THE POLITICAL THOUGHT OF ABUL A'LA MAUDUDI AND THE LIMITS OF THE SECULAR

by

Jaan Islam

B.A. (Honours), Dalhousie University, 2018

A THESIS SUBMITTED IN PARTIAL FULFILLMENT OF

THE REQUIREMENTS FOR THE DEGREE OF

MASTER OF ARTS

in

THE FACULTY OF GRADUATE AND POSTDOCTORAL STUDIES

(Political Science)

THE UNIVERSITY OF BRITISH COLUMBIA

(Vancouver)

October 2019

The following individuals certify that they have read, and recommend to the Faculty of Graduate and Postdoctoral Studies for acceptance, a thesis entitled:

The Political Thought of Abul A'la Maududi and the Limits of the Secular

submitted by   Jaan Islam   in partial fulfillment of the requirements for

the degree of   Master of Arts

in   Political Science

Examining Committee:

Mark Warren

Supervisor

Arjun Chowdhury

Examiner

Abstract

This thesis is an analysis of the political thought of Abul A'la Maududi (d. 1979), a theologian

and political theorist who formed one of the strongest movements of Islamist thought in the 20th

century. Facing the dilemma of the modern nation-state vis-à-vis its centralizing and

homogenizing tendencies in the post-colonial Muslim context, Maududi offered a solution to the

problems concerning the inability of many of these countries to build a national vision, often the

same problems experienced in so-called secular nation-states (i.e., white Europe and North

America). It is argued that Maududi recognized the inability of any coherent group of people to

create such a national vision. In his view, this is compounded by – and in many ways the impetus

for – ideological conflict in Muslim countries resulting from an inability to realize the Divine

Will. That is, for Maududi, this was a theological issue as much as it was a quest for peace and

coherence in the nascent nation-state of Pakistan in which he was writing. It is argued that despite

the problematic areas, Maududi's theory provides an alternative solution by proposing an

alternative to the nation-state by realizing the Divine Will through the cultivation of moral selves

– which to date has remained a mere wistful longing of many post-modern theorists.

Lay Summary

This thesis looks into the political ideas of Abul A'la Maududi, a 20th century Pakistani theologian and philosopher. Maududi, a strong believer in the implementation of Divine Law derived from the Qur'an, was one of the first thinkers to oppression endured under "secular" nation-state. By "secular", what is referred to is the attempt to universalize law by creating a national vision. This vision imposed on both Muslims and non-Muslims in the Muslim world by both banning calls to implement Divine Law, and by forcing non-Muslims into second-hand citizen status. Maududi suggested that moving away from the concept of the 'national vision', into a realization of the Divine Will, would lead to the removal of oppression by creating multiple spheres of discussion. These spheres would remove claims to national objectivity hidden under the special interests and personal biases of legislators.

Preface

This thesis is the original, unpublished, and independent work written by the author, Jaan Islam.

Table of Contents

Acknowledgements

I would like to thank my family for their constant emotional and intellectual support during the writing of my thesis over the past year. I also express my deep gratitude to my thesis supervisor, Mark Warren, who reviewed multiple versions of my thesis and made it possible for me to attend the doctoral program of my choice. He, along with Arjun Chowdhury, guided me through the chaos of academia to discover my true passion, which I will be taking to pursue my doctoral studies, helping me every step of the way.

Dedication

I would like to dedicate this thesis to my favourite scholar, former Jamaat member, and most importantly, my father, Muhammad Rafiqul Islam.

Introduction

Syed Abul A'la Maududi (1903-1979) was a famous Pakistani journalist, theologian and leader of the political party known as the Jamaat Islami – a controversial intellectual force in early Pakistani history.[1] Writing and reaching the height of his activism in the 1930s and 40s, Maududi thoroughly studied the identity of Muslims living under British Colonial rule as well as the future of the global Muslim population, which had deteriorated by Maududi's lifetime due to a number of fundamental political changes. Perhaps the most important of these changes was the demise of the Ottoman Empire in 1923, which once served as a symbol of unity among Muslims around the globe, sending the political component of Muslim identity into ideological disarray.

In light of these political events, many had taken it upon themselves to redefine what it meant to be Muslim in the era of the modern nation-state. While the conflict during the period of decolonization of the Muslim world is often portrayed to be one of ideological battle – perhaps

---

[1] Maududi was born into a privileged reformist family in Aurangabad, British India in 1903. Raised as a multi-lingual modernist, Maududi pursued a career in writing after graduating as a traditional Islamic 'scholar' of the Deobandi school of law, being very well-acquainted with the traditional Islamic curriculum. Maududi this traditionalist influence slowly started to influence his thinking, especially after he served as editor of two conservative journals, *Al-Jamiah* (the newsletter of the 'Council of Indian Muslim Theologians') and *Tarjuman Al-Quran* ('Meaning of the Qur'an'), where he started his religio-political activism. After breaking with the Congress Party as well as opposing the Muslim League, Maududi founded the Jamaat Islami in 1941 after gaining supporters during his tenure as manager of a trust (*waqf*) owned by supporters of the Muslim League. After the creation of Pakistan, Maududi's party held a number of controversial positions, one of which almost had him executed for sedition in 1954. Maududi continued writing into his later years but retired from political activism, instead focusing on religious education, upon which he wrote a number of works, including his magnum opus, *Tafhimul Quran*, a six-volume exegesis on the Qur'an. Maududi won the King Faisal Prize for Service to Islam in 1979. See: Seyyed Vali Reza Nasr, *Mawdudi and the making of Islamic revivalism* (Oxford University Press on Demand, 1996), 12-40; Omar Khalidi, "Maulānā Mawdūdī and Hyderabad," *Islamic Studies* 41, no. 1 (2002): 35-68. On the global Deobandi Sunni Muslim movement, see: Brannon Ingram, *Revival from below: The deoband movement and global Islam* (University of California Press, 2018), esp. ch. 1-2.

between the East and West, modern and regressive, rational and traditional – no single one of these distinctions can possibly account for the vast variation between normative sociopolitical ideals in the 20th century.[2] One of the main concerns behind finding this buried normative ideal – whatever it may be – is a fundamental *political* problem that to date has been unforeseen in the history of Islamic political thought: the rise of the modern nation-state. The nation-state, with all of its coercive capabilities, modern technology, and a standardization of the concept of a productive citizen through years of government training, was brand new to Islamic thought.[3] This predicament presented itself as a dilemma to Islamic identity because of the various ways in which it paves the road to conflict between normative ideals starting from the Muslim community and manifesting itself in the government, and a government-imposed ideology – both of which have their potential positive aspects as well as drawbacks.

To date, unfortunately, very little research has been undertaken to study the relationship between Islamic identity and the implementation of law in contemporary, Muslim-majority countries, although there are a number of notable exceptions.[4] These few theorists in both the East and West who did manage study in great detail the various political and psychological factors, identified a number of problems. Maududi was one of these thinkers, and pointed out

---

[2] Both traditional and reform movements calling for new ideological and political solutions to the problems experienced under colonial and post-colonial government in both the Arab World and the Subcontinent. Perhaps one of the strongest movements which remains in force until today is the Muslim Brotherhood, founded by Hassan al-Banna in 1928 in response to a number of political factors, including providing an Islamic alternative to British rule (which controlled Egyptian political affairs even after 1922), and reconstituting a pan-Islamic vision after the fall of the Ottoman Empire in 1923.

[3] Hallaq argues that the Islamic approach to education, throughout Islamic history, "was significantly independent of executive will, the latter having no control over either its substance or its religious-moral constitution. Which is to say, still briefly though emphatically, that the capabilities of political power to produce subjectivities that would *recognize themselves* in that power did not exist." In: Wael Hallaq, *The Impossible State: Islam, Politics, and Modernity's Moral Predicament* (Columbia University Press, 2014), 111.

[4] These thinkers will be discussed in detail in the following sections.

many of these problems concerning the struggle between the identity of the Muslim community and the nation-state. The main one is the formation of a national identity and consequential homogenization of religious minorities, and even Muslims themselves, by the basis of their solidarity with the nation-state – the ideology that undergirds statism. This statist ideology is fundamentally anti-Islamic, Maududi argues, because of its borrowing of institutions respective colonial masters; not necessarily for that reason, but because these institutions fundamentally oppose government conducive to the Divine Law. For Maududi, this is exemplified in the untethered implementation of a mix of former colonial and majoritarian principles which together oppress both Muslims and non-Muslim minorities through this 'thick patriotism' – the former for denying Muslims true (i.e., divine) justice; and the latter by forcing them into the discourses of the state and making them subject to its attempts at ideological homogenization, which of course is implemented for the survival of the state itself.

This conflict between majority and minority, and its origins in the oppression of the nation-state, which cover the 'dealing with difference' part of the chapter title, thus stands at the center of the debate. Maududi asks the question of whether or not it is possible to introduce government that both looks after the needs of Muslims and non-Muslim minorities. Furthermore, it is fundamentally important to understand that Maududi's solution was as much a realization of metaphysical truth as it was a practical resolution to the problem of Muslim nation-states, and relied upon the moral upstanding of every member of the Muslim *ummah* – or nation – as opposed to the forces of the nation-state.

This thesis examines in detail Maududi's religio-political response to the phenomenon of the nation-state, arguing that he proposes a unique solution to the various structural dilemmas faced by citizens and governments of Muslim-majority countries. For Maududi, although this state attempts to correct the existential dilemma of the Muslim population, there needs to be a

reconsideration of the potential political implications of such a solution, including the possibility of further oppression and bloodshed resulting from the inability to accurately solve the predicament of the *ummah*. As such, this thesis also engages with a number of critical political theorists who have studied and critiqued the nation-state, arguing that both Muslim- and non-Muslim-majority states systematically exclude and homogenize minority populations under the guise of neutrality and public order, both Muslim and non-Muslim identities are reinvented by the legal system.

In the thesis, I identify the problem in detail, and discuss Maududi's solutions and potential repercussions. First, I examine how concepts such as the 'public order' and the interpretation of legal rights by the judiciaries of modern states fundamentally deprive minorities of political inclusion even when those minority rights are recognized by the state. While this applies to many Muslim minorities in Europe, it is also used as an example of how majoritarian values suppress non-Muslim minorities in Muslim-majority nation-states. I will then show how this conception of the state is systematically rejected by Maududi, who I maintain has sustained one of the few but effective critiques against the notion of modern nation-state. Finally, I will argue that Maududi's political thought as manifest in the form of a hypothetical "Islamic government" forces us to adopt alternatives to the nation-state in Muslim countries. This of course requires an exploration into Maududi's idealized Islamic state and both potential positive and negative repercussions of this ideal political community.

Chapter 1: 'Dealing with Difference' Under the Secular Nation State

1.1. Introduction

In conceptualizing the modern nation-state, there are a number of its attributes, both physical and conceptual, which need to be identified before their relationships can be analyzed. It entails a very brief differentiation between a number of connected concepts: state power, or the exercise of coercive power over a defined territory; the continued establishment of order through legislating and interpretation of the law; majoritarian ideals; and liberal rights, which despite limited application, define the identity of modern nation-states. While it is important not to confuse these different concepts, it is necessary to identify the ways in which they often correspond to each-other. The concept of 'the secular' allows us to understand the interplay between these independent concepts.

The first and main problem, which allow us to examine the various other components of the nation-state (including the population), is the concept of the secular. Distinguished from various secularist ideologies (e.g., French laïcité) or the act of 'secularization', the notion of the secular was expounded by a number of thinkers, perhaps most importantly Talal Asad. The best way to understanding the secular, for Talal Asad and others, is by understanding it not as a neutral zone wherein one has managed to rid the public sphere of religion – but rather a space for legislation and interpretation that is itself a necessary consequence of modernity, filled with a combination of religious traditions that "preceded" modernity and those that critique it, which together form the basis for all the discourses which underlie secularism itself.[5] In other words, there is there never complete freedom from previous religious traditions. Rather, what matters is

---

[5] Talal Asad, *Formations of the Secular* (Stanford University Press, 2003), 25.

how these ideas balance each other in the form of sensibilities that define the very essence of the nation-state. The purpose of the nation-state, being a necessary consequence of modernity, thus, is to negotiate between the different discourses within the secular – and the ability to establish this through the power of the state, whether it be the will of the majority in the parliament, or sensibilities of another legislator or interpreter of the law who is given the right to define the secular, precisely for the purpose of maintaining control over the population.

This is to say that the different concepts stated in the first paragraph are interconnected by necessity in the modern nation-state – or at least those under question in this thesis (Muslim-majority countries). The survival of the state itself is its highest goal, pursued by all branches of government regardless of the existence of a separation of powers.[6] The specific way in which the legislative and judicial branches of the state overlap with each other and work to reproduce the state doctrine in the law and among citizens will be examined in detail below.

Building on the notion of 'the secular,' it is necessary to conceptualize the state's laws as reproducing the definitions of acceptable and unacceptable, and thus what is considered temporal and acceptable in the public sphere, and what is parochial, non-religious, and is not conducive with the common good. Of course, this distinction or justification is made in countries with

---

[6] In an informative legal study, Elizabeth Magill discusses a number of issues that undergird the supposed understanding that power is neatly organized into executive, judicial, and legislative power with their respective branches. While this may be assumed, there are many overlooked assumptions especially behind the limits of the judicial branch, that despite assumptions, all bodies inadvertently define and shape each-others' powers in such a way that the judicial power is able to informally legislate by determining the scope of the application of law. See: Elizabeth Magill, "Beyond powers and branches in separation of powers law," *University of Pennsylvania Law Review* 150 (2001): esp., 611. See also: Daryl J. Levinson and Richard H. Pildes, "Separation of parties, not powers," *Harvard Law Review* (2006): 2311-2386, esp. 2348-2368; Hans Kelsen, General theory of law and state (Routledge, 2017), 281-282 on separation of powers; Gary Lawson, "The rise and rise of the administrative state," *Harvard Law Review* 107, no. 6 (1994): 1231-1254, esp. 1246-1249. Hallaq comments on these sources as well: Hallaq, The Impossible State, 98-100.

constitutionally entrenched human rights and the relevant bodies to guarantee them. This is true regardless of whether or not we view them genuine applications of liberal human rights, for the reason that balancing minority human rights with the collective good, for instance, is a task of all judiciaries regardless of its specific historical origin. That being said, the specific historical origin and particular values that embody the state and its population play a role in both legislation and interpretation of the law, while our sensibilities may determine them either as reasonable (e.g., banning *sharī'ah* family arbitration in courts) or unreasonable (e.g., France's ban on the face veil, or Switzerland's banning of minarets). It is precisely this interplay between the legislature, the courts, the state ideology, and their ability to *determine* the place of religion in the public sphere, that is the concern of Maududi and at the core of his critique of the nation-state. This will all be detailed in due course.

1.2.   Connecting the Dots: The Malaise of the Nation-State, 1800-1990

The question of how to incorporate minorities into the centralizing, homogenizing, nation state is not new in western political thought, finding its roots in John Locke's *Letter on Toleration*. One development of ideological importance is various thinkers' answers during the formation and theorization of the nation-state during the 1800s, where the 'Jewish Question' was a concern of several political theorists. One of these thinkers was Bruno Bauer, who emphasized the need for a secularization – that is, as in 'absence of religion' – in the nation state, especially concerning that which affected the public domain, which he theorized would remove the need for a Jewish political consciousness that long opposed the state because of its

Christian foundations.[7] This conception of minorities was not uncommon and in fact existed throughout the liberal world. A helpful example is Canada, where religious and linguistic difference was viewed as a threat to the health of the liberal society itself, and thus required forced assimilation of the French Catholic minority to instill the spirit of cooperation among members of society (as proposed by Lord Durham in his infamous *Report on the Affairs of British North America*).[8] In that spirit, it was Karl Marx who critiqued his contemporary Bauer on the basis that reducing the public display of religion does not cleanse civil society of religious practice, but rather that true public order of a society can only be achieved when religion in its entirety is removed from society – which he believed was a necessary outcome of eliminating the material imbalances perpetuated by the religious institutions.[9]

While the problem of the nation-state has been expounded upon by various critical theorists especially in the field of radical and post-modern critique (discussed below), the problem of homogenization and the problematic reality of difference between the 'minority and majority' who form "the people" in any nation-state remains a topic of concern among neo-Kantian political theorists, the first among them to detail in specifics being Hannah Arendt (d. 1975). Arendt in numerous works studied and identified the factors that make up and contribute to the nation-state's centralizing and homogenizing tendencies, each with their own

---

[7] See: Saba Mahmood, *Religious difference in a secular age: A minority report* (Princeton University Press, 2015), 13-14; Karl Marx, "On the Jewish Question," in R Tucker (ed.), *The Marx-Engels Reader* (New York: Norton & Company).

[8] John Lambton (Lord Durham), "Report on the Affairs of British North America," in Craig, G. M., Ajzenstat, J., and Laforest, G., *Lord Durham's Report: Text Abridged by Gerald M. Craig* (Kingston, ON: McGill-Queen's University Press, 2006).

[9] Marx, "On the Jewish Question" : "This secular opposition, to which the Jewish question reduces itself—the relation between the political state and its presuppositions, whether the latter are material elements such as private property, etc., or spiritual elements such as culture or religion, the conflict between the general interest and private interest, the schism between the political state and civil society—these profane contradictions, Bauer leaves intact, while he directs his polemic against their religious expression," 33.

history that happened to converge in the mid-20th century. In the *Origins of Totalitarianism*, Arendt identifies the focal point of the role of the nation-state in guaranteeing human rights. One of the causes, as well as effects of the minority-majority reality that existed from the ancient Greek city-states is their "insist[ence] on ethnic homogeneity," resulting from their "hope to eliminate as far as possible those natural and always present differences and differentiations which by themselves arouse dumb hatred, mistrust, and discrimination."[10] These of course are shaped by the worldviews, "sciences, monotheisms, nationalisms...[which] shape societies of individuals who are essentially all the same."[11] Debarbieux identifies Arendt's diagnosis of the nation-state as starting in the creation of the nation and notion of citizenship and collective belonging under a national will and association with territory as drivers of these relations.[12] In the post-colonial Muslim context, it is evident that many of these factors are absent or are changed in a way that alters the identity of citizens and attitude of the government to minorities – let alone to the question of implementing divine will – all of such questions which will be addressed in the next chapter, where I argue that despite these differences, it is possible to classify Pakistan (and many Muslim countries) as nation-states and have succumbed to the dilemma of incorporating minorities, and the dichotomy between faith and secular power.

---

[10] Hannah Arendt, *The origins of totalitarianism* (Boston, M.A.: Houghton Mifflin Harcourt, 1973), 301.

[11] Bernard Debarbieux, "Hannah Arendt's spatial thinking: an introduction," *Territory, Politics, Governance* 5, no. 4 (2017): 261.

[12] Ibid, 261-3. There are many causes and ideological bends that exasperate and allow for toleration between members of different (imagined) societies, many of which apply only in the European context, including association with territory ('soil' of 'blood and soil'), imperialism and racism, all of which developed over a period of colonial history and inter-nation conflict specific to Arendt's own study of totalitarianism.

In any case, in the current political context, it is important to note that the different conceptions of addressing the problem of minorities within the nation-state[13] differ greatly in their acceptance of liberal tenets of governance in terms of permitting religious practice in the public sphere. Hence, today we have countries such as France whose legislators (supposedly representing the public sentiment) feel impelled to regulate the display of religion in the public sphere in order to maintain the public order, while others have shifted towards a model of accepting difference under a 'weaker' understanding of a social contract. Regardless of the level of toleration and the desire to avoid those very parochial principles like race, nation, and language as defining aspects of any healthy polity (liberal or not), there must nonetheless be fundamental principles that serve as the bedrock for societal organization (be it legislation, the public sphere, etc.). In the words of Charles Taylor concerning the Muslim backlash to Salman Rushdie affair in the late 1980s:

> "In these circumstances, there is something awkward about replying simply, 'This is how we do things here.' This simply must be made in cases like the Rushdie controversy, where 'how we do things' covers issues such as the right to life and to freedom of speech. The awkwardness arises from the fact that there are substantial numbers of people who are citizens and also belong to the culture that calls into question our philosophical boundaries. The challenge is to deal with their sense of marginalization without compromising our basic political principles."[14]

---

[13] This ranges from modern scholars of liberalism like Charles Taylor and Will Kymlicka to Carl Schmitt at the other extreme (and Rawls and Habermas somewhere in between), and is far too deep a subject to address in this thesis.

[14] Charles Taylor, "The Politics of Recognition" in A. Gutmann (Ed.), *Multiculturalism* (Princeton: Princeton University Press, 1994), 63.

That any given political society *must* have certain values it requires its constituents to hold – and must necessarily apply equally to all citizens within its borders – is a fundamental problem for the nation-state because it not only needs to rely upon them remaining in agreement with those principles (beyond parochial characteristics of the society outside their control), but the establishment of the social contract itself includes those who did not freely consent to its creation, thus paving the way for strained majority-minority relations in the modern nation-state. This is a fundamentally important point to understand for the argument of this thesis, and has been perpetuated and extended in both European and post-colonial, Muslim-majority nation-states. Of course, I do not intend in this section to provide a critique of the nation-state or the various attempts to salvage the majority-minority rift, but rather to point out the existence of this problem to begin with. I will now show how this is a problem which specifically concerns the judicial branch of the state and its ability to interpret rights in a way that legislates using the justification of public order. That there is a necessary reflection of majoritarian values – even if not reflected through actual tyranny of the majority (in a legislative body for example) – in the government, and that these values necessitate and maintain the dominance of the nation-state over its citizens is important to understand, and builds on the brief problematic defined in Section 1.1 – which is that the government, in both legislative and judicial branches, in effect act to reinforce each other through the reflection of a dominant state ideology. For this thesis, it is the way in which legislation and judicial decisions effect the practice and regulation of religion.[15]

---

[15] Building on the theory established in the above study, Hallaq quotes the Lord Chief Justice of England, "Needless to say, within the generally—and necessarily—conservative nature of the legal profession, judges routinely uphold the interests of the state, the highest end of all. There is no modern judiciary that operates outside of the state's legal or political parameters, sanctioning this loyalty upon itself as well as upon the citizen, whose 'highest duty is to the state.'" See: Hallaq, *The Impossible State*, 335, citing Ralph Miliband*, The State in Capitalist Society* (New York: Basic Books, 1969), 142.

Let us consider Mayanthi Fernando's study of a section of the Muslim minority population in France, whom she terms "Muslim French".[16] The study examines the lives of Muslim men and women struggling with practicing fundamental aspects of their religion in the face of an unaccepting and intolerant majoritarian culture. She documents many examples of women, for example, who struggle on a daily basis to convince those around them that their right to religious practice in the form of wearing a headscarf—which is illegal in schools—is worth defending. Beyond the struggle of cultural intolerance at the popular level, however, is the fact that the state's courts permit themselves to decide what genuine religious practice *is*. In the words of Fernando on the banning of headscarves:

> "The ban was therefore envisioned not as a restriction on veiled women's conscience, but rather as a limitation on their right to manifest that conscience. Although Muslim girls and other religious students would no longer be able to express their beliefs in certain ways as a result of the law, proponents of the ban argued that they would nonetheless remain free to believe whatever they wanted to believe, exercising their right to conscience … Significantly, then, proponents of the law did not contend that religious liberties must sometimes be curtailed in the name of public order; rather, they did not see the ban on headscarves and other religious signs as an attack on religious liberty at all."[17]

In the case of women wearing the headscarf, it is precisely the Christian understanding of religious practice – i.e., as being confined to the doors of the private sphere – that provided the

---

[16] Mayanthi L. Fernando, *The republic unsettled: Muslim French and the contradictions of secularism* (Duke University Press, 2014).

[17] Ibid, 165.

impetus for such laws.[18] This form of exclusion is made possible specifically as a result of the courts' authority to determine that the headscarf itself did not constitute a part of Islam as a religion, and thus did not impede on the universal freedom to practice one's religion.

The second way in which this is possible is noted by Saba Mahmood and Hussein Agrama in their separate studies of the Egyptian judicial system;[19] the concept of public order, or the fact that the state is able to curtail individual liberties for the purpose of maintaining public order, is used in the regulation of all religious practitioners, ranging from Muslims to Christians and Bahais. Mahmood, for example, argued that the Egyptian Supreme Court's decision in 2006 to permit remarriage to divorced Coptic Christians, ensuring equality with the Muslim population, also undermined the legal authority of the Coptic Church over religious matters which affect its own community – something also historically endorsed by the state. The state is required to decide between, on the one hand, the state's guaranteed 'universal' equality and freedom of association (including marriage), and the state's recognition of the Coptic Church's state-given authority (since 1938) to refuse remarriage of members of the Coptic Christian community in Egypt.[20]

Agrama went so far as to see the matter of minorities and judicial exceptions to the rule as applied to the majority a case of the state's exercise of "sovereign exception", borrowing the concept from Giorgio Agamben. That is, the problem is not that people do not have state-

---

[18] Fernando argues that this doctrine of laïcité, which is informed by post-French Revolution thought behind the role of religion in society, also comes from the European Protestant understanding that religious practice is confined to the home and private religious associations, and does not concern itself with governance, as is the case in Christianity. Fernando, *The Republic Unsettled*, 165.

[19] Saba Mahmood, *Religious difference in a secular age: A minority report* (Princeton University Press, 2015), 15-20; Hussein Ali Agrama, *Questioning secularism: Islam, sovereignty, and the rule of law in modern Egypt* (University of Chicago Press, 2012), 42-52.

[20] Mahmood, *Religious Difference in a Secular Age*, 123-129.

guaranteed human rights, but that the state apparatus, functioning as a regulator and enforcer of majoritarian values, uses the judicial power of the state to assert its sovereignty through the interpretation of law. In the process, when it comes to ways of life like Islam that do not conform to the majority's sensibilities, because it is "unlike Christianity, it must be made analogous; it must be translated and transformed into a bona fide religion so that it can be recognized and included."[21] The same is true for minorities in Muslim countries, including the Ahmadi community in Pakistan discussed in the next chapter.

---

[21] Fernando, *The republic unsettled*, 133.

Chapter 2: The Legal System in Muslim-Majority States

2.1. Analysis of Muslim-Majority States in the Post-Colonial Context

I hope to have identified the problem of the majority-minority tension as a problem of the nation-state. I will now direct this paper towards understanding how this system of legislation and legal interpretation was carried over to Muslim-majority states in the 20th century.

One of the main qualities of the modern nation-state is its claim of equality under the law, which is perhaps best demonstrated in a state's claim of defending religious freedom through *secular* governance – implying a lack of religious principles enforced in the public sphere, and thus an ability to enforce universal and neutral law equally among all citizens. This claim is contested by a number of theorists who have pointed out the impossibility of 'secular' governance as implying neutrality. In discussing the relations between religion and public, governmental institutions in the state, Talal Asad[22] notes how the concept of a separation between the two "didn't even exist prior to the nineteenth century," and argues that "'the secular' should not be thought of as the space which real human life gradually emancipates itself from the controlling power of 'religion' and thus achieves the latter's relocation"[23] because the advancement of religion in the public sphere itself is a product of a premodern secular environment. As such, using secularism as a 'replacement' to religion at best replaces the false hopes and unworldliness of religion with a new conception of an 'imagined community' and national history, otherwise known as nationalism,[24] which I would suggest entails the

---

[22] Talal Asad, "Secularism, Nation-State, Religion," in *Formations of the Secular: Christianity, Islam, Modernity* (Stanford: Stanford University Press, 2003), 181-204.
[23] Ibid, 191.
[24] Ibid, 191-194.

incorporation particularistic or parochial conceptions based on religion, race, gender, and so on. Wael Hallaq, who I will engage with in the Chapter 3 and 4 of the thesis, summarizes the contention as such: "The Enlightenment theory of progress shapes not only history, but also, as we intimated, the very structures of modern language, a language that in turn not only reflects the weltanschauung [worldview] of the domination of nature and man but also constitutes and conveys domination itself."[25] If, however, secularism is not the removal of religion in the public sphere (especially in law-making), what is it? This is key to understanding the plight of minority populations in Muslim states which for the longest time have been curtailed by the state's mechanisms for legislating and interpreting law.

Let us consider a number of such states; say, Egypt, Turkey, and Sudan. Many political commentators would have it that these countries have failed to fully include religious minorities due to their 'lack of democratization' and the perhaps the reinvigoration of Islam in the public sphere. Thus, the concern is *not* a result of those states' secular laws and institutions – which are deemed neutral and universal, but of fundamentalists or Islamists who have hijacked these secular institutions to oppress minorities. This line of thinking is perhaps best demonstrated by Bassam Tibi regarding the rise of the Justice and Development Party in Turkey, which he claims that Turkey is in fact under Islamist autocratic rule posing under the guise of democracy by participating and using Turkey's secular institutions.[26]

Yet, once one examines the substance of these vague references to secularism and neutrality, it becomes possible to observe that but these 'secular' institutions of the nation-state do not really uphold and perpetuate universal values devoid of particularistic judgements, but

---

[25] Wael Hallaq, *The impossible state: Islam, politics, and modernity's moral predicament* (Columbia University Press, 2012), 17.
[26] Baran, "Turkey Divided"; Tibi, "Islamism and Democracy".

rather, that any modern state institution – whether through the legislation or interpretation of law – must necessarily apply certain concepts such as freedoms, rights, and distribution, through the lens of the mainstream narrative perpetuated in that given nation-state.

Turkey is a case in point. In her study of laïcité in Turkey, Esra Özyürek argues that the Turkish treatment and silent discrimination against the Christian Turkish minority serves as an example highlighting the historical crisis of secularism in Turkey. She writes, after Quoting Asad and Mahmood, that "[t]he Turkish model came out of a particular history of continuous attempts to centralize the state authority of a crumbling multicultural, multifaith empire where faith groups enjoyed certain independence" because its model of secularism "aims to centralize and regulate the religious beliefs and practices of citizens."[27]

Within other Muslim countries, both Hussein Agrama's and Sabah Mahmood's[28] assessments of the role of the Egyptian government in tolerating difference show an uncanny similarity with the way it is managed by the state. For example, Agrama's analysis looks at the case of Abū Zayd, a professor of Theology in the University of Cairo, whose co-workers had his marriage formally dissolved – against his and his wife's wills – due to his supposedly having apostatized from Islam.[29] The co-workers argued in family court – which applies 'religious' law

---

[27] Esra Özyürek, "Christian and Turkish: Secularist Fears of a Converted Nation," in B. Turam (ed.), *Secular State and Religious Society: Two Forces in Play in Turkey* (Berlin: Springer, 2012), 99. On the way that Islam is shaped and used by the state in the present day, as a representation of majoritarian values, to reaffirm and establish its legitimacy in Turkey, İştar Gözaydın's study of the religious ministry in Turkey shows: "devlet Diyanet İşleri Bakanlığı eliyle Türkiye'deki Müslümanlara kendi kurgusu doğrultusunda gibi bir Müslümanlığı benimsetmek bir işlevi yüklenmektedir" ("The Muslim community of Turkey, using the Ministry of Religious Affairs, is enabled to manufacture a specific type of "Muslimness" based on their own conception [of Islam]" [My translation]), and therefore uses the state to condition other Muslims to adhere to the majority of the community: İştar Gözaydın, *Diyanet: Türkiye Cumhuriyeti'nde Dinin Tanzimi* (Religiosity: The Reform of Religion in the Republic of Turkey) (İletişim Yayınları, 2016), 294.
[28] Saba Mahmood, *Religious difference in a secular age*; *Agrama, Questioning Secularism*.
[29] Agrama, *Questioning Secularism*, 42-68.

according to the religion of that individual – that Abū Zayd could no longer stay married to his wife because he had apostatized from Islam; because Muslim women are not permitted to marry non-Muslim men. However, Agrama points out that it was the courts' decision to protect *public order*, *and not religious principles directly*, that allowed for the *secular* court to uphold its interpretation of *sharī'ah*. It was the secular nation-state's prerogative to protect public order that allowed for the Egyptian court to channel Islamic principles into interpretation of the law. This is the same principle, simply made explicit, that allowed France to determine that the headscarf was not a form of religious expression precisely because it was a threat to the public order: "the protection of public order is the basis for the active principle of secularism, because the public order exhibits an irresolvable tension between formal legal equality and majority sensibility, and because, as an expression of state sovereign power, it has become connected to the concept and practice of national security, through which exceptions to the law are increasingly enacted."[30] The other thing to consider in these cases is that this is permissible precisely because the courts are permitted to decide what falls within the definition of protection religious freedoms. The European Court of Human Rights, which heard the Turkish, and a French and Swiss case, employed the principle that this Muslim form of religious expression cannot be accepted due to its opposition with principles including religious harmony and the maintenance of a 'democratic society.'[31] French proponents of the law further needed to argue – which they did successfully –

---

[30] Ibid, 223. This is the same point made by Saba Mahmood, who examined several cases of the manifestation of the 'secular' made by the Egyptian justice system against Coptic and other religious minorities. The question of displaying crosses in public schools in Italy, and of Jehovah's Witnesses preaching in public in Greece – both of which were upheld by the European Court of Human Rights – are more examples of this same phenomenon of the courts defining the religious from the non-religious, often in Christian terms (i.e., based on a division of *forum internum* and *forum externum*). See: Mahmood, *Religious Difference in a Secular Age*, 165-168.
[31] The European Court of Human Rights in the Swiss case, Dahlab v. Switzerland, ruled that it "appears difficult to reconcile the wearing of an Islamic headscarf with the message of tolerance,

that this was not an infringement on freedom of conscience but of expression, because they could supposedly "wear the headscarf 'on the inside,'" thus downplaying the importance of the headscarf to Muslim women's conscience and belief.[32]

It is perhaps Wael Hallaq who most effectively shows that the religion-based parochialism of these modern Muslim states is not because of any of its inherent Islamic features, but out of the state's need to assert its sovereignty for its own sake. In his examination of the distribution of powers and responsibilities of governance amongst the legislative, executive, and judiciary powers of secular government, Hallaq argues that "the [Muslim] Community itself neither possesses sovereignty nor does it have—in the sense the modern state has—an autonomous political or legal will"[33] and draws from several political theorists to make his point, although it lies outside the scope of this paper.

The reason why I brought up all of these different conceptions of secularism, modernity, Islam and the nation-state is to pave the road to analyzing Maududi's political thought. So far, through a sort of dialectical method, I have attempted to establish the following point: that the current political institutions of Muslim countries—borrowing from their former colonial masters—create states that essentially *use* or *include* historical Islamic majoritarian principles in order to uphold state sovereignty through a combination of popular sovereignty and judicial power. This may be done through the 'othering' of minorities, defining the borders of the religiously acceptable, as Fernando and Agrama have argued, or educating people as obedient

---

respect for others, and above all, equality and non-discrimination that all teachers in a democratic society must convey to their pupils" (Ms. Dahlab was a school teacher) in: Ibid, 169.
[32] Fernando, The Republic Unsettled, 165.
[33] Hallaq, *The Impossible State*, 49.

citizens to uphold the majoritarian values of the state, as acknowledged by Hallaq, Fernando, and

to a certain extent, Noah Salomon in a similar study of Sudan.[34]

2.2.   Pakistan and Maududi

It is now necessary to consider the nascent, post-colonial state of Pakistan that Maududi

was writing in and proposing constitutional amendments to – and its fitting with the model of the

nation-state along with its associated problems. While it is not possible to give a summary of the

its creation and will thus not venture into the subject, I hope to establish a number of principles

before comparing it to the previous states.

Firstly, Pakistan, or "The Dominion of Pakistan" became came into being as a Dominion

of the United Kingdom as a result of the independence of India in 1947. The first Interim Draft

Constitution of Pakistan was written by Constituent Assembly of Pakistan, led by Muhammad

Ali Jinnah in that year took the form of a constitutional monarchy whereby the democratically

elected Constituent Assembly could draft legislation with the consent of the Governor General,

---

[34] Salomon tells us that the Sudanese state uses its tools of governance to develop a state-population relationship that legitimizes the former (even if not existing independent from the latter): "the placement of a knowledge reform project within a bureaucratic structure that citizens came into contact with on an everyday basis, and "the ability to work through the various units of civil society . . . [to] generat[e] the greatest sum of social and cultural consent" (Hallaq 2013: 35) were adopted as opportunities to produce the kind of epistemological enlightenment that only state power could conjure" in Noah Salmon, *For the Love of the Prophet: An Ethnography of Sudan's Islamic State* (Princeton University Press, 2016), 106. On 147-151, we see Salomon use the example of the Al-Kawthar pop-religious radio station as an example of "the regime seem[ing] to recognize the individual in all her capacities, rational and emotive. Its attempt to train the latter toward a higher set of passions is in line with the work of the aesthetic science since its inauguration." While there is a push-back effect and indeed a dialogue between the state and public, the fact remains that it is the secular, colonial-legacy institutions of the modern nation-state used as a framework to negotiate problems like identity, religion, and minority populations.

who was also endowed with many executive powers.[35] This was changed in the later 1956 constitution drafted by the Constituent Assembly, and while drafted Pakistan as a "democratic State", also was based upon "Islamic principles of social justice", requiring both adherence to "principles of democracy, freedom, equality, tolerance and social justice as enunciated by Islam".[36]

Secondly, a number of historical facts during the formation and establishment of the Dominion, and later Republic of Pakistan concern the research question. Firstly, as noted by Newberg, the inability to form the constitution in the forming years all the way to the current day has been fueled by an "absence of consensus or even partial agreement about the terms of dispute," and "is partly attributable to the confusions about responsibility and accountability written into the beginnings of the state,"[37] including questions about its Islamic identity, the level to which the *sharī'ah* (i.e., some interpretation of it) would be followed, and the treatment of minority, non-Muslim populations. Newberg documents different hiatuses and conflicts which at times culminated in coup d'états, or the banning of political parties.

An ideal example in this regard, and one that connects it to cases of religious freedom and public order, is the banning of the Jamaat-e-Islami party in 1964 after the permission for the formation of political parties was made in 1962, most likely made in reaction to its religious criticism of the then-leader's "distorting Islamic teachings," "general secular orientation," and

---

[35] This was cause for conflict between the legislative and executive assemblies until the drafting and passing of the 1956 constitution. Paula R. Newberg, *Judging the state: courts and constitutional politics in Pakistan* (Cambridge University Press, 2002), 36-39.
[36] Khurram Ali Shafique, "Preamble of the Constitution of 1956", accessed July 30, 2019, http://pakistanspace.tripod.com/archives/56_00.htm.
[37] Newberg, *Judging the State*, 20. See also: Omar Khalidi, "Maulānā Mawdūdī and Hyderabad," *Islamic Studies* 41, no. 1 (2002): 46-47.

"deliberate disregard of Islamic norms and way of life."[38]   When taken to the Supreme Court,

although the ban was overturned, the government argued that the curbing of Muslim

fundamentalism was necessary to preserve the public order. It is hard to miss, once again, the

resolving of the conflict between secular power of the nation-state and private interests (e.g.,

religious worldview).

Conversely, one can consider the case of Maududi's arrest and trial for sedition in 1954

after writing the provocative "The Qadiani Question", an article on the Islamic treatment of the

religious Ahmadiyyah minority in Pakistan.[39] In the words of Vali Reza Nasr, the issue of the

status of the Ahmadiyyah community "placed Islam squarely at the center of the constitutional

debates regarding the nature of the Pakistani state,"[40] and was later recognized in the 1974

constitutional amendment. This exchange, often depicted as a fight between minority freedom

and religious fundamentalism and zealotry, has been discussed in a number of studies, is also

analyzed by a number of studies which situate the problem as one of Pakistan's national identity.

Sadia Saeed in two separate studies analyzed the history of Pakistan's state formation. Saeed

argued that in the face of sentiment against the Ahmadi population prior to independence and the

1974 constitutional amendment, the state was in a constant tug-and-war between suppressing the

anti-Ahmadi movement and granting them full rights, including serving in public office, to

rescinding those freedoms and going so far as to declaring using "Islamic symbols and

nomenclature in describing their religion or places of worship, making it a crime punishable by

---

[38] Mumtaz Ahmad, "Islamic Fundamentalism in South Asia: The Jamaat-i-Islami and the Tablighi Jamaat" in *Fundamentalisms Observed*, ed. Martin E. Marty and R. Scott Appleby (Chicago: University of Chicago Press, 1994), 474.

[39] In 1954, Madudi was arrested for inciting sedition and threatening the public order after publishing the pamphlet "The Qadiani Question", where Maududi religiously commented on and justified the existing popular Muslim demand to classify Ahmadis as a non-Muslim minority population.

[40] Vali Reza Nasr, *Mawdudi and the making of Islamic revivalism*, 43.

death, imprisonment, and/or heavy fines."[41] This "criminalization", as Saeed describes, of the

Ahmadi community was once again done in the name of maintaining the public order.[42] This

entire issue was and still is a matter of the judiciary's legal interpretation on behalf of the state

and its need to enforce its sovereignty through interpretation of the term "Muslim citizen," which

once was previously understood to take a territorial meaning, and then changed into a matter of

faith whereby those within a single territory could be differentiated and discriminated against due

to holding different beliefs.[43]

It was not religion per se, but rather the state's need to enforce the public order, as well as

interpret the law under the majoritarian values – i.e., the values of the state – that led to those

court decisions, which led first to the near-execution of the Jamaat leader for sedition and

violating the public order, and then directly the opposite: Maududi's exoneration and the

subsequent exclusion of the Ahmadi community from the definition of 'Muslim citizen'. Similar

to the case of Egypt, the categorization of Muslim and non-citizen itself is a product not of

religious fundamentalism or zealotry necessarily, but the state's need create those definitions to

establish secular order in the first place.

Finally, similar to the Turkish case discussed in the previous chapter, we can identify in

Pakistan's case the state's own need to establish homogeneity and national unity that exasperated

the rhetoric and action against the Ahmadi community. Saeed argues on the basis that the

language against the Ahmadi community, among Muslim right-wing and secular organizations

---

[41] Sadia Saeed, "Pakistani nationalism and the state marginalisation of the Ahmadiyya community in Pakistan," *Studies in ethnicity and nationalism* 7, no. 3 (2007): 140.

[42] Ibid., 141. One example of this disruption of public order is documented in opposing testimonies concerning the May 29th fight that broke out between Muslim and Ahmadi students. The Sunni Muslim testimony claimed the fight was provoked by the Ahmadi side's chanting of "blasphemous slogans" (p. 143), while according to the Ahmadi testimony, it was the opposite.

[43] Ibid.

alike, portrayed the existence of the Ahmadi community not as just religiously unacceptable, but as a "threat to the moral community of the nation". Thus, viewing it as a religious problem in need of secularization glosses over the fact that "so-called secular discourses may be intimately informed by religious motivations while religious texts always go through interpretation and human agency."[44] Of course, this raises the implications of forced implementation through using state power in Maududi's political thought, which will be addressed in the following chapter.

This takes us to the research question – which is, to what extent does Maududi's idealized Islamic state merely perpetuate the regurgitation of a modern nation-state's particularistic majoritarian values and not contribute to a permanent solution? I will argue that Maududi's response to secularism and the nation-state does not resemble that of existing Muslim states but rather proposes an entirely different paradigmatic conception of world order which has the potential—in his view—of solving the very problems identified by scholars like Agrama.

---

[44] Ibid, 146.

Chapter 3: Maududi's Response to the Nation-State During the Creation of Pakistan

3.1   Secular Versus Divine Authority

In trying best to stay on topic with the question at hand — to what extent Maududi's idealized Islamic state perpetuates a nation-state's particularistic majoritarian values through secular institutions — I hope to present various aspects of Maududi's political thought to address specific criticisms of the authors mentioned above. Firstly, I will look at Maududi's own solution to the problem of secularism in the nation-state, and juxtapose his ideal political vision to existing critiques of the nation-state, mainly in reference to Wael Hallaq's critique of the notion of an Islamic state. This requires an investigation into Maududi's position on sovereignty and the separation of powers, especially concerning the role of the state in asserting its own sovereignty in the interpretation of law. The second point I will analyze is a topic that has been subject to many scholars' contentions with states that enforce their secular power to regulate the rights of conscience and expression: the treatment of minorities. I will draw from a number of sources, but mainly a collection of essays and lectures manifested in the compiled book, *Islamic Law and Constitution*, which has been translated from Urdu to English.[45]

Hallaq's major contention with the possibility of an Islamic nation-state, as described above, is reducible into a number of central arguments, all of which contribute to the main objection that the modern nation-state enforces its own legalistic morality by separating concerns

---

[45] Abul A'la Maududi, *Islamic Law and Constitution* (Lahore: Islamic Publications Ltd., 1960). The manuscript was compiled and translated by Khurshid Ahmad (1932-), Maududi's long-time supporter, scholar, and later Pakistani Senator. Maududi wrote the preface of the 1960 (the 2nd edition) of the translation and personally approved the translation.

about the absolute 'good', or the moral (Islam, a bottom-up system of governance) and the authority of the state to educate, enforce, coerce, and legislate out of its own prerogative, deriving its source of legitimacy from the legal principle of sovereignty that ensures the state's absolute legal right of governance over a particular territory.[46]

Maududi takes Hallaq up on the challenge to propose a nation-state that offers a fundamentally novel understanding of sovereignty; the condition being that any state that asserts its sovereignty in matters of the legislation and interpretation of the law necessarily opposes the Islamic principle of government which stipulates that its purpose is the cultivation of first and foremost, moral governance, and as such, must be the starting place of authority.[47] Maududi identifies the source of sovereignty, and thus the basis of all the laws that follow, as being Divine in origin:

> Islam admits of no sovereignty except that of God and, consequently, does not recognize any Law-giver other than Him … Along with it, He is invested with complete 'legal sovereignty', in the sense in which the term is understood in Jurisprudence and Political Science. This aspect of the legal sovereignty of God is as much and as clearly emphasized by the Qur'an as the one pertaining to His being the only deity to be

---

[46] The concept of sovereignty is not central to the argument of this paper. As such, I suffice at providing a strictly legal definition of the sovereignty. The implications of there existing a monopoly over coercive power will be discussed under the section "Faith and Power".

[47] Hallaq leaves the question of whether it is possible to establish a state that really adheres to *Shari'ah* law (the way he described it) in the 21st century open, but pessimistically: "If the modern state, as so many analysts tell us, must itself compete with and readjust under the pressure of globalization, an Islamic governance would suffer multiple and incremental challenges that will quite likely cause its decline and, as likely, total collapse" in: Hallaq, *The Impossible State*, 162.

worshipped … It is this submission to the revealed law and surrender of one's freedom to it that has been assigned the name of Islam (surrender) by the Qur'an.[48]

The confirmation of Prophecy and the command to obey God through the example of the Prophet Muhammad, which Hallaq is incredibly staunch to emphasize[49] is also fulfilled:

"[T] the teachings of all the early messengers of Allah have been incorporated, with numerous important additions and alterations, in the teachings of Muhammad … Hence these teachings constitute the only source of Divine guidance and law, as no further revealed guidance is to come to which it may be necessary for mankind to turn. It [constitutes] the SUPREME LAW which represents the Will of God, the real Sovereign."[50]

The result of this is that the Islamic state, for Maududi, must not only recognize divine sovereignty—and this is what differentiates it from the Egyptian constitution, for example, which uses *shari'ah* as a function of secular power[51]—but also apply those literal rulings in the fullest sense of the meaning. On that note, this is the reason why, when it comes to matters decided by

---

[48] Abul 'Ala Maududi, "Legislation and Ijtihad in Islam," in *Islamic Law and Constitution* (Lahore: Islamic Publications, 1960), 75.

[49] Hallaq stresses the important of prophecy as a source of legislation, "The "Message," the latent signified in Muhammad the signifier, constitutes the connection, the method of creating the epistemic link between the known and the unknown" in: Hallaq, *The Impossible State*, 119.

[50] Maududi, "Legislation and Ijtihad in Islam," 76. Maududi connects this to the establishment of a political system: "The Qur'an gives a very clear verdict in this matter by stating that Muhammad (peace be upon him) was not merely a messenger but a divinely appointed leader, ruler, and teacher as well, rendering obedience to whom is obligatory on the Muslims and whose life had been put forward by God as an ideal to be followed by the faithful." In: Ibid, 84.

[51] Agrama's description of the rendering of Islamic law into a product of secular power invested in the majoritarian values of the state (and not of religion) is summarized in many places throughout the book, such in the following: "Importantly, the three features I have so far highlighted—the active principle of secularism, the centrality of a public/private distinction, and the reliance on independent judicial authority—are all brought together and embodied in this legal concept of the "public order." It is therefore a crucial basis of secular power and decision. However, it also embodies a number of peculiar contradictions that render it deeply indeterminate" in Agrama, *Questioning Secularism*, 73.

God Himself, there can be no negotiation over the law: "[It] is apt to think that these fundamental facts leave no room for human legislation in an Islamic State, because therein all legislative functions vest in God and the only function left for the Muslims lies in their observance of God-made law vouchsafed to them from the agency of the Prophet"— this is not the case for matters that have not been legislated explicitly in the Qur'an or *Sunnah* (Prophetic tradition).[52]

The question then becomes how these laws will be implemented, and also, what laws are implemented when the Divine Law is silent on the issue. The answer is in Maududi's understanding of the separation of powers and understanding of executive authority, which is also a response to Hallaq's concern with the state having a lack of a separation of powers, which may in turn lead to legislation from the top-down.[53]

In reality, there are a few contradictory answers that Maududi gives. In his theoretical work as opposed to his constitutional proposal-oriented writings in post-partition Pakistan,[54] he seems to imply that there are no legal principles separating the legislative branch (the Caliph, or head of state, in concert with the permanent advisory council, or *Ahl al-ḥall wa al-'aqd*, 'people of loosening and tightening') and executive power (the Caliph and his appointed assistants), which would clearly be problematic and plays into the notion of a fusion of those powers into a self-enforcing, non-necessarily-Islamic power structure. However, throughout his lectures and

---

[52] Abul 'Ala Maududi, "Legislation and Ijtihad in Islam," 77.
[53] This conception of the relationship between ruling powers and the Muslim populations is anachronistic as noted above. However, it does possess some currency at least in terms of the Muslim community that Maududi used as a role model for Islamic governance (which Hallaq does not take explicitly): in the period of 'rightly-guided caliphs' (632-661), in Maududi's view, it was the responsibility of every Muslim to question and deliberate matters of the state to ensure the correct Islamic position was being implemented. There are reasons to believe that this was not always the case, but it is the paradigm Maududi operates in and refers to in the *Sunnah* and early historical records.
[54] Abul A'la Maududi, "First Principles of the Islamic State," in *Islamic Law and Constitution* (Lahore: Islamic Publications Ltd., 1960), 244.

especially in his later writings we find that he lists explicit safeguards on the Caliph's authority by being bound by the judiciary.[55] Nonetheless, what makes Maududi's conception both very modern, and also very Islamic, by Hallaq's standard,[56] is his position on popular sovereignty. While Maududi tells us that the Islamic state is the very "antithesis" of western democracy because it rejects popular sovereignty and legislation on the changing ideological predispositions and whims of the population,[57] the entire Muslim population of the Islamic state serves as an indispensable and absolutely crucial aspect of creating and maintaining divine sovereignty.

Besides Maududi's acceptance of legislative institutions to represent the interests of the people at large—which are likewise expected to be proficient in Islamic law to uphold divine sovereignty—even the individual person can contribute to and challenge the legitimacy of the state in a given law. Firstly, what is significant on a theological level is that Maududi permits non-scholars of Islam, so long as they be Muslim, to propose solutions to new problems based on the Qur'an and *Sunnah*, Islam's authoritative scriptural sources, using their own independent

---

[55] Abul A'la Maududi, "First Principles of the Islamic State," 244-5: "But if it cannot be so [following the early caliphate model of government], then the only satisfactory course would be to give the Judiciary the powers to declare null and void the ultra vires of the constitution all laws and legislations enacted in contravention with the Qur'an and the *Sunnah*."

[56] Amongst the critiques of Hallaq's *Impossible State*, is that it paints a very simplistic and even romantic view of Islamic law that does not necessarily have any bearing on the socio-political manifestation of Islamic law over history. According to one reviewer, "Although Hallaq spent all his academic life in rebutting the Orientalist paradigm that argued that the sharia was frozen through the closure of the gates of ijtihad, in The Impossible State he does not shy away from depicting a picture of frozen paradigmatic Islamic governance based on the sharia." In: Said Salih Kaymakci, "Book Review: Wael Hallaq's "The Impossible State" by Said Salih Kaymakci," *The Maydan* (December 18, 2016).

[57] Abul A'la Maududi, "Political Theory of Islam," in *Islamic Law and Constitution* (Lahore: Islamic Publications Ltd., 1960): 134-137. It is worth noting that Maududi portrays those ideologies informed by the majoritarian values of the state as resembling 'religions' and 'gods' that the people obey. This is not far from the conceptions of state doctrine offered by Talal Asad when he said, "I am arguing that 'the secular' should not be thought of as the space which real human life gradually emancipates itself from the controlling power of "religion" and thus achieves the latter's relocation" because they are in a way, inescapable: Asad, "Secularism, Religion, Nation-State," 191.

legal reasoning (*ijtihād*) and makes its acceptance a product of it being accepted by the majority of the Islamic state. It is thus the pure convincing power of the more legally acceptable argument,[58] not individual qualifications, legal restrictions, or obedience to the state powers that defines what laws *should* be decreed.

What is even more significant is Maududi's understanding of the role of the population in legislation and the balance of powers. In discussing the check on both the executive and judicial (indeed, the entire system) of governance, Maududi takes a hardline democratic stance:

> "[t]he theocracy built up by Islam is not rules by any particular religious class but by the whole Muslim community including the rank and file. The entire Muslim population runs the state in accordance with the Book of God and the practice of his Prophet … that is to say divine democratic government, because under it citizens have been given a limited popular sovereignty under the suzerainty of God. The executive … is constituted by the general will of the Muslims who also have the right to depose it."[59]

This is a very significant addition that needs to be understood. It is not only the citizenry that comes to elect and pledge allegiance to the caliph[60]—the executive authority in Hallaq's conception—but the population whose job it is to ensure that the government is operating responsibly. Maududi takes Hallaq's argument as to what Islamic governance 'should be' to a completely new level: Islam is democracy par excellence.[61] The clear separation of powers and

---

[58] Abul A'la Maududi, "Fundamentals of Islamic Constitution," in *Islamic Law and Constitution* (Lahore: Islamic Publications Ltd., 1960): 280. Maududi goes so far as to pre-empt scholars of deliberative democracy (e.g., Jürgen Habermas) by proposing rules of deliberation in the public (Islamic) sphere: "The consultation should be free, impartial, and genuine. Any consultation held under duress or temptation is in reality no consultation at all".

[59] Abul A'la Maududi, "Political Theory of Islam," 147-148.

[60] Ibid, 153, 157.

[61] It is worth noting here that this political realism imbued in understanding of the 'Islamic state' is not necessarily new in the sense that caliphal authority is established and maintained through the presence of popular allegiance (in the beginning) and continued support. This has been the

emphasis on the bottom-up approach to governance under an Islamic framework answers Hallaq's challenge to develop a model of power balance in an Islamic state, and at the same time answers the objections of those recent scholars of secularism: Maududi's political institutions are fundamentally different from western secular institutions in two ways: (a) the entirety of the political state and its institutions are justified in the light of the Qur'an and the prophetic tradition, it was rather the west that attempted to emulate the perfect Islamic system; and (b) even if the names of government bodies/functions are retained (e.g., 'legislative'), the powers of those executive bodies, through the changing of sovereignty of the state to the sovereignty of God, enacted through popular divine sovereignty, prevents the state from legislating for its own sake both conceptually and with legal restrictions that prevent it.[62]

It is worth pointing out that the difference between Maududi's state and those existing Muslim-majority nations discussed above, is that Maududi's absolutist understanding of Islamic law delegitimizes any government that uses secular liberal institutions to claim legitimacy or exercise its sovereign power. This is in contrast to post-colonial Muslim-majority states, including Pakistan, that often use the legitimization of religious authority but at the same time are

---

subject of theoretical discussion in medieval Islamic political thought concerning the establishment of the early Islamic community, including Salafist role model Ibn Taymiyyah (14th) – the point being that Maududi's understanding of the state and its need for popular support (which springs from religious obligation) is not far from theoreization about how the early Islamic state under the prophet Muhammad himself was run. See: Ovamir Anjum, *Politics, Law, and Community in Islamic Thought: The Taymiyyan Moment* (Cambridge University Press, 2012), ch. 5-6.

[62] No state is permitted to legislate that which God has already given a decision: "The above-mentioned injunctions in the Qur'an and the *Sunnah* definitely point out that in an Islamic State the legislature has no right make laws, the executive has no right to issue orders and the law courts have no right to decide cases in contravention of the teachings of the Qur'an and the *Sunnah*" in: Maududi, "Fundamentals of Islamic Constitution," 284-285.

founded on the very institutions that prevent the development of a bottom-up Islamic conception of self-governance.[63]

3.2.   Dealing with Difference in the Islamic State

In the second chapter, nearly all of the scholars I have referred to have expressed the significance of minorities in secular nation-states. Minority rights and the negotiation that takes place within this secular space often becomes controversial when it comes to treating minority populations, who differ from the majoritarian norm upon which the nation-state is founded.[64] Depending on the country and its independent history, we can see that the issues that concern the secular state differ; the tension between the majority and minority may be a matter of religious practice, political culture, heritage, race, or (most likely) a combination of them. This notion is perhaps best captured by Saba Mahmood as she writes in her Epilogue:

> "One of the greatest paradoxes of political secularism is that by making the state the
>
> arbiter of religious equality, it colonizes and often undercuts this socially embedded
>
> aspiration. Secularism, in other words, reduces religious equality to the politics of rights

---

[63] Salomon re-clarified his position on this very issue through a letter via personal communication (November 27, 2018), "we need to be attentive to that and recognize that "Islam" cannot be placed into new political forms unproblematically, as Hallaq argues. Whether or not they are done so to the point of breakage, or are sacrificed as you put it, is, in my mind, a theological question and I leave such questions to theologians. What I can say as a social scientist, however, is that Sudanese Islamist thinkers (like many other Islamist thinkers) did not think so and sincerely tried to think through a state based on their reading of the Islamic sources. In doing so, they produced something other than merely a modern state, indistinguishable from western versions thereof…" Maududi's state differs from Sudan because it applies those absolute Islamic principles directly without subjecting itself to the problems of state sovereignty through the use of secular institutions as an intermediate.

[64] Agrama, Fernando, and Mahmood all eluded to the state's dealing with minority issues as examples of the secular state's inevitable need to ascribe to majoritarian values of the state and the conflict that ensues as a result. This is summarized perhaps the best by Aamir Mufti: "The crisis of secularism (must) be examined from the point of view, and at the site, of minority existence." In: Özyürek, "Christian and Turkish," 95.

and recognition, strengthening the prerogative of the state to intervene in and reorder

religious life"[65]

Maududi, being an avid supporter of *sharī'ah* and its literal implementation,[66] suggests the

implementation of the '*dhimmī*' system of governance. While there is not enough space to discuss

the concept in detail, it would suffice to say that the system—as defined by Maududi—essentially

strips minority populations from citizenship in the sense that they cannot participate in legislation

of Islamic law.[67] However, the reason for this is that they do not adhere to or uphold those

majoritarian values (Islam) and thus cannot possibly have the same political aims, which

Maududi frames almost in the way one needs to accept certain conditions in democratic societies

to enter the 'social contract'.[68] While this is the case, full protection of religious belief and

practice (including outward practice in non-Muslim regions), freedom to utilize one's religion's

personal-status law *not subject to regulation of the Islamic state*, protection of secularity, and

protection from exploitation through taxes, is to be granted—this provides such a level of

autonomy that is almost represents a state within another.[69]

How is this to be interpreted in light of the well-rehearsed critique of the secular state?

Does Maududi's *dhimmī* system compromise the promise of equality, or make the state the "final

---

[65] Mahmood, *Religious Difference in a Secular Age,* 211-212.
[66] Jaan Islam, "Abul A'la Maududi, Innovator or Reformer?" *International Journal of Political Theory* 3 (forthcoming).
[67] Maududi, "First Principles of the Islamic State," 266-267.
[68] See: Abul A'la Maududi, "Islamic Law," in Islamic Law and Constitution (Lahore: Islamic Publications Ltd., 1960): 69-70: "A question may be asked as to what would be the position of those Muslims who might not agree with the majority. They are entitled to demand the enforcement of their own Code in their personal matters and this demand of theirs must be accepted. But, of course, the "Law of the Land" shall be the one which has the sanction of the majority."
[69] Abul A'la Maududi, "Rights of Non-Muslims in Islamic State," in *Islamic Law and Constitution* (Lahore: Islamic Publications Ltd., 1960): 304-312. Here, Maududi gives a longer exposition of various rights, details, and textual (Qur'an and *Sunnah*) evidence.

arbiter" of religious practice? Maududi hopes to provide a satisfactory answer in a 1948 essay on the difference between secular and Islamic governance concerning minorities. In fact, it shows that he was cognizant of the various problems concerning the treatment of minorities in nation-states. Maududi starts by explaining the concept of freedom of conscience and religion, and notes that while the Islamic social contract discriminates on the basis of religion, and does so explicitly to rule out confusion and the application of majoritarian (Islamic) laws to those with differing ways of life; the secular state by contrast,

> "classifies its citizens into groups of people in accordance with their belonging or not belonging to the nation or race which has established the state in question…they are not deemed trusted with or deemed capable of shouldering this responsibility [legislation]. This position may not be explicitly declared or even admitted … [and] can and in practice does follow the hypocritical policy of equating all its citizens on paper and still actually retaining the unfair discrimination between the majority and minority. A national state, on the other hand [unlike Islamic governance], generally adopts one or more of the following courses for the solution of this minority problem: (*i*) to gradually destroy the separate entity of the minority community ; (*ii*) to exterminate it physically by means of genocide ; or (*iii*) to allow them to exist as untouchables."

While Maududi's understanding of the ideal form of governance could not be further from the theorists cited in the first section, there is an uncanny similarity between their critiques of the modern nation-state and Maududi's own. We can see, for example, in France that while it rejects discrimination against Muslims on the basis of freedom of religion, Fernando argues that laws banning praying in public or women from wearing the headscarf are manifestations of inherent

majoritarian biases of the conceptualization of religion and freedom of religious practice itself.[70]

According to Saba Mahmood, this is done more explicitly in countries like Egypt. For example,

with the creation of various courts for citizens of different religions, or debate over whether or

not Christians should be given mandatory seats in parliament—these are essentially debates and

problems that result from the state's needing to resolve minority-majority interests, which it does

by asserting its sovereignty by defining the boundaries of concepts like genuine religion and

public order.[71] These are both examples of secular states resorting to their own secular power to

solve these legal and social problems, in the name of public order. The state's need to define the

secular, Maududi argues, results in one of three outcomes or a combination, of which there are

many pertinent examples in western democracies: assimilation of the minority, genocide, or

'untouchable status,' i.e., the giving of certain rights subject to the opinion of the majority but

treated as outsiders, such as with Muslims in France or Coptic Christians in Egypt. While there is

no doubt a problem with Maududi's minority arrangement from a liberal perspective, Maududi's

argument is that this is in fact the only perspective that would object to his Islamic state. While

this is the case, it is important to note that it is merely an early attempt to point out and evade the

criticism that the state uses coercive power to limit difference under the guise of legal concepts

like public order.

---

[70] Fernando, *The Republic Unsettled*, 133. "To be included in the French Republic, Islam must take the proper form of religion, as Judaism had to do in a previous era. Because Islam is unlike Christianity, it must be made analogous; it must be translated and transformed into a bona fide religion so that it can be recognized and included."
[71] Saba Mahmood's study of the Egyptian courts' dealing with Christian religious figures' struggles with state councils like the Coptic Communal Council to change their personal status law—and the state's adjudication of that conflict—is a good example of a case of a secular state asserting its sovereignty for the protection of public order in places it otherwise does not have an interest in: Mahmood, *Religious Difference in a Secular Age*, 123-129.

Chapter 4: Maududi on Avoiding a Conflict between Faith, Power, and Economic Centralization

4.1.   Faith and Power

Amina Jamal, in her anthropological study on women in the Jamaat-e-Islami, argues that while the findings of the likes of Talal Asad building on the work of Foucault and others are important for understanding the connection between ideas and the state, such studies deemphasize the anti-democratic and potentially harmful nature of religious fundamentalism.[72] She argues that the approach, which tends to emphasize the "egalitarian" aspects of ideologies, "sustain[s] monopolistic claims to religious authenticity...[and] may also encourage the untenable idea that so-called secular or nonpious Muslims are somehow uncritical of the West's dominance and imposed projects of modernity."[73] Similar to the scholars in Chapter 2 – and as most critical anthropologists of Islam have noted – Jamal argues that it is not Islam per se but the sharing of Islam with western values that creates the multiplicity of conflicting Islamic traditions. This criticism is inseparable from the large body of work in Islamic studies that has attempted to portray Islamic legal scholarship as malleable to political and circumstantial differences. So, where does Maududi himself stand given these potentially fatal criticisms?

On a different note, perhaps the most crucial factor in testing the validity of Maududi's hypotheses (i.e., by his own standards) is the relationship between faith and power. That is to say, Maududi's shrewd observation of the problems of post-colonial Muslim nation-states does not absolve Maududi own state's suffering from the problems of secular power, especially

---

[72] Amina Jamal, *Jamaat-e-Islami Women in Pakistan: Vanguard of a New Modernity?* (Syracuse University Press, 2013), 216-8.
[73] Ibid, 217.

Chapter 4: Maududi on Avoiding a Conflict between Faith, Power, and Economic Centralization

4.1.   Faith and Power

Amina Jamal, in her anthropological study on women in the Jamaat-e-Islami, argues that while the findings of the likes of Talal Asad building on the work of Foucault and others are important for understanding the connection between ideas and the state, such studies deemphasize the anti-democratic and potentially harmful nature of religious fundamentalism.[72] She argues that the approach, which tends to emphasize the "egalitarian" aspects of ideologies, "sustain[s] monopolistic claims to religious authenticity...[and] may also encourage the untenable idea that so-called secular or nonpious Muslims are somehow uncritical of the West's dominance and imposed projects of modernity."[73] Similar to the scholars in Chapter 2 – and as most critical anthropologists of Islam have noted – Jamal argues that it is not Islam per se but the sharing of Islam with western values that creates the multiplicity of conflicting Islamic traditions. This criticism is inseparable from the large body of work in Islamic studies that has attempted to portray Islamic legal scholarship as malleable to political and circumstantial differences. So, where does Maududi himself stand given these potentially fatal criticisms?

On a different note, perhaps the most crucial factor in testing the validity of Maududi's hypotheses (i.e., by his own standards) is the relationship between faith and power. That is to say, Maududi's shrewd observation of the problems of post-colonial Muslim nation-states does not absolve Maududi own state's suffering from the problems of secular power, especially

---

[72] Amina Jamal, *Jamaat-e-Islami Women in Pakistan: Vanguard of a New Modernity?* (Syracuse University Press, 2013), 216-8.
[73] Ibid, 217.

concerning the relationship between faith – what is thought to be volatile and emanating from one's self similar to Arendt's understanding of power, as opposed to force – and power, or the coercion. Arendt, in *The Human Condition*, argues that the human agent's individuality and his ability express 'who' – as opposed to 'what' – s/he is, forms the basis for social change derived through power.[74] Therefore, 'power' in contrast to violence or even force, "exists only as a potential which is actualized when actors gather together for political action and public deliberation" unlike force and violence, which are means of coercion enforced on the people and despite being effective, do not generate genuine social change and thus cannot be considered politically sustainable.[75]

In terms of the first problematic, it is important to differentiate Maududi from the question addressed in typical post-colonial political thought – that is, the critique of the nation-state and generation of true stability though the realization of some national (or international) vision – or even further, cultivation of the authentic self and freedom from all power structures. As made clear in the previous chapter, Maududi's main point of concern as a Muslim theologian and jurist, is the question of the people ought to be governed – starting from the self and building its way up to the government. Maududi is not looking for the political solutions themselves per se, but rather positing, and convincing his fellow Muslim brothers that accepting Islam as a comprehensive way of life is firstly important to their salvation, and that this system, being a product of divine will, would solve the problems of governance from the lowest to highest level. This is an absolutely indispensably important distinction to make – similar to the distinction between power and violence. Maududi's concern, at least in his normative thought, is not with the problem of

---

[74] Hannah Arendt, *The Human Condition* (Chicago: University of Chicago Press, 1998 [1958]), 181.
[75] Ibid, 200.

gathering different 'Islamisms' or 'Islams' under a single banner, or opposing western imperialism – it is the searching for that genuine reality epitomized in the letter of the law itself.

In response to a 'gotcha' question concerning reinstituting the Islamic criminal punishments such as cutting of the hand of the thief, Maududi responded in two parts. The first emphasized the need to change the entire system of governance, both the substantive laws and the political governance of the country – that is, proposing the application of some punishments only makes sense in the context of an Islamic state: the punishment of the thief can only be instituted in a political environment where there is no political corruption, citizens pay the involuntary charity (*zakāh*), and the like – all things demanded by explicit texts of the Qur'an and Sunnah.[76]

The second conceptual division concerns the 'democratic' aspect of Maududi's Islamic state discussed in the previous chapter. He states that these laws do not make sense unless

> "people are God-fearing and seek His pleasure with devotion ; wherein the virtues of generosity, helping the poor, treating the sick, providing for the need prevail to the extent that even a small boy is made to realize that he is not a true Muslim if he allows his neighbour to sleep hungry while he has taken his meal...[unlike in capitalism] where the guiding motto is : 'Everybody for himself and devil takes to hindmost.'"[77]

The point here is that Maududi's mission for an Islamic state fundamentally and solely relies on the individual initiative of every Muslim, out of his or her inner self, not to enforce the divine law necessarily, but to apply it in every aspect of life, including in one's own spiritual realm. This is the way Maududi's normative political thought addresses the problem of power as opposed to force and violence – it is not possible to run an effective, let alone God-fearing government without first belief and education, and reciprocal allegiance and support of the Muslim

---

[76] Maududi, *Islamic Law and Constitution*, 53-54
[77] Ibid, 54.

community in the government to establish the divine law. Maududi would declare that taking the Divine as one's own divine, as opposed to untethered and unclear conflicting ideal moralities in western liberal democracies, is the only way to achieve unity and ensure the vitality of the state.

While this is true, there is on the other hand the case of the other side of the feedback loop – that it, from the government to the people.

The fundamental difference between the Islamic and liberal state is that minorities are still guaranteed full freedom to practice their rights, laws, and rules of legislation with their own social contracts; in the words of Maududi, "the best and most just solution of the unusual complications arising out of the existence of a foreign element in the body politic ... is offered by Islam alone [while] [o]thers have resolved this difficulty in one of the two ways: They either wiped out the minorities or have kept them under perpetual bondage as untouchables".[78] The problem with all the liberal theorists with such a solution as implicit in the first section has been that doing so would fundamentally hinder equality of people under the law, a fundamentally liberal concept. This was the reason why Lord Durham in his 1839 report advocated for the assimilation of the French into English society—it was a matter of equality under the law. This was supported in theory by a number of liberal Canadian political theorists and is still the subject of debate between them.[79] Regardless, Maududi's argument is that equality under the law, which is guaranteed to Muslim and non-Muslim citizens of the state, can still coexist with a social contract within another. I would argue that it is not much different from John Rawls' recognition, in *Laws of Peoples*, of the potential for the existence of different legal systems under a widely accepted contractual agreement. On that note, it is

---

[78] Ibid, 266.
[79] Janet Ajzenstat makes this argument in her book, *Political Thought of Lord Durham* (McGill-Queen's University Press), 1988.

worth considering whether the real reason liberal theorists have been averse to plurality in legal systems is really equality. As was the case with Lord Durham, equally important concerns for Durham in his desire to assimilate the French was his concern with the stability of the region— i.e., control over people—and his desire to 'enlighten' and 'mature' a 'backwards' and unfree population,[80] which is to say that this push towards absolute equality is not just harmful to those who live a way of life that disagrees with the liberal conception, but has historically been based on an inner bias towards ensuring the 'advancement' and 'enlightenment' in the people by force, which is precisely the ideology that justified colonialism for centuries. With concepts of progress and absolute equality being critiqued from across the entire field (in Canada: Charles Taylor and Will Kymlicka, in the Muslim world: Mahmood, Fernando, Salomon, Hallaq, Agrama, and others), maybe it is time to reconsider Maududi's solution to dealing with difference.

4.2.   The Limits of Faith and Power

For Maududi, there is one contextual clarification that must be made – that there is a pre-modern Islamic context that precedes the way we conceive of the limits to faith and power. The so-called 'Islamic' worldview is not Maududi's invention or rationalization of the role of religion in the public sphere, but rather an entire body of political thought native to the religious principles of Muslims in the subcontinent. Even without recognizing the direct influence in Maududi, it is possible to see this influence in the culture and shared values of a given society. Along these lines, one can refer to the political discourses and public opinion around different social issues. That Muslims in Pakistan, for example, consider the direct implementation of the

---

[80] See: Alan Cairns, *Charter versus federalism: The dilemmas of constitutional reform* (McGill Queen's Press-MQUP, 1992).

sharī'ah a divine obligation[81] must to a certain extend be accepted as the fundamental social reality that comes into considering solutions to problems of the nation-state. The dilemma, as Hallaq argues, is that these Muslims now find themselves living in the modern nation-state where traditional principles of self-cultivation and the supremacy of moral – as opposed to legal – authority forces them to direct their demands towards (and as a function of) the modern nation-state.

This pre-modern Islam – practiced for over a millennium – is fundamentally opposed to the various modes of subjection in the nation-state. This is true from even the most basic institutions, such as coercive powers, where the understandings of individual privacy and liberty were incredibly different from the way the nation-state harnesses coercive power in the form of constant invasion and control – though surveillance, intelligence, restricting mobility, education, and so on.[82] It is precisely this attitude which needs to be harnessed by Maududi in order to begin contemplating the actual political arrangements which would make this possible. More importantly, it is only when we understand that Maududi is truly rejecting the notion of the nation-state itself that we can start to make sense of the way power – that is, as Arendt defines it

---

[81] In a Pew Research Center survey of Muslims across the Muslim world, it was found that the vast majority of Muslims in general, specifically Muslims living in the subcontinent (82-99%) supported the implementation of *sharī'ah* in as the 'law of the land'. The majority also upheld their belief that there is only one interpretation of the *sharī'ah*. See: Pew Research Centre, *The World's Muslims: Religion, Politics and Society* (Washington, D.C.: Pew Research Center's Forum on Religion & Public Life, 2013), 41-56.

[82] Hallaq states "On the whole, and despite the inescapable cruelties of human life and its miseries (which obviously are not the preserve of premoderns only), Muslims, comparatively speaking, lived for over a millennium in a far more egalitarian and merciful system and, most importantly for us, under a rule of law that modernity cannot fairly blemish with critical detraction. Nor did Islamic governance know anything like the scale of surveillance generated by the modern state's police and prison systems. *These, so normalized and a matter of fact today, would have been horrifying to Muslims as specters of domination and cruelty*" (emphasis added). Hallaq, *The Impossible State*, 210.

– can serve as the basis of Maududi's ideal society: how charity can both be a result of moral cultivation and considered involuntary at the same time.

The potential downside of such a politically weak arrangement, as noted by both Hallaq and Arendt, is that it becomes susceptible to violence imposed on the community. Conversely, if on the other hand absolute power is relegated to the chief executive, who is then given the power to both formulate and implement the law using the full state capacity in the process, the entire notion of an 'Islamic' government is lost.

In conclusion, what should be clear by know is that Maududi's ideal government is paradigmatically different from the nation-state. While it is one of many potential alternatives, it is important to understand the ways each proposed solution impacts the stability of the community. Where redefining society as a restatement of genuine liberal rights needs both a reconstitution of society and government in themselves, and where accommodating for the nation-state and its subjugation of both true Islamic identity and non-Muslim minorities, it suffices to say that Maududi understood that the options were scarce.

4.3.   The Economic System

In continuing the theme of the malaise of the modern nation-state, it is relevant to bring up the question of Maududi's economic solutions and whether indeed they inevitably lead to an acceptance of the global capitalist world system. This is especially important once one highlights the international effects of the capitalist economy and irresistible pressure put on nation-states, both from an economic and technological perspective – to join the global division of labour – but

also of international political pressures, which Hallaq notes is likely to break any attempt to

recreate the pre-modern Islamic state in the present day.[83]

In *Islamic Law and Constitution*, Maududi affirms time after time that the Islamic

economy is different to both capitalism and Marxism, both of which were within the realm of

possibility in socialist 1960s Pakistan.[84] In terms of political organization, collective

responsibility is pit against a strong individualism in order to bring out both the need for social

welfare and individual initiative in the economy. Maududi suggests, as in the previous section,

that this can only be accomplished if initiative is taken on behalf of the individual. While

Maududi attempts to compel the reader by discussing the benefits of *zakāh* and inheritance tax

which prevents the unstoppable accumulation of wealth in capitalist societies. These measures

also include: the elimination of interest, individual undertaking of virtue including feeding the

poor and observation of the religious prohibition on hoarding, and shutting down of harmful

economic sectors.[85] Needless to say, it is not the propose of this short section to enumerate and

validate the economic possibility or effect on the nation-state. What is of concern, however, is

---

[83] Ibid, 141, 153. Most importantly, there has been significant research in the western international relations literature highlighting the effect of economic elites' interests' translation into aggressive foreign policies on behalf of powerful capitalist nation-states. I specifically point to neo-Gramscian theory which has gone to great lengths in both documenting political motivations but also up-to-date studies of the world economic system. See: Richard W. Cox, "Social forces, states and world orders: beyond international relations theory," *Millennium*, 10, no. 2 (1981): 126-155; M. Gilens and B. I. Page, "Testing theories of American politics: Elites, interest groups, and average citizens," *Perspectives on politics*, 12, no. 3 (2014): 564-581; David Harvey, *The new imperialism* (Oxford: Oxford University Press, 2005).
[84] Maududi, "Political Theory of Islam," 143.
[85] Abul A'la Maududi and Rias Husain (trans.), *The Economic System of Islam* (Lahore: Islamic Publications Ltd., 1984), 82-96 Economic System of Islam. "If you believe in God and His Apostle and if you are convinced that the Quran is the Book of God, then you will inevitably adhere to the same moral principles which Islam teaches and follow the same political rules which Islam enunciates. It is on the foundation of these principles that you will raise the edifice of social and economic life. The same faith which impels you to say prayers also binds you to conduct business according to its dictates," 98.

identifying the source of this economic system and who it benefits. For Maududi, similar to the previous section, while a portion of the laws are instituted by the government (e.g., private property, inheritance laws) and contravening it requires the aversion of agreed-upon laws, another portion strongly relies on the individual initiative and piety of those citizens. The point here is merely to identify that the economy is partially dependent on the inner desire of every Muslim to obey the law – that is, the religious as opposed to public law.

However, there are still many aspects, including economic game-changers, which the state does not intervene in. The chief among these which I would like to briefly summarize due to its relevance to the oppressive systems in the capitalist economy, is private property and Maududi's insistence on its legal validity – the age-old question of whether or not one should be unconditionally entitled to the fruits of his or her labour. Firstly, with regard to private property, he is clear to establish its necessity as a social reality and codification in the law. This is something established in the texts and also has immense economic benefit, representing an accumulation of one's own labour earnings.[86] However, in terms of the question of the relationship between labour and capital, Maududi attempts to address it by referring to the pre-modern Islamic legal texts based on the legal precedent of the prophet Muhammad himself. The solution in this case is not one-way, either in favour of the capitalist or the labourer to an extent where private property itself is annulled. In Islamic law, this term is known as "*mushārakah*," or "partnership" between the capitalist and labour provider. While Maududi does not set a definite limit, it is generally recognized in Islamic law that the labourer deserves more than half of the total profits against the provider of capital:[87]

---

[86] Ibid.

[87] While a complete reference is not possible, it is worth nothing that in *Ḥanbalī* law – that preferred by Salafist-inclined thinkers (although not Maududi's own school), it is generally accepted that the owner of the land, in the case of this type of agreement (and as a general

"Capital, too is an economic factor and so are human labour and managerial talent. Each of these factors justifies a share in the profits. Initially Islam leaves it to custom to determine the ratio of the distribution of profits between these factors so that if individuals are doing justice to one another according to usage, the law should not meddle in their affairs."[88]

There are a few comments that are justified from this cursory review. The first is that there is no existing Muslim-majority state that actually applies these laws to any significant portion of their economic system, and its implications remain understudied in the field of Islamic economics. This is telling of the radical aspect of Maududi's political thought, but simultaneous desire to find the ideal economic arrangement both legally and practically. Second, and this addresses the question of the state and the international system, I would argue that Hallaq's criticism of the solution is not warranted in Maududi's case. The reason is that Hallaq posited the inability of a theoretical Islamic state to withstand the global forces of centralization and international economic pressure into a state where it is not possible for the individual citizen in fulfilling his purpose as a citizen of the Islamic state – that is, the cultivation of moral selves. Insofar as this is the end goal, I argue that it is premature to posit an inherent contradiction of Maududi's economic arrangement with the goal of individual moral cultivation, not in the least because the realization of divine legal ordinances is a form of moral cultivation itself. In either case, this is

---

principle), not receive more than what is due to the worker. See: Ibn Qudāmah, *Al-Mughnī* (Beirut: Dār al-Kitāb al-'Arabī), vol. 5, 566-567. "...and [it is required that the contract] does not apportion more to the owner of the land than is given to the worker because the worker has a right to the fruits of his labour, as if he does not receive most of what he worked for then his labour becomes as if it is non-existent." This opinion was recognized by later scholars including Ibn Taymiyyah (d. 1328), who stipulated conditions that follow this type of contract. In terms of their accommodation in current literature, this legal principle has been developed and used in modern Islamic economic theory, although never in the iconoclastic sense mentioned by Maududi.

[88] Maududi, *The Economic System of Islam*, 95.

highly underdeveloped and requires extensive research. I hope to have merely highlighted and

contributed to the theoretical limits of the debate.

Chapter 5: Conclusion

The aim of this thesis was to examine the ways in which Abul A'la Maududi's ideal political model fits with the problematic of the modern nation-state as problematized by critical theorists in the field today. The study did not evaluate the normative aspect of Maududi's political thought in light of some idealized notion of liberal democratic governance, but rather, offers a rudimentary understanding of Maududi's Islamic state, specifically, the way he attempts to solve the problem of 'the secular' given the fact of the sovereign state and the plurality of identities and understandings of the self in a given country. The study problematized this question first by showing that Pakistan and other Muslim countries are indeed examples of nation-states and carry the same problems concerning the secular and sovereignty as what are thought to be proto-typical nation-states (e.g., France, Germany). In that regard, I hope to have established that Maududi's state diverges greatly from the modern nation state, by first defining sovereignty, and then fitting the reality of minority populations into the existing model. I show this in three main stages, and argue that Maududi's idealized state is fundamentally and paradigmatically different from the modern nation-state and its associated problems.

Firstly, I show that Maududi's conception of sovereignty and the source of legal and moral power is fundamentally different from that of the modern state, including so-called 'Islamic' states which declare divine sovereignty. This is the case because the *sharī'ah*, the divine law, constitutes the basis for governance and dictates its self-function and interaction with its citizens. In this sense, God, not the population or the state itself, is the sovereign. This is different from the existing state of Pakistan Maududi lived in, for instance, because it never claimed divine sovereignty but actually relegated it to the particularistic (divine and non-divine)

inclinations of state legislators and the judicial branch, which was also impelled to enforce the majority public opinion through legal interpretation of concepts such as public order, whether that results in action against Muslim fundamentalists or non-Muslim minorities for not being in line with the ideology of the state.

Secondly, it is precisely because of the change of sovereignty from the state to the divine that a bottom-up conception to found and maintain law and order (that is, to legislate) can be implemented. That is, average citizens are expected to contribute and hold the state accountable to the way the *sharī'ah* is implemented in society. While this is straightforward for explicit orders found in the Qur'an and prophetic tradition (i.e., the judiciary can prosecute the state leaders), issues that do not have precedence in Islamic sources must be *debated* and *agreed upon* by a large section of the Muslim nation, at minimum. This is fundamentally different to the source of sovereignty and resulting hegemony of the state ideology in the modern nation-state, where the state makes, enforces, and interprets laws—to the point of confusing the division of powers—and conversely 'cultivates' citizens to uphold the system, resulting in a divinization of the sovereignty of the state.

Thirdly and perhaps most importantly, Maududi's Islamic state takes a unique position on the existence of minorities. Instead of the state's asserting of its own sovereignty into the affairs of minority identity, practice, and even law – i.e., because it does not consider them as full citizens of the state – recognizes the existence of fundamental difference in identity and thus refuses to apply a 'one fits all' model of governance and legal interpretation which *will*, in Maududi's view, eventually attempt to define these minorities. It should be noted that this requires a fundamental reconceptualization of the state itself – which requires analysis in another study – not as a sort of leviathan that possesses absolute coercive power and ideological control over its defined territory and resorts to self-legislation in the name of public order, states of

exception, and the need to reassert and control minorities for the sake of its self-preservation –
which all characteristics of the nation-state, especially as observed in Muslim countries today
against those deemed not compatible with the long-term vision of the state. Maududi states on the
contrary that the concept of borders and the scope of the law itself must be questioned in a way
that forces the state to permit the flourishing of non-Muslim societies through the relegation of
typical state responsibilities to minority societies.

Finally, it is important to emphasize that contrary to the diverse range of efforts by
political theorists in both Europe and North America to reconcile majority-minority relations in
the nation-state, Maududi is operating on the assumption that there are fundamentally
irreconcilable differences between the majority and minority, especially in Muslim-majority
nation-states. As such, it is not necessarily a denial of the potential empirical reality of
assimilation, but an attempt to develop an archetype of government that takes the political self-
determination of both the majority and minorities within states as a reality, and is without doubt
inspired as well by Maududi's own desire to create a self-determining and Islamic political
identity in post-colonial Pakistan. Responding to the likes of Talal Asad, Maududi accepts, and in
some ways, pioneers a critique of secularism which undergirds his demands for paradigmatic
change.

While this is all the case, in the face of questions concerning the possible inadequacy of
such governance, it is very important to understand that Maududi's state was never a project
made specifically to ensure the material benefit of the population, flourishing, self-identity and
expression, or even coexistence of the population. The expressed sole aim of governance in
Maududi's political thought was and always has been metaphysical in reality: the fulfillment of
divine will on earth – a vision that is inseparable from the fulfillment of Messianic prophecy, a
belief supposedly held by all Muslims. That there is indeed a *metaphysical question* in political

49

theory beyond mere concerns of creating consensus and agreement in the world, while being to

the dismay of political theorists especially in the post-WWII west, is Maududi's operative

principle and to him, the central concern of human life as we know it.

Bibliography

Agrama, Hussein Ali. *Questioning secularism: Islam, sovereignty, and the rule of law in modern Egypt*. University of Chicago Press, 2012.

Ahmad, Mumtaz. "Islamic Fundamentalism in South Asia: The Jamaat-i-Islami and the Tablighi Jamaat." In *Fundamentalisms Observed*. Edited by Martin E. Marty and R. Scott Appleby, 457-530. Chicago: University of Chicago Press, 1994.

Ajzenstat, Janet. *Political Thought of Lord Durham*. McGill-Queen's University Press, 1988.

Al-Maqdisī, Ibn Qudāmah, *Al-Mughnī*. Beirut: Dār al-Kitāb al-ʿArabī, 1997.

Anjum, Ovamir. *Politics, Law, and Community in Islamic Thought: The Taymiyyan Moment*. Cambridge University Press, 2012.

Arendt, Hannah. *The Human Condition*. Chicago: University of Chicago Press, 1998 [1958].

Arendt, Hannah. *The origins of totalitarianism*. Boston, M.A.: Houghton Mifflin Harcourt, 1973.

Asad, Talal. "Secularism, Nation-State, Religion," in *Formations of the Secular: Christianity, Islam, Modernity*. Stanford: Stanford University Press, 2003.

Baran, Zeyno. "Turkey divided." *Journal of Democracy* 19, no. 1 (2008): 55-69.

Cairns, Alan. *Charter versus federalism: The dilemmas of constitutional reform*. McGill-Queen's Press-MQUP, 1992.

Cox, Richard W. "Social forces, states and world orders: beyond international relations theory," *Millennium*, 10, no. 2 (1981): 126-155.

Debarbieux, Bernard. "Hannah Arendt's spatial thinking: an introduction." *Territory, Politics, Governance* 5, no. 4 (2017): 351-367.

Fernando, M. L. *The republic unsettled: Muslim French and the contradictions of secularism*. Duke University Press, 2014.

Gilens, M. and B. I. Page, "Testing theories of American politics: Elites, interest groups, and average citizens," *Perspectives on politics*, 12, no. 3 (2014): 564-581

Gözaydın, İştar. *Diyanet: Türkiye Cumhuriyeti'nde Dinin Tanzimi*. Istanbul: İletişim Yayınları, 2016.

Hallaq, W. *The impossible state: Islam, politics, and modernity's moral predicament*. Columbia University Press, 2012.

Harvey, David. *The new imperialism*. Oxford: Oxford University Press, 2005.

Ingram, Brannon. *Revival from below: The deoband movement and global Islam*. University of California Press, 2018.

Iqbal, Munawar and David T. Llewellyn, eds. *Islamic banking and finance: new perspectives on profit sharing and risk*. Edward Elgar Publishing, 2002.

Jamal, Amina. *Jamaat-e-Islami Women in Pakistan: Vanguard of a New Modernity?* Syracuse University Press, 2013.

Kaymakci, Said Salih. "Book Review: Wael Hallaq's 'The Impossible State' by Said Salih Kaymakci," *The Maydan*, December 18, 2016.

Kelsen, Hans. *General theory of law and state.* London: Routledge, 2017.

Khalidi, Omar. "Maulānā Mawdūdī and Hyderabad." *Islamic Studies* 41, no. 1 (2002): 35-68.

Lambton, John (Lord Durham). "Report on the Affairs of British North America." In *Lord Durham's Report: Text Abridged by Gerald M. Craig*, edited by G. M. Craig, Janet Ajzenstat and G. Laforest. Kingston, ON: McGill-Queen's University Press, 2006.

Lawson, Gary. "The rise and rise of the administrative state." *Harvard Law Review* 107, no. 6 (1994): 1231-1254.

Levinson, Daryl J. and Richard H. Pildes. "Separation of parties, not powers." *Harvard Law Review* (2006): 2311-2386.

Magill, Elizabeth. "Beyond powers and branches in separation of powers law." *University of Pennsylvania Law Review* 150 (2001): 603-660.

Mahmood, S. *Religious difference in a secular age: A minority report*. Princeton University Press, 2015.

March, Andrew F. *Islam and liberal citizenship: The search for an overlapping consensus.* Oxford: Oxford University Press, 2011.

Marx, K. "On the Jewish Question." In Tucker, R. (Ed.), *The Marx-Engels Reader*. New York: Norton & Company, 1978.

Maududi, Abul A'la. *The Economic System of Islam*. Translated by Rias Husain. Lahore: Islamic Publications Ltd., 1984.

Maududi, Abul A'la. "Islamic Law." In *Islamic Law and Constitution*, translated by Khurshid Ahmad, 39-70. Lahore: Islamic Publications Ltd, 1960.

Maududi, Abul A'la. "Maududi, "Legislation and Ijtihad in Islam." In *Islamic Law and Constitution*, translated by Khurshid Ahmad, 71-92. Lahore: Islamic Publications Ltd, 1960.

Maududi, Abul A'la. "Political Theory of Islam." In *Islamic Law and Constitution*, translated by Khurshid Ahmad, 123-152. Lahore: Islamic Publications Ltd, 1960.

Maududi, Abul A'la. "First Principles of the Islamic State." In *Islamic Law and Constitution*, translated by Khurshid Ahmad, 201-252. Lahore: Islamic Publications Ltd, 1960.

Maududi, Abul A'la. "Fundamentals of Islamic Constitution." In *Islamic Law and Constitution*, translated by Khurshid Ahmad, 253-272. Lahore: Islamic Publications Ltd, 1960.

Maududi, Abul A'la. "Rights of Non-Muslims in Islamic State." In *Islamic Law and*

    Constitution, translated by Khurshid Ahmad, 273-300. Lahore: Islamic Publications Ltd,

    1960.

Maududi, Abul A'la. *Islamic Law and Constitution*. Translated by Khurshid Ahmad. Lahore:

    Islamic Publications Ltd, 1960.

Medani, Khalid Mustafa. "Strife and secession in Sudan." *Journal of Democracy* 22, no. 3

    (2011): 135-149.

Nasr, Seyyed Vali Reza. *Mawdudi and the making of Islamic revivalism*. Oxford: Oxford

    University Press, 1996.

Newberg, Paula R. *Judging the state: courts and constitutional politics in Pakistan*. Cambridge

    University Press, 2002.

Özyürek, Esra, "Christian and Turkish: Secularist Fears of a Converted Nation," in *Secular State*

    and Religious Society: Two Forces in Play in Turkey, edited by B. Turan, 95-120. Berlin:

    Springer, 2012.

Pew Research Centre, *The World's Muslims: Religion, Politics and Society.* Washington, D.C.:

    Pew Research Center's Forum on Religion and Public Life, 2013.

Ramadan, Tariq. *Radical reform: Islamic ethics and liberation*. Oxford: Oxford University Press:

    2009.

Saeed, Sadia. "Pakistani nationalism and the state marginalisation of the Ahmadiyya community

    in Pakistan." *Studies in ethnicity and nationalism* 7, no. 3 (2007): 132-152.

Salomon, Noah. *For love of the prophet: An ethnography of Sudan's Islamic state*. Princeton

    University Press, 2016.

Shafique, Khurram Ali. "Preamble of the Constitution of 1956." Accessed July 30, 2019.

    http://pakistanspace.tripod.com/archives/56_00.htm.

Taylor, Charles. "The Politics of Recognition." *Multiculturalism*, edited by Amy Gutmann (p. 25-74). Princeton: Princeton University Press, 1994.

Tibi, Bassam. "Islamism and democracy: on the compatibility of institutional Islamism and the political culture of democracy." *Totalitarian Movements and Political Religions* 10, no. 2 (2009): 135-164.