely *minqing fengsu*, were already used as categories in the late Qing customary law survey. The categories used in the Machu’s Qing survey were largely ethnicity-blind, meaning that they applied to Han and non-Han equally. This is not to say that they were equated with the status of “law” (*fā*) as this category was monopolized by the state. The organizing division was state/society and not Han/non-Han. In short, it is only in the early Communist period that *fengsu xiguan* and its derivatives refer exclusively to minorities.

While the Communists used *xiguanfa* as a label for minority law, the Guomindang employed the concept differently in Taiwan. In the Republic of China, where the demographics differed from those of the mainland (i.e., Taiwanese or *benshengren* versus mainlanders or *waishengren*), the Guomindang used the term broadly for non-state law, that is, not necessarily minority law. I am thankful to Steve Sangren for this observation.

<sup>33</sup> In addition to the provincial reports on Hui in the northwest, there are also reports on Hui autonomous prefectures, such as the one in northeastern Xinjiang (Changji Huizu Zizhizhou gai kuang bian xie zu 1985). Other reports specifically on Hui include the “Heilongjiang Hui Social-historical Survey Report” (*Heilongjiang huizu shehui lishi diaocha baogao*) (Zhongguo kexueyuan minzu yanjiusuo 1958), the “Guangdong Hui Social-historical Situation” (*Guangdong huizu shehui lishi qingkuang*) (Guangdong shehui lishi diaochazu 1963), and the “Yunnan Hui Social-historical Survey” (*Yunnan huizu shehui lishi diaocha*) (Yunnan sheng bianji zu 1985)].

employment (Xiong 2010). There are similar summaries for the Salar, Bonan, Kyrgyz, Tajik, Uzbek, Kazakh, and Uyghur Muslim ethnicities.

In the categorization of shari‘a as *xiguanfa* or *fengsu xiguan* and in the inventory of substantive law, the social-historical materials from the ethnic minority classification follow the Reports of 1930. There is no reference to Muslims’ law as part of a religious system that connects Muslims in China to the global *umma*. References to the Qur’ān or *ahādīth* as the foundational texts of Islamic law are expunged. In emphasizing the personal status law, hajj obligations or *a’imma’s* study abroad in Middle Eastern states are avoided. *Xiguanfa* worked to both differentiate the customs between ethnic minorities and homogenize their legal practices beneath state law. One paramount effect was that shari‘a law was tied to locality and ethnicity—“ethnicized” (Yang 2003)—rather than a transcendental and translocal system regulating almost all aspects of interpersonal relations. Once shari‘a is delimited or neutralized as such, the data gathered by the social scientists could be used by lawmakers to either protect or prohibit behaviors that followed from shari‘a obligations.

For example, the 1950 Marriage Law identified monogamy as the exclusive form of marriage, prohibiting all other arrangements and so Muslim women who were involved in a polygamous arrangement in 1950 could—and did—avail themselves of local courts (Diamant 2000:168). Numeric differences between shari‘a standards and state law, like marriageable age, permitted some flexibility. Rather than imposing the national standard for minimum marriageable age on Muslim minorities, legislators allowed for lowered standards in areas with high concentrations of Hui. As shown in Chapter 8, the adjustment of the minimum marriageable age in ethnic minority autonomous areas has been one of the bread-and-butter modifications of national law in autonomy law. Besides marriageable age, however, there are few other aspects of shari‘a recognized in the laws of Muslim minority areas. Neither the Islamic marriage contract, nor the *nikāh*, nor forms of divorce are recognized by autonomy laws.

The reification of the ethnic minority : custom :: Han majority : law analogy serves to clarify the priorities and end-goals of legal modernization as well as its engineers (but see Ma 2005b).<sup>34</sup> Customary law as backward, past-referential, locality-bound, and thoroughly unmodern necessitates and legitimates “socialist legality.” Shari‘a consequently underwent the “cunning of recognition” as modern law determined which areas of law (now *xiguanfa*) were consistent with legal modernity and which were repugnant to Chinese sensibility. In the contemporary PRC, as a general rule, not all aspects of *mu‘amalāt*, the law of social relations, are recognized by PRC law, including *inter alia* the wedding contract or *nikāh*, methods of divorce, the Qur’ānic rules of inheritance, pious endowments or *awqāf*, prohibition of interest in lending, or finance instruments.<sup>35</sup> Most aspects of devotion or *ibādāt* are given limited state recognition: prayer, burial rites, almsgiving, and the hajj.<sup>36</sup> By either refusing to recognize shari‘a or permitting only limited recognition of its perceived innocuous aspects, the Party-State reinforces its patriarchy over Chinese Muslim minorities.

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<sup>34</sup> See, generally, Viranjini Munasinghe’s helpful discussion on ethnic groups as “culture creators” versus “culture bearers” (1997).

<sup>35</sup> There were some banks that provided interest-free loans in the Northwest up through the Republican period. In Yinchuan, the capital of the Ningxia Hui Autonomous Region, the state Bank of Ningxia (hereinafter, the Bank), upon the insistence of the Yinchuan Hui business community, began a pilot project, in 2009, to introduce Islamic finance to Ningxia. The Islamic Finance Department of the Bank provides shari‘a-compliant banking services. After sending representatives to Malaysia to study their Islamic financial system, the Bank obtained governmental approval and began operation in that year. The Bank offers the following services: (i) no-interest savings accounts, (ii) investment accounts, and (iii) *murābaha* (Ch. *jiājia maoyi*) whereby a customer and the Bank enter into a contract of sale and the Bank purchases goods on behalf of the customer at the price of cost plus profit. *Ahong* assist the Bank in verifying that investment projects are halal. According to my conversations with Bank managers, the Bank applied for an initial investment of RMB 200 million but was approved by finance ministries for only RMB 4,000 for the entire project (YC 11/1/2010). Approval for the *muḍāraba* (Ch. *mudalaba*) a non-interest “profit sharing” account and other more sophisticated instruments were still pending in 2012.

<sup>36</sup> Both the Bureau of Religion and the Ministry of Foreign Affairs send delegates to Jeddah every year to decide on the quota of Chinese Muslims to participate in the hajj (the non-Muslim Han cannot travel to Mecca). Based upon my conversation with a former delegate from the Ministry of Foreign Affairs, the Saudi government encourages a higher number of Chinese pilgrims, but the PRC government sets the ceiling (BJ 8/14/2010). According to the China Islamic Association’s statistics, only 13,364 went on the 2010 hajj. Many Hui in Hezhou circumvent the quota by traveling to countries like Thailand where, once they obtain a visa from that country, they can be considered part of that country’s quota.

To provide an example of the internal legal other, one of the surviving qadihana in Xinjiang is in the oasis city Kuqa, at the Kuqa Qingzhen Grand Mosque, built originally in 1559. In 1580, the Khoja Ishan Saikewaili gathered followers who practiced Sufism and subsequently the mosque became known as *khanaqah*, the generic Persian word for after a Sufi lodge, and the name by which the mosque is still known by Kuqa Uyghurs. The mosque was a major center of pilgrimage, prayer, and learning. Its reputation further stemmed from the court that, according to Kuqa residents, handled cases from throughout Xinjiang. In my field notes, dated 11 November, 2010, I wrote:

The mosque is located on a small hilltop in a heavily residential area. It contains a large cupola with a muezzin, a sprawling prayer hall, courtyard, and the qadihana. Video cameras survey the courtyard. The qadihana is in the southeast corner of the complex. There is a small sign outside that says in Uyghur and Chinese “old location of a religious court” marking what is currently a cultural heritage protection site. The Kuqa Uyghurs I was with had the door unlocked. Inside is another small courtyard. Then there is a door that leads into a souvenir shop. To the right is the actual courtroom. There is a raised platform, like a *kang* which is most likely where the qadi sat. On the south wall, the one I face, as I walk in, is a large window, the main source of light in the room. On this wall are two photos. The one to the right, I later found out, is of Ahmad Da mulla hajji. He was a great *imām*, the local Uyghurs say, and a qadi. He was the last qadi to hold power before the Communists took control in 1949 and died in 1991. The photo to the left is of his predecessor, named Yimid Qazi [qadi] hajji, who died before 1949. He himself was a judge only and not an *imām*. Besides this, there are no existing records of the court and its functioning. Around the room are a few religious documents written in Uyghur on parchment including the Qur’ān. The light from the window illuminates, on the *kang*, a short table with four whips [U. *dahray*], each made of blackened leather, the two used for minor offenses are thin, the width of a toothbrush, and the other pair, for major offenses, are heavy, flat and much thicker. Outside the courtroom, the room that sells souvenirs is laden with colorful tourism books, postcards, jewelry, and whips!

The conspicuous display of the whips (Illus. 7) evidences the Party-State’s reinterpretation of shari‘a and Xinjiang history. Shari‘a is reduced to harsh, corporal punishment and, by implication, the qadi as well as the khoja above him were the dispensers of a brutish and physical justice. Indeed, Kuqa residents admit that the whips were used to punish transgressors, that thieves had their hands cut off and adulterers their penises, and in fact the death penalty was also enforced at

the qadihana.<sup>37</sup> However, the qadi also took civil law matters, including issues of family law, inheritance, and property. There is no evidence remaining of civil law justice, however. Further, the internal legal other of shari‘a is the object of transference of Chinese law’s own past which also featured instruments of torture as corporal punishment. The two whips, one thin, one thick, are reminiscent of the light and heavy bamboo sticks (*chi* and *chang*, respectively) used in corporal punishment in Qing China (Bodde and Morris 1967:77, 80)<sup>38</sup> and that were reinstated by Yuan Shikai in 1914 (Dikötter 2002:86–87).

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<sup>37</sup> The *Authentic Records of the Muslim Religion in the Qing Dynasty (Qing Muzong shilu)*, vol. 25, states that between the Xianfeng and Tongzhi Periods (i.e. 1850 to 1874), the Qing prohibited Uyghur qadis from adjudicating crimes (Yuan and Gao 2001:38).

<sup>38</sup> Margery Wolf observed that corporal punishment was used by mothers in the home (Wolf 1972).



Illus. 7 One of the few remaining qadihanas in China, located in Kuqa, Xinjiang. Note the whips prominently displayed in the middle. Source: taken by the author (KQ 11/23/2010).

In summation, successive Chinese regimes have employed Hui customary law for a variety of purposes. In the contemporary PRC, there are two effects of the Chinese state's representation of shari'a. One is *xiguanfa* as a criterion of *minzu*. The customization of shari'a as *xiguanfa* went hand in hand with, and, in fact, facilitated what Dru Gladney calls the "ethnicization" (2004:150) of Chinese Muslims as the Hui. Shari'a is tied to locality, ethnicity, and the dominant Chinese culture via the trope of *bentuhua*. Second, shari'a played foil to the Han-led project of legal modernity. Archiving, cunning recognition, and transference assist the state program of engineering a modern legal system. Production of socio-legal knowledge of shari'a in the contemporary PRC (e.g., Jiang 2007; Liu 2000; Ma 2001; Sun 2009) not only omits this ideological history of shari'a in China, but

in fact constitutes this ideology. Manchu and Chinese customization of shari‘a, the law of Chinese Muslims who had long resided in China, thus provides a point of contrast to the customization of shari‘a as the forceful imposition of an alien legal system—European continental or British common law—on a subject peoples in Africa or South Asia (Powers 1989; Stawson 2003).

### *Explaining Contradictions: Hui Views on Law*

How do Hui think about their subjugation to multiple forms of authority? In what follows, I provide several representative instances or moments in which Hui reflect on this issue, and then use such reflections as a basis for an anthropology of Hui law. The administrative office, a converted courtyard, of one of Hezhou’s most popular *menhuan* (Sufi organization) in northern Bafang, serves as the meeting place for the senior members of the order. As they are building a new mosque several meters away, they retire to the office to escape the noon sun that is particularly intense in Hezhou’s thin air (altitude 1,900 meters). As they take a break from pouring concrete, their clothes and hair covered in cement dust, they *pian yi huir* (Bafanghua for “chat a bit”) with me about the order. I ask them about the property on which they are building their new mosque and this leads to a discussion on the relationship between *guofa* (state law) and *jiaofa* (religious law). “They are the same,” states one man, who is both married into the family of the saint and a civil servant in the municipal government. “The difference is belief. The *Gulanjing* (Qur’ān) commands: ‘You must submit to Allah, submit to the messenger and the person who takes charge among you.’<sup>39</sup> Allah is first and the person who takes charge, the government, is last.” When I press him on this, his hierarchy or sequence of sources, through the example of a clear conflict, like marriageable age,<sup>40</sup>

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<sup>39</sup> See Qur’ān (4:59).

<sup>40</sup> According to the Ḥanafī school, a person can marry once they reach puberty which is usually understood as twelve for boys and nine for girls. Under PRC law, the national standard is 18 for girls and 20 for boys, and in Linxia Hui Autonomous Prefecture, it is 16 for girls and 18 for boys. See Chapter 8.

he refuses to acknowledge the conflict of laws. Instead, he emphasizes the paramount role of belief (HZ 4/9/2010).

On a separate occasion, I sit with three female Sufi pilgrims in one of the many waiting chambers of the Wuxingping Spirit Bright Hall Tomb Complex on the loess hills overlooking Lanzhou. It is the *ermaili* of the founder of the order Ma Liming. Pilgrims have come from southern Gansu, Ningxia, and as far away as Hami, Xinjiang to commemorate the saint. The three women and I sit at a round table, eating the ribcage-sticking stew called *huicai*, made of tofu, corn, carrots, beans, and noodles in a beef broth. The women are in their seventies, all retired, members of the order and also Party members. I ask a woman, age 73, who has worked in a state bank her whole life how she managed the two roles of Sufi and cadre. She responded with the same Qur'ānic reference as the Sufi man in Hezhou. Another woman adds, quoting the hadith, "Patriotism is like the bird that cherishes the nest" (*xiang niao aihu wochao shide aihu zuguo*). "You must obey both Allah and the Party who is like the ruler," concludes the third female Sufi. When I ask what happens when the two authorities give conflicting commands, the women say there is mostly agreement and then return to their steaming *huicui* (LZ 5/2/2010). Their view is echoed by the *ahong* of a Jahariya Sufi tomb complex in Tongxin County in Ningxia Hui Autonomous Region who says, "Seventy percent of state laws and regulations are in accordance with *jiaofa* . . . both Islam and the state promote peace and the laws of both systems are designed with this goal in mind" (TX 10/31/2010). Lastly, a common statement in Friday sermons, called *wo'erzi* (Ar. *wa'z*, admonitions) given by *ahong* in mosques throughout the Northwest is "patriotism is part of *imān* [belief]" (*aiguo shi yimani de yi bufen*), attributed to the Prophet.

Hui understand the multiple sources of law that guide their everyday behavior in dual terms: *guofa* and *jiaofa*. They either arrange these in a hierarchy, an ordered sequence, or graft them together. The result is something akin to Sally Engle Merry's definition of legal pluralism: "a

situation in which two or more legal systems coexist in the same social field” (1988:870). The advent of legal pluralism in the 1980s occurred primarily among scholars of “law and society” and legal anthropologists (Benda-Beckmann 2002; Chiba 1989; Geertz 1983; Greenhouse, Yngvesson, and Engel 1994; Griffiths 1986; Merry 1988; Moore 2001; Nader 2002; Pospisil 1978; Starr and Collier 1989; Woodman 1999). Many of these studies cite the earliest anthropologists, for example, Gluckman, Bohannan, Hoebel, Llewellyn, and Malinowski, among others.<sup>41</sup> While these anthropologists did not identify themselves as legal anthropologists and did not use the term “legal pluralism,” in many respects these early ethnographies were emphatically legally pluralist.

To what extent can that which Hui understand as the relationship between *guofa* and *jiaofa* be analyzed as “legal” “pluralism”? In what ways is legal pluralism helpful to understand the interrelationships between legal orders and their subjects? Legal pluralism has become the convention for the study of Islamic law in postcolonial settings (Dupret, Berger, and Al-Zwaini 1999; Geertz 1983; Peletz 2002; Rosen 2000; Yilmaz 2002). In many countries, whether Euro-American or Middle Eastern, Muslims continue to practice local and community-based interpretations of Islamic law. These localized forms co-exist with state law as unofficial, folk, non-state, or customary law (Dahlgren 2012). A number of empirical studies have verified the thesis of Islamic law among Muslim minorities as legal pluralism such that it has become a fixture in the literature (Carroll 1997; Fournier 2010; Layish 2006; Macfarlane 2012; Rohe 2009; Shah 1994;

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<sup>41</sup> The interrogation of the category of law was central to the genesis of anthropology’s notion of cultural difference. Bronislaw Malinowski’s *Crime and Custom in Savage Society* (1926) sought to extract principles (e.g., exchange) governing behavior among Melanesians (1926). Isaac Schapera, working in Botswana, recorded native law for the explicit purpose of indirect rule (1938). Also basing their ethnographies in Africa, Max Gluckman conducted a study on Lozi courts to understand their administration of justice (1955) and Paul Bohannan studied courts of the Tiv (1957). There were many other early ethnographers that described African custom, some of which focused more exclusively on the category of law, such as Thomas O. Beidelman’s study among the Kagura (1961), and others who foregrounded the customary rules of household, kinship, and clan (Evans-Pritchard 1951; Fortes 1949). With the exception of Malinowski, these anthropologists founded British structural-functionalism and were heavily influenced by A. R. Radcliffe-Brown, and thus their analyses often sought to explicate the jural rules that cohered social groups.

Shah 2010).<sup>42</sup> Scholars have named the co-existence of customary law, Islamic law, and state law “Islamic legal pluralism” (Kuran 2004; Sait and Lim 2006:44) and “Muslim legal pluralism” (Yilmaz 2005:4).

On the other hand, there are skeptics. Badouin Dupret, for instance, in a “praxiological” critique of legal pluralism as applied to Arab law, objects to labeling something legal pluralism when it is presumed to be an instance of such a label (2007:1). Geertz, similarly, suggests that framing the question as legal pluralism may obscure more than it explains (1983:220–221). He prefers “legal sensibilities” (while resorting to “legal pluralism” to explain the variance between such sensibilities; Geertz 1983:220–1). The legal scholar Brian Tamanaha (1993; 2000; 2008) would do without the concept of legal pluralism altogether on grounds that it rests on a fundamental ambiguity. In arguing that all law does not originate from the government, it includes non-legal forms of control as ‘law’ (Tamanaha 1993:193).

In assessing Hui thoughts on law, they encounter a variety of sources of law: socialist law, shari‘a, and Chinese customary law. The first is socialist law that despite some assertions that the PRC has no law or that it is the rule of the Party, there is a general consensus that PRC law is law.<sup>43</sup> The second much more problematic source is shari‘a. Is shari‘a law in China? In the minds of classical Muslim jurists, shari‘a’s status as law was unproblematic (Abdal-Haqq 2006; Doi 1984; Hallaq 1997; Hallaq 2005; Zysow 2011). It is primarily in postcolonial states and especially

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<sup>42</sup> Among Muslim states, only Saudi Arabia (1.6 percent of the world’s Muslim population) retains elements of classical Islamic law, while Iran (4.6 percent) has instituted a parliamentary system. Sudan (1.9 percent), Pakistan (11 percent), Indonesia (12.7 percent), Afghanistan (1.8 percent), Egypt (4.9 percent), Morocco (2 percent) and Malaysia (1.1 percent) have hybrid systems of law. While the events in the Middle East and North Africa known as the “Arab Spring,” beginning in 2010, are still unfolding and their impact on legal reform is unknown, it is most likely that post-revolutionary states will retain some mixture of European-inspired civil law and Islamic law. As of 2010, only one-fifth of the world’s Muslim population (or 19.9 percent) inhabit the Middle East. Statistics from Center 2011.

<sup>43</sup> Most legal scholars would agree that the Mao era ushered in a period of legal nihilism (Lubman 1999:ch. 3, 4). Since 1980, the PRC government has constructed a legal system even if it operates differently from the Western “rule of law” model (Peerenboom 2002a). Borrowing from Giorgio Agamben, Flora Sapio has convincingly argued that legal nihilism survives in “state[s] of exception,” for example in arbitrary detention, that sustain sovereign power (2010).

Western secular governments where shari‘a’s ‘legality’ is questioned. Scholars and public intellectuals have queried whether shari‘a is law or an ethical system, particularly in the context of discussions on multiculturalism and religious tolerance in the West (Christoffersen 2010; Emon 2006; Fadel 2008; Ferrari and Bradney 2000; Na‘im 2008; Ramadan 2008; Rohe 2007), but also in postcolonial Middle Eastern states (Agrama 2010; Asad 1993; Mahmood 2005). In China, shari‘a does not exist as law; in fact, it does not exist at all—as recognized by the law. Rather, as I have shown, shari‘a is qualified as Hui customary law.

The Bafang Hui carpet seller, dog pelt collector, halal food entrepreneur, and Salafiyya *manla* understand the term *xiguanfa*, especially when talking to a white Western anthropologist, pen and field notebook in hand, but they would much rather talk about *jiaofa*. They use *jiaofa*, but also *Yisilanjiaofa*, *Yisilanfa* (both “Islamic law”) or one of the transliterations of shari‘a, like *sheruo’ati*. While shari‘a is not positive law and is not enforced by a this-world authority, Hui nonetheless characterize it as law. I posed the question of shari‘a’s legal status to a senior member of Lanzhou’s Yihewani West Gate Grand Mosque. His jaw drops, then clenches, as he sputters, “We consider it law. If we fail to abide by what the Qur’ān says, in this life, then we will be punished in the afterlife. Activities like daily prayer, fasting, and giving *ṣadaqa* [alms], these we must do! If you do not think these are law, then you do not understand Islam” (LZ 9/28/2009).

The elder Hui provides a Hui answer to Tamanaha’s question, “what is law?” (1993:199) Tamanaha surveys cross-cultural definitions of law from Hoebel to Weber to H. L. A. Hart and finds them lacking mainly for assuming the qualities of state law but merely subtracting the entity of the state (1993:200–201). By grounding analysis in Hui accounts of law, the anthropologist’s evaluations proceed from the bottom-up, rather than the other direction, starting with the state in order to subtract the state. For the Yihewani man, law is a set of rules about bodily practice, intention, and comportment largely productive of relations between co-religionists as well as

Muslim and God to which one is bound not by moral suasion or social coercion, but by divine injunction. In other words, the rule (e.g., one must give alms) is enforced albeit not by a secular authority in this world. The Yihewani Hui's response demonstrates the interdependence of *jinshi* (this world) and *houshi* (afterworld); an act or its omission in this world will incur punishment in the afterworld.

Consequently, I locate the Hui view as the starting point for analyzing the embeddedness of Hui law. Analytically, such statements may or may not be consistent with observable practice. For instance, the Yihewani man emphasizes that God instructs Muslims to abide by such rules through the revelation in the Qur'ān. At the same time, following Sangren's Durkheimian observation that co-religionists may attribute divine intervention or efficacy to what is actually society itself (1987a), social sanctions may play a role, for instance, in the giving of charity (see Chapter 4).

This approach of starting the analysis with Hui expressions of law, however, faces problems in talking about a third source of law in Han shari'a: custom. By custom, I mean not the ideological and hierarchized term *xiguanfa*, but rather, noncodified yet patterned social sanctions, enforced within and by membership to a community, that co-exist with law (Malinowski 1926:51–52; Weber 1978[1922]:319–320). Hui in Hezhou do not talk about *xiguanfa*, neither in the sense of a body of Hui customary law nor in the sense of Hui being influenced by Han customary law. Nevertheless, the incorporation of Han custom into Han shari'a or "Hui-ified" Han customary law is a major authority even if it has no textual source or formal judicial institutions. Such Han customs as favoring sons in the process of dividing the inheritance, investing authority on matters of household property in the male family head, privileging the husband's capacity to initiate divorce, and procedural aspects such as generally avoiding written documents or formal venues of dispute resolution have gained considerable traction in Hui behavior in Hezhou. As to whether custom can be considered in an analysis pursuant to legal pluralism, as mentioned, Islamic law recognizes

custom as long as it does not conflict with the sources of shari'a: Qur'an, *aḥādīth*, *qiyās*, and *ijmā'* (Anderson 1955:6; Rosen 1989b; Rosen 1995). Chinese customs that violate shari'a and yet retain their place in Hui social and ritual life, under normal conditions, go unrecognized, and yet foment anxieties in periods of inter-*jiaopai* contest (see Chapter 6). Thus, Hui practice of shari'a conducts its own cunning of recognition on custom. Whether custom can be considered law is a less interesting question than whether custom can be "legalized," that is, what are the relationships between the sources of authority in Han shari'a and how the sources, at variance, evaluate each other?

Thus, customary law is the largely unrecognized third term of Han shari'a. *Ahong* bemoan the prevalence of such pre-Islamic customs among members of their *jamā'a* and continually remind them of the relevant shari'a rules, for example, the fixed shares of inheritance. The nonrecognition by Hui of Chinese custom, its exclusion from emic categories like *guofa/jiaofa* or, among Sufis, Gedimu and Xidaotang, *rendao* (way of man) and *tiandao* (way of heaven) complicates the analytic of legal pluralism. Hui as legal subjects have different relationships to the various sources of authority (state law, shari'a, and custom). In other words, Hui demonstrate different types of legal consciousness or ways of understanding, thinking about and using law (Merry 1990:5; Merry 2000:7) vis-à-vis variant sources of authority. Thus a second issue after the nature of authority (i.e., law, ethics, custom) is the relationship between the legal subject and authoritative source.

### *Sources of State Law*

To begin with state law, Hui regard state law as a patriotic obligation, a duty of citizenship, and even a punishment-in-waiting. The fourth of December every year is a national holiday in China, "Law Popularization Day" (*pufari*). On that day in 2009, I wake to the sound of a *xuanbu che* (promulgation van) driving through the main streets of Hezhou. An amplifier on its roof crackled

with a barely discernible recorded message announcing: “In order to normalize wedding registration work! protect the freedom to marry! monogamy! the implementation of gender equality within the marriage system! protect a married party’s legal rights! . . . [we] formulate these regulations!”<sup>44</sup> I walk to the city center, what used to be the south gate of the imperial town, and see a series of booths draped with red banners in the center of the public square. Various governmental bureaus and departments each had their own booth: public security, judiciary, supervision, religious bureau, tax bureau, environmental protection, family planning, bureau of civil affairs, and so on. Each booth had several handouts, relevant national, provincial, or prefectural laws and regulations written on colorful tissue paper. The Hui milled about, sometimes collecting the handouts and brochures. However, there were few conversations. The Hui did not ask the civil servants any substantive legal questions nor did the officials dispense advice or guidance on how to use the laws, protect rights, or initiate suits. Law on exhibition (Illus. 8). An hour later, at the Red Park Public Square, I see an older Hui man with a bicycle. In the front of his bicycle there is a basket stuffed with colorful handouts like an origami whirlwind. I ask him what he is going to do with them, whether he needs them for his business. He replies, “No, they have nothing to do with my work, but I will read them otherwise I’ll never know if I’m doing something illegal!” (HZ 12/4/2009).

While legal popularization is given its own day, state law is everywhere visible in Hezhou. All hotel lobbies are adorned with regulations about registration (particularly foreign guests), *xinxibu* have their proprietorship permits on their wall, and the administrative offices of mosques and Sufi tombs are wallpapered in local regulations. In addition, the police and public security bureaus have a near ubiquitous presence in Hezhou whether stationed at all major intersections, conducting raids on hotels suspected of harboring drug traffickers, or cartoon Internet police on the

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<sup>44</sup> The citation is the Marriage Registration Regulations (*Hunyin dengji tiaoli*), effective 1 October 2003.

default homepage of Hezhou's three Internet bars. In short, there is no shortage of outlets for Hui to learn about state law. At the same time, the learning that occurs through propaganda campaigns and tissue paper pamphlets is far from robust. The result is thin legal consciousness (Diamant, Lubman, and O'Brien 2005:10–11; Gallagher 2006:794). In Hezhou, the local governments (prefectural and municipal) seem reluctant to educate the Hui citizens on the procedural aspects of law. For example, as many Hui farmers are challenging eviction orders in the peri-urban areas to the east of the city in the wake of the city's announcements of its intention to expand the city and build high-rise apartments, there are no opportunities for such disputants to learn about litigation, how to sue a developer or the local land administration. Consequently, the Hui's attitude to state law is broadly consistent with what in Anglo–American legal theory is the utilitarian view of law pursuant to the interest-maximizer model of the legal subject, that is, law is something external to the subject that he or she may use for some purpose. At the same time, the rational actor of the legal subject under state law operates with incomplete knowledge that in turn limits her capacity to maximize her interests.



Illus. 8 Hui reading legal propaganda in the central square of Hezhou on “Legal Popularization Day.” Source: taken by the author (HZ 12/4/2009).

The identity card (*shenfenzheng*) of Muslim minorities in Hezhou exemplifies this relationship. Every PRC citizen must carry an identity card at all times. The identity card includes name, date of birth, address, identity number, photograph, and ethnicity (and therefore religious affiliation by inference). In effect, the identity card is the legal document that ‘proves’ one’s ethnic identity under law. This is important as different ethnicities acquire different rights under law. All ethnic minorities receive preferential policies (*youhui zhengce*) including education and employment.<sup>45</sup> Different ethnic minorities receive different benefits. In Hezhou, because of the plurality of Muslim minorities (Hui, Dongxiang, Salar, Bonan, and Uyghur), Muslims are all aware of the hierarchy of benefits. As Hui are the most urban and well-off Muslim minority, their benefits are

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<sup>45</sup> For a generally approving view of China’s preferential policies for ethnic minorities, see Sautman 1998; Sautman 1999; Sautman 2010. For more critical studies, see Hansen 1999; Postiglione 1999; Yamada 2012; Zhou and Hill 2009.

fewer than those of the Dongxiang. For instance, a Dongxiang student may receive more additional points on her high school entrance exam than a Hui student of the same age. That is to say *minzu* is a legal construct as much as it is an academic or discursive one. This results in a “race to the bottom” by which Muslim minorities illegally obtain identity cards for “lower” ethnic status that, in turn, confer higher or more benefits. A twenty-one-year-old Dongxiang man (or so I thought) told me that his father was able to procure Dongxiang identity cards for the entire family. Originally, his entire family was Hui. He had just obtained the new card from his father and the young man took it out of his wallet frequently during my visit to his farm on the outskirts of Hezhou, rubbing it and smiling at it (HZ 5/28/2010). Among Muslim minorities in Hezhou, state law invites strategic behavior, often the evasion of state law as legal sovereign.

### *Sources of Customary Law*

In many areas of law, particularly family law, customary law has much more salience in the everyday lives of Hezhou Hui and Hui elsewhere in the Northwest than either state law or, as discussed below, shari‘a. By customary law, I mean the body of rules and associated norms that orchestrate inter-personal relationships within the family, the lineage, and the broader community, whether village, town, or urban neighborhood.<sup>46</sup> The customary law of Northwestern Hui is uncodified and bereft of most institutions associated with state law. Thus, it is often seen among Hui as “under” state law or “local” in comparison to “central” legal and juridical rule. Yet in many cases, it is more central to the lives of Hui than PRC law. Additionally, it may violate the revealed authorities of Islam.<sup>47</sup>

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<sup>46</sup> See, generally, Malinowski 1926:51–52.

<sup>47</sup> On the relationship between shari‘a and custom, their gaps and overlap, see Buxbaum 1968; Gellner 1994:116; Maktari 1971; Rosen 1995.

There are two inter-related features of Hui customary law that deserve particular attention: its origin and Hui attitudes toward custom. The family, and specifically, the parents (or grandparents) are the main sources of customary law among Hui. It is from parents or elders that the younger generation learns, over extended periods of observation and socialization, correct interpersonal behavior: boys modeling themselves after fathers/grandfathers and girls emulating mothers/grandmothers. At the same time, it is in the unwritten inter-generational rules of interpersonal relations where Hui norms and practices show the impact of Han Chinese culture. In many instances of customary law touching on areas of law such as family organization, inheritance, property disposition, marriage, and divorce (see Chapters 7 to 9), Hui customary law appears indistinguishable from that of the Han majority. Despite Hui's assertions concerning the differences between Hui and Han culture, and their uniqueness as Muslims, historical interaction with Han Chinese via inter-marriage, business networks, bi-ethnic neighborhoods, and the prominence of Han culture in state-sponsored national development, Hui customary law has been a vehicle for sinicization without total Hanification.

In terms of Hui attitudes toward custom, to the extent that they objectify customary law, they may label it as *xiguanfa* or *fengsu xiguan* (preceded either by adjectival "Hui" or "*Muslim*" — Muslim), both of which are categories derived from Party-State discourse. Hui rarely acknowledge Han cultural presence in their traditions. For instance, in examining a rare deed written by a member of the so-called Ma Family warlords with a descendant, I pointed out that the deed did not mention the Qur'ān or any Islamic source of law. The man (the head of a wealthy Yihewani Hezhou family that has sought ties to the local government as evidenced by his position in the CPPCC), opined it was written "in accordance with Chinese traditional practices" (*anzhao Zhongguo chauntong de yisu*). Seeking clarification, I asked, "Han [practices]"? He responded with vexation, "No, Chinese!" (HZ 9/10/2012). It is not only the Han majority that operationalizes the semantic

slipperiness of Han/Chinese in making claims for the whole nation, but also Hui who use the ambiguity of Han/Chinese to sidestep their own equivalence with the non-Muslim majority.

Another example of inheritance or property disposition further illustrates the traction of customary law and its contravention of state and Islamic laws. The Chinese tradition of *fenjia* (“house division”) is a well-documented practice through which family heads distributed household property (i.e., the estate), equally among sons (Cohen 1976; Cohen 2004; Freedman 1958; Wakefield 1998; Zelin 2004). Although viewed as defining characteristic of Han patrilineality (Cohen 1991:116), *fenjia* is also common among Hui in Hezhou. The case of the Hu family from Bafang illustrates many of the internal conflicts in Hui *fenjia*. In the early 1960s, the Hu family owned a large four-walled courtyard in central Bafang. Grandfather Hu had seven sons and two daughters. As with other Bafang families, Grandfather Hu as head of the household divided the property before his death. The division was recorded in a *fenjia xieyi* (family division agreement) that had since been lost. Each of the seven sons received two rooms off the large courtyard. In contravention of Islamic law, the daughters received no property, but similar to Han practice, they were ‘married out.’ Following Grandfather Hu’s division of the property, the sons moved into their respective rooms. Grandfather Hu added a condition to the family division agreement after the Cultural Revolution regarding the *shangfang* (northernmost room). He promised three brothers they could divide the property if they helped him attain the merit for performing the hajj after he died. In the practice called *daichao* (hajj representative), a family member or associate could perform on behalf of another who would accrue merit even if he or she had already died. When Grandfather Hu died in 1984, the sons reshuffled their inherited rooms, resulting in a dispute that would create a rift between three sons (and grandsons) that would last two decades.<sup>48</sup> Nonetheless,

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<sup>48</sup> This account is an extremely simplified version of the Hu household division. The history will be developed in a forthcoming article.

the three brothers in question divided the costs (approximately 10,000 yuan) to assist a member of their *jamā'a* in performing the hajj on behalf of their father in 2004.

In mid-2009, I befriended a grandson, the son of the third-eldest son of Grandfather Hu. When I asked him about whether the Hu family division was in accordance with Islam, in our earliest conversations he would respond in the affirmative. As our friendship deepened and our conversations became more candid, he acknowledged that shari'a was not prevalent in Hui family division. He explained, "My family was not very religious, even though we are Salafiyya. We are not that close to any *ahong* and so we did not follow religious law." (HZ 6/11/2010).

In the area of inheritance, many Hezhou Hui follow *fenjia*, rather than Qur'ānic rules of property division that grant rights to women (see Chapter 11). Although Margery Wolf posited disagreements between brothers' wives as the reason for family division (1972:164), most have agreed with Maurice Freedman in placing power over family organization or division in members of the patriline (Wakeman 1993: 36 citing Freedman 1966:46). Among Hui, *fenjia* is an example of patriarchy that overrides Qur'ānic considerations for property disposition to female members of the family. For most Hezhou Hui, the conflict causes discomfiture that often results in denial, misrecognition, and ambivalence. Mr. Hu, an exception,<sup>49</sup> illustrates the view of a secularized Hui who rejects the demand of law in what I term in Chapter 5 "bad consciousness."<sup>50</sup>

### *Sources of Shari'a*

Whereas Hezhou Hui view state law as something outside themselves that can be folded and stuffed in a bicycle basket for defensive study or photo-shopped and caressed, their relationship to shari'a

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<sup>49</sup> For more on Mr. Hu, see Chapter 7.

<sup>50</sup> Indicative of the tug-and-pull of secularization and Islamic revival in Hezhou, Mr. Hu, I discovered during a visit in 2012, is attending nightly study groups at his mosque and is preparing to go on the hajj.

is of a qualitatively different nature. By its nature, shari‘a operates through intimate submission, rather than stately compliance.

Before explaining this difference, I note that shari‘a may, like state law, invite egoistic behavior as disputants mobilize rules to further their interests.<sup>51</sup> For instance, in the event following a commercial transaction whereby one party claims bankruptcy, the creditor may agree to accept a smaller sum from the debtor, although one that is more than symbolic. In one example, the amount of the debt was over 10 thousand yuan but the debtor claimed distress, and said he could only pay back 100 yuan. The creditor found this amount paltry, and an “unofficial” *ahong* mediated their dispute by confirming the distress of the debtor.<sup>52</sup>

Despite this similarity between state law and shari‘a, in contrast to socialist law shari‘a is a much more intimate affair in Hezhou. In Hezhou, there are visual reminders of shari‘a, such as the privately owned buses used to transport men to the Muslim Public Cemetery on which are stenciled in green letters, “One must abide by the path of the Saint [*sīc*] often without warning, those who revere Allah must practice the five pillars.” There is no shortage of halal restaurants signified by the meta-symbol *qingzhen*. Shops throughout Bafang sell Muslim everyday use products (*Muslim qingzhen yongpin*) including decanters for ritual washing on which are written *ping’an* (peace, for *salām*). However, there is no venue in Hezhou for the Muslims to meet and discuss, debate or simply air views about shari‘a.<sup>53</sup> While there is nothing inherent about shari‘a that discourages reasoned deliberation (Emon 2010; Fadel 2008; Na‘īm 2008:84–139), the Party-State greatly restricts the venues in which Hezhou Hui can do so. Discussions are held occasionally in “scriptural

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<sup>51</sup> An historical example from outside China was the practice in fourteenth-century Damascus of establishing family *awqāf* (pious endowments) to circumvent mandatory Qur’ānic rules of inheritance (Powers 1999).

<sup>52</sup> The *ahong* who mediated the problem was conversant in the relevant Qur’ānic (2:280-86) passage that deals with distressed debt, that requires the creditor to grant the debtor time to repay his debt if the latter is distressed. Further, the *ahong* cited several *ahādīth* that supported both sides: some emphasize the moral virtue of paying back all of one’s debts whereas others encourage debtors to show forgiveness to those in hardship. It is not clear from the *ahong’s* account how much of the relevant shari‘a the parties involved in the dispute cited.

<sup>53</sup> See, for example, the closing of the learning center in the preceding chapter.

hall education,” in mosque administrative offices, restaurants, or *xinxibu* often *sotto voce* and with members of one’s own *jiaopai* inviting no substantive back-and-forth. They are usually reaffirming in terms of the *jiaopai* view of Islam rather than deliberative. To sum, the form an authority takes is related to the way it shapes legal consciousness in Hui. State law is viewed by Hui as something external and object-like, and sometimes oppressing them from the outside in. Shari’a, however, does not assume state law’s excessive visibility and is internalized through “scriptural hall education,” private study and mosque attendance.

There are two main sources for cultivating legal consciousness of shari’a: texts and institutions. As for the study of law, Hezhou Hui like Muslims everywhere divide the law into positive law (i.e., the rules of the Qur’ān, hadith, and the *ḥukm*) and *fiqh* or jurisprudence, that is, the methodology or process of deducing and applying rules from shari’a. Generally, the former is much more important for the vast majority of Hezhou Hui given the constraints imposed on institutions for creating the latter. Texts are the main source of learning about the law. Hui collect either the original Arabic or Persian or, more usually, texts translated into Chinese. As only the *ahong* are literate in the foreign languages, Hezhou Hui will read Chinese when they want to learn about law and ethics. The religious reforms have witnessed a growing body of translated materials, including collections of fatwas (juristic rulings on specific matters) in question-and-answer format. Some of these translations and written sources can be found in book or pamphlet form in the many bookstores or mosque libraries in Hezhou. The second source of shari’a legal consciousness is institutions. These include “scriptural hall education” (i.e., the lectures of teaching *ahong*), the mosque (i.e., *jum’a* sermons of the *ahong*) and to a lesser extent, the home (i.e., instructions from the family head). Each one of these modes of learning is embedded in an authoritative structure or relationship (e.g., teacher-pupil, *ahong*-mosque attendee, and father-family members). As a result, they are more one-way than dialogic. In the following, I describe these sources of shari’a legal consciousness. Chapter 5 examines an example of an *ahong*’s sermon and Chapters 7 to 9 on

marriage describe the home as the site of reinforcement of pre-Islamic customs, I enumerate first the textual sources of shari‘a: the Qur’ān, hadith, *qiyās* and *ijmā‘*; and commentaries and compilations of fatwas. I emphasize the process of translation and native categories and terms. Publication also illustrates the pull-and-tug between *guofa* and *jiaofa*. One symptom of uncanny China’s “religious revival” is that while some of the translations are published through state presses (and censors) in Beijing, many of the fuller translations are either published outside the PRC or are *neibu ziliao* (internal materials) without an ISBN code and cannot legally be sold within China. Lastly, I discuss the types of schools where Hezhou Hui may study shari‘a.

*i. Textual Sources of Shari‘a*

a. The Qur’ān

Although it is likely that the earliest Arab and Persian merchants and envoys brought copies of the Qur’ān to China as early as the eighth century C.E. (Leslie 1986:ch. 4),<sup>54</sup> the Qur’ān was not translated in full until the twentieth century (Ma 2011a). Yusuf Ma Fuchu (Ma Dexin)<sup>55</sup> (1794–1874) is generally credited with having produced the first full translation of the Qur’ān as *The Direct Explanation of the Real Knowledge of the Precious Order (Baoming zhenjing zhijie)*. However, his translation was not complete. The usual explanation given by Muslims in the Northwest for the late translation is that, first, the Qur’ān had been translated in parts far earlier, and second, Chinese Muslims, unsure of their Arabic language ability, were afraid to mistranslate the sacred text. Following the fluorescence of a Muslim civil society in the Republican period, there was an educational revival via both domestic “scriptural hall education” within China and study abroad (Mao 2011). The result was a number of translations and publications of the Qur’ān. The first was Tie Zheng’s translation *Kelanjing* (Qur’ān) in 1927 based upon an English translation of a

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<sup>54</sup> Additionally, sojourners and migrants from Central Asia brought some of the earliest copies of the Qur’ān to the Northwest. As described above, in Jiezi Mosque in Xunhua Salar County, Qinghai province, there is a copy of the Qur’ān dating to the eleventh century C.E.

<sup>55</sup> Ma Dexin as he is commonly called, was originally from Dali, Yunnan and studied “scriptural hall education” in Shaanxi from the fourth-generation student of Hu Dengzhou. In 1841, he performed the hajj and traveled throughout the Middle East (Lin 2003:42-43).

Qur'ān in Japanese (2004[1927]). Muhammad Ma Jian (1906–1978) made a direct translation from the Arabic called *Mandarin Qur'ān* (*Guoyu Gulanjing*; 1986[1930]).<sup>56</sup> A year later, Ji Juemi, with the financial support of an Iraqi Jew with a massive opium trade based in Shanghai, published his *Chinese Translation of the Qur'ān* (*Hanyi Gulanjing*, 1931). While some scholars believe the intellectual centers of Islam were historically based in the large coastal cities or in Yunnan, in 2011, one of the earliest Chinese translations was discovered in Lanzhou.<sup>57</sup> The version called *Chinese Annotated Formal Text of the Arabic Honored Real Teaching* (*Tianfang zunda qingjing Zhonghua mingwen zhujiē*) was written in 1912 by Sha Zhong and Ma Fulu. In the Communist period, translations and annotations have multiplied, some of which have been controversial.<sup>58</sup>

#### b. The *Aḥādīth*

Chinese Muslim scholars have also made various translations of the *aḥādīth*, the collected sayings and deeds of the Prophet. The first partial translations appeared even later than those of the Qur'ān at the end of the nineteenth century. The two *aḥādīth* collections that had gained wide popularity in “scriptural hall education” during the Qing period are two sources known in Chinese as *Hutubu* by Ibn Aode'er<sup>59</sup> and *Ai'erbai'ou* by Hassan Mudin, the former containing forty *aḥādīth* and the latter explanations of *aḥādīth*.<sup>60</sup> Ma Lianyuan (1841–1903) used these two sources in his

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<sup>56</sup> Ma Jian, one of the great Hui intellectuals of New China was from Shadian, Yunnan. He studied abroad at Al-Azhar University in Cairo, and returned to China to author some of the most comprehensive translations of Islam still in use. For instance, Hui in Hezhou continue to read and cite his *A Chinese Deciphering of the Qur'ān* (*Zhongwen yijie Gulanjing*) the version of his Mandarin Qur'ān, published in Medina.

<sup>57</sup> Equally remarkable, Ding Shiren, the head of the Islamic Cultural Research Institute at Lanzhou University, in 2011, discovered a book called the *Qur'ān in Small Script* (*Xiaojing Gulanjing*) written in 1958 by a Ma Mingcai from Dongxiang Autonomous County. *Xiaojing* or “small script” was a writing system developed by Chinese Muslims who knew Arabic (and spoke Chinese) but could not write Chinese. The *Qur'ān in Small Script* is unusual as the script reflects the Hezhou dialect, specifically that of Guanghe.

<sup>58</sup> There have been about ten translations since the founding of the PRC (my count). Ma Jian's translation of the Qur'ān remains perhaps the standard among Hui. There are others that have received wide acclaim such as *Rhymed Translation of the Qur'ān* (*Gulanjing yunyi*; 1988) by Central Nationalities professor Lin Song. For a controversial translation, see Chapter 6.

<sup>59</sup> The late historian Bai Shouyi transliterates the name as Yiben Wode'an with year of death A.H. 594 (C.E. 1197/8; 1944).

<sup>60</sup> Ha Baoyu suggests that the editorial annotations were in Persian, although it seems the original texts were composed in Arabic (Ha 2003:12).

*Zhisheng Baoyu* (*Precious Order from the Greatest Sage*), written in 1894. In the Republican period, Chinese Muslim scholars produced several translations of *aḥādīth* collections, such as Zhou Peihua and Tang Weilie's *Book Recording the Words and Deeds of the Greatest Sage and Prophet* (*Zhisheng xianzhi yanxinglu*; 1926), Ma Yulong's *Forty Chapters of the Aḥādīth* (*Shengxun sishi zhang*; 1935), and Pang Shiqian's translation of the Syrian Shafi'i jurist al-Nawawī's (d. A.H. 676/C.E. 1278) work known as *al-Nawawī's Forty Divine Commands* (*Naowei sishi duan shengyu*) (1947).

After the establishment of the PRC, in 1950, Ma Hongyi translated the *Bukhārī aḥādīth* as *Buhali Shengxun jinghua* (*The Quintessence of the Bukhārī aḥādīth*) of which several bilingual editions were published. After the religious reforms, state-owned publishing companies again began producing translations of the *sunna*. However, in 1983, Ma Zhixin of Hezhou used non-state publishers to print Chen Keli's translation of a collection of *aḥādīth* entitled *Tazhi Shengxun*. More recently, Kang Youxi (b. 1969)<sup>61</sup> and Qi Xueyi (b. 1967)<sup>62</sup> have each translated the *Bukhārī aḥādīth*. In the last few decades, an increasing number of Chinese Muslim scholars are turning to the science of the hadith, an area of the study of Islamic jurisprudence traditionally neglected in "scriptural hall education" (Ma 2006a; Ma 2011c; Qi 2010:242–246). Some of the current generation of scholars have chosen publishers located outside the PRC, such as the Islamic Classics and Research Series, published in Hong Kong (e.g., Erxigalani 2009).

### c. *Qiyās* and *Ijmā'*

Jurists of the four jurisprudential schools include *qiyās* and *ijmā'* as sources of shari'a after the Qur'ān and hadith. *Qiyās* or analogical deduction refers to the process employed by jurists to

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<sup>61</sup> Kang Youxi was born in Tongxin, Ningxia where he studied in addition to Hezhou. In 2000, he studied in Oregon and has since relocated to UNC-Greensboro.

<sup>62</sup> Qi Xueyi, originally from Hezhou, studied in "scriptural hall education" until 1987 when he studied abroad in Pakistan and Saudi Arabia, graduating from Islamic University in Medina in 1994. After his return, he served as head *ahong* of Hezhou's New Glory Mosque, a progressive Yihewani center for eight years. During his tenure, he also studied abroad and completed a master's degree in Arabic from King Saud University in Riyadh. He currently teaches Arabic at the Foreign Language University in Shanghai.

derive rules on contemporary issues or matters based upon a ruling (Ar. *ḥukm*) from past cases. Thus it is a precedent system founded on the similarity between the previous and instant case. *Qiyās* was effectively a means for the law to keep up with social reality. *Ijmāʿ* means consensus of opinion among the companions of Muhammad. Through this device, if the community of learned scholars agreed on an issue, it was recognized as law. Like *qiyās*, *ijmāʿ* was a means of rule creation, and specifically sought to limit the capacity of any one scholar from innovating law. However, jurists of the different schools differed in their definition of the community, whether it referred to scholars in their school, scholars in a certain location (e.g., city) or scholars throughout the world. There is no consensus on what consensus means (Kamali 2003[1991]:205–207).

In contemporary China, these two sources of law are not used for the most part. *Qiyās* (Ch. *leibi*) never developed in Chinese. A young Gedimu *ahong* who was born in Hezhou and studied there in his early career before becoming an *ahong* in Lanzhou and later studying abroad at Al-Azhar University pursuing a master's in legal studies, states:

... China has never had *mujtahid*, those who can practice *ijtihad* because we Chinese *ahong* do not have the credentials.<sup>63</sup> The criteria to be a *mujtahid* are extremely high: he must master Arabic, know 500 *āya* from the Qurʾān, specialize in the principles of the religious law, study the various branches, memorize some 300,000 *aḥādīth*, and attain six ranks.<sup>64</sup> The credentials are so high because the *mujtahid* represents Allah.

The young *ahong* further opines:

This is a problem because China, in fact the whole world, needs *ijtihad* to create law to deal with a changing world and modern challenges. For example, the Qurʾān does not mention organ transplants and this has caused many legal problems not only in the Middle East but here in China. How are we Muslims supposed to abide by the religious law if it is silent on an issue? [LZ 2/7/2010]

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<sup>63</sup> The *ahong* equates *qiyās*, a method, with *ijtihad* (Ch. *chuanyi*), which means literally “to exert oneself” by using the faculty of reason to discern a point of law. Thus, *ijtihad* is going beyond the revealed sources based on individual reason. Classical jurists and contemporary scholars differ on whether *qiyās* can be equated with *ijtihad*, although most would categorize the former as a sub-type of the latter (Vikør 2005:53).

<sup>64</sup> The *ahong*'s list of criteria for *mujtahids* concurs roughly with that of shariʿa scholar Wael Hallaq. Hallaq adds the criteria of training in the theory of abrogation; training in the art of legal reasoning, specifically, how *qiyās* is conducted, and in the principle of causation; and know all cases sanctioned by consensus (1997:24; 2005:146).

An *ahong* who served as the head teaching *ahong* of the most active Yihewani mosque in Bafang before taking up a post teaching in Lanzhou explains, “No Chinese Islamic scholar or *ahong* ever reached the level or had the credentials to write his own *leibi*. Thus, the vast majority looks abroad to the most recent scholarship in countries like Egypt for innovations and developments in shari‘a. For example, the works of Yūsuf al-Qaradāwi have gained much popularity among Chinese *ahong*.” The *ahong* further provides his view on why this is the case. “The number one reason is the *guoqing* [country situation] under which China is a *da Hanzu guojia* [great Han state] and throughout Chinese history, Islam has been persecuted” (LZ 3/30/2010). A leading Gedimu *ahong* in Hezhou complained that even if Chinese *ahong* did have the requirements to write *qiyās* according to Islamic law, Party policy would prevent them from publishing them (HZ 12/20/2010).

As a result of these obstacles, educational as well as political,<sup>65</sup> many *ahong* in Hezhou, Dongxiang, Xunhua, Lanzhou, Yinchuan, and Xining look abroad to authorities such as al-Qaradāwi,<sup>66</sup> and have even emulated his approach to spreading shari‘a legal consciousness via mass media (Gräf and Skovgaard-Petersen 2009; Hirschkind 2006:24) through producing electronic copies of their sermons and posting them online or selling them as VCDs in bookstores and Islamic paraphernalia shops. Not all *ahong* agree with these views. Some *ahong* in Hezhou said before 1949, *ahong* would *zuo leibi* (do *qiyās*) by reference to cases from Central Asia and the Middle East they learned about while studying abroad or while performing the hajj, calling this a *zunxun xianli*

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<sup>65</sup> Although not mentioned by my interlocutors, I would add another obstacle to the creation of a body of precedents specific to legal problems encountered by Chinese Muslims and that is Chinese legal culture’s aversion to written documents. Although some would charge me with “essentialism,” Chinese prefer oral agreements versus preserving legal transactions (e.g., wedding certificates, wills, deeds of estate or property ownership) in writing. Hui have also been influenced by this characteristic of Chinese legal culture. For an anthropological account that nuances aversion to legal texts in Chinese contracting, see Cohen 2005. Thus, the “third term” (custom) again rears its head.

<sup>66</sup> Hui scholar Zhang Weizhen (b. 1963), a Hezhou native who studied first in Hezhou and then for six years in Pakistan, has popularized much of Al-Qaradāwi’s writings. Many of al-Qaradāwi’s works have been translated into Chinese. His catechetical *The Lawful and the Prohibited in Islam*, a standard text on the importance of abiding by shari‘a rules of purity in daily life, was translated into Chinese by the International Islamic Federation of Student Organizations, based in Germany, under the title *Lun Yisilanjiao lvzhong de hefa shiwu yu feifashiwu* (1990). Several others of his works have been translated into Chinese (al-Qaradāwi 2000; al-Qaradāwi 2007; al-Qaradāwi 2009). I came across copies in bookstores and mosque libraries in Hezhou.

(precedent) system.<sup>67</sup> A minority of *ahong* say they still do on-the-spot analogical reasoning for problems that arise in their *jamā'a*, sometimes based on cases from abroad they have encountered or their interpretations from the revealed sources, the Qur'ān and *aḥādīth*. However, when I ask for specific examples, most *ahong* cannot provide them.

Many of the problems preventing the use of *qiyās* similarly apply to *ijmā'* (Ch. *gongyi*). As with the classical jurists, there is no agreement on what constitutes *ijmā'* among *ahong*. One teacher and scholar in Lanzhou cited the *Sharh al-Wiqāya*, the main reference book for shari'a among Chinese Muslims. Although the book does not define *ijmā'*, it defines collective prayer as a minimum of three people. The scholar, himself reasoning by analogy, says that the same applies for the formation of *ijmā'* (LZ 3/31/2010). Some *ahong* view the Educational Affairs Steering Committee (EASC) (*Jiaowu zhidao weiyuanhui*) of the China Islamic Association, founded in 2001 in Beijing, as serving in the capacity of *ijmā'*. The EASC conducts *tafsīr* (Ch. *jiejing*) by compiling exemplary *wa'z* that are subsequently issued to all *ahong* (see e.g., Chen 2003). Some Hui scholars view the EASC as seeing its function as going beyond exegesis of the Qur'ān to building a Chinese *fiqh*. Nonetheless, other *ahong* and local scholars express extreme doubt as to whether the EASC has the authority to perform such scholarship. *Ahong* in Hezhou similarly disagree among themselves as to what

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<sup>67</sup> Several elder men in Hezhou remember watching their mosque's *ahong* "doing *qiyās*." Iwamura Shinobu gives an example (I paraphrase his account):

Zhang Liangang was a senior member of Baotou's Qingzhen West Mosque [in Inner Mongolia] whose eldest son smoked opium. In June 1944, the son's wife slept with a Han man and got pregnant by him. The *jiaozhang* warned the family on both accounts: that smoking opium was a violation of the religious law and that the wife had sinned. Unrelated, Zhang's third son's wife died around this time. Because of the family's sinful behavior, the *jiaozhang* would not give her full Islamic burial rites. Zhang went to the *xianglao* to ask for the *jiaozhang* to give her burial rites. They would not help him. So he went to the larger mosque, Qingzhen Grand Mosque. That *jiaozhang* then punished Zhang and the wife by caning 35 times. Additionally, the woman who slept with the Han was to receive 139 hits with a leather-thonged whip but as this would endanger the child (who was innocent), the *jiaozhang* fined her instead, 139 yuan. Actually, the punishment should be 1,390 yuan but he reduced this to one-tenth. The third son fled. Thus, his father Zhang had to replace him. The *khalifāt* whipped Zhang and made him count hits by touching his nose, as is the Chinese way. The father then pled with the mosque leaders to give the deceased burial rites and they did. The *xianglao* (a former *khalifāt*) used a *leibi*, written in Arabic, to discern the punishment in this case (Iwamura 1949:122-123).

constitutes *ijmāʿ*. In the event they come across an issue that they themselves cannot address, they will consult *ahong* of other mosques in their *jiaopai*.

d. Additional textual sources of shariʿa

The patchwork nature of Han shariʿa as seen in Chinese *ahong* not using human reasoning and interpretation through the methods of *qiyās* and *ijmāʿ* is related to the absence of a Chinese *ʿulamaʿ*, in the technical sense, a class of legal scholars trained in Islamic jurisprudence.<sup>68</sup> As noted, there are historical, intellectual, and political reasons for the inability to develop a distinctly Chinese Islamic jurisprudence, that is, a body of human-derived law based on the revealed sources. The closest Chinese Muslims came to such a creation was the quasi-canon Han Kitāb, a collection of books written by Chinese Muslim literati between the 1630s and 1730s that explain Islam through Chinese (specifically, Neo-Confucian) cognates to both Muslim and non-Muslim reading audiences (Benite 2005; Murata 2006; Murata, Chittick, and Tu 2009). However, the only book to address law was *Ceremonies and Rituals in Islam (Tianfang dianli)* by Liu Zhi (ca. 1660–1730). Liu Zhi, versed in Chinese sources (i.e., Neo-Confucian, Buddhist, and Daoist) as well as Islamic (e.g., the Qurʾān, *tafsīr*; hadith, *fiqh*, Sufi texts) introduced the Chinese concept *fā* (law) as that which links the *jiao* (the teaching) with the *dao* (Way) (Frankel 2011:72). Liu Zhi’s contribution has been far-reaching as his original works are still memorized and debated among Hezhou Hui (primarily Sufis, Gedimu,

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<sup>68</sup> The same is not true for Uyghurs. The Uyghurs have retained their Islamic legal institutions longer than the Hui. The Uyghurs have networks of *ʿulamaʿ* both inside Xinjiang and living in exile in Egypt, Saudi Arabia, Pakistan, Germany, and Australia who write fatwas (U. *petiwas*) for Uyghurs in the diaspora and within Xinjiang. The identity and authenticity of these *ʿulamaʿ* are almost impossible to discern, although Uyghurs in Xinjiang, Gansu, Qinghai, and elsewhere in China read their fatwas as law. Some of these fatwas are original Uyghur works while others are translated from Arabic. The fatwas make their way to the markets in Urumqi and Kashgar, and are purchased and then circulated among friends and family. Such writings are contraband and Uyghurs have told me that they cannot be caught with such writings on their person. One such fatwa entitled *Box of Doom: Mansion of Satan* (U. *Halaket Sanduqi: Sheytanlar Qesiri*) is written anonymously by a Uyghur scholar most likely inside Xinjiang c. 2004 and written as an original writing in the Uyghur language. The fatwa, which identifies its genre as a *risale* in Uyghur (meaning, a guide or handbook), warns Uyghurs against the polluting effects of television. It reads in part: “The state of theirs is characterized by spending of their days watching the television, or what we might call the *dilbuzur* [a coined word for “heart corruptor”]. Using VCD discs and VHS tapes they sit and watch effeminate Indian dances; movies made by American, British, French, and other Western countries depicting immorality and promiscuity.” Interestingly the *Box of Doom: Mansion of Satan* does not mention Chinese television.

and Xidaotang). However, *Ceremonies and Rituals in Islam* was more a theological and metaphysical synthesis of Confucian rites and Islamic ritual law (Ar. *ʿibādāt*) than a working out of the shariʿa rules of social relations (e.g., family law, marriage, divorce, inheritance, property) in the Chinese context.

I understand the presence of obstacles, both external and internal, to the development of an indigenous *fiqh* to be a kind of metaphorical “closing of the door of *ijtihād*” in China. The closing of the door of *ijtihād* refers to the notion that during the tenth century C.E., Muslim jurists declared the end of independent reasoning to prevent what they saw as corruption of the law (Schacht 1964:69–71). This argument has long been challenged (Hallaq 1997; Powers 2002). I therefore use the metaphor loosely to mean that Chinese Islam has witnessed its own kind of estrangement from law-making. Specifically, because Chinese Muslims lack the linguistic skills and formal learning necessary to conduct methods of independent reasoning and because the state prevents them from building a body of law alternative to that of socialism, Chinese Muslims are to some degree isolated from developments in the law. They thus make reference to the revealed sources directly. On many occasions, I have witnessed an *ahong* search the Qurʿān or *Bukhārī aḥādīth* directly for the solution to a problem. Of course, such recourse limits their ability to address problems not found in the primary sources. Chinese Muslim *ahong* and intellectuals recognize the closing of the door in its traditional sense.<sup>69</sup> However, different *jiaopai* rationalize the closing of the door in different ways. A young Sufi ascetic and member of the Wuxingping Spirit Bright Hall *menhuan*, a Khufiyya-Qādiriyya *ṭarīqa* based in Lanzhou, explains why Sufis do not use methods of independent reasoning by reference to the authority of the *shaykh*: most Sufi *ahong* will not write their own analogies or

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<sup>69</sup> One Yihewani *ahong* in Hezhou tells me (HZ 10/8/2010) that he learned of the concept reading Ma Jian’s *The Reality of Islam* (*Huijiao zhenxiang*, 1937), a translation of the Lebanese Shīʿī scholar Hussein al-Jir’s *Sagayig dīn al-Islam* (1888). Al-Jir was a modernist who sought, among other things, to reconcile Darwinian evolutionism with Islam. Ma Jian’s translation includes annotation specifically addressing Chinese Islam. The work covers a broad range of topics including law—marriage law, civil law, penal law and a section “Islam’s law and modern needs” (*Huijiao de falü yu xiandai de xuyao*, Ma 1937). For a contemporary discussion of the “closing of the gate of *ijtihād*” by China’s preeminent scholar of the study of shariʿa in the Middle East, see Ma 2003a.

judgments. The Salafiyya are different in this regard, as they will compose such writings. The reason for this is because the only authority is that of the *shaykh*. We take his speech as the standard” (LZ 3/6/2010).

While the Sufi *manla* imputed independent reasoning to the Salafiyya the latter, for their part, admit to this—within limits. A senior Salafiyya leader at a mosque in Lanzhou with close ties to Hezhou’s River’s Edge Front Mosque explains, “The only valid shari‘a is that of the *shengmen dizi* [lit. disciples of the disciples, meaning actually the three generations after the Prophet]. They are the *ijmā‘*. Any *qiyās* from them is valid” (LZ 11/1/2009). In other words, the Salafiyya central belief follows the pious predecessors, so there is no need for independent reasoning. From the examples of the Sufi and Salafiyya rationales, the closing of the door is made sense of in terms of their specific *jiaopai* ideologies.

While the closing of the door of *ijtihād* in China has impeded the growth of a Chinese *fiqh*, it has at the same time shifted the center of intellectual labor into translation as the chief means by which Hui acquire knowledge about shari‘a. As the vast majority of Hui cannot read Arabic, translation is the preferred means for teaching religious law. By far the most important work on shari‘a, used in nearly all mosques in the Northwest, already mentioned, is the *Sharh al-Wiqāya*. The *Sharh al-Wiqāya* (Ch. *Weigaye* or *Weidaojing*,<sup>70</sup> Explanation of the Protection) is a fourteenth-century Central Asian synopsis of a text of legal rulings in the Ḥanafī school,<sup>71</sup> called the *Hidāya*.<sup>72</sup>

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<sup>70</sup> Chinese Islam features both phonetic transliterations and semantic equivalents for many common terms, concepts, principles, and texts (see Glossary). So, for example, for *al-Wiqāya*, *Weigaye* is the approximate using Chinese phonetics although the three characters have no meaning unto themselves. The second translation *Weidaojing* literally means “scripture on protecting the way.” The first translation is the more common one. I have organized the Glossary to reflect these dual strategies.

<sup>71</sup> The work was originally begun by Maḥmūd b. Ṣadr al-Shari‘a (“the Elder”) who composed the work entitled at the time *Protecting the Narrative of Issues in the Hidāya* [Wiqāyat al-Riwāya fī Masā’il al-Hidāya]. However, the author died before he completed the work. His grandson Ṣadr al-Shari‘a ‘Ubayd Allah b. Mas‘ūd (“the Younger”; d. A.H. 747/C.E. 1346) rewrote and reorganized the book as other scholars had added comments to the original attributing them to his grandfather. He then completed the book under the title *Resolving the Ambiguous Positions of Protecting the Narrative of Issues in the Hidāya* on 3 August 1342 (A.H. 743). This second book is the one known to Chinese Muslims. The Younger composed another book entitled *The*

The *al-Wiqāya* has been translated into Chinese several times. One of the first translations is that of Wang Jingzhai (1879–1949), the great Hui translator of many jurisprudential texts and the Qur’ān. He produced his translation in 1916 under the title *Gazhuizhu (Annotated al-Wiqāya)*. The China Islamic Association completed *Annotation of the Religious Law al-Wiqāya (Weigaye jiaofa zhujie)*, a two-volume version in 1985. Next, Sai Shengfa translated the text in 1993 as *Commentaries on the Religious Legal Classic al-Wiqāya: Outline of Islamic law (Weigaye jiaofa jingjie: Yisilan jiaofa gailun)*. Ma Zhengping (b. 1949) from Pingliang, Gansu, completed a bi-lingual version in 1999 entitled *Deciphering the Religious Legal Scripture al-Wiqāya (Weigaye jiaofa jingyi jie)*. In 2008, Ding Bingquan (b. 1964) and Shi Mingxue (b. 1968), both instructors at the Lanzhou Islamic Scriptural Studies Institute, translated another version entitled *Commentaries on the Religious Law Classic al-Wiqāya (Weigaye jiaofa jingjie)*. In 2010, Ruan Bin (1932–2007) of Yunnan, posthumously published his translation as *Annotations of the Scripture on Protecting the Way (Weidaojingzhu)*.

Almost every school I visited in a mosque had a copy of *al-Wiqāya*. The classic has four books, translated in most Chinese versions as *qingjie* (cleanliness), *hunyin* (marriage), *maoyi* (business), and *qianyue nuli* (slave contracts). To Hui eyes, the most salient parts are the first (e.g., congressional prayer, recitation, the duties of the sick to pray, praying while traveling, voluntary and mandatory giving, meditation, the hajj, etc.) and the second part (e.g., divorce, remarriage, maintenance for wife, etc.) and some of the third (interest, business when goods are to be delivered at a specific time, guarantee, default, etc.). Ding Bingquan, one of the translators of the most complete version, states of the *al-Wiqāya*:

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*Synopsis of the Protection [Mukhtaṣar al-Wiqāya]* that abridges the earlier version. Several translators of the text to whom I spoke highlighted the backstory as an expression of filial piety, esteemed by Chinese Muslims and Han Chinese alike.

<sup>72</sup> The *Hidāya* (Guidance) is a major work on Ḥanafī jurisprudence by Burhān al-Dīn ‘Alī ibn Abī Bakr al-Marghīnānī (A.H. 530/C.E. 1152–A.H. 593/C.E.1197) from modern day Uzbekistan. The work is used by Muslims throughout Central Asia and India.

*Ahong* use it as a teaching resource, scholars use it, and even common Huimin use it in their daily lives. Previously, only partial translations had been completed. For example, those of Ma Zhengping and Sai Shengfa are not all four books [of the *al-Wiqāya*]. . . . The goals of this translation were multi-fold: one, to provide the first full translation, two, to translate the Arabic into modern Chinese,<sup>73</sup> and three, to find an accommodation between Islamic law and the law of the modern PRC state. As to the third, there are no conflicts between them. For example, the Qur’ān permits *yifusiqu* [one husband, four wives], but does not say this is a requirement. Modern PRC law of course prohibits *yifuduoqi* [polygamy] and standardizes *yifuyiqi* [monogamy]. The way we reconcile the two is that the Qur’ān says that only under certain special conditions can a man take multiple wives, for example in the event of natural disaster or after a war when the number of available men is lower than that of unmarried women and the women need the security of a husband. The two overriding qualities of the Qur’ān and the *aḥādīth* are their flexibility and perseverance (*Gulanjing he Shengxun zui zhongyao de tedian shi tanxing he hengxing*). The Qur’ān is written for all time. This is very different from secular law that is amended regularly to adjust to social developments (LZ 11/4/2009).

Although most mosques use *al-Wiqāya* irrespective of *jiaopai*, nevertheless, different *jiaopai* value the book in different terms. Gedimu are proud of their knowledge of *al-Wiqāya* not despite of but *because* it is not a common text for Muslims outside of China. As one local scholar put it, “they do not use it anymore even in Central Asia!” (LZ 9/29/2009). Thus, from the Gedimu view, the Hui have preserved a classic text against the various forces of modernization, secularization, and Hanification. While the Gedimu value the text for its age, Salafiyya and some Yihewani often qualify it as an “old book,” and mention others they prefer. The Yihewani, for instance, frequently mention *Radd al-Muḥtār ‘alā al-Durr al-Mukhtār* (Ch. *Shami, Shamni, or Shamani*) by eighteenth-century scholar Ibn ‘Ābdīn al-Shāmī. It is a super commentary on another work that is considered to be a major reference for Ḥanafī fatwas.

Translation of texts has been fundamental to the growth of *jiaopai*. As with the origins of the *jiaopai*, the usual vectors for texts’ entering China are through Chinese Muslims’ travel in the Middle East through the hajj or study abroad. Students who study first in Hezhou and then study in Pakistan, Afghanistan, or Saudi Arabia often bring back fatwas with them to Hezhou where they are

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<sup>73</sup> Teacher Ding gives three stages to the development of Chinese: what he calls *jingchang yuyan* (everyday language), *baihuawen* (written vernacular), and *xiandai yuyan* (modern standard language). The earliest translations of *al-Wiqāya* were done in the first stage.

circulated and occasionally translated.<sup>74</sup> Another vector is missionary activity. One example is that of Ma Tianmin (*jingming* or “scriptural name” Shaykh ‘Abd al-Raḥmān ibn Ma’šūm; 1916–1959) who was one of the “ten great *ahong*” of Ma Wanfu, the earliest Yihewani *ahong* in Hezhou. Ma Tianmin was born in Bafang. His grandson, currently an *ahong* in Hezhou, tells me that although Ma Tianmin’s family was extremely pious, they were poor and their courtyard did not have their own well.<sup>75</sup> Thus, everyone called the father Well Master (*Jinkou laorenjia*). Even after he attained a level of high learning, Ma Tianmin was still known as Fourth Son of the Well Master (*Jinkou sishibo laorenjia*). Exceptionally gifted, Ma Tianmin advanced in his studies and was invited to study at Xining’s East Gate Grand Mosque that at the time was emerging as the center of the Yihewani *jiopai* in China. There, he studied under Muhammad Ḥabīb Allah, the missionary teacher from Bukhara. He wrote several books, some of which were translations from Arabic, others that were summaries of his own studies in Chinese, and still others that were bilingual. His book *Islamic Inheritance Studies* (Ch. *Jichengxue*, Ar. *Ashraf al- ‘Arā’id fī ‘Ilm al-Farā’id*, alternately *‘Ilm al-Farā’id fī Manhaj al-Shar’iyya ‘alā Madhhab al-Ḥanafīyya*) is a condensation of several treatises on Islamic inheritance law, namely *al-Farā’id Sirāḍjiyya* by al-Saḍjāwandī Sirāḍj al-Dīn Abū Ṭāhir Muhammad b. Muhammad (Maḥmūd) b. ‘Abd al-Rashīd (b. ca. A.H. 600/C.E. 1023), a prominent Ḥanafī jurist. Ma Tianmin’s bi-lingual translation is a manual for *ahong* and others that contains lengthy expositions of estate division based upon the Qur’ānic shares. The grandson remembers Ma Tianmin working through the fractional equations from the Arabic format in which the quotient is below the long division symbol to the Chinese in which division proceeds upward. Ma Tianmin’s translations and writings and his reforms of “scriptural hall education” curricula revolutionized the learning of Islam, including shari‘a, in Hezhou in the mid-twentieth century (Ding 2006).<sup>76</sup>

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<sup>74</sup> See Chapter 6 for one controversy stemming from one such smuggled text.

<sup>75</sup> This passage is based on interviews conducted 5/8/2010 and 10/12/2010.

<sup>76</sup> Ma Tianmin was arrested and jailed in 1959 as part of the “struggle against the privileges of feudalism and religion” (*fan fengjian fan zongjiao tequan douzheng*) that began a year earlier. He died in jail.

As seen in the example of Ma Tianmin, one of the vanguard of the Yihewani in China, translation of legal texts has been instrumental to the formation of the *jiaopai*. The Salafiyya are in the process of translating a canon of works into Chinese to spread their *jiaopai*. In a small room in Bafang, five men, members of the Muslim Youth Translation Group (*Musilin qingnian fanyi zu*) meet periodically to consult each other on the translation of a collection of Arabic texts on shari‘a. They are led by a man I call Abdu Ahong, a so-called “unofficial” (*minjian*) *ahong*, as he is not formally tied to a mosque. During the day, Abdu Ahong splits his time between teaching at one of Hezhou’s Salafiyya mosques and working at his *qingzhen yongpin* (Muslim products) store that sells books, scarves, head ware, prayer rugs, and other clothing items. At night, he translates for several hours, by hand. He works his way through the original in Arabic, writing a small question mark next to those passages with which he has trouble and in the evening consults other manuals or brings the issue to the attention of the group for discussion. They are translating a series on Islamic law into Chinese and to date have translated three books: *Islamic Marriage System* (Ch. *Yisilan de hunyin zhidu*), *Islamic Commercial Law* (Ch. *Yisilan shangyefa*), and *Fiqh Us-Sunna* (Ch. *Yisilan jiaofa*). All three are based on legal treatises by Sayyid Sabiq (1915–2000), Egyptian jurist and graduate of Al-Azhar University. The *Fiqh Us-Sunna* is a massive 965 page synthesis of *fiqh* rulings on all aspects of the law from all four schools of jurisprudence. Sabiq wrote the work in 1945 at the request of Hassan al-Banna, the founder of the Muslim Brotherhood. Sabiq’s work reflects tendencies among the progressive Yihewani and Salafiyya as it seeks a common root among the four *madhāhib*.

Abdu Ahong and his colleagues are currently working on three more translations: the five pillars of Islam, civil procedural law, and “the view of Islam on peace.” As to the process of translation, Abdu Ahong says, “The book on marriage law took me two years to translate, two hours every night. The reason why it takes so long is that I have to find the modern PRC legal term of *tongsu* [common] usage to fit the Arabic legal term. An example in Arabic is *taklif* (state of having capacity for civil conduct) which, in modern Chinese is *minshi xingwei nengli* (lit. “capacity for civil

behavior”) and not just *fa ren* (“legal person”) which refers to an entity established under law. Because the history of Islamic law is different, it is sometimes hard to fit the term into a modern civil law language” (HZ 12/21/2010). Such translations illustrate a nuanced attention to promoting *jiaopai* interpretations of the law through accommodations with state socialist law.

In addition to translations of Arabic works on shari‘a, an additional genre for spreading shari‘a consciousness includes compilations of quasi-fatwas. These are written for a non-elite audience. Bookstores in Hezhou carry examples of these. They can be further divided into two types. The first are translations from Arabic classics. They include works translated wholly into Chinese from the Arabic (e.g., Bailani 1998) and others like that of Qi Haiming, the head *ahong* of Old Wang Mosque in Hezhou, are bilingual (Qi 2000). They address in a systematic and straightforward way everyday questions touching on shari‘a such as ablutions, purity, and prayer. The second type is compilations *ahong* have made based upon their experience tending to the legal needs and questions of their *jamā‘a*. These are original Chinese works. They are either compiled in booklets or are posted on blogs and personal websites (e.g., Jin 2008).

ii. *Learning the Law in Hezhou*<sup>77</sup>

Hezhou has long been known as a center for Islamic learning in China. The most common form of education for acquiring Islamic knowledge, including shari‘a, is *jingtang jiaoyu* (scriptural hall education) (Gladney 1999a). Following the Qing government’s suppression of the Muslim riots in the sixteenth century in Shaanxi, said to be the birthplace of “scriptural hall education,” the center of Islamic education migrated west to Hezhou (Ding 2006; Zhe and Guo 1992). Scriptural hall education is the Hui version of the madrasa. It refers to the instruction of Islamic knowledge by teaching *ahong* to *manla* that takes place on mosque grounds. Today, almost all mosques in Hezhou have at least one classroom and some several large halls devoted to daily instruction.

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<sup>77</sup> I can only touch on the complexity of the contemporary state of education in Hezhou.

Of the 34 mosques I surveyed in Hezhou, only four did not have a school.<sup>78</sup> The teaching *ahong* are hired usually for a three-year term by the mosque administration committee. *Ahong* typically are hired from outside the *jamā'a*, although there is a trend for mosques to hire *ahong* who previously studied at their “scriptural hall education.” Mosques endeavor to hire *ahong* with outstanding credentials, such as a master’s degree in Arabic from a university in Saudi Arabia, Egypt, Pakistan, or Malaysia. *Ahong* cycle through mosques and “spiral up” to more prestigious mosques within their *jiaopai*, such as the *hanyi* mosques in villages outside Hezhou and then the *hanyisi* of Hezhou (e.g., South Gate Grand Mosque, Old Wang Mosque, Old Glory Mosque, and River’s Edge Front Mosque). A few *ahong* attain positions in the government or even universities in eastern China where they teach Arabic.

Of those mosques with schools, the average number was 48 *manla*, the largest with 106 and the smallest with ten. The number of *manla*, like the size of *jamā'a*, is an indicator of the mosque’s relative strength. Among *jiaopai*, twelve of the fifteen Gedimu mosques had a school (avg. no. students 40), twelve of the fifteen Yihewani mosques had schools (avg. no. students 58), three of the four Salafiyya mosques had schools (avg. no. 43), and the Xidaotang mosque does not have a school as Taozhou remains their center for education. Sufi tomb complexes also have *manla* (see Appendix B), with the Naqshbandī-Mujaddidi Bright Heart Mosque having the largest school with 80 students.

The *manla* usually live in dormitories also within the mosque courtyard. Their living costs, the salary for the teaching staff, the cost of teaching materials, food for students and staff, and associated costs all come from the donations of the *jamā'a* and proceeds from any *wagefu* (Ar. *awqāf*) the mosque may have. Students come from Hezhou, elsewhere in Gansu, Qinghai, Ningxia, and northern Xinjiang, including Kumul (Ch. Hami) and Gulja (Ch. Yining). The situations and

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<sup>78</sup> An additional two mosques did not respond to this question. See Appendix A.

aspirations of *manla* differ significantly. Most aspire to become an *ahong*, a role that still has prestige among Hui in Hezhou and the surrounding countryside. To be an *ahong* means having attained proficiency in Qur'ānic knowledge, basic principles of shari'a, and a working knowledge of Arabic. Others, more responsive to the impetus of financial security, attend "scriptural hall education" to acquire Arabic specifically with the intention of finding work usually in Shenzhen, Yiwu, or Guangzhou as an interpreter to foreign Muslim businessmen.

Among the traditionalist Gedimu and Sufis, "scriptural hall education" was for boys only. The Yihewani and Salafiyya, advocating greater roles for women, introduced *nūxiao* (girls' schools) in the 1980s. At that time, some traditionalists (no Sufis) also began offering classes for girls, and some married women. As of 2010, only three Gedimu mosques had girls' schools, two had affiliations with girls' schools outside the mosque grounds and one had a *yeyu xuexiao* (after hour school that teaches vocational skills). One *ahong* at a Gedimu mosque turned down the proposal of a leading female educator from Old Glory Mosque to start a girls' school at his mosque on grounds that the woman was "old Gedimu on the outside, but Wahhabi on the inside" (*waimian shi lao Gedimu, limian shi Wahabiya*) (HZ 11/12/2010). The total number of Yihewani schools was about the same (two plus two after hour schools) although the number of students was much larger. Grand Qi Mosque, for example, has 280 girls studying full time at their school, founded in 1986. Only River's Edge Front Mosque of the Salafiyya has a girls' school (of over 100 students). Although the Xidaotang headquarters in Taozhou was an innovative center of girls' education,<sup>79</sup> the Hezhou mosque has none.

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<sup>79</sup> Beginning in 1943, the Xidaotang established the "Qixi Private Girls' School (*Sili Qixi nūxiao*) in Taozhou, named after the founder of the order Ma Qixi, although the school was taken over by the government in 1949 (Min 2007:127)

Programs of study are usually divided into three (or more) levels of difficulty. A program of study may run five years in total. According to law, *manla* must be at least eighteen years old,<sup>80</sup> although most *manla* are much younger than this. Usually, mosques encourage students to attend primary school in state education to obtain a foundation in standard Mandarin. Thus, most *manla* enter “scriptural hall education” at the secondary-level at the age of twelve and may stay for four or more years. Some *manla* stay well into their twenties and are absorbed into the mosque administration. The Sufis differ from mosques in their recruitment, taking in boys at the age of six or seven. The Grand Tomb Complex of the Qādiriyya *ṭarīqa* requires boys to sever all ties to their family and renounce any plans to start their own families. Most *manla* will stay at a mosque for most of their entire education, while others will circulate through mosques trying to study under renowned *ahong*.

The curriculum among schools in mosques is not strictly standardized but has evolved through convention. Curriculum includes classes on theology, Qur’ānic exegesis (Ar. *tafsīr*), *aḥādīth* sciences, *fiqh*, law, Arabic (grammar and morphology), Mandarin, sometimes Persian, computing, history, and “thought and morality.” In addition to the mandatory study of the Qur’ān, Qur’ānic exegesis, and the hadith, all foundational to shari’a, the standard text on shari’a, used in nearly all mosques, is the *Sharh al-Wiqāya* (Ch. *Weigaiye*). Additionally, many mosques use texts entitled *Uṣūl al-fiqh* (Ch. *Wusuli feigeiha*) for the study of the rules upon which Islamic jurisprudence is based. As reference material, Gedimu and Yihewani teaching *ahong* alike use the *Kitāb al-Mabsūṭ* (Ch. *Mishenkaqi*) by al-Sarakhsī, which is a commentary on another work that summarizes the Ḥanafī school. Although not jurisprudence, the preeminent text for Qur’ānic exegesis is the *Tafsīr al-Qur’ān al-‘aẓīm* (Ch. *Gazui* or *Gazhui*) by the Shafi’i scholar Ibn Kathīr.

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<sup>80</sup> Under PRC law, a person can believe in religion only if they have the legal capacity to do so, which is defined as being eighteen years of age or older. See General Principles of the Civil Law of the PRC (*Zhonghua renmin gongheguo minfa tongze*), promulgated 12 April, 1986, National People’s Congress, art. 11.

In addition to these texts, “scriptural hall education” of different *jiaopai* use different texts for the instruction of law and jurisprudence. Sufis, across the *menhuan*, integrate the teaching of *Maktūbāt* by Imām Rabbānī Shaykh Ahmad al-Farūqī al-Sirhindī (1564–1624) into their teaching of shari‘a. Al-Sirhindī provided an integration of the shari‘a with the *ṭarīqa* and *ḥaqīqa* that balanced Sufis’ commitment to both their individual and personal meditative practices and the rule- and logic-based law that applies to all. Progressive Yihewani and Salafiyya, however, use *Fiqh Hanbalī* (Ch. *feite hanbaliye*), the strictest of the four *madhāhib*.

The pedagogy of “scriptural hall education” is uniform across the *jiaopai* and is based on *ahong* lectures and *manla* memorization. The approach shares affinities with “stuffing the duck” (*tianya jiaoxue*) seen in Chinese schools across the country. Lower-level *manla* recite the Qur’ān in private for hours a day, practicing their Arabic. Unfortunately, despite reforms of teaching pedagogy, many *manla* still have only a superficial knowledge of Arabic as the predominant mode of language instruction relies on *jingtangyu* (“scriptural hall language”) by which Arabic sounds are rendered in Chinese script in small print above the Arabic. The Yihewani, under Ma Tianmin and others, reformed this system by replacing Persian-inspired sounds with more recognizable ones (Ding 2006:52). For Yihewani and Salafiyya, mastery of Arabic became a leitmotif of their education. Traditionalists, especially Sufis, continued to study Persian. Importantly, no matter what *jiaopai* the “scriptural hall education” belongs to, mosque schools can only issue diplomas and not *ahong* certificates which are awarded only by taking an exam or by attending a state-run equivalent to “scriptural hall education.”

Islamic education is improving—along with opportunities to study shari‘a—given the competition provided by three additional types of schools that I will only touch upon here. The first is the state-sponsored Islamic Scriptural Study Institutes (*Yisilanjiao jingxueyuan*) of which there are ten across the country, and four in the Northwest, the closest to Hezhou of which is in Lanzhou.

The Lanzhou Scriptural Study Institute was founded in 1984 and teachers there consider it one grade above a madrasa, that is, as a college. The students in 2010 numbered 220. They are all boys and attend the Lanzhou Scriptural Study Institute for three to four years. The curriculum of the school includes the Qur'ān, *aḥādīth*, *fiqh*, doctrine, Arabic, Chinese, computing, and “thought and morality.” Law instructors use the *al-Wiqāya* to teach in addition to *A Concise Course in Islamic Religious Law* (2008). The textbook includes a section on “Islamic Law in China” which uses the familiar trope of *bentuhua* (domestication) and ends after the Republican Period.<sup>81</sup> Most students I talked to wanted to work in the government as civil servants upon graduation. Only a minority would do the extra year of *ahong* training.

Additionally, Hezhou has a state-run “ethnic school” (*minzu xuexiao*), a secondary-level institution that specializes in Arabic instruction among other majors (e.g., accounting and computing). The “ethnic school” is the state’s effort to channel the desire to acquire Arabic for economic motives, in line with the interests of national development. Somewhat ironic given their general oppression by the Party-State, Salafiyya are the most heavily represented of all *jiaopai* among the instructors in the ethnic school. The reason for the Salafiyya presence is their excellent training in Arabic. Founded in 1979, the Linxia City Ethnic School has 820 students, almost all Hui, including boys and girls. It is considered a “technical secondary school” meaning students often attend the school after junior middle school, like the Lanzhou Islamic Scriptural Studies Institute. Having studied Arabic there with a teacher for several months before one morning I was asked to never come back,<sup>82</sup> I found it to be similar to any school in China except for the instruction of Arabic. The school uses a text for “Business Arabic” devoid of references to Islam. Shari‘a is not discussed in class. However, students still talk about Islam including legal issues with teachers after

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<sup>81</sup> The above is based on interviews with several law instructors (LZ 11/2/2009, 11/4/2009, 3/30/2010).

<sup>82</sup> The reason for my exile is still unknown to me. I was never given a reason. I assume it had something to do with recent events in Hezhou and less with any conduct on my part. See the “KTV affair” (Chapter 5) and the “South Gate Grand Mosque” affair (Chapter 6).

class in the dormitories where students and teachers live. No graduates will become *ahong*. Most try their language skills as interpreters on the east coast.

In terms of cultivating shari‘a consciousness, perhaps the biggest competitor to “scriptural hall education” is not state-run schools but private (*minban*) Islamic schools. Hezhou has three such schools. They are clearly demarcated by *jiaopai*, even if the school administrations resist such affiliation. Two schools are backed by progressive Yihewani and one is supported by *Qādiriyya* Sufis. There is a turf war between them for students, resources, and accolades. The Yihewani schools include the Linxia Foreign Language School (Ch. *Linxia waiguoyu xuexiao*) formerly the Chinese–Arabic School (Ch. *Zhong-A xuexiao*) as well as the Chinese–Arabic Girls’ School (Ch. *Zhong-A nüxiao*). Both these schools were founded in 1977 by Ma Zhixin (d. 2012), an early member of a branch of progressive Yihewani influenced by Salafiyya thought in Hezhou. They began as small meetings in Ma Zhixin and a colleague’s courtyard, but after raising funds in their *jamā‘a* and with some foreign assistance, they purchased rooms in which to hold the classes. Over the decades, the schools faced hardship from the state education bureaus in obtaining permits, but in 1989 received government approval to establish four-year high school equivalent professional schools. Each school has approximately 600 students. Among the boys, 30 percent become translators, 30 percent study abroad, 20 percent teach, and the rest drop out. Among the girls, a minority become teachers or work for the government, while the majority marry and stay in Hezhou.

The administration of the boy’s school which has oversight over the girls’ school was extremely resistant to either admitting shari‘a is taught in the school or that the school is predominately one *jiaopai* in its philosophy. The denial of *jiaopai* affiliation is a hallmark of progressive Yihewani thought, the idea being they have transcended *jiaoai* distinctions and speak

for pure Islam.<sup>83</sup> Nevertheless, students I talked to said that Islamic law is one required course,<sup>84</sup> and most teachers I met were Salafiyya. Further, the school has close ties to the Muslim Youth Translation Group that is producing Islamic legal translations consistent with Salafiyya ideology. A standard teaching aid used by instructors in law is the *Fiqh Us-Sunna*, as translated by the Salafiyya Muslim Youth Translation Group.

Several hundred meters from the Linxia Foreign Language School is the Linxia City Vocational Foreign Language School (Ch. *Linxia shi zhiye waiguoyu xuexiao*), formerly the Bafang Arabic School (Ch. *Bafang Ayu xuexiao*). Founded in 1993 by members of the nearby West Suburb Mosque, a mosque affiliated with the Qādiriyya Ma Wenchuan *menhuan*, the school is one of two private schools in China to specialize in Persian instruction.<sup>85</sup> Like the Linxia Foreign Language School, the Linxia City Vocational Foreign Language School also encountered problems in gaining official recognition. In 2007, the Linxia City Department of Education suggested they change their name from “Arabic” to “foreign language,” although the school had not obtained approvals as of 2010. Like the other schools, the Linxia City Vocational Foreign Language School is a secondary education program. It has 170 students, all male. The school offers three concentrations: Persian, Arabic, and Islamic theory. The current principal studied in Iran for eleven years and has changed the curriculum to align with that of schools in Iran. Their law instructors teach *al-Wiqāya*, al-Sirhindī’s *Maktubat*, and *al-Tafsīr al-Hussayn* (Ch. *Housaine jingzhu*), but also integrate Sufi poetry such as the *Garden of Roses* (Ch. *Zhenjing huayuan*) by Sadi (C.E. 1184–1263). While the school depends largely on funding from Hezhou businessmen, the principal has maintained channels with Iran. In 2009, the school established an arrangement with the Iranian embassy so that every year a representative goes to the school to select students for scholarships to study at top universities in

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<sup>83</sup> There are strong parallels with Salafiyya who say they do not belong to any one jurisprudential school but transcend such distinctions.

<sup>84</sup> As of 2010, jurisprudence (*faxue*) was a required course in years two, three and four. Further, year four includes principles of jurisprudence (*faxue yuanli*), inheritance studies (*yichanxue*), and study of Islamic law (*jiaofaxue*).

<sup>85</sup> The other, according to instructors at the school, is located in far away Hainan Island.

Iran. Five students were chosen in 2010. On the issue of conflicts between *guofa* and *jiaofa*, unlike the administration of the Yihewani Linxia Foreign Language School that has sought to align its interests with nationalist desire and thus willfully overlooks such problems, teachers at the Sufi school exercise a more pragmatic view. One teacher's assessment:

What's most important, for Linxia Hui, is neither religious law nor state law, rather, Chinese *chuantongfa* [traditional law]. Custom holds that the son should get all, and the daughter nothing, so neither an equal portion under state law nor one-half of the male heir's, under religious law. In applying law, our teachers never say *yinggai* [should], rather, they state what Islamic law holds, but we know that this is *fengsu chuantong xianzhi* [limited by customary traditions]" (HZ 11/9/2010).<sup>86</sup>

Unlike the Yihewani private school that censors itself in order to harmonize its goals with those of the local government, the Sufi school has a less restricted sense of itself. Both schools continue to face obstacles in terms of funding, certification, and opportunities for graduates, but indicative of *jiaopai* difference, they engage such challenges in distinct ways.

### *Conclusion*

This chapter demonstrates that contrary to much academic and political discourse, China has shari'a. China's 30 million Muslims abide by shari'a, although it has more in common with the practices of Muslim minorities in France or Germany than with the imagined ideal in Saudi Arabia or Egypt. Han shari'a is the uneasy integration of socialist legality, Chinese custom, and shari'a. Custom is acquired through the institution of the family. Learning goes on mostly unrecognized as such. State law is always apparent as the machinery of legal popularization highlights and externalizes law in the process of its propagation. Learning shari'a is a far more subtle and complex process. Hezhou Muslims learn about shari'a from a variety of means, including textual sources and

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<sup>86</sup> The above is based on conversations with law instructors at the school (HZ 11/5/2010, 11/9/2010, 12/19/2010).

such institutions as schools. Almost all of these sources of legal consciousness are themselves constrained or regulated by state law and its mechanisms. Whether expressed in publishing censorship, registration requirements or preventing schools from exercising the right to award *ahong* certificates, shari'a is embedded in official discourses and institutions. The condition of Han shari'a is, as a result, one of constant tension and negotiation between *guofa* and *jiaofa*, with custom as the third, often unrecognized, term.

Secondly, this chapter suggests that learning the law operates through the filter of *jiaopai* ideologies. Translations and schools teach law according to *jiaopai* predispositions and, consequently, orient Hezhou Hui toward a certain understanding of the law. Each *jiaopai*, further, has a different solution to integrating shari'a with official law, its institutions, and the larger nation-state. This orientation stems from each *jiaopai's* own position vis-à-vis the multiple imaginaries of China, Islam, and Hezhou. Traditionalists, especially Sufis, valorize origin myths and contemporary MOUs that connect them to Central Asia or Iran. However, their sense of place and time remains rooted to sacred places in Hezhou. For the traditionalists, attaining consistency—by harmonizing shari'a with socialist law—with the ambitions of the modern Party-State is not a priority when their consciousness is located in a multi-generational *silsila* born out of Hezhou. For Yihewani and Salafiyya, while Hezhou is just as much a natal place as it is for any Chinese, they have wedded their aspirations to those of the nation-state and its intercourse with Saudi Arabia, Egypt, and elsewhere in the Middle East. Salafiyya, themselves as marginalized as Sufis but for different reasons, sometimes feign Yihewani-ness in their encounters with governmental officials or Western researchers as it is easier to be Yihewani in Hezhou than Salafiyya. Nonetheless, each *jiaopai* strives to increase its following, expand its scope, and fasten its claim to legitimacy. Presenting oneself as the standard bearer for shari'a is crucial.

To return to the analytic of legal pluralism, Han shari‘a may be called “legal” and “plural,” but such an analysis only begs more questions. Certainly, Hui recognize multiple sources of authority; however, they view their position differently in regards to these various sovereigns. Additionally, the various legal orders are themselves interrelated in confounding ways. Further, the knot of laws is imagined variantly by the *jiaopai*. The next chapter will turn to the question of the impact of multiple authorities on the formation of Hui legal subjectivity in Hezhou.

## CHAPTER FOUR: The Psychic Life of Law

*Pianguo le ma?*

Hui who live in Bafang, the Muslim quarter of Hezhou, speak a local dialect called Bafanghua. Bafanghua is a linguistic palimpsest of the diverse peoples—migrants, traders, merchants, and households-on-foot, the soldiers and mercenaries, Muslim missionaries, Sufis, Tibetan Buddhist lamas, Daoist monks and holy men, and Chinese, Mongolian, Tibetan, and Manchu officials—that have crossed or claimed Hezhou. Any Bafang Hui will proudly tell a visitor that Bafanghua contains Chinese, Arabic, Persian, Turkic, Urdu, Tibetan, Mongolian, Salarhua, and Dongxiangyu. For Hui in Hezhou, Bafanghua is *prima facie* evidence of their local Islam. Bafanghua retains the languages of the religious heartlands and combines them with the *guoyu* (national language) of China (along with several other languages) resulting in a distinct patois. Bafang Hui will readily enumerate common Arabic and Persian words, such as *feigehai* (Ar. *fiqh*, jurisprudence), *zakate* (Ar. *zakāt*, tithe), *dunya* (Ar. *dunyā*, this world), *ganiha* (Ar. *‘adhrā’*, virgin), *duozuihai* (Pr. *dauzakh*, hellfire), and *naimazi* (Pr. *namāz*, prayer) (see Glossary). However, most Hui cannot name more than a dozen terms. That is, the aspiration for Bafanghua’s inclusiveness of Arabic and Persian is often greater than their working knowledge of the languages. They are just as likely to comment upon the expression *ni pianguole ma* (did you understand?), a question I heard often. The phrase consists of the *guyu* (ancient language) character *pian*, no longer used in Standard Mandarin (Putonghua). They view Bafanghua’s use of the character as proof that they have retained the essence of the mother tongue against the tidal wave of modernization.

Bafanghua is more than a communicative tool. It is a code, not of just ‘us’ and ‘them,’ but of multiple ‘us’s’ and multiple ‘thems.’ The preliminary distinction is between those who speak Bafanghua and those who speak Linxiahua. Linxiahua is the local dialect of the Han who live in the ‘modern’ *chengnei* (inner city) whereas Bafanghua dominates the narrow alleyways, mosques, and

halal restaurants in *chengwai* (outer city). As a result, there is a spatial and ethnic divide between the two vernaculars. However, following the state's language standardization reforms since the 1950s but particularly after the 1994 Putonghua (or Standard Mandarin) Level Survey (*putonghua shuiping de ceshi*),<sup>1</sup> the gap between the two has narrowed.<sup>2</sup> As a result, in contemporary Hezhou, the two dialects are mutually intelligible, but a native of Hezhou can tell from the tone of an interlocutor's speech whether she is Hui or Han.<sup>3</sup> While most Hezhou Hui can converse in Linxiahua, Hui like to say that Han cannot understand Bafanghua.<sup>4</sup> Hence, from the viewpoint of the Hui, they are triglossic (Bafanghua, Linxiahua, and Standard Mandarin) whereas the Han are merely diglossic (Linxiahua and Standard Mandarin).

Bafanghua is further complicated by the identity of its speakers,<sup>5</sup> especially *jiaopai*. All Bafang Hui can speak Bafanghua and to certain degrees, usually depending on age and education level, they can identify the source languages for Bafanghua vocabulary. However, their identification of the parent language and its meaning for Bafanghua varies according to their *jiaopai* or *menhuan*. An example where *jiaopai* are divided is the trace of Tibetan in Bafanghua. On North Grand Street, lined with vendors selling amber, coral, ivory, and furs mainly to Tibetan monks from

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<sup>1</sup> The Gansu survey of the Putonghua Level Survey included a report on "Linxia dialect area," a category that includes all dialects within the administrative unit of Linxia Prefecture (Liu 2009). The Linxia dialect area report is divided into sections on the initial consonant, vowels, tones, vocabulary, and grammar. For each section, the report provides an overview of both the Linxia dialect and standard Chinese and then provides instructions on how to popularize the latter. During my fieldwork, I frequently saw red banners across Hezhou's main avenues advocating "Study Standard Mandarin assiduously" (*haohao xuexi putonghua*).

<sup>2</sup> To give an example from an exchange one hears a dozen times a day in Hezhou, for the common response to a question or call from an interlocutor (i.e., "what?"), a Bafang Hui before the early 1950s would have responded *zaliu* but will in contemporary Hezhou respond *amiliu* which is what Linxiahua prefers.

<sup>3</sup> The distinctive traits of Bafanghua include not just tones (which differ from Linxiahua and Putonghua) but also grammar, syntax, and lexicon. The difference in lexicon between Bafanghua and Linxiahua dialects are most marked, unsurprisingly, when dealing with matters of ritual and religion. For instance, for the word "tomb," Linxiahua, consonant with standard Chinese, uses *fen* whereas Bafanghua uses *maiza* for the Arabic *mazār*, also used by Uyghurs.

<sup>4</sup> Of course, the assertion is not true. I met one Han woman who works at the Republican era warlord Ma Buqing's former residence (now a tourist site) who grew up in Hezhou and studied in a primary school in Bafang who is fluent in Bafanghua.

<sup>5</sup> Bafanghua is a colloquial version of *jingtangyu* (scriptural hall language) that is spoken in mosques and used by teachers as the language of instruction. There is much back-and-forth between the classroom and the lanes and homes of Bafang as loci of learning Islam. Bafanghua can also be seen as a localized form of Huihuihua (language of the Hui) (Gladney 1996[1991]:68, 393).

Labrang and Tsod, the Hui sellers greet Tibetans they recognize and exchange a few words in Amdo Tibetan. A few vendors are fluent in Amdo Tibetan such as one man who grew up in Labrang as his mother was Tibetan. Although I did not conduct a quantitative study on the issue, from anecdotal evidence it seems that traditionalist Hui (Gedimu and Xidaotang, particularly) are more likely to intermarry with Tibetans than Yihewani or Salafiyya. The Gedimu men I talked to acknowledged the presence of Tibetan loanwords in Bafanghua, for example, the word *wa'ersa* (Tb. *wargSap*), meaning a fee given to a middleman for assisting a commercial transaction. Next door, there was a group of progressive Yihewani/Salafiyya jewelry vendors. When I asked one older man about the existence of Tibetan in Bafanghua, he became increasingly agitated, saying dismissingly, “all languages have loanwords” and concluded I was “most likely a Christian” (an insult in Hezhou). The distinction between the views of the *jiaopai* can be explained partially by the drive of the progressive Yihewani/Salafiyya to purify Chinese Islam of its praxiological, cultural, textual, and linguistic acculturations to China—an impossible desire.<sup>6</sup> The progressive Yihewani/Salafiyya constantly purge Islam of impurities to the point where interculturalism becomes intolerable or unthinkable. This applies as much to the culture of the Han as it does to the more colorful or visual Tibetans as non-Muslim others.

The amalgam of Bafanghua and the ways of Bafang Hui provide a helpful entry into analyzing the relationship between Hui and their law, not just as the way they use law, predicated on the assumption that law is external, but also, how law uses them, that is, law as internal to or immanent in subject formation. A number of writers from such diverse perspectives as philosophy, linguistics, feminism, and psychoanalysis, usually associated with the prefix *post* (i.e., post-Marxist,

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<sup>6</sup> One of the defining syntactical characteristics of Bafanghua is a subject-object-verb order, unlike Putonghua's subject-verb-object pattern. For example, “the door is opened” is *menkai le* in Bafanghua, but *kaimen le* in Putonghua. Members of different *jiaopai* disagree as to which parent language most influenced the SVO structure of Bafanghua sentences. A Gedimu policeman of Tibetan descent remarked, “The object-subject reversal is due to Tibetan, not to Arabic” (HZ 11/15/2010). A Salafiyya Arabic instructor, on the other hand, claimed, “The placement of the object at the head is definitely from Arabic” (HZ 11/18/2009). Others thought it was from Mongolian or Turkish. An emic view would be that of Noam Chomsky. According to his universal grammar, Bafanghua is closer to a “head-first” language such as Arabic than to Chinese or Altaic languages (e.g., Mongolian, Turkish) that are “head-last” (see generally Radford 1992).

post-modernist, post-Saussurean), such as Louis Althusser, Judith Butler, Jacques Lacan, and Émile Benveniste, have proposed variants on the notion of the linguistically constituted subject. Although the contributions of these theorists differ, Althusser's idea of the subject's entry into language, that is, language as an ideology that presents a place-holder for the subject to occupy (1994[1969]:208) has received prolonged attention. Benveniste's model of the "utterance-subject" posits that language provides pronouns, empty shells, which the speaker fills with utterances. The 'I' comes into being as a result of such an utterance (Benveniste 1973). Lacan explores the alienating effects of language as immanent in the very act of coming into existence in the world. Every subject who learns to speak a language is speaking through the language of the Other (Lacan 1998[1973]:200–213; Lacan 2006a:222, 232–223). This movement gives rise to the split subject precipitated in the mirror stage as the misrecognition of the self in the image (imago) (2006c). Lacan located law, like language, in the desire of the Other (2006a:222). In Lacan's theory, the Other is the unconscious which is constituted by law. The subject's relation to law is one of alienation, that is, the Other forms the subject through law rather than the subject constituting itself through law. Butler draws upon Lacan's symbolic demand of law, as well as Althusser's interpellation, and Foucault's discursivity, to develop "subjection" as the simultaneous process of becoming subordinated to power, such as law, while becoming a subject through this subordination (1997:2).

This line of thought on subject formation has been criticized by realists, humanists, anthropologists, and Marxists as overly idealistic, dangerously unhinged from context, and devoid of social meaning (Ewing 1997; Mahmood 2005; Moore 2007; Sangren 2009a; Sangren Forthcoming; Tallis 1998; Žižek 1989). I present the case of the informing of Hezhou Hui subjectivity through *Han shari'a* as an ethnographic intervention in these debates. The view from Hezhou is that theories of the linguistically or legally constituted subject put too much emphasis on an originary moment (e.g., entry into language) as decisive of a fundamental Split. I propose three revisions to the linguistically or legally determined subject. One, doubling, division, disunity, and

mixture occur continuously throughout the 'life' of the subject and sometimes preceding and succeeding it. Two, at the same time, the linguistically/legally constituted subject apportions too much efficacy to the ideological state apparatus, Other, linguistic, symbolic or legal order, and so on. Rather, the production of the subject proceeds through the continuous negotiation between the subject and loci of authority, sovereignty, power, or the law. It is the subject's own internalization or, as Butler prefers, "a figure of turning" (1997:4) that sustains its subjection. While the law precedes the subject (or *xiguanfa* precedes the *minzu*),<sup>7</sup> following Andrew Willford's reading of Derrida, the practice of the subject supplements its subjection (Willford and Tagliacozzo 2009:3). Third, against the prevailing self/Other binarism undergirding much thought on the linguistically or legally constituted subject, there are a multiplicity of selves and others jostling, competing, and ceaselessly irritating each other. Within this social milieu of banal interactions, sidewalk shoulder-bumping, comparisons, and behind-the-back insults between members of the *jiaopai* and *menhuan*, Hezhou Hui's subjection by (and selective fixation on) numerous sometimes-competing, sometimes-complementary sources of law supplements the mixed legal subject.

Bafanghua is a conceit for the mixture of legal orders informing Hui legal subjectivity. As with Bafanghua, Han shari'a is composed of plural authorities. Like the vernacular, all Hezhou Muslims "speak" Han shari'a. The law applies equally to all *jiaopai* and *menhuan*. Furthermore, Han shari'a is a creole like Bafanghua. Thus, in the second and following part of this chapter, I examine what I call *legal creolization*. Legal creolization provides a critique of legal pluralism in two regards. First, legal pluralism often describes law as something that "acts on" the subject from the outside.<sup>8</sup> As shown in the previous chapter, Hui have different relationships to the various sources of law, not

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<sup>7</sup> Judith Butler writes, "Power not only acts on a subject, but in a transitive sense, enacts the subject into being. As a condition, power precedes the subject" (1997:13). The Qur'an (see e.g., 3:81, 5:46) makes clear that shari'a (the path) precedes the believer, just as prophets like Jesus and Muhammad, the seal of the prophets, confirmed the law. For the Chinese Muslim, multiple legal orders enact them.

<sup>8</sup> I note that theoretical treatments of legal pluralism do not necessarily share affinities with "post-structural" theory pursuant to Lacan. To wit, legal pluralists do not assume that law precedes the subject, but rather that the two are phenomenologically distinct.

all of which can be described as a relationship of exteriority. Consciousness of shari‘a is intimate knowledge cultivated in the home or mosque. Custom is learned in the home by modeling oneself on parents or elders. This multiplicity of relationships to the sources of authority in Han shari‘a suggest subjection operates at variance (i.e., not uninformatly). Second, to the degree that legal pluralism admits the sources of authority affect consciousness, the analytical approach presumes the authorities remain separate in the minds of its subjects. However, Han shari‘a shows points where categories of state law, shari‘a, and custom collapse. Just as anthropologists have adapted creolization from structural linguistics to understand polyethnic societies (Drummond 1980; Munasinghe 2001), I apply the analytic of creolization to describe practices in which distinctions between sources of law disappear and examine their impact on subject formation.

An additional parallel between Bafanghua and Han shari‘a is their openness to varying interpretations. As with tracing the parent language of Bafanghua terms, *jiaopai* have different responses to reconciling tensions within Han shari‘a. Further, building on previous chapters that illustrate the obstacles both external and internal to living in accordance with shari‘a, the *umma* disconnect, I propose a theory of *jiaopai*. *Jiaopai* are themselves an instituted fantasy (Sangren 2009a) or the organization of desire for circumventing perceived alienation from the Muslim heartlands. This element of Han shari‘a invites a view of Hui law as *legal diaspora*, the circulation of texts, the establishment of institutions, and the practice of shari‘a as modeled after that of an imagined homeland and the complementary feelings of displacement and belonging that such practice creates. Hezhou Hui’s practice of Han shari‘a as an expression of being Muslim challenges diaspora theory (Clifford 1994; Kokot, Tölölyan, and Alfonso 2004; Ong 1999; Safran 1991; Tölölyan 1991) for its very rootedness in the specific location of China’s Little Mecca. I thus describe *jiaopai* orthopraxis as foundational to sense-certainty, the questioning of which by rival *jiaopai* leads to violence. I return to this argument in Chapter 6. Through modifying legal pluralism as legal creolization and legal diaspora, I address the issue of multiple laws’ formation of the Hui

mixed subject as one of embodied heterogeneity and anxious contention without either splitting, as in the Lacanian model, or necessarily achieving ethical unity within a Muslim public sphere, as suggested by the literature on Muslim minorities in secular states (Agrama 2010; Asad 1993:ch. 6; Clarke 2012; Emon 2010; Emon 2006; Fadel 2008; Ramadan 2008). Modifying Butler, I propose the ‘psychic life of law’ as an entry into the legal subject’s obedience toward plural authorities who ‘turn inward’ inhabiting the subject and via *jiaopai* orient it toward this-world and the after-world. Diverse sources of law constitute mixed legal subjectivity through the laws’ orienting the person to different authorities (i.e., state, Allah and the Prophet Muhammad, Sufi *shaykhs*, or faceless custom, among others). This process is not mere identity negotiation. Rather, laws’ intimate inhabitation of the subject brings about a fundamental and phenomenological calibration of experience through thought, memory, perception, desire, social performance, and embodied activity. The *jiaopai* structures Muslim experience in the broadest and deepest sense of the term, short of being hegemonic. I invoke Lacan’s critique of the autonomous ego as it helpful in decentering the notion of the subject in law and economics and even legal pluralism that purports to provide an alternative (Kleinmans and Macdonald 1997). Critics of Lacan (or Lacan as post-structuralist) will find this approach unsatisfactory reading Lacan’s split as a once-in-a-lifetime event, as *the* life-giving event. My reading steers a middle course. I do not think Lacan can be categorized as either a post-structuralist or as a neo-Enlightened thinker. The attractiveness of Lacan’s theory is its ambiguity, much like the Hui.

#### *Understanding by Routinization: From Plural to Creole*

Han shari‘a contains a set of constitutive elements that are familiar to all Hezhou Muslims. These include the *ahong* as repository of legal knowledge, the holy texts through which one learns to model behavior after the Prophet, and specific practices. These practices are based on Hui understandings of the Qur’ān and *ahādīth*, yet they additionally show condensation, displacement

or adjustment in China (what PRC scholars call *bentuhua* or domestication) following the integration of state law or custom. These are accommodations of shari‘a to Chinese culture, language, and politics that result in novel forms of intermixture: creolization and creativity (Eriksen 2003).<sup>9</sup> Hezhou Hui name them through the patois Bafanghua. Han shari‘a cannot be summarized by legal creolization, that is, legal creolization does not supplant legal pluralism. Rather, the arrangements co-exist. For example, in a marriage dispute, the husband may argue state law and the wife shari‘a, demonstrating that the parties can distinguish analytically between the sources. Other practices, however, show the breakdown of discreet categories of sources within Han shari‘a. Rather than Hui being able to trace laws to their parent authority (state, Islam, or custom), there is routinized action.

I provide two examples, both dealing with finance broadly understood, one example from ritual law and one from the law of social relations, the former illustrating a conflict between shari‘a and Chinese custom and the latter demonstrating constriction of shari‘a by socialist law. In Hezhou, as anywhere in the Muslim Northwest, one cannot walk into a mosque without seeing or hearing the term *nietie*. Most mosques will have a placard in the central courtyard of the mosque upon which is written the amounts donated by individual members (or families) of the mosque.<sup>10</sup> Men, in coming or going, will pass by this sign and give it a quick once-over; some will linger before it making mental notes of donors. All mosques have a member of their mosque administration committee called the *caiwu* or *kuaiji* who acts as accountant. The *caiwu*, usually a retired man who volunteers at the mosque, spends his day in the mosque administration office balancing the books,

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<sup>9</sup> As has been remarked by many, the word “creole” contains a colonial past. The word comes from Portuguese *crioulo*, meaning “bred, brought up,” and was used in reference to African slaves removed from their homeland. Eventually, the term crossed the Atlantic where it was used to describe the offspring of Europeans who were born in the Caribbean (Stewart 1999:44). While acknowledging creole’s etymology is rooted in colonialism, the same could be said of many descriptive and analytical terms such as “taboo,” “caste,” “culture,” “civilization,” “hybridity,” and so on. The term had undergone semantic revision and I use it in one contemporary sense as a process of cultural confluence between “core” and “periphery” (Hannerz 1996:67-68).

<sup>10</sup> That Daoist temples feature similar donation boards suggests that certain ritual activities between and within the faiths belong to a wider set of practices that may be labeled “Chinese.” Hezhou Hui, however, largely misrecognize such parallels with non-Muslim religions.

receiving *nietie* from the faithful, and catching up with the other mosque elders, usually while sipping a glass of piping hot green tea. In China, where the state rarely supports mosque construction or maintenance financially, donations from members of the mosque, in addition to *awqāf* (see below) are the lifeblood of mosque finances. *Nietie* are the principal source of funds for the upkeep of all physical property, office and cleaning supplies, books for the library and “scriptural hall education,” teachers’ salaries, the *ahong*’s maintenance, all costs for students including their food, books, and supplies, and food and edibles for holidays and special observances. *Nietie* is seen at all major life cycle events, including births, weddings, and funerals where family members and friends will donate money to parents, the newlyweds and their *ahong*, or relatives of the deceased, respectively.

Private schools such as the Linxia City Professional Foreign Language School, founded by Sufis, and the Linxia Foreign Language School, established by progressive Yihewani Hui, are primarily funded by the *nietie* of wealthy businessmen (traditionalists and progressives, respectively). *Nietie* takes on additional importance during holidays such as ‘Īd al-Fiṭr, at the end of Ramadan and ‘Īd al-Adḥā when Bafang Hui will give donations in money and food to members of their *jamā‘a*, thus solidifying ties within the mosque. Some Muslims, particularly Yihewani and Salafiyya who are predisposed to finding evidence of modernity in the Qur’ān, claim *nietie* to be an Islamic income distribution system (HZ 11/19/2009). Indeed, beggars in front of mosques on Friday or at the gates of tomb complexes during an *ermaili* plead “*nietie*” with outstretched hands. Similarly, *nietie* is one of the ways in which Hui link their traditional practices to the building of the Chinese nation-state (Gillette 2000:177).<sup>11</sup> After disasters like the Wenchuan (Sichuan) earthquake in 2008 and the Yushu (Qinghai) earthquake in 2010, Hui communities collected *nietie* for government-sponsored disaster relief. Such occurrences are also a kind of public relations

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<sup>11</sup> Muslim charity work is a mainstay on Muslim websites; see, e.g., Zhongguo muslim qingnian wang 2010.

opportunity for Hui to demonstrate their involvement in communities beyond those of their own towns, regions, religion, or ethnicity.<sup>12</sup>

*Nietie* is especially important for the financial operations of Sufi tomb complexes. Most tomb complexes maintain two separate accounts. The first, managed by the *daotang* (center of instruction), includes donations from members of the *menhuan* that could conceivably be located throughout China. These donations (sometimes called *juankuan* or monetary donation and sometimes *nietie*) cover all costs of the tomb complex (e.g., maintenance and repairs, costs of *manla*, *shaykh* or *laorenjia* and *dangjiaren* living costs, etc.) The tomb complex also has a mosque whose funds are managed by a mosque administration committee. These funds are based on *nietie* and *zakāt*. A teaching *ahong* from the Qādiriyya Grand Tomb Complex in Hezhou observes, “The *zakate* is more important from the vantage of Islamic law, but the *nietie* is the real money maker” (HZ 12/4/2009).

During *ermaili*, there is a veritable circulation of *nietie* with followers not only giving alms to the poor but also distributing crisp yuan bills to readers of the *tariqa*'s scriptures during the event, and sometimes families providing *nietie* to *manla*. Most importantly, all comers donate to the tomb complex itself, a cash flow managed by the tomb complex administration committee. There is invariably a desk in the tomb complex courtyard, clearly labeled *nietie* or *juankuan*, and occupied by elders members of the committee. *Nietie* collected at *ermaili* fund day-to-day operations for most of the year. The Glory Mosque Tomb Complex, resting place of Ma Laichi (1681–1766), founder of the Khufiyya *tariqa* in China, grossed some RMB 700,000 (US\$103,000) by the sixth day

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<sup>12</sup> On 24, April 2010, the Wuxingping Spirit Bright Hall Tomb Complex held a fund-raiser for the Yushu earthquake. Over RMB 23,100 (US\$3,387) was collected, mainly from followers in Lanzhou. The previous year, they held a fund-raiser for the Wenchuan earthquake and collected RMB 100,000 (US\$14, 663). During the Yushu campaign, CCTV news heard of the event and reported on it. In the evening news report, the segment, entitled “The ethnic feeling of a 93-year-old Hui elder” (*93sui Huizu laoren de minzuqing*), *shaykh* Wang Shoutian proclaimed, “We 56 ethnicities [added text in on-screen transcription: “are one family” *shi yijia*], Tibetan comrades in arms (*Zangzu tongpao*), faced with this difficulty, our hearts feel heavy, so all of us give donations. After, we will make persistent efforts.” The newscast referred to Wuxingping as “a mosque in Lanzhou” and not a Sufi tomb complex. As members told me, explicitly mentioning the tomb complex’s name or even Sufism would be “too sensitive” (LZ 5/1/2010). The video can be found here: <http://news.cctv.com/program/zdxwzx/20100424/101683.shtml>.

of the *ermaili* (HZ 10/16/2010). The Hezhou branch of the Xiaxiyuan Spirit Bright Hall *Menhuan*, based in Lanzhou, netted RMB 36,413.9 (US\$5,339.26), from three saints' days, in the lunar year 2010.<sup>13</sup> Likewise, during the *ermaili* of Qi Mingde (c. 1891–1987), founder of the Bright Heart Tomb Complex, the Naqshbandī-Mujaddidi Sufis collected RMB 100,000 in donations and spent RMB 25,000 on food, decorations, and money given out to those who read the Holy Scriptures, for a net of RMB 75,000 (HZ 9/6/2010).

Sufi dependence on *nietie* has also become one of the many sources of disagreement between the *jiaopai*. Most Sufi tomb complexes had massive land holdings in the form of pious endowments (*awqāf*) that were used for agricultural production, but were expropriated in the 1950s. Many Sufis report that due to extra restrictions on tomb complex finances, they are no longer legally allowed to hold *awqāf* and so are doubly dependent on “internal funding” or *nietie* (YJC 4/27/2010). Sufi *shaykh* will go to homes of followers to conduct *duwa* (Ar. *du‘ā*) often on the behalf of a sick family member or recently deceased and, in return, receive donations (HZ 12/4/2009). Yihewani and Salafiyya strongly oppose this practice, as does the government, as exploitative. This difference in interpretation reflects a wider debate among Muslims elsewhere as whether *a’imma* can be paid for their services to families.

Thus, the importance of *nietie* cannot be overlooked. *Nietie* is one node along a signifying chain of charity law. The Islamic legal basis for what the Hui call *nietie* is *ṣadaqa* or “voluntary charity” and which the Hui transliterate as *suodege*. *Ṣadaqa* is understood in several *aḥādīth* as an expression of one’s love for God and an act that absolves sin. *Ṣadaqa* can be contrasted to *zakāt*, one of the five pillars, that takes the form of a specified portion of one’s annual earnings given as an obligatory gift to the poor or mosque. An example of *jingtangyu*, the *zakāt* is both transliterated as in the phonetic equivalent *zakate* and denoted by the semantic substitute *tianke* or *kegong*, abbreviations or anagrams for “heavenly ordered work.” In mosques and tomb complexes, in the

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<sup>13</sup> The incomes for the three events were, respectively, RMB 7,948.50, RMB 394,458.30, and RMB 15,437 while the expenses were RMB 2,948.50, RMB 16,344, and RMB 7,124.50.

activity of donation, giving and receiving, in addition to *juankuan*, *nietie* is often spoken of alongside such words as *juanzi* (donation of one's property), *shishe* (give alms), *mujuan* (collect donations) and *cishan* (benevolent, philanthropic). Often, the Chinese verb-object construction (*dongbin jieguo*) does not distinguish between the thing given and the act of giving. It may be the Chinese practice of donation, gifting, and re-gifting and the way in which these practices are linguistically expressed (Kipnis 1997; Yan 1996; Yang 1994) that has caused Hui to think of *nietie* as the material object given, the thing itself. For example, *wo gei/song/juan nietie* (I give/gift/donate *nietie*).

*Nietie*, what could be called the lynchpin of Hui financial and spiritual life, is based upon conceptual slippage via displacement. The Arabic referent for *nietie* is *niyyah* that means “intent” or “intention” (Bourdieu 1977:173; Rosen 1989a:51–52; Schacht 1964:116). The anthropologist Lawrence Rosen explains the link between the religious and legal significance of *niyyah*; while Muslims declare *niyyah* at the start of each prayer as a specifically religious sign of the act arising from the heart, *niyyah* has also been a central concept in law, in both criminal contexts in the determination of the seriousness of an offense or in civil affairs where intent is required to determine the validity of a bequest or contract (but cf. Powers 2006:164–165; 1984:49–52). In the original Arabic, the term applies exclusively to the motivation or volition behind the gifting, rather than the thing itself.

In the process of Hui adaptation of the Chinese custom, a particular Hui creole of *nietie* formed. In Hui practice, there has been a “sliding of the signified under the signifier” (Lacan 2006b:419). The meaning and use of *nietie* by Hui may be wedded just as much to Chinese signifiers as it is to Islamic concepts. In other words, *nietie* shows the displacement of Chinese signifiers of gifting onto/into Islamic practice. Thus, in *nietie*, the Chinese Other commandeers *niyyah*. At the same time, related Islamic legal concepts have not dropped out. In addition to displacement, *nietie* shows an element of condensation. *Ṣadaqah* refers to both the “act of giving”

and the given item itself (e.g., money, material commodity, time, or even a body part for surgical transplantation). While in Hezhou, most Muslims distinguish between *nietie* (as voluntary) and *zakate* (as mandatory), in some Hui communities reflecting thin shari‘a consciousness, *nietie* is understood as a *required* charitable act<sup>14</sup> (*yaoqiu musulin chengshi cishan* or “required Muslim honest philanthropy”) and those who violate this customary rule are publicly condemned by the “more devout” or mosque elders who may forcefully request a donation (Liu 2000:39). Hui use the expression *yin ren er yi* (differ from person to person) to describe donating *nietie*, suggesting that while people’s situations are different, so should be their donation. (The accommodation itself suggests *nietie* as something quantifiable.) Not all donating reflects this ethic, however. In giving alms to one’s mosques, which acts as a trustee for those in need, Hui are also aware of other mosque members’ donations. *Nietie* combines an awareness of social relationships (within the *jamā‘a*) with an act of piety (i.e., strengthening one’s relationship with God). It is at this level that Chinese notions of “face” (*mian*) enter the social observance of *nietie*. A graduate student who was born and raised in Bafang, a member of a Yihewani mosque, puts it this way:

Certainly, someone can lose face in regards to *nietie*. This happens all the time. If two men are of the same relative socio-economic position and one gives more than the other, then the one who does not give as much will *diu mianzi* [lose face] and must make up for it. The fact that all the *nietie* numbers are publicly displayed in the mosque courtyard makes it hard for someone not to lose face in this circumstance (HZ 1/30/2010).

As Marcel Mauss noted, charity is not free of agonism (1990[1950]:15–16, 65). The Chinese Other has put a “face” on intention, and in the process, made it material, thing-like.

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<sup>14</sup> For instance, an accountant at a Yihewani mosque in Lanzhou said, “I don’t know how to distinguish *zakate*, *nietie*, and *suodege*. My understanding is that if a Muslim does not do these things then he will be punished in the afterlife” (LZ 10/25/2009). Another example comes from the town Langmusi on the Gansu-Sichuan border. The town is a majority Tibetan community but has a sizeable population of Hui who divide themselves according to the following *jiaopai*: *xinjiao* (i.e., Yihewani) and *laojia* (i.e., Gedimu), itself divided into the three Sufi groups, Spirit Bright Hall (Qādiriyya-Khufiyya), Baizhuang (Khufiyya), and Glory Mosque *Menhuan* (Khufiyya). The caretaker of the Spirit Bright Hall mosque (the largest *menhuan* in Langmusi and which has allegiance to the Lanzhou Xia Xi Yuan Spirit Bright Hall branch in Hezhou), said “*nietie* and *zakate* are the same, *jiaomin* (lit. “teaching people” or faithful) must give both . . . for the *nietie*, *jiaomin* give 2.5 percent of their annual income” (LMS 10/7/2009).

The second example of a creole Han shari‘a concept is what Hui call the *wagefu*. Unlike the case of the *nietie* that, by its description alone would not be immediately equated with the Arabic *niyyah*, the *wagefu* shares a greater degree of phonetic and semantic affinity to its Arabic referent, *waqf* (pl. *awqāf*) or pious endowment. I thus begin a description of the *wagefu* with reference to what in the Hui imaginary is its ideal form, the *waqf*.<sup>15</sup> The *waqf* is a complex institution that lies at the intersection of property, finance, administrative, and inheritance law (Powers 1993; Powers 1999). In its simplest sense, it is a conveyance of real property for a public good for eternity and thus the literal meaning is “detention.” The founder (*waqif*) gives up all property rights in the object; once the conveyance is concluded, the object is considered to be the property of God.<sup>16</sup> Islamic legal texts refer to the *waqf* as a form of *ṣadaqa*. Unlike *niyyah*, the term *waqf* referred both to the act of transferring property for some charitable purpose and the property itself (McChesney 1991:6). *Waqf* administration has sometimes been seen as a form of civil society (Hoexter, Eusenstadt, and Leutzion 2002; Sait and Lim 2006:19), although the institution was not completely independent of state policies, and usually administered by influential public figures (McChesney 1991:11). *Awqāf* fulfilled critical public services in many parts of the Islamic world and especially under the Ottoman Empire, including mosques, monuments, pilgrimage shrines, universities, hospitals, and madrasas (Sait and Lim 2006:147).

In China, before the Communist period, Chinese Muslims used *wagefu* for a variety of purposes (Li 2000:51). Inscriptions on stone steles found on mosques and tombs throughout China record pious donations of property to mosques. For instance, one inscription from a mosque in Beijing is entitled “The Inscribed Text of the Elder Jin Yuting’s Donation of Rooms to Flower Market

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<sup>15</sup> The *Sharh al-Wiqāya*, the Ḥanafī commentary that is used in nearly all mosques in Hezhou and throughout the Northwest, contains a chapter on donations, including the *waqf*. For Chinese descriptions of the *waqf* (see e.g., Wang 2001; Wu 1986; Zhang 2002a:255). Chinese translations of English works also describe the institution (see e.g., Coulson 1986:201).

<sup>16</sup> For the jurisprudence of the *waqf* in the Ḥanafī *maddhab*, see Leeuwen 1999:38-40.

Mosque to Provide for the Mosque's *Khulafā'*" (*Jin Yuting Daxianglao juan Huashi qingzhensi pufang gongyang benshi hailifan beiwen*). Dated 1922, the inscription reads in part

The Flower Market Mosque, constructed in the Ming Dynasty, has never had a benefactor like Jin Gong, the aged philanthropist and benefactor, represented by others. Jin Gong, whose name will be concealed, and whose courtesy name is Yu Ting, lived in this part for most of his life. . . . During his life, Gong donated a building of more than twenty rooms to Flower Mosque Market and placed the number of the mosque (112) upon it. He also donated four volumes of the *Gazui* [Tafsīr al-Qur'ān al-'aẓīm] for the use of the *ahong* to study and consult. No one is allowed to carry these scriptures out or to lend them out. [The mosque] is advised to use the monthly rent for the benefit of *khulafā'* who reside in remote regions. If locals study, they must not use this money. Others must be recruited to manage the money and ensure that it is evenly distributed until it runs out. It should further be advised that no members of the benefactor's clan shall interfere. The *imām* of this mosque and the manager of the mosque, from within the elders, are not only thankful to the benefactor, but follow the wishes of the donator in reciting ten thousand prayers over his grave. The desired purpose of his donation shall not be changed. It is a wonderful donation! It is further advised that since the donation is to be used for the *khulafā'*, it shall not be used for the expenses of this mosque, the living costs of the teachers, or the tuition of the Chinese school behind the mosque. It must only be used for the benefit of those students studying the languages of Islam (Yu and Lei 2001:227).

While the inscription does not use the word *wagefu*, it describes an irrevocable transfer of property (real estate and scriptures) for a pious endowment.<sup>17</sup> The inscription is a kind of public contract between the philanthropist and the mosque community or *jamā'a*. Similar inscribed steles from Inner Mongolia to Yunnan, from Guangzhou to Ningxia, memorialize texts of contracts (*qiyue*) of donations of land (*juandi*) to mosques to expand prayer halls, enlarge offices, and build screen walls and minarets (Yu and Lei 2001: 231, 235, 238, 248, 363).<sup>18</sup> Additionally, welfare foundations served pilgrims on the hajj as well as Sufis traveling to holy sites such as in South Asia (Bakhtyar 2000:40).

In Hezhou, many mosques and Sufi tomb complexes were initially built through a *wagefu* donation. The Gedimu Old Glory Mosque (est. 1368) in western Bafang (Ma 2010d:192), the

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<sup>17</sup> From the text of the inscription, it is not clear in this case whether the conveyance was testamentary, that is, it is unknown whether the decedent actually left a will. Writing wills was historically rare among Hui and depended on one's education level and wealth.

<sup>18</sup> Most of the inscriptions are written in Chinese. However, some of the oldest inscriptions in China, dating to A.H. 567 (1171 C.E.) are located in Quanzhou, and are written in Arabic and Persian as well as Chinese. For a collection of images of over 200 rubbings of inscriptions from Quanzhou (see Chen 1984).

Naqshbandī-Mujaddidi Sufi Bright Heart Mosque in northern Bafang (est. 1978),<sup>19</sup> and the Yihewani New Glory Mosque (est. 1946) in western Bafang are just some of the mosques built on land donated in the form of *awqāf*. Similarly, many Sufi tomb complexes, such as the Khufiyya Lintao Sufi Tomb Complex<sup>20</sup> or the Khufiyya Bi Family Field Tomb Complex<sup>21</sup> were constructed on land gifted to the order in the form of *awqāf* by an early convert to the order. Other Sufi leaders attracted followers who endowed land elsewhere than the site of the future tomb complex, such as in the case of the Qādiriyya Madame Sufi Tomb Complex.<sup>22</sup> These lands have attained a status of sacred property as the site where the founder of the order was born, received his instruction, lived, or died.

The differences between a *wagefu* and a *waqf* appeared with the beginning of modern China as a result of condensation or compression by the state, its laws and policies. Nationalization of land was a priority of the Communists in the 1950s. Large tracts of land held by Sufi tombs and mosques as *awqāf* were seen as buttressing the landlord class, and were thus requisitioned under the “land reform” (*tudi gai*ge or *tugai*). Under the socialist property regime that emerged in the 1950s, ownership rights in land are held by the state (Erie 2007). While individuals may obtain land use

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<sup>19</sup> Qi Mingde, the founder of the order, gifted the *waqf* (less than 1 *mu*) to the order in 1978. Qi Mingde had lived on that portion of land and so it is considered sacred property by the Naqshbandiyya Sufis. Following religious reforms, in the 1980s, a small house to serve as a prayer room was built on the property. The order demolished this in the late 1980s. In the early 1990s, a temporary prayer hall was built on the property that the order demolished in 2009. With additional property purchased by the order in 1993 and 1994 (an additional *mu*), mainly due to connections the order has with the city-level real estate bureau, the order began building its mosque in 2009 from the lineage’s funds and *nietie* from followers (HZ 2/6/2010).

<sup>20</sup> The order’s members relate that when the founder named Ma Yuhuan moved from Lintao to Hezhou, he meditated in a cave that became a site of his *karāma*. He asked his mother to purchase land for his future grave at the site, called Wayaotou. This became the site of the Sufi complex (HZ 11/10/2010).

<sup>21</sup> Historical records maintained at the tomb complex state that during the lifetime of the founder Ma Zongsheng (1639–1721), the tomb complex had 94 *mu* of land in Xichuan, Beiyuan, and surrounding areas, including *wagefu*.

<sup>22</sup> Historical materials from the tomb complex tell the story of a well-to-do *jiaohu* (household-on-foot), last name Zhou, who came across Aisha Haililong lahei, scriptural name Hua’a isha (1681–1724) on his travels. Hua’a isha told him that if he was ever in trouble, to call her name and she would aid him. Sometime later, when crossing a wide river in Hunan, Mr. Zhou ran into a storm and fearing the loss of his goods and his life, he called out to Hua’a isha and the weather calmed. Three years later, he returned to Gansu and found that the girl he had met was a female master and “in Linxia County Red Water Ravine Mouth, purchased six tou (about ten *mu*) to donate to *Shaykh* Madame Tomb Complex to be the *wagefu* of Madame Tomb Complex” (*zai Linxia xian Hongshui Goukou difang, gouzhi le tudi liu tou [yue shi mu], fengxian gei le Shehe Taitai Gongbei, zuowei Taitai Gongbei de ‘waigefu’*.)

rights (*shiyongquan*) for 30 years in the countryside, with rights to sell and transfer thus allowing a market, religious organizations have not been able to exercise such rights. The history of land use rights is tied to the relationships between property and religion. In the early Communist period, mosque lands were guaranteed legal protection.<sup>23</sup> The land reform began in 1952 in Hezhou, but was mired by violence when cadres redistributed Sufi lands, particularly those of the Jahriyya, without observing legal protection of *awqāf* (Khan 1963:68). Further, the 1958 anti-religious reform and the 1966 Cultural Revolution destroyed and burned most mosques and Sufi tombs with their land forcefully seized by Party cadres. At the national level, administrative regulations issued in the 1980s sought to return all requisitioned lands to Islamic organizations, mosque and tomb complexes.<sup>24</sup> As one cadre in the Gansu Province Ethnic Religious Committee told me, the people's government of Gansu province issued no regulations about the return of property. Instead, when issues arose, experts were sent out to consult with local Muslim leaders and they decided on the amount of property to be returned on an ad hoc basis. As to whether all lands, including *awqāf*,

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<sup>23</sup> The 1950 Land Reform Law (*Zhonghua Renmin Gongheguo tudi gaigefa*) passed 28 June, 1950 by the Eighth Meeting of the People's Government Committee art. 3 promised that all mosque lands would be protected. There were extensive statistical surveys conducted by Party organs during these years to identify the extent of mosque and tomb complex land holdings. A document by the Linxia Prefecture United Front Work Department surveyed 21 mosques and ten tomb complexes in Hezhou that held land in the city outskirts and nearby countryside (Zhonggong Linxia zhouwei tongzhanbu 1952). The document describes the land as donated by Muslim followers and managed by the *jiaozhang* (religious head) of the mosque or tomb complex. The document further relates the economic hardships of mosques. It states that most mosques contributed 50 to 70 percent of their land holdings to the land reform for distribution. In one example, it notes South Gate Grand Mosque "gave" 27 *mu* in an area of Hezhou called Fuhan Country Luo Family Fortress (*Fuhanxiang Luojiabao*) but was dissatisfied in doing so (Zhonggong Linxia zhouwei tongzhanbu 1952). By August 1953, the Communists declared land reform accomplished (Hai 1993:41). However, a 1956 report by the Wudou Prefectural United Front Work Department reported that there were 4,528 mosques that held 82,796 *mu* of land in Gansu or .2 percent of the total agricultural land in the province (Zhonggong wudou diwei tongzhanbu 1956).

<sup>24</sup> In 1980, the State Council, Religious Affairs Bureau, State Construction Bureau and related organs issued reports such as the "Report Regarding Problems in the Implementation of Policies on Religious Groups' Real Estate Property" (*Guanyu luoshi zongjiao tuanti fangchan zhengce wenti de baogao*), hereinafter "Property Report," that sought to return property expropriated during the Cultural Revolution to religious organizations, including mosques, so that they could maintain their economic lifelines. The Property Report sec. 3, art. 1 reads: "Return all property rights of real property (*fangwu*) in its entirety to religious groups, and that property which cannot be returned, must be returned in the equivalent monetary amount" (Zhonggongzhongyang wenxian yanjiushi zonghe yanjiuzu and Guowuyuan zongjiao shiwuju zhengce faguishi 1995:25). Many of these documents note the economic duress of religious organizations while underscoring the need to keep Chinese religious organizations independent of foreign religious influence.

were returned, she said “*zhaogu xianshi*” (consider reality) ( LZ 3/11/2010). PRC land policies have strangled the income flow of Sufi tomb complexes, in particular.

The *waqf* survives, however, in abbreviated form, a creole. There are two main types of *awqāf* in Hezhou and elsewhere in the Northwest. Under the first arrangement, the mosque collects *nietie* from members, pools the funds, and purchases land usually adjacent to or near the mosque to build a school, daycare center, or commercial space leased out to members. In the second type, if an individual has no children, he will convey his use rights in land to his mosque. This second type is much rarer, and I only saw it in one Yihewani mosque in Hezhou where mosque elders spoke of a man named Wang who gifted property in 2006 so that God would reward merit (*shanggong*) and confer grace (*huici songdao wangren*) (HZ 12/24/2010).

Both types are, on their face, illegal under state law. There are two bodies of laws and regulations that define those who may transfer land use rights and develop real estate. Under the socialist property rights regime, there are multiple rights in real property, including not just the ownership rights and use rights in the land, but also rights in fixtures resting above ground. Under PRC law, developers obtain both the use rights in land and the rights to develop real estate above ground. The legal definition of a real estate developer requires an enterprise, with registered capital, who is registered under the Administration for Industry and Commerce.<sup>25</sup> This definition would appear to exclude religious entities (known under the law as *zongjiao tuanti* religious groups or *zongjiao zuzhi* religious organizations).<sup>26</sup> Under the Regulations on Religious Affairs, religious entities may obtain the certificate of use rights in land under the mosque, but may not engage in the transfer, mortgaging or development of property.<sup>27</sup> A Hui lawyer in the Linxia County Judicial Department explained that a mosque may purchase the *fangwuzheng* (real estate certificate) for

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<sup>25</sup> The legal definition is set out in the Law of the PRC on Urban Real Estate Administration (*Zhonghua renmin gongheguo chengshi fangdichan guanlifa*), passed by the NPC, 30 August, 2007, art 30.

<sup>26</sup> For an overview of the rights and duties of religious organizations under PRC law, see Mo 2009.

<sup>27</sup> See Regulations on Religious Affairs (*Zongjiao shiwu tiaoli*), promulgated 30 November 2004 and effective 1 March, 2005 by the State Council, arts. 31-2.

fixtures above the land, but the use rights remain in the name of the individual (LC 6/8/2010). This seems the most likely scenario for the first type.

As for the formal process of type two, according to Bafang Hui, if the donator has children, he must first get their permission, according to Islamic inheritance law. Having satisfied the requirements under Islamic law, he then follows state law by getting his land use rights certificate (*tudi shiyongquanzheng*) notarized at the land bureau to transfer the rights. The idea is that while mosques cannot initiate transfers in rights in land, they may receive them. However, a Muslim civil servant in the Linxia city land bureau said that many such conveyances are done without formal notarization, documentation, or government oversight (HZ 1/26/2010). That I was never allowed to see any transferred use right documents despite the members of the Yihewani mosque's claim that they have them casts doubt on the formalized version of the conveyance.

Both types may take the form of what many Bafang Hui call *puzi wagefu* (store-front *awqāf*). Most mosques in Hezhou, as in mosques throughout China, have shops facing the street at the outermost periphery of their state-granted property. These shops sell a wide variety of goods from sundries or "Muslim everyday products," to jewelry to pharmacies to clothing. They lease space from the mosque in order to do so. The income generated from the lease goes to support the daily operations of the mosque, and in some cases, exceeds the *nietie* as the greatest source of cash flow for the mosque. The owners of the lease are usually members of the *jamā'a*, but not always. For example, the Xidaotang ("Hall of the Western Way" or "Western Daotang") mosque in northwestern Hezhou rents out their street-front property and the basement under their mosque to a Han-owned and operated pharmaceutical company.<sup>28</sup> That some scripturalists point out that it is *ḥarām* for a

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<sup>28</sup> Of the *jiaopai*, the Xidaotang have perhaps made the most extensive use of *wagefu*. This practice seems tied to their ethic of collectivism and the idea of the *wuma* (Ar. *umma*; see below). The Hezhou Xidaotang has three *wagefu* sources of income. The Prosperous Hotel (*Xinglong lüshe*) is a two-story residential *wagefu* located on the northwest corner of the mosque property. Originally part of the now defunct Heavenly Prosperity (*Tian Xinglong*) stock-holding company, based in Lintan, the hostel severed relationships with the company in 2002. The hostel was built in 1985 and originally had fourteen individual stockholders and the fifteenth was the *jamā'a* itself (i.e., the *daotang* administration committee). There are more than a dozen

mosque to permit business on its grounds does not gain much traction in Hezhou where Gedimu, Yihewani, and Salafiyya alike have little choice but to combine prayer space with generating revenue.<sup>29</sup>

The storefront property of the South Gate Grand Mosque in central Hezhou typifies *puzi wagefu*. In front of the mosque, facing Liberation Avenue, there are twelve small shops, each 11.5 square meter. Two brothers from Hezhou with the surname Qi leased a space joining two shops, knocked down the dividing wall, and have operated Hezhou’s finest jewelry store there since 1986, named Grand Mosque Gate Jewelry Store (Illus. 9). Inside the shop, Hui, Han, and Tibetan customers peruse glass cases of gold earrings, rings, and bracelets from Shenzhen and silver and platinum jewelry from Shandong. The jewelry is not Islamic themed, but is “Hanhua” as one seller observes. The floor is wood-paneled and there are slender stools for customers to sit on. The walls have glossy images of high-end jewelry. There is a digital chart on the wall, connected to an online computer that lists the day’s market rates for the price of gold, silver, and platinum. The Qi brothers renovated the shop in 2009 as part of the mosque’s overall renovation. The rent was RMB 500 per month per 11.5 square meter shop before the 2009 renovation, but was increased by RMB 100 following the repairs, so the Qi brothers pay a total of RMB 1,200 per month for their space. The

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families that live there, not all Xidaotang members. The second mixed use *wagefu* is a four-story building on the mosque’s south side called Prosperous Little Building (*Xinglong Xiaosha*). The first floor is commercial space and the others residential, occupied by both Xidaotang families and non-Xidaotang members. The third *wagefu* is the storefront property leased to the pharmaceutical company (as of 2007). Lastly, there is a parking lot within the mosque property used mainly by the Han pharmaceutical company. As for the yearly income of the Hezhou Xidaotang:

Income (Gross)	
Prosperous Hotel (residential <i>wagefu</i> )	100,000
Prosperous Little Building (mixed use <i>wagefu</i> )	130,000
Pharmaceutical company lessee (commercial <i>wagefu</i> )	50,000
Parking Lot (commercial <i>wagefu</i> )	20,000
Total	300,000
Expenses (salaries of <i>ahong</i> plus three paid positions, students’ tuition, and utilities)	100,000
Income (Net)	200,000

<sup>29</sup> The Chinese translation of contemporary Egyptian jurist Sayyid Sabiq’s writings on transactional law entitled *Yisilan shangyefa* (Islamic Commercial Law) by the Salafiyya Muslim Youth Translators Group describes, in the Ḥanafī school, economic exchange within mosques as permitted but because bringing goods into the mosque may contaminate its hygiene, it is reprehensible (*makrūh*) (Sayyid Sabiq 2002b:21).

younger Qi states, “rent is not expensive, it goes up to help pay for the operations of our mosque.” The mosque thus generates RMB 7,200 per month from the twelve *wagefu*. This income is used for everyday operations and maintenance of the mosque and related facilities (i.e., boys’ school, kitchen, and so on), including heat, lights, electricity, water, and other utilities. For the Qi brothers, among the two of them, they have four children, two of whom are attending university in Lanzhou. Although the tuition is *gongfei* (paid by the state), they are able to cover their children’s living costs that are considerably higher in Lanzhou than Hezhou (HZ 11/17/2009, 3/29/2010, 4/14/2010).



Illus. 9 Grand Mosque Gate Jewelry Shop (middle) at main door of South Gate Grand Mosque.  
Source: Photo taken by the author (HZ 11/17/2009).

While the Qi brothers are able to make a comfortable living through the abbreviated institution of the *wagefu*, a Salafiyya Hezhou Hui voices dissatisfaction with the condensation of *awqāf* giving voice to melancholia:

We see the clearest conflict between state law and shari‘a in the area of inheritance law. The Qur’ānic guidelines on dividing property are very clear. My father followed these in dividing his property. *Awqāf* are related to inheritance law and property law. The *puzi* (shops) one sees outside Chinese mosques are not true *awqāf*. At one time, they were. For example, at one time, the shops outside South Gate Grand Mosque were *awqāf*. But we don’t have a recording. We have lost the name of the donor. A true *waqf* is a donation from a mosque member to the *waqf* for *gonggongliyi* (public benefit). Historically, there have been many of these in Hezhou. [Now] nearly every mosque has its *awqāf*, but these are *bu gongkai* (not public).<sup>30</sup> One example is my uncle who gifted his property to Grand Qi Mosque. This, along with other property, was used to build the *nūxiao* (girls’ school) that is now one of Linxia’s largest girls’ schools (HZ 12/21/2010).

Other mosque leaders I spoke to echoed the conviction that the *puzi wagefu* were based on traditional *awqāf*. This idea that they are simulacra, as Jean Baudrillard wrote, copies without originals (1994), suggests nostalgia for some imagined past of shari‘a enforceability. Further, under the socialist property regime, that property can only be settled for the use of the mosque in perpetuity in an illegal manner greatly constrains (without ending) the practice.

Such endowments are also popularly called *sichan* that, I learned from a manager of a mosque administration committee of a Yihewani mosque, is a homophone, meaning both “mosque property” and “private property.” The manager explained, “The basic idea of the *wagefu* is that it is property of Allah foremost; that is, held by a person. When a person gives personal property to a mosque for its benefit, the person accrues merit in doing so. After this, the ‘person’ becomes the mosque. The mosque is like a *siren* (private person), opposed to *gong* (the public or the state)” (LZ 9/28/09). Like the manager, many other mosque personnel claimed that not just immovable property but any movable property donated to the mosque, such as a book or a chair, is a *wagefu*. Thus, while state law constrains the *wagefu*, Hui signifying practices show another sliding of the signifier as *wagefu* signs any material object (e.g., real property or movable property) as “pious endowment.”

As with *nietie*, the *waqf-cum-wagefu* shows a collapse of concepts. State law has severely limited the practice of endowing property for religious purposes. At the same time, Bafang Hui

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<sup>30</sup> *Bu gongkai* (lit. “not public”) is a euphemism for illegal.

operate *wagefu* in the spaces allocated to them following the return of property in the 1980s. Additionally, many Hui continue to engage in traditional endowments in spite of formal law's prohibition. Hui reconcile conflicts between shari'a, on the one hand, and Chinese custom and state law, on the other, through practice.<sup>31</sup> Practice and its representation in hybrid language nevertheless condense, displace, or otherwise creolize shari'a principles. For most Hui, at the level of conscious reflection, this is not a problem. For *ahong*, teachers, translators, local scholars, and many Muslim cadres, the results of Han shari'a's working out of these conflicts are unsatisfactory. There is a sense of deferment and incompleteness.

The two examples of the *nietie/niyyah* and *wagefu/waqf* illustrate the collapse of categories between shari'a, state law, and custom. Just as creolization theory has provided a critique of the plural model in multi-cultural or polyethnic studies, predicated on purity and discreet bounded identities (Munasinghe 2001), so does legal creolization re-evaluate assumptions in legal pluralism. Chinese customs of gifting have shaped the practice of *nietie* recasting the original Arabic-Islamic concept of intent. Similarly, state law has delimited the institution of the *waqf*. Hezhou Hui nonetheless continue such practices without reflecting on the adaptation of such concepts and institutions to the Chinese context. The examples show both a kind of unconscious creativity on behalf of the Hui but also such a process's subjugation to non-shari'a authorities. Difference of opinion entering in only through level of education, the *jiaopai* distinction does not significantly alter Hui thinking about the creolized practices, albeit in the area of finance, the Sufi *menhuan* generally illustrate both more receptiveness to Chinese custom and more control by Party policy. Having established through the examples that there are Han shari'a practices shared by all Hui, in the next section I examine how *jiaopai* differently interpret Han shari'a as a means of transcending the *umma* disconnect.

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<sup>31</sup> This work is hardly unique to Chinese Muslims. The Hadrami, for example, devised new instruments of succession for forms of property accumulation to realize Islamic principles of distribution in English courts in Southeast Asia (Gilsenan 2009:206).

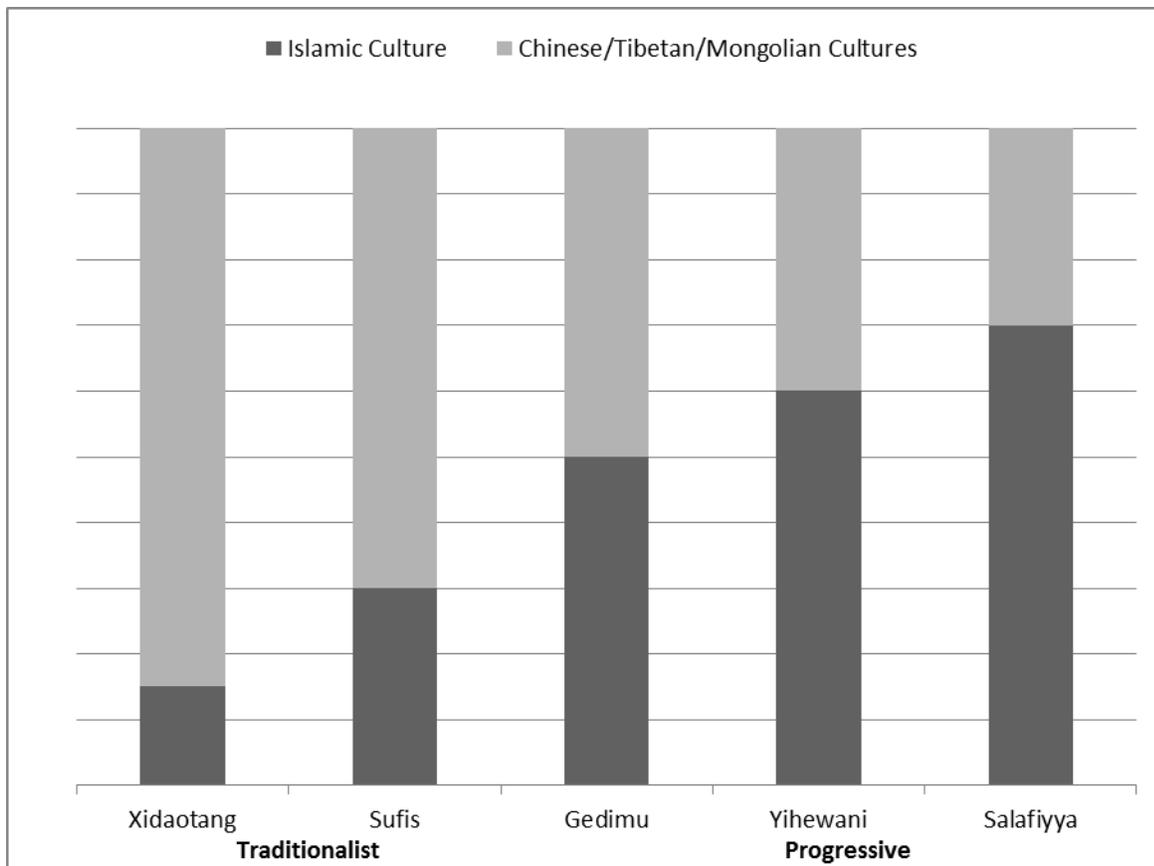
*The Many Ways of Understanding: Diasporic Imaginaries and the Law*

As seen in Chapter 1, *jiaopai* and *menhuan* are in some regards the primary form of identification for Muslims in the Northwest. The reason for their importance is that each provides an interpretation for making sense of Islam in Chinese terms. They all agree on the necessity of being both Chinese and Muslim, but differ as to how this should be done. Further, they exemplify varying approaches to suturing over the gap felt by all Northwest Muslims, especially in the simulacral “China’s Little Mecca,” of locating consciousness in natal places but at the same time in imagined Muslim homelands. Raphael Israeli writes of Hui, “Their yearning is not merely to migrate to a land of safety, but to return to Arabia, as the only way for their physical and spiritual redemption” (2002a:47). This is not the desire of Hezhou Hui. They feel part of China, especially Hezhou, just as much, if not more so, than Han. Nonetheless, Hui feel alienated from the Muslim heartland. The common goal, attained through different prescriptions of orthopraxis, is to realize Islam in China. Scholars have observed Huis’ strangeness, whether in the eyes of the sixteenth-century missionary Matteo Ricci (Benite 2007:1), as an example of Georg Simmel’s “familiar stranger” (Allès 2000:9; Lipman 1997), or Stevan Harrell’s conclusion that the Hui are the “strangest ethnic category recognized by the Communist project” (1995:33). These observations are made from the vantage of outsiders (a Jesuit, the Han Chinese, and the Party-State, respectively), but because of their doubling in multiple sets of referents, not just “China” and “Islam” but also Tibet, Persia, Mongolia, and so on, the Hui are also, in a sense, estranged unto themselves.

I argue that *jiaopai* and *menhuan* are instances of what Sangren calls “instituted fantasy” (2009a:307–308; forthcoming:48). In Sangren’s argument, patriliney is comprised of institutions (e.g., gender categories, inheritance patterns, ancestor worship, etc.) as well as values (i.e, filial piety) that collectively produce fantasy characterized chiefly by the paramount role of parents, and particularly the father (Sangren 2009a:307). Institutionally produced fantasy contributes

dialectically to its own institutionalization (Sangren 2009a:307). In fact, the fantasy operates to not only disguise the premium placed on what Sangren calls the “filial son,” but also sideline women’s productive capacity in the household (Sangren 2009a:307). Dialectically, the fantasy of patriliney operates to reproduce those specific institutions and values (Sangren 2009a:307). I use *instituted fantasy* to mean those collective predispositions and practices—that is, *jiaopai* or *menhuan*—that orient or organize desire initiated by the *umma* disconnect. The *jiaopai* provide means to escape feelings of alienation from the Islamic center, and they do this, in part, through specific formulations of Han shari‘a. These formulations cannot be called jurisprudential schools in the classical sense as they all belong to the Ḥanafī school except for the Salafiyya. While they do not assume the form of formal argumentation, deduction, and textual production, they are reproduced through structuring behaviors (Bourdieu 1987:41, 53; Bourdieu 1990[1980]:811; Bourdieu 2002[1991]:75). I stop short of invoking Bourdieu’s habitus as it implies a pre-cognitive or unconscious mechanization of behavior that is not wholly applicable to the *jiaopai*. *Jiaopai* leaders may orchestrate behavior, but against the majority view in the Chinese scholarship, I do not equate the agency of the *jiaopai* with its leaders. Such figures are important, but not totalizing in terms of the operations of the *jiaopai*, collective memory, and everyday practice. Hence, rather than the leader demanding observance to (a certain approach to) the law, learning through congressional prayer in the mosque, observations of family members in the home, reading *jiaopai* and *menhuan* local histories, and collective activities like the Sufi *ermaili* socialize members into a *jiaopai* version of the law. In turn, these practices reproduce specific *jiaopai* ways of being both Chinese Muslim and members of the global *umma*.

Generally, *jiaopai* as instituted fantasy fall along a continuum that I understand in terms of their view of cultural intermixture or intersystem to use Drummond’s (1980) term (Illus. 10).



Illus. 10 *Jiaopai* and *menhuan* orientations toward cultural intermixture.

The figure represents the major *jiaopai* in Hezhou as a spectrum along a continuum from “traditionalist” to “progressive.” The relative location of the *jiaopai* on the continuum describes their approach to reconciling the push-and-pull of being Chinese Muslim, an identity alternately described as “dialectic” (Gladney 1996[1991]) or “betwixt and between” (Atwill 2003). The continuum applies to the particular ‘worldview’ of the *jiaopai*, part of which is their perspective on Han shari‘a as legal diaspora. Legal diaspora pertains to the *jiaopai*’s association of law with an imagined past and place, their Muslim heartland. As Engseng Ho has written, in a diasporic situation, “the dispersed understand themselves to be linked by bonds, usually those of kinship. Such bonds exist and endure, rather than atrophy, only so long as people continue to speak, sing, recite, read, write, narrate, and otherwise represent them (2006:xxii). Abiding by shari‘a is another

link, another way to represent one's connections to another place and time. However, as the *jiaopai* illustrate, there are myriad ways of understanding law and its connections.

### 1. *Xidaotang*

The Xidaotang are the most likely to affiliate themselves with Chinese culture as a result of their particular philosophy—to “interpret the [Islamic] scripture according to Confucius” (*yiruanjing*)—as well as political happenstance. The Xidaotang foreground their Chineseness, explain Islamic principles and concepts through Chinese (e.g., Neo-Confucian) cognates, and reflect on Confucian, Buddhist, Daoist and particularly Tibetan Buddhist influence in their ritual practice. Xidaotang collective consciousness centers on the memory of the *wuma*, the Xidaotang version of the global *umma*, the community of believers. According to the official history *The Light of the Crescent Moon (Xinyu zhiguang)* by current Xidaotang leader and *shaykh* Min Shengguang, the *wuma* was a religious commune that united the community not by blood ties but by common faith in which they instituted strict shari‘a (2007:2). Labeled “primitive communism” by the CCP, the system of common property ownership, the basis of the *wuma*, was destroyed in 1949. Crucially, the *wuma* was based in a specific place, Taozhou (Lintan). It was a localization and condensation of an Islamic principle given material basis in Taozhou. Taozhou is the Xidaotang heartland. Further, their intellectual patrimony is not any group of jurists or scholars in the Middle East, but rather the authors of the Han Kitāb, especially Liu Zhi, Wang Daiyu, and Ma Zhu. The Xidaotang are also called the Han Studies Sect (*Hanxuepai*) for their emphasis on classical Chinese learning and the Han Kitāb. A member of the Hezhou Xidaotang mosque tells me what it means to be a member of the Xidaotang:

You are a member at birth. But you do not take up responsibilities until after you have graduated from high school. Only then do you have knowledge of Han Chinese language and literature. This is the core of one's *wenhua suzhi* (cultural quality). We are *Chinese first and Muslims second (di yi shi Zhongguoren, di er shi Huimin)* (HZ 11/18/09, italics added).

Thus, estrangement from a Muslim heartland was never part of the Xidaotang collective ethos, even if their founder Ma Qixi studied in Central Asia (Feng 2010). The Xidaotang never felt alienation from the *umma* as they recreated it in Taozhou. Their estrangement is historical rather than spatial, residing in collective memory rather than a movement of people. In uncanny China, partly as a response to the dismantling of their *wuma* system and appropriation of their considerable material assets by the government in the 1950s and partly because of the history of their being designated *xiejiao* (heterodoxy) by other *jiaopai* and Sufi groups, the Xidaotang have embraced the cause of the Communist state. As a result, Xidaotang follow Han shari'a, yet, like the *wuma*, for them shari'a (as a purely Islamic legal order) has been relegated to an imagined past.

When I first arrived in Gansu in mid-2009, Xidaotang members in Lanzhou often mentioned the *wuma*. Xidaotang members spoke of it as a reflection of the lofty ideals of Islam as understood by Liu Zhi who sought to combine Islam with traditional Chinese culture. They spoke of the *wuma* as a community of brothers and sisters who treat each other equally, practice communal weddings, co-habitation of families, and sharing all property. There was a longing for the *wuma*. I attended a business meeting at a restaurant in Lanzhou with several senior members of the Xidaotang (*shaykh* Min Shengguang and his family have lived in Lanzhou since the 1990s) and Han businessmen from Qinghai and Henan. The Han businessmen owned a company that makes and buys fabrics and they sought the Xidaotang to form a relationship to distribute the fabrics. After the meeting,<sup>32</sup> I asked one elder Xidaotang member, who was a professor at Qinghai Nationalities University where he taught Amdo Tibetan, about the practice of shari'a in the *wuma*. He looked down at the table where his hands rested on the white tablecloth and he drew his hands apart smoothing out the surface. His upper torso heaved silently as he inhaled. He continued to look down at the white tablecloth and

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<sup>32</sup> It was not easy to tell when the meeting was actually over. It was concluded with neither a written contract nor even a handshake, but rather a few numbers written on a sheet of paper and the Xidaotang negotiator instructing the Han businessmen that the Xidaotang administration committee would get back to them, as all major decisions regarding the Xidaotang's finances are made collectively.

said, “If you want to study shari‘a, then you should study the Salar or Dongxiang,” his hands smoothing out the wrinkles before him (LZ 10/27/2009).

In Taozhou, I visited with the family that occupies the only surviving “grand house” (*da fangzi*) of the Xidaotang, located in Small Road Field Village (Ga Lu Tian Cun), 25 kilometers outside of Taozhou Old City. Above the door of the main room on the second floor are the characters *Dongfang wuma* (Eastern *umma*). Originally, I was told, the Xidaotang had thirteen grand houses in thirteen hamlets in Gannan. The Small Road Field Village grand house was built in 1943 and was occupied by two families, with the surnames Ding and Ma. Mr. Ding (b. 1946) tells me that they practiced communal living there from 1943 to 1966,<sup>33</sup> thus, Mr. Ding was raised by what he calls the *daotang*, the administrative center of the Xidaotang, specifically, the elders. In the grand house, labor was done according to one’s talents and Mr. Ding recalls hauling water from the village river that was used by all those living in the house. Everyone ate together sharing a mammoth cooking pot called the *daguofan* that could fit three cows at the same time. Mr. Ding’s wife informs me that they practiced communal wedding (*tongli hunyin*). She says

Ten or twenty pairs, all members of the Xidaotang, would marry at the same time in the daotang in Lintan. The couples would meet for the first time during the ceremony, their parents and families having done preparing work and inquiries on the other. But the actual couple would not meet until that day and they would have final say as to whether they thought they were compatible. The bride’s costume was provided by the Xidaotang, namely the *baiyin zuode hua* [silver flower], a large circular plate of silver worn around the bride’s neck that fell around her waist [Illus. 11]. . . . Nowadays, the family will go around their extended family and collect 20 kuai there and 30 kuai there to purchase it themselves. The men would wear their best suit, also provided by the Xidaotang. In the ceremony, the men would form one line and the women the other, with the *ahong* before them (closer to the men). There was no *pingli* [Ar. *mahr*, dowry]. After the wedding, the couple would move into the man’s family’s home. Both would work, but the Xidaotang would provide for the daily needs by giving the money” (TZ 6/1/2010).

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<sup>33</sup> For the most complete study done on the Small Road Field Village grand house, see Ma 2010b.



Illus. 11 Xidaotang bride wearing the silver flower. Photo dates from the mid-1990s. Source: Ding family archives.

While the official memory propagated by Xidaotang literature is that the grand houses as the physical loci of the *wuma* exercised strict shari‘a, social practice demonstrates that the *wuma* was a creolized form of the *umma* ideal, the community of Muslims established by Muhammad in Medina after the hijra in C.E. 622. The *wuma* is a utopian simulacrum, based on the imagined earliest Muslim society, characterized by communal property where even ‘later’ shari‘a rules (e.g. dowry) were not followed. Contemporary Xidaotang members say the *wuma* survives “in spirit” (*jingshen*) through members’ contributions to the collective in the form of *nietie*, the annual and decennial remembrances of Ma Qixi, and the intellectual endeavors of its members to compile its history. However, the practice of shari‘a is a memory tied to an imagined place, the fantasy of the *wuma*. For the Xidaotang, who have mostly realigned their goals with those of the Communist state (if begrudgingly), the fantasy of the *wuma* is supplemented through intellectual works such as their three-volume compendium *Collected Works on Research on the Chinese Islamic Xidaotang* (*Zhongguo Yisilanjiao Xidaotang yanjiu wenji*), editing of which began in 2007 involving Xidaotang

scholars from Taozhou to Beijing, and concluded in 2010. Most of the series concerns Ma Qixi's martyrdom, the *wuma* system, and historical memory. For the non-elite member who does not experience the fantasy through literary production, desire is maintained by the events held in Taozhou that remains the ceremonial center even if some of the business operations of the Xidaotang, as well as its leader, have migrated north to Lanzhou.

## 2. *Sufis*

The category "Sufis" refers, collectively, to the *menhuan*, the socio-economic organizations differentiated by *туруq*. Sufis are traditionally not regarded as a *jiaopai* unto themselves, rather they identify through their individual *menhuan*. However, there are generalities shared by the *menhuan*. Sufis also explain Islam through Chinese philosophical terms. They understand law in reference to the "three vehicles": shari'a, *ṭarīqa*, and *ḥaqīqa*, or, respectively, *jiaocheng* (vehicle of the teaching), *daocheng* (vehicle of the way), and *zhencheng* (vehicle of the truth) (Aubin 1990). These vehicles represent the stages in a Sufi's self-cultivation and trajectory towards gnosis, or knowing God. The different *menhuan* share a common theosophy, partly due to the prevalence of al-Sirhindī's thought; however, their cosmogenic maps of the body's *lata'if* (centers of energy), called *weifen* (social [*sic*] status) in Chinese, and the set of contemplative practices and ethical injunctions called *gongxiu*, that exercise the *lata'if*, differ. The *ṭarīqa*, the path or way, thus distinguishes the *menhuan*. The practice of shari'a is integrated into the *ṭarīqa*, the path to reality, and the *ḥaqīqa* or reality. Because of the primacy of the *ṭarīqa* as the distinct methodology required to attain truth, their imagination is oriented both temporally and geo-spatially through the *silsila*, the chain of spiritual descent, which usually originates with a master in Central Asia. At the same time, the holy genealogy has taken a specifically Chinese form in the patriline. Further, their practice is, like that of the Xidaotang, influenced by Confucianism, Buddhism, Daoism, and popular ancestor worship. However, they may be less likely to recognize the influence of such non-Islamic religions in their worship, and may outright reject any insinuation that non-Muslim faiths have

influenced *gongxiu*.<sup>34</sup> The observance of the “three vehicles,” then, is traced through the *silsila* to an imagined genesis beyond China, but which is nevertheless realized in the holy city of Hezhou where the tombs of their Chinese founders reside. Sufis, through *gongxiu* in which they meditate by visualizing their *ustādh* (potentially longsince deceased), simultaneously occupy multiple times and places. *Ṭarīqa* to which shari‘a is wedded is the line of legitimacy that connects these realities.

The three vehicles of the Sufis, sometimes called *jiaofa sancheng* (three vehicles of religious law)<sup>35</sup> are central to their interpretation of shari‘a, its relationship to the past of their order, and to the multi faiths of China. Sufis describe the three vehicles’ interrelationship metaphorically, as a body, tree, or house. One Sufi of the Naqshbandi-Mujaddid order in Hezhou states, “Shari‘a is like the skin [roots/foundation]. *Ṭarīqa* is like the bones [branches/walls]. Haqīqa is like the heart [fruit/ceiling] . . . Shari‘a means to *baizhu* [worship Allah] whereas *ṭarīqa* is to *renzhu* [know Allah]. Lastly, *ḥaqīqa* is to *jiejīn Anla* [be closer to Allah]” (HZ 4/9/2010). *Ṭarīqa* and *ḥaqīqa* differ from shari‘a in that the former two are “that which cannot be seen” (*kanbujian de shiqing*) says the *shaykh* of the Wuxingping Bright Spirit Hall *menhuan* in Lanzhou, Wang Shoutian (LZ 5/1/2010). In other words, shari‘a applies to everyone uniformly, while knowledge of *ṭarīqa*, on the other hand, is intensely intimate. The *ṭarīqa* includes a set of practices that define the order but are also understood individually by each member as their initiation requires the *murshid* to give them private and individuated instructions in how to perform the *dhikr*. Sufis differ in opinion as to whether *ṭarīqa* directly informs a Sufi’s observance of shari‘a. A Sufi of Hezhou’s Bright Heart

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<sup>34</sup> One example is the view of Qādiriyya Grand Tomb Complex Sufis on the historical relationship between their founder Qi Jingyi and Fei Yangzu, a Daoist master under whose direction the Daoist Longevity Temple (Wanshouguan) attained widespread fame in the late seventeenth century. The two masters, one Sufi, the other Daoist, were contemporaries but Han and Hui differ as to the nature of their relationship. Han say that Qi Jingyi studied under Fei Yangzu even suggesting that the Daoist master left a more profound influence on Qi Jingyi than the Central Asian Sufi master named Khoja ‘Abd Allah. The Qādiriyya Sufis reject this account, as it implies Daoism has shaped their practice more than a ‘pure’ foreign-born Sufism. Their version of the relationship has Fei Yangzu and Qi Jingyi as friends but the latter superior to the former.

<sup>35</sup> There is a fourth vehicle Chinese Sufis refer to as *mai’erleifuti* or *marefeiti* (Ar. *ma’rifā*), knowledge of God. Sufis usually do not include this fourth vehicle in the “three vehicles of religious law” as it is near unattainable for mortals, although they usually say the founder of their order in fact attained this level.

*menhuan* says emphatically, “No. *Tarīqa* is *neizi zhishi* [inside knowledge] whereas shari‘a is *waize zhishi* [outside knowledge]” (HZ 4/9/2010).

A teaching *ahong* at a Jahriyya tomb complex in Lanzhou disagrees, arguing:

The special characteristic of the Jahriyya, which sets them apart from the other three *menhuan*, is that we totally *ba jiaocheng he daocheng jinmi de jieheqilai* [integrate shari‘a and *ṭarīqa*]. Most *menhuan* place *ṭarīqa* over shari‘a and the Yihewani place shari‘a over *ṭarīqa*, of course. But we see *ṭarīqa* as the *yuanshen waiyan* [deeper extension] of shari‘a. So while shari‘a means the five pillars, *ṭarīqa* means stricter [adherence] . . . So for *nian* [reading], *ṭarīqa* means reading the Qur‘ān more and more often with deeper understanding. To see the difference, under shari‘a, a Muslim must work, but under *ṭarīqa*, he must work as hard as he can. To give an example from dietary law, under shari‘a, a Muslim cannot eat what is *ḥarām*. But under *ṭarīqa*, he should avoid eating not only that which is *ḥarām* but also that which is *makrūh* [reprehensible]. *Ṭarīqa*, like shari‘a, touches on interpersonal relations. For instance, while under shari‘a, it is permitted to sit with one’s legs crossed casually when talking to another, under *ṭarīqa*, this is impolite. Similarly, while one does not have to wear a hat to pray, under *ṭarīqa*, one must wear one. And, while one can pray wearing a short sleeve shirt, under *ṭarīqa* he cannot (LZ 5/20/2010).

Interpretations of the three vehicles are fundamental to the self-definition of the *menhuan*.

Different interpretations of the three vehicles also, then, reinforce *menhuan* distinctions.

Sufi views of law are predicated on an imagined legal diaspora that is inclusive and reaches not only toward Mecca and the other metropolises of Islam, but to other popular religions in China and non-Islamic centers. Like the Xidaotang and the Gedimu, there are multiple referents for and influences on Sufi forms of worship. For instance, during the *ermaili* or saint’s death day for the major *menhuan*, pilgrims will enter the complex to pray, often rubbing artifacts within the complex, including stones or door handles on the front gates, much like Han visitors to temples throughout southeastern China (Stevens 1997:63). Or, they lay *shengdan* (holy sheets) often with Qur‘ānic writing upon them, on the tomb of the saint or wrap them around gates and posts within the complex, similar to the Tibetan Buddhist practice of gifting *khatag* (white scarves) to lamas, sometimes returned, as a blessing. Sufi practices center on the concept of *baraka* which is believed to radiate from the tomb of the saint and permeate the tomb complex curing illness, absolving sins, and granting wishes. Most pilgrims regard the *shaykh* as their spiritual father, the embodiment of

the holy law, and use kinship terms such as *laorenjia* (respectful term for parents) or *yeye* (grandfather) reminiscent of terms of address used among agnates in the Han patriline and especially in regards to ancestral worship. The very term for the tomb complex *gongbei* is believed by some to come from the Tibetan word for monastery, *dGonpa*. Each one of these practices or features of Sufi worship has an analogue in Islam: rubbing holy objects is akin to actions of pilgrims on the hajj who rub the *ka'aba*, Sufis gift tomb-cloths elsewhere as in India (Kugle 2007:54), the *shaykh* has ultimate authority among non-Chinese Sufis, and *gongbei* is traced, by most, to the Arabic word for dome, *qubba*. However, in Hezhou, the very multi-referentiality, Muslim, Chinese, Tibetan, and others, in Sufi practices defines, just as it complicates, notions of identity and purity within the Sufi legal diaspora.

There is no consensus among Sufis as to how to regard the multiple authorities that shape their legal subjectivity. For instance, Khufiyyas and Qādiriyyas in Hezhou have different views of non-Muslim authorities, as reflected in their founders' origin myths. During the *ermaili* of Ma Laichi at the Glory Mosque *menhuan* tomb complex in western Bafang, members of the order recount the origin myth of Ma Laichi. They describe how Ma Laichi's father Ma Shiwan (Ma Jiajun) went to Xining to meet the twenty-fifth descendant of the Prophet Muhammad, Hedaye Tonglaxi (Khoja Āfāq). The missionary told Ma Shiwan to go back to Hezhou and marry a Han woman in *chengnei* (inner city). At the time, Ma Laichi's father was 80 years old. The woman he married, Ju Hua (Chrysanthemum), was 20. Ju Hua had previously been engaged several times before by multiple suitors. However, all of these men—all Han, the Hui Sufis emphasize—died before the wedding day. However, Ma Shiwan heeded the instruction of Hedaye Tonglaxi despite protests from her family that their ethnicity was not the same. Ma Laichi's father persisted. He invited Hedaye Tonglaxi to officiate the wedding. Ju Hua converted to Islam and Hedaye Tonglaxi renamed her Haidiche (pronounced Haijizhai in Bafanghua). Ma Laichi was the product of their multi-ethnic union. While the account clearly addresses the Han majority (by illustrating how the Hui were able to

accomplish, in terms ethnic, gerontological, gender, and sexual, that which the Han could not), the Khufiyya Sufis also explain their relationship to Tibetan Buddhism through legend.

As told by one man during the *ermaili*:

After Ma Laichi studied and increased his moral worth through self-cultivation, he began spreading the *ṭarīqa*. At one point, he went to Xunhua [Qinghai]. At the time, Xunhua was predominantly Tibetan. Ma Laichi traveled there with a donkey. On the way, near a large settlement of Tibetans named Hualong, he had to cross the mighty Yellow River. There was no man-made bridge or crossing of any kind. So, Ma Laichi laid down a prayer rug on the river. He and the donkey stepped upon the rug and it took them across to the other side of the river. Their feet were untouched by the water. When the Tibetan monks saw this, they recognized Ma Laichi as a man of unsurpassed religious power as only their own high lamas could teleport themselves in such a way.<sup>36</sup>

Such stories have more to do with the founding saint's *karāma* (wonder or miracle) than with shari'a per se. However, the authority of the saint, as the literal embodiment of the law, in all its ethical, moral, and sovereign dimensions, is founded largely on such forms of evidence. Significantly, the Glory Mosque *menhuan* order juxtaposes its Hui authority to Han secular authority in the "inner city" and also Tibetan Buddhist authority. In doing so, the *menhuan* obtains, through storytelling principally but not exclusively at *ermaili*, recognition from multiple jurisdictions locating non-Muslim sources of law and power within their own body of myths.

### 3. *Gedimu*

The Gedimu in Hezhou trace their direct ancestors to Hui communities in Shaanxi, Nanjing, and elsewhere east of Hezhou that moved west by volition or imperial fiat (Chapter 1). Hezhou Gedimu are less likely to describe themselves as the blood descendants of the Arab and Persian traders and businessmen who traveled the Silk Road. Dongxiang, however, tie their history to the mass population shifts caused by the Mongolian armies in the thirteenth century and the mixing of Mongolian and Central Asian bloodlines. Further, many Gedimu Hui in Hezhou fully admit of Tibetan inter-marriage in their family genealogies. The Gedimu Hui policeman Officer Ma says the following:

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<sup>36</sup> The foregoing is based on accounts told to me by Khufiyya Sufis on 10/16/2010.

Chinese Islam is unique. It is Chinese and its Chineseness should be encouraged. Chinese Muslims are not Arab Muslims, they are Han Chinese who converted to Islam. In terms of language, race, and culture, Chinese Muslims cannot forget their Chinese origins. . . . My ancestor came from Shaanxi . . . Xi'anhua and Bafanghua have similarities. . . . Before the Yihewani came, most Bafang people included some Persian words in their daily vocabulary. You can still see this in our prayer times, for example *peishan* [Pr. *Namāz-i pīshīn*, noon prayer] and *hubudan* [Pr. *Namāz-i khoftan*, night prayer]. But after the Yihewani came, it's all Arabic (HZ 10/15/2009).

Officer Ma's family has done business with Tibetans in Gannan for generations and he believes he has Tibetan blood in him. He acknowledges Chinese Islam's intellectual inheritance from Confucianism, Buddhism, and Daoism and argues that this is a defining trait and a positive one. However, he admits that Gedimu *ahong* historically did not have a high level of education. "Nowadays," he says, "Yihewani have the luxury of being able to use the perspective of time and comfort to look back and say 'this is not Islam'" (HZ 11/15/2010). It is difficult to separate out the Gedimu *jiaopai* influence in Officer Ma's statements from his position as an enforcer of state law and Party doctrine. The two influences (among others, e.g., Tibetan) are interwoven in his view of Chinese Islam. While Officer Ma was a hardliner when it came to Chinese nationalism and anti-Americanism, I found most Gedimu to agree with him, albeit perhaps in more moderate terms. In short, the Hezhou Gedimu legal diaspora contains traces of a remembered Arab past, but foregrounds its Chineseness and, specifically, its native place of Hezhou. The Gedimu legal diaspora is related to a set of institutions and texts, namely "scriptural hall education" and the *al-Wiqāya*. Gedimu education promoted not only the use of specific pedagogies, for instance, *jingtangyu* or "scriptural hall language" the integration of Chinese, Persian, and Arabic, but in doing so cultivated a certain awareness of the tradition of Chinese Islam. Hence, the Gedimu interpretation of, for example, grave visitation may demonstrate borrowing from popular Chinese religion, but such syncretic practices are formative of Chinese Islam's distinct character. It is, as one Gedimu man said echoing state discourse, "Islam with Chinese characteristics," and a source of Hui ethno-nationalist pride (Gladney 1996[1991]). In summary, the Gedimu legal diaspora has thin consciousness of the

Arab peninsula as the Muslim heartland, and prefers a Chinese acculturation of Islam similar to that of the Xidaotang and Sufis, yet far more diffuse given the absence of a specific holy center such as Taozhou or Hezhou with its many Sufi tombs.

Most Gedimu mosques in Hezhou have ties to Sufi *menhuan*, although there are a few mosques that claim alliance to no one *menhuan* in particular, citing inclusiveness toward all *menhuan*, such as Upper Wooded Field Mosque. The heavy presence of Sufi thought in Hezhou's Gedimu *jiaopai* is not singular to Hezhou, as the integration of Sufism into the Gedimu has occurred throughout the Northwest, but it is particularly salient in Hezhou. I have seen al-Sirhindī's *Maktubat* (Collected Letters) used in the classrooms of Gedimu mosque "scriptural hall education." One of the chief exponents of the text and al-Sirhindī's integration of shari'a with *ṭarīqa* and *ḥaqīqa* is Qi Jiequan, the previous head of the Bright Heart *menhuan*. Several of Qi Jiequan's *murīd* have attained positions of teaching *ahong* in mosques in Hezhou. Qi Jiequan made the arduous trip from Hezhou to Sirhind in the Indian state of Punjab no less than five times. The proximate cause of Qi Jiequan's efforts to forge a link between Hezhou and Sirhind was the building of legitimacy for his own *menhuan* based on his father's legacy. At the same time, one effect of reviving the Naqshbandī-Mujaddidi line has been spreading al-Sirhindī thought on shari'a not only throughout Hezhou's *menhuan* but also through the Gedimu mosques. While I do not mean to overstate the importance of al-Sirhindī's works among the Gedimu or the revived link to India, it is clear that there are several overlapping elliptical diasporas that operate through the Gedimu and orientation toward Mecca may be only one among many.

#### 4. *Yihewani*

If the Gedimu legal diaspora is characterized by multiple ellipses concentrated around Hezhou grounded in a self-awareness of their inheritance from non-Islamic faiths in China, then the Yihewani legal diaspora features an exclusively Mecca-oriented imaginary. Their views on law embrace the Qur'ān, *aḥādīth*, and certain sources on the *fiqh* Ma Wanfu brought back to China from

Mecca over all Gedimu texts. In 1897, in one of his cardinal gestures at reform, Ma Wanfu attempted to replace Gedimu texts or at least reinterpret them through the lens of scripturalism. He compiled eight texts, including al-Sirhindī's *Maktubat* and ibn Kathīr's *Tafsīr al-Qur'ān al-'aẓīm* and from these authored the *Bukhara Zande*, a programmatic Yihewani text. Ma Wanfu sought to print the text and distribute to all mosques in Hezhou, but Ma Anliang, the Khufiyya general in first the Qing and then the Republican armies, destroyed the cut blocks for printing.<sup>37</sup> Ma Wanfu's attempt is encapsulated in his call for "base the teaching on the scripture" (*pingjing lijiao*).

Just as the Muslim Brotherhood in Egypt and Saudi Arabia reacted against cultural accretions in Islamic practices among Muslims in such regions, so too did the Yihewani inveigh against traditionalist Chinese Islam. This side of the Yihewani movement is that of "respecting the scripture, reforming the customs" (*zunjing gesu*). The notion of the *laorenjia* embodying the law is anathema to Yihewani thought as they interpreted such a conception as *shirk*. Hence, Ma Wanfu called for a return to the scriptural basis of the law, the mandatory use of Arabic for proclamations of faith and associated prayers, and the abolition of all activities associated with Sufi tomb complexes. Specifically, he advocated a ten-point plan of reform: (1) do not collectively read the Qur'ān, only one person can read, the other must listen; (2) do not recite the *dhikr* out loud; (3) do not do *du'ā'* too much; (4) do not worship tomb complexes; (5) do not collectively recite *taobai* (Ar. *tawba*, the atonement of sins); (6) do not commemorate the death date of loved ones; (7) do not use the Qur'ān to turn *fidya* (lit. "ransom"); (8) respect the heavenly ordained meritorious work, do not perform supererogatory prayers; (9) advocate the use of *shenghailei* (Ar. *sahl*, easy);<sup>38</sup> (10) one must perform *ermaili* (Ar. *'amala*, work) oneself and not ask others to perform for him; similarly, one must read the Qur'ān himself and not ask others to read for him (Xining Donguan Qingzhen

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<sup>37</sup> Only twenty copies were printed (Xining Donguan Qingzhen Dasi zhi bianzuan weiyuanhui 2004:270–271).

<sup>38</sup> This injunction appears to refer to an approach toward law that it should not be strenuous or exacting, but, in fact, natural.

Dasi zhi bianzuan weiyuanhui 2004:269). The Yihewani approach to shari'a practice was simplified, streamlined and free of traditionalists' doctrinal accoutrements.

While the Yihewani rejected any trace of Chinese religions in their practice of Islam, they eventually embraced political China. In the Republican period, not only did Ma Wanfu benefit from the patronage of Ma Bufang and Ma Buqing, but young Yihewani scholars, in the 1930s and 1940s, studied at Al-Azhar University in Cairo, the great center of shari'a instruction, "reuniting" exilic Chinese Islam with that of the heartland (Benite 2008). These returnees would initiate many of the Yihewani modernization campaigns through publishing magazines and journals, translating canonical texts, and establishing civil society organizations (Mao 2011).

In the Communist period, the Yihewani again anchored their interests with those of the state (Lipman 1997:208–209). As part of this accommodation, the Yihewani aligned their program for Islamic reform with state-led modernization. Maris Gillette calls this process Arabization denoted as "a cluster of ideas about development for Muslims" (Gillette 2000:76), an alternative to a state-defined path, and yet one which did not conflict with the Party's program. Within this mutuality of interests, the Yihewani have advocated an interpretation of shari'a that downplays conflicts with state law (see Chapter 3). Rather, the two are harmonized under the umbrella of progress and modernity. Yihewani are most likely to argue that the Qur'an contains the basis for scientific and medical knowledge, for example, dietary rules and prohibitions pertaining to blood prefigured the germ theory particularly in regards to medicine (HZ 11/27/2009).

Nonetheless, the Yihewani, too, have undergone acculturation to Chinese society. Ma Wanfu initially advocated the exclusive use of Arabic in "scriptural hall education" (Gladney 1996[1991]:55), yet in contemporary Hezhou, many Yihewani mosques rely on "scriptural hall language" rather than classical Arabic for instruction. Further, the reformer has, in the eyes of some, become subjected to the very currents of acculturation affecting those practices he denounced, his legacy becoming an object of reform. Much of the early Yihewani movement struck out at the

entrenched privilege of *menhuan* families and their leadership systems of hereditary succession. However, the ideology of Chinese patriliney has also affected Ma Wanfu's own family. Many of Ma Wanfu's descendants continue to hold positions of power in Yihewani mosques throughout Qinghai and Gansu. For example, his eldest grandson Ma Changqing is the current head of East Gate Grand Mosque and his second eldest Ma Bingqing is the head of White Jade Lane Mosque, both in Xining. Many Yihewani mosques also use traditionalist texts like the *al-Wiqāya*. In language, hereditary leadership, and textual basis of law, some Yihewani have become traditionalized.

Yihewani-imagined linkages to Mecca have been further eroded by the formation of the Salafiyya *jiaopai*. Many attribute the origins of the Salafiyya to a split with the Yihewani (Chapter 1). In contemporary Hezhou, several so-called Yihewani mosques are now considered heavily influenced by Salafiyya: Han Family Mosque, West Gate Grand Mosque, New Glory Mosque, Lower Wooded Field Mosque, Village Mosque and Lower Second Society Mosque. One feature common to these mosques is they have *ahong* who have studied abroad in Saudi Arabia or Egypt and retained their position in the mosque for longer than the state law-mandated six-year tenure.<sup>39</sup> The Salafiyya imprint on these mosques has reoriented their legal diaspora around a perceived closer link to Saudi Arabia.

##### 5. *Salafiyya*

Because of their marginalization by other *jiaopai* and by the Party-State, in some ways the Salafiyya experience the *umma* disconnect most poignantly. As a result, Salafiyya desire to surmount such opposition takes the form of a legal diaspora that transcends both time and space. The latest *jiaopai* to emerge in China, the Salafiyya view on law and doctrine exclusively valorizes the earliest (i.e., revealed) sources. They consider themselves partly exiled in China, in some ways more akin to Arab Muslims than to non-Salafiyya Chinese. They have exceeded the Yihewani in

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<sup>39</sup> See Gansu Province Islamic *Ahong* Management Provisional Measure (*Gansu sheng Yisilanjiao ahong guanli shixing banfa*) promulgated 12 December 2000 by the Gansu Province Religious Affairs Bureau, art. 18.

longing for a return to Saudi Arabia. The center of gravity is thus located closer to Mecca than China's Little Mecca.

The Salafiyya promote a return to the three generations after the Prophet. They are the only *jiaopai* to explicitly distinguish themselves from the Ḥanafī school, identifying with shari‘a before the *madhāhib* evolved. An “unofficial” *ahong* describes the Salafiyya view on the hierarchy of legal sources as the following: “The Salafiyya take the Qur’ān and *aḥādīth* as the basis. After this, [we consider] the words and deeds of the disciples found in the *yixun* [teachings of one deceased] often included in *aḥādīth*, as the second part. Lastly, are the legal experts” (HZ 12/21/2010). Most non-Salafiyya describe them as adhering to the Hanbalī school of jurisprudence. The Hanbalī school prefers a literalist approach to legal reasoning. For instance, on the matter of the correct practice of the *wuḍū’* (Ch. *xiaojing*), the partial ablution required before all prayer, the Qur’ān does not specify how the head should be ritually cleansed. The four *madhāhib* each offer different solutions to the problem. The Salafiyya reject all of these out of hand as man-made interpretations and violations of the central tenet of *tawḥīd* (Ch. *baizhu duiyi*), the oneness of God. The Salafiyya understand *tawḥīd* to mean that following a jurist means placing him at the level of God, a violation of law (Aibu Axiya 2009:11–13). However, to return to the problem of how to perform *wuḍū’*, the Salafiyya will most likely follow the Hanbalī recommendation because of its minimalist interpretation.

They cultivate desire for a return to Arab Islam by emulating Saudis. Salafis imitate Arab Muslims in their dress, the *thawb* and *shimāgh*, their preference for their Arabic *jingming* (scriptural name), and their sparse goatees. The architecture of River’s Edge Front Mosque, the largest Salafiyya mosque in China, most resembles that of mosques in the Saudi peninsula. All of their literature is Chinese-Arabic bi-lingual. Their reading material includes images of the mosque superimposed onto analogous images of the Al-Masjid al-Ḥarām, the two together in photographic synchronicity. Literature also includes photographs of the 1984 visit of the secretary general of the

Organization of Islamic Cooperation and the 2002 visit of officials from the Saudi embassy in Beijing.

From my field notes, dated 3 December 2010, I record the following scene that illustrates the Salafiyya legal imaginary:

The pilgrims are returning to Hezhou from the hajj. They traveled together, but upon their return to Hezhou after riding a bus from Lanzhou and before that the return flight direct from Jeddah, they are picked up at the Hezhou bus terminal by members of their respective *jamā'a* to be received by their respective mosques. I had just attended one such reception of the twelve hajjis of the Gedimu Fragrant Artisan Village Grand Mosque, the people that had the funds and government's approval to make the pilgrimage. Ten men and one woman had already arrived when I got there. They were inside the mosque praying and burning incense. A banker was the last hajji to arrive. Several hundred men and women had formed two lines. Unlike all those assembled to greet him who wore the standard navy overcoat, the banker wore the light khaki-colored clothes of a hajji. As he proceeded down the path the others had made for him, he grabbed the outstretched hands of his fellow *jamā'a* member, shook them vigorously, and then the recipient would immediately bring his hands to his face in a type of symbolic wash. Some of the men lined up kissed the hajji on both cheeks, and then performed the gesture that follows a *dū'ā'*. The gesture, what the Hui call *mo lian* (face touch), was the same as when Sufis greeted their master in a practice Sufis refer to as *zhua beireketi* ("grab baraka"). Both Sufi masters and returned hajjis had purified themselves and were without sin. The state was one of blessing, of baraka, that could be shared, transmitted, "caught," and accumulated. Several Gedimu followers told me "when the hajji comes, we want to touch his miracle (*qiji*)."

I then bike to River's Edge Front Mosque. A familiar scene greets me. The men and *manla* of the mosque had formed a line stretching over a hundred meters from the mosque entrance down New West Street. Thirteen men from the *jamā'a* had participated in the hajj. They were dropped off at the end of the line and, one by one, shook the outstretched hands of those gathered. Often, they would be hugged or initiate a hug to someone they recognized. When they hugged, they would often kiss on both cheeks. So far, their rite of reception was exactly the same as the Gedimu. However, after the embrace or the kiss, the men did not *mo lian*. Further, the hajjis continued through the line to the mosque where they would pray, but not place burning incense.

I point this out to a middle-aged man standing next to me. He responded, "That's not Islam, that's Chinese practice, and we do not do it. Go to Saudi Arabia, you will see that we are one and the same mosque. Another man added, "If you want to understand the Hui, you must understand our religion. China has ten ethnic minorities who believe in Islam, but only we, the Hui, have a direct link to Saudi Arabia. Our ancestors were those Tang Dynasty traders! Not the Salar, not the Bonan, and not the Uyghur." For the Salafiyya, practice is inextricably tied to their origins to and continuity with Saudi Arabia, scene as the heartland of Islam.

As for the spatial or geographical dimension of the Salafiyya imaginary, the Salafiyya's own history belies the imagined connection with Saudi Arabia. It was missionary activity from Central Asia, specifically Bukhara, and that chiefly of Muhammad Ḥabīb Allah that brought the Salafiyya

teaching to Hezhou. Second, there exists an anachronism between the Salafiyya intellectual genealogy and their biological or ethnic history. The Salafiyya ‘leapfrog’ the Yihewani and Gedimu in tracing their biological descent to the Arab merchants of the eighth century C.E. before the neo-conservative ideology known today as Salafiyya existed.<sup>40</sup> Even most Gedimu do not conceive of their history in such terms. Yet the desire among the Salafis to recreate the link with the “pure” Islam of the Saudis mystifies such anachronisms. Just as their ideology ‘returns’ to the three generations after the Prophet, defining the outer limits of the history of their law, so too do they as Chinese Salafiyya return to the origins of the Arab presence in China.

### *Subjection Many Times Over*

Like legal creolization, legal diaspora does not replace legal pluralism. However, as with legal creolization, it complicates legal pluralism’s model. Legal pluralism rests on a presumption of law’s externality to the subject. In its four decades of history, legal pluralism, following general trends in the anthropology of law and politics, has moved its unit of analysis from rules to processes to discourses. The spatializing trope of the “field,” as in Moore’s “semi-autonomous social field” (1978), Bourdieu’s “juridical field” (1987), or Agamben’s state of exception as “field of juridical tensions” (2005) has survived across these movements. While I find these orientations helpful in examining the interrelationships (whether contingent, overlapping, or encompassing) between legal orders, a traditional blind spot in legal pluralism thought has been how embeddedness in legal plurality, or, more accurately, mixture, shapes the space *within*, that is, subjectivity, a way of being-in-the-world. Social theory of subject formation, much of it derived from psychoanalysis, is helpful in rethinking the process by which law (often personified in the figure of the father in Freudian or signified by the Name-of-the-Father in Lacanian theory) shapes consciousness. However, psychoanalytic theory presumes dyadic (self/other) or triadic (mother/father/child) relations of

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<sup>40</sup> On the social construction of Salafiyya ideology, see generally Lauzière 2010:373.

power that do not explain the crossroads culture of Hezhou. Hezhou Hui are continuously navigating multiple points of reference each of which confers different types of legitimacy and authenticity—law, broadly understood—Chinese, Tibetan, Mongolian, Arabic, Persian, Indian, and others.

Legal creolization modifies legal pluralism that takes for granted discreet sources of law that operate together in the same social field. The examples of the *nietie/niyyah* and *wagefu/waqf* demonstrate the practice of Han shari‘a that undergoes a process of habituation. Most Hezhou Hui, regardless of *jiaopai*, conduct such practices without reflecting on the interculturalization of shari‘a and Chinese custom and law. Each time a devout member of the *jamā‘a* hands money over to the mosque administration committee or accountant as *nietie* or a businessman establishes a storefront *wagefu*, they are reproducing Han shari‘a practices without consciously reflecting on the purity of the practice. That is, the customization of *niyyah* as *nietie* or state law’s constraintment of *waqfas wagefu* does not give pause. Legal creolization is the common language of Hezhou Hui even if they cannot trace out its etymological moorings or even if they do not care to do so.

In other areas of worship, *jiaopai* fixate on distinctions of legal and doctrinal interpretation. Correct interpretation of law and orthopraxis are sources of legitimacy for claiming status as Islamic or *qingzhen* (pure and true) in the lexicon of Chinese Islam. Purity itself is contested. The traditionalists (Gedimu, Sufis, and Xidaotang) view intermixture with Chinese culture as generally an attribute of correct practice, whereas Yihewani and Salafiyya seek to purge practice of Chinese elements, a task that only invites its own deferral. For example, while both the founders of the Yihewani *jiaopai* and the Salafiyya *jiaopai* established positions against the use of *jingtangyu*, the creole Chinese/Arabic/Persian language of instruction in “scriptural hall education” in favor of Arabic-only instruction, my fieldwork in Hezhou in 2012 showed that many Salafiyya instructors and most Yihewani *kaixue ahong* used *jingtangyu* in the classroom. Reformist and neo-conservative Muslims cannot sunder their practice from Chinese language and modes of learning.

Legal diaspora encompasses those sources of authority the *jiaopai* cite to build arguments for their legitimacy in Hezhou. They base such arguments on a variety of evidentiary sources: myths, legends of wonders, hagiography of saints, smuggled texts, translation, study abroad, academic degrees, the hajj, foreign language acquisition, local histories, architectural simulation, proper dress and comportment, and of course, correct practice. *Jiaopai* form imagined links between such forms of evidence and multiple centers of Islamic authority—Mecca, Egypt, Bukhara, Sirhind, and Taozhou. These diasporic imaginaries, sometimes entailing on-going pilgrimage, study, and travel, converge in Hezhou. As such, Hui diaspora does *not* “imply a decline of ‘locality’ as a point of reference for collective identities” (Kokot, Tölölyan, and Alfonso 2004:1) as suggested by theorists of diaspora. To different degrees, members of *jiaopai* feel connection to both Hezhou and an imagined heartland, the instituted fantasy of the *jiaopai* sutures over the gap between these holy places.

The desire to overcome the *umma* disconnect, articulated differently by the *jiaopai*, suggests an analysis inspired by Lacanian psychoanalysis. For Lacan, the function of desire is “*manque à être*, a ‘want-to-be’” (1998[1973]:29). When Sufis travel to the Punjab or Yihewani modernists spend six years in Egypt studying law, these are attempts to connect Chinese Islam to nodes of authority outside China. Most importantly, in public scriptural debates or huddled furnace-side chats inside mosque offices, discourse about legal and doctrinal differences is an attempt to stake ground as the correct interpretation of the law in China. Desire sustains *jiaopai* ideology, and the object of desire, alternately, connection, recognition, orthodoxy, is never fully realized. But it is the desire itself which gives shape to the *jiaopai*, not the goal, however defined. Going beyond Lacan, for members of *jiaopai*, desire is a positive, not negative force, one that is active in the world rather than sublimated ‘down’ or ‘away’ from it (Deleuze and Guattari 2004a:341; Deleuze and Guattari 2004b:172). *Jiaopai* “schizophrenia,” internal division and doubling, Mecca-facing and China’s Little Mecca-facing, is both created by and resolved through instituted desire. Sangren arrives at a similar

conclusion in his study of Chinese patriliney: “In sum, the processes that produce and reproduce social arrangements are also the processes that produce individual desire. Desire, in turn, motivates behavior and, thus, social production” (2009b:256).

To return to the issue of subjection by multiple legal authorities and the effect of the mixed legal subject, the *jiaopai*, as with most everything, have different ways of resolving such tensions. The Xidaotang or Sufis may ‘other’ Han culture/Confucianism/Daoism as well as Tibetan Buddhism, but at the same time draw upon these alternative traditions in their syncretic solutions to Han shari‘a. Recognition or denial of non-Islamic sources reveals much about the *jiaopai*’s views of purity versus intermixture. For the Xidaotang, for example, interculturalization *is* orthodoxy. Progressive Yihewani and Salafiyya repress any non-Islamic sources on their legal subjectivity. It is noteworthy that those who observe the impact of Chinese custom on legal creolization are the (highly educated) Salafiyya. They bemoan such impurities, but remain largely powerless to change them. For the educated Salafiyya, the ideology of imagined continuity with Saudi Arabia is not enough. They exhibit a kind of melancholia (Butler 1997:18–19), living with the reminder of their dual estrangement from a culture they forcefully repress and an Islamic authority denied them by the political regime as much as their own non-Arabness.

## PART TWO. SUBSTANTIVE LAW

*Ikhtilāf ummatī raḥmatun li-l-nās.* (The difference of opinion of my community is a mercy for the people).

–Widespread (but disputed) hadith

“In his *Notes Towards a Definition of Culture*, T.S. Eliot remarks that there are moments when the only choice is between sectarianism and non-belief, junctures when the only way to keep a religion alive is to perform a sectarian split from its main body.”

– Slavoj Žižek, *How to Read Lacan* (2007: 6)

## CHAPTER FIVE: Unities in Ritual Law: The Pig and the Sheep

### *Introduction*

This chapter begins the description of the substantive law of Han shari‘a. I examine the ritual side of law, specifically matters of purity or *ṭahāra*. The next chapter describes debates about worship. Then in Chapters 7 through 9, I analyze, through ethnography, the law of social relations (*mu‘āmalāt*). My discussion of the ritual aspects of Han shari‘a borrows from Robert Weller’s (1987) analysis of Chinese popular religion as demonstrating “unities and diversities.” Weller proposed the expression to circumvent a defining debate in China anthropology between those who advocate a view of Chinese religion that underlines shared concepts (Freedman 1974; Yang 1961) and those who argue for diversity based on a plurality of perspectives and experiences (Feuchtwang 1992; Wolf 1974). Weller’s approach, similar to those of others who have proposed alternatives to the one-or-many China religion(s) debate (Chau 2006; Sangren 1987a), emphasizes the relationship between shared meanings and practice (or process and structure) in the production of religion. I invoke Weller’s “unities and diversities” as a frame to understand the ritual side of Han shari‘a. Ritual is a defining element of Hui’s practice of and reflection on shari‘a. Ritual matters are inherently relational, whereas Hui demonstrate unity in ritual; compared with the non-Muslim Han, their practice is varied—sometimes violently so—when the unit of comparison is not ethnicity but *jiaopai*.

Most broadly, Hui refer to ritual matters as *zongjiao xinyang* (religious belief) meaning the six articles of faith and five pillars of Islam. For the Hui, religious belief includes the *wugong* (five pillars), that is the pronouncement of the *shahāda*, giving *zakāt*, praying five times a day, fasting during Ramadan, and undertaking the hajj or in Chinese *niangong*, *kegong*, *baigong*, *zhaigong*, and *chaogong*. Religious belief further includes the six articles of faith or *liuda xinyang*: belief in God (*Anla* or *Zhenzhu*), belief in angels (*tianxian*), belief in the scriptures (i.e., the Qur’ān or *Gulanjing*), belief in the prophets (called *shengren* or saints), belief in reincarnation (*fusheng*), and belief in

predestination (*qianding*) (Zwemer 1951:2). The five pillars are “fixed and immutable and cannot be affected by social changes” (Engineer 2007:103).

Many Hui equate ritual law with the Arabic cognate *‘ibādāt*, which usually refers to formal ritual, mainly worship. The importance Hui place on ritual law stems from two sources. First, as the state monopolizes law in the areas of criminal matters and most social relations, ritual law becomes the residue of shari‘a. As full exercise of the prescriptions of shari‘a is denied Hui in many areas of the law of personal status, many Hui turn to ritual law as the last vestige of their own legal tradition. The second reason, to be taken up in the following chapter, is the *jiaopai*’s identification with ritual and doctrinal minutiae as constitutive of orthopraxis.

Hui view ritual cleanness as a sub-set of or prerequisite to *‘ibādāt*. That is, in order to perform an act of worship (e.g., prayer), one must be ritually pure. Hezhou Hui have several terms for the state of ritual purity including *qingjie* (lit. “clean” or “sanitary,” figuratively halal)<sup>1</sup> or, more colloquially, *qingzhen*. Rarely do they use the Arabic term *ṭahāra*, although I use the etic term in this chapter. *Ṭahāra* is the Islamic system of purity that identifies certain forms of pollution (impure substances, beings, or acts) as precluding a Muslim from a state of ritual purity as the prerequisite for prayer and requiring ablutions (Katz 2002; Maghen 1999). The distillate of ritual purity in Han shari‘a is the pork taboo, signified by the meta-symbol *qingzhen*. The core of ritual law is mirrored, on the social relations side of Han shari‘a, in the taboo against marrying women out (see Chapter 7). Thus, the practice of ritual law in the *wugong* and the pork taboo unites Hezhou Hui, like Hui elsewhere in the Northwest, in opposition to the majority Han culture. The aim of the present chapter therefore is to account for the capacity of *ṭahāra* to cohere Hezhou Hui across *jiaopai* distinctions vis-à-vis the Han, the national majority and the slight minority in Hezhou.

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<sup>1</sup> For example, the Chinese translation of *Sharh al-Wiqāya*, a commentary on a synopsis of shari‘a rules that is used in 99 percent of mosques and “scriptural hall education,” includes a volume entitled *qingjie* that refers to such ritual matters as prayer, recitation, collective or congressional worship, ablutions, burials, donations and charity, meditation, hajj, and so on (Ubaydullah 2008).

This chapter has three parts. I begin with a theoretical entry through an accommodation between structural anthropology and psychoanalysis, to posit the pork taboo as the kernel of ritual law and purity among Hui and one that anchors Hui self-certainty. The pork taboo unites the Hui in the Northwest across *jiaopai* against the Han majority. Given the pressures of the majority Han culture and the monopoly of state law, ritual law has been condensed into the pork taboo and *qingzhen* is its signifier. In the second section, I illustrate the sliding of the signifier *qingzhen* as not only halal, but ritual purity in a broader sense. As such, it has been applied not just to food, but also to everyday items, places, spaces, and bodies. I draw attention to the valorization of sheep as the dyadic complement to the pork taboo. In Hezhou, sheep attain *qingzhen* status in ritual and also social and transactional arenas. In the third section, I add to structural analysis through a return to Lacan (cf. Žižek 1989). While *qingzhen* distinguishes Hui from Han, its repetitiveness suggests a compulsion among Hui to order their environment by branding one's property, food, and self as exclusively *qingzhen*. Thus, I examine the psychological aspects of the compulsion to signify *qingzhen* in the face of the Han majority and the ubiquitous specter of contamination.

### *The Pork Taboo*

Although the five pillars, six articles of faith, and rites associated with life cycle events form the basis of ritual law for Muslims throughout the *umma* including Chinese Muslims, among the minority Hui *tahāra* has undergone condensation as the pork taboo which is signified by *qingzhen*. Restrictions about what can be taken into the body, such as alcohol and smoking, are uniformly seen by Hezhou Hui as *fei qingzhen* (not *qingzhen*, meaning *ḥarām*). Yet the clearest distinction of what is *ḥarām* is pork, and as scholars have noted, the pork taboo shapes Hui identity, particularly in regards to the Han majority, with whom the pig is associated (Gladney 1987b; Israeli 2002b; Pillsbury 1973; Pillsbury 1974). Dru Gladney has demonstrated how *qingzhen* is a sliding signifier that applies not just to dietary law through the pork taboo, but in opposition to the Han majority,

undergirds the Hui worldview (1996[1991]:14). Maris Gillette in her study of consumption behavior among Xi'an Hui, demonstrates how the Hui think in two categories: the good, pure, and moral verses the evil, contaminated, and fierce. She shows that these categories inform their views of animals and animals as analogues for people (2000:126–132). Building on both Gillette and Gladney, who draw upon Mary Douglas's (1966) structural analysis of cleanliness and taboo (the former more so than the latter), I abbreviate these associations in the analogy Hui : sheep:: Han : pig as the basis for ordering modes of conduct within Hui culture, inter-ethnic encounters, and Muslim minority-state relations.<sup>2</sup>

Since Claude Lévi-Strauss first put forth his maxim that animals are “good to think” (1963:89), he developed a structural approach to anthropology by examining the role of binary thought in language and myth (1972[1969]; Lévi-Strauss 1976:esp. chs. 11 and 12). British structural functionalists carried Lévi-Strauss's approach forward with an emphasis on jural rules in organizing dyadic structures (Needham 1973; 1979). This approach was employed by such scholars as T .O. Beidelman, the Africanist legal anthropologist (1973), and, of course, Mary Douglas who famously applied rule-based structuralism to the analysis of the Abominations of Leviticus (1966:ch. 3).<sup>3</sup> Whereas not all of these derivations of structuralism focused on animals per se, the animality of binary thinking has been a constant in the structural approach (Leach 1972[1963]).

In the most comprehensive study of taboo in contemporary anthropology, Valerio Valeri has lodged a far-reaching critique of structuralist anthropology (2000). Valeri's main argument is that the structuralist approach to taboo—dualism (e.g., holy/unclean, sacred/profane, etc.) or classification (i.e., ordering things as taxonomies)—is rooted in a Levitical–Christian worldview that was popularized by such progenitors of anthropological thought as James George Frazer and

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<sup>2</sup> Magnus Fiskesjö has demonstrated how before the mid-twentieth century many non-Han peoples in China were signified by characters built from animal radicals (2012).

<sup>3</sup> Douglas's approach has had far-reaching effects on the study of Islamic purity (Gauvain 2005; Reinhart 1991).

Robertson Smith (2000:ch. 2).<sup>4</sup> For Valeri, Lévi-Strauss and his followers reduced the relationship between taboo (or totem) and social groups to the relationship between two differences, but obscured the “process of objectification and fetishization” through which animals become taboos or totems in the first place (1994:102). Although Valeri similarly faults Freud for identifying all taboo as rooted in repressed desire, for Valeri, Freud’s notion of ambivalence holds some analytical merit (2000:60). In Freud’s analysis, taboo, as simultaneously ‘sacred’ and ‘unclean’ or “uncanny” (1950[1913]:13, 29, 31), attracts a number of contradictory forces, including unconscious desire and conscious prohibition, which generate emotional ambivalence (1950[1913]:38). The Freudian view of taboo is implicit in Valeri’s brief mention of the Muslim pork abstention in his discussion of taboo as aversion (2000:62). The rule outlawing pork consumption assumes the edibility of pork, that is to say, Muslim disgust at pork is “a redundant introjection of an explicit commandment” (2000:62). What is given up (pork) must have value in order for the giving-up to have value (2000:426). Despite (or because of) the conscious rule, Valeri’s interpretation suggests for Muslims there is an unconscious attraction for pork. In the end, Valeri’s re-examination of structuralism leads him to psychoanalysis. He finds in the thought of Julia Kristeva, heavily influenced by Lacan, pollution to be less about the disruption of a system (Douglas’s thesis) and more about the “integrity of the subject” (2000:105). He reflects:

It is the great merit of Kristeva to have insisted that taboo and pollution are centrally concerned with the subject. The subject is not given; precisely because it is developed and constituted through a process that moves from presymbolic to the symbolic, from instability to stability, and from asociality to sociality, it is constantly haunted by the possibility of its collapse. The subject’s integrity has its base in the integrity of its participation in the symbolic and thus also, ultimately, in the integrity of the symbolic (2000:111).

Evidence from Hezhou strongly supports an analysis of Hui *tahāra* that seeks an accommodation between structural and psychoanalytic thought, in the context of Hui–Han interactions. Hui ritual law unites the *jiaopai* and *menhuan* against the Han. In Hezhou, the pork

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<sup>4</sup> Talal Asad has independently developed a parallel argument through a discourse-based approach to the anthropology of religion (1993).

taboo operates to form subjects that are both “ethnic” (vis-à-vis the Han majority) and trans-*jiaopai* (working across the *jiaopai* distinctions). Hui collective abstention from pork is a fundamental part of the process of “individual” subject formation. Thus, it is not just that Hui are “ready-made” subjects, as some critics of psychoanalytically inspired models of subject formation hold, but diet is foundational to socialization and, in turn, the “integrity of the subject.” That the pork taboo transcends *jiaopai* and *menhuan* difference as a shared value has been a centripetal force in the history of Hezhou, against the many sectarian tendencies I discuss in the following chapter. Hezhou Hui identify food and commodity items or consumables as either *qingzhen* and *haliali* (transliteration for halal) or *feiqingzhen* and *weifa* (illegal). In less explicit terms, people and spaces are also organized under these categories. Thus, *qingzhen* as the condensation of ritual law organizes what one eats, what one wears, how one maintains oneself, and even where one goes and with whom. Further, the animals of the sheep and the pig symbolize the two categories as, respectively, that which is lawful, holy, and whole, and that which is prohibited, repugnant, and contaminated. At the same time, such distinctions are constantly obscured (and certainties unhinged) by the intrusions of modernity (state-led development campaigns, urbanization, secularization, “ethnic harmony” discourses, etc.).

Despite Hezhou’s location in the center of geographic China,<sup>5</sup> there are no pigs to be seen within the city’s limits. One has to go to an all Han hamlet at the outskirts of the city to find pigs.

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<sup>5</sup> It is often said that China is an “eating culture” (*chifan wenhua*), and the Hui are no different in this respect. However, the Hui by religious prohibition, abstain from what has been called a defining element of the Chinese diet—pork (Anderson 1990:213). Ernst Johann Eitel (1838-1908), a German Protestant missionary to Guangzhou, once asserted, in response to a writer who claimed the Chinese worshipped the pig, “There is no people in the world fonder of pork than the Chinese are, but there is not a trace of porcine-worship to be found among them unless the ‘worship of the pig’ consists in eating it” (1871:86). Recent archaeological evidence suggests the existence of so-called prehistoric “pig cults” in northeastern China (Li 2008:49) which are most likely sites where pigs were sacrificed as prestige goods (see e.g., Kim 1994). The pig is a mainstay in Chinese expressive and popular culture. Pig-like characters are a celebrated if not comedic element in Chinese myth and literature, such as the pre-Qin compilation of myths, the *Classic of Mountains and Seas* (*Shanhai jing*) and popular stories like the sixteenth-century *Journey to the West* (*Xiyouji*; Mair 2001:69), itself reproduced in endless television and film adaptations in contemporary China. Among Han Chinese, historically, the home was synonymous with pig-raising; for instance, the traditional character for pig is composed of the radical *shi* 豕 and the character for home is this radical plus the component for roof,

Even there, they are enclosed within pigpens and are almost never allowed outside. Even ‘suburban’ mixed Hui–Han hamlets such as South Garden Village (Nanyuancun), which contains several mosques but also a sizeable Han population, have no pigs. In Hezhou, not only Hui avoid raising pigs (as seen among Hui in eastern China) but Han similarly abjure. Han villagers say they farm vegetables, beans, broccoli, corn, cabbages, onions, and tomatoes, or grow mushrooms out of respect to Hui beliefs and to avoid conflicts with their Muslim neighbors.<sup>6</sup> Unlike many Han living in Lanzhou who may or may not come into contact with Hui, Hezhou Han do not usually propagate the myth that the reason Hui do not eat pork is that they consider the pig to be a sacred animal (*shengwu*) or that they descended from an ancestral pig.<sup>7</sup> When transporting pigs in to or out of Hezhou, livestock trucks are instructed to cover their loads with canvases or plastics so as to render them unrecognizable by a passerby. One Hezhou Hui did not see a pig until he was eight and only then it was in Dingxi City, 208 kilometers east of Hezhou (electronic correspondence, 2/8/2012). In Hezhou, I saw only a single pig, a large dead sow, black and bloated, discarded on the side of Riverside Road, the main east-west transport road, partially covered in a coarse sack.

Among Muslims, the pig is a *najasa*, a being that is inherently impure, and one of the most offensive animals under Islamic law (Katz 2002:19). In the *ṭahāra* system, contact with pigs required *wuḍū* before a person could engage in worship, but did not render the person herself defiled (Gauvain 2005:342; Maghen 1999:354). However, in the eyes of Hui, pigs or pork are not only defiling but also dangerously contaminating. Hezhou Hui uniformly denounce the pig as *buqingjie* (unclean or unsanitary) or *wuran* (polluted or contaminated). The former interpretation, what Douglas called “medical materialism” (1966:29) denotes hygiene but appears, in Hui statements, to be encompassed by a higher order symbolic classification. For instance, one Bafang

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meaning literally, “roof-over-pig” for “home” 家. And in some parts of central China, there is still a common saying, *meiyouzhu meiyoujia* (no pig, no home), meaning that the pig, who lived in the home with the family members, was a constitutive part of a cultural repertoire the complete set of which meant “home.” In short, the pig is an anchoring symbol of Han culture.

<sup>6</sup> One conclusion is that Hezhou Han have some legal consciousness of Han shari‘a.

<sup>7</sup> See also Owen Lattimore’s 1928 *The Desert Road to Turkestan* (Israeli 2002b:15).

Hui man adamantly claimed, “Pigs cannot so much as appear in Hui communities. To us, this could be called an insult” (electronic communication, 2/7/2012).<sup>8</sup> Following Leach’s analysis, Hezhou Hui demonstrate with great adroitness the connection between animal categories and verbal obscenities, and they do so indiscriminately. If a Hui wants to insult a Han, he will call the latter a *nangga* (lit. “bag small”), which means in the language of invective something like “tiny pig nipple.”<sup>9</sup> Yet a Hui will also use pig slander to insult a fellow Hui. When a Hui couple fight, they use the insults *daizhu* (stupid pig) or *daigou* (stupid dog). There was only one place where I saw the character for pig (*zhu*) in Hezhou: neighbors had written graffiti on stretches of shared wall space in the narrow alley ways of Bafang to prevent passer-bys from relieving themselves on the wall (Illus. 12).

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<sup>8</sup> Note that this rationale differs from that provided by Muslim intellectuals during the Qing period who, seeking to find concordance between Islamic ritual and Confucian rites, explained Muslims’ abhorrence of pork in terms primarily biological rather than spiritual (Israeli 1978:29). In his study of Liu Zhi’s *Tianfang dianli*, Frankel finds the author laying equal stress on the spiritual and physical or toxicological qualities of the pig (2011:149-150). Nevertheless, Liu Zhi framed his discussion in rationalized terms that would register with his Han Confucian authors, rather than identifying the pork taboo as obedience to a divine commandment.

<sup>9</sup> Although I did not encounter Han who used pig references to demean Hui, in his travels through Gansu, Owen Lattimore records a litany of such words used by Han including *pingzui* (vase-mouth) shape of hoggish mouth, *xiao weiba* (little tail), *zhuwa* (baby pig), and *xiao zhudan* (little pig’s egg) (Israeli 2002b:15).



Illus. 12 Bafang graffiti. The writing declares, "Whoever spits, pisses or shits here is a pig or a dog." Source: taken by the author (HZ 11/17/2009).

Such property protection signs are written by Hui against potential Hui transgressors. The narrow alleyways of Bafang are used almost exclusively by Hui. Han have no need to enter them. Pigs, like dogs,<sup>10</sup> which are commonly eaten in the Northwest by many Han and non-Muslim minorities, are denounced by Hezhou Hui as filthy for both their eating habits and their excretory laxity.

While pigs are concealed animals in China's Little Mecca, nevertheless there are pigs in Hezhou. In the Han portion of town, known as *chengnei* (inner city), the more 'modern' section replete with shopping centers and imitation European fashion clothing stores, there are restaurants

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<sup>10</sup> Muslim jurists have traditionally seen dogs as dangerous and impure, particularly their secretions (Roff 1988:32).

signed with the characters *dazhong* (“the people”)<sup>11</sup> meaning *feiqingzhen* (*ḥarām*) or “Han” to Hui and, as one proud Sichuanese restaurant owner on Victory Celebration Road (*Qingsheng Lu*), replied smilingly, *meiwei* (delicious) to Han (HZ 9/6/2010). With the exception of errands such as mailing a letter at the municipal post office or visiting any number of governmental buildings that are located in inner city, most Bafang Hui belonging to the elder generation will avoid entering or crossing through the inner city. Many Hui recall spotting their first pig during their first time into the inner city at one particular Han-owned butcher shop on a small street off of the “little intersection” (*xiao shizi*) in central Hezhou that sells raw and cooked pork, visible from the street. Hui boys will form small outing parties to spy the pig heads and hooves set up on bloodied tables outside the shop, with a mixture of fascination and horror. The *dazhong* restaurants serve all the staple pork dishes such as green pepper pork strings, fish-smelling pork, and red cooked pork, but, from the vantage of a Hui, from the pigsty to the plate, pork passes mostly unseen.

### Qingzhen Sheep

If *dazhong* is the signifier of Hanness in the inner city, then *qingzhen* is its structural opposite in *chengwai* (outer city) or Bafang, the poorer part of town to the southwest dominated by Hui. In Bafang or *chengwai*, all restaurants have a sign that includes the characters *qingzhen*, meaning “halal” to Hui and “Hui” to Han. While Han will often eat at *qingzhen* restaurants, Hui will never do so at *dazhong* establishments.<sup>12</sup> As with many aspects of Han shari‘a, there are dual sovereigns providing legal definitions and requirements. The first source is Hui actors. *Ahong*, Hui restaurateurs, businessmen, students, and lay people have slightly different definitions for *qingzhen*. However, most definitions overlap in a core association of *qingzhen* with the pork prohibition. A *qingzhen*

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<sup>11</sup> *Dazhong* is a metonym for *darou*, meaning *zhurou* or pork. All are associated with Hanness. *Dazhong* excludes non-Han, or in the case of Hezhou, the Hui, from being “the people.” It is the semantic-cultural equivalent of the Party-State’s policy to isolate China’s Little Mecca.

<sup>12</sup> One successful Hui restaurateur who has one of the largest *qingzhen* establishments in Hezhou said that 40 percent of his customers are Han. Han couples will even hold their wedding banquets at his restaurant.

restaurant owner provides the following definition, shared widely in Hezhou: “*Qingzhen* means *ganjing* (clean) . . . technically, the *biaozhi* (symbol) means one, no *darou* (pig), two, no alcohol, three, the lamb must be properly slaughtered according to Islamic law, and four, obeisance of proscriptions on eating certain things like animals that died, as well as blood” (HZ 3/18/2010). The restaurateur’s definition gives the classic shari‘a criteria for halal. However, there is a second legal sovereign mandating *qingzhen*—the Chinese state. The government has issued a number of regulations regarding *qingzhen* food safety and quality.

Administrative regulations on *qingzhen* food production are the most robust state recognition of *xiguanfa* (customary law).<sup>13</sup> The Measures on Linxia Hui Autonomous Prefecture *Qingzhen* Food Products Administration (1999)<sup>14</sup> (hereinafter, “*Qingzhen* Measures”), for example, requires food vendors that wish to make, sell, or do business in *qingzhen* food products to apply to the prefectural, county or city-level ethnic-religious affairs bureau which supervises *qingzhen* food (art. 11). Only with this approval and periodic inspection can one showcase a *qingzhen* food product license and sign plaque at the business establishment (art. 10; Illus. 13).

Nowhere do the *Qingzhen* Measures define *qingzhen*, but they require that the management, key personnel, and any staff slaughtering animals be ethnic minorities (art. 5; see also Gillette 2000:133), thus enfolding the Measures in ethnic preferential policy. Additionally, at the national level, the China Islamic Association Manufacture Supervisor (*Zhongguo Yisilanjiao xiehui jianzhi*) assures

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<sup>13</sup> All domestic laws and regulations pertaining to *qingzhen* food production and safety (e.g., local regulations and local government rules) use the term *xiguanfa* (Mao and Tian 2006). The exception is international agreements to which China is party, such as the Standards of Using the Word *Qingzhen* (“*Qingzhen*” *yongci de shiyong zhunze*; hereinafter, “*Qingzhen* Standards”) passed by the Twenty-second Session of the Plenary Meeting of the Codex Alimentarius Commission (CAC), in 1997. The CAC is a body jointly organized under the United Nations Food and Agriculture Organization and the World Health Organization to develop international food standards. The *Qingzhen* Standards equate *qingzhen* with halal and define it as “food products permitted by Islamic law” (*yisilanjiao lüfa xuke de shipin*; art. 2.1) and then lists the Qur’ānic requirements (art. 3).

<sup>14</sup> Measures on Linxia Hui Autonomous Prefecture *Qingzhen* Food Products Administration (*Gansu sheng Linxia huizu zizhizhou qingzhen shipin guanli banfa*), passed 11 April 1999 by the Fourth Meeting of the Eleventh Session of the Linxia Hui Autonomous Prefecture’s People’s Congress.

quality of halal food production, and its logo can also be seen on billboards and products throughout Hezhou.<sup>15</sup> The state appropriation of the symbol *qingzhen* does not prohibit many Hui businessmen from violating its trademark, if the distinguishing mark can be loosely called such. Such violations abound in Hezhou (Illus. 14).



Illus. 13 A *qingzhen* food certificate issued by the Bureau of Ethnic and Religious Affairs' manufacture supervisor. Source: taken by the author (HZ 4/8/2010).

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<sup>15</sup> Although the logo of the CIA Manufacture Supervisor, consisting of the Arabic word *halal* under which the Chinese *qingzhen* is viewable all over Hezhou, it seems the CIA Manufacture Supervisor itself is a bit of a front. At the headquarters of the CIA on Beijing's Oxen Street, the Manufacture Supervisor is not really a distinct organ, but rather consists of two men, only one of whom seems to enjoy his work. They do work related to the Manufacture Supervisor part-time while juggling other projects under the aegis of the CIA. One of the men said that really it is the Committee on Ethnic and Religious Affairs (*minzu zongjiao shiwu weiyuanhui*) that is the authoritative governmental organ supervising halal food in China. Since 1949, halal foods have been categorized as a matter of ethnicity (specifically, *minzu xiguan* or ethnic custom) and not a religious issue. If it were religious, then the Bureau of Religious Affairs (*zongjiao shiwu ju*) would have jurisdiction. Thus, the CIA serves as a façade; in the place of a government bureau, there is a quasi-governmental organization.



Illus. 14 *Qingzhen* fresh yak marrow (left) and roasted sweet potatoes (right). Source: taken by the author (HZ 10/4/2010, 11/24/2009).

The restaurateur's definition above applies chiefly to the service industry, that is, making food for immediate consumption in *qingzhen* restaurants that are found throughout Hezhou, and most heavily concentrated in Bafang. These restaurants range from garage-sized *yangrou mianpian* (mutton noodle flakes) restaurants to full-menu multi-floor banquet restaurants, complete with prayer rooms and Uyghur-style charcoal kabob grill and staffed by uniformed Hui boys and girls, to one imitation Western-style *qingzhen* fast food restaurant to controversial karaoke *qingzhen* restaurants. Additionally, the halal definition of *qingzhen* applies to mass-produced *qingzhen shipin* (*qingzhen* food products) made in a half dozen factories that are found in Hezhou and its surrounding countryside. Some of these specialize in non-meat specialty foods such as Islamic Origin *Qingzhen* Food Product Limited Company (*Yiyuan qingzhen shipin youxian gongsi*), a former state-owned, currently family-owned company on Liberation Road that makes crispy biscuits, flaky-

crust pastries, and cakes.<sup>16</sup> Most of these factories however produce mutton and beef for the domestic market. In contrast to Ningxia, where export-oriented halal food companies have increased as of the 2008 international halal joint agreement,<sup>17</sup> I found only one company in Hezhou that produces food for foreign Muslim consumption. Bafang Clear River Source (*Bafang qingheyuan*) was founded in 2005 by a Hezhou native. The headquarters is located five kilometers outside of Hezhou city on sprawling grounds of 218 *mu* where they raise, slaughter, process and package mutton and beef. They sell 900,000 sheep and 210,000 oxen annually, divided into “prepared food” and “raw meat” for a total profit of RMB 4 million to 5 million per year. In 2007 and 2008, 20 percent of their revenues came from international export, mainly in Saudi Arabia and Syria, after an innovative marketing campaign during which they gave out free boxes of their processed goods (e.g., beef steaks, “hand-pulled” mutton, and “Little Mecca Spiced Roasted Chicken” sausages) to Hezhou Hui going on the hajj who then gave them out to co-religionists. However, in 2009, the company reported zero revenues from international export citing a renewed commitment to the domestic market.

As mentioned in the preceding chapter, *qingzhen* does not signify only halal food. The signifier slides across a whole range of products, practices, bodies, places, and spaces, meaning “clean,” “pure,” or “wholesome.” In Hezhou, stores along Bafang’s New West Street or Liberation Road that runs through the city center sell non-edible products, some of which are imported from Pakistan or Malaysia, labeled *qingzhen*. These personal commodities, including facial and body soap, liquid cleaner soap for cleaning the decanter for ritual washing, shampoo, and toothpaste, are

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<sup>16</sup> The manager explained that in 1954, the government established the Linxia City State-Owned Non-Staple Food Production Factory (*Linxia shi gongying fushi shipin chang*). In 1996, his family bid to assume ownership of the factory as a “single family share-holding privately run enterprise.” They were successful and became the first private company to produce authentic halal foodstuffs in China (HZ 6/10/2010).

<sup>17</sup> The agreement was signed between the Ningxia government and such countries as Malaysia and Thailand to mutually recognize each other’s *qingzhen* authentication. In that year, Ningxia established China’s only *qingzhen* food product authentication center (Luo 2009). In the year 2011, sale to Malaysia, Kuwait, the U.A.E., Egypt and elsewhere generated more than U.S. \$10 million (Anon. 2011).

collectively known as *qingzhen richang yongpin* (clean and true products for everyday use).<sup>18</sup> Such commodities show *qingzhen* displacing or substituting for “Muslim” or “Islamic.” For such commodities, the requirement is that the product contain no pork fat and no chemical substances (HZ 11/30/09, interview with manager of an import company). For example, one merchant told me the facial lotion named SOD蜜, popular among Han women, was not *qingzhen* because of its ingredients glycerin and silicone, whereas a similar product that used lamb placenta qualified as *qingzhen* (HZ 12/3/2009).

Furthermore, *qingzhen* can apply not only to those products applied to the body but also to practices performed on the body. In Bafang, you can receive a haircut and rest assured it is *qingzhen*. One proprietor informed me that in this sense, *qingzhen* simply means the barber is Muslim. While there is no explicit shari‘a rule that the cutter of one’s hair must be a co-religionist, it seems the requirement that halal food be made by a Muslim has slid over to impose the same requirement on the one who trims your hair. Hezhou men across *jiaopai* maintain short hair. With the exception of the beard that many Hezhou men try to grow in their late thirties or forties, they keep any hair on their body short, along with trimming their finger- and toenails. An exception is preparation for the hajj when they allow body hair to grow. The universal rationale is emulation of the Prophet Muhammad as documented in various *aḥādīth*.<sup>19</sup>

Although not physically marked with the grapheme *qingzhen*, and certainly not certified as such with the ethnic-religious affairs bureau, spaces in Hezhou are also referred to as *qingzhen*. As Hezhou is the center of the Qādiriyya and Khufiyya *menhuan* in China, it is dotted with property held sacred by the respective Sufi orders. A location where a Sufi saint was born, studied, met his

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<sup>18</sup> See also Gladney 1996[1991]:186.

<sup>19</sup> In an example of another *jiaopai* practice, Sufis will shave their body hair (except their head) including their armpit and public hair depending on their status, with the exception of holy festivals like Ramadan when they permit hair to grow. An example of the former is the Grand Tomb Complex Qādiriyya order in which *manla*, in accordance with their training, will undergo periods of intense asceticism, for instance, four *jum‘a*, during which they shave or pluck all body hair (HZ 11/10/2010). An instance of the latter is the Hu Men Sufi order, based in Guanghe, which prohibits shaving and plucking of body hair ten days before the *Īd al-‘Aḏḥā* (“festival of the sacrifice”) (DX 11/14/2010).

master (often a Central Asian missionary), experienced or performed *karāma* (miracle or wonder), or died, is holy and potentially the site of pilgrimage. In 1984, during a dispute between the Qādiriyya Grand Tomb Complex and the city government over whether the latter would erect a “skybridge” near the tomb that would be higher than the burial place of the Sufi order’s founder Qi Jingyi (1656–1719), the Sufis ultimately defended their property rights and defeated the proposal (see Chapter 10 for description). One *manla* I talked to said that building a skybridge so that Han pedestrians could attend the annual Spring Festival event held in the park next to the tomb complex was “*qingzhen wuran*” (pollution of the pure and true) (HZ 11/20/2009). Another example from the Grand Tomb Complex *menhuan* is the West Gate Meditation Chamber (*Xiguan suoma*), from the Arabic *ṣawma‘a*, meaning “cloister” or “monastery.” The West Gate Meditation Chamber is on a busy street corner in Hezhou (Illus. 15). Most Sufis of the order believe it to be the spot where their founder Qi Jingyi first met his teacher Khoja ‘Abd Allah in 1674 (see Chapter 2). Consequently, the *menhuan* has maintained property rights over the real estate and protected it from encroachment by the city. One member of the order said under the leadership of the ninth *shaykh* Yang Shijun (1907–1997), the Grand Tomb Complex sued the government and won property rights (HZ 5/27/2010). Although the West Gate Meditation Chamber occupies 274 sq. m. of prime street front real estate (Linxia shi difang zhi bianzuan weiyuanhui 1996:293), the *menhuan* will not use the space for commercial purposes (e.g., establishing stores as *awqāf*) stating that the ground is *qingzhen* and holy. The idea that *qingzhen* ground is not marketable or cannot be assigned a value in monetary terms was apparent during a property dispute in the eastern ‘suburbs’ of the city. One area comprised of two *she* (communities) of some 140 families or 700 people, 80 percent Hui, of whom almost all are Qādiriyya Sufis belonging to the Ancient Tomb Complex and the natal village of its *shaykh* Mu Shisen (d. 2009), became embroiled in a property dispute with the city government beginning in 2007. The villagers would not move from their village despite the municipal government’s urbanization plans that required the demolition of the area. One point of contention

was the demolition of several graveyards within and around the village that the villagers consider hallow ground and for which they refused a dollar amount in compensation.<sup>20</sup>



Illus. 15 The West Gate Meditation Chamber. Source: photo taken by the author (HZ 4/11/2010).

*Qingzhen* is thus a polysemic signifier whose signified changes with its material context: halal food, wholesome facial lotion, hygienic haircut, holy ground, and so on. *Qingzhen* operates in the context of half-Muslim, half-Han Huizhou to demarcate semiotically that which Hue can ingest into their bodies, wear on their skin, and do to their bodies among other things. Despite the transformation of the signified, *qingzhen* is anchored by the structural logic of the absence of pork. So a meal contains no pork meat, a beauty product has no chemical or oils derived from pigs, and a holy site or even common living space is devoid of pig-raising. The complement to the pork taboo as

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<sup>20</sup> This is only the most skeletal synopsis of an extremely complicated dispute of which I give the particulars in a separate and forthcoming article.

the crystallization of ritual law applicable to all Hui despite *jiaopai* differences is the valorization of sheep.

If the pig is hard to find because it is profane, then sheep, the *qingzhen* animal to the Hui, are inescapable. Sheep are the animal the Hezhou Hui eat, wear, and trade. Hezhou at night smells of the cold, chapped, bare feet of old men on well-worn mosque carpets, the settling dust of homes being razed for urban renewal, and gnarled sheep hides smattered with blood and excreta. All *qingzhen* restaurants feature a variety of broiled, stir-fried, sautéed, braised, seasoned and spiced mutton. Noodle shops specialize in *lamian* (pulled noodle) with mutton flakes. Outside every dumpling stall is a stack of steaming metal containers containing hot mutton *baozi* and *jiaozi*. And the crème de la crème is *Dongxiang yangrou shouzhua* (Dongxiang hand-pulled mutton) that consists of broiled chunks of mutton on the bone, sometimes served with red pepper flakes.

The sheep is pivotal to practices that transcend the gastronomic and economic and touch on liturgical and theological principles.<sup>21</sup> Unlike hog humor, the sheep does not have play in language as obscenity. However, sheep may semiotically ‘animalify’ (for personify) those traits deemed most becoming of a Chinese Muslim. To illustrate the pivotal role of the sheep in Hezhou Hui ritual life, I briefly outline the annual “festival of sacrifice,” one of the two most important holidays of the year. In the festival, the animal/food/commodity ‘sheep’ signifies cleanness and purity as a religious-ethnic barrier vis-à-vis the Han as pig-consuming Other.

In the days leading up to the “festival of sacrifice” or *Īd al-’Aḏḥá*, known as *Gu’erbangjie* amongst Hui, from the Arabic *Qurbān* (sacrifice) or simply *Zaishengjie* (“festival of sacrifice”) (hereinafter, “the festival”), celebrated on the tenth day of the last month in the Islamic calendar, it is only a small exaggeration to say that there are as many sheep in Hezhou as people. The festival is meant to commemorate Ibrāhīm’s willingness to sacrifice his son Ismā’īl for God. When God sees

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<sup>21</sup> Min Shengguang, the head or *jiaozhang* of the Xidaotang, records an old saying in Hui economics, “Hui Hui hold a knife in each hand: in one, they butcher an ox or sheep and in the other, they sell glutinous rice cake” (*Huihui liang ba dao, yi ba zai niuyang, yi ba mai qiegao*) (Min 2007:134).

the devotion of Ibrāhīm, God exchanges a lamb for the sacrifice in the place of Ismā'īl. In Hezhou, the festival is one of the holiest days of the year. In the days leading up to the festival, almost all open spaces in the city become impromptu sheep pens (illus. 16). New West Street, on which are four of Hezhou's major mosques of different *jiaopai* (two Yihewani, one Gedimu, and one Salafiyya), turns into a sheep market rendering the traffic of cars, trucks, motorcycles, bicycles, and pedestrians impassible. Men purchase a sheep or two for their family or to give as a gift to relatives. They examine the sheep by touching the wool, looking at its teeth, and pick up and drop the animal. The negotiation then commences for the animal's price. Small arguments break out over the amount of money and others intervene as crowds form.



Illus. 16 A makeshift sheep pen on New West Street during Qurbān.

Hezhou Hui begin fasting the night before the day of the festival, a fast that continues until they eat the mutton of the sacrificed sheep. On the day of the festival,<sup>22</sup> a mass prayer of some 40,000 men, boys, and a few women is held at the athletic field southeast of the city. Indicative of *jiaopai* distinctions that creep into even the universal observance of the festival of sacrifice, while many Hezhou Hui claim the event attracts all Hui, really it is the *jamā'a* of the eighteen Yihewani mosques in and around Hezhou city that join. Because I was invited to Hemp Field Mosque, the center of the Xidaotang in Hezhou, I attended their sacrifice instead.

At around nine o'clock, families begin arriving at the mosque. Some brought sheep that were tethered to the tree inside the mosque courtyard. The families proceeded to the mosque prayer hall. Men hurried inside, flipping off their shoes before entering. There were over three hundred followers assembled. Prayer began when Ding Ahong, the leader of the *jamā'a*, a man in his thirties originally from Taozhou who studied Arabic in Pakistan before returning to Hezhou where he married a Uyghur woman, stood in the entry way. He was flanked by three men to his right and three men to his left, some of whom were *manla*. All faced the *qiblah* while holding burning incense sticks. The faithful had turned to face the procession at the entrance, sitting with the legs bent beneath them. The procession began reciting the Qur'ān and then performed a *du'ā'* (invocation or act of supplication), their hands held out, palms skyward, with eyes closed as they silently voiced their prayers. The Xidaotang members followed. In unison, they then brushed their hands down their faces. The procession slowly entered the prayer hall while chanting the Qu'rān. They stopped and performed *dow'āt* (pl. of *du'ā'*) on three occasions, the final one once they arrived before the *mihrāb*. With the procession in place, a handful of prepubescent girls (some with scarves on their heads) who had been waiting outside with a slightly larger number of post-menopausal women entered the mosque. Menstrual women were prohibited from entering by shari'a, one man later told me.

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<sup>22</sup> The section discussing the festival of the sacrifice is from field notes from 27–29 November, 2009.

The *jamā'a* leaders in the procession spread out and formed the first line before the *mihrāb* and the followers formed rows after them. The leaders had given their incense sticks to a *manla* who put them in a small holder to the right of a small *minbar*. The *mihrāb* itself consists of an onion-shaped relief that has a green 'door' in the center with Arabic writing and images of Mecca. Besides this, there is no other decoration or furniture in the room. Ding Ahong and another man read from the Qur'ān, then two different men did likewise, followed by all gathered. While all recited, one man came through the first row and dropped *nietie* into the laps of those men who recited. Ding Ahong then began his *khuṭbah* entitled "Scrupulously Abide by the Orthodox Teaching, Show Respect to Your Parents" (*keshou zhengjiao, xiaojing fumu*). I provide only excerpts.<sup>23</sup> He begins in Chinese, in Taozhou dialect:

Today is Erde Aizuha [Īd al-Aḏḥā] of the Islamic year 1430. On this *mubārak* (blessed) day, [we] respectfully recite the *āya*, so that we can pray together.

Who has the responsibility to sacrifice? On this matter, the majority of jurists advocate the work of Qurbān is "emphasized holy action." Those people who have the ability to do so but abandon [this duty] are *makrūh* (hateful). The Grand Imām Abū Ḥanīfa advocates that for the head of a household, Qurbān is *wājib* (obligatory) work. For a Muslim who accords with the conditions, during Qurbān, sacrificing animals is a *wājib* responsibility. These conditions are: an adult Muslim, of sound mind, and not a traveler. Exempt are those suspected of having a mental disorder or those in a coma, underage children, those traveling far from home, and those acting in the capacity of a guardian of property for others.

What are the conditions of slaughtering livestock? During Qurbān, there ought to be a clear-cut understanding of the meaning of the livestock as to why people sacrifice the animals to Allah. These understandings include for the benefit of one's family, others, or people in the world, or the parents of the deceased, relatives and friends, teachers, Muslim brothers from anywhere in the world, or the Prophet Muhammad. According to Abu Talihede, the Prophet once, while sacrificing, said, "I am willing to follow every person in my Muslim society and for Allah's favor become his messenger and contribute a sacrifice" (*Sunan al-Tirmidhi*). Many kinds of goats and sheep, ox, water buffalo, and camel can be used for the purpose of the sacrificial livestock, but they must be adult and fully grown animals. A sheep cannot be younger than six months, a goat cannot be younger than one year, an ox must be older than three years, and the youngest a camel can be is five years old. In regards to the livestock's age, you must respect the word of the herdsman. If he says this ox is three years old, and in the absence of any evidence suggesting he is lying, you should believe and not refute him. It is permitted to use castrated livestock and may be even more suitable. You must use a healthy and perfect animal for the purpose of sacrifice. It is not permitted to use a maimed or diseased animal, for example one that is one-eyed, injured, lost a foot, has a rotted ear, or

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<sup>23</sup> Appendix D contains the full transcription including Chinese and Arabic original and English translation.

some other kind of disease. You must use a healthy and perfect animal in order to express healthy and perfect submission to and respect for Allah. One sheep or goat is to be used per household. Two or more houses cannot jointly purchase one such animal. The cost of an ox or camel can be shared between seven households, the meat from which should be apportioned equally. At the time of slaughtering, on Qurbān, the optimum day is the sunset after the ceremony and *wa'z*, but it is permitted to postpone to a time before the sunset of the thirteenth day of that month. The livestock should not be slaughtered before the festival ceremony. If you purchase the livestock several days in advance of the festival, then you must meticulously care for and feed the animal. It is optimal to have me [as *ahong*] sacrifice the animal. If you will not perform the sacrifice, then have someone else replace you. I will be here [at the mosque]. Even if someone replaces you, then you still must read silently the following prayer: *bism Allah al-rahmān al-rahīm* (In the name of God, most gracious, most compassionate). The knife edge that you use for the sacrifice must be sharp. You should do everything to reduce the suffering of the animal. You cannot sharpen the blade in front of the animal. You cannot sacrifice an animal before others. You cannot start to disembowel the animal when its body temperature is still dropping.

How to distribute the Qurbān meat? You can use the meat from the sacrifice for your own living expenses, but you cannot use it entirely for your own needs. You should give some part to others. The optimum is to use one third, gift to friends and relatives one third, and give as alms one-third to the poor. The recipient can be Muslim or non-Muslim. In the case of the latter, you should explain that it is sacrificial meat and use it as an opportunity to preach. In the event that several households together buy an ox or camel, you should not roughly divide the meat when it comes time, but use a scale to equally distribute the meat. It is not permitted to sell the meat, hide, viscera, or feet and head of the sacrificed animal for money. Even the rope and cover used before the sacrifice cannot be sold off, but rather, should be given to the poor. Therefore, it is not permitted to take any part of the meat or hide of the sacrificed animal to use to pay the butcher, although you can gift any part of the animal to the butcher. If you do so, you must announce that the gift is not remuneration for the service of the butchering. The Qur'ān encourages good works. Encourage charitable works and do your utmost to expound carrying out good works and recompense in order to purify one's soul and control the development of one's selfish desires.

Worshipping Allah is the basis of the *tiandao* (natural law), respecting one's parents is the basis of the *rendao* (human law). Therefore, respecting one's parents has profound meaning. Believers of Islam must show body piety, piety toward heart and life, respect and support one's parents, do good works and good deeds. The classical writings of my country states, "The Lord gave birth to the world which was populated with man, all living things, including people of virtue. The responsibility of justice was [imposed]; one in the end cannot exceed its love. How then can there be insincerity within its benevolence?" Allah bestowed the heart in man's love. This stems from "the responsibility of justice." Islam considers the "responsibility of justice" to be a heavenly command, the principle of the Saint [Prophet], virtuous action, the guide for believers in Islam to conduct themselves in the world, the rule for showing respect to one's parents. There are no grounds for those to stand upon who do not recognize Allah, who do not know the Lord's command, who do not know the Saint's action, who do not know the able and virtuous behavior. If the direction is unclear and the cardinal principles of righteousness misunderstood, then how can one speak of respecting and supporting one's parents? "The dear thing is to know God. Those who do not embody holiness, do not hold the saint dear, live without work, stupid without study, cannot be said to have filial piety." (*Ceremonies and Rituals in Islam*, Sec. Filial

Duties).<sup>24</sup> “On the orthodox five constant Confucian virtues: benevolence recalls with emotion Allah’s nature, justice is as an agent for Allah’s universality, prayer expresses formal gratitude for Allah’s mercy, knowledge is to recognize Allah’s uniqueness, and belief is the clear command of Allah. All other relationships between monarchs and subjects, fathers and sons, husbands and wives, elder and younger brothers, and friends stem from this origin. It is probable that each (relationship) is like this (*Answers to the Rare Truth*).<sup>25</sup> In this way, we mix together Islamic belief and the intention of the four cardinal virtues of Chinese traditional culture. Such mixing makes the theory of “natural law ethical relations” agree with the intrinsic concepts of Chinese Muslims and further develop their glory. Respect the Lord and show filial piety toward one’s parents, this makes human law obey the kernel of the natural law, and emphasizes that besides respecting Allah, filial piety is the most important duty of one’s life. “On human matters, you [obey] Allah, and you [obey] your parents” (*True Interpretation of the Orthodoxy*, Ch. Extreme Piety).<sup>26</sup> With this, one respects Allah and shows filial piety, this is being loyal to one’s country and filial to one’s parents; only in this way, can belief be complete.

The holy text explains the principles by which humanity should conduct itself in society and taught humanity to understand the relationship between the natural law and the human law. Worshipping Allah is the foundation of the natural law and showing filial piety toward parents is the basis of the human law. Therefore, the Qur’ān often takes these two matters and places them on a par. We should only worship the one and only Allah, and regard him as the sole sovereign in the universe. He created all living creatures, and became the Lord that humanity should recognize. We should experience and observe the way that Allah has created, and should replay him with gratitude by persisting in the work of the five pillars: reading, praying, fasting, giving alms, and participating in the hajj. We should energetically conduct good works, do not violate the decrees of Allah, but abide by His teaching, and praise Him.

Filial piety depends on parents pursuing the Lord’s clear command through strict enforcement, and in this way there is safety and auspiciousness in the two worlds, and avoid retribution in the form of punishment in the afterworld. Birth, rearing children, death, and burial—the great events in a person’s life—none can be done by going against accepted etiquette. For funeral rites, no matter if a family is poor or wealthy, the amount spent should be according to their means, suitable and proper, and not excessive. Islam advocates thickly raise but thinly bury. In actual life, many people have missed the thoroughgoing meaning of burial rites in their conduct, and merely seek to express their filial piety before the judgments of others. They spend lavishly and make endless comparisons, even to the point of building tall architecture. Corrupt customs become common practice whose influence is spread widely.

Islam advocates peace, safeguards unity, and opposes division. No matter in regards to the intercourse between ethnicity, *jiaopai*, or within human society, [Islam] advocates unity, peace, and love. The Qur’ān exhorts: “And hold firmly to the rope of Allah all together and do not become divided.”

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<sup>24</sup> Liu Zhi. *Ceremonies and Rituals in Islam*. Vol. 21.

<sup>25</sup> Wang Daiyu. *Answers to the Rare Truth*.

<sup>26</sup> Wang Daiyu. *True Interpretation of the Orthodoxy*.

Unity is the basic aim of Islam. We should all practice what we preach and maintain the aim of [mutual] respect, this is our responsibility, our duty. Illegal activities are absolutely detrimental to our motherland, our ethnicity, our people, our religion, and our social-economic development. If we do things to violate justice, this is not only in contravention of national law, but we also will never enjoy the natural peal. The Qur'an enlightens: "And be not as those who, after the clear proofs have been shown to them, still separate and dispute amongst themselves. For such there is an awful doom."

Islam still considers patriotism and safeguarding social stability to be parts of belief. At this present moment, the building of our country's socialist-modernism is at a critical juncture. The health and speedy development of all enterprises in society depends on the guarantees of domestic stability and social order. From the high vantage of national and social development, we Muslims recognize and safeguard unity and [seek to] recover stability. We do not cause disputes, but treasure this hard-earned opportunity. Only in this way will families be happy, the nation become prosperous and strong, society stabilize, religion be amiable, and the people live and work in peace and contentment. On the contrary, if we mutually exclude ourselves, provoke disturbances, and manufacture contradictions, then we only will leave more stumbling blocks in the face of development, disadvantaging it. Not only [does such behavior] influence the unity and progress of the relationship between ethnicity and religion, but even worse, it destroys the face of national stability and influences economic development. The Prophet (may blessings be upon him) said: "Muslim and Muslim love each other ardently. If united and one limb is sick, then the whole body is sick" (*Muslim Buharli Compilation*).

Safeguarding peace is the essence of Islam. Consequently, if you manufacture ethnic or religious contradictions, this is not only prohibited by the state but will also meet with the opposition and condemnation of Muslim compatriots. Therefore, in all social activity, we want to respect one another, unite all our ethnic brothers, all *jiaopai* Muslims. Especially between *jiaopai*, we should *allow minor differences while seeking a common ground* [italics added]. We should respect others' meritorious work; do not chaotically reproach others. Any behavior unbecoming to ethnic and religious unity and development violates Muslim desire. We should resolutely oppose this. Furthermore, we should strengthen legal consciousness, assiduously study all types of legal systems, through legalization, try our best to solve all kinds of legal problems. We should be Muslims who understand and respect law, and in our practical activities, assist our motherland's economic development. Islam is the religion of Allah's contentment. We should obey the Prophet (may blessings be upon him) when he said, "patriotism is a part of belief" of the great teaching with minor differences. We should be steadfast in our faith, link the past and future, carry forward the revolutionary cause and forge ahead into the future, shoulder and promote ethnicity and the heavy burden of building the motherland, and pray for the "two world happiness" of the Muslims throughout the world, praying for Allah to grant universal grace and assistance. Lastly, I truly hope everyone seated will strengthen unity and carry forward lending a hand under the correct leadership of the Party's ethnic-religious policy to safeguard the unity of the motherland, ethnic unity, and make many contributions to the economic construction of the motherland.

After the completion of the *wa'z*, the men stand for the salat or prayer. Next, a *manla*, acting in the role of the *muezzin* and well-known in the *jamā'a* for his excellent oral Arabic, ascends the

first step of the *minbar* and with a knobby staff in his left hand and, in imitation of the Prophet, recites the opening sura of the Qur'ān. After a final word of felicitation from Ding Ahong, the men depart and leave the mosque.

Before proceeding to describe the actual sacrifice itself, I pause to comment on the Xidaotang's practice of the festival prayer, and especially Ding Ahong's *wa'z*. Much of Xidaotang observance is consonant with that of other *jiaopai* and, in fact, Ḥanafī practice the world over. For example, as the festival fell on *jum'a*, the *wa'z* (what other Muslims call *khutbah*) was delivered before the salat. The core of the liturgy is thus uniform. However, to prefigure the discussion below which addresses what Ding Ahong refers to in his *wa'z* as "minor differences" within a "common ground," Xidaotang illustrate their own practices. Such differences include the use of incense, popular among Gedimu and particularly Sufis, but *bid'a* (heretical innovation) to Yihewani and Salafiyya. The use of the walking stick based on *aḥādīth* is endorsed by the Xidaotang as well as the Gedimu, and sometimes the Yihewani, but never the Salafiyya. In the *wa'z*, Ding Ahong denounces the building of "tall architecture" for the dead (i.e., domed tombs or *gongbei*) that are equated with popular Sufism and thus distances the Xidaotang from Sufism, a boundary that is meticulously maintained by Xidaotang leaders and scholars. Further illustrative of *jiaopai* difference, Ding Ahong cites the classics of the Han Kitāb, the quasi-canonical works written by the authors of Chinese Islamic syncretism, that is, Liu Zhi and Wang Daiyu. While Gedimu and Sufis also mention the Han Kitāb, Yihewani are split on their use, and Salafiyya largely dismiss any mention of the Muslim literati.

Ding Ahong uses the festival *wa'z* as an occasion to address a variety of topics. Rather than emphasize the traditional interpretation of the story of Ismā'īl's near sacrifice as an illustration of Ibrāhīm's faith (i.e., the relationship between Ibrāhīm and God), Ding Ahong, in a Chinese (or,

specifically, a Xidaotang)<sup>27</sup> vein centers the exposition upon the relationship between Ibrāhīm and Ismāʿīl, father and son. Feminist anthropologists have asserted linkages between sacrifice and patriliney (Jay 1992) and, specifically, between Ibrāhīm’s near sacrifice of Ismāʿīl (Isaac, in the Biblical version) and patriarchy (Delaney 1998). For the Xidaotang, the story becomes a meditation on the Chinese virtue of *xiaojing* (filial piety) which is itself mystified patriarchy (Sangren, forthcoming). In so doing, the *waʿz* articulates the desire of the Other, here, in ethical and moral terms, namely the Han Kitāb authors’ on filial piety as bridging Muslim and Confucian virtue. Moreover, Ding Ahong’s discussion of the complementary relationship between “human law” (*rendao*) and “natural law” (*tiandao*), reminiscent of Neo-Confucian thought, also suggests, in the context of Hezhou, legal pluralism. Human law refers not only to the law of social relations within a family, but metonymically links to state law, both of which are harmonic with natural law or, in this case, shariʿa. Thus, in an act of ventriloquy, the language of the Other, including state rhetoric on nationalism, socialist development, anti-splittism, and the favored *āya* of the China Islamic Association (*yi-xie*) in Beijing,<sup>28</sup> is given voice through the *ahong*. Like any Hezhou *ahong*, Ding Ahong seeks recognition by the Other in appropriating its discourse, and in so doing, gains recognition from the *jamāʿa*.

The Xidaotang sacrifice ritual, including the slaughter and disbursement of mutton, is very similar to that of the other *jiaopai*. Sheep are collected in the courtyard of the mosque. Most families can afford one sheep; less commonly, five to seven families will pool their money to purchase an ox. Most families make their purchase earlier, invite Ding Ahong to perform the ritual sacrifice and then will themselves slaughter the animal. Shariʿa requires that a blessing to Allah be invoked prior to the sacrifice, although this person does not have to be an *ahong*. Still, upon the request of

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<sup>27</sup> Gedimu and Sufis also lay stress on this interpretation of Qurbān, thus many call the festival *zhongxiaojie* (“festival of loyalty and filial piety”). Strict Yihewanis and Salafiyya are less likely to call the festival by this name.

<sup>28</sup> The entrance to the CIA contains the Qurʾānic verse 3:103: “And hold firmly to the rope of Allah all together and do not become divided.” The verse is written in both Arabic and Chinese misrecognizing the split or mixed subject.

Xidaotang members, Ding Ahong will spend most of the day and the following two, going from house to house within the *jamā'a* to perform the sacrifice. On this day, there are five sheep, their legs bound, in the mosque courtyard, purchased by families who live far from the mosque, and thus Ding Ahong will sacrifice them in the courtyard.

Ding Ahong is assisted by two other men. They first pull one sheep away from the others so those yet to be sacrificed cannot see what is happening, and position it such that its head is in the direction of the *miḥrāb*. The *miḥrāb* is the cardinal point for most Muslim rituals, including the direction for not only the daily salat, but also for the festival sacrifice and the direction toward which the deceased's face is pointed in burial. Many Islamic rituals highlight the permeability of "this world" and the "afterworld" and there is a connection between the sacrifice and the afterlife. In the Hezhou conception of the *yawm al-qiyāma* (Day of Resurrection), one of the six articles of faith, the bridge or *as-ṣirāṭ* to Paradise is so thin that only a sheep or an ox can walk over it. The soul of the sheep that is sacrificed leads the soul of a deceased across the bridge to Paradise. The soul of an ox can carry seven people across, the numerological mirror of the seven families that collectively purchase an ox for slaughter.

With the men holding down the sheep, Ding Ahong stands above the animal and recites: *'bism Allah al-raḥmān al-raḥīm* (In the name of God, most gracious, most compassionate). The invocation is not only a recognition that all life comes from God, but is also a kind of contract between the family and the animal. Hezhou Hui believe the animal vows to lead the deceased or even a living Muslim, at the time of Judgment, across the bridge to Paradise. Ding Ahong then takes a sharpened blade and runs it across the jugular of the sheep in one swift motion. The animal's neck is held over a drain in the courtyard where the blood flows.

Slaughtering divides the parts of the animal that will be used in different ways, and further separates the clean from the ritually impure parts of the animal. In the Xidaotang mosque, the butcher quickly goes to work, first tying off the jugular, then cutting a hole in the inside of one of the

legs and uses this to blow air into the animal (sometimes, a bicycle tire pump is used), separating the wooly coat from the fatty layer underneath. Next, he cuts a straight line down the front of the animal from the anus to the jugular, making sure to penetrate only the fur and not the fatty meat. He then breaks off the hooves. The animal is beheaded. The hooves and head are discarded into a pile that are later taken out into the street and thrown into the gutter. The hooves and head are ritually unclean. Hezhou is one of the few cities in China where the city government hires a man (always a Hui) to ride a cart through the streets picking up lamb and ox heads and hooves that had been swept into the gutters, in the days of the festival.

The coat is then separated from the fatty layer beneath by flaying. The animal is then hung up on a tree in the courtyard by its tendons. In the cold morning air, steam rises from the carcass. If butchered in a home, this is done by hanging a line across the basement or entryway. The wool coat is peeled off and laid on the ground (inside facing up). A line is cut down the front of the animal and the viscera are pulled out and laid on the fur. The carcass is divided in half for easy transportation and bagged to be taken to households. Once delivered, the meat is immediately dropped into a large industrial-sized cooking pot where it is boiled. All parts of the animal are used except for the head and hooves. A Xidaotang man who butchered his family's sheep while I watched gasped in between cuts, "the greatest tradition among Muslims is to oppose waste altogether. If anything can be used, then it is used. If something is not used that can be used, then this is to commit a sin." The stomach, heart, lungs, and other organs are eaten. The intestines are divided into two groups: that which can be eaten and that which cannot. The intestines close to the anus, called *bairou* (putrid meat), are either boiled and eaten or used as sinew in sowing clothes. The blood is considered the most unclean. In one home, I saw the family collect the blood in a circular pan, usually used for washing clothes, where it would then be poured down a sewer.

The entire time sheep are being butchered in mosques and in households, friends, relatives, and neighbors gift mutton they have already boiled and prepared. This practice is called *songrou*

(gift meat). It arrives in small near-transparent plastic baggies, sometimes accompanied by *youbing* (deep-fried “oil cake”). In accordance with Muslim tradition, one-third of the meat is kept by the family, one-third is gifted to neighbors and relatives, and one-third is given to the poor. Additionally, poorer families will go from door to door to *zhufu* (give blessing), which is rewarded in kind and often with mutton or *nietie*. The circulation of the mutton, in the words of one Xidaotang father “embodies a type of unity between neighbors.” As *jamā’a* are primarily still geographically centered on the mosque, despite changes in residence patterns following urbanization in the first decade of the 2000s, neighbors usually belong to the same *jiaopai*. As a result, one of the central purposes of the gifting of alms (*shishe*) is to reinforce the *jamā’a*, a local extension of the *jiaopai*. In other words, while the liturgy of the festival is practiced mostly the same throughout the *jiaopai* and unites all Hezhou Muslims, at the same time, at the festival, mutton reinforces the *jiaopai*. Mutton becomes one of what the Romans called *res religiosae* (the things of religious law [Thomas 2004]) as it is the object of a series of reciprocal ‘contracts’: the reaffirmation of faith by Muslim/sacrificer toward God, itself containing a vow between Muslim/sacrificer and sheep, and then the gift and regift of mutton between neighbors. Unlike the Christian Eucharist and especially in the Catholic tradition that endorses transubstantiation, Hezhou Hui like all Muslims believe God to be indivisible and unrepresentable. Thus, there is no possibility of imbibing the body of God; rather, the *jamā’a* surpasses God. Instead of eating God, they feed the *jamā’a* and are fed by the *jamā’a*. Imitation of Ibrāhīm and Ismā’īl and the worship of God becomes, through the mediation of sheep as substitute for son, agent for God’s will as *as-sirāt*, and signifier of *qingzhen*, following Durkheim’s aphorism that “the idea of society is the soul of religion” (1912:466),<sup>29</sup> adoration of the *jiaopai*.

Citing the *Sharh al-Wiqāya*, as no portion of the sheep can be used for financial benefit, Hezhou Hui take the hide from home and gift it to the mosque as a form of *wagefu*. The mosque,

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<sup>29</sup> As applied to Chinese popular religion, see contra Feuchtwang 1992:14; Sangren 1987a.

after collecting all the hides from its members, will sell them at the sheep hide market, the second largest in the Northwest,<sup>30</sup> south of town, as a source of income. The festival of the sacrifice highlights the ritual significance of sheep as clean animals. With the few exceptions noted, most *jiaopai* and *menhuan* celebrate the festival through the same liturgical practices: a congressional salat, ritual sacrifice, and then gifting and distribution of mutton to remember the piousness of Ibrāhīm and Ismā'īl, express thankfulness to God and to cohere the *jamā'a*. Regardless of *jiaopai*, the ritual re-enactment of the sacrifice and its object, the sheep, are held in opposition to pigs, the food of the Han. At the same time, the sacrifice, universal through the *jiaopai*, becomes an exercise in solidifying one's own *jiaopai*.

### *The Compulsion to Signify Qingzhen*

Thus, the sheep and the pig are quasi-totemic animals of and for the Hui and Han, respectively. *Qingzhen* marks the boundary between the two. While consumption of mutton and abstention from pork affirm, as Gillette notes, “you are what you eat” and “they are what they eat,” (2000:126, 129), *qingzhen* works not merely analogically, as in Hui : sheep:: Han : pork. There is another internal aspect to *qingzhen*. As Edmund Leach wrote, “[t]aboo is simultaneously both behavioral and linguistic, both social and psychological” (1972[1963]:41). The pork taboo like the incest taboo is a productive prohibition in Douglas's sense of a positive re-ordering of one's environment and a creating of holiness in one's own life (1966:2, 50). It is not just the denial of something (e.g., desire for the mother in the psychoanalytic tradition of the incest taboo), but it gives rise to something else, much like the incest taboo fomenting alliance in Lévi-Strauss' treatment. However, the rule against eating pork does not turn the Hui outside (such as in endogamy's denial necessitating exogamy), but the internalized prohibition becomes the source of conscience that rejects the

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<sup>30</sup> The largest is in Guanghe County. Between Hezhou and Guanghe, some 25 million hides are traded per year. Tibet and Sichuan also have prominent sheep hide markets.

majority's animal, turning "the drive" back on itself (Butler 1997:22), giving rise to a self-reflective subject. This condition is not entirely unproblematic, however. Hui self-certainty is predicated on purity and a disavowal of the internal Other of Hanness. If a stomach full of mutton is the gastronomic equivalent of a clean soul and, further, if *qingzhen* is the Hui semantic equivalent to holy, meaning "wholeness and completeness" (Douglas 1966:51), then any suggestion of pork contamination incurs trauma, discloses the internal Other, and witnesses the return of melancholia. The result of this anxiety is a compulsion to signify (e.g., label, brand, inscribe, write, imprint, embolden, etch, and paint) *qingzhen* on things, places, and people.

Boundary maintenance thus becomes an effort to police the Chinese Other. In Hezhou, encroachment of Han sensibilities usually takes the form of what is taboo: alcohol, smoking, and pork. One of the common signs of Hanification of *qingzhen* occurs in *qingzhen* restaurants that relax their observance of Qur'ānic requirements and allow customers to drink and smoke, sometimes even serving alcohol. (Intentionally serving pork is still unimaginable.) The typical reason for permitting such prohibited behavior is alcohol sells. Profit motive trumps shari'a. Many Hezhou Hui view such Hanification of *qingzhen* as a threat to Chinese Islam. This, in turn, has led to *qingzhen* rights defense in the form of anti-alcohol movements throughout Northwest China.<sup>31</sup> In Hezhou, in 2009, Old Wang Mosque, one of the two oldest Gedimu mosques, led by the progressive and controversial *ahong* Qi Haiming, spearheaded an anti-alcohol campaign in 2009 by putting up

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<sup>31</sup> In Xining, on 9 September 1999, the highly influential *ahong* Jin Biao led what he calls an anti-alcohol campaign (*jinjiu xingdong*). He organized the *ahong* of 28 mosques to write a proposal letter, citing the Xining Religious Bureau's regulations, that any establishment having a *qingzhen* sign cannot sell alcohol. The letter demanded that the restaurants uphold the regulation, but stopped short of making demands of the government to enforce the regulation. Then, several *ahong* went door-to-door talking to restaurant managers, reminding them of the relevant shari'a rules and state regulations on sale of *qingzhen* food products. The *ahong* gave the proprietors a choice: either take down the *qingzhen* sign or stop selling alcohol. Most managers agreed. The government initially opposed the *ahong's* action, however, accusing them of meddling in politics (*chuyu zhengzhi*). Over extended meetings, the government supported the effort. The *ahong* further encouraged *qingzhen* restaurants to put up "alcohol prohibited" (*jinzhiyinjiu*) signs. After a ten-year campaign, of the 28 *qingzhen* restaurants on Grand East Street in Xining, none serve alcohol (XN 10/23/2010). Gillette documents one such movement in Xi'an (2000:167-191). For an example among Xinjiang Uyghur, based in Ghulja in the 1990s, see Dautcher 2004.

“Written Proposals for the Prohibition of Alcohol” (*jinjiu changyi shu*) fliers throughout the city.

The fliers read in part:

Troubling people is the few Muslims restaurants that still hang a “*qingzhen*” sign when they publicly sell alcohol and use alcohol to prepare food, all in spite of Allah’s command. [These people] make that which Allah deemed illegal legal which is a blaspheme against the Qur’ān and a challenge to Islam. The behavior of these people leads to many Muslim consumers being harmed by illegal food and drink. It causes many Muslims and non-Muslims to blur the concept “*qingzhen*.” Many scholars have established that making what Allah deemed legal illegal and making what Allah deemed illegal legal is *shirk* (i.e., idolatry) and *kāfir* (i.e., non-believer) behavior.

*Qingzhen* rights defense has also taken the form of localized revivals of *qingzhen* restaurants, mostly opened by Yihewani. In 1970, there were only seven restaurants, all state-owned, in Hezhou. Four were *qingzhen*, named Bus Stop Canteen (*chezhan shitang*), Driving Force for Revolution Canteen (*dongfeng shitang*), Small Intersection Canteen (*xiao shizi shitang*), and South Gate Canteen (*nanguan shitang*).<sup>32</sup> Thirty years later, there was a restaurant on every street corner. The two largest courtyard-style *qingzhen* restaurants in Hezhou are run by two separate Yihewani families. One restaurant owner, Brother Ma, recounts his experience

From 1995 to 2000, I ran a restaurant in Lanzhou’s Xigu area. Although we were a *qingzhen* restaurant, we sold alcohol, including wine and *baijiu* (hard alcohol). The alcohol sold well, better than the food. A single family might spend 400 *kuai* on alcohol but only 150 *kuai* on food. Han customers would also enjoy the restaurant.

In 2003, I attended a *xuexiban* (study group) at Water Spring mosque [an Yihewani mosque in Hezhou]. We studied *yinshi wenhua* (food and beverage culture), what is legal and illegal. At that time, I realized my fault. The restaurant I opened in Lanzhou was *qingzhen* but sold alcohol, therefore I was not *qingzhen*. I knew then that I was in error. We studied the Qur’ān for two months. We studied how to be a legitimate Muslim. We analyzed this from many perspectives: how to walk, how to sleep, how to eat, how to do business. Do not cheat others, do not swindle them or curse them. Do not sell those things prohibited by Islam. Do not eat or add those ingredients prohibited by Islam. Most animal oils are prohibited. Sheep oil is okay, as is beef oil, and fish oil. Camel or horse oil is not. Of course, pork oil is

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<sup>32</sup> There were two *dazhang* restaurants and a third type called the Workers, Peasants, Soldiers Canteen (*gongnongbing shitang*) all of which were for Han. The above information is from a series of interviews I conducted with a 67-year-old Han man who worked in one of the four workshops of the Linxia *Qingzhen* Food Payment Factory (*Linxia shi fushi shipin chang*; mentioned above) as the secretary and “instructor of political and ideological work” (*zhenggongshi*) from 1979 to 1983 (HZ 9/13/2010, 9/29/2010, 10/13/2010).

prohibited. Vegetable oils are permitted, including peanut oil and sesame oil. If it's not clear, don't use it.

All of this led to a kind of personal transformation (*xingge bianhua le*). In 2003, most *qingzhen* restaurants in Hezhou served alcohol. I started my own restaurant, the first to prohibit alcohol. Now there are seven such restaurants (HZ 3/18/2010).

Ma Ge expanded his restaurant in 2007 to hold 1,000 people. They have a prayer room that can fit 150 men and a separate one for women that can fit 30 to 40 individuals. He has a staff of 90 people, Hui, Dongxiang, and Bonan. He obtained his *qingzhen* plaque from the Linxia Prefecture Islamic Association, but he never read the Qingzhen Measures. He says, "The most important thing in opening a *qingzhen* restaurant is the boss," meaning a plaque from the Islamic Association helps, but local reputation matters more. As far as state inspection of *qingzhen* compliance, he states, "open one eye, close the other (*zheng yi zhi yan, bi yi zhi yan*)" (HZ 3/18/2010).

If there was faith in the state system of licensing and inspection, such faith has eroded in recent years.<sup>33</sup> In June 2010 reports of pork-contaminated *qingzhen* mutton spread through much of Linxia Prefecture and southern Gansu. The pork scare was traced to a factory in Zhangye, 600 kilometers northwest of Hezhou. Muslim BBS (bulletin board service) sites, micro-blogs, and chat rooms were electrified by the alert. One typical comment warned:

*Salām!* To all [my] brothers and sisters, in regards to the fake mutton (really, pork) event: [the contaminated meat] has already spread to Inner Mongolia, Linxia, and such places. Recently, at Jiaojiawan, 20 tons of fake mutton was discovered in refrigerated storage. One hundred and eighty tons has already entered grand banquet restaurants and related markets. The government is now dealing with the problem, but their effectiveness is miniscule. The influence [of eating the meat] is extraordinarily vile. Communicate this message to everyone! (Anon. 2010b).<sup>34</sup>

Within a matter of days, nearly everyone I talked to in Hezhou, regardless of the topic of conversation, brought up the scare. A Salafi couple said their teaching *ahong* instructed the *jamā'a*

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<sup>33</sup> Religious minority distrust of state food regulation has a precedent in the Hebrew National hot dog company's 1972 "We answer to a higher authority" ad campaigns. During a period of the U.S. government's first regulation of hot dog content, the kosher meat company found that the federal regulations permitted fillers and additives that were not kosher, and thus produced their dogs according to their own (higher) standards.

<sup>34</sup> According to official news reports, four arrests were made in the scandal (Anon. 2010c).

to avoid eating thin slices of lamb, saying a company in Lanzhou that distributes them was found to have added pork to the meat (HZ 6/11/2010). Even months later, a Dongxiang Sufi friend, a dentist who worked in an office on the north end of New West Street, was still paranoid. One afternoon when meeting him for lunch, he mentioned the incident spitting out the English word *pig* (the first time I heard him speak English). With the expletive still on his lips, he turned to the food stalls near his office and denounced them as “unclean” (*bu gangjing*) (HZ 9/2/2010). The following day while eating with several members of a Yihewani mosque, they interrogated the waiter on where the meat was processed. Several months later, in December, a manager of a *qingzhen* factory relates, “recently, there have been a couple incidents of polluted *qingzhen* food production, both in Zhangye, the first involving beef and mutton that was a factory problem and the second was a problem with the industry. In both cases, the boss wasn’t a Muslim.” Later in the conversation, the manager changed his earlier assessment of the religious identity of the culprit saying he was Muslim but “his [religious] consciousness was not strong (*yishi bu qiang*)” (HZ 12/23/2010). The Zhangye incident shocked the Hezhou community and many others because any food labeled *qingzhen*, in fact, may have been the opposite. The scare dissolved the carefully marked boundary between *qingzhen* and its negation or the Islamic imaginary and the Chinese Other, turning *qingzhen* into its opposite. In the months after the incident, no one knew for sure what one was eating. Valeri noted food taboos may have an associational character (i.e., analogy and contiguity) but one rooted in symbolic thinking (2000:49). For Hui, if the symbol *qingzhen* stands in for “Islam” or “to be Muslim” and is shown to be fake, then the signifying chain leads to frightening conclusions. The worst fear of any Hezhou Muslim—in consuming fake *qingzhen*—is to be a “fake Muslim” or Han-like.

In the face of the constant pressures from the pork-eating Han majority and a government widely seen to be incompetent, many Hui turn to self-help. Such recourse may take the form of excessive signification. For example, one major *qingzhen* food producer in mid-2010 began

advertising around the mosques of Hezhou as the maker of food products that were “pure pure and true” (*chun qingzhen*). *Qingzhen*, as guaranteed by state licensing bureaus, was no longer enough. A different response to perceived encroachments by Han and their associated habits of amorality upon spaces deemed to be *qingzhen* was violence.<sup>35</sup> As mentioned above, the city itself can be bifurcated between the inner city, associated with Han, *dazhong* restaurants, bars, clubs, and Internet spots, and the outer city or Bafang, comprised of tightly arranged residential neighborhoods around mosques. Hui of the senior generation will generally avoid the inner city. Their chief complaint is that *dazhong* restaurants are not *qingzhen*, but they also complain of the brash pop music blaring from storefronts and the cacophony of car traffic. Some Bafang Hui will go farther, recounting a litany of unbecoming behavior associated with the nightclubs, karaoke bars (called “KTV” in Chinese), and Internet bars located in the inner city. Much like the analogical thinking of Gillette’s Xi’an Hui, Bafang Hui also associate Hezhou Han with ‘pig-like’ behaviors, including alcohol drinking and drunkenness, fornication, prostitution, gambling and on-line gaming, obscenity and other amorality. One liminal area is Front Riverside Street which traditionally has been considered outer city and therefore Hui, but which since 2008, following the local government’s incentives for new businesses, has become the site of karaoke bars, dance clubs, and alcohol-serving *qingzhen* restaurants. Some of these businesses are owned by Han, with mixed Hui and Han patrons.

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<sup>35</sup> I have seen an example of extreme Hui-Han violence in 2005 in Henan. In that instance, on 27 October 2004, in a small ethnically mixed town called Langchenggang, on the southern banks of the Yellow River, 63 kilometers east of Zhengzhou, the capital of Henan province, a Hui-Han riot broke out resulting in the death of dozens on both sides. I visited the town a week later. Interviewees offered different accounts of the cause of the dispute. It seems a Hui man sought to back his car into a parking space that a Han man would not give him. The altercation led to a series of violent encounters that quickly erupted into all-out warfare between the Han-dominated villages and Hui-majority villages. On the second day, some 1,200 Hui and 3,500 Han were fighting in a conflict that spilled out into neighboring town. On the third day, 10,000 soldiers were called in to restore order. Soldiers stopped some seventeen trucks of Hui from Ningxia who were armed to join the fray. About two dozen people were killed, the majority Hui. The incident was one of many encounters between Hui and Han in the area, and demonstrates how violence can erupt from seemingly innocuous breaches of etiquette. The Langchenggang incident was the *only* time martial law was declared by the PRC government (Sapio 2010:56).

Events on 21 September 2010, what could be called a NIMMBY (Not In My Mosque's Back Yard) movement, demonstrated a collective response to the threat of the internal Other via encroachment of the ills of urbanization on Bafang. By 2010, there were already two KTVs on Front Riverside Street. A third KTV was established by a Hui man, named One Hundred Million Lotuses (*Yilian*). The individual rooms were tiny, with a large screen to play music videos, and a bed. The KTV was located on the first and second floors of a mixed-use residential building of 170 units occupied wholly by Hui. The building itself was in a Hui area of overlapping *jamā'a*. The KTV quickly became known as an entertainment venue that sold tobacco and alcohol and promoted gambling and prostitution. Within two weeks of its establishment, residents of the complex complained of the loud noise late at night and the presence of a brothel next door. They began protesting around the entrance of the KTV. They then went to an *ahong* of a nearby Yihewani mosque to solicit his aid. In one *wa'z*, he denounced such entertainment venues as against shari'a, but advocated the use of official means to solve the problem. The residents next went to the *ahong* of a nearby elderly home. The elderly home was a registered social welfare organ under the Linxia People's Government East Gate Neighborhood Office, but it was not approved as a religious activity center. Nevertheless the *ahong* named Hua Ersa held Friday sermon there beginning in 2007 and began recruiting *manla*. The elderly home became a de facto mosque. Hua Ersa approached the owner of the KTV and asked him to reform his operation. The owner told Hua Ersa to mind his own business saying an *ahong* has no right to tell him what to do outside a mosque, but when he persisted, the owner offered him kickbacks. This infuriated the *ahong*. He and another man named Ma Yabu, both Yihewani, organized several elder members of the *jamā'a* to go to nearby Yihewani mosques to tell the *ahong* that on a specified day, those affected would go to the KTV and peacefully tell them to close. Eventually, in addition to the elderly home, six Yihewani mosques joined the cause: West Gate Grand Mosque, Lower Wooded Field Mosque, Han Family Mosque, New Glory Mosque, Village Mosque, and Lower Second Society Mosque. These are the mosques that Hezhou Salafis claim to be

most receptive to Salafiyya thought (Chapter 4). While the mosque *ahong* continue to identify as Yihewani, their network is partly due to their ideological inclination toward Salafiyya. Inter-mosque coordination suggests that *hanyi* networks are far from defunct. As to what happened next, in the words of one *ahong* who was there:

The organizers came and talked to me. I then talked to my congregation and told them “on such and such a day, we are going to the KTV to talk to them—talk only.” But of course, as we know, on that day, things went otherwise than according to plan. There were several thousand people there, not several hundred as the police later reported. There were many youth and they began getting excited. The police were already there, but they didn’t do anything. Even when the youth began picking up rocks and bricks and threw them at the KTV, smashing its windows [Illus. 17], the police didn’t do anything. But when they broke down the door by kicking it in and stormed in—the owner wasn’t there—the police began to get worried. They talked to me and [surname deleted] Ahong. We talked to them and told them to disperse which they did (HZ 12/1/2010).

Residents of Hezhou were outraged at the KTV and the sale of sex. They found it offensive to Hui conscience. The Dongxiang dentist said that prostitution was increasing in Hezhou citing the proverb “as the forest grows, it has all kinds of birds” (*linzi da le shenme niao dou you*) (HZ 10/12/2010). None of the statements of reproach, however, admitted that some of the patrons of the KTV were Hui.

In the aftermath of the event, the United Front Work Department under the Linxia City government began an investigation. They interviewed *ahong* in the affected area. The public security bureaus posted notices.<sup>36</sup> Hua Ersa, regarded by most as the ringleader, was removed to a holding cell in Linxia County for fear that members of his *jamā’a* would try to forcefully free him.

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<sup>36</sup> The announcement, dated 23 September 2010, posted around Front River Street reads in part: “On the evening of 21 September, a large crowd of several hundred people gathered at Northern Front River Street’s middle section, and some members of the crowd engaged in smashing ‘One Million Lotuses K Song’ bar which was in the process of starting to do business. These people caused significant property damage and created a vile social impression. This is altogether a typical case of an illegal act of smashing and ruining property. In order to severely punish illegal criminal activities and in order to maintain social stability and order, the public security organs are sparing no effort to investigate this case.” The announcement deflates the number of protestors, but more importantly, claims the case to be typical. In fact, the coordination of multiple *jamā’a* was a cause of considerable alarm to the police.

Marches on the police station where the jail is housed are not uncommon in Hezhou.<sup>37</sup> Hua Ersu and Ma Yabu were charged with the crimes of destruction of property and “gathering the masses” (*juzhong*), with a maximum penalty of three years in jail, although their sentences were commuted.



Illus. 17 The One Hundred Million Lotuses KTV (center bottom) with noticeable property damage near the top of its sign. Source: taken by the author (HZ 10/8/2010).

The KTV incident shows Hezhou Hui rising up against behaviors that violate Muslim morality. The first *ahong* from whom they sought assistance saw the KTV parlor as offensive to shari‘a, but could not enforce shari‘a. The second *ahong* resorted to collective action, but which ultimately erupted into violence. This frustration results from the inability to enforce shari‘a or minimally Muslim morality. One eye-witness recalled the rage of those who broke down the front entrance of One Million Lotuses, claiming that if the owner had been there, he would have been

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<sup>37</sup> In the “suburbs” property dispute mentioned above, villagers twice marched to the police headquarters when their leaders were imprisoned without cause in 2007.

killed by the mob. The sanctity of the Hui neighborhood has been violated by behaviors associated with Han (drinking, smoking, gambling, whoring), but in fact, the establishment was run by a Muslim and partly patronized by Muslims. As with *qingzhen* mutton poisoned by impure pork, the *qingzhen* community was violated by Han behaviors. The boundary did not hold, the self was caught in bed with the Other, requiring a bulimic ejection. The danger of contamination from Han morality or lifestyle drives a “compulsion for ethnic certainty and transcendence” what Willford calls “the ethnic uncanny” (2006:37).

What is perhaps most intriguing about both incidents, Hezhou Hui alleged police knew of violations of state law, but due to corruption, they chose to look the other way and it was only after the public outcry in the contaminated *qingzhen* food case and the riot in the KTV affair that there was a post facto claim on behalf of the authorities that state law was violated. In the contaminated *qingzhen* food case, official media reported that the offending factory had illegally obtained its *qingzhen* license, which Internet commentators lambasted as a false pretense citing slack enforcement of inspection. In the KTV affair, members of the Linxia Prefecture Chinese People’s Political Consultative Conference admitted that the owner of the bar had formed ties with local authorities even though he opened for business before he had obtained an alcohol license. Further, he was able to provide prostitution to his clientele because he had formed these ties with law enforcement. Only after the riot did law enforcement officials cite the legal infractions in their closing of the KTV. In neither case did the state want to be caught enforcing popular protest generally or, more specifically, Hui law and morality.

### *Conclusion*

In day-to-day affairs in Hezhou, the boundary between what is *qingzhen* and what is not, what is sheep and what is pig, and what is Hui and what is Han is maintained by adherence to reading the sign of *qingzhen*, obeying the pork taboo, and residing within Bafang. With boundaries in place, Hui

can comfortably situate their relation to the multiple imaginaries of Han culture and Islam. Thus, Hui police the boundary by compulsively marking food, items, consumables, places, and selves as *qingzhen*. *Qingzhen*, in its many meanings (i.e., halal, whole, pure, holy, sheep, Muslim, Islamic) is principally a mark of quality control and assurance against contamination from a second chain of opposites (i.e., *harām*, pollution, impurity, pig, Han, etc.). Although composed of Chinese characters and thus grounded in the symbolic, *qingzhen* is at the same time a sign of Islam.

However, crises confuse and invert these structural dyads, revealing the Chinese Other within the Hui subject. The arbitrariness involved in judging whether food is really *qingzhen* frustrates self-certainty. While Hui command *qingzhen* to signify ritual purity, in a sense, they are commandeered by the sign. Through their compulsion to signify, they are subjugated to the sign.

I conclude with an example of a Hui who has renounced the sign. There are in China's Little Mecca those Hui who forsake the imperative to follow shari'a or, in Freud's language, repudiate the law's demands for instinctual renunciation (2010[1929]:112–113). In so doing, they exhibit a bad consciousness, not to be confused with Nietzsche's bad conscience which is the will to freedom, suppressed, and (re)directed inward (1897[1887]:110). These are the Hezhou Hui men who intermingle with Han men and women in the few bars in Hezhou, one located on Pedestrian Street at the overlap of the Hui and Han parts of town and a growing number on Riverside Street in southern Hezhou. These Hui do so without trying to hide it, which is what other Hui men do when they enter bars, taking off their white skullcap, rendering them, from the view of others "Han."

These are the self-entitled *bu hege de Musilin* (illegitimate Muslims) like Pauly. Pauly, who prefers his English name, is a Party member and a Xidaotang member—in that order. A smoker, and a fan of the American porn star Ron Jeremy, Pauly has thick amphibian lips and immense protruding eyes. He says he is a "relaxed Xidaotang member," speaks little Arabic, and does not have a great familiarity with Xidaotang rites and rituals. However, he speaks fluent Amdo Tibetan and English having grown up near Taozhou in the predominantly Tibetan countryside and attended

school in Lanzhou where he majored in English. His wife is a police officer in the Linxia City public security bureau where she is in charge of CCP thought or, as he says, “policing the police.” Over a series of dinners, always in halal restaurants that Pauly knew allowed smoking, he explained his views on Islam, Tibetan culture, and the Xidaotang. After one marathon hotpot dinner, he asked me with unusual candor, “Do you really think there is such thing as the Hui?” When I asked what he meant, he continued, “I think the Hui are simply the Han who believe in Islam, there is no difference.” When I listed the hallmarks of Hui culture, the Han Kitāb, “scriptural hall education,” the Xidaotang, and so on, he looked unconvinced and changed the topic to American pornography (HZ 1/29/2010). Bad consciousness short circuits the ideal ego, straining for recognition in the dual registers of Islam and Chinese culture. The effort to mediate between sovereigns loses its meaning. Bad consciousness shows that *jiaopai* fantasies are not hegemonic. The “illegitimate Muslims” are over it.

This chapter has shown that, at a general level, Hui in Hezhou practice ritual law as the *wugong* and pork taboo in a uniform manner and that this very practice, a reflection of shared values, unites the Hui against the non-Muslim Han. However, at many points in this discussion, the *jiaopai* have emerged. For instance, the festival of the sacrifice highlighted the different congressional prayer locations of *jiaopai* and the Xidaotang use of incense and emphasis on filial piety and the Han Kitāb during the prayer. Having established that there is a baseline or lowest common denominator among the *jiaopai*, the next chapter examines what Ding Ahong in his sermon referred to as the *jiaopai*'s allowance of “minor differences while seeking a common ground.” In many ways, it is impossible to address ritual matters in Han shari‘a without reference to the *jiaopai*. It is not surprising then that the majority of the individual or collective responses to the revelation of the Chinese Other are led by reform-minded Yihewani.

## CHAPTER SIX: *Jiaopai* Fever: Diversities in Ritual Law

### *Troubling Incense*

In 2000 in Hezhou, a standoff occurred between one of the oldest Gedimu mosques in Hezhou and Grand Tomb Complex, the base of the Qādiriyya *menhuan* in China over the use of incense. The history of the debate can be traced back a year earlier when the head *ahong* of the mosque criticized the Qādiriyya Sufis of the Grand Tomb Complex for their *sujūd* (prostration by touching forehead to ground) as a contravention of shari‘a. The *ahong* had recently returned to Hezhou from his second hajj. Upon his return, in his sermons, he reproached the Qādiriyya Sufis for their practice, arguing that *sujūd* was reserved for Allah. Muslims could study Sufi saints for their moral worth (*pinde*) but not kowtow to them. Many saw in the influential *ahong* a new influence on his teaching and said he has been influenced by Salafiyya thought abroad. He left in 2000 for a six-month training course on law and doctrine at Al-Azhar University in Cairo. His student replaced him in giving the weekly *khutbah*. The student began to vituperate against the Grand Tomb Complex for its burning of incense during prayer. While a century ago the practice was justified as beautifying the environment and cleansing the air, it had been tainted by Buddhist and Daoist religious observance, he reasoned. The Grand Tomb Complex responded by defending its use of incense as consonant with shari‘a. The vitriol intensified with the *ahong's* return to Hezhou. Members of the mosque marched on the tomb complex and there was a physical confrontation. In 2001, the *ahong* left Hezhou for a year's sabbatical in Lanzhou where he taught at a mosque. There, he continued his verbal attack on Sufi practices. This time, Qādiriyya Sufis took the fight to Lanzhou and there was more brawling between Sufis and the *ahong's* supporters.

Eventually, a third party, Qi Jiequan of Bright Heart *menhuan* intervened. Eighty-year-old Naqshbandī-Mujaddidi Sufi *Shaykh* Qi Jiequan (d. 2012), met with the young *ahong*. Illustrating the overlapping networks in Hezhou, Qi Jiequan was not only a respected leader among Gedimu

Muslims but also the younger *ahong's* uncle. In an instance of pan-Sufi solidarity against a Wahhabi-influenced Gedimu *ahong*, the followers of Bright Heart *menhuan* compiled a list of ten “words and deeds of [name deleted] who viciously attacked Sufi complex *menhuan* harming ethnic unity” (--- *edu gongji gongbei menhuan pohuai minzu tuanjie yan-xing*).<sup>1</sup> Following a long tradition in the resolution of inter-*jiaopai* doctrinal disputes called *jiangjing* (scriptural debate), Qi Jiequan engaged the younger *ahong* on the issues raised. Qi Jiequan prepared for the debate by collecting Arabic and Persian texts on law, doctrine, and theology to defend the Sufi practice, including the use of incense. He persuaded the younger *ahong* that the practice was not corrupt, and the confrontation cooled.<sup>2</sup>

This chapter asks, why do small things like burning incense matter?<sup>3</sup> The conventional view on *jiaopai* disputes is that such doctrinal differences are excuses. They are manipulated by charismatic leaders to mobilize their followers, attack rivals, and gain more converts and power. Historically, such conflicts also involved potentially vast wealth in the form of pious endowments (*awqāf*) and other assets that were seized in the course of disputing. Ma Tong, who established the “three great *jiaopai*, four great *menhuan*” system as state-backed convention, first advocated this position in the 1950s (e.g., 1989:19; 2000[1979]:86).<sup>4</sup> This view, which could be called, alternately,

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<sup>1</sup> The list of controversial statements and deeds of the young *ahong* includes *inter alia*, number eight: “Men who take incense cannot go up to the tomb complex. Women who take incense to the tomb complex lose their *īmān* (belief)” (*nanrenmen na xiang buneng shang gongbei. Nürenmen nashang xiangshang gongbei, diu le yimani le*). Number nine reads, “During Ramadan [a Muslim] cannot burn incense, burning incense negates the fast” (*Zhaiyue li bu dianxiang, dianxiang huaizhai*).

<sup>2</sup> The conflict did not end, however. The Sufis claim eight years later they obtained their revenge. Apparently, the *ahong* in question had a side business in forging documents for Muslims, especially from Xinjiang, to go on the *haijij* via Thailand. The authorities discovered the illegal business and suspended the *ahong's* license. He was on a probationary period in 2008 and could not lead any religious activity, but did so in violation of his probation. A letter from the prefectural-level religious affairs bureau on 17 March 2009 temporarily suspended his license. In the Sufis’ eyes, the punishment was for his insults against them several years earlier although the letter does not mention the cause of the suspension (most likely it was for the forged visas). The foregoing is from interviews I conducted with the Gedimu *ahong* (HZ 12/8/2009, 12/20/2010), members of the Grand Tomb Complex (HZ 1/29/2010), and Qi Jiequan (HZ 12/10/2009). The two sides (Sufi and the Gedimu *ahong*) still strongly identify with their respective stances.

<sup>3</sup> I have already shown, in Chapter 1, the dispute between factions within the Salafiyya *jiaopai* stemming from disagreements over the Chinese translation of the word *istawaā*.

<sup>4</sup> As related in Chapter 1, Ma Tong first arrived at Hezhou in November, 1949, and conducted field research on and off for several years. After joining the CCP in October 1952, in 1954 he wrote “Materials on the Survey of *Jiaopai* and *Menhuan*” (*Jiaopai menhuan diaocha cailiao*) for the Linxia Prefectural Chinese Communist Party Committee and United Front Work that printed and distributed the material to all units. This material

materialist in reductive Marxist terms or realist in the Machiavellian sense,<sup>5</sup> has gained recognition by not just the Party-State but also by Western scholars (see e.g., Dillon 1999).<sup>6</sup> Ma Tong wrote explicitly against the previous dominant explanation for sectarian violence that uncritically accepted doctrinal difference as the underlying cause for conflict (Ma 2000[1979]:109). However, in the materialist-realist explanation, differences (legal, doctrinal, or liturgical) are objectified, manipulatable, and superstructural.<sup>7</sup>

I dissent from the materialist-realist explanation which fails to account for the symbolic dimensions of law and doctrine, the tremendous psychic investment non-elite Hui place in ritual

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later became the basis for his masterpiece *An Historical Record of China's Islamic Jiaopai and Menhuan System* (*Zhongguo Yisilan jiaopai yu menhuan zhidu shiliu*) (1979). Source: interviews with Ma Tong (LZ 3/10/2010, 9/25/2010). See also Ha 2009:160.

<sup>5</sup> Ma Tong was not the first to advocate this position nor was it distinctly Marxist. The Reverend Claude L. Pickens, Jr., for example, who lived in Hezhou during the 1930s, wrote in 1949 that the differences between the schools are “mainly on the surface” (Pickens 1949:49). Nonetheless, the Chinese literature has reproduced a kind of vulgar Marxism. Thus, I do not address my critique to materialist approaches per se, but rather to the simplified view of religious doctrine propagated in much of the Chinese literature.

<sup>6</sup> For an example of such an analysis between *xinjiao* (new teaching) and *laojiao* (old teaching) schools among Taiwanese Muslims, see Pillsbury 1978.

<sup>7</sup> The so-called *dhikr* (remembrance of God) controversy, which has been called “one of the thorniest problems in Sino-Muslim studies” (Lipman 1997:65 fn. 16), exemplifies past approaches to the study of sectarian violence in the Muslim Northwest. Beginning in late eighteenth-century Gansu, Sufis of the Khufiyya *ṭarīqa* fought the Jahriyya *ṭarīqa*, the former advocating a silent *dhikr* or remembrance of God and the latter practicing a vocal form, resulting in untold deaths. Historian David Atwill asks how a “seemingly inane liturgical issue” could result in so much killing (2005a). Explanations for the violence are indicative of scholarly approaches to inter-*jiaopai* disputes. Joseph Fletcher identified the eighteenth-century Naqshbandiyya Sufi revival in China with shar’ism defined as “a preeminent emphasis on the strict observance of the shari‘a” (Fletcher 1995:5; Israeli 2002c). In other words, *jiaopai* that had arrived more recently in China sought a stricter adherence to shari‘a over those Muslims overly influenced by Chinese custom. Chinese scholars such as Ma Tong have criticized Fletcher arguing that there was a complex number of factors leading to the dispute, and that the *dhikr* was epiphenomenal.

Western scholars have mostly agreed with this synopsis. Lipman finds reasons in “northwest China, not in Islam itself, in the characteristics of Gansu Muslim society and its history, not in any inherent qualities of Sufism, Naqshbandism, or Islamic doctrine” and thus looks to “local ecologies, local ethnographies, pressure internal to the Northwest Muslim communities, and influences from both local non-Muslim society and the Qing state” (1997:91; see also 1999:571-572). Gladney provides an alternative explanation by viewing conflicts over chanting of the *dhikr* as symbolic contests to align one’s *jiaopai* with orthodoxy, as seen by the Chinese state, that is, as orderly, but not orthodox in an Islamic sense (1996[1991]:320-321). In other words, Hui disagreements over ritual law are framed by the debate set by the hegemony of Chinese orthodoxy. Atwill, in his overview of the problem, concludes that the root of the violence was “the *menhuan* system and the myriad social injustices it fostered” (2005a) which is, roughly, a restatement of Ma Tong’s view. To summarize, the scholarship provides reasons grounded in rationales that are expansive (in that all causes are considered), secular (as opposed to motives influenced by Islam), or critical (Sufi *menhuan* as degenerate).

and liturgical protocol or *'ibādāt* (acts of worship).<sup>8</sup> I do not dispute that power is always one element in *jiaopai* contests, as well as (elite) charisma and its complement (lay) obedience, and that in the historical development of the *jiaopai*, both Hui leaders and Qing officials orchestrated many conflicts. However, the materialist explanation reduces Hui to either egoistic profit-maximizers or unreflective automatons. Hui do switch *jiaopai* allegiance suggesting that they are more than passive followers. Personal authority, tradition, and charisma are coercive but not hegemonic in Hezhou. At the same time, I do not take Hui representations, often self-serving, at their word. Instead, I locate my analysis in the banal.

Since the late 1970s and 1980s, a variety of social theorists from Bourdieu (1977; 1990[1980]) and Certeau (1984) to Foucault (1980a; 1980b) have refocused social scientific analysis on everyday practice, performance, and bodily movement as productive of or resistant to dominant orders (see e.g., Scott 1990). These theories have energized a movement in socio-legal studies and anthropology of law to examine those aspects of social life outside legal institutions (Ellickson 1991; Ewick and Silbey 1998; Greenhouse, Yngvesson, and Engel 1994; Merry 1990; Sarat and Kearns 1993). In the anthropology of Islam, Talal Asad (1993) and Daniel Martin Varisco (2005) have taken Geertz among other ethnographers to task for eliding the everyday practice of Muslims.

Similarly, Saba Mahmood (2005), in her study of a *da'wa* (piety) movement among Egyptian women has emphasized the particular value of examining *'ibādāt*. She laments, "To date, debates about the proper interpretation of religious obligations (such as veiling, fasting, or praying) have been treated as inconsequential in most analyses of the sociopolitical landscape created by the

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<sup>8</sup> Methodologically, I benefitted in some ways (and was handicapped in others) by being a complete outsider (in terms of natal place, religious affiliation, ethnicity, and nationality) to these debates. As a result, my interlocutors were surprisingly passionate and forthcoming, in effect, trying to convince me that their perspective was the correct one. Of course, I would not be the first anthropologist to be hoodwinked by disputants in the field, and I am sure along the way, I had no small amount of Qinghai wool pulled over my eyes. At the same time, in the course of my research on sectarian disputes, I was given access to venerated Sufi *shaykhs*, preserved sacred documents some of which had never before been shown to a Westerner, sacred relics and objects, personal libraries, and stashes of evidentiary material in the form of local histories and accounts by sectarian leaders. For a similar experience, see Sangren 2000b:50.

Islamic Revival over the last forty years” (Mahmood 2005:119). Theorists of the place of religion in the public sphere, however, have demonstrated that the “regulation of such quotidian practices is of eminent political concern because they play a crucial role in shaping the civic and public sensibilities essential to the consolidation of a secular-liberal policy” (Mahmood 2005:73). Whereas Mahmood frames *‘ibādāt* as ethics, most Islamic jurists would include *‘ibādāt* in jurisprudence, that is, as law (al-Jaziri 2009).

Admittedly, many Orientalist scholars have distinguished *‘ibādāt* from legal rules (e.g., Schacht 1964:1) and in the process downgraded the importance of *‘ibādāt* that is very much Mahmood’s point. Recently, scholars of Islam have demonstrated the ways in which quotidienne rituals produced difference either within Muslim sects (Haider 2011) or between Muslims and non-Muslims (Halevi 2007).

Drawing from the observation that power inheres in mundane practice, performance, and ritual observation and my own participation in ritual life in Hezhou, I maintain that such liturgical minutiae are constitutive of *jiaopai* difference, identity, and boundary maintenance. I understand such doctrinal differences as symbols and signs that,<sup>9</sup> in their aggregate, inform consciousness (legal, ethical, religious, and doctrinal) often in oppositional relations. Previous chapters described ritual law as *wugong* (the five pillars). In addition to the *wugong* and pork taboo, Chinese Muslims further include the rites accompanying the major life cycle events, such as birth, coming of age, to some extent marriage (although there is overlap with the law of social relations), and death as part of “religious belief” or ritual law. Unlike the immutable *wugong*, local custom shapes the practice of such formal rites. Local custom influences Islamic rites everywhere (Buxbaum 1968:17–37, 107–

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<sup>9</sup> My use of symbols draws from Victor Turner’s work on ritual process among the Ndembu. Turner conceived of rituals as symbolic action. By symbol, he referred to objects, activities, words, relationships, events, gestures, or spatial units (Turner 1967:19). By sign, I refer to semiotics based not just on signification (as in Saussure’s signifier/signified), but revisions to the concept, including Voloshinov’s emphasis on materiality, meaning and social context (Voloshinov 1986[1929]) as well as post-structural reformulations that lay stress on the relationship between signifiers and not just the dyad signifier/signified (Derrida 1997[1974]; Lacan 2006b; Lacan 2006e).

144, 179–201; Coulson 1959; Rosen 1995), and Chinese culture has similarly impacted ritual law among the Hui (Ma 2006b; Yang 2003b). However, the integration of Chinese custom with shari‘a has been refracted through the *jiaopai*, resulting in differences between them.

Hui in Hezhou invest particular importance in ritual for two related reasons: the first stems from ritual law’s centrality to the religious experience and the second results from the experience of minorityhood in a socialist state. Ritual law, as the devotional exercises and rites of passage that organize liminal transformation, structures relations between a follower and God and thus has a holy character found only in vestiges in the law of social relations (Gennep 2004[1960]; Turner 1977; Turner 1969). Adherence to ritual law connects one to God, and consequently there is considerable investment amongst Hui in orthopraxis, specifically because of their minority status. Hezhou Hui are particularly aware of interculturalization between Chinese religions and Islam, because of the successive reform movements that have tried (unsuccessfully) to purge Chinese Islam of its Chinese elements.

The overriding feature of Chinese Islam is its minorityhood. Hui perpetually guard against contamination via food or sex (thus the two foundational taboos in the pork taboo and the taboo against marrying women out) from Han. Under constant pressure, *jiaopai* contend for position as the correct interpretation of Islam through orthopraxis. The momentum of the historical successive waves of reformist Islam (and the violence it engendered) is still felt, indeed acted out, by *jiaopai* in contemporary Hezhou. *Jiaopai* are the sedimentation of these historical reformist waves. Usually (but not always) earlier *jiaopai* aligned their interests with those of the state against “later arrival” reformist *jiaopai*. Established *jiaopai* mobilized state courts to condemn recent arrivals as *xiejiao* (heretics [Lipman 1999; Lipman 2005]). Most often, the issue is not so much who has the “correct truth” as has been the fulcrum of debate in Confucianism versus Daoism or Buddhism (Feuchtwang 1992; Weller 1987), as religious belief is generally universal across the *jiaopai*, but who has the

“correct practice.”<sup>10</sup> Thus, in the context of Chinese Islam, the label *xiejiao* has more to do with heteropraxis, even if some *jiaopai* use the Confucian lexicon of orthodoxy (*zhengjiao* or *zhenyi jiaoyi*) as a claim to authority.

*Jiaopai* have been historically divided on issues of liturgy and practice, including such quotidian concerns as who has the authority to read the Qur’ān during gatherings, the role of incense in prayer, proper dress during funerals, order of breaking fast and prayer, the prevalence of giving *nietie* (Ar. *niyyah*) or alms during ceremonies and to whom, modes of remembering deceased family members, and treatment and handling of the Qur’ān—to give only a partial list.<sup>11</sup> Additional sources of inter-*jiaopai* irritation often focus specifically on popular Chinese Sufism, especially the legitimacy of intermediaries or Sufi *shaykh*, the practice of *chujia* (“leaving the home”) or asceticism among male youth, the circulation of hagiographies and tales of *karāma*, inherited succession within Sufi lineages, and, as seen in the anecdote above, the common use of incense in worship. These disagreements over ritual matters are not just interpretive differences between *jiaopai*, but, in the development of Islam in Northwest China, have historically constituted them.

In addition to bodily practices (e.g., ways of prayer, forms of bereavement, even headdress), *jiaopai* differences are also sustained by the representation of such practices in writing. The Yihewani have, broadly, aligned their nationalist, progressive, modernist version of Islam with the interests of the Party–State. At a general level, Yihewani Islam is the Islam China represents to the outside world. For example, whenever foreign Muslim dignitaries visit Hezhou, they are taken to South Gate Grand Mosque, the Yihewani stronghold. For non-Yihewani groups, signification practices face more obstacles. One, Sufis, for example, are on the whole more rural and less literate than their Yihewani peers. Two, while Sufis and Salafiyya have received formal legal recognition,

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<sup>10</sup> James Watson has argued “To be Chinese is to understand, and accept the view, that there is a correct way to perform rites associated with the lifecycle, the most important being weddings and funerals (1988:3).”

<sup>11</sup> For a detailed itemization of common doctrinal points of disagreement between Khufiyya, Jahriyya, and Yihewani in Inner Mongolia in the 1940s by Japanese scholar Iwamura Shinobi, see 1950:ch. 5.

they face more constraints (e.g., Salafiyyas are limited to the mosques they can build and Sufis cannot build tombs).<sup>12</sup> Nevertheless, all *jiaopai* and *menhuan* write their own local histories to gain greater recognition and legitimacy from not just the state, but also other *jiaopai* and *menhuan*, the larger Hui population, scholars, and foreign Muslims.

Both individual and collective practices as well as their representation constitute a bottom-up jurisprudence (see McCann 1994:21) or Hui *fiqh al-ʿibādāt* from below. While Hezhou Hui do not have the institutional or educational resources to write a *fiqh* for Chinese Muslim minorities, I view doctrinal differences as reflected and articulated in their signification through practice and writing (Kevelson 1988) as a kind of indigenous jurisprudence. While *jiaozhang* (heads of *jamāʿa*) or other well-educated members may write *jiaopai* histories replete with defenses of their ritual forms, the non-elite members of the *jiaopai* or *menhuan* are the ones reproducing practices. While such differences are largely naturalized, in times of crisis (e.g., a *jiaopai* leader returns to Hezhou after studying revivalist teachings) the banal may turn violent.

The historical conflict since the scripturalist and neo-conservative *jiaopai*, the Yihewani and Salafiyya, respectively, or whom the Sufis call, collectively, Wahhabi, entered China is summarized as the following opposing propositions. One, the Wahhabi view themselves as bringing the pure Islam to China and seek to eradicate the Gedimu, Sufis, and Xidaotang (hereinafter, “traditionalists”) as corrupted by Chinese culture. And two, the traditionalists envision themselves as preserving a Chinese form of Islam against the Wahhabi who have distorted and sanitized the

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<sup>12</sup> There is a perception among many Salafiyya leaders that it is more difficult for them to obtain official status for their mosques. The history of River Rapids South Mosque, also called Little South Mosque, located in a courtyard in southeastern Bafang would seem to give some credence to this claim. The mosque seems to have had difficulty gaining registered status. At the same time, the mosque is one of the few located in a previously private courtyard, is small, and much more modest than almost any other mosque in Hezhou. Thus its difficulty in gaining approvals may be explained by its atypical appearance as much as its *jiaopai*. Several Sufi leaders claimed that since the 1980s the government has prohibited future construction of Sufi tomb complexes. While conversations in the land administration bureau of Linxia City suggested tomb complexes are discouraged within the city limits, Sufis themselves do not desire to build in noisy and congested cities and prefer the more tranquil outskirts. In Hezhou, construction on the Cherished Tomb of the Sacred Heart began in 1984. The Spirit Bright Hall Tomb Complex began building in 1991 and was completed in 2010. Both are located on North Mountain.

message of the Prophet. The Wahhabi transfer anxiety about pollution from Chinese Buddhism, Daoism, Tibetan Buddhism, ancestor worship, or even godless Han secularism to the traditionalists as *jiaopai* others. They, in turn, countertransfer self-doubt about the depth of their interpretation of Islam onto the Wahhabi. Within the two groups of traditionalist and Wahhabi *jiaopai*, *jiaopai* define themselves against the others. Sometimes, as with a few Sufi *menhuan*, the greater the physical and theosophical proximity, the more intense the enmity.<sup>13</sup> These oscillating relationships exist both between the collective dispositions of the *jiaopai* and between the *jiaopai* and individuals.<sup>14</sup>

In preceding chapters, I have discussed the *jiaopai* in their relational and structuring capacity toward *jiaopai* others and individuals. In the present chapter, I unsettle the structuredness of *jiaopai* by demonstrating the instability, uncertainty, and contingency of the *jiaopai/menhuan* system. The bottom-up Hui jurisprudence of *‘ibādāt* maintains inter-*jiaopai* as structures. Following Leach (1977[1964]) and Barth (1969), however, I argue that such structures may feign their own integrity, as with the Hui expression “The Old Teaching is not old and the New Teaching is not new” (*Laojiao bu lao, xinjiao bu xin*). Rather, boundaries are porous and individuals slide between them, often times surreptitiously.<sup>15</sup> The fragility of the system demands an overinvestment in its categories generative of a *jiaopai* fever, much like the “ethnic uncanny” (Willford 2007). Moments of *jiaopai* change and conversion highlight the irreducibility of Hui legal subjectivity to mere interest. My main argument is that in the absence of an ultimate authority to decide questions of doctrine and interpretation in Islam, and under constant pressure to maintain the Hui/Han boundary, Hui *jiaopai* sublimate a symbolic life-and-death struggle through the banal. In the remainder of this chapter, I develop my thesis through an investigation into funerary practices in

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<sup>13</sup> There is often a correlation between the physical distance between the Sufi tomb complexes of different *menhuan* and the relationship between their *turuq* (paths or ways) as they were once administered under the same *menhuan* and over time created divisions. In Hezhou, the two clusters of Sufi tombs, the Khufiyya to the west of Bafang and the Qādiriyya to the northwest exemplify this divisiveness. The clusters were historically united but their ties have since eroded.

<sup>14</sup> On transference see generally Willford 2006.

<sup>15</sup> Sometimes, individuals or whole *jamā‘a* exist between two *jiaopai*, like the half dozen progressive or Salafiyya-leaning Yihewani mosques (Chapter 4).

historical and contemporary Hezhou, followed by an example of the violent banal in contemporary Hezhou.

### *Graveyard Politics in Hezhou*

The wide scarp of loess to the north of Hezhou rises a distance of several hundred meters like a chalky band. The ledge known as North Mountain (Bei shan) extends from east to west for several kilometers. It is steep in parts, and corrugated with deep ravines that cut still farther north away from the city. The loess of the mountainside has only about a foot of arable soil beneath which is sand. Residents of Hezhou call the earth *baitu* (white soil), and manage to grow precarious patches of potatoes and corn on eroded steppes. Urban sprawl and escalating real estate prices in the city core have seeded small, but growing, pockets of settlements, particularly in the shaded valleys, consisting of the poorest Hui households in Hezhou. A minority of equally impoverished Han households concentrate on the portion of the escarpment east of the Southern Song area near Longevity Temple (Wan shou guan), an active Daoist monastery, while the Hui live in slouching homes of rammed earth, to the west of the temple.

In 1958, during the “struggle against the privileges of feudalism and religion” reform, the largest cemetery in Hezhou, located outside the northwest corner of the old city wall and comprised of graves that were several hundred years old, was destroyed. The cemetery was on land claimed by Da Gongbei, the Grand Tomb Complex. In the 1960s, to convert the space into a public park, currently called Red Park Public Square, the graves were relocated to the western, unpopulated half of North Mountain. Sufi tombs that had similarly been razed and burned in the city proper were rebuilt on the western half of North Mountain. During this period, Hui began to bury their dead on the loess slopes. In 1985, when the Linxia City Islamic Association was established, it took over management of the area naming it the Muslim Public Cemetery (*musilin gongmuqu*). Thus, the Muslim Public Cemetery is sacred ground, but also carries memories of desecration and dislocation.

The Muslim Public Cemetery was designed to be a burial space for Muslims exclusively, although there are a few scattered Han headstones, their ethnicity indicated by the colorful plastic pinwheels and paper cutouts that decorate the tombs on “Tomb Sweeping Day” (*Qingming jie*) each spring, a festival not celebrated by Hui. There are more Han graves on top of the loess plateau. At the base of Longevity Temple, where there are a few clusters of Han households amid the Hui, Han schoolchildren running down the steep hills will not go west toward the Muslim Public Cemetery saying “*nali you gu!*” (there are ghosts over there).

Several thousand Hui are buried in the Muslim Public Cemetery. The Muslim Public Cemetery is operated by the Muslim Public Cemetery Committee, consisting of a group of elder men from various *jiaopai*. The prefectural government was permitted to issue rules on burial and interment that were an exception to the law that requires all bodies interred to be cremated before interment.<sup>16</sup> Rather, in the Muslim Public Cemetery, pursuant to Qur’ānic regulations, Muslims are inhumed, their heads toward the north, and faces turned to Mecca. While the disposition of the body is uniform, here the similarities end. Funerary practices differ according to *jiaopai* with burial rites comprising one aspect of caring for the dead. To explain the differences, I describe ritual practice associated with *guizhen* (lit. “return to the truth” or dying)<sup>17</sup> in Hezhou with reference to *jiaopai* distinctions as evidenced in their practices and articulated by interlocutors and their writings.<sup>18</sup>

Before addressing specific differences in burial practice, I first provide a basic outline of the funeral from when a Muslim is dying to the last stage of the burial itself. Where applicable, I note *jiaopai* differences within the outline, but defer exposition to the section following the outline.

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<sup>16</sup> See Funeral and Burial Administration Regulations (*Binzang guanli tiaoli*), passed 21 July 1997 by the State Council, arts. 2, 4.

<sup>17</sup> The term *guizhen* derives from the Buddhist lexicon for “to die.” Hui have adapted the term as it denotes “return to Allah” whom they refer to as *Zhenzhu* (the true Lord).

<sup>18</sup> Leor Halevi has convincingly argued that death rituals were foundational to an emergent Islamic identity in the early period of Islam vis-à-vis competing faiths, Christianity, Judaism, and Zoroastrianism (2007). In much the same way, Hezhou Hui produce and reproduce *jiaopai* differences through everyday burial ritual and the signification of those differences.

“Hezhou Muslims attach special importance to burial, but the ceremony is solemn while being to the point and simple” (*Hezhou musulin feichang zhongshi zangli, dan yishi longzhong er jianjie pusu*) (Ma 2010d:167). Thus begins the section of the book *Islam and Linxia Muslims* on Hezhou Hui customs and history. Although the book is written by Old Wang Mosque members, from the Gedimu *jiaopai*, and partly celebrates the mosque’s own history, most Hezhou Hui would agree with the book’s synopsis of its basic requirements for burial: 1) inhumation (*tuzang*),<sup>19</sup> 2) shallow burial,<sup>20</sup> and 3) timely burial (*suzang*)<sup>21</sup> (Ma 2010:167). *Islam and Linxia Muslims* further describes the funeral before burial as a series of steps. These can be summarized as preparations of the dying, the *jingli* or *xili* (washing ceremony), the *binli* or *zhenaze* (Ar. *jināza*, funeral prayer),<sup>22</sup> and lastly the *maizang* (burial). The preparations of the dying consist of the following: a) leaving a will, dividing property, giving charity, and reconciling with family members.<sup>23</sup> The *ahong* will read the *taobai* (Ar. *tawba*, repentance)<sup>24</sup> and the dying will seek repentance from his heart. He then recites the *shahāda*. b) After he dies, the *kefan* (Ar. *kafan*), a white linen cloth, will be prepared. In the washing ceremony (*jingli* or *xili*), members of his family or members of his *jamā‘a* will clean his

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<sup>19</sup> The first requirement reads, “The most important features of inhumation are taking the body of the deceased and placing directly into the earth, do not use ‘inner and outer coffins’ (*guanguo*). This goes especially for the bottom of the tomb, there should be no slab stone, wooden planks or other non-earthen materials. The doctrine of Islamic inhumation accords with the teachings derived from the classics (*jingxun*) by which Allah used earth to create man and then it is to earth man returns.”

<sup>20</sup> The second requirement states, “Islamic burial pays special attention to frugality and is the most equal [among faiths]. No matter who the person, their wealth or high status, they all use the same *kefan* (Ar. *kafan*) dress for the body. The bodies should all be buried in the same public cemetery. Above all, absolutely do not allow any precious objects to be buried with the dead.”

<sup>21</sup> The third requirement reads, “The Prophet said, ‘You should with suitable speed bury the deceased. If he belongs to the fortunate (*xingfu*) then accordingly he will quickly obtain his happiness. If he is not one of the fortunate, then vice versa, as soon as possible he will be sent far away to the calamity of hell.” Religious law specifies a timely burial as *musitaihabu* (Ar. *mustahabb*, recommended). A timely burial reflects the significance of peaceably returning the body to the ground. Usually, if the person died in the morning, then he should be buried that day. If the family members of the deceased have gone out on business, then the burial can wait one day, but the burial must take place within three days of death . . .”

<sup>22</sup> Gedimu and Sufis also call this the *aili* (grieving ceremony) or *zhanli* (standing ceremony), although some Yihewani and most Salafiyya reject this term.

<sup>23</sup> Of course, this is the prescribed ideal. Actual practice does not necessarily reflect this sequence. For instance, I met only a handful of Muslims whose parents had written wills or who themselves planned to write wills. Also, I encountered many intra-familial disputes that were not resolved at the deathbed of a family member.

<sup>24</sup> The ninth sura of the Qur’ān.

body with ritual ablutions and bathing. Usually three people will manage the cleaning of the body, with men cleaning a male body and women tending to a female body. They clean the body in a prescribed sequence: first the front, then back, the right side before the left, the head is cleaned last with special attention to the “seven apertures” (*qiqiao*), the nostrils, mouth, eyes, and ears. The body is then lightly perfumed, enshrouded in the *kafan*, and then placed in an undecorated casket.

c) The *ahong* directs the *zhuan feidiye* (turning the *fidya* meaning “ransom”).

The *fidya* marks one of the contentious practices among Hezhou Hui (examined below). Upon completion of the washing ceremony, family members take the body of the deceased to the mosque for the *binli*, the collective funeral prayer. According to *Islam and Linxia Muslims*, the funeral prayer is a *fuzhuming* (Ar. *wājib* or obligatory duty). During the service, the *ahong* stands in front of the casket while the members of the mosque stand before the casket in rows. The attendees remain standing throughout the service and follow the *ahong* in four *taikebi'er* (Ar. *takbīr*), prayers of Allahu Akbar (God is Great). After proclaiming “peace be upon you” to the men to their right and left, the attendees depart for the Muslim Public Cemetery.

Next, relatives load the body into an open casket, covered with white linen, in the back of a flat-bed truck. The men board privately owned buses upon which are stenciled *jingwei Zhenzhu xu shijian wugong* ([those who] revere Allah, must practice the five pillars) and travel the ten minutes to the North Mountain. At the Muslim Public Cemetery, the men take the casket and carry it shoulder-high to the chosen plot of earth. I was told several times by members of different *jiaopai* that the Muslim Public Cemetery Administration Committee chooses the plot for the family. I was further told that members of different *jiaopai* are buried together. Both claims appear incomplete. The Muslim Public Cemetery Administration Committee charges 350 yuan for a private plot for an individual over ten years old, 500 yuan for a communal grave, and 250 yuan for a plot for a person

under ten.<sup>25</sup> The communal graves seem to be family plots. Further, there is a difference in cost between plots located closer to the foot of North Mountain and those higher up on the loess hillside. Thus, a bereaved family does have some selection as to the gravesite. Additionally, as to the claim that the Muslim Public Cemetery does not segregate *jiaopai*, I discovered that some *menhuan* and *jiaopai* have their own areas. For example, the Guo Tomb Complex and the Xidaotang both have their own parcels of land in the Muslim Public Cemetery.

Depending on the status of the individual, often 100 to 200 men attend the burial. After the body is lowered into the grave, which is about two-meters deep and cut into an L shape, the body is tucked into the lower, horizontal section. Men form a chain handing bricks, located at the base of the mountain, one by one up to the gravesite where they are placed over the lower portion of the “L” sealing it off so that the earth does not cave in or soil the body. Women generally are not allowed to attend the formal service (i.e., the reading of the scripture), no matter the *jiaopai*, although I attended several burials in which the wife or daughter of the deceased was allowed to listen to the service from lower down the mountain and could join the latter part of the service.<sup>26</sup> During this time, a leader of the mosque who holds a purse of money hands out single *kuai* bills to the beggars. Only among Sufis, Gedimu and Xidaotang burials will another man hand out *youxiang* (flour and salt cake fried in sesame oil). Sufis believe that, following an *ermaili* (anniversary of the death date of a saint), *youxiang* distributed at the tomb complex possesses *baraka* and its consumption wards off disease and promotes good health. This belief appears to have permeated the observance of death, generally, among traditionalist *jiaopai*.

At this stage, Gedimu, Sufi, and Xidaotang burial rites show marked differences from those of Yihewani and Salafiyya. Generally, the traditionalists’ burials are more elaborate, more

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<sup>25</sup> These prices are according to the Notice with Respect to Readjusting the Standards for Burial Fees (*Guanyu tiaozheng maizang shoufei biao zhun de tongzhi*), written by the Muslim Public Cemetery Committee, 18 August, 2008, posted on the inside of New Wang Mosque. The fees include a management fee, a fee for opening the tomb, “earth craftsmanship” (*tujiang*) wages, and an adobe fee.

<sup>26</sup> The exclusionary rule does not seem to apply to female beggars who regularly visit burials seeking alms.

participatory and more complex while the Salafiyya burials are streamlined and simplified (Illus. 18). Yihewani occupy a middle ground with some Yihewani incorporating aspects of the traditionalists' burials and some inclining toward Salafiyya austerity. The *ahong* reads the Qur'ān, although the *jaopai* differ as to whether others can also participate in the reading (see below). When the *ahong* finishes, the men perform a *du'ā'*. The men shovel dirt into the grave, while among the Gedimu, Sufis, and Xidaotang, the other men in attendance read. When the body is fully covered and the tomb completed, leaving only a small mound of earth, the men perform another *du'ā'* and wish each other "peace be upon you."



Illus. 18 Salafiyya burial. Note no *manla* reads from the Qur'ān. Source: taken by the author (HZ 3/14/2010).

Most Yihewani and Salafiyya depart at this point, the ceremony complete. Among the traditionalists, however, the extended family members stay, often twenty to forty people. Someone sets a part of the dried grass on fire and with it lights a bundle of large incense sticks. While either

holding the incense or placing it on the raised dirt of the fresh mound, the men recite the *dhikr* for about a half hour. Depending on their *menhuan*, they may recite loudly or quietly. Some will rock either front-to-back or side-to-side (Illus. 19).



Illus. 19 Men of the Naqshbandī-Mujaddidi Bright Heart *menhuan* reciting the *dhikr*: Note they have embedded incense sticks in the grave. Source: taken by the author (HZ 11/22/2009).

They perform a *du‘ā*, wish each other “peace be upon you,” and depart. As a general rule, Gedimu burial may last twice as long as those of Salafiyya and strict Yihewani. Among Gedimu, on the fourth day after the funeral, the *ahong* will go to the home of the bereaved family members and pray. Further, among Gedimu, family members will return to the grave of a family member to pray and burn incense several times a day and sometimes at night during the first 40 days when they consider the soul to still reside in the grave. Slaughtering sheep, inviting the *ahong* to the home of

the bereaved, performing *du'ā'*, and reading the Qur'ān may occur during the first seven days after the death, with smaller observances on subsequent multiples of seven days.

In addition to the segregation of graves for members of different *jiaopai* (despite statements to the contrary), also militating against the idea of a post-*jiaopai* afterlife of united Islam, grave design varies. The basic graves are marked merely by a mound of earth, sometimes covered by fist-sized stones. Among these, some have headstones. Headstones of black shale quarried at North Plateau (Bei Yuan) behind North Mountain feature gray engravings with Arabic calligraphy on the top below which is vertical Chinese script, giving the name of the deceased. A few headstones have the birthplace of the deceased and the dates of birth and death. Among those graves with tombstones, a minority feature smoothed and polished stones sometimes placed in a simple "X" pattern over the mound. The most elaborate graves have a raised mound made of cement, embedded with polished stones. *Jiaopai* meets class and to a lesser extent gender in tomb design. For instance, Gedimu and Sufis are much more likely to have an elaborate headstone, sometimes displaying an abbreviated genealogy. Sufi graves congregate in the area around the tomb complexes as it is believed the tomb of the founder radiates *baraka*. Tombs of Sufi followers in close proximity to tomb complexes feature more decorative cemented stone designs. However, many of the more ornate tombstones along the foot of North Mountain belong to wealthy Yihewani families. More often than not, embellished headstones are for male deceased.

Having given an overview of the funeral, I turn to specific points in the process upon which Hezhou Hui dwell as marking *jiaopai* differences. I offer two instances: one pre-entombment, the *fiḍya*, and the second during the burial rite, the reading of the Qur'ān.<sup>27</sup> The differences between the Sufis, Gedimu, and Xidaotang on the one hand and the Yihewani and Salafiyya on the other are the starkest. Although the differences may appear trivial on the surface, they are rooted in deeper

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<sup>27</sup> There are additional points of friction, such as mourning dress, the gifting of money to readers of the Qur'ān, the burning of incense at the time of burial, and grave visitation. In all cases, the Gedimu, Sufis, and Xidaotang are in favor of the practice while the Salafiyya and most Yihewani vehemently oppose such forms of remembrance.

structural or constitutive elements of *jiaopai* such as their internal organization, modes of leadership, views of death, and the relationship toward Chinese and Islamic imaginaries. In the following, I describe these contentious practices in the context of *jiaopai*' funeralary rites.

### *Turning the Fidya*

In the sequence of funeralary practices before the burial, one of the issues that most demonstrates divergence among the *jiaopai* is the *fidya*, held after the cleaning ceremony and before the *jināza*. Among Chinese Muslims, *fidya* is an act the surviving members perform on behalf of the dead, to atone for their sins in the form of both obligatory acts unfulfilled (i.e., fasting or participating in the hajj) and forbidden acts committed in the lifetime of the deceased. The goal is to reduce his punishment in the afterlife.<sup>28</sup> Like *nietie* (Ar. *niyyah*) or *wagefu* (Ar. *Wāqf*; see Chapter 4), it is another example of legal creolization, a concept based on Islamic principle that has undergone change and variation in Hui religious observance. Mr. Ma, a senior member of the Gedimu Old Wang Mosque, explains the Gedimu practice:

The family member invites the *ahong* and elder members of the *jamā'a* to his home. They form a circle around the casket. The *ahong* is part of the circle. They then pass around the Qur'ān. When the Qur'ān reaches them, they will kiss it and recite a verse. Sometimes, they also pass money. The money is also passed around the circle. The surviving relative receives the money. He *may* give the money to the poor, in private. However, he may also keep it—some or all. It's up to the surviving head of the household (HZ 12/26/2010).

Abdu Ahong, a Salafi *minjian* or unofficial *ahong* gives a different view:

The *shuzui* (atonement for sin) or the *zhuan feidiye* [pronounced *feidi* or *feider* in Bafanghua] is held after the washing ceremony. This differs according to *jiaopai*. For us Salafiyya, we give money directly to the poor, *ba dongxi quanbu sandiao* [distributing it all]. Gedimu take their money, hand it to their relative and then that relative returns it, in the ceremony. This leads to *qipianxing* [duplicity]. Progressive Yihewani reject this, as well (HZ 12/21/2010).

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<sup>28</sup> The legal basis of the practice as cited by Hui is the Qur'ān (2:184, 196).

Mr. Ma, a senior Salafi and high-ranking member in the Linxia CPPCC, concurs with part of Abdu Ahong's summary while diverging from another part, saying:

After someone dies, the family members must atone for the sins he committed during his lifetime. There is a ceremony, *zhuan feidiye*, we [Salafiyya] call this *shuzui*, when the family head sits in a circle with relatives and senior members of the mosque. Each *jiaopai* has a different custom for what happens next. For us Salafiyya, members of the family give money. They put it in a bundle, they pass it around and people add to it. It is symbolically given to the *ahong*, who returns it to the surviving head of the family. It is then used by the family members. The Yihewani will do the same, but if they do not have money, they will seek loans from friends and family and even take out loans from banks. Salafiyya will not do this. The Gedimu will not pass around money, but rather, the Qur'ān. This cancels out the sins (HZ 12/18/2010).

Finally, Nūr Hajji, a widely regarded local expert on shari'a and active member of the Salafiyya-leaning Yihewani New Glory Mosque, states his stance as the following:

Some people in the mosque do it and others do not. I'd say about two-thirds do and the rest do not. I have joined many of these [ceremonies], but do not support them myself. I feel the people who *zhuan* [turn] do not have a firm grasp of Islamic law. Actually, neither the Qur'ān nor *Shengxun* [*aḥādīth*] speak of the *feider* [Ar. *fiḍya*]. Rather, it is the creation of later jurists' through *leibi* (*qiyās*). They reasoned that *baigong* [worship] is *fanleize* [Ar. *farīḍah*, obligatory duty] as is *zhaijie* [purification by fasting], and from this evolved the jurisprudence of *feider*. *Feider* can be called *fashu* [atonement by punishment].

"Can we call it *fiḍya shuzui*?" I asked, referencing the Chinese translation used by the Salafiyya.

No. *Shuzui* is not the proper term. The general idea is that it is permissible to give, say, one-half of one's life savings to the poor in order to atone for one's lifetime of sins. The problem is when the person does not have money. In this situation, there is *mei mianzi* [a loss of face]. Historically, what happened was that the person would borrow money and then give this out to the poor to fulfill this duty. However, the recipients would know that the person was poor and so return the money back to them. Over time, this practice was *xingshihua* [formalized]. So what happens is that, say, the son is holding the ceremony for the passing of his father, he will invite influential people from the *jamā'a*. These people will give him money. Next, the son will hand this money out to the poor recipients. They will then return this money to him, and finally, he will return the money to the original donor. They *zhuan*. The number of people required and the times the money goes around depends on the number of the deceased's *fan* (sins). If the man committed 100 *fan*, then ten people will be invited and they will *zhuan* ten times. The Gedimu use the Qur'ān as they believe it is *wujiazhibao* [a priceless treasure] with a value greater than money. So the Qur'ān can absolve sin more than money. The Salafiyya use neither money nor the Qur'ān (HZ 12/24/2010).

These excerpts show a range of *jiaopai* interpretations of *fidya*. There are two main issues in dispute. One is the permissibility of “turning the scripture” (*zhuanjing*) as opposed to “turning money” (*zhuanqian*). Second, in the event that money is turned, the purpose and end recipient of the money. In either case, the *jiaopai* representatives describe their own *jiaopai*’s practice, and largely unprompted, they compare theirs with that of other *jiaopai*. They claim orthopraxis for their *jiaopai*, and often misrepresent other *jiaopai*. So on the issue of whether the Qur’ān can substitute for money, both the Salafi Mr. Ma and Yihewani Nūr Hajji say Gedimu do not use money when they do. The issue is not the monetization (or secularization) of the *fidya* per se, as both Yihewani and Salafiyya turn money and agree this is correct practice, but rather, they view substituting the Qur’ān for money as an improper use of the Holy Scripture. For instance, in the Bright Heart *menhuan*’s ten-point list of words and deeds of the young Wahhabi-influenced Gedimu *ahong* who attacked Sufi practice as mentioned at the opening of this chapter, number ten reads, “[name deleted] opposes the turning of the Qur’ān in the *fidya*. [Yet] [name deleted]’s brother dies and he takes money and turns the *fidya*.” From the vantage of the Sufis, there are sources of law to counter the Yihewani legal argument against turning the Qur’ān. Qi Jiequan argues:

*Laopai* [Old Sect] prefer to use the Qur’ān over money. Ma Guyuan [Ma Wanfu, founder of the Yihewani] used a scripture that claimed that the use of the Qur’ān in the ceremony was prohibited. This was the *‘Ajaā’ibu al-Muhmmaāti*. However, there is evidence in both the *aḥādīth* and the Qur’ān that the Qur’ān should be used for the ceremony. The view of the *laopai* is that if money is used, then it must be given away in total to the poor (HZ 12/26/2010).

Where Hezhou Hui acknowledge *jiaopai* others (including traditionalist) as money-turners, they criticize them for the practice which addresses the second issue(s), the purpose of the *fidya* and who retains the money in the end. As to the purpose of the *fidya*, while most *jiaopai* agree that the doctrinal rationale is to absolve or decrease the sins of the deceased and thus minimize his punishment in the afterlife, their testimonies show a second function lurking behind or within the doctrine. The money circulated may atone for the sins of the deceased but it may also sustain the

surviving members of the household, a kind of Islamic life insurance. Some *fidya* in Hezhou, particularly among traditionalists, feature over 400 people with amounts of six to eight thousand yuan, upwards to ten thousand yuan turned. This mixing of functions is an effect of the creole Han shari'a. The collapse in the Islamic (doctrinal) and Chinese (social or familial) aspects of *fidya* provides grounds for transference. So when the Salafi Mr. Ma charges Yihewani with taking out loans (whether or not the family members retain them), he views this as a gratuitous act. The Salafi Ahong Abdu accuses bereaved family members of the Gedimu *jiaopai* of cheating behavior in retaining donated money. These accusations parallel other Wahhabi criticisms of traditionalist and traditionalist-leaning Yihewani as corrupting practices through participation in the Han gift economy (Kipnis 1997; Yan 1996; Yang 1994). That is, passing money in the *fidya* evokes similar practices such as handing out money to the readers of the sura *al-fatihah* at traditionalist burials, and especially, the collection of *nietie* (donations) at Sufi *ermaili*. In semiotic terms, the scripturalists associate the signifier of the *fidya*-as-money with additional floating Chinese bills in the burial rite and the commemoration of the anniversary of a Sufi master's death date.

Lacan, following Roman Jakobson, would call these metonymic replacements part of the signifying chain constitutive of scripturalists' desire (2006f:678, see also 694). In as much as the Salafiyya and strict Yihewani locate their desire in opposition to (i.e., within) the other of the traditionalists, gifting, exchanging, and paying money is anathema to the scripturalist Islamic imaginary. And yet, the Salafiyya and Yihewani also turn money in the *fidya* with the Yihewani admitting that it ends up in the hands of the surviving family member. While according to doctrine they should give this money to the poor to complete the act of atonement, the different *jiaopai* members have varied rationales for the return of the charitable gift to the grieving family member. Transference appears to be one mechanism for allaying this guilt or suturing over the gap between ideal ego, the idealized self-image, and actual practice. Transference labels *jiaopai* others as not-Muslim-enough or, worse, as *the Other* (i.e., Han). Simply put, as *jiaopai* practice rarely meets the

standard of their self-referential discourse, rather than admitting this gap they fault *jiaopai* and *menhuan* others for their failures, often described in the rubric of *hanhua* (Hanification).

### *Graveside Reading of the Qur'ān*

Historically, the most controversial aspect of the funeral was the conduct of the burial rites themselves. In the Muslim Public Cemetery, amid the headstones and tiered, crumbling loess, *jiaopai* perform their differences in burial rites, reproducing *jiaopai* distinctions. On any given day, there are two, three, or more funerals conducted at the same time on North Mountain. Unlike *fidya*, non-members of *jiaopai* will attend the burial of a friend or business associate from a different *jiaopai*. In my observations of burials, these non-members would often approach me and quietly instruct me on the differences between their *jiaopai's* practice and the instant one.

Thus, I often found, in my ear, a voice reciting the “correct” practice as I was watching the practice of *jiaopai* others. The chief concern of the outsider was that I would be misinformed about proper burials. Among Yihewani and Salafiyya, only the *ahong* will read the Qur'ān for the duration of the service. Among traditionalist *jiaopai*, the *manla* (students), each with a copy of the first sura of the Qur'ān, *al-fatīha*, in their hand, join the *ahong* in reading. Yihewani and Salafiyya make a clear distinction in this regard. The issue of who reads the Qur'ān touches upon the *jiaopai's* internal organization, attitude toward leadership, and approach to following religious law.<sup>29</sup> Abdu Ahong

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<sup>29</sup> This observation extends beyond the context of funerals. Gedimu and Yihewani, for example, conduct regular prayer much in the same way they perform the reading of the Qur'ān during burial. In one mosque I visited in Lanzhou, called Red Foothill Mosque (*Hong shangen qingzhensi*), an unregistered prayer hall set inside a taxi repair garage, the mosque had been torn in two by disputing Gedimu and Yihewani *jiaopai*. As told to me by the current (Gedimu) *ahong*, in 2005, a Gedimu *ahong* established a study group that eventually led to the building of a study space. A few months later, a popular Yihewani *ahong* came and brought many followers. The number of men attending prayer grew to 200. Disputes arose when the Yihewani demanded only the *ahong* read the Qur'ān in prayer whereas the Gedimu formed a circle in which everyone had their own Qur'ān, taking turns reading. One day in 2008, the men began arguing, shouting, and soon a scuffle broke out. The police were called and the unregistered study space was razed. Both *ahong* were forced out to be replaced by the current *ahong*. The much smaller *jamā'a* is still applying for registration. The Gedimu *ahong*

explains the Salafiyya position, “The main purpose of the funeral rites is to *wei wangren zuo qidao* [pray for the deceased]. The *jiaozhang* [head of *jamā‘a*] reads the Qur’ānic sura and no one else” (HZ 12/21/2010). A Yihewani man attending the funeral of a Gedimu friend complained to me, “When they all read the Qur’ān together it is a cacophony” (HZ 11/23/2009). For most Yihewani and some Salafiyya, only the *ahong* reads from the Qur’ān. Other Salafiyya reject the practice of reading the Qur’ān altogether, arguing there is no basis for it in the Qur’ān, and elect to merely pray for the deceased by performing *du‘ā*. All arguments are based on the assertion “as was done in the time of the Prophet,” implicitly referring to the *sunna*.

The venerated *shaykh* of the Naqshbandī Bright Heart *menhuan* Qi Jiequan states, One of the most common disputes was [historically] over burial rites. For us *laopai* [old sect], every person must read the three volumes of the Qur’ān. Everyone’s *qinfen* [diligence] is at a different level, so all must read at their own level. The Yihewani only have one person read! Can you imagine? Such a practice violates the spirit of the sacred law. [Both Qi Jiequan and several of his senior attendants became both excited and agitated at this point, with Qi Jiequan periodically slamming his hand upon a scripture on a low-lying table in front of him.] The Salafiyya emphasize the Qur’ān and the *aḥādīth* to the exclusion of Islamic law. There is much in the Qur’ān and *aḥādīth*, but they do not cover the entire field of the holy law that has developed for centuries. They discount the contributions of generations of scholars to developing this law. For instance, the Qur’ān does not say precisely how to pray and so the law of *gongxiu* [meritorious self-cultivation] has developed to explain this. It is incredulous to discount the works of the *si da yimamu* [four great *a’imma* (s. *imām*)], referring to the founders of the four *madhāhib*] (HZ 12/26/2010).

Burial practices test some of the commonly held notions about the respective *jiaopai*. It is often said that Yihewani are more modernist, progressive or “democratic” and the Gedimu more patriarchal. In fact, burial rites demonstrate that the Gedimu are more inclined to have all gathered actively to participate in the rite by reading the *al-fatiha*. Whether or not they have the Arabic ability to do so is a different matter. Further, common participation in the burial rite does not disprove or negate the hierarchical organization of the *menhuan*. Communal reading is not “anti-structure” or *communitas per Victor Turner’s* definition (1969:94–97; 1974:45–55); rather, the *manla* follow the *ahong* in reading the sura. All *jiaopai* privilege the authority and erudition of the

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says that the Yihewani do not join them now for they are “too stubborn” (*tai wangu le*) (LZ 9/23/2009, 10/21/2009).

head of the *jamā'a*, the *jiaozhang* or *ahong*. Yet in the different interpretations of the Hui jurisprudence of burial rites, the Yihewani and Salafiyya understand that authority as taking the form of the exclusive right to read, whereas for Gedimu and Sufis, it is the right to lead others. Among Wahhabi, young men learn by emulation, whereas the traditionalists learn by doing.

Qi Jiequan has led a vigorous defense against the Yihewani and Salafiyya that has taken the form of writing a Sufi version of Hezhou history called *Long Ahong* (Deaf *Ahong*), the colloquial name of his father, Qi Mingde (C.E. 1898–1987).<sup>30</sup> The *Long Ahong* collection, in three volumes, is significant as it is the most comprehensive non-state-sanctioned Sufi account of Hezhou's history during the Republican period.<sup>31</sup> Although almost all Sufi orders are in the process of writing their histories, *Long Ahong* is singular for its history, although *menhuan*-centric, touches on major events occurring in Hezhou in the Muslim warlord era. Further differentiating it from other accounts, it is a spirited defense of Sufism and an attack on Wahhabism. *Long Ahong's* arguments are supported by textual citations from classical texts in Islamic law, doctrine, and theology. Although heavily biased and designed to buttress the establishment of Bright Heart tomb complex as a *menhuan*, *Long Ahong* is a rare primary historical source from a Sufi perspective.

From the 1920s to 1940s, a particularly bloody period of Hezhou's history, Ma Bufang, based in Xining, sought to replace all Gedimu *ahong* with his Yihewani disciples, the so-called "ten great *ahong*" (*shi da ahong*). Qi Mingde led the defense. The chapter *Wode shengping* (My Life)

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<sup>30</sup> According to *Long Ahong: Volume I*, Qi Mingde (whose name means "Bright Heart" and thus the name of the *menhuan*) is the tenth-generation descendant of Qi Xinyi, who received the *ṭarīqa* (authority) from Khoja Āfāq in modern day Xinjiang, and who was also a brother of Qi Jingyi, who founded the Qādiriyya Grand Tomb Complex *menhuan*. Qi Mingde traveled to Mecca on the hajj when he was eighteen with his father, starting a tradition in the family as Qi Jiequan would take his son and successor to India where they would renew the *ṭarīqa*. In Mecca, Qi Mingde became a pupil of the second son of the Khufiyya master *Shaykh* Mansumu named, in Chinese, Aibu Baleifu and the famous scholar Imām Husaini. During this time, Qi Mingde studied the four schools of jurisprudence and received the *ṭarīqa*. After living in Saudi Arabia for four years, he returned to China in 1920 with one hundred books on doctrine and law and ten books on Wahhabism (Mingde Mosque of Linxia City 2004:24-26).

<sup>31</sup> As such, *Long Ahong* provides an alternative history to that of Ma Tong. However, it is ironic that one of Ma Tong's closest interlocutors was Qi Mingde. In the 1950s, Qi Mingde took Ma Tong around to many Sufi tombs to introduce Ma Tong to other Sufi *shaykhs*. Qi Jiequan and his followers have great respect for Ma Tong and his works. Their respect, however, stems more from the fact that Ma Tong wrote the first (and most authoritative) book on Chinese Sufism to the disdain of the Yihewani than the precision of Ma Tong's account.

relates a series of quasi-mythic clashes both physical and intellectual between Gedimu/Sufis and Yihewani many of which focus on burial rites

In 1933, when I was the head of *Xiao Xiguan* Mosque [know today as *Chengjiao si* or City Corner Mosque], the follower Ma Tianwei wanted to hold an *aili* [Ar. *jināza*] and burial for his father. His father was Ma Shibo, nicknamed “Spider,” a disciple of the Grand Tomb Complex. The place where he lived Wu Jia Tai was jointly administered by two mosques, *laojiao* [Gedimu] and *xinjiao* [Yihewani]. Thus, Ma Tianwei invited two *ahong*, Ga Wu *Ahong*, the Yihewani head of Qi Mosque, and me to lead the *aili*. Both *jiaopai* wanted to participate in the ceremony, but in order to avoid conflict, I decided not to go.

That day, at the grave, the *xinjiao* head was reading the Qur’ān, the *laojiao* head assembled a crowd to give their own reading which caused a large confrontation. The *xinjiao* had in advance planned for a fight. They had carried wooden clubs on their persons, and sought to pick quarrels.<sup>32</sup>

A fight broke out between, on the one hand *xinjiao manla*, and on the other, the *dangjiaren* [manager] of Grand Tomb Complex Wang Yongzhen, and young *chujieren* [ascetic *murīd*] Ma Shi'an, Ma Shiyuan, Ma Yongyang of *Taizi* (Prince) Tomb Complex, and Zhang Ye of Guo Tomb Complex. The *xinjiao* followers used wooden clubs and bats to beat the *laojiao* members. Although a fierce struggle developed, fortunately, no one was killed. Further, the *xinjiao* members who caused the trouble left a bad impression amongst both *xinjiao* and *laojiao* members. Afterwards, those *xinjiao* members relied on Ma Bufang's strength to force *laojiao* members to join Yihewani and surround the *laojiao* (especially focused at me). Linxia Garrison Commander Ma Weiliang launched an attack against me, supporting the *xinjiao ahong* in demanding a scriptural debate with me. At that time, Ma Weiliang ordered the Yihewani South Gate Grand Mosque Ma Gabu *ahong* and me to debate the scriptures, to which I reluctantly agreed.

I advocated the following: [the judges should] give a definite judgment on doctrine and law and if it is found that *laojiao* is at fault, then I am willing to undergo beheading. But if *laojiao* is found to be correct, then [*xinjiao*] must allow for religious freedom, a person can follow whichever doctrine he wishes, and you can no longer oppress *laojiao*. After hearing this advice, Ma Gabu *ahong* gathered all Yihewani *ahong* to discuss and then declared, “In order to avoid a difficult situation, we will not debate the scriptures.” I offered the reference material I gathered during hajj on *zhengtongpai* [orthodox school] to give to the Yihewani *ahong* for their reference. As a result no one declared where he stands and for the moment, the debate was quieted (Mingde Mosque of Linxia City 2004:27–28).

While the disputants avoided this debate, *Long Ahong* next describes a series of debates that lasted 53 days during which the leaders of the two sides addressed 73 questions of law,

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<sup>32</sup> Footnote 1 in the text reads, “The *xinjiao* anticipated that although Qi Mingde would not go to the *aili*, he would attend the funeral, and so planned to murder him. Ma Bufang and Ma Weiliang were not there so as to avoid liability for murder. The plan was that after Qi Mingde was removed, the *ahong* of South Gate Grand Mosque or *hanyi si* [Ar. *hai’a*, authority] would replace Qi Mingde at City Corner Mosque.” Qi Mingde is regarded by Gedimu and Sufi Muslims in Hezhou as “the pillar of the Gedimu Shari’a.”

doctrine, and theology known as the “73 *hukun* (Ar. *khāma*) (rules).”<sup>33</sup> The account begins with a dispute over burial rites

In the days when I was the head of *Xiao Xiguan* Mosque [City Corner Mosque], my family was under Qi Mosque. In 1933, my mother died. At that time, I had no choice but to invite the *xinjiao ahong* Aili (last name Zhan) to the funeral. According to religious rules, if the son is a *jiaozhang* [head of *jamā'a*], then he is the one to conduct the *aili*. However, Aili Ahong said he should conduct the *aili*, and thus there was a conflict. Qi Mosque *xuedong* [manager] Ma Tinggao mediated and the result was that I would be responsible for the *zhanli* [*jināza*]. At the tomb, first, according to *xinjiao* religious rules, the Qur'ān would be read, then according to *laojiao* religious rules, there will be a communal reading of the Qur'ān.<sup>34</sup> During the funeral, at the grave, Aili Ahong by means of his political strength, to everyone's surprise, vehemently and violently ordered the *laojiao ahong* and *manla*, who each had a Qur'ān in their hand, saying, “get rid of your custom” (*ba nimen nage tongtong qudiao*).” Most people opposed the reading of the Qur'ān in this way. Ma Tinggao persuaded the masses not to oppose and there was no conflict, he made the *xinjiao* first read and then go home. *Laojiao* then performed a communal reading (Mingde Mosque of Linxia City 2004:28–9).

In the course of the 73 *hukun*, Qi Mingde used the textual sources on law and doctrine he had obtained in Mecca to persuade Aili Ahong that Gedimu/Sufi doctrine was true. While Aili Ahong accepted this, his Yihewani backers would not. This standoff led to what Sufis in Hezhou refer to as the “thunder and lightning event” (*leidian shijian*). In the eyes of the Bright Heart *menhuan* members, the incident proves the *karāma* of Qi Mingde and is the founding myth of the order. Once again, the incident revolves around the orthopraxis of burial

On the twenty-eighth day of the fourth year in the lunar calendar, 1933, the wife of Ma Yingxiong of Qi family village in the West Plain [Hezhou] was struck by lightning and died. The head of the Yihewani mosque Ga Zhuma Ahong collaborated with the South Gate Grand Mosque Yihewani Ma Gabu *ahong* in vainly wishing to use this lightning accident to divide

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<sup>33</sup> Such enumerations of doctrine as points of disagreement between rival schools have a long history in Chinese Islam. Japanese scholar Tatsuya Nakanishi has examined a stele from the seventeenth century in Kaifeng, written in Arabic, Persian, and Chinese that details thirteen doctrines of “law and rites” with 27 textual sources as authorities that were the subject of dispute between the “ancient behavior” (*guxing*) and “new behavior” (*xinxing*). The latter were led by Chang Zhimei (d. 1670) and She Qiling (d. 1710) who advocated the reform of traditional China pursuant the Qur'ān and *sunna* (Nakanishi 2012).

<sup>34</sup> Peaceable mediation of doctrinal disputes, however fantastical it may appear to an outside observer, is not unique to China. For example, the Egyptian *mujāhid* in Afghanistan Ayman Faraj records a dispute between Afghans and Arabs over the matter of whether the former could pray over the grave of a Yemeni martyr. Faraj wrote, “This was the first time I had heard or seen dogmatism and doctrinal fanaticism (*al-tamadhdhub wa-l-ta'aṣṣub al-madhdhubī*), and it was a saddening sight: Muslims loathing each other and showing enmity due to chauvinism and narrow-mindedness.” The impasse was ended when an Afghan *shaykh* proposed each side follow its own interpretation, allowing the Afghans to perform prayer while the Arabs looked on (Li 2012:29–30).

and demoralize Gedimu and *menhuan*. According to their religious rule, if a person dies by lightning, then they cannot receive an Islamic burial. They also said that this woman died by lightning as a result of believing in the Grand Tomb Complex, this *waimenxiedao* [dishonest practice]. It was the inauspicious omen of those who believe in the Grand Tomb Complex. They said Muslims cannot take care of her; she cannot have an Islamic funeral including the cleaning ceremony and standing ceremony. Moreover, she cannot be put in her family's tomb. This position created tension between the *xinjiao* and the *laojiao*, the latter who would not accept this and were dissatisfied. The family members were especially puzzled. They came to *Xiao Xiguan* mosque [City Corner Mosque] and I sympathized with them and gave them support. I consoled them to go back to South Gate Grand Mosque and give the deceased a proper burial.<sup>35</sup> They came back and reported, "*xinjiao ahong* Ga Wuduan will not hold the mourning." My view was that she should be buried according to Islamic doctrine and let Allah give judgment. This is in accordance with the spirit of Islamic doctrine and justice. Allow them to hold the cleaning ceremony and the *zhanli* [Ar. *jināza*]. This raised the ire of the Yihewani *ahong*. Under Ma Weiliang, the commanding officer of the garrison who supported the Yihewani, they sought to debate the scriptures. Thus, South Gate Grand Mosque Yihewani *ahong* Ma Gabu hired Bafang Qi Village mosque *ahong* and a hundred *manla* to hold a debate on the fifth day of the fifth lunar month, at River Rapids Press in West Plain in order to kill me, the bane. Ma Weiliang gave money and supported their collection of alms, thus they had amassed a large sum of money. The event was extravagant. They squandered money in the name of hospitality, they bought 24 heads of cattle, more than 70 sheep, and constructed some 60 plus temporary structures, ate much and drank much. All of this violated Islamic doctrine and law and was unprecedented. As soon as news of the debate spread, Hui gathered from near and far and in a large crowd descended upon West Plain to watch the performance. This day happened to be the Han's Dragon Boat Festival, the day was sunny and cloudless. The Han offered oil and incense. *Chengnei* [inner city] Han closed their shops in the city and stayed at home. Much would come of this single event, results that were unimaginable. Han gentry Zhang Shisheng and Hui gentry Zhang Leshan learned of the event. They discovered that the Yihewani *ahong's* motives were not pure. In the interests of local stability they asked Ma Weiliang to reconsider the debate. But he relied on the power of his master Ma Bufang. He not only failed to heed the advice but forced me [to debate] by trumped up charges. He continued to back and embolden the Yihewani sect in order to demonstrate his power. To *laojiao* members he exerted pressure by intimidating militarily. He brazenly released the army to take up arms and encircle the location of the debate .

[Qi Mingde describes the procession of Gedimu/Sufis to the site of the debate, passing the former site of the Muslim Public Cemetery, today's Red Park Square where they prayed] We saw ten thousand people, and continued to Small Rapids Press. We had not yet reached it, when the Yihewani *ahong* held an emergency meeting, and discussed whether to kill me. Opinions differed and two main views emerged: one, first debate then decide, of which Boike Ahong was an exponent; two, kill me as soon as I reach the area for the debate, of which Aili Ahong was the proponent. Small Lala was to be the executioner. They could not come to an agreement and so when the time came, the two groups parted to pray at noon. . . . When we were not far from Small Rapids Press, at Bo family village, we saw dark clouds

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<sup>35</sup> Footnote 1 in the text reads, "Because at the time the warlords supported the *xinjiao* and oppressed the *laojiao*, and the family members were under jurisdiction of *xinjiao*, they did not dare hold the *aili* [Ar. *jināza*] at a *laojiao* mosque and the head of the *jamā'a* also did not dare to hold it against the wishes of the mosque with jurisdiction."

suddenly appear that enshrouded the area. Dazzling lightning lit up the sky, and a heavy rain broke, and suddenly the sound of a thunderbolt unsettled the hearts of those gathered. Not too much time had passed, when Ma Jiabian called on us to gather and local gentry La Weiqing said in a loud voice, "Allah's help has arrived. That lightning bolt just killed Aili Ahong and several others."

The debate could not continue and I sought to organize the followers to peacefully return home. Later, we found that the lightning bolt had struck six people, among them two people died including Aili Ahong. Small Lala and two others were hurt. The Yihewani declared that Aili Ahong and the others who died were *xundaozhe* (Ar. *shuhadā*, martyrs) and began a large funerary ceremony . . . (Mingde Mosque of Linxia City:30-4).

The sequence of events constructed in *Long Ahong* demonstrate the intimacy between doctrine, specifically the contested rule on who has the authority to read the Qur'ān as part of the burial rite, and sectarian consciousness. The secession of stand-offs in the graveyard were part of a number of events that became the foundational account of the Bright Heart *menhuan*, one of the fastest growing Sufi orders in Hezhou. Manipulation and power contests are assuredly one aspect of the *menhuan's* emergence; in fact, at several points *Long Ahong* states that the warlords exploited *jiopai* differences to divide and conquer Hezhou Muslims. Nor can the reader uncritically take *Long Ahong* at its word, specifically its repeated justifications of defending religious freedom, given its own legitimizing ambitions. Still, the act and form of the writing belie a simple materialist-realist explanation.

The shortcomings of such a view were apparent to me during several trips to Bright Heart Mosque where I sat with senior members of the order in the cramped space of their temporary mosque administration office as they constructed their mosque nearby. The men sat on raised *kang*, covered in thick wool rugs, pouring over open jurisprudence texts in the dim light. The Sufis were compiling research against the writings of the Peking University scholar Zhang Chengqian who translated the Qur'ān in 2005. The Sufis found his *Gulanjing yizhu* [Translation and Annotation of the Qur'ān] to mischaracterize Sufism and to violate Qur'ānic law. They understood Zhang to have declared the four jurisprudential schools dead and called for Muslims to interpret the Qur'ān for themselves (HZ 2/6/2010). As evidence, the Sufis were critically examining Zhang's commentary

on the eighty-eighth *āya* of the fifth sura *mā'ida* in which Zhang explains the terms *hefa* (lawful) and *meihao* (glorious):

*hefa* include that which the enlightenment of the Qur'ān permits and that which is obtained by lawful means. It is complicated to define *meihao* when based upon the works of Islamic history's past jurists. Most books written by such jurists are grounded in debates dating to around the tenth century. The social conditions of that time and those of today are extremely different, there is much that is not suitable to today's environment . . ." (Zhang 2005:vol. 7, ch. 5, part 12).

In addition to the chronicles of *Long Ahong*, there are myriad other historical examples of Hezhou *jiaopai* contests that centered upon disputes over the issue of who has the authority to read the *al-fatihā* at burials. Following the opening and reform in the 1980s, and the relaxation of religious policy, there occurred in Hezhou another period of *jiaopai* antagonism. Many mosques that had *jamā'a* members representing competing *jiaopai* loyalties split. One such example is Small Ding Family Mosque (Ga Ding jia qingzhensi). Located south of the Grand Xia River in the sheep-hide market district, there are two mosques within a couple hundred meters of each other, Small Ding Family Mosque and Small Ding Family Old Mosque. Before the split, the *jamā'a* was centered on the former, even if the latter has assumed the name "Old" as they are the Gedimu secessionists. The *ahong* of Small Ding Family Mosque, an exclusively Yihewani *jamā'a* of some 300 households, said, "Our mosque has a history of 200 years. Ma Bufang brought *xinjiao* to Linxia and in that time we changed to *xinjiao*. In 1980, the *laojiao* split off and formed Small Ding Family Old Mosque (HZ 10/9/2010). Over at the Small Ding Family Old Mosque, the head of that *jamā'a*, which has 160 households, stated:

In the 1930s, the Yihewani came more and more. During the turmoil of the 1930s and then the unrest in the 1940s to 1970s, the mosque was in a kind of limbo with the two *jiaopai* vying for power, but mainly both sides were oppressed at one time or another by the warlords or the Communists. It was not until 1984, after religious opening, that there was a decisive break (HZ 11/12/2010).

Incidentally, Small Ding Family Old Mosque has a strong Sufi orientation. The *ahong* is a student of Qi Jiequan, and considers the elder his *wusitade* [Ar. *ustād*, master]. As part of its process of gaining

legitimacy, the mosque authored an account of his historical break that stems from a dispute over proper burial. The book, *Fengyuzhong de xinyang (Yimani): Ji Gansu Linxia Ga Ding Jia Qingzhen Lao Si Yisilanjiao fazhan jishi* [Belief Among Wind and Rain (*īmān*): The Record of the Actual Events of the Islamic Development of Gansu Linxia Small Ding Family Old Mosque] (2009), reads

On May 12, 1984, the mother-in-law of --- [name blocked out in text] died of disease. The Muslims of Small Ding Family mosque, Small Wang Family Mosque, and Grand Wang Family Mosque gathered for the funeral. Once they arrived to the cemetery, the then-acting teaching *ahong* of Small Ding Family New Mosque [i.e., the Yihewani Small Ding Family Mosque] named *Maliantan wubaili*, who also went to the cemetery, launched an attack against the Gedimu. He said, "You cannot place incense, cry, or give remembrance of the dead at a cemetery." He further said, "You cannot ask the *ahong* to read the Qur'ān for the deceased nor can you eat and not read [the Qur'ān]. It is prohibited to have people read the scripture for the deceased, use money to turn *feitilei* [Ar. *fiḍya*]. But you can change the clothes of the deceased and such responsibilities that are owed. If Allah's *namāz* [prayer] money can be used to buy *wugong* [five pillars], then it as if money can be used to solve any problem. It is like money is the all-powerful lord. Only wealthy can live, the poor have no road to walk upon. To make a request for people to read the Qur'ān is not correct, you can only read the Qur'ān yourself. If you cannot read the Qur'ān, then you have no road to walk upon (Zhou 2009:15).

Such historical confrontations, which may appear anecdotal to the outsider, have gained importance as foundational to the collective memories of *jiaopai*. What is most interesting is that the Gedimu mosque represents the encounter (whether or not it actually happened), whereas the Yihewani mosque did not feel compelled to represent their recollection of the *jamā'a* split. The Gedimu book is part of a larger effort to provide an alternative view of Hezhou history, including *jiaopai* violence. Disagreements over burial rites are common flashpoints for representing *jiaopai* differences. The materialist-realist proponent would say that the Sufis are merely exercising the will of their *shaykh* and that writing, critique, and signification are merely another, nonphysical, way to instrumentalize doctrine and law for resources or power. Yet as scholar of Islam Leonard Lewisohn has argued, studies that emphasize politics over the metaphysical, religious, doctrinal, or theoretical foundations of Sufism commit a kind of interpretive injustice (2009). Sufis, particularly the Naqshbandī-Mujaddidi (Fletcher 1977; Fletcher 1995), have historically been embroiled in "deep doctrinal dichotomies and differences in mystical theology," evidencing tension between

modes of literary expression (e.g., literal or exoteric terminologies versus esoteric language) and methodology (i.e., reliance on reason, relayed tradition, or emphasis on love and intuition) (Lewisohn 2009:292). Talal Asad makes this same point

Muslims in Saudi Arabia (as elsewhere) disagree profoundly over what orthodox Islam is, but as Muslims their differences are fought out on the ground of that concept. It is too often forgotten that the process of determining orthodoxy in conditions of change and contest includes attempts at achieving discursive coherence, at representing the present within an authoritative narrative that includes positive evaluations of past events and persons. . . . Because such authority is a collaborative achievement between narrator and audience, the former cannot speak in total freedom: there are conceptual and institutional conditions that must be attended to if discourses are to be persuasive. That is why attempts by social scientists at rendering such discourses as instances of local leaders manipulating religious symbols to legitimize their social power should be viewed skeptically. This is not simply because “manipulation” carries a strong sense of cynical motivation, even in cases where evidence for such an imputation is not forthcoming, but more broadly because it introduces the notion of a deliberative, rationalistic stance into descriptions of relationships where that notion is not appropriate (1993:210–211).

As an energetic middle-aged member of the Bright Heart *menhuan* takes me through the weaknesses in Zhang Chengqian’s text, it is clear to me that matters of law and doctrine are central to his belief in Islam. While the materialist-realist view equates Sufi *shaykh* or *ahong* with Islamic authority, the view from the inner chambers of the Sufi mosque is that for the Sufis, charismatic leadership cannot stray from the authority of legal texts. Among many Sufis influenced by the writings of Imām Rabbānī Shaykh Ahmad al-Farūqī al-Sirhindī, the *ṭarīqa* and *ḥaqīqa* are subservient to shari‘a (Buehler 2003:311). Chinese *menhuan* are no different in this regard, as several tomb complexes had summaries of al-Sirhindī’s integration of the *sancheng* (“three vehicles” [Mingde Mosque of Linxia City 2009; Suzhengxian 2009]).<sup>36</sup> Simply put, the leadership of

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<sup>36</sup> The texts provide a similar synopsis of al-Sirhindī’s reconciliation of the three vehicles. As most Khufiyya Sufis in Hezhou cite such synopses, I provide one here:

Shari‘a (the vehicle of the teaching), *ṭarīqa* (the vehicle of the way), and *ḥaqīqa* (the vehicle of truth), these three means of improvement are all important, not one can be given up in the course of self-improvement. The source *Tianjing* [Heavenly Scripture or Qur’ān] 10:57 states: “O mankind! There hath come unto you an exhortation from your Lord, a balm for that which is in your breasts, a guidance and a mercy for believers.” The “teaching” of this short scripture is shari‘a, it is surface cleanness. The “balm that is in your breasts” is *ṭarīqa*, it is purity of soul. The “guidance and mercy” is *ḥaqīqa*, it is adorning the soul in light. Based on this, one can see everything, only at the time of reaching this quality, can one see Allah. *Ḥaqīqa* is the fruit of *ṭarīqa*, it relies on the strength of shari‘a,

Sufi *menhuan* locate authority not just in the figure of the *shaykh*, but in the textual sources of law.<sup>37</sup> The importance of grounding doctrinal interpretation in texts was clearly displayed in Qi Jiequan's body language whenever during our conversations I brought up a Wahhabi challenge to Sufism. He would immediately launch upright, his small frame suddenly erect from the waist up, while reaching out to the scriptures lying on his low-lying table where he knew the counter-point could be found.

After meeting with Qi Jiequan one day, a family member takes me to a small attic of their courtyard household where they keep the volumes of Arabic, Persian, and Chinese texts on jurisprudence, exegesis and *taṣawwuf* (mysticism) stacked in neat rows along the perimeter of the room. There are easily a hundred such texts. He names it the *kucun zhengtongpai jingdian* (stock of the classic scriptures of the orthodox school), and has an intimate knowledge of the collection. After watching him place his hand reverently on several texts, I understood doctrinal interpretation for him as not something external to power or used to accumulate material resources, but law and doctrine as internal to power. Simply put, the members of the Bright Heart *menhuan*, who expend a prodigious amount of time and energy on researching and writing, care too much about orthopraxis for it to be merely the tool of leaders (theirs or those of *jiaopai* others).

The foregoing discussion examines aspects of funerary rites as expressions of a Hui jurisprudence of *ʿibādāt* via signifying practices or practice-as-signification. Hui jurisprudence is divided according to *jiaopai* and *menhuan*. The everyday differences in rites associated with death, I argue, constitute *jiaopai* distinctions. Despite perceptions of the state's general backing of the Yihewani's interpretation of Islamic law and doctrine, as consonant with the state's interests in

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it is the perfection and success of *ṭarīqa*'s achievement through cultivation. Therefore, if shari'a as means of improvement is neglected, then *ṭarīqa*'s means of improvement is ineffective. If one's shari'a as means of improvement does not have *ṭarīqa* as means of improvement then this is like a follower's empty shell, devoid of content, between the surface and the inside (Mingde Mosque of Linxia City 2009:209).

<sup>37</sup> Of course, many Sufis outside the small circle of power at the center may view the *shaykh* as not just the intermediary between them and God, but also the embodiment of the law (HZ 1/5/2010, 3/6/2010).

rationalism, development, nationalism, and modernity, in the Muslim Public Cemetery there is no one right way to honor the dead. Rather, orthopraxis is subject to radical subjectivity, that is the production of pious selves oriented towards a specific set of practices, between and within the *jiaopai* and Sufi *menhuan*.

The presentation of money in the *fidya* and the collective reading of scripture, along with such practices as mourning dress, the burning of incense, displaying and venerating the photographs of saints, grave visitations and commemorative anniversaries, all seemingly trivial or superficial liturgical habits, I call doctrinal fingerprints because they encode, in miniature, core doctrines, particular to *jiaopai*, in this case, traditionalist ones, and the Sufi *menhuan*. The doctrinal fingerprints are individualized and individuating among the *jiaopai* and *menhuan*. They are a kind of microform or microreproduction that store, transmit, and signify legal and doctrinal interpretations. They are further subject to open texture, connotative polysemy, and multiple interpretations by *jiaopai* others;<sup>38</sup> and they are the raw material for transference. Traditionalist Muslims exhibit a set of burial practices that are common to both the burial of a common person and an *ermaili*, the commemoration of the death date of the founder of a *menhuan*. The Wahhabis attack traditionalist Islam for these practices as ancestor worship which is *shirk* (idolatry) and polytheistic, the most heinous of sins. Specific mourning dress, photographs of deceased, placing of incense, celebrating the anniversary date, these practices are also shared by Han Chinese. The Wahhabis thus link such practices-as-signifiers or signifying practices of the traditionalist Muslims to idolatrous non-Muslims. Stuart Hall wrote of the decoding of the signifying chain (1980). Applying Hall's thinking, in the Wahhabi decoding of the signifying chain, to burn incense is tantamount to worshipping a dead ancestor.<sup>39</sup> From the Wahhabi view, ancestor worship is

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<sup>38</sup> Such signs are not "empty" or "floating" in the rubric of post-structuralism, but in fact too full of meaning and anchored to *jiaopai* predispositions.

<sup>39</sup> The state employs a different interpretive logic. Sufis say that officials have visited tombs before an *ermaili* asking them to limit or minimize the number of burning incense sticks out of fire prevention and public safety (LZ 10/26/2010). Thus the state invokes the rationale of "public interest" to curtail superstitious practices.

evidence that Sufis shirk shari‘a. To give just one example, a young Yihewani man from Hezhou studying for his master’s degree elsewhere told me:

The Da Gongbei [Grand Tomb Complex] and the other tomb complexes are illegal because Islam preaches against idolatry. The worship of the *laorenjia* is illegal. One can care for one’s parents, this is permitted, but the *laorenjia* is not one’s parent. Historically, non-Grand Tomb Complex members were not allowed to enter the complex, but this recently changed. I went there for the first time. It didn’t really impress me—all tomb complexes are quite similar, it’s just their size that is different. I heard they have figures, animals, and humans in their artwork [the *zhuangdiao* or brick carving]. When I was there, I saw the artwork. It evokes Daoism as well as Buddhism and Confucianism. I disapprove of this (HZ 1/30/2010).

For the traditionalists, especially the Sufis, the burning of incense is one part of a repertoire of elements that constitute the correct environment for *gongxiu*, the elevation of one’s moral worth by meditation, study, reflection, and pronouncement of the *dhikr* (remembrance of God), the activity tied to adherence to and progress along the *ṭarīqa*. That is, the traditionalist counter-argument is that they follow the *ṭarīqa* and *ḥaqīqa* as devotional practices, in addition to shari‘a, that is, the “three vehicles.” Such supererogatory practices are viewed by Wahhabi as accretions and unlawful. As a response to perceptions and pressure from the Wahhabi and the state, Sufis are exacting about the language that is used to describe their practices. They *zunjing* (respect) the *laorenjia* and do not *chongbai* (worship) him. Further, they *dianxiang* (light incense) as opposed to *shaoxiang* (burn incense) which is what non-Muslim Han do.

By conducting rites in a certain *jiaopai*-prescribed manner and justifying such practices, often grounded in the authority of the *sunna*, through writings, the members of different *jiaopai* contend for the definition of orthopraxis. A burning incense stick or a Qur’ānic reading by the *ahong* alone are instances of “tactics” (Certeau 1984:37) or “symbolic acts” (Scott 1990:227) that simultaneously subvert alternative *jiaopai* orthodoxies while providing the everyday grounds for one’s own *jiaopai*-defined Islamic imaginary. Traditionalist and Wahhabi Muslims bury their dead the way they do just as much to signify their otherness from rival *jiaopai* as to ensure the dead are

situated to enter paradise.<sup>40</sup> As a consequence, there is a strong boundary-maintenance function to such quotidian doctrinal differences. In the following, I provide an example of a case of doctrinal dispute from contemporary Hezhou. While the affair would seem to support the materialist–realist thesis, I argue that it illuminates the multiple motivating forces that shape doctrine observance in addition to pragmatic rationality through the permeability of *jiaopai*-defined doctrinal boundaries and the anxiety such fragility engenders.<sup>41</sup>

*The Enemy Within: The South Gate Grand Mosque Affair*

On 20 September 2010, I was on board a bus from Hezhou bound for Lanzhou. At the foothills of the mountains of the Dongxiang Autonomous County, there were nearly fifty policemen as well as a dozen police cars and vans. After a half hour of driving up the serpentine mountain-hugging road, the bus encountered a knotted traffic jam in the center of the county’s capital, about 30 kilometers from Hezhou. Dongxiang men were packed into cars, trucks, and vans. They crowded onto tractors and *sanlun huoche* (three wheel trucks), some standing on top of the vehicles for lack of room. Others rode on motorcycles, sometimes two or three men per vehicle. Several hundred men were momentarily suspended at the snarled intersection. They were all heading southwest to Hezhou. The air was thick with stalled carbon dioxide and portentous anger of a volume that far exceeded

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<sup>40</sup> In *The Raw and the Cooked*, Lévi-Strauss argues that prehistoric peoples employed fire to transform raw into cooked not for survival but to distinguish themselves from animals (see 1972[1969]).

<sup>41</sup> Anthropologists have complicated rational actor models. For instance, Edmund Leach saw the Kachin as operating under a menu of political systems from which they chose for interest-maximization (1977[1964]). James Scott has taken Leach’s line of thought further to argue that lowland peoples ‘opted out’ of state systems (2009). (Scott overlooked Leach’s main critic, Jonathan Friedman, who complicated if not refuted Leach’s model by considering context, contingency, and constraints that produce variation in behavior and thus social reproduction (1998[1979]).) Geertz offered an alternative to interest theory in his strain theory (1973a). His student Sherry Ortner has provided a much more robust approach to ‘interest’ through her interpretation of practice theory. She writes:

Insofar as interest theory is, even if it pretends not to be, a psychological theory, it is clearly far too narrow. In particular, although pragmatic rationality is certainly one aspect of motivation, it is never the only one, and not always even the dominant one. To accord it the status of exclusive motivating force is to exclude from the analytic discourse a whole range of emotional terms—need, fear, suffering, desire, and others—that must surely be part of motivation (1984:151).

that of the usual bottleneck. Additionally, many of the men carried pitchforks, sledgehammers, stakes, and clubs. Their expressions were resolute, their jaws set. The scene promised violence, but at the time I did not know the underlying reason nor to whom it was directed.

As I would later piece together, this was the beginning of the South Gate Grand Mosque scandal (hereinafter, “SGGM affair”) that would pit one mosque against another, both of the same *jiaopai*, ostensibly over the matter of the printing of a smuggled doctrinal text. The way in which I learned of the SGGM affair illustrates gossip, rumor, storytelling, and prejudice as reconfirming or reproducing *jiaopai* distinctions. Therefore, in my retelling of the affair, I underscore the absence of a coherent, authoritative account (neither one produced by a single Islamic authority as there is none, nor one by the Party–State which censors such events, nor one written by the anthropologist who participates in inventorying and contributing to the non-authoritative nature of knowledge). Instead, information circulation in Hezhou proceeds by a profusion of highly subjective renditions that are communicated, ventilated, disseminated, revised, exaggerated, and hypertrophied through the narrow lanes and courtyards of Bafang, in mosque offices, *qingzhen* restaurants, and *xinxibu*.

As often noted by anthropologists, gossip is an aspect of the taken-for-granted everyday and operates with its own law-like force to maintain social cohesion as well as effect social segregation and distancing (Bergmann 1993:8). Melville Herskovits in his study *Trinidad Village* (1947) wrote of gossip, “fantasy supplements or even supplants fact in order to weave more closely a new motif into the old pattern of grievance against discrimination” (Gluckman 1963:307). Gossip in Hezhou, like gossip anywhere, tends to confirm people’s views of their world, but further, it sustains the individual imaginaries of *jiaopai*. Thus, my methodology of collecting, contributing to, and writing about accounts of the SGGM affair proceeds in step with my attempt to build a theory of/from *jiaopai* as organizing schema for multiple Chinese Islamic imaginaries. *Jiaopai* members develop generally consonant versions of the SGGM affair within their *jiaopai*; these distinguish themselves from those of *jiaopai* others. My approach to ethnography is further a response to

debates in the discipline of anthropology over the status of ethnography after the postmodernist critique (e.g., Sangren 1988; Spencer 2007). Following Margery Wolf, I agree that the questions raised by postmodernists about ethnographic authenticity and representation are important, but the specific answers provided by the authors of critique perhaps less so (1992:5). Wolf offers a solution in the *Thrice Told Tale*. The SGM affair is composed of as many tales as there are *jiaopai* and *menhuan* and yet what resonates about the affair may be less its polyvocality as the ‘transference-ability’ and permeability between those tales.

South Gate Grand Mosque is the oldest mosque in Hezhou and its history has mirrored the major revivalist movements in Chinese Islam’s history. Historical records from the mosque identify its first building to C.E. 1273. Its earliest name was “Connected Root Post Mosque” (Liangenzhu si) as the prayer hall was originally built on several pine tree stumps. It was located directly outside the south gate of the imperial city. Thus while Hui were not permitted to live inside the city gates, South Gate Grand Mosque served as an early bastion of Hezhou Hui religion and authority, within a stone’s throw of the imperial wall, for centuries. As such, it marked the northeastern boundary of Bafang, the Muslim quarter.

The mosque, for most of its history, had been a Gedimu stronghold. Its *jiaopai* affiliation became uncertain, however, at the end of the Qing period. Ma Wanfu (1853–1934), the founder of the Yihewani *jiaopai*, upon returning from his first hajj and five years of study in Saudi Arabia in 1892, gave one of the first Yihewani *wa’z* in Hezhou at the mosque in 1900, calling for a return to the law and a reformation of customs, including prohibiting collective reading of the Qur’ān, the use of the Qur’ān to turn *fidya*, and worship of Sufi tombs (Hai 1993:109). However, Ma Wanfu was unsuccessful at converting the mosque to the scripturalist *jiaopai*. The ascent of the Yihewani would not take place until nearly two decades later only when Ma Wanfu aligned himself with Muslim warlords Ma Qi, Ma Fuxiang, Ma Hongkui, and Ma Hongbin (Lipman 1997:207–208). The 1920s and 1930s were a time of turmoil in Hezhou as warlords sought to wrest control of the city from the

National People's Army (*Guominjun*). In 1928, Zhao Xiping burned Bafang in retaliation for an uprising led by Ma Zhongying. South Gate Grand Mosque was destroyed during this time (Wu 1995:363). In 1931, Ma Lin, chairperson (*zhuxi*) of Qinghai province provided funds for the mosque to be rebuilt. However, this time, the mosque would serve the growing Yihewani *jiaopai*. As described by *Long Ahong: Volume 3* (Mingde Mosque of Linxia City 2004:27), the Yihewani warlord Ma Bufang chose South Gate Grand Mosque as Hezhou's Yihewani *hanyī* mosque which would be the center of the Yihewani *jiaopai* in Hezhou and administrator of other Yihewani mosques. Complicating matters, the initial funder Ma Lin would go on the hajj in 1936 with several Muslim leaders from Hezhou and Guanghe and return as the first Chinese Salafiyya converts in China (Hai 1993:109). Thus, although most Hezhou Hui identify South Gate Grand Mosque as Yihewani, it is one of the progressive mosques whose *jiaopai* status is murky.

Most accounts of the SGGM affair begin with a young *ahong* popularly called Ma Ying (real name Ma Zhongyou) who became the head *ahong* at South Gate Grand Mosque. After this initial data-point, however, most narratives quickly dissolve into contradiction. A Dongxiang Sufi and civil servant in the Linxia city government I talked to believed Ma Ying is named after his birthplace in Qinghai which allegedly was named during the Ma family warlord period (HZ 10/1/2010). However, later, a Salafi cadre said that he came from Wang Tai Township Yongjing County in Linxia Prefecture (HZ 12/18/2010). An Yihewani restaurateur and member of Water Spring Mosque told me over a bowl of beef noodles that Ma Ying was trained as a *manla* at Water Spring Mosque in the 1990s, an Yihewani mosque in southeastern Bafang. One of his closest friends was a fellow student known as Ma Hasan. Another Salafi cadre, during a separate meeting, disagreed with this, saying that Ma Ying and Ma Hasan did not study together at Water Spring Mosque, but both were Dongxiang. Ma Ying was *manla* at the mosque when the head of the mosque died without a successor and Ma Ying succeeded him—without proper authority, the man added (HZ 12/18/2010).

In 1992, Ma Ying moved into the post of teaching *ahong* at South Gate Grand Mosque, a position highly coveted by Yihewani *manla* in Hezhou and Dongxiang Autonomous County. According to a Salafi former head of the CPPCC, he and Ma Hasan had struck a deal to assist each other in their career advancement. Ma Ying would serve as head *ahong* of South Gate Grand Mosque first for eight years and then step down so that Hasan could take over. In the meantime, Ma Hasan pursued further study in Xinjiang and, later assumed the post of teaching *ahong* at West Mosque in Dongxiang Autonomous County, one of the mosques reputedly under the *hanyi* jurisdiction of South Gate Grand Mosque. But, Ma Ying did not adhere to the pact and stayed on as head of South Gate Grand Mosque for another ten years (HZ 10/10/2010). It seems Ma Ying had by that time neutralized any potential challenge from the mosque committee, whose membership was almost exclusively Dongxiang.<sup>42</sup>

As related by a member of the Bright Heart *menhuan*:

The friendship of Ma Ying and Ma Hasan soured further into Ma Ying's tenure as head of South Gate Grand Mosque. Ma Ying decided not to relinquish his position, setting up a confrontation between the two influential *ahong*. In 2009, one of the students of Ma Ying gave a *wa'z*. A student of Ma Hasan was in the audience. Apparently, the student of Ma Ying told his audience to not follow *a'imma* in Saudi Arabia for they are Salafiyya. The student was questioned on this and he said he was citing a textual authority that Ma Ying had approved. After this, the student of Ma Hasan returned and reported all of this to Ma Hasan. Ma Hasan was outraged and called Ma Ying, asking him why he was using such text and telling his students such things. Ma Ying, recording the conversation on the telephone, said that Ma Hasan was trying to create conflict and was a *fan geming* [lit. "counter-revolutionary," but a catchword in the post-Mao era for "terrorist," *minzue fenbie* (ethnic separatist), and, generally, rabble-rouser]. After all, Ma Hasan had been educated in Xinjiang (HZ 12/5/2010).<sup>43</sup>

As farfetched as Ma Ying's ploy may seem, following the July 2009 riots in Urumqi "Xinjiang" had become a code for Islamic terrorism throughout the Northwest. Anyone associated with the region

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<sup>42</sup> According to regulations, the "democratic mosque administration committee" is meant to balance the power of the *ahong*. For more on this relationship, see Chapter 10.

<sup>43</sup> A Salafi man confirmed the account of the Sufi above saying that Ma Ying alienated many Yihewani supporters in Bafang with his anti-Wahhabi tirade (HZ 12/18/2010).

was guilty by association. The Sufi telling me this account lowered his voice as he uttered the word, giving credence to the demonizing effect of Xinjiang even among Hezhou Hui.

The struggle between the two *ahong* soon divided the *jamā'a*, itself straddling Hezhou city and much of Dongxiang county. The ties between South Gate Grand Mosque and Dongxiang, based in Dongxiang Autonomous County go back to the 1960s. As told by a Dongxiang man and member of the Gedimu Old Glory mosque:

During the Cultural Revolution, the Dongxiang led a revolt against the Communists and Bafang Hui joined the Dongxiang. The People's Liberation Army used helicopters to fire upon the Muslim crowds, massacring them. After the Cultural Revolution, the government made a public apology and gave reparations to the Dongxiang. . . . Not a single Dongxiang spent the money on himself, but rather, pooled the money and gave it to South Gate Grand Mosque [to thank the Bafang Hui]. This is one of the sources of the tie between the Dongxiang and South Gate Grand Mosque (HZ 10/1/2010).

While the Party-State has sought to dismantle the *hanyi* system by replacing it with a *shudi* ("territorial possession") system (see Chapter 1), nevertheless the *hanyi* system survived in a weakened form. Yet it was not until Ma Ying's tenure that the mosque leadership sought to propagate to Dongxiang Muslims. In the 2000s, the South Gate Grand Mosque *jamā'a* was quite small (only about a hundred households). Facing competition from the other mosques, Ma Ying focused on the Dongxiang knowing he could attract more followers among his own ethnic group. On *jum'a*, several thousand Dongxiang, or 60 percent of the *jamā'a*, attend prayer at South Gate Grand Mosque. The leadership of South Gate Grand Mosque, under Ma Ying, considers itself the *hanyi* mosque with oversight over mosques in Dongxiang where its *jum'a* congregation resides.

For several years, Ma Hasan pushed to have Ma Ying retire, to no effect. According to a Hui man from Hezhou, the week before 20 September, in his sermon, Ma Ying "encited *minzu fenbie*" (ethnic splittism) (HZ 9/25/2010) which, depending on one's ethnicity and *jiaopai*, meant either anti-Salafiyya speech or pan-Dongxiang appeals. On 20 September, Ma Hasan tried again. This time, he exhorted his followers to go to the mosque to enforce his announcement that Ma Ying was to step down. Like the KTV affair, which occurred the same week as the SGGM affair (see Chapter 5),

violence often ensues in Hezhou when *ahong* try to enforce Hui law or morality over or against state measures. It was at this point that the Dongxiang men organized in the county town to descend on Hezhou and storm the mosque. As told by a Dongxiang taxi driver who drives the windy route between Hezhou and the town center of Dongxiang Autonomous County every day, a majority of Dongxiang are Yihewani, and further, most of the small hamlets between the town center and Hezhou are Yihewani Dongxiang (DX 11/14/2010). The assemblage of vans, trucks, buses, cars, and motorcycles gathered these additional recruits and, like a tidal wave, broke through the police blockade at the base of the mountain dividing Hezhou from Dongxiang Autonomous County and descended on the mosque. Ma Ying's followers, hearing of the impending assault, had barricaded the mosque. Most accounts put the number of men who assaulted South Gate Grand Mosque at two to three thousand on the first day who were joined by an equal number on the second day. The people's militia and armed police wearing anti-riot gear had likewise gathered and there were a long line of over seventy police, public security, and military vehicles along Liberation Avenue. When the Ma Hasan-supporters arrived, the police intervened between the two factions. By this time, most of the residents and shopkeepers in eastern Bafang had formed a massive crowd of on-lookers. The armed police formed a protective wall outside the mosque and drove back the Ma Hasan-supporters. The Dongxiang attackers, carrying clubs and wooden staffs, hurled insults at the Ma Ying-backers inside the mosque. Despite the growing number of pro-Ma Hasan Dongxiang that gathered in Liberation Avenue and the South Gate Square outside the mosque, the police avoided serious injuries.

What happened next was as extraordinary as the initial assault. The police worked to disperse the gathered Dongxiang and maintained their presence, effectively encircling the mosque. Ma Ying and his supporters continued to defend the barricade. The police warned that if Ma Ying came out, he would be arrested onsite. A standoff ensued between Ma Ying and the authorities. For the following week, whenever I passed the South Gate Grand Mosque, through the iron gate that

protected the mosque, I would see Ma Ying and his inner circle sitting on the main steps of the prayer hall. During that week, in the evenings, from my guesthouse in Bafang that was several hundred meters from South Gate Grand Mosque, I heard the armed police conducting drills in South Gate Square late into the night. About a week after the confrontation, late in the evening of 26 September, police entered the mosque compound and arrested Ma Ying. I was unable to discern the exact nature of the charges, but Ma Ying was soon released from police custody. He was put under house arrest and told he could never again serve as head *ahong* of South Gate Grand Mosque or give a *wa'z* there. Ma Hasan was also removed from power. However, Ma Ying soon returned to South Gate Grand Mosque and on 8 October gave a *wa'z*. This time, the authorities would not take the recalcitrant *ahong* away under the cover of night, but would do so with a show of force. From my field notes, I recorded the following

Around ten o'clock this morning, the police had blocked off Liberation Avenue. There were seventeen public security vehicles parked on the east side of the road. Police wearing helmets and protective gear as well as holding sticks were lined up on the west side of the road. There were about two dozen of them in a row. As I got nearer to the mosque, I saw there were four large fire-trucks with water spray guns mounted on top parked on the east side of the road. There were also eight large vans (paddy-wagons). Immediately in front of the mosque was a row of three dozen armed policemen in full anti-riot gear, carrying full-body shields and body-length batons. Their sergeant periodically shouted orders at them and their already erect posture became even straighter. I recognized some of the policemen and women from the city police station. Used to working behind desks and filling forms, they looked anxious and uncomfortable in their heavy helmets and gear. At the entrance of the mosque, there were two queues, composed of policewomen and members of the South Gate Grand Mosque committee, their red badges reflecting in the sun (Illus. 20). Inside the mosque, men were sitting out on the main entry of the prayer hall watching from inside. There were crowd-control measures in place including several policemen carrying speakerphones and telling the many on-lookers to move along. Further north, they had similarly closed off the South Gate Square with a row of policemen in riot gear. All other ways in or out of the area were blocked.



Illus. 20 The front entrance of South Gate Grand Mosque with police and members of the mosque committee forming lines in front. In the foreground are armed police. Source: taken by the author (HZ 1/8/2010).

The men began entering the mosque twenty minutes before noon. I was told by a bystander that the police planned to take Ma Ying away as soon as he finished the *jum'a wa'z*. Just then, a plainclothes police officer approached me and asked for me to step aside. He and a fellow officer had been videotaping me. After checking his identification, I followed him into a sidestreet where he checked my passport and then had me led to an unmarked black Santana and evacuated me from the scene with impressive briskness. They drove me to my guesthouse and instructed me not to leave for 48 hours and a plainclothes officer was stationed outside the guesthouse entrance. Friends told me later that indeed Ma Ying was taken away and again put under house arrest.<sup>44</sup> I felt a ping of empathy for the disgraced *ahong*.

<sup>44</sup> Demonstrating the difficulties (or fickleness) of punishment in Hezhou, Ma Ying was allowed to go on the hajj a month later. According to the Salafi former CPPCC head:

As for their successors, in the interest of quickly resolving the conflict, they were chosen in record time. The mosque committee of South Gate Grand Mosque chose an *ahong* from North Plateau as Ma Ying's replacement, although, oddly, he was, in fact, a disciple of Ma Ying. Nevertheless, the state approved this selection. Ma Hasan's replacement was nominated and approved under the same dual-track system. However, Salafiyya, Yihewani, and Gedimu agreed that this approach had not solved the problem and that Ma Ying and Ma Hasan continue to work through their successor-proxies. An additional state response was to install video cameras over the front entrance of South Gate Grand Mosque, the first time in Hezhou that such surveillance techniques were used.<sup>45</sup>

As I talked to people about the SSGM affair in the weeks after the initial attack and the subsequent standoff, many discussions focused on a book on ritual as the firebrand that set off the series of events leading up to the SSGM affair. Salafiyya, Yihewani, and Sufis all agreed that Ma Ying had recently begun printing copies of an Arabic text entitled *The Book of the Beneficial Sciences* (Ar. *Kitāb al-ʿUlūm al-Nāfiʿa*) by an author named li-Jāsim al-Muhalhal wa-Ākhirūn and others.<sup>46</sup> Further, most agreed on the provenance of the book. It had been smuggled into Hezhou via Hong Kong in 2000. Although written in Arabic, the book's author was a Turkish scholar. While Ma Ying had possessed the book for a decade, he did not begin endorsing it and printing copies until

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In Mecca, Ma Ying gave a *wo'erzi* [Ar. *wa'z*] to the Chinese Muslims that was *jiduan* [extreme]. He said something to the effect that "you come from your father's penis and your mother's vagina." The *ahong* in charge of the hajj group reported these statements to the authorities. But to no avail. Furthermore, on his return, Ma Ying prayed at South Gate Grand Mosque against public security orders. Here in Linxia, we have a saying, "as always, no strong administration" (*zongbi mei guanqiang*) (HZ 12/18/2010).

<sup>45</sup> Video cameras had been placed throughout New West Street, the location of four of Bafang's major mosques, before the SSGM affair, but these were not focused directly on mosque property. I first observed the cameras on South Gate Grand Mosque on 6 November 2010. Shortly after, I noticed surveillance cameras had been installed over the Gedimu North Mosque inside Bafang. When I inquired, I was told that the mosque had done so as recently several bicycles had been stolen from the mosque courtyard. Nevertheless, the timing seemed more than coincidental. Surveillance cameras are one of the techniques of information gathering in Uyghur cities such as Kashgar, where cameras adorn mosques and the narrow lanes of the old city.

<sup>46</sup> According to my conversations with judicial civil servants in the Linxia City Intermediate Court Civil Affairs Bureau, printing (*yinfā*) is not illegal but publication (*chuban*) is (HZ 10/1/2010). Nevertheless, it appears Ma Ying violated policy by trying to distribute an unauthorized text.

2010. Details differ among interlocutors, but most say he printed 500 copies, complete with the official seal of the South Gate Grand Mosque, marking the approval of the mosque, which Ma Ying planned to distribute to mosques under the jurisdiction of the South Gate Grand Mosque. It was to be used for instruction in “scriptural hall education” and in the *ahong's* sermons. Ma Hasan opposed this book and its popularization. It seems Ma Ying was unsuccessful in his efforts. The Linxia City police found over a hundred copies in the mosque and burned these.

Anxiety-provoking texts are destabilizing in Hezhou given the history of the entry of revivalist doctrinal movements through textual circulation of works such as Ma Wanfu’s printing of Yihewani texts in Hezhou in 1897. In Hezhou, there was intense speculation as to the nature of the *The Book of the Beneficial Sciences*. The Salafi former head of the CPPCC said that he had been involved in a series of meetings about the book, and reported *The Book of the Beneficial Sciences* had two main parts. The first was a polemic on Wahhabism and especially one of the founders of the Salafiyya, the Egyptian mufti and Islamic modernist Muhammad Abduh (1948–1905). The second part was a defense of Sufi practice, particularly tomb visitation. The Salafi claimed the book’s author was Turkish and had received a “British colonial education.” The book was written from the vantage of Turkish nationalism and attacked the grounds of Saudi sovereignty. The Salafi man emphasized that Ma Ying came from a Jahriyya Sufi background. The *manla* of Ma Hasan had spotted Ma Ying attending Jahriyya events hosted by the *shaykh* of the order and wearing the distinct six-cornered cap, the hallmark of the Jahriyya. The Salafi man (and his Salafi colleague) concluded “Ma Ying had not yet cleared out all of his Jahriyya thought” (HZ 12/18/2010). As further evidence, Ma Ying’s brother Ma Zhongyin, former Linxia Prefecture Party Vice-Chair, was a Jahriyya member. Another time, the former CPPCC contended “Ma Ying is an extremist” (*jiduan fenzi*) who has told his followers not to go on the hajj with Salafiyya and not to eat meat from Saudi Arabia (HZ 12/10/2010).

The SGGM affair confirmed in the minds of Salafiyya in Hezhou that Ma Ying is Yihewani-on-the-outside but Jahriyya-on-the-inside and both duplicitous and oppressive toward Salafiyya. Much like the status of the signifier “Xinjiang” in Northwest lexicon, “Jahriyya” was a socio-religious label with a long history of negative, violent, and anti-state connotations, including *xiejiao* and *waidao* (heterodoxy; Fletcher 1975:560; Gladney 1987a:49; Gladney 1996[1991]:48–50; Lipman 1999). To be secretly Jahriyya was dangerous and subversive.

Sufis agreed with the Salafiyya in their assessment of Ma Ying’s character, yet derived different conclusions. Members of the Bright Heart *menhuan* also viewed Ma Ying as Yihewani-turned-Jahriyya. One Sufi of the order opined that the internal dispute was evidence of the fulfillment of a prophecy made by Qi Mingde that the Wahhabi would “criticize themselves” (HZ 11/12/2010). Another leader of the Naqshbandī-Mujaddidi order stated, “The Yihewani and the Salafiyya are the same, but they often veer off into different paths. [Qi Mingde] realized this. He said, if you have knowledge and understand history, then you will see this clearly. The Salafiyya and the Yihewani arrived in China at around the same time. They are branches of the same root, but the root itself is confusion. Now, the Sufi *menhuan* are also branches, the root is the teaching of Muhammad” (HZ 12/5/2010).

Interestingly, most commentators agreed Ma Ying and Ma Hasan’s rivalry was the reason for the religious and ethnic unrest citing *geren liyi* (personal interest). A member of the Bright Heart *menhuan* even stated the book was “an excuse” (HZ 12/5/2010). These statements would seem to support the materialist-realist argument: egoistic actors seeking to maximize their followers and position of authority in the community. While the two rivals’ motives appear to be very much as represented by my interlocutors, their very representations suggest an anxiety or fear that belies a simple rationalistic explanation.

Most of the gossip I heard in the fallout of the SSGM affair reified pre-existing *jiaopai* predispositions. Information gathered by Muslims in Hezhou and Dongxiang Autonomous County

was made sense of through the lens of their *jiaopai* identifications. Other factors such as ethnicity, native place (i.e., Hezhou or Dongxiang Autonomous County), profession, gender, and socio-economic status are not to be trivialized, but at the same time, gossipy interpretations of the SSGM affair showed congruence with *jiaopai* affiliation. So, for the Salafiyya, Ma Ying was vehemently anti-Salafiyya in his speech and deeds. The Salafiyya commentators' responses evidenced their own sense of marginalization in Hezhou. In the eyes of the Naqshbandī-Mujaddidi Sufis, dispute within the Wahhabi was a sign of their founder's prophecy, justifying his long struggle against them.

These positions vis-à-vis the malefactor Ma Ying (and Ma Hasan, too) are also transferenceal, that is, speakers (or more specifically, their idealized self-images) are constituted by *jiaopai* others. As Freud observed, transference is ambivalent (1949:52) and in the Hezhou residents' talk, there is much vilification, but also a valorization of Ma Ying. Ma Ying plays dual roles. As much as the Salafiyya define themselves against the practices of Sufism (e.g., tomb worship, grave visitation, the concept of the *ṭarīqa*, etc.), it is the Yihewani they view as their greatest rival. The reason for this is historical. The Yihewani represent the *jiaopai* from which the Salafiyya broke and which oppressed them most grievously under Ma Bufang's reign and took the form of peripheralization under a Communist regime that broadly backed the Yihewani. The Salafiyya struggle, then, is really defined against the Yihewani and the state. Such sentiment is clear in the assertion of a Salafi civil servant when I asked him about their connections with Saudi Arabia. "They see us as foreigners," he said. "The government has blocked our correspondence with them. The government supports the Yihewani in China. So we do not depend on Saudi Arabia. We seek to cultivate ourselves" (HZ 12/18/2010). The Salafiyya need the Yihewani as it is their excess of power against which they realize themselves. For the Sufis, too, Ma Ying is a corrupt figure, but a necessary one. He is the fulfillment of a prophecy and a sign of the legitimacy of Qi Mingde, as founder of the *menhuan*. Although fallen from power, Ma Ying attains power through self-sustaining *jiaopai* gossip.

Yet it is more complicated than this. While gossip as a form of communication delineates, and by so doing confirms or entrenches, *jiaopai* distinctions, *jiaopai* ambiguity is its most desired object. While Hezhou Muslims, particularly in Bafang, will gossip about who slept with whose wife and which child performed poorly on examinations, a potential *jiaopai* change in the leadership of a mosque generates an orgy of commentary. The reason for this is the uncertainty it injects into Hezhou society. The SGGM affair was, in the parlance of official documents, a *neibu maodun* (internal conflict), yet it also contained a hidden, potential or perceived inter-*jiaopai* struggle. Ma Ying allegedly feigned allegiance to Yihewani but in an example of the text determining the position of the subject (Lacan 2006d), he was believed to be a Jahriyya. *Jiaopai* change, although not common, is not unheard of in Hezhou. Although most people inherit their *jiaopai* identity, people change for a variety of reasons. An entire mosque may convert, for instance, from one *jiaopai* to another, under the leadership of a charismatic *ahong*. However, *jiaopai* change occurs under other conditions besides the leadership of a young *ahong*. The most common reasons for changing *jiaopai* are encounters with reformist movements while participating in the hajj or studying abroad. There are others. To give one example, a Sufi and judicial official from Hezhou I had first met at the *ermaili* in Guyuan, Ningxia, told me in a later conversation that up until a few years ago he was member of the Khufiyya Glory Mosque *menhuan*. He changed because his *murshid* had died three years earlier and he was dissatisfied with the current leadership of the *menhuan*, whereas Wang Shoutian, the *murshid* of Wuxingping Lingmingtang *menhuan*, was the preeminent Sufi master in Gansu (HZ 5/8/2010).

While all *jiaopai* wish to maximize their followers and that entails competition, at the same time leaders of *jiaopai* are discomfited by changes to the *jiaopai* system. The Party-State, too, seeks status quo. Through academic research, publication and the work of the China Islamic Association,<sup>47</sup> the Party-State maintains *jiaopai* and *menhuan* constituency and stable relations. The

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<sup>47</sup> See Chapter 10.

lay discourse and academic/political discourse (Munasinghe 2001:18–20) develop in tandem. Both exemplify the archive (Derrida 1995) of *jiaopai* reproduction, either through formal academic writing or gossip at the *xinxibu* and elsewhere. Such modes of knowledge circulation supplement the initial creation of the *jiaopai*, formalized by the state in the work of Ma Tong. The categories of *jiaopai* are sustained through such banal story-telling as that in which residents of Hezhou participate. Yet, applying Derrida’s notion, the *jiaopai* archive is troubled by “archive fever,” “a compulsive, repetitive, and nostalgic desire for the archive” (1995:91). The demand for clarity, for tight boundaries between the *jiaopai* and *menhuan*, is frustrated by the boundary-negating figure of Ma Ying. Most people of prominence in Hezhou, like *ahong*, do not advertise their inter-*jiaopai* affiliation. Nasim, for example, the *ahong* of an Yihewani mosque that is amenable to Salafiyya thought, comes from an inter-*jiaopai* family. A great-great grandfather was a Sufi *shaykh*, a great grandfather was one of the earliest Yihewani *ahong*, and a grandfather was one of Hezhou’s earliest Salafiyya *ahong*. Yet he does not publicize this family history. As Leach (1977[1964]) demonstrated in the example of the Shan-turned-Kachin or the Kachin-turned-Shan, the transformability of the categories does not cause their erosion, but rather, their reinforcement.<sup>48</sup> In Hezhou, compulsive linedrawing takes the form of everyday doctrinal practices and talk about them.

### *Why Small Things Matter*

This chapter argues that scholars should consider the doctrinal differences that Muslims in Hezhou and elsewhere in the Northwest take so seriously to the point of violent defense and confrontation. While there are methodological shortcomings to assuming that statements of interlocutors explain it all away, at the same time such talk should not be dismissed. This chapter proposes that doctrinal

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<sup>48</sup> Leach’s research on Kachin society and specifically his “oscillation” thesis has been critiqued following recent ethnographic work in Burma and China for its ahistoricity, misinterpretation of vernacular terms, and over-determination (see e.g., Chit Hlaing 2007). Nonetheless, Leach’s model of ‘situated’ ethnicity serves as a defining analysis in the study of non-Western political communities.

differences matter as they have symbolic importance in the everyday lives of Hezhou Muslims, both in terms of external group “boundary maintenance” in the Barthian sense, but also for internal subjective self-certainty in Hegel’s definition. Ritual and law have potent symbolic import, and should not be relegated to mere superstructure. Rather, I have proposed that an examination of the everyday, such as burial rites, or commenting about disputes shows bodily acts, movements, and gestures as well as signifying practices (e.g., writing and even gossiping) as reproductive of *jiaopai* distinctions. Answering Bourdieu’s call “to situate oneself within ‘real activity as such’” (1990[1980]:52), this chapter finds that signifying practices centered upon doctrinal differences matter, although perhaps not entirely for the reasons offered by interlocutors.

In the case of funerary rites, for example, I have shown such liturgical minutiae (e.g., turning the *fidya* and Qur’ānic readings during burial rites) to be instances of what Freud named “narcissism in respect of minor differences” (2010[1929]:90), or what I term doctrinal fingerprints, as the locus of considerable affective and psychic investment. *Ahong* in Hezhou have their own rubric to describe these differences as *datong xiaoyi* (small differences among commonality) or *qitong congyi* (seek common ground from differences). While *ahong* play down such differences in *wa’z* for political reasons (see Chapter 5), the everyday performance of such differences and their representation, articulation, and amplification in scriptural debates and historical writings belie their insignificance. These doctrinal and liturgical differences comprise metonymic chains that come to stand in for Islamic imaginaries pursuant to *jiaopai* formulations. In the absence of a court of Islamic law to decide orthopraxis, Hezhou Muslims signify correct practice in the Muslim Public Cemetery, their mosques, and homes. They produce diverging lines of a practice-based *fiqh* of *‘ibādāt*. While these differences usually do not generate stress, under certain conditions they may become the focal point of inter- or intra-*jiaopai* violence. Constant negotiation and contestation of orthopraxis inject anxiety in the performance and speech acts of doctrine. To call into question everyday practice is to cast doubt on the basis of one’s faith.

## CHAPTER SEVEN: Marriage I: Arranged Consent

### *Introduction*

This chapter introduces the main field of Han shari'a pertinent to Muslim minorities in Northwest China, that is, family law. This chapter and the one following examine marriage law as the core of the family law of Han shari'a. Specifically, this chapter describes betrothal (Ar. *khuṭūba*) and courtship among Muslim minorities. The next chapter considers formalities of marriage and the wedding ceremony, and Chapter 9 examines the status of women, divorce, and polygamy that also fall under the general category of family law. The sources of data used in this chapter thus form the basis for the whole of Part three on the substantive law.

I proceed by first positioning family law among Chinese Muslims within the context of the survival and persistence of Islamic family law elsewhere. I next focus on the China case by introducing the Hezhou Hui family, where Chinese patterns of family organization have been selectively adapted or resisted by Hui and which are themselves subject to state programs of reform. I then describe the formation and exercise of family law through its three main sources, Islamic law, Chinese custom, and PRC laws and regulations. The main argument uniting this and the following two chapters (most explicitly in Chapter 9) is that doubled patriarchy and, specifically, the legal creolization of family law institutions and arrangements, operate to marginalize Hui women.

If, under the traditional division in Islamic law as applied to Chinese Muslims, the pork taboo of dietary law as the criterion of pure/impure giving rise to melancholia is the distillate of the devotional or ritual side of shari'a, then family law is the core of the transactional or social relations side of the law (Dicks 1990; Liu 2000; Ma 2006b; Sun 2009; Yang 2003b). In Muslim states, family law forms the bulk of personal status law or civil law, that is, transactions between persons. The scope of family law is broad: disputes over the status of persons and their legal capacity, marriage,

rights and duties between spouses, divorce, maintenance, custody, adoption, guardianship, wills, and inheritance.<sup>1</sup> The basic categories of family law, then, are marriage, divorce, and inheritance (Hoballah 2006). Family life is, of course, intertwined with property management via property disposition among spouses and between parents and children through the division of family property in inheritance and wills (Nasir 1990:35). The jurisprudence of family law is extensive throughout the schools of law, and particularly the Ḥanafī school. In modern history, its resistance to change in the face of colonization and modernization, as opposed to the fields of criminal law, constitutional law or economic law (Anderson 1976), its survival through *adat* in Indonesia (An-Na'im 2002:248), its resilience to the imposition of socialist reform in Central Asia (Brusina 2008; Doran, Zysow, and Niles 1989; Morozova 2003), its preservation as part of Egypt's late nineteenth-century modernist movement despite all other law being removed from the jurisdiction of Islam (Badran 2009:222), and its centrality to public discourse on redefining the role of shari'a in community life following the Iranian Revolution (Mallat 1990), give further credence to family law as a bastion of the Islamic law.

Family law's centrality to Han shari'a is not unique to Islamic law in China and is shared by Muslims living under secular law the world over. The study of Islamic law of Muslim minorities reads like an excursus on the adaptability of family law. Whether in non-Arab Middle Eastern states (Layish 2006; Welchman 1992), continental Europe (Bowen 2010; Shadid and Van Koningsveld 1996), the United Kingdom (Carroll 1997; Pearl and Menski 1998; Yilmaz 2000), southeast Asia (Rahman 2009), or North America (Emon 2006; Macfarlane 2012; Zaman 2008), across widely varying forms of government representing the gamut of legal systems, Muslim minorities have carved out a "semi-autonomous social field" (Moore 1978) predicated on Islamic family law, to regulate intimate social relations. The family unit works as a kind of buffer to insulate the law of

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<sup>1</sup> This list is adapted from the Tunisian Presidential Decree of 26/11/1376 A.H. (26/6/1957 AD) (Nasir 1990:35).

family relations against the non-Muslim state law within which it is embedded. Because of its capacity to insulate, the family is subject to an array of pressures, ranging from explicit state programs to broader forms of assimilation and acculturation from the majority culture to the dynamics of global capitalism. As such, the family unit is a site for maintaining the boundary between Islamic family law, secular law, and the dominant culture, and is thus an entry point to studying the negotiation and contestation of legal pluralism.

In this chapter, I describe the family law of Han shari‘a in Northwest China, based on ethnographic field research collected in Hezhou and surrounding locations. The construct Han shari‘a, an *etic* or in Bohannan’s sense an “analytical” (1957:4) term, is located at the intersection of three over-lapping sources of law. I invoke a perhaps overly broad meaning of law as a set of norms, rules, and principles that guide some behaviors and proscribe others, enforced by authorities, either secular or spiritual, through sanctions that take the form of corporeal or other-worldly punishments (cf. Freedman 1958; Freedman 1966; Radcliffe-Brown 1950). The sources of law are Islamic law, state law— that is the laws and regulations of the PRC— and Chinese customs grounded in the dominant culture of Han Chinese. While the first two are self-evident, I wish to define the third not as a reified and ossified past-oriented practice, but rather as an ever-changing and adaptive field or model for behavior. In the following, I describe the entanglements of these three sources of law, at the level of legal consciousness (that is how Chinese Muslims conceive of the law that orders their lives) and behavior through observable acts. As with Muslim minorities elsewhere, the sub-fields of the family law of Han shari‘a relevant to Hezhou Hui are marriage, divorce, and inheritance. In the present chapter and the one following, I focus on marriage.

## *Methodology and Data*

Hui families in Bafang are one of the main vehicles for the transmission of Islamic law, a centerpiece of the Party-State's reform of society, and also an inheritor of Chinese family norms, a crucible of legal pluralism. It is little wonder that given the multiplicity of legal orders acting on Hezhou Hui families that *ahong* in Hezhou mediate family and marriage legal problems more than any other issue. This chapter uses principally qualitative data to demonstrate the dense mixture in the Han shari'a of family law. I collected ethnographic evidence from visits to and discussions with Bafang Hui families as well as conversations with *ahong* in Bafang and areas of Hezhou outside Bafang. Additionally, I gathered ethnographic material from the *hunyin jieshaosuo* (matrimonial introduction office, hereinafter MIO) located in the "Islamic Resources Center" (IRC),<sup>2</sup> a non-governmental organization in Lanzhou. Although based in the provincial capital and catering to an urban Hui population, the MIO also has many clients from Hezhou and surrounding rural areas. I further conducted semi-structured interviews with officials in various governmental offices and legal-judicial organs in Linxia City whose work deals with matters of state family law. I supplement qualitative sources with opportunistic quantitative data. Specifically, I conducted a sample survey ( $n = 66$ ) among Muslim youth in Hezhou who were in the process of getting married. The goal was to capture conflicts between sources of law both "up" and "down" the processes of marriage, divorce, and inheritance in both formal and informal venues. Just as disputes resulting from disagreements under civil law can travel between the unofficial/official spheres, so too can the procedures through which Hezhou Muslims marry, divorce, and divide property. Further, these procedures can generate disputes between family members which themselves migrate through different fora, both religious and secular. The sample is so small as to cast doubt on the value of including it in discussion. I thus hesitate to draw conclusions about its representativeness for

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<sup>2</sup> I have changed the name of this organization to protect the wellbeing of the volunteers and those who frequent the organization's headquarters. A full discussion of the IRC, its history, and its semi-legal status can be found in Chapter 2.

marriage behavior among Muslims in Hezhou. Due to general suspicion of foreigner activity in Hezhou, I faced innumerable obstacles in collecting survey data (see Introduction).<sup>3</sup> Hence, my discussion is prefaced by a general caveat that the data gestures to wider trends, while my arguments draw most heavily from the ethnographic material. I adopt a strategy of a zoom lens to provide a broad view of the arena of problems under each sub-field, but an ethnographically narrow view on specific issues, venues, and families.

### *Socialist Law as Liberation*

The perceived obstacles to Islamic law in China are of two kinds, the first political and the second cultural. As a matter of PRC law and Party doctrine, there can be no other law recognized by the state than that of the socialist state itself. Culturally, Islamic law encounters problems by its minority status and the millennial acculturation that has worked on Chinese Muslims. While

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<sup>3</sup> The survey was based on a questionnaire developed in the fall of 2010, and pre-tested with Hezhou Muslim friends of marriageable age, to check for precision of language, reliability, and validity. After questionnaire design and pre-testing, I considered strategies to identify a representative sample population. As access to the Linxia City Civil Affairs Bureau, which administers marriage licenses, was denied, I chose to use commercial operations involved in various stages of the booming wedding industry in Hezhou: a wedding store that plans weddings and rents/sells dresses, a photography shop that specializes in wedding portfolios, and two of the largest *qingzhen* restaurants where post-ceremonial feasts are held. Additionally, I chose the faculty of Hezhou's largest primary school as an additional site as many of the teachers were in the marriageable age range (20s to 30s). The advantage of this multi-sited sample was that I could collect responses from one or more "stages" in the process of the wedding preparation. The disadvantage of sampling via the wedding industry was that it biased my sample toward respondents who use such services. Thus, there is a minor socio-economic bias in the results; the bias is not grave, however, because even many households with below median income use one stage of this process (e.g., while they cannot afford a wedding planner, they will spend money to have a professional photographer take photos of the bride and groom). As for survey administration, I made photo-copies of the questionnaire and handed them out to the managers of the sites listed above. The survey was written in Chinese (I assumed all respondents could read, although I was told by one wedding store manager that some of the Dongxiang from rural areas in the Dongxiang Autonomous County could not read and so therefore did not respond). The questionnaire included a short summary of my research and its intended purposes. See Appendix C for questionnaire. I gave copies of the questionnaire to the on-site manager with the instructions that couples that were Muslim were to fill them out and Muslim-Han were also acceptable but Han-Han couples were not. The managers collected them over a period of several months in late 2010, when despite cold temperatures, weddings see only a minor drop in frequency. The sample fulfilled the aim of including all Muslim ethnicities and all *jiaopai*. While surveys were anonymous, with assistance from store managers, I was able to follow up with interviews with certain couples.

Chapter 3 showed that the ideological non-recognition of Islamic law in China by political means actually includes a zone for the practice of Islamic law as a matter of local rule, an analysis of the substantive Han shari‘a begins with the so-called cultural obstacle to Islamic law in China. While Chinese Muslims have become acculturated to many of the ways of Han Chinese, this acculturation has, counterfactually, enabled the practice of Islamic family law, albeit not without tension.

China anthropologists have underscored the paramount role of the family in the production of Chinese society (Fei 1939; Judd 1989; Wolf and Huang 1980; Wolf 1972). The family pattern before 1949 showed variation across China, including conjugal, stem and joint types (Cohen 1976) of which the fraternal joint family was a kind of ideal (Wolf 1968). Across such variation in types and region (where certain types prevailed over others), at its lowest common denominator the family was the nexus of blood relations, jural rules and emotive ties that cohered the household, and through the household’s agnatic ties with other households, formed extended kin groups, namely, the lineage. The patriline was the ideology that gave the lineage its form and was the basis of ancestor worship, corporate property ownership, and village identity (Ahern 1973; Chun 1996; Freedman 1958; Freedman 1966; Hsu 1948; Pasternak 1972). Given the material, social, and religious assets of the family (Wolf and Huang 1980:ch. 4), it is little surprise that the Communists made the family and extended kinship a centerpiece of reform through birth control and family planning policy, as well as legislation. In their quantitative study conducted during the collectivization period, Parish and Whyte (1978) found that with the exception of land reform that curtailed the economic superiority of the father, Communist laws and policies had relatively slight impact on family life (135–7). The exception was the 1950 Marriage Law,<sup>4</sup> the first law of New China and one directed at reforming family formation, organization, and reproduction by replacing “feudal” elements with socialist ones. The Marriage Law emerged as the legislative keystone of the

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<sup>4</sup> Marriage Law of the PRC (*Zhonghua renmin gongheguo hunyinfǎ*), passed by the National People’s Congress, promulgated and effective 13 April, 1950, amended 28 April, 2001.

Communists' social engineering of the family by prohibiting arranged marriage, bigamy, concubinage, child brides, interference in the remarriage of widows, and extraction of money as precondition for marriage (Croll 1981:2-3; Diamant 2000:4; Parish and Whyte 1978:158).<sup>5</sup>

The vision was a "modern" conjugal family,<sup>6</sup> characterized by equality between husband and wife in resources and rights, including divorce. In other words, socialist gender equality was to root out Chinese patriarchy. Citing a three-fold increase in the number of divorces from 1950 to the first half of 1952, 75 percent of which were applied for by women, Kazuko Ono concludes the Marriage Law "became an influential weapon for the emancipation of such women from traditional marriages" (1989:179). Later studies, however, observe the difficulties in implementing the Marriage Law and effecting true freedom of marriage. According to the first survey on the status of Chinese women in 1990, 20.1 percent of marriages of urban women were still arranged by the woman's parents and in rural areas the percentage was 36.5; a decade later, these percentages were 6.8 and 16.1, respectively (Chen 2004:161-162). Thus, while the efficacy of the Marriage Law as catalyst of social change directed at the family is incontrovertible, the degree of change and under which particular circumstances such change occurred are in dispute.<sup>7</sup>

One of the specific targets of modern PRC legislation for reform has been the ethnic minority family. For to whatever extent feudal elements dwelled within the household of Han Chinese, such elements were multiplied manifold in families of ethnic minorities (Diamant 2000:ch. 4), such as the Yi (Litzinger 2000:207) and Miao (Schein 2000:83-84). Institutions such as the Mosuo's *zouhun* ("walking marriage" [Harrell 1995:10, 43; McKhann 1995]), Tibetan polyandry

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<sup>5</sup> Marriage Law, art. 3.

<sup>6</sup> The nuclear family was not necessarily a preference, as the Party-State encouraged multi-generational homes to increase labor productivity, particularly in the period of collectivization.

<sup>7</sup> Many studies confirm the difference in contemporary marriage practices between cities and the countryside. For instance, Xiaowei Zang has shown that four out of five Chinese couples married of their own volition in China's largest eastern cities by 1982 (1993:39-40), whereas Andrew Kipnis's study of rural Shandong in the late 1980s demonstrates the persistence of traditional gender and age hierarchies in institutionalized forms of marriage (1997:136).

(Goldstein 1987; Levine 1988; Stein 1972:96, 289–290), and Muslim minorities' polygamy (Yao 2002:80) were specific targets.<sup>8</sup> The ethnic identification project (*minzu shibie*) of the 1950s, which featured a state-led project of creating ethnic groups, was conducted by Chinese ethnologists, linguists, and historians many of whom documented ethnic minority marriage practices as “feudal” (Fei 1951:294; Lin 1940). Reform of the family, however, was balanced with the concern of fanning anti-CCP agitation among widespread ethnic minority populations located in the strategic border regions. In the early years of the founding of the PRC, along with land reform and certain taxes, ethnic minorities residing in ethnic autonomy regions were exempt from certain requirements of the Marriage Law (Dreyer 1976:119). Before 1984, polygamy and polyandry were permitted in the Tibetan Autonomous Region and in Ningxia Hui Autonomous Region and Inner Mongolian Autonomous Region, and marriage of collateral relatives within three generations was allowed.<sup>9</sup> The solution of the Party-State, in accordance with the development of autonomous regions, was to allow adjustments to national legislation, such as the Marriage Law, in ethnic minority areas.

### *The Hezhou Hui Family*

As in the cases of the Han family and that of other ethnic minorities, the Hui family has been subject to the Party-State's reform programs. The typical family in Bafang, the center of the Muslim district of Hezhou, resides in single-story tiled home (*wafang*) that resembles the four-walled courtyard patterned throughout Han China. Members of the family are arranged within the home in a spatial hierarchy such that the father occupies the central northern room (see Chapter 2). Until the reform

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<sup>8</sup> Marriage reform policies also targeted so-called aberrational Han practices such as “delayed transfer” marriages (Friedman 2006).

<sup>9</sup> See Supreme People's Court Opinion on the Inner Mongolia People's Court Work Summary Regarding Problems in Implementing the Marriage Law (*Zuigao renmin fayuan dui neimenggu renmin fayuan 1950nian gongzuo zongjiezong youguan zhixing hunyinfa fangmian cunzai de wenti yijian*), issued 18 May, 1951, reducing the marriageable age by two years to accord with custom.

era, one could still visit a fraternal joint family. Often, rivalry between the brothers would manifest itself as inheritance conflicts over the best rooms in the home. Regardless of their composition, members of Bafang Hui families pooled their productive labor and the fruits of that labor within the household, and, in many cases, extensive kin ties based on the patrilineage.

Households in Bafang before the Communist period were often clustered according to extended kin groups. These, in turn, formed communities (Ar. *jamā'a*) near the mosque of their particular school. As discussed in the history of Hezhou (Chapter 2), along with the *hanyi* mosque system and *menhuan*, wealthy families with extensive property holdings were targeted in the 1950 religious reforms. Most of these families were forced to flee their homes and moved to the countryside where they dwelled in comparative poverty. Illustrating the interrelationship between materiality, space, and social organization,<sup>10</sup> the destruction of family genealogies and histories as well as the forced eviction of wealthy families from the larger courtyard homes in Hezhou have had lasting effects on Hezhou families.<sup>11</sup> Much of the property has not been returned in the reform era. As with the destruction of material assets, the social cohesion of extended families has suffered.

The different *jiaopai* evidence differences in relative importance attached to extended kinship. For instance, many Sufi *menhuan* are organizations organized by patrilineage just as much by spiritual knowledge (*tarīqa*).<sup>12</sup> Such consciousness of the lineage sees such behaviors as writing family genealogies and keeping histories of ancestors' accomplishments. Thus, although the *menhuan* were particularly targeted for reform from the 1950s to 1970s, where the social unit of

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<sup>10</sup> A more extensive discussion on Bafang Hui homes, residence patterns, and the transformation of both following urbanization and modernization is found in Chapter 2.

<sup>11</sup> Most of the larger courtyards were either occupied by the People's Liberation Army, taken over by Party organs and government units, or divided up and given to poor families.

<sup>12</sup> Specifically, leadership of *menhuan* represents one of two types: those organized by biological inheritance in the form of lineage and those in which succession of the *shaykh* is passed from *murīd* to *murshid* without any pre-existing familial tie. Many *menhuan* claim their leadership is organized by the latter, but the predominance of the family unit in Chinese culture has integrated itself into the *menhuan* in a number of ways, only some of which are consciously recognized by the *menhuan* itself. For instance, many leadership roles secondary or tertiary to the *shaykh* are passed from one biological generation to the next.

the lineage has survived in Hezhou it is most prominent among the Sufi *menhuan* families.<sup>13</sup> Many Yihewani and Salafiyya families, on the other hand, have maintained family organization through their business and entrepreneurial networks, often headed by inter- or same-generation agnates. However, they uniformly discount the importance of the lineage. Of family genealogies, one Yihewani restaurateur stated, “Han families only keep them, and wealthy ones at that. We Hui rarely attach importance to such matters” (HZ 11/28/2010). Such statements may be misdirection or rationalizations, camouflaged as *jiaopai* “culture,” to avoid confronting the discomfort of a forced forgetting of a family’s own history.

Hui family life thus demonstrates Han Chinese characteristics exhibited by Han Chinese families. The composition and constituents of the family, from its spatial arrangement within the home, the architectural designs and construction materials used in homes, and by analogy, the clustering of families around ancestral halls based on extended kinship, are common to Han families. Hui families, however, exhibit significant differences from Hezhou Han families due to their adherence to Islamic law. In addition to ritual law of which the pork taboo is central, Hezhou Hui organize their families according to rights and obligations from their religious law that clearly set Hui families apart from Han families. These rules determine many aspects of the marriage union as well as provide guidelines on child-rearing and property division. The precepts, derived from the Qur’ān and the *aḥādīth*, are enforced by courts in Muslim states under shari‘a. In China, courts are non-existent in the modern period, thus, these rules are enforced not by formal institutions but by non-state authorities, including the family and Muslim leaders. The rules on family law are orally transmitted from generation to generation and reiterated in the *ahong’s* Friday *khutbah*, the exhortations of other Muslim community leaders, and the counsel of Sufi *shaykhs*. As the male family head, usually the father, was the family representative most ingrained in the daily activities

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<sup>13</sup> Examples are the Ma patrilineage of the Glory Mosque Tomb Complex *Menhuan*, the Qi patrilineage of the Bright Heart *Menhuan*, the Yang patrilineage that has led the leadership of the Grand Tomb Complex *Menhuan* for the past two generations, and the Mu patrilineage of the Ancient Tomb Complex.

of the mosque, the father, in turn, communicated the message of the mosque to his family. Despite constant pressure to adopt Han Chinese practices, Islamic marriage rules and practices were insulated by the family. The family was an effect of such rules, just as it reproduced them. Yang Wenjong found in his study on sources of Islamic traditional culture among Hui in Yinchuan, Xi'an, and Xining ( $n = 501$ ), that "family members' discourse" (*jiarenjiang*) was by far the most frequent answer over "mosque learning," "self-study," "life observations," and "[state] school education" (2007a:614).

### *Marriage Law*

In spite of variations in standards under national legislation to accommodate differences among Hui, pursuant to the Regional Autonomy Law of the PRC (1984), the field of marriage law is one of the most contested in terms of application of rules, although on its face the conflict is less direct and insurmountable than that in the field of inheritance law. "Conflicts of law" are part of getting married in Muslim Northwest China, and especially in Hezhou, although this does not mean that Hezhou Hui do not surmount or sublimate these conflicts. Marriage law can be divided into three issues that demonstrate the entanglement of Islamic law, state law, and Chinese custom. These are (1) the status of marriage, (2) courtship and engagement, and (3) formalities of marriage. This chapter addresses the first two and the following chapter covers the third. The discussion of each issue will proceed by identifying the relevant norm, rule, or principle from religious, secular, and Chinese custom and then describing the social practice shaped by this legal matrix. The description centers on Hezhou Hui. The administrative-political unit Hezhou forms part of a wider network of overlapping units in the region from small satellite villages to a symbiotic relationship with Dongxiang Ethnic Autonomous County to close commercial, religious, and kin ties with the provincial capital Lanzhou. Similarly, other ethnic groups, namely, Han and Dongxiang (and, to a

lesser extent, Tibetan, Salar, and Bonan) play an important role in marriage both within and outside of Hezhou proper. Although the focus of analysis remains on Hezhou Hui, I sketch some of the comparative data to further evidence the diversity of legal pluralism affecting Muslims in the area.

*a. The Threshold Question*

To wed or not to wed? And whom? Islamic and Chinese conventions show strong convergence in valorizing marriage, although the criteria by which one selects a spouse vary. Under shari‘a, there are clear rules concerning the status of marriage. Marriage is recommended (Ar. *mustahabb*), although if a Muslim has strong sexual urges, then in order to avoid the sin of *zinā* (sex outside of marriage), it becomes obligatory (*farḍ*).<sup>14</sup> Likewise, Chinese culture has historically placed a premium on marriage, as a necessity for daughters who would leave their natal home and, in accordance with the principle of virilocality, join the groom’s family. For sons, marriage has been deemed a basic rite of passage to manhood. In the family centrality of Chinese culture, Chinese Islam shows parallels with pre-Islamic Arab culture where Islam found fertile soil for the paramount role of marriage in reproducing Islam “from below” via the family. However, the Party–State has sought to redefine marriage as interpersonal relations between equal partners rather than as exchange of women between different kin groups (Croll 1981:3); however, the Party–State has sought to perpetuate the conjugal unit itself, and so encourages marriage. At this level, there is less interference via Party policy than in the case of family planning and birth control. In the process of modernization, reform era China has not yet experienced the phenomenon, popular in Japan, whereby women focused on their careers “opt out” of marriage. Instead, the cultural value attributed to marriage has retained its potency. In Hezhou, young Hui and Dongxiang, influenced by traditional Chinese expectations just as much as by Islam’s valorization of the family,

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<sup>14</sup> Qur’ān (24:32, 25:74, 30:21, 5:5).

all plan to marry, with the exception of Sufi *manla* (students) who, at an early age, *chujia* (“leave home”)<sup>15</sup> and enter the Sufi shrine complex for a life of asceticism.

The issue of whom a Hezhou Muslim may marry is closely related to who makes that decision (see Courtship and Engagement, below). Here I note that Hezhou youth are increasingly empowered to make their own decisions, although parents, other family members and relatives still exert a strong influence in identifying the pool of potential spouses. The traditional instrument for selecting a marriage partner, among Han or Hui, has been *baoban hunyin* (lit. “packaged” or arranged marriages), often with the use of a matchmaker (Ebrey 1991; Jaschok and Miers 1994:2, 56; Wolf and Huang 1980:71). For Hezhou Hui parents, while the socio-economic compatibility of the two families is a priority, the match of their respective children gains weight in importance given the diversity of Hezhou. The identity of the prospective match includes such factors as religious, ethnic, and, if Muslim, *jiaopai* affiliation.<sup>16</sup> As opposed to Hui elsewhere in China, in the Northwest, the “taboo against marrying women out” (*funü waijia jinji*), both a kinship rule of endogamy *and* an ethnic prohibition against Hui women’s marrying specifically Han men, is strongly observed (Gladney 1996[1991]:255–256; Ma 1998).<sup>17</sup> In the large eastern cities and throughout the southwest, interethnic marriage is quite common among Hui and Han (Gladney 1996[1991]:243);<sup>18</sup> in Hezhou, it is broadly condemned. One evening, dining with a middle-aged

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<sup>15</sup> The term *chujia* comes from the Buddhist lexicon, named after the same ascetic practice, although not all Chinese Sufis acknowledge this derivation.

<sup>16</sup> Note that each one of these ascriptive factors may differ between a given family and their son or daughter who is of marriageable age. Thus, a family looking for a spouse for their child cannot simply look to the family’s (i.e., parents’) religious/ethnic/*jiaopai* affiliation.

<sup>17</sup> Hui in smaller villages around Hezhou show some evidence of cross-cousin marriage, although this practice is not common in the city. Where it is most strongly pronounced is among rural members of conservative Sufi orders within whom endogamy is the norm. In-marriage has produced problems in the number of Hui children born with cognitive and physical handicaps, usually the offspring of marriage unions within three generations (Jiang 2007:106). Thus, the “five-generations rule” has been a focus of Party-State scientific policy addressed at reforming Hui endogamy (Gladney 1996[1991]:252-253).

<sup>18</sup> In 1996, the rate of interethnic marriage in Beijing’s Oxen Street district was 56.7 percent; in one district of Ningxia’s capital city of Yinchuan, Hui-Han intermarriage was 26 percent; and in a town in Ningxia’s Guyuan County it was 6 percent (Li 2004:26). Another study found city-wide Hui-Han intermarriage in Yinchuan to

Hezhou entrepreneur, he summarized Hezhou views of intermarriage with the Han majority, his eyes gleaming through the steam evaporating from a communal bowl of mutton consommé, in a single word: *zainan!* (disaster) (LZ/5/10/2010). The Qur'ānic rule is that only if a “denier of the truth” (*kāfir*) first converts to Islam may a Muslim marry the convert, but it operates differently between men and women Muslims. The general rule holds for Muslim men marrying a non-Muslim woman, although he can marry a pious Christian or Jewish woman, the *dhimmī* (“People of the Book”). This exception does not apply to Muslim women marrying a non-Muslim man.<sup>19</sup> The Hui “taboo against marrying women out,” is a Chinese localization of the general Qur'ānic rule, or, (universal) religious principle as (local) ethnic endogamy. It is a result of Chinese Muslims' lived experience as minorities vis-à-vis the Han majority, and this phenomenology of minority-hood is re-interpreted as an integral basis of belief. Indeed, Muslims in the Northwest view it as a part of *īmān* (faith; Ma 1998:42). The logic of the Qur'ānic injunction cum ethnic taboo demonstrates how Islam is overlaid upon Chinese culture

Owing to the fact that male chauvinism is a characteristic of the family concept in both Chinese traditional culture and Islamic culture, so we can see in practice that Chinese women (no matter belonging to which ethnicity), through the ages, had a relatively weak position in the Chinese family. Hence, a Hui man takes a non-Hui woman as wife without resulting in diminution of ethnic characteristics or worry of deviation. But when a non-Hui man takes a Hui woman as wife, the man normally becomes the family sovereign. The Hui woman half [of the pair], who must guard *īmān* and respect ethnic traditions (including ethnic life customs), will often develop fierce conflicts with the man, who is the center of the traditional ethical ideas of the Chinese family (Ma 1998:42).

Consequently, when intermarriage happens between a Hui and Han, the Han is almost always the bride. One of the tenets of New China was “freedom to marry” (*hunyin ziyou*) meaning that young people have the freedom to choose their partners without parental intervention, but also that they can marry whomever they wish. Several *ahong* in Bafang regarded interethnic marriage or *tonghun*

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be as high as 54.01 percent in 1998 (Yang 2007a:614). At a national level, according to official statistics, Hui-Han intermarriage has risen from 11.29 percent in 1980 to 11.85 percent in 2000 (Jiang 2006:101).

<sup>19</sup> Qur'ān (2:221).

as a conflict of law. When they meet a Hui–Han couple, they seek to teach the couple that, according to the Qur’ān, a Muslim can only marry another Muslim. One Yihewani *ahong* claimed a 90 percent conversion rate (HZ 10/10/2010).

Among my sample survey, only six couples or one out of ten were a Muslim-Han pair (Table 2).<sup>20</sup> Of these interethnic couples, five were Hui-Han and one was Dongxiang-Han. Of the Hui-Han couples, all were from Linxia City or Linxia County (one of the six administrative counties in Linxia Prefecture) except for one couple where the groom was from Lanzhou (see Table 4, combining Table 2 and Table 3). The Dongxiang-Han couple had met while attending Minzu University in Beijing (he was originally from Shaanxi) and moved back to Linxia City where she is from and where they both found employment in the government. (He did not frame his decision to move to Hezhou as any kind of derivation of uxori-locality; rather, he thought working in his position in the Linxia government advantaged his career more than a lower position elsewhere.) Of the interethnic couples, the only two that featured a Han groom were also non-Hezhou natives; the four in which the Han member of the pair was the bride were all locals. In accordance with the Qur’ānic injunction, all Han members (bride or groom) of the interethnic couples converted to Islam although the grooms self-identified as “*bu namme qiancheng*” (not so devout). The Minzu University graduate cadre admitted he was so busy he did not have time to pray regularly or to observe Ramadan, nor did he subscribe to any one *jiaopai*. He did, however, have an intellectual interest in Islam having written his master’s thesis on Han who had converted to Islam (*Hanzu musulin*). Although the sample is perhaps too small to conclude with certainty, it does seem likely that since no interethnic couple in which both members were locals, featured a Hui bride marrying a Han groom, the “taboo against women marrying out” operates with some success as “boundary maintenance” (Barth 1969) in Hezhou.

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<sup>20</sup> Suggesting the sensitivity of ethnicity in Hezhou, eight respondents declined to answer the question about their ethnic self-identification.

Table 2 Marriage by Ethnicity ( $n = 58$ )

	Male ethnicity					
	Dongxiang		Han		Hui	
Female ethnicity	N	% of Total	N	% of Total	N	% of Total
Dongxiang	6	10.34	1	1.72	5	8.62
Han	0	0.00	0	0.00	4	6.90
Hui	5	8.62	1	1.72	35	60.34
Tibetan	0	0.00	0	0.00	1	1.72

Table 3 Marriage by Hometown ( $n = 66$ )

	Male Hometown											
	Dongxiang Autonomous County		Guanghe County		Hezheng County		Linxia City		Linxia County		Other	
Female hometown	N	% of Total	N	% of Total	N	% of Total	N	% of Total	N	% of Total	N	% of Total
Dongxiang Autonomous County	4	6.07	1	1.52	0	0.00	1	1.52	0	0.00	0	0.00
Guanghe County	0	0.00	1	1.52	0	0.00	2	3.03	0	0.00	0	0.00
Hezheng County	0	0.00	0	0.00	1	1.52	2	3.03	0	0.00	0	0.00
Kangle County	0	0.00	0	0.00	0	0.00	1	1.52	0	0.00	0	0.00
Linxia City	1	1.52	1	1.52	0	0.00	3	48.48	0	0.00	3	4.55
Linxia County	1	1.52	0	0.00	1	1.52	7	10.61	4	6.06	0	0.00
Other	0	0.00	0	0.00	0	0.00	3	4.55	0	0.00	0	0.00

Table 4 Marriage by Ethnicity and Hometown ( $n = 58$ )

		Male ethnicity									
		Dongxiang				Han		Hui			
		Hometown				Hometown		Hometown			
Female ethnicity	Female hometown	Dongxiang Autonomous County	Guanghe County	Linxia City	Linxia County	Other	Guanghe County	Hezheng County	Linxia City	Linxia County	Other
Dongxiang	Dongxiang Autonomous County	4	1	0	0	0	0	0	1	0	0
	Guanghe County	0	0	0	0	0	0	0	1	0	0
	Hezheng	0	0	0	0	0	0	0	2	0	0

		Male ethnicity									
		Dongxiang				Han		Hui			
		Hometown				Hometown	Hometown				
Female ethnicity	Female hometown	Dongxiang Autonomous County	Guanghe County	Linxia City	Linxia County	Other	Guanghe County	Hezheng County	Linxia City	Linxia County	Other
	County										
	Linxia City	0	0	1	0	1	0	0	1	0	0
Han	Linxia City	0	0	0	0	0	0	0	2	0	0
	Linxia County	0	0	0	0	0	0	0	2	0	0
Hui	Guanghe County	0	0	1	0	0	1	0	0	0	0
	Hezheng County	0	0	0	0	0	0	1	0	0	0
	Linxia City	1	1	0	0	1	0	0	24	0	1
	Linxia County	1	0	0	1	0	0	0	4	2	0
	Other	0	0	0	0	0	0	0	2	0	0
Tibetan	Other	0	0	0	0	0	0	0	1	0	0

The survey results show a higher rate of interethnic marriage between different Muslim minority groups than among Muslim–Han intermarriage. Besides the Muslim–Han couples, there were eleven other interethnic couples (nineteen percent), ten of which were Hui–Dongxiang and one that was Hui–Tibetan. There is a long history in Hezhou of intermarriage among Hui and Dongxiang, as well as Hui and Tibetans. Hui–Tibetan couples increase in number the farther one goes south, toward Gannan Tibetan Autonomous County, and still farther south, into the Tibetan Autonomous Region (TAR). The inheritors of centuries of trade between Tibetans and Chinese Muslims, Hezhou Hui men have business operations in large cities in the TAR where not a few have a second, Tibetan wife. Indeed, the couple that responded to the survey was a Hezhou Hui man and a Tibetan woman from Xiahe. It is almost unheard of for a Tibetan man to marry a Hezhou Hui woman, although this is not true for areas of Gannan. There are pockets of Muslim Tibetans, the so-called *Zanghui* throughout Qinghai, Gannan, the TAR, specifically Lhasa, and northern parts of

Yunnan.<sup>21</sup> Based upon my conversations with inter-ethnic couples in Hezhou, the Tibet women who marry Hui men usually had previously practiced Tibetan Buddhism and converted prior to the marriage, to varying degrees of formality. There is even less of a boundary between Dongxiang and Hui.

There is mixed evidence as to whether the “taboo against women marrying out” sees even a finer localization and ethnicization among Hui and Dongxiang. The Hui, as the “majority minority,” display greater ethnic endogamy than the Dongxiang: there were 35 Hui-Hui couples out of 51 total couples that featured one Hui partner for a frequency of 68.2 percent, and six Dongxiang-Dongxiang couples out of a total of seventeen couples that featured one Dongxiang partner for a frequency of 35.2 percent. However, the Dongxiang who married in Hezhou had already left their natal places and were, to some degree, “Hui-ified.” The most important factor in Hui-Dongxiang intermarriage seemed to be similar class as defined by socio-economic background of families, education level, and employment, for example, a couple with whom I regularly shared meals were both civil servants in the prefectural government: he, Dongxiang, worked in the Ministry of Forestry and she, Hui, worked in the Ministry of Culture. Incidentally, many interethnic and inter-*jiaopai* couples socialize together, as they all belong to the “culture” of middle-class Hezhou civil servants. Conversations with Dongxiang who live and work in the county seat suggest that the rate of ethnic endogamy within Dongxiang Autonomous County is much higher (DX 11/14/2010).

In addition to religion/ethnicity, another factor in deciding one’s marital partner in Hezhou is *jiaopai* affiliation. Hezhou is not only the center of the Gedimu (Ar. *qadīm*), and specifically, the Qādiriyya and Khufiyya Sufi *menhuan*, but also features the largest Salafiyya mosque in the Northwest and a significant Yihewani (Ar. *Ikhwānī*) population. While ethnic identification is a

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<sup>21</sup> This word is used with some imprecision in the Chinese literature. Some accounts describe ethnic Tibetans who speak Tibetan but have converted to Islam whereas others discuss Hui who are “culturally Tibetan.” Zhang Zhongfu’s work on the Tibetan Muslims of Ka Li Gang in Qinghai (Zhang 2011) is an example of the former, whereas Zhang Yinong’s research on Huimin in Lang Mu Si, on the border of Gansu and Sichuan, belongs to the latter (2009).

sensitive issue in Hezhou,<sup>22</sup> there is nothing more sensitive than *jiaopai* affiliation. One Hui restaurateur with whom I discussed my survey took one look at the question on *jiaopai* and concluded it was “*tai mingan le*” (too sensitive) as it touched on people’s “*xinyang*” (belief) (HZ 10/13/2010). *Jiaopai* affiliation is simultaneously that which everyone avoids discussing openly and yet gossips about in restaurants, office space of mosque administration committees, *ahong* chambers, and *xinxibu* (“information stalls”). The reason for this is that although the status is inherited, it is also voluntary, meaning people can and do, infrequently, change *jiaopai* which introduces uncertainty into Hezhou’s “religiopolitics” (Green 1985). Moreover, to a lesser degree than ethnicity or religious affiliation, there are few external or physical markers of *jiaopai* affiliation. It is true that Salafiyya are more likely to grow out a beard than a Gedimu, but so are Yihewani. Salafiyya *manla* tend to wear a *shimāgh* (Ch. *tuoreshanì*), the red-and-white checkered headdress, to prayer, but rarely do so outside the confines of their own mosques. Some Sufis, such as Jahriyya, have distinct headdress (e.g., the six-pointed cap), but headwear comes on and off. Rather, one’s membership within a *jiaopai* is, as a young Sufi Hui said, using the Arabic term, “written on the heart” (*zai qalb xieshang*)<sup>23</sup> (HZ 2/6/10).

One of the ways with which Hezhou Muslims identify with their *jiaopai* is endogamy (Ma 1995a:41). The prohibition against marrying outside one’s *jiaopai* shows parallels with the Hui taboo against marrying Han as well as Hui and Dongxiang preference for marrying within their ethnic group.<sup>24</sup> Families tend to discourage their daughters from marrying outside the *jiaopai*, while boys have slightly more autonomy. Beginning in the 1930s and 1940s, when the first Yihewani and Salafiyya *jamā‘a* began coalescing in Hezhou, there was strict adherence to marriage within the

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<sup>22</sup> A Han owner of one of the wedding photography stores in Hezhou, located on Pedestrian Street, declined to fill out the survey, citing that he would not get involved in *minzu wenti* (ethnic problems) and further mentioned the recent unrest (see Chapters 5 and 6).

<sup>23</sup> The Arabic word *qalb* means heart in a physical, organic sense, but is also one of the six *lata‘if* exercised by Sufi meditation.

<sup>24</sup> A didactic text on marriage translated and reproduced in the missionary newsletter by the Society of Friends of the Moslems in the mid-twentieth century whose author may be the famous Muslim scholar Liu Zhi (c. 1660 - c. 1739), states that Muslims are to marry within their sect (Yu 1949:21).

*jiaopai*. Only in the last decade or so has such adherence relaxed, but less so than in Ningxia (Liu 2000:40) and still holds as a general guide to marriage selection.

The most trenchant denouncement of inter-*jiaopai* marriage is reserved for that between Sufis and Salafiyya. Sufi women are told by their fathers, *ahong*, and female mosque leaders, under no circumstances to marry a Salafiyya man, and vice versa for Salafiyya women, both *jiaopai* seeing the other as a corruption of Islam and intermarriage leading to contamination in the family. In my time in Hezhou, I met only one Sufi-Salafiyya couple, the “Hus.” Mr. Hu describes the history of their relationship:

We met attending the same middle school. As I was a year older, at seventeen, I was a grade above her. At that time we were just *shuxi de ren* (acquaintances), not boyfriend–girlfriend. We both attended the Linxia Teacher’s College [as of 2009, Hezhou Middle School]. After I graduated, I began working at the primary school. She initially got a job teaching Chinese in her natal village, [Yang Family Village, six kilometers from the center of Linxia City]. After two years, she was transferred to the school where I worked. So we met again, when I was 22 and she was 21. She did not know anyone and so I showed her around and we grew closer. We were comfortable with each other. We fell in love. We married two years later. But in doing so, we both knew our families would oppose our marriage (HZ 6/11/2010).

For the groom (the Salafiyya), his marriage exacerbated on-going tensions in his family due to an inheritance dispute, and to this day he has as little contact as he can with his brothers. For the bride (a Qādiriyya Sufi), the marriage was no easier. Her mother initially so strongly disapproved that she stopped speaking with her daughter. Although the family has reconciled with the daughter, the husband is not welcomed in Yang Family Village, a Qādiriyya Sufi village. After fifteen years of marriage, he has only been there a couple times. Mr. Hu says, “When she goes to visit her mother and brother who remain, I do not go. Everyone knows I am Salafiyya. Even if I don’t know them, they know that I am Salafiyya” (HZ 6/11/2010). On the few occasions when he has had to interact with her male kin, he has avoided discussing religious matters.

They accept each other only because neither is particularly *qiancheng* (devout). Still, the Sufi–Salafiyya enmity has shaped their relationship and continues to do so. As to how each view the other’s *jiaopai*, Mr. Hu says after being together for so long, she thinks more like him, rather than the other way around. Mrs. Hu, in her husband’s company, agreed with him on this point; however, I was not allowed to be alone with Mrs. Hu to verify this. As with all Hezhou men, the husband does not allow the wife to be alone with another man, especially a non-Muslim American. This protectionist aspect of inter-*jiaopai* enmity meets patriarchy works in subtle ways, too. For example, I had discovered a village genealogy of Yang Family Village and told Mr. Hu about it, knowing his wife would want to read it. I gave him a copy and he said he would show her. Several weeks later, while dining at their apartment home, I mentioned it again in the company of both and it was clear from her reaction that Mr. Hu had never given it to her. Mr. Hu never lost an opportunity to disparage the Sufis. I suspect he saw the village genealogy, with its connections to the history of the Qādiriyya order, as a means of refreshing his wife’s connection to or appreciation of her natal village, the possibilities of which he flatly opposed.

The marriage survey, albeit based on a small sample, reveals that 62 percent of young Hezhou Muslim couples sought a partner of their same *jiaopai* (Table 5). These were 24 Gedimu couples,<sup>25</sup> fifteen Yihewani couples, and three Salafiyya couples. The same *jiaopai* couples were not necessarily of the same mosque (i.e., *jamā’a*). Of the same 42 *jiaopai* couples, twelve (six Gedimu and six Yihewani) or 28.5 percent were from different counties within Linxia Prefecture, suggesting that *jiaopai* affiliation trumps natal place if the boundaries of natal place are defined by contemporary political administrative units (Table 6). It is well known in Hezhou that Yihewani networks, based in Hezhou, extend throughout Linxia Prefecture and beyond, and are, in some cases, the vestiges of the *dasi* (large mosque, Ar. *hanyī*) system. Sufi networks, as well, extend

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<sup>25</sup> Although the question on *jiaopai* affiliation included both “Gedimu” and “Sufi,” all Sufis are Gedimu, although not all Gedimu are Sufis. It is likely that some Sufis, seeing “Gedimu” (first among the options), selected this choice, thus, under-representing the number of self-identified Sufis.

beyond Hezhou, with vast numbers of followers in neighboring counties. Thus, for these same *jiaopai* couples from different counties, the matchmaker (the parents or relative, the couple, or some combination) recognize in *jiaopai* affiliation a value-heavy criterion for spouse selection.

Table 5 Marriage by School ( $n = 66$ )

	Male school									
	Laojiao/Gedimu		Other		Salafiyya		Sufi		Yihewani	
Female school	N	% of Total	N	% of Total	N	% of Total	N	% of Total	N	% of Total
Laojiao/Gedimu	24	36.36	1	1.52	0	0.00	0	0.00	5	7.58
Other	4	6.06	0	0.00	0	0.00	0	0.00	1	1.52
Salafiyya	0	0.00	0	0.00	3	4.55	1	1.52	1	1.52
Sufi	0	0.00	1	1.52	0	0.00	0	0.00	0	0.00
Yihewani	7	10.61	0	0.00	1	1.52	2	3.03	15	22.73

Table 6 Marriage by School and Hometown (n = 66)

Female school	Female hometown	Male school																
		Laojiao/Gedimu Male Hometown					Other Male Hometown		Salabyya Male Hometown			Sufi Male Hometown			Yihewani Male Hometown			
		Dongxiang Autonomous County	Guanghe County	Hezheng County	Linxia City	Linxia County	Other	Dongxiang Autonomous County	Linxia City	Linxia County	Hezheng County	Linxia City	Linxia County	Dongxiang Autonomous County	Guanghe County	Linxia City	Linxia County	Other
Laojiao/Gedimu	Guanghe County	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
	Hezheng County	0	0	1	1	0	0	0	0	0	0	0	0	0	0	0	0	0
	Kangle County	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0
	Linxia City	0	0	0	14	0	1	0	0	0	0	0	0	1	0	3	0	0
	Linxia County	0	0	0	4	2	0	0	0	0	0	0	0	0	0	0	0	0
Other	Other	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0
	Linxia City	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0
	Linxia County	0	0	0	2	0	0	0	0	0	0	0	0	0	0	0	0	0
	Other	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0
Salabyya	Linxia City	0	0	0	0	0	0	0	0	0	0	3	0	0	0	0	0	1
	Linxia County	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
	Linxia City	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0
Sufi Yihewani	Linxia City	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0
	Dongxiang Autonomous County	1	0	0	0	0	0	0	0	0	0	0	0	3	1	1	0	0
	County																	
Yihewani	Guanghe County	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0
	Hezheng County	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0
	Linxia City	0	0	0	3	0	0	0	0	0	0	0	0	0	1	4	0	0
	Linxia County	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	1	2
Other	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	

As among Hui in Hezhou, the *jiaopai* play a central role in the life of Dongxiang both living in Hezhou, where there are many Dongxiang members of the Grand Tomb Complex and the Yihewani *jamā'a* of South Gate Grand Mosque, the oldest mosque in Bafang, and Dongxiang Autonomous County, where Yihewani as well as Sufi orders, such as the Beizhuang *menhuan* and Hu Men, have a strong following. There are almost no Dongxiang Salafiyya in Hezhou and there are very few Salafiyya in Dongxiang Autonomous County. Parents continue to have a strong voice in selecting a spouse of the same *jiaopai* as their children. Dongxiang are more amenable to an interethnic marriage (i.e. with another Muslim minority, such as Hui or Bonan) than an inter-*jiaopai* marriage (Li and Wang 2008:30). One report that featured a questionnaire given to 204 Dongxiang adults in Dongxiang Autonomous County found that 70.6 percent of parents opposed their children marrying someone from a different *jiaopai* (Jing 2006:34).

*b. Courtship and Engagement*

Shari'a is preoccupied with the formal and contractual requirements of marriage, and is less focused on courtship, leaving pre-marriage practices to custom, although there are provisions for the propriety and timing of engagement.<sup>26</sup> In practice, the core of shari'a on marriage law (i.e., offer and acceptance) may be implicated in the process of engagement before the ceremony during which marriage vows are uttered. Pre-marriage or courtship practices among Hezhou Muslims show similarities both with those of Arab Muslims and with those of the Han majority. Although ways in which young couples interested in marriage first meet each other are diversifying in Hezhou, the default means continues to be arranged marriage, which, in Chinese idiom is often contrasted to "free courtship" (*ziyou lian'ai*). Arranged marriage has been the most inveterate institution for spouse selection in China. A minor distinction should be made between arranged marriage, which is orchestrated by family heads of two families that know each other, and the work of a matchmaker, sometimes a member of one of the families or a third 'neutral' party whose role is

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<sup>26</sup> See e.g., Alami 1992:13.

needed when families do not know each other (Croll 1981:18). Under arranged marriage, the bride and groom do not see each other until the wedding day; rather, in accordance with the foundation of Chinese normative behavior—*xiao* (filial piety)—they obey parental will. For Han, the popular practice has been for parents and family members to seek out prospective matches. The criteria by which a mate was chosen were primarily the family's socio-economic wellbeing and, only secondarily, the suitability of the match (Parish and Whyte 1978:156). Once a promising mate was identified, the go-betweens engaged in negotiations with the head of that family, usually over matters of the brideprice and dowry (Parish and Whyte 1978:156). Arranged marriage is banned by article one of the 1950 Marriage Law. The assumption underlining the legislation is that arranged marriage and the consent of the marrying parties are mutually exclusive.

Arranged marriage is historically the most common way for young Hui in the Northwest to meet a prospective partner and begin courtship.<sup>27</sup> The Hui historian Ma Yiyu used, to describe Hui a wedding (*jiali*), a variant of the well-known (Han) Chinese expression “a parent's command and a matchmaker's word” (*fumu zhuzhi, meishuo dizhi*) (2000 [1939]:20).<sup>28</sup> The Chinese practice, predicated on the decision-making authority of parents, conflicts with Islamic marriage rights based on mutual consent. In their research on Hui women in Henan province, Jaschok and Shui argue that this conflict is resolved through the Chinese Muslim solemn rite of marriage, called the *nikāh* (Ch. *Niekaha*; 2000:141). While I take up the *nikāh* ceremony in the next chapter, my fieldwork shows that young Chinese Muslims give their consent to marriage matches before formal wedding ceremonies through pre-marriage practices and courtship. It should be noted that the preference for arranged marriage, classically a Han tradition, among Chinese Muslims shows similarity to Muslims elsewhere. The Qur'ān, as a technical matter, does not forbid arranged

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<sup>27</sup> For a case study exemplifying Hui marriage practices in the Northwest, see Yang 2004.

<sup>28</sup> The more common version is *fumu zhi ming, meishuo zhi yan*. It is most likely that Ma was intentionally using Chinese idiom to give expression to the practice of arranged marriage among Hui. The rationalization of Islam with Chinese culture, often shorthanded as (Neo)Confucianism, is a hallmark of Hui translators of Islam into China, which culminated in the mid-seventeenth to eighteenth centuries with the authors of the Han Kitāb, the quasi-canon of Chinese Muslims. See Benite 2005; Frankel 2011; Lipman 1997.

marriage, but requires that both parties give consent; a marriage without consent is deemed coercive and void.<sup>29</sup> The contemporary Muslim world exhibits a range of engagement types from arranged to coercive, which is just as much an effect of varying degrees of syncretism with pre-Islamic patriarchal belief systems in the areas to which Islam has historically spread as it is of gender inequality enshrined in the Islamic law. Despite legal modernization reforms of different orientations in the Muslim world (i.e., both Islamist and secular), arranged marriage, such as in Pakistan, is the general rule (Qadeer 2006:193), as well as for Muslim minorities in the West (Cesari 2009:149; Hussain 2004:208).

Hui practice shows many of the elements common to Han arranged marriage, but contemporary practice differs from the form it assumed in Qing China, as practiced by Chinese Muslims or Han, for that matter. Unlike forced marriage of which I found no evidence in contemporary Hezhou, arranged marriage is not incompatible with the consent of the youth in question. To understand matchmaking, the third influence, state law and policy, requires mention. The 1950 Marriage Law sought to abolish the practice of arranged marriage by which parental dictate rules. By removing total parental discretion in spouse selection, the Communists targeted the hierarchical nature of intra-familial relations, and aimed to emancipate Chinese women. Freedom to marry, as such, entered legal consciousness since 1950 if not earlier, following more general patterns of modernization of gender relations through urbanization and global capital (Zang 1993). The result of the fusion of Muslim mores, Chinese custom, and state modernization programs was an accommodation of consent within arranged marriage, although the extent of this accommodation varies depending on the background of the families concerned, their ethnicity, extent of urbanization, education, and economic status.<sup>30</sup> Thus, rather than viewing arranged marriage as the mode of “tradition” and free courtship as Western-influenced “modernity,” as

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<sup>29</sup> Qur’ān (4:21).

<sup>30</sup> The accommodation of consent within arranged marriage is demonstrative of broader trends throughout China in the reform period (Lavelly 1991:288).

mutually exclusive contrasting sets of values and practices, marriage among Hezhou youth shows aspects of both. This accommodation can be short-handed as “arranged consent.”

An account by Brother Tang exemplifies the process by which Hezhou youth find a potential spouse and begin courtship. Tang is a 25-year-old Gedimu Hui from Hezhou who introduced himself to me as a *chuantong musulin* (traditional Muslim) with a cigarette dangling from between his lips. In fact, he was rarely without a cigarette. He is of medium build with a round face, somewhat bloodshot eyes, and disarming features. He works for one of Hezhou’s largest real estate developers. When I first met him in the fall of 2009, he said he had planned to get married that October, but it did not work out. The next time I spoke to Tang, four months later, he was getting married—to a different girl. He explained the process by which he met his bride:

My *ahyina* (Bafanghua, “mother’s sister,” although the relationship may not necessarily be biological) introduced us. She had previously gone over to the *ganiha’s* (Ar. *‘adhrā’*) home and described my situation. This is the *qihun* (proposal) and the family *yanjia* (approved). We then met, at my family’s house. The first time we met, we were not alone, our parents accompanied us. From my perspective, as the *xinmishi* (Bafanghua for “groom”), the most important thing is whether my parents approve of the *xinshifu* (Bafanghua for “bride”). Of course, during this first meeting, we also check each other out. My parents liked her because they had known of her family, also Gedimu Hui, from Bafang. I liked her because she seemed very traditional. Y’know, we Muslims don’t like it if our future bride is known to go outdoors a lot. If she has that kind of reputation, it’s bad for us (HZ 3/21/2010).

The procedure outlined demonstrates the fusion of traditional and progressive elements. Although the introduction occurred through a go-between, the couple is allowed to meet before the wedding, which avoids the pitfalls of the “blind marriage.”<sup>31</sup> In terms of the relative power between the child and his or her parents, that the child’s opinion has to be counted, and thus the process conforms to the standard imposed by the modern state, but the parents have a kind of veto power. That is,

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<sup>31</sup> There are *ahādīth* that permit a groom to see the bride before the wedding. For example, one about Al-Mughīra ibn Shu‘ba, a companion of the Prophet Muhammad, states that the Prophet said to him, “Look at her, for this is appropriate in order to ensure agreement and harmony between you” (Alami 1992).

parents can strike down a child's prospective match, but in the event that a child does not want to marry someone, the parents cannot force them to do so.

If the first meeting is met with satisfaction by all parties, then the future groom may begin courting the future bride. Taking a long drag from his cigarette, Tang continues:

Courtship begins when a representative of the future groom, usually a brother or close friend or the original go-between, goes to the home of the future bride bearing a gift, most often mutton. If the parents of the future bride receive the gift, they agree by saying a *salām* or peace (Ch. *seliamu*).<sup>32</sup> Then the head of the bride's family sends a go-between to the groom's home to announce that the couple is officially *dinghun* (engaged). At that stage, the couple begins buying each other clothes. First, the go-between of the groom leads a group of men, made up of his relatives and friends, to the bride's home. Her family warmly welcomes them. They gift clothes to the bride, the *pinli* (bridal gift). In return, they are presented with a lavish, but not wasteful, meal. Next, a group of women, led by the bride's go-between, normally a relative, usually an aunt or sister, goes to the groom's home to eat and counter-gift clothes. In the past, people would pay much more attention to gift-giving, as the groom would give her clothes for every season, including make-up and jewelry. Nowadays, it's less emphasized. This used to go on for three days, but now it may be less. The date of the wedding is set when the groom's representative goes to the bride's home and confirms the date with the mother of the bride. However, it cannot be held during the bride's menstruation (HZ 3/21/2010).<sup>33</sup>

Each step in the engagement foregrounds the decision-making authority of the parents. The agency of the bride and the groom recedes to the background, yet never disappears.

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<sup>32</sup> The oral pronouncement of *salām* has particular resonance in Hui ritual and legal life. It marks the establishment of transactions and can also end feuds, among other purposes. The oath functions here as a binding oral contract made between the parties as witnessed by God.

<sup>33</sup> Brother Tang's description shows how, despite the state-led social modernization program, little has changed. As reported by Ma Yiyu in his *Historical Appraisal of Chinese Islam (Zhongguo huijiao shijian)* (1941), in the Guyuan Prefecture Gazetteer (*Guyuan zhouzhi*) (previously of Gansu and now within the Ningxia Hui Autonomous Region), from the Jiajing period of the Ming Dynasty (1522–1566), a description of a Hui engagement reads as follows:

When the Hui discuss marriage, they first invite a *meishuo* (matchmaker) of the same family name and only of the same family name. They discuss the appropriate amount of tea, fruits, and earrings to be received [by the bride's family]. Then, they announce the wedding at *sishen* ("God at the temple") and do not write a written contract. Closer to the selected date, [the groom] will send material for clothing, telling of the coming wedding day. On the day, the *meishuo* will go to the bride-to-be's home, gifting mutton, wheat, vegetable oil, and other such goods. Too much is not welcomed (Ma 2000 [1939]:20).

The pre-marriage practices of the other Muslim minorities in Hezhou and surrounding areas are not significantly different from those of Hui. Dongxiang youth make the point that before *gaige kaifang* (the opening and reform policy begun in 1978), arranged marriage was common, but contemporary Dongxiang youth have much more discretion in choosing a match and directing the process. They emphasize not that this change was effected by state law and policy, but that this transition is more in accordance with Islamic law (DX 11/14/2010). As to the issue of consent and who decides whom a Dongxiang child will marry, the Dongxiang demonstrate patterns of change in intrafamilial power that are similar to those of Hui. One study conducted on Dongxiang found that parents still have a strong voice in arranging their children's marriages; a quarter of Dongxiang still say their marriages are arranged (Fei 2008). A second study conducted on Dongxiang living in Dongxiang Autonomous County (Jing 2006) divided methods of selecting spouse into three types: parental arrangement, introduction by a third party (*ta ren jieshao*), and self-initiative (*ziji xiangshi de*). This study ( $n = 204$ ) found a higher rate of parental arrangement (61.3 percent) of parentally arranged marriages (Jing 2006:34). However, in demarcating marriage methods into the three categories, respondents were not permitted to signal the degree to which there was a blurring or combination of such categories. Based upon my interviews, the majority of marriages are the combined product of youth initiative and parental oversight.

A family's location in the countryside versus the city and degree of urbanization is a significant factor in shaping pre-marriage practices. Muslim families in village hamlets, at the outskirts of Hezhou, show a higher preference for arranged marriage. These families are comprised of Hui, Dongxiang, and Bonan minorities, although not necessarily living together. Moving from one of these peri-urban hamlets to Hezhou to Lanzhou one finds, unsurprisingly, a decrease in the frequency of arranged marriages. This trend manifests itself in the relative bargaining power of the child vis-à-vis his or her parent with Muslim children growing up in the small villages around Hezhou having much less standing than those in Lanzhou. At one end of the spectrum is Yang

Family Village, the Qādiriyya Sufi village and home of Mrs. Hu, introduced above. Although only ten minutes by public bus from Hezhou city proper, Yang Family Village is a world away in terms of material and social life. Yang Family Village is an agricultural community set between the southern bank of the Da Xia River and the loess mountains to the south of the valley in which Hezhou resides. Thus, the soil of Yang Family Village is a mix of red soil that is particularly amenable to farming potatoes, and black soil, used for growing corn, wheat, onions, and beans. Unlike Hezhou, there are no cars, only donkey-pulled carts and a few motorcycles belonging to the younger generation. All homes are single-story structures made of brick and rammed earth, built around a courtyard. The average income is 1,000 yuan per month.<sup>34</sup>

Yang Family Village is one-half of the two lineage village named Yang-Tuo Village, comprised of two hamlets, each composed of agnates bearing the same last name, respectively, Yang and Tuo. Yang Family Village has 320 families or 1,300 to 1,400 people and Tuo Family Village has around 70 families or 300 people, for a total population of approximately 1,700 people. A slight majority of families in Yang Family Village are Hui with the others being Dongxiang. Several families have in the past several years, through various subterfuges, changed their identification card from Hui to Dongxiang, to claim the educational and employment opportunities via preferential policies (*youhui zhengce*) of the “minority minority,” thus it is difficult to determine how many families are Dongxiang as a matter of ethnic lineage or as a legal invention. Tuo Family Village has both Hui and Dongxiang families, with slightly more of the latter.<sup>35</sup> As for *jiaopai*, Yang Family Village has one large Gedimu mosque, in the center of the village, which dates to the Jiajing Period (1521–1567) of the Ming Dynasty. It also has two rival Qādiriyya tomb complexes, one of which is the last resting place of the missionary the locals call Gaisi, who arrived in 1695 (Hai 1993:102). Tuo Family Village has a Gedimu mosque, a Yihewani mosque, and a *suoma* (Ar. *ṣawma‘a*), a sacred meditation

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<sup>34</sup> US\$147 per month, based upon the exchange rate in 2010 of 6.8 yuan to US\$1.

<sup>35</sup> Hezhou native Hai Xuewang claims that in the late 1980s, there were over 60 Dongxiang families in Tuo Family Village (Hai 1993:22).

chamber for the Qādiriyya school. Despite their internal divisions, the Qādiriyya tomb complexes and *suoma* all belong to the Grand Tomb Complex, located in the Northwestern edge of Hezhou. As a consequence, through the *menhuan*, Yang Family Village has historically had a close relationship with Hezhou.

Elder members of Yang Family Village say that the two villages observe a strict rule of exogamy, and that these two hamlets have inter-married through parental arrangement for the past three hundred years (YJC 5/28/2010). While historically there was some intermarriage with Qādiriyya Sufis belonging to the Grand Tomb Complex in Hezhou proper, the majority of youth in the village married with partners from the opposite hamlet. Further evidence is provided by the existence of funerary tombs bearing the last name of Tuo in the Yang Family Village cemetery and vice versa (see Illus. 21).<sup>36</sup> Thus, as an exogamously linked pair, Yang Family Village and Tuo Family Village exemplify the alliance of “clans” or lineages of different surnames tied by bonds of marriage (Fei 1992[1947]:81; Freedman 1958:5). Yet rather than descent groups centered on an ancestral hall, Yang Family Village and Tuo Family Village were each cohered through their identification with the Sufi tomb and *suoma*, respectively, around which they were built, and united as a pair due to their common membership in the Grand Tomb Complex *menhuan*.<sup>37</sup> The presence of the non-Qādiriyya Gedimu mosque and the Yihewani mosque (a *jamā‘a* that was initially Gedimu but converted after the reforms) have impacted marriage patterns between the two hamlets. While Qādiriyya Sufis in Yang Family Village will intermarry with the Tuo Family Village Gedimu *jamā‘a*,

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<sup>36</sup> As is customary among Muslim minorities in the Hezhou valley, they have separate graveyards from those of the Han. The Yang Family Village cemetery lies on the northeast edge of the hamlet. There are about 80 graves scattered over two adjacent fields. The tombs are arranged in family plots. The oldest seem to date to the 1950s, after graves were rebuilt following the destruction of the “struggle against the privileges of feudalism and religion” (*fanfengjian zongjiao tequan douzheng*). Incense sticks protrude from the grass around the graves indicating the common Sufi practice of remembering loved ones through prayer and incense burning.

<sup>37</sup> Thus, the inter-marriage between the two Sufi hamlets is neither an example purely of alliance theory, which posits marriage as an exchange between two families, thus fomenting solidarity (Lévi-Strauss 1969), nor of descent theory (Fortes 1949), based on mechanisms that preserve the solidarity of the group. Rather, inter-marriage between the two lineages takes place within the larger membership in the Grand Tomb Complex *menhuan*.

they are less likely to intermarry with the Yihewani mosque. An overarching strain that has left an even more noticeable influence on marriage preferences in Yang Family Village is the changing attitudes of the current generation of youth in the village.



Illus. 21 A simple grave of a member of the Tuo 妥 clan, located in Yang Family Village. Note the incense stick in the flowerpot to the right, typical of Sufi lineages.

Little Yang and Big Yang typify many of the aspirations of young people in Yang Family Village. Little Yang was 21 years old and Big Yang a year older and half a foot taller when I first met them in 2009. Born in Yang Family Village, the two are *tangxiongdi* (male cousins on the paternal side). Having grown up together, they still talk to each other every day via text messages on their cell phones. Little Yang attended high school in Hezhou and then three months of professional dental school in Lanzhou. Big Yang is currently pursuing a bachelor's degree in agricultural studies at a university in Lanzhou. Although they have gained exposure to life in the provincial capital, they

both want to return, not to Yang Family Village, but to Hezhou and raise families there, next door to each other, if possible. However, neither wants to marry a girl from Tuo Family Village. In late 2010, Little Yang returned to Yang Family Village from Lanzhou. Although he still lives with his parents, he found a job at one of the many dentist offices in Hezhou. He would often extol the future of the dentistry industry in Hezhou with an infectious smile all the more pronounced given he had a lazy eye and brown-stained teeth. In addition to his career ambitions, the other reason he returned from Lanzhou was to find a wife. Around the time of his return, his parents introduced him to a woman from Guanghe County, a wild, cliff-hugging half-hour's motorcycle drive from Hezhou. He tells of the arrangement:

My parents knew I didn't want to marry a girl from Tuo Family Village, so they looked elsewhere. The girl they found is not even from my *jiaopai*, she is not even a Sufi, but she is *qiancheng* (devout), and this was important to them. There are good and bad sides of an arranged marriage. It's good because my parents look out for my interests. It's bad because the first time you meet her is either on the wedding day or in preparation for the wedding. Only slowly do feelings emerge and if they don't, then it's a bad situation (HZ 12/20/2010).

Little Yang did not, in the end, marry the chosen girl. He began dating another girl in 2012, with his parents' consent, whom he plans to marry.

Big Yang spends his time between his studies in Lanzhou and keeping up his family's four *mu* of land.<sup>38</sup> He is built like the cornstalks he tends, lean and tall. He has a breezy air, but becomes intensely focused when talking about Sufism to which he is wholly devoted. He frequently goes to the tomb complex only two hundred meters from his family's home and reads regularly about Sufism online. His family is composed of five people and three generations: his mother and his older brother who is married with one daughter. His father, a school guard, died in an accident when he was a teenager, leaving his mother a widow who never re-married. So Big Yang helps his brother with the farming. Big Yang plans to return to Hezhou after graduating from university in Lanzhou

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<sup>38</sup> 1 *mu* = .06 hectares.

and start a family there. As to why he prefers Hezhou over Lanzhou, he cites the reasons, “Hezhou’s better environment, it’s more Islamic, and it’s convenient when my family is still based in Yang Family Village” (YJC 5/28/2010). Big Yang is not opposed to his mother arranging a marriage for him, but wants to wait until he has finished his studies. He seeks to balance his profession with the needs of his family and tends to view these topics with a quiet devotion to his mother and brother. Little Yang and Big Yang demonstrate a trend among Yang Family Village young men of being more oriented toward Hezhou than staying in their natal village, even while their parents continue to play the predominant role in their marriage and family planning.

At the other end of the spectrum of pre-marriage practices from young Muslims in Yang Family Village are those living in Lanzhou, where Hui predominate over Dongxiang, Bonan, Salar, and Uyghur. Lanzhou presents a much more diverse array of pre-marriage practices among Lanzhou’s approximately 200,000 urban Hui.<sup>39</sup> Arranged marriage survives in pockets of conservative Hui, such as those who live in the Hui neighborhoods of the Xiaxiyuan neighborhood (*xiaoqu*), in western Lanzhou, not far from the southern banks of the Yellow River. *Jamā’a* survive among the cramped and worn apartment complexes, focused around Gedimu, Yihewani, and Salafiyya mosques, as well as Qādiriyya and Khufiyya Sufi shrines. Many Hui, however, live in other parts of the city, in more modern apartment complexes, integrated with Han. For these young Hui, Islam is a part of their life, but not the sole and exclusive way of life, in contrast to their parents’ generation. Their approach to marriage reflects this generational divide. Among these young Hui, there is a much lower frequency of arranged marriage. In his macro-study of Lanzhou Hui attitudes toward marriage, the survey for which was conducted in 2001, Xiaowei Zeng found that parental arrangement was strongly represented among middle-aged and older residents (Table 7) but “most young Hui informants shared no enthusiasm for arranged marriages and matchmaking” (Zang 2007:93).

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<sup>39</sup> This number is based on estimates among local scholars in 2002 (Zang 2007:9).

Table 7 Mate Selection Methods

Mate selection method	No. of cases
Parental arrangement	204
Matchmaking	67
Introduction by relative	79
Introduction by friend	174
Introduction by colleague	23
Free choice	296
<i>N</i>	843

Source: Zang 2007:92

The Lius, who live in a modern apartment complex in the city center, not far from the largest shopping mall, exemplify this generational shift, which is more dramatic than that in Hezhou or Yang Family Village. Mr. Liu, a 62-year-old Lanzhou native and accountant at one of the largest Yihewani mosques in Lanzhou, spends most of his day at the mosque where he volunteers collecting donations (*nietie*) from pious Muslims. His life revolves around the mosque, and in 2010, he traveled on the hajj for the first time. His wife studies Arabic in the women’s school of the mosque. As a couple and parents, they are devoted to observing the five pillars. They have two children, their daughter who is a successful banker and married in Beijing, and their son, who prefers his English name (over his Chinese name or Arabic scriptural name, *jingming*) whom I call “Mark.” Mark, 32 years old when I first met him in 2009, has a different set of priorities from his parents’. Mark studied in Malaysia after high school and there concentrated on English. He returned to Lanzhou to acquire a job as an English teacher in one of Lanzhou’s most prestigious primary schools.

Sitting across Mr. Liu and Mark one evening at a *qingzhen* restaurant in central Lanzhou, the two are a study in contrasts.<sup>40</sup> Mr. Liu has a shaved head forever adorned by his *bai maozi* cap. For

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<sup>40</sup> This account taken from my field notes reports the first time I met Mark, although we had planned to meet earlier. That failed meeting also demonstrates the gulf between father and son. I was to meet Mark for the first time to play ping-pong. When I learned it was the Night of Power (Laylat al-Qadr), the anniversary of the first revelation of the Qur’ān to the angel Gabriel, thinking he would go to West Gate Grand Mosque to pray as most Yihewani Muslims do, I told him we could meet at the mosque, for his convenience. Mark texted back he did not have time to go to the mosque and that we would play ping-pong another day. At West Gate Grand

much of the latter half of 2009, he let his whiskers grow out to emulate an Arab beard, to prepare for the hajj. Outwardly, Mark could not be recognized as a Hui as he never wears a *bai maozi*. He prefers a western sport coat. His gestures and mannerisms are controlled and polished, as is his English. Mr. Liu's speech is peppered with such laments as "Huimin are poor" and "my generation is poor." After the meal, Mr. Liu sought the receipt to use for tax deduction purposes, and when Mark saw this he scoffed, "what a joke!" (LZ 10/25/2009).

The process by which Mark chose his wife drove a wedge between him and his father. Mark met his wife "Mary" also an English teacher, at his school, and the two married in 2010. Although Mr. Liu would have preferred to have more control over Mark's spouse selection, his role was quite minor. Mary, being a member of a Salafiyya household, was initially not who Mr. Liu would have chosen for his son. Mr. Liu would not attend the wedding, but came to accept her. Mark and Mary, through exposure to international travel and English language acquisition, are oriented less toward Mecca or its local proxy Lanzhou, and more toward a lifestyle that shows similarities with Han middle-class couples. Thus, the decision determining whom Mark could marry was embedded in a larger generational split exacerbated by the Han-dominated urban lifestyle of Lanzhou. In summation, at a general level, the approaches of spouse selection for Hezhou Muslim youth exist at a midway point between those of rural Muslims in villages like Yang Family Village, where arranged marriage still has traction, and those of urban Muslim minorities in Lanzhou, that demonstrate diversification without total abandonment of parental arrangement.

In addition to parentally arranged marriages that accommodate consent, in Hezhou, some youth proactively and independently seek partners through other means. Most of these approaches, free of parental intermediaries (at least at the initial stage), proceed through the Internet. There are several websites devoted to serving the Chinese Muslim online community, although as of 2010,

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Mosque, I met Mr. Liu who was not surprised to see me there, without his son. Mr. Liu threw up his arms, bemoaning, "all his generation wants to do is eat, drink, and play" (LZ 9/15/2009).

there was none devoted specifically to online dating for Chinese Muslim youth, in contrast to innumerable such dating websites for Han Chinese. The most popular web portals (e.g., 2muslim.com, muslemyouth.com, huizuw.com, muslem.net.cn), many of which are run by non-profit organizations, however, host a variety of platforms through which Muslim youth can meet one another in virtual space, including bulletin board systems (BBSs) a kind of micro-blogging or twitter technology, personalized web space, and instant messaging formats, such as QQ. In spite of Hezhou's relative geographic isolation and low standard of living, following the penetration of the Internet in Chinese society,<sup>41</sup> Hezhou Hui youth look to the Internet as one way to find love, among other pursuits.

The three main Internet cafés (*wangba*) in Hezhou,<sup>42</sup> one of which is in the Hui part of town, a second in the Han part of town, and a third in the border area between the two, are solicited by Hui youth on a nearly twenty-four hour basis, although there is a slight dip in attendance on *jum'a* (Ch. *zhuma*) every Friday. The Internet cafés are a zone of pure adolescence, rare in Hezhou with its double supervision of secular and religious authorities. One enters the Internet café, all on the second floor of their respective buildings, only after passing a homeless Hui man lying on the concrete mezzanine in the lit-less stairwell. Upon reaching the doors, one is met with a thick miasma of stale, smoke-drenched air. It smells of cigarette butts, soda pop, hormones, and unidentifiable floor stains. The large central room is dark except for the decorative neon lights that crisscross over the walls on which are draped life-size posters of blue-skinned female elves with large anime eyes, larger breasts, and body-length swords. The transfixed faces of early adolescent Muslim boys, and a few girls, some sleeping, are lit up by the bluish-white glare of computer screens. A teenage clerk takes the patron's ID and records the personal ID number so that all

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<sup>41</sup> China boasts an Internet penetration rate of 28.9 percent, a percentage point higher than the world average (CNNIC 2010:3).

<sup>42</sup> The following description comes from field notes, based upon nightly visits to Hezhou's *wangba* over the course of eighteen months.

Internet use can be monitored. Surveillance operates both in the real and virtual world by, respectively, surveillance cameras that hang like stalactites from the cavernous ceiling and websites either blocked or patrolled by miniaturized virtual PSB officers. Despite the panopticon, the Internet café is a space for moral relaxation. Parents keep their distance, except for once, during the month of Ramadan when a *gaitou*-wearing mother burst into the Internet café, verbally berated her son, no older than twelve years, and boxed him on the ears (and the ears of the two boys sitting on either side of him), before dragging him out—by the ears. He had been there for three days. Junk food toted in by boys working for nearby restaurants, endless boxes of cigarettes passed back and forth between users, and porn-surfing are constants. In addition to pornography and violent role-playing games, many patrons engage in online flirtation either through instant messaging or “video chatting” or both at the same time, with multiple partners, for the older boys more practiced in the art. A small minority of these online flirtations will proceed to an actual real world meeting. These usually take place among a group of friends, both his and hers, at a hotpot, noodle, or Dongxiang “hand-pulled” mutton restaurant, or at one of the newer bubble tea stalls that have appeared along Pedestrian Street. If the real world meeting is received positively by both parties, then subsequent dinners and outings will follow. All of this happens outside the pale of parental authority. Only after several meetings and the consolidation of a “relationship,” rarely including sexual experimentation, do the youth alert the parents to their courtship.

In addition to altering the power between child and parent, online dating among Hezhou youth also shows the expansion of the pool of a potential spouse. Whereas their parent’s generation was largely limited to kin network, neighborhood, and *danwei* (work unit), Hezhou youth have, in some sense, broken out of these social and geographical constraints. Just as the few standout students who test into provincial or national capital universities can meet other young adults from across the county (as in the example of the Dongxiang–Han couple above), so too can Hezhou youth through online dating. While many of the Internet café youth, who are usually not the ones testing

into the top universities in Lanzhou or Beijing, lack the resources to travel to meet their online paramours, some engage in long-term, long-distance virtual dating. One seventeen-year-old man had been video-chatting with his girlfriend every day for over a year without ever physically meeting her (she lived in Henan), but they had both been saving money and planned to meet the following year during Spring Festival holiday (HZ 10/12/2010).

Still another venue through which Muslim youth in Hezhou scout potential mates is through the Matrimonial Introduction Office (MIO) in Lanzhou. Part of the non-profit IRC, established in 1998 by an unofficial organization (*minjian zuzhi*), the goal of the MIO is to provide a venue for young Chinese Muslims to find a spouse in a safe environment. The MIO is a kind of “civil society institutionalized matchmaking.” The MIO is not a dating pool, but a marriage service, and one that does not take place in the virtual space of the Internet, but in real life. Most importantly, it is wholly Muslim, in its design, rules, and clientele. The MIO is not unique to Muslim China, there is a similar operation in the western outskirts of Lanzhou that has been opened longer than MIO but is smaller, and there is one in Ningxia as well, but it is for-profit.

The MIO is not so much a place, but really two women who volunteer their time there. Both in their 60s, Hai Mama and Teacher Li are best friends and have known each other since they were primary school classmates. They form a kind of complementary pair. The MIO is the brainchild of Hai Mama and Director Tang, the head of the IRC. Hai Mama is a soft-spoken woman with a large frame who wears a black shin-length *khimar* that leaves only her round face exposed. She handles most of the in-take of new clients, maintains the client database, and does the actual matchmaking work. Teacher Li, her assistant, is a tiny woman with saucer-like eyes who wears a more fashionable, multi-colored *hijab* that leaves none of her hair showing. She has a high-pitched voice and asks questions much as an Olympic fencer uses the *épée*. Within three minutes of our first meeting, Teacher Li knew my nationality, my family background, my religion, my professional goals,

whether I had a girlfriend, the conditions under which we met, why I was attracted to my girlfriend, my girlfriend's family background, when we were getting married, and when my girlfriend was coming to visit the MIO (in that order). Teacher Li, who recalls the character Xu Taitai in Zhang Ailing's widely acclaimed novel *Qingcheng zhilian* (*Love in a Fallen City*), particularly enjoys interviewing new clients.

The process by which one becomes a client is simple. New clients complete two forms: one with information about themselves and a second about their ideal match. They provide Hai Mama with the following paperwork: a copy of their registered permanent residence (*hukou*), a copy of their identity card (*shenfenzheng*), a copy of their highest diploma, information as to whether they are divorced, and a recent photograph. Religious affiliation is inferred from the identity card. The identity card includes their ethnic identity and thus whether they are Muslim, which is a requirement to join the service. Ethnicity as a proxy for religious belief fails in two instances: one, those Hui who have left Islam and two, Muslim Han, that is, Han Chinese who have converted to Islam. For the former, their status as Hui, Dongxiang, Bonan, Salar, Uyghur, etc. implies a belief that is no longer viable and in the case of the latter, their identity cards fail to reflect their acquired belief. Hai Mama does not worry about the apostate ethnic minority for only those with strong belief seek a partner through the MIO, and there are an insignificant number of Muslim Hans. If they come to the MIO to find a Muslim spouse, then Hai Mama asks for verification of their belief from their *ahong*. According to the MIO's statistics, over the past decade, only 1 percent of Hui marriages are between a Hui man and a Han woman and only .1 percent are between a Hui woman and a Han man.<sup>43</sup> Hence, the "taboo against women marrying out" appears to operate effectively in Lanzhou, as well as Hezhou, mainly for the reason that these cities feature such a large constituency of Han Chinese. Han are the majority in Lanzhou and constitute approximately half the population in

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<sup>43</sup> There is some confusion in these statements given that the MIO self-selects for Muslims, that is, they do not accept Han clients. What I imagine they mean by their "statistics" is their impressions of interethnic marriage given their immersion in the field of matchmaking.

Hezhou, consequently, Muslim minority consciousness is directly proportional to the visible presence of the Han majority. The MIO provides a valued service to its clients in offering an all-Muslim pool of potential marriage partners. This is the reason one Hui woman brought her 22-year-old daughter to the MIO one afternoon, in late 2009. The mother complained, “My daughter’s workplace is all Han. Many of her friends are Han. They had introduced her to Han guys, but we [i.e., the mother and her husband] had to intervene” (LZ 10/31/2009).<sup>44</sup>

Of their work, Hai Mama says that Han use the term *yuexialaoren* for “matchmaker,” but Hui prefer the term *meiren*. Teacher Li adds that the modern term is *jieshaoren* (“introducer”). In her matching work, Hai Mama seeks pairs according to their age, educational background, and their appearance. She will telephone the clients and they will come to the MIO to meet on the weekend. If they like each other, then they can access the other’s dossier. “In Lanzhou,” Hai Mama explains:

The matchmaker is usually a family member or a friend or the boss of their *danwei* (work unit). Usually the nature of the matchmaker depends on the background of the boy and girl, those who are poorer will have a family member introduce them, but if they are high-class, then it’s often work-related. The function of the matchmaker is the same, though. One, they avoid the pursuer having to brag, and two, they avoid the embarrassment of the girl saying no. Girls can also initiate, but it is usually the girl’s mother (LZ 11/12/2009).

Hai Mama and Teacher Li’s MIO is therefore a (modern) institution that fulfills a customary practice for contemporary urban Hui. In so doing, the MIO exemplifies what anthropologist Robert Weller sees as the capacity of universalizing religions embedded within Chinese modernity to foment civil society (1999:83–84).

As far as the profile of the client pool, in total, as of late 2010, the MIO had “600 to 700” active clients, according to Hai Mama’s estimate. Clients are from Lanzhou, Hezhou, as far south as

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<sup>44</sup> Judgments by matchmakers are not unlike judgments made by informants toward the anthropologist or among informants themselves. After the mother left, Director Tang and Teacher Li commented about the woman saying that she failed to use the proper Arabic “good-bye” (*ma‘a al-salām*) and instead used the familiar Chinese *zai jian* of which they disapproved.

Gannan, and some come from Qinghai and Ningxia and even from cities in the southeast. As such they seek the MIO's services to have access to a geographically larger Muslim marriage market. Their ages range from twenty to 70. Most of the couples I saw were Hui in their early twenties, university graduates, and working in their first job.

As the IRC is a non-profit, unregistered, completely dependent on the donations of those who use it, space is at a premium. The reading room, an unheated room with a concrete floor lined with books, also serves as the place for couples to meet for the first time. As the IRC has one of the finest collections of materials on Islam in China, including rare newspapers from the Nationalist period and publications of Muslim civil society organizations that cannot be found in university libraries or state archives, I spent several hours in the reading room every time I visited Lanzhou during my field work. Thus, I found myself, on not a few occasions, sharing a small reading table with a young Muslim couple meeting for the first time. For many of these young couples the awkwardness of meeting their potential mate is exacerbated by a lack of practice in basic social skills. For instance, one afternoon, while reading through a Chinese translation of Yūsuf al-Qaraḍāwī's *The Lawful and the Prohibited in Islam*, I noticed three couples who came in one after the other. One young woman entered by complaining about the shabby appearance of the IRC. No greeting. As her young suitor stood by the magazine rack, there was a long pause. Cell phone checking. They sit down, but do not speak. He gazes down absent-mindedly at a magazine open before him on the table. She shifts her weight in her seat. They begin talking in short yes-and-no clips with wincingly long pauses of silence. They finally use me as a conversation topic. I resume reading Qaraḍāwī, gratified they have found something to discuss. A minute later, he asks her for her phone number and they both get up and leave (LZ 10/25/2009). Upon a later inquiry with Teacher Li, I was informed he never called her.

Not all first meetings were as uncomfortable or as short, but there were enough to draw several conclusions. As with Brother Tang's description of his method of spouse selection through a relative matchmaker, the MIO allows prospective couples to meet each other and have an opportunity to assess each other, on their own terms. The Qur'ānic requirement for consent is thus satisfied. The MIO serves a role that bridges traditional institutions such as the matchmaker with modern services, like online "dating services" or fads like speed-dating in China's primarily Han coastal megatropolises, both products of the late 1990s. Hai Mama did try speeddating in the past, but found the results "less than satisfactory" because the clients were "too shy." This bridgework the MIO performs between 'tradition' and 'modernity' is guided by Islamic law. For example, the first issue the MIO faces is enforcing the rule against Muslim marriage with non-Muslims. The MIO has had a few cases where a Christian Chinese woman wanted to marry a Hui man. These women were from Nanjing. They all converted to Islam (*gaixin*, "change one's faith") to marry their Hui partner. The MIO, therefore, operates as a gatekeeper and watchdog over the Qur'ānic marriage rules.

The issues remain as to whether the MIO provides an effective forum for young Chinese Muslims to find mates and whether the MIO's work is consonant with the needs of contemporary Muslim youth. The MIO does not disclose the number of married couples it includes. While it is clear from its popularity, new client in-flow, and reputation in the region that the MIO has had some success, at the same time, its work is constrained by the unfamiliarity many Chinese Muslim youth have with socializing with the opposite sex. The demographic of clients rests somewhere between those youth growing up in Xiaxyuan, the traditional Hui enclaves of western Lanzhou and Mark Liu, the cosmopolitan polylinguist. While such youth have attended school with the opposite sex, they have had few opportunities to socialize in a casual venue. While Lanzhou offers more such venues, whether restaurants or teahouses, than Hezhou, many Muslim youth will not avail themselves of these recreational outlets. Moreover, online flirtation is one thing, but one-on-one interaction in the

real world is a novelty. These constraints are norm-related (if not law-related) just as much as they have to do with environmental factors, socio-economic urban development and standards of living. While naturally the older generation, that is, the parents, are responsible for this norm-enforcement and Yihewani attitudes toward prohibiting their daughters from socializing with the opposite sex before marriage, in contradistinction to the general trend of muting *viz.* secularizing one's religious identity, as seen in the case of Mark Liu, there are many young Muslim men and women, mainly Yihewani and Salafiyya, who endorse the revitalization of Qur'ānic rules on gender, and particularly, the marriage rules. One young woman, age 21 from Hezhou, made the decision to come to the MIO *against* her parents' desires, claiming, "They think this place is too run-down, but I wanted to come here, to see for myself if I could find a Muslim partner" (LZ 3/12/2010).

Venues like the MIO and Internet cafés allow Muslim young adults to initiate betrothal on their own terms that will most likely eventually receive parental sanction. Youth among urban Hui in Lanzhou and Hezhou Hui both show the capacity to act without their parents' involvement. However, among "tradition-minded" Chinese Muslims, parents continue to arrange the marriages of their children. Traditionalism interschools with *jiaopai* in complex ways and may take one of several forms. Gedimu families are often most readily equated with Chinese customary practices in the family, namely, domination by the father and the subordination of the mother and daughter. At the other end of the *jiaopai* spectrum, Salafiyya fathers may reject Confucian rationales for paternal domination but base such dominance on other grounds, namely, male chauvinist readings of the Qur'ān and *aḥādīth*. Yihewani, as the *jiaopai* that claims to follow most closely to modernist interpretations of the Chinese family, may see more instances of free courtship than their Salafiyya or Gedimu peers. The following chapter examines more closely the different manifestations of patriarchy and its production of gender identities in family law.

### *Provisional Conclusions*

To summarize the findings of this chapter on betrothal in the marriage law of Han shari‘a before turning to the following chapter which draws more conclusive remarks, this chapter has introduced the sources of data for the discussion of the substantive law of Han shari‘a, and described the Hezhou Hui family and its production of creole Islamic norms as, ironically, an affect of Chinese familial culture. This chapter has further outlined the importance of marriage among Hezhou Hui and the rituals of courtship and engagement. The former illustrates common ground between Islamic law, Chinese custom, and state law, although there are differences in the preferred forms of the family. Socialist development, particularly in the reform era, has privileged the conjugal and nuclear unit over extended families which prevailed before the Communist period and before the introduction of the scripturalist and fundamentalist *jiaopai* in the Northwest.

The real tension, however, between sources of Han shari‘a at pre-marriage practices is that between consent and parental arrangement. Both Islamic law and PRC law require consent, whereas Chinese custom has allocated decision-making authority to the parents. I understand parental authority as one characteristic of local patriarchy, but one that is hardly hegemonic as Hui youth benefit from greater opportunities following socio-economic advancement. Contemporary practice shows a kind of reconciliation between the two preferences as “arranged consent.” Arranged consent takes a variety of forms and varies according to a number of factors. While the focus of this chapter has been on Hezhou Hui, the permutations of arranged consent have been further developed through the variables of ethnicity, *jiaopai* and degree of urbanization.

The entanglement of legal orders in arranged consent show certain patterns across the different settings, venues, and ethnic landscape of Gansu. The patterns are different responses to the perceived conflict between Chinese customary “parental arrangement” and “consent,” as required by Islamic law and PRC law. The patterns can be summarized as: (1) The rural-urban

continuum: the survival of traditional Chinese institutions such as arranged marriage and matchmaking in Bafang, Hezhou, rural areas around Hezhou and in dense pockets of Hui in Lanzhou. These institutions are modified to accord with Qur'ānic rules, even if they still fail under the state's outright prohibition of arranged marriage. "Free choice" methods of spouse selection predominate among those urban Hui youth who do not privilege their religious identity and whose behavior accords with state law requirements as well as mirrors trends among Han youth. (2) Venue diversification: online forums and Muslim civil society organizations present Hui youth with additional means of finding partners, some of which show closer congruence with the dominant Han youth culture albeit with virtual spaces for Muslim minorities who may or may not exercise Islamic law and Muslim morality. (3) Majority/majority-minority/minority-minority ethnic concentricity: Han, Hui, and other Muslim minority groups such as Dongxiang and Bonan, like a matryoshka doll, demonstrate similarities in their pre-marriage practices given the extensive history of cohabitation in the dominant Han cultural milieu. Within these similarities, the Islamic law of Islam has set requirements that distinguish Muslim marriage. Muslim minority cultures further differentiate the minorities from the Han. The common denominator of Islam creates a buffer in the form of the taboo against marrying Han that is reinforced in settings like Hezhou or Lanzhou, where the Han presence is visible.

This chapter has compared Hezhou to another reference point in the map of Chinese Islam, in this case, Lanzhou. To be more precise, in the study of this chapter, there is no one independent variable, but rather many: location (a Sufi village of exogamously linked lineages, a Hui town, and provincial capital where Hui are the minority), ethnicity (Hui, Han, and Dongxiang), and *jiaopai*. The point is not so much to test the presence of the family law of Han shari'a in these different settings or among such status variables, but rather to explore the practice of marriage law across these nested communities, through which Hezhou Hui travel. Thus, the focus is on the social

practice of marriage law among Hezhou Hui that is influenced by Han practice just as it (and Han practice) influences the “minority-minority” Muslims.

## CHAPTER EIGHT: Marriage II: Wedding Laws

### *Introduction*

This chapter continues the discussion of the previous chapter on the marriage law of Han shari'a. In Chapter 7, I discussed the pre-marital practices, specifically the cultural values assigned to marriage and the betrothal process, of Hezhou Hui as well as Hui and other Muslim minorities in surrounding areas in the context of legal pluralism. This chapter examines the formalities of marriage categorized as legal capacity, marriage finance, and the wedding ceremony and registration.

Qualitative and quantitative data are used to describe Hui's ability to reconcile the requirements of the different legal orders, Islamic law, Chinese custom, and state law, through these formalities. The previous chapter discussed some of the differences in pre-marital practices among the *jiaopai*.

These differences are more pronounced in the wedding ceremony as the wedding is the ritual form of marriage, and *jiaopai* are more likely to disagree over ritual matters than those of pure law or, specifically, rules governing social relations (see Chapter 6). Thus, for the wedding ceremony and its related problem of registration, I provide two ethnographic examples, one from a Hezhou Gedimu marriage and the other from an urban Lanzhou Yihewani-Salafiyya marriage to show how different *jiaopai* make sense of the competing and conflicting requirements within Han shari'a.

In addition to the description of marriage law, the chapter aims to delineate the common ways through which Hui cope with the conflicts of law in the practice of family law. The thesis I put forth is that given the centrality of the family to Hui sociality, conflicts among the rules which organize the composition and production of the family unit generate the mixed legal subject. While Hui's capacity to synthesize competing cultural obligations has been described as one of "simultaneity" (Frankel 2008; Frankel 2011), such a metaphor elides the sub-surface kinetics, forces and torques of Hui's doubling. That is, Hui must 'wed' the laws that constitute the marriage law of Han shari'a. While all Muslim minorities in the Northwest harmonize discrepancies between

authorities informing legal behaviors, they do so differently. The comparison of the traditionalist Gedimu and the scripturalist Yihewani-Salafiyya weddings illuminates not just interpretive differences between the *jiaopai* in terms of doctrine and law, but also shows through the formative rite of passage how they confront, redirect, or sublimate conflicts immanent in Hui melancholia. The Gedimu are embedded in multiple, mutually reinforcing modalities of patriarchy and thus Gedimu experience less tension in integrating and resolving Han shari'a. The scripturalist *jiaopai*, on the other hand, witness a starker contrast between the demands of Islamic and Chinese authorities via wedding procedures. In both cases, Hui invent mechanisms to cope with the degree of conflict exposed in marriage law. These strategies of accommodation are constitutive of subjectification.

#### *The Formalities for Marriage: An Overview*

Unlike Christianity which views marriage as a sacrament that is a visible sign of divine grace, or Chinese custom which frames marriage as a cultural imperative (non-performance of which results in social ostracism), under Islam, marriage is a contractual relationship.<sup>1</sup> Despite its civil character, marriages in Islam are usually regulated under religious jurisdiction that imbues a character of sanctity (Nasir 1990:45). In China, Muslims' marriage retains its religious nature but operates under the dual authorities of locally recognized mosque and government, although Chinese custom also influences the rite of passage among Hui. Each source of law—Islam, the state, and Chinese custom—that gives shape to Han shari'a sets a standard or norm for the capacity to enter into a formal marriage.

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<sup>1</sup> The Chinese legal tradition is not without a basis for the marriage contract. Beginning in the Tang period but growing in formality by the Song, wealthy families would draw up marriage agreements that would list information on the groom's family as well as his birth, and if the marriage was uxorilocal, the wealth he would bring, and the equivalent information for the bride, especially any dowry she may bring (Ebrey 1991:106).

The requirements for marriage, according to Islamic law, are legal capacity for those entering into the marriage and *nikāḥ*, defined in its narrowest legal terms as offer and acceptance, as well as witnesses.<sup>2</sup> Legal capacity includes age, on which the different jurisprudential schools (Ar. *madhāhib*, Ch. *faxuepai*) differ, and sanity. Additionally, there are restrictions on who may marry (i.e., ascendants, descendants, brothers and sisters are prohibited). The *nikāḥ* is simply the offer and acceptance although most Muslim societies have developed elaborate ceremonial rituals attached to the *nikāḥ* and Chinese Islam is no exception,<sup>3</sup> although the ceremony itself, contrary to what many Hezhou Hui believe, is not required under Islamic law. When Hui speak of *nikāḥ*, they most often do so in the sense that the “*ahong* reads *nikāḥ*,” meaning the Qur’ānic verses of prayer that conclude the marriage contract, rather than the actual contract between husband and wife. The subtle semantic shift from the contract between the marrying parties to the act of the *ahong* suggests the great emphasis Hui place on the authority of the *ahong*.<sup>4</sup> The most nettlesome knot among the entanglements in Han shari‘a family law is that of the dower (Ar. *mahr*) which, according in Islamic law, is an effect of the marriage contract but which in Chinese Islam has been equated with the Chinese custom of the *pinli* (brideprice) and is viewed as a requirement to marriage. Thus, under Han shari‘a (but not shari‘a), the *pinli* qua dower is mandatory. The

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<sup>2</sup> The presence of witnesses serves to publish the fact of the marriage. It was not until 1931 that Egypt became the first Middle Eastern country to legally require marriage registration. Subsequently, a plaintiff bringing any case concerning the validity of marriage must show proof of marriage registration (i.e., in the form of a governmental license) or the case is dismissed. The purpose of the registration requirement, on its face, was to establish registers for marriage but also served to prevent child marriage. Conversation with Professor Sherif Hassan, Columbia University Law School, 7 November 2011.

<sup>3</sup> While some jurists argue that the *nikāḥ* as a contract must be in writing (the so-called ‘*aqd-nikāḥ*) as all contracts under shari‘a must be in writing, citing usually Qur’ān 2:282, there is no consensus that writing is mandatory. Northwest Hui, like Muslim minorities in many places, rely on oral statements only. Foreign Muslims from North Africa and the Middle East doing business in Yiwu, Zhejiang province, who get married to converted Han Chinese women often, unlike Chinese Muslims, go to the mosque to have a simple document ‘chomped’ by the *ahong*. This document carries more weight in their home countries than the marriage license under PRC law. Interview with Ma Ahong of only mosque in Yiwu, 6/22/2010.

<sup>4</sup> There is a difference of opinion among jurists whether the formal meaning of *nikāḥ* is “marriage,” as in the marriage contract or declaration of marriage (Nasir 1990:48) or “penetration” or “intercourse” as in the consummation of marriage (Verma 1988:15). Most Ḥanafī jurists refer to the term in isolation to mean intercourse (Alami 1992:10). The meaning of *nikāḥ* attributed by Muslims in China as the wedding ceremony accords with a non-formalistic or vernacular understanding that is shared by Muslims elsewhere (Pearl and Menski 1998:139).

*mahr/pinli*, like *niyyah/nietie* or *waqf/wagefu* is another example of legal creolization. While the conflicts between Chinese custom and Islamic law are sublimated, passed over, naturalized, those between state law and Islamic law are often more consciously articulated. In terms of requirements for a valid marriage, PRC law imposes the obligation of acquiring a marriage license (*jiehunzheng*).

As the Yihewani *ahong* of a mosque in Hezhou's sheep hide market district explains:

The two systems are totally different. The state law requires the couple to get registered and have a chopped certificate, whereas the religious law requires several things: consent of the two families, witnesses consisting of one man or two women, and *pingjin caili* [*pingjin* (or *pingji* in Bafanghua) and *caili* are synonymous with *pinli*] or *mahr*. Until you have all three, you don't have a legal couple (HZ 10/9/2010).

Below, I examine these requirements through the relevant rules of the various sources of law and by the use of ethnographic examples.

### *Legal Capacity: The Problem of Age*

Legal capacity (as under shari'a and PRC law, and more analogically, under Chinese custom) can be defined, for the purpose of this discussion, as the status by which a legal subject assumes the rights and duties of a particular legal system and, in particular, the right to engage in legally enforceable transactions. Classical Islamic law makes a distinction between two types of legal capacity: the capacity of obligation, meaning the capacity to acquire rights and duties, and the capacity of execution, the capacity to contract and fulfill one's obligations (Nasir 1990:189–190). The former begins in embryo and survives death until one's estate is divided and debts repaid (Nasir 1990:190).<sup>5</sup> The latter begins at majority, according to shari'a jurists, although modern legislation has set this limit at different ages (Nasir 1990:190). PRC state law establishes that people over the

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<sup>5</sup> Most modern legal codes in Muslim states abridge this period from birth until death so that the capacity is coterminous with legal personality.

age of eighteen possess “complete capacity for civil acts” (*wanquan minshi xingwei nengli*).<sup>6</sup> One of Hezhou’s most successful entrepreneurs, a member of a prominent Yihewani family, drew my attention to the repercussions of the state definition of legal capacity for Chinese Muslims: anyone under the age of eighteen does not have the legal capacity to believe in religion, that is, only at the age of eighteen does one have the right (*quanli*) to choose or not to choose in religion (HZ 4/8/2010). His implication is that “freedom of religion” is itself an ideology of rationalism that inserts skepticism into inter-generational belief such that younger Hui, born into a culture of freedom of religion, develop a consciousness that exists outside the doxa of Islam. If an individual receives no legal training until the age of eighteen, then that person will already have been inculcated into the Party-State’s atheistic orthodoxy, socialism, Han culture, scientificism, nationalism, and so on.<sup>7</sup>

Legal capacity is not reducible to age, although majority is a constitutive element of legal capacity. Legal capacity further includes the issue of sanity, which does not demonstrate the complexity of the issue of age in Han shari‘a, and thus is a non-issue for this discussion. Legal capacity to marry and full legal capacity are not necessarily the same under many state legal systems although they are in Islam. Islam does not require a child to perform prayers until she or he reaches puberty at which time the adolescent assumes the full mantle of a believer. The Ḥanafī school, which prevails in Muslim China, provides the general rule that a Muslim can marry as soon as she or he has reached puberty. The presumption is that puberty is reached at the age of fifteen, although minimum age is twelve years old for males and nine for females (Fyze 2009:93–94).<sup>8</sup> Hezhou Hui have largely adopted these minimum age limits for the assumption of rights and obligations under Islamic law. For instance, during the ninth month of the Islamic calendar (*huilh*),

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<sup>6</sup> General Principles of the Civil Law of the PRC (*Zhonghua renmin gongheguo minfa tongze*), promulgated 12 April, 1986, National People’s Congress, art. 11.

<sup>7</sup> For more, see Chapter 3 on education.

<sup>8</sup> Note that Nasir has a different age for the Ḥanafī school’s standard for the age of puberty: seventeen for females and eighteen for males (1990:190).

Hezhou Muslims celebrate Ramadan (*kai zhai jie*). During this period, every female above the age of nine and every male over twelve must fast (*fengzhai*) from the period of the morning call to prayer until the evening prayer (*hunli*), at which time they can eat (*kaizhai*). The obligation to fast is one of the principle obligations for every Muslim, and therefore a defining criterion for those with legal capacity.

Marriage in pre-Communist China was characterized by early age. While class, region, and ethnicity differentiated the age at which people married, Parish and Whyte find that before 1949, the average marriage ages were 17–19 for females and 19–21 for males (1978:157). Village studies have found lower marriage ages, such as in Fei Xiaotong's dissertation on his natal village in Jiangsu province in the 1930s where 92 percent of females and 75 percent of males were married before the age of sixteen (Fei 1939:40, 52). Early marriage was particularly common among girls whose fathers sought to marry out to cement ties with another family and remove the daughter who was seen to consume resources and not assist in the economic productivity of the household.<sup>9</sup> Additionally, local customs such as adoption of a girl as a future daughter-in-law, what Wolf and Huang call the "minor form" of marriage (1980:87–89), or *simpua* in Hokkien, and which was not uncommon in rural Taiwan (Wolf 1972), as well as the betrothal of children (Parish and Whyte 1978:156) further institutionalized the betrothal and marriage of girls at a young age. One of the major goals of the 1950 Marriage Law was to raise the marriage age and to educate villagers against the various dangers of *zaohun* (early marriage) (Croll 1981:60–61). The 1950 Marriage Law, article four, set the statutory age of marriage at eighteen for females and twenty years of age for males; however, the limit was raised in the 1980 revision to twenty and twenty-two, respectively. In so doing, the regime established a statutorily defined minimum age limit for the entire nation. The

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<sup>9</sup> Sangren points out that this view of the family system, just as much that of Engels as it is that of the Chinese, is one of ambivalence toward women's productivity in the domestic sphere, and that this ambivalence is part of an expropriation of women's labor by men who then use it in their own more public pursuits (2000a:158).

national standard, violation of which resulted in possible criminal liability, tied the nation-building project of creating national citizen-subjects to the rite of passage of marriage.

In New China, despite state campaigns to “marry late,” young adults remain particularly attuned to the cultural prerogative to marry early and feel pressure to marry before the age of thirty, the norm in cities and earlier in the countryside (Zang 1993). The Qur’ānic obligation to marry compounds the urgency of young Hui to find a partner—belief meets anxiety. Two consequences follow: first, the ‘legal’ standard for getting married is raised in the Hui consciousness from recommended (the shari’a standard) to something like obligatory (*wājib*) (Yu and Zhang 2007:140). Second, the socially accepted bar for marriageable age is lowered slightly in the case of Chinese Muslims.<sup>10</sup>

Early marriage is a problem in Hezhou. Muslim leaders, parents, teachers and officials talk about early marriage (some more readily than others) admitting that Hezhou Muslims, and particularly those in the countryside around the city, are apt to marry at ages they consider too young. As an organ of ethnic self-government, the Linxia Prefecture People’s Government is empowered by the PRC Constitution and the Law of the PRC on Regional Ethnic Autonomy to pass local regulations (*difang fagui*) that tailor national legislation to the needs of an ethnic minority population.<sup>11, 12</sup> In 1987, the Linxia Hui Autonomous Prefecture People’s Government promulgated the Linxia Hui Autonomous Prefecture Autonomous Regulations (hereinafter “Linxia Regulations”) to adjust the national standard to accommodate an earlier age of marriage: the minimum age for females is eighteen and for males is twenty, thus two years lower than the

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<sup>10</sup> Based on conversations with staff at the MIO.

<sup>11</sup> Constitution of the PRC (*Zhonghua remi n gongheguo xianfa*), effective 4 December 1982, revised 14 March, 2004 by the National People’s Congress, art. 116.

<sup>12</sup> Law of the PRC on Regional Ethnic Autonomy (*Zhonghua renmin gongheguo minzu quy u zizhifa*), effective 1, October, 1984, revised 28 February, 2001 by the Standing Committee of the National People’s Congress, art. 6, empowering organs of self-government to implement “special policies and flexible measures” (*teshu zhengce he linghuo cuoshi*).

national standard.<sup>13</sup> The stated justification given in the regulations is not a recognition of the younger standard for marriageable age as provided under Islamic law, but rather to adapt prefectural regulations to Linxia Prefecture's "practical situation" (*shiji qingkuang*).<sup>14</sup> However, many get married at ages that fail to meet the ages set forth by the Linxia Regulations. The most common rationale for this behavior is not that these Muslims are exercising their Qur'ānic rights, but rather, they are following Chinese custom. As Han custom exerts the dominant influence on marriageable age, they do not follow the Hezhou age for Muslim legal personality, that is, nine for girls. Residents of Bafang say that both Hui and Han females, from the city, will marry as early as sixteen and in the countryside, both Hui and Han females will marry at the age of thirteen (HZ 11/7/2010). The head of one of Linxia County's judicial bureaus cited a slightly higher average, stating that in the countryside around Hezhou, females, regardless of ethnicity, that is, Hui, Han, or Dongxiang, marry at the age of fifteen or sixteen (LC 6/8/2010). According to one study on early marriage among Dongxiang females in Dongxiang Autonomous County, 67.2 percent of the respondents got married between the ages of sixteen to eighteen and seven percent below the age of sixteen (Jing 2006:33). Conversations with paramours and their parents at the MIO in Lanzhou are roughly consistent, stating that rural Hui females marry at the age of sixteen.<sup>15</sup> There is considerable pressure for girls to marry out of their natal home early, and thus the maximum age of marriage is socially significant. If females beyond the age of 25 are still single, one mother said, there is a kind of stigma attached to them—they are *daling* (too old). In the cities, the maximum bar is raised to the age of 30, as most females marry between 22 and 25 (LZ 10/31/2009). According to the survey I conducted on young couples getting married in Hezhou, the age range was 16 to 26 for

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<sup>13</sup> Gansu Province Linxia Huizu Autonomous Prefecture Self-Rule Regulations (*Ganshusheng Linxia huizu zizhizhou zizhi tiaoli*), passed 30 June, 1987, by the First Meeting of the Ninth Session of the Linxia Huizu Autonomous County People's Congress, approved 29 August, 1987, by the Twenty-Sixth Meeting of the Sixth Session of the Gansu Province People's Congress Standing Committee, art. 51.

<sup>14</sup> Linxia Regulations, art. 6.

<sup>15</sup> In her study on marriage among rural Hui in Tongxin County, Ningxia, Hui scholar Yang Zhixin found that within the entire county, those Hui aged fifteen and over who were unmarried totaled 39,879 people or 24.9 percent of their age cohort, whereas those who had partners (although most likely not legally married) totaled 113,862 or 71 percent of their age cohort (2004:54).

females, with twelve females or eighteen percent under the standard imposed by the Linxia Regulations of eighteen years of age. The age range for males was eighteen to 30, with four males or 6 percent below the age standard set by the Linxia Regulations of twenty years old. The average age was 20.45 for females and 24.25 for males (Table 8) with a median age difference of 3.8 years (Table 9). While there are violators, the average ages are safely above the Linxia Regulations' limits.

Table 8 Age by Gender ( $n = 66$ )

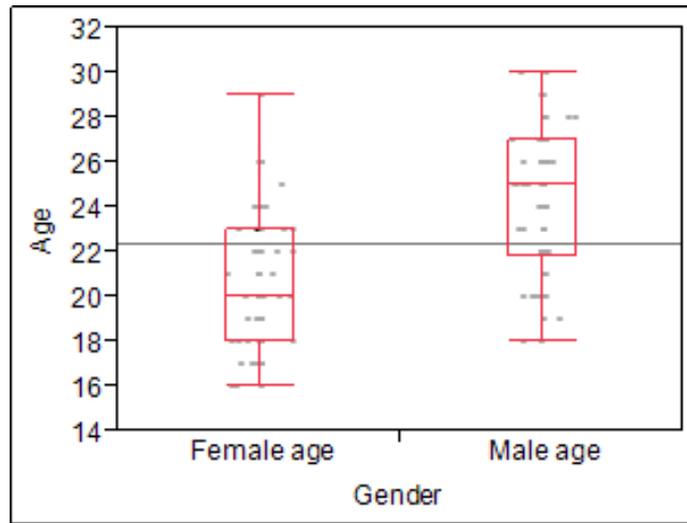
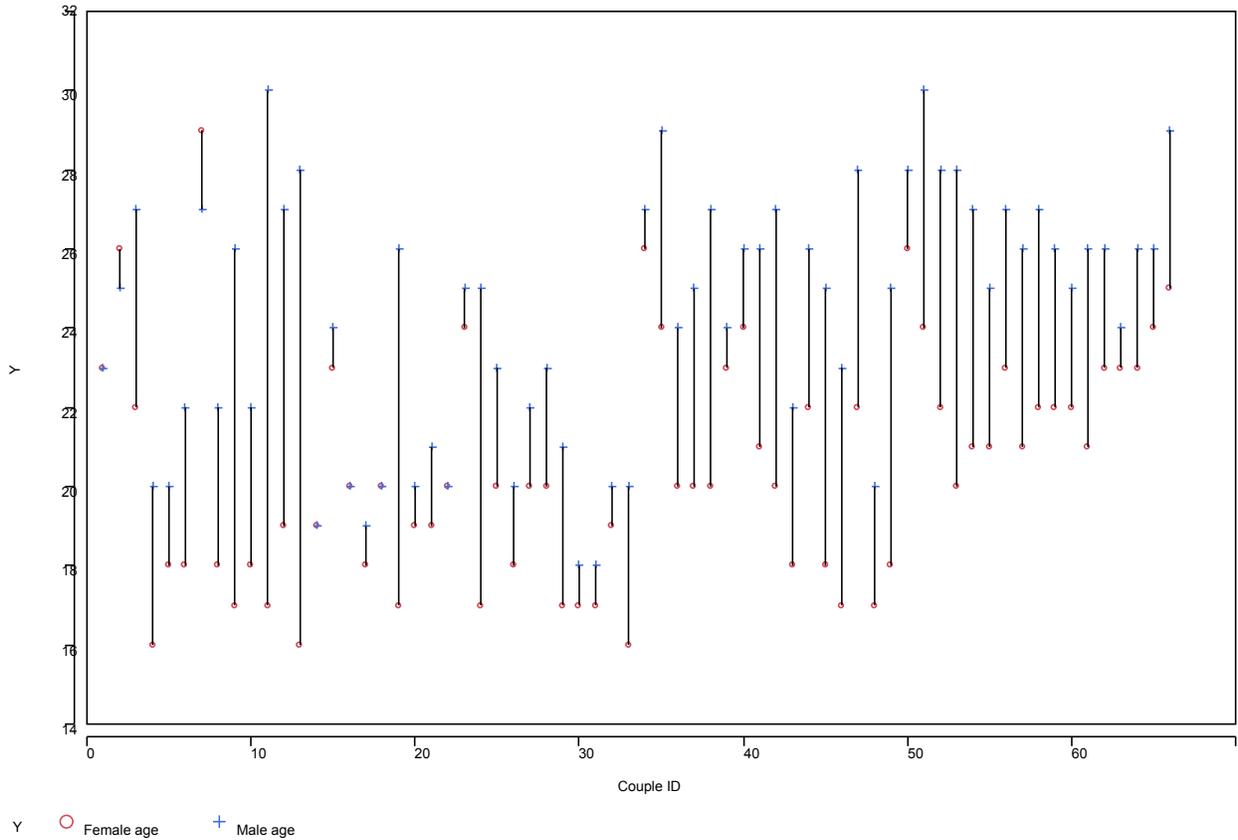


Table 9 Age Differences Among Married Pairs ( $n = 66$ )



To address the problem, the Linxia government uses techniques found throughout China and some unique to Hezhou. The most ubiquitous tactic involves periodic public awareness campaigns consisting of red banners hung across Hezhou's main avenues alerting passers-by to the minimum marriageable ages in the Linxia Regulations. These propaganda campaigns also have their online equivalents and thus the Linxia Government website will occasionally feature special marriage law websites. The date 28 April 2010 marked the sixtieth anniversary of the promulgation of the Marriage Law. On that day, newspaper stalls in Hezhou were overflowing with newspapers exalting the social significance of the law replete with photographs of conferences commemorating the law's passing. Government news organs posted journalistic commentaries on various government websites. Particular to China's Little Mecca, the Party-State mobilizes religious leaders

to raise the legal consciousness of Muslim youth in regards to the dangers of early marriage. *Ahong* will exhort members of their *jamā'a* to follow the standards set out in the Linxia regulations in their *khuṭbah*, brief sermons usually given in Bafanghua. The head of the Linxia Foreign Language School, where Arabic is taught, complained that marriage in Hezhou does not meet this standard, and works applicable laws into his classes (HZ 11/25/2009). In talking to Hezhou youth, they are well aware of the legal standards. They do not suffer from a lack of legal consciousness. One of the main presumptions of the state-led project of legal popularization (*puji falü* or *pufa*, for short) is that if the state educates citizens in legal knowledge, they will then follow such instruction (Gallagher 2005). Empirically, this presumption is ungrounded for it overlooks strategic behavior or resistance. As Elisabeth Croll relates, legal propaganda campaigns regarding legal standards of marriageable age have sought to raise the levels of awareness since the first campaign against early marriage in 1956 (1981:61, 67). Many of the Hezhou youth who marry below the national age do so with full awareness of the legal standard. They use their legal consciousness to evade the law. The popular stratagem is to avoid registration or forge documents, either those submitted to the Civil Affairs Bureau or to bribe officers in order to acquire a license permit that has falsified information. In his research on Yunnan Hui, the scholar Ma Ping describes

Early marriage custom and provisions of the state's Marriage Law violate each other. However, most people know how much the legal marriageable age is under the Marriage Law, *difangshang biantong* (local flexibility) adjusts [the age] to 18 and 20 years old. Because they know, so many young people when they marry do not go to register for a marriage license. Others go through *qudao* (lit. irrigation canals) to get a marriage license. Local officials of course know local customs, so they *zheng yi zhi yan, bi yi zhi yan* ("open one eye while closing the other"), do someone a favor and then forget about it. In addition to the marriage license, there is also the matter of the *zhunshengzheng* (pregnancy permit), when children exceed the *hukou*, and other such things are all the same—both sides tacitly agree to cooperate to evade the law (Ma 2003b:65).

Officials in Linxia Prefecture governmental bureaus confirmed that there is a trade in forged documents between government officials and Muslim minorities who are trying to evade standards

imposed on them by the Linxia Regulations. One official of the Linxia County judicial bureau provided the following synopsis of such behavior in Linxia Prefecture: “In order to marry early and get around the age restrictions, when Muslims register at the Civil Affairs Bureau, they provide documents that indicate their age is older than it really is. There are many ways to forge such documents nowadays with even a common computer and a color printer” (LC 6/8/2010). There are many parallel examples of such law-evasion. In Hezhou, such tactics are similar to the forgery of documents to change one’s ethnicity illegally. In southern Xinjiang, Uyghurs use similar evasive techniques when they register to marry to get around regulations against endogamy in marriage (Bellér-Hann 2003:190–191). Such behavior demonstrates one response to the conflict of laws: rather than ignoring, “lumping” or sublimating the conflict, Muslim minorities consciously evade or even break the law. When they submit falsified information to government bureaus, they are using their knowledge of the law and its instruments (i.e., documents) to contravene its policy goals.

In 2011, the Linxia Prefectural government revised the Linxia Regulations and abolished the lower marriageable ages, thus bringing Linxia Prefecture into alignment with the national standard.<sup>16</sup> Such statutory revision marks a step back from efforts to accommodate national law to the local norms and practices of Muslim minorities. It does, however, follow a trend since the Republican period of incrementally raising the statutory marriageable age with the goal of likewise increasing the age of marriage in practice for which there is some historical evidence (Croll 1981:65–66).

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<sup>16</sup> Gansu Province Linxia Huizu Autonomous Prefecture Self-Rule Regulations, amended 1 April, 2011 by the Twentieth Meeting of the Eleventh Session of the Gansu Province People’s Congress Standing Committee.

*Marriage Finance in Creole: Dower versus Dowry*

The exchange of property through marriage illustrates the collapse of categories in the family law of Han shari'a. At this meeting point of the legal orders, the law is a dense thicket. Consequently, there is much confusion in social practice among Chinese Muslims, across *jiaopai*, and in consistency of terminology in the scholarship not only on marriage among Chinese Muslims, but also on marriage within Islam globally.<sup>17</sup> The confusion stems from the following questions: one, the amount of money or property the groom owes; two, to whom the groom owes it; three, the legal reason for this conveyance; and four, when this transaction occurs. It is this confusion that highlights a direct conflict between Islamic law and Chinese custom. Within the Ḥanafī school of Islamic law, the husband pays the wife a dower (*mahr*) as an effect of the marriage.<sup>18</sup> *Mahr* has been translated as brideprice, but, according to the Qur'ān, it is a bridal gift whose recipient is not the bride's father but the bride herself.<sup>19</sup> The difference is that a brideprice is a cash amount or property of equivalent value given by the groom to the bride's family (i.e., the father) in consideration for the marriage contract. The *mahr*, on the other hand, is a result of the marriage contract, and is given to the bride as her property of which only she can dispose (Alami 1992:107–108; Doi 1984:158; Nasir 1990:83; Pearl and Menski 1998:179; Schacht 1964:161). It was conferred not as currency in a material transaction, but as a token of respect (Doi 1984:158). In pre-Communist China, among Han, the groom gave a *pinli* to the bride's father. This amount was used as consideration for the bride and to compensate the family for the loss of the daughter. Less commonly, in some areas, the father would use part of this brideprice to invest in a dowry that is then given to the newlyweds or which would become the property of the groom (Ebrey 1991:97; Parish and Whyte 1978:156, 180–152). The modern legal regime has prohibited brideprice as a

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<sup>17</sup> Beyond the study of Islam, the diversity of social practices entailing property exchange in marriage has frustrated sociological definitions of dowry, dower, brideprice and related terms (Goody 1973).

<sup>18</sup> Qur'ān (4:24).

<sup>19</sup> Qur'ān (4:4). The senior Hui scholar Ma Ping, who otherwise has written the most lucid accounts of Hui marriage, makes this mistake in finding grounds for the Chinese custom of *maimai hunyin* (marriage by purchase) in this Qur'ānic verse (Ma 2003b:65).

mercenary and feudal practice that led to the dehumanization and commodification of women, as well as furthering class stratification,<sup>20</sup> given that the wealthy men could afford the most sought-after brides, leaving laborers with a paucity of choice.<sup>21</sup> The Linxia Prefecture People's Government has made no adjustment, as it did with age, in this regard. Yet the practice of brideprice is nearly ubiquitous among Hezhou Muslims (in contravention of national and local laws) and is widely regarded as a basic requirement of marriage, and not an effect of the contract (in contravention of Islamic law). The reason for the double violation of Islamic and state law is that, in brideprice, Hui follow Chinese custom.

Hui have inherited both the Chinese and Islamic practices. Some Hezhou Hui, superficially, divide the money or property conferred by the groom into *pinli*, gifted during the engagement period, and *mahr*, given either during the wedding ceremony or afterwards. In social practice, however, these categories may collapse. The practice of other Hui is simply to confer one lump sum of money occasionally along with material goods. In the Hui's translation of the concept-term *mahr*, there are two major complications. One, to confuse matters, the post-engagement amount is sometimes referred to as *pinli*, and less frequently *caili*, betrothal payment (Cohen 2005:97–98), as the translation for *mahr*. Very few Hui, outside of *ahong*, are familiar with the Arabic word *mahr* or its legal definition. In their everyday discourse on and social practice of marriage, the Hui *pinli* shows closer approximation to the Han Chinese *pinli* than to the Islamic *mahr*. Specifically, Hui practice is for the groom to gift the (first) *pinli/caili* to the bride's family as part of the pre-marriage engagement, that is, as a bridal gift, but one which goes to the bride's guardian (usually the father, mother, or elder brother). This amount is then used for the cost of the wedding or for purchases for the newlyweds' home, resembling a classical dowry system. Two, the second or post-engagement *pinli*, which depending on the *jiaopai* and religiosity of the couple may be less important than the

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<sup>20</sup> Marriage Law, art. 3.

<sup>21</sup> For an example of the state's reform of *mahr* practices in a Muslim majority via legislation, see Dahlgren's discussion of Yemen's 1974 Family Law (2011; 2010).

first *pinli*, will also go to the bride's guardian. Neither of these conveyances accords with Qur'ānic law. The first violates Islamic law because it is given in consideration of the marriage and both transactions violate Qur'ānic rules since the ultimate property holder is the bride's guardian. According to Imām Abu Ḥanafī, the eponymous founder of the Ḥanafī school, the *mahr* is the property of the wife and continues to be her property in the event of divorce, if the marriage was consummated and the divorce was not of her fault (Nasir 1990:89). Hence, the pull of Chinese custom is particularly strong in marriage finance, and specifically, the institution of gifting. Chinese custom runs in the face of many of the Qur'ānic rules and Ḥanafī jurisprudence on the *mahr*, most of which were introduced to combat practices among pre-Islamic Arab populations that Muslim leaders found reprehensible, such practices which show striking similarity to those of Han Chinese.

Fareed, the former head of the Linxia City Civil Affairs Bureau, the governmental department that is responsible for the registration of marriages, spoke of the historical relationship between *pinli* and *mahr*. He explained it in the following terms:

Traditionally, *caili* and *mahr* were two different things. *Mahr* was a requirement of *jiaofa* and the property of the wife. In China, this usually took the form of money, jewelry, and the like. The *caili* was for the wedding expenses, thus, expended by the wife's family, her parents, brother, and so on. Additionally, as part of this, she was given clothes (HZ 10/15/2010).

The fact that this civil servant is also a devout Salafiyya suggests that the impact of the overall commercialization (if not secularization) of Chinese society, even in Hezhou, despite undercurrents of aspects of Islamic revival, affects all Hezhou Muslims irrespective of *jiaopai*, although *jiaopai* may have different ways of coping with commercialization.

As to the amount of *mahr*, in the history of Islamic law different communities and schools have decided upon different standards for the minimum accepted sum (Pearl and Menski 1998:179). The Ḥanafī school decided on the sum of 10 *dirhams*, based on analogy with the

minimum value of stolen goods which rendered a thief liable to amputation of the hand (Pearl 1998:179). In Hezhou, there is believed to be a socially acceptable minimum amount, although *ahong* from different *jiaopai*, and sometimes from different *jamā'a* within the same *jiaopai*, disagree as to the basis for that minimum. A Gedimu *ahong* represents one group that bases the minimum amount on twenty *yinyuan* (silver dollars) citing the authority of the Qur'ān. They reason that one *yinyuan* is equal to 300 yuan, at current monetary value, which would place the minimum amount at 6,000 yuan (HZ 10/1/2010).<sup>22</sup> Yihewani and Salafiyya *ahong* might refer to the practice in Muslim states whereby the general rule is that the couple is permitted to set any amount they agree upon in their marriage contract. Fareed claims that before 1980, the accepted amount was, on average, 500 yuan and then a *caili* of eight sets of clothes, a certain weight of tea leaves, beef, and mutton. The amount now is based upon a lump sum of money such as 50 *wan* (500,000 yuan) (HZ 10/15/2010).

In contemporary practice, the amount of the *pinli* is based on the go-between's estimation of the bride's situation or her direct inquiries with the bride's parents to negotiate a price. In the case of the latter approach, the go-between acts as agent for the groom and represents his interests although will not do so to the detriment of the potential match. In Hezhou, the lowest socially accepted standard, the "floor," is a little over 500 yuan and in Lanzhou it is 1,000 yuan. The average in Hezhou seems to be about 15,000 yuan. As a very general rule, Gedimu will pay slightly more and Yihewani and Salafiyya slightly less. However, as many Hui families are too poor to afford this, the bride can waive this right. While there is a socially imposed floor, there is no ceiling. Anything

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<sup>22</sup> The Qur'ān is silent as to the amount. There is consensus among the schools that the *mahr* is mandatory, usually citing Qur'ān (4:4, 4:24). Here, the *ahong* may be thinking of a hadith in which Muhammad responded to questions about the amount of the *mahr*, asserting that it was required, but not necessarily affixing a specified minimum amount to the requirement (the amount in question was one gold piece). The *ahong's* reasoning is an example of a non-literalist (often unfairly called, "Wahhabist") legal analysis (DeLong-Bas 2004:97). Rather, he demonstrates a contextual interpretation in determining the actual value of the *mahr* at that time and place (i.e., 20 silver dollars) and converting, by analogy, to value in Chinese dollars. Thus, this analogical reasoning is akin to what classical jurists termed *qiyās*, although the *ahong* himself does not have the qualifications to conduct *qiyās* per se.

above the floor is subject to negotiation. Hui and Dongxiang suitors cited a number of factors affecting the value including (in the order of frequency of response): the girl's overall appearance and figure, whether or not she is officially employed by the state (meaning employment as a civil servant), family background, and moral character. Additionally, value seems inversely proportional to age. In general, based on living costs and the relative higher social class of many urban Hui, the price in Hezhou is half that in Lanzhou.<sup>23</sup> Brother Tang paid 20,000 yuan (half the market rate in Lanzhou) plus thirty pieces of jewelry, consisting of rings and earrings, the latter he specified as mandatory according to Islamic law. This property was in addition and subsequent to the clothes Tang gifted in the courtship period before the wedding day was set. Additionally, in the rare instance when a Hui bride marries a Han groom, the bride can request that the man use his conversion as the *pinli* (LZ 10/31/2009).

In both Hezhou and Lanzhou, the *pinli* comes from the groom's parents as most men in their early twenties do not have adequate personal savings. Most pointedly, the recipient is not the bride as in Islamic *mahr*, but the bride's father. According to one Salafiyya teacher in Hezhou, the father will apportion some of it to buy furniture and household goods for the young couple, use some of it to give directly as money to his daughter who keeps this property as her own, and keep the remainder for himself. When I asked the teacher how this differed from Han practice, he initially shook his head, but then blurted out, "Han fathers will keep more for themselves!" (HZ 11/18/2010).<sup>24</sup>

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<sup>23</sup> In Hezhou, the *pinli* value for a Hui marriage is approximately two-thirds that of a Han marriage.

<sup>24</sup> The teacher's perception of practice among Han families in the Northwest, that the father retains the *pinli*, accords with the practice of poor Han families elsewhere. In Jiangsu, for example, among only the poorest families will the father of the bride monopolize the *pinli*. The usually stated rationale is that the girl is too young to know how to manage the money herself. In wealthier families, however, the practice is for the groom to gift the *pinli* to the bride who gives it to her father who then doubles it and returns it to his daughter. This becomes her *sifang qian* ("private house money") that is her private property and no one else's. Interview at Ithaca, New York, with Zhu Suli, dean of Peking University Law School, 30 August 2011. On *sifang qian*, see also Cohen 1976:164-191.

In terms of marriage finance, in addition to *pinli* and *mahr*, there are two other issues of secondary or tertiary importance. The first is maintenance (Ar. *nafaqa*). The general rule in Muslim societies is that a wife is entitled to maintenance, comprised of food, clothing, and shelter, during the course of a valid marriage. This practice is based on the Qur'ān as well as several *aḥādīth* (Doi 1984:207–208; Verma 1988:328).<sup>25</sup> While maintenance is a major component of marriage law in Islam, Hezhou Hui place less emphasis on it than the *pinli/mahr*. *Ahong*speak of the wife's right to receive maintenance (Ch. *shenghuofei*), but usually understand it as a given, that is, Hezhou Hui rarely single maintenance out as a justiciable right unto itself. The issue usually arises in the event of divorce (see Chapter 9.)

The second conveyance of property from groom to bride is the custom, practiced by Hezhou Hui, of paying a “virginity price.” Although the topic only occasionally came up in conversations, several *ahong*, Gedimu and Yihewani, mentioned this as a custom among Hezhou Hui. *Ahong* have different names for this practice. One Yihewani *ahong* used the term *hakar bini*, stating that it was Persian, and the Chinese transliteration of *kabijin* (HZ 10/9/2010). A Gedimu *ahong* used the term *bikar*, meaning “money,” arguing that it was not Persian but Arabic, and that its Bafanghua equivalent is *yuniqian* (HZ 10/7/2010).<sup>26</sup> Most likely the term derives from the Arabic *bakāra* meaning virginity, and in the process of creolization was assigned an exchange value. The *ahong* agreed in its definition, that is it money paid by the groom to the bride usually not during the wedding but after the first time they have had sex. The money is the exclusive property of the wife's. *Ahong* further agree that this conveyance is not a requirement under Islamic law. The majority of *ahong* grounded its authority in Chinese custom. While a high premium was placed on

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<sup>25</sup> Qur'ān (4:34).

<sup>26</sup> Susanne Dahlgren notes the practice among Yemeni Muslims of Aden for the groom to pay the bride and her mother the *laylat al-dukhla* (“night of entering”) for the first sexual intercourse (2011:40).

the virginity of the bride in imperial China,<sup>27</sup> there is no documented practice of giving a separate amount of money for virginity price, although it is possible that such a factor was part of the calculation of the brideprice.

### *The Wedding Ceremony and Registration: Nikāḥ versus Marriage License*

Marriage under Islamic law is a solemn contractual relationship between husband and wife and must be supported through the two pillars of offer and acceptance (Doi 1984). In the Ḥanafī school, the offer and acceptance must be spoken, not necessarily in Arabic, literally or metaphorically by the parties or their proxies, that is, their guardians, usually their parents. The first utterance, from either the groom or bride, is the offer and the one that follows it is the acceptance. Offer and acceptance each contain consent; one of the alternative definitions for the contract in Western jurisprudence has been that of mutual assent, and the basic idea applies to the Islamic marriage contract as well. The *nikāḥ* ceremony, as the solemn rite during which the groom and bride exchange offer and acceptance, is the formalization of consent. Jaschok and Shui, in a Western feminist vein, argue that before the Communist period, brides did not act autonomously in giving their offer or acceptance, that they were themselves objectified within the rite, and that only in the 1950s and after, when the bride was allowed to meet the groom before the ceremony, was she truly giving her consent (Jaschok and Shui 2000:141). In other words, the modern marriage regime, beginning in the early Communist period, and a revival of Islamic law in the reform era, liberated Hui women from the hegemonic hold of traditional Chinese patriarchy, and this emancipation took

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<sup>27</sup> The Song dynasty historian Huang Mai (1123–1202) wrote of the story of Jen Chiung, the son of a wealthy family who fell in love with a beautiful girl and subsequently had sex with her only to be discovered by her mother who charged, “My daughter is a virgin of a good family. How dare you sully her!” Compelled by the mother’s logic, Chiung married the girl, but only later discovered he had fallen in love with a ghost. The historian Patricia Buckley Ebrey invokes the tale as a “cautionary example” that a Chinese man was not to fall in love with a woman unknown to his family (1993:79). The story equally holds for the proposition that virginity was given so much weight in traditional China that even ghosts were aware of its value.

place through the reformation of the Islamic ceremony, the *nikāḥ*. While there seems to be evidence for a broad gender liberalization, both traditional Chinese patriarchy and Islamic patriarchy (whether termed “old Hui,” that is, Gedimu, or that of the scripturalist reformers, the Yihewani and Salafiyya) act on the *nikāḥ* in ways that may diversify or complicate general trends. In what follows, I provide two accounts of the *nikāḥ*, one featuring a Hezhou Gedimu couple and one a Lanzhou Yihewani–Salafiyya couple.

In Hezhou, after engagement (*dingqin, dinghun*), there are commonly three days of courtship culminating in the wedding ceremony (*hunli*) during which the *nikāḥ* is read by the *ahong*. In parallel with Muslims elsewhere, these celebrations are the specific Chinese Muslim cultural accretions, with Han accents, of the Islamic *nikāḥ*, which remains at the core. The main elements of the wedding are the following: the declaration of one’s status as a Muslim by proclaiming one’s scriptural name, the use of witnesses, the betrotheds’ proof of their faith, the vows, the *mahr*, and prayer. Among Hezhou’s various Muslim minority groups and *jiaopai*, there are minor differences regarding these elements. Sufi and Gedimu tend to emphasize the inter-familial aspects of the ceremony, pooling money among family members to gift to their new affines, for instance. Dongxiang weddings, regardless of *jiaopai* affiliation, are also known to place special emphasis on marriage’s meaning as the joining of two families. Gedimu weddings tend to be boisterous and even rowdy events in comparison to those of Yihewani and Salafiyya that are more solemn. Further, Sufi and Gedimu concentrate more authority in the *ahong* as the one officiating the *nikāḥ* as opposed to Yihewani and Salafiyya that apportion more responsibility to the betrothed couple, although all *jiaopai* use the expression “the *ahong* reads the *nikāḥ*.” These distinctions are generalizations, however, and should not be construed as iron-clad delineations from which behavior cannot deviate. What follows are ethnographic cases of two weddings, related in the present tense.

Brother Tang's wedding exemplifies a Gedimu Hezhou wedding. On the morning of the wedding day, the groom's father hosts his kinsman, members of his patrilineage, with a feast at his home. Great attention is paid to the food, prepared in the father's kitchen by the groom's wife and female members of the family. The feast includes hand-pulled mutton, roasted chicken, "rock crystal stuffed buns," and snacks such as deep-fried wheat twists, buckwheat noodles, wonton noodles, and *niang pizi* (lit. "fermented skin") consisting of thick wheat-based noodles topped with soy sauce, vinegar, garlic and spices, as well as copious amounts of hot tea. After their fill, the men representing Brother Tang's patrilineage escort him to the bride's home. During this twenty-minute walk, on a cold February morning, through the many turns among the single-floor homes on the western edge of Bafang, Brother Tang wears a Western-style suit and red tie, and carries a bouquet of roses. Unlike most of his kinsmen who don spotlessly white caps, Brother Tang goes bare-headed. Once they reach the home of the bride's parents, we see the members of her father's lineage lined up outside. Similar to Dongxiang weddings in the Dongxiang Ethnic Autonomous County and Uyghur weddings in the countryside outside of southern Xinjiang, Brother Tang's kinsmen walk through the line, clasping hands with each member of his bride's father's lineage, pronouncing *salām* ("peace") to each one. The women of Brother Tang's entourage, all wearing pastel-colored *gaitou*, do not join the line, but wait back, and only after all the men enter the home do they then join their counterparts, the female members of the bride's home, in an equally warm and hospitable greeting.

Once inside, Brother Tang enters the courtyard and strides directly to the guestroom that has been converted into the bridal room. Inside, the bride's party, all women, wait on the bride, Ms. Ma. She wears a baroque Western-style pink dress with dark pink fur trim. Her hair, in an ornately tied updo style, is held in place with several rose decorations. A pink veil covers her entire head. When Brother Tang entered the room, Ms. Ma turned to face not him but the wall; she turned slightly to receive the bouquet, but kept her gaze downward. Brother Tang then goes outside into

the courtyard where all the men, from both lineages, have gathered around a small a table at which sits the *ahong*. On the table are two large bowls of assorted sweets, consisting of walnuts and dried jujubes. They lie between Brother Tang and the *ahong*, who writes blessings on one of them with a pen. I ask the Hui man next to me whether these were placed in emulation of the hadith in which Prophet Muhammad enjoins his followers to break a fast with dates. The Hui man replies in the negative, saying they are a Chinese tradition. The sweets represent a play on words. The word for walnut is composed of two characters *hetao*, the first of which sounds like a repeated character in the Chinese saying “a married couple gets along very well” (*hehemeime*). The walnuts are also commonly associated with the expression, “have many sons and grandsons” (*duoziduosun*). Likewise, the character for jujube *zao* is a homophone for the character in the saying “have honorable sons early” (*zaoshengguizi*). Men had placed several hundred yuan notes next to the bowl for the *ahong*.

The *ahong* recites a prayer in Arabic to commence the ceremony. Brother Tang sits across the table from the *ahong* who addresses him, a throng of three dozen kinsmen tightly circling the table. Switching over to the Bafanghua patois, the *ahong* poses, “My brother, what is your *jingming* (scriptural name)?

“Bedar-ud-Din” Brother Tang states, in Bafanghua, his face humorless.

“Bedar-ud-Din, this is Persian. Your name is rich in meaning. Your name means ‘one who submits to Islam,’ so you do not follow *hei zhengce* (lit. black policies).<sup>28</sup> Now as to the matter of the *pinli* . . .” The *ahong* is cut off by the encircled men who begin hollering out numbers, with much back-and-forth joking. Brother Tang procures a wad of cash that then disappears into the crowd. The *ahong* then turns to Brother Tang again. The men quieting down, the *ahong* exhorts, “there are many temptations that can lead you astray, none of these can you do. He will make you do them, but you cannot. They will come again and again but you must resist them again and again. Remember,

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<sup>28</sup> By this, I was later told, the *ahong* meant “the way of *Shaitan* (Satan)” by combining the negative term “black” with “policy” usually reserved for the work of secular authority, that is, governmental administration.

now you are the husband to your wife, the head of your new family. Do you accept this?" At this, the men closest to the table all answer for Brother Tang, nodding their heads, and prodding him, some pushing him from behind, and finally, he utters solemnly, *cheng le* (submitted). The *ahong* then says a final prayer in Arabic. In conclusion, the men hold their hands together, palms upward, eyes closed and they silently mouth their supplications to God. The *ahong* then leads them in the symbolic gesture of washing the face (*wudu*). Upon the completion of ablution, two things happen immediately at the same time. All men spring on the two bowls of sweets. The sweets are believed to have potent powers of auspiciousness, not unlike the throwing of the bouquet in Western weddings. Simultaneously, Brother Tang jumped out of his seat and runs for the door as it is custom for the men to playfully beat him. Throughout the entire ceremony, Ms. Ma remains in the bridal room.

Mark Liu's wedding shares many features with that of Brother Tang suggesting broad commonalities in the ceremonial form. At the same time, the wedding of Mark Liu, as an urban Yihewani Hui, demonstrates telling differences. Unlike Brother Tang's *nikāḥ* that took place in his bride's family's *wafang* courtyard in a traditional Hui neighborhood in Hezhou, Mark Liu's ceremony is held in his bride's family's home, an apartment unit in a contemporary high-rise complex on the north side of the Yellow River in Lanzhou. When we arrive in the afternoon, Mark, his sister, his cousin and his wife, and I find a small gathering, consisting of Mark's bride's father, brother, uncle (the go-between) and several other male friends. The small size of the apartment limits the gathering to about a dozen people. His bride, Mary is also there with her mother and aunt but they stay in the back bedroom for most of the afternoon. Su Ahong, a 33-year-old Yihewani man I had met several weeks earlier at his mosque on the banks of the Yellow River, is sitting in the main guestroom, at the seat of honor, on an overstuffed sofa. Mary's uncle and father join Mark, bare headed, in sitting around a small coffee table in front of Su Ahong. On the coffee table is the familiar two trays of sweets, the fertility and virility-amplifying walnuts and jujube.

The atmosphere of the room is still and quiet. Su Ahong begins to speak in standard Chinese with a Lanzhou accent given he is a native of the city:

The occasion for which we are now gathered is to *nian* (read) the *nikāh*. This is the meaning of this occasion. Occasions like this must be *yansu* (solemn). It is a relatively *baireketi* (blessed, Ar. *baraka*), *jiqing*,<sup>29</sup> and *huanle* (joyous) occasion. Each one of you knows, ‘at a certain age, every man and woman must marry’ (*nandanghun nüdadangjia*). This was proposed by the *sunna* of the Holy Prophet. The general idea of the hadith is that the Prophet says, “I am a saint [*sic*], but I am also an ordinary person like you.<sup>30</sup> I marry, have children, and die like you.” We are all *umma, jiaomin* (believers). In this regard, we all must imitate *shengren* Allahu, follow closely his *sunna*. In marriage there is *heikemeti* (truth, Ar. *haqq*), *aomiao* (profundity), for example, within the Islamic marriage, life is relatively pure, the family is happy, emotion is concentrated, because in reality, especially many non-Muslim male and female youngsters believe marriage is just a headstall for harnessing up people and so they say ‘we don’t wish to marry’. They say, ‘we lose our freedom’, and so on. You all know. This kind of thought is not in accordance with what our *shengren* (saint) advocated and is even less in accordance with the spirit of Islam. This kind of thought is not that of Muslim willing to believe in *zhunque* (precise) belief. As Muslims, we must marry, have children, and die because this is what the *shengren* proposed. So today, the parents of both parties are giving their own children and also giving themselves some responsibilities. This is a moment of *baireketi*, of *jiqing*. At this time, I ask the family heads of both parties to give their blessings to this relationship. But first [Su Ahong turns to Mary’s uncle, the go-between, sitting beside him] has the groom gifted the *cail*?

“It has been clearly gifted,” the bearded uncle answers.

Su Ahong jokes, “What did he give her? We all want to know.”

“They gave bedding, comforters, pillows, clothes, make-up, earrings, and money,” the uncle answers. “Both sides were satisfied.”

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<sup>29</sup> *Baireketi* is the Chinese pinyin form for the Chinese transliteration of the Arabic term *baraka*, meaning “blessing” which is one of the key cultural concepts for Chinese Muslims’ imagining of the influence of God and his agents in everyday life. Chinese Muslims often translate (as opposed to transliterate) the concept into the idiom of Chinese language as *jiqing* meaning “auspicious,” “propitious,” or “happy.” My attention to *baraka* parallels Clifford Geertz’s interpretation of *haqq* (1983) or Sangren’s exposition of *ling* (1987a), as not to reify an essentialized and homogenized term, but to explore its variation across the landscape of Chinese Islamic law and ritual. To wit, *baraka* has particular valence in the ritual of Sufis; here, I note that which has largely gone unrecognized in the literature on non-Sufi Chinese Muslims, that Yihewani (and Salafiyya) also invoke the concept in their ritual life. As such, Su Ahong’s invocation means that the wedding occasion is one particularly blessed by God. While Chinese popular Sufism emphasizes that *baraka* can assume material form, such as in objects like the walnuts and jujubes between the *ahong* and groom, non-Sufi Chinese Muslims will reject such attributions, instead invoking a Chinese explanation for the value of the sweets as proffering ‘good luck’ to their possessors.

<sup>30</sup> This is actually from the Qur’ān (18:110).

Su Ahong instructs, “in order to read *nikāḥ*, there must be two conditions. One is the *shuhadā’* (witnesses). We are all the inspectors of your wedding. The second is the *mahr*, *pinjin*. That which you’ve already gifted—the bedding, the earrings—this does not count as the *mahr*. It must occur here at this scene.” Su Ahong specified that the *mahr* was an essential part of the marriage. He then explained the meaning of *mahr*: “the *mahr* is not for the benefit of the groom nor for the bride’s father, but for the bride. If the groom even so much as touches the money, this is *ḥarām* (prohibited). It cannot be the gifts the groom has given the bride such as clothes and bedding, and so on. It must be a lump sum of cash” (LZ 9/21/2010).

Mark pulled out a stiff wad of brand-new Chinese bills from a red bag. He said the amount was one million yuan. At this, there was much loud noise and discussion, laughing and joking, mainly on the bride’s family’s side, spearheaded by her elder brother. He said, picking up the amount on the table and, in a gesture of disgust, threw it back at Mark, shouting, “it is not enough! Give 500 *wan* [5,000,000 yuan]!” Feigning embarrassment, Mark quietly took the money and placed it back into the bag. During this time, all assembled in the wedding party nodded to themselves, unanimous in saying it was not necessary. For his part, the *ahong* reiterated that the *mahr* and the *pinli* were two different things. Later, Mark told me:

The *mahr* is a technicality or formality. I had previously given my wife, of my own money, a ring, which I myself cannot wear as a Muslim man, bedding, new clothes, and other goods. I brought the money, my money, even though I knew it would be rejected. Earlier [during the engagement period], along with my aunt, who acted as go-between, I paid 40,000 yuan, of my father’s money, as *pinli* to my wife’s uncle [who acted as go-between on her family’s side], who then turned it over to the bride’s family for their use.

The *mahr* here was a legal fiction, neither given nor accepted. Despite Su Ahong’s remonstrations, the couple followed Chinese custom in violation of Islamic and PRC laws. The wife did not receive any money or property of her own. The gifts became part of a common property for the joint use of the couple. The money works like a savings account held in trust by the bride’s father that can be

accessed by the couple in the future. While such requirements are regarded by those gathered as a legal fiction, Su Ahong acts not unknowing of the Islamic law's fictionalization, as he had drawn attention to and joked about the *pinli*.

Su Ahong continues, “now Abū Bakr [Mark's *jingming*], I would like you to read the *īmān tawḥīd* (“belief in [God's] unity”): *qingzhenyan* (lit. “pure and true words”), *zuozhengyan* (lit. “speech or words of bearing witness”), *īmān mujmal* (“summary declaration of faith”), and the *īmān mufaṣṣal* (“detailed declaration of faith”).”<sup>31</sup> Mark blanches and begins, struggling with the difficult Qur'ānic Arabic. He commences with the *qingzhenyan*,<sup>32</sup> stumbling midway:

*Lā ilāha illā-llāh wa Muhammad un rasūl Allah* (There is no god but God, and Muhammad is the messenger of God.)

He then begins the *zuozhengyan* and it gets harder for him,<sup>33</sup> so Su Ahong walks him through it, line by line:

*Ashhadu an lā ilāha illā-llāh wa-ashhadu anna Muhammadan ‘abduhu wa-rasūluhu* (I bear witness that none is worthy of worship but God, the One alone, without peer, and I bear witness that Muhammad, peace be upon him, is His messenger.)

Mark proceeds to the *īmān mujmal*:

*Āmantu bi-llāhi kamā huwa bi-asmā’ihi wa ṣifātihi wa qabiltu jamī’a aḥkāmihī* (I believe in Allah as he exists with His names and qualities. And thus accept all of His commandments and rules and regulations.)

Mark, now visibly struggling, concludes the *īmān mufaṣṣal*:<sup>34</sup>

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<sup>31</sup> The organization of Su Ahong's instructions is a bit confusing. He asks Mark to recite the core principles of Islam so as to reaffirm his status as a Muslim in the *nikāḥ*. Specifically, he instructs Mark to recite the *shahāda*, the creed of Islam, and several *kalimāt* (words, s. *kalima*), which are memorized by Muslims to basically explain the *shahāda* and represent the kernel of belief (*īmān*) in the oneness of God and the status of Muhammad as his chosen messenger. Su Ahong's use of the specific *kalimāt* slightly overlaps with other *kalimāt*. In his instruction, what he calls the “*īmān tawḥīd*” (or *kalima tawḥīd*) encompasses the other *kalimāt*, although the *kalima tawḥīd* is in fact a separate and distinct *kalima* and one that Mark does not recite.

<sup>32</sup> The Chinese Muslims' *qingzhenyan* is the Chinese translation of the *shahāda*, the first pillar of Islam by which one professes his faith to God and recognizes his messenger Muhammad. By this speech-act, one proclaims identification as a Muslim. The *qingzhenyan* can also be considered the first *kalima* or *kalima tayyiba* (“word of purity”).

<sup>33</sup> What the Chinese call the *zuozhengyan* or *zuozhengci* is the second *kalima* or the *kalima shahādaat* (“word of testimony”). It is an extended version of the *shahāda*.

*Āmantu bi-llāhi* [Mark then continues saying *wa sifātihi*, mixing up the words of the *īmān mujmal* with the *īmān mufaṣṣal*, before the *ahong* corrects him] *wa malā'ikatihī wa kutubihī wa rusulihī wa-l-yawm al-ākhirī wa-l-qadri khayrihī wa sharrihī min Allah i ta'ālā* [the final few words (*wa-l-ba'thī ba'da-l-mawtī*) are apparently overlooked](I believe in Allah, His angels, His books, His messengers, in the Day of Judgment, and that Fate good and bad is given by Allah, and the life after death.)

Mark looks content as he finishes with the final line. Mary's brother then says, "Translate it." The lower part of his face drooping with mental fatigue, Mark begins to recite in Chinese that which he just proclaimed in Arabic, beginning with the *qingzhenyan*:

*Wo zuo zheng* (I bear witness)  
*wan wu fei zhu* (there is no god)  
*wei you zhenzhu* (there is only the true lord)  
*ta du yi wu er* (the one lord, no other)  
*Mohanmode shi Allah de puren* (Muhammad is Allah's servant)

Su Ahong coaches him through, stopping to explain the significance of each line. For instance, he explains, "*ta du yi wu er* this is *sharikeha* (Ar. shari'a), it means he alone created the cosmos, he did not have any help in the creation." When he explains the creed, he looks not just at Mark but to all gathered; he makes the event into an opportunity to educate all gathered. Next, Mark proclaims the *zuozhengyan*:

*Wo zuo zheng* (I bear witness)  
*chu Zhenzhu wai juewu ying shou chongbai de zhuzai* (Besides Allah, there is no other lord worthy of worship)  
*ta du yi wu er* (The one lord, no other)  
*wo you zuo zheng* (I further bear witness)  
*Muhanmode shi Zhenzhu de puren he shizhe* (Muhammad is the servant and messenger of God).

Mark recites the Chinese version of the *zongxin* (lit. "comprehensive belief"), the Chinese version of the *īmān mujmal*:

*Wo quexin Anla, jiu ru ta yu yuanyou de nayang, tong ta de yiqie zunming he texing, bingqie wo jieshou le tade yiqie (hukun) falü* (I firmly believe in Allah, as he was at the beginning, and all his respectful names and characteristics, and I accept all of his [*hukm*] law.)

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<sup>34</sup> Also called the *'aqidah* (the six articles of faith), the *īmān mufaṣṣal* was first enumerated in the same hadith in which Muhammad named the five pillars of Islam. It is one of the formal confessions of faith.

Lastly, Mark enumerates the *fenxin* (lit. “fractions of belief”), the translation of the *īmān mufaṣṣal* in Chinese:

*Wo guixin Anla, tianshi, jingdian, shizhe, houshi, qianding* (I believe in Allah, [His] angels, [His] scripture, [His] prophets, the Day of Judgment, [and] predestination.)

Mark falters repeatedly through the translation and Su Ahong chastises him gently for not studying enough. He next asks Mary’s father if Mary has read and read correctly. Her father responds for her that she has, on both accounts. In the next step, Su Ahong asks Mark if he accepts Mary, instructing him to recite in Arabic, *al-ījāb wa-al-qabūl* (“declaration and acceptance”), explaining “this is the groom’s proposal to which the bride must agree.” Su Ahong then tells Mark to face Mary’s father and ask in Chinese, “*yifu* (adoptive father), please marry your daughter to me. Do you agree?” to which he did. Su Ahong next instructs Mary’s father to state, “I marry my daughter to Abū Bakr. Do you wish [this to be so?]” to which Mark says “yes, I wish.” After this, Su Ahong asks Mark, “do you *fanhui* (go back on your word)?” To which he says, “No,” and Su Ahong asks the same of Mary’s father. Su Ahong concludes this part by saying, “Islam requires both parties to agree, this is *hunyin ziyou* (freedom to marry). It cannot be forced.” Mary remained in the bedroom, standing by the door, kept ajar so she could listen.

Lastly, Su Ahong closes the ceremony with a prayer (*du‘ā*), praising Allah for His wisdom in regulating the lawful process of procreation, which concludes all in attendance lifting their palms skyward, offering their supplications and then symbolically washing their faces. Both Mary’s father and Mark pay Su Ahong for his services. The walnuts and jujubes are distributed in a calm manner to everyone, Su Ahong first, then the uncle go-between, and finally the various guests.

The *nikāḥ* ceremony concludes with the final prayer. The post-*nikāḥ* portions of the Hui wedding are part conspicuous consumption, part carnival, and heavily influenced by Chinese cultural accretions. As Maris Gillette has shown in her ethnography on Hui in Xi’an, Hui wedding

rituals are not immune to broader consumer trends affecting Chinese society (2000). My focus in discussing the post-*nikāḥ* ceremonies is not to examine the agency of Hui women vis-à-vis the market, but to investigate the ways in which the rules informing Hui and Han wedding rituals are themselves shaped by broader societal changes. Many of these customs are rooted in traditional practices but which illustrate adaptive responses to popular trends in China. Although Hezhou is a Muslim city, the rules of its inhabitants' wedding rituals also respond to and borrow from adaptations of the customs of the Han majority. The first is the moving of the new bride and her property to the home of her husband, in most instances in Hezhou, a room off the family courtyard of his father. In Lanzhou, the young couple may purchase their own home, as in the case of Mark Liu and his wife. The moving of the bride is, of course, encapsulated in the Chinese word for groom, *machefu* or "cart driver." Until the 1980s, most couples moved to the groom's parents' home via a mule or donkey, although in contemporary Hezhou the preferred means of transportation is black Volkswagon Santanas. In Hezhou, immediately after the *nikāḥ*, the couple will lead an entourage of Santanas, washed, shined and decorated with plastic rose buds, pink balloons, and colorful cardboard cutouts of the Chinese characters of *xixi* (double happiness). The entourage will drive around the city, from the wife's father's home to the husband's natal home. The property of the wife, most often consisting of the *pinli* given to her during the engagement, is loaded onto a truck bed and driven to her new home (Illus. 22). Depending on their socioeconomic status, the entourage may stop at a *qingzhen* restaurant to feast after the *nikāḥ*.



Illus. 22 A typical scene showing the bride moving from her home to that of her husband's parents. Note the use of fireworks. Taken 12/18/2010 by the author.

On the day after Mark Liu's *nikāh*,<sup>35</sup> he and his wife held a reception at an extravagant, multi-story halal beef noodle restaurant on the north bank of the Yellow River. Although a custom of Han Chinese in form, the reception has many specifically Chinese Muslim elements. For example, many so-called *qingzhen* restaurants in Lanzhou sell alcohol, a direct violation of Islamic law (but a major source of revenue.) On the morning of the reception, I meet Mark's family members at the restaurant to prepare for the event consisting of a large banquet for 100 people and a ceremony honoring the couple which I discover that morning would be led by me as the master of ceremonies. The ceremony would be "modern" (*xiandai*) and they want me to read English marriage vows. His older sister instructs me, "it should not be too much like a Christian ceremony as that will upset the

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<sup>35</sup> Whereas the bride will move into the groom's home on the day of the *nikāh* in Hezhou, among Lanzhou Hui, the practice is to wait one day after the *nikāh* to hold the banquet celebration and then move in the bride.

*ahong*, but because they met teaching English, we think it is appropriate” (LZ 9/23/2010). While rehearsing before the *ahong* arrived, a small controversy erupts. One of the wedding party, a middle-aged Lanzhou Hui man, spots the bottles of *baijiu* (spirits distilled from sorghum) openly showcased on the wall, behind a small bar in the main dining room. He decries, “This is not in accordance with the Qur’ān. This restaurant has alcohol” (*bu fuhe gulanjing. Zhe jia you jiu*). Mark’s sister, flustered, responded, “we’ve already settled everything. We cannot change the venue now!” The man insists, “No good!” Seeing an impasse, I suggested we cover it, and fortunately, the staff had on hand a golden baroque cloth that sufficiently covered the case to the satisfaction of the Lanzhou Hui. Although still on the premises, the alcohol was out of sight.

In Hezhou, the evening of the *nikāḥ*, Hui newlyweds will invite their close friends to their home for *nao dongfang* (hazing of the newlyweds), which I was told by one of the male members of Brother Tang’s entourage was a “new Hui tradition.” One of Brother Tang’s best friends put it succinctly, “For us young people, the *nao dongfang* is more fun than the *nikāḥ*” (HZ 2/6/2010). The evening of Brother Tang’s wedding, I join 35 other men, ages 22 to 28, who would partake in the evening’s game. We meet in the city square at dusk and take several cars to one of the liquor and alcohol shops on the Han side of town. There, the young men purchase armloads of cigarettes cartons and, next door, three heavy boxes of fireworks. We then drive to Brother Tang’s neighborhood for a Muslim *nao dongfang*. Walking down the unlit narrow alleyways, his friends set off strings of firecrackers and noisemakers. The enjoyment of firecrackers, a Han Chinese invention, has entered Muslim marriage ritual as of the 1990s. The older generation, particularly Yihewani and Salafiyya, frown on this influence as *ḥarām*. A 48-year-old Yihewai Hezhou Hui who along with his two brothers owns one of the most popular *qingzhen* restaurants for post-*nikāḥ* celebration, includes fireworks in his litany of Hanified elements in Hui weddings: “the Islamic tradition is that Muslims cannot do any of the following: set off fireworks, waste, wear western-style wedding dresses, and the bride cannot have any contract with the groom or his family before the wedding”

(HZ 10/18/2010). Hand-launched pyrotechnics and strings of fiery *bianpao* (small, red firecrackers) played a prominent role in Mark Liu's post-*nikāḥ* reception. Mark's father could only shake his head in helplessness, acknowledging that such noisemakers were unlawful in Islamic tradition.

Once inside Brother Tang's family's courtyard, we are treated to another banquet. We sit at small tables of six people, beginning with first sweets, candies, and dried fruits, followed by soup, small dishes of eggs and tofu strips, then hand-pulled mutton and spiced chicken. The faces of the hosts, Brother Tang and his father, are smeared with black grease as is the custom. We then enter the new bedroom of Brother Tang and his wife, the walls of which are decorated with red hearts and pink flowers. The door is closed upon the 23 men and the bride. There is standing room only in the cramped room, the air clogged with cigarette smoke and the smell of young men. Ms. Ma, still wearing the fur-trimmed wedding dress, trembles. She stands on the bed, face and eyes downward, her hands folded in front of her. One friend emerges as the jokester, the instigator, and orders them to both get on the bed. They place a large tin container over Brother Tang's head and instruct Ms. Ma to beat it with a knotted, wet towel. The newlyweds switch roles to the delight of the assembled crowd. Games like this continue throughout the night. I felt I could have been at such an event among Han Chinese if it were not for the occasional latecomer who was greeted by the newlyweds with a solemn "*as-salāmu 'alaykum*" (peace be upon you). In the words of Brother Tang, from a later conversation, the general idea, familiar to most Chinese, is "to create a certain kind of mood to both relax and excite the groom so that he will be able to perform his sexual duties" (HZ 3/21/2010). He continues, "after *nikāḥ* is read, we *must* have sex. It is the first time for both of us. We [now meaning he and his male friend he is with] are conservative, so we didn't have sex before marriage, although we *tan lian'ai* (dated) other girls. We Hui men expect our future bride to be a *chunü* (virgin). If she is not, then the groom has the right to divorce her that evening. Many of my unmarried female friends are not virgins" (HZ 3/21/2010). To learn about sex before the wedding,

the groom has a “sex instructor” his *banlang* (best man), usually a slightly older male friend who is already married and the bride has a *banniang* (bridesmaid) who fulfills a similar coaching role.

*Nikāh* is only half of the procedure of getting married in Hezhou. The *nikāh* marks the marriage of a couple married under Islamic law, but not state law. Under PRC law, the couple must register their marriage with the local civil affairs bureau and obtain a marriage license. The process of registration is easy by any standard. According to Fareed, the head of the Linxia City Civil Affairs Bureau, the couple complete a form called the declaration of marriage registration (*hunyin dengji shenming*), including name, age, ethnicity, whether the person has been previously married, their current marriage status, and whether they are voluntarily marrying (i.e., consent). They must sign this form. Additionally, they both submit a recent photograph and copies of their household registration and identity card. Lastly, they pay a nominal fee of nine yuan for processing.<sup>36</sup> In Hezhou and particularly the surrounding countryside, however, while most young Hui couples have a *nikāh* ceremony, far less obtain a marriage license. Such behavior is not unique to Chinese Muslim minorities in the Northwest,<sup>37</sup> also is symptomatic of legal pluralism in the former Soviets of Central Asia, as well (Brusina 2008:58). Fareed said, “The expression around here is “no registration, no administration” (*lingbugao guanbujiu*), meaning that there are large segments of the Muslim population in Hezhou that are, in a sense, “floating,” their marriage is not any under management by the state nor are they protected by PRC law (HZ 12/18/2010).

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<sup>36</sup> The process is similar in Lanzhou except registration is free and the couple must also furnish proof of a physical examination. Mark Liu and his wife did not know of the latter requirement when they first went to register, before their *nikāh*, and so went after the *nikāh* with the required documentation.

<sup>37</sup> This observation is based on conversations with Bafang *ahong*, government officials in Linxia City, Linxia Prefecture, and Linxia County, and residents of Bafang and Dongxiang Ethnic Autonomous County. Further, based on conversations with *ahong*, scholars and non-specialist members of the community in Ningxia (Yinchuan, Haiyuan County, Guyuan City, and Tongxin County), as well as Qinghai (Xining, Xunhua Salar Autonomous County, and Hualong Hui Autonomous County), I would argue that such behavior is characteristic of Hui, Dongxiang, and Salar throughout the Northwest. Based upon my attendance at weddings in southern Xinjiang, Uyghurs do not fit this pattern as the enforcement of administrative law seems much stricter.

As noted above in the discussion on legal capacity, the problem is not lack of legal consciousness, but rather that people know the state law all too well. Instead, as many marry at ages below the legal minimum, they choose to evade the law, either obtaining a marriage license by falsified documentation or simply not registering at all. In the abstract, what emerges from this conflict of law (Islamic law recognizes an age below that permitted under state law) is a two-tier process: either first the holding of the *nikāḥ* ceremony and then official registration or vice versa, although actual observed behavior shows an exclusive preference for the former over the latter. I draw attention to two issues that result from this conflict of law: the first is the ways in which Hezhou Muslims reconcile this conflict and its consequences and the second is the response of formal law to a potential or perceived arrogation by Islamic law.

“We get the *nikāḥ* because we want to have sex,” Brother Tang tells me, his face inches away from mine as we sit in a crowded noodle shop in Hezhou. “We cannot have sex before the *nikāḥ* or we violate *jiāofā* (religious law). The marriage license . . . can wait,” his voice trails off as he returns to slurping his noodles (HZ 11/19/2009). Little Yang, the Hui-turned-Dongxiang Sufi from Yang Family Village made a similar distinction: “We get *nikāḥ* read first because this is important for our religion. The marriage license is the *gongchandang de yishi* (ceremony of the Communists)” (12/20/2010). Avoidance of formal law because of the underage problem was a factor neither in Brother Tang’s marriage nor that of Little Yang. When I push Brother Tang on why he does not get a marriage license, he dismisses it as *tai mafan le* (too much trouble).

In addition to evasion of the formal law because of the age problem, Brother Tang’s recalcitrance suggests there are other reasons. One explanation is that people outside of large cities and especially Muslim minorities simply distrust governmental bureaus, whether legal, administrative or judicial. There is some evidence of this in literature on law and society in reform-era China (Xin 2005; Zhu 1996). In Hezhou, many governmental officials, including Fareed, are Hui.

Many Hui, in fact, use their acquaintance with Hui officials, sometimes through such informal networks as defined by kinship, lineage, or *jiaopai*, to procure favors through the inveterate practice of mobilizing *guanxi* (social relationships). These individuals are more often than not the elite of Hezhou, as defined by their class, educational, or religious background. Brother Tang represents a portion of the Hezhou population whose access to such circles is limited. Thus, distrust of formal law and its organs may have some traction in explaining his behavior. Another explanation is a reining patriarchy in the thought process of Hui men. If there is no marriage license, then in the event of divorce, there is no court that will enforce the legal rights of the wife. So, property and children remain with the male and the female is left with the heavy stigma of a divorcée. It seems this explanation also accords with the idea that Hezhou Hui men have no shortage of legal consciousness when it comes to state law, that is, they know state marriage law seeks to protect the rights of women. Some couples will go without a marriage license for many years and will only get one upon the birth of their first child. The motive is the *hukou* (household registration) for the child, for which the marriage license is a prerequisite.

Couples most likely to register their marriage at the Civil Affairs are those in which the female has a high level of education. Among the respondents to the survey, there was no couple in which the female's level of education was higher than that of her male partner. In all cases either their level of formal education was equal or the male's was more advanced. In the event that both couples attended university, the mixed Dongxiang female-Han male being a prime example, the female's education mollifies if not outright neutralizes any effects on the lawfulness of their marriage resulting from the male's patriarchy. The wife of this couple, herself a civil servant of a Linxia City judicial organ, stated, "In some cases in Hezhou, the husband will put pressure on the wife not to get a marriage license. I would never allow my husband to do that" (HZ 10/1/2010). While the husband nodded at his wife's assertion sheepishly, most couples in Hezhou do not have a

university-level education. Because of this, the husband can bring to bear pressure on his wife to forego full legal protection.

The response of most of these men is akin to that of Brother Tang—not wanting to acknowledge that their nonfeasance is a dereliction of state law; rather, they avoid the issue, resort to indirection and noodle slurping, not unlike what anthropologist Hans Steinmüller calls “communities of complicity” (2010). In his study of rural Hubei, Steinmüller studied the gap between official discourse on popular religion and actual behavior with his informants resorting to a variety of verbal means to address such ambiguity. He writes, “covertness, embarrassment, cynicism, and irony are communicative strategies that make it possible for them to acknowledge both sides of the contradiction, to avoid confrontation, and to maintain communication” (2010:540). In this vein, Hezhou Hui have cultivated a variety of means to deal with the conflicts of law between Islamic law, state law, and Chinese custom. Those who follow one behavioral norm (Chinese custom and Islamic law) over others (state law) feign irresponsibility or powerlessness where ignorance would be incredulous. The attitude of Brother Tang and many young Hui suitors like him is to focus attention elsewhere than on the conflict of law. As mixed legal subjects, they do not want to entertain or expose the conflict in their conscious minds.

The second issue the *nikāḥ* and/or marriage license raises is the response by formal law. Has state law imposed an affirmative duty on *ahong* and other Muslim leaders who administer *nikāḥ* to inquire as to whether the bride and groom have first obtained their marriage license before he reads *nikāḥ*? On this issue, the responses are across the board. The reason for this is partly a problem of legal consciousness but also a manifestation in *ahong* of the mixed legal subject. The source of any affirmative duty for *ahong* to inquire as to the status of registration for a bride and groom would most likely be in the Linxia Regulations or the Linxia Hui Autonomous Prefecture

Religious Affairs Management Provisory Regulations (hereinafter Religious Regulations).<sup>38</sup> The 1987 Linxia Regulations, article 59 states, in part: “The autonomous prefecture protects normal religious activities, no person can use religion to destroy social order, intervene in economic construction, harm the sound mind and body health of citizens, or hamper the state education system or activities of the marriage system.” The 2011 Linxia Regulations, currently in force, omit this prohibition and replace it with the following prescriptive statement in article 60: “The organs of self-government advocate late marriage and late childbirth, fewer and better births, prohibit marriage between close family, and the all-around work of top-quality family planning service and floating population service management.” Both broad statements protect the rights of marriage, guaranteed under PRC laws, against interference by any religious body or activity as put forth in article 59 of the 1987 Regulations, but neither imposes an affirmative duty to inquire on *ahong*. The Religious Regulations, article six, places an affirmative duty on “patriotic religious organizations” (*aiguo zongjiao tuanti*) to “assist religious affairs departments in implementing the Party’s policies on religious freedom and state laws and regulations.” This boilerplate, catch-all duty may be grounds for *ahong* to inquire into whether a couple that goes to him to read *nikāḥ* has first obtained their marriage permit.<sup>39</sup> The Linxia City Religious Affairs Bureau is authorized by the Religious

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<sup>38</sup> Linxia Hui Autonomous Prefecture Religious Affairs Management Provisory Regulations (*Linxia huizu zizhizhou zongjiao shiqu guanli zanxing banfa*), promulgated and effective 7 January, 2006 by the Linxia Hui Autonomous Prefecture People’s Government.

<sup>39</sup> This seems to be the case in Ningxia. The head of the Ningxia Islamic Association, also an Yihewani *ahong*, was emphatic that Ningxia *ahong* have an affirmative duty to inquire citing the nation-wide Regulation on Religious Affairs (*Zongjiao shiwu tiaoli*), promulgated 30 November, 2004 and effective 1 March, 2005, by the State Council (YC 5/17/2010). There is no such duty. However, under the Ningxia Hui Autonomous Region Religious Affairs Management Provisory Regulations (*Ningxia huizu zizhiqu zongjiao shiwu guanli zanxing guiding*), promulgated and effective 7 June, 1994 by the Ningxia Hui Autonomous Region People’s Government (hereinafter Ningxia Religious Regulations), which are controlling in Ningxia, there is a prohibition against “the use of religion to interfere in education, marriage, family planning or related state administrative policies” (art. 25). The language is parallel to that of the 1987 Linxia Religious Regulations, art. 59. The head of Ningxia Islamic Association further said that all Ningxia *ahong* undergo training to this effect. The result was that few Hui in Ningxia, according to him, have *nikāḥ* read without a marriage license (YC 5/17/2010). While I found some evidence of this in Yinchuan, in rural areas of Haiyuan Hui Autonomous County and Guyuan City, many married Hui have no marriage license.

In Xining, a revered and scholarly Yihewani *ahong* said that *ahong* in Qinghai province are not required by state law to show proof of a marriage license. Most *ahong* will question the couple as to whether

Regulations to interpret the contents of the Religious Regulations, although no such interpretation has been publicly issued.

When asked whether PRC law requires them to ask couples whether they have registered, responses among officials vary. Fareed, the former head of the Linxia City Civil Affairs Bureau flatly stated there is no such affirmative duty (HZ 12/18/2010). The head of a judicial organ in Linxia County was not sure (LC 6/8/2010). Nasim, the inheritance expert, stated, “*gongchandang guofa* (Communist state law) places a duty on me to ask the couple if they have the marriage license. This is the *zongjiaofa* (Religious Law). Most couples say they have it. My duty ends here. I don’t need to actually see it. I ask, they answer, the end. But I know that most couples will have *nikāḥ* read first and then only sometimes get the marriage license.” He said, further, “Islamic law and communist state law are different in that Islamic law does not require a signing as does the state marriage law. Under communist state law, the couple must sign their names to the document, but for a valid marriage under Islamic law, only the *nikāḥ* must be read by the *ahong*” (HZ 5/8/2010). Neither Linxia City, Linxia Prefecture, nor the national level legislation has any “Religious Law.” Despite his daily contact with religion officials in Hezhou, Nasim is most likely here confusing the Religious Regulations with his “Religious Law” while the former imposes no such duty.

Most likely his constant interaction with officials created this figment of his legal imagination. Constant verbal reminders (or warnings) by ethnic and religious affairs cadres to inquire with couples whether they have obtained their marriage license have been raised, in Nasim’s mind, to the level of ‘law.’ Conversely, it is easiest to explain a salvo of oral commands as ‘law.’ An *ahong* of a Gedimu mosque also stated that *ahong* do have a duty to ask the couple if they have a marriage license, but could not name the state law basis for this study. He said that, in practice, different *ahong* have different responses to this. Some will ask and not ask to see the

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they have a marriage license and the couple usually responds “we are in the process,” but the inquiry stops there (XN 10/23/2010).

license, while others will not ask at all (HZ 10/7/2010). *Ahong* as mediators of the legal orders will attempt to minimize the appearance of conflicts by downplaying their acuteness. What is remarkable about the question of the affirmative duty to inquire about a couples' marriage license is that many *ahong* believe there is one. They seem to extrapolate state marriage law where there is uncertain legal basis for doing so. In conversations with a foreign non-Muslim researcher, they make avowals for such a duty, but the outcome of their actual behavior, when they are counseling young Hui couples, may demonstrate otherwise.

Of the 65 respondents to the question of "when do you obtain a marriage license," 43 said after the *ahong* reads *nikāḥ* (66 percent), seventeen responded before the *ahong* reads *nikāḥ* (26 percent), and 5 said after their first child is born (7.6 percent). While I do not assume that in each and every case the respondents' behavior reflects perfectly the instructions (or lack thereof) given them by their *ahong* (that is, the *ahong* of each pair *could have* inquired about a marriage license and the respondents lied to him thus absolving the *ahong* of his duty), there is more likely a general correlation between the *ahong's* communication (whether or not he mentions the marriage license) and the respondents' course of action. Under this explanation, the *ahong* are not reminding young Muslim couples to register. An alternative explanation is that the *ahong* do inquire, the respondents lie saying they already registered, and then after the *nikāḥ*, go to the civil affairs bureau to get the marriage license. Under this scenario, the *ahong* performs his duty up to a point. That is what they indicate in interviews and what the law, however fuzzy, may actually be. This alternative explanation shifts the legal dereliction onto the young Hui couple. Both explanations are plausible and may have traction in social practice.

In addition to the factor of *ahong's* instructions, other causes for couples' failure to register, discussed above, are age, distrust of government, and Chinese Muslim patriarchy. Of these additional factors, the survey tested the problem of age and verifies a correlation between "early

marriage” or under-aged marriage, according to state law, and failure to obtain a marriage license at the time of *nikāḥ*. Of the 65 couples who responded to my survey, fourteen or 21.5 percent had at least one member of the couple who was under the age for marriage pursuant to the 1987 Linxia Regulations. Of these fourteen couples, eleven responded that they obtained their marriage permit after the *nikāḥ* ceremony, one couple responded they would register when their first child is born, one couple replied they registered before the *nikāḥ*, and one couple declined to respond to the question. In the under-aged couple that claimed to register before the *nikāḥ*, the male was 19 and thus underage. If this couple registered, then they most likely used falsified documents to obtain the marriage license. The majority of those couples who are underage (according to PRC laws and regulations) and getting married by *nikāḥ* are circumventing the *ahong* as agent of state law. *Ahong* are limited in their role as enforcing state law. *Ahong* are sidelined as propagandist or ventriloquial figures who can mouth local regulations or state law, but with no powers of enforcement. Nor is there incentive for *ahong* to play even this limited role. As there is no clear legal basis for an affirmative duty to inquire, so too there is no basis in PRC law for punishing those *ahong* who fail to do so. Despite the lack of basis for reprimand, the Party-State has, at its disposal, a variety of devices summarized as “unofficial bureaucratization” (see Chapter 11) to encourage *ahong* to remind their *jamā‘a* of their rights and obligations under state law.

### *Conclusion*

To summarize the main findings of the marriage law of Han shari‘a, from the previous and present chapters, marriage law is comprised of an amalgam of legal orders. I frame marriage law as a series of meeting points and interstices between and among Chinese custom, Islamic law, and modern state law. In some rare instances, all three sources converge, as in the legal-cultural imperative to marry. Sometimes the set of rules from one legal order is followed more closely than others,

exemplified by the institution of arranged marriage which is a Hui adaptation to a Han practice and one which may violate Islamic law (if there is no consent) and certainly runs in the face of PRC law. Or, Hui practice sits between dual authorities, for instance, the *nikāh* and the marriage license. Commonly, two sources of law reinforce each other. Hui practice grafts Islamic law onto Chinese custom, as in the examples of early marriage and the taboo against women marrying out. Hezhou Hui follow the dual orthodoxies of Islam and popular Chinese custom, although the modern marriage regime and socialist values of New China militate against such practice. Other examples are the simultaneous bifurcation and collapse of the Chinese brideprice *pinli* and the Islamic *mahr*; the wedding ceremony which shows aspects of Islamic law (Qur'ānic pronouncements, prohibition against alcohol, etc.) and which is at the same time inflected with Chinese cultural elements (e.g., culture of feasting, monetary exchanges between the families, and so on); and the doubled Chinese/Islamic patriarchy that prevents the bride from attending her own wedding. Some of these patriarchal practices are found throughout the Muslim world.

For instance, the Ḥanafī school diverges from the other *madhāhib* in requiring that, in the event a woman seeks marriage, the entitled guardian contract on her behalf. The Ḥanafī school states that a sane, adult woman must herself form the contract, yet in many Muslim societies that belong to the Ḥanafī school, the father nevertheless continues to contract for her, a practice that is rationalized by the argument that the daughter gave consent to the father. While such practices are widespread, Chinese Islam shows a particular predilection for authority in the father.

One conclusion I draw from the description above and which will be developed further in the following chapter is in regards to the role of modern PRC law in emancipating women. Scholars have highlighted marriage as one area of law where the modern Chinese state has most reformed tradition (Chen 2004; Croll 1981; Parish and Whyte 1978). Feminist scholars carry this argument over to the study of Hui women (Jaschok and Shui 2000; Shui and Jaschok 2002). However,

evidence from Hezhou and proximate field sites suggests the marriage institution reinforces Chinese and Muslim patriarchies. “Freedom to marry” is realized through the intermediary and authority of the bride’s father. As Mary’s *nikāh* illustrates, her father serves as a proxy or guardian, even though Mary is of the majority age. While reform has undoubtedly affected the balance of power between children and their parents, and especially daughters and their fathers, to the benefit of the former, as seen in engagement practices that ensure the young couple have the chance to meet and consent to the marriage, the doubled or amplified patriarchy survives the modern legal regime (Friedman 2005; Friedman 2006; Wolf 1975; Wolf 1972; Wolf 1992).

In addition to describing the entanglements of legal orders in the Han shari‘a of marriage law, this chapter also sheds light on the ways in which Hui respond to such conflicts of law. Given the centrality of family and marriage to Hui, conflicts of law in the Han shari‘a of marriage law afford an opportunity to assess Hui views of or disregard for divisions in their legal personality. In this vein, Hui can be divided into two groups, lay people and *ahong*. Lay people are the day-to-day producers of the marriage law of Han shari‘a. When confronted with a conflict, such as the prohibition against the use of fireworks under Islamic law and young Huis’ indulgence in such pastimes of Han Chinese, Hui such as Mr. Liu will throw their arms into the air and otherwise signal resignation and defeat. The young Hui who veer from Islamic law, as in Brother Tang’s nonfeasance in procuring a marriage license, dismiss such conflicts. These moments of discomposure do not of themselves initiate prolonged meditation or discussion largely because to do so invites a host of unwelcome queries about the authenticity of one’s practice of Islam and contamination from the dominant Han Chinese culture. Therefore, the possibility of conflict is removed, taken off the table, and repressed.

*Ahong*, too, are producers of Han shari‘a as they officiate such life cycle rites as weddings. But *ahong* as legal experts have more occasion to reflect on convergence and inconsistencies

between the sources of Han shari‘a. Further, their investment in the production of Han shari‘a is different from that of the lay population as one of the main tasks of *ahong* is to educate their *jamā‘a* in Islamic law. Investment in propagating Islamic law would seem to have the corollary of rooting out traces of Chinese custom in Hui practices. *Ahong*, self-aware of their position in representing the status of Islamic law in China, seek to minimize any conflict of laws with Chinese custom or PRC law. In conversation, the most common response to conflicts in family law between sources of law was that there were none or that the laws are “mostly the same,” in comparing state law and Islamic law. There is a deep-seated reluctance to acknowledge the role of Chinese custom that is prevailing in many aspects of marriage law. Observation paints a different picture. Such attempts to minimize the appearance of conflicts are reflected in their body language when asked about such conflicts (by a non-Muslim researcher they imagine is testing their Islamness) by intermittingly averting their eyes when talking of such things, looking at the wall, or even grimacing without speaking—all reactions I have witnessed. But there is a difference between the ‘is’ and the ‘ought,’ the oral representation of Han shari‘a and its rooted-yet-changing habitus. As Su Ahong’s officiation of Mark and Mary’s *nikāḥ* shows, *ahong* may use the *nikāḥ* occasion to remind those gathered as to the difference between *pinli* and *mahr*, but he partakes in the legal fiction of the *mahr*’s actual conveyance—one which never happened, yet the attendees proceed *as if* it did. The duty to inquire whether the bride and groom have officially registered further spotlights tension between the PRC and Islamic legal orders. As a baseline, many *ahong* do not know the relevant law as to whether they must inquire, which is a problem of legal consciousness. While the law itself is unclear, some *ahong* imagine state law imposes such a duty on them, that is, they create the grounds for a conflict to occur. Such a response flies in the face of the way in which *ahong* usually try to minimize or draw boundaries around such conflicts. The duty to inquire as a creation rather than a mitigation of tension, I understand as an effect of the unofficial bureaucratization of *ahong*, the tying of the interests of *ahong* to those of the Party–State and the inculcation of such Islamic experts into policy

directives. In the overlap between “religious work” and “Party work,” verbal advisement, direction, and persuasion can become ‘law.’

## CHAPTER NINE: Status of Women: Divorce and Minor Forms of Marriage

### *Introduction*

In addition to betrothal and marriage, the aspect of family law that most implicates the rights of Muslim women in Northwest China is divorce, as well as alternative forms of marriage, including so-called temporary marriage (Ar. *mut'a*) and polygamy. Studies on Islamic family law have shown that legal modernization and patriarchal traditions frequently conflict on the issue of divorce (Mir-Hosseini 2006; Mir-Hosseini 2011; Shah 2009; Tucker 2008; Ziad 2011). Islamic divorce law in Muslim minority societies has particularly highlighted tensions between traditionalism and multiculturalism, on the one hand, and gender equality and civil ethics, on the other (Carroll 1997; Layish 2006; Macfarlane 2012; Welchman 1992; Welchman 2004). Likewise, culturalist explanations have sought to explain the gap between Qur'anic provisions and social practice in the areas of temporary marriage (Murata 1987) and polygamy (An-Na'im 2002). In China, the topics of Islamic divorce, temporary marriage, and polygamy among Muslim minorities are, with few exceptions (Luo 2004), taboo in academic publications and state media.<sup>1</sup> Where they are discussed, authors gloss them as problems of the past corrected by socialist legality (see e.g., Wang 1999). Nevertheless, these aspects of Islamic law affect Muslim minority women in China no less than elsewhere and given the lack of deliberative venues and public discourse, perhaps more so. At the same time, this is not to say that temporary marriage and polygamy are more frequent in Chinese Muslim society than elsewhere. My intention here is not to orientalize Han shari'a by misrepresenting such practices for as long as there has been the study of shari'a so too has there been its misrepresentation (Kroncke 2004; Peletz 2002; Powers 1994; Powers 2002; Quraishi

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<sup>1</sup> Note that there is more leniency on the Internet (Ho 2010). Divorce and polygamy are also not infrequent topics of discussion on Muslim virtual forums, micro-blogs and chat rooms. While much of the Party line on Internet sites takes the form of anonymous posts written by the so-called *wumaodang* (fifty cent party), netizens employed by government, on many Muslim websites, the equivalent for the "Muslim line" are Muslim male netizens who, collectively, inform Muslim morality.

2009; Rosen 1989a). Rather, my aim is to explicate the relationship between Chinese Islamic patriarchy and the law, that is, the ways in which Hui practice of Han shari‘a reproduces the authority of husbands, fathers, *ahong*, *jiaozhang* (heads of *jamā‘a*), or *shaykh*.

Divorce and alternative forms of marriage illuminate the ways in which Hui men and women position themselves vis-à-vis the diverse sources of Han shari‘a to further their gendered interests. While much Hui behavior is influenced by an unconscious or unreflexive adherence to law, divorce and minor marriage forms show how Hui may also strategically manipulate Han shari‘a in gender contests. In a manner perhaps more pronounced than pre-marriage practices or the *nikāh*, Chinese Muslim men invoke Islamic legal doctrines to legitimize Chinese customary practices that marginalize women. These arrangements have far-reaching implications for women’s ownership of property, inheritance, and custody of any offspring of the marriage. Male-centric authority in the form of *ahong* or heads of the family, in a Muslim variant of “harmony ideology” (Nader 1991; Nader 2002), work to prevent women’s escape from such arrangements by mediating marital discord for the end goal of reconciling the couple and maintaining the union (Hassan and Cederroth 1997). State law may give women more leverage in abusive or oppressive relationships, but under certain circumstances, women’s mobilization of rights under Islamic law may also provide a window for female-produced Chinese Islam, even though Han shari‘a is marked by *doubled patriarchy*. Doubled patriarchy itself has dual meanings. First, the doubledness of Han shari‘a patriarchy originates in two *sources*—Chinese and Islamic. In this sense, doubled patriarchy means those institutions (namely, the family and extended patrilineage) and underlying values (specifically, preference for males) that are reinforced through Chinese and Islamic referents. I explore this sense of doubled patriarchy in the present chapter. In the instance of patriarchy, the relationship between Chinese customary laws and shari‘a is marked not by opposition or conflict but rather by mutuality. The operation of Han shari‘a sutures together Chinese and Islamic patriarchies, not unlike the case of nationalism in which Hui exhibit a pronounced adherence to the

nation. This chapter suggests that despite claims for a teleology of legal modernization, Han shari‘a, including its moorings in doubled patriarchy, is not receding and may, paradoxically, be increasingly entrenched in Muslim communities following socio-economic development and higher standards of living. Second, the doubled patriarchy refers to two *manifestations* of patriarchy. The first, as mentioned, is that of local figures of male authority (e.g., family head, husband, father, and *ahong*). The second is that of the paternalistic Chinese state. The state attempts to expropriate local patriarchy, most commonly, in the form of the *ahong*, in order to control Han shari‘a. I examine these manifestations of patriarchy through law in Part three, Chapters 10 and 11.

### *Divorce*

As shown in Chapters 7 and 8, marriage law among Muslim minorities in Northwest China demonstrates an entanglement of Chinese custom, Islamic law, and state law. Divorce law among Muslim minorities in Hezhou similarly shows influence from these sources, with Chinese custom coloring Muslims’ views of Islamic law, and PRC law as a kind of self-anointed corrective to power imbalance between the genders as facilitated by “Hui customary law.” Chinese custom and Islamic law both assign the right or power to divorce with the husband in a kind of doubled patriarchy. A centerpiece of marriage law reform since the 1950s has been to empower women with the right to divorce. The practice of divorce in Hezhou and surrounding areas in the Northwest shows, to borrow Margery Wolf’s apt title, a “revolution postponed” (2008).<sup>2</sup>

Islamic law has permitted but discouraged divorce. One hadith states, “Of all things permitted by law, divorce is the most hateful in the sight of God” (Verma 1988:189). Under Islamic law, the most common form of the dissolution of the marriage contract is *ṭalāq* or unilateral

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<sup>2</sup> For the literature on the view that Communist law and policies have failed to liberate women, see generally Bakar 1997; Brownell and Wasserstrom 2002; Croll 1983; Gilmartin 1994; Wang 1996; Zhou 2003.

repudiation, which is the exclusive right of the husband (Nasir 1990:106; Pearl and Menski 1998:280; Schacht 1964:163). As with formation of the marriage contract, there are legal requirements for a husband to utter *ṭalāq*, majority age and sanity, and some scholars include voluntariness (cf. Nasir 1990:107; Verma 1988:191). *Ṭalāq* may take the form of a verbal utterance, a written statement or gesture (Nasir 1990:109). There are two modes of dissolution (Nasir 1990:111; Verma 1988:201). The first is called *ṭalāq as-sunna*, meaning “of the Tradition” and is the most meritorious form as it allows revocation. It is divided into two sub-types. The preferred one, called *ṭalāq aḥsan*, takes the form of a single utterance said when the wife is not menstruating and that is followed by abstinence from sexual intercourse during the mandatory period of *‘idda* (Doi 1984:175; Nasir 1990:111).<sup>3</sup> The second or *ṭalāq hasan*, still valid but the less preferred way, is for the husband to make three pronouncements that are made over the course of three consecutive periods of menstrual purity. No sex can take place during the course of the three utterances. The first type is revocable any time before the completion of *‘idda*, meaning the husband can take back the *ṭalāq*. The second type is final and irrevocable upon the third pronouncement (Nasir 1990:111). The second mode, which is an innovation or *bid‘a*, and thus called *ṭalāq al-bid‘a*, can also be subdivided into a single utterance or a triple pronouncement, commonly referred to as “triple *ṭalāq*.” Although disapproved in classical jurisprudence and regarded as a sin, it is permitted by the Ḥanafī school. The most common form of *ṭalāq al-bid‘a* is for the triple pronouncement of *ṭalāq hasan* to be uttered in a single sitting and is thus irrevocable (Pearl and Menski 1998:281).<sup>4</sup>

The traditional Chinese method of divorce is called *xiqui* (lit. “discard wife”). Divorce was the exclusive right of the husband or, mirroring the pivotal role parents had in arranging marriages, his parents could also terminate a marriage (Stacey 1983:34; Wolf 1975:89).<sup>5</sup> However, like Islamic

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<sup>3</sup> On the requirement of *‘idda*, see Qur’ān (2:228).

<sup>4</sup> For an excellent overview of the jurisprudence on *ṭalāq*, see Osborn 1965.

<sup>5</sup> Imperial law codes from the Tang to Qing periods are fairly uniform on the legally recognized grounds for divorce: the “seven outs” (*qichu*) including failure to bear a son, adultery, unfilial conduct toward parents-in-

law, Chinese custom did not favor divorce resulting in an extremely low frequency (Freedman 1966:60; Wolf 1975:89; Wolf and Huang 1980:179). In terms of the three types of Chinese marriages, major marriages featured a low divorce rate in comparison with minor and uxorilocal forms which both had higher rates of divorce (Wolf 1975:105; Wolf and Huang 1980:183). However, overall, divorce was rarely relied upon as a means of addressing marital problems. At a macroscopic level, much has changed six decades after the passing of the 1950 Marriage Law. State law has given women a basis to exercise the freedom to divorce—and they have. The divorce rate has accelerated from 4.7 percent in 1979 to 8.9 percent in 1992 to 19 percent in 2000 (Yu 2004:173).<sup>6</sup> According to statistics released by the Ministry of Civil Affairs in 2009, 2,468,000 couples filed for divorce versus 285,000 in 1978 (Wang 2011:34). By 2009, divorce rates have skyrocketed in China’s major eastern cities: 39 percent in Beijing, 38 percent in Shanghai, 36.25 percent in Shenzhen, and 35 percent in Guangzhou (Anon. 2010a). Although certainly not the prime mover, marriage law reform has undoubtedly made it easier for women to initiate divorce and has increasingly recognized the reasons why women may want divorce. In 1980, the Marriage Law was amended to include a clause providing a basis for divorce if one party believes “mutual affection no longer exists” (*ganqing queyi polie*).<sup>7</sup> Procedurally, divorce became easier as courts automatically granted divorce if mediation failed as opposed to under the 1950 Marriage Law that merely stated that divorce *maybe* granted in the event of failed mediation (Croll 1983:83). As Emily Honig and

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law, loquacity, theft, jealousy and incurable illness” and the “three disallowances” (*san buqu*) under which the husband could not divorce his wife for any of the “seven outs” if she had performed the three-year mourning for her parents-in-law, if the husband had initially been poor when they married and had since become wealthy, and if the wife had no natal relatives still living (Bernhardt 1999:164 FN 163; Ocko 1991:315).

<sup>6</sup> Historically, there have been different ways to calculate divorce rates in China. These numbers are based on a comparison of the logarithms of divorces and marriages for that year (Yu 2004:173 fn. 171). In 1988, the Ministry of Civil Affairs standardized the calculation method for divorce statistics to be used by all governmental bureaus, based upon a proportion of divorces per total population for a given period. See Report on the Research Results Concerning the Divorce Rate Calculation Method (*Lihunlü jisuan fangfa yanjiu jiegou de baogao*), promulgated by the Ministry of Civil Affairs, 2 November, 1988. Popular media, however, still seems to prefer using a comparison between the number of registered marriage licenses versus the number of registered divorces per given population.

<sup>7</sup> Marriage Law of the PRC (*Zhonghua gongheguo hunyinfa*), promulgated 10 September, 1980, effective 1 January, 1981, art. 25.

Gail Hershatter show, legal reform was one factor among many, including the breakdown of Cultural Revolution marriages, changing gender statuses, rise in extramarital affairs, and failed material expectations, that combined to increase the number of divorces in the reform era (1988:210–223).

In comparing regions of China, in the Muslim Northwest, with the exception of Xinjiang Uyghur Autonomous Region,<sup>8</sup> divorce rates are the lowest in China (Table 10).

Table 10 Ranking of Divorce Rates Per Administrative Unit<sup>9</sup>

No.	Administrative Unit	Divorce Rate <sup>10</sup>
1.	Xinjiang	4.12
2.	Chongqing	3.56
3.	Heilongjiang	3.30
4.	Jilin	3.27
5.	Liaoning	3.05
6.	Shanghai	2.53
7.	Sichuan	2.45
8.	Beijing	2.40
9.	Tianjin	2.29
10.	Inner Mongolia	2.15
11.	Zhejiang	2.07
12.	Hunan	2.06
13.	Ningxia	2.05
14.	Hubei	1.91
15.	Jiangsu	1.87
16.	Hebei	1.81
17.	Fujian	1.61
18.	Shandong	1.60
19.	Guizhou	1.53
20.	Anhui	1.52
21.	Shaanxi	1.47
22.	Jiangxi	1.39
23.	Qinghai	1.37
24.	Guangxi	1.36
25.	Yunnan	1.34

<sup>8</sup> The exceptionally high rate of divorce in Xinjiang is best understood in the context of anomie felt by Uyghurs in the region. Along with drug and alcohol abuse as well as other health issues, divorce has increased among Uyghurs in the reform era (Dautcher 2004). For the most comprehensive account of divorce among Uyghurs in Xinjiang see Nijim 2009.

<sup>9</sup> This list was generated by the Ministry of Civil Affairs.

<sup>10</sup> This figure is based on a comparison between the number of divorces filed in that administrative unit and the population's annual mean.

26.	Henan	1.31
27.	Hainan	1.28
28.	Guangdong	1.24
29.	Shanxi	1.14
30.	Gansu	.94
31.	Tibet	.60

Source: Anon. 2010d:A12

Gansu and Qinghai are near the bottom of the list and Ningxia is about halfway. In Honig and Hershatter's identification of factors leading to high divorce rates in China, one of the chief differences between the eastern regions, where their research was done, and the Muslim Northwest is the standard of living. To cite just one indicator of economic disparity, the per capita annual income of the western region is 13,917.01 yuan, whereas that in the eastern region is 20,965.49 yuan (China 2009:322). In Honig and Hershatter's hypothesis, material wealth led to more divorces (e.g., women's status has been affected by their ability to accumulate savings and to consume commodities and more wealth among men correlates with more opportunities to engage in extramarital affairs). While poverty provides one reason for marriage stability in the Northwest, it is not a full explanation, specifically among Muslims. Social, cultural, and religious factors also contribute to divorce and its (in)frequency in Muslim areas.

In Hezhou, divorce among Muslim couples is rare. In 2010, there were 1,218 marriages registered and 134 divorces obtained or about one out of ten marriages ending in divorce.<sup>11</sup> When Hezhou Muslims do divorce, they use the *ṭalāq*. Just as Hezhou Muslims show a preference for *nikāḥ* over lawful marriage registration, so too do they prefer *ṭalāq* over pursuing a divorce through legal proceedings, as is required under state law. As one *ahong*, who had served at an Yihewani mosque in Hezhou for many years before moving to Xining, says of divorce, like marriage, in Hui consciousness, "religious law trumps state law" (XN 10/24/2010). *Ahong* and lay Muslims differ as to what the minimum requirement for *ṭalāq* is under Islamic law. While some of these differences

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<sup>11</sup> Statistics from the Linxia City Civil Affairs Bureau, dates from 1 January, 2010 to 20 December, 2010.

fall along *jiaopai* lines, much of the confusion mirrors the complexity of the *fiqh* on divorce. This confusion is exacerbated among Chinese Muslims because of the lack of an indigenous *fiqh* or an authoritative *‘ulema*. In particular, Chinese Muslims differ in their accepted usage of *ṭalāq aḥsan*, *ṭalāq hasan*, and the *ṭalāq al-bid‘a*. A Gedimu man, aged 25, says *ṭalāq* is “saying ‘I divorce you’ (*wo xiu ni*) three times, but you don’t say it casually.”

However, when asked whether all three pronouncements can be uttered at the same time or there must be a grace period between them (i.e., whether his understanding is the *ṭalāq hasan* or the *ṭalāq al-bid‘a*), he is uncertain (HZ 3/21/2010). Others confirmed that it takes three utterances made over a period of time that they referred to as *san xiu*, the Han shari‘a signifier for the referent *ṭalāq hasan*. Other Hezhou men say that divorce entailed a single pronouncement of either *wo xiu ni* or *wo bu yao ni*, differing on whether it must be uttered during the wife’s period of menstrual purity which determines whether it is the *ṭalāq aḥsan* or the *ṭalāq al-bid‘a*. An Yihewani *ahong* in a mosque in the sheep-hide district of southern Hezhou states that when it comes to divorce, “what the husband says goes” (*laogong shuo de san*), but must prove three months maintenance, cannot cut off access to children, and must give compensation based on their time together and situation. This Yihewani *ahong* detailed two ways to divorce. In the first (the *ṭalāq aḥsan*), the husband can say *wo xiu ni* one or two times, but if he says “I take you back” (*wo tui ni*),<sup>12</sup> then they must remarry (*fuhun*). However, if he says *wo xiu ni* a third time, then they are divorced. The second collapses the *ṭalāq hasan* and the *ṭalāq al-bid‘a*: the husband says “I firmly do not want you” (*wo jianjue bu yao ni*) or “I do not want you three times” (*wo san ci bu yao ni*) in one utterance, which brings about divorce (HZ 10/9/2010).

In addition to such formulations as *wo xiu ni* and *wo bu yao ni*, Chinese Muslims also refer to *ṭalāq* as *kouhuan*. *Kouhuan* is a polysemic invocation in Chinese Islam, meaning, generally “pact,”

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<sup>12</sup> *Tui* here means not “to cancel, rescind” but rather, “to return, give back, refund.”

“agreement,” or “promise” although its meaning and the degree to which it refers to something which is legally binding varies with the context of its use and the parties involved. *Kouhuan* is an important concept under Han shari‘a as it gains its currency from the Islamic law and migrates across what Chinese Muslims call “this world” (*jinshi*) and “afterworld” (*houshi*), as *kouhuan* can determine not only social relations between Muslims but also religious obligations between God and its followers. Hezhou Hui and Dongxiang use the term *kouhuan*, although it is perhaps more common among Hui in rural Ningxia and particularly Salar in Xunhua and Hualong counties in Qinghai. In the field of divorce law, Chinese Muslims use *kouhuan* to stand in for *ṭalāq* as the oral grant given by husband to wife without which the couple’s marriage contract remains valid and binding. A Hui lawyer in Haiyuan county, Ningxia explains *kouhuan* in the following terms:

The *kouhuan* is the oral agreement to divorce: *wo xiu ni* uttered three times. It is necessary and sufficient for a divorce under religious law. A couple can divorce themselves if they have had a *nikāḥ* read and no *jiehunzheng* (marriage license). The *kouhuan* is so important that, in the event of separation or divorce, a woman needs to get the *kouhuan* from her husband before she can remarry. I have encountered several cases where a woman will sue [in people’s court] to get the *kouhuan*. However, she does not or cannot argue “*kouhuan*” as it’s not a legally cognizable claim. Rather, she sues for property or custody of her children. The court handles the case under *tongju* (co-habitation), in accordance with the Marriage Law. So, if there is a *fayuan panduan* (legal decision) then the couple can get a divorce.<sup>13</sup> But if there is no *fayuan panduan* then they must have *kouhuan* (HY 10/30/2010).

Although Chinese Muslim men prefer the Islamic forms of marriage (*nikāḥ*) and divorce (*ṭalāq*) over using formal PRC procedures, women often argue religious law in people’s courts. Fareed, the former head of the civil affairs bureau in Linxia City, states that the woman always argues for the existence of a *nikāḥ* in a divorce suit against her husband (HZ 10/15/2010). Court mediators may take such arguments into consideration in mediating a divorce case. Thus, although modern legal institutions in the form of people’s courts may provide a venue for women to assert their rights, in a curious inversion of the logic of legal modernization, women invoke their rights under the *nikāḥ*.

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<sup>13</sup> Actually, while the couple would be divorced under PRC law, they would still be married under Islamic law, and thus, the woman would still be tethered to the marriage.

A similar account was told to me by Ma Chengjun, a Salar scholar at Qinghai University for Nationalities, based on field research during which he interviewed a Salar woman from Hualong county in Qinghai:

The woman told me, “Although we had been married for years, we were having difficulties. My husband wanted a divorce, but he never gave me the *kouhuan*, that is “I divorce you” three times. He left me. I waited eighteen years in the home, but he never returned.” Ma Chengjun then explained the Salar religious law (*jiaofa*) as the following: “The husband will only say the *kouhuan* in one sitting, so he says, ‘I divorce you’ three times. He does not wait the required three months, the waiting period required by the Qur’ān. The Salar have a saying ‘*hunyin shi meiyou wanxiao*’ (marriage is no joking matter) (XN 10/24/2010).

Either expressed in the idiom of *kouhuan*, *san xiu*, or its colloquial permutations, the *ṭalāq* among Chinese Muslims often, but not always, refers to the *ṭalāq al-bid‘a*. It is easy to see why this is in light of doubled patriarchy. The *ṭalāq al-bid‘a* favors the husband as it is instantaneous and irrevocable. Despite its low status in Islamic law, it is prevalent in the Muslim Northwest.

As noted above, in Hezhou, Chinese Muslims do not readily partake of dissolution of the marriage contract to address marital discord (Ar. *shiqāq*). This reluctance can be attributed to causes both ideological and institutional. Both the Qur’ānic denigration of divorce and traditional Chinese culture are averse to dissolving marriages. Family members, friends, and *ahong* intervene to mediate problems in the marriage and to set a troubled couple back on the path of a stable union. The “first tier” level of mediation that discourages divorce and tries to reconcile the couple is that of family and friends. In late 2009, Mr. and Mrs. Hu intervened in the fractious marriage of their best friends. Mr. Hu has met his friend Mr. Ma in high school and the same Mrs. Hu met Mr. Ma’s wife, as well, in high school, thus the friendships predated their marriages. Mr. Ma is a Dongxiang Sufi, born outside the city, while his wife is a Hui not from his same *menhuan* who was born in Bafang. Both work as civil servants in different bureaus under the Linxia government. They have been married for over ten years and have a young boy. For the preceding two years, however, they had been

having difficulties and had grown apart. In the “first tier” of mediation, Mr. and Mrs. Hu worked to resolve the discord through a series of visits to each other’s homes. I attended one such reconciliation meeting, held at a Dongxiang hand-pulled mutton and hotpot restaurant, and was witness to Mr. Hu’s approach. Mr. Hu, with his soft fleshy jowls, drooping eyelids, and soporific voice has a calming effect on others even when he is not trying to reconcile conflicting parties. When he mediates, he does so with a round-edged intentionality and ambient focus. He jokes disarmingly, speaks of the good times Mr. Ma and his wife had together in the past and artfully places the focus on their young son and his bright future. Meanwhile, Mrs. Hu who exudes a kind of seasoned polyanna-ism would communicate a similar message to Mr. Ma’s wife and, unlike Mr. Hu, would use more tactile communication, often resting her hand on Mrs. Ma’s arm or clasping hands with hers. After a series of such interventions, Mr. Hu declared the marriage saved. Thus, there was no need to involve second or higher tiers of mediation, such as the *ahong* or local neighborhood office (*jiedao banshichu*).

In the second or higher level of mediation, *ahong* and other community leaders may mediate marital woes. In the survey of all mosques in Bafang, conducted in 2009 and 2010, *ahong* nearly unanimously identified marriage and divorce, often subsumed under *fuqi guanxi* (marital relations) or *jiating maodun* (family conflicts), as the most prevalent source of conflict among families in their *jamā’a* and the dispute that they most frequently mediate. In handling divorce cases, *ahong* in Hezhou show a strong preference for maintaining marriages, although *ahong* of different *jiaopai* provide different rationales for doing so.

An example comes from an *ahong* at a Gedimu mosque belonging to Qādiriyya *menhuan*:

The most typical case is perhaps the quarrelsome couple. Some time ago, a married woman came to me complaining that her husband was not fulfilling his duties, especially *shenghuofei* (living costs).<sup>14</sup> So I invited the husband in, as well. Ideally, I will invite

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<sup>14</sup> The *ahong* is referring to the legal obligation the husband has to provide maintenance (Ar. *nafaqa*) to the wife.

witnesses, such as the parents of both sides. I will hear their stories. If I find that there is factual basis for the husband's errant behavior, then I will advise divorce. Under Islamic law, a woman can initiate divorce if the husband has failed in his duties.<sup>15</sup> In this particular case, what had happened was that the husband had married a second wife, a younger woman. This second marriage was impacting his financial resources and ability to provide for his first wife and their children. Under Islamic law, a second marriage is legal if it meets the requirements of *nikāḥ*, *pingli* [i.e., *mahr*], and so on. So I looked at the legitimacy of the second marriage. *There is a preference in Islam to maintain marriages* and so I will try to persuade the two to remain married if the second marriage is legal. In this case, it was not legal, under Islamic law for a ceremony was never held. Thus, I pronounced the husband in dereliction of his duties and said there was ground for divorce. However, China is a "rule by law" and not "rule by religion" country (*Zhongguo shi yifazhiguo, bushi yijiaozhiguo*) and so my power stops there. I told them the rest is up to them to decide (HZ 12/2/2010, italics added).

The Qādiriyya Sufi *ahong* provides a blanket rationalization for the durability of marriage under Islamic law. While his response is grossly consonant with Ḥanafī jurisprudence, a former *ahong* of one of Hezhou's most active Yihewani mosques, who is highly regarded in the city as one knowledgeable in Islamic law and has taught the subject at the state-run madrasa in Lanzhou, provides a different basis for Islam's hesitance to dissolve marriage that veers from Ḥanafī law:

When the couple comes to the *ahong*, one or both party will complain that they are dissatisfied with the other. One party may want a divorce. The *ahong* will listen to their accounts. He will determine if whether a) the intention or will to divorce was said in a moment of anger or b) if it was a thought-out, rational statement. If it was the former, then it does not count, the *ahong* will ask the two to go back and live together for a period of three months, after which they must reassess. If it is the latter, then they will again be requested to go back and live together (separate bed rooms is okay) but the difference being it counts as one of three required "divorce statements." After the three months, the *ahong* will see if they are reconciled, if they are not, then it is the second time, and they are requested to go back to live together again for a minimum of three months (sometimes six months or one year). And if they are still not dissatisfied then that is time three and it's a legal divorce (LZ 3/30/2010).

The Yihewani *ahong* makes a distinction with the first pronouncement between one said in anger and one that is rational. Despite the Prophet's strong disapproval of *ṭalāq*,<sup>16</sup> Ḥanafī jurists have given wide berth to the husband's powers to make the declaration, although there is disagreement

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<sup>15</sup> What he means is that in a Muslim state under Islamic law, a woman may file for divorce (*tafriq*) in a court of law, but the woman herself has no power of *ṭalāq*.

<sup>16</sup> Qur'ān (2:229).

within the school of legal thought as to whether *ṭalāq* recounted in a moment of anger is valid.<sup>17</sup> This seemingly technical point of law sheds light on the differences between the *jiaopai* in their interpretations and applications of the Islamic law. Some Middle Eastern jurists cite the Qur’ān directly as evidence that any anger invalidates a *ṭalāq*.<sup>18</sup> Others follow authoritative Ḥanafī texts, such as the *Radd al-Muḥtār ‘alā al-Durr al-Mukhtār*, which classifies anger into three levels, arguing that only extreme anger, near insanity, disqualifies a pronouncement.<sup>19</sup> The *ahong’s* interpretation is indicative of the scripturalist Yihewani approach in its preference for the Qur’ān over *fiqh*. While scripturalism is the oft-stated hallmark of the Yihewani, at the same time, their preference for the Qur’ān and *aḥādīth* is a matter of pragmatics, and the way in which Han shari‘a has developed in China without an indigenous *fiqh*. As such, scripturalism provides an ideological cover for Han shari‘a’s *fiqh*-lessness. The Gedimu will also reject *fiqh*, but will not rationalize their approach in scripturalist or fundamentalist terms, instead rationalizing “this is the true law.” Both Gedimu and Yihewani *jiaopai*, as mixed legal subjects, are cut off from the *fiqh*, disenfranchised of their capacity to create a Chinese *fiqh*, and rationalize this distantiation in different ways.

An *ahong* and scriptural hall education instructor in a Gedimu mosque of the Salar *menhuan* gives a different view of a *ṭalāq* said in anger in distinguishing between revocable (Ar. *raj’ī*) and irrevocable (Ar. *ba’in*) *ṭalāq*:<sup>20</sup>

Just several days ago, a couple came along with the grandfather of the wife. The couple were both 25 years old. They lived in Linxia but were working elsewhere. They had a four-year-old child. The couple had just had a violent argument and in that argument, the husband said, “I don’t want you. If I want you, then I would consult my mother” (*wo bu yao ni, ruguo wo yao ni, wo yao le wo muqin*), meaning that since a Hui man never needs to consult his mother on such marital affairs, the husband was making a definite declaration of divorce. Generally, there are two kinds of such declarations of divorce: one, *jueduixing de xingshi* (a

<sup>17</sup> Modern legislation in Muslim states has put limits on the *ṭalāq* pronounced in anger; see, for instance, the Republic of Iraq’s Unified Code of Personal Status (1959) (Mallat and Connors 1990:182).

<sup>18</sup> See Qur’ān (2:228) stating “There is no divorce and no freeing of slaves when it is done by force or in a state of anger.”

<sup>19</sup> The text was written by the scholar jurist Muḥammad Amīn Ibn ‘Ābidīn (1198–1252 A.H. / 1783–1836 C.E.).

<sup>20</sup> The *ahong* identified their *menhuan* as “Qādiriyya-Naqshbandiyya.”

definitive declaration) and *wanhui xingshi* (a redeemable declaration). Under Islamic law, if a husband makes a declaration of divorce in the heat of an argument, it still is valid. However, in this case, the husband regretted his words and didn't want to actually divorce his wife. Thus, they came to the mosque to try to undo the declarative statement, that is, to remarry. We told them that the husband had used one of his three declarations of divorce (*lihun quanli yi ci yongguole*), but he still had two more declarations before it was final. We were therefore able to remarry them. To remarry, they had to basically re-do the marriage ceremony. This entails, one, an exchange of vows, they have to say they voluntarily accept the other, two, there must be two male witnesses, and three, the man must give a *pinjing* [Bafanghua for *pinjin*, brideprice] to the woman (HZ 12/21/2010).

To unpack this account, the *ahong* first makes a distinction between what he calls *juedingxing de xingshi* which conforms to a *ṭalāq* made irrevocable upon its pronouncement(s) which could refer to either *ṭalāq hasan* (irrevocable upon the third pronouncement) or *ṭalāq al-bid'a* (irrevocable upon its one and only utterance) and the *wanhui xingshi* or revocable type which approximates the *ṭalāq aḥsan* (the single pronouncement which can be repudiated anytime before *ʿidda* is completed). The Sufi *ahong* then, in contradistinction to the conclusion arrived at by the Yihewani *ahong*, reasons that the pronouncement made in anger is valid under Islamic law. However, when the husband changed his mind and sought to revoke the *ṭalāq*, the *ahong* prescribed a new marriage contract. His reasoning is that the original *nikāḥ* was invalidated by the single pronouncement even though the husband's *ṭalāq* falls into the category of *ṭalāq hasan*. Most jurists citing the Qur'ān (2:228)<sup>21</sup> would disagree with the *ahong's* view, arguing that within the *ʿidda*, the husband has the right to revoke the *ṭalāq* without invalidating the *nikāḥ*.

Outside of Hezhou, *jiaopai* distinctions have less immediate and divisive traction, although they nevertheless influence the practice of Han shari'a. *Ahong* across *jiaopai* and ethnic groups view Islamic law as discouraging divorce and do their utmost, within the bounds of state law, to reconcile the couple. One of the foremost leaders of a major Yihewani mosque in Xining says:

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<sup>21</sup> The applicable *āya* reads: "Divorced women remain in waiting for three periods, and it is not lawful for them to conceal what Allah has created in their wombs if they believe in Allah and the Last Day. And their husbands have more right to take them back in this [period] if they want reconciliation . . ."

When there is no *jiehunzheng* (marriage license) and the problem becomes how does the wife protect her interests, in the city the situation is different from that in the countryside. In the city, we try to stop the problem before it arises. Urban women have a stronger sense of their rights (*ziwo baohu zhishi hen qiang*). They will demand a *jiehunzheng* at the start. We *ahong* do our part in encouraging women to do so through *wo'erzi* (Ar. *wa'z*) and so on. However, generally, Islamic law does not allow divorce. I will do my best to reconcile the couple. When the husband says divorce three times (*talāq*), the *nikāḥ* is invalidated. But my work stops there. Since I cannot enforce, I cannot physically go to the home and separate, distribute property, place kids in one of the parent's home, etc. (XN 10/23/2010).

A Salar *ahong* of the largest mosque in Xunhua County, also a Yihewani establishment, relates a case that more emphatically demonstrates the limits of women's rights under Han shari'a:

About a month ago, I helped solve a dispute that became well known in my township. It was a marital dispute. The couple, both Salar, married about five years ago when the woman was 25 and the man 26 years old. The couple had two children. The marriage suffered due to the husband's irresponsibility. He simply did not fulfill his duties as a Muslim husband, chief among these was financially supporting his wife, among other reasons. Due to these difficulties, the wife moved back to her home and moved in with her parents who supported her in her decision. The children left with the mother and this was the source of much of the bitter feelings. The husband pleaded for his wife to come back and bring the children. The wife told the husband that she would, on condition that they write a *xieyi* (agreement) containing the husband's *baozhangshu* (pledge) that he would discontinue all such behavior and live up to his responsibilities. The pledge was the wife's idea, that is, she did not consult an *ahong*, and was signed voluntarily by both parties. The husband signed after the wife, in the company of several witnesses, mainly consisting of family members. About seven months later, the couple encountered the same problem. The husband was not supporting the wife. The wife wanted to divorce immediately, upon the terms of the agreement, but the husband disagreed saying that only he had the authority to initiate a divorce. The couple went to their *ahong* first to solve the problem and then went to many other *ahong* in the township, soliciting opinions. Ultimately, they came to me. I told them that I wanted to have the following people come to my office: the witnesses to the signing of the pledge, the husband and wife, and any other related parties. And I wanted to see the original agreement. I listened to the various sides, including the statements of the witnesses. I then gave them a *panduan* (judgment) according to marriage law under shari'a. I found that the violation of the agreement was not sufficient grounds to establish a divorce under shari'a (*bu zuyi huidiao de tiaojian*). Only the husband can initiate divorce by *san xiu*. The pledge was invalid. Thus, the marriage was still legal and the couple are still together (XH 10/21/2010).

This case illustrates the limits on women's rights under shari'a. Not only will *ahong* seek to keep marriages together that disadvantage women, but the wife cannot "contract around" the husband's monopoly on the initiation of divorce.

Thus, the institutions of Chinese Muslims' doubled patriarchy are diffuse. Status quo, social stability in the family as the nucleus of society, and monogamy are concretized in marriage. Friends, family, *ahong*, teachers, and Muslim leaders as nodes that reproduce doubled patriarchy extol the virtues of marriage and the benefits it provides.<sup>22</sup> There are, however, institutions to varying degrees operating within doubled patriarchy that provide alternative visions of gender relations. Closer to Islamic prescriptions on gender norms, private girls' schools increase Chinese Muslim girls' knowledge of Islam and may delay early marriage (see Chapter 2). Outside of Islam's sphere of influence, the state has also responded to men's domination of women in marriage by laws and policies meant to increase women's leverage by freedom to divorce. One of the main problems PRC law addresses is that of the unlicensed *nikāḥ*. Young Hui and Dongxiang couples will almost all certainly have an *ahong* read the *nikāḥ*, whereas fewer will obtain a marriage license. Under this set of conditions, the husband could dissolve the marriage and walk away, leaving the wife with no rights in property, inheritance, or custodial care of offspring. When a Chinese Muslim woman sought to dissolve her marriage in PRC court, with only a *nikāḥ* but without a marriage license, she would have no legal recourse as the court did not recognize *nikāḥ* and, thus, there was no lawful union for the court to dissolve. The state response to this impasse was the *de facto* marriage or "marriage-in-fact" (*shishi hunyin*).<sup>23</sup> In the event that one or both parties wanted to end the union,

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<sup>22</sup> In the one case of "*ahong* activism" I heard, a Gedimu *ahong* said that he often sees men initiating divorce through the traditional Islamic means (i.e., *ṭalāq*), but the wife not agreeing. In such instances, he will agree to a forced divorce (*qiangzhixing lihun*). He will sever the matrimonial knot, but will impose obligations on the husband to support the wife (e.g., maintenance, alimony, etc.) and may divide the property, the proportion in accordance with the time they have lived together (HZ 10/1/2010). Under such facts, the *ahong*, in taking the place of an activist judge, is nevertheless disadvantaging the wife who seeks to maintain the marriage.

<sup>23</sup> After the founding of New China, the earliest legal basis for the marriage-in-fact is a document issued by the Supreme People's Court of the East China Branch Institute, dated 29 July, 1953 entitled, "Official Reply by the Supreme People's Court of the East China Branch Institute in Regards to the Problem of Whether a Couple

a PRC judge had the right to recognize a marriage-in-fact even in the absence of a lawfully registered marriage. This allowance benefitted a woman who sought to initiate a dissolution with her husband as she could still protect her interests in property and custody of any offspring from the union. The marriage-in-fact therefore acted as a stop-gap between the Islamic *nikāḥ* and secular divorce law. The policy rationale was to recognize that many citizens, Han or ethnic minority, particularly in the countryside, did not register their marriage. This situation changed, however, in 1994. According to a Hui lawyer in the Linxia County Judiciary:

Before 1994, according to the original Marriage Law, judges would recognize *shishi hunyin*.<sup>24</sup> This judicial practice applied equally to Han and Hui or any ethnic minority, for that matter. The main requirement was long-term cohabitation, that is, being ‘married’ for a few hours or days would not trigger this judicial invention. However, after 1994, judges did not recognize such marriages-in-fact; rather, they are viewed as *feifa tongzhu* (illegal cohabitation [LC 6/8/2010]).

In 1994, the Ministry of Civil Affairs issued the Regulations on Marriage Registration Administrative (*Hunyin dengji guanli tiaoli*; hereinafter, “1994 Regulations”), which expressly prohibited any legal recognition of a cohabitation between a man and a wife that was not based on a registered marriage.<sup>25</sup> Most legal and judicial officials in Hezhou and elsewhere in the Muslim Northwest view the 1994 Regulations as closing the door on marriage-in-fact, and thereby requiring all marriages to be lawfully registered in order to receive full protection. The jurisprudence on marriage-in-fact is

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Who Has Not Registered to Get Married After the Movement to Implement the Marriage Law Who Then Request a Divorce Should Be Handled According to Divorce (*Zuigao renmin fayuan huadong fenyuan guanyu guan che hunyinfa yundong hou bu dengji jiehunzhe qingqiu lihun shifou an lihun banli wenti de pifu*) in which the Court permitted marriage-in-fact while limiting its application and stressing continued education. On 2 February, 1979, the Supreme People’s Court issued the Opinion on Implementing and Executing Regulations and Laws Pertaining to Civil Affairs (*Guanyu guan che zhixing minshi zhengce falü de yijian*), which defined marriage-in-fact as “man and woman have not properly obtained a marriage registration, but cohabit as husband and wife, and the people regard them as husband and wife” (art. 4).

<sup>24</sup> The Marriage Law itself does not mention marriage-in-fact; rather, it’s a product of judicial interpretation (*sifa jieshi*).

<sup>25</sup> Regulations on Marriage Registration Administrative, promulgated 1 February 1994, art. 24. See also the Supreme People’s Court’s Notice Regarding the Applicable New “Regulations on the Management of Marriage Registration” (*Guanyu shiyong xin de “hunyin dengji guanli tiaoli” de tongzhi*), issued 1 February, 1994, stating unequivocally, “As of 1 February, 1994, men and women without a spouse who have not properly registered their marriage, even if they outwardly have a life of co-habitation, should be handled as illegal cohabitation.”

unsettled, however, and this is reflected in officials' views on the ground.<sup>26</sup> While officials, lawyers, and judges in Linxia County and Linxia City as well as Haiyuan County in Ningxia all say that marriage-in-fact no longer exists under law,<sup>27,28</sup> officials in Yinchuan, Ningxia say marriage-in-fact still has legal force.

In addition to the ideologies and institutions which buttress doubled patriarchy in divorce, the consequences of divorce, whether legal, material, or emotional, further touch on the rights of women under Han shari'a. In Islamic law, when a husband initiates divorce, if the marriage has been consummated, then the wife only has right to the full *mahr* and *'idda* maintenance. If the *ṭalāq* is uttered before consummation of the union, then the wife does not have right to the *mahr* (Nasir 1990:135). *Ṭalāq* also terminates all mutual rights of inheritance (Verma 1988:272). As for custody of any offspring from the marriage, the mother is entitled to custody of any son below the age of seven years old and any daughter below the age of puberty (Verma 1988:272). Director Tang of the Islamic Resource Center (IRC) in Lanzhou differentiates Islamic law from the law of pre-communist China:

There is a conflict in terms of property partition. Islam is a *pinlizhi* (brideprice system) and China is a *maimaizhi* (mercenary system). In Chinese history, with the exception of the Ming

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<sup>26</sup> The amended Marriage Law, promulgated 28 April 2001, art. 8 states, "Those who have not registered their marriage should acquire a supplementary registration (*buban dengji*)." Supplementary registration was addressed in the Supreme People's Court Explanation Regarding Certain Questions under the Applicable "PRC Marriage Law" (*Guanyu shiyong "zhongghua renmin gongheguo hunyinfā" ruogan wenti de jieshi*), issued 27 December, 2001, which differentiated between those cohabitations before and after 1994, permitting those before 1994 to be recognized as marriage-in-fact while requiring those established after 1994 to acquire a supplementary registration before any divorce action, and those couples that failed to do so would be regarded as illegal cohabitation (arts. 4 and 5).

<sup>27</sup> The common response is that everything goes under *tongju* (co-habitation). Thus, a divorce case brought to the court or *sifasuo* (judicial bureau) is filed under *caichan fenge zhinü fuyang jiufen* (conflict of property division and child support). In other words, property division/child support provides the cause of action. The law acts on that which it recognizes—property and children—even if the relationship in which these legal objects are contextualized is un-recognizable. If the (*nikāh*) marriage was short in duration (i.e., little property accrual, no children) then the court or *sifasuo* will not touch it. If the marriage was long, then will be considered under the above cause of action (HY 10/30/2010).

<sup>28</sup> A Hui lawyer in the Linxia County Judiciary said that in the course of a divorce proceeding, judges will take a three-statement *ṭalāq* as evidence of the husband's desire to divorce, but not as a *de jure* basis for divorce. He argued state law is a corrective to this acknowledgment as either party, a husband or wife, can initiate divorce proceedings (LC 6/8/2010).

Dynasty, the woman had no right to keep her brideprice in the event of a divorce that is initiated by the husband. This is in stark contrast with Islamic history where the woman keeps the brideprice if her husband seeks divorce [after consummation] (LZ 10/31/2009).

In Hezhou and surrounding areas, the general rule is that any property held by either the bride or groom, including the bride's dowry (i.e., the property she brought with her, often given from her father), is jointly owned (*gongyong*). An Yihewani *ahong* in Hezhou's sheep-hide district comments that in theory, any property the wife brings into the marriage is hers in the event of divorce and according to religious law, no one else can use the *pinli*, but it is often expended by her family members for the wedding (HZ 10/9/20). As explained by Fareed, from the perspective of a civil servant/devout Salafiyya *jiaotu* (member of the faith), when mediating a divorce, the key issues are: one, the length or duration of the marriage, and, two, the identity of the person who initiates the divorce (i.e., the man by *ṭalāq* and the woman by using mediation or litigation in formal judicial organs). Usually, if the marriage lasted several years and the husband seeks to dissolve the marriage, then the wife keeps the *mahr*. However, if the marriage was short and she initiates divorce proceedings, then she must return the *mahr*, if it is not already fully expended. The policy reason, Fareed adds, is that the law wants to discourage women from marrying just for material gain (HZ 10/15/2010). As property is held in common by husband and wife, there is no doctrine of equitable distribution in the event of divorce, meaning the wife will not receive any portion of the marriage assets to which she contributed either directly or indirectly.

As to custody of any children who are the offspring of the marriage, Chinese Muslim men often disregard Islamic law and argue their authority to either keep custody or avoid responsibility.

Fareed gives an example of a case he mediated:

A husband and wife had separated. They had a nine-year-old girl. The issue was one of the costs of *feiyang* (raising) the daughter. They were trying to write a divorce agreement. The husband did not want any responsibility for the upbringing of his daughter; however, he didn't want to write this into the contract. According to law, upon divorce, a husband and

wife must equally bear the costs of their child's upbringing. In this case, the wife had no independent economic means. The father of the wife asked an *ahong* to mediate. The *ahong* failed to arrive at a solution that satisfied both parties. The wife was resigned to raising their daughter by herself. The case came to me. I told them both that such a proposed divorce agreement was not legal. To redress this, I divided the property in half (this is custom) but gave the husband's half to the wife, so that the wife had the entire property. The result was that the husband's half became compensation for the *shenghuofei yangfei* (cost of raising the daughter). According to law, this property was the daughter's, but because she is a minor, her mother would keep it in her custody and use it for the benefit of the daughter. Now, the mother and daughter reside in the house (HZ 11/3/2010).

As stated above, women may mobilize state law to protect their property and custodial rights after divorce. Contrarily, their arguments often resort to arguing for the existence of the Islamic marriage contract in the absence of a registered marriage. Where state law and Islamic law converge is in the protection of the rights of an unborn child to the marriage. In the event of divorce, the husband must pay the *'idda* maintenance, called *daihunqi* (lit. "wait marriage period"), a set period of 130 days. The policy rationale is to see if the wife is pregnant. If she is, then the divorce is void.

### *Minor Forms of Marriage*

#### *a. Temporary Marriage (Mut'a)*

"I'll tell you a secret," the server at a noodle-shop in central Hezhou told me, leaning over the small table towards me so that his chin was nearly over my bowl of noodles, "sometimes, the night of the wedding, when we find out our wife is *poshen* (lost her virginity), we divorce her." The 27-year-old Sufi, "Mr. He," a member of the Khufiyya Glory Mosque Tomb Complex (Huasi Gongbei), relates this in hushed tones and soft nods, frequently looking over my shoulder to where his boss stands behind the counter. "Other times," he continues, seeing he has my interest, "we will 'try out' a marriage for a month or so, and then divorce." In this latter situation, the couple will have an *ahong* read *nikāh*, but will not have obtained a marriage license. After divorce, the wife who has lost

her virginity, faces hardship and social opprobrium in remarrying, her value, in the form of the *pinli/mahr* having significantly declined (HZ 12/2/2009).<sup>29</sup>

The practice described by the Khufiyya Sufi is actually two different types of temporary marriages but which have a common root in doubled patriarchy. Hezhou Muslims place a premium on female virginity. The most common cause of divorce (and the quickest into the marriage) is the husband's discovery that his wife is not a virgin. A teaching *ahong* at the Qādiriyya Grand Tomb Complex put the frequency of such one-night marriages at ten percent, which approximates the official rate of divorce for 2010, but these marriages and divorces operate outside state law (HZ 12/4/2009). These one-night marriages fail because the Hui male expectation of his partner's virginity, an expectation widely shared among rural Han Chinese, went unmet. Virginity is not a requirement of the *nikāḥ*; *ahong* do not address the matter. In most instances, the bride's virginity is vouched for by her parents or elder brothers, but it cannot be made a requirement of the marriage contract. One aspect of a subtle and creeping secularization in Hezhou society, brought on by development, urbanization, and nightlife entertainment venues like karaoke bars and nightclubs, is premarital sex. While most Hezhou youth retain their virginity until marriage, a smaller number engage in premarital sex along with more informal socialization between the genders. Marriage practices have adapted to these changes by permitting the one-night marriage.

Under the second type or try-out marriage, couples appear to obtain a *nikāḥ* only to engage in permissive and permitted sex. Such behavior shows young Muslims manipulating both state and religious law by evading the former and circumventing the latter. Mr. He views the try-out marriages as an established practice that allows those incompatible couples to opt out of a long-

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<sup>29</sup> In addition to facial and body plastic surgery, hymenorrhaphy or hymen reconstructive surgery has found a market among high-class Han women in the coastal cities, who have had premarital sex but face pressures to be a virgin (again) for conservative men. Many hospitals and most private practices offer the surgery in Beijing, Shanghai, Guangzhou and elsewhere. Hymen repair, popular among wealthy Muslim women in the Middle East, is not economical for most Muslim minority women in Northwest China. The cost of the procedure as of 2010 was about 5,000 yuan. There are artificial virginal hymens sold at sex shops, however, for a fraction of the cost, although I have never heard of Chinese Muslim women using them.

term marriage. In none of my conversations did Chinese Muslims label this social practice *mut'a* or “temporary marriage” per se as defined by Islamic law. However, *ahong* concurred that temporary marriage was lawful under Islamic law. The practice of *mut'a*, however, is unlawful in Sunni Islam (Murata 1987; Vikør 2005:137) to which China Islam belongs. Shi'ism permits *mut'a* which consists of a marriage contract established between the bride and groom in which the termination date of the marriage is written into the contract and no duties follow (i.e., maintenance, *mahr*, etc.) from its expiration. The Shi'i argument for its lawfulness is based on the Prophet's acceptance of *mut'a* for soldiers who were going off to war in distant lands, although Sunnis argue this was merely an exception and views it as “legalized prostitution” (Vikør 2005:137). While the presence of *mut'a* may give credence to the idea that there are strands of Shi'i Islam in China of which there is some evidence,<sup>30</sup> it is more likely that the inclusion of try-out marriages under Islamic legality is an *ex post facto* rationalization.

*b. Polygamy*

While monogamy remains the most widespread form of marriage in the Muslim Northwest, polygamy exists among Muslim minority groups including Hui, Dongxiang, Salar, and Uyghur. In Hezhou, the topic is not openly discussed given the broad condemnation of multiple-party marriages in state law and socialist morality more generally. Nevertheless, nearly every person I spoke to about the topic knew someone personally who was involved in such a relationship. The common denominator across *jiaopai* and ethnicity was class. Men who had multiple wives were in their late 40s or older and had accumulated the wealth necessary to afford multiple households and the consumption habits of females often competing for the husband's attention, one of the ways of

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<sup>30</sup> This is a complex topic to which I cannot here do justice. It is widely recognized that the Tajik in Xinjiang practice a form of Shi'ism. As well, there is one Uyghur Shi'ite mosque in Hotan in southern Xinjiang that practices Shi'ism. It is much more controversial whether Shi'ism has influenced the practice of Islam in “inner China” among the Chinese (i.e., non-Turkic) Muslims. The controversy is nowhere more poignant than in Hezhou. Some Hezhou Muslims claim that such centers of Qādiriyya Sufism as Ancient Tomb Complex have adopted Shi'ism. Such arguments, usually made by Muslims outside of the Ancient Tomb Complex *menhuan*, are based on the level of reverence given to 'Alī b. Abī Ṭālib (B.H. 24–A.H 30/C.E. 598–C.E. 661), the cousin of the Prophet Muhammad and, the Shi'ites believe, his divinely anointed successor.

which was out-consuming her rivals. Thus, a common profile of a polygamist is an elder businessman with households in several locations, including Hezhou, Guanghe, Lanzhou, Gannan, and even the Tibetan Autonomous Region. Although businessmen in the 1980s were the only ones to be able to afford multiple wives, in recent years, following the overall increase in living standard, a few *gongzhi renyuan* (workers), such as teachers or school principals and other civil servants, have also begun acquiring multiple wives. Usually, the man has two wives, and less frequently three. It is very rare for a man to have the material assets to afford four wives. Many accounts I collected had the common element that the second or third wife was a Tibetan woman whom the man met in Lhasa or Gannan when conducting business. She would convert to a Muslim and the two would often (but not always) have an *ahong* read the *nikāh*. Several Hui women I talked to about the problem of polygamy in Hezhou shifted the problem onto Tibetan women, saying, “Tibetan women are loose about having sex” (HZ 12/20/2010). If official marriage licenses are not the rule among Hezhou Muslims in monogamous pairs, then they are non-existent in polygamous arrangements. The first wife may have a marriage license, but never the second as there would be a record of the previous marriage, and thus proscribed by the Marriage Law. Therefore, the problems discussed above following divorce, that is, the woman’s ability to protect her property, inheritance, and custodial rights are compounded when the husband has multiple wives.

Polygamous relationships generally form along the lines of business networks leading from Lanzhou through southern Gansu and into Tibetan regions. Hui men deal in rugs, sheep hide, ox hide, light industrial equipment, building supplies, *qingzhen* edibles, or other foodstuffs such as grains, to name a few commodities. Women are also commoditized through prostitution networks, although the businessmen who take multiple wives are usually not the ones soliciting prostitutes.

A conversation I had with a 34-year-old unmarried Hezhou Hui woman, while riding a *heiche* (unregistered taxi) from Hezhou to Lanzhou, gives substance to the overlapping of business networks and polygamous arrangements. The woman relates:

Islam gives freedom to women. For example, if I want to go outside, all I have to do is get my father's permission. *Yifuduoqi* (Polygamy) is another aspect of Islam that has to be understood in this context. There is polygamy in my family. My *biaoge* (older male cousin), age 57, had first married a 60-year-old woman, *da laopo* ("big wife") who resides in Hezhou with their two children. He then married a 30-year-old woman, *xiao laopo* ("little wife") who lives in Lanzhou. He spends most of his time with *xiao laopo* that goes against *jiaofa* (religious law). He had the *nikāḥ* read at both weddings, but only has a marriage license for the first marriage. *Da laopo* hates *xiao laopo*, but cannot divorce him, even though she has this right under religious law and state law. She is dependent on him financially as are her children. The two women met once when *da laopo* went to Lanzhou for medical treatment and *xiao laopo* cared for her. Although *da laopo* hates *xiao laopo* still, she has accepted her out of respect for her husband (2/6/2010).

When I ask what percentage, she thought, of Chinese Muslim men have a second wife, she replies, "30 percent of Hui men have a second wife,<sup>31</sup> although very few have more than two. This is more than Han men. Han men call their second wife *xiao san* (little third)." The Hezhou woman's equation of the term *xiao san*, a colloquial synonym for mistress, with the Hui practice of polygamy suggests that in her eyes, Hui men's taking multiple wives may be less an emulation of the Prophet under the Islamic law and more a manifestation of Chinese custom.<sup>32</sup>

During a group dinner I had in Lanzhou with several men who had family members of relatives in polygamous relationships, the slippery distinction between mistress and wife, under the Islamic law, was a focus of conversation. The dinner party, arranged by a successful Hui

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<sup>31</sup> This estimate seems high. The *ahong* of the largest Yihewani *jamā'a* in Xunhua county, Qinghai, estimated that one out of ten Salar men had more than one wife (XH 10/21/2010).

<sup>32</sup> Most Han I spoke to in Hezhou and surrounding areas made a clear distinction between Hui polygamous practices and the historical male Han practice of having multiple wives. In this respect, whereas in many areas legal consciousness of state law is thin, that is, it does not lead to subjectivization to the degree that Islamic law or Chinese custom do to Hui (and to Han, in regards to the latter), nonetheless in the area of marriage law, the Han majority identify state law (i.e., the 1950 Marriage Law) as a marker of progress over "feudal" pasts. It should be noted that polygamy gained recognition as a Chinese customary law among Chinese outside mainland China under colonial rule, that is, in Singapore and Malaysia into the 1960s and in 1971 in the case of Hong Kong (Hooker 1975:168).

entrepreneur and the owner of the restaurant, featured three local Muslim men. “Mr. Zhu” is a Dongxiang member of the Sufi Hu Men *menhuan* who worked in the provincial Party committee for most of his career. “Little Mu” is a journalist and a Hui Hu Men *menhuan* member. The third is “Ma Ahong,” a Dongxiang who comes from a Hu Men family but changed his *jiaopai* affiliation to Yihewani after visiting Mecca on the hajj. The three all knew each other. After a slow warm-up in the conversation over several heaping bowls of spiced mutton noodles, Ma Ahong weighs in on the issue of polygamy:

In Linxia, it is common for a Hui man to have a Hui wife in Linxia and a Tibetan wife in Lhasa, where he does business. It’s not just one or two cases, but common. I completely oppose this. The Qur’ān is explicit in putting conditions around this. Foremost, the husband must treat the wives equally. The Linxia man who has a wife in Tibet does not treat her equally. He is there for maybe a few weeks out of a year, there is no way he treats her equally. He treats her like a wall hanging. This is not an equal treatment. My uncle has two wives. He is here in Lanzhou. Both wives are in Lanzhou, too. He is in his late 40s and both wives are younger than him, the younger (*lao er*) about six years the junior of the first wife (*lao da*). He spends much more time with the younger wife. Both wives know about the other. This also is following Chinese custom. The Han have mistresses (*xiao san*). My uncle is following Han custom and not Islamic law.

Later, the restaurateur told me that Ma Ahong has two uncles with multiple wives, one with three and the other with four. As to why there is more polygamy (or adultery) among Hui than Han, Ma Ahong explains:

When the Muslim man takes more than one wife, he will not divorce the first wife. This is what a Han would do. Rather, because our *jiaofa* (religious law) only permits divorce, but does not encourage it, he will not divorce. The marriage license in this case becomes dead, but not revoked or annulled. In actuality, he may discontinue sexual relations with his first wife, too, but the relationship will remain on paper at least, to the detriment of the first wife (LZ 12/7/2010).

During Ma Ahong’s diatribe against Chinese Muslim abuse of polygamy, which he attributed to moral decline among the Sufi *menhuan*, Mr. Zhu and Little Mu were silent. Mr. Zhu, sitting to my right, bounced his left leg so spastically in nervous energy that I could feel the reverberations under

the table. Either because of Ma Ahong's verbal attacks on his Sufi *menhuan* or because he would not disclose his family's own experience with polygamy, he and Little Mu remained quiet through the dinner, smilingly bobbing their heads and chewing.

Ma Ahong's view of polygamy is that of a (re)converted or "born-again"<sup>33</sup> Yihewani, a scripturalist rejection of what is seen as Chinese cultural accretions in Gedimu (including Sufi) Islam. His opinion is echoed by Teacher Li, one of the volunteers at the Matrimonial Introduction Office in the IRC in Lanzhou. She opines, "Those men who take four wives are breaking the law. The Qur'ān states that only under special circumstances can a man take four wives. These are typical men, using the law for their own misogynistic purposes. There is no way," she reasons, "that a man can treat all four women equally" (LZ 11/5/2009).

Polygamy affects all *jiaopai* in Hezhou and most *ahong* will attest to the problem in their *jamā'a*. Government officials are also well aware of the problems attendant to the practice. Fareed, the former head of the Linxia City Civil Affairs Bureau has seen polygamy affect the lives of each member of the family. He recounts the following exemplary case

In 2008 in Linxia, a man, age 43, was married to a woman, age 40, but had a lover (Bafanghua *huma*), age 30, from Tianshui. The husband had had a *nikāḥ* read for both, but by different *ahong*. The husband was a businessmen and not "wealthy" per se but wealthy enough to have multiple wives. The husband and wife were a legal couple under both religious law and state law. The man wanted to divorce his wife and marry his lover; the lover was the main force behind the plan for the divorce. The married couple had one son and one daughter. The daughter was age nineteen and had just obtained her marriage license on [date omitted]. The father had extensive property from his business dealings. The couple belonged to the same *jamā'a* and so both agreed to seek mediation by their *ahong*, actually he was a *minjian* (unofficial) *ahong* within their *jamā'a*. . . . The mediation was successful, the two agreed to divorce. The husband had to give the wife one apartment and 130,000 yuan. Further, he had to pay for the upbringing and education of the two children if they tested into university. However, they did not and attended a technical middle school. The husband paid for his daughter up until the point when she got married and the same for the son. During this time, the two children lived with their grandparents. In terms of custody, the children had the choice who they wanted to live with, and chose the mother, but

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<sup>33</sup> By these expressions, I mean Hui who have changed *jiaopai*. A second usage would be those Hui who were born into a *jiaopai*, were not particularly religious in their youth and then through personal experience became devout later in life.

visited the father—mainly at his office. Their relationship was not good. After the divorce (under both religious law and state law), the man married his lover (HZ 10/15/2010).

Polygamy not only affects women’s material security but also their emotional and physical wellbeing. In the following case, the woman named “Teacher Ding” whose husband had additional wives sought remedy through both more traditional non-state means (e.g., family members) and state law. Her family members’ role in mediating the problem bears marks of the family as institution that reproduces doubled patriarchy. I was introduced to Teacher Ding by “Teacher Song,” a female Muslim teacher friend at a local high school. Teacher Song is an exception among Hezhou Muslim women. She wears her hair, uncovered, in a tight perm, wears thick makeup, and dresses in high heels and flamboyant leopard print. She studied English in college and, although she has never been abroad, she has absorbed a kind of baroque Western aesthetic. She chafes at the all-male leadership of her school and complains that the male principal does not recommend her to gain experience abroad as he wants to keep her tied to the school. Married, with a child, Teacher Song is devoted to her family, but finds daily fulfillment in teaching English to her students. Teacher Ding’s lawyer, Lawyer Mu, a Hui man who works for the prefectural judiciary, also attended my interview with Teacher Ding. Teacher Song had met Lawyer Mu ten years ago. Teacher Song’s mother, the head of the *shequ* (neighborhood community), had been interviewed by Lawyer Mu for a polygamy case some ten years earlier in which the *da laopo* sued the husband.

Teacher Ding is a small-framed, soft-spoken woman who wears a traditional black *hijab* over her hair. Her large red cheeks make her look child-like. The contrast in the appearance of the two female teachers was striking. I include her testimony in its entirety.

I’m 28 years old, a Muslim. My family is from Hezheng [county]. I met my husband who is 31 in 1998 when we were studying at Linxia Teacher’s School. We dated for three years and then got married soon after graduation. My husband was not active in any one mosque and rarely went to the mosque on *jum’a*. We had a relative, my *jiujiu* (mother’s brother) read *nikāh*. We lived in Linxia and commuted to Hezheng. He was originally teaching at another

school in Hezheng. In December, 2003, our daughter was born. Only when I was pregnant did we get a marriage license.

Lawyer Mu added that the registration of a marriage only with the birth of the first-born is quite common. The reason for this is that in order for the child to have a *hukou* (household registration), there must be proof that the parents were lawfully wed. Teacher Ding continues:

In late 2006, I discovered that my husband was cheating on me. One day, while at school, I received a text message on my phone asking, "Has Ma Xiu had lunch?" I sent a text back, "I don't know who you are." I thought, at the time, it was a colleague, a fellow teacher, who was playing a joke. However, after this exchange and subsequent text exchanges, my husband found out and told me about the *disanzhe* (third party). At the time, my child was two years and ten months old.

From 2006 to 2008, my husband lived part-time with the *disanzhe* in Linxia. In April, 2007, the *disanzhe* called me asking if Ma Xiu was there, saying "let me see him" and "I want him to leave you and to support me financially." At that time, a female friend working in the Linxia hospital took me to the *disanzhe* to confront her. The *disanzhe* was a Han woman, 32 years old (four years older than me and one year older than my husband) who was married at the time, as well, with children. She worked at her father's medical clinic.

In March, 2007, I filed for divorce at Linxia City People's Court. During the hearings, the court sought to mediate the dispute (*fayuan tiaojie*). I had moved out. I was sleeping at the school's dormitory where other teachers stayed. I stayed there for three to four months. Also, the *disanzhe* had moved out from her family, as it was now openly known of her affair with my husband and she was separated from her own husband. Further, family members and *ahong* were involved in trying to reconcile me and my husband. He, at that time, promised to leave the *disanzhe* and return to his life with me. He made such promises. I decided to move back in with my husband to try to make the marriage work, mainly thinking of our child. In 2008, my husband got promoted. He left the larger school where he had taught and became the principal of the primary school where I taught, so we saw each other every day.

But he did not keep his promise. It was his custom each Ramadan to go to the mosque. In 2008, he told me he was doing so, but I thought he was acting strange. I followed him and saw that in fact he was going back to the residence of the *disanzhe*. Further, I found out that in that year, he had gotten married to the *disanzhe*. A different *ahong*, not knowing of her husband's previous marriage, had married them. The Han woman first converted to Islam. I left my husband again, but I soon returned when my father-in-law was ill in Lanzhou. I went to the hospital with my husband and our daughter and there he begged me to come back and I forgave him. I did not want to care for his heart, but for my daughter, I returned to him.

At this point in the story, Teacher Ding completely broke down in tears.

Family members were involved trying to reconcile. During one family meeting, my *jiefu* (brother-in-law) strongly advocated that we get a divorce, mainly for the reason that if the husband left the *disanzhe*, then she would return to being a Han. Islam prohibits apostasy. Another reason the family argued for divorce was because both I and my husband, as workers in a state-run school, were bound by a laws and regulations. It would be more convenient for me to divorce and for my husband to start over with a new wife than to try to patch up the marriage which was causing so many problems. Basically, they were afraid my husband would lose his job.

In 2008, we three met together which resulted in a physical struggle. My husband, who is 170 cm. [5 feet, 6 in.] intervened, and struck me.

She still has several red marks on her lower left cheek.

During one of these meetings, I sought to get him to sign an agreement saying that Monday, Wednesday, and Friday, he would stay with me and Tuesday, Thursday, Saturday, and Sunday, he would stay with the *disanzhe*. My true aim in doing this was to get a writing in which he admitted to having an affair.

However, I discovered that my husband and the *disanzhe* had had a child, also a girl, before he married the *disanzhe*. My husband sold our house in Linxia and I moved back to living at the school. The child was grounds for divorce and so I moved—a second time—to file for divorce in Linxia City People’s Court (HZ 12/20/2010).

In terms of from whom Teacher Ding sought help during this time, she says her parents are in Lanzhou and did not know what was happening. She was not close to any *ahong*, and talked only to a few close friends late in the process. It was her brother-in-law who introduced her to Lawyer Mu. In terms of the divorce action, the specific grounds for divorce is *chonghunzui* (crime of bigamy). The husband will get a maximum sentence of 2 years in prison. Also, the wife can be rewarded up to half of their total property and savings. As of late 2010, Teacher Ding was waiting for her day in court. Only recently had Teacher Ding found out that her former husband had found another lover—a university student in her early twenties.

Lawyer Mu comments that in his fourteen years of lawyering, he has handled some 200 civil cases, 50 to 60 of which were *disanzhe* or *qingren guanxi* (lovers’ relationships). Twenty percent of these were a multiple *nikāh* situation and the others featured a man who had one *nikāh* with his wife but then one or more lovers (*ernai* or *xiaosan*) (HZ 12/25/2010). Only those cases where a

Muslim man has a *nikāh* with more than one woman reach the crime of bigamy. His interpretation suggests that criminal law judges (40 percent of whom in Linxia Prefecture are Muslim) take into consideration multiple *nikāh(s)* as determinative evidence of bigamy, an example of state law implicitly recognizing Islamic law.<sup>34</sup>

As for the profile of women who find themselves in polygamous relationships, Lawyer Mu states that they are poor, illiterate, and have only a rudimentary understanding of their legal rights (*falü yishi bu qingchu*). Teacher Ding adds that during the process of her suits, she had read books and newspaper articles about marriage law and watched the TV show *Falü jiaotan* (Law Talk)—common media of state legal popularization. Most women learn of their rights during the litigation process, in conjunction with working with a lawyer. The cost of hiring a lawyer, however, is a set fee of 5,000 yuan per case, prohibitive to many rural Chinese women. Many women in polygamous arrangements are *jiating funü* (house wives). They are economically dependent on the husband and allow him to take the second or third wife because they have no other means. Conversely, those women who are proactive in defending their rights are economically independent, Teacher Ding, asserts. For instance, on her teacher salary, she can afford a life both for herself and her daughter.

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<sup>34</sup> The definition of bigamy under PRC law has changed over time. The PRC Criminal Law, adopted by the National People's Congress, 1 July, 1979, revised 14 March, 1997, art. 258 defines bigamy as "a person already having a spouse who, with another person, marries or [a person who] marries another, knowing that that person has already married." Under the regime of marriage laws and regulations pre-1994, when state law gave limited recognition to marriage-in-fact, any relationship that satisfied the definition of marriage-in-fact could, when the facts showed that the marriage-in-fact was in addition to a registered marriage, be the basis for the crime of bigamy. After the 1994 Marriage Registration Administrative Regulations went into effect that did not recognize marriage-in-fact, the criminal law that still gave recognition to marriage-in-fact was out of date. The Supreme People's Court addressed this conflict in the same year. In the document "The Supreme People's Court's Official Reply on Whether After the Implementation of the 'Marriage Registration Administrative Regulations,, a Bigamy Case Involving a Nominal Husband and Wife Who Are Discovered in Illegal Co-habitation Should Be Guilty and Punished According to the Crime of Bigamy (*Zuigao renmin fayuan guanyu <Hunyin dengji guanli tiaoli> shixinghou fasheng de yi fuqi mingyi feifa tongju de zhongjun anjian shifou yi chonghunzui dingzui chufa de pifu*), issued 14 December, 1994, the Court declared "a person already with a spouse who, with another, assumes a relationship of nominal husband and wife in co-habitation lifestyle or [a person who] knowing that the other person has a spouse, forms with that person a nominal husband and wife co-habitation lifestyle, should, as before, be guilty and penalized as bigamy." Thus, there remains a kind of soft recognition of marriage-in-fact in the criminal law (but not administrative law or marriage law).

Occasionally, women who are successful in protecting their legal rights as recognized by state law in people's courts face the problem of "limping marriages" (Pearl and Menski 1998:78). In most cases, these women will have had both a marriage license and a *nikāh*. They are able to dissolve the marriage by court-ordered divorce, however, the husband refuses to give her a *ṭalāq* (which serves not just as the husband's exclusive right to initiate divorce, but also functions to 'block' the wife from getting out of the marriage) which means that she can remarry only according to state law and not Islamic law. Under such circumstances, the woman and her family members will send gifts to the husband to try to persuade him to say *ṭalāq* or give the *kouhuan*, in the patois of Chinese Muslim minorities. Teacher Ding adds that she knows women who gave up their share of the property for the *ṭalāq*. Also, many *ahong* now consider a husband's agreement to divorce under state law as equal to the *ṭalāq*.

Lawyer Mu and Teacher Ding say that while the numbers of polygamous marriages are very low, they see polygamy increasing in Hezhou and surrounding areas. The main driver is higher living standards which enables more men to afford multiple wives or lovers. Lawyer Mu has taken a particular interest in the problem of polygamy. He relates that the most extraordinary case he has encountered is that of a wealthy businessman named Ma Yezi in Guanghe county. In contravention of both state and religious law, Ma Yezi, over 60 years old, has six wives, each one who lives on a different floor in the same apartment. The wives range from the ages of 56 to 16. The sequence of marriages is inversely related to the age of the wife: *lao da* ("old big" or wife number 1) is the 56-year-old and lives on floor one, *lao er* ("old two") is 48 years old and lives on floor two, and so on to *xiao liu* ("little six") who is sixteen years old and lives on the top floor by herself like Rapunzel or Rudāba, in the Persian original. Ma Yezi's tale is an extreme version of an institutional arrangement that is not uncommon in Hezhou and surrounding areas. Polygamy, moreover, among Chinese Muslims, is a right that is the specific purview of men. Despite the significant crossover between Tibetan and Muslim ethnicities, faiths, and communities in southern Gansu, there is no such

practice of polyandry among the Hui. Further, polygamy may be one practice that is bolstered by both religious revival and secular commercialism, in spite of law and gender modernization campaigns.

### *Conclusion*

Muslim female scholars in many parts of the world have made the man-made *fiqh* the target of 'feminist' critique towards an egalitarian re-interpretation of Muslim gender relations (Afshar 1996; Barazangi 2004; Mir-Hosseini 2000; Mir-Hosseini 2011; Siddiqui 1996; Wadud 1999[1992]; Wadud 2006). Chinese Islam has no tradition of jurisprudence. The few legal texts that have entered China, such as the fourteenth-century Central Asian text *al-Wiqāya*, have been translated and taught principally by male scholars and *ahong*. Among Chinese Muslims, family law and especially marriage law are based on the revealed sources of law, the Qur'ān and *aḥādīth*. Men justify behaviors that subordinate the interests of women through these primary sources of Islamic law. It is through this interpretation and application guided by doubled patriarchy, that is, Han shari'a as reproductive of local patriarchy, or to use Pierre Bourdieu's term, the principle of phallonnarcissism (2001[1998]:6), that the Holy Law becomes man-made, and not through formal jurisprudence as in the Middle East.

While Muslim women in China's Northwest operate in institutions that are patriarchal in nature, many rely on guarantees of women's rights in Han shari'a. These partially recognized or unrecognized sources of law are renamed as causes of action for divorce, for example, that are cognizable claims in people's courts. Women who lodge such claims, based on Islamic law, in Chinese courts, are stitching together a feminine interpretation of Han shari'a. Assisted by family members, these women analogize across the "unofficial" and "official" categories of law to claim Islamic rights in Chinese courts. Where patriarchal institutions, such as the family, are too strong or

abusive, women such as Teacher Ding may make seek recourse in state law as applied in formal legal-judicial venues. Nonetheless, the picture from the Muslim Northwest is not necessarily one of state law superseding Islamic law. In both the legal consciousness of Chinese Muslims and the social field of marriage and divorce, legal rights, nodes of authority, and dispute resolution mechanisms from disparate sources of law co-exist.

### PART THREE. PROCEDURAL LAW

I hear it was charged against me that I sought to destroy institutions,  
But really I am neither for nor against institutions.

–Walt Whitman, “I Hear It Was Charged Against Me” (1860)

## CHAPTER TEN: The Bureaucratization of Islamic Procedural Justice in China

### *Introduction*

The present chapter and the one following analyze how the Party-State bureaucratizes religious experts, *a'imma* or *ahong*, in contemporary Northwestern China, and its implications for the procedural justice of Han shari'a. By *procedural justice*, I mean those authoritative institutions, channels, and methods available to parties in dispute that are used for enforcing rights and obtaining redress. In particular, these procedural aspects direct a claim through the disputing process.

The discussion of this chapter and the one following straddles two sides of bureaucracy: an actor-centered view that centers on the key figure of the *ahong* and a structuralist vantage that considers the *ahong* and the organs of the Party-State together as iterations of a particular logic of power in uncanny China. The former draws inspiration from Herzfeld's work (1993) who has examined bureaucracies' capacity to institute indifference in state functionaries. In applying this perspective to *ahong*, I ask what effects does their submission to two imagined authorities, God and the Party-State, and their dual entrustment to dispense justice in accordance with disparate legal orders have on their sense of the (in)coherence of their mixed-heritage jurisprudence and of themselves? Or, as local leaders who mediate disputes under two different systems, Islamic and socialist, how do they mediate between those two orders? The second, structural, perspective addresses the inter-dependence of the Party-State and *ahong* as a particular instance of *ling* (magical power, efficacy)<sup>1</sup> (Sangren 1987a), "alternative civilities" (Weller 1999), or the "cultural nexus of power" (Duara 1988). Relations between *ahong* as God's local representatives and cadres as the local executor of Party law and policy are interdependent. In Muslim centers in Northwest

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<sup>1</sup> In his study of local territorial-cults in a Taiwanese town, Sangren observes members attributing power or *ling* to supernatural agents. He argues that such attribution is a fetishization of the reproduction of social relations themselves (1987a:131). In my understanding, *ling* is a kind of symbolic operator amid a repertoire of symbols (e.g., orthodoxy, authenticity, legitimacy, and so on) that mediates notions of order/disorder among gods, officials, and ancestors. My invocation of *ling* draws on its capacity to mediate relations between religious and political authorities.

China, the Party-State appropriates the authority of *ahong*, but local politics determine the extent to which the state makes such co-optation known. In turn, the Party becomes dependent upon Muslim leaders at the local level. Co-dependence between state and society is both an expression of Chinese institutional life, what I call doubled patriarchy, and a catalyst for reproducing such relations. Bureaucracy is a deep structure inscribed in Chinese society, not just an instrumentality of the state. That is, while the state bureaucratizes *ahong*, both the state and *ahong* are 'acted upon' by bureaucracy as an organizing principle in Chinese institutional life.

The organization of the present and following chapters is as follows. This chapter begins with a brief discussion of mediation as one of the common means of dispute resolution among Hui in Northwest China. Then, building on Chapter 2, I present a profile of the *ahong*, an Islamic authority who adapts Chinese mediation to address conflicts in the Northwest. Next, I assess the ways in which the Party-State bureaucratizes *ahong* as mediators. Lastly, I identify a dispute constellation in Northwest China to understand the course of a dispute through both popular and state venues. The following chapter continues the discussion on the procedural aspects of Han shari'a through two ethnographic accounts of mediation in the Northwest that illustrate intersections of law and bureaucracy, what I call "unofficial bureaucracy" and the "spectacle of the law." Subsequent chapters examine the substantive content of Han shari'a.

### *Mediating Conflicts, Mediating Legal Orders*

While scholars have overturned the stereotype of East Asian societies as non-litigious or conflict averse (Feldman 2000; Haley 1978; Ramseyer 1988; Upham 1987), legal experts agree mediation continues to be one means of solving inter-personal problems in China (Cohen 1966; Halebua 2005; Huang 2005; Pierce 1994; Read and Michelson 2008). Mediation is a practice that has deep moorings in Chinese legal culture. Confucian philosophy privileges non-coercive approaches to

conflict management, namely, a leader's embodiment of virtue that is a model for others.<sup>2</sup> In addition to philosophical text, social practice traditionally demonstrated a preference for mediation.<sup>3</sup> Mediation existed at every level of traditional Chinese society, the model of which was the family head who would mediate tensions within the family, but could also be seen in the heads of lineages, and even the local magistrate who favored extrajudicial adjustments and referred cases to nongovernmental mediators (Ch'u 1965:20–21; Cohen 1966:1209, 1216; Freedman 1958:36). In one of the few exceptions to Mao Zedong's disparagement toward traditional practices, he privileged mediation over adjudication.

With the founding of the PRC, mediation took two forms that were institutionalized under the state: the first was popular mediation (*minjian tiaojie*) or extra-judicial people's mediation committees (*renmin tiaojie weiyuanhui*; hereinafter, "PMCs") in villages, resident committees and work units and the second was judicial mediation (*sifa tiaojie* or *fayuan tiaojie*) within people's courts. Both harmonized local disputes with the broader ideological values of the Party through discussion, persuasion, and exhortation (Lubman 1999:40–59). The reform era has seen greater regulation and "legalization" of mediation. Both PMCs and judicial mediation are seen as supplementing courts in promoting social stability as part of the larger project of building "rule of law" (*fazhi*) (Halegua 2005).

The 2010 People's Mediation Law is the first national legislation dealing with mediation exclusively.<sup>4</sup> It defines PMCs,<sup>5</sup> and also requires judges to encourage litigants to seek mediation and

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<sup>2</sup> See e.g., Analects 12:13 (Confucius 2003:132).

<sup>3</sup> A Chinese preference for mediation should not be over-stated. Johanna Meskill's historical study of the Lin family in Qing era Taiwan, for example, clearly demonstrates a strong counter-current of a "culture of violence [that] accounted for the near-permanent feuding that overtook the island" (Meskill 1979:87) in the 1840s and 1850s. Hezhou's own history during the late nineteenth century to the beginning of the Communist Period is further evidence that local society was as quick to militarize as it was to mediate.

<sup>4</sup> Prior to the 2010 People's Mediation Law, the basis of PMCs was primarily administrative rulings, for example, the 1954 Provisional Rules Governing Organization of People's Mediation Committees (Lubman 1967:1318).

settlement and provides incentives for judges to do so.<sup>6, 7</sup> The law has been interpreted as a retreat from “rule of law” and as disguising of authoritarian directives in globally fashionable “alternative dispute resolution” (Minzner 2011).<sup>8</sup> Western analyses of PRC mediation share a critique that mediation in modern China has served *political* means, whether Mao’s mass-line, rule of law ideology, or one-party authoritarianism, and traditional mediation was more passive and benign. However, it is more likely that the practice of mediation has never fully been unhinged from overlapping Confucian, lineage, and imperial ideologies. The hallmark of mediation (and its preference over the imposition of law) being the parties’ voluntary agreement to identify mutuality of interests under the guidance of a neutral authority has long been shown to be another instance of “harmony ideology” (Nader 1991; Nader 2002; Nader 2007).<sup>9</sup> However, the role of ideology in mediation does not invalidate the latter as a means of resolving problems. More importantly, mediation is seen tied to Chinese norms. The role of *ahong* as “people’s mediators” presents an aberration—non-Party members called upon to solve disputes according to the norms of Islam under a socialist legal system that, by definition, cannot recognize religious law.<sup>10</sup>

The case of Islamic authorities in Northwestern China complicates anthropological notions of “this world” bureaucracy and otherworld bureaucrats (Ahern 1973; Feuchtwang 1992; Gates and Weller 1987; Sangren 1987a; Sangren 1987b; Weller 1987; Wolf 1974; Yang 1961), namely for

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<sup>5</sup> People’s Mediation Law of the PRC (*Zhonghua renmin gongheguo tiaojiefǎ*; hereinafter “Mediation Law”), issued 28 August, 2010 by the Standing Committee of the National People’s Congress, effective 1 January, 2011, art. 7 defines people’s mediation committees as composed of three to seven members with one person serving as director and, optionally, one or more people serving as deputy director(s). It further specifies that in ethnic minority regions, PMCs should have ethnic minority members.

<sup>6</sup> Mediation Law, art. 18.

<sup>7</sup> Mediation Law, art. 6. The Supreme People’s Court has established performance target systems, including number of cases mediated, upon which salary and career rewards are based (Minzner 2011).

<sup>8</sup> As pointed out to me by the Hui head of the judicial bureau of Haiyuan County, Ningxia, the new law does not require lawyers and judges working in the judicial bureau (as opposed to the court) to mediate first (HA 10/30/2010).

<sup>9</sup> Shapiro (1986:3) offers a generic definition of mediation. The mediator operates only with the consent of the parties and may not impose solutions. While not binding, the mediator works through suasion to align not just the interests of the parties but the dispute with social norm, allowing a space for the entry of ideology.

<sup>10</sup> The place of Islamic alternative dispute resolution in the procedure of secular legal systems has received widespread attention in debates about multiculturalism in the U.S., France, and other Western states. See An-Na’im 2000; Rafeeq 2011; Wolfe 2007).

Islam's central tenet of the oneness or indivisibility of God (*tawḥīd*). At the same time, Chinese Muslims are *culturally* Chinese. Although there is no bureaucracy in the Islamic vision of heaven, there are sub-bureaucratic mediators among Chinese Muslims. While only having a weak basis within *fiqh*, mediation has entered into Muslim societies through local cultural practices, from Malaysia (Noor 1998; Shah 2009) to Morocco (Geertz 1971:50–51; Rosen 1984:4, 11). Everywhere, Islam is localized, and in China, Chinese Muslims' practice of mediation reflects Chinese dispute resolution practices. The most prominent mediator among Hui is the *ahong*.

### *Absent Authority, Substituted Authority*

Whenever I entered a mosque, men I met would sooner rather than later suggest I speak with the *ahong*. However, I discovered *ahong* were not always easy to find. Whether in prayer, in class teaching *manla* (students), or outside the mosque attending to any number of matters from members of the *jamā'a* whether childbirth, naming of a child, illness, weddings, funerals, or family disputes, *ahong* were exhaustingly busy. Indeed, having worked in the offices of several international law firms, I found *ahong's* time to be more scheduled (albeit in an almost chaotic fashion) than many law firm partners whose time is managed by the hyper-capitalist system par excellence, billable hours. I discovered that one of the largest expenditures on time for *ahong*, particularly the more influential and well-educated ones, was not in fulfilling their religious duties per se, but attending meetings held by governmental bodies or Party organs. I spent hours waiting for *ahong* only to find that they had been in meetings at various religious or ethnic affairs bureaus. My interest in the bureaucratization of *ahong* as a window into the complex relationship between social and state forms of power and authority was a result of my initial inability to make appointments with *ahong*.

The *ahong*, as the lifeblood of the *jamā'a*, plays a central role in the wellbeing of the mosque community. The *ahong* assumes the tasks of the *imām* (one who leads prayer) and the *khaṭīb* (one who gives the Friday sermon). To some extent, the *ahong* has additionally taken on the duties of the *qadi* (Islamic judge) and *mufti* (legal scholar who interprets shari'a) in addressing the panoply of legal concerns of the community or *jamā'a*. One *ahong* analogized himself to a general practitioner physician, saying that his role was "comprehensive" (*zonghexing*) (HZ 5/3/2010). The legal issues that *ahong* mediate include those between members of the *jamā'a*, conflicts between the *jamā'a* and other *jamā'a*, and relations with governmental bureaus and Party organs. Thus, the *ahong* is community leader, problem-solver, public relations expert, storehouse of Islamic knowledge, and judge. He is the touchstone of communitarian values (Eickelman 1985:125; Rosen 1989a:58) and therefore a focal point of the Party-State's propaganda.<sup>11</sup> As such, he is the pivot between Islamic law and state law. Often, the *ahong* finds himself in the position of educating and reminding members of the *jamā'a* of their obligations under Islamic law in the face of widespread adoption of Chinese custom. For these reasons, his importance in the production of Han shari'a cannot be overstated.

*Ahong* are the religious elite in Hezhou. Their authority can become unchallenged in the absence of checks within the mosque administration.<sup>12</sup> In many instances, due to their high level of education and literacy, they have a monopoly on interpreting and applying the law. A few have studied abroad at elite universities in Saudi Arabia, Pakistan, Egypt, and elsewhere. Most have been on the hajj to Mecca, seen as a requirement to becoming an *ahong* (not necessarily so for *ahong* elsewhere in China). For these reasons, members of the *jamā'a* tend to follow the instructions of

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<sup>11</sup> The significance of the *ahong's* role is parallel to that of the local or "grassroots" judge who Peking University Law School professor Zhu Suli views as irreplaceable in filling in the gaps of law and making concrete decisions from otherwise unclear law (2000:5–6) and who historian Philip C. C. Huang has conceived as the mediator between custom and code (2001:7). Outside of the China context, a parallel role was played among the Hadrami diaspora of Yemen living in Southeast Asia by the "family solicitor" who was a specialist in translating Islamic law into English law in locales such as Singapore (Gilsenan 2012:184).

<sup>12</sup> See below on the mosque administration committee.

their *ahong*. One senior member of an Yihewani *jamā'a* in Hezhou implied the *ahong's* authority is unquestioned in stating, “Here, we have a problem. The faithful do what the *ahong* says” (HZ 12/19/09). The typical profile of a Hezhou *ahong* is a married Hui man in his 40s from Hezhou who was educated by “scriptural hall education” (*jingtang jiaoyu*) in Hezhou,<sup>13</sup> elsewhere in Gansu or Qinghai (see Appendix A). Many *ahong* were students (*manla*) at the mosque where they now teach.

Despite my initial inability to make appointments with *ahong*, I was eventually able to meet with almost all of Hezhou's *ahong* for at least one interview session that ran from thirty minutes to over three hours. I conducted interviews with *ahong* and senior members of all of Hezhou's 35 major mosques and leaders at Hezhou's 23 Sufi tomb complexes. I selected certain influential *ahong* in each *jiaopai* for follow up interviews and was fortunate to develop friendships with *ahong* in each of the major schools, including the Gedimu, Yihewani, Salafiyya, Xidaotang, and the two main Sufi organizations or *menhuan* in Hezhou.

### *Making Ahong, Maintaining Ahong*

Upon walking into any office of a mosque or a Sufi institution in Northwest China, a visitor is confronted with the entire corpus of laws, rules, and administrative regulations governing Islam—on the walls. Laws are displayed in full text. Regulations issued by numerous governmental bodies at the relevant administrative level are printed in small font on sheets of paper a meter square so that the laws, in their entirety, can be viewed at a glance. From Lintan in southern Gansu to Haiyuan County in Ningxia to Hami in northeastern Xinjiang, the administrative offices of mosques and Sufi shrines are wallpapered in legal texts, literally wrapped in the letter of the law. Although public display of PRC religious rules does not itself appear to be a formal requirement of the law, *ahong*

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<sup>13</sup> In Northwest China, unlike places such as Henan (Shui and Jaschok 2002), all *ahong* are male.

and senior members of mosques do so due to the frequent visits of cadres and to display their compliance with the law.<sup>14</sup>

Max Weber viewed bureaucracies as a requirement for the rationalization and systematization of justice. The bureau, as the form of modern organized action by officials, was one category of “rational legal authority” (Weber 1978[1922]:219). Bureaucracy and law proceeded in step in the modernization of procedural justice. In contemporary Northwest China, Party–State and local Muslim societies’ relationships are shaped by both law and bureaucracy. However the two do not always operate together and, sometimes, work at cross-purposes.<sup>15</sup> Therefore, against official state discourse that propagates a unilinear view of legal (and bureaucratic) modernization, governance in the Muslim Northwest is replete with contradictions between types of authority. Rather than a Weberian (or Marxist) evolutionary progress toward legal modernization, local rule is characterized by complexity, inter-mixture, and Bafanghua-like creolization.

The thick handbook with a green cover (as green is the color of Islam) entitled *A Reader in Islamic Policies and Legal System Education (Yisilanjiao zhengce fazhi jiaoyu duben)* (2003) can be found in the offices of many *ahong* in Gansu, often next to copies of the Qur’ān. The handbook states that in accordance with “rule the country according to law” (*yifa zhiguo*),<sup>16</sup> religion must undergo a process of “law-ization” (*falühua*) (2003:293). Law-ization or legalization (Diamant, Lubman, and O’Brien 2005:3), in general, assumes two forms in regulating the observance of Islam in the Northwestern territories. The first is that of licensing, registering, and requiring training and patriotic education, what Starr and Collier call the “interactional” or pragmatic function of law (1989:22). In this role, the law is an instrument performing some action or, more precisely,

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<sup>14</sup> This observation is my inference. While *ahong* are required to uphold state law (see below) they are not necessarily required to popularize it. My experiences meeting with *ahong* when cadres would stop in, usually unannounced, required that the *ahong* have his house in order.

<sup>15</sup> For more on this relationship, see the following chapter.

<sup>16</sup> For background on “rule the country according to law” as a policy statement and its place in the “rule of law” movement in reform China, see Biddulph 2005; Cabestan 2005; Cao 2004:4, 42, 49; Peerenboom 2002a:6, 58, 64, 70.

requiring actors to perform an act in order to maintain the enjoyment of some right, for example, religious practice.

The second use is less recognizable but no less common. This second role focuses on law's capacity to frame its own relation to the categories it engenders. Since the 1980s, a centerpiece of the literature on law and anthropology has been the investigation of law in maintaining state power, whether as ideology or hegemony in the Marxist or Gramscian traditions (Comaroff 1994; Hirsch and Lazarus-Black 1994; Myers and Brenneis 1984). Many studies have approached the reproduction of power through judges' and lawyers' monopoly on framing social relations and conflicts within law (Greenhouse, Yngvesson, and Engel 1994; Kennedy 1997; Merry 1990; Michelson 2006; Philips 1998). Pierre Bourdieu investigates what he terms the "juridical field" and professionals' monopoly on legal language to account for the misrecognition or "induced misunderstanding" of law's autonomy (1987:813). It is through the language of the law and its effects that law obtains complicity in those it dominates (Bourdieu 1987:844–848). To put it crudely, lawyers write legal language in such a way (passive voice, arcane references, universalistic tone, hyper-rationalistic construction, etc.) that the lay population confers upon lawyers the exclusive right to operate in the legal field, thus believing law is doing the work when it is really the lawyers. Although Bourdieu sought to describe the place of law in modern liberal societies, there are aspects of his analysis that apply to (post-)socialist China. In the PRC legal regime for regulating Islam, law not only defines the roles of mosque leaders and their scope of activity, but in so doing, claims sovereignty over such roles and the very capacity to define. The PRC regime of regulating religion borrows much from the system of mosque administration prior to the Communist period, but in the reform period, Party-State law and policy assumes a monopoly in organizing Islamic life. However, as the following chapter shows, the Party-State's claim to monopoly is not always effective.

The regulation of Islam in Hezhou and elsewhere in the Northwest shows two roles of law, instrumental and ideological. These can be seen in the matrix of administrative rules and regulations (*tiaoli*, *banfa*, and *guiding*) pertaining to religious practice. While several national laws guarantee freedom of religion,<sup>17</sup> there is no specific legislation on religion (Potter 2003:325). The Religious Affairs Regulations issued by the State Council is an administrative source of law.<sup>18</sup> The Religious Affairs Regulations and secondary administrative rules issued by the State Council or the Religious Affairs Bureau (under the State Council) regulate four areas of religion: “religious groups” (*zongjiao tuanti*), “religious activity areas” (*zongjiao huodong changsuo*), “religious property” (*zongjiao caichan*), and “religious instruction personnel” (*zongjiao jiaozhi ren yuan*), the last of which is of chief concern in this chapter.

Local governments issue administrative regulations under the authority of these national-level regulations. The rules created a division of labor in mosques and other religious activity areas (e.g., Sufi institutions) that, at its most basic, consists of an *ahong* responsible for “religious affairs” (*jiaowu*), namely leading the faithful in prayer and giving instruction to students, and a mosque committee, comprised of elder members of the mosque, who handle day-to-day matters (*shiwu*). The Temporary Measures of the Linxia Hui Autonomous Prefecture Religious Affairs Administration (2006; hereinafter, “Linxia Measures”)<sup>19</sup> for example, applies to all religions in Linxia Prefecture and not just Islam. The Linxia Measures require religious instruction personnel to have a “qualifications certificate” (*zigezheng*). The Provisional Measures of the Gansu Province Islamic *Ahong* Administration (2000; hereinafter “Gansu Ahong Measures”)<sup>20</sup> defines *ahong* as those who possess an “*ahong* certificate” (*ahong zhengshu*) or a degree from a state-run Islamic

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<sup>17</sup> See, e.g., Constitution of the PRC, art. 36 and Law of the PRC on Regional National Autonomy, art. 11.

<sup>18</sup> Religious Affairs Regulations (*Zongjiao shiwu tiaoli*), passed by the State Council on 7 June, 2004, effective 1 March, 2005.

<sup>19</sup> Temporary Measures of the Linxia Hui Autonomous Prefecture Religious Affairs Administration (*Linxia Huizu zizhizhou zongjiao shiwu guanli zanxing banfa*), effective 7 January, 2006 by the authority of the Linxia Hui Autonomous Prefecture People’s Government.

<sup>20</sup> Provisional Measures of the Gansu Province Islamic Ahong Administration (*Gansu sheng Yisilanjiao ahong guanli shixing banfa*), promulgated 12 December 2000 by the Gansu Province Religious Affairs Bureau.

Institute and whom are hired by mosques to teach the scriptures (art. 2). Those *ahong* who did not graduate from a state-run Islamic institute (i.e., the vast majority) must take an examination to acquire the *ahong* certificate. The exam itself tests the candidate's knowledge of the Qur'ān, *aḥādīth*, and *faxue (fiqh)*, and applicable state law and regulations. With one exception, all of Hezhou's *ahong* acquired their education elsewhere than at a state-run institution, that is, in scriptural hall education. What this means is that the legal requirement licenses *ahong* without training them—this responsibility is left to non-state institutions, namely the mosques. The *ahong* certificate is more a stamp of the state's approval than a formal recognition of proficiency in a body of legal knowledge.

The Gansu *Ahong* Regulations, chapter three, enumerate the rights and obligations of *ahong*.

Article 11 *Ahong* must carry out the following obligations:

- a) Respect and uphold the Constitution, laws and regulations;
- b) Within the permitted context of the constitution, laws, and regulations, engage in religious activities, arrange religious affairs and scriptural hall education, lead, and propagate to the followers. Boycott all illegal and prohibited activities.
- c) Promote and maintain inter-faith, inter-*jiaopai (menhuan)* and *jiaopai (menhuan)* internal peaceful unity.
- d) Maintain close contact with the followers, accept the public's supervision, obey the mosque democratic administration committee's leadership and management;
- e) Be devoted to one's post, incorruptible in one's self-discipline, and respect one's work diligently;
- f) Maintain the religious activity area's lawful rights, according to the law, protect the property of the religious activity area;
- g) Energetically participate in production labor and social public interest work;
- h) [Uphold] the other duties of the Constitution and legal regulations.

Article 12 *Ahong* enjoy the following rights:

- a) Perform one's responsibilities according to Islamic doctrinal rules and engage in orthodox religious activities within the premises of the religious activity area;
- b) Engage in the arrangement and translation of religious scriptural materials and religious academic research;

- c) In accordance with the rules of the religious activity area, obtain living expenses, accept followers' voluntary *nietie* (Ar. *niyyah*);<sup>21</sup>
- d) Offer advice and criticism of the religious activity area's management committee's work, reflect the opinions and wants of the followers;
- e) In accordance with the relevant regulations for contact with foreigners, it is permissible to engage in activities of the nature of religious academic [work] and friendly exchange with external religious groups and religious personages;
- f) Participate in the political theory and religious knowledge studies and training of the government and Islamic Associations' organizations at all administrative levels;
- g) According to needs, one can accept a work position or self-study;
- h) Other rights in the Constitution, laws and regulations.

Of note, the rules do not give *ahong* any express grant of authority to mediate disputes and omit any mention of the Qur'ān and *aḥādīth* or other sources of Islamic law.<sup>22</sup>

The counterweight to the authority of the *ahong* is the mosque committee that under the religious regulations has a greater amount of power than the *ahong*. The mosque committee hires *ahong* for a maximum duration of three years,<sup>23</sup> although many stay only one or two years. A few retain their position for successive tenures. The mosque committee pays their salary mainly from donations by members of the mosque *jamā'a*. As provided for in the Gansu Province Islamic Mosque Administration Measures (1999; hereinafter "Gansu Mosque Measures"),<sup>24</sup> the mosque committee is composed of a minimum of three individuals, one director, any number of vice-directors, and at least one other committee member, usually retired elders who are elected by members of the *jamā'a* for a term of three years (art. 6).<sup>25</sup> Their chief responsibilities are to hire *ahong*, manage the

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<sup>21</sup> *Niyyah* in Arabic means "intent" or "intention" and is an important concept in Islamic law (Rosen 1984:49-52). Chinese Muslims have adapted the term to mean "give with intent" but most Hui associate *niyyah* with the material donation itself. See Chapter 4.

<sup>22</sup> One notable exception is Provisional Measures of the Gansu Province Islamic Religion Activity Area Scriptural Study Class Administration (*Gansu sheng Yisilanjiao zongjiao huodong changsuo jingxueban guanli shixing banfa*), promulgated 13 December 2000, by the Gansu Province Religious Affairs Bureau which mentions the Qur'ān, *aḥādīth*, and *fiqh*.

<sup>23</sup> See Gansu *Ahong* Regulations, art. 18.

<sup>24</sup> Gansu Province Islamic Mosque Administration Measures (*Gansu sheng yisilanjiao qingzhensi guanli banfa*), passed by the Sixth Representative Assembly of the Gansu Province Islamic Association on 17 November, 1999.

<sup>25</sup> There are additional roles that are frequently created within the mosque committee, for example, the "person in charge of general affairs" (*zongwu*), who manages all property within the mosque including *awqāf*

students, and arrange and oversee instruction at the mosque (art. 7.1). The mosque committee also manages all of the finances and property of the mosque (art. 7.2). Further, the members of the committee should “assist the government in propagating and implementing judicial, educational, marriage, family planning, and related laws and policies, and cannot in any form interfere with such work” (art. 7.4). Mosque committee members are additionally responsible for striving to create the “four good maintains” (*si ge weihu hao*): good democratic management, good launching of religious instruction, good self-cultivation, and good beautification of the environment. If a mosque or Sufi institution consistently demonstrates adherence to these slogans, then they acquire a gold plaque emblazoned with four or five stars. These join other plaques such as “peaceful religious area” (*ping’an zongjiao changsuo*),<sup>26</sup> if the mosque refrained from violence with another mosque or Sufi institution or the state, next to the texts of religious regulations on mosque office walls. Such accolades are a practical implementation of the state’s discursive construction of religion at the local level. For purposes of the present discussion, one of the chief differences between the *ahong* and the mosque committee is that the latter is vested with the power to mediate disputes among members of the *jamā’a*.<sup>27</sup>

In terms of Communist rule over mosques, the state preserved the division of labor between religious and civil matters in the *ahong* and mosque committee, respectively, an inheritance from the Qing,<sup>28</sup> and sought to ensure the decentralization of authority in empowering the mosque committee with the rights to hire, oversee, and fire *ahong*. This balance of power, an inheritance from the pre-Communist period as much as a construct of contemporary regulation and policy, has become in some mosques a struggle for power and often has more immediate consequences for the

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but not foodstuffs, and the accountant (*kuaiji*), who handles all finances for the mosque, for example accepting donations from members of the *jamā’a* for which he writes receipts.

<sup>26</sup> Such plaques are similar to those placed above homes in Bafang, the Muslim quarter in Hezhou that declare “peaceful home” (*ping’an jiating*) if the household maintained good relations with its neighbors. For similar practices elsewhere in rural China, see O’Brien 2006.

<sup>27</sup> See the Linxia Religion Provisions, art. 15, requiring the mosque committee to assist the government in dealing with conflicts and disputes of a religious nature.

<sup>28</sup> See Chapter 1.

well-being of the *jamā'a* than does the mosque's relationship to the Party-State. For instance, a young *ahong* affiliated with a Gedimu mosque had become the most well-known and talked about *ahong* in Lanzhou, but was fired in 2010 by the more conservative mosque committee, despite the fact that the *ahong* had greatly increased the number of Muslims attending Friday service, many of them from Yihewani mosques.<sup>29</sup>

The Party-State's legal definition of the administrative roles of Sufi institutions differs from mosque management in fundamental ways. *Menhuan* under contemporary regulations can be viewed as a dual structure with its own division of labor. The heart of the organization is the system that has been in existence since the first Chinese Sufis established tombs in the seventeenth century. The most important individual is the living disciple of the deceased founder who usually resides within the Sufi complex, in personal quarters within close proximity to the tomb itself, known as the *shaykh*. The *shaykh* is responsible for passing the mystical knowledge of the *ṭarīqa* to initiates. He is viewed by members of the *menhuan* to be a living saint possessing *baraka* and capable of performing miracles known as *karāma*. He further personally possesses all property of the tomb complex(es). The position of successor to the *shaykh* is either designated or inherited. The *dangjiaren* is the general manager of the tomb complex, often a former student and sometimes a future *shaykh*. Not all tomb complexes have a *shaykh*, but all have a *dangjiaren*. If there is no *shaykh*, then the *dangjiaren* will lead students in meditation and acquiring the knowledge of the *ṭarīqa*. Additionally, most tomb complexes have a group of elders, similar to the *xianglao* in mosques before 1949, who assist the *dangjiaren* in managing the non-religious affairs of the tomb complex, including finances, donations, construction, repair, and so on. The positions of the *shaykh*,

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<sup>29</sup> Increasing the size of the *jamā'a* (defined by those in attendance on *jum'a*) is the litmus test of a successful *ahong*. The reasons for the firing varied according to different members of the mosque. Some say that the *ahong* was bringing back from his studies in Egypt interpretations of doctrine that were incongruent with Gedimu orthodoxy. Others attributed the act to the more sensational claim that the *ahong* had multiple wives. The conservatism of the mosque committee in Lanzhou is topped by that of the Salafiyya New Wang Mosque mosque committee that is the only mosque committee in Hezhou that does not permit foreigners to enter mosque grounds.

*dangjiaren*, and elders are not regulated by PRC law or policy. The status of such tombs is “quasi-legal” (Gladney 1987a:52). While there are no laws that refer to tomb complexes specifically, they do fall under the category of “religious activity area,” under relevant administrative regulations and policy.<sup>30</sup>

The Party-State has inserted the second management system in the mosque. This includes the teaching *ahong* and *faren* (legal representative). The teaching *ahong* is usually hired by the elders although this decision must obtain approval from the *shaykh*. If the *shaykh* is the source of the *ṭarīqa*, then the *ahong* is responsible for instructing the shari‘a, including the Qur’ān, *aḥādīth*, Arabic, and Islamic legal doctrine that is unrelated to the mystical practice of the *ṭarīqa*. While some tomb complexes had begun hiring *ahong* before the Communist period, following the establishment of New China, such tomb complex *ahong* are subject to the same registration requirements as teaching *ahong* in mosques. In the contemporary Northwest, the practice of hiring teaching *ahong* among tomb complexes is universal where the tomb complex has students and, in fact, most Sufis affirm that it is a practice that has benefitted the scholarly training of students. The legal representative accepts liability for any wrongdoing committed by the Sufi institution.<sup>31</sup> He is nominated by the *jamā‘a* (i.e., the elders). The requirement to have a legal representative is more or

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<sup>30</sup> See e.g., Trial Measures for the Gansu Province Religious Activity Area Production for Self Cultivation (*Gansu sheng zongjiao huodong changsuo shengchan ziyang banfa (shixing)*), issued 5 June, 1997 by the Gansu Province Religious Affairs Bureau, art. 2; Gansu Province Islamic Religious Affairs Activity Area Scriptural Study Class Management Provisional Measures, art. 1; and Gansu Ahong Measures, art. 5. Additionally, one tomb complex I visited in Hezhou had the text of the Linxia City Mosque (Gongbei) Management Work Secret Protection System (*Linxia shi qingzhensi (gongbei) guanli gongzuo baomi zhidu*), issued by the Linxia City Ethnic and Religious Affairs Bureau and the Linxia City Secret Protection Bureau, 10 May, 1999 on the wall of its office which states that *gongbei* must keep state secrets.

<sup>31</sup> The legal basis of *faren* is the General Principles of the Civil Law of the PRC, issued 12 April, 1986, effective 1 January, 1987 by the National People’s Congress (hereinafter, “General Principles”). Chapter three provides the definition, rights, and duties of the *faren* (lit. “legal person”), “an organization that has capacity for civil rights and capacity for civil conduct and . . . assumes obligations in accordance with the law” (art. 36). The *faren* is most familiar in company law (i.e., as an enterprise is a *faren*); however, the concept also applies to social organizations (*shehui tuantǐ*) and religious organizations. The colloquial usage, based on the law, differs from the definition in the General Principles. When Muslims speak of a *faren*, they mean not the *menhuan* in its entirety, but rather the individual chosen to assume legal liability. Thus, *faren* shows how a religious entity was fit into a category made principally for corporate behavior and, on top of this, a further “grassroots” adaptation in embodying the *faren* in a member of the *gongbei* administration.

less uniform throughout the Northwest amid different *menhuan* and different ethnicities. However, enforcement of liability varies in different parts of the Northwest with relevant bureaus exercising a much higher level of scrutiny over Sufi tombs—Uyghur or Hui—in Xinjiang. One legal representative of a Hui Sufi tomb in Hami, eastern Xinjiang, belonging to a *menhuan* based in Lanzhou laments,

I have been *fa'ren* for two years now and it is exhausting work in Xinjiang, but not in Lanzhou. In Lanzhou, the tomb complex has several hundred *mu* of land. They rent this farm land out, graze their own cattle and sheep, and are even building a three-story dorm for their students. But in Hami, it's totally different. We have only ten *mu* of land. We have to sign off on everything. If any visitors come to the tomb complex, we have to notify the local authorities and get their permission first. A missionary must *boaming* (report) or is denied entrance to tomb complexes or mosques. I am often awakened in the middle of the night by the *anquanju* (lit. "safety bureau" or intelligence-gathering bureau) who randomly come to check the identity cards of all those staying in the tomb complex. This never happens in Gansu (LZ 11/24/2010).<sup>32</sup>

While legalization has increased since the 1980s, another feature shaping state and society relations has been bureaucracy. The history of the CCP has been marked by peaks of bureaucratization followed by efforts, sometimes violent, as in the Cultural Revolution, to streamline Party organization (Saich 2001:98). The reform period initially sought to minimize bureaucratic excess. Studies of the contemporary Party-State, however, have found that decentralization leads to fragmentation rather than de-bureaucratization (Lieberthal 1992). While the reform period has seen increased citizen participation and the pluralization of stakeholders who influence policy (Mertha 2008), this trend has been met by a countervailing directive to regulate emergent civil society, particularly in civil and religious affairs (Chamberlain 1993; He 1997; Moore 2003; Ogden 2002; Pei 1998; Potter 2003).<sup>33</sup> In the Muslim Northwest, bureaucracy

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<sup>32</sup> This interview took place in Lanzhou, at the base of the *menhuan*. I had met the legal representative several months earlier at the Hami tomb complex. He was much more reluctant to speak in Hami. Even his speech was self-censored at the Hami tomb complex in comparison with what he saw as a freer environment in Lanzhou.

<sup>33</sup> Perhaps the most well-known example of bureaucratization as a mechanism that ensures the Party's monopoly in an increasingly plural society is that of *qigong* practices. In the 1980s, the Party valorized *qigong* as an expression of Chinese culture, and established bureaucratic associations to regulate the practice. In the

enters the legal framework at several levels. Law and policy determine categories (e.g., *ahong*, mosque committee, and legal representative) and the criteria for obtaining such positions. Bureaucratization maintains the relationship between such positions, on the one hand, and governmental bureaus and Party organs, on the other, through meetings, training, continued education, propaganda sessions, conferences, and committee formations (all with their own reporting requirements) that exist throughout the duration of the relationship, that is, however long the Muslim individual occupies a position of authority. Through their exposure to government bureaus, *ahong* receive training in Party policy affecting every aspect of “religious work,” from the types of textbooks used in *jingtang jiaoyu* classrooms and content of sermons to mosque financial management. Different bureaus, departments, ministries, and commissions have overlapping jurisdiction for most aspects of Muslim religious and ritual life. The Ministry of Religious Affairs, for example, in conjunction with the Ministry of Foreign Affairs trains *ahong* to lead the annual hajj. This training focuses more on the *ahong*'s role in representing China abroad than instruction in the religious aspects of the hajj.<sup>34</sup> Moreover, all pilgrims who make the annual quota to travel abroad to Saudi Arabia also undergo training in Lanzhou, Yinchuan or Urumqi, although their instruction emphasizes the actual ritual procedure of the hajj.<sup>35</sup>

Government bureaus regulate mosque administration in several regards. First, after an *ahong* is selected by the mosque committee, he must go through a series of approvals, such as at the

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early 1990s, even before Li Hongzhi established the Falun Gong, other masters sought to develop a following outside the official associations. Almost overnight, *qigong* was categorized as a danger to the state (Link 2002). In my own experience setting up the first registration practice in China for international NGOs, the rules are constructed in such a way as to ensure that the state has the monopoly in any given social field (e.g., disaster relief, charity, etc.). The International Committee of the Red Cross (ICRC) is the premier example. Although in most states, the ICRC is a private humanitarian organization, in China, the Beijing Delegation of the ICRC operates more as a governmental agency. Source: electronic communication with member of the Beijing Delegation, 25 January 2010.

<sup>34</sup> Source: interview conducted 21 October 2010, with Salar *ahong* in Xunhua County who was selected to lead the hajj delegation from Qinghai province in 2010.

<sup>35</sup> Source: interviews with hajjis in Hezhou, conducted 8 December 2009, and Lanzhou, conducted 5 January 2009.

neighborhood government and petitioning at the county or countryside levels.<sup>36</sup> He must further report to the higher level of the county government religious affairs bureau. The applicable rules state that he must straddle appointments at the county, local, and province levels while separately petitioning the county, local, and provincial religious affairs bureaus.<sup>37</sup> Second and subsequent to their appointment, under the Linxia Measures, *ahong* must attend training sessions at the bureau of religious affairs to “ceaselessly increase one’s religious knowledge, policy proficiency, and legal consciousness” (*buduan tigao zishen de zongjiao xueshi, zhengce shuiping he fazhi guannian*) (art. 31). Under the Gansu Mosque Measures, the election of the mosque committee members is subject to approval from the ethnic and religious bureaus of the relevant administrative level (Gansu Mosque Measures, art. 6). The organization of personnel within a mosque, that is the *ahong* and the mosque committee, as well as the staff of a Sufi institution, including the *shaykh-dangjiaren-manla* system and the teaching *ahong* and legal representative additions, itself exemplifies the creation of sub-bureaucracies.

The encompassment of local and regional Muslim leadership within Marxist-Leninist bureaucracy has been one of the main channels for state power, even if the strategy of indirect rule pre-dated the modern state (Ma 2000[1979]:90). The CCP approach has varied depending on the location with the Northwest, but generally has sought to co-opt charismatic Muslim leadership in *ahong* and Sufi leaders by incorporating them into administrative and judicial governmental bodies while at the same time minimizing and neutralizing their influence in the community. *Ahong* are thus bureaucratized as Muslim mandarins. Bureaucratization takes a variety of forms vis-à-vis governmental units, Party organs, and quasi-governmental organizations. Administrative rules and regulations further integrate *ahong* into the administrative machinery of the state. As the next

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<sup>36</sup> Gansu Ahong Measures, art. 17.

<sup>37</sup> Gansu Ahong Measures, art. 17.

chapter shows, the effects of bureaucratization vary. In the following, I provide an overview of the process of bureaucratization.

The main bodies that have regular contact with *ahong* include the United Front Work Department, the Nationalities Affairs Commission, the Bureau of Religious Affairs, and the Bureau of Ethnic Affairs. The United Front Work Department (UFWD) is an organ of the CCP and not the administrative state. The UFWD first convened in Beijing on 16 March, 1950, during which the Head of the Northwest Bureau of the UFWD Wang Feng submitted the “Northwest Minorities Problems and the Regime’s United Front Work Problems” (*Xibei minzu wenti ji zhengquan zhong de tongzhan gongzuo wenti*). This report, in part, organized local UFWDs under Party committees at all administrative levels and charged them with Party policy formulation and enforcement in the Northwest. Demonstrating the close linkage between Party cells and governmental units, the UFWD gives recommendations to the Nationalities Affairs Commission (NAC), the main governmental representative body for ethnic minorities, which implements such recommendations (Dreyer 2000:283). Of governmental bodies, the State Administration for Religious Affairs, the central authority for the administration of officially recognized faiths in China, and the State Ethnic Affairs Commission, principally responsible for all matters related to ethnic minorities, both organized under the State Council, the supreme administrative authority of the PRC, have overlapping jurisdiction over Islam in the Northwest. Their subsidiary bodies and are often joined under many autonomous governments. For instance, the Linxia City Ethnic Religious Affairs Bureau (*Linxia shi minzu zongjiao shiwuju*) formed in 1964, was dismantled during the Cultural Revolution, and restored in 1983 (Hai 1993:173).

Unlike many senior members of *jamā’a*, no *ahong* I talked to had joined the CCP. However, non-membership did not prevent them from attending regular meetings and, in some cases, serving as advisors to governmental bodies and Party organs. Most *ahong* do have formal membership in

the quasi-governmental organizations that function as bridges between the Party and Muslim citizens. The most visible of these is the China Islamic Association (*Zhongguo Yisilanjiao xiehui*) known colloquially as *yi-xie*, which exists at all administrative levels. The National Representative Assembly of the China Islamic Association first met in Beijing on 11 May 1953 and passed the Constitution of the *yi-xie*.<sup>38</sup> The Constitution of the *yi-xie* lays out the work of the association, including, *inter alia*, implementing Party-State religious policies, training Islamic talent, producing scholarship, providing consultation in developing new laws and regulations, and developing Islamic curricula. The *yi-xie* is headquartered in Beijing's Muslim quarter known as Oxen Street. Its branch offices in the Northwest, such as the Ningxia *yi-xie* and the Linxia Prefectural and Linxia City *yi-xie* are housed in offices attached to influential mosques.<sup>39</sup> Most *ahong* in Hezhou, for example, are members of their local *yi-xie*, both the prefectural and municipal levels. The exam to obtain an *ahong* certificate was historically administered by the local *yi-xie* (e.g., Linxia City Islamic Association), but in 2010, in Gansu, the rule changed such that only the Central Islamic Association in Beijing had the authority to administer the test, making it much more difficult, several *ahong* said. The Committee on Educational Guidance (*Jiaowu zhidao weiyuanhui*) under the *yi-xie* produces a series of exemplary sermons (known as *wa'z*) which *ahong* are instructed to emulate for their Friday service (see Chapter 5).<sup>40</sup> One *ahong*, who has personally been involved in a series of inter-*jiaopai* disputes, reports that the Committee on Educational Guidance further assists mosques in dealing with such conflicts (HZ 12/8/09), although the *yi-xie* headquarters in Beijing would not confirm this function of the sub-*yi-xie* body (BJ 2/25/10).

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<sup>38</sup> Constitution of the China Islamic Association (*Zhongguo Yisilanjiao xiehui zhangcheng*), passed 11 May, 1953, revised 11 May, 2006.

<sup>39</sup> The Ningxia CIA was based at the Yihewani mosque named Zhongsi (Central Mosque) in Yinchuan until 2009-2010 when it moved to a new office building elsewhere. The Linxia Prefectural and Linxia City CIA are housed in Bafang next to the Salafiyya mosque called New Wang Mosque. The Salafiyya have been a source of governmental scrutiny since they entered China in the 1930s. It is little wonder why the current location of the CIA headquarters is a stone's throw away from the oldest Salafiyya mosque in Hezhou.

<sup>40</sup> See, e.g., Chen 2003; Yang 2005. The collection contains sermons on topics such as "Islam and Filial Piety" (*Yisilan yu xiaodao*) and "Islam Advocates Unity and Harmony" (*Yisilanjiao tichang tuanjie hemu*). Most *ahong* generally prefer to write their own sermons, although they will consult the publications on occasion.

Another bridging organization is the Chinese People's Political Consultative Conference or CPPCC (called *zheng-xie*), which also has a representative at each level of governmental administration. The CPPCC is an organization of non-Party groups, often religious in nature, recruited by the Party, that serve an advisory function in developing policy affecting a wide range of the population, including Muslim minorities. The official goals of these semi-governmental organizations are to communicate state law and Party policies to the grassroots level. Members of these organizations may also assist in collecting information about developments on the ground that can be used for policy design. Influential *ahong* who have high appointments in the *yi-xie* usually have a corresponding position in the CPPCC. Muslims in Gansu call this "one set, two brands" (*yi tao liang kuai pai*). Leaders across different *jiaopai* are represented in these quasi-governmental organizations, although there is a perception that, at the provincial and national levels, Yihewanis dominate as "model *ahong*" as espoused in state media for national and international Muslim audiences (Gladney 1999c:128).<sup>41</sup> Paradoxically, Sufis generally talk more about their leaders' positions, which is most likely a factor of perceived historical discrimination by the government against Sufis.<sup>42</sup> Further, there are perceived differences among *jiaopai*

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<sup>41</sup> In the absence of official rosters of membership per *jiaopai* affiliation, I can give only anecdotal evidence. As to the scholars based in the Beijing CIA, many of the most productive individuals are non-Yihewani (that is, they identify as Gedimu or, as in the case of a recent Ph.D. from Minzu University, as Xidaotang). There are very few Salafiyya. Yihewanis seem to predominate among leadership positions at the provincial level in the Northwest. Yang Faming based at Central Mosque in Yinchuan, Ningxia has the following positions: member of the national committee of the CPPCC, standing member of the CIA, president of the Ningxia Islamic Association, vice chairman of the Yinchuan committee of the CPPCC, and president of the Yinchuan Islamic Association. Yang Sen (1922–2008), former *ahong* of Lanzhou's West Gate Great Mosque (*Xiguan dasi*), served as *ahong* at West Gate Great Mosque from 1987 until his death. He was concurrently the vice-chairman of the Lanzhou City CPPCC, vice-president of the CIA, and president of the Gansu Province Islamic Association. Yang Sen was one of the most well known *ahong* of his generation. *Ahong* such as Yang Sen have served vital roles in (re)establishing Chinese Muslims' ties to foreign Muslims. The CIA dispatched him to Egypt in 1993 where, at an international conference, he was given a gold medal by then president Hosni Mubarak. The following year, Yang Sen went to Malaysia where he founded several exchange programs.

<sup>42</sup> In conversations, Sufis frequently mention the positions of their leaders. For instance, Yang Shijun's successor and nephew Yang Jiefang is also the vice-chair of the CPPCC of Gansu Province and member of the province-level CIA (HZ 12/17/09). Ma Jincheng (d. 2009), the sixth *shaykh* of the Beizhuang *menhuan* in Dongxiang Autonomous County, was a revered Sufi leader. His ties to quasi-governmental organizations were extensive. He was a member of the standing committee of the Gansu Province CPPCC, vice-president of the CIA at both the national level and the Gansu provincial level, vice chairman of the Linxia Prefecture CPPCC, and president of the Linxia Prefecture CIA. He further had regular contacts with the UFWD at the national and

representation in quasi-governmental organizations, bureaus, and Party among the Northwest provinces with Yihewani predominate in Gansu and Qinghai provinces, whereas Gedimu, and especially Khufiyya Sufis, hold sway in Ningxia.<sup>43</sup>

On the whole, *ahong* spend much more time attending meetings convened by governmental bureaus (e.g., ethnic and religious affairs) than in attending to business at their local *yi-xie* or CPPCC. Further, non-elite Muslims differ in opinion as to whether leadership positions in the *yi-xie* or CPPCC matter and to what ends. For example, the ninth *shaykh* of the Grand Tomb Complex of the Qādiriyya *menhuan* Yang Shijun (1903–1997) was an eminent Sufi leader and religious head in Hezhou. Yang Shijun is remembered by Qādiriyya Sufis for leading the restoration of the *menhuan* in the 1980s after the *menhuan* was particularly singled out for destruction in the 1960s and 1970s. In 1984, he successfully mediated a dispute between the tomb complex and the Linxia City Government when the latter sought to build a “sky bridge” or pedestrian walkway over the front entrance of the tomb complex so that people could conveniently enter the Red Square Public Park next door to the tomb complex particularly on the Welcome New Year Lantern Festival (*yingchun denghui*). The Qādiriyya Sufis considered such a construction an insult to Qi Jingyi, their founder buried in their tomb, for the sky bridge would be taller than his tomb. Over a period of several days, tens of thousands of angry Sufis gathered at the entrance of the tomb complex to protest the proposed construction and when the city police were insufficient to maintain control, armed police were assembled from Lanzhou and encircled the area. The head of the NAC came from Beijing and told those gathered to leave peacefully or the armed police would forcefully remove them. The protestors remained intransigent.

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provincial levels. His funeral was attended by 130,000 Muslims as well as a host of dignitaries including the Gansu Province Party Secretary and director of the Gansu People’s Congress Standing Committee, and the vice-director of the Gansu People’s Congress, to name a few.

<sup>43</sup> There are historical reasons for the different proportions of *jiaopai* in the various Northwestern provinces, chief among these being the spread of the Yihewanis during the warlord period (Lipman 1997).

Through negotiations, Yang Shijun and the Linxia City *yi-xie* persuaded the city government to build an underground entrance to the park. Many Qādiriyya Sufis claim that one of the reasons Yang Shijun was successful in his negotiations was that he was vice-chair of the CPPCC of Gansu province and a member of the *yi-xie* at the provincial level. They argue these positions conferred upon him a measure of symbolic capital and leverage vis-à-vis the city officials; further, he had existing social ties within the city government's ethnic and religious affairs bureau that he mobilized these resources in defense of the tomb complex. Indeed, the teaching *ahong* at Grand Tomb Complex says that for Sufi *shaykh* attaining such positions is a criterion of becoming a *shaykh*, that is, recognition of leadership within the *menhuan* depends on recognition by the government (HZ 1/29/10).

Others, including Qādiriyya Sufis, disagree, saying such titles are “empty cups” (*kong beizi*) that are used only to appease Muslim leaders and suggest the Party-State has positive relations with Muslims when the reality may be murkier (HZ 5/27/2010). Naysayers argue the reason for Yang Shijun's success was not his stature in the eyes of the government, but rather, his charisma among his followers and the support of *minxin* (popular sentiment) (HZ 5/27/2010). The most cynical view espoused by Hezhou Hui is that such titling does not confer symbolic capital but, instead, constructs symbolic fetters or an iron cage of propaganda around influential Muslims.

Extensive ties with government bureaus and formal appointments to quasi-governmental organizations are the baseline of bureaucratization. However, beyond this baseline, there are myriad forms of bureaucratization among *ahong* and other Muslim leaders in the Northwest. Existing theories of bureaucracy, whether those of Weber, Marx, or Foucault,<sup>44</sup> provide only partial

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<sup>44</sup> To this list of theorists of bureaucracy, I would also add Hannah Arendt. Although Arendt never fully developed a theory of the bureaucracy, she viewed the construction of bureaucracy, along with the invention of race, as the two devices of imperialism (1976[1966]:185). The totalitarian state, however, is lawless and institutes terror in law's place, so that “terror is the essence of totalitarian domination” (Arendt 1976[1966]:464). As I argue in the following chapter, law plays an important role in bureaucratization, even

assistance in explaining what happens on the ground. Bureaucratization of *ahong* does not conform to Weber's classical depiction of modern bureaucracy: official "jurisdiction areas" ordered by rules (i.e., laws or administrative regulations), characterized by office hierarchies occupied by fixed career officials who manage their offices through documents (Weber 1978a:956–963). Formalized appointments of mosque leaders, where they exist, are largely hollow. The specialized training *ahong* receive in mosques, "scriptural hall education," is not that which is offered by state education, despite its efforts to monopolize the education of young *ahong*.<sup>45</sup> Hierarchies are confounded and turned upon their head. Most poignantly, rather than foment efficiency, bureaucratization of *ahong* leads to congestion in decision-making and overall burdens the flexibility of *ahong* to attend to the needs of their *jamā'a*. Rather than rational efficiency, practice in the Northwest is marked by what Herzfeld calls "bureaucratic obstructionism" (1993:158).

Bureaucracy as control finds expression in Marxist approaches as seen in the writings of Ernest Mandel. Writing at the fall of the Soviet Union and the rise of post-capitalism in Eastern Europe, Mandel viewed bureaucracy as a product of the material forces of production with a three-way dialectical struggle between pro-capitalist forces, bureaucracies, and mass labor organizations (1992). The partial assimilation of labor unions and organizations by bureaucracy eroded the autonomy of workers. Mandel's view illuminates an understanding of the state's appropriation and monopolization of organizational resources among laborers. His approach is nevertheless predicated on the distinction between "mental work" of bureaucrats and manual labor of workers. In applying the Marxist approach to the study of Muslim mandarins, the class-based distinctions or modes of labor break down. *Ahong* are principally engaged in the deployment of reason, persuasion, reconciliation, and mediation. These are the same faculties used by cadres in propagating Chinese socialism to the masses. The similarity in labor performed by *ahong* and

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if it does not operate according to expectations (i.e., as ensuring substantive justice, economic or distributive justice, etc.)

<sup>45</sup> See Chapter 3 on education.

agents of the state is another manifestation of the bureaucratic forms through which that labor is performed, whether in mosque, Sufi institution, quasi-governmental organization, Party organ, or state ministry.

Foucault presents a different approach to bureaucracy in what he calls governmentality (1991). Foucault envisions governmentality as the exercise of power from the bottom up. Foucault is credited with moving the study of power from an exclusive and transcendent prince to internal forms of government that govern households, souls, children, and so on (1991: 90). Gramsci, however, writing in the 1930s, anticipated Foucault in many respects in his analysis of the various circuits in the bureaucratic state, such as intellectuals, that organize and administer coercion and consent. Gramsci's non-economistic Marxist analysis is helpful in thinking through the relationship between the Party-State and the *ahong* as well as that between the *ahong* and the members of their mosque community. In his notion of intellectuals, Gramsci identifies a class of intermediaries who exercise hegemony on behalf of the dominant social group (2000:300–301). The subaltern cannot “organically” develop its own intellectuals to oppose those of the dominant group, because the raw talent that would become the subaltern's intellectuals is precisely that which is co-opted by the dominant group (Gramsci 2000:300–301). Viewed in this light, the Party-State's bureaucratization of *ahong* partially forecloses the emergence of a class of anti-state intellectuals. As the next chapter demonstrates, the process of co-optation is incomplete.

In the remainder of this chapter, I locate *ahong* mediators in a dispute constellation to demonstrate at which points the Party–State bureaucratizes fora for resolving disputes. While judicial and religious organs define and delimit such venues, at other points of the dispute constellation, dispute resolution goes on outside of the ambit of official control. The multiple nodes of mediation within the dispute constellation and the interplay between official and unofficial

venues illuminate the logics of the “cunning of recognition” (Povinelli 2002) in state law’s appropriation of its other.

### *The Disputing Constellation among Muslims in Northwest China*

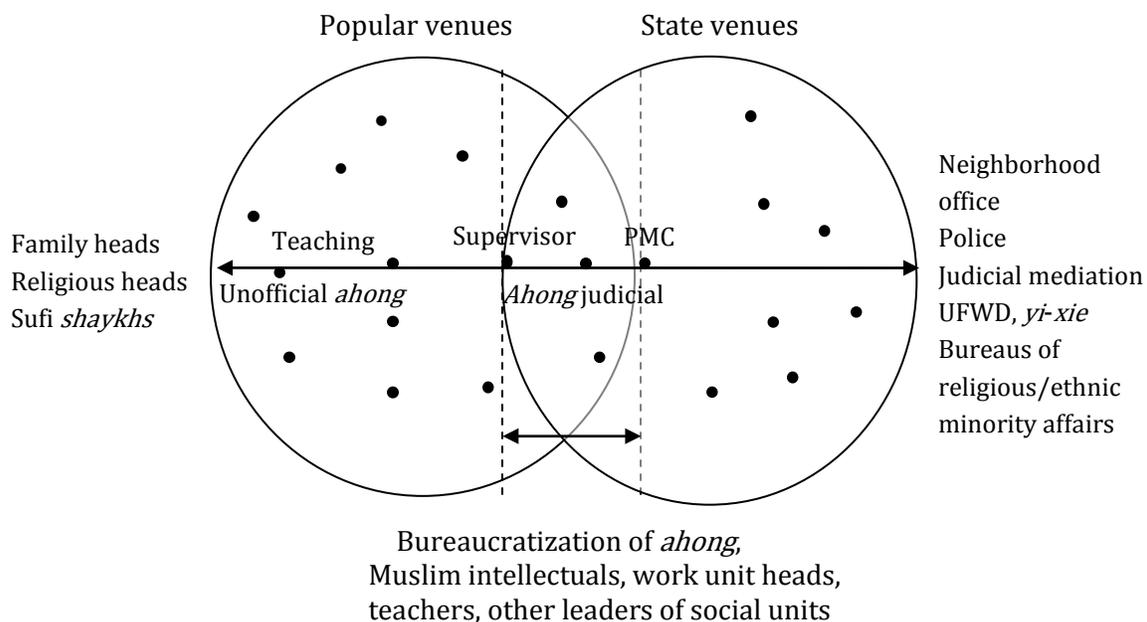
The dispute pyramid, a fixture of the literature on law and society, posits a model for understanding the trajectory of a grievance, once recognized as such, to a legally cognizable claim, and finally a judicable dispute, the number of which decrease the farther the life of the conflict (Felstiner, Abel, and Sarat 1980; Galanter 1983; Miller and Sarat 1981; Nader and Todd 1978). Sociologist Ethan Michelson has redesigned the model for rural China as a “dispute pagoda,” for in contrast to the classical pyramid the successive layers of the pagoda are not mutually exclusive and so do not progressively narrow; hence it is not path dependent (2007:460). Although I share Michelson’s resistance to a teleological reading of disputing, his model eschews the universe of informal means of conflict resolution. Many Chinese engaged in conflicts choose simply to avoid formal channels, whether legal or administrative (Xin 2005; Zhu 1996), and yet they do not simply “lump” their contention, but rather look to informal means. Disputing in China shows a *mélange* of venues and methods of solving conflicts, ranging from extra-legal and extra-judicial to formal adjudication. These include mediation via “premodern” corporate groups and associational life in rural society revitalized in the reform era (e.g., lineage corporations, clan organizations, surname associations, deity cults, temple communities, women’s networks, and trade associations) (Feuchtwang 2001; Liang 1999; Sangren 1984; Weller 1999; Zhu 2000), leftover Soviet and Maoist organizations (Huang 2005), “letters and visits” (*xinfang*) (Fang 2009; Minzner 2006; Thireau and Linshan 2005), petitioning higher bureaucratic levels (*shangfang*) (Diamant 2005), lawsuits (Jiangang and Chao 2008), arbitration (Gallagher 2005), as well as protest, demonstration, civil disobedience (Frazier 2005; O’Brien 2008; Perry and Selden 2001; Rooij 2010), and their on-line equivalents (MacKinnon

2008; Yang 2009). Some disputes “move up” (O'Brien and Li 2006) and others “move down” (Michelson 2008). The diversity of fora and the multi-directionality of disputes is a consequence of China's legal pluralism.

Disputes involving Muslims in Northwestern China in theory evidence a transformation from informal to official mechanisms (and within both, a process of appeal from lower to higher stages), but, empirically, disputes in Hezhou and elsewhere often cut back and forth across the official/unofficial line, sometimes exploding outwards and in other times contracting, or exist in multiple fora simultaneously.<sup>46</sup> In short, disputing is amorphous and unpredictable. To underscore the diversity of fora, I prefer an image of a constellation of nodal points, each representing a method of solving disputes that may or may not have a relationship (synchronic or diachronic, hierarchical or ahierarchical) to other nodes. At a general level, these nodes can be placed in two overlapping spheres: popular/unofficial/informal and state/official/formal venues of dispute resolution (Illus. 23). These nodes exist along a spectrum. Moving from left to right, on the left, an example is the “unofficial *ahong*” (*minjian ahong*), usually a well-educated member of a *jamā'a* who may have held a position in a mosque at some point in his career but who no longer has any formal standing and thus has no power to solve conflicts. Moving to the right is the teaching *ahong*, who are registered but not empowered to mediate. Further right is the *ahong* who has been chosen as a supervisor (*jianduyuan*) to a formal governmental or Party body. Moving farther to the right side is a man nominated as a member of a PMC, whether or not he possesses the formal requirements.

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<sup>46</sup> In one of the few ethnographies of law in China, Paul Katz finds a “judicial continuum” in ideologies of justice and ‘legal’ practice between official settings and popular rituals such as chicken beheadings and oath-swearing (2009).



Illus. 23 Mediation constellation in the Northwest.

Examining *ahong* and Muslim leaders along the spectrum of recognition within the informal sphere of dispute resolution more closely, it becomes apparent that arrangements between *ahong* and the Party-State take numerous forms. The most widespread use of mediation by teaching *ahong* in Northwestern China occurs without government consent. As with the relationship between the judiciary and popular institutions for dispute resolution among ethnic minorities throughout China (Bai 2008; Wang 2009a; Wang 2009b), local legal and judicial bureaus have sought to diminish this non-regulated mediation to the extent possible. The common form for the integration of *ahong* into such bureaus is as PMCs. In many areas in the Northwest, Muslim PMCs play a prominent role, particularly in the countryside where legal consciousness is thinnest. But not in Hezhou. The reason for this exception is not that Hezhou *ahong* are any less well versed in Islamic law than elsewhere in the Northwest; contrarily, the erudition and ability of the *ahong* is the reason for their exclusion. Historically, Hezhou *ahong* have demonstrated too concentrated forms of authority; the state is concerned that further grants of authority could confer too much symbolic capital onto a non-state

authority. Thus, the process of bureaucratization is itself fraught with anxiety—that of the Party-State.

Within the sphere of formal venues of dispute resolution, there is an administrative hierarchy that follows, roughly, the process of appeal. For Muslims living in Bafang, the heart of the Muslim district in Hezhou, the hierarchy begins at the neighborhood office (*jiedao banshichu*), police substation (*paichusuo*), and finally the people's court (itself made up of basic, intermediate, and supreme courts for both Linxia City and Linxia Prefecture). The neighborhood office is usually the primary mediator, that is, the “court of first instance.” The neighborhood office is itself divided into the politics and law office (*zhengfa bangongshi*), the comprehensive administration office (*zonghe zhili bangongshi*), and the judicial office (*sifasuo*), which is an external organ, the local branch of the city-level judiciary, but is nevertheless housed within the neighborhood office. These organs are responsible for family conflicts, including marriage, marital duties, those between brothers, property disputes, and neighbor problems. In addition to the administrative ladder, members of Party organs such as the UFWD, quasi-Party organizations such as the *yi-xie*, and specialized government departments as in the bureau of religious affairs, all of which exist at each administrative level, can mediate disputes of a religious nature.

The bureaucratization of *ahong* occurs at the overlap between formal and informal spheres. Bureaucratization is by no means limited to *ahong*, but also recruits teachers, principals, and other civil servants who, as heads of their respective work units, are authorized under administrative regulations to mediate disputes within their organizations. While not members of legal-judicial organs, such civil servants nevertheless play an important role in solving minor disputes. Further, some civil servants may mediate disputes according to Islamic law. A friend and civil servant in a ministry in the Linxia City government, “Fareed” regularly mediated disputes from 1996 to 2000 before he was transferred to another department. He observed that the Mediation Law privileges

mediation before litigation in civil suits, the administrative system operates differently and no such requirement was placed on administrative procedures, as in divorce. The 2003 Regulations on Marriage Registration, for instance, does not require the municipal civil affairs bureau to mediate in the event that a husband or wife seeks a divorce.<sup>47</sup> Fareed concedes that most civil servants would not mediate divorce or other disputes based upon Islamic law, but that such a person would have to be a “Muslim intellectual” (*Muslim zhishifenzi*), like himself. Although he is no longer the head of his bureau, under which he frequently mediated divorce cases, he says he has trained the younger generation to do so and, upon request, he still mediates divorce disagreements. In a span of a week, between two of our meetings, he said he mediated five cases (HZ 10/15/10).

In terms of the process of dispute and the multiple venues through which a grievance will proceed on its way to becoming a cognizable claim, an *ahong* who was the head *ahong* of one of the most active Yihewani mosques in Hezhou and now teaches in Lanzhou said that the process of dispute often moves from the neighborhood office to an *ahong* and, lastly and rarely, the court (LZ 3/30/2010). In the countryside around Hezhou, as well as in rural areas in Ningxia, *ahong* are generally more active in resolving disputes. A civil dispute will begin with the family head and then may move to an *ahong*, or, alternately, the village head (*cunzhang*), PMC or village committee (*cunweihu*), or an official organ such as the judicial bureau, and finally, the people’s court (LC 6/8/2010).<sup>48</sup> Thus, whether in urban or rural areas, a dispute can be “appealed” to an *ahong* from a “lower” non-state actor, or, occasionally, as described below, a dispute will find its way to the courts

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<sup>47</sup> Marriage Registration Regulations (*Hunyin dengji tiaoli*), State Council, effective 1 October, 2003, chapter three merely requires the couple to register their divorce agreement. Thus, the regulation removes the onus for mediating any dispute arising from divorce from the local civil affairs bureau.

<sup>48</sup> The *Linxia Hui Autonomous County Cadre Legal Knowledge Training Material* (*Linxia Huizu zizhizhou ganbu falü peiyang jiaocai*) (2010), a handbook for civil servants in legal and judicial organs, lists the following as the most common disputes in the countryside: personal injury, marriage and maintenance, property, land expropriation, contract, land contract, and neighbors. It lists the following as means of dispute resolution common among peasants: litigation, decisions by town and country judiciary mediation organizations, disputants’ self-resolution, adoption of extreme measures to make decisions (*caiqu jiduan fangshi jieju*), and dependence on familial and clan force or even “evil power” to make decisions (*yikao jiating he zongzu shili ji zhi e shili jieju*) (Han 2010:466).

and then will be “remanded” to an *ahong*.<sup>49</sup> In either trajectory, disputes transgress the official/unofficial boundary.<sup>50</sup> In the mixed procedure of Han shari‘a, a party dissatisfied with mediation by an *ahong* may resort to the people’s courts. In short, any dispute involving a Hezhou Muslim, which invariably involves an issue that touches upon Islam and therefore Islamic law, may conceivably begin, proceed through, or end in one or more of these nodes.

The movement of a grievance through the boundary between official and unofficial spheres of dispute resolution should not be construed as one of facility. Instead, movement across the boundary or even within one sphere often entails tension. This tension results from the “cunning of recognition” (Povinelli 2002)—the limited recognition state law confers on Muslim legal authority and, conversely, the limits placed on official fora to address a claim based on Islamic law. As one woman, encountering marital difficulties, explained, “To solve my problem with my husband, I could go to the *ahong*, but my husband might not heed his decision. It would be without effect (*wuxiao*). Or, I could go to court, but they don’t go to the religious basis (*zongjiao jichu*) of the problem” (HZ 10/24/09). While in theory courts recognize claims based on *xiguanfa*, in practice, courts will not hear a case if a Muslim bases her argument on Islamic law. The rejection of the case is a result not only of formal law’s non-recognition of Islamic law, but such claims’ failure to meet the procedural requirements of the formal law (for example, if the woman based her argument on the existence of a *nikāh* and not a marriage license under PRC law, then the judge would have no basis for making a decision.) Disputants with a problem stemming from Islamic law are faced with a choice between official and unofficial venues, neither of which is ideal, and the result is procedural anomie, a mismatch between problem and forms of redress.

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<sup>49</sup> Or, a dispute that finds its way to a county-level judicial bureau could be kicked back down to the village committee (HZ 10/30/2010).

<sup>50</sup> A Hui lawyer in the Linxia County Judiciary Department who studied law in Yinchuan, Ningxia and has practiced for twenty years, said that in the villages in Linxia County and Dongxiang County, outside of Linxia City, the venue of first instance is either the people’s mediation committee of the village committee or an *ahong* and then the court, however, both lawyers and judges are empowered to mediate before litigation (LC 6/8/2010).

The choice of means to settle disputes, that is the venue or forum, depends on several factors including the nature of the dispute, the identity of the disputants (e.g., ethnicity, age, religion, education, *jamā'a* membership if Muslim, general socio-economic background and resources—and whether these categories are shared between the parties), and the quality and number of such venues available to the disputants. The choice of venue is usually a result of negotiation between the parties, and involvement from representatives of state or Islamic authority. If police are involved at the early stage (e.g., the scene of a vehicular accident) then the dispute will be siphoned into formal channels. If an *ahong* is involved at an early stage, then the *ahong* will be the preliminary mediator.

The threshold issue is the nature of the dispute. In contemporary Hezhou, almost always, criminal matters will be investigated by the police substation under the neighborhood office.<sup>51</sup> The Bafang neighborhood office has a population of 4,507 households and a total population of 14,384 people, 98 percent of whom are Hui, attending a total of seven mosques. A billboard outside the office in 2010 entitled “List of Investigated and Mediated Contradictions and Disputes” (*Maodun jiu fen pai chadiao chu*) included the following statistics on the number of individuals in the community who had committed criminal offenses (i.e., prosecuted by the court system): drug use (*xidu*) 167, “reform through labor and re-education” (*lianglao*) 47, child abuse (*weiqing*) 6, “heterodox schools” (*xiejiao*) 0, and “serving sentence outside of prison, under surveillance (*jianwai*) 6, for a total of 226 processed cases.<sup>52</sup> Although merely a snapshot view of the types of criminal activity that occur in Bafang, the publicly displayed information reinforces the state’s monopoly on dispensing criminal justice.

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<sup>51</sup> An exception occurs when a vehicular death is both a tort and a crime. See Tort Liability Law of the PRC (*Zhonghua renmin gongheguo qinquan zerenfa*), adopted 26 December, 2009, art. 4. In this situation, it is possible for both the official system and *ahong* to investigate the accident.

<sup>52</sup> The billboard had information current though August, 2010. At an average rate of 28 cases per month, there would be an estimated 338 cases per annum. Note that the list of punishments does not purport to provide an exhaustive list of crimes committed. Civil matters are not publicly displayed.

*Ahong* do, however, mediate a broad spectrum of civil disputes (*minshi jiufen*) in order of frequency: family matters including marital relations (*fuqi guanxi*), father-son relations (*fuzi guanxi*), and inheritance (*jicheng*); neighbor disputes (*linju guanxi*); accidental death or what would be called “tort” in common law systems or delict (*qinquan*) in continental law systems, of which the PRC system is part; and, lastly, property, dietary, and miscellaneous matters of Qur’anic law. While such disputes may not appear disruptive to those beyond the dispute (they can be), they are nevertheless the warp and woof of the everyday in Hezhou and elsewhere in the Northwest. In the event of larger disputes, for example, between *jiaopai*, the government plays a much more active role. The government’s role is not exclusive however; that is, government bureaus almost always work with *ahong*, either those involved in the dispute or influential *ahong* of the same *jiaopai*.

The forum to which an aggrieved party looks for redress, compensatory, punitive, or otherwise, also depends on the identity of the parties. Among Hezhou Muslims, disputes are normally addressed in the first instance by either the neighborhood office or an *ahong*. If the disputants belong to different *jamā’a*, then parties will agree that the *ahong* of the aggrieved party’s *jamā’a* should take the case or a neutral third-party *ahong* will be identified. The aggrieved party’s *ahong* has jurisdiction unless the dispute resulted from an incident tied to a specific location (for example, commercial disputes between Hui and Dongxiang arising in the sheep hide market) where a neutral *ahong* may have a kind of customary jurisdiction. In addition to different *jiaopai* affiliation, another characteristic of the parties that can affect venue choice when it differs is that of ethnicity. While the Muslims in Bafang are almost entirely ethnically Hui, Linxia city itself has smaller populations of Dongxiang, Salar, and Bonan, as well as an even smaller number of itinerant Uyghur businessmen. Among Muslims of different ethnicities, they will generally follow the same choice of venue preferences as those of Hui disputants from different *jamā’a*.

The most striking instance of “forum shopping,” the idea that litigants choose the forum of law which is most favorable to their case, in Hezhou, occurs between the choice of a people’s court versus an *ahong’s* chamber when one party is Han and the other is Hui. As the population of Linxia city is nearly evenly split between Han and Hui, and despite their self-segregation, intercourse between the ethnic groups is regular. While Islamic taboo forbids much interaction between Hui and non-Muslim in the market, the common example from Hezhou for inter-ethnic interaction is roadways. Vehicular accidents have increased steadily in Hezhou since the 1980s. In an accident during which the defendant is a Han who accidentally injures or kills a Hui pedestrian or bicyclist, the Han defendant will agree to recourse of an *ahong* as the mosque sets a standard for damages that is lower than that of the official system. The Han therefore agrees with the *ahong’s* resolution as the Han knows that any court will require him or her to pay out more compensation (*peichang*; HZ 11/24/2009). The cost-benefit analysis considers additional factors, as well. As related by an *ahong* at one of Hezhou’s oldest mosques, disputants (Muslim or non-Muslim) will avoid judicial organs for a variety of purposes. Litigation is expensive for both legitimate and unlawful reasons; many litigants end up giving considerable sums of money to bribe judges. Besides economic costs, there is widespread disdain among residents of Bafang for those who repeatedly resort to courts (HZ 12/8/2009). Bafang Hui complain that those who resort to courts mar inter-household relations within the neighborhood. Under this set of circumstances, the rational actor chooses an “irrational” belief system and the non-Muslim voluntarily acquiesces to religious authority.

Other than accidental death, where the choice is between an *ahong* or a court, for most day-to-day disputes between family members, businesspeople, or members of the Muslim community at large, the first decision for venue selection, then, is between the neighborhood office and an *ahong*. Most Muslims indicated a preference to first consult their *ahong*, although given that the *ahong* must attend to the needs of the whole *jamā‘a*, often exceeding several thousands of people, his time is spread thin. A member of one of the local people’s congresses in Bafang suggested that

sometimes going to an *ahong* is simply inconvenient. “If you have a problem,” he explained, “you call ‘110,’ the hotline, and a team from the neighborhood office will arrive to help mediate the problem. *Ahong* are busy and hard to find much of the time” (HZ 10/5/2010). According to a survey of the 34 mosques within Linxia City, all *kaixue* or teaching *ahong*, with one exception, mediated civil disputes. The one *ahong* who flatly denied settling any kind of disputes among his *jamā‘a* was a forty-year-old ethnically Salar *ahong* of a small Gedimu mosque whose predominant trait was infectious nervousness. He told me “religious law cannot exceed state law” (*jiaofa chaobuguo guofa*); every police station has someone in charge of family conflicts and so people resort to this person (HZ 9/28/2010). As shown in the next chapter, the Yihewani *ahong* Nasim said nearly the same thing, but the difference between the two is that the latter has a very high caseload of several disputes per day largely because he has maintained a capacity to mediate according to religious law despite or because of his own bureaucratization.

The vast majority of *ahong* who mediate inter-personal cases among their *jamā‘a* do so according to Islamic law without permission from state authorities. However, they do so to greatly varying degrees. The extent to which an *ahong* assumes this responsibility depends on several factors including: (a) age and the duration of his service as the *ahong* of the mosque, (b) his personal and familial history with the *jamā‘a*, (b) his educational background and whether he studied abroad (most commonly in Egypt, Pakistan, or Saudi Arabia), and (c) his ability to cultivate amicable relations with the *jamā‘a* and, related, such interpersonal intangibles as charisma, personality, approachability, warmth, communication skills, and humor. *Jiaopai* was not an important variable for whether *ahong* took on cases, but showed some correlation with caseload. Yihewani and Salafiyya *ahong* assumed a higher caseload than their Gedimu or Sufi peers.

Most *ahong* go about their mediation work without interference from public security organs, although they maintain an awareness of the limits to applying Islamic law. Usually,

disputants will go to the *ahong's* chambers in the mosque to consult with him or the *ahong* will go to their home. Despite the state's efforts to divide responsibilities between the *ahong* and the mosque committee, in practice, there is much blurring between the two, with *ahong* joining committees in addressing disputes or one or more senior members of committees enpaneling with the *ahong*. In hearing cases, they adhere to the fundamentals of Islamic procedure. A common example comes from divorce law. In cases where the issue is whether the wife can keep the *mahr* (dower, Ch. *pinli*) or whether the husband must pay the wife a deferred *mahr*, and the underlying question is whether a valid marriage was performed according to the requirements of the matrimonial contract (*nikāḥ*), *ahong* will call the witnesses to the wedding ceremony to hear testimony.<sup>53</sup> When *ahong* go to a follower's home to mediate, they inform the disputants of the relevant Islamic law. For instance, in an inheritance dispute, when the male head of the household dies, the *ahong* will explain the Qur'ānic rules of compulsory succession (HZ 11/9/2010). However, there is a limit to the mediation works of *ahong*—they can educate and inform about Islamic law, but they cannot enforce it or in any way punish the disputants for failure to actually follow Islamic law. Legal enforcement falls squarely within the ambit of the Party-State's monopoly, and so is the point where state law turns from implicit recognition of non-state law to hostile abrogation.<sup>54</sup> Hence, the typical situation is for *ahong* to mediate the range of civil or personal status law problems among their *jamā'a* according to unenforceable Islamic law without official sanction. Pure Islamic law is *law without force*. As the word of the *ahong* is non-binding, self-enforcement depends on the disputants' religiosity—if indeed both are Muslim. If one or both parties are dissatisfied, then they “appeal” to the official system, which happens more in Hui versus Han disputes than in those involving coreligionists. Thus, it is not just that the *ahong's* mediation occurs “in the shadow of the law” (Mnookin and Kornhauser 1979) and through the potential force of the secular sovereign, but rather, dispute resolution operates through commitments to Allah.

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<sup>53</sup> Interview with a Gedimu *ahong*, trained in Hezhou and Hezuo (HZ 11/13/2010).

<sup>54</sup> See Chapter 5 for the case of the KTV affair.

On either side of the teaching *ahong* are two other types, one that is less bureaucratized and more alegal than teaching *ahong* and the other that is more bureaucratized. The alegal type is called the unofficial *ahong*. The unofficial *ahong* differs from the teaching *ahong* in that the former is not currently registered and licensed to teach as an *ahong* in a mosque, although he may have been at some point. He does not serve presently as an *ahong*, but rather makes a living usually through entrepreneurial enterprises. He has established himself as an authority in Islamic knowledge and accrued symbolic capital through study abroad, publication, or translation of works on law and jurisprudence in Arabic. China's unofficial *ahong* are similar to *a'imma* in western secular states, such as France, who are not affiliated with government-sponsored Islamic organizations (Bowen 2010:48–49). However, the unofficial *ahong* may have ties to a mosque, such as is the case with Abdu Ahong (introduced in Chapter 3). As to why Hezhou Muslims, mainly those of his *jamā'a*, seek mediation from him and not the *ahong* of the mosque, Abdu Ahong reasons:

*Ahong* in China, like anywhere, but particularly in China, have the responsibility to settle disputes of their *jamā'a* per shari'a. The *ahong's* main responsibilities are communicating the teaching (*chuanda*), promoting harmony within their mosque (*si li fayang hexie*), and enforcing [sic] shari'a (*zhixing sheli'erti*). The problem however, is that most *ahong* don't have much interaction with society; their circle is quite limited. Consequently, while they have book learning, they lack life experience. It has nothing to do with their age, but rather, the livelihood of the *ahong* (HZ 12/21/2010).

The Linxia city civil servant Fareed concurred, stating, "*minjian ahong* have more room to maneuver; the [*kaixue*] *ahong* are tightly regulated," he said, using a phrase attributed to the Legalist philosopher Han Feizi, "it is *as if* [italics added] they are in jail (*shenxianlingyu*) . . . they have to watch their back (*kan houbel*)" (HZ 10/15/2010). Like teaching *ahong*, unofficial *ahong* apply Islamic law, but they may specialize in areas of substantive law that differ from those of *ahong* affiliated with a mosque. Rather than intra-familial disputes, they will take on disputes between neighbors, businesspeople, and members of the Muslim community at large. In terms of the procedure for taking cases, as he does not have the kind of relationships that a teaching *ahong*

has with members of his *jamā'a* (one that could be described as coarse confidentiality as it is rarely observed in practice—given the strong propensity for gossip in *jamā'a*), Abdu Ahong stresses that he takes cases only when both parties come to him and voluntarily transfer authority to him. His reputation in Hezhou as a businessman bolsters his visibility in the business community. Often, a purchase of a Chinese translation of a legal treatise leads to a consultation with Abdu Ahong regarding a legal problem. Like teaching *ahong*, Abdu Ahong does not accept remuneration for his mediation, although he acknowledges an opportunity cost in spending time on a case away from his business or translation work. Mediating problems in the community enhances business, although too much visibility may invite inquiries from public security organs.

Under the category of *minjian*, in addition to unofficial *ahong*, another element of Islamic procedure that works in parallel with the official justice system is unofficial investigation (*minjian diaocha*). The unofficial investigation is conducted by members of a mosque to assist police in collecting evidence in regards to an accident. Usually, the incident is vehicular death. There is no legal basis for unofficial investigation, except for the right of the mosque committee to settle disputes that may entail investigation and collection of evidence. However, not only are unofficial investigations not uncommon but, unlike unofficial *ahong*, public security organs may actually seek out the assistance of members of a mosque to lead an unofficial investigation. Still, unofficial investigations are not institutionally bureaucratized. The teaching *ahong* of one of Hezhou's oldest and most prominent Gedimu mosques has led unofficial investigations on several occasions. In a 2009 case, a hit-and-run that resulted in the death of a Hui by a Han, the *ahong* and the mosque's *dongshihui* ("board of trustees") was active in leading an unofficial investigation that helped police find the man responsible. The *ahong* said, "We organized mosque members to interview people who saw the incident, take photographs, and so on. This is the work of a *minjian diaocha* (pronounced *jiaocha* in Bafanghua). The *dongshihui* worked with police during this period.

Ultimately, together [with the police] we found the offender. The police later thanked the mosque” (HZ 12/8/2009).

In a previous case, the mosque conducted an unofficial investigation in conjunction with the police and subsequently argued on behalf of the deceased’s family to reduce the sentence.

According to the *ahong*, in 2000, a thirty-year-old male Han taxi driver struck and killed a seventy-year-old Hui woman at one of the major intersections of Hezhou, called San Dao Qiao (“Three Bridges”), a chaotic and dangerous intersection, parking lot, and way station for the transport of livestock and wholesale goods. The woman was visiting for the day from Xiahe, 100 kilometers from Hezhou and the site of Labrang Monastery, the largest Tibetan Buddhist monastery outside the Tibetan Autonomous Region. In his words,

The police didn’t know what to do, as the woman didn’t have any identification on her. It was only clear she was a Muslim because of her *gaitou*. The Linxia City Traffic Brigade representative came to our mosque as we were the mosque nearest to the scene of the accident. They didn’t know what to do with the body, so they consulted us. We decided to give the woman full rights pursuant to Islamic law—the body had to be interned within three days of the death. We performed *xili* (cleaning ceremony), clothed the body in *baibu* (white sheets, Ar. *kafan*), and then performed the *binli* (Ar. *jināza*, funerary prayer). Lastly, we held the *zangli* (Ar. *dafin*, burial rite) at North Mountain. By word of mouth, the family in Xiahe found out and came to our mosque. They then went to the tomb together. They thought the burial was handled properly and gave *nietie* (donation) to the mosque. The Traffic Brigade gifted money to the mosque, as well. In terms of the taxi driver, he was caught at the scene of the crime by the police. According to state law, he would be sentenced to prison. However, we knew that he was *pinhan* (of a poor family) and that if he were to be so punished, his wife and children would suffer greatly. So, we negotiated on behalf of the family with the police to lessen his punishment to a fine, ultimately, of 8,000 yuan” (HZ 12/20/2010).

The unofficial investigation is different from an unofficial *ahong* in that the former is affiliated with a licensed teaching *ahong* himself associated with a mosque and thus, to a certain extent, tracked by public security organs. The unofficial *ahong*, on the other hand, is outside the system and, consequently, a source of disquiet to the Party-State. In mid-2009, the religious affairs bureau of Hezhou began transitioning to a system under which registered *ahong* would receive a salary of

1,500 yuan per month. However, as of late 2011, *ahong* I spoke to who had registered had yet to receive any money. Many *ahong* thought the measure was introduced to encourage unofficial *ahong* to register and to weed out their prevalence.

On the other side of unofficial *ahong* from teaching *ahong* are the bureaucratized *ahong*, who, although recognized by judicial organs, operate in a zone outside formal law. The judiciaries of Hezhou, at both the city and prefectural level, are aware of the central role of Islam in the lives of the 1,147,200 Muslims who call Linxia Prefecture their home.<sup>55</sup> A Hui lawyer who has worked at the prefectural judiciary for fourteen years stated that 40 percent of the judges at the prefectural level are Muslim and approximately the same for city-level judges (HZ 12/20/2010). While no judge will accept a case based purely on religious law, judges often find elements of Islamic law in cases before them, a mixture of religious law and state law, or, less frequently, litigants making arguments based on Islamic legal principles or doctrines. The usual circumstance is one party making a claim under Islamic law and the other party counter-claiming invoking state law. To use the example already mentioned, in which one of the wives in a polygamous arrangement brings a suit to enforce her marriage rights, arguing her husband who is shirking his responsibilities is bound to her by *nikāḥ* despite the absence of a marriage license, litigants or disputants seeking mediation may raise issues of religious law (to no effect), but, according to PRC law, judges are barred from mentioning Islamic law during a litigation proceeding or mediation. While any mentioning of religious law is stricken from the formal record of a lawsuit, the bar on mentioning religious law does not apply in the process of mediation. According to a civil servant in the Linxia City Intermediate Court, the *tanhua/duihua bilu* (record of parties' speech) may include arguments that cite Islamic principles. A judge conducting judicial mediation (not litigation) may consider these arguments. As mediation is conducted, judges may consider the "pitiable condition" of

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<sup>55</sup> This is a composite number of all Muslim ethnic minorities residing in Linxia Prefecture in 2010 including: 646,000 Hui, 467,200 Dongxiang, 16,800 Bonan, and 10,500 Salar (Chen 2010:2).

disputants and infringements of marriage, inheritance, or property rights protected by Islamic law may come to the fore (HZ 10/1/2010).

When Linxia judges encounter a case replete with questions of Islamic law, they occasionally make recourse to soliciting the expertise of an *ahong*. The former head of the Linxia Prefecture CPPCC told the following account:

Recently, I attended a conference in Lanzhou, also attended by a justice from the Gansu Province Supreme Court. He mentioned a case where he was confronted with a conflict of law between an uncle and a nephew. It was an economic case that involved religious law. In session, the judge said that the two should consider *minjian tiaojie xiguan* (unofficial mediation customs); what he meant was an *ahong*. He then went so far as to give his hotel room number to the parties. Likewise, he invited the *ahong* to his hotel room. This is prevalent in Hezhou (HZ 10/10/2010).

The lawyer in the prefectural judiciary confirmed that when judges call upon an *ahong* it is as “judicial mediators” (*sifa tiaojieyuan*). The term “judicial mediators” is subject to some slippage in usage among Hui in Northwest China. This use of judicial mediator differs from that discussed above under which judges mediate disputes brought to court before resorting to litigation. In Hezhou, it seems to refer to temporary positions that are not PMCs (see also Bai 2011).<sup>56</sup> Elsewhere, such as in Ningxia, lawyers and members of judicial cadres who use the term refer to PMCs. Exemplifying bureaucratization without legalization, such appointments in Hezhou are ad hoc administrative relations rather than positions based on law.

Unlike elsewhere in Northwest China where *ahong* are hired permanently and put on a payroll as judicial mediators, these arrangements in Hezhou are almost always informal ad hoc arrangements. Fareed, of the Linxia City Civil Affairs Bureau, thought that Hezhou did have a more routinized non-civil servant judicial mediator system soon after the “opening and reform” policies

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<sup>56</sup> Bai Rongjing, a scholar based at Lanzhou University School of Law, has conducted the only research on *ahong* mediation done by a PRC scholar. His data are from Gansu, specifically Linxia Prefecture and Gannan Tibetan Autonomous Prefecture. While he concludes that *ahong* mediation differs from that of the PMC (2011:136), the scope of his research project does not include Ningxia where there are *ahong* PMCs.

were instituted, beginning in 1980, but it was disbanded just five years later when problems were encountered (HZ 11/3/2010).<sup>57</sup>

How does one make sense of the relationship between the people's courts and *ahong*? There are intra-systemic judicial relationships that might explain this relationship as one of the state courts' use of or even dependence on *ahong* as shari'a experts or religious technocrats. From the viewpoint of the classical Islamic legal tradition, *ahong* play mufti to the PRC judge's qadi.<sup>58</sup> In Muslim states under Islamic law, there is a division of labor between the qadi who is responsible for fact-inquiry and the mufti who oversees legal reasoning and refers to cases (Powers 2002). An analogous relationship is found in the imperial Chinese legal system. Non-civil service private legal secretaries, who possessed specialized knowledge of the law, were employed by the magistrate at the lowest level of the Chinese bureaucracy (Bodde and Morris 1967:113). Yet the use of the temporary judicial mediator goes a step further than either preceding paired set in allowing the *ahong* to converse directly with the disputants and advise them on the appropriate course of action, in accordance with Islamic law. In the event that a case is removed from the official justice system and "remanded" to an *ahong*, he still cannot enforce his decision, and neither will the judge in the original case. He or she relinquishes jurisdiction, in effect nullifying the parties' standing. While the temporary judicial mediator may seem to shunt cases out of the official justice system as another instance of "law as obstacle to justice" (Michelson 2006),<sup>59</sup> *ahong* who assisted courts under such arrangements found that disputants achieved satisfactory outcomes.

Besides intra-systemic qadi/mufti or legal secretary/magistrate pairs, studies of Muslim populations under European colonialism offer a different vantage. In British India, for example,

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<sup>57</sup> I could not corroborate this statement. Nasim disputed the assertion (HZ 11/8/2010).

<sup>58</sup> For an analogy from Chinese imperial law, consider non-civil service private legal secretaries who possessed specialized knowledge of the law and were employed by the magistrate at the lowest level of the Chinese bureaucracy (Bodde and Morris 1967:113).

<sup>59</sup> Michelson found that Chinese lawyers act as gatekeepers in the context of labor grievances, effectively defining legal reality in such a way as to discourage potential suits.

colonial judges used local Muslim experts to develop a body of rules known as Anglo–Muhammadan law (Hooker 1975:94). The French similarly employed qadi, chieftains and charismatic notables as instruments of local rule in Morocco (Eickelman 1985). As noted by Hannah Arendt, colonial bureaucratization entails an exploitative aspect missing in the intra-systemic pairing. Arendt traces the “philosophy of the [imperial] bureaucrat” to Lord Cromer, British Consul General in Egypt from 1883 to 1907, who sought a “hybrid form of government to which no name can be given and for which there is no precedent,” but which itself became the precedent for all other colonialisms (1976[1966]:213). The nameless precedent is based on

“personal influence” without a legal or written political treaty. . . . This kind of informal influence was preferable to a well-defined policy because it could be altered at a moment’s notice and did not necessarily involve the home government in case of difficulties. It required a highly trained, highly reliable staff whose loyalty and patriotism were not connected with personal ambition or vanity and who would even be required to renounce the human aspiration of having their names connected with their achievements (Arendt 1987[1966]:213).

As explained further in the following chapter, this nameless precedent, which leaves no paper trail and provides no accountability, is operative in Muslim China as unofficial bureaucracy.<sup>60</sup>

### *Conclusion*

In the Muslim Northwest, conflicts proceed through a dispute constellation comprised of diverse nodal points of authority or “reservoirs of social capital” (Weller 1999:100) both unofficial and official. I derive two conclusions from the model of the dispute constellation. First, while informants speak of a typical progression from “lower” to “higher” levels *in theory*, in practice, the progression of disputes is inconsistent with uni-directional structures. In the course of a dispute, claims move

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<sup>60</sup> Such a form of governance is found not only in Muslim China but in ethnographic Tibet as well. The Party-State has incorporated Tibetan lamas in Amdo (present-day Qinghai and Gansu provinces), most often in private rather than publicly, to solve grassland disputes among Tibetans. State bureaus enlist the aid of lamas as Tibetans respond to the lamas’ moral or religious authority, and not as part of the state (Yeh 2003:518).

upward and downward as well as sideways, between unofficial and official spheres. Second, whether unofficial or official, most nodes of authority utilize mediation, thus evidencing a systemic predisposition for mediation over other forms of solving problems. Both the state and Islam have evolved in China through its social systems whose practices adapt to the problems of modernity just as they reflect deeply rooted preferences.

What do Muslim mandarins tell us about Han shari‘a? The procedure of settling disputes according to Islamic law in China bears little resemblance to that of Muslim states. The institutions of the qadi and mufti and libraries of legal treatises and cases for reference in settling disputes arguably never emerged in the Northwest, with the exception of the Salar, Uyghurs, and other Turkic Muslims, each with institutions that were variations on the ideal type in Muslim states. Chinese Muslims have adapted Han dispute resolution procedures for the application of their substantive law. In Hezhou mosques, as well as elsewhere in Northwest China, *ahong* apply a patchwork body of Islamic law, including Qur’anic principles and postulates derived from the *aḥādīth*, to problems arising from disputes within their *jamā‘a*. They propagate Islamic law through Chinese-style mediation. The modern Party-State has likewise adopted traditional Chinese mediation as the “front line” mechanism for addressing inter-personal discord, and, further, has appropriated the *ahong* as a resource for handling problems among Muslims. Under certain conditions, the state will delegate authority over dispute resolution to the agents of a different sovereign—the local *ahong*. Thus, from the vantage of procedure, the perceived antinomies of state law and religious law are reconciled, to some extent, by a higher-order level—that is, China’s culture of mediation. In this sense, state, and local religious leaders are themselves formed, deputized, bureaucratized in the image of this order.

At the same time, there is tension built into this informal system. Although the state has adopted a flexible policy to deal with the power of *ahong*, Sufi *shaykh* and other Muslim leaders,

such religious leaders are constantly reminded of the prohibition on the practice of many aspects of Islamic law (e.g., inheritance) when doing so means transgressing PRC law and the absolute bar on Islamic law's enforcement. Although the *ahong* can take on many aspects of procedure in performing ceremonies like the *nikāh* or reconciling disputants, the procedural law of Han shari'a is rendered impotent without the capacity to enforce justice. All *ahong* feel this incapacitation, but respond to it in different ways. Some accept this limitation and mediate within the confines of an un-enforceable Han shari'a. Others do not and practice Han shari'a outside the narrow ambit of lawful behavior as defined by state law.

## CHAPTER ELEVEN: Qadi Justice in Chinese Courts

### *Introduction*

The preceding chapter provided an overall frame of mixed popular/state Han shari‘a procedure, and found that existing theories of bureaucracy did not adequately explain the bureaucratization of *ahong* in Northwest China. The preceding chapter demonstrated the variety of ways in which the Party-State “interpellates” (Althusser 1994[1969]:128) *ahong* through conferring titles, membership in quasi-governmental organization, licensing and certification, and participation in regular meetings. This chapter assesses the degree to which *ahong* turn to the voice of law/bureaucracy (see Butler 1997:5). To do so, it develops an ethnographic theory of the bureaucratization of *ahong*. The Muslim Northwest exhibits a spectrum of bureaucratization.<sup>1</sup> At one end is “unofficial bureaucracy” and at the other, following poststructuralist thought, is an instrument of the “spectacle of the law.” I examine two field sites that illustrate these forms of bureaucracy through ethnographic comparison. In these two case studies, I examine the effects of Muslim community leaders’ subjection to two legal authorities, one socialist and the other divine,<sup>2,3</sup> sometimes at odds with each other. This chapter continues the focus of the previous chapter on the subject formation of *ahong* and its implications for a Han shari‘a of justice.

The previous chapter explained how both law and bureaucracy situate *ahong* as Muslim leaders posed between their communities and government regulation. One assumption of the present chapter is that law affects the forms bureaucratization assumes yet itself may play a limited role in its instrumental sense. That is, bureaucracy does most of the work in aligning the *ahong*'s

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<sup>1</sup> Compare Katz’s “judicial continuum” based upon his study of official/legal and popular/religious venues for justice in Taiwan (2009).

<sup>2</sup> One may wonder, given the privatization of many sectors of Chinese industry and the capitalistic proclivities of most Chinese whether China can still be called “socialist.” A transitional “(post)socialist” may be more precise. For while entrepreneurs have been formally welcomed to the CCP, the state nevertheless maintains a heavy hand in guiding enterprises and planning the economy.

<sup>3</sup> While from the perspective of a Muslim the divine source of law is its guiding principle, from the vantage of anthropology, divine law is socially constructed in the life of the *jamā‘a*, participation in ritual and prayer, and the authority of *ahong* and *shaykh*.

interests with those of the Party-State. Yet law does not drop out of the analysis. Law operates in unexpected ways and this chapter accounts for some of these idiosyncrasies. The previous chapter suggested two meanings of law—instrument and ideology. The former is the pragmatic function of law, for example, licensing requirements. The second is law's capacity to frame exclusively its own relationship to the categories it engenders. This chapter will elaborate this second meaning of law from the perspective of law as a "system of signs" (Kevelson 1988). Although law as discourse has been de rigueur in legal anthropology since the 1980s (Brenneis 1984; Conley and O'Barr 1990; Conley and O'Barr 2005; Duranti 1984; Mather and Yngvesson 1980; Maurer 2003; Philips 1998), a legal semiotic perspective focuses upon law as a communicative act in both legal discourse *and* legal practice or procedure (Kevelson 1988:5). That is, nonverbal acts such as photographs or staged performances of mediation can also stand in for something else. A legal semiotic view does not assume a stance of linguistic determinism, but acknowledges signification and materiality as insolubly bound together in the production of Han shari'ā. That is to say, relations between the *ahong*, his followers, and the Party organs that regulate the mosque community are not determined solely by discourse (i.e., speech acts, persuasion, indoctrination, proselytization, writings, documentation, translation, etc.) but also by positions of patriarchal domination.

Much of legal semiotic thought in the American school stems from the works of Charles Sanders Peirce who has been associated with the legal realists, for example, Jerome Frank, Oliver Wendell Holmes, and Karl Llewellyn among others. Legal realism posits that law does not consist of unchanging norms, but rather diverse influences, of which politics is one, act on law. Simply put, there is a gap between law "in the books" and law in social reality. As I argue elsewhere (Erie 2012), in post-Mao China, that gulf between signifier *fā* (law) and signified (e.g., justice, rights, equality, equity, etc.) has widened dangerously. The signifier has become unhinged from the signified. In spite of or because of this widening gap, the Party-State has responded with the production of more legislation, more "legal popularization," more propaganda, more signs—a

profusion of signifiers with little reference in the real world. As Jean Baudrillard suggests, such simulacra stand in for the absence of reality (1994).<sup>4</sup> The reform era has thus entered a realm of legal surrealism. *Ahong* as Muslim leaders are particularly subjected to law's propagation. It is in the signifying excess of "legal surrealism" (Erie 2012) that legalization matters in *ahong*-cadre relations in Hezhou, and particularly, in law's capacity to affect the form bureaucracy assumes.

In the interaction of legalization and bureaucratization, a second and related effect gives shape not just to the *ahong*'s relations with the Muslim community (i.e., through mediation) but to the very formation of the *ahong*'s subjectivity. This second inquiry begins with the question: who has the capacity to signify (or personify) *fa*? Signifying *fa* takes many guises, including writing about law, teaching law, and informing disputants about the law. *Ahong* may read Islamic law, translate legal texts from the Arabic, exhort and sermonize Islamic law, and even propagate Islamic law (within limits). However, they cannot signify (i.e., make meaning of) *fa* in its procedural sense, that is, they cannot enforce Islamic law. The Party-State has monopoly of signification (and, within it, law's enforcement). The obstacle to enforcement does not derive from PRC law itself (the law omits the mere naming of religious law), but rather, from bureaucratization and its capacity to delimit and neutralize non-PRC legal authorities.

I examine ethnographic cases of the procedure of Han shari'a, the relationship between traditional Chinese forms of dispute resolution, Party-State directives, and divine commandments, and this legal pluralism's internalization in *ahong* subjectivity. The independent variable between the two instances, geography, is selected to show differences in procedural justice between field sites. The presumption is that the type of unofficial bureaucracy found in Hezhou is more unique to

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<sup>4</sup> Cf. Slavoj Žižek, "The fundamental level of ideology, however, is not of an illusion masking the real state of things but that of an (unconscious) fantasy structuring our social reality itself" (1989:33). For Žižek contra Baudrillard, it is not that (state-produced) ideology masks everyday reality (or its absence) but that people realize the state's production of ideology and yet still subscribe to that fantasy. This description has some purchase in contemporary Chinese society. Part of the uncanniness of China is that those subjected to state ideology exhibit a kind of complaisant attitude toward post-Maoist "rule of law."

that location than elsewhere in Northwest China, given its historical and political sensitivities. However, I acknowledge that additional ethnographic evidence from elsewhere in Northwest China would support the claim that forms of bureaucratization found in Ningxia are more prevalent than those in Hezhou. This chapter proceeds by a brief discussion of law and bureaucracy in the Northwest and then provides the cases. It then proceeds into a discussion of the problem of the lack of enforcement powers in the work of *ahong* and how this lack is constitutive of *ahong* subjectivity.<sup>5</sup>

### *Law and Bureaucracy in the Northwest*

As discussed in the previous chapter, both law and bureaucracy operate to make *ahong* in the Northwest. *Ahong* must attain certain legal and administrative requirements in order to be licensed under the state. While the regulations further provide that *ahong* must implement Party policy, attending meetings and participating in the affairs of various bureaus, it is the work of these bureaus in busying and socializing *ahong* that enflashes the outlines of the law. The combination of law and bureaucracy seen in the Northwest, to control and limit *ahong's* authority, is hardly uniform. In certain Muslim communities, law assumes a visible role in official representations of governmental intervention in local communities, whereas in others, law is absent. The presence/absence of law affects the form bureaucracy takes.

One end of the continuum of forms of bureaucracy in the Muslim Northwest is occupied by unofficial bureaucracy. Unofficial bureaucracy works in addition to and, specifically, behind or lateral to, formal bureaucratization. Formal or baseline bureaucratization (see Chapter 10) takes the form of appointments of *ahong* to various governmental bodies, for example, the bureaus of

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<sup>5</sup> A note on methodology. I base the case studies on prolonged discussions with *ahong*. Although my original intention was to pursue, following Eickelman (1985), an “*imām* and I” approach (see also Messick 2008:174; Stiles 2009:ch. 1), because *ahong* occupy an ambiguous position vis-à-vis official legal and juridical authorities, my own capacity to access them was more opportunistic than systematic.

religious and ethnic minority affairs. Unofficial bureaucracy, on the other hand, shows *ahong* functioning as shadowy counselors to judicial officials and public security officers. They are thus “uncanny” in the sense that while their primary duty is a public one toward the *jamā’a*, from the view of the Party–State an equally important function is concealed, not unlike Freud’s example of the *heimliche räte* (privy councillors) (2003[1919]:133).<sup>6</sup> Or, in Gramsci’s discussion of intellectuals, who present themselves to non-elite as autonomous and independent of the dominant social group, they play the crucial role as intermediaries in the dominant group’s coercion (2000:303). However, there is no legal basis for juridical organs’ bureaucratization of *ahong*. Such legal and juridical organs do not publicly acknowledge their use of or dependence on such *ahong*. Meetings and consultations between *ahong*, cadre, and officials do not take place in the court of law, but on the “backstage,” to use Erving Goffman’s term (1969[1959]), in *ahong* offices, public security bureaus, or even restaurants and hotels. The place of law is not only muted, but absent. Further, there is no paper trail and no concept of career advancement.

In his landmark study of law in post-war Japan, Frank Upham calls “bureaucratic informalism” one of the defining characteristics of the Japanese model of law (1987:16–17). He defines bureaucratic informalism as attempts by elites to maintain control over the process and procedure of social conflict. Particularly, elites steer policy formation by bureaucratic leadership through informal processes, rather than by direct control of bureaucracies themselves (Upham 1987:21). The result is that the system prefers mediation over litigation to solve disputes (Upham 1987:26). There is some conceptual crossover between Japanese bureaucratic informalism and Chinese unofficial bureaucracy.<sup>7</sup> In Northwest China, local legal and judicial elites develop informal

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<sup>6</sup> In the first part of his essay “The Uncanny,” Freud provides an extended etymology of the term *unheimlich* that is often inter-changeable for its antonym *heimlich*. One meaning for *heimlich* is concealment. It is in this denotation that Freud gives the example of privy councillors who until the seventeenth century were legislative advisors to the British crown. It is this ambiguity (e.g., simultaneous concealment and overtness) of the term *unheimlich/heimlich* that is central to the effect of the uncanny.

<sup>7</sup> The extensive literatures on “clientelism” and “corporatism” (deLisle 2003; Dreyer 2000; Lubman 1999; Oden 2002; Peerenboom 2002a; Pei 1998; Saich 2000; Strand 1990; Weller 1999; White, Howell, and

relationships with *ahong* and other Muslim leaders so that conflicts can be neutralized through such un-institutionalized official/popular partnerships, rather than the formal law. At the same time, as argued in the previous chapter, bureaucratization and mediation are not mere instrumentalities of elites. Instead, Chinese legal culture (like Japan's) manifests predispositions for bureaucracy, particularly at the interstices between "state" and "society." Further, in Upham's analysis, the emphasis is on social actors engaged in control and resistance, whereas the analysis of this chapter focuses on the impacts of such intersubjective dynamics on subject formation among *ahong*.

Bureaucratization as a function of the "spectacle of the law" occupies the other end of the spectrum. In this approach to bureaucratization, mosque leaders become instruments in the symbolic and performative aspects of law. Mediators become agents (in the principal-agent sense, rather than the social scientific "agency" meaning) in the communicative role of law. Law's function is neither substantive justice nor economic redistribution; instead, it serves a didactic purpose to communicate order (Trevaskes 2007:3) and encode reform and control policies beyond the parties to the dispute (deLisle 2003:164-166).<sup>8</sup>

Unlike unofficial bureaucracy, excessive signification of law neither neglects nor sidesteps the basis of law, but rather highlights it. *Ahong* or Muslim leaders who are functionaries of the "spectacle of the law" are sites of excessive legal signification. Just as legal and juridical cadres produce these signs around *ahong*, so too, do *ahong* and Muslim leaders themselves participate in sign production. The meaning of the excessive signage, on its face, seems to be religious freedom, equality among ethnic groups, and rural justice. It is not just the signifiers themselves, the propaganda statements, placards, banners, posters, and other such statements that convey the

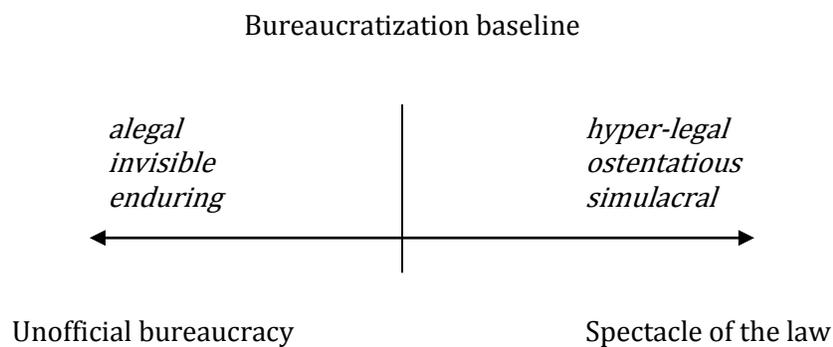
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Xiaoyuan 2003) as well as *guanxixue* (studies on social connections) (Anagnost 1997; Harrell 2001a; Keane 2001; Kipnis 2002; Kipnis 1997) testify to the widespread nature of informal relations in Chinese institutions.

<sup>8</sup> An example from outside the context of modern Chinese law is the systematization of punishments during the Tokugawa Period in Japan. Historian Daniel Botsman views the executed bodies of criminals who violated penal law as "signposts" for legal education (2005).

message but the photographed, rehearsed, and reproduced images and actions of Muslim leadership working alongside public security officers that relay state directives to the faithful. V. N. Voloshinov, as early as 1929, focused attention on the social context and materiality of signs in his materialist critique of Saussurean semiotics (1986[1929]:46). Specifically, the producer of signs and the audience or, in Voloshinov’s terms the “speaker and listener,” are of equal importance (1986[1929]:46). The audience of the sign is the ultimate consumer of the host of messages communicated by the “spectacle of the law.” In the Northwest, the audience is members of the *jamā’a*. As those who pray at mosques regard *ahong*, mosque committee members, and *jiaozhang* (head of *jamā’a*) as embodiments of Islamic knowledge, the vehicle of the sign and its social context are central to signification.

These forms of bureaucratization exist in addition to and build upon the baseline of bureaucratization, comprised of formal appointments to state bureaus and quasi-governmental organizations, participation in the meeting culture of the Party-State, and legal duty to implement state policy. The continuum may be expressed as in Illustration 24:



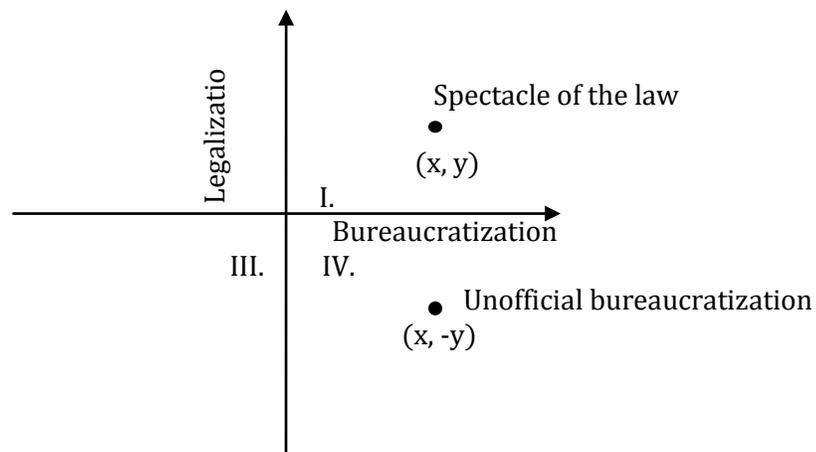
Illus. 24 Bureaucratization continuum.

As a general matter, PRC law recognizes neither Islamic law nor *ahong* as a local authority with the right to mediate disputes, although it vests a limited grant of authority in the mosque

committee to assist state organs in resolving disputes of a religious nature, according to state law.<sup>9</sup> The state's approach derives from its interests in maintaining what could be called the twin pillars of the state's monopoly on law: first, what kind of law is applied and, second, who applies it. As to the first pillar (Chapter 3), Islamic law enters into the realm of official recognition in a sanitized form as *xiguanfa*, the customary law of ritual (diet, dress, habitation, etc.), rather than as a corpus of civil law upon which the resolution of conflicts are based. There is—and can be—no recognition of alternative sources of law (Islamic, Tibetan Buddhist, papal law or any other type of religious law) in PRC laws and regulations. Applying Islamic law to solve problems is alegal (“without a legal basis”) in the sense that *ahong* are working without an explicit grant of authority to do so from the Party-State, as lawgiver. Thus, for the second pillar, as a matter of law, *ahong* should assist in implementing state law and policy, but are denied the right to adjudicate disputes according to either Han shari‘a or positive law. This does not mean that *ahong* fail to counsel members of their *jamā‘a* on both. State law sees this behavior, but chooses to ignore it. Tacit consent by local authorities supersedes formal legal recognition. Hence, although law frames the threshold issue of whether an *ahong's* act of mediation is lawful, state law itself plays a limited role in the institutional design of the Party-State's approach to governing Northwest China. Rather, bureaucracy serves as the predominant means of cohering leaders of Muslim communities to state policy. In terms of the relationship between law and bureaucracy, the two modes of bureaucratization exist in inverse relationship with legalization (Illus. 25)

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<sup>9</sup> See e.g., the Linxia Religion Provisions, art. 15.



Illus. 25 Relationship between legalization and bureaucratization.

In quadrant I, where both legalization and bureaucratization are positive values, the role of *ahong* in resolving conflicts is a function of the “spectacle of the law.” In quadrant IV, where bureaucratization is a positive value and legalization is negative or law is not an operative constraint, the role of *ahong* is characterized by unofficial bureaucratization. Quadrant III, in which neither law nor bureaucracy are variables, is an empirical impossibility. Interestingly, based on my interviews, there are no examples of cases in which law is operative but not bureaucracy (quadrant II), suggesting that bureaucratization (even without law) is the basic requirement for Han shari‘a procedure in the Northwest.

The two extended ethnographic case studies below demonstrate quadrants I and IV. Chinese *ahong* are, at the same time, both religious authority and state agent beholden to PRC law and policy and yet fully neither, for they cannot enforce their decisions based on Islamic law and neither are they empowered to implement state law without supervision. Their relative position vis-à-vis the juridical bureaucracy largely shapes their (in)ability to reconcile the two systems. The

cases below show two distinct examples of the bureaucratization of Muslim authorities and the ways in which leadership in the mosque respond to their dual mandate under competing sovereigns. The central argument of this chapter is that the diverse forms bureaucratization assumes (i.e., the extent of legality, the degree of opaqueness or transparency, the role of the audience) are, against interpellation, a response to local conditions. Specifically, overt forms of bureaucratization of *ahong* work most extensively on those without knowledge of Islamic law. However, those who represent potential threats to the sovereign's monopoly on law are subjected to unofficial bureaucracy. For these two case studies, I switch to the ethnographic present.

#### *The Traffic Police (Religious) Supervisor*

Nasim's eyes are half-shut with fatigue, but he has no time to rest.<sup>10</sup> To the visitors who came to see him one afternoon in his cramped yet organized *ahong* quarters, he responds with a dulcet *xiao deng* ("wait a moment") and one of the subsidiary *ahong* seat the visitor in an adjacent room. His office is comprised of two rooms, the larger a reception room for guests where he had first entertained me and the smaller, inner chamber that contains his desk, a small bed with a redwood laptop bed tray upon which rests an open Qur'ān, a tall bookshelf with worn copies of the Qur'ān, several volumes of the *aḥādīth*, legal treatises, and a small number of books in Chinese on Islamic law and Hezhou history, and in the corner, a stack of thick wool blankets and a clothes stand with several light gray *zhunbai* (Ar. *jubba*). Adjacent to the inner chamber is a spartan private bath, on the floor of which were several plastic decanters (Ch. *tangping* or *tanpi* in Bafanghua) for ritual washing. As Nasim is *ahong* at an Yihewani mosque, the wall decoration in his private chamber is minimal. As in the reception room, there are no photographs, but merely PRC laws and regulations

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<sup>10</sup> This section based on field notes dated 5/9/2010, 10/7/2010, 10/12/2010, 11/8/2010, 11/11/2010, 12/23/2010, and 12/28/2010.

and calligraphic sura. He surrounds his private chamber with the laws of the two the orders to which he is beholden—one by citizenship and the other by belief.

As is his practice, Nasim had awakened well before the dawn prayer *fajr* to read the Qur’ān, his moments of study and reflection devoured by daily chores once the sun rises. The morning had seen a steady stream of visitors: members of the *jamā’a* who needed to plan the burial of the head of a family, others who wanted to drop off voluntary donations or *nietie* (Ar. *niyyah*) as an act of piety, the director of the mosque committee who wanted to discuss renovations to the prayer hall, and “scriptural hall education” teachers who wanted to introduce a newly arrived teacher from Qinghai. Each group of visitors is greeted with a compact smile. *Xiao deng*. Nasim has taken a few minutes to meet with me before the noon prayer, as was our custom for the past year. Today, he is explaining what he sees as one of the critical conflicts of law in Han shari’a and his specialization, inheritance law:

Today, a *jiaotu* (religious follower) died. I just returned from his home. Tomorrow, around noon, I will go to the cemetery to hold burial rites, until about two o’clock. At four o’clock, I will go to the house. I go first to *weiwen* (pay my respects) and also to make sure inheritance law is followed. I will ask if there is an *yizhu* (will). In less than 10 percent of the cases do I encounter a will. If there is one, I will verify whether it is written in accordance with *jiaofa* (religious law). Only one-third of the *tarikā* (estate) can be willed away, and not to heirs or family members. Whatever is willed away is considered *cishan* (charity). If it isn’t written in accordance with *jiaofa*, then I abrogate it and distribute property according to the Qur’ānic rules. In doing so, I seek to *rangbu* (find a compromise) which means decreasing the amount one family receives to increase the amount another receives.

Fundamentally, I look to the intent of the deceased.

I ask the whole family to come and gather. I ask how many people are in the family and determine who the *jichengren* (heirs) are and who are the non-heirs. I will tell them their *jicheng quanli* (inheritance rights) and their *bili* (proportion). If there is a dispute, then I will mediate. If the family members are dissatisfied with the outcome, then they can go to court.

The whole process of distributing an estate proceeds in a series of steps: (1) the family members manage the costs of burial (*chuli wangren de houshi*); (2) they pay off any debt (*huan zhengzai*), in the form of taxes or levies; (3) then the will takes effect (again, only one-third of the original estate can be willed away and it must be lawful); and (4) lastly, the family will *fenqian* (distribute assets). There are two *zu* (classes) of beneficiaries: those that receive *farā’id* (fixed shares) and those that receive the remainder, called *‘aşaba* (residuaries). The first are the Qur’ānic heirs, the spouse, parents, sisters, but not the son,

he is a residuary. They can be further divided into two groups [Nasim takes my field notebook and writes the following fractional shares]:

First group:

- 1/2 daughter and sister, if no male relative
- 1/4 wife, if no children
- 1/8 wife, if children

Second group:

- 1/3 mother if no children; sister, if no male relatives
- 2/3 two or more daughters if no sons
- 1/6 parents, if no children

The second class is the *‘aṣaba*, those without fixed shares, the *zongqin* (agnates). [Nasim then takes me through a series of hypotheticals.]

To begin with the simplest case, to understand the distribution between husband and wife, if the wife dies, the husband receives 1/4 if there are children and if no children, then 1/2. If we switch it such that the husband dies, then the wife obtains 1/8 if there are children and 1/4 if there are no children. In the next set of hypotheticals, a husband dies leaving a wife and father. If the estate is worth 40,000 yuan, the wife receives 1/8 or 5,000 yuan. The father is sometimes in the first class and other times in the second class. If there are no sons, then he is in the first class and receives 1/6 or 6,666 yuan. But if the deceased left a son, then the father is in the second class. The remainder (35,000 yuan) is then shared by the father and the son.

A white jeep with government plates pulls into the mosque courtyard, visible from our seats inside the reception room. Several men emerge from the car and proceed to the entrance of the reception room. Without changing his expression, Nasim softly intones *xiao deng* and gets up to greet the newcomers. A minute later, Nasim returns with a man who is not wearing a *bai maozi* (white skullcap). They walk directly in front of me to Nasim’s private chambers, closing the door behind them. The other men who had gotten out of the car are greeted by members of the mosque committee. The latter give the former an impromptu tour of the mosque grounds, pointing in odd directions. Not ten minutes later, Nasim reappears with the man who thanks Nasim and takes his leave. Nasim walks him out and the man joins the others who get back into the jeep, and depart. The members of the mosque committee smile and laugh among themselves. Nasim returns to the guest room, explaining, “That was the prefectural United Work Front leader. They have chosen Linxia as the site for a high-level meeting of provincial Party leaders on ethnic population harmony (*minzu*

*renkou hexie*)." Among Hezhou's mosques, they want to nominate the mosque as a model mosque for a site visit by the Party leaders. Nasim appears pleased, much as a diplomat does after a successful official visit.

Party cadres regularly interrupted my sessions with Nasim. Nasim, unfazed, returns to the lesson on inheritance law. He explains:

The most common conflict in, say, the event of the death of a man is a dispute between the father of the deceased and his wife. The reason for this is that the Qur'ānic law favors the wife. She receives 1/4 if there are no children and 1/8 if there are. The father will contest this distribution. His rationale stems from *chuantong fuquanzhi* (traditional patriarchy), arguing the woman gets nothing. His reasoning applies to the wife or the daughters. As for the outcome, it depends on several factors, one of which is the length of the marriage. If the couple is newlywed and the husband soon dies thereafter, then the wife may have less power to state her claim than one whose marriage has gone the duration of decades. At the same time, in the event of a marriage of long duration, the father may have more time to entrench his position of authority over his daughter-in-law. It often depends on the particular dynamics of the family.

During another one of our sessions, Nasim gives the following example of such an inheritance dispute:

To give one example, a couple was married for almost fifteen years. They had been university classmates and fell in love while in school. They are from Linxia and returned to Linxia after school. Since their families were members of this *jamā'a*, they also joined this *jamā'a*. Unfortunately, in 2006, the husband died in a *chehuo* (car accident). At the time, the wife was over 40 and the couple had had three children, one boy and two girls. After the accident, the wife and children moved in with the *wangren de gongpo* (parents of the deceased). They lived together for a year, but the relationship between the daughter- and father-in-law was not good. After a year together, the father-in-law, who was about 75, forced the daughter-in-law and her children out of the home. She did not move back in with her parents but rented a small apartment, just in front of our mosque. Not only did the father-in-law kick the daughter-in-law out but he would not give her any portion of the inheritance. The husband had left money, land, and a house, but the father-in-law took all of this.

At different times, and over the course of several years, the wife and the father came to talk to me. The wife sought help in claiming her right. In fact, according to Qur'ānic law, she was in the right. When the father came, upon the insistence of me and others, he explained that he was extremely poor. I knew this to be true. He and his wife needed the money and without a son to take care of them, they would need the inheritance to see them through

their remaining years. He said the remainder he would keep for his grandson, but would not give any inheritance to the wife.

I could only try to persuade the father to give some of the inheritance to the wife, but I have no powers of enforcement. The only course available to the wife would be to sue the father in court, that is, using state law. But to use such recourse would be *diu mianzi* (a loss of face). Fortunately, she did have some compensation from the accident pursuant to state law. The driver responsible for the death of her husband had to provide her a compensation of 15,000 yuan. In consultation with her, I gave this sum to a businessman who is a member of our *jamā'a* and he invested it on her behalf and her children's.

In none of these intra-familial inheritance disputes Nasim related, did family members argue (initially, at least) state law, which guarantees equal inheritance.<sup>11</sup> In such disputes, the father argues Han custom and the wife or daughter argues shari'a. The parties to such a dispute may seek out Nasim's expertise. Similarly, legal and judicial cadres seek out Nasim's knowledge. On paper, Nasim is the only supervisor (*jianduyuan*) including the five faiths officially recognized in China (Daoism, Buddhism, Islam, Roman Catholicism, and Protestantism) to be hired by the provincial traffic police. Other *ahong* in Hezhou are hired by different public security and judicial organs on a temporary basis, but Nasim's role is permanent and he proudly shows a license proving his official status. Officially, his expertise is limited to advising the provincial traffic police on vehicular accidents, mainly in Hezhou but also in Lanzhou and elsewhere in Muslim Gansu, but representatives from a variety of bureaus come to the mosque to consult him. Public security bureaus, religious and ethnic affairs bureaus, and officials from the judiciary at the city, prefectural, and provincial levels seek the *ahong's* advice on matters of Islamic law that they encounter in their work. The consultations covered a wide range of issues from legal cases to current events in Hezhou to broader questions of Chinese Muslims' interaction with foreign Muslims. In return,

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<sup>11</sup> The PRC Law of Succession (*Zhonghua renmin gongheguo jichengfa*), adopted at the Third Session of the Sixth National People's Congress, promulgated 10 April, 1985, effective 1 October, 1985, provides for an equal right to inheritance (art. 9), in the absence of a legally enforceable will. Further, it provides an inheritance order: first, spouse, children, and parents. Second, brothers and sisters, paternal grandparents, and maternal grandparents (art. 10). The major differences between the PRC succession regime and that of Islamic inheritance law are one, under the Qur'anic system, women receive one-half of what men receive and two (Qur'an 4:11), the son would be considered a "sharer" under the PRC scheme.

despite his relatively young age, Nasim has acquired a reputation as a resource for the Party-State's bureaucrats along with other benefits, such as having his mosque highlighted for high-ranking Party leaders.

He is not paid for his advice. Nor has he joined the Party. Nasim is representative of Hezhou *ahong* in his decision. He frames Party membership for a Muslim as a violation of monotheism: "There is a conflict. Communism is a belief (*xinyang*). One cannot have two beliefs. Even if we don't think of Communism as a belief and rather than as a political thought, then it says no one can have a religious belief. The two are mutually exclusive" (BJ 12/28/2010). Hence, membership in the Party is not a prerequisite for the bureaucratization of *ahong*. Fundamentally, Nasim's relationship to Party-State organs is unofficial. The supervisor position, according to regulation, limits the subject matter upon which he can advise to car accidents and determines the traffic police as the bureau to which he reports, but the position allows a much wider array of cadres to access Nasim as an authority of Islamic law and local knowledge. The supervisor title works akin to a legal fiction, a much more expansive use of the position is realized than a strict constructionist reading would allow.<sup>12</sup>

Nasim, a native of Hezhou, comes from a family of *ahong*. For three generations, his patriline has served as *ahong* of his mosque, and, each generation has been known for its study of inheritance law. His grandfather has been killed in the anti-religion movements in Hezhou in the late 1950s and his father was sent to the coalmines for "reform through labor" at the commencement of the Cultural Revolution. He survived to pass the family's accumulated knowledge of Islamic law to Nasim. Nasim also studied law in university in Saudi Arabia. Hence, his expertise of inheritance law is doubly rare, itself a heritage, a homegrown knowledge, and a product of studies

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<sup>12</sup> Lest it seem PRC legal culture is exceptional in this regard, a parallel logic is seen, for example, in the U.S. Supreme Court's historical use of the commerce clause, limited on its face to regulation of inter-state commerce, to find a basis for a sweeping list of laws including those of the New Deal, civil rights and racial discrimination, gender violence, and criminal laws.

abroad. Most of his family's patrimony had been burned during the Cultural Revolution. All that remained were a few legal classics (*faxuejing*) on inheritance law passed down through the patriline. One of these sources was the *Kitāb al-Mabsūṭ* by al-Sarakhsī (d. 490 A.H./1096 C.E.) from Central Asia.

Upon returning to Hezhou from Saudi Arabia in the late 1990s, through sermons (Ar. *khutbah*) and mediating disputes, he began teaching his *jamā'a* the importance of following Islamic law. Over the years, he gained a reputation not just in Hezhou but in Lanzhou, as well, as an expert in Islamic law. His reputation has spilled over into official arenas and judges consult him on inheritance dispute cases that touch upon Islamic law. Sometimes he is invited to court to mediate and sometimes the judge asks the disputants to seek Nasim at his mosque. Usually, the referring judge is a Hui and knows Nasim personally; he will not get referrals from Han judges. He relates,

I receive cases involving inheritance law (*yichanfā*). I may come across issues relating to marriage and divorce, but this is rarer. The procedure of referring a case 'back down' to the local religious authority is, in fact, illegal (*feifa*). The case should not be taken out of the state venue. Once the complaint is lodged there, it should be decided by that authority. This has been going on for many years. And, official PRC court decisions will not only exclude any mention of religious law, but there will be no instances of even remnants of Islamic law in decisions or references of any kind, however vague (HZ 9/7/2010).

Nasim characterizes the use of an *ahong* as temporary judicial mediator as unlawful, but used despite law's prohibition. The remanding of cases down to religious specialists is a blind spot in what is otherwise known as the authorities' "legalization" of inter-personal and wider social conflicts. Moreover, any mention of either references made to Islamic law by disputants in an official proceeding or the judges' remanding the case down to an *ahong* are stricken from the record. The *ahong* as Islamic specialists are bureaucratized, but not legalized.

The procedure of such mediation varies. Nasim usually receives a call from an official to talk about the details of a case. The official will come to Nasim's mosque or Nasim will go to the relevant

office and sometimes to a more “neutral” space, such as a *qingzhen* restaurant, many of which have rented rooms for private conversation or a hotel. A few times he has been called to the scene of an accident or even to a private home due to a domestic dispute. He has dealt with many cases in which the two parties cite different legal orders, Chinese and Islamic, creating a sort of conflict of laws. A husband may argue state law, for example, while the wife cites marital obligations under Islamic law. However, he concludes that “religious law must comply with state law” (*jiaofa bixu tingcong guofa*) such that the party arguing state law will almost always win.

Within this arrangement, Nasim seeks to educate his *jamā'a* and others about Islamic law, and inheritance in particular. Hezhou Muslims of all *jiaopai*, but mainly Yihewani, will come to his quarters to ask him to mediate their property and inheritance problems. His visibility to both Muslim followers and officials (overlapping pools of clients) brings with it no small degree of danger. He says, “The CCP cannot know that I am explaining Qur’ānic law to members of my mosque. And it’s not even enforcing Qur’ānic law, but merely explaining it. Much of Qur’ānic law is at odds with state law. If they knew I was doing this, they would say I was interfering with the judiciary (*ganshe sifa*)” (HZ 12/23/10). There can be only one legal sovereign and this applies not just to law’s enforcement but even to legal consciousness. Nasim and other *ahong* who mediate conflicts of their *jamā'a* emphasize their work stops after informing the parties’ of the applicable law. They cannot force one party to follow their instructions and cannot impose any penalty for failure to comply. Repeatedly, he identified *zhixing* (enforcement) as the most difficult aspect of the dispute resolution process (HZ 5/8/2010). The resolution of the problem according to Islamic law depends on the level of faith of the disputant and her or his own commitments to Allah. Nasim explains:

Usually, if there is a conflict, the two disputants will come to the mosque. I will explain the Qur’ānic laws of inheritance to them, that is, the proper proportions. They then return home and divide the property. I never know the actual amount. Chinese, including Chinese Muslims, will not disclose their finances—even to me. So I don’t know who gets what, they

enforce this (*fen duoshao, tamen zhixing*). They may give numbers, but it's usually hypothetical (HZ 12/23/2010).

Thus, he can only work to put disputants back on a course where they can negotiate their own problem. In this, his work parallels that of a qadi (Rosen 1989a:61), the crucial difference being that *ahong* cannot enforce the law. Consequently, Islamic law as law without force operates not through implementing institutions but through continual education, instruction, sermon, and prayer. Nasim's work as official supervisor, unofficial temporary judicial mediator, and qadi proxy for Hezhou Muslims illustrates the deep gap between law's nonrecognition of legal pluralism and its corralling through bureaucracy.

#### *The People's (Muslim) Mediator*

Although Hezhou does not have any people's mediation committees (PMCs) inside or attached to mosque administration, other Muslim-dominant areas in the Northwest, including Ningxia, do. From the viewpoint of numerous Hezhou *ahong*, the reason for this is that Hezhou Islam is "China's true Islam." Salafiyya, Yihewani, and Sufi agree that Hezhou is China's Little Mecca, here, as localism or affiliation with natal place trumps sectarian identity. While exclusive claims to being the home to true Islam in China are endemic to each region—Xunhua and Xining in Qinghai, Kashgar and Hotan in southern Xinjiang, and Haiyuan and Tongxin counties in Ningxia—it would seem that the differences in contemporary religious policy and governance between the regions is tied to the history of Islam within the Northwest. While the official memory of Hezhou centers upon its serving as the base both for inter-*jiapai* violence and for the Ma Family warlords, the relationship between Ningxia Hui and the CCP evolved out of a different context.

As a consequence, Chinese Muslims in Ningxia have been able to enjoy religious benefits unthinkable to Hezhou Muslims. These include leading academic institutions, vibrant intellectual discourse, and publication houses all promoting Islam, closer direct ties with Arab nations through intellectual exchange and commercial trade, and tighter links to special economic zones on the southeast coast that attract foreign Muslim investment and business. In Northwest China, where autonomy appears in shades, Ningxia enjoys regional autonomy at the level of “autonomous region” that theoretically is the same administrative level as a province. Hezhou is located in Linxia Autonomous Prefecture, a lower administrative unit and so does not have the same level of discretion in promulgating regulations as an autonomous region.

As part of Ningxia’s legal autonomy, many mosques have PMCs. The PMC is comprised of members of the mosque committee, sometimes the *ahong*, and other leading members of the *jamā’a*. It is constituted under the authority of legal, juridical, and public security organs. The PMC therefore operates as one of many types of bridges between the Party–State and believers in Islam. Through the PMC’s mediation work, the Party–State communicates policy objectives to Chinese Muslims through a face most familiar to them—a Hui elder of their own *jamā’a*.

Additionally, many legal and judicial bureaus in rural Ningxia employ *ahong* as mediators. In rural Haiyuan County, with a population of 450,000 of whom 75 percent are Hui, the judicial bureau hired ten *ahong* in 2010 and the number was set to increase in the following fiscal year. The basic-level people’s courts and grassroots mediation bodies (*jiceng tiaojie zuzhi*) also hire *ahong*. The funding does not come from the local government, however, but rather the Ministry of Finance (*guojia caizheng*). *Ahong* are paid 50 yuan per case and 100 yuan for a prolonged or particularly challenging case for a docket that includes mainly marital disputes, but also inheritance and property cases, as well as torts (HA 10/30/2010). The use of *ahong* as mediators is based less on law and more on bureaucracy and local preference for mediation.

“Dong Fumin” is one of the most prolific and publicly praised mediators in the area surrounding Ningxia’s capital Yinchuan.<sup>13</sup> Dong Fumin is a 69-year-old Sufi Hui who is the director of his mosque’s committee and head of the mosque’s PMC. The mosque is located in a hamlet of approximately 10,000 people, all Hui. The landscape of the town is dominated by wide brown fields of wheat, corn, and potato interspersed by single-floor homes each with a small courtyard, a common space for children to play, the mother to work, and for chicken and the occasional calf to feed. The town has several mosques, most being Khufiyya Sufi with a smaller number being Jahriyya Sufi and Yihewani. It is a pattern replicated throughout most of northern Ningxia.

Dong Fumin is riding his bicycle through a mud-hardened path beaten between the wheat fields coming from the south towards his mosque. His body jumps skyward as his bicycle hits potholes dotting the makeshift road. Word has reached him while working in the field that a foreigner has come to interview him. A foreigner! Dong Fumin peddles faster. We meet in the wheat fields. He is a medium-set man, with a square figure and squarer face. He is bald and his face is sun-browned. His forehead has a distinct tan line where he wears his *bai maozi*, stained and dirtied from working in the fields unlike those of urban Hui in Yinchuan and Lanzhou whose headgear is always, almost impossibly, immaculately white. He has sweeping, frowning black eyebrows, and underneath, clear, colorful eyes. He greets me warmly and we walk together to his mosque. Only several minutes earlier, at the intersection outside the mosque, a taxi had collided with a couple on a motorcycle. Old Dong, as he wants me to call him, stops to investigate. He wades through the growing crowd of onlookers to talk to the taxi driver who was rubbing the back of his neck. There was a basketball sized dent over his taxi’s front left tire. The motorcycle had tried to pass the taxi on the left as the taxi began an unexpected left turn. The motorcycle lay on its side on the pavement, its front mangled and a pool of oil leaking from its engine. A relative was driving the couple to the hospital 10 kilometers away. Old Dong reports the motorcycle driver had flipped head over the

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<sup>13</sup> This section is taken from field notes dated 5/16/10-5/19/10, 10/29/10-11/1/10.

hood of the taxi and his wife had been thrown sideways by the impact. He cannot learn anything more about their status. He finishes asking questions of the taxi driver, records his cell number for later, surveys the incident one last time, and then asks me to join him in his mediation room.

The mediation room is off the mosque's courtyard opposite the prayer hall. The mosque, originally built in the reign of the Jiajing Emperor during the Ming Dynasty, had undergone a series of reconstructions. The most recent reconstruction, in 1998, built a two-floor prayer hall (*libaidian* or *songjingdian*) with a green dome, flanked by two minarets (*xuanlita*). The exterior is sheathed in white tile. The mosque features traditional Chinese Islamic courtyard-style architecture with administrative offices, still being constructed around the courtyard. During one of the more recent construction phases, an office was added inside the gate to house mediation sessions. Outside the door of the mediation room are several plaques. The first identifies the mosque as a "Five Goods Mosque" (*wuhao qingzhensi*): good study of propaganda, good stable unity, good democratic management, good hygiene and greenification, and good self-cultivation. Such a designation signals the approval of the relevant Islamic Association, in this case the Yinchuan City Islamic Association. Near this is another plaque with the mosque's name on it and the title "People's Mediation Committee." The mediation room looks like a classroom for PRC legal propaganda. There is a small chalkboard in the front of the room and a group of desks with small stools in the middle. Each wall is decorated with large posters such as "The Legal Articles and Process for Handling a Road Traffic Accident" (*daolu jiaotong shigu chuli falü tiaowen ji chengxu*) with provisions of regulations and "Traffic Safety Propaganda Enters the Mosque" (*jiaotong anquan xuanchuan jin qingzhensi*) with photos of members of the mosque's PMC arm-in-arm with police conducting propaganda sessions in the mosque, attending meetings on traffic safety in Yinchuan, and class sessions in the mediation room itself. In one corner are a series of placards reading "Civil Dispute Mediation Work Room" (*minshi jiufen tiaojie gongzuoshi*) and "Site of Legal System Propaganda Education" (*fazhi*

*xuanchuan jiaoyu jidi*). One image is particularly striking—a photograph of Old Dong holding a Qur’ān as if in deep study (Illus. 26). Old Dong, however, can read neither Arabic nor Chinese:

I never went to school. I worked mainly in the fields and doing manual labor for most of my life. I can’t read Chinese or Arabic. But I speak Chinese, some Arabic, some Turkic, some Persian, and a little Mongolian. . . . I have been a judicial mediator for seven years. I have been hired by thirteen *danwei* (work units) including the court, judicial bureau, bank, traffic police, police station, and the people’s congress.



Illus. 26 Signage from within the PMC's mediation room located inside the mosque. The sign reads "Traffic Safety Propaganda Has Entered the Mosque." Source: photo taken by the author (11/1/10).

He takes out a stack of booklets with red plastic covers. Each of these appointment books (*renming shu*) has been given to him by the appointing *danwei*. The cover of one reads in gold type the name of his town's standing committee of the people's congress and the text inside authorizes Old Dong as a people's mediator. Another is entitled a letter of appointment (*pinshu*) from the local people's government that would imply a contractual relationship, although Old Dong says he has never been paid for his work. "I have never made money from it. But recently, I was given a reward of 30,000 yuan!"

As to how he began as a mediator, Old Dong describes a process of bureaucratization. "I began doing this voluntarily, that is to say, without a mandate from the local government. But soon local officials came and began to notice the value of my work. They said, 'even though you have never studied law, you handle these problems.'" In 2003, his town's traffic police nominated him as a people's mediator, and since then he has been adding to his pile of red appointment books. The mosque was nominated as a site for traffic safety education and propaganda in December, 2007, and the traffic police began holding education sessions in the mediation room, as well as mediating individual cases. The composition of the PMC comprises six individuals, five members of the mosque administration, including two men of Old Dong's patriline, and the sixth member, the assistant director who is a police officer. Old Dong has never joined the Party, although his son, a scholar, has:

As for the process of the typical dispute, Old Dong notes the following steps: I will learn about the dispute, usually from family members. I've handled disputes not just in [my town], but in nearby towns and in the city, too. Not all people know me. I usually go to the home; upon occasion, I will ask the people to come to the mosque. The very first thing I do is calm and propagandize them (*gei tamen zhenjing, xuanchuan*). I do this by talking calmly and with reason. This goes before anything else. I then listen to both sides, air the grief, and respond by applying my knowledge of religious law and state law. Usually, the two sides will listen to me. They reconcile in two ways: one, for state law, sign a form with their thumbprint if they cannot write their name, and two, to satisfy religious law, say a

*salām* (peace). You know, although this is Islam, Hui exhibit Chinese culture when they swear like this, *yijianjiuding* (solemn pledge). If that doesn't work, then I try it all over again.

Sometimes, the procedure for mediation is more formal, and modeled after that of adjudication. The two parties sit at tables opposite each other, one identified by the sign “applicant” (*shenqingren*) and the other by “respondent” (*shouliren*). Members of the PMC sit at a large table before the parties, each with her or his own sign identifying their position in the committee. Old Dong sits in the middle with the assistant director policeman to his left and another committee member to his right. As all individuals in the room are Hui, they wear a *bai maozi* or if the incident involves a woman, a black *toujin* (scarf). The one exception is the police officer—although he, too, is Hui, he wears his full police uniform and hat. Thus, despite the venue being people's mediation, the police officer is a constant reminder of the state's presence. The two parties air their views, the one who sought mediation goes first and then the respondent. After some back-and-forth, Old Dong will tell them the applicable state law or regulation and how it applies in the instant case. Old Dong talks more than the policeman. Despite the gravitas of the policeman, Old Dong speaks in a grandfatherly, familiar way. The documents signaling the settlement of the mediation are proffered, and the parties sign them. As to under what circumstances a mediation assumes a more or less formal procedure, Old Dong says it depends on such factors as whether the parties will meet at the mosque (not always), the availability of other members of the PMC (they are often busy working), and the difficulty of the case (if he can dispatch it quickly on-the-spot, then he will). Any case that is mediated by the formal procedure will be documented and filed at the judicial bureau for the town, based in Yinchuan.

Old Dong's motivation for being a mediator reveals how he thinks about the relationship between state law and Islamic law, colored by his identification with Khufiyya Sufism. He remarks:

Sufism in China began with the journey of the three legendary saints Gaisa, Gasa, and Wan Gasa into China. The Prophet Muhammad ordered them to go to China and so they came. Their journey was extremely difficult and they suffered immensely. Ma Jiajun married a Chinese woman. Her pregnancy was difficult but the child she bore was the first Chinese Sufi [Ma Laichi, founder of the Glory Mosque *menhuan*]. The Prophet had given them instructions to treat their wives well. This formed the basis of family law. The Prophet also gave them instructions to love their country. Today, we call this *aiguo aijiao* (love nation, love religion).

Although Old Dong conceptually integrates state law and religious law, both his training and the outcome of his mediation reveal otherwise. As he cannot read PRC laws, he watches television. He watches every program or news special that deals with lawsuits, boasting that he can remember most of what he watches. He claims never to have received any regular training in PRC law from any public security organ or official, although he has participated in propaganda sessions in the mosque. As for religious law, he cannot read the Qur'ān, but he listens to the *wa'z* of the *ahong* and can recall 90 percent of what he hears. While a minority of his cases is family disputes, involving inheritance and property issues, he does not know the basic Qur'ānic rules on division of property. Rather, he looks at both the overall family situation and then the status of the individual members, considering such factors as whether they work, have dependents, and so on.

Old Dong does not write his own decisions, but is assisted by a secretary. These decisions cannot contain any reference to Islamic law as, according to a member of the judicial bureau of the town, the documentation from mediation becomes a basis for possible later judgment in case of a suit.<sup>14</sup> Despite this erasure of Islamic law in the written record, Old Dong was adamant that religious law was important in two ways: first, the disputants often argue Islamic law. For example, recently, in a divorce case, the woman said, "We were happily married, but when you refuse to support me, this is not in accordance with religious law (*bu fuhe jiaofa*). We have children, you

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<sup>14</sup> This explanation differs from what I was told in Hezhou by members of judicial bureaus at the city and prefectural levels who claimed that statements by disputants during judicial mediation, as recorded in the *tanhua bilu*, may retain references to religious law. It is possible that there are different rules for people's mediation and judicial mediation, or, more likely, different rules within different jurisdictions.

must uphold your duties.” And second, he claims to use religious law to settle cases. His work combines the two. While disputants do regularly cite Islamic law, Old Dong can use the Qur’ān as basis for mediation only during more informal mediation at a home of one of the parties or in the mosque if the police officer is not present.

In his seven years as mediator, Old Dong has personally handled 107 cases (for an average caseload of fifteen cases per year). What he lacks in caseload, he makes up in success rate (defined as those cases that were not appealed). He claims that all the cases he mediated were met with satisfaction by both sides and were not appealed. Appeal would take the form of a lawsuit in the people’s basic level court. For this reason, Old Dong has been heralded as a kind of local Muslim Lei Feng by judicial and security organs, the Islamic Association, and local media.<sup>15</sup> It is significant that Old Dong, not trained in PRC or Islamic law, is greeted with orgiastic commendation by the official propaganda organs more so than any mosque committee member or *ahong*I encountered in Northwest China.

An examination of cases Old Dong handled in 2010 at his town’s judicial bureau indicates the bureaucratization of PMCs through record, documentation, and archive. Of the sixteen cases he mediated in 2010,<sup>16</sup> nine (60 percent) are traffic accidents. Of these, three are “major accident disputes” (*zhongdian shigu jiufen*) that resulted in the death of one or more people. The remaining seven cases are in regards to housing loans (3), contracted land (2), economic disputes (1), and other (1). The official record of the cases is uniform:

1. Acceptance and hearing of a mediation case registration form,
2. synopsis of the case,
3. mediation application book,
4. copies of the identity cards of the parties,

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<sup>15</sup> Lei Feng (1940–1962) was a model soldier eulogized by the CCP for his selfless devotion to Communism. See Minzner (2011) for a similar example of a “model judge” from Jiangsu who was likewise extolled for handling 3,100 cases in fourteen years without a single complaint or appeal.

<sup>16</sup> My visit to the judicial bureau occurred in November, thus the total number of cases mediated by Old Dong in 2010 would be slightly higher.

5. record of questions and answers,
6. record of investigation,
7. notice of mediation,
8. parties' notice,
9. record of mediation,
10. "people's mediation agreement book,"
11. original documents and receipts,
12. [when applicable] propagation of laws and regulations at the home of the deceased [with photographs],
13. both parties' signature of mediation accident agreement book,
14. meeting notes, and
15. brief summary of case's conclusion.

In one representative case, in October 2010, a man driving a bus hit another man riding a motorcycle resulting in the death of the latter. Both men were Hui. The offender then drove directly to a driving school office, where he worked. The family members of the deceased took the body and carried it to the driving school office to confront the offender. A conflict ensued that quickly became violent. The family members, enraged, took the daughter of the head of school, who owned the offender's vehicle, and forced her to kneel down before the dead body. The wife of the school head gathered ten men to defend the school. Soon, over a hundred people were fighting, and guns were drawn. The police finally arrived, including ten policemen in riot gear who disrupted the brawl. Public security officials contacted Old Dong.<sup>17</sup> He worked for three days and three nights to mediate the dispute among the three parties: the family of the deceased, the family of the offender, and the family of the driving school. The aggrieved family wanted 280,000 yuan in compensation, and the school owner suggested 120,000 yuan, whereas the offender's family said it could afford only 20,000 yuan. After mediation, the settled amount was 180,000 yuan, 150,000 yuan from the school head and 30,000 yuan from the offender's family. This amount included compensation for the loss of the life of the family head and life subsidies for his wife and two children.

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<sup>17</sup> Other cases show that occasionally the disputants first go to the relevant official department to seek redress, for example, the traffic police if there has been a serious accident. It is not always that the disputants directly seek Old Dong as he claimed in an interview. Thus, at the "claiming" stage of the dispute, the dispute travels from official venue to unofficial venue when the government office turns the case over to Old Dong.

Old Dong and others like him play a vital role in state governance in rural northern Ningxia. Due to a variety of concerns, mainly different socio-economic distinctions, sectarian differences, and low levels of education, inter-personal disputes can quickly snowball into larger and more violent conflicts. Old Dong, a *wenmang* (illiterate person)—who, when the subject arises, always with a curious mixture of shame and pride, mentions the Prophet Muhammad himself was illiterate—represents a kind of rough-cut populist justice, an unpolished lawbringer. Because he lacks education, he does not have the sophistication and exactness of an *ahong* such as Nasim, but he understands the parties to his town's most common problems and knows how to pacify disputants to reach mutuality in interests. He is a blow horn of common sense (albeit not legal) rules. One time driving with him and a senior Hui scholar from his rural town to Yinchuan, the scholar, who was the driver, received an important call from his *danwei's* leader. Old Dong promptly told him to get off his phone as using it while driving leads to accidents. At the same time, his is a soft paternal voice when it comes to counseling others. Another time, Old Dong and I, returning from Yinchuan to his town, boarded a taxi together. In what became a common occurrence, the taxi driver knew Old Dong. Old Dong had mediated a dispute that resulted from a car accident that killed the taxi driver's father. Although the offender had hit and run, he was found, and ultimately Old Dong persuaded him to give the taxi driver 180,000 yuan in compensation. However, the family was not satisfied and threatened to sue, but Old Dong discouraged them from doing so. On a third occasion, while visiting his town's government office, a building in which there are eight floors, he took me through each floor to pay respects to various officials who all greeted him enthusiastically as the "people's mediator," an interpellation I heard repeatedly and to which Old Dong responded, in turn, with complaisance.

*Muslim Mandarins, the State, and a Culture of Bureaucracy*

The main variable examined in this chapter is the regional difference between Hezhou and Ningxia in the Party-State's design of bureaucratic forms to accommodate and integrate as well as envelop and delimit Islamic authority. Typical formations of bureaucratic arrangements common to these regions can be identified along an axis from unofficial bureaucratization to an instrument of the "spectacle of the law." The two ends of the spectrum have different yet complementary goals. Unofficial bureaucratization allows the state to benefit from the knowledge and local authority of *ahong*. But as state dependence on *ahong* cannot gain public or official recognition, this colonization of knowledge must go on backstage to the rehearsed and much advertised performance of the "spectacle of the law." As such, unofficial bureaucracy underscores the plurality of audiences as potential recognizers of Islamic law, namely, the state but also the lay members of *jamā'a*. Through veiling or obscuring legal and juridical organs' consultation of *ahong*, officials and cadres prevent the *jamā'a* from perceiving the sign of this reliance. There is no legal basis for such arrangements and, in unofficial bureaucracy, there is no signification of cadre—*ahong* relationships: alegal, a non-sign.<sup>18</sup> Nevertheless, in places like Hezhou, *ahong* serve as extra-legal channels for resolving conflicts of a religious nature.

Although largely devoid of substantive state or religious law, the "spectacle of the law" doubtless serves a variety of purposes. Ningxia shows diverse arrangements with *ahong*, such as permanent PMCs. It also has *ahong* serving as permanent judicial (and paid) mediators. The example of the people's mediator Old Dong illustrates that the most visible and publicized instance of the state's engagement with Muslim leaders may not arise from the substantive knowledge of the Muslim authority, but exactly from his lack of learning. At the same time, such arrangements ensure

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<sup>18</sup> It is not just the state's representatives who use *ahong* to solve disputes. Beginning in 2009 with the Linxia City urban plan to expand the city eastward, quadrupling its size and destroying many farmsteads in the process, many developers began using *ahong* to assist them in mediating disputes with residents.

local norms are enforced, maintain social stability, and keep claims out of courts. This “spectacle of the law” is a kind of over-the-top bureaucratization and functions most fully to communicate the benign collaboration of the local government with figures recognized by the community. This instance of bureaucratization is highly visual and clearly and redundantly names the Muslim party. Yet, the actual work done by such mediators, while broadly reproductive of local norms, may be congruent with neither state nor Islamic law. The “spectacle of the law” exemplifies the reproduction of signifiers (e.g., Qur’ānic justice) that may be largely emptied of significance not unlike Jean Baudrillard’s notion of simulacra (1994). Media, propaganda, signs, billboards, and photographs follow what Baudrillard calls the “precession of simulacra” by which the copies of images are continually reproduced but without originals or referents in reality, eventually displacing the non-existence of reality (Baudrillard 1994:4). Old Dong personifies this process as a man illiterate in Chinese and Arabic mediating disputes according to Chinese and Islamic laws. Unlike unofficial bureaucracy, where informal relationships between *ahong* and cadre occur without public recognition, the “spectacle of the law” is performed for the sake of the lay Muslims. The audience attains primacy.

Hezhou, on the other hand, has perhaps the highest concentration of learned *ahong* in China, and yet none of these are organized into PMCs to be showcased in the local media. In Hezhou, *ahong* are not permitted to form PMCs. They are not even allowed to serve in the capacity as permanent judicial mediators. The history of Hezhou’s Islam is simply too dangerous. Instead, legal and judicial organs will establish temporary agreements with *ahong* to utilize their knowledge of Islamic law on a case-by-case basis. *Ahong* are given titles like “supervisor” that open the door to allowing multiple governmental bureaus access to the *ahong* via informal relationships as in unofficial bureaucracy. This unofficial bureaucratization ensures that the state extracts *ahong*’s specialized knowledge without showing the public the state’s reliance on such non-state authority. Unofficial bureaucratization operates on the margins, in the gray and interstitial space between

unofficial and official nodes of mediation. Unlike the “spectacle of the law,” there is no clear mandate of authority, grant of power, or boundary of jurisdiction. Yet it is an open secret, a conspicuous indirection. At the same time, legal-juridical organs hesitate to grant too much (public) authority to Hezhou *ahong*. The result is both a holding-to-the-chest, to ensure *ahong* do not develop anti-state positions, and a keeping-at-a-distance, to prevent *ahong* from osmotically assuming too much official power. Nasim is exceptional in his ability to mobilize social capital accumulated from unofficial recognition to form social connections with the Party–State and, conversely, to use such connections and his voluntary integration into the lowest levels of the juridical apparatus to benefit his *jamāʿa*. Nasim’s case demonstrates how unofficial bureaucracy may engender a dual track to procedure: one features Islamic law bound, that is, limited by state law, as when Nasim is called to counsel judges, and the other is an unrecognized Islamic law, as when Nasim mediates disputes within his *jamāʿa* directly. There is, in summation, a direct correlation: the higher and more public the degree of bureaucratization, the less Islamic law operates in the procedural aspects of Han shariʿa. At the same time, state law itself may be hollow or supplanted by local custom. Indeed, while it is important not to over-generalize from the case of Old Dong, the object of bureaucratization says a great deal about the aims of the state in such highly visible partnerships.

The state, however, exists in a triadic rather than dyadic relationship to Muslim leaders. The state is not the beginning and end of the “agency” of bureaucratization. Rather, both institutions of procedural justice among Muslim minorities and the state are embedded in Chinese culture. That is, the perspective assumed in this chapter is that bureaucracy is not just an instrumentality of the state, but is itself a cultural system that pervades levels of Chinese political, religious, kinship, and corporate life. In this sense, bureaucracy is a kind of aid to multiple overlapping fantasies. As Žižek has shown in his re-interpretation of Lacan, all social organization entails fantasy (e.g., 1989:101). Lacan’s symbolic order never completely determines the subject, both the imaginary realm of the

ideal ego, Freud's *Idealich* (Žižek 2007:80), and the real as that which cannot be symbolized or imagined, interpenetrate the symbolic. The resulting incongruities are mapped over by fantasies, in this case, by bureaucracy, which become "social reality." In Hezhou, the fantasy of the members of the *jamā'a*, that their *ahong* deserves respect because of his knowledge of Islamic theology, law, and rites, and not because he has back-room dealings with public security bureaus,<sup>19</sup> is sustained by unofficial bureaucracy. In Ningxia, the "spectacle of the law" operates in the opposite direction: to showcase both the mosque's observance of Communist policy and the Islamic knowledge of mosque elders, even if they may not possess such knowledge. From the vantage of the Party-State, bureaucratization offers the fantasy of consent, coercion, and control, while meanwhile, *ahong* invoke illegal law (i.e., shari'a) to settle disputes within the *jamā'a*. Lastly, bureaucracy sustains the fantasy of *ahong* themselves. *Ahong* fantasies take different forms: that they are really adjudicating conflicts in accordance with shari'a and state law (as in the case of Old Dong) or that they can move from room to room, occupied by different representatives or users of diverse legal orders (a *jiaotu* or *manla*, a police officer, etc.), without entailing some degree of ethical or moral turbulence. *Ahong* fantasies are rooted in the need for recognition from multiple sovereignties. Bureaucracy smoothes over doubts and anxieties to the contrary. Following Žižek, the fantasy of bureaucracy becomes the *ahong's* reality.

Further, the division of labor within mosques, the creation of balancing positions unified under the single jurisdiction of a *jamā'a* long predated the coming of the Communists. Similarly, from at least the Yuan period onward, while Chinese Muslims sued each other (and the Han majority) in imperial courts to solve disputes, they also sought recourse in *ahong* as qadi proxy. *Ahong* mediated then just as they do in the contemporary Northwest. Against interpellation, the

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<sup>19</sup> I observe that many lay Hezhou Hui may recognize that their *ahong* holds a title (or several) from governmental bureaus and that this increases their esteem for him or that when the government designates their mosque as a "model mosque" that this also pleases them. However, most lay do not know the extent to which *ahong*, at least those with considerable standing in Hezhou, are constantly engaged in a give-and-take exchange of favors with government officials.

role of the Communist state should not be over-privileged in the outcome of these institutional arrangements. Nonetheless, the Party–State has modified and adapted these institutions through the matrix of legalization—bureaucratization for its own ends.

From the view of the Party–State, bureaucratization serves manifold interests: (1) the utilization of *ahong's* knowledge either for instrumental or hegemonic purposes, (2) placing a field of juridical activity around the *ahong* in order to curb their influence, (3) maintaining social stability by addressing inter-personal disputes before they snowball into larger conflicts, (4) keeping such “small claims” out of an overburdened and under-resourced court system,<sup>20</sup> and (5) gaining legitimacy from partnership with religious leaders.

At the same time, the bureaucratization of *ahong* facilitates the viability (if not visibility) of Islamic law among Muslims—and non-Muslims—in the Northwest. Like the pre-Islamic Arabian fable of the she-camel born from a rock as recorded in the Qur’ān,<sup>21</sup> *ahong* engender a social practice consonant with Islamic norms from the procrustean bed of local governance under one-party socialist rule. Thus, while the judicial organs of the Party–State have selected individuals of authority within their respective Muslim communities, bureaucratization cuts two ways. While the local government uses these *ahong* for control and legitimacy, at the same time, *ahong*, to differing degrees, utilize such bureaucracy to institutionalize Islamic norms in the community. Yet both *ahong* and state actors can be said to be participating within a cultural system of bureaucracy, building, modifying, manipulating, and mobilizing its resources and in so doing, reproducing institutional life.

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<sup>20</sup> It is ironic that despite a near ubiquitous negative attitude toward the judicial system, people in Hezhou continue to use it at a rate and volume that exceeds capacity. In Linxia Prefecture, caseloads rose substantially in the 2000s: 2002 (101.6%), 2003 (101.1%), 2004, (101.8%), 2005 (101.9%), and 2006 (101.3%) (Bai 2008:195). Alternative dispute resolution (ADR) as a steamvalve for an overburdened judiciary that actually prevents justice is a common critique of ADR (Mattei and Nader 2008; Merry 1990; Nader 2002).

<sup>21</sup> See Qur’ān (7:73–77).

*“A Law without Force”*

In his essay, “The Messiah and the Sovereign: The Problem of Law in Walter Benjamin,” Italian philosopher Giorgio Agamben identifies the Judaic, Christian, and Shiite Muslim religious traditions as evidencing a relationship between messianism and law that he calls “being in force without significance” (1999:169).<sup>22</sup> Han shari‘a (of Sunni, not Shiite Muslims) is, rather, a law that exists in a condition of being significant without force.<sup>23</sup> The legal-juridico complex of the Party–State prohibits *ahong* from enforcing Islamic law. This prohibition, an instituted lack, figures predominately in the subjectification of *ahong*.

Bureaucratization does not necessarily mean that *ahong* are reduced to the status of state functionaries, propagating socialist legal consciousness. Bureaucratized *ahong* evidence different reflections on their position as interface between the Party–State and Muslim populations depending on where their position lies on the spectrum of bureaucratization. Local Muslim leaders such as Old Dong who were not trained in Islamic knowledge, but whose position is a result of their immersion in the *jamā‘a* generally do not reflect upon their status in between the authorities of mosque and Party–State. *Ahong* exposed to unofficial bureaucracy, on the other hand, are often trained in the Qur’ān, *aḥādīth*, and Islamic legal classics by “scriptural hall education.” These and particularly those *ahong* who conducted advanced study in the Middle East have a more nuanced, if not melancholic, perception of the system and their place in it. Nasim says, “All *ahong* are responsible for [resolving disputes arising from] *minshi* (civil matters). It is our duty. The state recognizes the importance of *ahong* to the community. But this recognition is an internal one, it is

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<sup>22</sup> The argument, in short, is that Judgment Day as the return of the Messiah inaugurates a state of exception (for/of state law) during which the Messiah restores religious law. However, as Agamben shows through the example of the Torah, the Messiah cannot restore a law that has two forms at two distinct periods (i.e., that before the Fall and that of redemption) in the original form of the former at the time of the latter.

<sup>23</sup> Thus, *ahong* are not limited only in their capacity to enforce state law (see Chapter 8), but also Islamic law.

not codified in law” (HZ 11/7/2010). While the informality of the recognition affords flexibility, it also imposes limits. As with other well-educated *ahong*, Nasim laments his lack of enforcement powers. Nasim, as an Yihewani *ahong* trained in Saudi Arabia, constantly compares the situation of *ahong* in Hezhou to that in Saudi Arabia. Saudi Arabia benefits from the comparison, as its role defines an imaginary, not unique to Nasim among the Yihewani and Salafiyya *ahong*, of a jurisdiction where shari‘a is the basis of law. Nasim would say, pointing to images of the Al-Masjid al-Ḥarām on his wall, “There, the Qur’ān and the *shengxun* (*sunna*) are the basis of the constitution. There, courts decide cases based on shari‘a. Here [now touching the armrests of his chair] is not *zhengjiaoheyi* (a theocracy).” Nasim and other *ahong* do not wish to return to the Muslim heartland as Raphael Israeli once opined (2002b) but neither do they want to establish sultanates as did late nineteenth-century leaders, Du Wenxiu in Yunnan (Atwill 2005b) and Yaqub Beg in Kashgaria (Kim 2004). Rather, their lot is somewhere between their imaginary of rule according to shari‘a and the imaginary of the Party–State based on Communist law.

In Lacanian terms, *ahong* are assigned a symbolic identity within the system of governance in the Northwest. This identity strips them of the power of enforcing Islamic law. The Party–State’s monopolization of enforceability powers and the lack that ensues are experienced by educated *ahong* as a kind of “non-having [*manque à avoir*]” (Lacan 2006e:582). *Ahong* experience this non-having as a gap between what they imagine *a’imma* to do and what the Party allows them to do. Their desire is to be whole, to be like them “there,” to perform their functions under shari‘a, and to enforce the law, but this desire is impeded, not by PRC law which does not mention shari‘a let alone render it illegal, but by bureaucratization *qua* social reality which encompasses and neutralizes it, rendering it forceless. The effects of bureaucratization are felt most poignantly by those *ahong* who are fluent in Arabic, have studied abroad, and have ties to Muslim legal scholars in the Middle East, in other words, those who otherwise would have the capacity to participate in signifying (i.e., enforcing) law. It is noteworthy that Old Dong, who is so celebrated in Yinchuan as an exemplar of

the harmonization of Islamic and PRC justice, is a *wenmang*, an illiterate who cannot write (i.e., produce signs). For many of the educated urban *ahong*, especially Yihewani and, to a lesser extent, Salafiyya, who have been trained in “scriptural hall education” and abroad, their frustration is the wellspring of procedural justice in Han shari‘a.

Bureaucracy, however, does not do all the work in negating law’s signification. While the state may curtail *ahong’s* authority through the non-enforceability of Han shari‘a procedure, it is ultimately the lack of Islamic legal consciousness among Chinese Muslims that undercuts the efficacy of Islamic law. Upon returning to China after his study abroad in Saudi Arabia, Nasim experienced a degree of reverse culture shock, specifically in regards to the legal consciousness of Hezhou Hui. He was distraught at the time, he recalls, and these years later talking about his observation, his shoulders sag, making his already small frame appear smaller. He expresses his disappointment:

Having lived and studied in Saudi Arabia, upon my return to Hezhou, I saw that Chinese Muslims are backward in the aspect of their religion, that they hadn’t realized their belief, the reason being this is a dominant Han country (*da Hanzu guojia*) and Chinese Muslims have been influenced by this culture. Their belief is mixed with Buddhism (*chanza de fojiao*), this is not like Saudis whose belief is pure, from the womb they are taught only Islam (HZ 12/23/2010).

*Ahong* may produce signs of Islamic law through speech (e.g., exhortations to the *jamā‘a* through *wa‘z* or consultations with family members), text (e.g., writing articles for state-sponsored Muslim newspapers like “Muslim Newsletter” (*Muslim tongxun*) which are circulated between and among *jamā‘a*, translations of Islamic legal texts, or Internet discussions), and acts (e.g., mediation), but in an ironic parallel to official legal propaganda, the message may be curtailed by Chinese Muslims’ preference for custom and informal mechanisms over law.

## *Conclusion*

This chapter has developed an ethnographic depiction of Muslim leaders' bureaucratization on a graded spectrum from unofficial bureaucracy to the "spectacle of the law." The location of *ahong* on this continuum depends on local circumstances and the *ahong's* relative knowledge of Islamic law and, accordingly, his relationship to state authorities. Ningxia Hui Autonomous Region is touted as a model solution to integrating Muslims into the Chinese nation-state. The case of Old Dong highlights a Muslim leader, recognized by both the *jamā'a* and the organs of regional autonomy as an authority. Old Dong exemplifies the desire for recognition among Muslim leaders from the state and (indirectly) Muslim laypeople. The Party-State recognizes Old Dong as subject primarily because he is incapable of himself making and mastering signs that could be communicated directly to the *jamā'a* free of the state as intermediary, in the form of the police officer who sits next to him during mediation sessions. On the other end of the spectrum, Nasim has attained an extremely high level of proficiency in Islamic legal studies. The response of the state is to envelope his signification in bureaucracy, the resulting in a kind of hand-tying. Nasim is not highlighted by the "spectacle of the law" as such publicity would potentially confer too much recognition on Nasim. Usually, recognition of Muslim leaders by Muslim laypersons corresponds to recognition by the Party-State, that is, the two are proportionate. However, occasionally, popular recognition can exceed that of the state, as in the case of Sufi *shaykh*. As demonstrated in the case studies, unofficial and official nodes of dispute resolution show involution. Unofficial nodes are embedded within official ones (e.g., *ahong* as "temporary judicial mediators" in Hezhou) or vice versa (e.g., people's mediation committees in Ningxia replicating the format of formal adjudication while still using mediation).

Still, as argued in this chapter, most *ahong* in the Northwest experience frustration in dispensing justice in accordance with Han shari'a. The vexation felt by *ahong* is as much a result of

the *jamā'a* who fails to heed the sign as it is legal-juridical bureaus, quasi-governmental organizations, and Party organs that impede or obstruct, channel or screen the sign. Han shari'a thus is relegated to the position of a soft or aspirational law. Contradictorily, Han shari'a's procedural softness has been reinscribed into the practice of Han shari'a, which emphasizes the emulation of the Prophet Muhammad and additionally, among Sufis, of their founding saint as necessary but not sufficient to correct behavior. That is, Han shari'a operates less on the basis of principles and their enforcement (as in the case of PRC law) than on imitating righteous models.<sup>24</sup> The Sufis, ever wary of representations of their relationship to their founding saint for fear of being accused by non-Sufis as committing *shirk* (idolatry) call this modeling *xiaofang* (follow the example of [someone]). Emulation of moral examples has a foundation in Chinese legal culture, for instance, in the historical-philosophical linkages between *fa* (law) and *li* (ritual) as a moral standard and model for imitation, often in the form of a sage who serves as exemplar for future generations, including rulers (Frankel 2011:72). In this way, Chinese customs may not always militate against Islamic legal consciousness and may in fact provide fertile ground for Chinese Muslims' attuning to Han shari'a.

As noted by Steven Sangren, Chinese culture demonstrates a logic, following Louis Dumont, of "the encompassing of the contrary" (1987a:3). In perhaps his definitive philosophical statement, *On Contradiction* (1937), Mao Zedong expressed this logic, in the terms of dialectical materialism, as "non-antagonistic contradiction." He wrote, "opposites possess identity, and consequently can coexist in a single entity and can transform themselves into each other . . ." (1990:203). Mao might as well have been describing *ahong* and their capacity to integrate Chinese and Islamic authorities. The *ahong* as subject, Hezhou as Muslim city in a Chinese state, and the religious-cultural entity "Chinese Islam" are homologous substantiations of non-exclusive contradictions. The working out of contradictions occurs through instrumentalities that pervade Chinese society. For instance, the

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<sup>24</sup> For instance, the Prophet is the *uswa hasana* (beautiful model) (Qur'an 33:21).

conflict between capitalism and socialism was resolved (at least, at the level of ideology) in 2000, by the Chinese Communist Party's inclusion of capitalists via Jiang Zemin's "three represents." While there are Muslim cadres (like venture capitalist communists among other oxymorons), *ahong* have not been integrated into the apparatus of governance by formal Party membership. Rather, bureaucratization as the 'gap-filler' between state and society and mediation as the practice of dispute resolution that permeates both state and society (and thus blurs their boundaries) operate to link *ahong* to the local government. However, pursuant to Mao, the "unity of contradictions," whether in subject formation of *ahong* or bureaucratization of *ahong* by the Party-State, is not one of peaceableness, but of struggle.

## CONCLUSION. TOWARDS AN ETHICAL UNITY?

Analysis of Han shari‘a, the patchwork practice of ritual (i.e., purity and worship) and transactional rules derived from the revealed sources of Islam, Chinese culture, and local social life, straddles two possibilities (among others). One is that of Chinese studies (including the study of law, ethnicity, and especially Hui), which defines Hui law as *Huizu xiguanfa* (the customary law of Hui). That is, the signifier *xiguan* mediates between the subject ‘Hui’ and the Hui’s object *fa* (law). Yet the genealogy of the term *xiguan* excludes itself from the ontological category of law. That is to say, whatever guides Hui conduct and interpersonal relations in the mosque, home, workplace, or market (and sometimes KTV club) is not really law at all. Instead, *xiguanfa* is premodern and predisposed to reproduce a set of behaviors tied to the past and to a specific group or locality. Further, ethnicized *xiguanfa* plays an important ideological role as a foil to legal modernity, an aspirational marker of national progress, as engineered by the ethnically invisible Han Chinese and the Party–State.

The other possibility for Han shari‘a derives from Islamic Studies, namely, the study of shari‘a. Recently, scholars examining both the status of shari‘a in Muslim majority countries and in Western secular states where Muslims are the minority have shown an “ethical turn,” understood as the examination of the relationship between freedom and authority (Agrama 2010:2). This analysis takes two forms. One, Islamicist scholars seek an accommodation between Islamic jurisprudence and contemporary political theory to develop perspectives of Islamic morality consistent with multiculturalism, constitutionalism, and democracy (Emon 2008; Emon 2007; Fadel 2008; Ramadan 2008). Two, experts of law and culture reappraise the institutions and practices of shari‘a as ethical commitments in the pursuit of fashioning virtuous selves (Clarke 2012; Hirschkind 2006; Mahmood 2003). Both approaches weigh the relationship between freedom and authority in decision-making in the formation of ethical systems. The former do this through discussions of classical Islamic jurisprudence, engagements with public reason, and natural

law theory in the Islamic and Western traditions. The latter approach ethics through ethnographic encounters with the everyday and through which dispositions toward authority provide the grounds for the subject to enact agency. These ethics-as-everyday studies draw mainly on the work of Foucault through Talal Asad (1980; 1986; 1993).<sup>1</sup>

In developing a critique of Han shari‘a as *xiguanfa*, the revived study of shari‘a provides some assistance.<sup>2</sup> Both the philosophically oriented approach and ethnographic studies are helpful in widening the analysis of shari‘a, particularly in the context of a secular state, beyond a conceptualization of shari‘a as a rigid legalistic code that demands obedience. Moreover, in the case of Chinese legal culture, scholars have long observed law as morality (Fei 1992[1947]; MacCormack 1996; Peerenboom 1993). That is, legal relationships (whether contractual, testamentary, equitable or otherwise) acquire traction when they are congruent with moral relationships (defined by family, lineage, or community). The jurisprudential or philosophical approach, however, is predicated on the prerequisite of what Hirschkind calls the counterpublic: “a domain of discourse and practice that stands in a disjunctive relationship to the public sphere of the nation and its media instruments” (2006:117). Similar to what subaltern writers refer to as the “third space” (e.g., Bhabha 1994), the counterpublic itself requires a venue, location, or medium for robust and meaningful deliberation. This requirement of an Islamic civil society distinguishes the status of Muslim minorities in China from co-religionists in France or the United States. In religious centers such as Hezhou, any potential counterpublic is dismantled or monopolized by the Party–State. Counter-discourse exists, but at the periphery in self-printed pamphlets, *xinxibu* conversations, *jiaopai* and *menhuan* publications, networks of “unofficial” Chinese–Arabic schools, and Internet

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<sup>1</sup> Many of these studies (by Asad or studies following Asad) either ignore or criticize an earlier tradition in anthropology that examined local Islamic sensibilities, ethics, or proprieties in the face of modernization, such as the adat in Indonesia (Abdullah 2007[1972]; Geertz 1983; Siegel 1986; Siegel 1997).

<sup>2</sup> Over the past twenty years or so, scholars have returned to the study of shari‘a out of a variety of impulses one of which is a renewed interest in Muslim minorities’ ability to adapt Islamic texts and law to traditions outside of the Muslim heartland (An-Na‘im 2008a; An-Na‘im 2008b; Bowen 2012:ch. 7; Fishman 2006; Rohe 2009).

commentary. Although Hezhou is undergoing urbanization, in uncanny China, Hezhou has emerged as a market town without a market, thus limiting spaces for deliberation. In the same vein, the philosophical approach requires some familiarity with the canon of Islamic jurisprudence in order to develop an indigenous *fiqh*. Some *ahong* who have studied abroad are producing localized quasi-fatwas, but there is a ceiling to such efforts in the form of internal and external constraints (e.g., *ahong* education and censorship, respectively) and such writings are neither systematized nor broadly circulated.

As for the second approach in Islamic studies, ethnographies of Islamic ethics complicate thinking about law as imposed from the outside. As Mahmood, for example, shows in her study of Egyptian women's pietist movements, their agency derives from their bodily practices as located in historically contingent discursive traditions (2005:32, 167). Mahmood perhaps more than others integrates bodily practice into a Foucaultian discourse-based analysis. Her argument also provides alternative ways to think about agency in addition to resistance/subversion. However, Mahmood's analysis may not go far enough in foregrounding the intentional actions of the subjects of her analysis, either individually or collectively, where agency is located in the subject rather than in a patriarchal Islamic tradition. Moreover, the "ethical turn" in Islamic studies also removes shari'a from the status of law.

One may ask why the privileged ontology of law? Or, what difference does it make if Han shari'a is labeled as custom or ethics? In their own intellectual traditions, Chinese Muslim literati were more concerned with rationalizing Islam, including its law, with Neo-Confucian thought rather than creating a body of knowledge that explicitly applied Islamic jurisprudence to problems attendant to living a life in accordance with "the pure and true" in China. So, for example, Liu Zhi's *Ceremonies and Rituals of Islam (Tianfang dianli)*, the only work of the Han Kitāb to address matters of law, is full of statements such as "The Way contains the Teaching, but without resemblance. The Teaching contains the Law, but without personhood" (*dao you jiao er wu xiang,*

*jiao you fa er wu shen*) (2009[1710]:174). Liu Zhi's philosophical and theological syncretism continues to play a vibrant role in traditionalist Muslim circles. Nonetheless, it does not provide practical guidance for everyday problems such as what is a Hui woman to do when her husband initiates divorce and she has no marriage license to prove their legal union? In other words, not just the state but also Hui intellectuals have customized law, desacralized it so that it is not a divine law but a law based on Confucian reason and order.<sup>3</sup> In modern China, Han shari'a survives largely without Islamic institutions (e.g., courts) and with a tradition that emphasizes rationality over monotheistic divinity. Moreover, Han shari'a is realized through doubled patriarchy. Male preferences in shari'a inheritance rules and marriage relations are reinforced through their analogues in local Chinese culture. Additionally, the Party-State bolsters the authority of Hui *ahong*, *shaykh*, *jiaozhang*, and other elite (all men) as mediators of disputes.

One reason to focus on Han shari'a as law is because Hui themselves regard it as law. Chinese thought, including Neo-Confucianism, Daoism, and Buddhism, whether understood as philosophy or religion, provides a rich vocabulary of terms for ethics, morality, and rites (e.g., *de*, *ren*, *li*, *tian*, etc.) but Hui do not use these ideographs. They use *fa* (law). One effect of China's Islamic revival since the 1980s is that Hui are increasingly attuned to a shari'a consciousness. Their thought about the law is a result of the mode of learning availed by translation of Arabic and Persian works and also revitalized education, public and private. Further, young Hui study abroad in increasingly large numbers acquiring knowledge of currents in reformist thought, including legal scholarship, in Pakistan, Saudi Arabia, Egypt, and elsewhere. That is, although the state has sought to administer and isolate Hezhou, its governance is weak, not strong. As demonstrated in the KTV affair, the South Gate Grand Mosque affair, marriage registration requirements, and other conflicts of law, security organs and state law have hardly hegemonized thought and action in Hezhou. In

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<sup>3</sup> For example, Frankel demonstrates how Liu Zhi underscored rationalistic reasons for the pork taboo, even citing Chinese texts on medicine, pharmacology, and toxicology, in addition to mentioning the spiritual pollution of pork (2011:148-150).

spite of Communist governance and partly due to relaxation of religious policies, Hui educational and intellectual, pilgrimage and hajj, and business and trade networks continue to flourish. The multiple effects of state policy, law, increasing integration with the global economy, and Islamic revivalism in the post-‘Arab Spring’ Middle East interact in complex ways resulting in what I call uncanny China: ambiguity and ambivalence accompanying the return of repressed faith and memory.

I offer the idea of legal creolization as an alternative to legal pluralism, a major theory in the anthropology of law, as well as to prevailing accounts in Chinese scholarship that either ethnicize shari‘a in China or deny its status as law. The mixed legal subject of Han shari‘a is the protagonist, in the Greek etymology of “first struggler” but also in the Arabic sense of *mujāhid* (lit. “one who struggles”) in uncanny China. Borrowing from Butler’s subjection, the mixed legal subject is embedded in multiple and conflicting sources of authority, sovereignty, and law. All Hui in Hezhou experience the *umma* disconnect, a feeling of alienation from the Muslim heartland, however that is defined. This disconnect is caused by external (political and economic) causes just as much as by internal ones (e.g., weak mastery of Arabic, thin knowledge of shari‘a, influence of Han customs and behaviors, etc.). The disconnect is the fountainhead of a desire to transcend such obstacles and to gain legitimacy in their practice of Islam. One way they do this is through law which is itself embedded in different imaginaries—Chinese, Arab, Central Asian, Indian, Tibetan, Mongolian, and so on. These referents for law, legitimacy, authenticity, and power are refracted through the *jiaopai* as organizing schema, instituted fantasy, and structuring structures to the effect that they inhabit Hezhou Hui. Muslims in Hezhou thus acquire intimate knowledge of shari‘a through the socializing collectivity of the *jiaopai*. Each *jiaopai* orients its membership toward a certain relationship regarding nodes of law. While the mixed legal subject experiences discord and tension in resolving conflicts of law, the *jiaopai* institutes desire to suture over such points of disagreement. Just as most Hui do not question most creolized concepts of Han shari‘a (e.g., *nietie/niyyah*, *wagefu/waqf*,

*pinli/mahr*; etc.) but instead pass over them or take them for granted in everyday practice, so too do most members of *jiaopai* or *menhuan* locate their individual desire in the desire of the *jiaopai*. But this process is far from totalizing. *Jiaopai* and *menhuan* transfer ambiguous attributes onto one another in an attempt to claim orthopraxis; likewise, individuals may either operationalize such transference relationships or be manipulated by them, in turn.

Han shari‘a is thus a symptom of uncanny China; it is an effect of liberalization just as much as it is limited and contained by that ‘opening.’ It is a judicially institutionless law lacking its own body of jurisprudence. Still, it operates through the banal thoughts, acts, and writings of the Hui. In other words, it does not exist ‘out there’ in courts in which anthropologists can sit and document suits, but it inheres in everyday Hui social intercourse and individual behavior. The Hui experience Han shari‘a as injunction, demand, prohibition, and renunciation (negative commands), and but also as productive of the Hui self: a regularizing pattern for faith, proper conduct, and spiritual cleanliness. For this, some Hui experience Han shari‘a as more real than surreal socialist legality. Thus, Han shari‘a requires rethinking law. This dissertation has sought not just to describe what this law looks like, its instruments, sources, and fields, but also to provide a way to think about law and subjectivity beyond rational actor theory, the dominant explanation in legal studies, or necessarily legal pluralism, legal anthropologists’ response.

To summarize, I have tried to demonstrate through practice, signification, and subjection, or body, text, and mind, the variant modes by which Hui not only come into law but supplement law’s operation. The supplement, in Derrida’s usage, comes to the aid of some original, founding act that is lacking. In their signifying practices, Hui supplement the many laws to which they are beholden. I give one example. Symptomatic of the desire to learn, propagate, and signify shari‘a, some members of mosques themselves write pamphlets about the law. One such pamphlet, *A Summarization of Islam (Yisilan gaishu)*, was written by an elder hajj *ī* of the Yihewani New Glory Mosque who has traveled to Mecca several times and is viewed by many Hui, even those outside his *jamā‘a*, as a local

expert in shari‘a. One day after telling me I could not say *salām* to him as I was a non-Muslim, the hajji handed me his pamphlet that he had written in 2009. He told me it would help me understand shari‘a. Later, that evening, I studied the pamphlet. It has four items under its section on law. One question asks:

Based upon what methods does a Muslim in the course of his life display he is a member of an excellent ethnicity? (*Musilin yisheng zhong yi zenyang de fangshi xianshi ta shi youxiu minzu de yi yuan*).

The answer is:

He displays he is a member of the excellent ethnicity by values, customs of dress and personal adornment, speech, acts, and demeanor (*Cong yishi xingtai, fushi xisu, yanxing juzhi fangmian xianshi ta shi youxiu minzu de yi yuan*).

The knowledge imparted supplements multiple archives, including that of the *jiaopai* and the state. The view expressed is unabashedly Yihewani. For instance, a Sufi would strongly disagree that one’s dress is a mandatory element of belief. It thus demonstrates the guiding role of *jiaopai* in Hui thought about the law. Additionally, the Yihewani view reiterates the state’s discourse, namely *minzu* (ethnicity) and *xisu* (custom). Typical of the Yihewani modernist and nationalist orientation, there is no admitted or recognized conflict between the two archives, they fold into each other. Such writings illustrate the attributes and limits of a Hui *fiqh*. Through such texts, Hui acquire knowledge about the basic principles of shari‘a (through the *jiaopai* lens). At the same time, the view expressed can hardly form the basis of a prolonged meditation on the position of shari‘a in a (post)socialist state. Given the lack of shari‘a expertise and the many limits imposed on cultivating such talent by the Chinese state, the Hui attribute particular value to the banal. The translation of an Arabic word such as *istawaā*, the focus of the Salafiyya split that re-emerged in the 1990s, a smuggled Islamic text in the case of the Yihewani split in 2009, and of course the liturgical and doctrinal disputes between the *jiaopai*, such as *fidya* and the reading of the Qur’ān at funerals, become the raw material for grassroots interpretations of the law among Hezhou Hui as expressed

through *jiaopai* fever. However, if a man born before the foundation of New China who has never formally studied law can acquire such a reputation in Hezhou, then the younger generation of *ahong* studying shari‘a abroad, pursuing postgraduate degrees, and redesigning curricula in “scriptural hall education” will most likely occupy a place in the Chinese Islamic imaginary as its first ‘*ulema*.’

In 1938, Isaac Schapera published his *A Handbook of Tswana Law and Custom* with the subtitle *Compiled for the Bechuanaland Protectorate Administration*. In his Introduction and Preface, he notes two objectives for the study, that is, two different audiences. First, he observes that the older generation of chiefs had passed away and were replaced by younger men “whose knowledge of the Native Customary Law is admittedly very much less than that of their predecessors” (1938:vii). He then writes, “The primary object of this book is to place on record, for the information and guidance of Government officials and of the Tswana themselves, the traditional and modern laws and related customs of the Tswana tribes of the Bechuanaland Protectorate” (1938:xi). Legal ethnography, much like the hajjis pamphlet, seems susceptible to multiple archives, tribal, colonial, “popular,” and official. However, unlike the case of Schapera’s Bechuanaland Protectorate, where knowledge of law was lost in the younger generation of chiefs, in Hezhou, consonant with the general revival of Islam throughout Hui areas of the Northwest, there is a surplus of representations of law. And yet, many such representations deny the status of law to what I have called *han* shari‘a. This dissertation is written as a record of the law and *jiaopai* of Hezhou Hui. I have written it with multiple archives in mind, but mostly for those Hui who had more to lose than to gain in sharing their views with me. Ultimately, they are its judges.

## APPENDICES<sup>1</sup>

### Appendix A. Hezhou Mosques

#### 1 Gedimu Mosques

No.	Mosque	<i>Ahong</i>	Educational Background of <i>Ahong</i>	Date est. <sup>2</sup>	Location	Size of <i>jamā'a</i> / No. of <i>manla</i>	Menhuan Affiliation	<i>Haiyi</i> System	Facilities for Women
1	Old Glory Mosque (Qingzhen laohua si 清真老华寺)	Hui, Hezhou native, 40s	Scriptural hall education in Hezhou	1368 (Ma 2010d:192); <i>but see</i> Ming Dynasty Chenghua Period (1464–1487) (Hai 1993:123; Wu 1995:364)	New West Street, west Bafang	3,000 <i>hu</i> (10,500 people) <sup>3+</sup> (mostly Hui); 40 <i>manla</i>	Old Glory Gongbei Khufiyya	Historically, a <i>haiyi</i> mosque	Women's school; women's prayer room

<sup>1</sup> The following appendices are based on a survey I conducted in 2009 to 2010.

<sup>2</sup> Dates are from interviews with *ahong* and senior members of the mosque management committee. Where interviewees are uncertain, I have referenced secondary sources.

<sup>3</sup> Estimates of the size of *jamā'a* were often given in number of *hu* (households). The conversion from *hu* to people is based on the figure 3.5 people/household. Interviews with neighborhood committee cadres in Bafang put the average number at 3 people per household which, based on my observations, appeared low. Although Hui are excused from the one-child policy in many parts of Gansu, Bafang is known for its over-crowding, cramped space, and overall low living standard. The official policy is to encourage one-child households by awarding 120 yuan per household per annum. Many Bafang Hui families have two or more children. The one-child policy appears relaxed in areas of Linxia City outside Bafang. I err on the side of conservatism and use the figure 3.5.

2	Old Wang Mosque (Qingzhen lao Wang si 清真老王寺)	Hui, Hezhou native, 44	State school until middle school, then scriptural hall education at several mosques in Hezhou	1368 or 1377	Wang Mosque Street, central Bafang	600 <i>hu</i> (2,100 people, mostly Hui); 60 <i>manla</i>	Mainly Khufiyya; Historically, a <i>haiyi</i> mosque	Historically, a <i>haiyi</i> mosque	Girls' school right outside the mosque
3	Little West Gate City Corner Mosque (Xiaoxiguan qingzhen chengjiao si 小西关清真城角寺)	Hui, Hezhou native, 40s	Scriptural hall education, some at Little West Gate City Corner Mosque	Ming Dynasty Chenghua Period (1464–1487)	West side of old imperial city, north Bafang	2,000 people (mostly Hui); 30 <i>manla</i>	No specific menhuan.		After hours school
4	North Mosque (Qingzhen bei si 清真北寺)	Hui, Hezhou native, late 30s	Studied under Ma Zhen, former head of Old Glory Mosque who was <i>khalifa</i> of Old Glory Gongbei	End of Ming Dynasty (c. 1644); front screen wall ( <i>yingbi</i> ) positively dated to 1741	Central Bafang	46 <i>hu</i> (161 people, mostly Hui); 20 <i>manla</i>	Old Glory Gongbei Khufiyya, but also Qadariyya, Shazilinya, etc.		Women's school. No women's prayer room
5	West Mosque (Qingzhen xi si 清真西寺); Little West Mosque (Gaxisi 尕西寺)	Salar, from Jishishan, 41	Scriptural hall education in Jishishan, then studied in Hezhou (mainly self-study)	1687	Central Bafang	150 <i>hu</i> (525 people, mainly Hui); 15 <i>manla</i>	No specific menhuan		None
6	Upper Second Society Mosque (Shang'ershe qingzhensi 上二社清真寺)	Hui, from Qinghai, 40s	Scriptural hall education in Qinghai	1980 (broke from Lower Second Society Mosque) <i>cf.</i> Qing Dynasty (Hai 1993:124)	Old flower market	200 <i>hu</i> (700 people, mainly Hui); 20 <i>manla</i>	No specific menhuan		Associated with a nearby girls' school (provides funding). It has 20 students.

7	Fragrant Artisan Village Grand Mosque (Xiangjiangzhuang qingzhen da si 香匠庄清真大寺)	Dongxiang, Hezhou native, late 30s, Qadariyya sufi	Scriptural hall education in Hezhou and Hezuo; formerly <i>kaixue ahongat</i> Taizi Gongbei (Qadariyya)	1600s <sup>4</sup>	West Bafang	1,000 <i>hu</i> (3,500 people, Hui and Dongxiang); 58 <i>manla</i> (Hui, Dongxiang, Bonan, Salar)	All menhuan represented		Have a girls' school outside mosque grounds with 100 students. Have prayer hall for women.
8	Upper Wooded Field Mosque (Shangmuchang qingzhensi 上木场清真寺)	Hui, Hezhou native, 40	Scriptural hall education in Hezhou (Old Glory Mosque and Old Wang Mosque)	End of Republican Period <i>cf.</i> 1982 (Hai 1993:125)	New West Street, south Bafang	Several hundred <i>hu</i> ; 40 <i>manla</i> from Gansu, some Qinghai	All menhuan represented		None
9	Small Ding Family Old Mosque (Ga Ding jia qingzhen lao si 尕丁家清真老寺)	Dongxiang, Hezhou native, 40s	Scriptural hall education in Hezhou (Old Wang Mosque, Bright Heart Mosque), Minghe, Qinghai; Lanzhou; and Hezhen	1983	Nanlong Township, Gading Jia Village (sheep hide market)	160 <i>hu</i> (560 people, mainly Hui); 10 <i>manla</i> (all Hui)	Old Glory Gongbei Khufiyya		Oppose girls' school on grounds of Wahhabi influence. Split the prayer hall in half, one side for women.
10	West Suburbs Grand Mosque (Xijiao qingzhen da si 西郊清真大寺)	Hui, 40s, Salar menhuan Sufi	Scriptural hall education	1980	Red Park New Village	2,000 people (mainly Hui); 70 <i>manla</i>	Gedimu, Qadariyya (Salar Jiao)		No girls' school. Women's prayer hall (often seems locked, unused).
11	East Gate Grand Mosque (Dongguan qingzhen da si 东关清真大寺)	Hui, from Jishishan, 40s	Scriptural hall education in Linxia, Lanzhou, Qinghai	2000	Southeast corner of the city	2,000 people (mainly Hui); 60+ <i>manla</i>	Ma Wenchuan Qadariyya - Naqshbandiyya		None

<sup>4</sup> Hai (1993) has 1980 for the date of the mosque's establishment that is most likely an error caused by confusing the Gedimu Fragrant Artisan Village Grand Mosque with the Salafiyya mosque, a hundred meters away, of the same name (see below).

12	Bright Heart Mosque ( <i>Mingde si</i> 明德清真寺)	Hui, from Ili, Xinjiang, 40s	Scriptural hall education in Xinjiang	1978 land given as <i>waqf</i> from Qi Mingde; 1980s prayed in house; 1990s had temporary prayer hall; 2011 mosque built	North Bafang, Red Park New Village	600 <i>hu</i> (2,100 people, mainly Hui); 60 <i>manla</i> (mainly Hui, from Gansu, Qinghai, and Ili, Xinjiang)	Naqshbandiyya-Mujadiddi		No girls' school Prayer hall being built 2011
13	Wool Park Mosque (Maoyuan qingzhensi 毛园清真寺)			Qing Dynasty Guangxu Period (1875-1908)	Chengguan Township, Maoyuan Village		Qadariyya and Khufiyya		
14	Hemp Field Mosque ( <i>Machang qingzhensi</i> 麻场清真寺)			1980	Chengguan Township, Maoyuan Village	150 <i>hu</i> <sup>5</sup> (750 people)	Qadariyya and Khufiyya		
15	Mu Lineal Village Mosque (Mujiashuang qingzhensi 穆家庄清真寺)			Qing Dynasty Guangxu Period (1875-1908)	Chengguan Township, Maoyuan Village	140 <i>hu</i> (700 people, 80% Hui); no <i>manla</i>	Majority Great Gongbei and Ancient Gongbei, Qadariyya, some Khufiyya		None

**2 Yihewani Mosques**

No.	Mosque	<i>Ahong</i>	Educational Background of <i>Ahong</i>	Date est.	Location	Size of <i>jamā'a</i> / No. of <i>manla</i>	<i>Haiyi</i> System	Facilities for Women
1	Han Family Mosque	Hui, 40s, Hezhou	Scriptural hall education in Hezhou	Qing Dynasty Guangxu	Old Flower Market	586 <i>hu</i> <sup>6</sup> (2930 people);	Historically, a <i>haiyi</i>	Girls' school across the street of 100+

<sup>5</sup> The average population per household in Maoyuan Village is 5 individuals.

	(Qingzhen Han jia si 清真韩家寺)	native	(Han Family Mosque), International University of Islam in Medina, Saudi Arabia	Period (1875–1908)		43 <i>manla</i>	mosque	students
2	Grand Qi Mosque (Qingzhen da Qisi 清真大祁寺)	Hui, 40s	Scriptural hall education in Hezhou	1657	Central Bafang	120 <i>hu</i> (420 people, all Hui); 30–40 <i>manla</i>		Girls' school (est. 1986), 280 students (2009), 800 (2012)
3	Water Spring Mosque (Shuiquan qingzhen da si 水泉清真寺)	Hui, 40	Scriptural hall education in Guanghe	1782	Off of Liberation Road, East Bafang	1,000 people (mainly Hui); 50 <i>manla</i>		No girls' school
4	Tie Family Mosque (Qingzhen Tie jia si 清真铁家寺)	Hui, 32, from Guanghe	Studied Mandarin until middle school; then Scriptural hall education in Hezhou (including Tie Family Mosque)	Late Ming Period	New West Street	600–700 <i>hu</i> (2,274 people, all Hui); 30–40 students		No girls' school. No women's prayer hall
5	Grand West Gate Mosque (Daxiguan qingzhensi 大西关清真寺)	Hui, 40s		Qing Period	North Bafang	47 <i>manla</i> (Zhao 2010:275)	Historically, a <i>haiyi</i> mosque	
6	New Glory Mosque (Qingzhen xinhua si 清真新华寺)	Hui, 40s, from Hualong, Qinghai	China Islamic Institute, then <i>madrasa</i> in Parkistan, then Medina University	1946	New West Street	400–500 <i>hu</i> (1,575 people, mainly Hui); 70–80 <i>manla</i> (Hui, from Xinjiang to Hainan)		Have yeyu school of 100+ women. No women's prayer hall.
7	South Gate Grand Mosque	Hui, 40s, from	Scriptural hall education in Qinghai	1273	South Gate Square (south	3,000+ people; (60%		Mosque completed major repair 2010.

<sup>6</sup> The average population per household is 5 individuals.

	(Nanguan qingzhen da si 南关清真大寺)	Qinghai			gate of old imperial city)	Dongxiang); 80 <i>manla</i> (over half Dongxiang)		
8	Lower Second Society Mosque (Xia'er she qingzhensi 下二社清真寺)	Dongxiang, 38, Dongxiang Autonomous County, has been <i>ahong</i> for 14 years	Scriptural hall education in Hezhou, studied abroad in Saudi Arabia	1920s, mosque expanded from "side prayer hall" ( <i>biansi</i> ) built by Ma Buqing (1898–1977)	Old Flower Market	10 Yihewani <i>hu</i> (35 people) and 30–40 Gedimu <i>hu</i> (122 people) or 157 total		While self-represented as the only <i>bi-jiaopai</i> mosque in Hezhou, Upper Second Society Mosque, which split from Lower Second Society Mosque, claims that this mosque is Yihewani
9	Village Mosque (Buzi qingzhensi 堡子清真寺)			Qing Guangxu Period (1875–1908) <i>cf.</i> 1934 (Hai 1993:126)	Chengguan Township, Buzi Village (western outskirts of Linxia City)	100+ <i>manla</i>		
10	Lower Wooded Field Mosque (Qingzhen muchang si 清真木场寺); <i>Xiamuchang si</i> 下木场寺)	Hui, 39, from Huangzhou County, Qinghai	Scriptural hall education in Huangzhou County, Qinghai	Pre-1949, split from Water Spring Mosque <i>cf.</i> 1933 (Hai 1993:125); 1942 (Wu 1995:370)	Southwest corner of Bafang	400–500 <i>hu</i> (1,575 people, Hui and Dongxiang); <i>manla</i> : 30 in summer and 80–90 in winter		None
11	Bai Lineal Village Mosque (Bai Jia zhuang qingzhen si 柏家庄清真寺)	Hui, 40s, from Lintao	Scriptural hall education	1980 <i>cf.</i> 1933 (Hai 1993)	West Bafang	400 people (all Hui); no <i>manla</i>		None

12	Big Dipper Stars Mosque (Kuixingge qingzhensi 魁星阁清真寺)	Hui, 40s	Scriptural hall education in Hezhou at Grand West Mosque	1960 <i>cf.</i> 1946 (Hai 1993:125)	Chengguan Township, Chen Fang Village	100+ <i>hu</i> (350 people, all Hui); 106 <i>manla</i>	A Han Family Mosque <i>fensi</i>	None
13	Guan Jia Tai Mosque (Guanjiatai qingzhensi 关家台清真寺)	Hui, 40s	Scriptural hall education in Ili Dongxiang, Hezhou, and Qinghai	Pre-1949; 1938 (Hai 1993:125); 1940 (Wu 1995:374)	Chengguan Township, Nanyuancun Village	420 <i>hu</i> (all Hui); 20 <i>manla</i>	A Han Family Mosque <i>fensi</i>	Affiliated with girls' part-time school.
14	Small Ding Family Mosque (Ga Ding jia qingzhen si 尕丁家清真寺)	Hui, 40s, from Minghe, Qinghai	Scriptural hall education in Minghe and Linxia	End of Qing Period	Nanlong Township, Gading Jia Village (sheep hide market)	300 <i>hu</i> (1,050 people, Hui and Dongxiangzu); 20 <i>manla</i>		No girls' school but have a part-time school for 20 women (est. 1989).

### 3 Salafiyya Mosques

No.	Mosque	<i>Ahong</i>	Educational Background of <i>Ahong</i>	Date est.	Location	Size of <i>jamā'a</i> / No. of <i>manla</i>	<i>Haiyi</i> System	Facilities for Women
1	River's Edge Front Mosque (Qianheyuan qingzhensi 前河沿清真寺)	Hui, late 40s	Scriptural hall education at River's Edge Front Mosque, five years in U.A.E.	1980	New West Street	1000 <i>hu</i> (3,500 people, all Hui); 60–70 <i>manla</i> (all Hui, from Gansu, Ningxia, Qinghai, Xinjiang)	A <i>haiyi</i> mosque	Girls' school
2	River Rapids South Mosque (Hetan qingzhen nan si 河滩清真南寺)	Hui, late 20s	Scriptural hall education at River's Edge Front Mosque	1990	Off of Liberation Road	40 <i>hu</i> (140 people, overlaps with <i>jamā'a</i> of River's Edge	A <i>fensi</i> of River's Edge Front Mosque	None

	a.k.a. Little South Mosque (Ga nan si 尕南寺)					Front Mosque); no <i>manla</i>		
3	Fragrant Artisan Village New Mosque (Xiangjiangzhuang qingzhen xin si 香匠庄清真新寺)	Hui, 30s	Scriptural hall education at River's Edge Front Mosque	1991	West Bafang	45 <i>hu</i> (157 people, mostly Hui); 10 <i>manla</i>	A <i>fensi</i> of River's Edge Front Mosque	No girls' school
4	New Wang Mosque (Xin Wang qingzhensi 新王清真寺)	Hui, 37	Institute of Islamic Studies in Hezhou, Scriptural hall education at River's Edge Front Mosque; further study in Saudi Arabia and Malaysia	<i>Jamā'a</i> formed 1940; mosque est. 11/7/1980	Off of Liberation Road	30 <i>hu</i> (105 people, mostly Hui); 55 <i>manla</i>	Separate from River's Edge Front Mosque	No girls' school. Have a women's prayer hall

#### 4 Xidaotang Mosque

1	Hemp Field Mosque (Machang qingzhensi 麻场清真寺)	Hui, 40s, from Lintan	Scriptural hall education in Lintan; Ningxia Islamic Institute; Pakistan	<i>Jamā'a</i> formed 1905, first <i>ahong</i> in 1910	Red Park New Village	200 <i>hu</i> (700 people, all Hui); no <i>manla</i>	None
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## Images



1.1. Old Glory Mosque with *jamā'a* undergoing urbanization (5/29/2010).



1.2. *Ahong* graduation ceremony at Old Wang Mosque (12/17/2010).



1.12. Constructing Bright Heart Mosque (12/17/2010).



2.6. New Glory Mosque (12/17/2010).



3.1. *Jum'a* in River's Edge Front Mosque (9/16/2010).



4.1. Xidaotang's Mosque on the birthday of the Prophet Muhammad (3/12/2010).



3.2. River Rapids South Mosque (11/7/2010).

Appendix B. Hezhou Sufi Institutions (A Non-Exhaustive List of Gongbei and Suoma)

1 *Qādariyya Tariqa*

No.	Name	Head ( <i>Dangjiaren</i> )	Date est.	<i>Menhuan</i>	Location	No. followers/ <i>manla</i>	Features
1	Grand Tomb Complex (Da gongbei 大拱北)	Yang Jiefang 杨杰芳 (age 40, Dongxiang from Yang Family Village)	1690	Base of Qi Men 祁门 <sup>1</sup>	Northwest Hezhou, Red Park Square	70,000 (mainly Dongxiang, Hui, and converted Han); 80,000 (Ma 2000[1979]:230)  30–36 <i>manla</i> (mostly Dongxiang); 20–30 (Zhao 2010:276)	Eight-sided tomb of Qi Jingyi 祁静一 (1656–1719), initiated by Khoja ‘Abd Allah; cemetery of key figures in <i>silsila</i> including Yang Shijun (9 <sup>th</sup> murshid); 3 large courtyards; built women’s prayer hall 2008; <i>chujia</i> (ascetic) system
2	Guo Tomb Complex (Guo gonbei 国拱北)	Ma Yufang 马玉芳 (40s)	Kangxi Period Year 58 (1712)	Disputed. Grand Tomb Complex claims historically under Grand Tomb Complex and that Guo Tomb Complex’s argument is that their founder Chen Baoguo was Qi Jingyi’s appointed successor. Guo Tomb Complex claims Chen Baoguo and Qi Jingyi were of the same cohort	Northwest Hezhou, Red Park Square, just south of Ancient Tomb Complex	Claim the same number as Grand Tomb Complex  18 <i>manla</i>	Four-sided tomb of Chen Baoguo 陈保国 ( <i>daohao</i> 陈纯一); built 36 m. dome for tomb 2011; <i>chujia</i> is voluntary

<sup>1</sup> Qi Men or “the family of Qi” is named after the eponymous founder Qi Jingyi. The name of the order was changed to “Grand Tomb Complex” after 1958, in the reign of the sixth generation leader, Qi Daohe, under pressure from the government to dismantle the *menhuan* system. Qi Men/Grand Tomb Complex is one of the four sub-orders under the authority of Baba Si 巴巴寺 in Langzhong, Sichuan, the burial place of Khoja ‘Abd Allah who brought the *tariqa* to China during several visits beginning in 1674. The other three sub-orders are Guang Men 广门, later 杨门, after Yang Bayen now buried in Qinghai, (based in Guyuan, Ningxia), Xian Men 鲜门 (based in Qinghai and which changed *tariqa* to Khufiyya), and Ma Men 马门 (based in Yunnan). Other tomb complexes under Grand Tomb Complex outside of Hezhou include Rock Mouth Tomb Complex (Shikou Gongbei 石口拱北) in Dongxiang Autonomous County, Green Dragon Mountain Tomb Complex (Qinglongshan Gongbei 青龙山拱北) just north of Lanzhou, and several other tomb complexes in Shaanxi and Sichuan.

				(tusi). Split occurred shortly after founder's death. Loosely Qi Men.			
3	Prince Tomb Complex (Taizi gongbei 太子拱北)	Min Renfang 闵仁芳 (age 40s, Dongxiang from Dongxiang Autonomous County)	Qiang long Period Year 23 (1758)	Before 1949, under Ancient Tomb Complex (Qi Men), but post-1949 only nominal subordination	Northwest Hezhou, Red Park Square, just west of Ancient Tomb Complex	Followers are those of Grand Tomb Complex  12 <i>manla</i> (Zhao 2010:276)	Six-sided tomb of Ma Tengyi 马腾翼 a.k.a. Ma Mingqing 马明清 (1694–1758), <sup>2</sup> 2 <sup>nd</sup> student of Qi Jingyi
4	Great grandfather Tomb Complex (Da Taiye gongbei 大太爷拱北)	Yang Jiefang	c. 1744	Under Ancient Tomb Complex (Qi Men)	Northwest Hezhou, Red Park Square, just west of Prince Tomb Complex	Followers are those of Ancient Tomb Complex  <i>Manla</i> are same as Grand Tomb Complex.	Six-sided tomb of Ma Ruheng 马如恒 (1657–1744), first student of Qi Jingyi; occupies same complex as Ancient Family Tomb Complex
5	Ancient Family Tomb Complex (Gujia gongbei 古家拱北)	Yang Jiefang		Disputed. Grand Tomb Complex claims under management of Grand Tomb Complex, but the <i>silsila</i> is that of Mou Nigou 漠泥沟 Tomb Complex in Linxia County (i.e., not Qi Men)	Northwest Hezhou, Red Park Square, just west of Prince Tomb Complex	Claim the same number as Grand Tomb Complex  <i>Manla</i> are same as Grand Tomb Complex.	Six-sided tombs of 2 students of Ma Jizhen, Grandfather Zhang Taiye and Grandfather of Gu Family
6	He Yan Tou Tomb Complex (He yantou gongbei 河沿头拱北)	Qi Jiujiu 祁九九	1980	Historically under Grand Tomb Complex but has seceded	Red Park New Village	Claim the same number as Grand Tomb Complex  13 <i>manla</i> (Zhao 2010:276)	Six-sided shrine with empty tomb, commemorates the first meeting between Qi Jingyi and Khoja 'Abd Allah in 1674.
7	Red Mountain	Hasana, 38	1700s	Historically, under Ancient Tomb	Yang Family	Claim the same	Four-sided tomb of Arab envoy

<sup>2</sup> Ma Mingqing's student is buried at Hajji Tomb Complex 伊哈池拱北 located in Dongxiang Autonomous County, about a 45-minute drive east from Hezhou. The significance of Haijji Tomb Complex is disputed by Ancient Tomb Complex which says that the tomb is not for a student of Ma Mingqing but for one of the six disciples of Khoja 'Abd Allah, and thus Haijji Tomb Complex is under Ancient Tomb Complex.

	Tomb Complex (Hongshan gongbei 红山拱北)	from Yang Family Village, trained at Ancient Tomb Complex		Complex, but only nominal subordination. Qi Men.	Village, South Dragon Town	number as Grand Tomb Complex <i>2 manla</i>	and missionary Gaisude 盖苏德 whom tomb attendants claim is one of the original missionaries to China in the 8 <sup>th</sup> c. C.E.; <i>chujia</i> system
8	Red Mountain Eternal Light Pavilion Tomb Complex (Hongshan yongzhaoting gongbei 红山永照亭拱北)	2 <i>dangjiaren</i> (came in 2005), both in their 40s, trained at Ancient Tomb Complex	1958	Allowed to use name of Grand Tomb Complex, but no formal relationship. Qi Men. Before 1996, was managed by Red Mountain Tomb Complex but split in 1997.	Yang Family Village, South Dragon Town	Claim the same number as Grand Tomb Complex <i>3 manla</i>	Eight-sided memorial to temporary burial site of Qi Jingyi from 1958 to 1997
9	West Gate Meditation Chamber (Xiguan suoma 西关索麻)	Yang Jiefang	1674	Property still owned by Ancient Tomb Complex. Qi Men	North Bafang	Followers are those of Ancient Tomb Complex <i>No manla</i>	Site of actual meeting of Qi Jingyi and Khoja 'Abd Allah in 1674. Some of order say Qi Jingyi was born on the spot and lived there. Considered third meditation site of Qi Jingyi.
10	Tuo Family Village Meditation Chamber (Tuojiacun jingshi/suoma 妥家村静室/索麻) a.k.a. "Fish Pool Sands" (Yuchitan 渔池滩)	Yang Jiefang	1665	Qi Men	Tuo Family Village, South Dragon Town	Followers are those of Ancient Tomb Complex <i>No manla</i>	Commemoration of 1 <sup>st</sup> mediation spot of Qi Jinygi in 1665.
11	Alleyway Meditation Chamber (Jiezi)	Yang Junfang 杨俊芳 (40s,	1709	Qi Men	Bai Lineal Village, Fuhan Town	Followers are those of Ancient Tomb Complex	Second meditation site of Qi Jingyi and also tomb of Ma Shilu 马世录 (d. 2002), 9 <sup>th</sup> generation

	suoma 街子索麻)	trained at Ancient Tomb Complex)				No <i>manla</i>	descendant of Qi Jingyi
12	Ancient Tomb Complex (Lao gongbei 老拱北) a.k.a. City Corner Tomb Complex (Chengjiao gongbei 城郊拱北)	Mu Mingfang 穆明芳 (b. 1971), Hui	1689	History intertwined with that of Grand Tomb Complex (Qi Jingyi's master reputedly buried there) but has broken ties	North Hezhou	Followers include those of Ancient Tomb Complex and some who do not visit Ancient Tomb Complex  5 <i>manla</i>	Eight-sided tomb of Khoja 'Abd Allah (1574–1689); has secondary tomb
13	Madame Tomb Complex (Tai Tai gongbei 太太拱北)	Mu Mingfang	1724	Under Ancient Tomb Complex, also claimed by Grand Tomb Complex	North Hezhou, adjacent to Ancient Tomb Complex	5 <i>manla</i>	Six-sided tomb of Hua'ayisha 华阿依沙 (1681–1724) only female Sufi to be buried in Hezhou.

## 2 *Khufiyya Tariqa*

No.	Name	Head	Date est.	<i>Menhuan</i>	Location	No. followers/ <i>manla</i>	Features
1	Glory Mosque Tomb Complex (Huasi gongbei 华寺拱北) <sup>3</sup>	Ma Jingzhang 马敬章	1766	Base of Glory Mosque Khufiyya <i>menhuan</i> . Note that many members identify as Khufiyya-Shaziliya	West Bafang	150,000 in Northwest (Hui, Dongxiang, Bonan, Salar, Uyghur),	Eight-sided tomb of founder Ma Laichi 马来迟 (1681–1766); <sup>4</sup> Ma Laichi's father Ma

<sup>3</sup> The first character of the name was changed from 花 (flowery) to 华 (glory, as in *Zhonghua renmin gongheguo* 中华人民共和国 or the People's Republic) following the Communist assumption of power in Hezhou.

<sup>4</sup> Members of the Glory Mosque Mosque Complex consider Ma Laichi to be the recipient of the *tariqa* from Khoja Āfāq [Hidayetonglahai], the 25<sup>th</sup> generation descendant from the Prophet Muhammad. Ma Tong relates the reception of the *tariqa* that sounds incredulous to a non-Sufi but is nevertheless a valid transmission of the learning according to Sufi understandings where time does not necessarily follow the course of a human

		(b. 1964)				400,000 total in China; 200,000 in Northwest (Ma 2000:161)  Approx. two dozen <i>manla</i>	Shiwan 马十万/Ma Jiajun 马家俊 was initiated by Khoja Āfāq; hereditary succession ( <i>shixizhi</i> 世袭制)
2	Bi Family Field Tomb Complex (Bijiachang gongbei 毕家场拱北)	Ma Weiliang 马维良	1722	Although physically proximate to Glory Mosque Tomb Complex, conceive of themselves as an independent Khufiyya <i>menhuan</i> (Bi Family Field <i>Menhuan</i> )	West Bafang	Fewer than 10,000 followers (Gansu, Qinghai)  10 <i>manla</i>	Eight-sided tomb of Ma Zongsheng 马宗生 (1639–1721) whose master was Khoja Āfāq
3	Grandfather Tomb Complex (Tai Baba gongbei 太爸爸拱北)	No current <i>shaykh</i>	1709	Originally part of Huasi <i>menhuan</i> , currently have only loose affiliation	West Bafang	Fewer than 10,000 followers  A few <i>manla</i>	Six-sided tomb of Muhammad Ishaq 穆罕默德·伊斯哈格 “Ma Tai Baba” (d. 1709), Meccan, guardian and father-in-law of Ma Laichi
4	Bright Heart Tomb Complex (Mingde gongbei 明德拱北)	Qi Jiequan 祁介泉 (d. 2012); successor is his fifth son, Qi Zhongming 祁忠明	1987	Naqshbandī (i.e., Khufiyya)—Mujaddidī: trace Khufiyya <i>silsila</i> through Qi Mingde’s ancestor Qi Xinyi 祁信一 who was taught by Khoja Āfāq. The Naqshbandī–Mujaddidī lines comes from Imām Rabbānī’s descendant Mai Sumu 满素, <sup>5</sup> an Indian master from Yuburambu who Qi Mingde	North Mountain; mosque in north Bafang	30,000 (Gansu, Qinghai, Xinjiang)  60–80 <i>manla</i> , from Gansu, Qinghai, and Ili, Xinjiang	Eight-sided tomb of Qi Mingde 祁明德 a.k.a. “Deaf Imām” 聋阿訇 (c. 1898–1987), led the Sufi resistance against the arrival of the Yihewani; hereditary succession

biography. According to Ma Tong, Khoja Āfāq blessed Ma Laichi’s father Ma Jiajun (a.k.a. Ma Shiwan) before Ma Laichi was born (Ma 2000[1979]). Thus, it was this meeting between *murshid* and unborn *murīd* which passed the *tarīqa* onto Ma Laichi.

<sup>5</sup> Full name Imām Rabbānī Shaykh Ahmad al-Farūqī al-Sirhindī (1564–1624), called “the newer of the second millennium.”

				and his father Qi Huantang 祁换堂 studied with in Saudi Arabia <sup>6</sup>			
5	Lintao Tomb Complex (Lintao gongbei 临洮拱北)	Contested leadership between Yisu (Yusufu) and Ma Chengbao	1807	Trace Khufiyya silsila to Ma Shouzhen 马守贞 (1633–1722), born in Lintao County, who was biological son of Khoja Āfāq	Brick Kiln Village (Wayaacun 瓦窑村), Northern outskirts of city	Over 10,000 followers (claimed by Lintao East Tomb Complex, burial site of Ma Shouzhen, as the center of the Kangle Mufti <i>menhuan</i> ).  7–8 <i>manla</i>	Eight-sided tomb of MaYuhuan 马玉焕 (1744–1807), 6 <sup>th</sup> generation leader and great grandson of Ma Shouzhen. Leadership not technically “hereditary,” but heavily influenced by patrilineage.
6	Lanzhou Tomb Complex (Lanzhou gongbei 兰州拱北)	No current <i>shaykh</i>	1736–1796	Liu Men 刘门 <i>menhuan</i>	Brick Kiln Village (Wayaacun 瓦窑村), Northern outskirts of city	Fewer than 10,000 followers.  0 <i>manla</i>	Six-sided tomb of Dawude Laihamani 达吾德·勒哈麻尼, 3 <sup>rd</sup> generation leader of Liu Men <i>menhuan</i> .
7	Mouth-of-the-Well Tomb Complex (Jingkou gongbei 井口拱北)	<i>Shaykh</i> in dispute	1830	Branch of Beizhuang <i>menhuan</i> , based in Beizhuang, Dongxiang Autonomous County	Western outskirts of city	Closed 2009–2010.	Six-sided tomb of Ma Yisima’er (1767–1830), Bafang native.

### 3 *Jahriyya Tariqa*

No.	Name	Head	Date est.	<i>Menhuan</i>	Location	No. followers/ <i>manla</i>	Features
1	Grand West Gate	Ma Denghua 马登华	1917, destroyed	Jahriyya	West side of city		Commemorates site where Ma Mingxin 马明心 (1719–81)

<sup>6</sup> Note: the Indian line has been refreshed by Qi Jiequan himself who traveled several times to India.

	Meditation Chamber Mosque (Daxiguan suoma qingzhensi 大西关锁麻清真寺)	ahong	and rebuilt repeatedly				lived in 1744. Although it is a mosque and holds prayer, most Hezhou natives refer to it as a <i>suoma</i> .
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#### 4 Misc.

No.	Name	Head	Date est.	<i>Menhuan</i>	Location	No. followers/ <i>manla</i>	Features
1	Cherished Tomb of the Sacred Heart (Huai Shengtang Gongbei 怀圣堂拱北)	Abū Bakr Ma Hailong 马海龙	1984	Several <i>туруq</i> including Khufiyya, Jahriyya, and Qadariyya	North Mountain	Several thousand  3 <i>manla</i>	Eight-sided tomb to “Grandfather Wang,” completed 2011. Abū Bakr, considered a renegade Sufi by his colleagues and a charlatan by his enemies, Abū Bakr is a self-invented Sufi master
2	Lingmingtang or “Spirit Bright Hall” Tomb Complex (灵明堂拱北)	Ma Yongzhen 马永真, based in Lanzhou’s Lingmingtang Xia Xi Yuan Gongbei)	1991 began construction, 2010 completed construction	Qadariyya–Khufiyya	North Mountain	Over 10,000 (Hezhou, Lanzhou, and Minhe, Xining)  5 <i>manla</i> (plus another 8–9 based in Lanzhou)	Eight-sided tomb to Ma Yuanzhen 马元真 (d. 1991), 4 <sup>th</sup> -generation leader of Lingmingtang <i>menhuan</i> . The burial site of the order’s founder Ma Yilong 马一龙 or Ma Lingming 马灵明 (1853–1925) is contested between the Wuxingping Lingmingtang and the Xia Xi Yuan Lingmingtang.

Images



1.1. Grand Tomb Complex. *Ermali* of Yang Shijun, 9<sup>th</sup> shaykh (1/26/2010).



1.2. Guo Tomb Complex. Construction of tower (9/13/10).



1.3 Prince Tomb Complex. *Ermali* of Ma Tengyi (12/5/2010).



1.7. Red Mountain Tomb Complex (left) and 1.8 Red Mountain Eternal Light Pavilion Tomb Complex (upper right) (5/26/2010).



1.12 Ancient Tomb Complex. Funeral for Mu Shiren (12/5/2009). 1.13 Inside main chamber of Madame Tomb Complex (12/24/2010).



2.1. Glory Mosque Tomb Complex, *shaykh* Ma Jingzhang in front (11/21/2009).



2.4. Bright Heart Tomb Complex *ermaili* of Qi Mingde (4/9/2010).



2.5. Tombs inside Lintao Tomb Complex (11/4/2010).

*Appendix C. Questionnaire on Marriage*

(Chinese version)

婚姻问卷

色兰问候！我是中央民族大学的博士生。我在临夏做社会调查。我的博士论文是关于临夏穆斯林的风俗习惯特别是婚姻。假如您能帮我的忙填写下面的简单问卷，我就特别感谢您。您填写此问卷是基于以下同意：您出于自愿，您的回答可能被用于研究并编入出版物中，您所提供的信息将仅被匿名使用。十分感谢您的帮助。

尹孟修

中央民族大学国际教育学院

- |  |   |
|--|---|
| 1. 新郎的年龄 ____  | 新娘的年龄 ____  |
| 2. 新郎的民族：<br>a. 回族<br>b. 东乡族<br>c. 汉族<br>d. 撒拉族<br>e. 保安族<br>f. 其他                                       | 新娘的民族：<br>a. 回族<br>b. 东乡族<br>c. 汉族<br>d. 撒拉族<br>e. 保安族<br>f. 其他                                       |
| 3. 新郎的老家：<br>a. 临夏市<br>b. 临夏县<br>c. 永靖县<br>d. 和政县<br>e. 康乐县<br>f. 广河县<br>g. 东乡族自治县<br>h. 积石山自治县<br>i. 其他 | 新娘的老家：<br>a. 临夏市<br>b. 临夏县<br>c. 永靖县<br>d. 和政县<br>e. 康乐县<br>f. 广河县<br>g. 东乡族自治县<br>h. 积石山自治县<br>i. 其他 |
| 4. 新郎的教派：<br>a. 老教/格底目<br>b. 伊赫瓦尼<br>c. 萨来非亚<br>d. 苏菲<br>e. 其他   | 新娘的教派：<br>a. 老教/格底目<br>b. 伊赫瓦尼<br>c. 萨来非亚<br>d. 苏菲<br>e. 其他   |
| 5. 给您们念尼卡哈的阿訇属于哪一位的教派？<br>a. 新郎和新娘的（就是两位的教派一样）<br>b. 新郎的<br>c. 新娘的<br>d. 其他                              |   |

6. 您什么时候办结婚证？
  - a. 阿訇念尼卡哈以前
  - b. 阿訇念尼卡哈以后
  - c. 生孩子以后才办
  - d. 不会办，太麻烦了

(English version)

### Marriage Questionnaire

Hello, I am a Ph.D. student affiliated with the Central Nationalities University Institute for International Education who is conducting research on local norms and customs of people in Linxia. If you can please take three minutes to fill out the questionnaire below, I would be truly grateful. My research is completely anonymous. In the future, results from this questionnaire may go towards a dissertation and possibly publication. By filling out this form, you agree to give me permission to use this data in my writing. I am truly grateful for your help

Matthew Erie  
Central Nationalities University  
Institute for International Education

- |   |   |
|---|---|
| <ol style="list-style-type: none"> <li>1. Groom age</li> <li>2. Groom ethnicity               <ol style="list-style-type: none"> <li>a. Hui</li> <li>b. Dongxiang</li> <li>c. Han</li> <li>d. Bonan</li> <li>e. Other</li> </ol> </li> <li>3. Groom hometown               <ol style="list-style-type: none"> <li>a. Linxia City</li> <li>b. Linxia County</li> <li>c. Yongjing County</li> <li>d. Hezheng County</li> <li>e. Kangle County</li> <li>f. Guanghe County</li> <li>g. Dongxiang County</li> <li>h. Jishishan County</li> <li>i. Other</li> </ol> </li> <li>4. Groom jiaopai               <ol style="list-style-type: none"> <li>a. Gedimu</li> <li>b. Yihewani</li> <li>c. Salafiyya</li> <li>d. Sufei</li> <li>e. Other</li> </ol> </li> <li>5. The person who read your nikah was from whose jiaopai?               <ol style="list-style-type: none"> <li>a. Groom and bride (same)</li> <li>b. Groom</li> <li>c. Bride</li> </ol> </li> </ol> | <ol style="list-style-type: none"> <li>Bride age</li> <li>Bride ethnicity               <ol style="list-style-type: none"> <li>a. Hui</li> <li>b. Dongxiang</li> <li>c. Han</li> <li>d. Bonan</li> <li>e. Other</li> </ol> </li> <li>Bride hometown               <ol style="list-style-type: none"> <li>a. Linxia City</li> <li>b. Linxia County</li> <li>c. Yongjing County</li> <li>d. Hezheng County</li> <li>e. Kangle County</li> <li>f. Guanghe County</li> <li>g. Dongxiang County</li> <li>h. Jishishan County</li> <li>i. Other</li> </ol> </li> <li>Bride jiaopai               <ol style="list-style-type: none"> <li>a. Gedimu</li> <li>b. Yihewani</li> <li>c. Salafiyya</li> <li>d. Sufei</li> <li>e. Other</li> </ol> </li> </ol> |
|---|---|

- d. Other
6. When did you obtain the marriage permit?
- a. Before the ahong read nikah
  - b. After the ahong read nikah
  - c. After giving birth to first child
  - d. Won't get one, it's too much trouble.

Appendix D. Qurbān Sermon by Ding Ahong

The following is a transcription of the *wa'z* prepared by attending and listening to its performance as well as videorecording the sermon and related prayer.

“Scrupulously Abide by the Orthodox Teaching, Show Respect to Your Parents”  
(*Keshou zhengjiao, xiaojing fumu* 恪守正教，孝敬父母)

Xi Dao Tang Hemp Field Mosque  
Hezhou, China  
November 27, 2009

Today is Erde Aizuha [ʿĪd al-Adḥā] of the Islamic year 1430. On this *muburak* (blessed) day, [we] respectfully recite the *āyah* (verse), so that we can pray (lit. “receive favors and worship”) together and then look upon. 今天是伊斯兰教历一四二零年尔德“哎祖哈”，在今天这个穆巴勒克的日子，恭诵阿叶提，让我们共沾拜然看待。

[He then switches to Arabic to read the Qur’ ānic passage]

رَبِّ هَبْ لِي مِنَ الصَّالِحِينَ (١٠٠) فَبَشِّرْنَاهُ بِعَلِيمٍ حَلِيمٍ (١٠١) فَلَمَّا بَلَغَ مَعَهُ السَّعْيَ قَالَ يَبْنَؤُا إِنِّي أَرَىٰ فِي الْمَنَامِ أَنِّي أَذْبَحُكَ فَانظُرْ مَاذَا تَرَىٰ ۚ قَالَ يَأْتِيَتُ أَفْعَلٌ مَا تُؤْمَرُ ۚ سَتَجِدُنِي إِن شَاءَ اللَّهُ مِنَ الصَّابِرِينَ (١٠٢) فَلَمَّا أَسْلَمَا وَتَلَّهُ لِلْجَبِينِ (١٠٣) وَنَدَيْنَاهُ أَنِ يَا إِبْرَاهِيمُ (١٠٤) قَدْ صَدَّقْتَ الرُّعْيَا ۚ إِنَّا كَذَلِكَ نَجْزِي الْمُحْسِنِينَ (١٠٥) إِنَّ هَذَا لَهُوَ الْبَلَاءُ الْمُبِينُ (١٠٦) وَفَدَيْنَاهُ بِذَبْحٍ عَظِيمٍ (١٠٧) وَتَرَكْنَا عَلَيْهِ فِي الْآخِرِينَ (١٠٨) سَلَّمَ عَلَىٰ إِبْرَاهِيمَ (١٠٩)

[Then back to Chinese]

The Qur’ ān of Allah, who is above all worldly things, enlightens: “(At that time, Ibrahim): O my Lord! I beg of you to grant me a good and kind son.” I then announce the good news of a generous son to him. When he reached with him the period of trying, he said, “O my son! Indeed in a vision I kill you as sacrifice. You consider this! What do you think?” He said, “O my father! Please carry out the order you have received! If Allah wills it, then I am steadfast and persevering.” The two submitted to Allah, and his son was laid on his side. I cried out, “O Ibrāhīm! You have fulfilled the vision.” I certainly reward the doers of good works. Indeed, this was a clear trial. We ransomed him with a great sacrifice. I left him a good name for all later generations. “Peace upon Ibrāhīm.” (Qur’ ān 37:100–109). 清高的真主在尊贵的古兰经启示：“（当时，易卜拉欣说）：我的主啊！求你赐我一个善良的儿子。”我就以一个宽厚的儿童向他报喜。当他长到能帮着他操作的时候，他说：“我的小子啊！我确已梦见我宰你为牺牲。你考虑一下！你究竟有什么意见？”他说：“我的父亲啊！请你执行你所奉的命令吧！如果真主意欲，你将发现我是坚忍的”。他们俩既已顺服真主，而他是他的儿子侧卧着。我喊叫说：“易卜拉欣啊！你确已证实那个梦了”。我必定要这样报酬行善的人们。这确是明显的考验。我以一个伟大的牺牲赎了他。我是他的令名，永存于后代。“说易卜拉欣平安”。（古兰经 37：100–109）

On this great day, you take lean blood to commemorate the holy actions of your ancestor Ibrāhīm. In the past, Allah, on this day, ordered Ibrāhīm to slaughter his darling beloved son Ismāʿīl in order to test Ibrāhīm. At that time, in a vision, he received the instructions to commit the slaughter. This was the inspiration of Allah and not Ibrāhīm indulging in flights of fancy. He began to follow the order, and immediately led his son out. It was at this time that a demon obstructed the path and said, “O the closest friend of the dear lord! Just because of a nasty dream you are prepared to gut your dear baby? Are you so hardhearted as to abandon him in this way?” Ibrāhīm saw through the devil, and responded, “Run off, foe of mankind! Do you want me to disobey the dear Lord?” The demon then appeared before Ismāʿīl’s mother Hājar and said, “Because Ibrāhīm had a vision, he is just about to slaughter your son Ismāʿīl!” Hājar said, “If he received instructions to do this, then he

should submit to the gracious Lord.” The demon then appeared before Ismā‘il and said, “If Allah truly gave that order, can I prevent predestination?” As he said this, Ibrāhīm threw a rock at the demon. This is the origin of the Stoning of the Devil. Ibrāhīm continued to ascend Mount Menghana [Marwa or Moriah]. He then rolled up his sleeves and took out a rope with which to tie up his son in order to slaughter him and sharpened the edge of the knife in order to carry out the order of Allah, contrary to his feelings of pity. His son observed the work of his father, and not realizing what was happening until the last moment, he raised his head up to his father and asked in a small voice, “O father! What do you plan to do to me?” His father said, “Son, I will tell you something. The slanderer has already lost, in my vision I slaughter you. What do you think? His son said, “O father, you must obey your orders! Trust in Allah! You will discover that I am a steadfast and persevering person. But, O father, you must turn your face away from where I lie, [and] when I am dead, shut your eyes. You must endure this clear test [and] become a person who knows and feels Allah. When you return to my mother, please send my regards.” She must steadfastly endure. Ibrāhīm bound his two arms, and then put his son down so that his son’s forehead touched the ground. He grabbed the knife with his right hand. He was determined to follow the order of the Lord of the world and slaughter his own son. At that moment, all hearts trembled, overwhelmed by terror. A crowd of angels gathered and prayed, shouting out, “Our Lord, we beseech you on behalf of this kind old man, ransom this young child!” Thereupon, causing those gathered to feel pleased, Allah was immediately felt and the respected and loved Allah’s pity was felt by those kind people. Yibulilei [Gabriel] brought a ransom down from the heavens, calling out with good news. The high and lofty Allah, called to Ibrāhīm, his heart brimming with the happiness of a true believer, “O Ibrāhīm! You have fulfilled the vision. I certainly reward the doers of good works. Gabriel then dispatched Ibrāhīm to free his son. Ibrāhīm untied the rope. As a result, the son earned the grade of holy virtue, and the father earned the reputation of being the “best friend” [of Allah]. The angels from heaven led along a sheep. Ibrāhīm sacrificed the sheep and was redeemed. Ibrāhīm relied on this redeeming animal and enjoyed the favor of the Lord, as should you 在这伟大之日，你们当以倾血来纪年您们的先祖易卜拉欣之圣行，因为安拉曾于此日以令其宰杀心肝爱子伊斯玛议来考验他。当时，他在梦中受命宰子。这是安拉的启示，而并非胡思乱想。他逐遵从主命，迅即带领儿子外出。这时，魔鬼上前阻拦，说道：“普慈之主的至交啊！只因一些杂乱的梦，你便宰杀心肝宝贝，忍心抛弃他吗？”易卜拉欣认出了魔鬼，便说：“你给我滚开，人类的仇敌！你要我违抗普慈之主吗？”魔鬼又来到伊斯玛依的母亲哈哲尔那里，说道：“易卜拉欣因为做了一个梦，正要宰杀你的儿子伊斯玛依呢！”哈哲尔说：“如果他是受命那样做，他就应该顺从他的恩主。”魔鬼又来到伊斯玛依说：“如果安拉确已下了那样的命令，我能阻止前定吗？”说罢，使用石子去打魔鬼。这便是射石打鬼的由来。易卜拉欣奔向米那，登上蒙哈纳山，然后换起双袖，取出一条准备在宰杀儿子时捆绑其双手的绳子，磨快刀刃，为执行安拉的规定，而一反怜悯之情。孩子观察着父亲的举动，不知其究竟，直到事情已明显，确认它自己便是被宰对象时，逐抬起头来，望着他的父亲，小声问道：“父亲啊，你要对我做什么？”父亲说：“孩子，我告诉你实情吧！诽谤者已遭失败，我的确梦要宰你。你看该当如何？”儿子说：“父亲啊，你遵命行事吧！托靠安拉，你将会发现我一个坚忍的人。但是，父亲啊，你要从我躺倒的地方转过脸去，在我死亡时闭上你的眼睛，你要忍受这明显的考验，你应成为知感安拉的人。当你回到我的母亲身边时，请你代我向她问安，要她坚忍顺受”易卜拉欣绑紧儿子的双臂，把自己站的地方作为实践问安拉的约言之地，然后把儿子放到，使其前额着地，用右手拿起刀子，决心遵从众世界的主宰之命，宰杀自己的儿子。此时，所有心灵在震颤，肝胆俱裂。众天使群起高声祈祷，呼唤：“我们的主啊，求你慈悯这位年迈的老者，赎回这个幼小的儿童吧！”于是，令人快慰的事情从邻近的安拉那里迅即而至，敬爱的安拉之怜悯重归于那可爱的人。吉布利勒带着贖品下凡了，传来了带有召唤的喜讯。崇高的安拉向易卜拉欣发出了令信士们的胸怀充满喜悦的召唤：“易卜拉欣啊！你确已证实那个梦了。我必定要这样报酬行善的人们。”然后，吉布利勒传令易卜拉欣为其子解绑。易卜拉欣逐解开了绳子。这样，儿子荣获了为圣德品

级，父亲荣获了“至交”的美誉。天使从天园里牵来一只绵羊，易卜拉欣逐宰羊赎子。易卜拉欣靠此赎牲而享尽了天恩，你们亦然

Who has the responsibility to sacrifice?

On this matter, the majority of jurists advocate the work of *qurbān* as “emphasized holy action.” Those people who have the ability to do so but abandon [this duty] are *makrūh* (hateful). The Grand Imam Abū Ḥanīfa advocates that for the head of a household, *qurbān* is *wājib* (obligatory) work. For a Muslim who accords with the conditions, during *qurbān*, sacrificing animals is a *wājib* responsibility. These conditions are: an adult Muslim, of sound mind, and not a traveler. Exempt are those suspected of having a mental disorder or those in a coma, underage children, those traveling far from home, and those acting in the capacity of a guardian of property for others. 谁有责任宰牲？据此，多数教法学家主张“古尔巴尼”的功课是“被强调的圣行”，有能力而放弃者教法视为可憎行为（买克鲁海）。大伊玛目艾卜·哈尼法主张，做“古尔巴尼”对居家者来说则是一项当然（瓦直布）的功课。对于符合条件的穆斯林，在宰牲节屠宰牲是“当然”（瓦吉布）的责任，这些条件是：成年穆斯林，神志清醒，不是旅行者。患有精神病或神志不清者，年幼的儿童，出远门在外旅行者，以及代替别人监护财产的人，宰牲的责任得到豁免。

What are the conditions of slaughtering livestock? During Qurbān, there ought to be a clear-cut understanding of the meaning of the livestock as to why people sacrifice the animals to Allah. These understandings include for the benefit of one’s family, others, or people in the world, or the parents of the deceased, relatives and friends, teachers, Muslim brothers from anywhere in the world, or the Prophet Muhammad. According to Abu Taliḥede, the Prophet once while sacrificing said, “I am willing to follow every person in my Muslim society and for Allah’s favor become his messenger and contribute a sacrifice” (*Sunan al-Tirmidhī*). Many kinds of goats and sheep, ox, water buffalo, and camel can be used for the purpose of the sacrificial livestock, but they must be adult and fully grown animals. A sheep cannot be younger than six months, a goat cannot be younger than one year, an ox must be older than three years, and the youngest a camel can be is five years old. In regards to the livestock’s age, you must respect the word of the herdsman. If he says this ox is three years old, and in the absence of any evidence suggesting he is lying, you should believe and not refute him. It is permitted to use castrated livestock and may be even more suitable. You must use a healthy and perfect animal for the purpose of sacrifice. It is not permitted to use a maimed or diseased animal, for example one that is one-eyed, injured, lost a foot, has a rotted ear, or some other kind of disease. You must use a healthy and perfect animal in order to express healthy and perfect submission to and respect for Allah. One sheep or goat is to be used per household. Two or more houses cannot jointly purchase one such animal. The cost of an ox or camel can be shared between seven households, the meat from which should be apportioned equally. At the time of slaughtering, on Qurbān, the optimum day is the sunset after the ceremony and *wa’z*, but it is permitted to postpone to a time before the sunset of the thirteenth day of that month. The livestock should not be slaughtered before the festival ceremony. If you purchase the livestock several days in advance of the festival, then you must meticulously care for and feed the animal. It is optimal to have me [as *ahong*] sacrifice the animal. If you will not perform the sacrifice, then someone must replace you. I will be here [at the mosque]. Even if someone replaces you, then you still must read silently the following prayer: *‘bism Allah al-raḥmān al-raḥīm* (In the name of God, most gracious, most compassionate). The knife edge that you use for the sacrifice must be sharp. You should do everything to reduce the suffering of the animal. You cannot sharpen the blade in front of the animal. You cannot sacrifice an animal before others. You cannot start to disembowel the animal when its body temperature is still dropping. 屠宰牲畜的条件？在宰牲节屠的牲畜应当有明确的举意，是为什么人而向真主供献牺牲，如为自己的全家，也可以为其它人，如在世的或亡故的父母亲，亲戚朋友，老师，世界上任何地方的穆斯林兄弟，或者为先知穆圣。根据阿布·塔利赫德传

述，先知穆圣曾经在宰牲时说：“我这是举意为了跟随我的穆斯林社会中的每一个人，也为真主恩赐我成为他的使者，而供献牺牲。”《提尔密济圣训集》能够用来做牺牲的牲畜只有各种山羊和绵羊，黄牛和水牛，骆驼，但都必须生长成熟的动物，例如绵羊不得小于六个月，山羊不得小于一年，牛须在三岁之上，骆驼必须至少是五岁。牲畜的年龄尊重牧人的报告，如果他说这头牛三岁了，如果没有证据证明他说谎，就应当相信他的话，不要反驳。允许使用阉割过的牲畜，而且更为合适。用作牺牲的牲畜必须健康完美，不许可使用残废或患病的动物，例如独眼，残腿，丢角，烂耳朵，患有疾病。必须使用健康完美的牲畜向真主表达健康和完美的恭顺和敬意。山羊或绵羊只能是一户人家的牺牲，不可合资共享；而一头牛或骆驼可以有七户人家联合出资分摊，然后平均分肉。屠宰的时间必须在宰牲节的会礼和讲卧尔兹之后，最佳的日子是当天日落前，但许可因故推迟在喜嘉月的十一日，十二日，至晚到十三日的日落前。节日会礼前屠宰的牲畜不具备牺牲的性质。如果在宰牲节前几天购买的牲畜，应当在屠宰前精心照料和喂养。本人亲自下刀屠最佳，如果自己不会下刀，请人代劳，但本人须在场，别人代劳屠宰时自己也要默念：“比斯敏俩喜·勒赫玛尼·勒喜密（奉至仁至慈的真主尊名）。屠宰的刀刃必须锋利，减少牲屠痛苦：不可再动物面前磨刀；不可在其它动物眼前屠宰；不可在动物体温未降时就开始剥皮开膛。

How to distribute the Qurbān meat? You can use the meat from the sacrifice for your own living expenses, but you cannot use it entirely for your own needs. You should give some part to others. The optimum is to use one-third, gift to friends and relatives one-third, and give as alms one-third to the poor. The recipient can be Muslim or non-Muslim. In the case of the latter, you should explain that it is sacrificial meat and use it as an opportunity to preach. In the event that several households together buy an ox or camel, you should not roughly divide the meat when it comes time, but use a scale to equally distribute the meat. It is not permitted to sell the meat, hide, viscera, or feet and head of the sacrificed animal for money. Even the rope and cover used before the sacrifice cannot be sold off, but rather, should be given to the poor. Therefore, it is not permitted to take any part of the meat or hide of the sacrificed animal to use to pay the butcher, although you can gift any part of the animal to the butcher. If you do so, you must announce that the gift is not remuneration for the service of the butchering. The Qur'ān encourages good works. Encourage charitable works and do your utmost to expound carrying out good works and recompense in order to purify one's soul and control the development of one's selfish desires. On this matter, the Qur'ān enlightens: 宰牲节肉的分配？宰牲的肉可以自己食用，但不能全部留给自己，应当送给别人一部份，最佳的分配是自留三分之一，赠送亲友三分之一，施舍给穷苦人三分之一。赠送的对象可以是穆斯林，也可以是非穆斯林，说明这是宰牲节的肉，能起到宣教的作用。如果几户人家合作购买的牛或骆驼，分肉时不要粗略估计，应当用秤量，平均分配。宰牲节屠宰的牲畜不许可出售卖钱，肉，皮，内脏或头脚，都不能出售，甚至屠宰前使用的牵牲畜的绳和盖牲畜的布罩部不能出售，应当把这些东西施舍给穷人。因此，不许可把牲畜的一部分肉或皮当作工资付给屠宰工人，但可以作为礼品送给他们，必须声明，这与工作报酬无关。古兰经》提倡行善。鼓励人乐善好施，极力阐明善施的高贵及其报偿，以净化人们的心灵，控制私欲的恶性发展。对此，《古兰经》这样启示：

“You serve Allah, do not ascribe any match to Him. Show respect to parents, give preferential treatment to relatives, show kindness to pitiable orphans, serve the poor, be kind to the close neighbor and be a dear companion to the far neighbor, receive travelers, treat servants with leniency. Allah is not fond of the haughty or conceited and boastful persons.”

[Reading the Arabic]

وَأَعْبُدُوا اللَّهَ وَلَا تُشْرِكُوا بِهِ شَيْئًا ۚ وَبِالْوَالِدَيْنِ إِحْسَانًا وَبِذِي الْقُرْبَىٰ وَالْيَتَامَىٰ وَالْمَسْكِينِ وَالْجَارِ ذِي الْقُرْبَىٰ وَالْجَارِ الْجُنُبِ وَالصَّاحِبِ بِالْجَنبِ وَابْنِ السَّبِيلِ وَمَا مَلَكَتْ أَيْمَانُكُمْ ۚ إِنَّ اللَّهَ لَا يُحِبُّ مَن كَانَ مُخْتَالًا فَخُورًا

[Switching back to Taozhou dialect]

“你们当崇拜真主，不要以任何物配他，当孝敬父母，当优待亲戚，当怜孤儿，当救济贫民，当亲爱近邻，远邻和伴侣，当款待旅客，当宽待奴仆。真主的确不喜爱傲慢的，管矜夸的人。”（4：36）《古兰经》又启示：

“Whoever does a good deed shall receive tenfold the like thereof, while whoever does an ill deed will be awarded but the like thereof.”

[Speaking Arabic]

مَنْ جَاءَ بِالْحَسَنَةِ فَلَهُ عَشْرُ أَمْثَالِهَا ۖ وَمَنْ جَاءَ بِالسَّيِّئَةِ فَلَا يُجْزَىٰ إِلَّا مِثْلَهَا وَهُمْ لَا يُظْلَمُونَ

[Giving Chinese translation]

“行一件善事的人，将得十培德报酬。”（6：160）

“Whoever does a good deed will have better than its worth, and such are safe from fear that Day.”

[Speaking Arabic]

مَنْ جَاءَ بِالْحَسَنَةِ فَلَهُ خَيْرٌ مِّنْهَا وَهُمْ مِّنْ فَزَعِ يَوْمِئِذٍ آمِنُونَ

[Then Chinese translation]

“在那日，他们将免于恐怖。”（27：89）否则，他们是

“Have they partners (of Allah) who have established for them a religion which Allah did not permit? And but for a decisive word, it would have already been judged between them. Verily the wrong-doers will receive a painful punishment.”

[Speaking Arabic]

وَإِنَّ الظَّالِمِينَ لَهُمْ عَذَابٌ أَلِيمٌ

[Next Chinese translation]

“不义的人们，必受痛苦的刑罚。”（42：21）

Worshipping Allah is the basis of the natural law, respecting one’s parents is the basis of the human law. Therefore, respecting one’s parents has profound meaning. Believers of Islam must show body piety, piety toward heart and life, respect and support one’s parents, do good works and good deeds. The classical writings of my country states, “The Lord gave birth to the world which was populated with man, all living things, including people of virtue. The responsibility of justice was [imposed]; one in the end cannot exceed its love. How then can there be insincerity within its benevolence?” Allah bestowed the heart in man’s love. This stems from “the responsibility of justice.” Islam considers the “responsibility of justice” to be a heavenly command, the principle of the Saint (Prophet), virtuous action, the guide for believers in Islam to conduct themselves in the world, the rule for showing respect to one’s parents. There are no grounds for those to stand upon who do not recognize Allah, who do not know the Lord’s command, who do not know the Saint’s action, who do not know the able and virtuous behavior. If the direction is unclear and the cardinal principles of righteousness misunderstood, then how can one speak of respecting and supporting one’s parents? “The dear thing is to know God. Those who do not embody holiness, do not hold the saint dear, live without work, stupid without study, cannot be said to have filial piety.” (*Ceremonies*)

*and Rituals in Islam, Sec. Filial Duties*).<sup>1</sup> “On the orthodox five constant Confucian virtues: benevolence recalls with emotion Allah’s nature, justice is as an agent for Allah’s universality, prayer expresses formal gratitude for Allah’s mercy, knowledge is to recognize Allah’s uniqueness, and belief is the clear command of Allah. All other relationships between monarchs and subjects, fathers and sons, husbands and wives, elder and younger brothers, and friends stem from this origin. It is probable that each (relationship) is like this (*Answers to the Rare Truth*).<sup>2</sup> In this way, we mix together Islamic belief and the intention of the four cardinal virtues of Chinese traditional culture. Such mixing makes the theory of “natural law ethical relations” agree with the intrinsic concepts of Chinese Muslims and further develop their glory. Respect the Lord and show filial piety toward one’s parents; this makes human law obey the kernel of the natural law, and emphasizes that besides respecting Allah, filial piety is the most important duty of one’s life. “On human matters, you [obey] Allah, and you [obey] your parents” (*True Interpretation of the Orthodoxy, Ch. Extreme Piety*).<sup>3</sup> With this, one respects Allah and shows filial piety, this is being loyal to one’s country and filial to one’s parents; only in this way, can belief be complete. 崇拜真主是天道的基本，孝敬父母是人道的基本。因此，敬养双亲具有至关重要的意义。穆民须做到身孝，心孝和性命之孝，为父母常思孝养，多行善事。我国古代典籍中说：“主生天以覆人，生地以载人，万物以善人。然正义之责，终不逾其慈爱，非诚恳其仁乎？”真主赐予人们慈爱之心，是出于人的“正义之责”。伊斯兰教认为“正义之责”就是天明，圣则，贤行，使穆民处世的指南，孝敬双亲的法则。不认主，不知主命，不知道圣行，不知道贤良之行为从何修起。方向不明，大义不清，谈何孝敬奉养双亲呢！“事亲而识主，不体圣，不亲贤，居而无业，愚而不学，虽孝弗称”。（《天方典礼·子道》）“唯正教之五常，仁为感念真主之造化，义为代理真主之普施，礼为拜谢真主之恩慈，智为辨认真主之读独一，信为全信真主之明命。其君臣，父子，夫妇，昆弟，朋友之道，皆自此源而发，莫不互有所归焉”。（《希真正答》）这样就把伊斯兰教信仰与中国传统文化的内涵“仁义礼智信”融合起来，使“天道人伦”之理契合中国穆斯林的固有观念而宏扬光大之，必须以人道服从天道其核心就是敬主孝亲，而且强调了孝亲是除敬主之外的人生大事：“你民事主，暨尔双亲”。（《正教真诠·至孝篇》）做到敬主孝亲，就是忠孝两全，信仰才能全美。

The Qur’ān gives explicit instructions: “The Lord has ordered that you worship none but Him, and be kind towards parents. If one or both of them attain old age with you, do not say ‘bah!’ unto them or repulse them, but address them with honor. Out of kindness, lower toward them the wing of submission and say, ‘My Lord! Have mercy on them as they cared for me when I was a child.’ Your Lord knows best what is in your hearts. If you are righteous, He is most forgiving to those who turn to Him.” The holy text explains the principles by which humanity should conduct itself in society and taught humanity to understand the relationship between the natural law and the human law. Worshipping Allah is the foundation of the natural law and showing filial piety toward parents is the basis of the human law. Therefore, the Qur’ān often takes these two matters and places them on a par. We should worship only the one and only Allah, and regard him as the sole sovereign in the universe. He created all living creatures, and became the Lord that humanity should recognize. We should experience and observe the way that Allah has created, and should repay him with gratitude by persisting in the work of the five pillars: reading, praying, fasting, giving alms, and participating in the hajj. We should energetically conduct good works, do not violate the decrees of Allah, but abide by His teaching, and praise Him. 《古兰经》晓谕：  
[Arabic]

<sup>1</sup> Liu Zhi. *Ceremonies and Rituals in Islam*. Vol. 21.

<sup>2</sup> Wang Daiyu. *Answers to the Rare Truth*.

<sup>3</sup> Wang Daiyu. *True Interpretation of the Orthodoxy*.

وَقَضَىٰ رَبُّكَ أَلَّا تَعْبُدُوا إِلَّا إِيَّاهُ وَبِالْوَالِدَيْنِ إِحْسَانًا ۖ إِمَّا يَبُلُغَنَّ عِنْدَكَ الْكِبَرَ أَحَدُهُمَا أَوْ كِلَاهُمَا فَلَا تَقُلْ لَهُمَا أَلْفٌ وَلَا تَنْهَرْهُمَا وَقُلْ لَهُمَا قَوْلًا كَرِيمًا (٢٣) وَأَخْفِضْ لَهُمَا جَنَاحَ الذَّلِيلِ مِنَ الرَّحْمَةِ وَقُلْ رَبِّ أَرْحَمُهُمَا كَمَا رَبَّيْتَنِي صَغِيرًا (٢٤) رَبُّكُمْ أَعْلَمُ بِمَا فِي نُفُوسِكُمْ ۚ إِن تَكُونُوا صَالِحِينَ فَإِنَّهُ كَانَ لِلأَوَّابِينَ غَفُورًا (٢٥)

[Chinese translation]

“你的主曾下令说：你们应当只崇拜他，应当孝敬父母。如果他们中的一人或两人在你的堂上达到老迈，那么，你不要对他俩说‘呸！’不要呵斥他俩，你应当对他俩说有礼貌的话。你应当毕恭毕敬他服侍他俩，你应当说：“我的主啊！求你怜悯他俩，就像我年幼时他俩养育我那样”。你们的主最知道你们的心情的。如果你们是善良的，那末，他对于常常悔过者确是至赦的。”（17：23-25）经文阐明了人类处世的基本原则，教人类懂得“天道”和“人道”的关系，崇拜真主是天道的基本，孝敬父母是人道的基本。因此《古兰经》中常常把这两件事相提并论。我们应当只崇拜独一无二的真主，应为他宇宙中的唯一主宰，他创造天地万物，作为人类要认主，要体察真主造化之道，要感恩回报，坚持念，礼，斋，课，朝五项功修，积极行善，不违背主命，遵循真主的教异，感赞真主。

Amin'er reported, the Prophet (may blessings be upon him) said, "After prayer, the meritorious works of highest nobility is being filial toward one's parents." The Prophet (peace be upon him) also said

阿穆尔传述，穆圣（愿主福安之）曾说：“拜功之后的一切善功最高贵者，确实孝敬父母。”穆圣（愿主福安之）还说：

[Changing back to Chinese]

“Looking after parent's happiness is the complement to the Lord's happiness, to offend parents and invoke their anger means to also incur the wrath of the Lord.” Islam encourages people to pursue one's own highest nobility, to seek a life of greater meaning and value, and to promote one's own spiritual outlook. Respecting the Lord and showing piety toward parents is one way to promote one's spiritual outlook. Filial piety is the virtue of docility. Who in the world does not have two parents? When people are in [the stage of] porridge and swaddling clothes, parents feed, raise, and nurture them. If people fall ill, then it is parents who wish they could be sick in the place of their children, and wait on them with tenderness and worried frown, even to the point of crying endlessly and so worried to the point of dividing the five viscera. Parents love their children without regards to personal benefit and effort. While sometimes the stern mother and compassionate mother cannot even provide a grain of food, a thread of warmth, a word of comfort, they never stop trying. They have no other desire but to do this and have an easy conscience. In their hearts, besides Allah, there is only their children. But in this present day, despite parents' toil and love, their labors are returned only with supercilious looks and disobedience. Once parents get old, there are few who uphold their filial duties. When parents are well, they can provide for themselves, but when suffering finds widows and widowers fall ill, they long for the piety of their children, they wait for that day, the day their children to give repayment. During this time when parents are waiting, some people become enamored with gambling, some fight with others, others hurt their parents, and still others are not engaged in honest work, but loaf about, making their parents tremble with fear. Allah observes such behaviors, and is not well disposed toward fine dust. The classics say, "When the parents are angered, so too is the Lord and when the parents are content, so too is their contentment that of the Lord" (*True Interpretation of the Orthodoxy*, Ch. on Loyalty and Piety). “取父母之喜悦，必蒙主喜；惹父母之恼怒，必遭主怒。”伊斯兰教鼓励人们去追求自身的高尚，去追求更有意义，更有价值的人生，提升自己的精神境界。敬主孝亲即使提高

精神境界的途径之一。孝就是顺德。普天之下，谁无双亲？人在襁褓之中，父母喂养抚育，遇有儿女生病，父母恨不能亲身代替儿女承受病痛，坐卧不宁，愁眉不展，甚至泪流不止，焦急得五脏并裂。双亲热爱子女就是这样不计得失，不辞劳苦。虽然严父慈母有时并得不到子女一粟之献，一帛之暖，一语之慰，然而父母依然乐意，心安理得，别无所求。他们的心中除真主之外，只有儿女。可是在当今部分人中间，父母用劳苦慈爱之心换来的却是白眼，忤逆不孝。双亲既已年迈，尽孝时间不多。父母无病时，起居还能自理，如遇上鳏寡疾病，痛苦增加，盼望子女的孝心，双亲期盼之日，就是子女报答之时。在父母期盼之际，有人居然迷恋赌博之中，与人争头，危害父母，也有人不务正业，游手好闲，令父母寒心。真主秋毫必察，纤尘不爽。经云：“父母怒，主怒之；父母喜，主喜之。”（《正教真诠·忠孝章》）

“Just as the heaven and earth represent the Lord in raising all creatures, so too do parents represent the Lord in raising people. Parents’ work of raising children is greater than the triumph of the heaven and earth” (*Ceremonies and Rituals in Islam*, Ch. The Way of the Father). Heaven and earth and parents together represent the Lord the Creator: heaven and earth change things, parents change people, the spirits, and human intelligence changes people. Human intelligence comes out of things causing parents’ work to be greater than that of heaven and earth. The way of filial piety does not reach [the status of] the Lord’s command. The *True Interpretation of the Orthodoxy*, Chapter on Loyalty and Piety, explains, “When one occupies the place of accepting family without fault it causes one not to sink into disobedience, and separates one from retribution on the Day of Bitterness.” Filial piety depends on parents pursuing the Lord’s clear command through strict enforcement, and in this way there is safety and auspiciousness in the two worlds, and avoidance of retribution in the form of punishment in the afterworld. Birth, rearing children, death, and burial—the great events in a person’s life—none can be done by going against accepted etiquette. For funeral rites, no matter if a family is poor or wealthy, the amount spent should be according to their means, suitable and proper, and not excessive. Islam advocates thickly raise but thinly bury. In actual life, many people have missed the thoroughgoing meaning of burial rites in their conduct, and merely seek to express their filial piety before the judgments of others. They spend lavishly and make endless comparisons, even to the point of building tall architecture. Corrupt customs become common practice whose influence is spread widely. Islam regards the inevitability of the process of life, it teaches to face death unflinchingly, to return to Allah, and assume an eternal place. Whatever is left over after the five prayers, one may pray for the deceased, scatter the property, look after the poor, make progress in the public good of the masses, pray for Allah to grant mercy upon the deceased, during every prayer recite the Qur’ ān, comfort and console the departed spirit—all this is the true filial piety. Later generations ought to guard with care such meritorious acts, protect the filial piety of Muslims, and seek the happiness of Allah.

“惟天地代主育物，父母代主育人。父母鞠育，功较天地为胜”。（《天方典礼·父道》）天地父母皆系代主儿化生者，天地化物，父母化人，人灵化人，人灵于物，故父母之功胜于天地。为孝之道莫达于主命。《正教真诠·忠孝章》指出：“奉亲于无过之地，使不堕于违逆之中，脱离还报日之苦。”孝敬之首劝导父母奉行主之明命，令行禁止，两世平安，两世吉庆，得以脱离后世还报日的惩罚。

生养死葬，人之大事，不可违礼。葬礼不论贫贱富贵，量其家计，适可为宜，不得过侈。伊斯兰教倡导厚养薄葬，而现实生活中很多人对丧事的操办已失去其慎终追远的意义，而只使为了在别人面前显示他们对亲人的孝心，所以大操大办，互相攀比，甚至不惜台高筑，陋习成风，影响颇广。伊斯兰教视人生为必然之过程，视死如归，复明归真，回归永恒之境。在五时拜功之余为亡人祈恕，施散财物，周济贫困，在大众的公益事业上上进，祈祷真主回赐亡人，每逢祈祷诵经，告慰亡灵，这才是真正的孝敬父母。后人应谨守拜功，保持穆斯林的孝道，以求得真主的喜悦。

Islam advocates peace, safeguards unity, and opposes division. No matter in regards to the intercourse between ethnicity, *jiaopais*, or within human society, [Islam] advocates unity, peace, and love. The Qur'an exhorts: "And hold firmly to the rope of Allah all together and do not become divided." 伊斯兰教主张和平，维护统一，反对分裂。不论是在民族，教派之间以及人类社会流中，都讲求团体，平等，博爱。

《古兰经》告诫人们说：

وَأَعِصِمُوا بِحَبْلِ اللَّهِ جَمِيعًا وَلَا تَفَرَّقُوا ۗ

“你们当全体坚持真主的绳索，不要自己分裂。”（3：103）

Unity is the basic aim of Islam. We should all practice what we preach and maintain the aim of [mutual] respect; this is our responsibility, our duty. Illegal activities are absolutely detrimental to our motherland, our ethnicity, our people, our religion, and our social-economic development. If we do things to violate justice, this is not only in contravention of national law, but we also will never enjoy the natural peal. The Qur'an enlightens: "And be not as those who, after the clear proofs have been shown to them, still separate and dispute amongst themselves. For such there is an awful doom."

团体是伊斯兰的基本宗旨，我们每个穆斯林应当身体力行，维护尊行这一宗旨，这是我们的责任，义务。我们坚决不搞不利于祖国，不利于民族，不利于人民，不利于宗教，不利于社会经济建设的违法活动。如果做违背正义的事情，不仅国法难容，珍珠也不会喜悦。

《古兰经》启示：

وَلَا تَكُونُوا كَالَّذِينَ تَفَرَّقُوا وَاخْتَلَفُوا مِنْ بَعْدِ مَا جَاءَهُمُ الْبَيِّنَاتُ ۗ وَأُولَٰئِكَ لَهُمْ عَذَابٌ عَظِيمٌ

“你们不要象样的人：在明证降临之后，自己分裂，常常争论；那等人，将手重大的惩罚。”（3：105）

Islam still considers patriotism and safeguarding social stability to be parts of belief. At this present moment, the building of our country's socialist-modernism is at a critical juncture. The health and speedy development of all enterprises in society depends on the guarantees of domestic stability and social order. From the high vantage of national and social development, we Muslims recognize and safeguard unity and [seek to] recover stability. We do not cause disputes, but treasure this hard-earned opportunity. Only in this way will families be happy, the nation become prosperous and strong, society stabilize, religion be amiable, and the people live and work in peace and contentment. On the contrary, if we mutually exclude ourselves, provoke disturbances, and manufacture contradictions, then we will only leave more stumbling blocks in the face of development, disadvantaging it. Not only [does such behavior] influence the unity and progress of ethnicity and religion, but even worse, it destroys the face of national stability and influences economic development. The Prophet (may blessings be upon him) said: "Muslim and Muslim love each other ardently. If united and one limb is sick, then the whole body is sick." (Muslim Buharli Compilation) Safeguarding peace is the essence of Islam. Consequently, if you manufacture ethnic or religious contradictions, this is not only prohibited by the state but will also meet with the opposition and condemnation of Muslim compatriots. Therefore, in all social activity, we want to respect one another, unite all our ethnic brothers, all *jiaopai* Muslims. Especially between *jiaopais*, we should *allow minor differences while seeking a common ground*. We should respect others' meritorious work; do not chaotically reproach others. Any behavior unbecoming to ethnic and religious unity and development violates Muslim desire. We should resolutely oppose this. Furthermore, we should strengthen legal consciousness, assiduously study all types of legal systems, through legalization, try our best to solve all kinds of legal problems. We should be Muslims who understand and respect law, and in our practical activities, assist our motherland's economic development. Islam is the religion of Allah's contentment. We should obey the Prophet

(may blessings be upon him) when he said, “patriotism is a part of belief” of the great teaching with minor differences. We should be steadfast in our faith, link the past and future, carry forward the revolutionary cause and forge ahead into the future, shoulder and promote ethnicity and the heavy burden of building the motherland, and pray for the “two world happiness” of the Muslims throughout the world, praying for Allah to grant universal grace and assistance. Lastly, I truly hope everyone seated will strengthen unity and carry forward lending a hand under the correct leadership of the Party’s ethnic-religious policy to safeguard the unity of the motherland, ethnic unity, and make many contributions to the economic construction of the motherland.

伊斯兰教还认为，热爱祖国，维护社会稳定是信仰的一部分。当前，我国的社会主义现代化建设正处在关键时期。社会各项事业的健康，快速发展需要国内外稳定的社会程序作保证。我们穆斯林要从国家和社会发展的高度去认识和维护团体，为恢稳定，不要纷争，珍惜这来之不易的发展机遇。如此，家庭才能幸福，国家才能富强，社会才能发展，宗教才能和顺，人民才能安居乐业，反之，如果互相排斥，挑衅闹事，制造矛盾，只能给发展留下更多的绊脚石和诸多的不利。不但影响民族，宗教间的团结和进步，更严重的是破坏国家的安定局面，影响经济建设。

“穆斯林和穆斯林相亲相爱，如统一体，一肢有病，全身都痛。”（穆斯林布哈里辑录）维护和平，是伊斯兰的本质，因而那种制造民族，宗教矛盾的行为，不但国家不允许，同样会遭到穆斯林同胞的反对和谴责。因此，在一切社会活动中，我们要相互尊重，团结各民族兄弟，各教派穆斯林，特别是在教派间要求大同存小异，尊重其功干，不乱加非议。任何不利于民族，宗教团结和进步的行为，使违背穆斯林意愿的，我们应坚决反对。同时，我们要增强法制意识，认真学习各项法律制度，通过法制化的手段尽力解决各种问题，做一个懂法，遵法的穆斯林，以实际行动为祖国的经济建设服务。伊斯兰教是真主喜悦的宗教，我们应遵照穆圣（愿主福安之）“热爱祖国是信仰的一部分”的伟大教异，坚定信念，承先启后，继往开来，担负起振兴民族，建设祖国的重担，并为全世界穆斯林的“两世幸福”而祈祷，祈求万能的真主予以恩赐和襄助。最后，我真希望在座的各位，加强团结，携起手来，在党的民族宗教政策的正确指导下，为维护祖国的统一，民族的团结，为伟大祖国的经济建设多作贡献。

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## Glossary

The study of Islam in China presents numerous linguistic and terminological difficulties given both the infusion of multiple languages in Chinese Islam and the creolization of terms through Chinese and its local dialects. Although there exist several excellent glossaries for the study of Islam (Gladney 1991, Allès 2000, Wang 2001, Zhao 2010, Wang 2012), there is no glossary that addresses the legal culture of the Hui. Thus, I have compiled a list of related terms. Doubtless this list is both under-inclusive in the sense that there are other terms important to Hui law and over-inclusive by enumerating some terms, not directly related to law, but which are nevertheless important to the specific location of Hezhou and the dialect Bafanghua.

Accordingly, I have attempted to weigh importance, predominance, and frequency of terms used among Hui throughout the Northwest with a focus on Hezhou. The glossary includes the Chinese term as used by the Hui, the original in Arabic, Persian, or Tibetan, and the English meaning. In most cases, the text of the dissertation includes both the Chinese and the original term. In a few instances, the text only mentions the original (e.g., Arabic) and not the Chinese translation, although I have listed both here and in alphabetical order according to the Chinese for the purpose of uniformity.

<u>Chinese Term</u>	<u>Non-Chinese Equivalent</u>	<u>English Meaning of Chinese Term</u>
Phonetic Equivalent (PE), Semantic Equivalent (SE), Bafanghua (B). Note all terms are included in Bafanghua as well as Huihuihua of Northwest China, but the ones designated with (B) are specific to Bafang.	Unless otherwise indicated as Persian (P) or Tibetan (T), all terms are Arabic.	Where necessary, reference made to original non-Chinese meaning when original and Chinese terms diverge.
<i>anamana</i> 阿那麻那 (B)	<i>anamana</i> (T)	Very appropriate.
<i>Anla</i> 安拉; <i>Anlahu</i> 安拉乎 (PE)	Allah الله	God. See <i>Zhenzhu</i> .
<i>ahong</i> 阿訇 (PE)	<i>akhund</i> أخوند (P)	Imām, cleric, or head of teaching responsibilities in mosque.
<i>aye</i> 阿叶 (PE)	<i>āya</i> آية	Qur'ānic verse.
<i>baibu</i> 白布 (SE)	<i>kafan</i> كفن	White sheets used to clothe the body of deceased.
<i>baigong</i> 拜功 (SE)	<i>salat</i> صلاة	Worship, one of the five pillars. See <i>libai</i> .
<i>bai maozi</i> 白帽子 (SE); <i>bei homo</i> (B)	<i>ṭāqiyya</i> طاقية; <i>qub'a</i> قبعة	White cap worn by Hui.
<i>baireketi</i> 百热克提 (PE)	<i>baraka</i> بركة	Blessing.
<i>bangke</i> 邦克 (PE)	<i>bāng</i> or <i>bānk</i> بانك (P)	Call to prayer. See <i>xuanli</i> .
异端 (SE)	<i>bid'a</i> بدعة	Innovation.
<i>binli</i> 殡礼 (SE)	<i>ṣalāt al-jināza</i> صلاة الجنازة	Funerary procession. See <i>zangli</i> .
<i>Buharla Shengxun</i> 布哈利圣训 (PE)	<i>Bukhārī aḥādīth</i> أحاديث البخاري	One of the six canonical collections of the sayings and deeds of the Prophet.
<i>buli</i> 晡礼 (SE)	<i>ʿaṣr</i> عصر	Afternoon prayer.

<i>chaogong</i> 朝功; <i>chaojin</i> 朝覲 (SE)	<i>ḥajj</i> حَجّ	Pilgrimage, one of the five pillars.
<i>chenli</i> 晨礼 (SE)	<i>fajr</i> فجر	Morning prayer.
<i>chuangzhi</i> 创制 (SE)	<i>ijtihād</i> اجتهاد	Independent reasoning in rule creation. See <i>yizhitihade</i> .
<i>dajing</i> 大净 (SE)	<i>ghusl</i> غسل	Full ablution, bath. See <i>jingli</i> .
<i>dangjiaren</i> 当家人 (SE)	<i>muqaddam</i> مقدّم (a technical term, specific to certain <i>turuq</i> ), <i>mushrif</i> مشرف (generic term for manager)	General manager of Sufi organization, sometimes successor to <i>laorenjia</i> .
<i>dangran</i> 当然 (SE)	<i>wājib</i> واجب	Obligatory [duty or act] (one of the five categories of Islamic law). See <i>fuzhuming</i> , <i>tianming yiwu</i> , <i>wazhibu</i> .
<i>daocheng</i> 道乘 (SE)	<i>ṭarīqa</i> طريفة, pl. <i>ṭuruq</i> طرق	Lit. “vehicle of the Way,” or path, the second of the three Sufi vehicles. See <i>tuoleigeti</i> .
<i>daotang</i> 道堂 (SE)	<i>zawiya</i> زاوية, <i>khānāgh</i> خانگاه (P)	Center of Sufi instruction.
<i>dazhong</i> 大众		Lit. “the masses,” means Han.
<i>dinghun</i> 订婚 (SE)	<i>khuṭūba</i> خطوبة	Engagement.
<i>dingran</i> 定然 (SE)	<i>qadar</i> قدر	Predestination, one of the six articles of faith. See <i>qianding</i> .
<i>Dong gongguan</i> 东宫馆		“East Mansion,” former residence of Ma Buqing (1901-1977), the warlord who occupied Hezhou.
<i>du'a</i> 都阿 (PE)	<i>du'ā'</i> دعاء, pl. <i>da'awāt</i> دعوات	Supplication.
<i>dunya</i> 顿亚 (PE)	<i>al-dunyā</i> الدنيا	This world.
<i>duosidi</i> 多斯弟 (PE)	<i>dust</i> دوست (P)	Friend.
<i>duozang</i> 多藏 (PE, B)	<i>dusTsod</i> (T)	What time?

<i>duozuihai</i> 多罪海; <i>duozaihai</i> 多灾海 (PE, SE)	<i>dauzakh</i> دوزخ (P)	Lit. “lake of many sins” or “many disaster ocean” for hell or hellfire.
<i>ermaili</i> 尔麦里 (PE)	‘ <i>amala</i> عمل; <i>mawlid</i> مولد	Lit. “to do; to act” used for anniversary of death date of a Sufi saint. Also used by Yihewani to mean, more generically, study and prayer.
<i>fa’erde</i> 法尔德 (PE)	<i>farīdah</i> فريضة, <i>farḍ</i> فرض	Obligatory.
<i>falixue</i> 法理学 (SE)	<i>fiqh</i> فقه	Jurisprudence. See <i>feigehai</i> .
<i>fan fengjian fan zongjiao tequan douzheng</i> 反封建反宗教特权斗争		Anti-feudal and religious prerogative struggle.
<i>faren</i> 法人		Legal representative of a mosque or Sufi tomb complex.
<i>fatawa</i> 法特瓦; <i>feituwu</i> 菲特伍 (PE)	<i>fatwa</i> فتوى, pl. <i>fatāwā</i> فتاوى	Juristic ruling on a specific issue.
<i>faxue dagang</i> 法学大纲 (SE)	<i>uṣūl al-fiqh</i> أصول الفقه	Study of the rules of Islamic jurisprudence.
<i>faxuejia</i> 法学家 (SE)	‘ <i>ulama</i> ’ علماء	Legal scholars, jurists.
<i>faxuepai</i> 法学派 (SE)	<i>madhhab</i> مذهب, pl. <i>madhāhib</i> مذاهب	School of jurisprudence.
<i>feidiye</i> 费底耶; <i>feijiye</i> 非吉也; <i>feitulu</i> 费突鲁 (PE)	<i>fiḍya</i> فدية	Lit. “ransom,” used to describe a pre-burial practice of atoning for sins of deceased. Also used to describe practice of giving 10 percent of one’s income to charity (distinguished from <i>zakāt</i> ).
<i>fei’erge</i> 菲尔格 (PE)	<i>firqa</i> فرقة	Sect. See <i>jiaopai</i> .
<i>feigehai</i> 费格海 (PE)	<i>fiqh</i> فقه	Jurisprudence. See <i>falixue</i> .
	<i>fiqh al-‘ibādāt</i> فقه العبادات	Jurisprudence of worship.

	<i>fiqh al-aqalliyyāt</i> فقه الاقليّات	Jurisprudence of minorities.
<i>feifa</i> 非法 (SE)	<i>ḥarām</i> حرام	Prohibited (one of the five categories of Islamic law). See <i>hailamu</i> , <i>halamu</i> .
<i>fei musulin</i> 非穆斯林 (SE)		Non-Muslim.
<i>fengsu xiguan</i> 风俗习惯		Social customs and habits.
<i>fusheng</i> 复生 (SE)	<i>yawm al-qiyāma</i> يوم القيامة	Day of Resurrection, belief in which is one of the six articles of faith.
<i>fuzhuming</i> 副主命 (SE)	<i>wājib</i> واجب	Obligatory [duty or act] (one of the five categories of Islamic law). See <i>tianming yiwu</i> , <i>wazhibu</i> .
<i>gaitou</i> 盖头 (SE)	<i>hijab</i> حجاب	Headdress commonly worn by Hui women.
<i>Gajirenye</i> 嘎吉忍耶; <i>Gadelinye</i> 嘎德林耶 (SE)	<i>Qādiriyya</i> قادريّة	One of the four <i>menhuan</i> of China.
<i>ganiha</i> 尕尼哈 (PE, B)	‘ <i>adhrā</i> ’ عذراء	Unmarried woman, virgin
<i>gazhui</i> 嘎锥; <i>gazui</i> 噶最 (PE)	<i>qadi</i> قاضي, pl. <i>quḍāa</i> قضاة	Judge. See <i>kadi</i> .
<i>Gedimu</i> 格底木 (PE)	<i>qadīm</i> قديم	Lit. “old” or “ancient,” meaning one of the four <i>jiaopai</i> believed to be descendants of the original Arab and Persian traders in China.
<i>geyasi</i> 格亚斯 (PE)	<i>qiyās</i> قياس	Analogical reasoning, one of the two man-made sources of shari‘a.
<i>gongbei</i> 拱北 (PE, B)	<i>qubba</i> قبة; dGonpa (T)	Sufi tomb complex. This word has potentially multiple origins in the Arabic “dome” and/or Tibetan “monastery.”
<i>gongxiu</i> 功修 (SE)	<i>āwrād</i> pl. اورار	“Meritorious work” or “regular spiritual works” referring to <i>dhikr</i> , <i>du‘ā</i> , recitation of Qur’ān and meditation as part of a Sufi’s adherence to the <i>ṭarīqa</i> .

<i>gongyi</i> 公议 (SE)	<i>ijmā'</i> إجماع	Consensus of the scholars, one of the two man-made sources of shari'a.
<i>gu'erbangjie</i> 古尔邦节 (PE)	<i>qurbān</i> قربان	Festival of sacrifice, commemorating Ibrāhīm's near sacrifice of his son Ismā'īl. See <i>kaizhaijie</i> , <i>zaishengjie</i> .
<i>guizhen</i> 归真 (SE)	<i>māta</i> مات	Lit. "return to the truth" or "return to the true Lord." Or, to die.
<i>Gulanjing</i> 古兰经 (PE, SE)	Qur'ān القرآن	Lit. "ancient classic of moral excellence," for "recitation," the primary revealed source of shari'a.
<i>guofa</i> 国法		State law.
<i>heituibu</i> 黑推布 (PE)	<i>khaṭīb</i> خطيب	One who leads prayer.
<i>hadisi</i> 哈迪斯 (PE)	hadith حديث, pl. <i>aḥādīth</i> احاديث	Sayings of the Prophet Muhammad, one of two revealed sources of shari'a.
<i>hageishanti</i> 哈给盖体 (PE)	<i>ḥaqīqa</i> حقيقة	Truth, the third of the three Sufi vehicles. See <i>zhencheng</i> .
<i>haijiye</i> 海吉也 (pronounced <i>hejia</i> ) (PE)	<i>hadiyya</i> هدية	Gift.
<i>hailamu</i> 海拉母; <i>halamu</i> 哈拉目 (PE)	<i>ḥarām</i> حرام	Prohibited (one of the five categories of Islamic law).
<i>hailiali</i> 海俩里 (PE)	halal حلال	Lawful, permissible (one of the five categories of Islamic law). See <i>hefa</i> .
<i>haiyisi</i> 海乙寺; <i>haiyi dasi</i> 海乙大寺; <i>hanyi</i> 罕乙; <i>hanyi dasi</i> 罕乙大寺 (PE)	<i>hiy'at</i> هيئة	"Authority mosque," referring to large mosque that administers smaller mosques. From "authority," but also "administrative body" or "commission."
<i>haka'er bini</i> 哈卡尔比尼; <i>kabi</i> 卡比; <i>bika'er</i> 比卡尔 (PE, B)	<i>bakāra</i> بكاره	Lit. "virginity," in Bafanghua refers to "virginity price," the money a husband pays the wife on the night of their wedding.

<i>halifa</i> 哈里发 (PE)	<i>khalifa</i> خليفة pl. <i>khulafā'</i> خلفاء	Successor, appointee.
<i>Hanaifei</i> 哈乃斐 (PE)	Ḥanafī حنفي (adj.)	One of the four Islamic schools of jurisprudence and the school of jurisprudence to which most Chinese Muslims belong.
<i>Hanbali</i> 罕百里 (PE)	Hanbalī حنبلي (adj.)	One of the four schools of Islamic jurisprudence and the school to which most non-Salafiyya attribute to the Salafiyya.
<i>hazhe</i> 哈知 (PE)	<i>al-ḥajjī</i> الحجيّ	Honorific title for one who has completed the <i>ḥajj</i> to Mecca.
<i>hefa</i> 合法 (SE)	halal حلال	Legal, lawful, used for halal (one of the five categories of Islamic law). See <i>hailiali</i> .
<i>hongcha</i> 红茶 (SE)	<i>sTodja</i> (T)	“Red tea” or “black tea” (in English) preferred by Tibetans.
<i>houshi</i> 后世 (SE)	<i>al-ākhirā</i> الآخرة	Afterlife.
<i>Hufeiya</i> 虎非耶 (PE)	<i>Khufiyya</i> خفيّة	Naqshbandī Sufi <i>ṭarīqa</i> .
<i>hukun</i> 呼昆 (PE)	<i>ḥukm</i> حكم, pl. <i>aḥkām</i> أحكام	Islamic commandment, rule or judgment made by jurist.
<i>hunli</i> 昏礼 (SE)	<i>maghrib</i> مغرب	Dusk prayer.
<i>jiaguwen</i> 甲骨文		Oracle bone inscriptions.
<i>jiajia maoyi</i> 加价贸易 (SE)	<i>murābaha</i> مرا بحة	Islamic finance instrument in Ningxia by which a buyer signs a contract of sale with a bank that purchases a good from a seller at a pre-arranged price and then resells it to the buyer with an increased cost.
<i>jiaocheng</i> 教乘 (SE)	shari‘a شريعة	Lit. “vehicle of the teaching” and the first of the three Sufi vehicles.

<i>jiaofa</i> 教法 (SE)	shari‘a شريعة	Lit. “law of the teaching.” See <i>zongjiaofa</i> .
<i>jiaogui</i> 教规 (SE)	<i>fiqh</i> فقه	Lit. “teaching rules.”
<i>jiaolü</i> 教律 (SE)	‘ibādāt عبادات	Ritual rules of shari‘a. See <i>yibadade</i> , <i>zongjiao xinyang</i> .
<i>jiaopai</i> 教派 (SE)	<i>firqa</i> فرقة	Lit. “teaching school.” See <i>fei’erge</i> .
<i>jiaozhang</i> 教长 (SE)		Lit. “teaching head” or leader of a <i>jamā‘a</i> .
<i>jichengfa</i> 继承法 (SE)	‘ilm al-farā’id علم الفرائض	Inheritance law. See <i>yichanfa</i> .
<i>jiejing</i> 解经 (SE)	<i>tafsīr</i> تفسير	Qur’ānic exegesis.
<i>jiejingqi</i> 洁净期 (SE)	‘idda عدة	Mandatory waiting period after pronouncement of <i>talaq</i> during which husband and wife cannot have sex.
<i>jiehade</i> 杰哈德 (SE)	jihad جهاد	Generally, “struggle”; also means “holy war.”
<i>jingli</i> 净礼 (SE)	<i>ghusl</i> غسل	Cleaning ceremony, prepares body of deceased before burial. See <i>dajing</i> , <i>xili</i> .
<i>jingtang jiaoyu</i> 经堂教育 (SE)		Lit. “scriptural hall education.”
<i>kadi</i> 卡迪 (PE)	qadi قاضي, pl. <i>quḍāa</i> قضاة	Judge. See <i>qazui</i> .
<i>kaixue ahong</i> 开学阿訇 (SE, PE)		Teaching ahong.
<i>kaizhai</i> 开斋 (SE)	<i>ṣawm</i> صوم	Fasting, one of the five pillars.
<i>kaizhaijie</i> 开斋节 (SE)	<i>qurbān</i> قربان	Festival of sacrifice, commemorating Ibrāhīm’s near sacrifice of his son Ismā‘īl. See <i>zaishengjie</i> .
<i>kalimate</i> 卡利马特 (PE)	<i>al-kalima</i> الكلمة pl. <i>kalimāt</i> كلمات	The word of Islam.
<i>karemeti</i> 卡热么提 (PE, B)	<i>karāma</i> كرامة	Wonder, miracle.

<i>kefan</i> 克凡; <i>kafan</i> 卡凡 (PE)	<i>kafan</i> كفن	White shroud used for burial.
<i>kegong</i> 课功 (SE)	<i>zakāt</i> زكاة	Obligatory alms, one of the five pillars. See <i>tianke</i> , <i>zakate</i> .
<i>kouhuan</i> 扣环 (SE)	<i>ijāza</i> إجازة	Permission.
<i>kufeilei</i> 库费勒 (PE)	<i>kafir</i> كافر	Disbeliever.
<i>laorenjia</i> 老人家 (SE)	<i>murshid</i> مرشد	Lit. “respected parent,” used for “one who guides” or Sufi master. See <i>shaykh</i> .
<i>leibi</i> 类比 (SE)	<i>qiyās</i> قياس	Analogical reasoning, one of the two man-made sources of shari‘a.
<i>libai</i> 礼拜 (SE)	<i>salat</i> صلاة, pl. <i>ṣalawāt</i> صلوات	Prayer, one of the five pillars.
<i>libaidian</i> 礼拜殿 (SE)	<i>qā‘at al-ṣalāa</i> قاعة الصلاة	Prayer hall
<i>liu da xinyang</i> 六大信仰 (SE)	<i>arkān al-īmān</i> اركان الإيمان	Six articles of faith.
<i>Malike</i> 马立克 (PE)	<i>Mālikī</i> مالكي (adj.)	One of the four schools of Islamic jurisprudence.
<i>manla</i> 满拉 (PE)	<i>mawlā</i> مولى (charge); <i>mullā</i> ملا (teacher); <i>murīd</i> مُريد (pupil)	Student. Arabic equivalent uncertain.
<i>Mai’erleifuti</i> 麦尔勒弗提; <i>marefeiti</i> 玛热非体 (PE)	<i>ma‘rifa</i> معرفة	Knowledge of God as understood by Sufis, sometimes considered a fourth vehicle of Sufism.
<i>maza</i> 麻扎 (PE)	<i>mazār</i> مزار	Tomb.
<i>menhuan</i> 门宦 (SE)		Sufi organization.
<i>mihalabi</i> 米哈拉比 (PE)	<i>mihrāb</i> محراب	Niche in wall of prayer hall in mosque that indicates direction of Mecca.
<i>minbai’er</i> 敏白尔 (PE)	<i>minbar</i> منبر	Pulpit in mosque.
<i>minjian ahong</i> 民间阿訇 (SE, PE)		Popular or unofficial imām.

<i>minjian diaocha</i> 民间调查		Unofficial investigation.
<i>minshi falü guiding</i> 民事法律规定 (SE)	<i>mu'āmalāt</i> معاملات	Shari'a of social relations. See <i>muamailiangte</i> .
<i>minshi xingwei nengli</i> 民事行为能力 (SE)	<i>taklīf</i> تكليف (state) <i>mukallaf</i> مكأف (person)	Having legal capacity for civil conduct.
<i>minzu</i> 民族		Nationality, ethnicity.
<i>minzuxue</i> 民族学		Ethnic studies.
<i>muamailiangte</i> 穆阿麦俩特 (PE)	<i>mu'āmalāt</i> معاملات	Law of social relations.
<i>mu'anjin</i> 穆安津 (PE)	<i>muezzin</i> or <i>mu'adhdhin</i> مؤذن	Person who calls Muslims to prayer.
<i>mufuti</i> 穆夫提 (PE)	<i>mufti</i> مفتي	Legal counsel who interprets shari'a.
<i>Muhammoude</i> 穆罕默德 (PE)	Muhammad محمد	The Prophet.
<i>mubaleike</i> 穆巴勒克 (PE)	<i>mubārak</i> مبارك	Blessed, fortunate. See <i>xingfu</i> .
<i>mudalaba</i> 穆达拉巴 (PE)	<i>muḍāraba</i> مضاربة	A contractual relationship in accordance with Islamic finance law whereby one party contributes money and the other management. Risk is born by the former alone.
<i>Musilin</i> 穆斯林 (PE)	Muslim مسلم	Muslim.
<i>musitaiha</i> 穆斯泰哈 (PE)	<i>mustahabb</i> مستحب	Recommended (one of the five categories of Islamic law). See <i>zanxu de xingwei</i> .
<i>mufuti</i> 穆夫提 (PE)	<i>mufti</i> مفتي	Legal counsel.
<i>muzhitaixide</i> 穆智台希德 (PE)	<i>mujtahid</i> مجتهد	One capable of performing <i>ijtihād</i> (independent thinking in creating legal decisions).
<i>Nageshenbandiye</i> 纳格什班迪耶 (PE)	<i>Naqshbandīyya</i> نقشبندية	The Sufi <i>ṭarīqa</i> from which the Khufiyya and Jahariyya <i>turuq</i> diverged.

<i>naimaze</i> 乃麻子 (PE)	<i>namāz</i> نماز (P)	Prayer.
<i>niangong</i> 念功 (SE)	<i>al-kalima</i> الكلمة	Lit. “read achievement.” See <i>Kalimate</i> .
<i>nietie</i> 乜贴 (PE)	<i>niyya</i> نيّة	Object donated. Used for “intent or “intention.”
<i>nikaha</i> 尼卡哈 (PE)	<i>nikāḥ</i> نكاح	Marriage contract.
<i>ping'an</i> 平安 (SE)	<i>salām</i> سلام	Peace.
<i>pinli</i> 聘礼; <i>pingjin</i> 聘金; <i>pingji</i> (SE, B)	<i>mahr</i> مهر	Dowry of Islamic marriage.
<i>qiancheng</i> 虔诚 (SE)	<i>taqwā</i> تقوى	Pious, God-fearing.
<i>qianding</i> 前定 (SE)	<i>qadar</i> قدر	Predestination, one of the six articles of faith.
<i>qingzhen</i> 清真 (SE)	halal حلال	Lit. “pure and true,” also, lawful, clean, whole.
<i>qingzhensi</i> 清真寺 (SE)	<i>masjid</i> مسجد	Mosque.
<i>qingzhensi minzhu weiyuanhui</i> 清真寺民主委员会		“Democratic mosque administration committee.”
<i>qingzhenyan</i> 清真言 (SE)	<i>shahāda</i> شهادة	Islamic creed, one of the five pillars.
<i>Qiusuoma</i> 求索玛 (SE)	<i>Cho suoma</i> (T)	Xidaotang, a Muslim collective based in Lintan (Taozhou). This is the Tibetan name from <i>cho</i> (“religion” or “law”) and <i>suoma</i> (“new”).
<i>renmin tiaojie weiyuanhui</i> 人民调解委员会		People’s mediation committee.
<i>sajida</i> 萨吉达 (PE)	<i>sajda</i> سجدة	Prostration to God by touching forehead to ground.
<i>Sailaifeiye</i> 塞莱非耶/萨来非亚 (PE)	<i>al-salafiya</i> السلفية	Neo-conservative ideology toward Islam.
<i>sancheng</i> 三乘 (SE)		Lit. “Three vehicles” of Sufism. See <i>jiaocheng</i> , <i>daocheng</i> , and <i>zhencheng</i> .
<i>Shafi'i</i> 沙斐仪 (PE)	Shāfi'ī شافعي (adj.)	One of the four schools of jurisprudence.

<i>shaihe</i> 筛赫; <i>shahe</i> 沙赫; <i>shaihai</i> 筛海; <i>shehe</i> 舍赫 (PE)	<i>shaykh</i> شيخ	Elder, master, leader.
<i>shangli</i> 晌礼 (SE)	<i>zuhr</i> ظهر	Noon prayer.
<i>shehui zhuyi fazhi</i> 社会主义 法治		Socialist legality.
<i>shenghuo guilü</i> 生活规律		Regularizing pattern of life, way that elite Hui describe shari‘a.
<i>shengren</i> 圣人 (SE)	<i>rasūl</i> رسول, pl. <i>rusul</i> رسل	Lit. “messenger,” used for “prophet” of Islam.
<i>shengxun</i> 圣训 (SE)	hadith حديث, pl. <i>aḥādīth</i> احاديث	Lit. “instructions of the sage” meaning sayings and deeds of the Prophet Muhammad, one of two revealed sources of shari‘a. See <i>hadisi</i> .
<i>sheruo’ati</i> 舍若阿提; <i>sheli’erti</i> 舍里尔提 (PE)	shari‘a شريعة	Shari‘a.
<i>juban</i> 举伴 (SE)	<i>shirk</i> شرك	Idolatry.
<i>shou qianze de xingwei</i> 受谴责 的行为 (SE)	<i>makrūh</i> مكروه	Reprehensible behavior (one of the five categories of Islamic law).
<i>suer</i> 苏尔 (PE)	<i>sura</i> سورة	Chapter of the Qur’ān.
<i>suodege</i> 索德格(PE)	<i>ṣadaqa</i> صدقة	Voluntary charity.
<i>suoma</i> 索麻 (PE)	<i>ṣawma‘a</i> صومعة	Cloister, monastery.
<i>talage</i> 塔拉格 (PE)	<i>ṭalāq</i> طلاق	Divorce.
<i>tianke</i> 天课; <i>tianminggongke</i> 天明功课 (SE)	<i>zakāt</i> زكاة	Obligatory alms, one of the five pillars. See <i>kegong</i> , <i>zakate</i> .
<i>tianming</i> 天明 (SE)	<i>ḥukm</i> حكم, pl. <i>aḥkām</i> أحكام	Lit. “mandate of heaven” used for Islamic commandment.
<i>tianming yiwu</i> 天明义务 (SE)	<i>wājib</i> واجب	Obligatory duty (one of the five categories of Islamic law). See <i>wazhibu</i> .
<i>tianqiao</i> 天桥 (SE)	<i>as-ṣirāṭ</i> الصراط	Bridge to paradise one crosses at the Day of Judgment.

<i>tianshan</i> 天仙 (SE)	<i>malā'ika</i> ملائكة	Angels, belief in which is one of the six articles of faith.
<i>taikebi'er</i> 太克比尔 (PE)	<i>takbīr</i> تكبير	<i>Allahu akbar</i> (God is great), a phrase used in formal and informal prayer. See <i>zanci</i> .
<i>taobai</i> 讨白 (PE, SE)	<i>tawba</i> توبة	Repentance, from the ninth sura of the Qur'ān. Considered, among Sufis, to be fuel for spiritual ascent.
<i>tuoleigeti</i> 妥勒格体; <i>tuoleishanti</i> 妥勒善提 (PE)	<i>ṭarīqa</i> طريفة, pl. <i>ṭuruq</i> طرق	The way or path and second of the three vehicles of Sufism.
<i>Wahabiye</i> 瓦哈比耶 (SE)	<i>al-wahhābiyya</i> الوهابية	Islamist reform movement that believes in literal interpretation of the Qur'ān
<i>wagefu</i> 瓦格夫; <i>wogefu</i> 卧格夫; <i>wakefu</i> 瓦克夫; <i>waigefu</i> 外格夫 (PE)	<i>waqf</i> وقف, pl. <i>awqāf</i> اوقاف	Pious endowment.
<i>wa'ersa</i> 瓦尔萨 (PE, B)	<i>wargSap</i> (T)	Fee given to a middle-man.
<i>wazhibu</i> 瓦直卜 (PE)	<i>wājib</i> واجب	Obligatory [duty or act] (one of the five categories of Islamic law).
<i>Weidaojing</i> 卫道经 (SE)	<i>Sharh al-Wiqāya</i> شرح الوقاية	<i>Explanation of the Protection</i> , a Ḥanafī text. See <i>Weigaye</i> .
<i>Weigaye</i> 伟尔耶 (PE)	<i>Sharh al-Wiqāya</i> شرح الوقاية	<i>Explanation of the Protection</i> , a Ḥanafī text.
<i>weifen</i> 位分 (SE)	<i>latīfa</i> لطيفة, pl. <i>latā'if</i> لطايف	In Sufi theosophy, nodes of energy within the body that are exercised through meditation.
<i>wo'erzi</i> 卧而子 (PE)	<i>wa'z</i> وعظ	Admonishment. Often substitutes for <i>khuṭbah</i> (Friday sermon).
<i>wugong</i> 五功 (SE)	<i>arkān al-Islām</i> أركان الإسلام	Five pillars of Islam.
<i>wuhao qingzhensi</i> 五好清真寺		"Five goods mosque."

wusitade 吾斯塔德 (PE)	أستاذ <i>ustādh</i>	Master, teacher, frequently used by Sufis.
wuma 乌玛 (PE)	امة <i>umma</i>	The Muslim community.
xianglao 乡老		Lit., “local rules and regulations,” a Qing dynasty mosque administration system.
xianzhi 先知 (SE)	النَّبِيُّ <i>al-nabiyyu</i>	The Prophet Muhammad.
xiaojing 孝敬 (SE)	البدِّ بالوالدين <i>al-barra bil wālidīn</i>	Filial piety.
xiaojing 小净 (SE)	وضوء <i>wuḍuʿ</i>	Partial ablution.
xiaoli 宵礼 (SE)	عشاء <i>‘ishāʿ</i>	Evening prayer.
xiguan 习惯 (SE)	عرف <i>‘urf</i>	Custom.
xiguanfa 习惯法		Customary law.
xijila 希吉拉	هجرة <i>hijra</i>	Emigration; the historical migration of Prophet Muhammad from Mecca to Medina in A.H. 1/622 C.E.
xijing 洗净 (SE)	طهارة <i>ṭahāra</i>	Ritual purity.
xili 洗礼 (SE)	غسل <i>ghusl</i>	Washing or cleaning ceremony, prepares body of deceased for burial.
xilixila 西里西拉 (PE)	سلسلة <i>silsila</i>	Chain of spiritual descent between initiate and past masters.
xingfu 幸福 (SE)	مبارك <i>mubārak</i>	Blessed.
xinyang 信仰 (SE)	إيمان <i>īmān</i>	Faith, belief. See <i>yimani</i> .
xinzhuduyi 信主独一 (SE)	توحيد <i>Tawḥīd</i>	Oneness of God.
xiudaoyuan 修道院 (SE)	صومعة <i>ṣawma‘a</i>	Cloister, monastery. See <i>suoma</i> .
xuanjiao 宣教 (SE)	دعوة <i>da‘wa</i>	Piety, preaching Islam.
xuanli 宣礼 (SE)	اذان <i>adhān</i>	Call to prayer. See <i>bangke</i> .
xuanlita 宣礼塔 (SE)	منارة <i>minārah</i>	Minaret.

<i>xuedong</i> 学董		Title for manager of mosque. Common during Qing period, and is used less frequently in the contemporary period.
<i>xuelao</i> 学老		Historical title for the elders of a mosque who help manage its property. The title is not used in the contemporary Northwest.
<i>xundaozhe</i> 殉道者 (SE)	<i>shahīd</i> شَهِيد, pl. <i>shuhadāʾ</i> شُهَدَاءُ	Martyr.
<i>xunnai</i> 逊奈 (PE)	<i>sunna</i> سُنَّة	Practices of the Prophet Muhammad.
<i>yibadade</i> 伊巴达德 (PE)	<i>ibāda</i> عِبَادَة	Ritual rules of shari‘a.
<i>yibilisi</i> 依比利思 (PE)	<i>iblis</i> إبليس	Devil.
<i>yichan</i> 遗产 (SE)	<i>tarika</i> تَرِكَة	Estate.
<i>yichanfa</i> 遗产法 (SE)	‘ilm al- <i>farāʾid</i> علم الفرائض	Inheritance law.
<i>yifuduoqi</i> 一夫多妻 (SE)	<i>ta‘addud al-zawjāt</i> تعدد الزوجات	Polygamy.
<i>Yihewani</i> 伊合瓦尼 (PE)	<i>al-Ikhwān al-Muslimūn</i> الإخوان المسلمون	Muslim Brotherhood.
<i>yimani</i> 伊玛尼 (PE)	<i>īmān</i> إيمان	Belief.
<i>yimamu</i> 伊玛目 (PE)	<i>imām</i> إمام, pl. <i>aʾma</i> أئمة	One who leads the prayer.
<i>yindaminda</i> 引达悯达 (PE, B)	<i>yindaminda</i> (T)	Must.
<i>yizhitihade</i> 伊智提哈德 (PE)	<i>ijtihād</i> اجتهاد	Independent reasoning in rule creation.
<i>zaishengjie</i> 宰牲节 (SE)	<i>qurbān</i> قربان	Festival of sacrifice, commemorating Ibrāhīm’s near sacrifice of his son Ismā‘īl.
<i>zakate</i> 则卡特 (PE)	<i>zakāt</i> زكاة	Obligatory alms, one of the five pillars. See <i>kegong</i> , <i>tianke</i> .

zanci 赞词 (SE)	takbīr تكبير	Allahu akbar (God is great).
zangli 葬礼 (SE)	ṣalāt al-jināza صلاة الجنازة	Funerary prayer.
zanxu de xingwei 赞许的行为 (SE)	mustahabb مستحب	Recommended behavior (one of the five categories of Islamic law). See <i>musitaihabu</i> .
zeke'er 则克尔 (PE)	dhikr ذكر	Remembrance of God.
zhaigong 斋功 (SE)	ṣawm صوم	Fast, one of the five pillars. See <i>kaizhai</i> .
Zhehelinye 哲赫林耶 (PE)	Jahriyya جهريّة	Naqshbandī Sufi <i>ṭarīqa</i> .
zhemati 折麻体 (SE)	jamā'a جماعة, pl. jamā'āt جماعات	Mosque community.
zhenaze 者那则 (PE)	jināza جنازة	Funerary procession.
zhengcheng 真乘 (SE)	ḥaqīqa حقيقة	Lit. “vehicle of truth” or “the vehicle of Allah,” the third of the three Sufi vehicles.
Zhenzhu 真主 (SE)	Allah الله	Lit. “true lord.”
zhonghua da jiating 中华大家庭		The “big Chinese family,” a familiar official expression for the unity of nationalities.
zhuma 主麻 (PE)	jum'a جمعة	Friday.
zhunxu de xingwei 准许的行为 (SE)	mubāḥ مباح	Indifferent behavior (one of the five categories of Islamic law).
zizhi 自治		Self-rule, legal autonomy.
zongjiaofa 宗教法 (SE)	shari'a شريعة	Religious law.
zongjiao fating 宗教法庭 (SE)	qadihana قاضيخانه	Site where the qadi holds courts (which may or may not be a physical court). Used by Uyghur and not Hui.

<i>zongjiao caichan</i> 宗教财产		“Religious property,” the PRC legal term for any property owned by a mosque or Sufi tomb complex (e.g., <i>wāqf</i> ).
<i>zongjiao huodong changsuo</i> 宗教活动场所		“Religious activity area,” the PRC legal term for mosque.
<i>zongjiao jiaozhi ren yuan</i> 宗教教职人员		“Religious instruction personnel,” the PRC legal term for ahongs.
<i>zongjiao tuanti</i> 宗教团体		“Religious group,” the PRC legal term for <i>jamā'a</i> .
<i>zongjiao xinyang</i> 宗教信仰 (SE)	عبادات <i>‘ibādāt</i>	“Religious belief” used to refer to “acts of worship.” An inclusive terms designating the six articles of faith and the five pillars.
<i>zongjiao xuexiao</i> 宗教学校 (SE)	madrasa مدرسة	Islamic school.
<i>zunxing xianli</i> 遵循先例		Abiding by precedent.