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## Sacralizing the Nation: The Adoption of *Takfir* in Mandate Palestine, 1929–35

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### Abstract

In January 1935, Palestinian Islamic thinkers, in conversation with counterparts elsewhere in the Middle East and South Asia, concluded that those who sold or facilitated the sale of land to the Mandate Jewish community must be excommunicated. This article explores the emergence of such religious excommunication (*takfir*) in Mandate Palestine between 1929 and 1935 based on a wide range of periodicals and pamphlets from this period. It argues that, far from a story of an underlying “Islamic radicalism” which reemerged in a time of pressure, this is a case in which internal and external political and economic pressures necessitated a drastic solution which could distinguish Muslims committed to the Palestinian nationalist project from those who were not. In doing so, the article contributes to scholarship on both Modern Islam and Mandate Palestine.

**Keywords:** Islam; Mandate Palestine; Palestinian nationalism; Islamic law

In the summer of 1935, obituaries for two leading Muslim scholars appeared in the pages of *al-Jami‘a al-‘Arabiyya* (The Arab League), a Palestinian newspaper closely aligned with the Mufti, Hajj Amin al-Husayni (d. 1974), and the organ which he led, the Supreme Muslim Council (*al-Majlis al-Islami al-‘A‘la*). The July 28, 1935 issue honored Muhammad Sulayman al-Qadiri al-Jishti (d. 1935, rendered in Hindi as al-Chishti), president of the Central ‘Ulama’ Association (*Jam‘iyyat al-‘Ulama’ al-Markaziyya*) in the Indian industrial city of Kanpur, located in what was then the United Provinces (now Uttar Pradesh). The August 25, 1935 issue, on the other hand, memorialized the death of the noted Syrian Islamic reformer Muhammad Rashid Rida (henceforth Rashid Rida, d. 1935), who edited the premier Islamic journal of this time, *al-Manar* (The Lighthouse, pub. 1898–1935). While both men had made extensive contributions to Islamic thought and practice in their time, the editor of *al-Jami‘a al-‘Arabiyya* made a point to praise both for religious rulings (sing. *fatwā*, pl. *fatāwā*) they had issued separately roughly six months prior regarding the excommunication (*takfir*) of those who had sold or facilitated land sales to the Mandate-era Jewish community.<sup>1</sup>

It may seem strange to begin an article on Mandate Palestine with an anecdote about two men who neither lived in nor hailed from Palestine. It may similarly appear unusual to locate a key development of modern Islam—the expanded use of excommunication—in a locale that is generally considered of secondary intellectual importance to centers such as Cairo,

<sup>1</sup> *Al-Jami‘a al-‘Arabiyya* was published and edited by Munif al-Husayni (d. 1983), who also served as a spokesman for the Supreme Muslim Council. For al-Jishti, see “Hawadith wa-Akhbar,” *al-Jami‘a al-‘Arabiyya*, 28 July 1935, 3. For Rida, see “Hadith al-Yawm,” *al-Jami‘a al-‘Arabiyya*, 25 August 1935, 1.

Damascus, and Istanbul. And indeed, these and other similar fatwas have previously appeared as little more than a historical footnote to the failed attempt of Arab elites to stem the advances of the Zionist movement in Mandate Palestine.<sup>2</sup> Yet, as Rashid Khalidi notes, land sales constituted the rare issue that “united [Palestinian] peasants...with the urban intellectuals and notables,” and thus become a core national concern.<sup>3</sup> Indeed, their significance extends beyond political mobilization, casting light on changing understandings of what it meant to be Muslim, the relationship between religious and national loyalty, and the red lines of communal membership in the Palestinian nationalist project.

In this article, I trace the origins of the modern practice of *takfīr*, as it played out through the question of land. *Takfīr*, defined as excommunication pertaining to religious matters that were understood to be self-evident (*al-ma lūm min al-dīn bi-l-darūra*), had been previously utilized as a tool to bolster state power and scholarly authority alike.<sup>4</sup> From the 7th-century on, these debates defined the boundaries of the community of believers (i.e. Muslims) and, in this context, involved the articulation of competing understandings of Islamic theology and law. In the Classical Islamic tradition, two rival camps developed: a minority Kharijite position that defined belief through works, and a majority Murji'ite position that defined belief verbally.<sup>5</sup>

As both Palestinian and non-Palestinian scholars sought to tackle the challenge of land sales, they also had at their disposal the work of leading premodern Muslim scholars such as the Hanbali duo Ibn Taymiyya (d. 1328) and Ibn al-Qayyim al-Jawziyya (d. 1350), who had articulated a vision of Muslim loyalty which emphasized the necessity of disassociation from non-Muslims (and from professing Muslims who frequented the graves of saints).<sup>6</sup> Similarly, they would have found precedent for the principle that individual Muslims have an individual obligation to defend Islam and fellow Muslims when under threat.<sup>7</sup> Yet, with the exception of land designated as waqf, land sales by Muslims to Jews and Christians within the Abode of Islam (*Dār al-Islām*) were generally permitted in practice.<sup>8</sup> By contrast, *takfīr* as adopted in 1930s Palestine

<sup>2</sup> Most notably, see Uri F. Kupferschmidt, *The Supreme Muslim Council: Islam under the British Mandate for Palestine* (Leiden: Brill, 1987), 242–53, esp. 243–45; Gudrun Kramer, *A History of Palestine: From Ottoman Conquest to the Founding of the State of Israel*, trans. Braham Harman and Gudrun Kramer (Princeton, NJ: Princeton University Press, 2008), 249–52; and Hillel Cohen, *Army of Shadows: Palestinian Collaboration with Zionism, 1917–1948*, trans. Haim Watzman (Berkeley, CA: University of California Press, 2008), 46–49.

<sup>3</sup> Rashid Khalidi, *Palestinian Identity: The Construction of Modern National Consciousness* (New York: Columbia University Press, 2009), 111–17, quote at 114. See also Cohen, *Army of Shadows*, 45–47.

<sup>4</sup> For the hadith that undergirds the premise of *al-ma lūm min al-dīn bi-l-darūra*, see Ibn Hajar al-‘Asqalani, *Fath al-Bari bi-Sharh Sahīh al-Bukhari*, ed. Shu‘ayb al-‘Arna‘ut and ‘Adil Murshid (Beirut: al-Risala al-‘Alamiyya, 2021), 23:12–15. This hadith refers specifically to a ruler engaging in flagrant disbelief and is generally interpreted to bar rebellion except in those cases where the ruler is guilty of this infraction. For an example of *takfīr* as a form of political and religious control from Mamluk Egypt, see Amalia Levanoni, “*Takfīr* in Egypt and Syria during the Mamlūk Period,” in *Accusations of Unbelief in Islam: A Diachronic Perspective on Takfīr*, ed. Hassan Ansari, Camilla Adang, Sabine Schmidtke, and Maribel Fierro (Leiden: Brill, 2016), 155–56.

<sup>5</sup> Hassan Ansari, Camilla Adang, Sabine Schmidtke, and Maribel Fierro, “Introduction,” in *Accusations of Unbelief in Islam*, 1–28.

<sup>6</sup> On Ibn Taymiyya and Ibn Qayyim al-Jawziyya, see Cole M. Bunzel, *Wahhābism: The History of a Militant Islamic Movement* (Princeton, NJ: Princeton University Press, 2023), 161–66.

<sup>7</sup> Adnan Zulfiqar, “Collective Duties (*Farḍ Kifāya*) in Islamic Law: The Moral Community, State Authority and Ethical Speculation in the Premodern Period” (PhD diss., University of Pennsylvania, 2018), 134–40, 168–72.

<sup>8</sup> A waqf is an inalienable trust that persists in perpetuity. See Peter C. Hennigan, *The Birth of a Legal Institution: The Formation of the Waqf in Third-Century A.H. Ḥanafī Legal Discourse* (Leiden: Brill, 2004), xiii. It appears that Jewish and Christian ownership of land was an assumed reality for Muslim jurists. In an advanced legal work within the Hanbali school, Ibn Qudama (d. 1223), a native of the Palestinian town of Jamma‘in, sets out a legal debate over the tax responsibilities of Muslims and non-Muslims, respectively, vis-à-vis land that they own that assumes the existence of non-Muslim land ownership. See Ibn Qudama, *al-Mughni* (Cairo: Matba‘at al-Manar, ca. 1935), 2:590–91. In the sixth volume of this text (p. 136), Ibn Qudama forbids renting or selling a building (*dār*) to someone who plans

represents a selective amalgamation of exclusivist currents of the premodern Islamic tradition fused with a core ideological shift of modernity: the emergence of nationalism as the primary form of political identity. It is in this context that the sale of land to Jews was transformed into a form of disbelief (*kuf̄r*).

Contrary to prior scholarship on modern Islam, I argue that the modern iteration of *takf̄r* did not emerge out of the ideological challenge of authoritarian secular nationalism in 1950s and 1960s Egypt generally or out of the ideas of the leading Egyptian Islamist Sayyid Qutb (1906–66) in particular.<sup>9</sup> Instead, it arose out of a basic dilemma faced by Palestinian Muslim elites and activists roughly two decades prior: how to prevent other members of their community—particularly fellow elites—from selling or facilitating land sales to Zionist land buyers.<sup>10</sup> The adoption of *takf̄r* thus served both to draw lines among Palestinian Muslim elites and to link select elites to a burgeoning mass public.<sup>11</sup> In telling this story, I therefore seek to explain the origins of this crucial shift in modern Islam, which was later expanded upon by Qutb and would then play a significant role in how varied jihadi trends justified intra-Muslim violence.<sup>12</sup>

I also contribute to scholarship on the development of Palestinian national identity between the late Ottoman and Mandate periods. The vast bulk of this scholarship has focused on either the ties that bound Jews, Muslims, and Christians in early 20th-century Palestine, or on the hardening of intercommunal boundaries and the ascent of rival nationalisms under the Mandate.<sup>13</sup> In this article, I build off of the second body of scholarship, as well as off of Suzanne Schneider's argument that Mandatory rule reconfigured the relationship between

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to make it into a church or to use it to sell alcohol or host gambling. Such a position implicitly *permits* the sale of land to non-Muslims for purposes that do not run contrary to Islamic law. I wish to thank Ibrahim Gemeah for both citations. It is in light of this social reality that one could understand Ibn al-Qayyim's argument that the sale of land by Muslims to Jews and Christians constitutes a potential threat to Muslim dominance of social space. See Antonia Bosanquet, *Minding Their Place: Space and Religious Hierarchy in Ibn al-Qayyim's Ahkām ahl al-dhimma* (Leiden: Brill, 2020), 218–28, esp. 223.

<sup>9</sup> For example, see Barbara Zollner, *The Muslim Brotherhood: Hasan al-Hudaybi and Ideology* (London: Routledge, 2009), 54–63; John Calvert, *Sayyid Qutb and the Origins of Radical Islamism* (Oxford, UK: Oxford University Press, 2009), 197–227; and James Toth, *The Life and Legacy of a Radical Islamic Intellectual* (New York: Oxford University Press, 2013), 72–94. Mathias Ghyoot, *Brothers behind Bars: A History of the Muslim Brotherhood in Egypt, 1948–1975* (Oxford, UK: Oxford University Press, forthcoming), chapter 8, offers a significant corrective to the Egyptian story by locating the emergence of *takf̄r* in the experience of rank-and-file Brotherhood members in Egyptian prisons, yet this narrative reproduces Egypt's centrality to the revival of *takf̄r*.

<sup>10</sup> Indeed, it was the question of Palestine that led the Muslim Brotherhood's Guidance Bureau to issue a ruling in September 1936 that all those who allied themselves with the British in Palestine had apostatized. See 'Abd al-Rahman al-Sa'ati, "Yuharibun Allah," *Jaridat al-Ikhwan al-Muslimin*, 29 September 1936, 1–4. I wish to thank Mathias Ghyoot for sharing this citation with me.

<sup>11</sup> It is striking that absentee landowners, most of whom resided beyond Palestine but some of whom lived within it (but in other cities), are not a focus of these rulings. On sales by absentee landowners, see Kenneth Stein, *The Land Question in Palestine, 1917–1939* (Chapel Hill, NC: University of North Carolina Press, 2017), 26–27.

<sup>12</sup> On Qutb's intellectual vision, premised on a binary of Islam and *Kufr* and a transhistorical understanding of pre-Islamic barbarism (*jāhiliyya*), see Sayed Khatab, *The Political Thought of Sayyid Qutb: The Theory of Jahiliyyah* (London: Routledge, 2006), 147–71. Khatab, however, does acknowledge the influence of the Indian scholar Abu al-Hasan al-Nadawi (d. 1999) on Qutb's conception of *jāhiliyya*.

<sup>13</sup> On the ties that bound Jews, Muslims, and Christians in early 20th-century Palestine, see Michelle Campos, *Ottoman Brothers: Muslims, Christians, and Jews in Early Ottoman Palestine* (Stanford, CA: Stanford University Press, 2010); Abigail Jacobson, *From Empire to Empire: Jerusalem between Ottoman and British Rule* (New York: Columbia University Press, 2011); Jonathan Gribetz, *Defining Neighbors: Religion, Race, and the Early Zionist-Arab Encounter* (Princeton, NJ: Princeton University Press, 2014); and Abigail Jacobson and Moshe Naor, *Oriental Neighbors: Middle Eastern Jews and Arabs in Mandatory Palestine* (Waltham, MA: Brandeis University Press, 2016). On the ascent of Palestinian nationalism, see Muhammad Y. Muslih, *The Origins of Palestinian Nationalism* (New York: Columbia University Press, 1988); Khalidi, *Palestinian Identity*; Hillel Cohen, *Year Zero of the Arab-Israeli Conflict* (Chicago: University of Chicago Press, 2015); and Cohen, *Army of Shadows*.

religious traditions and political identity, transforming the former into a basis for political mobilization.<sup>14</sup> Specifically, I trace the conditions under which elites within the Supreme Muslim Council saw it as both logical and necessary to resort to religious excommunication in the service of its leadership of the nationalist project. Yet, even the drawing of *internal* national lines was a deeply transnational process and, in line with the work of transnational historians of the modern Middle East who have emphasized the persistent linkages among particular cities, I show the enmeshment of the *takfīr* debate within broader and long-standing networks of Islamic reform.<sup>15</sup>

To tell this story, I draw primarily on *al-Jami 'a al-'Arabiyya*, a newspaper aligned with the Mufti and the Supreme Muslim Council as well as secondarily on two other periodicals that critiqued this body and the Mufti on traditionalist (*al-Jami 'a al-Islamiyya*, the Islamic League) and reformist (*al-Sirat al-Mustaqim*, the Straight Path) religious grounds.<sup>16</sup> As relevant, I also draw on fatwas issued during this period, as well as on Islamic periodicals from beyond Mandate Palestine, most notably those published in Egypt. While histories of Islamic thought and those of Mandate Palestine are generally considered to occupy separate historiographical arenas, these sources enable me to bridge this divide, tracing the ways in which Palestinian and non-Palestinian Muslim thinkers and activists selectively drew on the Islamic tradition to meet a pressing political, social, and economic challenge that had significance for the history of Palestine and Islamic activism alike.

I begin by historically contextualizing the battle over land sales at the intersection of British policy, Zionist strategy, and Palestinian political and economic conditions. In the next section, I then turn to efforts to sacralize Palestine as a whole and to the emergence of a broader intellectual architecture that would make nationalist-infused calls to *takfīr* in the mid-1930s both thinkable and politically powerful. The third section then turns to debates over this practice of excommunication, highlighting not merely the linkage between religious and political loyalty but also the different strategies that Palestinian Islamic elites used to reframe an economic practice as a religious imperative. I conclude by reflecting on its broader implication for our understanding of modern Islam and Mandate Palestine.

### Defining the Nation and the Land following the Buraq Riots, 1928–31

In the summer of 1928, Jews praying at the Western Wall (Ar. *Burāq* Heb. *Ha-Kotel*) erected a divider (Heb. *mehitza*) that separated men and women, and, at the end of that summer, the British district commissioner ordered the divide destroyed based on the principle that it altered the “status quo.”<sup>17</sup> This dispute, which stood at the intersection of claims to religious

<sup>14</sup> Suzanne Schneider, *Mandatory Separation: Religion, Education, and Mass Politics in Palestine* (Stanford, CA: Stanford University Press, 2018), 19.

<sup>15</sup> Most notably, see Cyrus Schayegh, *The Middle East and the Making of the Modern World* (Cambridge, MA: Harvard University Press, 2017), 9–13.

<sup>16</sup> Religious traditionalists seek to uphold the authority of scholars over society, while religious reformists tend to be oriented towards the broader reform of religious thought and practice. Although the two approaches can overlap, traditionalists tend to prize the *madhhab* tradition, while reformists bypass it. *Al-Jami 'a al-Islamiyya* was founded and published by Suliman al-Taji al-Faruqi (d. 1958), a scholar and lawyer who had studied with the noted Islamic reformer (and mentor of Rashid Rida) Muhammad 'Abduh (d. 1905) at al-Azhar. *Al-Sirat al-Mustaqim* was owned and published by 'Abd Allah al-Qalqili (d. 1969), who had graduated from both al-Azhar and Cairo University. The paper covered both local and international events of interest to Muslim readers and clearly signaled its opposition to both the British Mandate and Zionism. See “al-Sirat,” *al-Maktaba al-Wataniyya al-Isra'iliyya*, available at <https://www.nli.org.il/ar/newspapers/asirat?>

<sup>17</sup> For example, see “Ihtijaj al-Muslimin fi Masjid al-Aqsa 'ala Hadith al-Buraq,” *al-Jami 'a al-'Arabiyya*, 4 October 1928, 4; and “Mawqif al-Majlis al-Islami al-'ala bi-Sha'n Hadith al-Buraq wa-Kitabat Fakhama al-Mandub al-Sami,” *ibid.*, 8 October 1928, 1.

truth, territory, and an uncertain political future, culminated in a wave of violence during the last week of August 1929, known as the Buraq riots, that left hundreds of Jews and Palestinians alike dead or injured. This was also a moment in which the incompatibility between Zionist and Palestinian aspirations became increasingly clear to the members of these two communities.<sup>18</sup>

In the aftermath of the Buraq riots, the Palestinian Mufti, Hajj Amin al-Husayni faced a basic predicament: the structures of self-rule that had brought him to power also undergirded British authority. Indeed, the Supreme Muslim Council and al-Husayni's appointment as Grand Mufti of Palestine were themselves products of this strategy, as the former was created in 1921 to run Palestine's Islamic courts and administer its religious endowments (sing. *waqf*, pl. *awqāf*), and al-Husayni himself was appointed despite possessing limited religious qualifications.<sup>19</sup> Far from a prelude to independence, the establishment of the Supreme Muslim Council was part and parcel of a British colonial strategy, deployed across the Middle East, Africa, and South Asia, by which self-rule reproduced rather than undermined colonial power and, in the Palestinian case, divided the population by religious denomination.<sup>20</sup>

This colonial trap of self-rule was exacerbated by the challenges posed by the Jewish community, particularly its increasingly ambitious effort to purchase land owned by Palestinians or absentee landlords who resided in neighboring countries. Though it was only in the 1930s that land sales became a powerful political issue—stimulated in part by the Buraq riots—the existence of such sales could hardly have been a surprise to Palestinian elites, including those involved in national politics. Indeed, between 1920 and 1928, over a quarter of the members of the Arab Executive Committee (al-Lajna al-Tanfidiyya al-'Arabiyya)—an independent internal body established in 1920 to represent Palestinians—sold land to Jews either individually or through their immediate families, and the ranks of those who sold land included a leading member of the Husayni family and former mayor of Jerusalem, Musa Kazim al-Husayni (d. 1934).<sup>21</sup>

The challenges posed by land acquisition, in turn, increased from 1933 on, as the Yishuv emphasized the acquisition of land that was contiguous with existing Jewish settlements, a shift that was accompanied by greater Palestinian awareness of the political threat posed by such sales.<sup>22</sup> Yet, whereas a unified and financially secure Palestinian elite might have responded by organizing to contest British policy and preempt land sales through its own purchases, the Supreme Muslim Council and Mufti were hamstrung by the former's financial struggles, and undermined by other Palestinian elites who sought to convert their declining social and economic prominence into economic resources by selling their land.<sup>23</sup>

<sup>18</sup> Cohen, *Year Zero of the Arab-Israeli Conflict*, xi.

<sup>19</sup> Nicholas Roberts, *Islam under the Palestine Mandate: Colonialism and the Supreme Muslim Council* (London: I.B. Tauris, 2017), 106.

<sup>20</sup> *Ibid.*, 42–65.

<sup>21</sup> Kenneth Stein states that of the eighty-nine members of this Committee between 1920 and June 1928, “at least one quarter can be identified...as having directly participated in land sales to Jews.” For those members appointed in June 1928, fourteen of forty-eight were similarly involved. Kenneth Stein, *The Land Question in Palestine, 1917–1939* (Chapel Hill, NC: University of North Carolina Press, 2017), 67.

<sup>22</sup> See *ibid.*, 174 and 67, respectively.

<sup>23</sup> According to Awad Halabi, the Supreme Muslim Council faced financial difficulties, likely limiting its capacity to finance land purchases. See Awad Halabi, *Palestinian Rituals of Identity: The Prophet Moses Festival in Jerusalem, 1850–1948* (Austin, TX: University of Texas Press, 2022), 111–12. On this point, see also “Hawl Aradi Barqa,” *al-Jami'a al-'Arabiyya*, 29 October 1931, 2. On land sales by Palestinian elites, see Stein, *The Land Question in Palestine*, 69–71. Indeed, an October 1930 article in *al-Jami'a al-'Arabiyya* noted the rumor that the owner of *al-Sirat al-Mustaqim*, 'Abd Allah al-Qalqili, had sold land to the Jews and implied that, given this, the paper that he owned could hardly defend the rights of Muslims. See “al-Minbar al-'Amm,” *al-Jami'a al-'Arabiyya*, 1 October 1930, 1–2.

In the face of both colonial rule and an increasingly successful Zionist effort to acquire contiguous land, Palestinian elites such as the Mufti also faced an internal challenge that stemmed from the rise of mass politics both within and beyond Mandate Palestine. Like their counterparts in Egypt and Syria, these Palestinian elites practiced what Albert Hourani famously called the “politics of notables,” with their primary function being one of mediation between an often-distant ruler and local inhabitants. Such old elites now faced nationalist challengers and the Mufti’s competitors included the Palestinian pan-Arab and pan-Syrian Independence Party (Hizb al-Istiqlal, est. 1919), the National Party (al-Hizb al-Watani, est. 1923) allied with the rival Nashashibi family, as well as a younger cohort of Arab nationalist activists who challenged the Mufti’s claimed centrality to the nationalist project.<sup>24</sup>

Just as importantly, a variety of Islamic movements had begun to emerge, most notably the Young Men’s Muslim Association (YMMA, Jam‘iyyat al-Shubban al-Muslimin). Established in Haifa in 1928, a year after the inauguration of the organization’s first branch in the Egyptian capital of Cairo, the YMMA soon spread to smaller cities in the north, including Acre, Tiberias, and Safed.<sup>25</sup> Yet, while al-Husayni sought to claim leadership over the nationalist movement—and even founded the Palestine Arab Party (al-Hizb al-‘Arabi al-Falastini) in November 1935—his ideological appeals ultimately reflected a deeply traditional view of the political order premised on obedience to existing social norm and deference towards leaders, rather than a project of mass mobilization.<sup>26</sup>

One of the core unresolved tensions within the Palestinian national movement in the early 1930s was the relationship between religion—primarily Islam—and the nationalist project. Such a tension, far from exceptional across the region, reflected the claims that even secular nationalists made to define and regulate religious identity and implicit assumptions of religious identity could undergird even the most ardently secular nationalist projects.<sup>27</sup> To justify *takfir* on a broader base, however, the Mufti and his allies needed to reimagine Palestine’s sacrality as pertaining not only to particular sites—such as the al-Aqsa Mosque—but to the entirety of Palestine.

Such a question was not distinct to the 1930s. Since at least 1922, albeit with a clear intensification in 1929, the Mufti had built on both the challenge of Zionism and Jerusalem’s religious significance—particularly al-Aqsa, which contains both the Dome of the Rock and al-Aqsa Mosque—to emphasize the threat posed by Zionism not only to Palestinian national aspirations but to a transnational Muslim community.<sup>28</sup> It was with this goal that, in

<sup>24</sup> On the “politics of notables,” see Albert Hourani, “Ottoman Reform and the Politics of Notables,” in *Beginnings of Modernization in the Middle East: The 19th Century*, ed. William Polk and Richard Chambers (Chicago, IL: University of Chicago Press, 1968), 41–68. On the decline of the politics of notables in post-WWI Syria, see James Gelvin, *Divided Loyalties: Nationalism and Mass Politics in Syria at the Close of Empire* (Berkeley, CA: University of California Press, 1998), 228–59. On the rise of Palestinian political parties, see Weldon C. Matthews, *Confronting an Empire, Constructing a Nation: Arab Nationalists and Popular Politics in Mandate Palestine* (London: I.B. Tauris, 2006), 2; and Halabi, *Palestinian Rituals of Identity*, 73, 103.

<sup>25</sup> Mark Sanagan, *Lightning through the Clouds: ‘Izz al-Din al-Qassam and the Making of the Modern Middle East* (Austin, TX: University of Texas Press, 2020), 85–87.

<sup>26</sup> On the Palestine Arab Party and the Mufti’s ideological appeal, see Halabi, *Palestinian Rituals of Identity*, 76, 119.

<sup>27</sup> On the assumption that secular Turks would be Sunni Muslims, see Marc David Baer, *The Dönme: Jewish Converts, Muslim Revolutionaries, and Secular Turks* (Stanford, CA: Stanford University Press, 2009), 238–41. See also Partha Chatterjee, *The Nation and Its Fragments: Colonial and Postcolonial Histories* (Princeton, NJ: Princeton University Press, 1994), 102–13.

<sup>28</sup> Yehoshua Porath, *The Emergence of the Palestinian-Arab Nationalist Movement, 1918–1929* (London: Routledge, 2020), 260–72. In his study of the Mufti, Phillip Mattar cites Porath as representing the “predominant [and according to Mattar incorrect] view in the historiography of Palestine...that the Mufti transformed a minor religious and legal dispute [in 1928 over the Western Wall] into a political struggle.” See Phillip Matar, *The Mufti of Jerusalem: al-Hajj Amin al-Husayni and the Palestinian National Movement* (New York: Columbia University Press, 1992), 36. What Porath

December 1931, the Mufti convened the General Islamic Congress (al-Mu'tamar al-Islami al-'Amm), which gathered participants from Palestine and beyond for the purpose of discussing the "preservation of the holy Islamic lands" (*al-muḥāfaza 'alā al-biqā' al-muqaddasa al-Islāmiyya*).<sup>29</sup> At this Congress, the Mufti welcomed none other than the leading Najaf-based Shi'i scholar Shaykh Muhammad Husayn Kashif al-Ghita' (d. 1954). Kashif al-Ghita', who four years later would author a crucial fatwa on land sales, joined the Mufti on a trip to the Palestinian city of Jenin and gave a Friday sermon in which he declared that "Palestine is an Islamic land and [its] holy sites are for all Muslims" (*Falaṣṭīn quṭr Islāmī wa-l-amākin al-muqadassa li-l-Muslimīn jamī'ihim*).<sup>30</sup> Neither was the effort to sacralize Palestine limited to the Mufti or his allies: the October 31, 1930 issue of *al-Jamī'a al-'Arabiyya* included a statement from the Nablus branch of the YMMA, which emphasized the importance of Palestinian economic independence through boycott of foreign goods under the banner of "the holy economic jihad" (*al-jihād al-iqtisādī al-muqaddas*).<sup>31</sup>

Domestically, the Supreme Muslim Council sought to nationalize local Islamic festivals, while highlighting Christian participation.<sup>32</sup> Whether the celebration of the birthdays of the Prophets Rubin and Moses (*Mawlid al-Nabī Rubīn* and *Mawlid al-Nabī Mūsā*, respectively), or the Festival of the Prophet Salih (*Mawsim al-Nabī Ṣāliḥ*), patriotic anthems (*al-anāshīd al-waṭaniyya*) were a regular feature.<sup>33</sup> As a April 4, 1934 letter to the editor in *al-Jamī'a al-'Arabiyya* declared:

[T]he festival of the Prophet Musa is a national patriotic holiday (*'īd qawmī waṭanī*)... prior to being a religious holiday (*'īdan dīniyyan*) for a certain sect, Arab or non-Arab... and thus, Christian Arabs have the right to participate in this festival in an active fashion...as they are Arabs...<sup>34</sup>

In contrast to a confessional order in which each community's rituals were distinct to it, these Palestinian Sunni Muslims sought to nationalize their religious practices. The question that remained, however, was how to use religion not merely as a basis for political legitimacy and national unity, but also as a means of drawing internal boundaries.

### Making *Takfīr* Thinkable, 1932–34

The emergence of *takfīr* in mid-1930s Palestine was far from inevitable. Indeed, as Palestinian Muslim leaders, activists, and thinkers sought to respond to the national challenge posed by Zionist land acquisition, they faced a basic obstacle: how to reframe acting with insufficient fealty or contrary to the nationalist cause as not merely treason (*khīyāna*) but as a form of disbelief (*kufr*) so flagrant that one could only engage in it with full consciousness of its consequences. In the shadow of colonial rule, which functionalized religion to serve

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and Mattar share, however, is an acknowledgment that, after 1929, the Mufti framed the Palestinian national project in distinctly Islamic terms and repeatedly sought pan-Islamic support for it.

<sup>29</sup> "Al-Mu'tamar al-Islami al-'Amm wa-Ghayatahu," *al-Jamī'a al-'Arabiyya*, 21 October 1931, 3.

<sup>30</sup> "Al-Hafawa bi-l-'Alama Kashif al-Ghita' fi Jinin," *ibid.*, 24 December 1931, 3.

<sup>31</sup> "Bayan min Jam'iyyat al-Shubban al-Muslimin bi-Nablus," *ibid.*, 31 October 1930, 3.

<sup>32</sup> For an example of the subordination of religious identity to a broader Arab nationalist cause, see Michel Aflaq, *Dikhra al-Rasul al-'Arabi* (Beirut: al-Mu'assasa al-'Arabiyya li-l-Dirasat wa-l-Nashr, 1972), 8–12.

<sup>33</sup> On Mawlid al-Nabi Rubin, see "al-Ihtifal fi al-Ludd," *al-Jamī'a al-'Arabiyya*, 24 September 1928, 3. On Mawlid al-Nabi Musa, see "al-Mihrajan al-'Azim fi Usbu' Mawsim al-Nabi Musa," *ibid.*, 15 April 1930, 1. On Mawlid al-Nabi Salih, see "al-Ihtifal al-Kabir bi-Mawsim al-Nabi Salih fi al-Ramla," *ibid.*, 19 April 1931, 3.

<sup>34</sup> "I'ayaduna al-Qawmiyya wa-Wujub Ihya'iha wa-Tanzimiha," *ibid.*, 4 April 1934, 6.

concrete political ends, excommunication would become a powerful mode of political critique.<sup>35</sup>

The first step to such a shift was how to sacralize the entire land of Palestine and thus ban land sales to Jews. While *takfīr* had certainly long been practiced, it was not yet clear how it could be applied to land sales, a form of trade between Muslims and non-Muslims that jurists had taken for granted within the Abode of Islam.<sup>36</sup> Similarly, one could argue that the Qur'anic reference (5:21) to the "holy land" (*al-arḍ al-muqadassa*) referred to Palestine.<sup>37</sup> Yet, the meaning of this reference was far more ambiguous, plausibly referring to both larger and smaller geographical areas, some of which were located outside the borders of Mandate Palestine.<sup>38</sup> In other words, the status of Palestine as an exclusively holy land was unsettled, and the Mufti needed to not only sacralize the entirety of this land but also to declare those who had sold its lands to have left the bounds of Islam.

Despite a general hesitance among Islamic scholars to excommunicate Muslims regarding matters that had little to do with either theology or law, this question had been broached vis-à-vis land sales in 1925. *Al-Yarmuk* newspaper, published in Haifa, had received a fatwa request from an Egyptian scholar, Shaykh Muhammad Madi Abu al-Ghara'im (d. 1937), which inquired as to the religious status of Jews as potential land buyers and, relatedly, the status of Muslims and Christians who sold land to them. In response, the Mufti of Gaza, al-Hajj Muhammad Sa'id Efendi al-Husayni (b. 1876), declared that Jews no longer constitute a "protected minority" (*ahl al-dhimma*), that Christians who aid them in purchasing land must be deported, and that Muslims who sell land to them have "become apostates" (*murtidan 'an al-Islām*). As a result, it was forbidden for such Muslim men to be married to Muslim women, to be buried in Muslim cemeteries, or to be prayed over upon death.<sup>39</sup> Whether because the political environment was not ripe for such a shift, or because of Haifa's peripherality to political contestation during this period, no fatwas followed from Hajj Amin al-Husayni or his allies.<sup>40</sup> Just as importantly, the Mufti of Gaza conceded a basic impediment to later claims to *takfīr*: the assumption that land sales to a "protected minority," namely Jews and Christians, was permitted. In this liminal period of governance between an Ottoman Caliphate and an uncertain political future, the relationship between religious and nationalist allegiance remained in flux.

The question of *takfīr* was also on the table in Tunisia. Like in Palestine, it first arose in the mid-1920s, reflecting a longer-term debate stimulated by a 1923 French revision to the Tunisian naturalization law that sought to weaken the Tunisian nationalist movement by enticing its educational and economic elite to take on French citizenship.<sup>41</sup> The trigger in the

<sup>35</sup> On the British functionalization of Islam in Egypt, see Gregory Starrett, *Putting Islam to Work: Education, Politics, and Religious Transformation in Egypt* (Berkeley, CA: University of California Press, 1998), 30–61. On Palestine, see Schneider, *Mandatory Separation*, 34–36, 129–59.

<sup>36</sup> Ibn Qudama, *al-Mughni*, 2:590–91, 6:136.

<sup>37</sup> Uri Rabin, *Between Jerusalem and Mecca: Sanctity and Redemption in the Qur'ān and the Islamic Tradition* (Berlin: De Gruyter, 2023), 1–5, 9, 221. Rabin suggests that Qur'an 5:21, which refers to the "holy land" (*al-arḍ al-muqadassa*), represents an implicit reference to Palestine, though he adds that the Qur'an also provides a basis for considering all of the Levant (al-Sham) sacred.

<sup>38</sup> Qur'an 5:21 was understood by the exegete and theologian Muhammad b. Jarir al-Tabari (d. 923) as possibly referring to the Levant (al-Sham), more narrowly to "Damascus, Palestine, and part of Jordan," and even to Mount Tur (Jabal al-Tur, associated with Mount Sinai) and Jericho, respectively. See Ibn Jarir al-Tabari, *Tafsir al-Tabari: Jami' al-Bayan 'an Ta'wil al-Qur'an*, ed. 'Abd Allah b. 'Abd al-Muhsin al-Turki (Cairo: Dar Hajr, 2001), 8:284–86.

<sup>39</sup> "Fatwayan Shari'atan," *al-Yarmuk*, 31 May 1925, 2.

<sup>40</sup> Hillel Cohen (*Army of Shadows*, 47) suggests that Haifa's geographic location and a "temporary lull in land sales brought on by the economic downturn of the late 1920s" may have lessened the significance of this fatwa.

<sup>41</sup> Mary Dewhurst Lewis, *Divided Rule: Sovereignty and Empire in French Tunisia, 1881–1938* (Berkeley, CA: University of California Press, 2014), 131. For Rashid Rida's response to this question, see Rashid Rida, "Fatawa al-Manar," *al-Manar*, 30 Jumada al-Ukhra 1342/5 January 1924, 25:21–32.



early 1930s, however, was a December 31, 1932 incident in the city of Bizerte, forty miles north of the Tunisian capital of Tunis. On that late December day, crowds had gathered to block the burial of Mohamed Chaâbane, the president of the local chapter of the League of Muslim Frenchman (*Ligue des Français Musulmans*). This discrete conflict was resolved when the widow agreed to bury her husband in a Christian cemetery.<sup>42</sup>

Yet, French colonial authorities sought to resolve this issue more broadly by soliciting a fatwa from the Tunisian Shari'a Council (al-Majlis al-Shar'i), a national body which was divided into two sections, one headed by a Maliki scholar, Muhammad al-Tahir b. 'Ashur (d. 1973), and the second by a Hanafi scholar, Muhammad b. Yusuf (d. 1939). The fatwa request, which appeared in *al-Jami'a al-'Arabiyya*, inquired as to the religious status (and burial options) of a Muslim who takes on citizenship of a foreign country in which the laws governing civil transactions are contrary to those of Islam, yet also pronounces the declaration of faith and disavows all other religions.<sup>43</sup> While neither of the two scholars issued a fatwa with their name appended, the front page of the May 4, 1933 edition of a Tunisian paper, *L'action Tunisienne*, included a ruling specifying that such an individual could be buried in a Muslim cemetery if he or she repents prior to death.<sup>44</sup> In contemporaneous coverage of this debate, *al-Jami'a al-'Arabiyya* argued that Ibn 'Ashur and Ibn Yusuf had "issued the fatwa that the government wanted," though it also notes that three scholars on the Shari'a Council dissented, with one conditioning repentance on the individual's return to his or her original nationality.<sup>45</sup>

In response to this debate within Tunisia, Rashid Rida weighed in on the pages of *al-Manar*. Rida declared that naturalization constitutes "explicit apostasy" (*irtidād 'an al-Islām ṣarīh*) and castigated the Maliki and Hanafi scholars as government stooges (literally, "tools in the hands of Islamic governments, *ālāt fī aydī al-ḥukūmāt al-Islāmiyya*). Yet, he also sought to carve out an exception for Muslims who sought political and economic equality while not realizing that they could not remain Muslim if they took on French citizenship, declaring such an adoption of French nationality as "merely a sin" (*laysa illā dhanban*).<sup>46</sup> Rida's effort to carve out an exception for Muslims who unknowingly engaged in *kufr* is also evident in his discussion of land sales during this period. In a June 1932 fatwa, he compared the effect of such sales to aiding an enemy in war and declared that "Whoever sells his land to the Jews in Palestine or in eastern Jordan is considered a criminal against the entire Arab nation. Not against Palestine alone." Yet, Rida exempted those Muslims who had sold land "without knowing that selling it constituted betrayal of God, His Messenger, and his Religion, and the entire *Umma*."<sup>47</sup>

How might we explain the shift towards excommunication of land sellers between 1920 and 1932? An obvious yet insufficient answer is that land sales intensified. Just as important, however, is the political significance attached to such sales. Building off Awad Halabi's argument that the 1917–22 period should be considered one of "liminal loyalties" for both Kemalists and Palestinians vis-à-vis the Ottoman Empire and distinct nationalist projects,

<sup>42</sup> Lewis, *Divided Rule*, 143.

<sup>43</sup> "Tajnis al-Tunisiyyin bi-l-Jinsiyya al-Faransiyya," *al-Jami'a al-'Arabiyya*, 25 April 1933, 2.

<sup>44</sup> "L'opinion des vrais Ulémas sur la naturalisation," *L'Action Tunisienne*, 4 May 1933, 1. The fatwa as produced in the anthology of Muhammad al-Tahir b. 'Ashur's fatwas states that Muhammad b. Yusuf's response was that the individual should enjoy "all rights and responsibilities" as a Muslim in both life and death (including the funeral *janāza* prayers and burial in a Muslim cemetery). It then reproduces Ibn 'Ashur's position based on a report by the Resident General François Manceron in his report which, like the contemporaneous reporting in *al-Jami'a al-'Arabiyya*, conditions repentance on renouncing the new nationality. See *Fatawa al-Shaykh al-Imam Muhammad al-Tahir b. 'Ashur*, ed. Muhammad b. Ibrahim Buzghiba (Dubai: Markaz Jum'at al-Masajid li-l-Thaqafa wa-l-Turath, 2004), 427.

<sup>45</sup> "Tajnis al-Tunisiyyin bi-l-Jinsiyya al-Faransiyya."

<sup>46</sup> "Mas'alat al-Tajnis al-Faransi," *al-Manar*, April–May 1933, 33:224–30, at 224–5.

<sup>47</sup> "Fatawa al-Manar," *ibid.*, Rabi' al-Awwal 1352/June 1932, 33–36, at 36.

the period from 1920 to 1932 can be considered an extension of this liminal moment in which it was unclear what political body would follow the Ottoman Empire.<sup>48</sup> Specifically, over the course of this period, the nation-state became the primary object and arena of political conflict, transforming land sales into a national threat.

Yet, even with the increasingly prominence of the nation-state frame, the growing incompatibility of Zionist and Palestinian ambitions, and Rida's 1932 ruling on land sales and *takfir*, it was not yet consensus among Palestinian 'ulama' that those who willfully sold land to Zionists had left the bounds of Islam. A December 10, 1934 article in *al-Sirat al-Mustaqim*, associated with the Islamic reformist trend of this period, castigated "those among us who own land and are selling it to make a profit...[while ignoring] the loss of their homeland and destruction of their country." The unnamed author of this article urged land sellers to realize that the land "is more valuable than his soul" and described middlemen as less honorable than those who engaged in extra-marital sexual intercourse (*zinā*).<sup>49</sup> Yet, at no point did the author make the claim that such individuals had left the bounds of Islam.

In sum, as 1935 dawned, the leap to categorizing land sale as *kufir* and those who engaged in it as having apostatized had yet to occur. Indeed, in the Tunisian case, rulings regarding naturalization pertained to a narrow question that clearly related to divine authority—obedience to the shari'a—and offered the escape route of repentance. Yet, for the Mufti and other leading Palestinian Muslim thinkers, the urgency of solving the land crisis could hardly be understated. The number of land sales between 1933 and 1934 had jumped from 673 to 1,178 and would increase to 1,225 in 1935.<sup>50</sup> Just as importantly, land sales disproportionately dispossessed Palestinian peasants, raising concerns of impoverishment, particularly in rural areas.<sup>51</sup> The challenge of arresting the transfer of land to Zionist purchasers, however, was not solely a matter of the availability of punitive measures in the Islamic legal tradition: the sale of Islamic endowments (*waqf*) land to Zionist purchasers—a clearly prohibited action according to Islamic law—was a long-standing issue that the Supreme Muslim Council had struggled to solve.<sup>52</sup> The question, then, both practically and legally, was how to stop the sale of non-*waqf* land?

### The Turn to *Takfir* in January 1935

January 1935 represented a calm before the storm. Just sixteen months later, the Arab Revolt would arise, as Palestinians demanded independence while seeking to stem the tide of Jewish immigration. Nonetheless, as land sales proceeded apace, a faction of Palestinian

<sup>48</sup> Awad Halabi, "Liminal Loyalties: Ottomanism and Palestinian Responses to the Turkish War of Independence, 1919–22," *Journal of Palestine Studies* 41, no. 3 (2012): 19–37. As Halabi argues, this period "may...be seen as politically liminal: British rule may have supplanted Ottoman authority, yet Palestinians remained connected to the Ottomans through powerful cultural and religious ties." *Ibid.*, 22. Indeed, as Michael Provence argues, "the durable tendency to view the history of the region through the lens of national histories...obscures commonalities that were clear to all at least until the 1940s." Michael Provence, *The Last Ottoman Generation and the Making of the Modern Middle East* (Cambridge, UK: Cambridge University Press, 2017), 6.

<sup>49</sup> "Inna Allah La Yughayir Ma bi-Qawm Hatta Yughayiru Ma bi-Anfusihim," *al-Sirat al-Mustaqim*, 10 December 1934, 1.

<sup>50</sup> Stein, *The Land Question in Palestine*, 181–82. While a monthly breakdown of land sales is not available for 1933, the final six months of 1934 averaged 2,000 dunams per month.

<sup>51</sup> Martin Bunton, *Colonial Land Policies in Palestine, 1917–1936* (Oxford, UK: Oxford University Press, 2007), 80; Stein, *The Land Question in Palestine*, 39–40.

<sup>52</sup> For example, see "al-Waqf al-Islami," *al-Jami'a al-'Arabiyya*, 28 March 1932, 3. For efforts to categorize the Hijaz railway as a *waqf*, see Murat Özyüksel, *The Hejaz Railway and the Ottoman Empire: Modernity, Industrialisation and Ottoman Decline* (London: I.B. Tauris, 2014), 219–20. On the comparison of the Hijaz railway to al-Aqsa Mosque, see "al-Mawqif al-Ilami al-Maghdub," *al-Jami'a al-'Arabiyya*, 29 July 1929, 1.

‘ulama’ led by the Mufti searched for a means of leveraging their own authority to slow, if not halt, this challenge.

Hajj Amin al-Husayni was not the first member of his family or Muslim leader in Palestine to tackle the question of land sales. In the late 19th century, his father, Muhammad Tahir al-Husayni (d. 1908), then the Mufti of Jerusalem, had succeeded in halting Jewish land purchases in Palestine through control of the local special administrative district (*mutasarrıflık*), an Ottoman body with the power to regulate land transfers.<sup>53</sup> Neither was this challenge new to Ottoman rulers, who had first sought in the early 1880s to limit Jewish immigration to Palestine before turning to a focus on land sales.<sup>54</sup>

The question of *takfır* was raised, however, not by the Mufti but by a native of Hebron, Muhammad Sabri al-‘Abidin (d. 1961), who had received his *‘ālimiyya* degree at al-Azhar University in 1927. Following his graduation from al-Azhar, al-‘Abidin had opened up an Islamic school in Hebron, Madrasat al-Islah, while teaching at the Ibrahimi Mosque, also in his home city.<sup>55</sup> Though al-‘Abidin was concerned with a local question, he directed his fatwa request to two foreign scholars: Muhammad Husayn Kashif al-Ghita’ and Taqi al-Din al-Hilali (d. 1987). While Kashif al-Ghita’ was a leading Shi‘i scholar and advocate of Sunni-Shi‘i unity based in the Iraqi shrine city of Najaf—and had previously visited Palestine on the Mufti’s invitation—al-Hilali was a well-traveled Moroccan Islamic reformer who studied with Rashid Rida and would eventually become a leading Salafi scholar.<sup>56</sup> Kashif al-Ghita’’s response, which hinged on the sacrality of the land, appeared first in the January 23, 1935 issue of *al-Jami‘a al-Islamiyya* and then the next day in *al-Jami‘a al-‘Arabiyya*.<sup>57</sup>

To understand this answer, however, one must begin with the way in which al-‘Abidin posed the question. The Hebron-based scholar had detailed the challenge represented by the sale of “the lands of holy Palestine” and inquired as to the position of the shari‘a vis-à-vis those who engage in or facilitate such transactions. For al-‘Abidin, such land sales must be understood within a particular reading of Zionist settlement activities: “the sale [of land] is to Jews who seek to remove Muslims from these lands and to take over al-Aqsa Mosque and to build a Third Temple and a Jewish state in Palestine.” Al-‘Abidin then inquired as to how one could establish a “deterrent to [prevent] the commission of this evil act” and offered a suggestion: that ‘ulama’ issue fatwas declaring that “it is disbelief for anyone to sell their land to help the people of disbelief,” for example, the Jews. The power of such a fatwa, according to al-‘Abidin, would emerge from its social consequences, as it would forbid the burial of land sellers and middlemen in Muslim cemeteries or the performance of funeral prayers (*ṣalāt al-janāza*) on their behalf.<sup>58</sup>

With al-‘Abidin having framed the issue at hand, Kashif al-Ghita’ provided both textual and social justification. Accepting the premise that the issue at hand was that of “holy lands,” the Shi‘i scholar equated land sales with fighting God and His Messenger (*muḥārabat Allāh wa-Rasūlihi*) and thus seeking to destroy Islam. Indeed, for Kashif al-Ghita’, land sales in Palestine constituted “the most egregious of all sins” (*umm al-kabā‘ir*) and those who engage in it have truly left Islam (*khawārij min al-dīn*) and thus should face a “thorough boycott”

<sup>53</sup> Neville J. Mandel, “Ottoman Practice as regards Jewish Settlement in Palestine: 1881–1908,” *Middle Eastern Studies* 11, no. 1 (1975): 36–37; see also Campos, *Ottoman Brothers*, 218–23.

<sup>54</sup> Neville J. Mandel, “Ottoman Policy and Restrictions on Jewish Settlement in Palestine: 1881–1908: Part I,” *Middle Eastern Studies* 10, no. 3 (1974): 324.

<sup>55</sup> On al-‘Abidin’s background, see “al-Shaykh Muhammad Sabri ‘Abidin,” *al-Quds Islamic Movement*, available at <https://alqudsislamicmovement.com/en/public-figures/أعلام-الحركة-الإسلامية-في-فلسطين/alshykh-mhmd-sbry-aabdyn>.

<sup>56</sup> Henri Lauzière, *The Making of Salafism: Islamic Reform in the Twentieth Century* (New York: Columbia University Press, 2015), 50–54, 74–75.

<sup>57</sup> “Fatwa Sharifa bi-Tahrim Ba‘i al-Arabi li-l-‘Adu wa-Muqata‘at al-Samasira,” *al-Jami‘a al-Islamiyya*, 23 January 1935, 4; “Hawadith wa-Akhbar,” *al-Jami‘a al-‘Arabiyya*, 24 January 1935, 3.

<sup>58</sup> “Fatwa Sharifa bi-Tahrim Ba‘i al-Arabi li-l-‘Adu,” 4.

(*muqāṭa ʿa balīgha*).<sup>59</sup> Evidently aware of the common objection to *takfīr*—that the discord and corruption it causes is worse than that which it solves—Kashif al-Ghitaʿ asserted that the “fear of [greater] corruption” (*khawf al-mafsada*) is misplaced.<sup>60</sup>

While Kashif al-Ghitaʿ’s fatwa is distinguished by its reliance on the sacrality of the land as a conceptual hinge to equate land sales with declaring war on God and His Messenger, al-Hilali’s framework foregrounds alleged eternal Jewish enmity towards Islam. In a fatwa published in *al-Jamiʿa al-ʿArabiyya* on February 1, 1933 but issued two weeks prior, al-Hilali argued that “anyone who has read the Torah and followed reports of the Zionist Jewish movements...and read the papers...knows that Jews believe that the holy land, including its historical sites such as al-Aqsa [Mosque]...belongs to them.” Indeed, those who are actively involved or complicit in the sale of land are like those who help non-Muslims seize Mecca and Medina and, like in the time of the Crusaders, Muslims today have an “obligation” (*wājib*) to defend Islam. Accordingly,

[A]ny person who is content with the holy land leaving the hands of Muslims for those of their enemies, even if they do not actively further this result, is an infidel with whom there can be no covenant or pact of protection (*kāfir lā ʿahd lahu wa-lā dhimma*).<sup>61</sup>

In sum, al-Hilali reframed the fight against land sales as an obligation incumbent upon each and every Muslim, and even those who shirk this obligation—rather than merely those who engage in this practice—had committed disbelief. Al-Hilali had conceptualized land sales as a question of military attack, thus rendering engagement as an individual obligation (*farḍ ʿayn*) rather than a collective one (*farḍ kifāya*) in a manner reminiscent of jihad.

Irrespective of the conceptual frame that one adopted, however, the spectre of political violence was inescapable. In both Jaffa and Tulkarem, the Mufti had supported armed attacks on Palestinian land sellers and middlemen, though such attacks only involved murder beginning in the winter of 1934.<sup>62</sup> Meanwhile, under the leadership of ʿIzz al-Din al-Qassam (d. 1935), the YMMA in Palestine had, since at least the summer of 1932, worked to develop tools of political violence against their Zionist competitors. Neither were the YMMA and al-Qassam acting in a vacuum: the Yishuv’s main military arm, the Haganah, as well as its Revisionist Zionist counterpart, the Irgun, had been smuggling arms from abroad since at least 1929.<sup>63</sup>

Faced with both the territorial and political challenge of land sales and the increasing militarization of political competition, Hajj Amin al-Husayni offered a ruling that both sacralized the land and foregrounded the threat that its sale posed to Muslims. In a pamphlet that would later be distributed widely (Fig. 1), the Mufti framed the sale of “every handspan” (*kull shibr*) of Palestine as a “betrayal of God and His Messenger and [all] Muslims” (*khiyānat Allāh wa-Rasūlihi wa-l-Muslimīn*).<sup>64</sup> The invocation of *khiyāna* is crucial to the Mufti’s argument: while this term had long been used in Islamic law to refer to betrayal or deceit, by the

<sup>59</sup> Ibid.

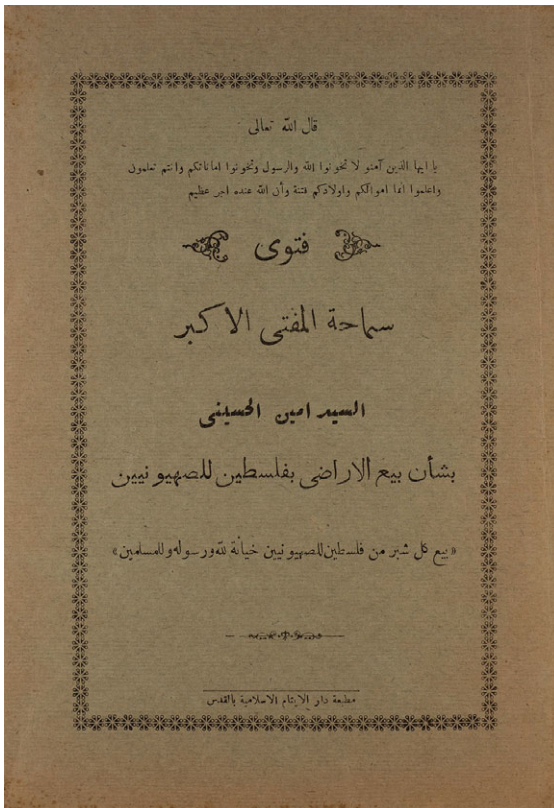
<sup>60</sup> On the legal concept of *mafsada*, see Felicitas Opwis, *Maṣlaḥa and the Purpose of the Law: Islamic Discourse on Legal Change from the 4th/10th to 8th/14th Century* (Leiden: Brill, 2010), 142–73. For Kashif al-Ghitaʿ’s exhortation, see “Fatwa Sharifa bi-Tahrim Baʿi al-Arabi li-l-ʿAdu,” 4.

<sup>61</sup> “Fatwa Jadida min ʿAlim Jalil,” *al-Jamiʿa al-ʿArabiyya*, 1 February 1935, 3.

<sup>62</sup> Cohen, *Army of Shadows*, 62–63.

<sup>63</sup> Sanagan, *Lightning through the Clouds*, 92, 106.

<sup>64</sup> On the distribution of the pamphlet and the Mufti’s declaration, see Hajj Amin al-Husayni, *Fatwa Samahat al-Mufti al-Akbar al-Sayyid Amin al-Husayni bi-Shaʿan Baʿi al-Arabi bi-Falastin li-l-Sihyuniyyin* (Jerusalem: Matbaʿat Dar al-Aytam al-Islamiyya, n.d.), cover. I have found articles from two separate newspapers, dated 27 and 28 January 1935, respectively, which reference the issuing of the fatwa and later debates that assume its existence.



**Figure 1.** The Fatwa of the Grand Mufti al-Sayyid Amin al-Husayni On the Matter of the Sale of Land in Palestine to the Zionists. Pamphlet authored by Hajj Amin al-Husayni and published in Jerusalem by Matba'at Dar al-Aytam al-Islamiyya, ca. 1934–35.

1930s, it also connotated treason to the nationalist cause.<sup>65</sup> The Mufti then argued that Palestine's exceptional status stemmed from the fact that these “holy lands” contain Jerusalem, “the first direction [towards which early Muslims prayed]” and the al-Aqsa Mosque, which is the “third most important mosque for Muslims.”<sup>66</sup>

Moving from territory to religion, the Mufti argued that “selling land to the Zionists leads conclusively to the erasure of Muslims’ influence and the extinguishing of the light of Islam...” As there can be no doubt as to the consequence of land sales, neither can any Palestinian plead ignorance: “[the actions of those] who can [reasonably] anticipate the result [therefore] approve of it, necessitating [a judgment] of disbelief and apostatizing (*al-kufr wa-l-irtidād*) from the religion of God...”<sup>67</sup> Collapsing the distinction between Jerusalem and Palestine as a whole and denying the possibility of good-faith ignorance, the Mufti linked the fate of the territory of Palestine to that of Muslims writ large.

<sup>65</sup> See Frank Vogel, *Saudi Business Law in Practice Laws and Regulations as Applied in the Courts and Judicial Committees of Saudi Arabia* (London: Bloomsbury Publishing, 2019), 249. On the increasingly prominent usage of *khiyāna* as treason in Mandate Palestine, see Cohen, *Army of Shadows*, 45–49.

<sup>66</sup> Al-Aqsa Mosque is considered the third holiest mosque in Islam behind the Masjid al-Haram in Mecca and the Prophet’s Mosque in Medina. The early Muslim community prayed initially towards Jerusalem, before shifting to prayer in the direction of Mecca. See Rubin, *Between Jerusalem and Mecca*, 190–96. This phrasing had also been used six years prior in the context of the 1929 Buraq clashes. See “Bayan ‘amm ‘an Lajnat al-Difa’ ‘an al-Buraq al-Sharif,” *al-Jami’ a al-‘Arabiyya*, 1 November 1928, 6.

<sup>67</sup> al-Husayni, *Fatwa Samahat al-Mufti al-Akbar al-Sayyid Amin al-Husayni*, 2–3.

On January 25, 1935, the Mufti also convened a conference that gathered Islamic scholars and functionaries from throughout Palestine at al-Aqsa Mosque to discuss the challenge of land sales. The fatwa that emerged from this meeting, which was signed by 248 individuals present, did not include the original question, but reiterated the necessity of boycotting land sellers and middlemen through social ostracization in both life and death. Like the Mufti's ruling, this fatwa categorized Palestine as holy and affirmed the judgment of *takfir* based not only on their own reasoning and the Mufti's prior ruling, but also on "fatwas issued [on this topic] in Iraq and Egypt and India and Morocco and Syria and Palestine and other Islamic countries..." Yet, unlike the Mufti's individual ruling, this group conditioned *takfir* on "knowledge of the aforementioned results."<sup>68</sup> In short, within a mere month, the ground underneath land sellers and middlemen had shifted significantly, as a loose-knit transnational coalition of 'ulama' collectively came to the conclusion that land sales constituted *kufir* and that those who engaged in them must be excised from the Muslim community. The implications and efficacy of this shift, as well as the wisdom of assuming bad faith, remained to be assessed.

The next day, Hajj Amin al-Husayni convened another gathering of 'ulama' at Rawdat al-Ma'arif, a private primary and secondary school established in 1906 that offered an alternative to existing religious and secular institutions by inculcating a "nationalist spirit" in its students.<sup>69</sup> In a manner reminiscent of Islamic reformist movements in Egypt during this period, attendees argued that a focus on land sales did not solve the underlying issue, namely, a wave of immorality that had swept Palestine, as youth consumed pornography, adopted atheism, and mocked religion while women engaged in indecent behavior (*al-tabarruj*) in public. The issue posed by land sales, in turn, was a moral one by which individuals worshipped money rather than God and, in the process, enabled the "breakdown of the holy land." Indeed, instead of labeling land sellers and middlemen alone as infidels, the participants in this meeting applied this category to those who facilitated the spread of immorality more broadly.<sup>70</sup>

The focus on public morality reflected a broader trend among a range of Islamic reformist movements in the early 20th century. Such movements posited the centrality of morality to political success and failure, diagnosing their society's political challenges as stemming from the moral ills they associated with cultural Westernization. In Egypt, for example, such concerns were articulated both by the leading Islamist organization, the Muslim Brotherhood, as well as by its Salafi counterpart, the Adherents of the Muhammadan Model (Ansar al-Sunna al-Muhammadiyya).<sup>71</sup> For these Palestinian 'ulama', the solution to land sales was a primarily moral one; by commanding right and forbidding wrong, Muslims would solve political, economic, and social challenges. The article thus addresses 'ulama' and politicians alike: "each one of you must be an obstructing dam to stop the traitorous middlemen and turncoat land sellers (*al-samāsira al-khā'inīn wa-l-bā'a al-māriqīn*)..."<sup>72</sup>

<sup>68</sup> The fatwa was both printed in pamphlet form and detailed in *al-Jami'a al-'Arabiyya*. For the pamphlet, see *Hukm Allah Ta'ala fi al-Ba'a wa-l-Samasira: Majmu'at al-Fatawa al-Khatira allati Asdaruha 'Ulama' al-Muslimin fi Falastin wa-fi Ghayriha min al-Aqtar al-Islamiyya* (Jerusalem: Matba'at Dar al-Aytam al-Islamiyya, n.d.). For the periodical citation, see "Fatwa Sharifa," *al-Jami'a al-'Arabiyya*, 28 January 1935, 4.

<sup>69</sup> Khalidi, *Palestinian Identity*, 49. See also Ela Greenberg, "Majallat Rawdat al-Ma'arif: Constructing Identities within a Boys' School in Mandatory Palestine," *British Journal of Middle Eastern Studies* 35, no. 3 (2008): 80–81.

<sup>70</sup> "Khitab Khatir li-Samahat al-Mufti al-Akbar," *al-Jami'a al-'Arabiyya*, 27 January 1935, 1.

<sup>71</sup> On the Muslim Brotherhood's moral critique of 1930s Egyptian society, see Aaron Rock-Singer, *Practicing Islam in Egypt: Print Media and Islamic Revival* (Cambridge, UK: Cambridge University Press, 2018), 134–37. On Ansar al-Sunna's critique, see Aaron Rock-Singer, *In the Shade of the Sunna: Salafi Piety in the Twentieth-Century Middle East* (Berkeley, CA: University of California Press, 2022), 140–42.

<sup>72</sup> "Khitab Khatir li-Samahat al-Mufti al-Akbar," 1.

A few days later, the Mufti sought to further engage with the question of public morality, again at the lecture hall of Rawdat al-Ma‘arif. In front of a reported crowd of over 400 ‘ulama’, who visually distinguished themselves by donning white turbans, al-Husayni argued that it was land sales that had wreaked havoc on public morality.<sup>73</sup> Following the Mufti, none other than Shaykh Muhammad Sabri al-‘Abidin—here referred to as Sabri Efendi—noted the success of the Tunisian naturalization fatwa and argued that it should be replicated vis-à-vis land sellers and middlemen.<sup>74</sup>

The conference, however, was also concerned with elaborating on the key legal question: why selling land should be considered an act of disbelief. Echoing al-Hilali’s understanding of a Jewish threat to Muslims and the Mufti’s argument that those who sell land assist efforts to erase Islam from Palestine, this group of scholars cited unnamed rulings from across the Middle East and South Asia to argue that the prohibition on selling land and *takfīr* of those who did so was binding on all Palestinians. The analysis of this question also offered linked justifications for this prohibition, including that land sales prevent the establishment of mosques, that they constitute “unfaithfulness” (*lā-amāna*) to God, and involve improperly taking the Jews as “allies” (*awliyā*), with the latter statement reminiscent of the 14th-century scholars Ibn Taymiyya and Ibn Qayyim al-Jawziyya’s emphasis on disassociation from non-Muslims which had more recently been put into practice by the central Arabian reformer Muhammad b. ‘Abd al-Wahhab (d. 1792).<sup>75</sup> In short, while the Mufti shaped the conversation over the implications and roots of land sales, an alternative perspective that framed land sales as a symptom rather than a cause of the breakdown in public morality was clearly present in these conferences.

Neither was immorality the only critique of the Mufti’s focus on *takfīr* of land sellers and middlemen. On January 28, 1935, an article in *al-Sirat al-Mustaqim* raised a new concern: the political implications of the *takfīr* fatwa vis-à-vis the Mandatory government. Specifically, the claim that land sales constitute a threat to Islam, coupled with the criticism of British authorities’ failure to pass a law to ban such sales, raised the question of whether to consider the Mandatory government as “working to destroy Islam” (*‘āmila ‘alā naqd al-Islām*).<sup>76</sup> Left unspoken was the inescapable political reality that it was the Mandatory government that had established the Supreme Muslim Council.<sup>77</sup> Writers in *al-Sirat al-Mustaqim* also raised questions to the effectiveness of the move to *takfīr*, describing these rulings as “insufficient... because not all landowners who seek to sell their land and middlemen are pious and God-fearing,” thus rendering the threat of both punishment in the world to come and banishment from Muslim cemeteries an empty one. Instead of relying on fatwas to dissuade land sales, they called on the Supreme Muslim Council to establish an economic enterprise to fund such purchases.<sup>78</sup>

Indeed, the ambivalence over *takfīr* persisted even in the contributions of Muhammad Sabri al-‘Abidin. In a letter that appeared in the February 3, 1935 issue, this scholar and activist chose to label land sellers “hypocrites” (*munāfiqūn*) rather than infidels (*kuffār*), with the former connoting individuals who appear to be Muslim externally yet reject Islam internally.<sup>79</sup> Notwithstanding the moral opprobrium attached to this label—Qur’an 4:145

<sup>73</sup> Ijtima‘ ‘Azim li-l-‘Ulama’ al-Muslimin fi Falastin,” *al-Jami‘a al-‘Arabiyya*, 27 January 1935, 3.

<sup>74</sup> Ibid. Al-‘Abidin had previously been referred to as “Sabri Effendi.” See “Madrasat al-Islah,” *al-Jami‘a al-‘Arabiyya*, 14 February 1929, 3.

<sup>75</sup> “Muqarrarat Hama li-Mu‘tamar ‘Ulama’ al-Din al-Awwal fi Falastin,” *al-Jami‘a al-‘Arabiyya*, 28 January 1935, 4. For the historical precedents to this statement, see Bunzel, *Wahhābism*, 166–70.

<sup>76</sup> “Ijtima‘ ‘Ulama’ al-Din,” *al-Sirat al-Mustaqim*, 28 January 1935, 2.

<sup>77</sup> Kramer, *A History of Palestine*, 221–22.

<sup>78</sup> “Al-Fatawa Ghayr Kafīya,” *al-Sirat al-Mustaqim*, 31 January 1935, 1.

<sup>79</sup> “Bayan Warada ‘ala al-Jami‘a al-Islamiyya,” *al-Jami‘a al-‘Arabiyya*, 3 February 1935, 2.

states that “the Hypocrites will be in the lowest depths of hellfire” (*inna al-munāfiqīn fī al-dark al-asfal min al-nār*)—such individuals are generally, as a legal matter, still considered to be Muslims.<sup>80</sup> Similarly, in a February 11, 1935 article, al-‘Abidin reproduced rulings by Muhammad Sulayman al-Qadiri al-Jishti and Rashid Rida. While al-Jishti endorsed prior *takfīr* rulings—declaring that land sellers and middlemen will reside in “hellfire” (*fī nār Jahannam*)—Rida called for land sellers and middlemen to be ostracized, but stopped short of declaring them outside the bounds of Islam.<sup>81</sup> In sum, even as al-‘Abidin represented a key driver of the debate over *takfīr*, his own contributions to *al-Jami‘a al-‘Arabiyya* in early February 1935 reflected an ambivalence as to whether excommunication was the most appropriate or effective remedy.

Yet, notwithstanding the debate around whether *takfīr* was an appropriate and effective tool to resolve the challenge of land sales, such transactions persisted. Indeed, the level of sales between January and June 1935 had risen by 58 percent compared to the previous six-month period.<sup>82</sup> Moreover, even as the threat of excommunication was now on the table, those engaged in land sale appear to have adapted. A March 26, 1935 statement in *al-Jami‘a al-‘Arabiyya*, issued by the body within the Supreme Muslim Council that regulated Islamic education and preaching, reported that land sellers and middlemen continued to deceive fellow Palestinians, claiming that they were purchasing the land for themselves “as Muslims and Arabs,” before then turning around and selling the land to Zionist buyers.<sup>83</sup> The Mufti and the Supreme Muslim Council also appear to have been concerned about the public perception of the fatwa. A statement that appeared in the April 24, 1935 edition of *al-Jami‘a al-‘Arabiyya* asserted the success of this ruling even as it noted that unnamed competing publications had sought to downplay its positive effect.<sup>84</sup>

Neither could the reconceptualization of land retention as a religious duty resolve the fact that Palestinians sold land for far more prosaic reasons. An April 30, 1935 article in *al-Jami‘a al-‘Arabiyya* chronicles the Mufti’s visit to the village of Nahalin, near Bethlehem, whose inhabitants were apparently known for their “religious commitment.” The paper reported that, despite such piety, middlemen had been able to take advantage of old enmities within the village to purchase several plots of land owned by fleeing residents.<sup>85</sup> While the Mufti brought ‘ulama’ to the village to emphasize the linkage between land sales and piety, the absence of a body that could afford to purchase such land meant that local conflicts and motives would continue to drive land sales. In short, it does not appear that *takfīr* of land sellers and middlemen accomplished its goals, though it did leave a significant legacy for Muslims within and beyond Palestine.

<sup>80</sup> While the Qur’anic understanding of *munāfiqūn* can equate them with infidels (*kuffār*), Sunni and Shi‘i scholars tended to distinguish the two. For example, the Sunni Persian scholar al-Zamakhshari declared “fight the *kuffār* [with the sword] and the *munāfiqūn* [with argument].” See A. Brockett, “*al-Munāfiqūn*,” in *Encyclopaedia of Islam New Edition Online*, ed. P. Bearman (EI-2 English), available at [https://doi.org/10.1163/1573-3912\\_islam\\_COM\\_0795](https://doi.org/10.1163/1573-3912_islam_COM_0795).

<sup>81</sup> “Fatwatan Khatiratan,” *al-Jami‘a al-‘Arabiyya*, 11 February 1935, 3.

<sup>82</sup> Stein, *The Land Question in Palestine*, 181.

<sup>83</sup> On the role of the Supreme Muslim Council in regulating Islamic preaching in Mandate Palestine, see Kupferschmidt, *The Supreme Muslim Council*, 149. On efforts to counteract missionary schools through preaching, see *Nida‘ila al-Muslimin bi-l-Tahdhir min al-Madaris al-Tabshiriyya* (Jerusalem: Dar al-Aytam al-Islamiyya, n.d.). For the statement regarding land purchases, see “Bayan min Da‘irat al-Ma‘ahid al-Diniyya bi-Falastin,” *al-Jami‘a al-‘Arabiyya*, 26 March 1935, 5.

<sup>84</sup> “Juhud Mu‘tamar ‘Ulama’ Falastin,” *al-Jami‘a al-‘Arabiyya*, 24 April 1935, 2. For a similar complaint, see “Qiyam al-‘Ulama’ bi-Wajibihim,” *ibid.*

<sup>85</sup> “Juhud Samahat al-Mufti al-Akbar,” *ibid.*, 30 April 1935. On the varied reasons that Palestinians sold land, see also Cohen, *Army of Shadows*, 67–92.



## Conclusion

Between 1929 and 1935, Palestinian Muslim scholars and activists, in conversation with counterparts across the Middle East and South Asia, introduced a radically new understanding of *takfīr* that conflated nationalist allegiance and religious fidelity. This shift, which constituted a significant departure from prior bases for excommunication even as it drew on exclusivist components of the premodern Islamic tradition, reflected and reinforced the linkage between religious and political identity produced by colonial rule and transformed excommunication into a powerful form of political critique in an age of mass politics. Far from a story of an underlying “Islamic radicalism” which reemerged in a time of pressure, this is a story of a variety of external drivers—nationalism, colonial rule, and the financial temptations of an inflated real estate market—that necessitated a drastic solution which could distinguish not merely Muslims from non-Muslims, but Muslims committed to the nationalist project from those who were not.

This alternative history to the origins of 20th-century *takfīr* alters how we understand the significance of Sayyid Qutb and the Muslim Brotherhood’s experience under Gamal Abdel Nasser’s secular nationalist authoritarianism (1954–70). On an empirical level, this is a story that locates the origins of one of the most important developments of modern Islam two decades prior, in a different country. On a conceptual level, *takfīr* is often understood to be a hardline theological position that is adopted by individuals or groups intellectually and culturally alienated from the societies in which they live. By contrast, the proponents of such excommunication in 1930s Palestine stood in the mainstream and sought to solve a fundamental challenge that they and their society faced. If their position opened the possibility of social banishment or even political violence, such possibilities reflected the lived realities of colonial rule and Palestinian-Zionist competition. Yet, it would also be a mistake to locate *takfīr* as it is practiced today solely in the debates of 1930s Palestine; the later developments in Egypt build on the linkage between creed and nationalist community, providing the broader intellectual architecture for a black-and-white religious vision that narrows the scope of natural difference, let alone legitimate disagreement.

Just as importantly, the story of *takfīr* holds lessons for the study of Mandate Palestine more broadly. Prior scholarship has rightly emphasized the process by which nationalism emerged and communal boundaries, Palestinian and Zionist, hardened. In this article, in turn, I show that the emergence of Palestinian nationalism was intimately linked to a transnational network of Islamic reform whose members reckoned with the relationship between law and politics in the Islamic tradition. By tracing these networks, this article identifies specific experiences of colonial rule that brought the question of excommunication to the fore across the Middle East and South Asia, the centrality of debates over Islamic law to Palestinian history, and the environmental conditions that drove major shifts in modern Islam across a vast geographic expanse. At the intersection of pan-Islamic networks, colonial rule, and pressing political, social, and economic challenges, a distinctly modern religio-political weapon of critique emerged.

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