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THE CONCEPT OF THE ISLAMIC STATE
AS FOUND IN THE WRITINGS
OF ABUL A'LA MAUDŪDĪ

RIAZ AHMAD M.A. (PUNJAB)

PH.D Thesis

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P R E F A C E

This study is primarily concerned with Maulānā Abul A'la MaudūdI's contribution to the Concept of Islamic State. The Jamā'at-i-Islāmī the political party of which he has been the leader since its inception, and its political activities have only been mentioned in as much as their reference was important to his political theory. In the first two chapters a history of the development of Muslim political thought is briefly set out to provide better understanding of MaudūdI's ideas and concepts. The third chapter endeavours to relate him with recent views on the nature of Islamic State and his political involvement after the creation of Pakistan. In the subsequent chapters Constitution, Law, Jihād, Economic theory of Islam, Position of Non-Muslims and Position of Women in the Islamic State is

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PH.D. THESIS

Maulana Sayid Abul A'la Maududi is one of the most influential 'Ulama and a contemporary interpreter of Islam in Pakistan . Although before the creation of Pakistan he did not lend his support to those who were striving for a separate homeland , since its inception he has been an outstanding spokesman for the adoption for an Islamic Constitution . To achieve this end he has carried on relentless efforts for providing a framework for such a constitution in the light of the Islamic principles , based upon a conservative interpretation of the Shari'a and has used the Jama'at -i-Islami the political party of which he has been the head since its inception as an instrument to achieve that end .

This dissertation is an indeavour to study his political theory rather then his political activity and the Jama'at is only studied in as much as a reference to it was necessary in clarifying his concepts . It is thus an effort to relate him with

the mainstream of Islamic Political Thought and also to compare him with his more liberal contemporary Muslim writers .

In spite of his conservatism and fundamentalism he has been forced to make certain compromises with the forces of history . Political thinkers in Islam among other things have also performed this task because history seems to have always developed faster than theory. Maududi's contributions in this spere are also studied in some detail .

In the first chapter is discussed the development of political ideas in Islam to provide a link between Maududi and the main body of Islamic concepts of the State. The genesis and development of his own ideas is discussed in the second chapter , in the light of the influence on him in his formative years . The third chapter studies him in relation to his own contemporaries and endeavours to bring out other opinions on the Islamic State. His own contributions are studied under such titles as Law and Constitution, Economics, the Concept of Jihad , and the position of the non-Muslims and Women in the Islamic State .

taken and studied in detail.

I am deeply indebted to Mr. C. H. Dodd who in spite of moving to the University of Manchester last year continued to supervise this work. The completion of this thesis would not have been possible but for the guidance given me by him. He discussed many problems with me with meticulous and friendly care. The debt extensive as it is, is not of the kind that can be repaid except by making it even greater.

I am also indebted to Rev. Anthony Spurr and Mr. Brian Thaxton who read the final draft and advised me about the problems arising from the intricacies of the English language.

I would also like to thank my father, Shah Abdul Aziz and Mr. Sharīf Hilāl, Lecturer at Islamic College, Lahore, West Pakistan, who rendered help in collecting books and periodicals.

I owe a special debt to the University of Peshawar, West Pakistan, whose financial help made the writing of this thesis possible, and to Mrs. C. Bates of the Department of Oriental Studies who typed the manuscript.

Riaz Ahmad.

NOTES ON TRANSLITERATION

I. Transliteration of Arabic

hamza

Not shown when initial

otherwise ’

ب	b		ض	ḍ	
ت	t		ط	ṭ	
ث	th		ظ	ẓ	
ج	j		ع	‘	
ح	ḥ		غ	gh	
خ	kh		ف	f	
د	d		ق	q	
ذ	dh		ك	k	
ر	r		ل	l	
ز	z		م	m	
س	s		ن	n	
ش	sh		ه ‘ ة	h	
ص	ṣ				

(consonants)	و	w
	ی	y

Vowels:

Short damma	ُ	u
fatha	َ	a
Kasra	ِ	i
long	ُو	ū
	ا	ā
	ِی	ī

Diphthongs

au or aw	ِو	
ai or ay	ِی	

II. Transliteration of Urdu

Arabic Transliteration is used for those letters which are common to Arabic. For the letters peculiar to Urdu the scheme is as follows:

پ	p		ڈ	d	
ٹ	t		ڑ	rh	
چھ	ch		گ	g	
ں	nasal	ṅ			
ؔ	th				

III. General note on transliteration

Discrepencies in transliteration are due to the need to reproduce in quotations the spellings adopted by the authors, e.g. Sharī'a, Sharī'ah, Shariat, Khilāfa, Khilāfah, or in case of names, Moḥammad or Muḥammad. The movement in favour of the Turkish Caliphate in India has however been referred to as the Khilāfat Movement because of usage.

CONTENTS

		Page
	Preface	
	Notes on Transliteration	
Chapter One:	ISLAM IN HISTORY	1
	Islam in Modern History	23
	(a) Wahhābīya Movement	23
	(b) Shāh Walīullah of Delhi	26
	(c) Jamāluddīn Afghāni	30
Chapter Two:	MAUDUDI - THE FORMATIVE PHASE	36
	(i) Early Life and Work	36
	(ii) Twentieth Century Muslim Thought	46
	(a) Ikhwān-ul-Muslimūn	46
	(b) Muslīm 'Romantics'	49
	(1) Altāf Hussain Hālī	49
	(2) Abul Kalām Azād	51
	(c) Jamī at-ul- Ulama-i-Hind	58
	(d) Khilāfat Movement	61
	(e) Dr. Muhammad Iqbal	65
	(iii) Maudūdī's Political premises and the Jamā at-i-Islāmī	72

		Page
Chapter Three:	MAUDUDI'S POLITICAL INVOLVEMENT	82
	(i) Involvement in Islamic Constitution making	83
	(ii) Comparison with some recent views on the Islamic State	88
	(a) Khalīfa Abdul Hakīm	92
	(b) Muhammad Asad	95
	(Maudūdī	101
	(iii)Activities leading to Maudūdī's Arrest	106
	(a) Advocacy of Islamic Constitution	107
	(b) Allegiance and Kashmir	111
	(iv) Objectives Resolution	114
	(v) Later Political Activities	121
Chapter Four:	PRINCIPLES OF LAW AND CONSTITUTION	124
Chapter Five:	THE CONCEPT OF JIHAD	159
	(i) Jihad in History	160
	(ii) Doctrine of Jihad	162
	(iii) Maududi's Attitude towards Jihad	164
	(iv) Conditions of Jihad	168
	(a) Tyranny	168
	(b) Guarding Truth	169
	(c) Dishonouring Treaty Relations	170
	(v) The Sword and the Spread of Islam	172
	(vi) Jihad as Bellum Justum	174

		Page
Chapter Six:	ECONOMIC STRUCTURE OF THE ISLAMIC STATE	178
Chapter Seven:	THE POSITION OF NON-MUSLIMS IN THE ISLAMIC STATE	191
	(i) Nature of Jizya	194
	(ii) Political Rights and Privileges	200
	(iii) Government Service	204
	(iv) Education and Prosely-tism	205
	(v) Ahl-al-Dhimma and the Law	206
Chapter Eight:	POSITION OF WOMEN IN THE ISLAMIC STATE	208
	Rights of Women	224
Chapter Nine:	CONCLUSIONS	230
	APPENDICES	
Appendix One:	Organizational Structure of the Jamā at-i-Islāmī	243
Appendix Two:	Constitutional Plan of the Ulama	250
BIBLIOGRAPHY		261

CHAPTER I

ISLAM IN HISTORY

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ISLAM IN HISTORY

Pre-Islamic society was composed of tribes not always at peace with one another. Politically, the advent of Islām had the effect of combining the hostile tribes into a single community. Islām brought together men of differing traditions and customs. For this, Qur'ān the divinely revealed book, provided the binding force.

Islām is a religion based on tauḥīd (belief in one God) which teaches that God is the ultimate basis of all life. It is a universal and not a national religion. The message of the Qur'ān was addressed to the whole of mankind and not to any one nation: "O mankind! Lo! we have created you male and female, and have made you nations and tribes that ye may know one another. The noblest of you in the sight

of God is the best in conduct." (1)

Islām was more than a set of beliefs and methods of worship. It established a polity. Islām did not make a distinction between what was religious and what was temporal. "The ultimate reality, according to the Qur'ān, is spiritual and its life consists in its temporal activity. The spiritual finds its opportunities in the natural, the material, the secular! All that is secular is therefore sacred in the roots of its being." (2) Muḥammad not only preached from the pulpit a system of ethics but also planned and organised a state. Watt points out that Islamic history did not begin in the year that Muḥammad was born, nor in the year that he received his first revelation, but when the Muslim community established a state in Medina.(3)

The Statute of Medina was drawn up as a code of rights and obligations between the Muslim Umma on the one hand and the Jewish tribes of Medina on the

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(1) Qur'ān (Pickthal Translation) xlix:13

(2) Muhammad Iqbal. Six Lectures on Reconstruction of Religious Thought in Islam. (Kapur, Lahore, 1930) p. 217

(3) W.M.Watt. Muhammad in Medina (Oxford U.P.1956) p.17

other. The term Umma was used in the Statute in the social, religious and political contexts to refer to Muslims, while all the Jewish tribes were mentioned by name. The Statute sought to grant certain privileges and to impose certain duties on all those members of the communities who had accepted it - Muslims, Jews, pagans. From this document emerges the concept of dhimma of God, which meant mutual protection of all the members of the community created under the provisions of the Statute. The Statute provided that "The Jews who attach themselves to our commonwealth shall be protected from all insults and vexations; they shall have equal right with our own people to our assistance and good offices: the Jews of the various branches.....and all others domiciled in Yathrib, shall form with the Muslims one composite nation; they shall practice their religion as freely as the Muslims."(1)

During the life of the Prophet the community was directed by the Qur'ān, which was the final revelation of God. Thus his position as the last of

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(1) Statute of Medina, quoted from Ameer Ali Syed. The Spirit of Islam. (Lahiri, Calcutta, 1902) p.54

the prophets of God made him the director of the Umma. The Statute of Medina had stipulated that "All future disputes between those who accept the charter shall be referred under God to the Prophet." (1) This meant that the paramount control of political, legislative, religious and military policy was in his hands. But as Levy points out, Muḥammad did not act on his own accord but merely announced what God commanded.(2) The Prophet did not appoint a successor. As soon as his most faithful companions Abū Bakr, 'Umar and Abū'Ubaida heard the news of his death, they proceeded to the place where the chiefs of Banū Khazraj were holding a meeting to elect a new chief. After some discussion the election of Abū Bakr was carried by acclamation, and those present offered their allegiance. Abū Bakr described his office as Khalīfat-ur-Rasūl (Successorto the Prophet). It was in this manner that the title Khalīfa originated. Abū Bakr in turn nominated 'Umar, who received an oath of allegiance

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(1) Statute of Medina, op. cit., p.55

(2) Levy. Sociology of Islam, Vol.I, p.283.

from the members of the community. 'Umar nominated a body of six electors to appoint a Khalīfa from among themselves.

It seemed clear to the Muslims that the revelation of which the Prophet was the instrument was the final and complete code of life. Thus the Qur'ān together with the Prophet's precepts and examples, must form either explicitly or by implication all that was necessary to live rightly. In course of time the text of the Qur'ān was compiled under the Khilāfa of 'Uthmān, and later the traditions (Hadīth) of what the Prophet did and said (Sunna), the Prophet's practices, were collected and examined. In course of time there was also evolved from the Qur'ān and the Ḥadīth a comprehensive system of ideal morality and law which was to make clear the way to Allah (Sharī'a). Sharī'a covered men's relations with each other and with God. When there was a clear text of the Qur'ān or Ḥadīth of which the validity could be accepted, this was simple; otherwise those who possessed the necessary intellect and learning (the 'Ulamā') deduced the answers from the texts, by using their minds in accordance with the rules of strict analogy (qiyās)

or some other process of reasoning. Thus ijtihād was brought into action. Gradually the results of this process were accepted by the common opinion of the community and the learned. When this general acceptance existed (ijmāʿ), it came to be regarded as conferring on precepts or laws a certain authority. It was thus the task of the ʿUlamā to integrate the political, social and economic life of their age into the Sharīʿa. But the real symbol of authority to effect ijtihād was the Khalīfa. It is mainly because of this that the Khilāfa has remained at the root of all political debate in Islam.

To found and lead a community was part of the essential function of the Prophet and his successors. However, quite early in the life of Islam, there arose two influential views of Khilāfa. The Shīʿa group held that Muḥammad's authority had passed, firstly, to his son-in-law ʿAlī, and subsequently, to a line of his descendants. The members of this line, the Imāms, possessed, in Shīʿa belief, not only political authority but also the power of infallible interpretation of the Qur'ān.

The Sunnīs, on the other hand, held that the authority had passed on to the Khalīfas, the leaders designated and accepted by the community, and that the Khalīfas took up only a part of the Prophet's functions and powers. True sovereignty rested with God, not only in that He was the sole source of authority but also in that He wielded it. The Sharī'a, being the statement of God's will, was therefore supreme in the society. This meant that in theory the Khalīfa possessed neither God's power of making fundamental law nor the Prophet's function of proclaiming it. The Khalīfa inherited only the judicial power in the shape of ijtihād, and the executive and military power within the sphere prescribed by the Sharī'a.

The early Khilāfa was based on the precept that the oppointment of the Khalīfa should be supported with the acceptance of the Umma, and its expressed wish that allegiance be given to the appointed Khalīfa. With the advent of the Umayyids, however, although the Khilāfa changed from elective to a hereditary office, the essential allegiance was secured by the existing Khalīfa by nomination of his son or other relation, and this person was then offered to the community as the appointed future Khalīfa. This was followed by an oath of allegiance.

Orthodox Islamic political theory, however, is the product of the Abbasid period. Under the Abbasids, // the Persian converts had come to the front. Theologians and men of learning received welcome in the Abbasid court, and all branches of learning connected with Sharī'a received a great impetus under the patronage of the Khalīfa. During this period schools of fiqh (jurisprudence) also developed. Out of these, four schools of fiqh - Mālikī, Shaf'ī, Hanbalī and Hanafī - were the most well-known. These schools evolved because of differences in interpretations of the main sources of Sharī'a, namely the Qur'ān, the Hadīth and the Sunna. Under the earlier Abbasids, power was almost exclusively in the hands of the caliphs and the wazirs, but the relationships between the ruling institutions and those ruled were largely in accord with Islamic principles, as stated in the Sharī'a .

In the latter part of the tenth and the beginning of the eleventh centuries, the Khalīfas's authority began to be challenged. Provincial governors began to wield powers, including the command of armies which they kept and managed. Sometimes they extended their

boundaries and then asked the Caliphs to ratify them. The Caliphs, in cases like this, hardly had an alternative. At length demands came that the Khalīfa should endorse making these governorships hereditary. To this demand, as to others, the Khalīfa had to accede. Having large armies and political sway over large areas, they could hardly be expected to obey such orders of the Khalīfa as they found distasteful. This was particularly true of the Shī'a Buwaihid Amirs, the Tahirids, the Samanids and the Sunnī Ghaznavids. Any study of this period must, therefore, take full cognizance of the current constitutional power struggle. However, it is also important that these princes, although they were in effective control over large areas, did not question the office of the Khalīfa. By professing loyalty to the Khalīfa, Mahmūd of Ghazna and others, a new avenue of theoretical justification of the Khilāfa was provided. It was at this stage that the Khalīfa began to give his princes investiture in the papal manner. At this stage Al-Māwardī [1] wrote Aḥkām-as-Sulṭanīya in an attempt to assert the

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(1) Abul Hassan 'Alī b. Muḥammad b. Ḥabīb al-Māwardī (978 - 1058 A.D.)

authority of the Abbasid Khalīfa against the Buwaihid Amirs. It is to his theory of Khīlafa mainly that the name of classical theory is applied. Mawardī's purpose was to reassert that legitimate power could lie only in the hands of the Khalīfa. It is by this reassertion that he intended to preserve the Unity of the Muslim Community. He insisted on the necessity of the Imām by saying that

"the Imām is established to replace prophecy in the defence of the faith and the administration of the world."(1)

Al-Māwardī's theory was basically a refutation of the Shī'a claim to Imāma. Realizing that the unity of the Muslim Umma was in danger, he insisted upon the Khalīfa being an active ruler and not merely a figure-head. It was mainly for this purpose that he made stringent demands about the personal qualities of the Khalīfa. The qualities he list are:-

1. ʿĀdāla : Justice.
2. ʿIlm : Knowledge to enable him to make correct decisions and affect ijtihād (to pass judgement on points of law).
3. Quraish : Quraish being the tribe to which the Prophet belonged.

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(1) Al-Māwardī, Aḥkām-as-Sulṭāniya p.3, quoted from E.I.J.Rosenthal, Political Thought in Medieval Islam (Cambridge U.P. 1938) p.28.

4. Physical Fitness	:	To discharge his duty in case of Jihād and in peace.
5. Mental Fitness	:	To discharge his duties as protector of the faith.
6. Kifāya	:	Competent discharge of duties of government and administration.
7. Courage and determination	:	To be able to protect the territory of Islam and wage Jihād against the infidel and the enemies of Islam. (1)

With the decline of the Khilāfa the insubstantiality of the classical theory became apparent and the entire conception of the Khilāfa needed reinterpretation. The gulf which separated the classical theory of Khilāfa from the reality of the Abbasid Khilāfa dominated by the Ṣaljūq sultanate is manifest, most strikingly, in the writings of the Shāf'ī theologian Abū Ḥamīd al Ghazālī.(2) More than any writer on Khilāfa, his writings must be understood against the background of the political and religious controversies and struggles of the time.

His views on the theory and practice of Khilāfa are contained in Kitāb al iqtiṣād fil-i'tiqād, Kitāb al-

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(1) H.A.R. Gibb. "Mawardi's Theory of Khilafat", Islamic Culture, (July 1937), p.35.

(2) This statement of Al-Ghazālī's ideas on Khilāfa is based on: (i) E.I.J. Rosenthal, Political Thought in Medieval Islam, op.cit. pp.38-43.
(ii) L.Binder "Al-Ghazālī's Theory of Islamic Government", The Muslim World (July 1955) pp.299-241.

Mustazhirī and Ihya-al-ʿUlūm. The first elaborates a theory of Khilāfa as orthodox as the classical theory of Al-Māwardī; the second work is tempered with willingness to make concessions to expediency; and in the final work he expresses the opinion that an attempt should be made to preserve the Khilāfa as a symbol of unity of the Muslim Umma, by recognising the actual overlordship of the Saljūq Amirs.

Al-Ghazālī considers Khilāfa a necessity because it is of advantage and keeps away discord in the world. His main purpose was to establish the legitimacy of the Abbasid caliph Al-Mustazhir against the opposition of his rivals. Having demonstrated the necessity for the califate, Al-Ghazālī enumerates the virtues by which Khilāfa must be distinguished in order to lead those entrusted to its care to the goal which Sharī a has set for man. Although the qualifications set down follow the same pattern as that adapted by Al-Māwardī, they are modified to meet the political situations and the particular case of Al-Mustazhir. Ability to wage Jihād is divided into prowess and courage (najda wa shujāʿa). Faced with a weak caliph, Al-Ghazālī says that the force (Shawka) of the Saljuqs guarantees

the najda required of the caliph. He wants to think of the Saljuk Sulṭāns not as independent rulers but as loyal servants of the caliph.

He also disposes of the condition of Kifāya (the competant discharge of duties of government and administration) insisted upon by Al Māwardī. He says that this condition is fulfilled by the expert wazīrs.

He treats ʻilm in the same way. He finds a defence for the Khalīfa who lacks the power of ijtihād because of his ignorance of Sharīʻa. He says that if the Khalīfa can lean on the Amīrs for his strength, on his wazirs for competent discharge of administrative duties, why should he not depend on the learned for affecting ijtihād.(1)

In Ihya al ʻUlūm he goes further. Here he introduces a new way of designating a Khalīfa by recognizing in law an existing practice, the designation by the Amīr who is in effective control and is the actual ruler. He justifies this through allegiance, by saying that as long as the authority of the Khalīfa is thus recognised, the government is lawful. In other words,

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(1) H.K.Sherwani, Studies in Muslim Political Thought and Administration (Ashraf, Lahore, 3rd Ed., 1959) pp.186-187.

the Sultān is the man in control of affairs who owes allegiance to the Khalīfa and grants him prerogatives: that is, he mentions the Khalīfa's name in the address (khutba) during the Friday prayers, and mints coins bearing his name (sikka).(2) Thus in trying to preserve Khilāfa as an institution, Al-Ghazālī relegated it merely to a symbolic institution.

The next important interpretation of the Islamic Political Theory and the conceptual matters of Islamic State and Khilāfa did not occur until the end of the fourteenth century. With the rise of the local overlords in Persia, north Africa and elsewhere, and the end of the Abbasid Khilāfa's political power, orthodox political theory had undergone a grave crisis. Until this time the Khilāfa and the Islamic government had been conterminous, although in the later period the connections had been mainly symbolic. The 'Ulama , jurists, and statemen all strove to establish a new basis of legitimacy. It was then that Ibn Khaldūn (2) one of the most original of Muslim thinkers, presented his solution. Recognising the fact that the Khilafa

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(1) H.A.R.Gibb, "Some Considerations on Sunni Theory of Caliphate" Archives d'histoire du driot Oriental (Vol.III 1948) pp.401-403

(2) 'Abdul Raḥmān ibn Muḥammad ibn Khaldūn al Ḥaḍrāmī (1332-1406)

no longer wielded effective political power, he rejected political unity but admitted the religious unity of the Muslim people. By doing so he justified the existence of principalities within the Khilāfa. It is necessary to quote him at length.

"Kingship", he says, "is the natural end to which social solidarity leads. And this transformation is not a matter of choice but a necessary consequence of the natural order and disposition of things. For no laws, religions or institutions can be effective unless a cohesive group enforce and impose them, and without solidarity they cannot be established. Social solidarity is, therefore, indispensable if a nation is to play the role which God has chosen for it.

"For unless religious laws derive their sanctions from social solidarity they will remain totally inoperative.

"You see therefore how the Caliphate was transformed into monarchy. At first (i.e., after the immediate successors of Muhammad) the rulers behaved like spiritual leaders, in that they enforced the articles of Faith and for their part observed moral standards in their dealings. The only point of change was that the sanction on which they relied was no longer religion but coercion and social

solidarity. This state of affairs continued to prevail until the time of Muʿāwya Marwān and his son ʿAbd-al-Mālik[1] as also under the first few Abbasid Caliphs, until the time of Harūn-ar-Rashīd and his sons. After that nothing remained of the Caliphate and spiritual rule but the name, the reality being an absolute kingly rule in which a spirit of domination was indulged in freely, for conquest and for the gratification of desires. This latter condition prevailed under the late Omayyad Caliphs as well as under the Abbasids under the successors of Al Mu tasim and Al Mutawakkil.[2] These kings, however, retained the title of Caliph as long as they had to depend on the support of the Arabs.

"Thus in the two stages described above, Monarchy and Caliphate were intertwined. However, when the solidarity of the Arabs began to weaken, their number to fall off, and their power to decline, a further change took place. Absolute Monarchies grew up in the East,[3] under non-Arab rulers, who because of their religious sentiments

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(1) Muʿāwiya (died A.D. 680) was the founder of the Umayyid dynasty; Marwān (died A.D. 685) and ʿAbd-aḷ-Mālik (died A.D. 605) were among his most distinguished successors.

(2) Al-Mutawakkil (822-61 A.D) the son of Muʿtaṣim succeded his brother Al-Wāthiq as Caliph.

(3) i.e., the Eastern half of the Arab world, North Africa being the Western half.

recognised the authority and the titles of the Caliphs but who kept the substance of power for themselves.

"You have seen then, that in the first stage (of Muslim history) the Caliphate existed alone, without any Monarchy: later on Caliphate and Monarchy were intertwined and inter-mixed: finally Monarchy stood out independently of the Caliphate, because it could lean on a power and solidarity distinct from that of the Caliphate." (1)

Ibn Khaldūn spent most of his life in North Africa and thus the political theory he developed is based upon his study of the history of the North African tribes. His Muqaddima (Introduction) to the Kitāb-al-ʿIbār contains his theory of the rise and fall of political power. He puts forward the view that dynasties rise and fall in accordance with certain principles, and he traces five stages through which this process proceedes.

The reason for a tribe's rising and establishing Mulk (Political power over a territory) is mainly its desire for that power. This, along with kinship, religion,

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(1) Ibn Khaldūn, "Muqaddima" Vol.I, p.364, quoted from Charles Issawi (ed), An Arab Philosophy of Ibn Khaldun of Tunis (John Murray, London) pp. 137-139.

and unity of purpose, brings out ʿAṣabiyya (a feeling of togetherness). ʿAṣabiyya is at its greatest just before and when a political power is established by a tribe. That is the first stage. The second stage is when the power is consolidated, a system of taxes devised, and the power slips from the tribal community into the hands of their leader. The third is the stage of the attainmnt of the peek, and when the intensity of the ʿAṣabiyya begins to diminish. The fourth is the stage of general decline of power and a further decrease in ʿAṣabiyya. The final stage is that of the fall of the power when corruption has completely seeped into the administration. The tribe starts to be dissatisfied with its leaders, and other tribes, gaining ʿAṣabiyya, overthrow the existing power and the cycle begins again.

Ibn Khaldūn thus recognises the fact that Mulk or political dominance, can legitimately exist within the Khilāfa over certain parts. He also establishes that states based on Mulk are not completely divorced from religion, and puts forward the view that although religion is a determining factor in Khilāfa it still plays an important part in the power state created through the dominance of a people over a territory.

He states in Chapter III SS 23-31 of the Muqaddima that the Islamic community has no relation to the governmental organisation of its parts, and that this governmental organization is subject to the natural phenomena in a way which is in turn not related to the teachings of the Prophet. The Mulk, to him, is an end in itself and is governed by the laws of causality. His main concern is the power state, and thus we find in him both the traditional and the empirical. Starting from a very traditional standpoint, apparent from his definition of Khilāfa he goes on to subject the parts of the Caliphate to the laws of causality. This accommodation of Khilāfat to Mulk is also implicit in two findings of his:

(a) that the Khilāfa has survived in the Mulk of the Islamic power, and

(b) that religion is still an important factor in the Mulk.

He is thus combining the theological with the political concept of the state without abandoning the accepted Muslim position. For he maintains that dominion is as necessary as the Will to Power, and that power can be established so long as ʿAṣabiyya unites a large group of people who are like-minded. Religion is only one of the factors of ʿAṣabiyya, others being kinship, unity of purpose, will to power etc. It is this combination of

religious conviction with political power determining the purposes and needs of the Khilāfa which Ibn Khaldūn so clearly recognises. To him the transformation of the Khilāfa into Mulk is natural and inevitable. However, he insists that Islam should play its part even in the Mulk. He believes that it fails to do so the decline of power becomes inevitable. He makes such a reference in respect of limitations set by religion in the case of taxation. He says:

> "It should be that at the beginning of the dynasty, taxation yields a large revenue from small assessments. At the end of the dynasty, taxation yields a small revenue from large assessments. The reason for this is that when the dynasty follows the ways of religion, it imposes only such taxes as are stipulated by the religious law, such as charity taxes, the land tax and the poll tax. They mean small assessments, because as every one knows, the charity tax on property is low. The same applies to charity tax on grain and cattle, and also to the poll tax, the land tax and all other taxes required by the religious law. They have fixed limits which cannot be overstepped....." (1)

It is in this way that Islamic ethics underlie the whole of his system, although his emphasis, unlike the orthodox, is not on moral aspects but on stability and the overriding considerations of public welfare and interests of State. It is due mainly to these emphasis

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(1) Ibn Khaldūn, Muqaddima op.cit. Vol I, Chap II, Section 1-21.

that he has been compared with Machiavelli. As stated before, Ibn Khaldūn attributes the rise of civilizations to 'Aṣabiyya. After considering the more mundane elements of 'Aṣabiyya, Ibn Khaldūn goes on to establish a relationship between 'Aṣabiyya and religion by saying that religion is the basis from which vast empires spring, for where otherwise rivalry and discord might tend to disrupt the balance of solidarity, religion "unites the hearts, replaces the desires for the vanity of the world with its rejection and turns man to God, seeking right and truth in unison....This is because religious fervour can efface the competitiveness and envy felt by the members of the group towards each other and turn their faces towards the truth. Only by God's help in establishing His religion do individual desires come together to press their claims, and hearts become united. God said 'if you had expended all the treasures on earth, you would have achieved no unity among them.'(1)" (2)

Ibn Khaldūn defines the Khilāfa as the "ruling of the people according to the insight of the religious dictates in other-wordly matters as well as wordly matters

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(1) Qur'ān 8:6

(2) "Muqaddima" op.cit., Vol.I, pp.319-20

derived from them.....the Caliphate therefore is the succession (by Khalīfa) of the lawgiver, as guardian of religion and as director of worldly affairs in the light of the religion". (1)

Ibn Khaldūn also suggests that more than one Khalīfa could exist at the same time to govern the world in different parts of God's earth. Although theoretically this may seem to be an innovation, it is really an acceptance of history in that at the time two Caliphs existed. He also suggested that it is no longer necessary for the Khilāfa to be of Quraish descent. He asserted that in earlier Islamic times it was necessary because only the Quraish seemed to have had the knowledge and wisdom to run the affairs of God.

As might have been expected, four of the concepts of Ibn Khaldūn did not find acceptance with the Muslim traditionalists. Firstly he had emphasised the rise and fall of dynasties as an essential process of history; secondly he believed the group-minded state to be the natural result of association; thirdly, he stated that two Khilafas could legitimately exist at the same time; and

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(1) Ib Khaldun,Issawi, Op.cit., p.136
F. Rosenthal (op.cit) Vol.I, Ch.III, see section 29 for detailed discussion on the Nature of the Khilāfa.

fourthly he considered force to be the prime contributor to the establishment of Mulk (domination). A principle which justified the petty dynasties as the legitimate successors to the Abbasid Khilāfa was not acceptable; and so from this period onwards the orthodox school continued to refute the views of Ibn Khaldūn although the existing political conditions did not allow an alternative acceptable theory.

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ISLAM IN MODERN HISTORY

Islamic thought of the 18th and the 19th last centuries is dominated by the awareness that something wrong has gone in the life of the Muslim community. This was the era when for the first time in Muslim history, the glory that the Muslims had achieved was slowly beginning to fade. Muslims attributed their decline to the fact that they had loosened their grip on Islam. The fundamental problem for Islam since then has been to rehabilitate history and to set it developing again in the right direction, so that the Islamic society may once again flourish and achieve its lost glory. There have been three movements in modern Islam which have left a lasting

effect on it. Although their influences are extremely complicated, their colouring can be seen in almost all Islamic movements which have since sprung up. These were the movements led by ʿAbd-al-Wahhāb in central Arabia, Shāh Walīullah in India, and Al-Afghānī's crusade over the greater part of the Muslim world. We shall consider each in turn.

(a) The Wahhābiyya Movement

All Islamic movements in the modern age have been protests against the deterioration which affected the Muslim world. One of the earliest and most influential among these was the Wahhābiyya movement in the eighteenth century. It was known after its founder ʿAbd-al-Wahhāb (1703-1787) of the Ḥanbalī order.

This was a vigorous puritanical movement, and the message it brought was simple and straight forward. Its theme was a return to the classic Islamic Law, rejecting all the philosophical, theological and mystical tradition which had found its way into the Islamic frame-work during the Middle Ages. The Wahhābiyya insisted solely on Law, and classical Law to them was the real essence of Islam. "Islam", Muḥammad bin ʿAbd-al-Wahhāb proclaimed, "is not a mere matter of interpretation and blind following of what others have said. At the day of

Judgement it will not be enough to plead: 'I heard people saying something and I said it too.'"(1) We must find out what true Islam is. It is above all a rejection of all gods except God, a refusal to allow others to share in that worship which is due to God alone, Shirk is evil, no matter what the object of worship, whether it be 'King or Prophet, Saint or Tree or Tomb.'(2)

'Abd-al-Wahhāb took as his model the first generation of Islam and repudiated all the later changes admitting into Islam, 'other gods than God'. He was in vehement opposition to the Sūfiā'and believed that they had corrupted Islam by making it a personal affair. The Wahhābiyya did not remain a theoretical movement but a practical one. The movement had found in Ibn Sa'ūd (died 1765) a prince who was willing to let these principles find a practical manifestation. The movement grew up in central Arabia in geographical remoteness which enabled it to survive even in spite of having repudiated the Ottoman legitimacy and power. Thus it was that its leaders began to re-establish Islam from the very place where the early

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(1) Quoted from "Majmū'at al-rasā'il wa l masa'il al najdiyya" Cairo (1344-9 A.H) 1925/6-193(4 Vo. i.3. Albert Hourani Arabic Thought in the Liberal Age (Oxford U.P.London, 1962) p.37.

(2) Albert Hourani, op.cit. p.37.

Muslims had founded it. Their influence on modern Islam has been considerable. It is from the thought pattern of this movement that the voice of "back to Qur'ān" and "back to Sunnah" has come through to our own age.

(b) Shāh Walīullah

The penetrating voice of the Wahhābis had been influential among the Muslims who found themselves perplexed by the inadequacies of their community in the modern world. Like the Wahhābīs, other men also thought to renounce existing ideas and to reconstruct what Islām originally taught and inspired. One such man was Shāh Walīullah of Delhi (1703-1781). Although Shāh Waliullah was a contemporary of ʿAbd-al-Wahhāb and was also educated in Mecca, there seems to be little evidence of mutual influence. Walīullah rejected what has come into Islam during medieval times, although not to such extremes as did Wahhāb. The reason for this may have been that the former grew up among the crumbling Muslim Empire of the Mughals and therefore it was easier for him to reform and correct rather than to repudiate. He did not follow any particular school of Law but sought to embrace the best of all in a system of his own. His rejection or acceptance of any particular

attitude is based independently on his own principles of judgement. It is particularly due to his creation of a new system of Law that Maulānā Maudūdī has called him a 'Mujaddid'. (1) and (2).

"An idea has brought itself to my mind", says Waliullah, "that the Madhhab of Abū Ḥanīfa and Shafʿī are the most well known among the Umma .... the tenets of both these schools should be amalgamated together in the light of the sayings of the prophet and a new system should be wrought out of the two. Whatever finds support from the Ḥadīth should be retained and whatever does not, should be discarded."

Waliullah was a staunch supporter of purified Khilāfa in its very early Meccan sense. He differentiates between Jahāliyyah (ignorance) and true Islamic Umma. This subject is discussed at considerable length in both Hujjat/al Bālagha and ʿIqdāl-at-al-Kafā'. In the latter work he attempts to reject Mulk in Islam and gives the Khalāfa a purely classical interpretation like that of al-Māwardī.

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(1) From Tajdīd (to renew); Mujaddid he who affects renewal.

(2) Shah Waliullah, Al Tafhīmāt al-alahiyya, (Maktaba-i-Jāmiʿa, Delhi N.D.) p.211

On the other hand, what seems to be difficult to correlate with his purely classical interpretation of the Umma is the fact that politically his ambition was to use the Muslim power in India restored on the Mughal pattern. He held that if Muslims are once again to be great, pure Islam must be restored. In a letter to Aḥmad Shāh Abdālī, the Afghan Amir, he wrote: ".....In short the Muslim community is in a condition thoroughly pitiable. All control of power is with the Hindus because they are the only people who are industrious and adaptable. Riches and prosperity are theirs, while Muslims have nothing but poverty and misery. At this juncture, you are the only person who has the initiative, the foresight, power and capability to defeat the enemy and free the Muslims from the clutches of the infidels. God forbid if their domination continues, Muslims will even forget Islam and become undistinguishable from the non-Muslims." (1)

It was not until after his death that his ideas came to be organised in a socio-political movement under Shāh ʿAbdul Azīz, and later under Shāh Ismāʿīl and his close friend Aḥmad Shāh Barailvī. By the beginning of the 19th century, the Mughal power in India had degenerated considerably. In the East, in Bengal, the British were busy consolidating their power. In the South and West

(1) Khalīq Aḥmad Nizāmī (ed) Shāh Walīullah Kay Maktūbāt Aligarh (1951) p.106

the Hindus had revived their ascendency; and the Sikhs had since come into power in the Punjab and the North West. It was during these crucial years that the group led by Aḥmad Shāh Barailvī and Shāh Isma'īl made some initial inroads on the Sikh power. Many Muslims answered their call to reestablish the Muslim power in India, but their numbers were not enough. Less than 150 miles from Peshawar, where he had been proclaimed a Khalīfa a year earlier, Shāh Ismā'īl and the handful of his followers were massacred.(1)

Shāh Walīullah subjected all the Muslim medieval theories and their developments to severe examination in the light of the Qur'ān and the Hadīth. He has left an indelible mark on subsequent Muslim thought in India, although the Liberal movements in Egypt and Turkey may not have been in his spirit. The Romanticism among the Indian Muslims in fact partly springs from him, and Abūl Kalām Azād, Muḥammad Iqbāl and Abūl A'la Maudūdī are in fact carrying on his tradition with slight re-adjustments. The nostalgic appeal to fundamentalism was also directly or indirectly under his influence.

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(1) See Ghulām Rasūl Mehr, "Sayyid Aḥmad Shāh Barailvī, Yaʻnī Mujāhid-i-Kabīr Ḥaḍrat Sayyid Aḥmad Shāh Barailvī kī Mufaṣṣal Swāniḥ Ḥayāt aur un kī Twārikh-i-Iḥya-i-dīn kī mukammal Sar Guzasht. Urdu (Lahore Vol.2, n.d. 1953) pp. 120-125

(c) Jamāluddīn Afghānī

The next important change in Muslim political theory did not occur until quite recently, and the change took place primarily under the political influence of the Occident. The Eastern Crisis, 1875-8, showed that the armies of a European power could make a deep penetration into the heart of the Ottoman Empire, then the symbol of Islamic Unity, and could be checked only by the threat of another power. The Treaty of Berlin, which ended the crisis, taught a very important lesson, tantamount to a grave doubt that the Empire and its provinces now no longer held their fate in their own hands. The occupation of Tunis by France (1881) and of Egypt by Britain (1882) pointed the same moral, and it was from this time onwards that important changes began to take place in Islamic political theory.(1)

The nineteenth century as a whole had presented a ghastly spectacle for the Muslim world. Wherever the Muslims lived, they were being subjected to western dominance. Algeria was captured by the French; Russia annexed Transoxania; India had finally gone into the hands of the British after the failure of the War of Independence; and the Crimean War had rendered the Turkish power hollow.

(1) Albert Hourani, Arabic Thought in Liberal Age, 1798-1839. Oxford U.P.

At such a juncture, voices of co-ordination began to be heard in the form of Pan-Islamism, which had found its real seeds in the political situations. For the Muslim, whether he was an Indian, a Turk or an Arab, the seizure of power by the west meant that the community was in danger. The Umma was among other things a political community expressing itself in all forms of political life, and Muslims began to realize that a community which has no power may even cease to exist. The problem of decay from within was no doubt primary in men's minds, but now there also existed the other problem, that of survival, and the basic question was how complete annihilation from outside could be resisted.

It was during these historically precarious years for the world of Islam that Jamāluddīn Afghānī's (1) crusade for political unity of the Muslims began. Afghānī was basically a man of action and left very little of the written word behind.

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(1) Jamāluddīn al-Aghānī (1838-97). Although he lived a stormy public life, his origins are wrapped in mystery. He himself claimed to be from Afghanistan but there is circumstantial evidence that he was born in Mazandaran in Persia. For a detailed discussion of his life, see Brown, E.G., The Persian Revolution (Cambridge, 1910) Lutfullah Khan, Mirzā Jamāluddīn Asadābadī (Pres Udh) and Hourani, op.cit, pp.103-130 and Abūl Kalām Azād, Tarīkhī Shakhsiyyatain, pp.13-23.

Afghānī's only systematic work, Al-Radd ala al-Dahriyin (Refutation of the Materialists) deals primarily with philosophical, theological and ethical issues, but his tremendous influence must be sought in what he did and said rather than in what he wrote.

The main feature of his doctorine was first and foremost that he was the founder of the Pan-Islamic movement, combining a nationalist ~~movement~~ interpretation of Islam with modernism and reformism. His principal political aim, to quote the words of his disciple Muḥammad ʿAbduh, was "to achieve the regeneration and strengthening of one of the Islamic states so that it may reach the level of the great powers and thereby restore Islam to its past glory".(1)

It is also possible to form a clear idea of his teachings from the articles he contributed to "Al Urwa al-wathqa", a political journal he published from Paris in collaboration with one of his most important disciples, Muḥammad ʿAbduh. In these writings he describes the basic cause of the Muslim degeneration in the face of Europe as the indifference which had grown among them in respect of Islam. But he ascribes the greatness of

العروة الوثقى

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(1) Quoted from Hakem Zaki Naseibeh, Ideas of Arab Nationalism (Cornell University Press, New York 1959) pp.120-121.

the West and the inferior political stature of the Muslim world to religious reasons. He says that the West grew politically strong because Christians neglected their religion and followed pagan beliefs and virtues; the Muslim peoples grew weaker because the truth of Islam was corrupted by falsity. Christians are strong because they are not really Christian; Muslims are weak because they are not really Muslim. When the Muslims followed the tenets taught by the Prophet, the Umma was great in the worldly sense, and the glories of this greatness faded away when they began to betray these truths.(1)

Afghānī spent the whole of his active life moving from country to country in the Muslim world. His efforts to bring the whole of the Islamic East into one active force, and especially to unite the Shī'a Persia with the Sunni orthodox Muslim world, probably brought an invitation from the Khalīfa in Turkey. There he spent his last years as a virtual prisoner, after disagreements began to appear between him and the Khalīfa.

The greater part of his life had been spent in the defence of the Islamic countries, and even when he dealt with the purely religious preaching his purpose was political. He was of the view that political factions and

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(1) Hourani, op.cit., p.129.

dynasties should not be allowed to stand in the way of unity and that the Muslim rulers should cooperate in the service of Islam. He did not think it necessary to impose the rule of one monarch upon the rest, and that explains his attitude towards Khilāfa as well. Although he believed in the supremacy of the Umma in both the political and the religious sense. For him the institution of the Khilāfa existed only for a symbolic and not for a political purpose. In no way did he intend that the Khilāfa should make the other monarchs subservient to itself politically, and in fact, in a way, his was a nationalistic movement whereby all the Muslim nations, after consolidating their own nationality, would transcend nationalism, contributing to the force of the Umma.(1)

Under the Ottomans the Khilāfa seems to have a new significance in that the title no longer implied descent from the house of ʿAbbās or any claim to belong to the tribe of the Quraish. "The Muslim monarch now claimed to derive his authority directly from God, to be vicegerent of Allah, not a mere successor to the Prophet." (2)

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(1) In India in 1879. Stayed in Calcutta and Hyderabad. Abul Kalam Azad claims that during this period his influence was negligible except on one Abdul Ghafoor Shahbaz, who translated some of his Persian articles into Urdu. See Abul Kalām Azād, Tarikhī-Shakhsiyataiṅ, op.cit., p.22.

(2) T.W.Arnold. The Caliphate (Routledge and Kegan Paul, London, 1965), p.129.

The title of the Caliph also passed in this period from the supreme authority who used to nominate Sultans to any Sultan who cared to assume the title. During the Sixteenth and Seventeenth centuries the only Sunni monarchs who could rival the Ottoman Sultans in wealth and extent of territory were the Mughals in India. They assumed the title Khalīfa and from Akbar's reign they called their capital dār-ul-Khilāfa (the abode of the Caliphate). Akbar's coins bear the inscription "The great Sulṭān, the exalted Khalīfa."

CHAPTER TWO

MAUDUDI-THE FORMATIVE YEARS

CHAPTER II

MAUDUDI - THE FORMATIVE YEARS

(i) EARLY LIFE AND WORK

Sayyid Abūl A'lā Maudūdī was born in Aurangabad (Hyderabad Deccan). He was the youngest of three brothers. His father, Sayyid Aḥmad Ḥassan, was a lawyer, who abandoned his legal practice, apparently because of realization that he was earning his living in an un-Islamic way. Sayyid Aḥmad Ḥassan, according to Abul A'la's own statement was born in 1857 in Delhi, and his early education was conducted at the Aligarh School of Sir Sayyid Aḥmad Khān.(1) Sir Sayyid's School had been established at Aligarh in the U.P. for the specific purpose of imparting Western Liberal and

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(1) Maudūdī, "Khud Nawisht" (an autobiographical article) reproduced in Muḥammad Yūsuf.(ed) Maulānā Maudūdī Apnī aur Dūsroṅ Kī Naẓar Maiṅ (Maktaba-al-Ḥabīb, Lahore, 1955) p.34.

scientific education to the Muslims of India, with some emphasis on religious education. It was part of Sir Sayyid's endeavour to impart western knowledge to young Indian Muslims without effecting the estrangement from the religion of Islam which had been apparent in those who graduated from other government or missionary institutions created by the British. Sayyid Aḥmad Ḥassan was, however, recalled home by his father (Abul A'la's grandfather) when a friend of his visited Aligarh and on his way back reported: "Dear brother! Wash your hands of Ahmad Hassan. I saw him in Aligarh, dressed in infidel shirt. He was playing with a stick and a ball."(1) This episode had a lasting influence on Abul A la's life. Had he not been called back from Aligarh, he would never have refused to send him to a westernized school and Abul A'la's early traditional Muslim education would not have made him what he is.

Maulānā Maudūdī gives his date of birth as Rajab 3, 1321 A.H. (September 2, 1903) and attributes his birth to mysterious circumstances, saying that three years before his birth, a pious Darwaish (a saintly person) called on his father to foretell the birth of a very great man in his family and suggested the name Abul A'la.(2) It was one year after his birth that his father abandoned his

(1) ibid p.35 (2) ibid p.38

legal practice and went to an ancient town, Arab Sarai, near the shrine of Niẓām-ud-dīn Auliya, a religious potentate of the Middle Ages, to spend his life in religious meditation. He continued this monastic life for three years but then came back to his family which he had abandoned to penury. Abul A'la speaks of his father with reverence (1) and there is a tone of complete approval in his writing about him. He certainly admires this patriarch for his dissatisfaction with western values and approves his decision to abandon the use of western clothes.(2)

After attending Madrassa Furqaniya, a religious institution at Aurangabad, for a few years, Abul A'la took 'Maulavi' matriculation in Religious Knowledge. Later his father's failing health took the family to Hyderabad. This opened new opportunities for education, and he joined the Dār-ul-'Ulūm for further religious instruction. This, however, he could not complete because of his father's further illness. On the death of his father, he drifted into journalism with his brother who took up an appointment as the Editor of 'Madīna' in Bijnor in 1918. This was the time of the beginnings of the National Movement in India,

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(1) ibid p.35

(2) ibid p.34

and he writes that because of his hatred for British sovereignty and influence he began to take part in politics and play an active rple in the activities of the Anjuman-i-Ta'ānat-i-Nazar Bandān-i-Islām (Society of the Sympathisers of the Prisoners in the Path of Islam). When the Khilāfat Movement came closer to Mr. Gandhi's movement of passive resistance (Satyagarh), after the latter joined the Khilāfat Movement in order to win the goodwill of the Indian Muslims, Abul A'la actively participated in the Khilāfat Movement and also wrote his first book, which was about Mr. Ghndhi's personality and work. This was confiscated by the Government before publication.(1) Soon afterwards Maulvi Tāj-ud-dīn, on whose paper 'Weekly Tāj' Maudūdī had worked for a few months earlier, invited him to become the editor of the paper. In 1920, he went to Jabalpur and soon was successful in transforming it into a daily. The paper supported the cause of the Khilāfat Movement and was instrumental locally in gathering extensive support for the Indian National Congress.(2) 'Tāj' was soon closed when one of Maudūdī's articles was found politically objectionable by the Government. This brought Maudūdī back to Delhi where he

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(1) ibid p.43

(2) ibid pp.44-45

met the leaders of the Jamī'at-ul-Ulāma-i-Hind[1] for the first time. Maulānā Muftī Kifāyat Ullah and Maulānā Aḥmad Sa'ūd invited him to edit 'Muslim', the official paper of the Jamī'at. This he edited from the early months of 1921 to 1923 when the life of the paper came to an end. With this his political and journalistic activities entered an inter-regnum of two years, which period he spent in the State of Bhopal, apparently confining himself to studying the English Language.

In 1924, another of his most important choices came when he accepted the editorship of 'al-Jamī'at', another paper of the Jamī'at-ul-'Ulama-i-Hind, rather than work on Maulānā Muḥammad 'Alī's 'Hamdard'. It is here that we see in him a preference for religious writing rather than political journalism. The chances were that the alternative choice would have led him into politics rather than religion. According to Maudūdī's own statement, his association with 'al-Jamī'a' continued until the close of 1928[2] although according to another source the break occurred in 1927.[3] It was during the editorship of the 'al-Jamī'ā' that a

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(1) Jamī'at-ul-'Ulama-i-Hind (Ulama's Association of India). Full note on the Jamī'at later in this chapter.

(2) Maudūdī, Apnī aur Dūsron Kī Naẓar Maiṅ, op.cit. p.48

(3) Māhir-ul-Qādrī "Chand Naqūsh-i-Zindagī" - an article reproduced by Muḥammad Yūsaf (ed) Maulāna Maudūdī Apnī aur Dūsron Kī Naẓar Maiṅ, op.cit. p.343

great change took place in him as a result of an incident which happened during 1926.(1) Communal disturbances followed the failure of Passive Resistance and the Khilāfat Movement. One Swami Shardhanand, leader of the Shudhi (an extremist Hindu revivalist movement) was assassinated by a Muslim. The latter's plea in the court was that he had killed this infidel for the purpose of securing God's pleasure and that it was a religious duty of all Muslims to terminate the life of non-believers. A political and religious controversy followed and Mr. Gandhi claimed that "Islam has shown itself as a movement of which the decisive force has been the sword and is the sword".(2) Maudūdī answered this accusation by a series of articles on Islam's attitude to war, published as a book 'al-Jihad Fi l-Islam' in 1930.

From this time on, Maudūdī seems to have devoted himself to a deeper study of Islamic theology. This is clear from two things: first that he left his assistant editorship of 'al-Jamī'a' and spent two years in Aurangabad his birthplace; and second that the pursuit of journalism as a means of livelihood for him seems to end here, although

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(1) Maudūdī, Al-Jihād fi l Islām, (Islamic Publications Lahore, 1962) pp.9-13.

(2) ibid p.12

he did come to Hyderabad in 1936 to edit Tarjumān-ul-Qur'ān the religious monthly most closely connected with his name. He took over from Abū Muslih, who had been his predecessor for seven months. It is, however, interesting to note that according to one source Maulānā Maudūdī did not have a beard in 1934, and therefore until his editorship of the Tarjumān-ul-Qur'ān his future as a theologian may not have been very clear to himself. However, he had already gained a wide reputation as a theologian with the publication of Risala-i-Dīniyāt (A Book of Theology), which he had originally written in Urdu at the request of the government of the Nizam of Hyderabad. This was translated into English in 1932 and published under the title "Towards Understanding Islam. This book has since been translated into Arabic and was circulated, along with other of Maudūdī's works, by the Muslim Brotherhood of Egypt.(1) As a result of this and Jihād Fi l Islām, Maudūdī sprang into prominence as one of the leading theologians in India.

It was during this period that the writings of Maulānā Maudūdī are said to have attracted the attention of

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(1) L. Binder, Religion and Politics in Pakistan (University of California, Berkeley, 1965) p.82

Dr. Muḥammad Iqbal who is said to have invited Maudūdī[1] to make the Panjab the base of his activities. In 1937, he suggested that Maudūdī should move to a certain Waqf (religious endowment) at Pathankot. The Waqf consisted of sixty-five acres of land and included a printing press and a mosque. The career of Maudūdī as a religious leader really began at Pathankot where much of his earlier liberalism disappeared. His opponents delight in pointing out that it was at this stage that Maudūdī began to grow a beard.[2] He had moved to Pathankot in January 1938, to establish the Dār-ul-Salām Academy, but Iqbal died in April 1938, and so in December Maudūdī moved to Lahore to teach Islāmiyat at the Islamia College, Lahore, while still maintaining close connection with the Waqf. Khalid bin Sayeed in his admirable article on the "Jamā'at-i-Islāmī Movement" attributes to him in his new position the glorified name of Dean of the Faculty of Theology.[3] The facts are

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(1) Although most of the other authorities have agreed with this and have said that this invitation came from Dr. Iqbal, I have not found reference to it in the writings of Maulānā Maudūdī. [illegible]. Muḥammad Sarwar, Maulānā Maudūdī kī Taḥrīk-i-Islāmī (Urdu) (Sindh Sagar Academy, Lahore, 1956) p.53, expressed doubts as to the authenticity of this invitation.

(2) See Abbott Freeland "The Jama'at-i-Islami of Pakistan" The Middle East Journal, (Washington 11:37 - 51, 1957) p.38

(3) Khalid bin Sayeed "Jamaat-i-Islami Movement in Pakistan", Pacific Affairs, (Vol.30, p.57-68 1957) p.61.

that during this time he was the only teacher of Islāmiyāt at the College, and secondly that the teaching consisted of only a very uncontroversial curriculum set down by the University of the Panjab, dealing with the basic principles of Islam and teaching the students Islāmiyāt as an optional subject for their first degree, with no facilities for research etc.

After one year of teaching at Lahore, Maudūdī moved back to Dār-ul-Salām Academy at Pathankot and subsequently found the Jamā'at-i-Islāmī. From then onwards his story and that of the organization are the same.(1) The Jamā'at was launched on the lines of the Ikhwān-ul-Muslimūn (The Muslim Brotherhood) of Egypt, and in conformity with the concept of Hizbullah (Party of God) found in the early writings of Abul Kalām Azād. Along with this there was retained the extra-territorial concept of Muslim Nationalism which Maudūdī had acquired during his affiliation with the Jamī'at-ul-'Ulamā-i-Hind, and which had taken shape and hardened during the Khilāfat Movement. Also retained was the idea of Millat propagated by Iqbāl in his poetic and prose works. It is to the more detailed examination of

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(1) ibid p.89.

these formative influences that we must now turn. These will explain the principles underlying the inception of the party.

(ii) TWENTIETH CENTURY THOUGHT

(a) Ikhwān-ul-Muslimūn

The influence of the Ikhwān-al-Muslimūn of Egypt on Maudūdī appears most clearly in the way he founded and organized the Jamā'at-i-Islāmī. We find many parallels between the two parties. Both parties had been translating the literature of the other into their respective languages and had been distributing these works widely. The Ikhwān was established at Ismailiya by Shaikh Ḥassan al-Banna in 1928, but it was not until the late thirties that its programme developed.(1) In 1938, the Shaikh delivered an important lecture on the politics and involved purposes in the establishment of the Ikhwān. This lecture was translated into Urdu by the Jamā'at-i-Islāmī and has continued to be distributed by them in the form of a small tract. It is important for the purpose of seeing the parallel between these two organizations to quote at length from this and from the lecture delivered by Maudūdī at the initiation of the Jamā'at-i-Islāmī.

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(1) See Werner Caskel in Von Grunebaum, ed. Unity and Variety in Muslim Civization (Chicago: U.P. 1955) p.345

In the beginning of his lecture, Shaikh Hassan al-Banna mentioned that a few of his friends and he had come together to form this organization. He said, "This was the firm ideal on which we had all agreed, that each one of us will strive together towards our goal, of redirecting public opinion as a whole towards the right Islamic viewpoint." He continued, "The foundation, the thought and the goal are Islamic and they are Islamic only. The organization does not have a single iota in common with non-Islam."(1) Similar words can be traced to Maulana Maudūdī, who at the time of the establishment of the Jamā'at-i-Islāmī said: "We have stood for the real Islam and only for Islam, and our movement is to include the whole of Islam."(2)

Maulānā Maudūdī also spoke at length about the Islamic religion and gave out in the same way as had Shaikh Hassan Al-Banna that Islam is a comprehensive religion which takes all aspects of man's life on earth, and hereafter, into its ken. Maududi said, "Islam is for all humanity, and all those things which are in any way related to man are connected with Islam, so that the

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(1) Makhtasar Tārīkh-i-Ikhwān-al-Muslimūn (Jamā'at-i-Islāmī, Lahore, n.d.) pp.1-2

(2) Tarjumān-ul-Qur'ān, September 1941, p.5

Islamic Movement is a movement which is all-embracing.... it has to change the whole pattern of living; it has to change the politics, ethics, economics and the civilization of the world. We are following the correct religion which was established by the Prophet of Allah (peace be upon him and his followers)".(1) In the lecture mentioned above, Ḥassan al-Banna strikes the same note: "Islam", he says, "is a complete religion which has in its purview the solution of all problems of man for every age...it is our belief that the tenets of Islam are related to both this world and the world hereafter...the truth is that Islam is a belief, as well as a prayer, it is nationality as well as race, it is dīn (religion) as well as state, it is spiritual as well as mundane."(2)

To achieve their goal in the establishment of what they call the true Islamic state, both these religious parties have adopted similar methods on coming down to the level of mundane politics. They have both taken part in the elections of their respective countries, and both are striving to gain political power.

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(1) ibid

(2) Mukhtaṣar Tārīkh-i-Ikhwān-al-Muslimūn op.cit, p.3

Although not too much emphasis should be put upon the similarities between statements of Ḥassan al-Banna and of Maulānā Maudūdī at the times of the establishment of their respective parties and of their subsequent adoption of similar policies, the influence of Ikhwān-al-Muslimūn upon Maudūdī's thought is evident.

اخوان المسلمين

(b) Muslim "Romantics"

(1) Alṭāf Hussain Hālī

Although Maudūdī's movement is basically fundamentalist, it has assimilated the 'romantic' principles to a great extent, and artistic and imaginative expressions have contributed much to his attitude. We noted Jamāl-ud-dīn Afghānī evoking in his rhetoric that potent nostalgia, the dream of ancient glory. This trait has been much developed in the Muslim world since his day. In India, a most eloquent instance is the superbly moving lament of the poet Alṭāf Ḥussain Ḥālī. Written in 1886,[79] Mad-o-Jazar-i-Islām (The Ebb and Flow of Islam), popularly known as the Musaddas-i-Hālī (six line stanzas), brilliantly recalls the lost glory of Islam.

This is by far the most characteristic and influential literary product of nineteenth century Muslim India. He evokes the Muslim's triumphant past and recites the glory of Islam with illustrations of names drawn from the early Arabic period. He then traces the downward trend in Islam's fortunes and its ultimate nadir in the fall of Baghdad. He feels that his Umma is still unable to escape from this malaise. His purpose in writing this long poem was to stir Muslims to a recognition of their evil plight for which they themselves were responsible. Although his main call is towards abandonment of fatalism, the 'Romantic' in him is found in the fact that no reference is made to contemporary problems and that the work seems steeped in a vague nostalgic under-current. We may contrast Maudūdī's realism with Ḥālī's romanticism, but at the same time must notice Maudūdī's appreciation of Islam at its best, and observe the connection between him and Ḥālī in this

(2) Abul Kalām Azād

This same "Romanticism" is also strongly evident in the early writings of Abul Kalām Azād who was probably the greatest influence upon Maudūdī's founding of the Jamā'at-i-Islāmī. He also provided the theoretic foundation for the Khilāfat Movement in India.

Maulana Azad's forefathers came to India from Hirat (Afghanistan) in Babar's days. It is said that Maulānā Azād's father, Maulānā Khairuddīn migrated to Mecca subsequent to 1857. Azād was born in 1888. A year later the family moved to Calcutta and settled there. Azad's father, like many other 'Ulama of his time, refused to give his son the western education. Azād was a precocious child who mastered Islamic lore when he was still in his teens. He wrote a critical review of Hayat-i-Jawaid by Alṭāf Ḥussain Ḥālī, which attracted wide attention. A story is told that when Maulānā Azād was invited to address the annual session of the Anjuman-i-Ḥimāyat-i-Islam at Lahore, Ḥālī took him as the son of Maulānā Azād due to his young age. He was utterly astonished when he learnt that the critic of Hayāt-i-Jāwaid was still in his teens.

Azād entered into the political field very early in life and concerned himself with ameliorating the status of

the Indian Muslims. He was stimulated with the writings of Sir Sayyed Ahmad Khān even though he felt that the policies of Sir Sayyed had become out-moded.(1)

For propagating his political views, he started the publication of Al-Hilāl on Ist June 1912. Setting down the aims and objects of this paper, he stated in the very first issue: "The real purpose of Al-Hilāl is none other than the single idea that it should, in view of the beliefs and practices of the Muslims, extend an invitation to Islam and to tell the adherents of this religion to give serious consideration to the book (Qur'ān) of God and the Sunna of the Prophet. Al-Hilāl wants to see Muslims follow their religion whether they are seeking solutions to educational, social or political problems."(2)

It is interesting to note the development of Maulānā Azād's political view from 1912 to 1920. A Muslim correspondent asked Azād to clarify the policy of his paper. He wrote that there were three paths of action for the Indian Muslims to follow, these are "(a) the path that Sir Sayyed Aḥmad Khān took, that of proving to the British that Islam is not inherently anti-Christian and therefore the Muslims are not anti-British; (b) the path of

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(1) Abul Kalām Azād, India Wins Freedom, op.cit. p.79

(2) Subḥ-i-Ummīd, Vol.I (a collection of articles from Al-Hilāl) (Urdu) (Sangam Kitab Ghar, Delhi, Feb.1959) p.39

non-extremist Hindus (the Congress) who are striving for political rights; and (c) the path of the Indian extremists and anarchist Hindus who want to free mother India from foreign domination by sabotage and revolution."(1)

On September 8, 1912, Azād tried to state his policy in the light of these questions. He indicated that it was doubtful whether he could separate religion from politics because he had formulated his political views in the light of religion. "According to our belief", he wrote, "any ideas not derived from the Qur'ān, are tantamount to sheer infidality and political views are not an exception to this rule. He asserted that Islam brought about a comprehensive social order for mankind and there was not a single social problem for which Islam did not provide a solution. In the light of these arguments, he stressed the need of following a path which did not appear among the three denoted by the correspondent. "These three paths have appeared before now but the path towards which I am pointing is the one through which thousands have already reached their goal. We have nothing to do with the three alternatives you have suggested; as we give an Invitation to the path of Allah. This is the path denoted by Allah by the phrase Sirāt-al-Mustaqīm(2) (the straight path)."

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(1) Al-Hilāl, September 8, 1912.

(2) The reference here is made to the opening sura of the Quran where the path of God is referred to as 'Sirāt-al-Mustaqīm.'

He further explained that Muslims have not examined Islam at its zenith and if they did so they would not be bowing their heads in subjugation to the Hindus.(1)

In discussing the policies of the political groups such as the Indian National Congress on the one hand and the Hindu anarchists on the other - Azad stated that he did not follow either of them. He declared, "Islam is an exhalted religion to such an extent that it does not become the Muslims to follow the policies formulated by the Hindus. There cannot be a greater shame for the Muslims to bow before others for political education. Muslims need not join any political party. They were the leaders of the world. If they would submit to God, the whole world would submit to them.(2)

Abul Kalām's early writings vis-a-vis Al-Hilāl had two important undercurrents. Firstly, Al-Hilāl did not trust the British government and secondly, it propagated for non-cooperation with the Hindus. As for as its political aims, Al-Hilāl asserted time and time again that it is feasible for the Hindus to endeavour to revive their self-awareness and national consciousness on the basis of secular nationalism but, for the Muslims, this is indeed not possible. Their nationality is not inspired by racial and geographical exclusivity; it transcends all

(1) Abul Kalām Azād, Madāmin-i-Abul Kalām Azād (Hindustani Publishing House , Delhi)pp.25-26
(2) ibid p.19

man made barriers. Therefore, unless they are inspired by Islam, the spirit of self-awareness will not be gained by the Muslims. "Europe may be inspired by conceptual matters related to 'homeland' and 'nation', but the Muslims can only seek inspiration from God and Islam".(1)

Azād believed that the fundamental nature of Islam required that all Muslims of the world are an integral part of the Islamic Umma and that all Muslims must remain united in an organic whole and that any one who betrays the solidarity of Islam is led astray.(2) From this basis Azād derives and acknowledges the authority of the Khalīfa as an instrument through which Islamic solidarity is maintained. Therefore, he stressed that the obedience to Khalīfa is mandatory. The Qur'ān makes it incumbent upon the Muslims to obey three kinds of powers: God, the Prophet and "those charged with authority" among Muslims. He believes that the last of these refers to the Khilāfa, which is responsible for enforcing the Sharī'a. To support this, he refers to a Hadīth in which the Prophet is quoted to have said that 'whosoever obeys my Amir, obeys me'.(3) Furthermore, he points out that the Khalīfa must be elected by all Muslims. Like Ibn Khaldūn he believes that

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(1) ibid p.87

(2) Abul Kalam Azad, Mas'alā-i-Khilāfat, (Maktaba-i-Aḥbāb-i-Wasanpura, Lahore, n.d.,) pp.22,25.

(3) ibid p.73

no individual or family has an exclusive right to this office. He asserted, however, that if a person has consolidated his position in this office without election even then it is obligatory for all Muslims to bow their heads of submission before him.

He submits the history of the development of the office of the Khalīfa to scrutiny, to establish the legitimacy of the Ottomans as the Khalīfas and asserts that the Muslims of India owe allegience to the Ottoman Khalīfas. He condemns Sharīf Hussain's revolt in Arabia against the authority of the Khalīfa and declares him a rebel who sided with the enemies of Islam. "A Muslim", maintained Abul Kalām, "who dies without rendering aid and succor to the Turkish Khalīfa, dies an un-Islamic death. Obedience to the Khalīfa is obedience to the Prophet and obedience to the Prophet is obedience to God. (1)

This was in short the essence of Maulānā Azād's thought on the unity and solidarity of the Muslims, the ultra-territorial nature of their Quomiyat and his attitudes towards the Khilāfa. He was in favour of a party of God "Hazbullah" which would endeavour to bring these ideas into action. Although he himself deviated to

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(1) ibid p.187

Nehru's socialism and nationalism, he left an indelible mark on Muslim thinking in the sub-continent and helped nurture such views as those of Maudūdī. His early writings also established this theoretical framework on which the ideas of the Khilāfat Leaders were based. Jamī'at-ul-'Ulama-i-Hind was also largely in agreement with his attitudes on such matters as Khilāfa, but while Maududi and others retained these views, Maulānā Azād and the Jamī'at began to reinterpret their stand in ways which brought them in agreement with the congress.

(c) Jamī'at-ul-'Ulama-i-Hind

The Jamī'at-ul-'Ulama was established under the guiding spirit of Maulānā Maḥmūd Ḥassan, a prominent theologian, in 1920.(1) This was an organization of clerics, the purpose of which was to provide an opportunity for joint discussion and decision by the body of the 'Ulama on matters of religious importance facing the Muslim Community in India.(2) Maulānā Anwar Shāh, at one time the General Secretary of the Jamī'at-ul-'Ulama-i-Hind, draws the justification for the establishment of the Jamī'at from Hadīth. Because this throws an explanatory light on the aims and objects of the organization, it is reproduced here:-

"'Alī(the fourth Caliph) had said that when I asked the Prophet of Allah (peace be upon him and his followers) 'O Prophet of Allah, if anything happens which the Sharī'a neither forbids nor permits, what line of action should be taken?' The Prophet's answer was that the 'Ulama and the sincere worshipers should be consulted and in no case should the opinion of one person be allowed to prevail."(3)

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(1) Ḥamīdul Anṣārī Ghāzī, Mukhtasar Tārikh-i-Jamī'at-ul-'Ulama-i-Hind (Department of Publications Jami at-ul-Ulama; U.P. n.d.) p.2

(2) Maulānā Anwar Shāh Kashmīrī, "Presidential Address" (8th sitting of the Annual Conference of Jamī'at-ul-'Ulama-i-Hind, 1927) Quoted from Maulānā Muḥammad Mia (ed) Jamī'at-ul-'Ulama-i-Hind Kī Shar'ī Ahmiyat Aur Us Kay Aghāz-o-Maqāṣid Aur Fahrist-i-Khidmīt (Central Office of Jamiat, Delhi, n.d.)p.2

(3) ibid pp.2-3

The Jamī'at was founded at the time when the Indian Muslims were deeply involved with the Khilāfat movement. Shaikh Muḥammad Ḥabīb-ur-Raḥmān Ūṯhmānī, another important leader of the Jamī'at, pointed out that the "Jamī'at's aims and ideas are connected with the religious guidance of Muslims, and because the religious interests of Muslims extend far beyond the boundaries of the India sub-continent, it is incumbent upon the Indian Muslims to support the Muslim Khilāfa in Turkey. Striving for its protection and preservation is important. To sympathise with the Muslims of the world is imperative. To aid those who are at war with Muslims and bent upon destroying Islam and the Khilāfa is completely forbidden."(1)

The Jamī'at was closely connected with the Indian National Congress, and as far as their political interpretation of the principles of Nationalism was concerned they were in complete agreement with the Congress. This means that although on the one hand their ideology was based on preservation of Khilāfa, their political views about the political status and future of Muslims of India were based on the theory that India after independence should be a secular state. This organization still exists

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(1) ibid p.7

with its Headquarters at Delhi and with the daily Al Jamī'a as their official organ. The Jamī'at-ul-Ulama has also been able to give a theological basis to its political platform, and to cast it in a specifically Islamic form. They use the concept of Mu'āida (mutual contract) derived from the statute of Medina. Their thesis is that since independence, the Muslims and the non-Muslims in India have entered upon a mutual contract, to establish a secular state, and that the Constitution of India, which the Muslim Community's elected representatives unanimously support, and to which they swore allegiance, represents the Mu'āida.(1)

The arguments advanced by the Jamī'at against the Muslim League, which was striving for the establishment of the Muslim Homeland (Pakistan), were mostly about the Muslim League's leadership. Their arguments were that the Muslim League, which was dominated by the Westernised intelligentsia, could not be trusted to establish a state based on Islam. As a result, mainly, of the support of the Congress on the Khilāfat issue, the leaders of the Jamī'at were members of the Congress as well. Abul Kalām Azād himself, who at one time had actually been President of the Congress, took an active part in the matters of

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(1) W.C. Smith Islam in Modern History, (Princeton U.P.1957) pp.284-285. He bases this on an interview with Maulānā Hafīẓ-ur-Rahmān, Delhi, 1956.

the Jamī'at. (1)

Abul A'la Maudūdī was influenced by this Congress-motivated organization(2) at the beginning of his political-literary career and that, I think, might have contributed to his failure to support the Pakistan movement. This also defined his attitude towards the concept of a universal community of Islam as envisaged by the leaders of the Khilāfat Movement in India

(d) The Khilāfat Movement

By claiming to be Khalīfas, the Mughal Emperors of India had not broken away completely from the Arab world, and had repeatedly expressed their devotion to the ḥaramayn in Mecca and Medina.

With the disintegration of the Mughal power, and gradual expansion of the foreign rule in India, the position, however, changed and there is evidence that the Khutbas in Khalīfa's name once more began to be mentioned in certain parts of India.(3) With the fall of the Mughals, the

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(1) The Annual Conference of Jamī'at-ul-'Ulama-i-Hind held in Lahore, was presided over by Maulānā Abul Kalām Azād, who later became the President of the Congress.

(2) Maudūdī edited Al Jamī'a, the official organ of the Jamī'at-ul-'Ulama-i-Hind, from 1924 to 1927/8.

(3) See Pakistan Historical Board, History of Freedom Movement (Karachi, 1961,) pp.207.

eyes of the Indian Muslims were once more entirely on the Turkish Khilāfa. With the growth of political consciousness the Muslims began to realize the increasing need for retaining the spiritual and political contact with the Khilāfa. This was demonstrated by sending a medical mission and financial assistance to Turkey during the Balkan War.

When the First World War began and the Indian Muslims found himself divided between loyalty to political overlords and the forces of the spiritual bond with Turkey, he became increasingly concerned with the safety of the Holy Places. In this atmosphere of conflict the Anjuman Khuddām Ka'ba was constituted by the prominent 'Ulamā of India. Among those who took the initiative were Maulānā 'Abdul Bārī of Firangi Mahal, Maulānā Muḥammad 'Alī and Shaukat 'Alī and Shaikh Mushīr Ḥussain Qadwāi.

The activities of these 'Ulamā became very aggressive and both the Ali Brothers and Abdul Kalām Azād were arrested. Soon after this Maulānā Maḥmūd Ḥassan refused to sign the fatwa sponsored by the British against the Ottaman Khilāfa. He was later taken from Mecca to be imprisoned in Malta.

In March 1919, the Rowlatt Bill became an Act. A Hartāl was announced which was followed by the Jalliyanwala Bagh tragedy.

Besides the oppressive measures at home the dismemberment of the Tutkey was in full progress after the war. Great Britain ignored the pledges about Turkey and the Holy places; Thrace was give to Greece, the Fertile Crescent was divided between Britain hereself and France as Mandatories, and the Turkish Capital was put under the control of a Commission. Thus the Khalīfa was reduced to a mere puppet. The Indian Muslims now had no alternative but to launch a countrywide movement. An All India Khilāfat Conference was held on the 24th November 1919. Sympathy from the Congress was won and Mr. Gandhi became an active supporter of the Khilāfat Movement. A number of resolutions were passed. An appeal was made not to participate in the victory celebrations. It was decided also to boycott British goods if no heed was paid to the demands in regard to Khilāfat.

Soon after, Muḥammad ʿAlī was arrested and tried because of the resolutions passed at the Khilāfat Conference in Karachi. A number of charges were proffered against him and six others for conspiring to seduce Muslim troops from their allegiance to the British. It was in his speech to the Jury that he set out the most cogently the

stand of Khilāfat Movement. Maulānā Muḥammad ʿAlī held that it is the command of God that a Muslim should not take arms against a Muslim without sufficient justification. "Whatever respect I may have for the King, I may not bow before him when he asks me not to bow before my God and His commandments."(1)

He had also said earlier: "This question.....is not merely a Turkish question, it is an Islamic, an Indian question, an Algerian question, and a Tunisian question. It is the question of the preservation of the Khilafat. The Khilafat is the most essential institution of the Muslim community throughout the world. A vast majority of the Muslims of the world recognize the Sultan of Turkey to be the Commander of the Faithful, and successor and Khalifa of their Prophet. It is an essential part of this doctrine that the Khalifa, the Commander of the Faithful, should have adequate territories adequate military and navel resources, adequate financial resources. But for what purpose? Not for aggression, nor even for the defence of Turkey, but for the defence of our faith. He is to stand before the world as the

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(1) Afzal Iqbal, Select Writings and Speeches of Maulana Mohammad Ali, Vol.II (Ashraf, Lahore, 1963) p.63

leader of the Muslims in this cause, and whenever the liberty of conscience of the Muslims in any part of the world is placed in jeopardy, he would at least be able to say to the aggressor, 'You shall not do that with impunity' (cheers)"(1) He also explained that he wished the Khalīfa to have his armies for the purpose of guarding the Holy places of Islam.

With the dismemberment of Turkish territories and ultimately the abolition of Khilāfa, this last crusade in favour of the Khilāfa ended, leaving an indelible mark on the minds of the Indian Muslims.

History had decided once for all that, Khilāfa was no longer the centre of the Islamic theory and had once more asserted the theory of Mulk enunciated by Ibn Khaldūn. But slight readjustments were necessary and these were provided by Iqbal.

(e) Dr. Muḥammad Iqbāl

Iqbāl's ideas have also had a very deep influence upon the thought of Maudūdī. It is necessary, therefore, to give a short outline of Iqbāl's ideas on Millat, Sharī'a, Ijtihād and Khilāfa.

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(1) ibid p.4

Iqbāl regards the state in Islam as "....an effort to realise the spiritual in a real organization."(1) It is through the spiritual that the merging of the individual into the Umma or Millat (the Islamic community) is achieved bringing nearer to realization the establishment of the universal Brotherhood that Islam conceives. It is only by following the path described by God (the Qur'ān) that we can find the true meaning of life. He believes that the Sharī'a is the only complete code which describes the path for establishing God's will on earth. Islam to him is unlike other religions in that it is "neither mere thought nor mere feeling nor mere action; it is an expression of the whole of man."(2) There can be no separation of the secular and the religious, and for this reason no one institution of man can be considered in isolation. State, Millat, Imām, individual and government cannot be treated separately. To him, "the whole of this world is a mosque".(3) We find him saying: "Qur'ān considered it necessary to unite religion and state, ethics and politics in a single revelation." (4)

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(1) Muhammad Iqbal, Six Lectures on Reconstruction of Religious Thought in Islam. (Kapur, Lahore, 1930) p.217

(2) ibid p.3 (3) ibid p.231 (4) ibid p.217

To Iqbal the Islamic foundation is rooted in the principle of tauḥīd. The Islamic polity is only a practical way of establishing this principle in the emotional and intellectual life of mankind. The unity of God, then is the ultimate basis of all life, and the purpose of God is revealed to us in explicit terms in the shape of the Qur'ān. However, from this it does not follow that the pattern of the Islamic State is fixed once and for all, because Islam has provided for change and mobility through ijtihād. If this provision had not been included, Islam would have become stagnant, the essential thing is that both the eternal and the mobile principles are to be harmonised. "The Qur'ān", he says, "provides for what is eternal but the principle of movement in the structure of Islam is provided by Ijtihād."(1) Iqbāl admits, however, that during the past few centuries Islamic Law has been reduced to immobility. He ascribes this to causes such as the fall of Baghdad, the Ṣūfi emphasis upon the purely speculative, and the conservatives who had to make the legal system more rigorous and traditional to preserve it from the Rationalist attacks. He asserts

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(1) ibid p.209

that if Islam has to rediscover its practicability, ijtihād is so liberal that he is even willing to change the nature of Khilāfa. He says, "According to Sunni Law the appointment of an Imām or Khalīfa is absolutely indispensable. The first question which arises in this connection is this - Should the Caliphate be vested in a single person? Turkey's ijtihād is that according to the spirit of Islam the Caliphate or Imamate can be vested in a body of persons, or an elected assembly....Personally, I believe that the Turkish view is perfectly sound. It is hardly necessary to argue this point. The republican form of government is not only thoroughly consistent with Islam, but has also become a necessity in view of the forces that are set free in the world of Islam."(1)

He holds that Khilāfa has been "overshadowed or rather displaced by Arabian Imperialism of the earlier centuries of Islam".(2) He says that to re-assert the Islamic principles we must adopt the "International Ideal". "For the present," he says,"every Muslim Nation must sink into her own deeper self, temporarily focus her vision on herself alone, and until all are strong and powerful to form a living family of republics."(3)

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(1) ibid p.220
(2) ibid p.222
(3) ibid p.223

From this, it becomes clear that although he is admitting the need for the Muslim nations of the world to accept the principle of development within their national boundaries, his is an ethical ideal. He is neither an Imperialist nor a Nationalist. Nationalism, he believes, is based on accident of race, language, colour, rather than on a belief in unity of God and the human fraternity which is implicit in the teachings of the Qur'ān. It is therefore an evil which must be destroyed.(1) In other words he considers Nationalism as a stepping stone to the higher human fraternity and creation of a true Ummа. This was also endorsed by his Allahabad address to the Muslim League Annual Conference. He suggested that a separate political entity should be created for the Indian Muslims to serve as a microcosm for the macrocosm which would establish a real universal Ummа.

These ideas were further clarified when, just before his death, Iqbal entered into a fierce controversy over Muslim as opposed to Indian nationalism with one of the

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(1) Note the following couplets:

ملت بیضا تن و جان لا الله سازِ ما را پرده تار لا الله

دین از دل حکمت از دل آئین از دل زور از دل قوت از دل تمکین از دل

most important leaders of the Jamī'at-ul-'Ulama-i-Hind, Maulānā Ḥussain Aḥmad Madani. It began when, in refutation of a statement by the latter in which he had said that Nationalism has a territorial connotation,(1) Iqbal wrote three couplets.(2) An exchange of letters through the Press followed, and these set down the basic stand of each protagonist on Millat (Muslim Community) and Wattan (Nationalism based on territory). Each writer tried to justify his own point of view in the light of Islam and insisted that his own interpretation was nearer to Islamic provisions.(3)

Maulānā Madanī argued:" The word qaum (nation), is used for that group of people which has a unity among themselves. It is immaterial whether this unity is based on religion, waṭanīyyat, race, colour, profession or any other literal or recognisable reality."(4) In another booklet

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(1) قومیت کی اساس وطن پر ہوتی ہے۔ (Nationalism is inconceivable without territory).

(2) عجم ہنوز نداند رموز دیں ورنہ ز دیوبند حسین احمد ایں چہ بوالعجبی است
سرود برسر منبر کہ ملت از وطن است چہ بے خبر ز مقام محمد عربی است
بمصطفیٰ برساں خویش را کہ دیں ہمہ اوست اگر بہ او نہ رسیدی تمام بولہبی است

These verses were first published in the Daily Ihsan, Lahore, 31st January, 1938.

(3) See Millat aur Watan - Maulana Hussain Ahmad Madani aur Alama Sir Muhammad Iqbal ki Bahth (Idara-i-Roznama Shams, Multan, n.d.) probably 1940

(4) ibid p.10

written and published after the death of Iqbāl[1], Madanī quoted nine verses from the Qur'ān in support of his conception of Qaum. In them, Muslims and non-Muslims living in one territorial boundary were referred to as one qaum. [2]

Iqbāl, on the other hand, asserted that Muslims wherever they reside, are a part of the Millat-i-Islāmiya, and the community which comes into being through its belief in one God is not at all the dependent upon the political boundaries of states, for Islam transcends all unnatural boundaries set by man. It is in respect of these views on Millat-i-Islāmiya that we find Maudūdī in complete agreement with Iqbāl. The other aspect of Iqbāl's thought, which dealt with the creation of Pakistan to preserve the economic and social interests of the Indian Muslims by way of a new state, does not find agreement with Maudūdī. In other words, in tracing the impact of the writings of Iqbāl upon the formulation of Maudūdī's political and religious ideas we discover that two aspects of Iqbāl's thought are particularly important. (a) That part of his thought which is concerned with the broader view of Muslims on citizens of the world,

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(1) Madanī, Ḥussain Aḥmad, Muttaḥidda Qaumiyyat aur Islām (Majlas-i-Qasim-ul-Mu'ārif, Deoband n.d., probably 1939)

(2) ibid pp.18.19

their problems as an Umma, both religious and political, may be noted first. Maudūdī would agree with Iqbāl's views on this. But when it comes to (b) Solving the problems of the Indian Muslim Community in their special Indian setting, Iqbal recommends the creation of a separate political entity for the preservation of the interests of this community as a logical outcome of (a) above. Maudūdī would disagree.

(iii) MAUDŪDĪ'S POLITICAL PREMISES AND THE JAMĀ'AT-I-ISLĀMĪ.

Although the religious aspects of Maudūdī's politics and attitudes before the partition of India were clear, his stand on political matters remains vague and ambiguous. From the time when he took up the Editorship of the Tarjumān-ul-Qur'ān, through the years when he extended his invitation to Islam at the Dār-al-Salām, right up to the partition of India, he criticised the political attitudes of the All India National Congress and called upon Muslims to boycott that political party. On the other hand, he was also in disagreement with the Muslim League, mainly because of the Westernising influences within it. Although ample evidence exists in his writings of the ideological and long term extra-territorial Pan Islamic plans, he never once submitted his own solution to the existing Indian Political

problems. It could, then, be said that he probably believed in bringing about Muslim rule over the whole of the Indian sub-continent.

This can be supported by a number of arguments:-

(a) Most of the Jamā'at-i-Islāmī's own assessment of itself attributes the genesis of the Jamā'at to a general movement of return to Islam begun in India by Shāh Walīullah of Delhi, Sayyid Aḥmad Shāh Barailwī, and Shāh Ismā'īl Shahīd (the martyr).(1) Shāh Wallīullah's movement had been directed towards the revitalization of Islam both as a religion and as a political force in India. The anti-British and anti-Sikh movement of Aḥmad Shāh Barailwi and Shah Isma'īl had also been directed towards the same end, although the political side of it was even more emphasised. Its political bias can be gathered from the fact that Aḥmad Shāh Barailwi was created a Khalīfa at Peshawar. This whole movement was inclined towards recreating a Muslim dominance in India. This is clear from the letter written by Shāh Wallīullah to Aḥmad Shāh 'Abdālī, who was at the time the Amīr of Afghanistan.

(b) When partition became imminent in April 1947, in a speech at Madras, Maudūdī expressed his intention that the

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(1) Maudūdī, Tajdīd-o-Iḥya-i-Dīn, op.cit; and Khurshīd Aḥmad, (ed) Tahrīk-i-Islāmī - Shāh Walīullah aur un kay Ba'd. (Idāra-i-Charāgh-i-Rah Karachi, 1953) pp.46-68.

Jamā'at-i-Islāmī should be split into two, one part working in Pakistan and the other making India its base.(1) Since partition, these two parties have existed,both trying to establish an Islamic state. In the Muslim-Majority Pakistan, under the headship of Maudūdi himself, one endeavoured to establish an Islamic state by publicity, gathering support among the masses and taking an active part in politics; and the other, in Muslim-Minority India, strove to bring about that majority by proselytizing.

(c) He supported neither Congress, which planned to bring the whole of India under the rule of the majority, nor the Muslim League, which was striving to establish a separate political entity for the Indian Muslims.(2)

Although, after the formation of the Jamā'at the claim of the Muslim League for the partition of India is never endorsed, Maulana Maudūdī did, in fact, give his own three alternative plans for the future of India. One writer(3) goes as far as saying that the Jamā'at-i-Islāmi might have been created for the mere purpose of opposing the Muslim League's Pakistan Resolution (passed in Lahore on 23rd March, 1940), as it was launched on 25th August, 1941.(4)

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(1) L. Binder, Religion and Politics in Pakistan, op.cit, p.95

(2) Maududi, Process of Islamic Revolution (Markazī Maktaba Jamā'at-i-Islāmī, Lahore, 1955) p.21

(3) Freeland Abbott. op.cit p.36

(4) Maudūdī, "Musalmān Kia Karain - Teen Tajāwiz", in Tarjumān-ul-Qur'ān (November-December 1938) pp. 6-15

It is very interesting to note that although one of these plans was very similar in content to the Pakistan Resolution, no mention of these plans is made by the Maulānā in any of his writings after the creation of the Jamā'at, until the partition. However, it is interesting to note that since the birth of Pakistan and especially since Maudūdī began to identify himself with those who had worked for the creation of Pakistan, these plans have been constantly mentioned by his supporters. These plans were first published in the Tarjumān-ul-Qur'ān in the October, November and December issues in 1938. But because these plans do not in any way seem to have had any influence upon his political theory after the creation of the Jamā'at, I can consider them only as temporary. The first plan, incidentally, is very similar to the ideas incorporated in the Muslim League's Pakistan Resolution. The second talks about areas which are predominantly Muslim, and of mass movement of population over a period of 25 years; and the third of a three tier confederation which later, in 1946, became the basis of the Cabinet Mission Plan. Talking about the Congress, he points out in this article, "We, (as Muslims) are a permanent Qaum the collective life of which is based on precise moral and civic rules. We have got some basic and

inherent disagreements with the majority qaum. The moral and civic principles of this qaum are opposed to ours....so it is not possible that we should weld ourselves into one whole". Maudūdī then goes on to say that even on those matters like education where we agree with the Congress and the Hindus, this agreement is only about the importance of education and there is bound to be a disagreement in respect of its contents and the purposes that we have in mind.(1) And again, "Their path (that of the majority) and ours can run parallel, and can even come together in places, but that they should coincide is not possible."(2)

The very foundation on which the Muslim League had based its claim for a separate state, was the belief that the Muslims in India formed a separate nation, and that for political, economic and social reasons it would not be possible to live congenially in a Hindu-dominated India. Looking at Maudūdī's statement above, one feels that it is more in agreement with the policies of the Muslim League than with his own emphasis upon broader Islamic ideals.

It is very difficult to understand why Maudūdī did not recognize the legitimacy of the Pakistan Resolution although

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(1) ibid p.468

(2) ibid p.469

it was reiterating the views of Maulānā Maudūdī as explicitly put in one of his three plans. In later years such lapses in favour of a democracy are never found in him at all. This article begins with praise of democracy and majority rule, then goes on to explain that majority rule can be beneficial only where the components of the nation are not nations as widely separate as Muslims and Hindus. This was the Muslim League's argument. In fact the centre of his argument is not Islam but Muslims, and he makes no reference to the Universal Islamic Brotherhood of Pan Islam here. The only explanation which can be given to it is that this series was probably written as a criticism of the 1935 Act which gave a new constitution to India, wherein no safeguards for the Interests of the Muslim Community were incorporated.

Encouraged by Maudūdī's criticism of the Congress, the Muslim League approached him through Maulānā Ẓafar Aḥmad Anṣārī[1] to endorse the Muslim League programme. He was invited twice by the Muslim League to work with them, but both times a refusal ensued. The first time was

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(1) Maulānā Ẓafar Aḥmad Anṣārī was the same man who was deputed by the Muslim League to organize Jamī'at-ul-'Ulama-i-Islām, an organization of the 'Ulamā in favour of the Muslim League. This organization was created to oppose the Jami'at-ul-'Ulamā-i-Hind, who were anti-League and favoured the Congress in its policy of a collective Indian Nationalism and justified it in the light of the Sharī'a.

when he was asked, in 1937, to join in the work of the Muslim League research group. The second time was when he, Ẓafar Aḥmad Anṣārī, the Office Secretary of the Muslim League, extended the invitation in 1945.(1)

On the 25th August, 1941, when seventy-five people collected in Lahore to initiate the Jamā'at-i-Islāmī and to draw up its constitution, the emphasis was much more religious than political. Maulana Maudūdī, who had issued his invitation to Islam, was elected as the Amīr of the Jamā'at. The formation of the Jamā'at was based on the argument that, "Although there are many individuals who have been working in the Path of Allah, they should understand that for those who have one purpose and one ideal to remain isolated is not ohly wrong in principle, but also is unprofitable in practical terms."(2) After launching the Jamā'at, he wrote about the general principles which had brought it into being, including the state of the Indian Muslims. Majority rule or matters regarding nationalism are not mentioned in it at all. He said, "The idea on which the constitutional foundation (of the Jamā'at) has been placed is that we should not

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(1) L. Binder, op.cit. pp.94-95

(2) Tarjumān-ul-Qur'ān, Vol.18. No.2, p.13

only strive for the realization of one single aspect of Islam or talk of one single aspect of the religious ideals of the Muslims, but should stand for Islam as a whole. The purpose for which Prophets have come to the world should be our purpose. We should reiterate the invitation given by them, and the pattern which they used to make a congregation of their followers - we should also use for our Jama at...."(1)

Just before the launching of this organization, Maudūdī had his headquarters moved to Lahore. This is a very significant step. Lahore, being a cultural centre of the Indian Muslims, could, he thought, serve better as a ground for the active and vigorous politics that he had in mind for the organization. The isolated rural district of Gurdaspur could not have served his purpose. If we accept the view that the Jamā'at was in fact created to oppose the Muslim League, this geographical change becomes even more significant.

The main emphasis in the Constitution of the Jamā'at-i-Islāmī, as drawn up in 1941 was on personal righteousness. It is interesting to note that within the clauses of the Constitution no mention is made of the establishment of an Islamic State of the general structural matters of such

(1) Tarjumān-ul-Qur'ān Vol.18.No.2 p.14

a state or the principles on which it is supposed to be based, or of the methods which have to be adapted for its establishment. Its language is evangalical, corrective at the individual rather than at the social and collective level.

The constitution comprises eleven clauses which are listed under six subjects.

The first subject, which is entitled 'Aqīda (Belief or Faith), contains only one clause. It reads:"The basic term of faith of the Jamā'at-i-Islāmī is that 'There is no god but God, and Muhammad is His Messenger'." The constitution then discusses the full implication of the KalimaTayyiba(above), and explains that to consider anyone but God as the object of worship places a man out of the sphere of Islam. The second clause emphasises the need to take the word of God to those who are ignorant of His name and of His supremacy. It urges its members to forget the superficial bonds of nationalism, race, colour, etc., and become one in His praise and worship, following the rules of morality set by Him. The third and fourth clauses deal with the personal qualifications of those who apply for membership. Here puritanical attitudes are stressed, alongwith the idea that a person serving governments who recognise a sovereignty other than of God, should resign

from their service before he can hope to be selected to Jamā'at's membership. After the creation of Pakistan, however, while the recognition of Pakistan as an Islamic state by the Jamā'at had still not come into effect, it had some membership among those who served the government. Later, when the Jamā'at came under the wrath of the subsequent governments, the Jamā'at issued a circular, and those members who were government employees were relegated from their full membership to the position of "sympathisers'

From which do you get this?

The total membership of the Jamā'at-i-Islāmī, however, did not rise to more than about 500 before partition, although its sympathisers may have had a higher number. There is no way to ascertain the exact number of sympathisers. The party has been very strict in according membership. It is with almost communist thoroughness that they have considered and reconsidered applicants for membership. A man may have to work many years to prove himself worthy of membership before he can be accepted in the ranks of the party. The Jamā'at has explained in its own writings that it is an ideological party, and therefore, until such time as a candidate thoroughly proves that he agrees with that ideology, he cannot be admitted to its membership.

CHAPTER THREE

MAUDUDI'S POLITICAL INVOLVEMENT

CHAPTER III

MAUDUDI'S POLITICAL INVOLVEMENT

(i) INVOLVEMENT IN ISLAMIC CONSTITUTION MAKING

Pakistan came into existance as the result of a struggle not led by the ʿUlamā but mainly by westernized politicians. The establishment of Pakistan, however, created the problem of the extent of the role of Islam in the idealogical and the constitutional sense. In the initial months, this had been overshadowed by one of the most important needs of a newly established country, namely stability. The situation was aggravated more by the mass movement of refugees from the Indian side of the border, and the rioting and bloodshed which preceeded it. Most political leaders wanted to see a new flexibility in political and social thinking. If this had

been pursued to its logical end, there would have been a danger of losing the much desired and needed stability which would have invited internal dissension and conflict. Initially, therefore, the most important task of politicians was to seek harmony in the face of the differences between the religious leaders and the constitution makers until the state was established on a less precarious foundation.

Apart from a few _'Ulamā_, the background of the men who had organised the campaign in favour of Pakistan was not theology and Islamic Law, but politics and the common law; not _Deoband_ but Cambridge, the Inns of Law and Aligarh. A great majority of the _'Ulamā_ did not support the campaign for Pakistan. Muḥammad 'Alī Jinnāḥ, Liāquat 'Alī _Khān_ and their compatriots led a campaign to create a separate state for the Muslims of India. They had not only to fight the Hindu ideology of common nationhood, which explicitly propagated the principle of majority rule - which they thought would relegate the Muslims to a permanent status of minority - but also the set of influential _'Ulamā_. These were divided between those who believed in Nehru's Nationalism (_Jamī'at-ul-'Ulamā-i-Hind_), and those who, like Maudūdī and his followers, held to the concept of Islamic _Umma_ and believed that to determine political boundaries for a

geographical section of this Umma as proposed for Pakistan would retard growth of the so-called "Islamic Revolution".

Talking about the plausibility of the creation of Pakistan, Maudūdī had, for instance, asked as late as the early months of 1947: "Why should we foolishly waste our time in expediting the so-called Muslim National State and fritter away our energies in setting it up, when we know that it will not only be useless for our purpose but will rather prove an obstacle in our path."(1)

It was mainly due to this opposition of the majority of influential 'Ulamā towards the creation of Pakistan that its birth frustrated them and they could not, in the early months, make an impression either among the masses or among the policy making circles. Whenever they voiced their opinion about the future constitution of Pakistan, they were at once called enemies of Pakistan(2) and it was given out that because their political motives were in harmony with the enemies of Pakistan, therefore, they did not have a right to express their opinions about the future of a country's constitution to which they were

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(1) Abul A'lā Maudūdī, The Process of Islamic Revolution Second Edition (Maktaba-i-Jamā'at-i-Islāmī, Lahore n.d.) p.37.

(2) The Daily Ihsān (Lahore) brought the term "enemies of Pakistan" to the fore and the rest of the press followed suit.

not loyal. However, in spite of the odds against them, the 'Ulamā must have gathered ample support in favour of Sharī'a as the basis of the future constitution for Mr. Jinnāḥ to say in January, 1948: "I cannot understand why this feeling of nervousness that the future constitution of Pakistan is going to be in conflict with Shariat Law. There is one section of people who keep on impressing upon everybody that the future constitution of Pakistan should be based on the Shariat. The other section deliberately wants to create mischief and agitate that the Shariat law must be scrapped." (1) This statement explains how Mr. Jinnah, who in the beginning had probably an entirely secular view of the future of Pakistan, was now submitting reluctantly to the 'Ulamā. He had said in the first meeting of the Constituent Assembly: "Everyone is first, second and last a citizen of this state, with equal rights, privileges and obligations..." and that in the new democracy (Pakistan) "the Hindus would cease to be Hindus and Muslims would cease to be Muslims, not in the religious sense because that is the personal faith of the individuals, but the political sense as citizens of Pakistan."(2)

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(1) The Pakistan Times, Lahore, February 13, 1948.

(2) Quoted from Farid S. Jafri, "Constitutional Trends in in Pakistan", Pakistan Review, (June 1953) p.19.

An attempt to legitimise the stand of the Ulamā first came when on 6th February, 1948, Maulānā Maudūdī broke his silence by asserting that Pakistan "...has been achieved exclusively with the object of becoming the homeland of Islām. For the last ten years we have been ceaselessly fighting for the recognition of the fact that we are a separate nation by virtue of our adherence to Islam. We have been proclaiming from housetops that we possess a world view, an outlook on life and a code of living fundamentally different from those of non-Muslims. We have all along been demanding a separate homeland for the purpose of translating into practice the ideals envisaged by Islam and, at last, after a long and arduous struggle, in which we sustained a heavy loss of life and property and suffered deep humiliation in respect of the honour and chastity of a large number of our womenfolk, we have succeeded in attaining our cherished goal - this country of Pakistan. If now, after all these precious sacrifices, we fail to achieve the real and ultimate objective of making Islam a practical, social, political and constitutional reality - a life force to fashion all facets of life - our entire struggle and all our sacrifices become futile and meaningless."(1)

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(1) Maududi, The Islamic Law and Constitution, Tr. Khurshid Ahmad (Islamic Publications, Lahore, Second Edition, October 1960) p.44.

The above excerpt from the first of two speeches delivered at the Law College, Lahore, in which Maulāná tried to state the basic concepts of the Islamic State, and gave arguments in favour of Pakistan's having an Islamic Constitution, marks the beginning of two new lines of policy for Maudūdī. Firstly, from now on, he began to identify himself with those who strove for Pakistan, and secondly, he accepted the reality of its establishment and pleaded for an Islamic Constitution. Amongst other motives, by saying that ".....we have all along been demanding a separate homeland", he might have had in his mind the fact that unless such a premise was taken, it would be impossible to gather support for the Islamic State that he envisaged. It was thus that he abandoned his own theory of 'Islamic Revolution' in favour of the one held by the Muslim League that once established, Pakistan could be made to accept the Islamic concepts. For the Maulānā, the problem thus posed lay in convincing the government and those with westernised secular opinions, of the validity and applicability of the Sharī'a as he saw it. This meant that he was now accepting the viewpoint that Pakistan came into being for the sole purpose of bringing the reign of God unto the

Muslims residing in the territory now called Pakistan. He now directed his whole attention upon, firstly, gathering more support among the educated classes of the Muslims through public speeches, pamphlets, books, medical aid to the refugees and in remote villages, organizing student bodies, etc., and secondly, through putting pressure upon the government in favour of an Islamic constitution. An agreement about the basic principles of Islamic State among the 'Ulamā of various views was reached to show the government that 'Ulamā were now agreed upon a plan.(1)

(ii) COMPARISON WITH SOME RECENT VIEWS ON THE ISLAMIC STATE

Maudūdī's thought appears more clearly when seen in comparison with some of his contemporaries.

As we have seen, Islam comprehends government and society in a single whole. With the rise of modern nationalism, however, the theorist found himself faced with a new situation in Pakistan. This new situation arose owing to the fact that Pakistan was now a nation

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(1) See appendix III.

Explain in difference

not unlike Great Britain or France. There was no Khilāfa in existance from which an investiture could be obtained and a justification for existance provided. The existence of Nationalism along with motivation from Islam created this situation. Although Turkey was the first National State in the Islamic world, the conditions there were different. Turkey had found the institution of Khalīfa to be no longer valid and had discarded it by saying that Khilāfa could be embodied in the Grand National Assembly. On the other hand, the situation was new to the Muslims in Pakistan as is clear from the long discussions in the Constituent Assembly about basic concepts such as Republic, State, Sovereignty of God, Vicegerency of God, Khilāfa, Amīr and Sharī'a etc. This situation had been created at the birth of Pakistan as a nation distinct from other Muslim Nations. But the very use of such terms as "Islamic State" shows that a compromise has been made. Before the creation of Pakistan, when the situation had been different, the compromise had been of a different nature. Amīr 'Alī[1] for instance, had emphasised upon

This was not the case after the Khilafat?

Explain 2

In what respect?

Compromise with what?

(1) Ameer Ali was one of a group of Muslim writers now termed as 'apologists'. A lawyer and a judge by profession, he wrote The Spirit of Islam, a History of Sarasens, etc., in an endeavour to bring about a better understanding of Islam in the West.

Islam not as a socio-political religion but the moral system which it would create. He had talked not of an Islamic State but an Islamic System. In The Spirit of Islam he had outlined the following principal bases of Islam:

> "(1) A belief in unity, immortality, mercy and supreme love of the Creator;
>
> (2) Charity and Brotherhood among mankind;
>
> (3) Subjugation of passion;
>
> (4) The outpouring of a grateful heart to the giver of all good; and
>
> (5) Accountability for human action in another existance." (1) (2)

It is interesting to note that this Muslim writer of the late nineteenth century was not at all concerned with the practical problems of politics and therefore when he explained the basic concepts of Islam, he was not inclined to touch even the periphery of practical problems, such as those connected with the working of a state based on Islam. He was acting as an apologist in a country dominated by a non-Muslim power, while Maudūdī's main concern is with the problems of an independent Muslim nation state.

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(1) This interpretation seems strange because of the socio-political nature of Islam. It illustrates that in the nineteenth century, when the British rule in India seemed to be gaining strength, such an interpretation was possible.

(2) Ameer Ali. The Spirit of Islam (Christophers, London 1955) p.138

The term 'Islamic State' did not come to be generally used until after the creation of Pakistan. The ground work had been prepared by Iqbāl as early as 1930 by his Allahabad Address to the Muslim League, when he had asserted that a separate state of the Muslims of India be created wherein they could fashion their lives in accord with their ideals. After the creation of Pakistan, there has been a significant change in the writers' mind. Ameer Ali had a moral tone, Iqbāl showed the way but it is the post-independence writer who faced the problem of compromising classical theory of the Khilāfa with Pakistan as a political reality and a state distinct from other Muslim States based on Nationalism.

Apart from Maudūdī, two other men have been concerned with these problems. These are Khalīfa ʿAbdul Ḥakīm and Muḥammad Asad. It is to these that we must now turn.

(a) Khalīfa ʿAbdul Ḥakīm

Khalīfa ʿAbdul Ḥakīm's[1] enumeration of the

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(1) Dr. Khalīfa Abdul Hakīm (formerly Professor of Philosophy and Dean of the Osmania University, Hyderabdd Deccan) Islamic Ideology - The Fundamental Beliefs and Principles of Islam and their Application to Practical Life, (Publishers United, 1951. Pakistan Edition). The original edition was printed considerably earlier, probably just before independence.

general principles of an Islamic State is particularly interesting as it appears to serve as the basis of the later developments which are incorporated in the writings of Muḥammad Asad.(1)

Khalīfa ʿAbdul Hakīm's points of importance in regard to an Islamic Constitution are as follows:-(2)

(1) Soverignty belongs to God and the principle of social Justice is derived from his attributes.

(2) The fundamentals of the Constitution of the State are ordained by God; the fundamental principles of legislation are also sanctioned by Him.

(3) Muslims are free to legislate as the circumstances demand; but no legislation shall violate the basic constitution.

(4) Only those people should be chosen to frame laws and regulations who have fully grasped the spirit of Islam.

(5) The learned men (the ʿUlamā) in the state should continue to reinterpret and to revise the laws; they should not be changed merely by the vote of the ignorant masses creating brute majorities.

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(1) Leopold Weiss.

(2) This is a summary of the points discussed in his book Islamic Ideology, op.cit., in the Chapter entitled "Basic Concepts of Islamic State". I have had to rearrange points according to their importance from our point of view. Sometimes I have had to rephrase to make the ideas clearer from the constitutional point of view. Khalifa ʿAbdul Ḥakim, op.cit. pp.190-242.

(6) The well-being of all citizens is the chief purpose of the Islamic State; it shall not be merely a police state whose functions end with the securing of law and order; Islamic State is a welfare state.

(7) The economics of society shall be so regulated that Capitalism and living on unearned income is discouraged.

(8) The fundamentals of the Constitution shall guarantee equal civil liberties to all subjects. All non-Muslim religious communities shall have the right to get their cases decided according to their own Personal Law, if they do not violate elementary human rights.

(9) Under the law, men and women shall enjoy the same fundamental rights. Women will be allowed to hold property in their own names.

(10) The right of armed revolt by a group of citizens against even a tyrannical government is not conceded by Islam.

(11) Muslims have the right to enjoy religious freedom. If (in a non-Muslim state) they are persecuted, they shall stick to their faith and suffer patiently.

(12) Upon reaching the limit of their endurance,

they should migrate from the abode of tyranny. (1)

(13) They should try to enter into treaties with the non-Muslim countries creating conditions of peace for themselves and others.

(14) They should not violate these treaties, one-sided violation of treaties is sinful.

(15) When they have gained enough power to protect themselves by force, they are allowed to use force against aggressors.

(16) Non-Muslim citizens of the Islamic State are to be granted complete liberty of religious belief in lieu of a small and reasonable tax of protection (Jizya or Poll tax).(2)

(b) Muḥammad Asad:

The other important interpretation came from Muḥammad Asad, who was then the Director of Islamic Reconstruction in the Punjab Service. Before Asad left

When?

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(1) The inclusion of this clause regarding refugees (Muhājirīn), which is not really of a constitutional nature for an Islamic state, points out that this statement was perhaps written either before partition, to discuss the position of the Muslims in a United India, or just after partition, to justify the mass movement of the Muslims from India to Pakistan.

(2) Khalīfa Abdul Hakīm, Islamic Ideology - The Fundamental Beliefs and Principles of Islam and their Application to Practical Life. op.cit. pp.190-242.

this position, he managed to bring out an issue of Arafāt, an English language Journal, in which his article entitled "Islamic Constitution Making" appeared. Asad's position here was very similar to the one later taken by Abul A'la Maudūdī, although the dominant note in it is his endeavour to make it more acceptable to the Western mind.

Muhammad Asad elaborates fourteen points which he thinks are the cardinal features of the Islamic State in its Pakistani context:

(1) The State holds power in trust of God so that the people may live in accordance with the laws of Islam.

(2) The laws of matters of public concern form the inviolable basic code of Public Law.

(3) No temporal legislation, mandatory or permissive, shall be valid if it is found to contravene any stipulation of the Nasūg unchangeable regulations contained in Qur'ān and Hadīth.

(4) The head of the State (Amīr) shall be a Muslim, elected to his office by the Community, and, on being elected, he shall declare that he will govern in obedience to the Law of Islam.

(5) The legislative powers in the State belong to the Majlis-i-Shūra, the Members of which shall be freely elected by the people. The Majlis is entitled to legislate in respect of all matters not covered by the Sharī'a and

is presided over by the Amīr or a delegate to be chosen by him from among the members of the Majlis.

(6) Self-canvassing by any person desirous of being appointed to an administrative post of of being elected to a representative assembly, shall automatically disqualify that person from being elected or appointed.

(7) The head of the State shall be the Head of the Executive and shall be responsible to the Majlis-i-Shūra for the activities of the Government. He shall appoint and dismiss his Ministers at his own discretion; they shall act as his Secretaries of State and shall be responsible to him alone.

(8) Guardianship of the Constitution is vested in the Supreme Tribunal, the Members of which shall be elected by the Majlis-i-Shura on the advice of the Amir. This Tribunal shall have the right:

(a) to arbitrate on the basis of the Nass ordinances of Qur'ān and Sunna in all cases of disagreement between the Amīr and the Majlis-i-Shura referred to the Tribunal by either of the two parties.

(b) to vote on the Tribunal's own accord, any legislative act passed by the Majlis-i-Shūra or an administrative act on the part of the

Amīr which in the Tribunal's considered opinion offends against a nass ordinance of Qur'ān or Sunna; and

(c) to order the holding of a referendum on the question of the Amir's deposition from office in case the Majlis-i-Shūra prefers, by a two-third majority an impeachment against him to the effect that he governs in flagrant contravention of the Sharī'a.

(9) Every citizen has the right to express his opinion in speech and writings, on any matter of public concern, provided that such an expression of opinion:

(a) does not aim at undermining the people's belief in Islam;

(b) does not amount to incitement against the Law of Islam or to sedition against the established government; and

(c) does not offend against common decency.

(10) Whereas non-Muslim citizens shall be free to preach their religious beliefs within their own community and within communities belonging to other non-Muslim religions, all missionary activities directed at converting Muslims to another religion shall be deemed a cognizable offence and shall be punishable by Law.

(11) The State guarantees to all its citizens full freedom and protection in the expression of their religious beliefs, and in the exercise of their religious practices, as well as the pursuance of all their legitimate cultural interests. No non-Muslim citizen shall be compelled, directly or indirectly, to embrace Islam against his will and conscience; and forcible conversion of the non-Muslims to Islam shall be deemed to be cognizable offence and shall be punishable by Law.

(12) Throughout the domain of the State, education shall be free and compulsory for every citizen, male and female, from the age of (1) to the age of (2) years and the Government shall make suitable provision for the establishment and running of schools. Islamic religious instruction shall be an integral compulsory part of the curriculum insofar as Muslims are concerned, while in all schools controlled by the Government, arrangements shall be made as well for the instruction of non-Muslims in the tenets of their religions, provided that the communities concerned so desire.

(13) The lives, persons and possessions of the citizens are inviolable and none shall be deprived of his life, freedom or property except under the Law.

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(1) (2) He leaves the age unfixed and assumes that it will be fixed by legislation.

(14) It falls within the responsibility of the State to ensure to every one of its citizens:

(a) productive and remunerative work while of working age and in good health,

(b) free and efficient Health Service in case of illness, and

(c) a provision, by the State, of adequate nourishment, clothing and shelter in case of disability arising from illness, unemployment due to circumstances beyond individual control, old age, or under age. No citizen shall suffer undeserved want while others have more than they need; and every citizen shall be protected from such undeserved want by means of a free and compulsory State Insurance carrying an equitable subsistence, the minimum to be determined by law in accordance with conditions prevailing." (1)

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(1) Asad Muhammad, (Leopold Weiss) "Islamic Constitution Making", Arafat, Lahore, March 1948. pp.33-105.

(c) Maudūdī

The basic concepts of Maudūdī in regard to Islamic State, as found in his writings is as follows:-

(1) Sovereignty belongs to God and the State shall administer the country as His agent.(1)

(2) The Islamic Sharī'a shall form the law of the land.(2)

(3) There shall be no legislation which would be in opposition to the dictates of the Sharī'a.(3)

(4) All existing laws which are not in accordance with the Sharī'a shall be abrogated.(4)

(5) It shall be incumbent upon the State to prescribe by law all such vices which are considered such by Islam and to promote, uphold and stabilize all such virtues as are upheld by Islam.(5)

(6) None of the basic civic rights of the people - security of life, freedom of speech and freedom of movement and association - shall be interfered with unless a crime has been proved in an open court of law after

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(1) Maudūdī, Islamic Law and Constitution, op.cit., p.107
(2) ibid
(3) ibid
(4) ibid
(5) ibid

affording due opportunity for defence.(1)

(7) The people shall have the right to resort to the court of Law against transgression on the part of the legislative machinery.(2)

(8) The Judiciary shall be separated from the Executive.(3)

(9) It shall be responsibility of the State to provide for the citizens the basic necessities of life - namely: food, shelter, clothing, medical aid and education.(4)

(10) The Qādiānīs (the adherents of the Aḥmadīyya Movement) shall be included in the list of non-Muslim minorities and their seats in the legislature shall be reserved according to their population through separate electorates.(5)

Maudūdī's contemporaries differ in their approach agreements and disagreements with the points in this position of his, which we have outlined. With regard to the question of where sovereignty resides, all think as he does that sovereignty resides in Allah alone. The differences appear in their attitudes towards

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(1) Maudūdī, Insān kay Bunyādī Huqūq (Islamic Publications Lahore, 1963). p 29
(2) ibid p.30 (3) ibid (4) ibid
(5) Maududi, Qādīānī Mas'ala (Islamic Publications, Lahore Second Edition, 1963) p.19, etc.

ijtihād. The reason is their different conceptions of the ways in which Allah delegates His authority to men and to their institutions. Maudūdī and Muḥammad Asad agree in regarding the community under Allah as having the right to ijtihād, a right which they may confer upon a body such as legislature which they elect. Asad incidently would allow fuller delegation than Maudūdī would approve. Khalīfa ʿAbdul Ḥakīm by contrast would confine ijtihād to the ʿUlamā, those learned in the matters of Islamic Law.

In the further working out of this principle on which they are both agreed initially, Maudūdī and Muhammad Asad part company. The latter asserting that the right of reviewing ijtihād should be vested in a supreme court.

In October 1948, Charāgh-i-Rāh, the monthly Journal of the Jamāʿat-i-Islāmī, published the constitutional proposals of Muḥammad Asad, with a similarly arranged series of Maudūdī's. Asad was given faint praise by the writer, but his suggestion that the guardianship of the constitution should be vested in the supreme court was criticised. It was said that such a practice was not in vogue in the period of the 'rightly guided' caliphs. Maudūdī would refuse to give the power of

review to a supreme court because such a practice would place ijmā' above ijtihād which has according to tradition been supreme.

Another matter on which they disagreed is the position of Amīr in an Islamic State, and his relations with the legislature or Councils. In this the point at issue is still where ijtihād resides. Asad's ideas have been fully outlined above. We can see in them strong influences of the western democratic system. Maudūdī's position is as follows:-

> The Amīr shall have full freedom in interpreting the commandments of the Sharī'a, the use of analogous reasoning, the use of ijtihād and recommendatory legislation within the limits of the Sharī'a.
>
> Issues before the Council will generally be settled by majority vote....
>
> If the Amīr and the Council or the majority thereof disagree: 1) the Amīr will generally accept the opinion of the Council or a majority thereof in questions connected with the administration of the State or the improvement of the government, 2) the Council will generally accept the opinion of the Amīr in regard to specific Sharī'a issues in which ijtihād or the interpretation of explicit laws is involved.

When the Council expresses a want of confidence in Amīr, the question of which should resign, will be settled by a plebiscite (plebiscite clause).

It is the duty of the Council to make laws by analogous judgement and ijtihād on any of the commands of God, which are obscure or ambiguous. On questions which the Sharī'a leaves open, mankind has the right to legislate, but the Council may not legislate on any point on which there is a provision of the Sharī'a nor contrary to the spirit of the Sharī'a.(1)

The rights of the Amir in respect of modifying the Sharī'a are described above. This was first mentioned by Maudūdī in his first Law College talk. He gave the power of devising laws to the Council. But both the Amīr and the Council are to make use of ijtihād, and the line of demarcation between interpretation of nass and framing new laws would in practice become very difficult to draw. However, the whole idea of the elimination of the power of interpretation from the sphere of the Council is based upon a previous statement by Maudūdī that the Amīr should not be bound by the advice of the Council.

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(1) Maudūdī, (Law College Lecture) Islamic Law and Constitution, op.cit., p.103.

The institution of Amīr as far as Maudūdī is concerned is to be the direct reflection of the institution of the Khilāfa in its early Meccan sense. This concept of Maudūdī is also confirmed by what is implicit in the "plebiscite clause", wherein a plebiscite is to decide who is to resign in case of disagreement between the Council and the Amīr. If we imagine a case in which the cause of disagreement is interpretation of the Sharī'a then the Umma appears to be the final authority in interpreting the Sharī'a and the whole thing relegates to the modern democratic principle.

Dealing with those in high executive positions, Maudūdī is opposed to Muḥammad Asad. The latter had come very near to the modern democratic principles by asserting that in an Islamic State only the office of the Amīr could be reserved for Muslims; Maudūdī on the other hand insists that no offices of high responsibility could be given to non-Muslims.

Give reasons. Ref?

(iii) ACTIVITIES LEADING TO MAUDŪDĪ'S ARREST

An examination of the history of Pakistan's formative years shows that three issues dominated the political field. These were the Islamic character of the State, the Kashmir problem, and 'provincialism'. The last arose from

conflicting political interests between the provinces: Bengal, Panjab, Sindh, North West Frontier and Baluchistan, and need not be discussed here. But the remaining two were in one way or another closely connected with religion and the concept of an Islamic State and we must concern ourselves with them at once.

(a) Advocacy of Islamic Constitution

In 1947, Maudūdī delivered five speeches from Radio Pakistan, Lahore, which were meant to convey the Islamic doctrine of society, and were later published under the title, Islām kā Niẓām-i-Ḥayāt.[1] In these talks, he brought out the general features of the Islamic Civilization, as opposed to the 'Godless Civilization'. The very titles of these lectures explain admirably how all comprehending the religion of Islam is to Maudūdī: Islam as a Cultural System; Islam as an Economic System; Islam as a Spiritual System.

In January 1948, Maudūdī gave two of his intended six lectures on the concept of the Islamic State at the Lahore Law College. In these he demanded an immediate declaration from the Government incorporating the following

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(1) Maudūdī. Islām Ká Niẓām-i-Ḥayāt, (Islamic Publications, Lahore, 1956)

four principles:-

(1) That sovereignty in Pakistan belongs to God Almighty alone, and that the Government of Pakistan shall administer the country as His agent;

(2) That the basic law of the land is the Islamic Sharī'a, which has come to us through our Prophet Muḥammad (peace be upon him);

(3) That all those existing laws which are in conflict with Sharī'a shall in due course be repealed or brought into conformity with the basic law, and no law which is in any way repugnant to the Sharī'a shall be enacted in the future; and

(4) That the State in exercising its power shall not be competent to transgress the limits laid down by Islam.(1)

But along with this, there was very harsh criticism of the existing policies of the government and its administrative organization. He criticised the government on its failure to bring corrective measures in respect of corruption and bribery in government departments.

These activities made him a source of such irritation to the government that secret police were presumably asked

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(1) Maudūdī. "Speech delivered on 19th February, 1948, Law College Lahore", Islamic Law and Constitution op.cit., p.107

to keep a close watch over him. Daily Anjām (Urdu) published the following editorial:-

"We have found out from reliable sources that the activities of Maulānā Sayyid Abul Aʿla Maudūdī have become of great concern to the Government. Special instructions have now been issued from the Home Ministry to the Secret Police Service to keep a close surveillance over his movements and activities. Top Secret instructions have been sent to various departments of the government in connection with the supporters of Maudūdī who may be employed in government service. It has been said that a few very high officials of a certain department had issued directives, without the knowledge of the government, that their departments in future would be run on Islamic lines. These officers, it has been revealed were the supporters of Maulānā Maudūdī.... Under theese circumstances, the government has decided to take steps to curb the activities of the Jamāʿat-i-Islāmī. Last month, subsequent to a visit of the Maulānā to Karachi, the Jamāʿat's activities widened to become more aggressive and brought biting criticism of the Government.(1)

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(1) Daily Anjām, Karachi, dated 16th May, 1948.

During this period some other pronouncements of the Maulānā such as that dealing with the war in Kashmir, were published by newspapers which in the eyes of the governing Muslim League made him public enemy No.I, with the result that he, along with two of his most ardent supporters and disciples, Maulānā Amīn Aḥsan Iṣlāhī[1] and Ṭufail Muḥammad[2] were arrested under Section 3[3] of the Panjab Public Security Act, 1947 and remained imprisoned for the next 20 months.[4]

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(1) Amīn Aḥsan Iṣlāḥī was at the time Deputy Amīr of the Jamā'at and was supposed to have become Amīr in case of Maulānā's arrest or illness.

(2) Ṭufail Muḥammad was the Secretary of the Pakistan Jamā'at-i-Islāmī.

(3) Section 3 of the Panjab Public Safety Act 1947 provided that any person or persons whose activities are considered dangerous to the security of the State may be kept imprisoned for a period of six months without a trial, by a Provincial Governor's order.

(4) After serving the initial six months, the Governor's order was three times renewed. In the second month of the final renewal, however, the High Court of the Panjab pronounced in another case that the Government was not entitled to detain any individual for a total period of more than 18 months under the said Safety Act. Consequently, Maudūdī and his compatriots were released.

The problems such as Kashmir, the exodus of the refugees, the existance of minorities, constitutional difficulties arising from 'provincialism', and above all the simple process of settling down, had made the government extremely stability and security conscious. These circumstances had brought about a situation where disagreement with the policies of the government, however legitimate it might be, was equated with treason. In the case of Maudūdī, not only his policies over the constitution but also his view on some of the most important public issues had become the cause of his arrest and imprisonment.

(b) Allegiance and Kashmir

The 1947 Independence Act had provided that until a new constitution was framed by the Constituent Assembly of Pakistan, it would remain a British Dominion, and would be run under the 1935 Act. This meant that an oath of allegiance to the 1935 Act was demanded from high officials including the Governor General, Governors of the Provinces, etc. The question was brought up first by the Press as to whether in a prospective Islamic State, to take an oath of allegiance to an ungodly constitution was legitimate for a Muslim. Maudūdī had discussed the matter in a private letter. He had held that a Muslim can only take an oath of allegiance to God and that taking an oath of

allegiance to any other authority except that of God was not only un-Islamic but positively sinful. This letter came into the hands of the newspapers sympathetic to the government. For any new government, a statement of that kind, however true it might be from the conceptual point of view, was challenging the very foundation of the administration, and was not to be taken lightly.

When the Pakistan armies went to the aid of the tribesmen in Kashmir in May 1948, the Indian advance was checked, but success was not forthcoming. The United Nations Commission for India and Pakistan passed a resolution concerning a ceasefire on 13th August, but no actual ceasefire came into force until India's acceptance of a plebiscite in Kashmir after the end of the hostilities. Ultimately, the ceasefire came about on Ist January, 1949, and UN.C.I.P. added provisions for a plebiscite to its August Resolution on 5th January and both sides accepted these resolutions as the basis of settling the dispute. There was, however, a general feeling both in Pakistan and Kashmir that the decision of Liāqat ʿAlī Khān, the then Prime Minister of Pakistan, to accept the ceasefire came just when the Jihād was going in favour of the Muslim peoples. It was probably this aspect of the question which resulted in someone putting the question of Kashmir

to Maudūdī who was campaigning for an Islamic State and was the author of one of the most important works on the concept of Jihād (Jihād fi l-Islām). It was alleged that Maudūdī had declared in a public speech at Peshawar that war in Kashmir was not Jihād. The news was first published in the Daily Shāhbāz, Peshawar (Urdu), and it was asserted that this attitude in a public declaration could have dire effects on the position of the government regarding the legitimacy of the Kashmir war. Maudūdī and his party have all along denied such a declaration. However, I have discovered a passage in the Tarjumān-ul-Qur'ān (ed.Maudūdī) where Maudūdī declared that for Kashmiris it may be Jihād but under the Islamic provisions of International Law, until such time as the Indian and Pakistani Nations were at peace and treaties of any kind existed between them, there could be no Jihād in Kashmir for Pakistanis.(1)

Maudūdī was speaking of Jihād in very different terms from those of his opponents. However, the press and Radio both in India and Indian-held Kashmir picked up and broadcast Maudūdī's fatwā (a religious proclamation). The Pakistan Information Department answered by denouncing him as a Congress-motivated Mulla, who had opposed Pakistan

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(1)Maudūdī, Tarjumān-ul-Qur'ān, June 1948, pp.120-124

since before its inception. The position was further aggravated when Ṭufail Aḥmad, the Secretary of the Jamā'at said similarly in a letter which came to light, that he believed that until and unless Pakistan explicitly declares its intention to adopt an Islamic Constitution, for an individual to enlist in its armies and to fight for non-Islamic ideals and die for that cause, is not in fact dying in the path of Allah.

(iv) OBJECTIVES RESOLUTION

In April 1948, Maudūdī led a delegation from his party to meet Maulānā Shabbīr Aḥmad 'Uthmānī to explain the four Demands. Maulānā Shabbīr Aḥmad 'Uthmani was at the time an outstanding figure among the 'Ulama and was the President of the Jamī'at-ul- 'Ulamā-i-Islām. This was an organization of the 'Ulama created to oppose the Jamī'at-ul-'Ulama-i-Hind, who had given unbridled support to the Congress. The Jamī'at-ul-'Ulama-i-Islām had supported the Muslim League in the pre-partition era and subsequently Maulānā 'Uthmānī was appointed on the Constituent Assembly. Other important members of this organization were the Pīr of Mānkī Sharīf, Maulānā Akram Khān (who was the President of the Provincial Muslim League of East Pakistan),

Maulānā ʿAbdullah al-Bāqī, and Maulānā Bhāshānī.

Although it was said in the Jamāʿat-i-Islāmī's journal, Tarjuman-ul-Qurʿān that Maulānā ʿUthmānī did not disapprove of the Four Demands, subsequent press shows that at no time did he openly support them as Four Demands and as Maudūdī's. However, Maulānā ʿUthmānī, who had direct access to the Prime Minister, Liaquat ʿAlī Khān and to Mr. Jinnāḥ, must have had discussion with these men. In a speech delivered at the East Pakistan Branch of Jamīʿat-ul-ʿUlama-i-Islām, he suggested that a committee consisting of well-known ʿUlama should be set up by the Constituent Assembly to prepare a draft Constitution and present it to the Assembly.(1) In this demand he was reiterating the opinions of Maulānā Maudūdī that only the ʿUlama and those learned in the intricacies of Islamic Law are qualified to frame an Islamic Constitution. After this speech, direct and indirect pressure was put on the Muslim League leadership for a clear statement of intention similar to Maudūdī's Four Demands in regard to the future of the coming constitution. Consequently, within three

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(1) Shabbīr Aḥmad ʿUthmānī, Khutba-i-Sadarat (Presidential Address) Jami at-ul- Ulama-i-Islam, East Pakistan Branch, (Dacca February 10, 1949) p.42

weeks of this demand, the Muslim League Parliamentary Party met to consider this and came out with what came to be known as the Objectives Resolution. This was introduced in the Constituent Assembly on March 7th, 1949, and the Resolution embodying the main principles on which the Constitution was to be based was finally adopted on March 12th, 1949.

Although it owed more to the moderate group of Maulānā Shabbīr Aḥmad ʿUṯhmānī, Maudūdī did contribute to it in the sense that his Four Demands, which was the earliest political statement in favour of an Islamic State after the creation of Pakistan, became incorporated in the Objectives Resolution.

The Objectives Resolution was passed by the Pakistan Constituent Assembly on 12th March, 1949. Generally speaking the ʿUlamā hailed it as a victory for those who wished to bring about an Islamic Constitution for the country. The Objectives Resolution was not a Constitution ~~xxxx~~ but defined the general Islamic principles on which the Constitution would ultimately be based.

The Resolution runs thus:-

"Whereas the sovereignty over the entire universe belongs to God Almighty alone, and the authority which He has delegated to the State of Pakistan through its people for being exercised within the limits prescribed by Him is a sacred trust;

This Constituent Assembly representing the people of Pakistan resolves to frame a constitution for the sovereign Independent State of Pakistan;

Wherein the State shall exercise its powers and authority through the chosen representatives of the people;

Wherein the principles of democracy, freedom, equality, tolerance and social justice as enunciated by Islam shall be fully observed;

Wherein the Muslims shall be enabled to order their lives in the individual and collective spheres in accord with the teachings and requirements of Islam as set out in the Holy Qur'ān and the Sunnah;

Wherein adequate provision shall be made for the minorities freely to profess and practise their religions and develop their cultures;

Whereby the territories now included in or in accession with Pakistan and such territories as may hereafter be included in or accede to Pakistan shall form a Federation wherein the units will be autonomous within such boundaries and limitations on their powers as may be prescribed;

Wherein shall be guaranteed fundamental rights including equality of status before law, social,economic political justice, and freedom of thought, expression,

belief, faith, worship and association, subject to law and public morality;

Wherein adequate provision shall be made to safeguard the legitimate interests of minorities and backward and depressed classes;

Wherein the independence of judiciary shall be fully assured;

Wherein the integrity of the territories of the Federation, its independence and all its rights including its sovereign rights on land, sea and air shall be safeguarded.

So that the people of Pakistan may prosper and attain their rightful and honoured place amongst the nations of the world and make their full contribution towards international peace and progress and the happiness of humanity."(1)

To understand the nature of the compromise in the Objectives Resolution, it is first important to understand that neither the 'Ulama nor the men of politics as yet had attempted to define in clear constitutional terms what Pakistan's future constitution was to look like. Maudūdī had attempted to show the Islamic principles in the Four Demands but even those dealt with an initial announcement that Pakistan should be an Islamic State and the rest of

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(1) Constituent Assembly of Pakistan Debates. Vol.V, No.I March 7, 1949, pp.1-2.

his writing was still a 'random stab in the impenetrable darkness.' The most important criticism of the Resolution came from the Pakistan Congress members of the Constituent Assembly - namely: Mr. B. K. Datta and Mr. S. C. Chattopadhyaya. The first clause had proclaimed that Sovereignty belongs to God. These two members, taking the term 'Sovereignty' in a Political Science sense, argued that if Sovereignty belongs to God, then it cannot belong to the people and thus Pakistan would not be a democratic state. On the other hand, Mr. I. H. Qureshi, a member of the Constituent Assembly and a member of the Cabinet, explained that the use of this term only points out that 'our policy should be based upon God-consciousness'.(1) Sardar Abdur Rab Nishtar pointed out that 'it is a statement of fact and whether we say it or not, it is true.'(2)

The ʿUlama, on the other hand, did not understand the term 'Sovereignty' in its Austinian sense - to them the Sovereign was the source of law and because the Sharīʿa is the will of God, only He could be considered as

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the rightful Sovereign.

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(1) ibid Vol.V, No.3 (March 9, 1949) p.39

(2) ibid Vol. V, No.4 (March 10, 1949) p.59.

During the time that the controversy raged in Pakistan over the provisions of the Objectives Resolution, Maudūdī was in prison and no pronouncement came from him except that his supporters argued that now that the Four Demands had been accepted by the Government in the shape of the Objectives Resolution, he should be released. A response from the government was not forthcoming and in the proceedings of the Annual Conference of the Jamā'at-i-Islāmī held in Lahore on 6th, 7th and 8th May, the Objectives Resolution was praised as the achievement of the Jamā'at,(1) and a further appeal was made to bring in the Islamic Constitution as soon as possible. The Jamā'at's official leaflet of the proceedings of the annual meeting asserts that the passage of the Objectives Resolution has once and for all decided that Pakistan will be an Islamic State in which the source of all law will be God and that the people will conduct the affairs of the State in accordance with His wishes. Apart from this, ten resolutions were passed, some dealing with wider, others with more immediate, problems of the country. They included such varied problems as Kashmir, Sales tax, economic equality, refugees, the

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(1) Qarārdād-i-Maqasid Kay Ba'd Ḥakūmat aur Millat kī Na'ī dhimadāriān - Ten Resolutions of the Jamā'at-i-Islāmī Annual Conference, 6th, 7th and 8th May, 1949, Lahore (Department of Publications Jamā'at-i-Islāmī, Lahore, n.d. p.3

Panjab Public Safety Act, and the treatment of the supporters of the Jamā'at in the North West Frontier Province.

(v) LATER POLITICAL ACTIVITIES

After the adaption of the Objectives Resolution, the Constituent Assembly created a twenty five members committee under the chairmanship of Maulvi Tamīzuddīn Khān to report on the basic principles of the constitution, in accordance with the Objectives Resolution. In April 1949, the members of the Basic Principles Committee met to split up into three sub-committees - to deal with judiciary, franchise and federal or provincial constitutions and powers. The last of these three met to appoint a "Board of experts consisting of reputed scholars, well-versed in the Ta'līmāt-i-Islāmia to advise on matters arising out of the Objectives Resolution and on such matters as may be referred to them by the various sub-committees."(1) This Board of Experts consisted of seven members, among whom five were 'Ulama. This body came to be known as the Board of Ta'līmat-i-Islāmiya. Their views were considered by the parent sub-committee and then by the Basic Principles Committee. However, when the interim Report on the

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(1) Minutes of the Meetings of the Basic Principles Committee April 14, 1949, p.4

Constitution came out, it was found that they had rejected the views of the Board. The interim Report had no effective Islamic provisions and seemed to the ʿUlama to be a constitutional plan based on 1935 Act. There were allegations from the Muslim League, the Party in Power, that the ʿUlama, even if they are asked to present a plan, could not agree. To combat this, Maudūdī tried to call a conference of the ʿUlama with the help of certain members of the Board. Thirty one Sunni and Shiʿa ʿUlama met at Karachi on 21st January 1951 to formulate fundamental principles of an Islamic State (See Appendix III). A plan obviously drafted by Maudūdī was adopted and released to the Press within five days, with this, a pressure from Maudūdī upon the Muslim League the party in power, was redoubled for the adoption of these principles in the Constitution of Pakistan.

Soon after 1952, 1953, the ʿUlama became involved in the anti Aḥmadiyya (Qādiyānī) movement, which proved to be a set-back in their activities towards the creation of Islamic Constitution in Pakistan. The Aḥmadis are followers of Mirzā Ghulām Aḥmad of Qādiān. Among other differences, the belief that revelation has not ended with the Prophet Muḥammad, separates them from the main body of Islam. They also believe that Mirza Ghulām Aḥmad was the Masih-i-Maoʿūd, the promised Messiah. The Aḥmadis are an influential sect and some of their members were in

high government positions at the time. Among them was Chaudhari Zafarullah Khan, who was at the time the Minister of Foreign Affairs. The ʿUlama demanded that the Aḥmadis should be declared a minority because of their belief that Mirza Ghulām Aḥmad was a prophet. (This came in conflict with the Muslim belief that Muḥammad was the last of the Prophets). They also demanded that Chaudhari Zafarullah and other Aḥmadis be removed from offices of responsibility.

When the Government did not submit to these demands, an action committee was created which was instrumental in bringing about riots in the Panjab. Although Maulānā Maudūdī refused to send a representative of his party to the Action Committee, he wrote a pamphlet entitled the Qādiyānī Mas'ala.(1) After the declaration of Martial Law in Lahore, he along with some other ʿUlama was tried in Lahore by a Martial Law Court and sentenced to death for "inciting the public" into rioting. This sentence was commuted first to fourteen years and then to two years' imprisonment.

This period served as an inter-regnum in his activities towards the creation of an Islamic State in Pakistan.

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(1) Maudūdī. Qādiyānī Mas'ala Aur us kay Dīnī, and Tamaddunī Pahlū (Islamic Publications Ltd. Lahore 1963) op.cit. p.105

CHAPTER FOUR

PRINCIPLES OF LAW AND CONSTITUTION

CHAPTER IV

PRINCIPLES OF LAW AND CONSTITUTION

In spite of the fact that Maulānā MaudūdI's writings are basically topical and propagandist (for he is a politician heading a political party striving for power and has dealt with the problems of the Islamic state according to exigencies of time and events), there emerges from his writings a systematic attitude towards constitutional law and jurisprudence. He thinks of Islām as an ideology and of the Islamic State as an ideological state not unlike the Communist State, although much different from that in essence and purpose. Islam, according to MaudūdI, is an eternal order by which

God wills the universe to proceed.(1)

Further, to man, Islam is the way of establishing God's Will on earth. To establish God's Will on earth, we must know that Will and understand some of the basic postulates which God wishes us to understand. These are as follows:-

(i) That God created the whole universe and man. He has appointed man as his vicegerent on earth and has endowed him with faculties of thinking and understanding and has given him the power to distinguish between right and wrong.

(ii) Before assigning to man His vicegerency on earth, God made it explicitly clear to him that He alone is the "Overlord and Ruler and the Deity." Consequently, He wishes man to submit to Him alone. Man should not at any time think that he is his own master, and should also be conscious of the fact that the earth is not his permanent abode, and that there is a life after his temporary life on earth is terminated. In other words, it is only to

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(1) Maudūdī, Islamic Law and Constitution Op.cit. p.76

serve a period of probation that he has been brought to this world.

(iii) To make the life of man happy in this world, and to fulfil his purpose, and also to prepare him for the higher kind of life hereafter, God made His Will abundantly clear to mankind through His Rasūls (messengers of God on whom complete codes of life, [illegible], were revealed) and Nabīs (the prophets who received revelations about some aspects of life but who did not come with a complete code of life and carried on the principles enunciated by the Rasūls). We should obey these instructions of God, firstly because they are the Will of God, our creator, and secondly because they are for our own good. Conduct contrary to this will lead man to the path of those who are evil; but if on the other hand he follows the path defined by God, he will have a life of peace, contentment and harmony with other men in this world and "will qualify himself for the heaven of eternal bliss, al-Janna."(1)

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(1) Maudūdī, Islamic Law and Constitution. Op.cit. p.166

(iv) From time to time, God has sent these messengers to man with his instructions. It was this religion of truth (Islām) which Adam, the first man, passed to posterity. "Out of negligence they (human beings) lost their original religion and out of mischief they adulterated and perverted it."(1) They began to associate other gods with God and began to indulge in polytheism (shirk), and "discarded the God-given principles of social justice and collective morality, the Sharī'a and deprived human life of peace and tranquillity."(2)

(v) At last, God raised the Prophet Muhammad and assigned to him the task of completing the mission for which earlier prophets were ordained. He presented anew the teachings of Islām to provide humanity with the divine guidance which it had lost through its negligence, etc. Muḥammad organized all those who had accepted God's message into an Umma, which was charged with its own reconstruction according to the principles of the divine code of life. This guidance is

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(1) Ibid. p.167
(2) Ibid. p.167

enshrined in the Holy Qur'ān which is the only right code of conduct for mankind.(1)

MaudūdI believes that the necessity of an Islamic State as well as the all-comprehensiveness of the Qur'ān, becomes clear from these postulates. The Islamic concept envisages that man should "devote his entire life to the cause of Allah"(2) whose commandments should be followed in every sphere of human activity. He believes that the Qur'ān not only lays down principles of morality and ethics but that it also gives guidance in political, social and economic fields. These, he believes, cannot be put into practice until a political order, a state, is created to enforce them. Thus the necessity of the supreme over-lordship of God emerges to occupy the dominant part in the political theory of MaudūdI.

It is this Supreme Overlordship of God which has been expressed by Maulānā MaudūdI's translators as the concept of Sovereignty in Islam. MaudūdI, for want of an exact term to express this concept, has also fallen upon

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(1) MaudūdI, Tafhīm-ul-Qur'ān, Vol.1, (Islamic Publications, Lahore, 1951) pp. 16-19

(2) MaudūdI, Islamic Law and Constitution. Op.cit. p.168

the word 'Sovereignty' and goes to great pains in many places to define and explain the meaning of 'Sovereignty' as used by Western jurists and political scientists. 'Sovereignty' as a term of political science is used in the sense of absolute overlordship or complete suzerainty. If a person or an institution is to be 'Sovereign', then it would follow that the word of that institution or person is Law. A 'Sovereign' has an undisputed right to impose his will on his subjects and the subjects are under complete obligation to obey him. If we say that sovereignty resides in the people of a nation, then we are assuming that they, as a community of people and as sovereigns, have the right to change the fundamentals of law when they deem it necessary. Islām by its very nature, MaudūdI holds, is opposed to this concept of a person or a community having full power to change or even frame the fundamental laws, because the fundamental law or the constitutional law is revealed by God to his prophets and man has no right to interfere in it. Thus Grotius' 'Sovereign' power, the

"supreme political power of him whose acts are not subject to any other and whose will cannot be overridden", can only be attributed to God. This, of course, would change the whole basis of western political ideology, and that is why it is sometimes difficult to see what MaudUdI means by saying that the Sovereignty over a state is that of God. One of the essential attributes of Sovereignty as implicit in juristic literature is that it should be able to be located in some human institution, person or persons. The hypothetical God directing a society of Islam where God is the ultimate source of Constitutional Law, would be an impossibility. We would not, of course, be able to locate Sovereignty in a human organisation or institution.

As far as the classical concept of Sovereignty is concerned, it would appear that Maulānā MaudūdI is not quite justified in using the term to mean the Overlordship of God. Yet, in one way, it appears that he is justified in criticising the concept of classical Sovereignty by saying that it is situated in God as a Legal Sovereign and

not in a human institution. The pluralistic attitude towards sovereignty had already damaged the very base of the concept of indivisible sovereignty. Pluralists like Harold Laski and G. D. H. Cole had put forward the view that apart from the State there are other institutions which hold power and authority over individuals. The State, although it was the supreme institution, could not disregard the authority of those other institutions, such as the church, the trade unions, etc. God, however, is above all institutions and so this would appear to revalidate the concept.

The question now arises that if Sovereignty resides in God, what is man's position on earth? MaudUdI holds that the logical conclusion of the location of sovereignty in God is that man is his vicegerent on earth, and his mission in life is to carry out and establish the command of the Sovereign. He also takes pains at this stage to draw on the Qur'An, quoting; "Thy Lord said unto the Angels: Lo! I am about to place a Viceroy (KhalIfa) on the earth." (Qur'An II; 30). It is from this that

the concept of Khilāfa develops. When the Maulānā speaks of Khilāfa he means never the institution of the head of the community, for which he devises the name Amīr, but the whole position of man as God's vicegerent.(1) The concept of the whole community as the holders of the Khilāfa is supported by another verse from the Qur'ān: "Allah has promised to those who believe and do righteous deeds that He will assuredly make them succeed and grant them vicegerency in the land just as he made those before them to succeed (others)"; and again; "And then we created you our vicegerent on earth so that we can see what your actions will be" (Qur'ān 7: 129). The position of vicegerency which MaudūdI's interpretation accords to the community of believers has two significant conditions: first, that man acknowledges as from God the power which is delegated to him; and second, that the power of ruling over the community is not delegated to an individual or individuals, family, or class, but to the community as a whole. From this it follows that "all believers are

(1) MaudūdI, Khilāfat-o-MalūkIyat, (Islamic Publications Lahore. 2nd Edition, 1966). pp 33-35

repositories of the Caliphate" and the question of the election of the AmIr or the Head of the State does not restrict the position of the individuals together to be the true vicegerents of God. There is no limit to the authority to be exercised by man so long as he does not reject, abrogate, or supersede the Law of God (or the injunctions of Islam). Consequently, a Muslim assembly cannot reject the Qur'ān. It only has the power, by virtue of its status as vicegerents, to apply and extend the Quranic Law in circumstances when such extension is sanctioned under the SharI'a. MaudUdI is, however, against the view that a state thus created will be a theocracy. A theocracy, he says, is a state run and overlorded by the clergy, and because IslAm is, by its very nature, against such an institution, the Islamic State in which we accept the Sovereignty of God as a source of law is not theocratic. To explain the nature of such a state, he says that a term like 'theo-democratic' would be nearer the truth. By this he means that the Islamic

State, instead of being administered by a priestly hierarchy, would be administered by the whole community or Umma. When using the term 'theocracy' in the meaning commonly given to it in Western parlance, MaudŪdī is doubtless right in refusing to describe the Islamic State as a theocracy. We may contend, however, that to use the term in its exact derivation (God-rule) would enable us to apply it exactly to the Islamic State.

Islām admits to no sovereignty except that of God, and does not accept any lawgiver other than Him. MaudŪdī affirms that the concept of unity of Godhead means that God, along with being the sole object of worship, is the sole lawgiver invested with complete legal Sovereignty in the sense that the term is understood in jurisprudence.

The fact that the Islamic State is a state based on the Sharī'a makes it difficult to define the scope of legislation in a contemporary Islamic State. Muḥammad Asad and Ziya Gökalp say that only the naṣūs (clear textual injunctions such as those of the Qur'ān and the Ḥadīth)

form the basis of the Sharī'a, and fiqh, developed by the four schools of jurists as the basic foundation of the Sharī'a, is rejected by them. Asad wrote: "it is the nasūs of the Qur'ān and Sunnah that collectively constitute the real eternal Sharī'a of Islām."(1) He holds the view-point that laws derived through ijtihād were created for the purpose of serving certain situations and, therefore, if the situations and the problems have changed, there is no harm in rejecting them and finding new legal solutions. Fiqh in these cases will have to be rejected. This interpretation would leave a large sphere of action for the legislator. MaudūdI's attitude, on the other hand, is not so liberal. He is not in favour of rejection of Fiqh as one of the primary pillars of Sharī'a. His attitude towards the place of fiqh in legislation is slightly more traditional.

Maulānā Maudūdī thinks of the whole system of Islamic Law as one single unity, recognisable only as that

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(1) Muḥammad Asad, "Islamic Constitution Making" Arafat (March 1948) p. 47

unity. He applies the term 'Law' as opposed to Constitutional Law, for only that sector of law which needs coercive power, because he says only that section of law is termed as law in modern legal parlance. He calls the law of Islam, 'Islamic Law' to help us grasp the concept. He says that political authority is essential for protecting the Islamic way of life from deterioration and perversion, for the eradication of vice and the establishment of virtue, and also for the enforcement of those laws which require sanctions for the administration of justice. This guidance covers such an extensive field that we can never feel the need of going beyond the Sharī'a for meeting our legislative requirements. Its detailed injunctions are "such that they can always fulfil the needs of human society in every age and in every country - provided, of course, that the entire Islamic scheme of life is in operation. They are so comprehensive that we can frame detailed laws for every emergency and for every fresh social and moral problem. Within that sphere, the legislature has been given the power

of legislation. All laws thus formulated are to be considered as an integral part of Islamic Law. That is why the laws framed by our jurists in the early days of Islām for the sake of 'public good' form part and parcel of Islamic law."(1) Considering this statement, Rosenthal(2) comes to the conclusion that Maulānā MaudūdI is in complete agreement with the orthodox point of view in the sense that he includes fiqh as the important part of Islamic Law. This cannot be completely accounted for. The only immutable law of Islam to MaudūdI is that which is derived from the naṣūs of the Qur'ān and the Sunna. MaudūdI makes it amply clear that fiqh, although it has to be taken into consideration, does not form that unchangeable part of Islamic Law.(3) Again the orthodox point of view has been influenced by one or the other of the schools of fiqh, i.e. ḤanafI, Shāf'i, ḤanbalI and MālikI etc., and one of these schools of

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(1) MaudūdI, Islamic Law and Constitution, Op.cit. p.59

(2) Resenthal, E. I. J., Islam in Modern National State (Cambridge U.P. 1965,) p.139

(3) MaudūdI, Islamic Law and Constitution, op.cit. pp.110-115

jurisprudence in its entirety had to be followed. But MaudŪdī feels that all these schools of fiqh along with important works of legal interpretation have to be considered to find the 'best', which in our case would be the best suited to our conditions, chosen out of these systems and adapted.(1) The process of adaptation would, of course, be a problem of legislation, and therefore the consideration of existing fiqh would not limit legislation as much as Rosenthal believes. Consideration of fiqh in providing a new interpretation, morever, forms for MaudŪdī only the flexible part of Sharī'a. In spite of a general strain of conservative fundamentalism, which runs through the whole of Maulānā MaudŪdī's attitude, there are nevertheless elements of liberalism in his attitude towards Islamic Law. He is conscious of the fact that Islamic Law has not progressed with changing conditions, implying that all the schools of fiqh have each been outdated, and expresses the

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(1) MaudŪdī, Islamic Law and Constitution, op.cit. pp.110-115

opinion that tāwil (probing into the meaning of the Qur'ān and the Sunna), qiyās (analogy), and Istehsān (juristic preference) have to be re-used to bring the Islamic Law up to date. He maintains, unlike Muḥammad Asad, that only the deeply learned and pious among the Ummah should be allowed to probe into the nature of Islamic Law. Muḥammad Asad had held the opinion that this is not necessary. Basing his attitude on the Ḥadīth "My people (Umma) will never agree on a falsity", Muḥammad Asad had held that a body such as the Supreme Court or the elected representatives of the people should be qualified to probe into the Islamic Law to find the elements best suited to our conditions. He held that their decisions would be Islamic in spirit because the community has taken an active hand in appointing them and delegating the necessary powers to them.

As for establishment of the Islamic legal system in his country, MaudūdI holds that this cannot be done all at once by repealing the established set of laws and substituting Islamic laws. He feels that Islamic laws have to

be introduced by a gradual process, and justifies his principle of gradual change by asserting that even the Prophet did not enforce the entire body of Islamic Law at the same time.

The first thing we should do in the direction of the establishment of the Islamic state is to define our goal in unambiguous terms, namely those expressed in the Four Demands. After defining this goal, we should work tirelessly in the direction of achieving it. The first step after this could be a plan of mass education so that the people of Pakistan can be turned into a God-conscious Umma..(1)

Along with carrying out an extensive programme of education and propaganda, an Academy of Law should be established to translate works of legal importance from the Arabic language. MaudūdI even ventures to give a

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(1) Maulānā MaudūdI elsewhere stresses the idea that education is perhaps the most important foundation of Islam. He had gone as far as to say that illiteracy, for example, is as bad as Kufr (disbelief). See MaudūdI, 'Ta'lImāt' (Second Edition, Lahore, 1963), pp. 2-4

comprehensive list of the works which would have to be brought within easy reach of the modern legislator. The Academy of Law would then codify the law according to modern pattern 'section and clause wise'. He admits that not everything in the books of Fiqh constitutes Islamic Law and therefore only the following will have to be considered. To him it is only these that constitute Islamic Law:

"(i) An explicit commandment of God laid down in the Qur'ān; or

"(ii) The explanations or elucidation of the Quranic commandment or an explicit order or prohibition from the Holy Prophet (peace be upon Him); or

"(iii) An interpretation, inference, Qiyās (analogy) ijtihād, or istehṣān (juristic reference) on which there has been consensus (ijmā') of the Umma; or it may be a majority decision of the 'Ulamā which has been accepted by an overwhelming majority of our own people; or

"(iv) An ijma' or majority decision of the nature discussed in (iii) above arrived at by our own men of learning and authority."(1)

MaudUdI believes that consideration of these would answer all exigencies of human life because the learned among the existing people have taken part in interpreting and evolving the detailed laws of IslAm, after paying considerable attention to the existing conditions. It would appear from the above that, to MaudUdI, legislature in an Islamic State is far removed from the concept of modern democratic parliament based on the idea of the conflict of opposing views, each striving to put into practice its own political ideas and even having the freedom to change the Constitutional Law if they so desire. He conceives what he terms as legislature in a modern Islamic state as Ahl-al-hal wa-al-'aqd (those who prescribe and resolve). They can be elected or appointed, but he believes that

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(1) MaudUdI, Islamic Law and Constitution, op.cit. pp. 115-116

ultimately in a God-conscious society election would be safer because, by its very nature, the Umma would elect only those that are pious and learned and honest and are aware of the intricacies of Islamic Law. This is where he seems to leave himself open to criticism. His whole idea seems to be that initially, while the Umma is not God-conscious, those who rule can be trusted with appointment of the membership to the assembly of Ahl-al-hal wa-al-'aqd, but later as time elapses and the Islamic consciousness begins to assert itself, the institution of elections could be safely brought in. It is interesting to note that wherever MaudUdI is faced with practical problems of this sort, he tends to evade them by simply regarding them as "administrative problems which can be decided upon later." The fact is that under the pious Caliphate, the Shura to which MaudUdI has given the name of Ahl-al-hal wa-al-'aqd was not an elected body, but was composed of influential Qur'aish Muslims and other heads of tribes who happened to be present. MaudUdI's view

seems to be that methods of election or selection are not important; any method which suits the Umma can be adopted as long as the general consent of the God-conscious Umma is behind it.

In spite of the fact that in his state political parties such as we know them are inconceivable, differences of opinion may arise, in which case MaudUdI prescribes that an overwhelming majority of the Ahl-al-hal wa-al-'aqd should recommend their resolution to the AmIr. He does not seem to be conscious of the fact that some sort of political parties could emerge, if not on political bases, on denominational bases, among the learned. The method of framing legislation would be simply to shape the laws according to their interpretation. They would then have to detail them in the form of clauses and sections, making out rules and regulations which could be enforced. Legislative activity in the western sense is not, in the general ideological nature of the state, possible in IslĀm. But it appears that the legislators will have a broader sphere of activity

in cases where no explicit provisions exist. In this case, they will legislate in accordance with the general spirit of Islām. "Wherever and in whatever matters basic guidance is not available from the Qur'ān and the Sunna, or the conventions of Righteous Caliphs, it would be taken to mean that God has left us free to legislate on those points according to our best light. In such cases, therefore, the legislature can formulate laws without restriction, provided that such legislation is not in contravention of the letter and the spirit of the Sharī'a - the principle herein being that whatever has not been disallowed is allowed."(1)

How much freedom of action the legislature would have is a difficult point to ascertain. Rosenthal believes that it will be very little. It appears, however, that faced with practical problems of legislation the Ahl-al-hal wa-al-'aqd would have to classify the matters on hand and would have to decide how much freedom they as a body could

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(1) MaudUdI, Islamic Law and Constitution, op. cit. p. 42

have. All laws will fall into one of the following six categories and the freedom will depend on which of the categories a certain law belongs to.

1. If a certain matter is explicitly mentioned in the Qur'ān or the Ḥadīth, laws relating to this matter will be framed without any freedom of the legislature. The activity of the legislators would, in this case, be restricted to either interpreting or putting the issue in a pattern in which it can be enforced by the courts.

2. If, on the other hand, it is not mentioned explicitly, but treated by the prominent schools of fiqh and the necessary milieu still exists, the legislature will again be acting in the manner described in (1) above.

3. If the past jurists have disagreed on a matter not explicitly treated by the Qur'ān and the Sunna, it will be up to the legislature either to choose one of the views according to the existing conditions or to bring about new fiqh to meet the problem by an overwhelming vote and then translate it into modern legal terms.

4. Even if the past jurists are agreed but the existing conditions deem it necessary that a new interpretation should be effected in the light of the primary sources of the Sharī'a, namely the nasūs, then the legislators would be free to develop the law in a manner that they think fit, considering, of course, the spirit of the Qur'ān and the Sunna.

5. If the existing situation is neither mentioned in the Qur'ān and the Sunna, nor is there available any reference to such a situation in the writings of the works in fiqh, the legislature will have more freedom to arrive at a decision by majority vote, taking full cognisance of the spirit of Islamic teachings, and then to translate it into modern legal terminology.

6. Cases such as may arise from modern problems, e.g. traffic laws, smuggling and such things as are dealt with in the majority of private bills in a modern legislature, would, of course, be matters wherein the legislature will have complete freedom.

If we were to ask how the legislature can be prevented from perversion and overstepping its place and limitations, MaudUdI would answer that the legislators would have complete 'Islamic morality' and God-consciousness, so that they would know their place in the society of God, would understand their positions as vicegerents and not Sovereigns, and would act according to God's wishes at all times.(1)

. MaudUdI's treatment of the Executive and the Judiciary is not as detailed as his treatment of the Legislature. He does not go into the principles of Public Administration, but only defines and expresses the importance of a God-fearing Executive and Judiciary. MaudUdI, in trying to define the Executive, says, "the real purpose of the executive (in an Islamic State) is to enforce the directives of God conveyed through the Qur'ān and the Sunna and to bring about a society ready to accept and adopt these directives for practical applications in its

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(1) MaudUdI, Islamic Law and Constitution, op.cit. pp.237-239

life",(1) and the Judiciary to function in the sphere of adjudication "in a strict accordance with laws of God."(2)

Relations between the three organs of the state, Legislature, Executive and the Judiciary, are also to be governed by the Islamic Law, although there are, MaudūdI admits, "no clear cut injunctions on this point."(3) But he also goes on to say that the conventions of the Prophet and the pious Khilāfa "afford us with all the necessary guidance."(4)

The Judiciary, he believes, must be separate from the Executive, though all believers are equal before law, including the AmIr or the Head of the State. By making the Judiciary separate from the Executive, he intends to create an atmosphere in which the Judiciary would be the check on the powers of the Executive. It is, however, not clear whether he wants the Judiciary to have the power of Judicial Review. (Judiciary having power to review laws

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(1) Ibid. p.239
(2) Ibid. p.241
(3) Ibid. p.241
(4) Ibid. p.242

and declare them null and void in such cases as are not in accord with the spirit of the constitution.)

Although not above law, the AmIr occupies a very important position by virtue of his being the Head of the State, symbolising the Vicegerency of God in the Umma, and also by being the Head of the Executive. MaudUdI makes very stringent demands for the qualifications of this person, giving a detailed account of the qualifications he must have before he can be considered for this office.

For fixing these qualifications, MaudUdI draws directly on the Qur'An and the HadIth. The AmIr should be a Muslim ("Oh ye who believe! Obey Allah, and obey the Prophet and those who are in authority from among you");(1) should be male ("Men are in charge of women");(2) and "Verily that nation would not prosper which hands over the reins of its government to a woman").(3) He should be a sane adult ("and do not make over your property, which

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(1) Qur'ān, IV : 59
(2) Qur'ān, IV : 34
(3) Al-Ṣaḥiḥ of Bukhārī.

Allah has made to you a (means of) support to the weak of understanding");[1] should be a citizen of the Islamic State ("and those who have declared their belief in Islām but have not migrated (to the Islamic state) you have nothing to do with their guardianship until they migrate").[2] The last of these is perhaps the most significant in that the earlier thinkers have always considered the concept in the light that territoriality plays no part in citizenship of an Islamic Umma. Iqbāl is perhaps the most important example. He thought that a Muslim, wherever he lives, is a citizen of an Islamic state and an integral part of the Umma of Islām. The impact on MaudūdI of modern Nationalism is apparent from this attitude.

But it is on the moral requirements that he lays most stress. Among the general requirements like 'God fearing', 'trustworthy', 'in good health', etc., it is included that he should be a highly learned man both in the affairs of Muslim Law, fiqh and Qur'ān and the Sunna, and

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(1) Qur'ān, IV : 5
(2) Qur'ān, VII: 72

with knowledge of modern administration and other affairs of the world. In other words, he should be completely furnished with the knowledge and wisdom to be able to supervise ijtihād. The most important feature of these qualifications is, however, that he who deliberately seeks to put forward his candidature for the office should be disqualified.

"As regards the eligibility for the membership of the Consultative Assembly or for the post of the Head of the State, there is legal eligibility, on the basis of which an Election Tribunal or a Judge, after due consideration, may declare a person eligible or non-eligible for election. There is yet another eligibility on which the selectors, the proposers and the voters base their judgement. The first aspect of eligibility may be possessed by everyone of the millions of citizens of a state, but it is the second which actually elevates a very select few to the top. Criteria with regard to the first aspect are to be included in a few operative clauses of the Constitution. But the

standards, for the second aspect of eligibility must permeate the spirit of the entire constitution. The success or otherwise of any constitution would depend on the fact that the minds of the masses have or have not been trained properly to elect only those who are eligible for those august positions in accordance with the spirit of the Constitution rather than its form only."(1)

Maulānā MaudūdI believes that the AmIr and the Legislator could be elected or selected by any agreed method by the Ummg. Direct or indirect election or appointment followed by the oath of allegiance, or any variations of these methods, could also be adopted by the constitution making body. He is of the opinion that none of these methods are un-Islamic as long as the spirit of Islām is embodied in the constitution and the electing body is fully conscious of the principles involved. To support this view, he draws upon the various methods by which the just four Khalifas of Islām came to hold their office.

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(1) MaudūdI, Islamic Law and Constitution, op.cit. p.260

Among his functions as Head of the State and the Executive, are legislative powers amounting to a complete veto over the decisions of the Ahl-al-hal wa-al-'aqd. The decisions of the Legislature would not be binding on the AmIr. This is because, theoretically speaking, only the AmIr is the Mujtahid by virtue of the authority vested in him by the Umma, so only he can effect Ijtihād.

The ahl-al-hal wa-al-'aqd are only people whom he chooses to employ for his aid in matters of legal and constitutional importance. He may even ask the Umma to elect them for his help, but even in that case they are merely his aids and he may refuse their advice in matters of ijtihād. The only time these people would play an important part is when the AmIr has acted in contravention of SharI'a and the Umma desires to remove him from office. But even here they would not take action as members of the Ahl-al-hal wa-al-'aqd, but as more learned and thus more influential members of the Umma. This has been introduced to bring about checks and balances in the political set up of the

State. However, MaudUdI does not make a clear study of the problems arising from cases where the AmIr would have to be removed and leaves it to the constitution maker to devise an administrative system of some kind.

One could summarize the ideas behind his work for the promulgation of an Islamic State in Pakistan by saying that the Prophet's mission was to preach not only that God was the Creator of the whole universe but also that He was the sole Sovereign. The real mission of the Prophet was to deliver man from the injustice born of man's assuming the rights of God over other men.(1) "The basic principles of Islamic politics are that individually and collectively human beings should waive all rights of legislation and all power to give commands to others. This right is vested in Allah alone."(2)

The Islamic State is not democratic, because democracy permits the laws to be changed at the will of the majority, even if the majority is wrong. The laws of God,

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(1) MaudUdI, The Political Theory of Islam, (Pathankot October, 1939) p.25

(2) Ibid. pp 27-28

or Sharī'a, are not limitations of freedom, but are a guarantee of the freedom. The laws of the Sharī'a regarding the poor tax, prohibition of interest and gambling, inheritance, and the rules regarding earnings and spendings which prevent class war, capitalist oppression, and the dictatorship of the proletariat are some examples.(1) Harmony in the society is preserved by the laws regarding the segregation of the sexes, men's supremacy over women, rights and duties of the partners in matrimony, conditional polygamy, and the laws of retaliation, prohibition of alcoholic drinks, all of which regulate human behaviour.(2) Above these are the basic constitutional rules and principles set by the Qur'ān and the Sunna to be followed for the establishment and preservation of God's will on earth.

The constitutional principles are enacted by God and He is the Sovereign in the legal sense. A government is only entitled to obedience for as long as it acts in

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(1) Ibid. p. 38
(2) Ibid. p. 39

accordance with the postulates of the Shari'a. No distinction in the citizenship may be made on the basis of class, colour, caste, birth, social status or profession.(1) The right to administer the state rests on the whole community as the Vicegerents of God.

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(1) Ibid. pp. 49-50

CHAPTER FIVE

THE CONCEPT OF JIHĀD

CHAPTER V

THE CONCEPT OF JIHAD

1. Jihād in History

The State in Islām was regarded as the instrument for universalising a certain religion; it had, perforce, to be an ever-expanding state. The Islamic State, whose chief function was to put God's law into practice, sought to establish the Islamic ideology as the dominant force over the entire world. It refused to recognise the principle of co-existence with non-Muslim communities, except perhaps as subordinate communities. Although this was not a consciously formulated policy, Muḥammad's early successors, after Islām became supreme in Arabia, had to embark upon a ceaseless

war for the sake of Islām. Jihād was therefore employed as an instrument of universalization, self-defence, and the establishment of a universal world state.

This mission of Islām was rapidly and successfully carried out during the first hundred years of its history, and Muslim dominance began to extend over the major portion of Asia. But the expanding Muslim state could not expand ad infinitum, and, accordingly, the world became divided into the World of Islam, or Peace, (dār-ul-Salām) and the World of War (dār-ul-Ḥarab). On the assumption that the ultimate aim of Islām was to bring the truth of God to the whole world, the dār-ul-Salām was theoretically always at war with the dār-ul-Ḥarab. The Muslims were required to preach Islām by persuasion, and the Caliph and his commanders in the field to offer Islām as an alternative to paying the poll tax or fighting. The Islamic State was under legal and theological obligation to enforce Islamic Law and to recognise no other authority. Failure of non-Muslim to accept Islām, or refusal to pay poll tax, made it legally

binding upon the Muslims to declare Jihād against them. Thus Jihād became an instrument of protecting the dār-us-Salām and also transforming the dār-ul-Ḥarab into the dār-us-Salām when the other peaceful methods failed.

ii. Doctrine of Jihād

The term Jihād is derived from the verb Jahada, which means 'exerted'. Its meaning to the Muslims is exertion of one's utmost endeavour in the path of Allah, that is; the spread of the belief in Him and also the endeavour to establish His Will in the world. The individual's recompense would be the achievement of salvation in the world hereafter,since Jihād is the direct way to paradise.

"O ye who believe! Shall I lead you into a bargain which will save you from a grievous penalty? That you believe in God and his apostle, and that Ye strive (your utmost) in the Cause of God with your possessions and your persons: that will be best for you if you but knew. He will forgive you your sins and will admit you to gardens beneath which rivers flow, and to the beautiful mansions of Gardens of Eternity:

that is indeed the Supreme achievement."(1)

Jihād (in the broad sense of "exertion") does not necessarily mean only war or fighting, since exertion in Allah's path can be non-violent. Jihād may be regarded as a form of religious propaganda that can be carried on either by persuasion or by the sword. In the early Meccan revelations, the emphasis was on persuasion. The Prophet, in the discharge of his functions, seemed to have been satisfied with warning his people against idolatry and inviting them to worship one God. This is shown by such verses as the following:-

> He who exerts himself, exerts himself only for his own salvation.(2)

This verse expresses Jihād in terms of salvation of the soul, rather than a struggle for proselytization.(3)

Some interpretors of the Qur'ān go as far as saying that

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(1) Qur'ān, LXI, 1):13

(2) Qur'ān, XXIX, 5

(3) Most commentators of the Qur'ān give this verse a meaning in that sense. See for instance Sarakhasi Commentary (Hyderabad, A.H. 1335, Vol.1,) p.126 and A. Yusef Ali's Translation and Commentary of the Qur'ān, foot note, 3426.

because the word Jihād is used in the Qur'ān more often in the meaning of strife towards achieving the will of God than in the meaning of actual war, we must re-examine our concept of Jihād. In the Medinian revelations, however, Jihād is often expressed in terms of fighting or war.

Taking note of the different connotations in which the word Jihād is used in the Qur'ān, the Jurists have distinguished four kinds of Jihād. The first is concerned with combatting the Devil and is an attempt to escape his persuasion to evil. This is regarded as the greater Jihād. The second and third are concerned with supporting right and correcting wrong. The fourth is concerned with war taken up for the pleasure of Allah, for both universalizing Islām and defending it.

iii. Maudūdī's Attitudes towards Jihād

Maulānā Maudūdī's concept of Jihād is contained in two important works, namely Al-jihād fil-Islām, first published in 1930, and a smaller book entitled Jihād-i-fi sabīlillah. Both these works begin with an apologist note. The preface

to the larger work carries a reference to a statement by Mr. Gandhi who is quoted as saying that 'Islām took its birth in an atmosphere whose decisive force has been the sword and will remain the sword'. The Maulānā then explains that his purpose in undertaking the book about the concept of Jihād is mainly to refute this statement. The second book also begins with the same apologetic note and refers to the western understanding of the concept of Jihād. He says that the word Jihād has been equated by western writers with 'Holy War' and that it has been interpreted and explained in this way for such a long period that it has become synonymous with war undertaken by religious fanatics. He asserts that the religion of Islām is not a religion in the ordinary sense of the term, allowing the concept of beliefs to be a private matter and having nothing more than a few customs and prescribed methods of worship of its own; nor are its adherents a nation in the ordinary sense. It is because of these two basic misunderstandings that Jihād is understood to mean Holy War or a war undertaken by religious fanatics for the spread of religion. Islām, to

MaudūdI, is an International Revolutionary Movement which strives to bring the world into accordance with its ideals. Jihād, in fact, is a struggle undertaken by the members of the party of Islām to bring their cherished ideals into practice. He says, "Like all other revolutionary movements, Islām has also carved out its own phraseology in the shape of terms to explain its concepts, either because the older terms were inadequate for explaining its essence, or because the completely new emphasis on life required their development. Jihād, MaudūdI says, is one of those terms. The word Ḥarab (meaning War) was discarded because it was attributed to war undertaken to fulfil individual or collective material needs of a society. The dictionary meaning of Jihād, on the other hand, is "strife", and therefore it could explain the struggle undertaken in the path of Allah to establish His will on earth. Jihād to the Muslims is not simple strife but Jihād-i-fi sabīlillah, (Strife in the Path of Allah), and it includes whatever a member or members of the revolutionary party set out to do, not for any worldly motives, but for the pleasure of God. MaudūdI quotes from the Qur'ān: "Those who

believe in the Cause of God struggle in the path of God, and those who disbelieve fight in the cause of force." (IV.76).

As in his whole system, MaudūdI, when talking about Jihād, ignores all the subsequent history of the Muslims and draws his references from the Qur'ān and the Hadith, with relatively less from the first four Caliphs. His attitude seems to be purely theoretical. This results from the fact that he, like many other recent Muslim writers, differentiates between Islamic history and Muslim history. When explaining Jihād, his purpose is to bring to the light that concept of Jihād which is included in the Qur'ān and to disregard any subsequent developments by stressing that these were not in the true Islamic spirit. MaudūdI divides Jihād into two kinds: the Defensive, and Corrective or Reformatory. The Jihād of the first kind is the war which is undertaken to protect Islam and its adherents against either an external enemy or the disruptive forces within the Dār-ul-Salām. Jihād, he says, can also be fought against those who have brought tyranny on the Muslims living in their country. In all, MaudūdI lists three conditions of defensive Jihād.

iv. (a) Tyranny.

Maudūdī says that Islām gives full support to any Muslim peoples to fight against any kind of tyranny. This is one of the conditions in which Jihād can be fought. He quotes: "To those people against whom war is fought, permission is given to fight because they are wronged and God has power to come to their aid. These are those people who have been unjustly made homeless because they say that Allah is their Lord and for no other reason." (Qur'ān XXII, 39:40); and again: "Fight in the cause of God those who fight you, but do not transgress limits; for God loveth not transgressors. And slay them wherever ye find them and turn them out from where they have turned you out; for tumult and oppression are worse than slaughter." (Qur'ān, II: 190-191).

From these two verses of the Qur'ān, the following principles can be derived:-

i) That Jihād can be declared when the Muslim community or a part of the Muslim community is tyrannised.

ii) That Jihād can be declared if the Muslims are deprived

of their material possessions, their homes, and their just rights.

iii) That Jihād can be declared if the Muslims are suppressed for the reason that they are Muslims and would not worship any other gods but God.

iv) The Muslim community is asked by Allah to struggle for the re-possession of the land and homes, for political domination of the parts which were taken away from them by the non-Muslims, and to bring the law of God again to that place.

(b) Guarding Truth.

The second condition is that the Muslims should declare Jihād against only those infidels who prevent the truth of God from prevailing in the world. It is only against those disbelievers that Jihād can be declared.(1) This condition could be interpreted in a very loose sense.

Although MaudūdI tries to justify his view here, and attributes this condition only in the case of those non-Muslim states which have done wrong to the Muslim community,

(1) MaudūdI, Abul A'la, 'Al jihād fil Islām.' (Islamic Publications Ltd. Lahore 1962) pp. 48-50

taken loosely it could be applied to any non-Muslim state, and Jihād could be justified against any neighbouring state. I think it is this aspect of Jihād which has been interpreted by western writers to mean that Jihād denotes all wars undertaken by the Muslims against a non-Muslim community, and which has been the cause of the general misunderstanding that Jihād is synonymous with war.

(c) Dishonouring Treaty Relations.

In this respect, MaudūdI draws on the Qur'ān again:

"They are those with whom thou didst make a covenant, but they break their covenant every time and they have not the fear of God. If ye make mastery over them, disperse them, and with them those who follow them, that they may remember. If thou fearest treachery from any group, throw back their covenant to them so as to be on equal terms, for God loveth not the treacherous." (Qur'ān VIII, 56:58). This implies that until and unless a non-Muslim state dishonours treaty relations it is not correct to go to war against it.

The Maulānā, in the face of pressure from the people and the Government of Pakistan, went so far as to declare that

according to this tenet, the war in Kashmir is not Jihād and therefore not a just war, and that unless all the treaty relations with the Indian Union are broken, all those who fight and die in Kashmir are not fighting and dying in the path of Allah. This gave rise to a great controversy, and subsequently the Maulānā had to spend the better part of three years in gaol. (This is discussed in greater detail elsewhere). ? cf.

Apart from these conditions, Jihād is justified against those who serve as a disruptive force against the community of Islām although they seek protection from Islām. They may or may not declare that they are Muslims. It is also incumbent upon the community of Islām to go to the help of those Muslims who have been wronged by another community. "And why should you not fight in the cause of God and those who, being weak, are ill-treated (and oppressed)? Men, women and children whose cry is 'Our Lord rescue us from this town, whose people are oppressors: And raise for us from thee one who will protect and raise for us from thee one who will help'."

The other aspect of Jihād deals in the strict sense with personal betterment and endeavour for justice in a purely non-violent manner. Maulānā MaudūdI divides this aspect of Jihād into two main branches which he calls Amar bil-ma'rūf (the inculcation of the known good within one's own self) and NahI 'an al-munker (securing one's own self and preventing others from wrong).

v. The Sword and the Spread of Islām

Even when dealing with western criticisms that Islām spread by the sword, Maulānā MaudūdI restricts himself to the theoretical aspects of Islām and does not enter into discussion of historical aspects. He concentrates purely on the Quranic injunctions and endeavours to answer the objections from a purely theological point of view. He endeavours to clear Islām from this blame, and not the Muslims, and draws on such verses of the Qur'ān as "He who takes the life of another person unless this person has either taken the life of another or has spread mischief in the land, it would be as if he slew the whole humanity,"

(Qur'ān V : 35), and says that verses like this restrict the scope of Jihād and make it justifiable only in the conditions prescribed by the Qur'ān. He also quotes the Ḥadith, according to which a person whose two sons were Christians came to the Prophet to ask whether he should force the religion of Islām on to his sons and show them the truth by compulsion. The answer to this came in the form of a verse:- "there is no compulsion in religion." From this, the Maulānā draws the conclusion that those who say that the basic reference of Islām has been force and will remain force are wrong.(1)

The Maulānā frequently compares the concept of war in Islām with western practices rather than ideals, and ignores Muslim practices. MaudūdI's writings, like those of Rashid Rida, hold frequent hostile references to the western civilisation. But he recognises the challenge that the modern world has for Islām, and accepts the modern civilisation so far as its scientific advancement can help in the

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(1) MaudūdI. Jihād fil Islām, op.cit. pp. 126-127

recovery of his country and hence Islām. Jihād is a binding duty of all Muslims, but they must begin this Jihād first by correcting themselves (Amar bil-ma'rūf), and then go on to correcting others through instructions (Nahī 'an al-munkar), entering into a war only if the conditions set for the justification of Jihād make it necessary. The Maulānā had declared that the recent war fought against India was a Jihād on the part of all Muslims because we had to preserve this politically demarcated land known as Pakistan for Islām. He recognised the fact that Pakistan was not an Islamic State, but asserted that it is the wish of the Muslims living in it that it should be and therefore its preservation for Islām is a duty binding on all Muslims.(1)

vi. Jihād as Bellum Justum

War is considered to be just, whether commenced and prosecuted in accordance with the necessary formalities required under a certain system of law, or waged for justifiable reasons in accordance with the tenets of religion or the morals of a certain society. In Islām, as in ancient

(1) Maudūdī, "Hamāra dafāhi Ḥiṣār Islām Hay" and "Jihād abhī Jārī Hay" in Kalīm Nashtar, Pāk Bhārat Jang (Maktaba-i-'Āliya, Lahore October 1965.) pp. 172-177 and pp. 185-190

Rome, both of these concepts were included in the doctrine of bellum justum since a justifiable reason as well as the formalities of prosecuting the war were necessary. In both Islām and Rome the war had to be not only justum,but also pium, that is in accordance with the sanctions of religion and the implied commands of God.(1) In the Politics, Aristotle refers to wars which are just by their very nature. The Romans instituted a body (jus jituale) to formulate rules of waging wars in a just manner. In the Offices, Cicero, who may be regarded as the representative legal philosopher of Rome, has discussed the rules of waging war, and its formalities, in an attempt to constitutionalise Bellum justum.(2) St. Augustine's concept of the Just War was formulated under the influence of Cicero. St. Thomas Aquinas, who is said to have been acquainted with the Muslim writings, formulated and developed his theory of Just War along lines similar to the doctrine of jihād.(3) The Natural Law theories of the

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(1) J. Von Elbe "The Evolution of the Just War in International Law": American Journal of International Law, (Vol.XXXIII, 1939) pp. 665-688

(2) Cicero, Offices, Essays and Letters (Everyman Edition, London 1953) Bk.1, 11-12

(3) D'Entreves, A.P. Aquinas: Selected Political Writings (Oxford 1948,) pp. 59-60.

sixteenth, seventeenth and eighteenth centuries were then in turn influenced by St. Thomas and other Medieval writers. Grotius, the father of modern law of nations, developed his system under the impact of the Natural Law theory of Just War.

Jihād assumes a special juridical order in Islām because law and religion here form a unity. The law prescribes the way to achieve religious purposes, and religion provides a basis for the law. In Muslim theory, Islām and shirk (associating other gods with Allah) cannot exist together in this world. It is the duty of all believers, and also of the Imām, to see that the Will of God is carried out in His world and also to become the guardians of this world in such a way as not to allow the infidels to be disruptive or ungrateful to His favours. Jihād is a sanction against polytheism, apostacy, and also refusal to submit to rules of Sharī'a, such as refusal to pay taxes.(1) Jihād therefore may be defined as the struggle between Islām and

(1) A series of battles were waged by Abu Bakr, the first Caliph, when certain tribes refused to pay taxes after the death of the Prophet. These wars came to be known as the Wars of Apostacy.

Polytheism, a form of persuasion to be exerted upon those who refuse the Word of God, and upon renegades from the faith. Thus in Islām, as in Western Christendom, the Jihād can be the Bellum justum.

The modern concept of Jihād, as understood by Maulānā MaudŪdI, takes its origin as much from the classical theory as from the apologist school of Muslim writers in the nineteenth and early twentieth centuries.

CHAPTER SIX

ECONOMIC STRUCTURE OF THE ISLAMIC STATE

CHAPTER VI

ECONOMIC STRUCTURE OF THE ISLAMIC STATE.

Abul A'la MaudŪdI believes that, as for all other aspects of life, Islām prescribes a system of economics as well. Further, as in other matters such as constitution, law, war, and the position of women, it gives the bare essentials and leaves the rest of the details for the Umma to work out through ijtihād. His ideas on matters of economics and fiscal policy are mainly included in two works, namely SŪd, (Islamic Publications. Lahore, 1961) and Islām aur JadīId Mu'āshi NaẓrIyāt (Islamic Publications. Lahore, 1959).

To him the basic essentials of the Islamic economic system are that:

(a) Islām prescribes a free system of ownership and commerce within the limits prescribed by Sharī'a;

(b) Islām makes a distinction between permissible methods of earning and non-permissible methods of earning in the acquisition of money;

(c) Islām prohibits the saving of money in large amounts;

(d) Islām prohibits Usury and interest in all commercial and industrial matters;

(e) Islām prescribes tax on savings (Zakāt);

(f) Islām prescribes that after the death of a person his property should be divided between his dependents and relations in accordance with prescribed method, thus preventing accumulation of money and capital in too few hands; and finally,

(g) Islām prescribes that booty acquired through war should be divided between the soldiers and the state.(1)

It is believed by MaudūdI that once a monetary and economic system is devised to incorporate these seven

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(1) MaudūdI, Islām Aur Jadīd Mu'āshī Naẓrīyāt (Islamic Publications, Lahore, 1959) pp. ~~12-15~~ 116-139

principles, the whole economic problem of the world will be solved. One feels, reading through his exposition of economics, that he is writing as a layman. After his study of law and other aspects of Islām, his tackling of the economics appears rather an anti-climax. Without offering any more criticism of his study of economics, it will serve a useful purpose to go directly into his views.

He believes that Islām has created an intermediate system of economics between the extremes of the Capitalistic and Communistic systems. In the first place, Islām creates a moral and practical bond between man and society on which the edifice of a community can be built. This is so because Islām creates in every individual a moral attitude which is essential as the basis of a balanced society. Islām sets certain limits to human freedom so that an individual can be useful to society rather than destructive of it.

Maulānā Maudūdī admits his lack of deep knowledge by his being sceptical of specialists. He says that we should be a happier society if we looked at the world as a

whole, and not as physicists, psychologists or economists; and that we should learn much more about the world around us if we looked at the whole scientific and social process and tried to find the solution to the problems of man through doing so.

He is, in fact, defying the scope of economics when he sets down the basic problem of man, which he says is to "keep all men supplied with the necessities of life and to see that every individual in society is provided with opportunities adequate to the development of his personality and to the attainment of the highest possible perfection according to his capacity and aptitude."(1)

In earliest times, the economic problems were simple, as man could secure his needs simply in a world of abundance. But with the advent of civilization they became increasingly complicated when specialization came, so that the necessities of life began to be exchanged. Gradually, means of exchange

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(1) MaudŪdī, Economic Problem of Man and Its Islamic Solution (Markazī Maktaba Jamā'at-i-IslāmI, Lahore, 1955) p. 12

were evolved and established.(1) With the development of trades and professions, a system of purchase and sale developed, and coinage became established as a means of exchange. With this the rights of property and succession developed. It then became necessary that:

1. owing to the natural disparity between the potentialities and powers of the individuals, some individuals would be able to earn and produce more than they needed, while some would be able to secure only their basic necessities, and others would get even less;

2. some individuals would be able to secure a better start in life in consequence of inherited wealth;

3. owing to the operation of natural causes, there would be some individuals in the society who could not perform productive work, for example; the aged, children, the sick and incapacitated persons.

MaudUdI says that any workable economic system must take full cognizance of these basic factors and create a system of economic exchange which would solve the problems

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(1) Ibid. pp. 16-18

arising from these basic needs. He then goes on to examine the two existing principal systems to see if they solve these basic problems. Both the Communist and the Capitalist systems are examined and criticised, and the Islamic economic system is offered as an alternative. To him the fault with the Capitalist system lies in the evils which appear "when the natural selfishness of man exceeds the limits of moderation."(1) This, he says, develops with the aid of certain other immoral habits and receives further impetus from an inherently defective political system which has no moral bases.(2) On the other hand, to remove private ownership of the means of production, as in the Communist system, would create many other problems; but he does not explain what these problems are, at this stage. In his other work, Sūd, he criticises Communism because it takes away the incentive for the individual and also because it is "unnatural" to take away the right of ownership from the individual. Again he says that it is in the "natural scheme of things"

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(1) MaudūdI, Islamic Problem of man and its Islām Solution. Op.cit. p. 19

(2) Ibid. p. 20

that some individuals should be better placed than the others, but that no evil effects would flow from this if all man's moral qualities had had the opportunity to assert themselves. And these, we must suppose, can only be allowed to assert themselves in a truly Islamic State under a system created in accordance with the Sharī'a.

In the capitalist economic system, which is devoid of a moral basis, if the earnings of a person become larger than his needs, he does not distribute them among those who need, but either employs his wealth to produce more or lands it on interest to others. Islām prohibits by law any kind of interest and morally binds a man not to accumulate more wealth but to give away in charity all he does not need. MaudūdI is not in favour of creating coercive laws to see that people do not earn beyond what they need, and so if at some stage one individual did try to accumulate more money than he needed, it would not be possible to stop him.

In his criticism of the Capitalistic System he is a Marxist in asserting that, owing to disparities between the

very rich and the very poor created by the absence of a moral system, a class struggle comes into being between those who have and those who do not.(1) He says that Islām prevents this evil by differentiating between Ḥalāl (lawful) and Ḥarām (un-lawful) methods of earning. It is for this purpose, apart from charity and goodwill, that Islām has prohibited all those methods of gain whereby one individual secures an advantage at the expense of injury and loss to another.

These are:-

1. Bribery
2. Stealing
3. Gambling
4. Business based on fraud
5. Hoarding and holding back necessities of life to raise prices
6. Monopolising means of production by one or few persons, and so narrowing the field for others.
7. Selling, manufacturing or transporting wines and other intoxicating drinks.
8. Earning from adultery and professions in music and dancing.

Although his study of the existing economic systems has a great deal of thought behind it and he goes to great lengths to prove that the Islamic economic system is the

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(1) Ibid. p. 28

middle road between the two extremes, he has not given much thought to international trade. A modern Muslim state exists in a world in which it has to trade with other countries to survive, and international trade is based on an International monetary system,which in turn is based on Interest. A state which completely repudiated Interest would become economically isolated.

Some modern interpreters of the Qur'ān have said that Islām prohibits not interest but usury. Maulānā MaudūdI does not agree with this. The verses of the Qur'ān which are said to be against the concept of interest are quoted below.

> "Those who devour riba'[1] will not stand except as stands one whom the evil one by his touch hath driven to madness. That is because they say: 'Trade is like riba', but God hath permitted trade and forbidden riba'.[2] O ye who believe, fear God, and give up what remains of your demand for riba', if you are indeed believers."[3]

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(1) The Qur'ān uses the term riba', which means "increased". Some authorities have interpreted it as usury, while others, including MaudūdI, also include interest in riba'.

(2) Qur'ān, 2: 275

(3) Qur'ān, 2: 38

Muḥammad Asad and Ghulām Aḥmad Parwaiz are of the view that 'interest' is allowed, for they interpret riba' to mean usury. They hold that banks should be allowed to lend money for the development of industry to bring about better employment prospects in an Islamic State.

The existing monetary system is based mainly on John Maynard Keynes's (1863-1946) Liquidity Preference Theory of Interest. Before Keynes put forward his theory, the monetary system was based on the Classical theory known as the Loanable Fund Theory. This had stated that the world progress was retarded because funds were not available for the purposes of loan-for-investment. In other words there was no capital formation. And there was no capital formation because people did not save. But during the great depression of 1929-33, a device to increase the loanable funds was made use of by lowering the bank rate both in Britain and in the U.S.A. The Rate of Interest was lowered so that the business man might feel tempted to borrow the money and invest in business and so relieve the mass unemployment prevailing because of the economic depression. But

businessmen did not come forward to take advantage of the increase in loanable funds. This gave Keynes the idea of his Liquidity Preference Theory, which he elaborated in his work The General Theory of Employment, Interest and Money in 1936. He said that during a depression the marginal efficiency of the Capital (or the expected rate of profit) is so low that to be anywhere near useful as an incentive, the interest must be zero. But the rate of interest is never zero, or negative, because there is always land available for sale and a person can buy land and charge a rental on it. Thus as long as there is an acre of land anywhere, there cannot be a zero interest. Thus moneyed people will compete with one another to raise the capital value of this piece of land, thus depressing the rate of return from this piece. They will equate the rate of return from the land to the rate of interest on their money. It will be very low but never zero. The investing public will also prefer to keep their money in liquid cash on hand because it is a period of falling prices and the capital

value of money is increasing every day. MaudūdI would surely say that the Zakāt of two and a half per cent on savings at such a stage would bring about the solution. But, as it happens, the rate of 2½% is too low and would not produce enough money or incentive in case of a depression. And as Zakāt is basically a voluntary tax, it will in practical terms be even more difficult to procure on savings about which the state is ignorant.

CHAPTER SEVEN

THE POSITION OF NON-MUSLIMS IN THE ISLAMIC STATE

CHAPTER VII

THE POSITION OF NON-MUSLIMS IN THE ISLAMIC STATE

To justify the secondary position which the non-Muslims would occupy in an Islamic State, Maudūdī explains at the outset that Islam provides for an Ideological State, not unlike a State under Communism, and therefore only those who believe in its ideology can be trusted to formulate policy and establish ideals. It is for this purpose that he outlines the differences between a modern National State and the State conceived and established through the spirit of Islam.

(a) A National State, he says, classifies its citizens in accordance with their belonging or not belonging to the nation or race which has established that state or which dominates it or is responsible for running it.
The Islamic State, on the other hand, classifies the people residing in it according to their belief or disbelief

in the ideology which constitutes the basis of the state. In other words, the people are classified into Muslims (those who believe) and Non-Muslims (those who do not).

(b) The task of guidance and policy-making in a modern National State always remains in the hands of the majority community. The minority have no effective way in the matters of governing. They are not trusted, irrespective of the nature of their minority - social, cultural, religious; they are not considered capable of shouldering the responsibilities of the State. In many cases the constitutions of some of the National States abolish any kind of discrimination, but laws are not enough to bring about total avoidance of discrimination.

On the other hand, the ideological nature of the Islamic State makes it necessary that policy-making and cultural and educational planning should be in the hands of those who believe in the ideal. Non-Muslims will have to keep out of the framing of policy because they do not believe in the philosophy which inspired the principles of the system which the believers want to implement.

(c) A search into history would show that minorities have always been unfairly treated in National States. They have been weakened by having cultural inroads made upon them by the majority, thus destroying their separate identity, or have

been physically exterminated by genocide. Those who have remained have been reduced to living as untouchables or to being ashamed of their cultural or religious heritage. On the other hand, in an Islamic State Sharī'a would provide clearly stated rights and privileges which the State authorities would be obliged to put into practice, ensuring the well-being of the Non-Muslim communities.

(d) Whatever rights and privileges for minorities exist in modern States, they exist at the sanction of the majority communities, and those who have given these rights have power to curtail them if they so desire. In the Islamic law these rights have an inalienable status and no human power can challenge them. "This is why", says Maudūdī, "the term ahl-al-Dhimma[1] (those who are guaranteed) has been used for them. The Muslims cannot curtail these rights but if they so desire, they can confer additional rights upon minorities subject to their being not opposed to Sharī'a.[2]

i. Nature of Jizyā.

The question of the position of the non-Muslims in an Islamic State is intimately tied up with the nature of Jizyā.[3]

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(1) In the Statute of Medina, the Jews and their clients were referred to as the Dhimma of God.

(2) Maududi, Islāmī Riyāsat (Urdu) (Islamic Publications Lahore, 1962) pp. 239.241.

(3) Jizya was originally a tribute paid by the subject states, which took the form of poll-tax. During 'Umar's Khilāfa, the term was also applied to the land tax which was levied on Muslim owners of agricultural land. Later the Jurists began to make a distinction between poll-tax (levied on non-Muslim subjects) and the land-tax which came to be known as Kharāj. Thus, the term Jizya was to be applied only to tax paid by non-Muslims as a protection tax.

Jizya is explained as meaning the tax which the non-Muslim subjects of a Muslim government pay for ratifying the compact that ensures their protection. The word Jizya is derived from Jaza, meaning 'he gave satisfaction' or 'he compensated'. In the Qur'ān, Jizya is spoken of only once: "Fight those who believe not in God from amongst those who have been given a book (Christian and Jews), until they pay the Jizya in acknowledgement of your superiority and their state of subjugation."(1)

The Prophet had made treaties with the Magians of Bahrain and the Christains of Ayla, Adhruh and Najran on the condition that Jizya would be paid.

The term ahl-al-Dhimma is used for the non-Muslim citizens of an Islamic State. This shows that the Jizya was a compensation for protection. In other words, it could be explained as a contribution paid by the non-Muslims towards the military organization. The fact that the non-Muslims could be excused from its payment if they offered to fight along with the Muslims against aggressors proves this point. There is at least one case in which Jizya was returned on the realization that Muslims could no longer protect the ahl-al-Dhimma(2). It is not an essential part of the Sharī'a law that the non-Muslim population is obliged to pay Jizya: this is clear from the fact that Bani Taghlib,

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(1) Qur ān: 9:29

(2) The Muslim forces returned the amount collected as Jizya to the people of Khums in Syria when during the struggle with the Roman Empire the Muslims had to withdraw from the city and could no longer continue to protect its inhabitants.

a Christian tribe, were granted the option of paying instead of Jizyā the normal Zakāt (a two and a half per cent tax on savings which have not been reinvested, drawn at the end of every year, payable for all Muslims) during the Khilāfa of ʿUmar. As the Practice of the first four Caliphs forms an integral part of the Sharīʿa, there seems no reason why a non-Muslim community in a modern Islamic State could not request the same.

Jizyā was collected originally at the rate of one dinār[1] per annum for cash physically fit male adult. Later the ahl-al-Dhimma came to be classified into three categories according to their earnings, the rich paying four dinars, the middle group two dinars and the lower earning group one dinar a year.[2] Females, people who had not achieved majority, old people, the crippled and paralysed, the blind and the very poor were exempt. In fact only those who could perform military service were taxable.

Maulānā Maudūdī divides the non-Muslim citizens of an Islamic state into three categories according to the way in which they came to be in an Islamic State. He believes that each one of these categories has a separate status in the eyes of the Sharīʿa. His classification is as follows:

(a) those who became the citizens of an Islamic State as the result of a treaty (the contractees);

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(1) The Dinar, a Gold coin, could be valued at approximately ten shillings.

(2) Ḥanafi law allows this classification, but the Shāfiʿī school holds the opinion that the amount fixed at one Dinar could not be changed.

(b) those who become the subjects of an Islamic State after suffering a defeat in war (the conquered);

(c) those who happened to be in an Islamic State in any other way not involving war. (1)

Maudūdī holds that so far as the general rights of the Non-Muslims are concerned all these three categories have to be treated alike. However, because the first two categories present special problem, the Sharī'a explicitly provides for them prescribing special principles of treatment. In the case of contractees, the contract should always be respected. Whether the contract has been signed as the result of war otherwise, it has to be obeyed even if the Muslims later realise that its terms are distasteful to them. In no case are these terms of contract to be amended arbitrarily, not even in cases of indemnity or payment of revenue (Kharāj).(2) This would mean that unless the terms of the contract so provide, a tax increase of any kind which the Muslim Umma would be obliged to submit to, would be illegal in the case of the non-Muslims. Here he enters into one of his favourite discussions regarding the practices of the "so-called civilized nations" of the West, and compares these practices with the injunctions of Islamic teachings. He holds that civilized man has always maltreated his contractees and and repudiated treaties, once the immediate purpose for which they were concluded has been served. Maulānā does not seem to recognise that it is always falacious to compare the ideology of one system

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(1) Maudūdī, Islāmī Riyāsat, op.cit. 342

(2) ibid p.343

with the practices of another. He does not mention the fact that invariably even Muslim practices have fallen short of the ideal which Islam has put before them.

The people who continue to fight and do not lay down their arms until they are over-powered come into the second category, namely, the conquered. But in Maudūdī's opinion a compact with them is established automatically as soon as the Muslim power begins to accept Jizya from them. After this they continue to enjoy the ownership of their properties, and their heirs retain the rights of inheritance according to their own personal law. They also possess full rights of sale, transfer, grant and mortgage of all property. The Islamic State has no right to dispossess them of these rights. Their places of worship also, at the payment of Jizya, become protected institutions, Jizya itself has to be appropriated at a rate acceptable to them according to their financial condition, and it has to be reasonable. Once again those who are destitute or physically handicapped, women, minors, etc., are not to be asked to pay Jizya.

"Jizya is levied", Maudūdī says elsewhere, "only on those who have either fought against Muslims or who are able bodied and can fight against Islam".(1) By saying this, he changes the whole nature of Jizya. We have seen that Jizya was a tax of protection which the Muslims gave to the ahl-al-Dhimma. According to this statement, Jizya becomes a price for their potential disloyalty. This statement brings down the whole argument that Jizya was introduced as a tax for the protection which the Dhimmīs received,

(1) Maududi, Islamic Law and Constitution, Op.cit., p.303

Although most of his treatment of the minorities in an Islamic State seems liberal, this statement exposes his conservatism. Although this is only a short statement as opposed to his detailed discussion of the subject earlier, it seems more in line with conservatism.

For those non-Muslims who happen to be in an Islamic State for any reason other than either being conquered or having accepted a contract, the general rights are the same as those prescribed for the first two kinds. However, Maudūdī is of the opinion that in respect of payment of Jizya, the Sharī'a is not explicit. His view is expressed in one of his lesser-known statements, made in a reply to a question addressed to him in the capacity of editor of the Turjumān-ul-Qur'ān. He stated, "The provision of payment of Jizya by the ahl-ul-Dhimma in an Islamic State is only applicable to either the 'conquered' or the 'contractees' who have accepted the dominance of the Muslim people under the condition that they will pay Jizya. In Pakistan, because none of these conditions are applicable, it is not necessary under the Sharī'a to inflict Jizya on them."(1)

The casual way in which Maudūdī regards Jizya would mean that in a modern Islamic State no one would be paying Jizya. The non-Muslims who come under the sway of Muslims, apart from those who are either contractees or conquered, would not be expected to pay it any-way. In fact all three categories, a, b, and c, if they so desired, could opt out of it at any time after

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(1) Maudūdī, "Islāmī Riyāsat main Dhimmīyon kay Ḥuqūq", Tarjumān-ul-Qur'ān, (Lahore, October 1961) Vol.57, No.1, p.53.

the initial phase. They could either offer themselves for fighting or undertake to pay the normal Zakat. In spite of his unconcern about levying Jizya, Maududi is at pains to show the leniency which is implicit in the Sharī'a in respect of receiving Jizya and Kharāj from the non-Muslims. He says that the Sharī'a prohibits any chastising or use of coercion in connection with the collection of Jizya. He also states that under no circumstances can a non-Muslim's movable properties be auctioned in procurement of these taxes. The poor, or those people who have no apparent livelihood, have to be excused from payment; moreover the state treasury has to give them stipends and grants. In a modern Islamic State then, the administrative machinery would be brought to a standstill if no legal case could be brought against citizens for failing to pay taxes. This also supports the argument that the conception of Jizya as held by Maudūdī is far from practicable.

ii. Political Rights and Privileges.

The matters which are discussed by Maudūdī under the heading of political rights are not really rights but more in the nature of curbs which Islam puts on them. The first and most important is that Maudūdī gives them the 'inalienable' right of electing representatives, but separates their electoral system from that of the Muslims. Repeating, as he so often seems to do, the argument that the Islamic State is an ideological State and 'therefore it cannot indulge in any deceptive measures,"(1) he asserts that the head of the State must be some one who believes in that ideology and therefore has to be a Muslim. The head of the State is to be aided by a Majlis-i-Shūra (the Council) in conducting the affairs of the State. Because of the nature of

this Majlis, its membership must be exclusively Muslim. After saying this much, he seems to change his whole position by suggesting that "in regard to a parliament or a legislation in the modern conception.....this rule could be relaxed to allow non-Muslims to become its members, provided that it has been fully ensured in the Constitution that -

a) it will be ultra vires of the parliament or the legislature to enact any law which is repugnant to the Qur'ān and the Sunna;

b) the Qurān and the Sunna will be chief sources of the the public law of the land;

c) the Head of the State and the assenting authority would necessarily be a Muslim."(1)

He suggests as an alternative that the non-Muslim Communities should be able to elect their respective representatives to look after their own interests. These specially elected representatives would form a body, a parliament quite separate from the parliament to which the general Muslim population elect their representatives. This second parliament, thús elected, will be confined to non-Muslims. Through this assembly they will have the right to propose laws in connection with their Personal Law. All such laws will be placed on the Statute Book after receiving the assent of the Amir. They may also submit suggestions or objections to the Parliament on matters of administration which affect the whole country. Moreover they will be able to raise questions in the Parliament regarding matters relating to their specific groups as well as problems affecting the State. A representative or representatives of the State will be appointed to this body to provide answers to such questions.

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(1) ibid p.316

Nor is this all. Maudūdī further recommends that there should be a third Parliament, exclusively for women.

Now to have three parliaments in a state, the Majlis-i-Shura, the Women's and the Minorities' Parliaments, may be practicable. But since it is for the latter two to make suggestions, sometimes to the Amir and sometimes to the Majlis-i-Shura, about their own interests and the interests of the whole State; and since both are allowed to make criticisms of administration as well as positive proposals, such a system is bound to become extremely cumbersome and complicated if not impracticable.

Maudūdī's attitude is very intimately tied up with the contemporary history of constitution-making in Pakistan and also with the problems of the electorate which resulted in the creation of Pakistan. Pakistan was created by the Muslim leadership's assumption that the Muslim minority would not have adequate representation in a Hindu Majority India. The constitutional safeguards on which the whole political fight was based arose, in fact, from the problem of separate electorates for the Muslim minority. Pakistan was created, but then the problem was that it was not in any way purely a Muslim country. Hindu, Christian and other minorities existed within its boundaries. According to the 1951 census, the breakdown of the population was as follows:-

Pakistan's total population		75,636,000	
Muslims	...	64,959,000	85.9%
Cast Hindus	...	4,349,000	5.7%

.....Continued

Schedules Castes ... (Lower caste Hindus)...	...	5,421,000	7.2%
Christians ...	...	541,000	0.7%
Others ...	...	366,000	0.5% (1)

When the matters regarding representation came before the Constituent Assembly, the East Pakistani Minorities opted for a joint electorate, meaning that they would like the Constituent Assembly to prescribe a method of election in which a candidate from the Minorities could stand for any general seat. The Minorities from West Pakistan stressed that Minorities should have their own constituencies from which they would elect their own representatives to membership of the National Assembly. The reason for this was that the Caste Hindus, who owned a predominant part of the business interests in East Pakistan, were of the opinion that, because of their influence, they would be able to elect a higher number of representatives if they were to contest the general seats than they would procure by percentage. Moreover, they thought that they would be able to get the votes of the lower caste Hindus because of their influence. Mr. Fazluddin had argued that, under a system of separate electorates, seats should be allocated to the lower caste Hindus, because their interests are different from those of the higher castes.(2) This controversy occupied over three months

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(1) The Census of Pakistan Report 1951, table 6-2

These figures are taken from 1951 Census to show approximately how the breakdown of population in terms of religions stood at the time of partition in 1947. There was no Census in 1941.

(2) Joshue Fazluddin, Separate Electorates - The Life Blood of Pakistan Lahore 1956. p.12

of the Constituent Assembly's time without a decision, and finally it was left to the respective provinces to decide upon the mode of representation. It was during this controversy that Maulānā Maudūdī had come out with an article outlining his plan for a separate Assembly for the Minorities, and his point of view was endorsed by the Christian community. Mr. Fazluddin included this article on separate electorates as an appendix to his book Separate Electorates - the Life Blood of Pakistan.(1)

iii. Government Service :

With the exception of the Key-posts, Maudūdī intends to leave all other services open to the non-Muslims "without prejudice." But it becomes clear that there are some government jobs which would not be open to the non-Muslims. He does not, however, define exactly what sort of positions would be barred to non-Muslims. He suggests that a body of experts could be appointed to set down and define those key-posts where the policy and security of the country are involved, and then these posts would be barred to non-Muslims. He justifies his point of view by saying that in every 'Ideological State' (by which he means, perhaps, the existing Communist States) such positions are given only to those persons who have the fullest faith in its ideology and who are capable of running it according to the spirit of the ideology.(2) Positions which do not directly deal with policy-making, such as Accountant General, Chief Engineer, or Post Master General, etc., would be open to the ahl-al-Dhimma.

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(1) ibid p.51. (2) Maudūdī, Islāmī Riyasat, op.cit. p.366

Although he had earlier said explicitly that ahl-al-Dhimma would pay the tax only for their protection and could opt out of payment by fighting for Islam, he prohibits active army service to members of the Minorities. Only those posts will be available to them which are not connected with the conduct of war—by which he probably means clerical work or other civilian employment in the army. It is clear that even here he would bar such offices where a non-Muslim might have access to military or other vital secret information. This seems contrary to the Islamic practice. Exemption from military services was granted only to non-Muslims who wished to be excused, and these were asked to pay Jizya. Bani Taghlib (a non-Muslim tribe) had been allowed to fight in the Battle of Buwaib (13 A.H.) because they expressed the wish to do so.

iv. Education and Proselytism.

Non-Muslims will have a full right to education and also the right to give religious education to their children. The State will be obliged to provide religious teachers for them in State schools if the parents of non-Muslim children so desire. However, the schools run by non-Muslim organizations will have to confine instruction in their own religions to their own children; and when Muslim students attend such an institution, the authorities will be obliged to provide religious teachers for them.

The non-Muslims of one religion will have the right to propagate their religion among other non-Muslim communities, but

no right to convert a Muslim to their religions will be given. In fact Maududi suggests that this should be a crime punishable by law.

v. Ahl-al-Dhimma and the Law.

The penal laws are the same for Muslims as they are for the ahl-al-Dhimma, and Maudūdī holds that Islam provides the same penalities for all communities. He says: ".....whether it is a Dhimmi who steals or a Muslim, the hands of the thief will be chopped off".(1) Probably it will not be out of place to mention here that the attitude of Maudūdī towards punishment is entirely retributive. At no time in his writing does he admit a place for reformatory punishment. The Civil Laws are also equally and similarly applicable. The only places where non-Muslims are above the law are in eating pork and consuming wine. Interest and usury, which would affect the whole economic bases of the Islamic State, Maudūdī believes, should be prohibited to them along with Muslims.

The guarantee which the ahl-al-Dhimma have is inviolable and the compact with them will not be broken in the case of a few non-Muslims breaking it. The crime of an individual will in no way justify chastising a whole community of non-Muslims, and only the involved or guilty person or persons will be punished, and then according to law.

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(1) Maudūdī: Islāmī Riyāsat, op.cit, p.334

In matters involving the personal law of the non-Muslim communities, their own person law will be applied. For example, marriages without the fixation of Mehr (Dower Money) or marriage within the iddat[1] would be legal for non-Muslims if their personal law so provides.

Apart from these rights, Maudūdī lists a number of other general rights, like freedom of expression, movement, etc. As long as they do not subvert the Ideology on which the Islamic State is based, they are to be respected.

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(1) Iddat refers to the period within which a woman may not make a second or subsequent marriage. If she is divorced, or if her husband has died and she is not pregnant, the period stipulated is four months. If she is pregnant, it is until her child is born.

CHAPTER EIGHT

POSITION OF WOMEN IN THE ISLAMIC STATE

CHAPTER VIII

POSITION OF WOMEN IN THE ISLAMIC STATE.

One is always apt to underestimate the importance of the position of women in an Islamic State. The truth, however, is that some of the most noted writers on Islamic politics have stressed the importance of women's role in an Islamic state, particularly the importance of their moral influence. MaudUdI goes as far as to assert that the decline of the major civilizations in the world, including those that were Muslim, was due to moral degradation. Women became the target of lust and orgies, and the civilization consequently fell.

The first important treatise[1] on the position of women in Islam in the modern world came from the Egyptian QasIm AmIn, a disciple of Muḥammad Abduh. Kurdish by birth and French by education, Qāsim AmIn expressed the opinion that one of the primary causes of the stagnation of Islām as a political and social power lay in the disappearance of social virtues and the weakening of moral strength. He asserts also that the cause of this is nothing other than ignorance of the true sciences and the Sharī'a; it is from these that the laws of human happiness can be derived.

This ignorance, he believes, begins in the family. The relationships of mother and child, man and woman, are the basis of society; the virtues which exist in the family will automatically be transferred to the Qaum: "The work of women in society is to form the morals of the nation." He also says that woman in the Muslim countries does not have the necessary status if she wants to play the role attributed to her, and he claims that this is not due to the weaknesses

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(1) QāsIm AmIn, Tehrir al Mar'a. This statement of the ideas of Qāsim AmIn are based on Albert Hourani, Arabic Thought in the Liberal Age (Oxford U.P., 1962) pp. 164-170

of Sharī'a, because Sharī'a was the first systematic law which provided for the equality of women with their male counterparts. Islamic provisions became vulgarized and corrupted through the converts, who in spite of accepting Islām, brought with them their own customs and illusions. They destroyed the true Islamic system of Government, which defines the rights and duties of the rulers and the ruled, and put in its place the principles of despotism. Taking advantage of this, the strong began to despise the weak and later the women.(1)

In any society, the heart of all social problems depends upon the status of women, and this can be improved only by education. Amīn, however, does not suggest that women should be as fully educated as men. He suggests that they should have elementary education, if they are to manage their households smoothly and to play their proper role in the betterment of society. Apart from religious instruction, he suggests, they should be taught to read and write, and be

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(1) Tehrīr pp. 116-131 quoted from Albert Hourani. Op.cit. p.165

given some notion of natural and moral sciences, history and geography, hygiene and physiology, and physical training.

It is also advisable, he says, to give them such an education as to prepare them for earning their own living. This, he says, is the only guarantee of women's rights. Qāsim says that unless a woman is able to support herself she will always remain at the mercy of man, notwithstanding the rights that the law provides. This would, he believes, end tyranny and also the seclusion and veiling of women. After saying so much he becomes very cautious, stating that it is not his desire to end seclusion altogether because to safeguard virtue a certain degree of segregation is necessary. He goes on to say that his purpose is to restore what the Sharī'a lays down. There is, he maintains, no strict provision about women not revealing their faces, and, like many modernists, he considers the controversial seclusion or "parda verse" of the Qur'ān as pertinent only to the wives of Muḥammad.(1) Here he is in agreement with the ideas of his

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(1) This verse is quoted in full later in this chapter.

Indian contemporary Ameer Ali.(1)

AmIn also deplores polygamy. He says that contempt for woman underlies polygamy, and that no woman could willingly share her husband with another. If a man marries a second time it can only result in ignoring the wishes of the first. He asserts that in some circumstances it is licit, for example when the first wife is insane or childless. But in these cases man should be chivalrous and forbearing. It cannot be denied that revealed law permits polygamy, but equally it cannot be denied that it also warns against its dangers: "Marry such women as seem good to you, two, three, four; but if you fear you will not be equitable, then only one." Divorce too is permissible in special circumstances but is reprehensible in itself. It is best to refrain from it where possible. AmIn says that if divorce is to be practised, women should also have the right to divorce.

In all the matters he deals with, AmIn proceeds by defining the Islamic principles rather than abandoning them.

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(1) Ameer Ali Syed. History of Saracens. (Christopher, London, 1955) p. 175

He asserts that if we have to understand the political and social rights of women we should understand the Qur'ān and the SharI'a and interpret them in 'the right way', and he believes that he is doing so. But comparing him with the orthodox interpretation, one sees at once how modern western thought and scientific knowledge has influenced him.

Opposed to this modern liberal attitude to women and their position in society is the fundamentalist attitude of MaudūdI. Although MaudūdI follows Qāsim AmIn in chronology, he does not allow any place to modern western or liberal thought, and draws purely on the Qur'ān and the Sunna, so much so that in certain places he even disallows certain quite elementary things like compulsory registration of marriages.(1) He thinks that the witnesses in the marriage would all be there to vouch for any party in case of dispute, and asserts that SharI'a's direction for conducting a marriage is ample. He also opposes the appointment of Registrars of Marriage to conduct the Nikāh on the grounds

(1) MaudūdI's answer to the Marriage Commission Questionnaire. Quoted from "Marriage Commission X-rayed" ed. Khurshid Ahmad (Charāgh-i-Rāhpub, Karachi, December 1959). p. 5

that Islām does not allow for a professional clergy.(1)

Maulānā MaudūdI's attitude towards the position of women in an Islamic State can be gathered mainly from Parda (1963), his Answer to the "Marriage Commission Questionnaire", 1958, and also from the reactions of the JamĀ'at-i-IslĀmI to the Marriage Commission Report included in the book Marriage Commission Report X-rayed (1959). Although the second deals mainly with the specific legal problems arising from the position of women in Pakistan, Parda is a comprehensive work on the position of women in an Islamic State. It begins with the history of world civilizations as a puritan like MaudUdI would see it, attributing the fall of each civilization to women. He says that we see two extremes of woman's position in the world: "On the one hand she is cheapened to the position of a maid and a mistress, she is bought and sold and all the rights of inheritance are taken away from her. She is considered an embodiment of vice and impropriety.... On the other hand she is priced highly but in such a way as

(1) Ibid. pp. 5-6

to make her a symbol of moral degradation, making her a toy in the hands of those with animalistic desires. In fact she has then been made an agent of Satan and with her elevation is synchronised the decline of humanity."(1) He assures us that the Islamic State would preserve civilization by protecting women from both these extremes. Reading through his work Parda, one is constantly reminded of the importance he gives to the position of woman in an Islamic state. He asserts time and time again that if an Islamic state is to be established and preserved, the position prescribed for woman in the SharI'a must be adhered to, otherwise there is a danger of the whole edifice crumbling under the so-called integration of women with men. Unless women play their role - which appears, from his writing, to be little more than negative - it is not possible to achieve the desired end. Woman should not mix with man socially lest he should be lured by her away from things which are vital. As soon as the idea of sex outside marriage enters man's head, society,

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(1) MaudUdI, Pardah (Islamic Publications Ltd., Lahore, 1963.) pp. 7-8.

state, ideals and indeed Islām would collapse in the same manner as the Greek, Roman, Christian and modern European civilizations have done.(1)

Let us now take a fuller example from MaudIdI's version of the causes of the decline and fall of these civilizations, considering his treatment of one of them, namely the Greek. He says that among the ancient civilizations that of Greece appears to be the most glorious. In its early stages, the position of women was degraded morally, legally and socially. Greek mythology, for instance, attributed the troubles of man, to a woman, Pandora. Education, however, gradually effected a change in attitudes in Greek society and woman's position was raised. This change, however, did not have any effect on the legal status of woman, but she began to be placed on a very high social pedestal. She became the uncrowned queen of the Greek home. Her sphere of influence was restricted to the home, but within these limits she had unquestioned supremacy. Her

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(1) Ibid. pp. 7-29

honour was a valuable thing, she was respected and esteemed. Among the better classes of the Greeks, Parda (seclusion of women) was observed in the sense that the men's quarters in principle were separated from those of women. Their women did not participate in mixed meetings, nor were they exhibited in public. For a woman the highest rung of goodness was achieved through entering into matrimony, and to live a prostitutional life was like going into the deepest dungeons of vice and degradation. This was the nature of Greek society during the time of its glorious dominance. In this era there did exist some weaknesses of character but they were limited and within bounds. However, as time went on the Greeks let themselves be captured by sloth and lust, and the prostitutional class began to dominate the social scene of Greek life. The brothel became the most frequented place for all classes of men. It became the centre of attraction for the philosopher, the poet, the historian and the artist. (1) This, MaudUdI says, ultimately

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(1) MaudUdI, Parda, Op.cit. pp. 10-11

caused the downfall of the glory that was Greece.(1) He says that similar developments may be found to be responsible for the fall of Rome.(2)

This passage describes very well how a puritanical mind looks at civilization. The Maulānā in no way admits that the absence of moral virtues could have been a symptom rather than a cause of decline.

The word "character" is used throughout the work in relation to sex alone. In spite of the fact that the Maulānā constantly assures us that woman is a creature of God, his work is replete with the idea that she is a constant danger to man and hence to the Islamic State. This is because of her alluring nature. The interpretations that he gives to the Sharī'a are directed in the main towards restraining her. "Man should be vigilant lest he should like Adam himself be lured into a life of pleasure". And this he says in spite of having rejected the "Zionist mythology"(3) a few pages

(1) Ibid. pp. 13-14
(2) Ibid. pp. 14-17
(3) He says that Zionist mythology ascribed to a woman, Eve, the responsibility of bringing sin into the world. This left an indellible mark not only on the Jewish but Christian mind. Parda, op.cit. p.14

earlier.

More than half of Parda deals with a study of the modern Western attitudes towards six. He criticises these attitudes, quoting freely from Western writers who seemed either to agree with him or to be critical of the morality in the west. He concludes by saying that if we are to progress towards the establishment of a God-fearing society it is vital that women should be segregated and that there should be no mixing of sexes and no sex relations outside marriage.

He puts forward the thesis that SharI'a had laid down the domains of both man and woman in society. Woman is to live inside the home and look after the affairs of the household; man is to serve as a bread-winner. God's will is that, for the sake of harmony in society, each sex should perform its own set task. He bases this view on a very innocent verse of the Qur'ān: "And I created everything in pairs."(1) He says that this verse points towards the universality of sex laws,(2) and he continues by saying:

(1) Qur'ān, 51 : 3

(2) The term 'sex laws' is used by him in English. Parda op.cit. pp. 233-234.

"The reality of the principle of pairing is that one part of the pair should be dominant while the other is recessive; one should have assertiveness while the other has acceptance, modesty and humility. If one has the quality of forcefulness the other should have the quality of reception; if one has positivity the other should have docility. This relationship of positivity and docility, assertion and acceptance, dominance and recessivity is in fact the principle of creation."(1) He goes on to express the belief that if this principle of pairing is abused or disturbed, there is a danger that the human civilization would fall apart in the same way as civilizations before us have done. Each being, male and female, has to recognise its place in society: "... there is neither degradation in the docility of the docile nor is there any case for pride in the supremacy of the dominant."(2) "We have all come to perform our respective tasks in the world because the Creator wishes His universal machinery to go on working. Our job is to perform our own specialised

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(1) Parda, op.cit. p.234
(2) Ibid. p. 236

work."(1)

With this in mind, MaudūdI goes on to describe three principles which, he says, govern the relationship of man with woman in society. The first is that God's will can be none other than to see that every organ of society works smoothly and without hindrance.(2) The second is that the 'dominant' and 'recessive' parts of the system are both of vital importance for the smooth running of the social order. Yet there is no glory in the dominant part being dominant nor is there shame in the recessive part being docile in realizing its desired position in society.(3) Thirdly, God's wish being known, it follows that man, being the dominant part, is the guardian of the family's virtues and the affairs outside the home, and that woman is the mistress of the home and her task is to see to the administration of the home. Here MaudūdI quotes from the Ḥadīth. "Woman is the master of her husband's home, for her actions in her [illegible] domain she will be responsible to God."(4)

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(1) Ibid. p. 235
(2) Ibid. p. 235
(3) Ibid. pp. 235-236
(4) Ṣaḥiḥ of Bokhari. Chapter: "Qawā anfusikum-wa-ahlikum Nārun."

As has been mentioned earlier in this chapter, the 'Parda verse' of the Qur'ān is a very controversial one. Before a discussion can be undertaken, the verse should be quoted in full.

> "Oh, Wives of the Prophet, you are not like other women, if you are virtuous do not talk in low voice lest a man whose heart is not clean should set hopes upon you, whatever you say, say it simply and straightforwardly, and stay in your houses and do not indulge in make-up like the women of the Jahālīya, perform your prayers, give zakāt, and obey God and his prophet. God wishes to preserve you from evil."(1)

Qāsim Amīn and Ameer 'Ali were of the opinion that this verse is applicable only to the wives of the Prophet and that the rest of the Umma is not involved because of the very fact that it is addressed to the wives of Muḥammad. MaudūdI, on the other hand, contends that because a comparison is made with the women of Jahālīya it becomes applicable to all Muslim women.(2)

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(1) Qur'ān, 33 : 4
(2) Parda, pp. 261-264

It is however of some significance that the MaulānA realizes that in some circumstances it may be unavoidable for women to leave the four walls of the house. In cases of poverty or illness or the incapacity of the guardian of the family, woman will probably have to go out in search of work. "In this respect," he says, "the Sharī'a is not very strict."(1) and to justify this statement he falls on Ḥadīth.

> "And God has given you permission
> that you may go out of your houses
> to fulfill your needs."(2)

Could a woman going out to work to supplement her husband's meagre income [illegible] be classified as "...going out to fulfil 'needs'? If so, the idea that they should remain within the four walls of the house, which MaudūdI puts forward in favour of the segregation of women, would fall into jeopardy.

Rights of Women

In an Islamic State woman will have a specialized task to perform, and therefore her political and social

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(1) Parda, pp 261
(2) Ṣaḥīḥ of Bokhari. Chapter "Hājat-ul-Insān."

position would be different from that of man. Legally speaking, therefore, there would be three kinds of citizens in an Islamic State: the Male Muslims, the Minorities or the non-Muslims, and the Muslim female population. Each of these groups will have its own rights and obligations in the society.

According to MaudūdI, a Muslim̆ woman has the right to marry any adult of her choice except a slave or a non-Muslim. But because she has to obey the guardian of the family before marriage,(1) her choice of a husband would not be effective if the guardian did not approve. However her refusal of one suggested by the guardian would be effective because she cannot be compelled to marry against her will. But there are limitations to her freedom even in this respect because, as the Maulānā stresses, for woman to take "cognizance of the opinions of father, grandfather, brother and certain friends is necessary."(2)

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(1) Parda, p. 267
(2) Ibid. p. 266

He says that certain rights have been fixed so that the man does not take undue advantage of his dominant position.

Islām gives very detailed provisions in matters of inheritance. A woman can claim half the share of a brother from a deceased father. This is because she has other advantages like Mahr, and her financial responsibilities are also smaller compared with man's.(1) She can hold this property in her own name and manage it if she wishes.

Woman has the full right, the Maulānā says, to educate herself in both religious and social spheres.(2) But in another place, like Qāsim AmIn he suggests that women should not be subjected to the same rigorous education as man and that they should have only such education as would prepare them for the task which God has fixed for them in society.

He then goes on to compare the position of women in Islām with the ancient societies in which the families

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(1) Parda, op.cit. footnote pp. 269-270
(2) Ibid. p. 272

used to kill female children at birth because they considered them to be a curse, and with the Western civilization which has given them so much freedom that the society is in danger.

When woman has been confined to the matters of the home, political rights become irrelevant, but the MaulEnE even takes account of those and gives them a right to vote which he says should be qualified, "at least at present, by a certain standard of education", and then goes on to say: "experience has shown that adult franchise for women under the prevailing conditions (in Pakistan) has proved unsuitable for them and harmful for the welfare of the country."(1) But he does not give women the right to be elected to the legislature, and adds that this is contrary to the whole spirit of Islām, and "nothing more than an imitation of the West."(2) "According to Islām," he continues, "active politics and administration are not a field of activity of

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(1) MaudUdI, "Some Constitutional Proposals submitted to the Constituent Assembly of Pakistan, August 1952." Quoted from The Islamic Law and Constitution (Lahore, 1966) p. 345

(2) Ibid. p. 349

of the women folk. It falls under man's sphere of activity."(3) In this, however, MaudŪdI is willing to make compromises as became clear from his support of Miss Fatima Jinnah for the presidency of Pakistan. He suggests a separate Assembly elected by women voters and confined to women members. The main function of this Assembly should be to look after the special affairs of women such as female education, female hospitals, etc. And this Assembly should be consulted by the country's legislature on matters of importance affecting women as a whole. Yet would not this Assembly of women bring them into active politics, the very thing from which the Maulānā wants them to stay away?

Maulānā MaudŪdI's whole attitude towards women is very conservative. The fact that he proposes, along with an Assembly for minorities, another one for women, shows that he considers them completely different type of citizens. The question arises whether they would be allowed to legislate or whether their purpose would be solely administrative, as

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(1) Ibid. p. 349

he intends in the examples of administering hospitals for women, etc. In fact he does not carry the argument through and leaves wide gaps.

CHAPTER NINE

CONCLUSIONS

CHAPTER IX

C O N C L U S I O N S

The development of Maudūdī's political ideas can be understood by his attitude towards nationalism. In his writings of pre-partition days he opposed the Muslim League's view of nationalism and supported the concept of world wide Muslim community which was clearly seen in the early writings of Maulānā Azād. He said, "The ultimate goal of Islam is a world state in which the chains of racial and national prejudices would be dismantled and all mankind incorporated in a cultural and political system with equal rights and equal opportunities for all, and in which hostile competition would give way to friendly cooperation between people so that

they might mutually assist and contribute to the material and moral good of one another."(1) He envisaged such a world state for Islam and seems to oppose the creation of Pakistan mainly because the Muslim League was supporting a national state for the Muslims of India and was not striving for the higher cause which he had in mind, namely the cause of what he called the 'Islamic Revolution' which would embrace the whole Muslim world.

At the same time he was also rejecting the stand of the Indian National Congress which was at the time striving for the establishment of a secular state for India. In his three volume study Musalmān aur Maujūda Siyāsi Kashmakash (Muslims and the Present Political Struggle) Maudūdī delineated his political creed. In the first two volumes, his criticism is directed towards territorial nationalism and the Indian National Congress. He insisted that if the Indian Muslims accepted this brand of nationalism they would for ever lose their separate cultural identity and the cause of establishing a world wide Umma would be jeopardised.

His second interpretation of Nationalism begins at the creation of Pakistan. This happened when he accepted Pakistan as an historical truth, when a state called

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Pakistan was firmly established on basis of nationalism. It is after he did so that his endeavour to create within the political boundaries a state based on Islam became meaningful and he did not wait very long to make this readjustment. Now he began to talk about the Islamic State, the Sovereignty of God, the process of constitution making and legislation, and other related matters which were deeply related with accepting the position of Pakistan as a modern nation. Thus he abandoned his theory of 'Islamic Revolution' or at least set it aside until such time as the house can be put in order. The ultra territorial concept of Khilāfa and the Umma were also set aside and his attention was more and more diverted towards ~~the~~ influencing the Constitution-Making in Pakistan.

Before the creation of Pakistan his ideas were mainly normative and directed mainly towards the re-establishment of the undefinable lost glory of Islam while after the creation of Pakistan we see in him the emergence of the pragmatist a practical thinker employed deeply in the day to day politics of his country striving to bring about the establishment of the Islamic state which he envisaged.

In 1947 Maudūdī had said, "Although the Muslims in Pakistan were emotionally in favour of creating an Islamic State, they lacked a clear understanding of the problems involved." This clear understanding Maudūdī set out to provide.

Maudūdī's political ideas have been deeply influenced by such men as Ibn Khaldūn, Shāh Waliullāh, Abul Kalām Azād, Dr. Muḥammad Iqbāl, Ḥassan al Banna and the views of Jamī'at-ul'Ulamā-i-Hind and concepts such as modern Nationalism. Of these and others, he is a strange mixture.

He is a follower of Ibn Khaldūn in the sense that Mulk (domination over a territory) is feasible and exists in spite of Khilāfa which symbolises the religious unity of the Islamic community. From Shāh Walīullah of Delhi he takes the historical perspective and interpretation in making a distinction between the 'Islamic History' and the 'Muslim History', disowning what he abhors of Muslim rulers and institutions and considering what he appreciates of the same. From Shāh Walīullah he also inherits the idea that no one school of fiqh is applicable in our own time and that we have to wrought out a scheme of interpretation to bring the Sharī'a up to date taking into consideration the existing historical environment and situation. From Maulānā Azād's early writings he developed his theory of the 'Islamic Revolution' and Maulānā Azād also provided the theoretical basis on which the Jamā'at-i-Islāmī came to be based. The Jamā'at by its nature, purposes and methods can be traced to the concept of Hazbullah, which Azād envisaged. From the Ikhwān-ul-Muslimūn, Maudūdī learnt the aggressive militant methods which he employs in the

day to day working of the Jamā't-i-Islāmī. His strife for attainment of political power by constitutional means for establishment of the Islamic State also springs from the Ikhwān.

Finally, at the creation of Pakistan, he had to submit to the forces of modern nationalism and to make theoretical compromises to initiate his strife in favour of making Pakistan an Islamic State. The phrases such as Islamic State, Sovereignty, Amīr, Legislation, imply that there is a state different from other states and from other Islamic States and thus his compromise with modern nationalism becomes clear and evident.

More than a quarter of a century before the creation of Pakistan, Iqbal had talked about the eternal and the mobile in Islam. He had said that the Qur'ān provides the eternal, and the institution of ijtihād for the mobile in Islam. He had said "The Qur'ān provides for what is eternal but the principle of movement in the structure of Islam is provided by ijtihād."(1) If this principle had not been provided, Iqbal believed Islam would have become stagnant and mobility and ability of Islam to adjust to changing circumstances would not have disappeared. This principle

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(1) Muhammad Iqbal, Reconstruction of Religious Thought in Islam, op.cit. p.209

has found its way into the system which Maudūdī develops; but Maudūdī's conservatism and fundamentalism tend to take the spirit of mobility out of Islam. In other words, while he is liberal in the sense that he does not accept any of the existing schools of fiqh to be wholly applicable in our circumstances and allows the Umma to wrought out a system of law most applicable to its own situation when he comes down to reinterpretation, or what we may call legislation in our own context, his conservatism allows us very little freedom of action in detail. In other words, while he is liberal in chalking out broad principles when he comes down to matters such as the position of non-Muslims in an Islamic State or the position of women in an Islamic state, his conservatism does not allow him to make liberal departures from the traditional stand-points.

Rosenthal has suggested that Maududi's plan for an Islamic State is "....sustained by great traditional learning."(1) This may be true but it must be understood that his active engagement in day to day politics of his country tends to make his work fragmentary. Even his most important work, Islāmī Riyasat, a selection from which has appeared in English translation under the title Islamic Law and Constitution, is a work not undertaken as a whole but

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(1) E.I.J.Rosenthal, Islam in Modern National State, op.cit p.137

a collection of articles and speeches spread over a number of years reflecting the exegencies of time and political issues at hand. He is a topical commentator and that is why one finds him inconsistent in detail and not comprehensively systematic. Contradictions are not restricted to his writings. His active involvement in politics in the capacity of the Amir of the Jamā'at-i-Islāmī has sometimes pressed him into compromises which are diametrically opposed to his own ideology. One such occasion was when he, in spite of his insistence that a woman could not rule the Muslim people and that Islam requires women to restrict their activities to the domain of the home, supported Miss Fatima Jinnah's candidacy for the presidentship of Pakistan against Ayub Khan.

Although he is convinced from the out set about the superiority of the Islamic institutions, culture, law, economic system and moral bases, he tends,in his writings, to prove this by making comparisons between Islam and the West. However, he tends to prove the superiority of the Islam by comparing it with western practices not realizing it seems that comparison of ideology with practice is always fallacious. Moreover, he always tends to give the impression of first working out his theory and then looking for proofs and illustrations to support it.

In criticising the Western institutions he always seems to accept the criticism of the Western critics if and when these criticisms suit his ideas. For instance, his criticism of the capitalist economic system is broadly based on the communist arguments and that of the communist system on the criticism of the Western critics.

In spite of his extreme conservatism and faulty methods, Maudūdī has been able mainly through his writings to gain some supporters among the intellectuals, lawyers and men in the universities. But his main support comes from among the lower middle classes. In spite of faults in his methods, Maudūdī is a persuasive writer and it is to this that he owes most of his success. Coupled with his ability to organize a party such as the Jamā'at-i-Islāmī on authoritarian lines, he has been able to broaden his sphere of influence considerably. However, the flow of aid in capital and technological assistance from the west when coupled with the development of indigenous resources and the expansion of educational facilities could adversely affect his influence as a conservative interpreter of Islam. Firstly because a considerable section of lower middle classes on whose support the Jamā'at thrives, may move into the cadre of professional middle classes over

whom he does not appear to have much influence and secondly technological development is also liable to broaden the influences of more liberal outlook. In this case more liberal outlook of Iqbal on Sharī'a and ijtihad are more likely to be acceptable.

Muslim thinkers of the past have always been predominantly concerned with bringing theory in line with the history. Māwardī seeing that the power was passing into the hands of Shī'a Buwaihid Amirs asserted once more the authority of the Abbasid Khalīfas. Ghazzālī becoming conscious of the fact that power had actually passed on to the Amirs, introduced in theory the concept that delegation of powers to 'Ulama, Wazirs and Amirs was not unIslamic in character. Ibn Khaldūn seeing that political power had passed to the chiefs in North Africa and unity of Khilāfa could no longer be maintained introduced the theory that Mulk exists in spite of the Khilāfa and that two or more Khilāfas can exist at the same time. Maudūdī contributions in this respect is not of a mean order. He is one of a series of Muslim thinkers whose contribution in this sphere is considerably important, although due to his fundamentalism and conservatism he does not give as much ground as Zia Gükalp of Turkey who propagated for complete separation of religion and state, and Muḥammad Asad who equates ijtihad with modern legislation.

These are the conditions which Maudūdī as a Pakistani and a Muslim thinker found and it is in the following manner that he began to make his compromises.

Conditions:

1. In Pakistan, as in many other Muslim countries, western colonization had come to an end and the Muslims in these countries were free, if they so wished to draw up their own programme of policy and law.

2. Khilāfa as a unifying force among the Umma or even as a symbol had ceased to exist.

3. Due to certain political, economic and social reasons in our contemporary world it is neither feasible nor possible to have any kind of political authority over the whole Muslim world. Thus for an indefinite period various Muslim states will have to co-exist as separate political entities as National states based partly on western concepts.

4. Each of these states is an Umma in itself and if each of these states strives on its own for an Islamic order, there is an inevitability of the birth of the macrocosm from this microcosm.

5. Democracy is the current practice and in a democratic state the common man elects his governors whether or not there was a social contract in history or logic.

Maududi meets these conditions in the following manner:-

1. Khilāfa as an institution symbolising authority has disappeared but in the existing order the emphasis should be put on the Umma as being the Khalīfa (Vicegerent) of God and each state should elect an Amir in a democratic way in the manner that a democratic state elects a President. This is not un-Islamic.

2. Because the existing Sharī a no longer answers all the existing conditions ijtihad and ijma should come into play to bring law and fiqh up to date. Not all which is found in the books of fiqh is law, and none of the existing four schools of fiqh on its own is applicable in our conditions. To perform the task of bringing law up to date a selection should be made, by an appointed body, from existing schools and the new needs should be met with by ijtihād and ijmā'.

3. The Umma is the true Mujtahid and thus those learned and pious among the Umma should be delegated the power by the Umma. The Amir should be most learned, the most wise and the most pious and should have the greatest authority.

APPENDICES

APPENDIX ONE.

ORGANIZATIONAL STRUCTURE OF THE JAMĀ'AT-I-ISLAMI

1. The President of the Jamā'at-i-IslāmI (AmIr) is elected by a direct vote by the members of the party in secret ballotting for five years. The president, according to the constitution can be removed by a two third majority of Central Executive Council.

2. The Central ~~Executive~~ Legislative Council (MarkazI Majlis-i-Shura) has a membership of fifty. These are elected for a period of three years by the members of the party. The Majlis formulates all policy and programme, interprets the constitution and works as an advisory body in matters concerning execution of political action.

3. There is a Working Committee of twelve members appointed by the AmIr from among the members of the Majlis. Once a member ceases to be a member of the Majlis he looses his right to be on the Working Committee.

4. After every election of the Majlis a new Working Committee is formed to administer the party machinery.

5. A Secretary General is appointed by the President in consultation with the Majlis to head all the departments of the party to execute policy, and is in charge of the central executive offices in Lahore.

6. Some of the departments at the centres are:-

Department of Organization
Department of Finance
Department of Workers Training
Department of Social Service
Department of Labour Welfare
Department dealing with matters of Students and their organizations.
Department of Adult Education
Departments of Translation (Arabic, English and Bengali)
Theological Institutions Department
Press Information and Public Relations
Department of Parliamentary Affairs.

7. There are eight Committees to deal with each of the departments. The Committees are as follows:-

1. Economic Problems
2. Agrarian and Rural Problems
3. Political Problems
4. Educational Problems
5. International Affairs
6. Law and Legislation
7. Parliamentary Affairs
8. Labour Laws and Problems.

8. For the purpose of efficient administration the country has been divided into seventeen divisions. East Pakistan has four divisions and is under the Amīr of the East Pakistan Jamā'at having his Headquarters at Dacca. West Pakistan has thirteen administrative divisions. Each division has its Divisional Amīr and a Majlis elected by the members residing in that division. The election is conducted every two years.

9. Each Division is divided into districts which are normally the same as the Government administrative districts. Each district has its Majlis, Secretary and Amīr elected by its members for a period of one year.

10. There are two kinds of membership:

(a) Muttafiqīn (Those who agree or Associate Members)

Associate Members are those who declare that they Stand for the Islamic Order but are not under the discipline of the Jamā'at and it is not obligatory for them to support the Jamā'at financially or otherwise. They do not have the right to vote. Five Associates form a group or a circle; on 30th September 1963 there were 1562 circles in the whole of Pakistan.

(b) Ordinary Membership is open to all but one has to serve a period as associate member before one is granted full membership. He must satisfy the Jamā'at that he has fully grasped their aims and objects, methods of work, policy and programme of the party before he is granted full membership. He not only has to show that he is in full agreement with the Jamā'at but is living up to the requirements of Islām. His public as well as private life is scrutinized. This scrutiny is carried on even after he has been granted membership.

11. In September 1963 there were over forty registered offices of the Jamā'at in West Pakistan alone, and over twenty in East Pakistan.

12. Every Local Jamā'at hold generally two meetings every week. One is for the members only when they meet to discuss their work for the previous week and by mutual consultation plan the work for the following week. At the other meeting the sympathisors, the general public and the associate members are all allowed to participate. In these meetings lectures are delivered on matters of general, political and religious importance along with readings from the Qur'ān, the teachings of the Prophet and the literature of the Jamā'at-i-IslāmI.

13. In bigger cities the pattern is somewhat changed in the sense that there the cities are divided into zones each holding its own meetings but being responsible to the city headquarters.

14. The workers and members make personal contacts with general public to propagate their ideas; monthly average of these contacts was over 12,000 in 1963.

15. Average circulation on the Jamā'at's literature through libraries, sale and distribution by members is over 22,000 books a month. Up to 1967 over one and a half million books have been printed by the Jamā'at and the Islamic Publications, the publishers connected with the Jamā'at-i-Islāmī.

16. Maulānā Maudūdī's writings have been published in seventeen languages including Urdu, Arabic, English, French, Indonesian, Bengali, Punjabi, Sindhi, Pushto, Hindi, Malayalam, Guuerati, Tamil, Telgu, Marathi, Kanarese and Japanese.

17. Some figures regarding the Social work of the Jamā'at are given below:

1954-55. Jamā'at provided medical aid through its dispensaries to 1,577,890 persons. Amount spent Rs. 260,236.00 (Rs.16 = £1)

1955-56. Medical aid provided to 1,873,430 persons. Amount spent Rs. 303,325.00.

In 1958 there were 72 dispensaries and 7 mobile dispensaries providing free medical aid to people.

18. For each fiscal year the Secretary of Finance at the headquarters prepares the budget in consultation with the

Finance Committee. The Budget is finally approved by the Majlis. The procedure adopted in making the budget is that all the estimated expenses are listed and in order to meet these expenses the amount is spread over all the divisions in proportion to the number of members residing in that division. Each division pays this amount to the centre according to a fixed monthly quota. Similarly the divisional Jamā'at prepares its own budget keeping in view its requirements. The monthly quota required by the centre is added and in order to meet it further subdivided among the district branches and so on to the local Jamā'at.

19. In time of National calamities such as floods, epidemics, earthquakes etc. special funds are raised.

The four main sources of income are:

1. Contribution by members and Associates
2. Zakat and Ushr. The members and some of the sympathisors pay these religious taxes to the Jamā'at.
3. Publications and the income from them.
4. Money from the sale of hides offered to the Jamā'at at 'Id-al-Aḍha, from animals sacrificed. The Jamā'at sources say that this is spent on social work of one kind or another.

APPENDIX TWO

CONSTITUTIONAL PLAN BY THE 'ULAMA

A Convention of the 'Ulama of Pakistan met at Karachi on 21st to 24th January 1951 to formulate fundamental principles of Islamic Constitution.

In this convention both Shi'a and Sunni 'Ulama took part. The agreed principles were as follows:

"The constitution of an Islamic State should comprehend the following principles:

1. Ultimate sovereignty over the whole Nature and all law vests in Allah, the Lord of the universe, alone.

2. The law of the land shall be based on the Qur'an and the Sunna, and no law shall be enacted nor any adminis-

trative order issued, in contravention of the Qur'ān and the Sunna.

Explanatory Note:-

If there be any laws in force in the country which are in conflict with the Qur'ān or the Sunna, it would be necessary to lay down (in the constitution) that such laws shall be gradually, within a specified period, repealed or ammended in conformity with the Islamic Law.

3. The State shall be based not on geographical, racial liguistic or any other materialistic concepts, but on the principles and ideal of Islamic ideology..

4. It shall be incumbent on the state to uphold and establish the right (Ma'rūf) and to suppress and eradicate the wrong (Munkār) as presented in the Qur'ān and the Sunna, to take all necessary measures for the revival and advancements of the cultural pattern of Islam, and to make provision for the Islamic education in accordance with the requirements of the various recognised schools of Islamic thought.

5. It shall be incumbent upon the state to strengthen the bonds of unity and brotherhood among the Muslims of the world and to inhibit the growth of all prejudicial tendencies

based on distinctions of race or language or territory or any other materialistic consideration and to preserve and strengthen the unity of the Millat-i-Islāmiya.

6. It shall be the responsibility of the Government to guarantee the basic necessities of life, i.e. food, clothing, housing, medical relief and education of all citizens without distinction of race or religion, who might temporarily or permanently be incapable of earning their livelihood due to unemployment, sickness or other reasons.

Citizens' Rights.

7. The citizens shall be entitled to all the rights conferred upon them by the Islamic Law, i.e. they shall be assured, within the limits of the Law, of full security of life, property and honour, freedom of religion and belief, freedom of worship, freedom of person, freedom of expression, freedom of movement, freedom of association, freedom of occupation, equality of opportunity and the right to benefit from public services.

8. No citizen shall, at any time be deprived of these rights, except under the law; and none shall be awarded any

punishment on any charge without being given full opportunity of defence and without the decision of a court of law.

9. The recognised Muslim Schools of thought shall have within the limits of the law, complete religious freedom. They shall have the right to impart religious instructions to their adherents and the freedom to propagate their views. Matters coming under the purview of Personal Law shall be administered in accordance with their respective codes of jurisprudence (fiqh), and it will be desirable to make provisions for the administration of such matters by judges (Qadis) belonging to their respective schools of thought.

10. The non-Muslim citizens of the state shall have, within the limits of the law, complete freedom of religion and worship, mode of life, culture and religious education. They shall be entitled to have all their matters concerning Personal Law administered in accordance with their own religious code, usages and custom.

11. All obligations assumed by the State, within the limits of the Shari'a, towards the non-Muslim citizens shall be fully honoured. They shall be entitled equally with the

Muslim citizens to the rights of citizenship as enunciated in paragraph 7 above.

12. The Head of the State shall always be a male Muslim in whose piety, learning and soundness of judgement the people of their elected representative have confidence.

13. The responsibility of the administration of the State shall primarily rest in the Head of the State, although he may delegate any part of his powers to any individual or body.

Governance of the State.

14. The Head of the State shall not function in an autocratic but in a concultative (Shūrai) manner; i.e. he will discharge his duties in consultation with persons holding responsible positions in the government and with the elected representatives of the people.

15. The Head of the State shall have no right to suspend the Constitution wholly or partly or to run the administration without a Shūra.

16. The body empowered to elect the Head of the State shall also have the power to remove him by a majority of votes.

17. In respect of civic rights, the Head of the State shall be on the level of equality with other Muslims and shall not be above the Law.

18. All citizens, whether members of the Government, officials or private persons shall be subject to the same Laws and the jurisdiction of the same courts.

19. The judiciary shall be separate and independent of the executive, so that it may not be influenced by the executive in the charge of his duties.

20. The propagation and publicity of such views and ideologies as are calculated to undermine the basic principles and ideals on which the Islamic State rests, shall be prohibited

21. The various zones and regions of the country shall be considered administrative units of a single State. They shall not be racial, linguistic or tribal units but only administrative areas which may be given such powers under the supremacy of the centre as may be necessary for administrative convenience. They shall not have the right to secede.

22. No interpretation of the Constitution which is in conflict with the provisions of the Qur'ān or the Sunnn shall be valid.

Names of the 'Ulama who participated in the Convention.

1. Maulānā Sayyid Sulaimān NadvI (President of the Convention)

2. Maulānā Sayyid Abul A'la MaudūdI, AmIr Jamā'at-i-IslāmI Pakistan.

3. Maulānā MuftI Muḥammad Shafī', Member Board of Ta'lImāt-i-Islāmiya, Constituent Assembly of Pakistan.

4. Maulānā MuftI Ja'far Hussain, Member Board of Ta'limāt-i-Islāmiya.

5. Professor Abdul Khāliq, Member Board of Ta'limāt-i-Islāmiya.

6. Maulānā Muḥammad Ẓafar Aḥmad Anṣārī, Secretary, Board Ta'lImāt-i-Islāmiya.

7. Maulānā Shams-ul-Haq Afghānī, Minister Religious Affairs Qalāt State.

8. Maulānā Iḥtishām-ul-Ḥaq, Muhtamim Dār-ul-'UlUm-i-IslUmiya, Tandu Allah Yar, Sind.

9. Maulānā Badr-i-'Alam, Head of HadIth Department, DUr-ul-'Ulum-i-Islāmiya.

10. Maulānā Muḥammad YUsaf BinnorI, Shaikh-al-Tafseer Dār-ul-'Ulum-i-Islāmiya.

11. Maulānā Muḥammad 'Abdul HamId QādarI BadāyUnI, President Jami'at-ul-'Ulama-i-Pakistan.

12. Maulānā Muḥammad Idrīs, Shaikh-al-Jami'a, Jami'a Abbāsiya Bahawalpur.

13. Maulānā Khair Muḥammad, Muḥtamim, Madrassa Khair-u-Madāris, Multan.

14. Maulānā Muftī Muḥammad Ḥasan, Muḥtamim, Madrassa Aṣhrafia Lahore.

15. PIr Ṣāḥib Muḥammad Amīn-al-Hasanī, PIr of Manki Sharif.

16. Hājī Khādim-al-Islām Muḥammad Amīn, Khalīfa Hājī Tarang, Za'i, Peshawar District.

17. Qādī Abdu Samad Sarbāzī, Qādi Qalāt State.

18. Maulānā Athar 'Alī, Sadr 'Amil, Jami'at-ul-'Ulama-i-Islām, East Pakistan.

19. Maulānā Abu Ja'far Muḥammad Ṣāliḥ, Amīr Jami'at Hasbullah, East Pakistan.

20. Maulānā Rāghib Aḥsan, Vice President, Jami'at-ul-'Ulamā-i-Islām, East Pakistan.

21. Maulānā Muḥammad Ḥabīb-ur-Raḥmān, Vice President Jami'at-ul-Madarrisīn, Sarsīna Sharīf, East Pakistan.

22. Maulānā Muḥammad 'Alī Jallundharī, Majlis-i-Aḥrār-i-Islām, Pakistan.

23. Maulānā Sayyid Muḥammad Dāūd Ghaznavī, President Jami'at-i-Ahl-i-Hadīth, West Pakistan.

24. Maulānā Muftī Ḥafiẓ Kifāyat Ḥusain, Mujtahid, Idar-i-'Alia Tahaffus-i-Ḥaqūq-i-Shi'a-e-Pakistan.

25. Maulānā Muhammad Isma'īl, Nāzim, Jamī'at Ahl-i-Ḥadīth, West Pakistan.

26. Maulānā Ḥabīb Ullah Jamī'a Dinīya, Dār-ul-Hudā, Terhi, Khairpur Mirs.

27. Maulānā Aḥmad 'Alī, Amīr, Anjuman-i-Khuddām-al-Din, Lahore.

28. Maulānā Muḥammad Sādiq, Muhtamim, Madrassa-i-Mazhar-al-'Ulūm, Khaddah, Karachi.

29. Maulānā Shams-ul-Haq Farīdpurī, Sadr Muhtamim Madrassa Ashraf-al-'Ulūm, Dacca.

30. Maulānā Muftī Ṣāhibdād, Sind Madrassa al-Islām, Karachi.

31. Pīr Ṣāhib Muḥammad Ḥāshim Mujaddadī, Tando Saeendad, Sind.

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To achieve widest possible publicity Maulānā Maudūdī's works have been printed by his publishers repeatedly under different titles. A speech given by him might first appear in the Jamāat's official organ Turjamān-ul-Qur'ān, then in the form of a pamphlet and ultimately as a chapter in a book. If it is translated into English then there is a further possibility of it appearing both as a separate pamphlet in a book. This does not make the task of a bibliographer easy, therefore to avoid repetition, his writings have been set out in a chronological order. The articles which appear in the Islamic Law and Constitution have not been mentioned otherwise.

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