

Tracing the Development of Contemporary Muslim Identity from the Colonial State

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On September 28, Akhlaq, a 50 year old Muslim man was stabbed and stoned to death, by a vicious mob of Hindus over allegations of consuming beef. Some members of the ruling political party in the central government defended the incident. The media described it as another instance of communalism, the primordial conflict between the two monolithic communities of Hindus and Muslims. However, 'Hindus' and 'Muslims' became two socially distinct categories only in the late nineteenth century, as a result of the colonial state's understanding of the social reality along religious differences (Jones). This resulted into a mobilisation of the society according to these religious identities (Everett), which led to the emergence of a consolidated Muslim identity during the colonial period.

The premise of this essay is that the development of the Muslim identity was not primarily a phenomenon of ethnic differences; rather it emerged from a socio-political context, where the state played an active role. First, there was a construction of a rigid and homogenous Muslim identity in the twentieth century through the promotion of Anglo-Muhammadan scholarship. Subsequently, this separate Muslim identity influenced the politics of the nationalist movement, where it was juxtaposed with an all-encompassing Indian national identity.

During the pre-colonial period, the identity of a Muslim was not so constricted, it was inclusive of groups with diverse beliefs and practices. In 1901 census of India, an official noted that the populations, which regarded themselves to be Muslims were "deeply infected with Hindu superstitions" (Jones). Khojas, Mappilas and Memons were followers of Islam, but according to custom, they were governed by personal laws of Hindu inspiration (Anderson). At the level of masses, the contrasts between the two communities were not so apparent. They led a shared rural life, wherein they belonged to same agricultural community, practised similar rituals and spoke the same language albeit with minor variations in vocabulary. (Jones)

For Arabs, Turks, Persians and Afghans working in Mughal courts, their Muslim identity was not the paramount consideration. Muslims who were converts to Islam expressed themselves

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in their regional languages and cultures. The syncretic groups, like local Sufi cults existed in complete deviance from orthodox Islam.(Robinson)Even the social-political elite remained indifferent when it came to “purifying Islam from its native accretions.” Such an exercise was limited to the “ulama” (theologians), who only had a limited social impact.(Engineer)

Likewise, pre-colonial Islamic jurisprudence had diverse sources of religious authority, where even customary practices found their place. The Sultanate, Mughal Empire and its successor states had implemented varied forms of *sharia*. Scholars like Shah Wali Ullah argued for an eclectic approach to interpreting Sunni schools. Shi'i scholarship also flourished.*Quran* and *Hadith* were not a primary source of legal scholarship under Hanafi school, which gave more importance to *al-Hidaya*, a 12th century text. Though, *al-Hidaya* gave precedence to custom, where there was a lacunae in the text, such deviance was mostly disparaged under orthodox Islam. However, the impact of the rigidity of the textual norms was limited, where in fact some local communities under the imperial protection, followed their own local customs and practices. (Anderson)

The state structures contribute to identity politics by defining and recognizing people according to certain identities, and in the process construct and recreate them(Everett).The colonial state retained a few structural features of the “pre-colonial political systems”, especially the legal arrangements governing the society. However, they established a “rule of law”, based on certain assumptions about the society(Anderson), which are elucidated in the following paragraphs. This legal arrangement influenced the manner in which the colonized people thought about themselves.

Civil and criminal courts were established under in 1772 under the Hastings Plan, which were to administer cases according to indigenous personal laws when it came to inheritance, caste, marriage and the like. For Hindus and Muslims, their indigenous laws comprised of *Brahmanic Shastra* and *Quran* respectively based on the colonial state's conception of the Indian society. (Anderson)Thus, there was a supposition that all diverse forms of legal arrangements can be contracted into the binary categories of Hindus and Muslims.

The Hastings Plan worked on the assumption that Islamic law was a set of unified legal rules. The distinctions between schools of Islamic legal study were glossed over and the communities pursuing a more eclectic form of Islam and Hinduism were marginalized. The interpretive practices were subordinated to textual norms.In the attempt to find a homogenous set of legal rules to be classified as “Muhammadan Law”, classical texts like *Quran* and *al-*

Hidaya were elevated to the status of legal precepts having a binding value. However, these texts were ethical codes applied by *qadisor* legal officers, during the pre-colonial times, taking into consideration the social circumstances.(Anderson) Even today, some orthodox principles of Muslim personal law have applicability, without being in conformity with the contemporary times especially as regards gender equality. Most often, the attack on the personal law comes from Hindu fundamentalists claiming cultural superiority over Muslims. As a result, reforming controversial aspects of Islam becomes a lost cause, when the ‘Muslimness’ is criticized. “It’s foolish to talk about interior decoration when the house itself is on fire”(Engineer).

Anderson argues that custom was acknowledged as a source of law only in certain areas of Muslim law after 1872. However, the colonial state attempted to codify customs, which was in contrast to a custom’s fluid and transient nature. A custom to be legally applicable required longevity and reasonability. It shouldn’t be opposed to public policy, which meant that it should be in consonance with the economic and political ideology of the state.(Anderson)

Hastings believed that this unified indigenous law can be harmonized with the British models of procedure and adjudication. According to Anderson, the salient features of the colonial state’s legal system were (i) appointment of native law officers like *maulvis* to assist the British judges, (ii) elevation and translation of certain classical religious-legal texts and (iii) a bureaucratic court system with European procedures.

The native law officers, like *maulvis* were presented with questions regarding Islamic law by British judges. As asserted by Anderson, these questions were mostly hypothetical, abstract and devoid of pertinent details. The resulting fatwa, was then applied mechanically to the case presented. The British judges were always suspicious of the *maulvis*, especially when faced with diverse opinions on a point of law. They were unable to accept that there could be valid differences in the interpretation of *sharia* principles.(Anderson)

The orientalist like Hastings, Jones, Hamilton and Halhead took up the task of compiling the translations of classical texts to decrease the colonial state’s dependence on native law officers. Texts like *al-Hidaya* and *al- Sirajiya*(a discourse on inheritance, which was of much importance to the extractive colonial state) were translated. Neil Bailee translated the fatwa *Alamgiri* under the title of *ADigest of Muhammadan law*. The translation of non-Hanafī laws never saw light of the day to financial and labour constraints. These three translations formed the textual foundation of the Anglo-Muhmmadan scholarship, which became authoritative

codes. The judges began to rely heavily on these translated texts, resulting in the loss of relevance of the native law officers.(Anderson)

The courts operated on a bureaucratic framework inspired by European procedures of law. Anderson describes how the documentation in matters of law and evidence in the colonial state differed significantly from the pre-colonial system. Under *sharia*, oral testimony of a “morally reliable witness” was admissible in court. Similarly, according to *al-Hidaya* documentary evidence is not required. However, in the colonial courts the testimony of the witness had to be transcribed and translated into the language of the court. A complete overhaul of the system took place with the advent of the Criminal Procedure Code, 1860 and Indian Evidence Act, 1872.(Anderson)

Anderson contends that the legal arrangement which originated out of the Anglo-Muhammadan scholarship sharpened the distinctions between categories of “Hindus” and “Muslims”. He points out that for the administration of justice, the doctrinal question the judge would ask was, “Who is a Muslim?” In 1992, the Madras High Court declared that anyone who believed in the supremacy of *Quran* and accepted Muhammad as the prophet would be considered a Muslim. He indicates that such a description of Muslims, disregarded the existence of ambiguous, localized and syncretic identities. Litigants were forced to identify as either “Hindus” or “Muslims”(Anderson).

In 1871, the colonial started conducting census of India, under which people were categorized according to their religion. People were questioned about their religious affiliation when they joined army, government service, and even while availing the services of schools and hospitals. There was a development of consciousness of being a Muslim.(Robinson) The violent clashes, often initiated by certain individuals or groups to gain political advantage, were orchestrated as religious rivalry, which further polarized the two communities(Jones).

Persian was replaced by English and Urdu in higher and lower courts respectively in late nineteenth century. The Hindus rallied to make Hindi as the official language of the court. The cracks began to surface on communal lines.The conflict was not primarily of ethnic difference, it was a question of livelihood. The jobs in the courts and government depended on the prescribed official language. After the collapse of the Mughal Empire, the Muslim social-political elite was majorly dependent on these administrative jobs. They also lagged behind in English education in comparison to their Hindu counterparts.When such policy

decisions of the state began affecting the social-political elite, they started galvanising the masses to increase their bargaining power. This was done by “Islamising” the masses, who earlier had a much more diffused sense of Muslim identity. (Engineer)

However, it would be erroneous to say that the sharpening of the Muslim identity was just a reactionary phenomenon to the colonial processes. There was a reform and revival movement amongst Muslims themselves. This movement was not limited to British India, rather it was pan-Islamic. Muslims were trying to make sense of their loss of power in the world.(Robinson)

In British India, such revivalism was exhibited in form of jihad movements by Saiyid Bareilwi in north west frontier, Haji Sharitulla in Bengal, and Saiyid Alawi in Malabar. There were other movements like that of Deoband, Ahl-i-Hadiths and Jama’at-i-Islami. The common strand among all these movements was an attack on the Islamic practices infested with the Hindu elements and mystical traditions. There was a rise of quasi-protestant Islam. (Robinson)The study of *Hadith* and *Quran* became widespread, which was unprecedented. The obedience to *sharia* principles became essential for maintaining the Muslim identity.(Anderson)Even, the modern Aligarh movement led by Sayid Ahmed Khan was guided by Islamic modernism. It was deeply rooted in Islamic revival, the restoration of past Muslim glory.(Robinson)

However, this assertion of Muslim identity shouldn’t be just seen as a result of religious fundamentalism. When a community is politically and economically descendant, it strives to champion its religious identity. It does so to gain ideological superiority over its rivals, it also provides it with a sense of solidarity and unity necessary for its survival, and probably itsre-ascendance as well.(Engineer)

While the British played a major role in constructing a discreet Muslim identity through the process of creating Anglo-Muhammadan scholarship, they also contributed in developing a separate political identity of Muslims. The British were worried about the disenchantment of the Muslims with the colonial state in 1860s and 1870s. It’s no surprise that they approved Sayid Ahmed Khan’s attempt to bridge the gap between Muslims and British through modern education. They provided material and moral support to All-India Muhammadan Conference in 1886 founded by Sayid Ahmed Khan, and a group of young and energetic Muslims led by him. This group, known as the Aligarh movement opposed the nationalist movement of the All India National Congress to the convenience of the British. When this group demanded

special representation on the basis of their “political importance” in the legislative councils of the Secretary of State in 1906, the British took their claims seriously. Likewise, during the Morley-Minto reforms the Muslims were granted separate electorates in the provinces where they were “politically important.”(Robinson)

This not to say that there were no conflicts between Muslims and the colonial power. Under the Islamic revivalist movement there was a resistance towards the cultural challenges brought forward by the colonial rule. For instance, “how far the Indian Muslim women can be granted the freedom that their western counterparts have?” (Everett)The British courts saw the personal law of Muslims governing *waqfs* as an obstruction to economic development(Anderson). Muslim Jihad movements were a cause of concern for the British who saw them as a Wahhabi conspiracy against the British Empire(Stephens).

The indigenous agencies were also at work in the creation of the political identity of the Muslims. The relationship between Hindu revivalism and Congress was too close for comfort for the Muslims to take part in the Indian nationalist movement without any apprehensions. The Congress would often invoke symbols like the *Nagri* script, *Bharat Mata* and a more sanskritized form of *Hindi* as opposed to *Urdu*. The cow protection programmes and the emphasis on Hindu religious festivals like Ganesh Chaturthi alienated the Muslims even more. (Robinson)Congress was increasingly seen as a vehicle of political aspirations of Hindus by a section of Muslims(Everett). A sense of Hindus and Muslims belonging to separate races was evident in the writings of prominent Congress leaders like Nehru, Gandhi and Abdul Kalam Azad, even when they were talking about cultural integration. (Metcalf)

However, there was a vivisection of the Muslim identity politics in 1920s. The young professionals started joining the nationalist movement, on the other hand the Muslim landlords joined landholder’s parties, and some retired from their political life. The Muslim League won only 22% of the reserved seats for Muslims in 1935. But however, only in the special circumstances of 1940s, the Muslim League was able to win 90% of the seats reserved for Muslims, through its broad appeal to the Muslims(Robinson). The overarching Muslim identity gained prominence in the last decade of the colonial rule, which finally culminated into the separate modern state of Pakistan.

The above discussion illustrates that the colonial state enabled the construction of a distinct Muslim identity, which was absent in pre-colonial times. This rigid and uniform Muslim identity was a result of the British exploration of Anglo-Muhammadan scholarship. The

indigenous forces also played a role in consolidating the Muslim identity in response to the policy decisions of the colonial state, against the assertiveness of Hindu revivalist, and sometimes out their own self-reflection of what it means to be a Muslim. However, there was social, political and economic underpinning to this assertion of Muslim identity, it was a method of securing survival as a minority community in a colonized state. A community which was still reminiscent of its past power and glory. Unfortunately, modern India carries the legacy of this manufactured conflict, which has obscured the rich tradition of a composite culture. Imperialism is not only responsible for economic exploitation but also for the prevailing ethnic conflicts in colonized countries.

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