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Human Rights and Islamic Identity in France and Uzbekistan: Mediation of the Local and Global

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INTRODUCTION

This discussion of current expressions of Islamic identity in Western Europe and Central Asia is part of my wider and continuing concern with issues of cultural transformation in Islamic societies and communities. The relevance

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and implications of a human rights paradigm for these issues in apparently different parts of the world are explored herein. This choice is explained below. The theoretical position I will argue is that the application of a human rights paradigm to the processes of cultural transformation draws on the interdependence of culturalist notions of contingency and global mutual influence, on the one hand, and positivist ideas of rights and their institutional expression, on the other. In the last section, I suggest that the human rights paradigm can play this role only to the extent that it both includes different perspectives and is capable of mitigating the negative consequences of differentials in power relations in the processes of globalization.

By the term "human rights paradigm," I mean the articulation and application of the same norms to every human being everywhere, a standard that presupposes the validity of cross-cultural moral judgment and requires systematic efforts to influence state policy and practice in matters that were previously deemed to be subject to the exclusive domestic jurisdiction of the state.² At a time when the world was just emerging from the horrors of the Second World War, the Charter of the United Nations of 1945 and the Universal Declaration of Human Rights of 1948 emphasized the idea that, in the interest of protecting human dignity, states should accord all persons, subject to their domestic jurisdiction, certain rights and freedoms. The basic idea is that, whereas the state traditionally determined the normative and institutional framework for matters such as citizenship and its implications, that framework is now partially defined by the human rights paradigm which is articulated and implemented by a variety of governmental, intergovernmental, and nongovernmental actors from all parts of the world, including vulnerable groups like women and immigrants.

As discussed later, the human rights paradigm is premised on a paradox. On the one hand, the normative and institutional arrangements it mandates are supposed to be produced and sanctioned by processes beyond the

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2. This premise of the modern human rights movement found its first and most authoritative expressions in the Charter of the United Nations of 1945 and in the Universal Declaration of Human Rights of 1948, which was subsequently elaborated in numerous international human rights treaties. The tension between national sovereignty and the application of international human rights standards was reflected in the UN Charter itself and continues seriously to limit the practical implementation of these standards. Nevertheless, it is clear by now that this premise has been established beyond dispute through developments within the global UN system, the regional systems of Europe, the Americas, and Africa, and national and international nongovernmental human rights organizations.

For extensive materials on, and discussion of, a wide range of issues in this field, see generally, *INTERNATIONAL HUMAN RIGHTS IN CONTEXT: LAW, POLITICS, MORALS* (Henry J. Steiner & Philip Alston eds., 1996); and *INTERNATIONAL HUMAN RIGHTS LAW & PRACTICE: CASES, TREATIES AND MATERIALS* (Francisco Forrest Martin et al. eds., 1997).

exclusive control of the state and local communities. On the other hand, this paradigm also concedes to the state and local communities a crucial role in the interpretation and implementation of human rights norms.

The focus herein is the role of the human rights paradigm in the dynamics of the formation and transformation of Islamic identity in France and Uzbekistan today. In France, this process is taking place for a small minority living in physical diaspora of place or space, while in Uzbekistan it is happening for a clear majority in terms of what may be called “a diaspora of time or displaced memory.” Despite differences in their historical experiences and specific present context, both types of complex Muslim communities face the question of the relationship between Islam and the state. As I will emphasize, however, this relationship should not be seen simply in terms of acceptance or rejection of secularism as the complete separation of religion and the state.

While the situations in France and Uzbekistan are quite different in many respects, I see them as raising similar tensions between the dynamic of cultural transformation and the adequacy and legitimacy of institutional arrangements for pluralism and multiculturalism within each country. Yet, the clear differences between the two situations are useful for drawing at least some tentative general conclusions from this comparative analysis. For example, if one can identify some similarities about the relevance and implications of a human rights paradigm for Islamic modernist initiatives in different regions (in this case, Western Europe and Central Asia), that might be helpful in understanding corresponding processes taking place in other parts of the world. In other words, discussing these two situations in comparative terms may contribute to a better understanding of the relationship between identity formation and institutional change at a global, as well as national or regional, level. Furthermore, while each case must always be studied on its own terms for the most reliable conclusions, general reflections from such comparative analysis can inform and guide specific country studies.

Local Muslim communities in France are currently negotiating with the wider national French identity and culture about the meaning and relevance of their Islamic identity in the context of a highly developed and effective national and regional European human rights framework. That context also includes continuing relations with Muslim communities elsewhere, from local and national communities in the immigrants’ countries of origin (like Algeria and Turkey) to the global theological and/or ideological networks of a universal Islamic community (*ummah*). Major sites of contestation within France itself, to be highlighted below, include education, religion, language, political participation, and immigration policies. The issues are also ulti-

mately about the relationship between “citizenship” and “nationality” in a country like France as it moves toward greater European unity.³

Uzbekistan is struggling with the meaning and relevance of an Islamic identity in the context of a post-Soviet-state society that is only beginning to discover the possibilities and benefits of a human rights framework. The ruling elites of the Soviet era claim to have transformed themselves and their political institutions to meet the demands of democratic governance and free-market economy in the context of the Organization for Security and Cooperation in Europe (OSCE). At the same time, they are also resorting to Islam as a source of national identity while attempting to limit the ideological and geopolitical consequences of that choice. Unable to control the terms of both forms of transition, the ruling elites tend to turn to old Soviet-style tactics to suppress political opposition and avoid accountability for their policies and practice.

Current scholarship on the regions in question tends to examine issues of identity in broader socio-political terms, focusing on implications for domestic politics or regional and international geopolitical and security considerations. While these perspectives are useful for my purposes here, I am more concerned with how a human rights paradigm can contribute to the successful and sustainable mediation of issues of identity and citizenship—and with the institutional expression of that process in apparently different circumstances: a small Muslim minority in Western Europe and a clear majority in Central Asia. The main question that I am raising regarding these two situations is whether a human rights paradigm, both as an external normative and institutional framework and as a popular discourse for political mobilization, has a useful role to play in these transformative processes.

In the case of France, membership in the European as well as the United Nations human rights systems can influence French domestic definition and practice of notions of citizenship and rights beyond the traditional confines of French nationality. In other words, the French political and legal system is required by the human rights paradigm to secure certain minimum rights for Muslims permanently living in France despite the fact that they do not fit the historical profile of French nationality. Similarly, the post-Soviet state of

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3. Until 1993, most children born in France to immigrant parents automatically became French nationals on reaching the age of majority, but this is no longer the case. The position of Algerian immigrants was rather different, depending on whether or not they were born before Algeria's independence in 1962, and remains largely untouched by the 1993 changes in the French nationality code. See ALEC G. HARGREAVES, *IMMIGRATION, "RACE" AND ETHNICITY IN CONTEMPORARY FRANCE* 135 (1995).

Uzbekistan is driven by the economic, political, and security concerns of its new context to seek international legitimacy through democratization and the protection of human rights at home. But, given the nature of the state and society of Uzbekistan, the question is whether the ruling elites will succeed in achieving the benefits of international legitimacy without serious challenge to their hold on political power or loss in their economic and social privilege. As discussed below, the outcome of such efforts at any given time will depend on a variety of factors, including the ability of civil society to hold the government accountable to democratic and human rights principles.

To the extent that people accept that a human rights paradigm is useful for achieving stronger political participation and more social justice, that paradigm becomes an integral part of the processes of cultural transformation. Yet, the validity of this paradigm may not be acceptable to many Muslim activists who perceive an inherent tension between Islamic cultures and the universality of human rights. Nevertheless, those activists and the constituencies they represent may have to adopt human rights as a shared frame of meaning in order to effectuate their own claims to Islamic identity, whether as a majority or minority in a given state. In other words, Muslims in France and Uzbekistan *may have to modify aspects of their understanding of what an Islamic identity means in the process of claiming that identity in the modern context.*

In order for the universalist human rights project of the second half of the twentieth century to succeed, I suggest, it needs to engage possibilities of internal discourse and cross-cultural dialogue in promoting its own normative legitimacy as well as its political and legal efficacy.⁴ An internal discourse is needed for cultivating and fostering an indigenous human rights culture against other competing perceptions of the values and institutions of a given culture. A cross-cultural dialogue is necessary for mitigating differentials in power relations in the present context of economic and technological globalization. Without such adjustments, globalization will simply be used to perpetuate the exploitative and hegemonic policies of developed countries over developing countries. The combination of the two processes, I am proposing, ensures greater participation in the definition and implementation of human rights norms which will thereby enjoy stronger legitimacy among different cultures of the world.

This is not to say, however, that a human rights paradigm is either independent from socio-political and economic factors, or sufficient by

4. HUMAN RIGHTS IN AFRICA: CROSS-CULTURAL PERSPECTIVES (ABDULLAHI AHMED AN-NA'IM & FRANCIS M. DENG eds., 1990); ABDULLAHI A. AN-NA'IM, HUMAN RIGHTS IN CROSS-CULTURAL PERSPECTIVES: QUEST FOR CONSENSUS (1992).

itself for overcoming all difficulties of the relationship between identities and institutions, whether in Europe, Central Asia, or elsewhere. Rather, I am suggesting a model for understanding this relationship in the broader context of different societies. In my view, a human rights paradigm is a particularly useful framework for analyzing the relationship between identity and institutional change because its claim to set universal norms challenges all sides in the identity negotiation process. By setting specialized standards for the rights of particularly vulnerable groups like women, children, and religious or ethnic minorities, as well as general norms which apply to the population at large, the human rights paradigm promotes social change in certain directions. At the same time, all persons and groups seeking to benefit from this paradigm must accept and act upon its dual premise of the universality of its norms and the accountability of the state. Given the growing moral and political, as well as legal, importance of human rights in national politics and international relations, states can no longer afford to ignore the practical implications of this paradigm. By the same token, moreover, governments and civil-society actors are increasingly finding it necessary and beneficial to participate in the specification and institutionalized implementation of human rights norms. Governments prefer to contribute to defining the terms of their obligations, while civil-society actors seek to ensure broader and more effective protection of their rights.

I wish to emphasize that I am not claiming that the role of the human rights paradigm in the mediation of religious/cultural—(in this paper Islamic)—identity is already fully utilized or even appreciated. Although I would like to see that happen more systematically and deliberately, the immediate objective of this paper is to examine the present situation of Islamic communities in France and Uzbekistan to see whether and how the human rights paradigm is playing (or can play) this role in those settings. To this end, I will begin with some clarification of the nature and process of identity formation and transformation, then examine the situation in France and Uzbekistan, and conclude with some reflections and suggestions for further research along the lines indicated here.

IDENTITY FORMATION AND TRANSFORMATION

While the term identity is commonly taken to indicate something that is clearly defined, stable, and fixed, I share the view that people structure their lives by an unanchored, open, and self-generating pattern of meaning and value. In other words, I see identity formation and transformation as a dynamic process rather than an immutable condition.

Individuals construct meaning and value with the aid of cultural codes

shared by particular groups. Personal identity is in this sense inseparable from—though not necessarily reducible to—socio-cultural identity. It is not uncommon for a person to switch between codes. By the same token, he or she moves between a variety of socio-cultural identities.⁵

Cultural codes include “primordial attachments” such as language and religious affiliations, which are learned or formed at an early age, as well as new codes learned later in life. Moreover, code-switching can be done in an “instrumentalist” or calculated manner, sometimes to achieve different objectives than those envisaged by the original codes. For example, Muslim workers in France may adopt an “Islamic stance” not only out of conviction but also as a strategy for dealing with French authorities under certain circumstances.⁶ In Uzbekistan, “during the Soviet era many individuals apparently claimed ‘Uzbek’ nationality due to pressure, as a matter of convenience, or as a category which promised better opportunities than identification with other groups.”⁷

While there is never an “identity-vacuum”—since we all have some identity at any given time—(though our consciousness of it may vary)—persons and communities do engage in identity formulation and transformation processes in interaction with other persons and communities. Moreover, each set of processes and interactions combines elements of adjusted and/or retrieved preexisting identities, together with newly-created or situation-specific identities. For example, for one to be a Muslim in a specific context includes what being a Muslim has meant to that person in the past, which necessarily includes negotiation with others about that meaning, as well as the purpose of Islamic identity in the situation at hand. One’s understanding of what it means to be a Muslim includes, though of course is not fully identical to, understandings by others, yet all these different meanings of identity contribute to its constant formation and transformation. In other words, the determination of identity at any given point in time is a product of the actors, context, and purpose, as well as whatever normative or behavioral content different actors associate with the identity in question.

An important aspect of this process that is likely to be overlooked in the rhetoric of cultural self-determination is the need for acceptance or recognition of the assumed or claimed identity by others.⁸ Although the

5. HARGREAVES, *supra* note 3, at 94.

6. MAKING MUSLIM SPACE IN NORTH AMERICA AND EUROPE 86–87 (Barbara Daly Metcalf ed., 1996).

7. William Fierman, *Political Development in Uzbekistan: Democratization? in CONFLICT, CLEAVAGE, AND CHANGE IN CENTRAL ASIA AND THE CAUCASUS* 363 (Karen Dawisha & Bruce Parrott eds., 1997).

8. Mike Featherstone, *Localism, Globalism, and Cultural Identity, in GLOBAL, LOCAL: CULTURAL PRODUCTION AND THE TRANSNATIONAL IMAGINARY*, 46–77 (Rob Wilson & Wimal Dissanayake eds., 1996).

primary focus of identity formation and transformation appears to be internal self-identification, the success of the whole process is dependent on the response of the external “other” against whom an independent identity is being asserted. In a country like France, a Muslim person or community asserting an Islamic identity for some communal concerns—regarding education, for example—would need the acknowledgment of that claim by the relevant authorities of the state and larger society. An assertion of an Islamic identity for political or social objectives in a country like Uzbekistan would need to be accepted both by the wider society and by state authorities in order to achieve its purpose. Yet, none of us has much control over the characterization of our identities by others. Consequently, not only is the outcome of the process of negotiation of identities contingent at any given point, but it can also change over time because of factors that may be perceived to be external or irrelevant to a supposedly “identity-defining” process. For example, civil war in neighboring Tajikistan, especially to the extent that it involves conflict over the relationship between Islam and the state, is bound to influence the formation and transformation of Islamic identity in Uzbekistan.

It is therefore misleading to speak of an isolated or self-contained, identity-defining process leading to a specific, predictable, and permanent outcome for the parties concerned. It is true that some stages and/or factors in the process can be more significant than others, depending on the relationship between the actors, context, and purpose. But the point I wish to emphasize here is the contingent nature of the process and its constantly shifting and interacting outcomes. As Mike Featherstone put it:

The unwillingness of migrants to passively inculcate the dominant cultural mythology of the nation or locality raises issues of multiculturalism and the fragmentation of identity. In some cases this provoked intensified and extremist nationalist reactions, for example, the racist campaigns of Le Pen in France. . . . This can lead to a complex series of reactions on the part of the immigrants. For some ethnic groups this entails a retreat into the culture of origin . . . or into fundamentalist religions from the home country. For others this may entail the construction of complex counterethnicities. . . . For yet others the prospect of a unified single identity may be impossible and illusory as they move between various identities.⁹

It is also important to note the variety of overlapping identities that persons and communities tend to have at the same time. Given the unavoidable religious, cultural, or ethnic diversity of any modern society, and the variety of political, professional, and other affiliations of individual persons in each

9. *Id.* at 66.

community, one should not speak of an Islamic identity in isolation of the other types and forms of identity held or upheld by the same communities or persons. For example, a local community may identify with one community through shared affiliation with a particular Islamic Sufi (mystic) or theological tradition, with another community in terms of ethnicity, and with yet a third community because of common economic interests. A person may at one level identify as a member of a Muslim community (with consequent Sufi, theological, ethnic, and other possible affiliations with other Muslim communities), while at another level his or her membership in a professional trade union and/or political party may bring him or her to identify with others of different religious or ethnic identities. This matrix of actors and factors should remain central to our methodological and theoretical reflection.

To summarize, the concept of identity itself can be broadly or narrowly defined, depending on the actors, context, and purpose. It is often a code for moral and political discourse or a proxy for a wide variety of declared and undeclared agendas. As a working definition, I use the term to refer to the meaning and anticipated consequences of interaction between the ways persons or communities define themselves, and the ways they are defined by others. Given the contingency of the process and multiplicity of identities (social, religious, political, professional, and so forth) that all persons and communities have at any given time, it is necessary to specify the actors, context, and purpose of the identity-formation process one wishes to discuss. In this light, it is important to note the following about France and Uzbekistan.

As indicated earlier, the vast majority of Muslims in France can be seen as living in a state of diaspora, or physical displacement, but this characterization should be qualified in intercommunal as well as intergenerational terms. It is true that some commonalities are likely to emerge among various Muslim communities in France who are engaged in identity negotiation locally, while at the same time interacting with other Muslim societies through global institutions and media.¹⁰ Nevertheless, one must be careful in making generalized claims about the meaning and consequences of this physical diaspora. Factors that can influence the dynamics of Islamic identity include different perceptions of that identity at the place of origin (in Algeria, Turkey, and so forth), whether it was urban or rural, as well as conditions and timing of migration to France, and experiences since arrival, both with other Muslims and the wider French society. Similarly, various generations of Muslims, whether or not born and raised in France, are likely to have different perceptions of Islamic identity, though not necessarily in

10. Metcalf ed., *supra* note 6, at 2.

predictable ways. While one may expect French-born Muslims to internalize the cultural codes of French society through school and social interaction,¹¹ some of them may in fact develop a more distinctive or pronounced Islamic identity than their parents, who may have sought greater and faster integration. The dynamics of identity for the members of each generation are likely to be conditioned in different ways by the experiences of the preceding generation as well as their own.

More generally, the public expression of Islamic identity for all generations is shaped by such factors as the context of the wider society, the size and composition of the Muslim community, the Muslims' legal status in the country, and assumptions about the relationship between religion and the state in France.¹² But again, it is difficult to predict the precise outcome of different combinations of these factors. For example, ethno-religious discrimination may either stimulate development of an Islamic identity or encourage assimilation with the dominant culture.¹³ Furthermore, the redefinition and reappropriation of Islamic identity in a new context should not be seen as alternative processes in which "the old and new cultures are fixed, and that change results from the pieces being added and subtracted. Instead, new cultural and institutional expressions are being created using the symbols and institutions of the received tradition."¹⁴

Muslims of Uzbekistan can be seen as inhabiting a temporal diaspora of displaced memory as they seek to recall a historical, pre-Soviet understanding of an Islamic identity of which they had no personal experience. The process of negotiation of an Islamic identity in cases like Uzbekistan today can also be understood in terms of the reconstruction of that historical identity while attempting to retrieve it. While there is always reconstruction in retrieval of preexisting identities, the outcome of the process is probably more uncertain when memory is claimed to extend several centuries into the past. In this context, there are bound to be competing visions of the past, none of which quite fits the present or necessarily fulfills the needs of those seeking to retrieve the past identity. This is because what is believed to have happened in the past, to the extent it is factually true, was the product of the perceptions and action of a people reacting to their own specific conditions and within the wider context of their relationship with other people around them at that time. All of this is now being filtered through the constructed "memory" of today's Muslims of Uzbekistan in relation to their present context.

11. HARGREAVES, *supra* note 3, at 95.

12. Metcalf ed., *supra* note 6, at 12; W.A.R. SHADID & P.S. VAN KONINGSVELD, RELIGIOUS FREEDOM AND THE POSITION OF ISLAM IN WESTERN EUROPE: OPPORTUNITIES AND OBSTACLES IN THE ACQUISITION OF EQUAL RIGHTS 13 (1995).

13. Metcalf ed., *supra* note 6, at 12, 86.

14. *Id.* at 7.

Thus, a past identity would have to be reconstructed in order to serve the social or political purposes for which it is invoked by a people living in the present time. Such reconstruction and retrieval would involve, for example, a deliberate articulation by ruling elites or leaders of social movements of specific criteria by which the utility and authenticity of presumed past events may be assessed, certain aspects of the past emphasized, and other aspects deemphasized. Ruling elites and leaders of social movements also tend to define local, regional; and/or global conditions to fit the reconstructed identity they seek to retrieve and install in the consciousness of the population or groups they seek to influence. Past conditions of religious or ethnic composition of the community may be misrepresented, manipulated, or interpreted in particular ways to legitimize and substantiate the claims being made by those actors. For example, a past community may be claimed to have been more religiously conscious or ethnically homogeneous than it really was in order to support claims about what the present should or can be. In all of this, elites and leaders of social movements will, of course, use all the political, educational, institutional, media, and any other resources they can muster in the service of their reconstruction and retrieval project.

In the case of Uzbekistan today, this process can be clearly illustrated by the way Timur Link (1336–1406) was selected as the central figure in the reconstruction and retrieval of an Uzbek identity. Although the region as a whole had a long and prosperous history for many centuries, before the coming of Islam during the seventh–eighth century, and although that earlier history also inspired outstanding intellectual and theological achievements, President Islam Karimov has instead chosen the so-called “Timurids Renaissance” of the fifteenth and first half of sixteenth centuries as the focus of building a national identity for modern Uzbekistan. It is that particular episode of the history of the region that is now emphasized in school curricula, and highlighted by the media. In personal interviews that I conducted during a visit to Tashkent in May 1998, professors of political science and sociology, educated for decades in Marxist-Leninist philosophy of historical materialism, quoted and discussed “the Code of Timur” as the ultimate scheme of political and social organization.

There are clearly many elements and complex dynamics of Islamic identity in France and Uzbekistan today; and there is room for reasonable disagreement about the meaning of the elements and working of the process through which they are mediated in one place or another. It is not my purpose to uphold one choice as more legitimate or desirable or to discredit another. Rather, the point I am emphasizing is that *conscious choices* about the nature and implications of Islamic identity today are being made and actively promoted, whether by members of minority local Muslim communities in France or on behalf of a national Muslim majority in Uzbekistan. It

would therefore seem to follow that *alternative* choices can also be made and promoted within the framework of internal cultural discourse and cross-cultural dialogue as indicated earlier. Looking at France first, how are these choices being made, by whom and to what extent?

ISLAMIC IDENTITY, NATIONALITY, AND CITIZENSHIP IN FRANCE

Some Muslim scholars, like the late Fazlur Rahman and Zaki Badawi, have suggested that Islamic renewal may come from Muslims in the West. Badawi is reported to have added that the most profound formulations will come from France, where Muslims will be challenged by the hardness of life, the deeply held convictions of Republican secularism, and the depth of racism.¹⁵ It has also been suggested that France's self-image as a country with a universal message embodied in the French Revolution's Declaration of the Rights of Man and of the Citizen, makes it harder for the French to accept the idea that an immigrant group can pose a sociological challenge. Yet, this attachment to the human rights ideal may come into conflict with the powerful French self-image as a unitary, homogeneous, and centralized nation-state. It is assumed that all citizens have not only equal rights but also the same cultural background and education; i.e., the French "melting pot" should make everyone exclusively French.¹⁶

However, the influx of North and West African, Turkish, and other clearly "un-French" immigrants makes it clear that this traditional French perception of the unity of nationality and citizenship is no longer tenable. What role, if any, can human rights as a normative and institutional framework play in the mediation of the relationship between nationality and citizenship? My argument here is that since the human rights paradigm precludes the coerced assimilation of migrant populations into French culture and nationality in the traditional sense, it forces an adjustment of dominant understandings of what it means to be French. But because this is a two-way process, immigrant Muslims will also have to adjust their understandings of what it means to be Muslim precisely in order to be able to claim an Islamic identity in France. In this new environment, education and language have become sites of contestation and mediation of French nationality and Republican secularism, on the one hand, and Islamic identity, on the other. This process is unfolding within the framework of multicultural citizenship as mandated by the principles of equality and nondiscrimination under the European human rights system.

15. *Id.* at 19.

16. Ronald Koven, *The French Melting Pot: Preventing Boil-Over*, FRANCE TODAY 11 (Fall 1991).

To begin on a demographic note, with an estimated following of four to five million people, Islam is often described as the second largest religion in France, after Catholicism. Muslims in France have largely come from North Africa and, to a lesser degree, French West Africa.¹⁷ Turkey has also been a source of somewhat late but not insubstantial labor migration to France since the early 1970s.¹⁸ It should be noted, however, that in the absence of official registration of religious affiliation, such demographic information is mainly based on estimates. Moreover, these estimates do not indicate which form or degree of Islamic religious attachment, if at all, various individuals have. Nor do they permit even an approximate estimation of the theological or political views of this diverse Muslim population. Whatever demographic information is available about Muslims, it should also be understood in the context both of immigration from Italy, Portugal, Spain, and sub-Saharan Africa, and of French citizens born in France of foreign parents, because the presence of these other immigrants clearly influences the situation of Muslim immigrants.¹⁹

Immigrant Muslims have lived in France for decades, but they have become the focus of attention in public discourse and political rhetoric since the 1980s due to the emergence of certain domestic issues within France, in addition, international terrorist attacks involving Muslim activists, and family reunification policies. While terrorist attacks by a handful of Muslims are taken as substantiating negative stereotypes about Islam and all Muslims, the coming of family members to join their relatives in France is seen as a drain on public resources and social services. These and related factors appear to have led to perceptions of an "Islamic threat" to French cultural identity, political institutions, or legal order. It is important to emphasize here, however, that much of the debate about issues such as polygamy, circumcision of girls, disrespect for Western legal order, or questions of language and religious education, is based on some assumptions and negative stereotyping, rather than empirical research.²⁰ For example, according to Ronald Koven, Jacques Chirac, the Gaullist Party leader, then Mayor of Paris and subsequently Prime Minister and President of France, said that he constantly hears outraged comments like those of "the French worker who sees on the same floor of his low-rent housing complex a man with his three or four wives and twenty-odd kids who gets

17. Metcalf ed., *supra* note 6, at 1.

18. JORGEN S. NIELSEN, *MUSLIMS IN WESTERN EUROPE* 9 (2d ed. 1995) (1992).

19. As one author noted: "A myth has evolved that the assimilation of millions of Italians, Spaniards and Poles was smooth because they shared with the French the same Catholic religion and European culture. The historical reality is that none of those groups were easily integrated: Italians in the South of France, for instance, were massacred at the turn of the century." Koven, *supra* note 16, at 11-13.

20. SHADID & VAN KONINGSVELD, *supra* note 12, at 2-5.

\$8000 or \$9000 a month in family welfare payments without working. If you add in the noise and the smell, the French worker goes crazy." After emphasizing this statement, Koven adds: "No actual examples of such a family could be found. There are officially 268 polygamous marriages in France, accepted after a court ruling that marriages legally contracted abroad cannot be rejected by the French authorities."²¹ But the fact that official figures on polygamy and welfare flatly contradict such statements from the highest levels of political leadership is immaterial to those with whom the stereotype resonates most strongly.

Within such a context, one can appreciate the importance for Muslims in France of informal mutual support systems as wider social networks drawing on cultural practices of immigrants from the same village or region. These networks are often supplemented by formally constituted associations pursuing welfare, cultural, and sometimes political objectives. Given their important role, it is not surprising that countries of origin as well as the French government continue to exert significant influence over voluntary associations because of the dependence of associations on subsidies from either or both governments. Countries of origin tend to attempt to control such activities for fear of their consequences or implications in their own country, as illustrated by the Algerian government's effort to combat the activities of the Islamic Salvation Front (better known by the French acronym, FIS) in France. On the other hand, the primary purpose of funding provided by the French Ministry of Social Affairs is to support the state project of integrating immigrants and their descendants into French society. Consequently, such subsidies tend to assist those voluntary associations whose activities are conducive to integration, but not if they are driven by separatist ambitions.²²

Muslim immigrants to France have tended to come from working class and village backgrounds. They are largely poorly skilled and unskilled workers who have tried to duplicate their village environments in their newly adopted countries. Moreover, because the educational and organizational levels of these communities are low, there have been serious communication problems where they have interacted with the host communities.²³ Under these conditions, schools have become an important site of construction and contestation of identity as the immigrants seek to balance the conflicting needs of securing a better education for their children and preserving their Islamic and ethnic identities. The interplay of education, religion, and language can therefore be a useful prism for examining the

21. Koven, *supra* note 16, at 13.

22. HARGREAVES, *supra* note 3, at 88–89.

23. Ziauddin Sardar, *Racism, Identity and Muslims in the West*, in *MUSLIM MINORITIES IN THE WEST 1* (Sayed Z. Abedin & Ziauddin Sardar eds., 1995).

role of a human rights paradigm in the mediation of Islamic identity in France.

Regardless of nationality, children in France are required to attend school from age six to sixteen, but the majority of children enter school younger because of the generous nursery school provisions. Immigrants also have the theoretical possibility of setting up their own schools, but in practice most of them have neither the economic means nor the organizational skills to do so. For most children of immigrant parents, the free-of-charge French state education is the only practical option. French law allows for some possibilities for religious education on a confessional basis on public school premises upon the request of parents. Though this is supposed to happen at the expense of parents, the law officially permits public authorities to subsidize these forms of additional optional education. Moreover, "factual information" about Islam is included in the official history syllabus, and some state schools include some aspects of Islam as part of intercultural educational programs.²⁴

Since the middle of the 1970s, the French government has allowed countries of origin to provide, at their own expense, instruction in "home-land languages and cultures" within French primary schools. A few immigrant parents take advantage of this policy to supplement state education with extracurricular classes, and some countries of origin (like Algeria and Morocco) provide qualified teachers for such activities.²⁵ But such classes last no more than three hours a week, and the language taught could be quite different from the child's mother tongue. For example, North African children are taught the standardized version of Arabic which has little in common with the dialects spoken by their parents. The Berbers, who constitute a substantial portion of North Africans in France, may speak no Arabic at home, but there is no state-funded instruction in their own language because their countries of origin (Algeria and Morocco) are trying to suppress the Berber language and culture in favor of Arabic.²⁶

It is in this general context of schools as sites of contestation of religious and cultural identity that the so-called "head-scarf affair" arose, mainly since the late 1980s. Several factors contributed to the timing and intensity of debates over the wearing of the head-scarf at public schools, but the issue is commonly framed in terms of the compatibility of Islam with the laical traditions of the French Republic.²⁷ While these traditions are believed to prohibit wearing any kind of symbol of religious affiliation at any French

24. SHADID & VAN KONINGSVELD, *supra* note 12, at 113.

25. HARGREAVES, *supra* note 3, at 89–90.

26. *Id.* at 101–02.

27. NIELSEN, *supra* note 18, at 164–66.

public school, the actual situation in the schools themselves had reflected some diversity of practice for several decades. For example, in some schools, the principle of laicity was taken to require wearing a formal uniform, but in other schools the wearing of certain tokens of Christian or Jewish affiliation (like the cross, the Star of David, and the yarmulke) was allowed. In other words, both restrictive and permissive understandings of the French official ethos coexisted for some time, and conflict did not arise until the appearance of the Islamic scarf.²⁸

As a result of several confrontations over whether students were allowed to wear a head-scarf at public schools, the Minister of National Education consulted the Council of State, which rejected the restrictive interpretation of laicity. In its advice of 27 November 1989, the Council stated that consideration of the Constitution and laws of France and of the international human rights treaties it had ratified, indicates that:

the wearing of tokens by pupils by which they wish to express their affiliation to a religion, is not in itself incompatible with the principle of laicity, in as far as it constitutes the exercising of their right to freedom of opinion and to the manifestation of religious beliefs. . . . [But] this liberty would not permit pupils to flaunt, in a conspicuous fashion, symbols of religious affiliation which, by their very nature, by the conditions under which they are worn individually or collectively, by their ostentatious character or by the claims they lay, would constitute an act of pressure, provocation, proselytism or propaganda, [and thus] would infringe upon the dignity or the liberty of the said pupils or of other members of the educational community, endanger their health or their security, obstruct the course of the educational activities and the educational role of the teachers, or, finally, disrupt the order of things at the institution or the normal functioning of the public service.²⁹

The Council of State concluded that an internal code of conduct for school should ensure that wearing tokens of religious affiliation should conform with (1) respect for the principles of laicity and pluralism; (2) the duty of tolerance and respect for the person and conviction of others; and (3) the obligation of every student to participate in all educational activities (including sports and practical training as in laboratories and workshops). The instructions issued by the Minister of National Education in accordance with these guidelines from the Council of State also provided for dialogue between the school authorities and students and their parents in case of conflict. If after a reasonable period of time the issue is not resolved, the rules of laicity will have to prevail.

However, conflicts over the interpretation and application of these

28. SHADID & VAN KONINGSVELD, *supra* note 12, at 88–89.

29. *Id.* at 89–90.

principles continued to arise under different sets of ministerial instructions.³⁰ Disagreement also persisted regarding the precise circumstances, significance, and consequences of the various incidents and debates about the head-scarf issue. After a review of several incidents, studies, opinion polls, and media treatments of the issue, Hargreaves concludes that most Muslim immigrants and their descendants have adapted to the framework of law governing religious practices in France.³¹ However, this does not mean that the mechanical process of acculturation has led to the abandonment of their religious faith, or that they have become entirely assimilated into preexisting cultural norms. Instead, according to Hargreaves, "in the field of religion, as in other cultural spheres, immigrants and their descendants are forging new syntheses combining elements drawn from their pre-migratory heritage with a commitment to the overarching norms governing social intercourse in France."³²

Such tensions between immigrant groups and their adopted country are, of course, old and common throughout the world. There may also be much similarity among the types of policies and practices usually adopted in the mediation of these conflicts in many societies, especially those which share the same basic ideological or cultural orientation, as is becoming increasingly the case in Western Europe today. The question that I am raising here is whether and to what extent the human rights paradigm is changing the terms and dynamics of this process for the immigrant groups, the host state, and society at large. I will return to these and related issues after the following brief review of some relevant issues in Uzbekistan today.

ISLAM AND THE POLITICS OF TRANSFORMATION IN UZBEKISTAN

Since little is commonly known about Uzbekistan because much of its affairs have been obscured by centuries of marginalization, Russian colonialism, and Soviet/Russian domination, I begin this section with a brief review of the history and present situation in this country in the broader context of Central Asia. Against this background, I shall focus on the role of Islam in the social and political transformation of the country in the post-Soviet era, while highlighting some features that may be relevant to an assessment of the possibilities and limitations of using the human rights paradigm in mediating Islamic identity in that country.

30. *Id.* at 90–92.

31. HARGREAVES, *supra* note 3, at 125–31.

32. *Id.* at 131.

Background and Present Political Context

The history of the region commonly known today as Central Asia spans more than two thousand years and several civilizations. For the last three centuries, however, the region's fortunes have changed from being the location of great wealth and importance as the crossroads of commerce (the Great Silk Road), where leading centers of learning and scientific exploration flourished and influenced the course of development throughout the pre-modern world, to decline and marginalization. Prior to the coming of Islam in the seventh and eighth centuries, Zoroastrianism (which emerged in the territory of present-day Uzbekistan), Buddhism, and Christianity were the dominant religions of the region. Through several centuries of gradual Islamization, initially in urban centers (Samarkand and Bukhara) and slowly among nomadic tribes, Central Asia became a leading center for scientific and intellectual developments (al-Khorezmi, Beruni, and ibn Sina [Avicenna]), architecture and artisanship, technological progress, paper production, and abundance of grain.

The renaissance of the fifteenth and sixteenth centuries, after the devastation of the Mongol invasion, began with the unification of the Turko-Mongol tribes and the cultural-economic integration of the region under Timur (1336–1405), who also developed an advanced system of administration and common set of legal norms (Code of Timur) for his empire. But by the sixteenth century, the region lost its global strategic economic importance as alternative trade routes were established by the emerging European maritime powers, resulting in the increasing isolation of the region for the next three centuries.

The modern history of Central Asia (also known as Turkestan) can be traced back to gradual colonization since the late eighteenth century by Tsarist Russia, culminating in its total incorporation into the Russian Empire between 1890–1917. With its limited objectives in the region, Tsarist Russian colonialism practiced some form of indirect rule from Moscow, preserving the titular sovereignty of the Emir of Bukhara and the Khan of Khiva and generally exercising minimal interference with traditional power structures and cultural institutions. Nevertheless, that phase of Russian colonialism was a powerful force for change in the region, introducing railroads, new markets, irrigation projects, and European forms of education.³³

With the collapse of the Tsarist Empire in 1917, Central Asia had a brief opportunity for independence, but the Soviet Union prevailed by the early 1920s and divided the region for the first time into five Soviet national republics (Turkmen 1924, Uzbek 1924, Tajik 1929, Kazakh 1936, and

33. SHIRIN AKINER, *CENTRAL ASIA: CONFLICT OR STABILITY AND DEVELOPMENT?* 5 (1997).

Kirgiz 1936) which eventually became fully sovereign states by the early 1990s.³⁴ Among the various ideological, economic, and other elements of the rationale of the Soviet policies of division and forced population relocation within and from outside the region, was a desire to neutralize ethnicity and Islam as the two common denominators most likely to unite Central Asians against control from Moscow. Without engaging in an evaluation or debate about the rationale or efficacy of those policies,³⁵ I wish to note an apparent paradox in this situation. It is true that the Soviet Union did not collapse because of any religious uprising, whether Islamic or Christian. At the same time, and for whatever reasons, a strong undercurrent of transnational unity of Turkestan (Central Asian) and Islamic identity has clearly survived to varying degrees within the region *precisely because of the ability of regional unity and Islamic identity to adapt to changing conditions*.

This paradox is reflected in the fact that instead of immediately claiming independence when the Soviet Union collapsed in 1990, the communist rulers of the five Central Asian republics waited for the adoption of the New Union Constitution of August 1991, which would have shifted more powers from the federal government to the republics. But after the failed coup d'état of 1991 in Moscow, the Central Asian leaders opted for complete independence with all the trappings of sovereignty under international law. Accordingly, these Republics have now adopted their own national constitutions³⁶ and have become members of the United Nations and intergovernmental organizations such as the Conference (recently renamed Organization) for Security and Cooperation in Europe, the World Bank, and the International Monetary Fund (IMF). All these developments are significant for my analysis, as indicated below, but one should not assume that these new global connections will necessarily significantly diminish the role of

34. On this process, its rationale, and its consequences, see EDWARD A. ALLWORTH, *THE MODERN UZBEKS: FROM THE FOURTEENTH CENTURY TO THE PRESENT: A CULTURAL HISTORY* ch. 12 (1990).

35. After discussing Soviet efforts to suppress Islam in the region, Keller concluded:

The Bolsheviks failed to replace Islam with Marxism-Leninism in Central Asia for many reasons. They put themselves in an impossible position by assuming that religion could be separated from other components of identity, and they failed to take into account the lasting power of ancient customs and rituals. They failed to heed the warnings of Sultan Galiev, who was correct in predicting that Muslims would never trust a system run by Russians that did not give them equal power in government. Finally, when propaganda and education did not have their predicted effects, the Soviets resorted to using violence to destroy Islam, a tactic which also completely obliterated any hopes of converting Muslims.

Shoshana Keller, *Religion of an Atheist State: The Attempt to Supplant Islam with Marxism-Leninism in Soviet Central Asia*, Advanced Study Center Working Paper Series, 7, at 29–30 (International Institute, University of Michigan, 1997–98).

36. The dates of adoption of national constitutions were as follows: Turkmenistan in May 1992, Uzbekistan in December 1992, Kazakstan in January 1993, Kyrgyzstan in May 1993, and Tajikistan in November 1994.

Russia in the affairs of each of the five republics, and in Central Asia as a whole.

The Russian/Soviet factor has of course been foundational for these republics and crucial in their bilateral and regional relations.³⁷ In addition to the impact of Tsarist colonialism on the region as a whole, the Soviet boundaries of what were then called “the national republics,” and the social engineering policies of the Soviet Union have effectively determined the territories and populations of the present republics, with little regard for ethnic, linguistic, religious, or other components of nationality in the European sense.³⁸ On the other hand, however, the Soviet Union also “dramatically raised literacy rates in Uzbekistan, achieved universal primary education, and brought secondary and higher education to large segments of the population.”³⁹ It is too early to assess the degree to which Russia has inherited the economic, political, educational, cultural, and other aspects of the role of the Soviet Union in each of the now-independent republics and the region in general. However, it is reasonable to assume that much of that will continue for the foreseeable future because of structural and practical reasons, such as trade networks, common language (Russian), and currency services.⁴⁰

Moreover, I suggest, the role of Russia as a permanent member of the UN Security Council, as well as its influence throughout the United Nations and European systems and in international relations in general, will also continue to be critical for the near future of Central Asia. The Cold War may be over in terms of superpower confrontation, but it seems to have been replaced by a strong respect among the old rivals for their respective so-called “spheres of influence,” especially the western hemisphere for the United States, and Central Asia and the Balkans for Russia. As indicated in

37. AKINER, *supra* note 33, at 6–7.

38. The composition of the population of each of the republics has changed several times, both during the Soviet era and since independence. For a detailed demographic review for each of the now-independent republics, as of the mid-1990s, see *id.* at 19–37. Given the present state of uncertainty and transition, it is not surprising that there is some variation in the information provided by different sources. For example, Akiner provides the following percentage figures for the ethnic composition of Uzbekistan: Uzbek 71.4 percent, Russian 8.3 percent, Tajik 4.1 percent, Kazak 0.9 percent, Korean 0.9 percent (see *id.* at 32). The *Encyclopedia Britannica Yearbook*, on the other hand, gives the following significantly different percentage figures for Uzbekistan: Uzbek 75.8 percent, Russian 6.0 percent, Tajik 4.8 percent, Kazak 4.1 percent, Kyrgyz 0.9 percent, Ukrainian 0.6 percent, Turkmen 0.6 percent, other 7.2 percent. This source also estimates religious affiliation in 1997 as follows: Muslims (overwhelmingly Sunni) 88.0 percent, Russian Orthodox 1.0 percent, other (mostly nonreligious) 11.0 percent. See BRITANNICA BOOK OF THE YEAR 740 (1998).

39. Fierman, *supra* note 7, at 365.

40. AKINER, *supra* note 33, at 9–10.

the next section, such considerations can have significant consequences for the operation of the human rights paradigm.

Islam Karimov, the president of Uzbekistan at the time of writing, is one of the Central Asian leaders who managed to hold on to power through the transition to independence—from being the first secretary of the Communist Party of the republic under the Soviet Union to the president of the independent republic.⁴¹ Following formal independence on 1 September 1991, Karimov won the first multiparty presidential elections in December of that year. After several legal, administrative, and political developments that enabled Karimov to consolidate his hold on power, the first parliament (Oliy Majlis) was elected in December 1994/January 1995. Karimov's People's Democratic Party (PDP which is essentially Uzbekistan's branch of the Soviet Communist Party)⁴² is in firm control of the parliament, supported by legally registered and supposedly autonomous parties, like the Progress of the Homeland Party and Adalat Social Democratic Party. In its first session, the parliament voted to hold a referendum to extend the president's term to the year 2000 instead of ending it in 1997. According to official reports, "99.6 percent of the electorate was said to have participated, with an overwhelming 99.4 percent approving."⁴³

But for our purposes, social movements and other modes of popular political expression are significant regardless of their "official" status in the country. During the gradual collapse of the Soviet Union, *Birlik* (Unity) was founded (under the leadership of Abdurakhim Pulatov) in November 1988 as the first social/political movement in Uzbekistan. *Birlik* led a campaign to have Uzbek declared the official state language, something that happened in 1989.⁴⁴ Initially, this movement consisted of a coalition that included the Islamic Renaissance Party, the Green Party, the Tomaris Women's Association, and the Organization of Free Youth of Uzbekistan. However, the lines within and between all these groups during and soon after independence were vague and constantly changing; some groups existed more on paper than in fact, others split or joined forces with other organizations, and some individuals were simultaneously members of more than one organization.⁴⁵ *Birlik* sought to continue its work on civil rights and environmental protection, but with less success, and soon broke up into hostile factions after its failure to gain official registration for the presidential elections of 1991.

Other informal groups/opposition parties include Erk (Freedom), which grew out of *Birlik* in 1988 to stress the priority of independence over

41. Fierman, *supra* note 7, at 368–69.

42. *Id.* at 380.

43. *Id.* at 392.

44. *Id.* at 367.

45. *Id.* at 370–71.

establishment of democracy. Erk attempted to participate in postindependence politics, but its founding leader, Mohammed Salih, was defeated in the 1991 presidential elections, resigned from the parliament in July 1992, and has lived in forced exile since April 1993. The Islamic Renaissance Party (IRP) also sought to register in 1990 and 1991, without success. It is interesting to note for our purposes here that IRP declared that:

it would operate by constitutional methods and it openly condemned the practice of terrorism, extremism, and all forms of discrimination. It also advocated equality between believers and non-believers. Its "Islamic" inclination manifested itself in such proposals as support for religious education and scholarship, introduction of "the economic principles of Islam," and reinforcement of women's roles as mothers and preservers of "the home and hearth."⁴⁶

The point I wish to emphasize here is that, considering the transitional period as a whole up to the present time, it is difficult to avoid the conclusion that the government of President Karimov is unwilling to allow any meaningful opposition, whether Islamic or secular, to organize into informal groups or aspiring political parties. For present purposes, it is important to note that such political oppression continues under the guise of "democratically enacted" legislation like the law to protect the honor and dignity of the president, and the law on public associations, the law on the mass media, and the law on freedom of conscience and religious organizations, all adopted in 1991.⁴⁷ Freedom of the press was controlled by administrative measures, such as the state control of paper supply and printing facilities, and by legislation like the 1993 law to protect state secrets. Karimov also consolidated his personal hold on power through "the close integration of the PDP and the state, other semi-official institutions, and their ability to command resources."⁴⁸

Several years later, for the same basic reason and under the guise of the same laws, nongovernmental organizations like the Human Rights Society of Uzbekistan are facing similar difficulties in registering officially so that they can function openly and legally.⁴⁹ In contrast, the Committee for the Protection of Human Rights has achieved official registration. But in Uzbekistan, as in many other countries, the fine line between advocacy of human rights and political opposition in the wider sense is difficult to observe because the latter is often partially motivated by concerns about the former. Governments usually either suppress human rights organizations because politicians are also confused about the matter or deliberately

46. *Id.* at 375.

47. *Id.* at 375–77.

48. *Id.* at 389.

49. *Id.* at 387.

emphasize the confusion in order to discredit human rights organizations and rationalize their suppression. For example, some may argue that the Human Rights Society of Uzbekistan is facing difficulties because it is headed by Abdoumannob Polatov, the brother of the exiled leader of Birlik, Abdurahim Polatov. On the other hand, there is suspicion that the Committee for the Protection of Human Rights was allowed to register and operate legally “even though it had not yet adopted its statutes,”⁵⁰ precisely because it was not really independent from the government, despite its reported success in investigating some human rights violations.

The preceding brief review of the political context reiterates a sadly familiar story of manipulation by ruling elites in order to hold on to power in postindependence situations in other parts of the world, and can be seen as the continuation of Soviet-style politics. For our purposes here, however, it is important to note the underlying dynamics of the balance between coercion and popular legitimacy. “Whereas coercion obliges citizens to follow rules because they have no other rational choice, legitimacy fosters voluntary compliance.”⁵¹ President Karimov’s successful use of coercion does not mean that he is not also trying to promote the legitimacy of his regime. He has clearly deployed a variety of strategies in pursuit of legitimacy; he has both glorified Uzbek identity and assured non-Uzbek people of their rights as equal citizens, pursued economic development, and stressed the need to preserve peace and political stability. The civil war in neighboring Tajikistan is commonly seen as a stern warning of the risks of ethnic and religious strife. Of particular interest is the Uzbek government’s ambivalence toward a public role for Islam—support when Islam serves as a vehicle for national pride, but opposition when it is perceived to be undermining the official view of the state.⁵² After an extensive review of postindependence politics, Fierman concluded that President Karimov has been careful to show great deference to Islam, identifying it as an integral part of Uzbek culture, while insisting that Uzbekistan is a secular state. According to Fierman:

To date this approach has not evoked mass dissatisfaction among Uzbekistan’s Muslims . . . [but] under certain economic and social conditions, Islam could become the symbolic standard for opposition; . . . [it] has the potential to bring closer together a broad spectrum of opposition forces which would otherwise be divided along regional, nationality [ethnicity], and linguistic lines.⁵³

50. *Id.* at 385–87.

51. *Id.* at 360.

52. Olivier Roy, *The Ties That Bind*, 27 INDEX ON CENSORSHIP (Mar./Apr. 1998).

53. Fierman, *supra* note 7, at 394.

As briefly explained later, this assessment reveals a situation that is remarkably similar to what has happened after independence in other parts of the Muslim world, especially in North Africa and the Middle East. I would not presume to offer predictions about the precise combination of economic and social conditions that might promote the Islamization of politics or politicization of Islam in Uzbekistan. Instead, my purpose is simply to highlight this aspect of Islam in the country as part of the present context of the formation and transformation of identity.

Islam and Culture

Just as observers of other parts of the world disagree about the role of religion in public life, so they dispute the role of Islam in different parts of Central Asia.⁵⁴ There is little agreement even about the significance of possible indicators, such as a rise in level of ritual practice, dress, and lifestyle (e.g., use of the veil for women and open consumption alcohol or pork by Muslims).⁵⁵ But, the key to a proper understanding of the nature and role of Islam in the region is to appreciate its organic relationship to traditional customary norms and practices (*adat*) at different levels of community. In noting this organic nature of Islam in the societies of this region (as, I believe, in all Islamic societies), I am rejecting the notion of an abstract, pristine "Islam" that is supposed to exist outside human history.⁵⁶ In reviewing seven books on Islam in Central Asia, Jo-Ann Gross explained:

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54. In a recent seminar in the region, intellectuals and officials from the various countries of Central Asia expressed a wide range of opinions on the role of Islam in their respective countries and the region as a whole. Some saw Islam as a positive force in the growth of national self-awareness and argued that the relation between Islam and politics will happen; others asserted that for Central Asia, the experience of the Arabic countries and the Muslim East is more relevant than that of Japan, the West, or Russia. To some participants, Islamic fundamentalism should not be seen as a negative development; others emphasized that the principle of Islamic democracy needs to be connected with the liberal democracy of Europe, but that this connection needs to be backed up by the Islamic doctrine (based on the Qur'an) which is open to free liberal interpretation. There was also much disagreement about Islam's position on democracy and women's issues and about the relevance or prospects of the so-called Iranian or Turkish models. See *Central Asia: Religion and Society*, Proceedings of a Seminar in Tashkent, Uzbekistan, 6 CENTRAL ASIA J. 7–19 (Alexander Dzhusmaev ed., 1997) [in Russian].
55. CENTRAL ASIA: CONFLICT, RESOLUTION AND CHANGE (The Center for Political and Strategic Studies, Roald Z. Sagdeev & Susan Eisenhower eds., with Douglas A.R. Goudie & Heather Parrish Schmitt (assoc. eds.), 1995). The text is posted at <<http://www.cpss.org/casiabk/intro.txt>>.
56. On this view, see, e.g., *The Study of Islam in Local Context*, 17 CONTRIBUTIONS TO ASIAN STUDIES 1–16 (1982), Marilyn Robinson Waldman, *Tradition as a Modality of Change: Islamic Examples*, 25 HISTORY OF RELIGIONS 318–40 (1986).

Plaguing the view of and attitude toward the study of Islam in Central Asia has been the tendency to measure Islamic beliefs and values against a “normative” standard of doctrinal Islam. Traditional beliefs and practices are often perceived as primitive survivals, while the assimilation and synthesis of Islamic values within the indigenous worldview are seen as “nominal” Islam and popular forms of religiosity (Sufism, veneration of the family of the Prophet, tomb visitation, for example) as merely the external veneer lightly masking deeper pre-Islamic religious practices and values. The dichotomous notion of a clear-cut common core of Islamic tradition and an opposing set of “localized” Islamic practices and beliefs is, as all of the studies under review illustrate, a methodologically unsound approach to the study of Islam in Central Asia or any other region.⁵⁷

After discussing mutual influence between Islam and traditional beliefs, and fusion of *shari'ah* and *adat*, Dzhabbarov concluded that it is time now (after independence) for the revival of national values including *shari'ah* and *adat*.⁵⁸ He then added that these resources “need to be used reasonably” through the careful drafting and enactment of laws, and implementation of policies, that are characteristic and reflective of all of the recent processes of renewal, and the goal of future progress.⁵⁹ The latter part of this conclusion would probably resonate strongly with the governments of the republics, which are apparently apprehensive of the political role of Islam and seek to restrict the few emerging Islamic parties that have sought to put religious ideas into political life.⁶⁰

It is often suggested that Uzbek identity survived Soviet social engineering through adherence to the above-mentioned integration of Islam and local culture. The social institution of *mahalla* (a local community center of public life), especially in urban settings, remained the site of a whole range

57. Jo-Ann Gross, *Islamic Central Asia: Approaches to Religiosity and Community*, 24 RELIGIOUS STUD. REV. 353 (1998).

58. *Shari'ah* is the normative system of Islam, which prescribes the religious way of life. Its subject matter ranges from general ethical norms, legal principles, to religious ritual practices. *Adat* are the customary or traditional cultural norms and practices of local communities.

59. SANDZHAR DZHABBAROV, SHARIAT, SEMEINOE I OBYCHNOE PRAVO V UZBEKISTANE: ISTORIYA I SOVREMENNOST' 120 (1996) (*Shari'ah, Family, and Customary Law in Uzbekistan: History and Present-Day Reality*). Tashkent, Uzbekistan: The Academy of Science of Uzbekistan, Muminov Institute of Philosophy and Law.

60. During the 1 May 1998 session in which the parliament of Uzbekistan (Oliy Majlis) passed a law imposing new restrictions on religious groups, President Islam Karimov is reported to have spoken out harshly against the Wahhabis, accusing them of seeking to turn Uzbekistan into a second Tajikistan by “killing officials [and destroying] food factories, powers stations, and other strategic installations.” Karimov is reported to have added that “such people must be shot in the head. If necessary, I'll shoot them myself, if you lack the resolve.” See 10 HUMAN RIGHTS WATCH, REPUBLIC OF UZBEKISTAN. CRACKDOWN IN THE FARGHONA VALLEY: ARBITRARY ARRESTS AND RELIGIOUS DISCRIMINATION 3–6 (May 1998).

of social relations in daily life. Events such as weddings, funerals, and birthdays are celebrated at the local *mahalla* with the exchange of gifts. This exchange of goods and services helps reinforce personal loyalty to the local community by adding a dimension of economic benefits to the familiar basis of social relations. Through the Islamic practice of *waqf* (religious endowment), the Uzbeks managed to maintain private philanthropic institutions for the preservation of their buildings and artifacts. Islam was so interwoven with all aspects of individual and collective identity that it is said to be the other side of the same coin.⁶¹ Even attitudes and practices that were apparently by-products of forced adaptation to an outside impetus, carry the unifying force of Islam that served both to shape and to sustain a distinct culture.⁶²

The dynamics of the role of Islam are likely to change in the near future due to somewhat contradictory internal and external factors. To begin with, the collapse of the Soviet agency for supervision of Islamic affairs, the Muslim Spiritual Board of Central Asia and Kazakstan (MSBC) under Gorbachev in 1989, opened the way for separate development in each republic. Whereas the Chair of MSBC was an Uzbek based in Tashkent, each of the other four republics has now opted for its own religious authorities. The role of Islam in public life is therefore now evolving separately, in response to such factors as Middle Eastern funding for establishment of mosques and Islamic educational institutions, and theological education and training in the Middle East. The so-called Turkish factor is also likely to have different, and perhaps contradictory, consequences in different republics.⁶³ On the one hand, some claim that Turkey presents the Central Asian republics with a model for an Islamic society living in a secular state. On the other hand, given the persistence of Islamic political activism in Turkey itself, the Turkish connection may reinforce rather than diminish the influence of Middle Eastern and South Asian Islamic organizations on Central Asia in general. Another paradoxical dynamic may come from calls by Muslims and Orthodox Christian

61. Gross, *supra* note 57, at 354. See also, Martha Brill Olcott, *Central Asia's Islamic Awakening*, CURRENT HISTORY, Apr. 1994, at 150–54; and Jonathan Steele, *Uzbeks Return From Communism to God and Mammon*, THE GUARDIAN (London), 18 Mar. 1992, at 5.

62. ALLWORTH, *supra* note 34, at 208.

63. The Kazakh, Kyrgyz, Turkmen, and Uzbekis are ethnically Turkic, while the Tajiks are of Persian origin. One would therefore expect a Turkic Sunni influence to be higher among the first four ethnic groups, and their respective republics, while the Iranian Shi'a factor is unlikely to be seen outside Tajikistan. But as can be appreciated from the fact that more than 35 percent of all Tajiks at the time of Soviet division of the region (1924/1929) were included in Uzbekistan, international boundaries do not necessarily mean ethnic or religious homogeneity for each of the Central Asian republics.

authorities for favoring “traditional religions” in their joint opposition to increasingly active and open proselytization by Western Protestant churches. Such calls may have unintended political consequences or serve wider social and ideological objectives. All these and related complex factors are of course interacting with internal perceptions of different segments of the population, especially women as noted below, regarding the role of Islam. Generally speaking, therefore, the dynamics of the role of Islam appear to be in a state of flux and open to different outcomes.

Moreover, there are other aspects of Uzbek identity that may be relevant to our concern about the role of the human rights paradigm in the country. For example, some analyses indicate a “rise of exclusive ethnic nationalism and xenophobia.”⁶⁴ There are also elements of tension within the population associated with ethnic discrimination (against the Tajik or Russian minority), Uzbek chauvinism, linguistic and cultural differences, as well as variations in local conditions. For example, as one author noted:

in Namangan in the Ferghana Valley, veiling for women, the ban on alcohol and other Islamic practices are strictly enforced by “religious patrols” in the streets, [whereas] in the less militant atmosphere of Uzbekistan’s cities, a rise in visible adherence to Islam and voluntary Islamic education among women can be seen in the increased attendance in religious schools.⁶⁵

There are also indications of growing attention to religious matters among different groups of women: “Poor girls in Tashkent gain social status through study of the Qur’an, while older middle-class women seek to expand their role in cultural life, regarding Islamic law as something an educated person is supposed to know.”⁶⁶

It is important for our purposes here to note that there is growing awareness of the important role of women’s organizations, not only with regard to the status of women and general human rights concerns, but also in promoting and sustaining economic liberation and political stability in a multi-ethnic society. These organizations are seen as the mediators of the paradox and ambiguity of the position of women in the country, caught between tradition in the family and community, on the one hand, and the promises of progressive ideology of the Soviet era.⁶⁷ As can be expected,

64. SECURITY POLITICS IN THE COMMONWEALTH OF INDEPENDENT STATES: THE SOUTHERN BELT 119–20 (Medhi Mozaffari ed., 1997).

65. Nikplai Andreyev, *Central Asia Looks Towards the East*, 39 NEW TIMES INT’L 19–22, at 19 (1992).

66. Nadezhda Konstantinova, *Girls Read the Koran*, 4 NEW TIMES INT’L 4, 11–13, at 12 (1993).

67. Ihtibor Sultaniva, *Istoriko-politologicheskii vzgliad na razvitie zhenskikh organizatsii v Respublike Uzbekistan (A Historical-Politological View of the Development of Women’s Organizations in the Republic of Uzbekistan)*, University of World Economy and Diplomacy, Tashkent, Uzbekistan (forthcoming) (on file with the author) [in Russian].

however, there are clear variations in the attitudes of the women of Uzbekistan regarding the role of Islam and tradition in their lives today, reflecting differentials in economic and social, educational, and other factors between rural and urban segments of the population, as well as within the urban centers.⁶⁸ While some are opposed to what they see as regression in gender relations and return of women to their traditional roles of housewife,⁶⁹ others are not sure of the benefits of past claims of liberation and equality. As one author characterized the preindependence experience in this regard:

Soviet policies did not, in fact, succeed in replacing traditional Islamic values and institutions, especially in rural areas, but merely created a parallel system where only integration into Soviet institutions received social rewards. The longer term disservice of Soviet policies on the question of women may have been to create an association between authoritarianism and the concept of women's emancipation. This association may inadvertently encourage or legitimize restrictions on women's existing rights in the name of a revival of indigenous culture. However, such interpretations will undoubtedly be contested and challenged by Uzbek scholars who are reevaluating the contributions of jadidist [an Islam reform social movement] reformers of the turn of the century in a new light, and investigating the local roots of Muslim reformism and its enlightened agenda for women. The equal rights accorded to women in civic law have little bearing on customary practice, especially for the rural majority.⁷⁰

A HUMAN RIGHTS FRAME OF REFERENCE

In light of the preceding brief review of some relevant aspects of the present situation in Uzbekistan today, and the earlier review of the issues facing the Muslim minority in France, I will now consider a possible role of the human rights paradigm in the transformation of Islamic identity in these two countries.

From the outset, I wish to emphasize that to propose a human rights frame of reference for the mediation of Islamic identity in France and Uzbekistan is not to suggest that this paradigm can provide an independent, comprehensive, and final resolution in this regard. In addition to the

68. M. Tokhakhodjaeva, *The Oriental Woman: What Doors Are Open For Her?* 17 THE CENTRAL ASIAN POST, 4 May 1998, at 4.

69. Zhenshchiny: Vybor v mire traditsii i peremen (Women: Choice in a World of Traditions and Changes); Bishkek, Kirgizstan: Goskonsern "Akil" 23 (Z. Agbagisheva et al. eds., 1996).

70. SOCIAL POLICY AND ECONOMIC TRANSFORMATION IN UZBEKISTAN, UN Development Programme and International Labor 134–35 (Keith Griffin et al. ed., 1995).

difficulties of the human rights paradigm indicated below, a fundamental limitation of the paradigm as a whole is that, at best, it can only be part of the answer and only to the specific, discrete matters it addresses. The human rights paradigm can neither by itself address the underlying structural causes of human rights violations around the world nor be a substitute for a range of political, social, and economic action at the national and international level in response to the spiritual, emotional, and other needs and concerns of human beings. It should also be recalled here that the formation and transformation of identity (whether on religious, ethnic, or other basis) *is a dynamic and continuous process* rather than an event or status to be realized or achieved once and for all. As emphasized earlier, the outcome of this process at any given time is *necessarily contingent* on the interaction of a variety of actors and factors in the particular context. Therefore, my proposal that the human rights paradigm might play a useful role in this process must be based on a clear understanding of the limitations, as well as the possibilities, of this paradigm. I will begin this last section with a brief realistic assessment of the human rights paradigm before considering its possible relevance as a frame of reference for the mediation of Islamic identity in France and Uzbekistan.

As noted earlier, I use the term “human rights paradigm” to mean the articulation and application of the same norms to every human being everywhere, which presupposes acceptance of the validity of cross-cultural moral judgment and requires systematic efforts to influence state policy and practice in matters that were previously deemed to be subject to the exclusive domestic jurisdiction of the state. The underlying assumption of this paradigm is that the rights it proclaims are due to every human being by virtue of his or her humanity, and without distinction on grounds such as race, gender, religion or belief, social status, or political opinion. This conception immediately raises questions about the process through which these norms are identified and articulated. How inclusive has this process been (or can it be) of different cultural and ideological perspectives around the world without losing its utility as the “common standard of achievement” envisaged in the Preamble of the 1948 Universal Declaration of Human Rights? The basic dilemma here is that the inclusion of some perspectives may be inconsistent with the ideals of equality and justice that this paradigm seeks to achieve, yet the exclusion of such perspectives may undermine the legitimacy and acceptance of the human rights paradigm itself among those who hold those perspectives. This is what is commonly referred to as the debate over the universality and cultural/ideological relativity of human rights.

Without engaging in this debate here, I wish to emphasize the following points. First, problems with the universality of human rights arise in every major cultural tradition or ideology in the world today, and not only in

Islamic, East Asian, or other non-Western societies.⁷¹ Whereas Islamic societies are commonly known to have problems with regard to the principles of equality and nondiscrimination on grounds of gender or religion in particular, Western liberal societies also find it difficult to accept that economic, social, and cultural rights are actually human rights.⁷² In this light, the universality of human rights must be deliberately cultivated and promoted, and cannot be taken for granted in any context or seen as globally accepted by proclamation in international documents. The approach I recommend in this regard is first to appreciate the difficulty of global normative agreement and then to work through internal discourse within each culture, and through cross-cultural dialogue, to promote an overlapping consensus on fundamental human rights norms.⁷³

I have also referred earlier to the paradox of relying on states to articulate and implement international standards that are designed to limit or regulate what a state may do within its own domestic jurisdiction. As part of international law, human rights norms are laid down by states, either as a matter of customary international law (which requires consistent practice by states out of a sense of legal obligation) or through the ratification of specific treaties. Moreover, since international law itself is founded on traditional notions of sovereignty and noninterference in the domestic affairs of other states, the task of practical interpretation and implementation of international human rights standards has to be entrusted to the national institutions and processes of each country.⁷⁴ Thus, according to the theory of the human rights paradigm, the prerogative power of states to determine the normative and institutional framework for matters such as citizenship and its implications, is supposed to be limited by relevant international human rights norms. In practice, however, states not only control the process by which international human rights standards are set in the first place, but are

71. There is an extensive and rapidly growing literature in this field. For a good overview, see, e.g., Steiner & Alston, *supra* note 2, at 166–328. On the so-called Asian values debate, see *THE EAST ASIAN CHALLENGE FOR HUMAN RIGHTS* (Joanne R. Bauer & Daniel A. Bell eds., 1999).

72. This point is clearly illustrated by the way in which the European human rights system treats different groups of rights. Whereas civil and political rights are categorically stated in the European Convention for the Protection of Human Rights and Fundamental Freedoms of 1950 and in its subsequent Protocols, economic, social, and cultural rights were addressed much more tentatively and gradually through various nonbinding charters and policy documents. See Steiner & Alston eds., *supra* note 2, at 580–81. It is true that some of these rights are in fact respected to varying degrees at different times in Western Europe and North America, but that is usually done as a matter of policy or outcome of the political process rather than because these rights are accepted as human rights.

73. AN-NA'IM & DENG eds., *supra* note 4; AN-NA'IM, *supra* note 4.

74. Steiner & Alston eds., *supra* note 2, at 117–65.

also entrusted with the practical interpretation and implementation of those standards within their own territories.

Another type of consideration regarding the human rights paradigm at the domestic level relates to the need for structural, institutional, and political support for effective implementation, both in the sense of general protection and promotion and in providing remedies in cases of violations. The domestic application of human rights standards presupposes such elements of structural and institutional capacity as the proper functioning of administrative agencies, an independent and credible judiciary, legally and politically accountable police and other law enforcement agencies. Political support is necessary not only for the allocation of sufficient resources for these elements to operate effectively, but also for the actual working of these structures and institutions. For example, for the judiciary to be independent and credible, the government and its officials must be prepared to comply with judicial directives. The political and legal accountability of the law enforcement agencies require the ability and determination to enforce regulatory regimes, an institutional culture within the agencies themselves that promotes cooperation with such regimes, and general public awareness of, and willingness to use, available resources. Moreover, such elements of structural and institutional capacity at the domestic level are not only difficult to realize and sustain in practice, but also probably most problematic where they are most needed. That is, more human rights violations tend to occur in countries where the necessary structural, institutional, and political conditions for the effective protection and promotion of those rights are lacking or insufficient.⁷⁵

However, since these types of problems also arise in relation to the implementation of domestic constitutional rights, similar strategies to those that sustain constitutional rights can perhaps be deployed to promote the effective application of the human rights paradigm beyond what the state may be willing or prepared to do if left on its own. In the same way that constitutional rights are sustained by civil society's demands for their protection, an international civil society is emerging globally to demand protection of human rights. Due to the activism of civil society around the world, the human rights paradigm has become such a powerful legitimizing force in national politics and international relations that no government in any part of the world today would openly reject or defy its dictates.⁷⁶

75. For a discussion of some of these issues in the African context, see Abdullahi A. An-Na'im, *The Legal Protection of Human Rights in Africa: Doing More with Less*, in *HUMAN RIGHTS: CONCEPTS, CONTESTS, CONTINGENCIES* (Austin Sarat & Thomas Sarat eds., forthcoming Apr. 2001).

76. For a similar call in relation to feminist issues, see, e.g., SASKIA SASSEN, *GLOBALIZATION AND ITS DISCONTENTS* 95–97 (1998).

Governments will of course deny that they have committed human rights violations or claim that they are striving to comply with those norms to the best extent permitted by their local circumstances. They will try to get the benefits of international legitimacy without the "inconvenience" of compliance with human rights standards, but that is true of constitutional rights in any domestic setting, even in the most developed and stable societies. In the same way that the claims of governments are not taken at face value in the latter case, global civil society activism is pressing for more compliance with human rights norms for legitimacy to be conceded to governments around the world.

For example, the parliament of Uzbekistan established the Institute for Monitoring of the Applicable Legislation, which was organized according to a decree of the Cabinet of Ministers.⁷⁷ The main objectives of the Institute include: studying existing legislation and its correspondence with international norms in the sphere of human rights; working out proposals on bringing the legislation of Uzbekistan into conformity with international norms and standards in the sphere of democracy and human rights; working out proposals on applying international legal norms in the sphere of human rights into the existing legislation of Uzbekistan and in law enforcement practice; and preparing proposals aimed at development of cooperation with institutes and international organizations in sphere of monitoring of human rights in Uzbekistan. Human rights are also integrated into the working machinery of the Institute to regulate how the Institute is to interact with committees of Oliy Majlis, and so forth. It is significant for our purposes here that the parliament and government of Uzbekistan find it important to claim such a high level of commitment to human rights, regardless of the real intentions behind such measure. However, this commitment can have practical consequences only to the extent that local and global civil society keep pressing for compliance with a declared policy of the state.

In this light, it is clear that the willingness and ability of communities to use the human rights paradigm is crucial for the ability of this paradigm to influence the course of events on the ground. Willingness and ability to use the human rights paradigm, as is also the case with constitutional rights, are separate but related factors. People may be willing to use this paradigm but be unable to do so because of the structural, institutional, and political limitations indicated above. While efforts to minimize the impact of such limitations can be seen as part of the objectives of using a human rights paradigm, no change in people's ability to use this paradigm can be

77. Decree No. 322-1 by the Oliy Majlis (3 Dec. 1996); Decree No. 29 of the Cabinet of Ministers (15 Feb. 1997).

expected if they are either indifferent or hostile to the paradigm in the first place. In other words, conditions affecting the ability to use the human rights paradigm presuppose the willingness to use it, though the latter by itself does not mean that there are no problems with the former. What factors and processes affect this dynamics of willingness and ability to use the human rights paradigm effectively for the Muslim minority in France (physical diaspora) and the disoriented Muslim majority in Uzbekistan (temporal diaspora)?

In the case of countries like France, the situation seems to be conditioned both by the racism of the wider societies and by the “siege mentality” of Muslim communities in those settings.⁷⁸ Muslims are victims of racism and discrimination on grounds not only of color and ethnicity but also of religion and culture: “Muslim minorities are seen not only as distinct and different but also as a threat to the national way of life.”⁷⁹ The ethnic concept of the nation as a people of common descent, linked together by kinship ties, vernacular language, customs, and tradition, does not permit the inclusion of “alien” or “foreign” cultures. This is particularly true in France, it seems, because of persistent negative stereotyping and demonization of Islam and Muslims in the media, popular culture and political rhetoric. For their part, Muslim minorities in Western countries like France tend to construct purely self-referential criteria for their religious identity, portraying themselves as a noble and morally superior people who have total monopoly on truth. This sense of religious superiority and moral arrogance becomes justification for isolationism on the Muslim minority side, a tendency not to participate in the public and political life of the wider society. These attitudes and isolationism, in turn, tend to provoke resentment and hostility among the non-Muslim majority, thereby perpetuating disadvantages of the Muslim minority.⁸⁰

A complicating factor is that most immigrant Muslims tend to assume that time stopped when they left their country of origin, not realizing that even that country has changed radically from the way they “remember it” to have been. Accordingly, they often articulate their religion and worldview in terms of a traditionalism that no longer exists, even in their country of origin.⁸¹ This is happening at a time when they need more openness to adaptation, and flexibility in the identification and reconciliation of important differences between the two cultures to the benefit of both. It is also

78. See generally, e.g., *MUSLIM MINORITIES IN THE WEST* (Syed Z. Abedin & Ziauddin Sardar eds., 1995).

79. Sardar, *supra* note 23, at 4.

80. Featherstone, *supra* note 8, at 47–68; Sardar, *supra* note 23, at 9–10.

81. Sardar, *supra* note 23, at 11; Margaret E. Pickles, *Muslim Immigration Stress in Australia*, in *MUSLIM MINORITIES IN THE WEST* 106–16 (Syed Z. Abedin & Ziauddin Sardar eds., 1995).

important for Muslims to act out of a sense of secure minority identity and strong group identification. However, that is unlikely when Muslims perceive serious threats to their communal cultural autonomy or are worried about total loss of Muslim identity through assimilation into the wider society.⁸² Moreover, openness and flexibility by the Muslim minority require a willingness by the host Western society to confront the sources of racism and prejudice in their own cultures and policies.⁸³

The distance between these polarities of racism of the French majority culture and siege mentality of the Muslim minority can be negotiated through the human rights paradigm, which brings a framework of cultural self-determination into the context of the premise and rationale of the secular, pluralistic nation-state. Thus, defenders and opponents of the right to wear head-scarves in public seek to invoke what they see as normative French values. Those values now include human rights norms at the international and regional European levels. While the international human rights system is stronger on norm-setting than practical implementation, the European system is highly developed and effective on the implementation of its own norms. The normative contents of the two systems tend to overlap, but the European system uses clearer and more categorical terms in defining its human rights norms. More significantly, the European system of which France is a part provides for the right of individual persons to petition the European Court of Human Rights for remedy or redress for human rights violations.⁸⁴

As they seek to safeguard their Islamic identity (within the framework of the right to cultural self-determination), some Muslims participate in the emerging networks of solidarity that can contribute to the changing context of the state today and to the creation of transnational networks of every kind. The "claims" on space are thus complex and not exhausted by either ties to the homeland or participation in France, though both are important factors.⁸⁵ But the common framework of these emerging networks must also include the human rights paradigm if the networks' claims are to be taken seriously by the domestic French and wider European systems. While an exclusively Islamic frame of reference will probably be confronted with an exclusively French one, the human rights paradigm offers the possibility of common ground between these competing ethnic and cultural claims. Consequently, Muslims in France must formulate their demands for entitlement

82. Theodore Pulcini, *Values Conflict among American Muslim Youth*, in *MUSLIM MINORITIES IN THE WEST* 178–203 (Syed Z. Abedin & Ziauddin Sardar eds., 1995).

83. Sardar, *supra* note 23, at 15.

84. DONNA GOMIEN, *SHORT GUIDE TO THE EUROPEAN CONVENTION ON HUMAN RIGHTS*, 137–50 (France: Council of Europe, 1998).

85. Metcalf ed., *supra* note 6, at 16.

to Islamic identity as well as full citizenship in human rights terms, rather than the supposedly exclusively Islamic terms of the countries of their origins. In order to do so effectively, they would have to transform their perceptions of Islamic identity to include the underlying values of the human rights paradigm.

Despite significant differences in normative and institutional contexts and in the dynamics of social and cultural conditions, I suggest that a similar dynamic will probably develop in Uzbekistan because of the above-mentioned moral and political force of the human rights paradigm. Soon after independence, the government of Uzbekistan declared its commitment to the Universal Declaration of Human Rights and ratified the major treaties, in addition to the incorporation of these norms in its own constitution.⁸⁶ As illustrated by the establishment of the Institute for Monitoring of the Applicable Legislation, the government has also taken steps to institutionalize its declared commitment. These internal steps are reinforced by regional and international dynamics, especially in view of Uzbekistan's membership of the OSCE.⁸⁷ To note these developments is not to say that they should be taken at face value or to assume that they will automatically transform the human rights situation in the country. Rather, the point is that they create a conducive environment for the assertion of human rights norms in Uzbekistan in relation to formation and transformation of Islamic identity, provided those making such claims declare their own commitment to the human rights paradigm.

In emphasizing the need for Muslims to adopt a human rights paradigm (including its norms and institutions and its popular advocacy) in order more effectively to assert their Islamic identity, I wish to highlight two points. First, as a general theoretical matter, I see this as a clear example of how the processes of formation and transformation of identities are now conditioned by global, as well as local, factors and dynamics. Both the identity-asserting entity, whether in individual or communal terms, and other actors in the process must now engage in this mediation of the local and global. Second, with regard to Islamic societies in particular, the issue is how Islamic identity is now conditioned by what many Muslims regard as external, some would claim un-Islamic, notions of equality and nondiscrimination on grounds of gender and religion. Without going into a discussion of the relationship between Islam and human rights—something I have done in detail elsewhere⁸⁸—it is clear to me that Muslims can

86. See Human Rights Watch, *supra* note 60, at 15.

87. AKINER, *supra* note 33, at 38–39.

88. See generally, ABDULLAHI AHMED AN-NA'IM, TOWARD AN ISLAMIC REFORMATION: CIVIL LIBERTIES, HUMAN RIGHTS AND INTERNATIONAL LAW (1990). In relation to the human rights of women in particular, see Abdullahi Ahmed An-Na'im, *Human Rights in the Muslim World: Socio-Political Conditions and Scriptural Imperatives*, 3 HARV. HUM. RTS. J. 13–52 (1990).

reconcile this apparent paradox by seriously engaging in the universal human rights paradigm. It may appear paradoxical to say that Muslims, or any other religious or ethnic group for that matter, will have to accept the incorporation of an external normative system, namely, universal human rights standards and institutions, into their own identity in order to claim that identity. However, the paradox is resolved or mediated to the extent that Muslims are active actors in (not merely subjects of) the articulation, interpretation, and implementation of human rights. The human rights paradigm is necessary for the formation and transformation of Islamic identity. Muslims have a choice in either rejecting this imperative paradigm as “alien” to their cultures or accepting it as integral to those cultures in today’s interdependent world.