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The Bey, the mufti and the scattered pearls : Shari'a and political leadership in Tunisia's Age of Reform -1800-1864

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Epilogue

Conclusions have already been drawn, at the end of each chapter. A few observations, however, still need to be made.

From the three separate case studies appear to be converging in retrospect parallel lines of action, moving into the direction of a cohesive image. The image of a society - Tunisia – drawn into a different mode of existence, a process that afterwards came to be called ‘modernization’, instigated by few and deplored by many.

What held this society together at the time, despite the many alienating changes, as, for instance, the abolition of slavery, or the Bey’s voyage to the land of the Infidel? As long as the assurance was there that their ruler, the Bey, was a Muslim ruler, his powers of authority based on the delegation of power by the head of the *umma*, the Sultan in Istanbul, those changes were accepted and often done away with at a shrug of the shoulders: ‘another of those whims of their sovereign ...’.

The *Risāla fī'l-Siyāsa al-Sharīyya* by Bayram I in the first chapter served to provide this assurance, legitimizing the Bey’s performance in his role as judge (*hākim*) in the judicial system, overruling thereby the prudent and more humane procedures in *sharī'a* justice.

Looking back now, from the twenty-first century to Tunisia’s nineteenth century, the line emerging from the first chapter can be appreciated as a precursory indication of later constitutional developments: a first attempt of codification of the Bey’s role, even though its author did not present it as such.

The line emerging from the second chapter is the declaration of freedom for the black minorities in the country, and, implicitly, a first step towards the dismantling of a communalist system, a necessary precursor to a civil society.

We can, again in retrospect, raise the question why in particular the line in the second chapter, i.e. the freedom and equality for the black minority, was not continued and applied to other segments of the community, like the Jews and the Christians? In other words, why, when further initiatives were taken to move nineteenth-century Tunisia from a communalist society into a society where religion was no longer the identity marker, the process came to a halt?

The answer is that the developments set in motion after the Bey’s state visit, and in particular those of the years 1857 and 1861, did not present mere stages in the process of the making of a nation, at least not in the eyes of the population at large. They were recognized as foreign, as Christian interventions. Now the assurance that all this was *muqayyad bi'l-sharī'a*, in line with the law of Islam, could not be provided, thereby putting into jeopardy the people’s lifeline with the head of the *umma*, and hence their Muslim identity.

Returning once more to Sadiq al-Azm, yes, Islam had showed time and again to be able to live together with regimes that were a far cry from the ideals of Mecca and Medina. He, however, failed to mention the one instrument legitimizing and enabling this ‘living together’, namely the law’s capacities for accommodation and the *‘ulamā’*’s skill to deploy them.

