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Islamic burials in the Netherlands and Belgium. Legal, religious and social aspects

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Chapter 1

Introduction

Chapter 1. Introduction

1.1 Exploring the study of death, dying and the institutionalization of Islam in the Netherlands and Belgium

The study of death and burial involves not only events in which individual beliefs and emotions are expressed, it also brings to light situations that reveal social relationships and the shaping of identity in a community. In this regard Gardner (1998, 507) states that: ‘The meanings and practices which surround death are [...] the products of particular social, cultural and historical circumstances. Since these rituals are central to the identities and meanings which groups construct for themselves, they can be viewed as windows, which open out to the ways societies view themselves and the world around them.’

The particular interest of this study are the frameworks of the national legislations and the Islamic regulations within which Islamic burial practices have to be performed. Islamic tradition offers a body of burial rites practiced by Muslims worldwide. These rites accompany the process from the deathbed up to the mourning and memorial gatherings. Death in the context of migration is a more intense event because people are challenged in their dealing with practical problems, their needs and values in a different environment to that which they are used. In this context Muslims also have to deal with national burial laws that might not comply with their own needs and values or indeed the prescriptions of their religion. This problem is not one-sided: just as Muslims are challenged, so are the legal systems of countries. Both national laws and Islamic law have been subject to reconsiderations as a result of Muslim presence in non-Islamic countries.

Through the discussion of the legal and social context of the Netherlands and Belgium, including the Islamic religious prescriptions and the experiences of Muslims themselves, this study will analyze what impact these changing circumstances have had and are having on how burial rituals are performed and experienced. Using the practice of death rituals and regulations as a window, I shall elaborate on the fact that the observance of burial prescriptions and the choice of burial location are not *only* a matter of being well-informed about what is possible or impossible from the practical, legal and religious point of view. It is also a matter of how Muslims view themselves and the society of which they are part. The sense of belonging and the myth of returning to the

home countries, as discussed by Gardner (2002) and Anwar (1979), are part of the theoretical framework of this study. In the light of its multidisciplinary character, this study will not only involve social science and legal research, but also the science of religion and it will emphasize the religious value people ascribe to the practice of rituals as an expression of faith, as is also discussed by Beck (Beck 2010).

The study commences with a discussion on the institutionalization of Islam in the Netherlands and Belgium. This process includes the establishment of organizations and institutions for the purpose of continuing the experience and practice of the Islamic religion by Muslims in a non-Islamic environment. Chronologically, it would seem fitting to study burial practices among Muslims at this particular moment in time; after mosques and educational institutions have been realized, the emergence of national and local Islamic organizations, the supply of *halâl* food and products and the emergence of an Islamic chaplaincy in hospitals and prisons (De Koning 2011; Fadil 2011). It also seems a timely research subject at a moment in which we are witnessing a sharp rise in an aging Muslim population, presaging a growing number of deaths.¹ However, the importance of burial practices is not only part of the institutionalization of Islam in chronological sense, but also because such practices form a decisive point with regard to the sense of belonging and to the question of returning to the home countries (Gardner 2002; Anwar 1979; Bolognani 2007). The choice of a specific burial location implies much more than being a place for the disposal of the dead according to certain rules and regulations. Both from a Muslim point of view as well as from a societal point of view. This argument will form an important consideration in the course of this study, especially in the third and fourth chapters.

In this chapter I present the background and context of this study. Because Islam and its adherents cover a very colorful spectrum, Section 1.1 presents some demographic data on Muslims in the Netherlands and Belgium, as well as data on the various denominations, and on the relevance of Church and State relations in the

¹ There are no exact numbers available on aging Muslims, but estimates are made on the basis of ethnicity. In the Netherlands among the Moroccan, Turkish and Surinamese communities, estimates show that the number of people who reached the age of 65 and older in 2011 was respectively 17,000, 18,000 and 21,000. The estimates for the year 2050 show a rapid growth in aging among these communities to respectively 138,000, 145,000 and 129,000. These estimates indicate that in 2050 seniors would make up for 27%, 29% and 35% of the total population of these ethnic communities in the Netherlands (CBS 2011, 24-26). Similar developments have been noted in Belgium. In 1970 the estimated number of seniors was 35,322, whereas in 2007 it consisted of approximately 106,000 seniors of south European, North African and Turkish background (KBS, 2012, 12).

institutionalization of Islam in both countries. With this study I hope to contribute to the wide scope of academic research on Islam and Muslims in Western Europe, of which a bird's-eye view will be given in Section 1.2. I have chosen to emphasize research on Islamic burials. This research is very recent within the social sciences and has tended to concentrate mainly on social cohesion, the performance of the ritual and group identity (Jonker 1996; Chaib 1996; Tan 1996). Little attention has been paid to the role of (religious) rituals as an expression of faith and in the process analyzing the 'multilayered message conveyed by ritual practices.' (Beck 2010, 195). The essence of rituals is to entail various functions and convey multilayered messages. Beck states that, 'they may be aimed at social cohesion and identity. They may be employed as a way to achieve power or as a strategic tool to realize a certain objective (...) but in the multicultural, religiously pluralist context of the Netherlands, where "the other" may be Muslim but also non-Muslim, ritual practices can have the primary function of expressing individual belief, not only towards non-Muslim others but especially towards Muslim ones.' (Beck 2010, 208). This point will recur throughout this study. The available theological studies on death and dying focus mainly on the eschatology and the rules and regulations governing burial, whereas national laws on the disposal of the dead are principally concerned with the maintenance of public order, urban planning and rules for a proper disposal of the deceased. The need to bring these disciplines together in one methodological framework will be the subject of Section 1.3 that explains the approach and methods of this study. In this last section, the theoretical and methodological framework of this study will be presented, followed by an outline of the sources on which this study draws, a brief account of the fieldwork and the chapter outline of this dissertation.

1.2 Muslims in the Netherlands and Belgium

1.2.1 Demography

The demographic figures on Muslims living in Western Europe vary greatly in number, depending on the method of data gathering. Some countries register religious adherence in their statistics, usually self-defined, but the majority of researchers use national data on nationality and ethnicity or both to deduce some form of reasonable and reliable estimates (Nielsen et al. 2011, 4). The estimated number of Muslims in 2011 in the Netherlands varied between 857,000 and 950,000 and between 410,000 and 628,000 in Belgium (De Koning 2011, 401; Fadil 2011; 69; Berger 2012a, 7; Forum 2012, 6-8;

Hertogen 2008, 1-4). Muslims in both countries vary in their ethnic and cultural backgrounds, in their adherence to different Islamic denominations, schools of law (*madhhâhib*, singular *madhhab*), and in their sympathy for various modern Islamic ideas. Today, Moroccan and Turkish ethnic groups account for the majority, approximately 80 per cent, of the Muslim population of both countries. The remaining 20 per cent are from various countries and regions such as Surinam, Indonesia, Iraq, Iran, South Asia, the Balkans and Sub-Saharan Africa. To these can be added small groups of Dutch and Belgian converts (De Koning 2011, 401-402; Fadil 2011, 70; Forum 2012, 8; Sunier 2010, 115). The geographical distribution of the Muslim populations in the Netherlands and Belgium is quite uneven. In the Netherlands, most Muslims live in the western part of the country with large concentrations in the cities of Amsterdam, Rotterdam, The Hague and Utrecht (Berger 2012b, 2). In Belgium more than 40 per cent of the Muslim population lives in the Brussels-Capital Region (Fadil 2011, 71). Muslim residents in the Brussels-Capital Region account for 17 per cent of the population and make Brussels one of the cities in the Western world with the largest Muslim population (Fadil 2011, 71).²

Approximately 85 per cent of the Muslims worldwide are considered to adhere to the Sunni branch of Islam and this might also be the case in the Netherlands and Belgium (Shadid and Van Koningsveld 2008, 38-48).³ Besides the Sunnis, Shiite, Alevi and Ahmadiyya denominations are also found in both countries. Shiites form an important part of the Iranian and Iraqi communities. Alevi Muslims are an important part of the Turkish community, whereas those who belong to the Ahmadiyya branch are mainly part of the Surinamese and Pakistani communities.⁴ In the Netherlands the number of Shiites varies between 50,000 and 90,000 (Neijenhuis 2008), the number of

² Hertogen (2011) says that Muslim residents in Brussels account for 25.5% of the population

³ Sunni Muslims accept the legitimacy of the first four successors of Muhammad, Abu Bakr Al Siddiq, Umar ibn al Khattab, Uthman ibn Affan and Ali ibn Abi Talib (Esposito 2003, 306). Whereas Shiite Muslims believe that Muhammad's religious and political authority was passed on to his descendants beginning with his son-in-law and cousin Ali ibn Abi Talib and his sons Hasan and Husayn. The defining event of Shiism was the martyrdom of Husayn in Kerbela (Iraq) in AD 681 (Esposito 2003, 292).

⁴ Alevi is a term which is used to cover a number of heterogeneous socio-religious communities in Turkey and the Balkans, who in the twentieth century began to share a common trans-regional Alevi identity called Alevism. Alevism seems to have developed as a branch within Shia Islam (Dressler 2013, 1). The Ahmadiyya is a controversial messianic movement founded by Mirza Ghulam Ahmad in Qadian (India) in 1889. This denomination consists of two branches: the Qadiani who claim that Ghulam Ahmad is a non-legislating prophet with a divine mandate for the revival and renewal of Islam. The Lahore branch considers the founder to be a renewer of the faith rather than a prophet. The Ahmadiyya were declared non-Muslims by a Pakistani law passed in 1974 because of their opposition to the mainstream belief in the finality of Muhammad's legislative prophesy (Esposito 2003, 11-12)

Alevi between 60,000 and 90,000 (Shadid and Van Koningsveld 2008, 47); the number of Ahmadiyya is estimated at approximately 10,000 adherents (Shadid and Van Koningsveld 2008, 39). In Belgium the number of Shiite Muslims is estimated at between 10,000 to 15,000 (Fadil 2011, 70), the number of Alevi at 16,000 (Shadid and Van Koningsveld 2008, 48) and the Ahmadiyya has approximately 2,000 adherents (Saifullah 2008, 34).

Besides adhering to different denominations, Muslims can also follow the teachings and opinions of a specific school of law (*madhhab*). In Sunni Islam there are four major schools, Maliki, Ḥanafī, Hanbali and Shafī‘ī. In Shiite Twelver Islam we are dealing within the scope of this study with the Ja‘fari school only. The disagreement among the Sunnite law schools about what are known as subsidiary matters (*furū‘*) extends to a large variety of topics, including burial practices and regulations. Present-day belonging to a *madhhab* is principally determined on the basis of association with a country or community that adheres to a specific *madhhab*. Moreover, it should be remembered that many leading scholars of contemporary Sunnite Islam reject madhhabism in principle, as they want to return to an original doctrine of Islam that can be shared by all Muslims. Their position predominates in many of the *fatāwa* (or fatwas, pl. scholarly opinions, singular *fatwa*) issued within what is known as Jurisprudence for Minorities (*Fiqh al-Aqalliyyât*), to be discussed in Chapters 3, 4 and 5.

Besides ethnic and religious variations, Muslims in the Netherlands and Belgium can also sympathize with modern *Salafī* ideas, most of which emerged in the twentieth century during and after the decolonization process.⁵ Nowadays *salafism* seems to have been split up into two directions. The first direction is the reformist trend that is intellectual and modernist in nature and works to ‘assert the validity of Islam in modern times, prove its compatibility with reason and science, and legitimize the acquisition of Western scientific and technological achievements.’ (Esposito 2003, 275). One of the leading Islamic scholars and head of the European Council for Fatwa and Research, Yusuf al Qaradawi, is considered to be the product of this trend. This council issues *fatwas* concerning the specific situation of Muslims living in Europe, known as *Fiqh al-Aqalliyyât*. Various of their *fatwas* concern questions arising from the burial of Muslims in Europe. These will be dealt with in Chapters 3, 4 and 5.

⁵ These ideas find their origin in the Egyptian reformism that began with Jamal al-Din al-Afghani (d. 1897), Mohammed Abduh (d. 1905) and Rashid Reda (d. 1935).

The second direction is a more conservative and rigid trend of *salafism*, known as Wahhabism, nowadays principally associated with the way it has developed in Saudi Arabia as well as its Salafist branches in various parts of the Muslim world.⁶ These ‘Salafist’ scholars oppose the infiltration of foreign influences creeping into Islamic thought from other cultures and traditions (Al-Atawneh 2010, 56). They are well known for championing a puritanical (or ‘Protestant’) form of Islam and, in contrast to the reformers, they legally condemn all that is deemed non-Islamic. Generally speaking, their *fatwas* are imbued with, for example, an anti-mystical stance and they prohibit and condemn the visiting of graves, including the tomb of the Prophet, the use of gravestones and the veneration of saints (Van Koningsveld 2007, 10).⁷ The emergence and spread of these different trends of *Salafi* ideas are relevant to the scope of this study, since their publications are widespread among European Muslims, and their pamphlets and books have been translated in many languages and can be found both in print and online (De Koning 2008, 368).

1.2.2 The establishment of Muslim communities in the Netherlands and Belgium

The national debate on the integration of Muslims and their position in society forms an important starting point in the study of Muslims in both countries.⁸ Three phases can be identified in each country. The first phase occurred during the large-scale settlement of the people known as ‘guest workers’ (*gastarbeiders*) in the 1960s and this phase was followed by family reunions in the 1970s, during which national policies were premised on the temporality of their stay. The principal goal of these national policies was to ‘provide an agreeable environment.’ (Shadid and Van Koningsveld 2008, 11). It consisted mainly in providing suitable housing and payment. Creating Islamic cemeteries did not fall within the scope of this policy per se, although there was an

⁶ During the 18th century, the founder of the first Saudi dynasty in Arabia, Muhammed ibn al-Saud (d. 1765), formed a politico-religious pact with the founder of Wahhabism, Muhammad ibn Abd al-Wahhab (d. 1792). The former assumed a role in political and military leadership, whereas the latter served as religious advisor, which is still the case among the heirs.

⁷ In Saudi Arabia graves are not marked by gravestones but by a simple rock at the head end of the grave. Furthermore, women are strictly forbidden to visit graveyards. An exception is made for visiting the tomb of the Prophet, although people are encouraged not to tarry at the tomb of the Prophet and to move on quickly. Outside Arabia, the offensive by Wahhabism caused important Shiite centers of pilgrimage in Najaf and Kerbala to be plundered and ransacked in 1801 (Van Koningsveld 2007, 10; Esposito 2003, 333).

⁸ For other but quite similar overviews see Sunier 2010; Dessing 2001; Strijp 2010

Islamic burial plot in the Netherlands as early as 1932, established for the Indonesian community that consisted largely of seamen and domestic servants (Ryad 2012).

In the 1980s interest in Islam and Muslims grew, not only on the national political agenda but also among academics. This interest, that can be considered the beginning of the second phase, was stimulated by several international factors, namely, the Islamic Revolution in Iran in 1979 and the Rushdie affair in 1989. In this phase, the question of the integration of Muslims in the Netherlands and Belgium was put on the political agenda and was closely linked to worries about what has been called religious 'fundamentalism'. In both countries commissions were established to advise the government in matters related to the integration of Muslims, including the realization of mosques and the founding of various religious organizations.⁹ In the Netherlands, it was during this phase that the Law on Burial and Cremation (*Wet op de Lijkbezorging*) was slightly revised to meet Muslim burial requirements. Consequently, the number of Islamic burial plots began to increase. The pace was slower in Belgium, where there were only had a handful of Islamic burial plots (Shadid and Van Koningsveld 2008, 172). Belgian law and policy in general were reticent in the creation of separate religious parcels. It was not until the end of the 1990s that a shift began to occur in this debate, and parliamentary questions were tabled about the matter of Islamic burial plots in Belgium (to be discussed in more detail in Chapter 4).

The last phase in the national debates about the integration of Muslims covers the period from the end of the 1990s up to the present time. In response to some international events such as the attacks in New York (2001), Madrid (2003) and London (2005), a shift occurred in the debate about Muslims and it became centered on themes such as Islamic terrorism. In both the Netherlands and Belgium the idea of and the need for a national form of Islam began to take root among policy makers who viewed it as a way to discourage potential fundamentalist tendencies that might arise among Muslim residents. Representative bodies of Muslims were established in both countries.¹⁰

⁹ The *Koninklijk Commissariaat voor het Migrantenbeleid* was established in 1989 with the specific task of advising the Belgian Government on issues related to the integration of migrants, including the establishment of mosques in Belgium. The *Commissie Waardenburg* in the Netherlands was established in August 1982 for the purpose of advising the government on the desirability of the granting of government subsidies for the provision of premises for religious minorities.

¹⁰ In the Netherlands the Muslim Contact Agency (*Contact Moslims Overheid*, CMO) and the Contact Group Islam (*Contact Groep Islam*, CGI) were established as representative bodies. In Belgium, the representative organ required since 1974 is the Executive for the Muslims in Belgium (*Executieve voor de moslims van België*, EMB). The main thrust for the establishment of these organs came from the Dutch and Belgian governments in their search for an official spokesperson on behalf of Muslims.

However, on account of their various backgrounds, both ethnic and religious, Muslims in Europe have had to struggle with the establishment of one spokesperson for all of them, as desired by the national governments of both countries. The representation issue has also dominated the discussion on and request for Islamic burial plots in both countries, where it is closely related relations between Church and State.

1.2.3 Dutch and Belgian Church and State in the context of Islam

Discussions on Church and State relations in the Netherlands and Belgium are very apposite to this study, as they can shed light on the differences in the institutionalization of religiously based cemeteries and burial plots. Within the scope of this study, I commence with a brief discussion on this subject in the nineteenth century when these countries adopted quite different approaches with regard to their Church and State relations.

The separation between Church and State in the Netherlands was introduced in the Constitution of 1848 and institutionalized more firmly in the revised Constitution of 1983. The balance and interaction of the constitutional principles to a large extent define the legal space granted for religious life in the Netherlands and have been inspired by the ‘pillarization system’ (*verzuiiling*). The Dutch pillarization system gave religious and non-religious groups the right to establish some of their own infrastructures based on creed, philosophy of life or political ideology for which they were accorded government subsidies. This system was founded at the end of the nineteenth century as an outcome of the ideological struggle between liberal and confessional adherents, initiated by Roman Catholic and Protestant factions. Besides confessional schools, similar forms of pillarization were also created in many other sections of Dutch society, including religiously based hospitals, trade unions and broadcasting stations. This system of pillarization is what made the current realization of Islamic schools and state-funded Dutch Islamic broadcasting possible, not to mention the creation of Islamic cemeteries and Islamic burial plots in public cemeteries (Shadid and Van Koningsveld 2008, 19).

The principle for the relationship between Church and State in Belgium is found in the Constitution of 1831 and has currently been restated in the Constitution of 1994 (Torfs 2005, 10). Belgium has a system of ‘recognized religions’ that clearly marks the difference in the relationship between Church and State in comparison to the

Netherlands (Fadil 2011, 74).¹¹ When a religion is recognized by the State, the legal personality is not attributed to the ‘Church’ or ‘Church structure’, but to the ecclesiastical administrations (*kerkfabrieken*) which are responsible for the ‘temporal needs’ of the (regional or local) religious communities, including the stipends for ministers and chaplains. One of the major obstacles which emerged after the recognition of Islam by law in 1974 was the specific lack of such a hierarchically structured religious ‘ecclesiastical’ administration.¹² The organization of Muslims in Europe is often arranged along the lines of ethnic and religiously based differences, that makes the realization of one single institutional body very difficult, if not impossible. The upshot is that the organization of Muslims in Belgium has remained problematic and is a constant source of tension. The stumbling block casts its shadow over relations between the state and the various Muslim communities and among the Muslim communities themselves (Fadil 2011, 74).¹³ The representative organ of Islam was established in 1999 and is called the Executive for Muslims in Belgium (EMB, Fadil 2011, 75).¹⁴ The main task of the EMB is the compilation of dossiers that are submitted by local Islamic communities in return for legal acknowledgement by the regional governments. Since 2007, Belgium has witnessed a rapid growth in the acknowledgement of local Islamic communities.¹⁵ This acknowledgment has led, for example, to the payment of stipends to imams and the appointment and payment of chaplains in prisons and hospitals. In the matter of Islamic cemeteries and burial plots, the EMB can serve as a mediator between Muslims and municipalities. However, the role of local municipalities in the organization of Islamic burial plots is far more important than that of the EMB, which will be discussed in Chapter 4.

¹¹ For the concrete criteria requisite for recognition see: *Questions and Answers*, Chamber 1999-2000, 4 September 2000, 5120 (Question 44, Borginon). *Questions and Answers*, Chamber 1996-1997, 4 July 1997, 12970 (Question 631, Borginon).

¹² *Wet van 19 juli 1974 tot erkenning van de besturen belast met het beheer van de temporalien van de islamitische eredienst*, BS 23 August 1974.

¹³ It was not until the mid-1980s that such a representative body for Muslims in Belgium emerged as a political issue. Until then, as discussed earlier, Islam was mainly perceived to be foreign to Belgium. (Fadil 2011, 74-75; Kanmaz 2002).

¹⁴ Royale Decree of 3 May 1999 acknowledging the Executive of Muslims in Belgium, BS 20 May 1999.

¹⁵ In Flanders 17 communities were acknowledged, in Wallonia 43 and in Brussels 8 (Fadil 2011).

1.3 Characteristics of research on Islam in Western Europe

The bulk of the research on Islam as a social phenomenon in Western Europe has been conducted since the 1970s. The approaches in different European countries vary considerably.¹⁶ Following the work of Dassetto (1996), I also distinguish between *five different categories* in the research on Muslims in Europe. The aim of the *first* category of research is to quantify and describe the social demography of the Muslim presence in Europe by ascertaining, for example, the numbers of Muslims living in each country, their countries of origin and the numbers of mosques (cf. Nielsen et al. 2011; Maréchal and Asri 2012; Maréchal 2002). The *second* category is composed of research focusing on the relationship between Islam as a religion on the one hand and the State in European countries on the other (cf. Robbers 2005; Shadid and Van Koningsveld 2008). The *third* category of research examines the institutional and juridical integration of Muslims in Europe. Studies dealing with the establishment of Islamic schools, the training of imams, the opening of Islamic cemeteries and research on (the jurisprudence of) family law in relation to International Private Law are the subjects of research in this category (cf. Jonker 2004; Ghaly 2008; Buskens 1999; Buchler 2011). Publications dealing with the presence of what are stigmatized as Muslim fundamentalist groups in Europe and the threat that they are supposed to pose to European society fall into the *fourth* category of research (AIVD 2009; NCTB 2006; Fennema 2002). *Finally*, of a more interpretative character are those publications dealing with the importance of Islam in the formation of a religious and ethnic identity of its adherents in Western Europe. One important goal of these publications is to provide an analysis of the various degrees and forms of religiousness observed among Muslims in Western Europe (De Koning 2008; Foblets and Cornelis 2003; Phalet and Ter Wal 2004). The main focus of this bird's-eye view on the characteristics of research on Islam in Europe has concentrated on questions of direct socio-political importance. Little attention has been paid to Islamic religious practices performed in European context (cf. Dessing 2001). Furthermore, so far there has been a dearth of research that combines disciplines and establishes comparative connections.

¹⁶ In France, for example, the research on Islam has been strongly governed by the concepts of citizenship, the separation of religion and state and the compatibility of Islam and the ideal of *laïcité* (Dessing 2001, 2-3; Frégosi 2002, 74-75). Whereas in Britain the study of Islam tends to have been conducted in the disciplines of anthropology and sociology, in relation to ethnic and race relations research (Dessing 2001, 2-3; Nielsen 2002, 164-165). See also Berger 2012b for an elaborate discussion on the development of the study of Islam and Muslims in the Netherlands

In its study of Islamic burials in the Netherlands and Belgium, this study relates to and draws upon several sources. *First of all* there are the theological accounts on death, dying and the Hereafter that are present in large numbers and circulate in various translations among Muslims in Europe. These accounts are often summaries of larger collections that give a very vivid impression of the image of death, life in the grave, the Day of Judgment and the Hereafter and are illustrated with many Quranic verses and prophetic traditions (*hadiths*) (cf. Ibn Qayyim al Jawziyya 1996, 2005; Sujuti 2002; Ibn Kathier 2006). Besides these theological accounts, some academic studies also give in-depth insight into Islamic eschatology (Smith and Haddad 2002; O'Shaughnessy 1969). Furthermore, Islamic death rituals have been pretty thoroughly described in the large corpus of *hadith* (traditions) and *fiqh* (Islamic jurisprudence). Generally these collections include a book or a chapter on burials (*Kitâb al Janâ'iz* or *Bab al-Janâ'iz*). These chapters or books can differ from each other in content, focus and style, but they do tend to cover similar topics related to burial prescriptions and preparations. For the purpose of this study I have relied on the generally recognized comparative overviews of jurisprudence (cf. Al Jaziri 2009; Ibn Rushd 1994; Bakhtiar 1996; Ibn Qudamah 2003). Only where these works were not sufficient to understand the issues concerned did I consult other works, such as classical works on traditions and life after death and more contemporary Shiite and Ahmadiyya works (Bukhari 1997; Al Ghazali 1989, Al Ghazali 1979; *Kitâb Ahwâl al Qiyâma* 1872; Sistani 1997; Mohammed Ali 2005). In my contemporary research on Islamic burial regulations, I focus primarily on contemporary discussions concerning the situation of Muslims in non-Muslim countries and its consequences for ritual practices, including burial practices. These discussions are part of several collections of *fatâwa* issued in response to questions asked by Muslims living in the West. This is a new genre of *fiqh* that has developed as a result of Muslim presence as a religious minority, and is known as the *Fiqh al Aqalliyyât* (cf. AbdelQadir 2003; Al Qahtani 2007; Al Sistani 1999; Al Qaradawi 2003).

Then there is the genre of death studies in the social sciences. Death and dying have become subjects of systematic research in the social sciences, especially in the aftermath of the Second World War (Small 2001, 21). Earlier studies were mainly anthropological accounts of death customs in 'primitive' societies. In the field of anthropology, death and burial rituals were studied in an attempt to understand the social organization of societies and as a transitory life scheme of a *rite de passage* (Hertz 1907; Van Gennep 1909; Durkheim 1912). There have also been explorations of

death from the psychoanalytic school that have tended to focus on the grieving process (Freud 1917). By the 1950s this pattern had changed, as Benoliel states: ‘In the aftermath of war, interest in death and dying as subjects for scientific investigation was stimulated by a number of factors: the rapid expansion of organized sciences and societal funded research; the appearance of the mental health movement with a central focus on suicide prevention; a depersonalization of many aspects of human existence associated with new technologies; and a powerful death anxiety that has been attributed to the use of atomic weapons at Hiroshima and Nagasaki.’ (Benoliel 1994, 4). In his historical overview Small (2001, 23-25) distinguishes five phases in the emergence of death and dying as a field of research in the social sciences.¹⁷ In the scope of this study the fifth phase, especially, in which death studies were related to the wider scope of culture and religion, propounded by Small is relevant. Small called this phase the ‘revival of death and continuing bonds’ and stated that the theory on continuing bonds developed by Walter (1996) challenged the thus far prevailing idea of the bereaved having to break the bonds with the deceased and move on in life as part of a successful mourning process (Small 2001, 34). The theory on continuing bonds, that will be discussed in more detail in Chapter 5, was embedded in a wider consideration of the culture of grief.

Finally, there are few studies that have been done about the practice of Islamic burials in a context of migration, focusing mainly on the ritual itself and its performance. These studies either tend to discuss the dynamics of the ritual

¹⁷ The first phase dates from 1940-1960 and is considered to be the phase in which the field of death and dying in research was opened, with pioneering studies during the 1940s on children’s awareness of death and acute grief processes of survivors of a nightclub fire (Anthony 1940; Lindemann 1944). During the 1950s there were three main areas in which the first steps to research on death and dying were made; first, a critical perspective exemplified in Gorer’s work on the avoidance of death in 1955, second, empirical studies on London widows like that of Marries in 1958 and third Feifel’s contribution that legitimized work on death, via an appeal to its multidisciplinary relevance and potential for empirical verification in 1959 (Small 2001, 22). The second phase dates from 1960-1970 and was characterized by an expansion of concern about the care of dying people. Different works have been published on service provision and service providers (Hinton 1967; Saunders 1969; Kubler-Ross 1969; Quint 1969; Bowlby 1969). All of which have had lasting impacts on service providers, doctors and nurses. It was also in this period that self-help groups emerged, for example Widow to Widow in Boston in 1967 (Small 2001, 22-23). The third period from 1970-1980 is characterized by a formalization of networks and further building on past accomplishments. For example The International Work Group on Death and Dying was set up, with an international membership. Building on the former contribution of Bowlby (1969), Parkes for example published research based on widows in 1970 and on the psychology of grief in 1972 (Small 2001, 23). The fourth period from 1980-1990 was an expansion into the areas of ethical and legal concerns. In the United States for example, standards and certification for death education and counseling were established. Academic journals of death and dying also emerged within this period; *Omega* and *Death Studies* (Small 2001, 23).

performance and their changing in a context of migration or the question of identity and belonging. In the first category are found Tan's *Wandlungen des Sterbens und der Traurritualen in der Migration* (1996), Cirh Zan's study on the changing funeral practices of the Alevi (2012) and several publication by Jonker that afford insight into the performance of death rituals, mainly by Turkish Muslims in Germany (Jonker 1996a, 1996). Of a more comparative and systematic nature is the study by Dessing (2001) on lifecycle rituals among Muslims in the Netherlands, in which the author provides a chapter on the death practices of Turkish, Moroccan and Surinamese Muslims. Her focus seems to be on the changes these practices undergo and the new organizational infrastructure that is developed in a situation of migration. More recently, Venhorst (2013) has added to this genre a study on death ritual dynamics as performed by diverse Muslims in a variety of roles in the specific migration context of Venlo in the Netherlands. Studies that relate more specifically to the question of the identity and belonging of immigrants are those of Chaib (1988, 1996) who discusses the burial practices of Muslims in France and their sense of belonging to their countries of origin. Gardner (1998, 2002) has also produced several studies relating to the situation of Muslims in the United Kingdom and the question of returning to Bangladesh to be buried after death. In the works of both Gardner and Chaib, the relationship between burial location and the sense of belonging plays a very important role. This relationship will recur throughout this dissertation. Besides these works, there are some studies that emphasize the legal reconcilability of Islamic burial prescriptions with the national legal context of, for example, France as in the study of Aggoun (2006). Van den Breemer and Maussen (2012) incorporated an emphasis on the Church and State relations in both France and the Netherlands in their study of the establishment of Islamic cemeteries in both countries. Although these studies provide valuable insights into the practice of Islamic death rites in a context of migration or into the legal possibilities of Islamic burials in European countries, they do not share the methodologically comparative character of the current study that will be explained in more detail the next section.

1.4 Theoretical approaches, research methods and techniques

In studying Islamic burials in the Netherlands and Belgium, it is important not only to focus on the changes that occur in death rituals as a result of migration or on rituals as 'primarily serving social cohesion and identity' (Beck 2010, 198). It is essential to include Islamic scholarly opinions and traditions that focus on the meaning of religion and faith in the individual performance of burial rituals. In this study the emphasis will lie on the situation of Muslims in a non-Muslim environment and the scholarly opinions offered in the genre of *Fiqh al Aqalliyât*. Because of its multidisciplinary character, this study also includes matters concerning the institutionalization and juridical integration of Muslims in both countries. These matters cover both the historical developments in Church and State relations and the institutionalization of Islamic burial plots and cemeteries within the current legal frameworks. In its multidisciplinary methodological and comparative approach, this study distinguishes itself from the few other studies on Muslim burial practices in Europe. Its purpose is to contribute to this field of knowledge by offering a systematic and methodologically comparative study of the burial practices performed by Muslims in the Netherlands and Belgium in relation to national law, religious prescriptions and the implications choices of a burial location have in relation to identity and the sense of belonging.

The question of identity and belonging frequently arose throughout the fieldwork. Cemetery managers would often tell me of their expectation that the majority of future generations of Muslims in Europe would opt for burial in Europe *because* of a diminishment in their sense of belonging to the countries of origin. However, it was exactly this sense of belonging to the countries of origin that formed a prominent motive for respondents in their choice for burial abroad. Younger generations of Muslims whom I interviewed did not necessarily feel a stronger sense of belonging to the Netherlands and Belgium as opposed to the countries of origin. Especially in matters of burial location, the sense of belonging to their 'home countries' was heavily emphasized by respondents. This seems to run counter to the general expectation among cemetery managers.

The majority of the guest workers who arrived in the Netherlands and Belgium during the 1960s and 1970s were male laborers who planned to work, save money and return to their countries of origin. When their stay was extended, this intention to return gradually turned into, as it now appears, a 'myth of return' (Gardner 1996; Gardner 2002; Bolgnani 2007; Chaib 2000). This 'myth of return' was also a central feature in

Dutch and Belgian policies to do with the settlement of guest workers who were considered to be members of a temporary labor force who would eventually return to their countries of origin (Shadid and Van Koningsveld 2008, 10-11; Sunier 2010, 121). However, large-scale family reunifications in the 1970s and 1980s refuted this presumption. As a result, the number of Muslims increased considerably. For the majority of these Muslims returning might still be their intention, but it has remained just a myth. For the first generation of Muslims in the Netherlands and Belgium the idea of returning to their home countries provided an ideological justification for their residence in Europe. The return to home countries was only attainable once the capital needed to return had been accumulated (Bolognani 2007, 73). Nevertheless, this return rarely took place permanently while the person was still alive, as opposed to the return to countries of origin after death. The idea of returning also seems to be very much alive among younger generations of Muslims in the Netherlands and Belgium, even though the majority of the respondents has been born and raised in Europe. The paradox of this idea of returning in relation to the sense of belonging will be discussed in Chapter 4.

1.4.1 Research question, methods and techniques

In order to answer the research question about the views Muslims have of death, dying, burial rituals, and their experiences and desires with regard to Islamic burials in the Netherlands and Belgium, explorative research was conducted in both countries. The principal goal of the explorative research is to gain insight into and discover new ideas about phenomena. This approach is very suitable to this current research because it is flexible and leaves room to explore research questions that have not been frequently studied (Bernard 2002, 205). In order to address the above-mentioned research topics, semi-structured face-to-face interviews were conducted among a sample of thirty-five Muslims, eighteen male and seventeen female.

The respondents were selected by using a purposive sampling technique (or judgment sampling). There is no minimum or maximum number of people required for a purposive sample to be successful, as long as the required information is obtained and the criteria for selection are covered, making this method the most suitable for the research carried out in this study (Bernard 2002, 176-182). This type of sampling made it possible to select respondents who have had experiences with Islamic burials in their circle of relatives and acquaintances in the Netherlands, Belgium and/or in the countries of origin. In order to preclude communication problems, respondents were mainly

young Muslims, aged between twenty and forty-five, and either born in the Netherlands or Belgium or had come to these countries before turning twelve. The sample included Muslims from four Islamic religious denominations; Sunnites, Shiites, Ahmadiyya and Alevi. In order to offer some representative results, respondents were selected from within these religious communities, to tally with the number of their presence in both countries. Many pieces of research dealing with Muslims in Europe often limit themselves to research among the largest Islamic communities, that is, Turks, Moroccans and Surinamese (cf. Dessing 2001; Jonker 1996; Chaib 2000). Although this approach might be useful for policymaking, from an academic point of view it is impossible to ignore the smaller communities, especially in a discussion of religious practices. Between July 2012 and January 2013, twenty-two Sunni, six Shiite, four Alevi and three Ahmadiyya respondents were interviewed.

As mentioned before, semi-structured interviews were used to gather the empirical data required. These interviews were open-ended, but did cover a list of topics and follow a general script (Bernard 2002, 203). There are several advantages in using semi-structured interviews; for example, the potential to overcome the poor rates of a questionnaire survey. People might, for example, feel hesitant about writing down their experiences of such a sensitive topic in a questionnaire, as opposed to a situation in which they are talking about it when motivated by an interviewer (Barriball and While 1994, 329). Unquestionably, a personal interview is well suited to the task of exploring attitudes, values, beliefs, ideas, opinions and motives when faced with such a personal and sensitive issue as death and burial (Barriball and While 1994, 329). This method also provides the opportunity to evaluate the validity of a respondent's answers by observing non-verbal signals. Picking up on these is useful when discussing such sensitive issues as death and burial (Barriball and While 1994, 329). Moreover, the diverse educational and personal characteristics of the sample would have made the use of a standardized interview schedule very difficult. Because of their ethnic diversity, respondents did not all share the same vocabulary or assign the same meaning to words. The use of semi-structured interviews made it possible to adjust key-concepts to the vocabulary and language of the respondent involved.

Respondents were found through key persons such as imams, representatives of Islamic organizations and undertakers. After the first interviews, respondents themselves introduced others who could be interviewed. Interviews were held at a place preferred by the respondent, who came from various ethnic backgrounds: Moroccans,

Turks, Surinamese, Sudanese, Iranian, Iraqi, Afghani, Pakistani and Indonesian. Data was also collected by interviewing three imams (two Sunni and one Ahmadiyya), five cemetery managers in both the Netherlands and Belgium and four managers of funeral funds and assurance companies. Besides these, in the course of this research several organizations were contacted for more information about Islamic burials and the development of Islamic plots in the Netherlands.

As a Muslim I experienced both advantages and disadvantages in the course of this research. My personal network proved very helpful when I began my fieldwork. It made it relatively easy for me to attend such personal and intimate gatherings as the washing of the deceased. Throughout the fieldwork, I found myself developing new friendships and acquaintances as a result of the many personal stories people shared with me during the interviews. Respondents opened up to me and shared their innermost private ideas and feelings. The rare disadvantages occurred, for example, the time that I was kindly requested to leave an Islamic burial plot in The Hague, since it was clearly not a place for a Muslim woman. Surely, so I was told, I should have known better than to ventured there.

Another technique for collecting the relevant data was through participant observation. During the fieldwork period I attended four burials as an observer (two in the Netherlands, one in Belgium and one in Morocco), participated in three corpse washings and the shrouding (in the Netherlands, Belgium and Morocco) and attended three funeral prayers (two in the Netherlands and one in Belgium).

In order to obtain relevant data about the practice of Islamic burial in municipalities, between 2010 and 2012 I conducted a survey among all Dutch and Belgian municipalities asking about their local burial regulations and practices of Islamic burials in particular. Of all 439 Dutch municipalities that were invited to participate in this study, 327 (74.5%) responded, of which 297 have one (or more) municipal cemeteries. To complement this work I studied the local acts of all Dutch municipalities and compared them to one another. If questions were not adequately answered by studying these local acts, the municipalities were again contacted asking for clarification. At the time of research Belgium had 589 municipalities that fell under the legal jurisdiction of three regions: Wallonia, Flanders and Brussels. Of all the municipalities invited, 212 (36%) responded. All the answers involved the situation in public cemeteries. In addition to the questionnaire, the federal and regional laws were studied and the results will be presented in this study.

As this multidisciplinary research is qualitative in nature, my aim is not to generalize the results to Muslims in the Netherlands and Belgium. My primary purpose is to ensure as much variation as possible and to describe and explain specific opinions and practices concerning death, dying and burial. These aims tally with the definition of qualitative research as given in the literature on methodology of social research. Qualitative research is defined as ‘a form of systematic empirical inquiry into meaning.’ (Shank 2002, 5). As a qualitative researcher I am interested in understanding how people make sense of their world and the experiences they have (cf. Merriam 2001, 13). Besides explaining respondents’ views on the afore-mentioned topics, I have also focused on whether the opinions and practices found correspond to some variables such as: ethnic background, religious denomination, age and gender. It should be borne in mind that such correspondences will be looked at by searching for trends rather than by presenting statistical evidence, as the sample size is too limited to allow such statistical correlations.

1.4.2 Chapter outline

Every chapter in this study consists of four integrated parts that represent the multidisciplinary character of this study: social science research, Islamic scholarly opinions, national legal regulations and the results of fieldwork. The chapters are divided into the main themes that are concerned with Islamic burials in the Netherlands and Belgium.

Chapter 2 discusses the views on dying and death. The chapter begins with Section 2.1 with the legal discussions and the development on the definition of death and brainstem death. The focus in this chapter are the views held by Muslims about eschatology, which will be discussed in Section 2.2, and connected to the views developed among Islamic scholars in Section 2.3. The role of the grave and its physical location plays an important part in these eschatological views. The socio-cosmological views held by Muslims in relation to belonging to the Islamic community and its effect in the Hereafter will also be dealt with in this chapter in Section 2.4.

Chapter 3 discusses the theory and practice of Islamic burial preparations. The chapter commences with Section 3.1 by situating burial preparations in the theory of *rites de passage* as developed in the field of social sciences. Section 3.2 discusses the existence of funeral insurances and funds and their role in the administrative procedure that precedes burial. The following sections (3.3 to 3.6) discuss the burial preparations.

The washing, shrouding, funeral prayer and funeral procession will be discussed both on the basis of the results of the interviews and from the frameworks of Islamic scholarly opinions and the national laws.

The burial practices of Muslims in the Netherlands and Belgium are discussed in Chapter 4, that begins with a brief overview of the legal history of the creation of (religious) cemeteries in the context of the current national burial landscape. Islamic burial facilities are subject of Section 4.2 and will be discussed from the perspective of Islamic scholarly opinions as well as from the results of the municipal survey and interview data. Section 4.3 contains a description of the Islamic burial prescriptions in connection to national laws, scholarly opinions and the interview data. Section 4.4 elaborates on the choice of burial location among Muslims in the Netherlands and Belgium.

Chapter 5 presents the practices and processes of mourning and grief. The chapter commences in Section 5.1 with the discussion on the existence of private mourning and public mourning. This discussion is presented both in connection with Walter's theory on continuing bonds and with the interview data. Section 5.2 discusses the rituals of condolences and mourning from an Islamic scholarly view in relation to the interview data gathered. In this section, national laws and case law of the Netherlands and Belgium on the permissibility for employees taking leave of absence in the event of the death of a family member and the emergence of a special 'mourning leave' in both countries will also be included. Finally this chapter deals with rituals performed at mourning gatherings, and the personal and individual ways in which Muslims give meaning to their grieving process in Section 5.3. In this section I also pay attention to the rise of Salafi ideas which seem to reject and ignore the practices performed in traditional Islam.

Lastly, the conclusions of this study are presented in Chapter 6. In Section 6.1 I begin by presenting the conclusions of this study in relation to the theory of the multilayered messages of ritual practices as explained by Beck (2010). In Section 6.2 some remarks on the (im)mutability of ritual practices and on European trends with regard to Islamic burials are made. In the last section, the possible implications of this study for policy and some recommendations for future research are made.