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THE MIGRATION OF RESISTANCE AND SOLIDARITY: ‘ABD AL-QĀDIR AL-JAZA’IRI’S PROMOTION OF HIJRA¹

Abstract

This paper examines how Algerian resistance figure al-Amir ‘Abd al-Qādir (1808–1883) promoted migration by tying it to proper Islamic practice and to Muslim solidarity. The analysis illustrates how ‘Abd al-Qādir mapped out his world and understood the fight he was leading beyond anachronistic nationalist narratives. This is achieved by reading his legal ruling alongside primary sources from the same period. The amir is shown to be both a political strategist who used Islamic concepts to mobilize the population in his vicinity and a thinker whose rhetoric gave meaning to migration.



When the angels take away from their bodies the souls of those who have wronged themselves, they will ask them, "How did you live?" They will reply, "We lived on earth in weakness and oppression." The angels will say, "Was not God's land vast enough for you to go wherever you could live in peace?" (Qur'an 4:97)

NEW BOUNDARIES: MIGRATION STUDIES AND ISLAMIC TEXTS
While Migration Studies has made strides in considering movement beyond the model of nation-state borders,² there is still a gap in the conceptual history of migration from before colonization. This is an area where texts normally considered the purview of Islamic Studies can enrich the field with new geographic concepts and a more expansive historical trajectory. Texts including epistles, legal rulings, and travelogues reveal how North African and Middle Eastern leaders and literati gave meaning to migration during different moments in history. Although the terms through which migration was understood and interpreted in the precolonial period were derived from faith traditions, this does not make such texts less intellectual or political. In fact, they offer unique access into how historical actors understood migration during several critical periods, including on the eve of colonialization.

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This paper demonstrates how North African scholar and anticolonial resistance leader al-Amir ‘Abd al-Qādir al-Jazā’irī (1808–1883) tied migration to resistance and solidarity by evoking the Islamic concept of hijra. ‘Abd al-Qādir was not the first Maghribi (North African) scholar to associate hijra – meaning migration out of territory ruled by non-Muslims – with social and spiritual redemption.³ However, as I will show, his fatwa arguing for hijra as an absolute duty stood out in the context of the nineteenth century. It marked him as the leading figure of resistance among other North African scholars’ calls for Muslims to accept foreign rule or to focus solely on the continuation of religious rites.

Al-Amir ‘Abd al-Qādir held multiple, complementary roles over the course of his life. During times of war, he was western Algeria’s primary military strategist. As a statesman, he influenced the geopolitical boundaries of his time through the two treaties he negotiated with the French, as well as his campaign to facilitate hijra. In his texts, he then actively shaped the meanings given to these changing geographies. In a context of massive political upheaval, ‘Abd al-Qādir asserted strong boundaries of religious belonging and made migration out of enemy-controlled lands the only means of social and spiritual preservation. His ruling reveals that geographic concepts which are now taken for granted – such as the entities of France and Europe – were not part of the precolonial schema; the boundaries which mattered were those of religious jurisdiction. While Arabic and Islamic thought from this period is often framed in terms of reform or revival via focus on the Nahda movement, the *amir* did not attempt to reform ideas around territory and migration. He looked instead to how these categories had previously informed Muslims’ migrations and then applied them to the circumstances of his time. He did so using examples from Islamic history, thereby tying his struggle to a longer tradition and also actively preserving this inheritance in the face of political threat.

This leads to the question of sources. Although postcolonial histories of the nineteenth century provide useful social and political context, it is difficult to escape their centering of nation-state development. Al-Amir ‘Abd al-Qādir, for example, has been transformed into an independence symbol and his emirate is often framed as a predecessor to the nation.⁴ While multiple readings of ‘Abd al-Qādir’s legacy add to its overall richness, this nationalist framing overrides his own conceptions of territory, political boundaries, and migration. By contrast, reading his text alongside the works of those

who actually lived through the colonial invasions offers direct access to how migration and asylum were understood at the time. Thus, this paper's methodology is to place 'Abd al-Qādir's fatwa on hijra in the context of a larger Maghribi dialogue around Muslims' duty either to wage jihad against foreign invaders and/or to emigrate from under their rule. After reviewing this dialogue, the paper moves to a brief biographical overview which includes the points at which the amir sought fatwas from other authorities and the circumstances which led him to write his own. As the ruling shows, migration was not meant as a passive disengagement from conflict. On the eve of colonialism, hijra became an expression of Muslim solidarity and a means to resist the violent enforcement of outsiders' political and cultural norms.

TO FIGHT, FLEE, OR FOLD: THE TERMS OF THE HIJRA AND JIHAD DEBATES

As mentioned previously, al-Amir 'Abd al-Qādir wrote his ruling as part of a larger Islamic dialogue around the proper response to the colonial threat. Anxieties regarding living among non-Muslims or under their authority shaped textual production *and* political action throughout this period. This is particularly true in the context of North Africa, where colonized and uncolonized regions sat side by side for decades, allowing for the possibility of migration out of newly conquered lands. The nineteenth-century dialogue was, in turn, built upon previous Islamic texts. The concept of hijra was already a strong component of the North African cultural memory, given the history of Muslim Iberia, Portuguese settlements on the Moroccan coast, and Muslim Sicily. Hijra was then revisited in the context of the colonial invasions, particularly after the fall of Algiers in 1830. Scholars in Fez, Algiers, and elsewhere revisited Muslim-Christian relations in Islamic law, including the status and rights of Muslims living under Christian rule and whether they must migrate.

Hijra is mentioned several times in the Qur'an, and is embodied in the sunna by the Prophet's migration from Mecca to Medina.⁵ Although the terms *dar al-Harb* (the domain of war) and *dar al-Islam* (the domain of peace) are not used in the Qur'an, they appear in the Islamic archive starting with ninth-century exegesis works, particularly *Jāmi' al-bayān fī tafsīr al-Qur'ān* (Comprehensive Exposition of the Interpretation of the Qur'an) by the Abbasid era scholar al-Ṭabarī (d. 923). The terms *bilād al-muslimin* or *bilād al-Islam* are also sometimes used instead of *dar al-Islam* in the legal literature of Muslim North and West Africa, where the Maliki school dominates. As *bilād* terms

denoting regions such as *bilād al-sudan* or *bilād al-sham* show, using *bilād* gives a sense of loose affiliation based on proximity as opposed to a coherent territory under one rule.

Only slightly before ‘Abd al-Qādir’s time, hijra was employed in the state-building undertaken by another Sufi warrior: Usman Dan Fodio (1754–1817) of Northern Nigeria.⁶ There are several parallels between the life and texts of Dan Fodio and that of al-Amir ‘Abd al-Qādir. Although Dan Fodio was fighting adjacent African polities and not a colonial invasion, his jihad was launched from a roving military camp similar to the amir’s *smala*.⁷ Both men used the Qur’an, the hadith, and the Maliki archive to argue that hijra was an absolute duty, and then in turn used hijra to promote solidarity with their campaigns. ‘Abd al-Qādir even makes some points similar to those made by Dan Fodio in the latter’s 1806 epistle *Bayān Wujub al-Hijra ‘ala al-Ibād* (Exposition of the Obligation of Emigration Upon God’s Servants). Like the amir, Dan Fodio asserts that it is only acceptable for Muslims to live in a land if it is under Islamic rule.⁸ The implication was that all Muslims within his vicinity needed to show solidarity with their feet and migrate into his territory.

Although Dan Fodio represents an interesting precedent, not every nineteenth-century scholar focused on Islamic rule as the defining factor in where Muslims can live, or connected migration with solidarity, or even called for a jihad against the colonizers. For example, Muḥammad ibn al-Shāhid (d. 1837) was the mufti of Algiers when it fell to the French, and his fatwa on hijra focuses on the ability to perform religious rites rather than on the presence of an Islamic ruler. He also implies that solidarity can mean remaining with other Muslims in an occupied territory. In his ruling, Ibn al-Shāhid asserts to his unnamed opponents – scholars who proposed the excommunication of Muslims willingly living under French rule – that “We do not submit that this verse [Qur’an 4:97] points to the unconditional obligation of hijra, but rather to the obligation of hijra upon he who cannot practice his religion.”⁹ Ibn al-Shāhid then explains that even for Muslims who could not practice their religion and do not fall under the Qur’anic exemption of the weak (*mustaḍ‘afīn*), their failure to perform hijra is at most disobedience to God and still not grounds for excommunication (*takfir*).¹⁰ After making the indignant assertion that his interlocutors’ takfir of the ‘ulama’ of Algiers equally excommunicates the noble ‘ulama’ of Cairo, Ibn al-Shāhid presents an original justification against migration:

For the 'ulama' are like the doctors of the masses' faith. If we imagined that they made hijra and moved away, then the common people would not find one to remedy their faith and they may fall into unbelief. For that reason [the 'ulama' of Al-Azhar] disregarded hijra – may God be pleased with them – and the reason they disregarded it is the reason our 'ulama' disregarded it.¹¹

Clearly Ibn al-Shāhid was defending his own decision to remain in Algiers, as well as that of his associates. He does so by placing more importance on the day-to-day social reality of Muslims than on the political or judicial structures they live under. While he concedes that the occupiers destroyed some mosques, he points out that the Muslims of Algiers are still sounding the call to prayer and worshipping as required.¹² He also dedicates a lot of space to warning his interlocutors against defaming other Muslims, and makes this a bigger breach of solidarity than neglecting hijra. On top of these aspects, Ibn al-Shāhid defends the 'ulama' in particular by stating that they must remain among Muslims in occupied territories so that they will not stray into unbelief. This version of solidarity does not call for migration out of foreign-controlled lands or resistance to non-Muslim occupiers, as a Muslim ruler is not seen as a requirement. It is worth noting, however, that Ibn al-Shāhid never actually argues that he is living within *dar al-Islam*. When he rebukes his opponents, he does so by reminding them that they should be “of the practical scholars of the umma,” and the concept of *umma* is used both for its emotional resonance and because it is not tied to a specific, bounded geography or associated with an Islamic political structure.¹³

Even after the rest of Algeria was conquered, the debate around hijra continued. Fez-based jurist al-Shaikh al-Mahdī al-Wazzānī (1850–1923) reinterpreted an influential Maliki fatwa by Ahmad al-Wansharīsī (d. 1508) outlawing residence in *dar al-Harb*.¹⁴ In a bid to maintain the Moroccan sultan's air of legitimacy despite increasing European interference, al-Wazzānī disputed al-Wansharīsī and argued for a more flexible definition of *bilād al-Islam*. He evoked “the opinion held by some scholars that bilād al-Islam does not become dar al-harb at the very moment [bi-mujarrad] the infidels capture it. Rather, with the rupture [inqita'] of Islamic rites [sha'a'ir al-Islam] and as long as the Islamic rites or most of them continue, it does not become dar al-harb.”¹⁵ As with Ibn al-Shāhid's fatwa, al-Wazzānī's use of *bilād* (lands

of) instead of *dar* (domain of) still subtly concedes that this territory is not within Islam's *dominion*, even if it is not fully enemy territory either.

Through reading this fatwa in conjunction with Dan Fodio's and Ibn al-Shāhid's, the terms of the debate on hijra become clear. While, on the one hand, there were those who focused on the necessity of Islamic rule for proper Islamic practice, on the other were scholars who focused on the continuation of religious rituals in everyday life. Both camps looked to Maliki legal precedence to make their arguments. While interpretations of the Qur'anic verse 4:97 (quoted at the beginning of this article) could vary, there was no variance in considering it vital to the discussion. All three rulings also cite al-Wansharī, even if it is in order to refute him.

As al-Amir 'Abd al-Qādir's call for hijra was closely tied to his resistance movement, the period's dialogue around jihad merits review. As historians such as Julia Clancy-Smith and David Robinson have demonstrated,¹⁶ North African political responses to colonialism varied greatly and often included forms of concession or accommodation. Similar to the discourse around hijra there was not a unifying, monolithic understanding of whether jihad was obligatory or desirable. However, even the rulings against armed resistance emphasized the necessity of Muslim solidarity for waging jihad. For example, the Fez-based jurist al-Shaikh 'Alī al-Simlālī (d. 1925) pointed to the internal divisions in Morocco as evidence that a resistance campaign would not succeed, and mentions both the lack of unity among the tribes and the divided loyalties of Moroccans under the protection of European consulates.¹⁷ His associate Aḥmad ibn Khalīd al-Nāṣirī (1834–97) also provided legal warning against undertaking jihad, pointing to Morocco's defeats at both the Battle of Isly (1844) and the Battle of Tétouan (1860) before alluding to the divided nature of Morocco. He states that the Muslims must be as "one hand" in order to win the war.¹⁸

When al-Amir 'Abd al-Qādir wrote about hijra and solidarity, he was neither entirely original in his argument nor merely a passive transmitter of tradition. The terms of the debate were set by other scholars and, importantly, by the Maliki legal corpus and the larger Islamic archive. Yet, the amir also used these concepts to make a specific intervention in the wider dialogue, and he drew conclusions contrary to that of many other scholars. Before showing how he tied migration to solidarity and resistance, it is important to understand the outlines of his jihad.

‘ABD AL-QADIR’S JIHAD OF THE PEN AND THE SWORD

As text and resistance were closely intertwined in the Maghrib during this period, this section constitutes a brief review of al-Amir ‘Abd al-Qādir’s life and legacy, including his participation in the larger legal dialogue. ‘Abd al-Qādir bin Muḥyī al-Dīn was born in the village of El Guettana in the Mascara province of Algeria the year 1808. His father Muḥyī al-Dīn led the local branch of the Qādirīyya Sufi brotherhood, a position of both spiritual authority and temporal power. Genealogy was an important political tool in the Maghrib, and the family claimed descent from the Prophet Muhammad through the Idrisid founders of Fez.¹⁹ This lineage later helped ‘Abd al-Qādir tie his jihad to the Moroccan sultan’s dynasty, as the royal family also claimed Sharif status through the Idrisid line.²⁰ Algeria was under Ottoman rule during ‘Abd al-Qādir’s early life, and the western region had a considerable history of Sufi-led rebellions against the Ottoman bey.²¹ Thus, while Muḥyī al-Dīn may not have anticipated the French invasion, he was likely grooming his son to lead an uprising of some kind. Muḥyī al-Dīn laid the groundwork for ‘Abd al-Qādir’s ascendance after the two returned from their pilgrimage to Mecca. Stories then circulated of how Muḥyī al-Dīn had received divine visions of his son becoming sultan at the grave of Sufi saint ‘Abd al-Qādir al-Jilanī in Baghdad.²² Such Sufi visions and miracle tales were another form of political legitimacy in the precolonial Maghrib,²³ and this particular vision was confirmed by another noble of the province.²⁴ Then, shortly after ‘Abd al-Qādir and Muḥyī al-Dīn’s return from Mecca, the French captured Algiers.²⁵

The fall of Algiers led to a power vacuum in western Algeria and, at the request of the ‘ulama’ of Tlemcen, the Moroccan Sultan Mawlay ‘Abd al-Raḥman (r. 1822–1859) sent a delegation to accept their oath of loyalty and incorporate the city into his dominion. The ‘ulama’ of Fez, however, warned the sultan against accepting territory under Ottoman jurisdiction and ultimately the occupation was short-lived. Despite its brevity, this event had important implications for ‘Abd al-Qādir’s political career. The sultan named Muḥyī al-Dīn his khalifa and the inheritor of the jihad after he withdrew, but Muḥyī al-Dīn was wary of taking on this responsibility in his old age. When local tribes then offered him an oath of loyalty, he suggested they follow his son ‘Abd al-Qādir in his place. ‘Abd al-Qādir was officiated in 1832 and led a procession to Mascara where he was ceremonially installed in the Ottoman bey’s former residence. He soon subdued the most rebellious

tribes and captured nearby Tlemcen. Internal strife remained a feature of western Algeria and ‘Abd al-Qādir continually referred to the problem of dissenting factions in his correspondence and texts.

Shortly after coming to power, the *amir* began to solicit the General Desmichels regarding a treaty. He also reached out to the Moroccan sultan, who eventually replied with gifts and supplies in 1834. The Desmichels Treaty of the same year meant French recognition of the amir’s sovereignty over the interior of western Algeria.²⁶ The treaty was ‘Abd al-Qādir’s first chance to implement his stance on hijra: one of its conditions was that Algerians living in French-controlled territory could elect to migrate to his emirate. Particularly influential to the amir’s career, however, was the 1837 Treaty of Tafna. For the two years following this treaty’s ratification, he focused on state-building and even approached outside nations for recognition of his emirate. It was also in this period that he corresponded with Islamic legal experts regarding the proper way to respond to internal rebellions. These exchanges would lay the groundwork for him to later make his own argument for the necessity of hijra.

In 1835, two years before ‘Abd al-Qādir first corresponded with Islamic scholars, General Camille Alphonse Trézel took the reins from General Desmichels and promptly broke his predecessor’s treaty. Not only did Trézel enter into an agreement with the Dawayir and Zamala tribes which put them under his jurisdiction and compelled them to aid his raids, the general also wrote to ‘Abd al-Qādir demanding that he relinquish sovereignty over them.²⁷ Although ‘Abd al-Qādir defeated Trézel at the battle of the Maqta and Trézel was subsequently dismissed, ‘Abd al-Qādir remained wary of Algerian collaborators. He had other internal enemies as well, such as the Borjia tribe which assassinated one of his tax collectors.²⁸ He was even betrayed by his own tribe after the French temporarily seized Mascara. Before bringing Islamic boundaries into writing, he enforced them with his speeches and policies. For example, after reentering Mascara in 1835, he made the residents evacuate their town for forty-eight days and admonished them: “I shall never enter, except for praying in a mosque, any town which you abandoned to be polluted by the Christians. Know also that I shall punish with death any individual entering relations with the enemy.”²⁹

Thus, during an interlude of peace with the French, the amir approached the Moroccan authorities for textual support of his right to draw new lines on the Maghribi map and to use force against Muslims who failed to uphold them. In this 1837 *istiftā’* (request for a ruling), the

amir emphasizes his desire to take the Islamically sound course of action regarding rebellious factions within his sphere—a topic the Moroccan rulers had extensive experience with from their efforts to exert authority in tribal regions or *bilād al-siba*.³⁰ The sultan, in turn, presented these questions to the Fez-based jurist ‘Alī ibn ‘Abd al-Salām al-Tassūlī (d. 1842), who responded with a lengthy text covering how the rebellious tribes were dealt with historically, guidance on punishing spies and usurpers, items which Muslims cannot sell to Christians, and why the imam must not turn a blind eye when his subjects are sinning.³¹ Al-Tassūlī cautions his reader that the tribes operate on a principle of *‘asabiya* (tribal solidarity) instead of the rule of sharia, and so they will protect the sinner among them. Thus, the ruling’s essence is that when Muslims do not embody solidarity and respect religious boundaries in various social spheres, they not only *can* be punished but *should* be punished. It also endorsed hijra as the proper response to an infidel invasion, with exemptions for those who are very ill.³²

Around this time ‘Abd al-Qādir started disseminating an unwritten call for hijra, but he was not yet framing it as an absolute duty for all Muslims. He dispatched representatives to French-controlled towns where they offered housing and subsistence to families who agreed to leave. His emissary Mawlūd bin ‘Araṣh spent most of his February 1838 visit to Algiers trying to coax the city’s leaders to emigrate. ‘Abd al-Qādir even told the French governor-general of Algiers that he would pay off the debts of any of the city’s residents who wished to make hijra. At least 700 Algerians moved from Algiers to Abd al-Qādir’s territory that year.³³

When the peace negotiated between ‘Abd al-Qādir and the French military started falling apart in 1839—partly due to more tribes entering under French protection—the amir then sought new authorization from Fez. In this *istiftā’*, ‘Abd al-Qādir explains his situation in much more detail than in his first request. His description of Muslim defectors paints a picture of high stakes requiring decisive action:

Peace and God’s blessings upon you. What is God’s rule regarding those who entered into obedience under the infidel enemy by their choice, promoted him and aided him, and [now] fight Muslims with him? They take a salary like the members of his soldiery, and make plain their audacity towards the

Muslims, and make it a sign upon their chests that they call “letter” with a picture of the [infidels’] King! Are they apostates? And if your response says they are, will they [be forced to] repent, or not? What is the ruling regarding their women, are they like their men or not? If you say they are like their men, must they also repent or else be killed or enslaved, as it was passed on from Ibn al-Majīshūn, or not?³⁴

‘Abd al-Qādir’s initial request makes plain that he is contemplating harsh consequences for Algerians who betray his cause. In addition to a second and confirmatory response from al-Tassūlī, the Qadi Mawlāy ‘Abd al-Hādī (d. 1855) also issued a fatwa. Although ‘Abd al-Hādī addresses ‘Abd al-Qādir as amir and as leader of the jihad, he gives the amir little leeway to unite those under his jurisdiction by force. Instead of emphasizing the imam’s duty to punish spies and traitors as did al-Tassūlī, ‘Abd al-Hādī recommends confiscating suspected rebels’ weapons but not their wealth. ‘Abd al-Hādī also reminds ‘Abd al-Qādir of the strict standards that need to be met in order to accuse other Muslims of apostasy:

For al-Ghazālī said in his book *The Difference Between Faith and Unbelief* [that] what is needed is caution in declaring apostasy and what is found to its path, as desecrating the congregation that believes in God’s Oneness is an error. And the error in neglecting excommunication is lesser than the error of a Muslim’s blood.³⁵

In this excerpt, what it means to be a Muslim becomes less tied to political actions and almost solely dependent on belief. The ruling also ties the amir’s hands by making it more important to avoid libeling a believer than to address a believer’s breach of solidarity. Without the authority to banish rebellious factions from the Muslim sphere or forcefully bring them into it, ‘Abd al-Qādir would lose his ability to maintain and defend his emirate. It is at this point that ‘Abd al-Qādir wrote his fatwa urging Muslims to leave French-controlled territory and join his state which, by implication, meant supporting his jihad either through paying war taxes or joining his corps.

As the French advanced, ‘Abd al-Qādir moved onto Moroccan territory and started to gather support from tribes in Oudja and then in the Rif region. France attacked Morocco in retaliation for sheltering

‘Abd al-Qādir, and Morocco lost the Battle of Isly in 1844. The Moroccan court then started to use rhetoric around *fasad* (corruption) to deflect blame from the sultan and towards the supposedly disloyal elements within Morocco, including al-Amir ‘Abd al-Qādir.³⁶ After the Moroccan sultan sent ‘Abd al-Qādir an ultimatum, he decided to surrender to the French in 1847. While he was promised safe passage to the Middle East if he gave himself up, the amir and his entourage were instead imprisoned in France for four years. At this point ‘Abd al-Qādir lived by his words: just as he insisted in his fatwa that Muslims must live under Islamic rule, he refused offers of a handsome estate in France, citing his duty to live and pray among Muslims.³⁷

Al-Amir ‘Abd al-Qādir wrote an autobiography while imprisoned, as well as the bulk of a philosophical treatise.³⁸ After ‘Abd al-Qādir was released, he contacted La Société Asiatique about translating the latter, and it was published as *Le livre d'Abd-el-Kader intitulé: Rappel à l'intelligent, avis à l'indifférent* (Abd-el-Kader's Book Titled: Reminding the Intelligent, Alerting the Negligent) in 1858. After a couple of years in the Ottoman Turkish city of Bursa, he eventually settled in Damascus, where he taught at the Umayyad mosque. It was during this final period that he wrote his most lengthy and well-known text, *Kitāb al-Mawāqif* (The Book of Stations).³⁹ Although his Sufi thought has been studied extensively, his other letters have not received as much attention.⁴⁰ His fatwa is a unique source in that it reflects how the amir understood migration and Muslim solidarity while he was in the midst of fighting the French. It is also his only text to treat the subject of migration in-depth, although he briefly alludes to Algerian scholars' call to migrate in his autobiography.⁴¹

‘ABD AL-QADIR'S MESSAGE: HIJRA IS THE ONLY MEANS TO REDEMPTION

‘Abd al-Qādir's exact motivation for composing his own fatwa is unclear. Although he was likely unsatisfied with the ruling sent to him by the Qadi Mawlāy 'Abd al-Hādī, the amir had appointed judges within his own emirate by this time and could have solicited a ruling from one of them.⁴² The ruling is included in the biography written by ‘Abd al-Qādir's son under the heading "That which the amir wrote in answer to a question put to him by certain persons of distinction,"⁴³ implying that the amir received an *istiftā'*. He also opens the fatwa with "Dear brother, I saw how parched you were to hear what is needed of words about those who gathered to the enemy, and so I would like to mention what has been said about them."⁴⁴ Apparently other notables

saw ‘Abd al-Qādir’s ruling as legally valid, as this fatwa was later used by al-Shaikh Qaddūr ibn Ruwīla (d. 1856) and the Mufti ‘Alī ibn al-Ḥaffāf (d. 1890) to accuse Muslims dwelling in French territory of unbelief.⁴⁵ There exists at least one manuscript copy of the ruling in Rabat, Morocco under the title *Ḥusām al-dīn li-qaṭ’ shibh al-murtaddīn* (The Sword of Religion to Cut the Apostates).⁴⁶ For this article, I rely on the reproduction of the fatwa included in the aforementioned biography *Tuḥfat al-zaʿīr fī tārikh al-Jazaʿir wa-al-Amir ‘Abd al-Qādir* (The Visitor’s Gem from the History of Algeria and Amir ‘Abd al-Qādir), but refer to the text using a shortened version of the original title: *Ḥusām al-dīn*.

The amir’s ruling offers a window into how he mapped out his world and conceptualized the fight he was leading. Despite his hostility towards the Tijānīyya Sufi brotherhood, there is no mention of different Sufi orders.⁴⁷ This shows that al-Amīr ‘Abd al-Qādir drew lines on the basis of resistance versus accommodation, not on the basis of different branches of Sufism. ‘Abd al-Qādir avoids anything close to national designations other than a single mention of *Ahl al-Jazaʿir* (the people of Algeria) and of *Muḥaqqiqīn Tuṅnis* (the magistrates of Tunisia). He does not use the terms Europeans, colonizers, or Franks. In fact, it is not until after the failure of his state and his forced retreat into Morocco that he complains of “al-Fransīs” in a letter to the Mufti Muḥammad ‘Ulaysh in Egypt.⁴⁸ Although ‘Abd al-Qādir previously lamented the state of “waṭan al-jazaʿir” in his *istiftā’* to al-Tassulī,⁴⁹ he does not name any particular *waṭan* (homeland) in his own fatwa. ‘Abd al-Qādir only uses the term in the context of what not to place above religion, stating:

There are two types of men who will enter under the protection of the unbelievers: the one who lies to God to ensure his worldly blessings—may God protect us from his ingratitude and insanity—and says, “I will die of hunger if I emigrate.” This makes him more apprehensive, as he thinks that his homeland [*waṭan*] is his provider [*rāzaqahu*] and not his Creator...or the man who is greedy for this world [*al-dunya*] and his love for it has made him blind and deaf, so he wants to succeed in it whether by Islam or by unbelief.⁵⁰

By not including any social markers other than the religious, he implicitly emphasizes that this is the only social boundary Maghribis

need to consider. He then ties a love for the homeland with a love for this world, arguing that an undue attachment to either shows weakness of faith. It is not the homeland that provides, and thus there is no reason to fear leaving it. In fact, to think of the homeland as the provider is to commit idolatry as *al-Rāzaq* (the Provider) is one of God's names. He then reminds Muslims that, in the Prophet's time, when the fear of migration passed over the hearts of the believers, God sent down his verse: "And how many an animal there is that beareth not its own provision! Allah provideth for it and for you" (Qur'an 29:60). Building on this argument against attachment to the land, al-Amir 'Abd al-Qādir then refutes more potential reasons for not migrating.

Al-Amīr 'Abd al-Qādir systematically rejects excuses for not performing hijra, stating that neither men who cannot afford to bring their families with them nor women whose husbands have not made hijra are exempt. The Amīr asks: did not the Prophet perform hijra before he could bring his people with him? Were there not many women who made the first hijra to Abyssinia without their husbands? Taking a much more narrow interpretation of *al-mustaḍ'afīn* than the mufti of Algiers, 'Abd al-Qādir states that Muslims with physical disabilities are only excused until they can find a guide to aid them.⁵¹ He also quotes the *tafsīr* of Abū al-Sa'ūd Afandī (1490–1574) as saying that the only theoretical excuse to not make hijra would be the lack of vastness of the Earth. Since the Earth is vast indeed, no possible reasons remain. 'Abd al-Qādir also dismisses the possibility of disguising one's faith in order to remain in enemy lands by quoting the *tafsīr* of Ibn 'Abbas (619–687) which says this is not permissible now since – unlike during the Prophet's time – *al-bilād al-Islamiyya* are vast.⁵² Relying namely on the Qur'an and the hadith, the amir then chastises the Islamic scholars who do not promote hijra, stating:

For all of this type are among the ugliest of those entering under the rule of the infidels. They made all that is said about hijra, praising it and making it a duty in the Qur'an and the sunna absurd and meaningless. Not because of God's word, not because of the Prophet's word, but because of their vanities and their counterfeit sayings. For how could [these rulings] be when the Qur'an is full of mentions of hijra, praising making it and condemning bypassing it? The Prophet, upon him be peace, said hijra is not suspended until the door to redemption is closed, and that is not until the sun rises from the West. And the Prophet, peace be upon him, said "I am innocent of every

Muslim who lives among the infidels” according to the hadith narrators, except for al-Bukhari.⁵³

This passage effectively connects action and text, making it clear that when Muslims fail to conform to the Qur’an and the hadith—the word of God and the word of the Prophet—they are making what should be the most infallible of books meaningless. Through his own interpretation of foundational texts and the incitement to action that he builds on them, the amir writes his own territory into this legacy. As Muslims who live under unbelievers’ rule have overstepped the boundaries of the faith through their lack of solidarity, they are the parallel of those Muhammad disassociated himself from. ‘Abd al-Qādir then elaborates on affiliations that cannot cancel out the duty of hijra, ranking loyalty to Islam above all else:

As for one who was a Muslim in Dar al-Islam and then the infidel invaded, for he may not imagine that there will be a community [*‘ashīrah*] to protect him. So then is there one from these peoples and tribes who has a community to protect him from the infidels? Who could protect him if the unbelievers wanted to enact a ruling upon him? Who could insure him against catastrophe and strife?⁵⁴

In this passage ‘Abd al-Qādir emphasizes that no tribe, no people, and no community can cancel out the need to live under Islamic rule. It is proximity to the Muslim ruler which matters most, as no person or people can protect Muslims from the social strife foreign rule brings. By implication, hijra becomes an act of redemption and an affirmation of social cohesion. Although the amir is adamant that God will provide for the believers, hijra is more than a migration for a better life in this world. Hijra is a means of cultural and spiritual survival which, in ‘Abd al-Qādir’s thought, are inseparable. Choosing another angle to weigh the sacrifices one must make in order to migrate, ‘Abd al-Qādir explains:

The Sufis noted that there are five necessities which must be protected: religion, the self, the mind, lineage, and wealth. So each of these must be preserved to the extent that it being protected does not conflict with protecting its predecessor.

However, wealth is the last in the order and religion is the first.⁵⁵

Religion is threatened by non-Muslim rule. Although wealth may be threatened by emigration, it is a lower priority and not a factor which can override religion. Thus, again, ‘Abd al-Qādir is showing that there is no conscionable reason for a Muslim to not make hijra. What comes to the fore in all of these quotes is al-Amir ‘Abd al-Qādir’s insistence that Muslims not let any other loyalty override their solidarity with *dār al-Islam*. He makes the damning argument that to believe that it is the *waṭan* or one’s kinfolk rather than God who provides and sustains is tantamount to idolatry. After using the foundational Islamic texts to make this argument, he adds the founder of Maliki jurisprudence to his evidence stating that, “Al-Mālik, may God be pleased with him, said hijra from the lands of darkness and enmity is mandatory.”⁵⁶

Through both his citations and his examples, the amir makes hijra an integral part of Islamic practice. It is the Qur’an and the hadith along with the Prophetic example which fuel the amir’s argument, and he never implies that these sources need to be reinterpreted. Although contemporary histories of the Maghrib tend to take colonization as the dividing line between two fundamentally different periods, ‘Abd al-Qādir does not portray his time as one of rupture. Nor does he imply that guidance for addressing the conflict with the French must be sought through reforming Islam. Instead, he contextualizes the invasion by evoking other times and places defined by changing boundaries between Muslims and Christians, starting with the beginning of Islam. He then warns his audience of what happened when the Muslims of Cordoba tried to hold a pact with the unbelievers.⁵⁷ Finally, he maintains the hierarchy of precedence by explaining why he has not cited the four rightly guided caliphs:

Know that this disaster which is the appearance of the unbelievers among the Muslims up to the point where they entered under [Christian] protection did not happen in the first century [hijra], nor the second, nor the third, nor the fourth, but rather it happened in the fifth and then afterwards. For this reason, there is not a text or saying from the caliphs [*al-a’immah*], may God be pleased with them. So, when it happened and questions arose, our guides the theorists and interpreters

weighed the issue of those who became Muslim and did not make hijra.⁵⁸

While al-Amir ‘Abd al-Qādir’s respect for precedence could be used to label him “traditional” and an exception to narratives of nineteenth-century reform and revival, it is important to understand that preserving and transmitting the Islamic archive (as well as enacting it through proper interfaith conduct) was in itself a form of resistance to the violent enforcement of outsiders’ laws and norms.

‘Abd al-Qādir continues arguing for the mandatory nature of hijra by citing precedents from fiqh literature. In particular, he uses excerpts from al-Wansharīšī’s fatwa collection *al-Mi‘yār al-mu‘rib wa-al-jāmi‘ al-mughrib ‘an fatawī ‘ulama’ Ifriqīyah wa-al-Andalus wa-al-Maghrib* (The Express Standard and the Wondrous Collection of the Fatwas of the Scholars of Tunisia and Andalusia and Morocco). ‘Abd al-Qādir explains: “Al-Wansharīšī said in his book *al-Mi‘yār* that fleeing from the domain (*dar*) where polytheism and destruction have taken over to the domain of safety and faith is mandatory,” and “the author of *al-Mi‘yār* recorded that to be dispossessed of wealth is not an excuse [to not migrate].”⁵⁹ He also presents al-Wansharīšī’s legal argument that the Muslim under non-Muslim rule will not be able to properly perform religious duties such as fasting, charity, pilgrimage, or jihad. This is because a Muslim judge and ruler are required to declare the beginning and end of Ramadan, and a Muslim ruler must be there to receive alms (*zakat*)—reasons which again point to the amir’s emphasis on how political structures must complement religious rites.

Another question which al-Amir ‘Abd al-Qādir uses to address Islamic boundaries is the status of rulings issued by judges dwelling in *dar al-Harb*. ‘Abd al-Qādir relates how al-Māzarī (1061–1141) was asked about the rulings that came from the judges of Sicily and specified two matters of consideration: justice (*‘adālah*) and authority (*wilāyah*). As far as justice is concerned, no judge can execute it while living in *dar al-Ḥarb*. Furthermore, the judge’s nomination by the infidels and their authority over him prevent his rulings from being legally valid.⁶⁰ The testimony of Muslims who dwell in the wrong domain is also void, unless they have a legally approved reason for dwelling among the infidels. Through making justice impossible without Islamic rule, ‘Abd al-Qādir reinforces the separation of *dar al-Islam* and *dar al-Harb* and cuts Muslims living in the latter out of Islamic textual and legal

dialogues. He also condemns them to live in a state of injustice, even arguing—as did al-Tassūlī—that without Islamic rule, Christians themselves are unable to uphold agreements, explaining:

Christians do not keep pacts unless the word of Islam is highest and its strength established. How could it be otherwise when God said they do not cease to fight you until they make you renounce your religion, if they are able to.... Those are the invaders, the trespassers. In other words, they don't stop at any condition or pact.⁶¹

Since Christians do not stop at any condition or pact, it is up to the Muslims to enforce interfaith boundaries by following the Islamic ruler and living in his territory. Also including, when necessary, supporting the jihad whether with one's resources, one's body, or both. If there was no need to maintain separate spheres of influence between Muslims and non-Muslims, then there would not be any need to migrate or to resist invasion. This leads, naturally, to what should befall Muslims who fail to embody and enact these boundaries. 'Abd al-Qādir describes:

The Imām al-Maghīlī said in his book called "The Lanterns of Salvation" that those believers—meaning those which sought refuge with the infidels, and protected them, and took up residence in their domain, and abased themselves to obey them—their wealth is taken and they are killed, even if they were reading the Qur'an.⁶²

This passage fills in the gap left by the Qādī 'Abd al-Hādī's fatwa and uses precedence to support the amir's right to use force against Muslims who aid, enable, or tolerate the enemy. The saying "Even if they are reading the Qur'an" is a vivid jab that gets at the heart of 'Abd al-Qādir's emphasis on solidarity. In his understanding of Islam, one is not truly Muslim—even if one is reading the holy book—unless one is embedded within a Muslim community and living under Islamic rule. Islamic practice means embodying Muslim solidarity and social cohesion, not simply performing decontextualized rites.

In 'Abd al-Qādir's thought there is only one geographic division which matters: the boundaries between *dar al-Islam* and *dar al-*

Harb. He consistently uses *dar* in order to emphasize that he is talking about territory under Islamic dominion, not simply a land where Muslims live. Actual Islamic polities like the ‘Alawite and Ottoman sultanates are notably absent from the fatwa, even though the Ottoman Empire is referenced in some of his later texts. This is because neither the Ottomans nor the ‘Alawites were successfully repelling the invaders, and thus neither embodied a model of Islamic solidarity. This role was assigned to heroes of the distant past, including the Almoravid ruler Yūsuf ibn Tāshfīn (1009– 1106) and – the most distant and the most ideal – the Prophet Ibrahim. It was Ibrahim who was the original migrant, the one who wandered endlessly in search of a people who would accept the oneness of God, explains ‘Abd al-Qādir before he describes Ibrahim as “the beloved [of God]” and the first to make hijra a custom.⁶³

Texts like al-Amir ‘Abd al-Qādir’s ruling open a space for us to consider how authors, scholars, and political actors – in the North African context, often one and the same – understood the times they were living in prior to colonization and the imposition of European epistemologies. Al-Amir ‘Abd al-Qādir presented migration as both a spiritual duty and an expression of Islamic solidarity. He used the religious resonance of hijra as well as its history in the region to convince Maghribis that no fortune could outweigh the cost of living under infidel rule. He made migration more than a physical or political displacement – he made it the means to ensure the continuity of the religious and cultural heritage which defined his homeland.

NOTES

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² Anna Amelina, *Beyond Methodological Nationalism: Research Methodologies for Cross-Border Studies* (New York: Routledge, 2012), 2.

³ Jocelyn Hendrickson, “Muslim Legal Responses to Portuguese Occupation in Late Fifteenth-Century North Africa,” *Journal of Spanish Cultural Studies* 12, no. 3 (2011): 309–25.

⁴ Nora Achrati, “Following the Leader: A History and Evolution of the Amir ‘Abd al-Qadir al-Jazairi as Symbol,” *The Journal of North African Studies* 12, no. 2 (2007): 139–52.

- ⁵ Raoul Villano, "The Qur'anic Foundations of the *dār al-islām* / *dār al-ḥarb* Dichotomy An Unusual Hypothesis," in *Dār Al-islām / Dār Al-ḥarb: Territories, People, Identities*, eds. Giovanna Calasso and Giuliano Lancioni (Leiden: Brill, 2017), 125-46.
- ⁶ 'Uthmān ibn Fūdī and Faṭḥī Ḥasan al-Maṣrī, *Bayān wujūb al-hijra 'ala al-'ibād* (Oxford: Oxford University Press, 1978), 14.
- ⁷ Fūdī and al-Maṣrī, *Bayān wujūb al-hijra 'ala al-'ibād*, 26.
- ⁸ *Ibid.*, 14.
- ⁹ Muḥammad ibn 'Abd al-Karīm, *Ḥukm al-Hijrah min Khilāl thalāth Rasā'il Jazā'irīyah: Dirāsāt wa-Wathā'iq* (Algiers: al-Sharika al-Waṭaniya lil-Nashr wa-al-Tawzī', 1981), 109. (Quote translated by author).
- ¹⁰ 'Abd al-Karīm, *Ḥukm al-Hijrah min Khilāl thalāth Rasā'il Jazā'irīyah*, 110-11.
- ¹¹ *Ibid.*, 113.
- ¹² *Ibid.*, 115.
- ¹³ *Ibid.*, 108.
- ¹⁴ Ety Terem, *Old Texts, New Practices: Islamic Reform in Modern Morocco* (Stanford, CA: Stanford University Press, 2014), 102.
- ¹⁵ Terem, *Old Texts, New Practices*, 107.
- ¹⁶ Julia Clancy-Smith, *Rebel and Saint: Muslim Notables, Populist Protest, Colonial Encounters* (Berkeley: University of California Press, 1994); David Robinson, *Paths of Accommodation: Muslim Societies and French Colonial Authorities in Senegal and Mauritania, 1880-1920* (Athens: Ohio University Press, 2000).
- ¹⁷ Aḥmad 'Ammārī, *Nazarīyat al-Isti'dād fī al-Muwājahah al-Ḥaḍārīyah lil-Isti'mār: al-Maghrib Namūdhajan* (Herndon, VA: al-Ma'had al-'Alamī lil-Fikr al-Islāmī, 1997), 304.
- ¹⁸ 'Ammārī, *Nazarīyat al-Isti'dād fī al-Muwājahah al-Ḥaḍārīyah lil-Isti'mār*, 308.
- ¹⁹ Abd al-Razzāq bin Sab', *Al-Amīr 'Abd al-Qādir al-Jazā'irī wa-ādābuhu* (Kuwait: Mu'assasat Ja'izat 'Abd al-'Azīz Sa'ūd al-Baḥāṭin lil-Ibda' al-Shi'rī, 2000), 70-77.
- ²⁰ Amira K. Bennison, *Jihad and Its Interpretation in Pre-Colonial Morocco: State-Society Relations During the French Conquest of Algeria* (London: Routledge, 2002), 77.
- ²¹ Jamil Abun-Nasr, *A History of the Maghrib in the Islamic Period* (Cambridge: Cambridge University Press, 1987), 167-68.
- ²² Raphael Danziger, *Abd Al-Qadir and the Algerians: Resistance to the French and Internal Consolidation* (New York: Homes & Meier Publishers, 1977), 57.
- ²³ Charles Stewart, *Islam and Social Order in Mauritania: A Case Study from the Nineteenth Century*, (Oxford: Clarendon Press, 1973), 106-7.

²⁴ Alf Andrew Heggoy, *The French Conquest of Algiers, 1830: An Algerian Oral Tradition*, (Athens: Ohio University Monographs in International Studies, 1986), 13.

²⁵ ‘Abd al-Qādir bin Muḥyī al-Dīn, *L’émir Abdelkader: autobiographie: écrite en prison (France) en 1849 et publiée pour la première fois*, trans. Hacène Benmansour (Paris: Dialogues éditions, 1995).

²⁶ Bennison, *Jihad and Its Interpretation in Pre-Colonial Morocco*, 82.

²⁷ Raphael Danziger, *Abd Al-Qadir and the Algerians: Resistance to the French and Internal Consolidation* (New York and London: Homes & Meier Publishers, 1977), 117.

²⁸ Danziger, *Abd Al-Qadir and the Algerians*, 128.

²⁹ *Ibid.*, 121–22.

³⁰ See, for example, the fatwa collection *Mawāhib Dhī al-Jalāl fī nawāzil al-bilād al-sā’ibah wa-al-jibāl* (The Gifts of His Highness in the Rulings Regarding the Anarchic Lands and the Mountains) first assembled by Muḥammad ibn ‘Abd Allāh Kīkī in the eighteenth century and printed by Dār al-Gharb al-Islāmī in 1997. This is a primary source for fatwas regarding the issue of rebellious tribes in the ‘Alawite domain.

³¹ ‘Alī ibn ‘Abd al-Salām al-Tusulī and ‘Abd al-Laṭīf Muḥammad Ṣāliḥ, *Ajwibat al-Tusulī ‘an masa’il al-Amīr ‘Abd al-Qādir fī al-jihād* (Beirut: Dār al-Gharb al-Islāmī, 1996), 105–6.

³² al-Tusulī and Ṣāliḥ, *Ajwibat al-Tusulī*, 301–10.

³³ Danzinger, *Abd Al-Qadir and the Algerians*, 155.

³⁴ Muḥammad ibn ‘Abd al-Qādir al-Jazā’irī and Mamdūh Ḥaqqī, *Tuḥfat al-zā’ir fī tārikh al-Jazā’ir wa-al-amīr ‘Abd al-Qādir* (Beirut: Dār al-Yaqzaḥ al-‘Arabīyah, 1964), 384. (Excerpt translated by author).

³⁵ al-Jazā’irī and Ḥaqqī, *Tuḥfat al-zā’ir fī tārikh al-Jazā’ir wa-al-amīr ‘Abd al-Qādir*, 387.

³⁶ Bennison, *Jihad and Its Interpretation in Pre-Colonial Morocco*, 124.

³⁷ John W. Kiser, *Commander of the Faithful: The Life and Times of Emir Abd el-Kader (1808–1883)* (New York: Monkfish Book Publishing, 2013), 273.

³⁸ Bin Muḥyī al-Dīn, *L’émir Abdelkader: autobiographie*, 21.

³⁹ Abd al-Razzaq bin Sab’, *Al-Amīr ‘Abd al-Qādir al-Jazā’irī wa-ādābuhu*, 55–56.

⁴⁰ An important exception is Tom Woerner-Powell’s 2011 article “‘Abd al-Qādir al-Jazā’irī, Migration, and the Rule of Law: ‘A Reply to Certain Persons of Distinction’” published in *Studia Islamica* 106 (2), 2011.

⁴¹ Bin Muḥyī al-Dīn, *L’émir Abdelkader: autobiographie*, 71.

⁴² Cyril Glassé, “‘Abd al-Qādir, Emir,” in *The New Encyclopedia of Islam*, revised edition (New York: Rowman & Littlefield, 2002), 15–18.

⁴³ Muḥammad Bāshā al-Jazā'irī, *Tuḥfat al-za'ir fī tārikh al-Jazā'ir wa-al-Amīr 'Abd al-Qādir* (Alexandria: Maṭba'at Ghurzūzī wa Jāwīsh, 1903), 268.

⁴⁴ al-Jazā'irī, *Tuḥfat al-za'ir fī tārikh al-Jazā'ir*, 268.

⁴⁵ 'Abd al-Karīm, *Hukm al-Hijrah min Khilāl thalāth Rasā'il Jazā'irīyah*.

⁴⁶ Khadījah Muṣaddiq, "Mawqif al-Amīr 'Abd al-Qādir min al-Hijrah min khilāl risalatihi 'Husām al-dīn li-qat' shibh al-murtaddīn,'" in *'Uṣūr: majallah 'ilmīyah* (2009), 131–40.

⁴⁷ Woerner-Powell, "'Abd al-Qādir al-Jazā'irī, Migration, and the Rule of Law,'" 236.

⁴⁸ al-Jazā'irī, *Tuḥfat al-za'ir fī tārikh al-Jazā'ir*, 307.

⁴⁹ al-Tusulī and Ṣāliḥ, *Ajwibat al-Tusulī*, 102.

⁵⁰ al-Jazā'irī, *Tuḥfat al-za'ir fī tārikh al-Jazā'ir*, 268.

⁵¹ *Ibid.*, 271.

⁵² *Ibid.*, 271–72.

⁵³ *Ibid.*, 270.

⁵⁴ *Ibid.*, 273.

⁵⁵ *Ibid.*, 271.

⁵⁶ *Ibid.*, 270.

⁵⁷ *Ibid.*, 273.

⁵⁸ *Ibid.*, 274.

⁵⁹ *Ibid.*, 270.

⁶⁰ *Ibid.*, 272.

⁶¹ *Ibid.*, 273.

⁶² *Ibid.*, 274.

⁶³ *Ibid.*, 273.