

HEIRS OF THE PROPHETS

An Account of the Clergy and Priests of Islam,
the Personnel of the Mosque and “Holy Men”

by

Samuel M. Zwemer, F.R.G.S.
Professor Emeritus of the History of Religion and Christian Missions
Princeton Theological Seminary

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CHAPTER SIX

THE SHEIKH-AL-ISLAM and MUFTI

THESE religious officials do not strictly belong to the personnel of the mosque. They are of higher grade. The former honorific title for a spiritual office appears in the second half of the fourth century A.H.

Other honorific titles compounded with Islam are many, but often relate to secular offices; this has always been reserved for the *‘ulema* and mystics (*Encyc. of Islam*). It was given in Syria and Egypt to canon-lawyers of the highest rank that had attained fame or the approval of other jurists.

In Egypt and Russia, to the present day, *muftis* (canon-lawyers) of importance may be given the title. It gained most glory, however, when applied to the *mufti* of Constantinople, a religious and political importance without parallel.

In the reign of Suleiman, the *Sheikh-al-Islam* acquired undisputed authority over all the *‘ulema* of the empire.

This was possibly in imitation of the Christian hierarchy under the ecumenical patriarch (Kramers). His high position was indicated by special ceremonials of installation, dress and the exercise of political as well as of spiritual functions. It was the *Sheikh-al-Islam* who authorized the drinking of coffee in Turkey by *fatwa*, and also the establishment of a printing press in 1727. Coffee as beverage had been under suspicion for a long time (see Kahwah, *Encyc. of Islam*).

In Cairo in 1912 the Nestle Milk Co. of Switzerland secured a *fatwa* to certify that their brand was ritually pure! 38

And Dr. Snouck Hurgronje wrote a very interesting paper on the *fatwas* issued in the lively controversy regarding the transcription of the Koran on the gramophone. On the functions and prerogatives of all *muftis*, see Juynboll, *Islamischen Gesetzes*, Vol. I, pp. 54-56. It is evident from such modern instances of the issuance of *fatwas* that the religious power of the *mufti* is enormous. In a totalitarian religion, canon law is supreme. The *mufti*’s voice is the voice of the Koran and of orthodox tradition, both of which are of divine authority.

During my years in Cairo, the press sometimes criticized the verdict of the *mufti*, yet between the lines one could read the power which they had over the masses.

Here is an instance.

The *Wady-el-Nil* newspaper, writing of a *fatwa* regarding economy in sacrificing sheep for the annual feast of sacrifice, said: 'As the government has acknowledged this particular privilege of the ulemas, by resorting to them this season to advise the community to reduce its courban sacrifices, and asked them on a previous occasion to give a fetwah justifying the suspension of the pilgrimage, the ulemas themselves should appreciate these privileges and cease to imagine that the government would fight them if they busied themselves with such theological affairs as to straighten the morals of the community and call people to advocate sound character and virtues which conform with the teachings of Islam . . . Why should not the chiefs of the four sects of Islam give a fetwah prohibiting immoderate toilette of ladies which is becoming indecent? Why should they not give a fetwah forbidding extravagance which has corrupted people's character? Why not a fetwah to teach the fellah to employ strict economy for a part of the year in order to save himself from usurers afterwards?"

To which another Moslem paper replied defending the *muftis*:

"With reference to the *sheria'* *fetwah* advising people to be more economical in sacrificing sheep on the occasion of the Courban Bairam, we may observe that while prudence requires that every Egyptian should give special attention to economical matters under the present circumstances, we cannot help remarking that the present state of things is of a nature to enforce the fetwah and prevent people from making big sacrifices. The remarkable shortage of meat and the lack of imports of livestock from the Sudan make it necessary for the majority of people, rich and poor, to be more economical in this respect."

In Cairo as in Mecca there are four official *muftis* to represent each of the four schools of Moslem law. They alone are officially recognized.

Not everyone can aspire to the office or hold it. As for the office of *Sheikh-al-Islam*, the caliphs themselves have been deposed by them and successors appointed. These jurists (for example, Mawardi who died 1058) wrote treatises on the theory and practice of the caliphate, and the qualifications for election to this high office. They were in fact like cardinals who elected the pope! Although the caliph was never a pope in the Roman sense, yet when we read the history of the *Sheikhs-al-Islam* in Constantinople (the biographies of 124 are carefully recorded), it is no wonder that western travelers of the sixteenth century (Ricaud, Volney and other writers) compare them to the popes as representatives of the spiritual power of the whole Moslem world (Kramers in the *Encyc. of Islam*, p. 277). 39

A full description of the powers granted this high official in the world of Islam is found in the *'Ilmiye Salnamesi*, published in 1916 at Constantinople. They included even the superintendence of the printing of the Koran and religious books, the department of religious education, of archives, and of religious endowments. The office was eliminated about the time when the caliphate was abolished, March 3, 1924.

But the history of the office is a striking witness to the absolute power of the Moslem clergy over the laity in a totalitarian religion through many centuries. It was the *nihil obstat* of this official that first permitted the free circulation of the Bible in Turkey; and such statement appeared on the title page of every copy sent from the Beirut press before the Turkish Revolution.

The *mufti*, even in our day, has power to confirm or deny the death sentence in an Egyptian court. In 1910 in Cairo, the sentence of death for the murder of the Prime Minister, Butrus Pasha, the Copt, was submitted to the *mufti* for confirmation.

He solemnly put it upon record that his sanction of the death sentence was impossible for three reasons:

- The first was that as Mohammed had not foreseen and provided against the case of murder by a revolver, no legal sentence was possible;
- Secondly, "the murder of a non-Moslem by a Moslem is not a murder within the eye of the law and not punishable by death";
- Thirdly, the relatives of Butrus Pasha and not the government should bring charge against the culprit.

"The Egyptian Prime Minister has been brutally and aimlessly murdered, and to complete the picture, the principal religious official in the country has openly called upon the fanaticism of his Mohammedan compatriots in an attempt to save the murderer from punishment" (London Daily Telegraph, June 11, 1910).

And in the New York Times (Jan. 19, 1945) we read that the death sentence pronounced after a long and fair trial, on the two Jewish Palestinian youths who murdered the British statesman, Sir Moyne, in Cairo, was deferred. The reason, says the newspaper correspondent is that, "In actual fact, the official sentence of death has not been pronounced. At noon today the presiding justice, Mahmoud Mansur Bey, announced briefly in Arabic that the documents in the case would be sent to the *mufti* of Egypt. This would be done only in case of a death sentence. Egyptian courts have no power to take a man's life, but the *mufti*, who combines legal and religious functions, can approve such a sentence in the name of God. Egyptian legal experts say it is difficult to recall an instance when documents were forwarded to the *mufti* and the death sentence was not approved."

The personnel of the mosque all receive their training in Moslem religious legal practice and theology, and the oldest and most celebrated of all theological schools is at Cairo.

38. See the complete text in *Moslem World*, Vol. XI, p. 422. Also Vol. X, 407.

39. Cf. "Is the Caliph a Pope?" by George Stewart. *Moslem World*, Vol. xxi, p. 185 ff.

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