

Dār al-Ḥarb as the Motherland? The Muslim Tatars of (the Grand Duchy of) Lithuania and Social Contract

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Muslim presence in Lithuania, though already addressed from many angles, has not hitherto been approached from either the perspective of the social contract theories or of the compliance with Muslim jurisprudence. The author argues that through choice of non-Muslim Grand Duchy of Lithuania as their adopted Motherland, Muslim Tatars effectively entered into a unique (yet, from the point of Ḥanafī *fiqh*, arguably Islamically valid) social contract with the non-Muslim state and society. The article follows the development of this social contract since its inception in the fourteenth century all the way into the nation-state of Lithuania that emerged in the beginning of the twentieth century and continues until the present. The epitome of the social contract under investigation is the official granting in 1995 to Muslim Tatars of a status of one of the nine traditional faiths in Lithuania with all the ensuing political, legal and social consequences for both the Muslim minority and the state.

Time and again Muslim communities would find themselves living amidst non-believers. Some of them, as in the case of Tatars from the Kipchak steppes, would even prefer to relocate to and permanently settle in a non-Muslim (Dār al-Ḥarb?) environment. Through choice of non-Muslim Grand Duchy of Lithuania as their adopted Motherland, Muslim Tatars effectively entered into a

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unique (yet, arguably, still Islamically valid) social contract with the non-Muslim state and society.

Muslim presence in Lithuania, though already addressed from many angles, has not hitherto been approached from the perspective of the social contract. Based on the understanding of social contract as “an actual or hypothetical agreement among the members of an organized society or between a community and its ruler that defines and limits the rights and duties of each,”¹ the paper follows the development of this social contract since its inception in the fourteenth century all the way into the nation-state of Lithuania that emerged in the beginning of the twentieth century and continues until the present. The epitome of the social contract under investigation is the official granting in 1995 to Lithuanian Sunni Muslims of a status of one of the nine traditional faiths in Lithuania with all the ensuing political, legal and social consequences for both the Muslim minority and the state itself.

Unfortunately, hitherto practically no research on the presence of Muslims on the territory of the Grand Duchy of Lithuania included the Tatar Muslim perspective. The regional historiography is virtually silent on the Islamic aspect of the social contract under investigation—there are no known archival sources, which would reveal any Islamic underpinnings or justification for the permanent settlement of Tatar Muslims in a non-Muslim majority country. Therefore, at the moment, it is practically impossible to trace, how, if at all, Tatar Muslims justified, from the Islamic point of view, their choice to settle permanently in Dār al-Ḥarb. On the other hand, their choice may be retrospectively evaluated from the perspective of relevant classical *fiqh* reasonings on the matter of residence of Muslims in non-Muslim countries.

Muslims in and of Lithuania: Historical and statistical-demographic background

History of Islam in Lithuania dates back to the mid-fourteenth century when the first migrants—a sort of (temporary) political refugees—from the Golden Horde came to the then Grand Duchy of Lithuania (GDL). They were followed by new arrivals, consisting chiefly of mercenaries hired by Lithuanian grand dukes, more refugees and prisoners of war who, once freed, chose to stay. The immigrants, the majority of whom were recently Islamized Turkic speakers (Tatars), eventually settled in the north-western parts of the Duchy, mainly in village communities surrounding the capital Vilnius. Though there are no reliable statistical data, the number of Muslim Tatars permanently living on the territory of the Grand Duchy of Lithuania by the end of the sixteenth century ran into tens of thousands and possibly up to one hundred thousand. In the

1. “Social contract.” *Encyclopaedia Britannica*, <http://www.britannica.com/topic/social-contract> [2016-01-05].

seventeenth century, however, the process of migration to the Ottoman realm, provoked by changing (hardening) attitudes among the rulers and the non-Muslim nobility but especially the Catholic Church toward them later followed by conversions to Christianity, significantly diminished their numbers, though into the twentieth century, the overall number of Lithuanian Tatars (as they came to be collectively referred to in the preceding centuries) in what then was the western provinces of the Russian empire stood at around ten thousand.

Towards the end of the WWI, in early 1918, Lithuanian intellectual elite in Vilnius declared the country's independence. However, in the ensuing independence war(s) the brand new nation state failed to hold onto Vilnius, the declared historical and permanent capital of Lithuania, along with its region (incidentally, home to a bulk of Tatars) which were lost to a new nation state—the Republic of Poland. The 1923 Census revealed that only 1,107 (Central Bureau 1925, 34) inhabitants of the Republic of Lithuania identified themselves as Muslim. Of them, 961 were ethnic Tatars (Central Bureau 1925, 47) and of 146 non-Tatars—117 Lithuanians (sic!) (Central Bureau 1925, 38) and 12 Polish (Central Bureau 1925, 40).

The Soviet occupation grounded communal, especially religious, life of Lithuanian Tatars to a standstill and in the ensuing communist period of over forty years many if not most of them became alienated from their religious tradition. However, the composition of the, even if only nominal, Muslim community in Soviet Lithuania started changing—while till the end of the WWII the Lithuanian Tatars made the overwhelming majority of Lithuania's Muslims, with steady arrival of colonists from Muslim-majority lands in the Caucasus, Central Asia and inner Russia (namely, Tatarstan and Bashkortostan), Lithuanian Tatars, by then comprising some five thousand, by the end of the Soviet rule made just around a half of inhabitants of Lithuania of Muslim background.

The newly independent post-communist Lithuania has been witnessing a certain (re)appearance of Islam on its soil, first of all in the form of the officially revived indigenous Tatar Muslim community. However, a significant number of colonists, though offered citizenship of independent Lithuania, chose to repatriate to their ancestral homelands, thus once again diminishing the overall number of Muslims in by now again independent Lithuania.

The population census of 2001 put the figure of Sunni Muslims in Lithuania at 2,860 (Department of Statistics 2002, 204–205), that is, less than 0.1 per cent of the entire population, of whom 1,679 identified themselves as Tatars, 362 as Azerbaijanis (there is no category of ethnic “Azeri.” in the Census data), while 185 as Lithuanians and 74 as Russians (Department of Statistics 2002, 204–205). The most recent 2011 official census found 2,727 residents of Lithuania as specifically Sunni Muslims (Department of Statistics 2013, 14). Of those 2,727 Sunni Muslims, 1,441 identified themselves as ethnic Tatars (Department of Statistics

2013, 14), or 52.8 per cent of all Sunni Muslims and just 51.6 per cent of all 2,793 ethnic Tatars (Department of Statistics 2013, 7), while 374 as ethnic Lithuanians (Department of Statistics 2013, 14). Comparison of the results of the 2001 and 2011 censuses reveals certain demographic trends in the Lithuanian Muslim community, of which several stand out—the lowering of number of people who identify with Islam, along with the shrinking numbers of both ethnic Tatars and Muslim Tatars, while the number of ethnic Muslim Lithuanians has doubled. The proportion of Muslims of other ethnic backgrounds and those who had been born outside Lithuania remained, however, relatively stable and small.

This has happened due to several factors: first of all, because of migratory processes (like many other Lithuanian citizens, some of the Muslims, with the opening of borders and especially after Lithuania's accession to the EU in 2004, have emigrated, both to other EU countries and further) as well as due to conversions of Lithuanian citizens to Islam, children of whom are born Muslim Lithuanian citizens. Though Lithuania has not yet become attractive for immigrants from Asia or Africa, the numbers of immigrants of Muslim cultural background have recently started slowly picking up. Consequently, parallel to the conditional revival of the religious community of Lithuanian Tatars, they, as autochthonous Muslims of the land, are gradually being supplemented by immigrant Muslims and even more so by a steadily growing group of Lithuanian converts.

Dār al-Ḥarb and Muslim residence in it in the light of classical *fiqh*

The division of the world into two, arguably antagonistic, realms—Dār al-Islam and Dār al-Ḥarb—though not directly found in either the Qurʾān or Muhammad's heritage (Hadith/Akhbar) is nonetheless an established integral part of classical Muslim jurisprudence. The distinction between the two has been addressed, though admittedly undecidedly, by all classical Muslim legal traditions, however, no consensus on it emerged:

Although scholars often have claimed that Islamic law divides the world into two basic categories, dar al-Islam and dar al-harb (alternatively, *dar al-kufr* or *dar al-shirk*), these two categories do not reflect the complexity of Islamic thought on the issue. Muslim jurists did attempt to find a way to distinguish between the jurisdiction of Muslims and non-Muslims, but they could not agree on a definition of dar al-Islam or on the number of categories into which the world is divided. Consequently, the classification of territories in Islamic law is laden with ambiguity. (Fadl 1994, 161)

Moreover, as indicated by Fadl, both terms have synonyms that are seen by Muslim jurists as either identical in meaning or at least as encompassed by the two. Thus, Dār al-Islam can be substituted with Dār al-Salam while Dār al-Kufr and Dār al-Shirk are treated as alternative terms for Dār al-Ḥarb. This division came handy in Islamic international law aspiring to regulate not only Islamic

(Muslim) state(s)' relations with non-Muslim states but also the relations between Islamic (Muslim) government(s) and Muslim minorities in non-Muslim countries as well as those between such Muslim minorities and the host states and societies. The latter aspect has lately evolved into an autonomous legal discipline—*fiqh al-aqalliyyat* (Hassan 2013).

Permissibility (or not) of residence of Muslims outside of *Dār al-Islam*, as it falls within the framework of *fiqh*, has been by far the most discussed aspect by Muslim jurists in this perceived dichotomy of space. However, as Fadl convincingly shows, this has lead not to a consensus but rather diverging, if not altogether opposing, views:

Some jurists argued that Islam and *dar al-Islam* are inseparable and that Muslims therefore may not reside in non-Muslim lands under any circumstance.

Other jurists conceived of *hijra* as a dynamic concept that requires Muslims to be in a constant search for lands in which they can attain greater religious fulfilment; some of these jurists argued that it may be recommended or even obligatory for a Muslim to reside among unbelievers. (Fadl 1994, 145).

While the Malikis are known to have become the most uncompromizing, followed by Hanbalis and Ja'afaris, Ḥanafīs and Shafī'is are considered to have been least rigid on the issue (Fadl 1994).

Lithuanian Tatars traditionally associated themselves with the Ḥanafī madhhab which also prevailed among the Ottoman Turks who in their prime time (in the sixteenth and seventeenth centuries) sought to be the spiritual “Big Brother.” if not patron of the Muslims of the Grand Duchy of Lithuania. The Turkish ulama are known to have maintained relations with the Muslim communities of the GDL through local religious establishment and some of the upper-class Tatars had spent time in Anatolia. Therefore, the Ḥanafī positions on Muslim residence in *Dār al-Ḥarb* or whatever it be called as opposed to *Dār al-Islam* are arguably most relevant in the case of the Lithuanian Tatars. Moreover, the mass *hijra* of Tatars from Crimea after its annexation by Russia in the eighteenth century, just before the annexation of the territory of the GDL in the end of that same century by the very same expanding empire, must have been not only known to Lithuanian Tatars but potentially an invitation to consider their options as well.

Looking from the perspective of classical Muslim jurisprudence, Lithuania (in the person of the Grand Duchy or as part of the Russian empire, or, lately, as an independent nation state) arguably could not count as part of *Dār al-Islam*, as it has never been either Muslim-dominated or Muslim-ruled—the two paramount conditions for a land to be identified as part of the “Abode of Islam.” Consequently, the question of permissibility for Muslim Tatars live on its territory from the point of view of the classical Muslim jurisprudence is not merely valid but also very relevant.

The early Ḥanafī jurists are reported to have held negative views of Muslim residence outside Dār al-Islām; for instance, “al-Shaybani reports on the authority of Abu Yusuf (d. 182/798–799) that Abu Hanifa (d. 150/768) disapproved of Muslims residing in non-Muslim territory” (Fadl 1994, 146). However, later, Ḥanafīs “did not oppose sojourns for the purpose of trade, although they discouraged permanent residence by Muslims in the territory of non-Muslims” (Fadl 1994, 147). So,

the Ḥanafī jurist, al-Sarakhsi (d. 483/1090–1091) [...] insisted that trading with non-Muslims is a necessity for the sake of public welfare, but that a Muslim should not sell weapons to non-Muslims. The duty to migrate, according to al-Sarakhsi, had lapsed. Although hijra had been necessary at the time of the Prophet so that Muslims might learn their religion, the present situation, al-Sarakhsi argues, is very different. Although al-Sarakhsi does not explain whether or not Muslims can learn their religion in non-Muslim lands, he states that a Muslim should not reside permanently in non-Muslim lands and should not bear offspring there. (Fadl 1994, 149)

Later in the development of Muslim legal traditions, however,

Ḥanafī jurists were concerned about freedom to practice Islam in non-Muslim territory, but they reached conclusions very different from those reached by other schools. According to these two (Shafī’ī and Ḥanafī—E.R.) schools, continued residence in non-Muslim territory might at times be either recommended or obligatory. They reached this conclusion partly because their conception of dar al-Islām was less precise and consequently more flexible. Under certain circumstances, although ultimate sovereignty in a particular territory might belong to non-Muslims, this territory nevertheless may be treated as a part of dar al-Islām. (Fadl 1994, 159)

This particular view that a non-Muslim majority land ruled by non-Muslim government and naturally not in accordance with Islamic requirements could, “under certain circumstances,” somehow count as part of Dār al-Islām opens a way for legitimization of Muslim residence in such a land. Fadl argues that particularly

for the Ḥanafīs, a territory may be ruled and controlled by non-Muslims and yet still be classified as a part of dar al-Islām. According to the Ḥanafī school, a territory is considered to be part of dar al-Islām if the laws of Islam are applied. [...] In fact, in the opinion of some Ḥanafī jurists, as long as a single Muslim law is in force such territory remains a part of dar al-Islām. This meant not only that Muslims were under no obligation to emigrate but also were encouraged to stay if they could do so safely. As to territory that is legally considered dar al-kufr, Muslims do not have a duty to emigrate but are recommended to do so.

(Fadl 1994, 161–162)

So, ultimately, Dār al-Islām is not about whether Muslims make a statistical majority in the land or that the government promulgates and abides by Islamic law but more about whether Muslims in a non-Muslim majority/ non-Muslim

environment may still practice (at least to a certain degree) their religion as they will. The expected minimum (a basic prerequisite for social contract), according to Ḥanafī jurists, is that “Muslims residing among non-Muslims should establish congregational prayers, especially the Friday weekly prayers (Jum’a prayers), and the prayer after the month of Ramadan and the new year’s prayer (‘Id prayers), and should demand the appointment of Muslim judges and governors” (Fadl 1994, 172).

However, some Ḥanafī jurists appear to have gone even further. While they declare such crimes as adultery, theft, murder, defamation and consumption of alcohol in Dār al-Ḥarb equally prohibited as in Dār al-Islam, they acknowledge that “this prohibition is merely a moral imperative; a person committing any of these offences in a non-Muslim territory is liable only before God in the Hereafter. Islamic courts have no jurisdiction over crimes committed outside of Islamic territory and consequently may not punish extraterritorial crimes” (Fadl 1994, 173–174).

Finally, not only that Muslims are not banned from living in non-Muslim environments, they are also “permitted.” to disregard Islamic injunctions and even engage in obviously anti-Islamic behaviour:

what is significant about the Ḥanafī position is the argument that particular Islamic legal prohibitions or laws do not apply outside the territory of Islam. Ḥanafī jurists argue that a Muslim residing in a non-Muslim territory may deal in usury (*riba*) with non-Muslims, may sell or buy prohibited substances such as alcohol, pork or an animal killed by Islamically unacceptable means such as suffocation or clubbing (*mayta*), and may engage in gambling or questionable financial dealings such as insurance schemes and the like—on the condition that such transactions are legal under the laws of the host territory and that the transactions are between a Muslim and a non-Muslim. (Fadl 1994, 174)

All this suggests that from the Ḥanafī perspective, voluntary permanent residence of Muslims in non-Muslim lands is not by default seen as objectionable. Though there is no evidence suggesting that the Lithuanian Tatars who chose Lithuania as their adopted motherland were aware of this generally held position among Ḥanafī jurists of the time, or that they based their decision on or justified it through any fatwas or other legal reasoning—there available archival material does not suggest anything of the sort, their choice to settle and stay put in Lithuania appears not to go against the grain of the Ḥanafī legal tradition. Consequently, though the historiography of the presence of Muslims in Lithuania has no decisive answer to the question of whether the Lithuanian Tatars were aware or not of the legal reasoning related to residence in Dār al-Ḥarb, they, on the basis of the overwhelming majority of the Ḥanafī jurists’ position, nonetheless may be absolved of committing a sin by having remained in Lithuania for more than half a millennium.

Two aspects of Muslims' residence in non-Muslim majority lands are worth mentioning here as being particularly relevant to the Lithuanian Tatar case—that of marrying non-Muslim (though still restricted to those from *ahl al-Kitāb*) women and serving in armed forces of non-Muslim countries. As is related by Fadl, on the issue of marriage,

Muslim jurists often state that marrying a scriptuary woman in dar al-harb is disfavored (*makruh*), although not prohibited. Marriage with non-Muslims in non-Muslim territory, they argue, ultimately will lead to certain dangers such as slavery, the oppression of children who grow up unprotected by dar al-Islam, and the loss of Islamic identity among children whose mother will teach them the habits and mores of non-Muslims. (Fadl 1994, 178–179)

Lithuanian Tatar men, however, are known to have married local non-Muslim women, even if this was not a very wide-spread practice; in any case, exogamous marriages must have contributed to both sustaining the numbers of Muslim Tatars and also outbreeding.

The question of service in non-Muslim ruler's military deserves even more scrutiny. As Fadl also considers,

perhaps the most significant issue relating to integration is that of military cooperation between resident Muslims and the host polity. As a general rule, Muslims should not contribute to the military strength of non-Muslims. Muslims residing in non-Muslim territory should remain neutral in any military conflict engaged in by their host polity, especially if it involves other Muslims. The primary reason for this position is that if resident Muslims support other Muslims in conflict with the host non-Muslim polity that would constitute a betrayal of their aman, which is strictly forbidden. (Fadl 1994, 179)

Aman, the contractual guarantee of safety and security of Muslims in non-Muslim country, is the keyword here: it is precisely aman that is the cornerstone of the social contract between Muslims, on the one hand, and the non-Muslim rulers and their (non-Muslim) subjects, on the other. As March (2007, 244) argues, aman is the “foundation for a social contract of civic loyalty.” He elaborates on this through the examples of classical jurists', among them Ḥanafī, positions:

jurists from across the Sunni schools are quite clear that contracts made with non-Muslims, including the aman, are as morally binding as those made with Muslims. They are unanimous in holding that the enjoyment of an aman imposes on the Muslim certain moral and sometimes legal obligations to the non-Muslim entity in question. Eleventh century (Ḥanafī—E.R.) jurist al-Sarakhsi declared that “it is abhorred for a Muslim who requests an aman from them [by swearing] on his religion to deceive or betray them, for treachery is forbidden in Islam.” (March 2007, 245)

Al-Sarakhsi is further quoted by March, however, as arguing that

[I]f there is a group of Muslims under an aman in the abode of war and that country is attacked by another non-Muslim country, then the Muslims are not allowed to fight, for fighting involves exposing oneself to danger which is only allowed for the purpose of exaltation of the Word of God, may He be glorified, and the glorification of religion, which are not present in this case. Because the laws of idolatry are dominant over them Muslims are not able to rule by the laws of Islam, and thus any fighting on their part would take the form of exaltation of the word of idolatry and this is not permitted unless they fear for their lives from the invaders, in which case there is no sin incurred in fighting to defend themselves rather than fighting to exalt the word of idolatry.

(March 2007, 247)

March concludes that “such a position was indeed that generally advocated by the classical jurists, who held that it is impermissible to contribute to the military strength of non-Muslims” (March 2007, 246).

It might come as a surprise but the social contract between Muslim Tatars as an ethno-confessional group and the Lithuanian state was for long centuries based on the condition of Tatars' contribution to war efforts by the Lithuanian (and later on Commonwealth of the Two Nations) state. It may be even argued that service in the armed forces of the GDL and the subsequent states has become the quintessential foundation not only of the social contract but also of Tatar myth of belonging in and to Lithuania. The following sections are devoted to revealing this.

Lithuanian Muslim Tatars and the social contract with the Dār al-Ḥarb-turned-Motherland

Tatars who came to settle in the Grand Duchy of Lithuania starting from the fourteenth century hailed from different social backgrounds—while some claimed (and were recognized as such) nobility ranks, the majority were of much more modest origins. Upon settlement, Lithuanian Tatar (as they came to be collectively referred to) elite were given by the grand dukes tracts of land to be used as fief. These lands were inhabited by peasant and artisan Tatars (concentrated in village communities) working for the Tatar landlords.

Though the Tatar strongmen appear to have relocated to the Dār al-Ḥarb (the first of them arrived when Lithuania was still formally pagan) voluntarily (even as political refugees), the bulk of the Tatars as the entourage of the nobility might have had no other choice but to follow their lords. The mercenaries purportedly hired by the Lithuanian grand dukes arguably came also on their own will for “employment purposes,” while the last known category—prisoners of war certainly were brought against their will. This four-fold structure of the Tatar constituency implies that it was a deliberate decision on the part of

at least two “social.” groups, namely, the nobility and the mercenaries, to settle outside the “Abode of Islam.” There is, however, to the best of the author’s knowledge, no archival material offering religiously-grounded explanations of or justifications for such a move. One may even rhetorically ask if recently Islamized Tatars could have at all been aware of the discussions among the jurists on the permissibility of moving out from Dār al-Islam (as the lands they came from purportedly were) to Dār al-Islam. In any case, the ultimate responsibility lies with the minority within the Tatars, namely, their nobility.

As the Grand Duchy and especially the subsequent Commonwealth of the Two Nations were the states effectively controlled by nobility, the national social contract at that time revolved precisely around it—though the state was a monarchy, it was ultimately the nobility who determined the fate of the state by first electing the monarch and then controlling him. The Tatar landed nobility, however, had a special place in the state—first of all, they were (or at least claimed to be) directly accountable to the monarch as their patron and guarantor of their personal rights in the state. It is even reported that “[b]ecause land ownership was granted directly from the king, Tatars were sometimes called the ‘King’s Tatars.’” (Robertson Huffnagle n.d., 8)

Furthermore,

[s]ince the will of the ruler determined the range of freedoms for the Tatar population, with each new ruler ascending the Polish-Lithuanian throne, Tatar leaders petitioned for the confirmation of old rights and privileges. For instance, in order to remind King Sigismund I of Tatar devotion to the Lithuanian lands, the 1519 “Tatar Petition Addressed to Sigismund I.” recalled that “the memory of Vytautas (Witold) is highly revered amongst us. He did not order us to forget the Prophet, whose name we honor, together with those of our Caliphs, as we turn in the direction of the Holy Places. We swore an oath upon our swords to love the Lithuanians when the fate and destiny of war brought us to their homeland....” Royal decrees reaffirming Tatar rights and privileges would often follow these petitions. A passage of a royal decree dated June 20, 1568 given by Sigismund II Augustus (Zygmunt August) stated: “In view of the faithful services rendered to the cause of the State by our Tatar subjects inhabiting the Grand Duchy of Lithuania and owning landed estates therein, We decree that the rights, liberties, and privileges granted to them by Our ancestors and by Us be reaffirmed and confirmed and that they shall enjoy the same rights as Our other subjects belonging to the nobility in Our State, the Grand Duchy of Lithuania.” (Robertson Huffnagle n.d., 9)

However, though it was recognized as nobility, Tatar nobility none the less had less political rights and practically no influence on the course of the state. In the words of Robertson Huffnagle,

[a]lthough Tatars were regarded as “fellow-citizens of different faith,” they were not “citizens” in the full extent of the word; as Muslims, Tatars did not possess

full political rights, they were not allowed to sell their land, and their participation in the judicial system was limited. They could neither elect nor be elected to the Diet or the provincial councils (*sejmiki*). (Robertson Huffnagle n.d., 8)

For instance,

the sixteenth century codex of feudal rights, the Third Lithuanian Statute (promulgated in 1588), described Tatar rights separately from the rights of Christians. The statute made a distinction between the group of noble Tatars, such as dukes, murzas and ulans, who could use the privileges of the noblemen, and free men. Another article of the codex distinguished those Tatars who did military service and could use privileges of the nobility, but there were restrictions imposed upon them in the judicial process.

(Bairašauskaitė and Račius 2016, 23)

Ultimately, from the onset of their residence in the GDL, the social contract between the Muslim Tatars (in the person of their nobility) and the state was essentially confined to their relationship to the monarch and not the nation (represented by the non-Muslim nobility of the land). The legitimacy of their living in the GDL was then derived from the presumed “fact.” that it was the Lithuanian rulers who had invited the Muslim Tatars to settle in their lands and particularly in the private possessions of the grand dukes. This underlying theme remained topical in the Tatar interactions with the non-Muslim majority throughout the centuries, when, finally, “in the second half of the eighteenth century, the legal status of all the lands granted to them by kings or princes was changed from fiefs to hereditary property and full equality of rights between Tatars and Polish szlachta was stipulated in the Constitution of 3 May 1791” (Nalborczyk and Borecki 2011, 345).

So, the process of the Dār al-Harb turning into the Motherland took up to four centuries. From the perspective of some Ḥanafī jurists, however, the Grand Duchy of Lithuania can be argued to have ceased being part of Dār al-Harb with the first guarantees of Tatars as Muslims’ religious rights, presumably as way back as the late fourteenth century. It is the freedom (however restrained) to practice Islam, which, according to the classical Ḥanafī jurists referred to above, renders the land inhabited by Muslims, even as a minority, a part of Dār al-Islam. Freedom of religion indeed appears to have been guaranteed by the rulers since the very beginning of the process of Tatar settlement in the GDL: Muslims proceeded with building of mosques (their number in the sixteenth century may have ran into several hundred) in their villages and soon cemeteries formed around them. Muslim Tatars had their spiritual autonomy—they had congregations (*jama’at*) headed by imams who would also serve as communal justice dispensers. Therefore, from the perspective of the Ḥanafī jurisprudence, permanent residence in Lithuania by Muslim Tatars does not appear to have warranted any grave sin on their part and the social contract that they (in the

person of their nobility) arrived at with the (non-Muslim) rulers was Islamically valid and could count as a classical aman.

However, as indicated earlier, service in armed forces of the state that he was the corner-stone of that social contract between Tatars as the ethno-confessional group and the state/ ruler. The noble Tatars, who managed fiefs with Tatar servants on them, were required, upon the request from the ruler, to provide armed horsemen for the state's military. In due time, such horsemen formed separate cavalry (*ulan*) units. "Personal military service was also provided by Tatars-Cosacks, who owned medium-sized plots of land" (Bairašauskaitė and Račius 2016, 23).

This foundation of the social contract, however, cannot be seen as Islamically valid even by the most "liberal" Ḥanafī standards. As shown earlier, though the classical Ḥanafī jurists did not object to Muslim residence outside the narrowly understood Dār al-Islam and even allowed themselves to consider parts of Dār al-Ḥarb where Muslims are permitted to freely practice Islam as effectively parts of Dār al-Islam they none the less would still stop short of allowing Muslims to support (or even defend) non-Muslim polities of their residence.

Thus, the fact that Lithuanian Tatars themselves have been placing so much emphasis on their military service to the state, initially, as "invited" personal guests and protectors of the ruler—Grand Duke Vytautas (in 1397), and later, as loyal custodians of the initial "contract" problematizes the justification of their residence in Lithuania on Islamic grounds. But once again, there is no known archival material offering explanation or solution to this juridical dilemma by Lithuanian Tatars themselves. One may guess that the Tatars were either unaware of the prohibition to serve in the army of an infidel (*kāfir*) state or chose to ignore it rather than try and explain themselves. On the other hand, as some of the Tatars in the seventeenth century, due to increased pressure and restrictions on religious practice from the state, non-Muslim nobility and the Catholic Church, chose to migrate (back) to the Dār al-Islam, namely, the Ottoman controlled-lands, it is plausible to assume that at least from the seventeenth century onwards, (some) Tatars might have been aware of the juristic discourse, particularly of Ḥanafī tradition, prevalent among the Ottomans of the time.

After the final partition of the Rzeczpospolita in 1795, most Lithuanian Tatars found themselves subjects of the Russian Empire. This inevitably required the reconstitution of the social contract as the previous one (premised on an "invitation" and the subsequent "honouring" of it) was not relevant. The Russian government "distinguished the Tatars, very much like Karaims, Jews and Roma, as non-Christians. However, it recognized the Tatar right to immovable property, preserved their former freedoms and did not restrict their religious practices" (Bairašauskaitė and Račius 2016, 23–24).

The Tatar nobility, however, in the new socio-political environment appears not to have given up hopes to retain (or regain) its former status and privileges. So, very soon after the annexation, in the beginning of the nineteenth century,

Tatars—making use of the imperial laws requiring the privileged social strata of the newly acquired lands to prove their noble rank—approached the institutions of representatives of regional nobility seeking recognition of their nobility status. [...] In the first quarter of the nineteenth century, in the Provinces (*guberniya*) of Grodno, Minsk and Vilnius alone, the nobility status of 237 Tatar family lines (or 2,325 direct male descendants of the lines) was recognized.

(Bairašauskaitė and Račius 2016, 24)

Such recognition by new authorities in the first place reaffirmed (or renewed) the social contract between the Tatar nobility and the state held previously with the GDL/ Rzeczpospolita rulers. It, moreover, “opened the path for the Tatars to the civil service and service in the Russian military” (Bairašauskaitė and Račius 2016, 24). On its side, the Russian government

made use of the Tatar military skills and, out of the advance guard regiments of the former GDL, in 1797 formed the Lithuanian Tatar regiment. In 1803, out of it, separate Lithuanian cavalry and Tatar cavalry (since 1807—Tatar ulans) regiments were formed. [...] Until World War I, 20 generals, descendants of Lithuanian Tatars, served in the Russian military.

(Bairašauskaitė and Račius 2016, 24–25)

This shows that while the initial social contract between the Muslim Tatars and the state had become redundant, they none the less preferred a reconstituted one to emigration, apparently favoured by Crimean Tatars after the annexation of Crimea by the Russian empire in the second part of the eighteenth century. Even more so, some of the Tatars continued to regard service in the state’s army as personal fulfilment of the social contract even if this was detrimental from the perspective of the (classical) Islamic jurisprudence.

Prior to the emergence of sovereign nation-states, the overwhelming majority of the “Tatars of the GDL” throughout their history would live in one state—be it the Grand Duchy itself, the Republic of Two Nations, or the Russian Empire—and thus would naturally perceive themselves and each other as belonging to the same single community, albeit dispersed over a relatively big territory. Founding of nationalistically orientated and even mutually antagonistic independent states of Lithuania and Poland (and also of a mock state of Soviet Byelorussia) in the aftermath of the WWI had almost by default obliged the Tatars to publicly redefine their identity and belonging and forge yet new social contracts with the newly formed nation states and their societies. Even more so—members of the same families would often find themselves citizens of different countries with ensuing exclusivist loyalties and allegiances, some

thing that frequently happened also to other, more numerous, ethnic groups, like Poles, Lithuanians, Russians and Belarusians.

Those Tatars who after all the commotion and border changing in the early 1920s found themselves on the territory of the Republic of Lithuania, had to come to grips with the new reality—not only having become a tiny ethno-confessional minority in the Lithuanian nation-state but also having been cut from the related congregations and the centuries-long demographic and spiritual centre, Vilnius. This newly emerged factual situation demanded from the Lithuanian Tatars to define their identity and relations with the out-groups (the majority society but also Tatars in the neighbouring countries, foremost Poland) anew. Rather than lamenting the fate which had dismembered the hitherto single community with numerous intra-communal kin relations, the Lithuanian Tatars appear to have publicly expressed joy at having become inhabitants of Lithuania. Many of the surviving documents (in the form of letters from Tatars to the Lithuanian state institutions) vividly attest to this.

It was in interwar Lithuania that for the first time in history a distinct outward Lithuanian Tatar (as different from and even opposed to the Polish and Byelorussian) identity was born. A significant aspect of this identity construction is the Tatar adhering to the cult of Vytautas the Great, the duke who has always been regarded in Lithuania as one of the most important and praiseworthy rulers of the Duchy and who is the single most prominent figure in the Lithuanian Tatar myth of origin accrediting him with the bringing of Tatars to the lands of the GDL. For instance, in a letter to the Minister of Education, dated April 6, 1930², in which the Tatars solicit financial assistance from the state in building a new mosque in Kaunas, arguably in commemoration of the 500-year anniversary of Vytautas' death, the authors of the letter started it with paying tribute to Vytautas whom they called “the hero, whose name is dear to us, Tatars.” The authors of the letter went so far as to promise to name the new mosque after Vytautas, who incidentally not only never was a Muslim, but also appears to have remained pagan even after a two-time christening as a Catholic.

If, in the case of the mosque financing one might regard Tatar praises to Vytautas as mere rhetorical figure while seeking through pleasing the state authorities to get favour from them, in a lengthy hand-written letter to the Minister of Education from December 29, 1939, sent by the Raižiai Tatars, their sincere admiration for Vytautas can hardly be doubted. In the letter, the authors went to great lengths in reminding the Minister of the long and glorious Tatar history in Lithuania closely linking it with the person of the Grand Duke Vytautas: they claim to be “descendants of those courageous and honourable soldiers, who took

2. Lithuanian Central State Archive, inventory number: collection 391, folder 4, case 148, sheets 2, 2ap.

part in the army of Vytautas the Great” and also that “the Lithuanian Tatars, soldiers of Vytautas the Great, out of their own free will pledged loyalty to Lithuania with their swords and to this day we stand by that pledge and honourably fulfil it. We, the Lithuanian Tatars, Lithuania’s sons, are ardently attached to it.”³ The mentioned pledge of loyalty “with swords” is no less than a classical *bay’a* (Marshall 2009) establishing the contractual relationship between the ruler and the (loyal) ruled. The authors further claim that Lithuanian Tatars, “out of respect for Vytautas the Great, mention his name in their prayers” [sic!].⁴

The social contract requires at least two parties with one of them being the state (in the person of the government and its promulgated laws). In this regard, soon after regaining independence, the Lithuanian state, though constitutionally secular, recognized the local Sunni Muslim community as one of the nine “traditional religious communities” to be protected by the state itself: Article 5 of the Law on Religious Communities and Associations of Lithuania of 1995 states that “the state recognizes nine traditional religious communities and associations existing in Lithuania, which comprise a part of the historical, spiritual and social heritage of Lithuania: Roman Catholic, Greek Catholic, Evangelical Lutheran, Evangelical Reformed, Russian Orthodox, Old Believer, Judaistic, Sunni Muslim and Karaite” (Seimas 1995). This way, the law, arguably, puts the tiny historical Muslim community (presumed to be inseparable from the Lithuanian Tatar ethnicity) on equal footing with the Roman Catholics, the overwhelmingly dominant faith-community in the country, vis-à-vis the state.

The recognition of Sunni Muslims as one of the “traditional” faith-communities has much more far-reaching consequences than just a symbolic “domestication” of Islam. So, for instance, the Mufti and other imams under his leadership (as foreseen in the 1995 law) are allowed to perform marriage rites according to Islamic regulations, the Muslim community has the right (also foreseen in the law) to religious instruction in the Islamic faith in public schools. Furthermore, Muslims are allowed to perform ritual slaughter, Muslim females are allowed not only to wear hijab publicly but to have photos of themselves in hijab on personal IDs and other legal documents. Finally, though there is no explicit legal basis, since 1997 the consecutive governments have been annually allocating funds for traditional religious communities (the actual amount being dependent on the size of the communities, drawn from the census-based extrapolations for each fiscal year), which communities can use at their discretion with virtually no control from the state’s side.

3. Lithuanian Central State Archive, inventory number: collection 391, folder 4, case 1846, sheet 29.

4. Lithuanian Central State Archive, inventory number: collection 391, folder 4, case 1846, sheets 29ap, 30, 30ap.

The deliberate act on the part of the Lithuanian political elite to include through the aforementioned law Muslim Tatars into the category of the national “us” (in the law called “traditional religious communities”) can be seen as confirmation of the social contract between the historical Muslim community of Lithuania in the person of Tatars and the state. The fact that the historic religion of the Lithuanian Tatars is Islam (while the overwhelming majority of the society have traditionally been Christians) has in no way become a liability and is, as is shown further below, rather treated by the state and its top officials as a proof of Lithuania’s tolerance toward and inclusion of different cultural groups into the purportedly multicultural social fabric of the land.

Tatar material cultural heritage is also accorded a certain place in the state and society. For instance, the state Trakai History Museum has a permanent exposition of Tatar culture displayed in the Castle of Trakai, which is probably one of the five top tourist destinations in Lithuania outside the capital city Vilnius. Furthermore, the Municipality of the Trakai District supported the idea of holding an annual Tatar festival, known as “Sabantuj.” In the words of the Director of the Administration of the Municipality, Asta Kandravičienė, “Sabantuj would enrich the cultural space of the Trakai region, would supplement traditional events. The return of Tatars to Trakai, the town of Vytautas the Great, has a big symbolic meaning” (*Lietuvos totoriai* 2011b, 1). The Central Bank of Lithuania in 1997 issued a 50 Litas coin “to commemorate the 600th anniversary of the settling down of Karaims and Tartars in Lithuania” (Central Bank 1997) officially celebrated that year.

Through these and similar channels the Lithuanian society is constantly being socialized into viewing the Lithuanian Tatars (who invariably are identified as Muslims) as an ethno-confessional minority which firmly belongs in Lithuania. It could be argued that the Lithuanian state since regaining of the independence has been engaged in the type of politics of inclusion that is exceptionally favourable toward autochthonous Muslim Tatars.

For the other party to this social contract, the Tatars, belonging in and loyalty to the land have become major fundamental elements for Tatars in their publicly broadcast identity (Kasatkina 2003, 41). The Lithuanian Tatars insist that they have no other homeland than Lithuania and thus are Lithuanians. As shown above, since at least after the WWI, the Lithuanian Tatars have been pursuing a mythology of the settlement and genesis of their community in Lithuania in which by far the most prominent role has been accorded to the Grand Duke Vytautas, the loyalty to whom (and by extension to his state) is the focal point in this mythology. It has now been revived in post-communist Lithuania with Tatars vehemently insisting on their complete loyalty to the Lithuanian state and the nation, disregarding its Catholic background.

An expression of veneration of Vytautas can be observed in the efforts put by the Lithuanian Tatar community to erect a monument to him in Raižiai, a once Tatar-dominated village. In June 2010, on the occasion of the 600 years anniversary of a legendary Gruenwald (on the territory of today's Poland) battle in which Tatar horsemen took part on the side of the joint Polish-Lithuanian army, such a monument, financed largely through donations made by Lithuanian Tatars, was finally erected and officially unveiled (Dumšienė 2010). On the occasion, the Lithuanian President in her letter of congratulations stressed what the Tatars themselves regularly emphasize: that the Tatars were "invited" by Vytautas and that they

already in the first years of their settlement and loyal service to Lithuania had become incorruptible body guards of the ruler and fought bravely in the ranks of his troops during the battle of Žalgiris. [...] Tatars have been loyal patriots of the country, have enriched the life and culture of Lithuania with distinctive features, which need to be protected, nurtured, and conserved. (*Lietuvos totoriai* 2011a, 5)

In an interview, the Chairman of the Union of Lithuanian Tatar Communities, Adas Jakubauskas reiterated this narrative:

In 2010 a monument in Raižiai to Vytautas the Great and to commemorate the six hundred-year anniversary of the Žalgiris battle was unveiled. With this event, we wanted to show how important to Lithuanian Tatars is the memory of Vytautas the Great. [...] This battle is as important to Tatars as it is to Lithuanians and Poles. (Sitdykovas 2012, 1–2)

In much the same vein, Mufti Romas Jakubauskas opens his address to coreligionists and fellow Tatars in the newspaper of the Lithuanian Tatars with ascertaining that

It is already more than 600, since our ancestors, arrived to the Grand Duchy of Lithuania at the request of Vytautas the Great. Through defending this land and sacrificing themselves for it, with their blood they earned their good name and the respect of local people. After obtaining respect of the Lithuanian people and the right to call this land their new Motherland, people of our ethnic group contributed a considerable input into the Lithuanian history, cultural and spiritual life. (Jakubauskas 2008, 2)

Likewise, repetitive practices are evident in the recycling of the narrative of Tatars as capable and dedicated soldiers in the service of their acquired Homeland, initially in the armed forces of the Grand Duchy of Lithuania/ Rzeczpospolita and later of the Lithuanian and Polish republics as well as several uprisings against the Russian rule (Jakubauskas 2007, 4). Take, for example, a typical recurrent storyline, expressed by one of the Tatar leaders:

Tatars took part in the T. Kościuška (*Pol.* T. Kościuszko) uprising of 1794, in all the 19th century uprisings against the czarism, also in the later fight for Lithua-

nia's freedom and independence. [...] Our people fought together with Lithuanian volunteers in the independence fight. A Tatar Colonel S. Chaleckas was one of the fathers of the Lithuanian Armed Forces in 1918. (Rumša 2011, 6)

In apparent recognition of the Tatar military service and their skills, the Lithuanian military in 2007 hosted an exhibition "Lithuanian Tatars—soldiers" at the National Vytautas the Great Museum of War run by the military.

The current phase of the evolution of the Lithuanian Tatar community in regards to the social contract suggests that the leadership of the community seeks to reconstitute the social contract of the inter-war period which in its turn was based on the already GDL-time mythology of "invitation" and "honouring" that invitation. For the contemporary Muslim Tatars the question of Lithuania's belonging to either of the *Dārs* is irrelevant not least because the proponents of *fiqh al-aqalliyat* from among the jurists have come to terms of *de facto* residence of tens of millions of Muslims as religious minorities and not only in Europe. But more importantly, the majority of Lithuanian Tatars are now effectively so secular (or even in the state of post-religiousness) that, as the results of some research suggest, a clear majority (and much more than other ethnic minorities) of them agree with the thesis that "We live in Lithuania and this means that, disregarding our traditions, we have to adapt to the Lithuanian way of life and behave like Lithuanians" (Kasatkina 2003, 42).

New ways ahead?

From what has been said, one might draw a conclusion that the Lithuanian Muslim Tatars have made use of the Ḥanafī jurists' reasoning allowing them as an ethno-confessional community not only to physically survive in a non-Muslim environment but even to carve up a unique (and arguably Islamically valid) social contract between them and the rulers of the state that be. This initial contract between (primarily mercenary) Muslim Tatars and the dukes of the Grand Duchy of Lithuania later on allowed them not only to feel welcome in an otherwise rather staunchly Catholic land but also to claim to have become an integral part of its society. Military service to non-Muslim rulers including armed engagements with Muslim rulers' (namely, the Ottomans) lead armies, though deplored by even most liberal Ḥanafī jurists, has been made by Lithuanian Tatars the quintessential part of this social contract and has remained to this day the overriding aspect of Tatar claims of belonging in and to Lithuania which have been reciprocally accepted by the revived Lithuanian state and its nation. Ultimately, the centuries-old social contract between the Lithuanian Muslim Tatar community and the state still holds and has paid off.

However, there are evident challenges ahead. First of all, Islam, as understood and practiced by Tatars is rejected by ever increasing numbers of devout immigrant and convert Muslims as both having historically been deviant and having

finally become a mere ethnographic feature, thus rendering it irrelevant, an empty shell of what it is supposed to be to a true believer. Moreover, Tatars as a group are perceived by some converts and Muslims of immigrant background to be on the verge of apostasy. Though the Tatars are still statistically the dominant (and state-empowered) group in the Lithuanian Muslim landscape, Lithuanian converts to Islam, supported by religious Muslims of immigrant background, in recent years have become particularly active in articulating the content of Islam both for the intra-communal consumption and for conveying it to the non-Muslim majority through da'wa efforts, especially online. And in most cases this content significantly differs from the one recognized, if not that much practiced, by local Tatars who already increasingly feel marginalized in religious activities, including regular prayers and religious festivities but especially religious upbringing of the new generation of Lithuania's Muslims been conducted on the premises (still) owned by the Tatars.

As long as Tatars are in control of Muslim organizations and in possession of the communal property, Sunni Islam will continue to be recognized as one of the traditional faiths in Lithuania. However, once non-Tatar (and especially revivalist-leaning) Muslims take over, there will inevitably be tensions between the state and Muslim organizations due to their different understanding of what Islam in Lithuania is to mean. Eventually, Islam could cease to be accepted as part of the Lithuanian cultural heritage. This would upset the relationship between Muslims and the state and ultimately render the current social contract irrelevant and void. A new social contract will have to be reached, if feasible. In the end, in a not so far future, there might be little special about the Lithuanian case anymore in regards to contemporary Muslim presence in the country when compared to other countries in Europe.

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