

## Sayyid Abul A‘lā Mawdūdī’s Views on *Ijtihād* and Their Relevance to The Contemporary Muslim Society

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### **Abstract**

The purpose of this article is to explore the views of Sayyid Abul A‘lā Mawdūdī on *ijtihād*. It intends to trace the origins of Mawdūdī’s ideas within the social, cultural and political context of his time. The study will show that Mawdūdī’s understanding of *ijtihād* and its scope demonstrates originality. For Mawdūdī, *ijtihād* is the concept, the process, as well as the mechanism by which the *Shari‘ah*, as elaborated in the Qur’ān and the *Sunnah* is to be interpreted, developed and kept alive in line with the intellectual, political, economic, legal, technological and moral development of society. The notion of *ijtihād* adopted by Mawdūdī transcends the confines of *Fiqh* (jurisprudence) and tends, therefore, to unleash the dormant faculties of the Muslim mind to excel in all segments of life. In Islamic legal thought, *ijtihād* is understood as the effort of the jurist to derive the law on an issue by expending all the available means of interpretation at his disposal and by taking into account all the legal proofs related to the issue. However, its scope is not confined only to legal aspect of Muslim society. Mawdūdī’s concept of *ijtihād* is defined as the legislative process that makes the Islamic legal system dynamic and makes its development and evolution in the changing circumstances possible. This results from a particular type of academic research and intellectual effort, which in the terminology of Islam is called *ijtihād*. The purpose and object of *ijtihād* is not to replace the Divine law by man-made law. Its real object is to properly understand the Supreme law and to impart dynamism to the legal system of Islam by keeping it in conformity with the fundamental guidance of the *Shari‘ah*.<sup>1</sup>

### **Introduction**

Much has already been written about Sayyid Abul A‘lā Mawdūdī’s works and ideas. His teachings on a range of issues, from Islamic history to the status of women, education, economics, revolution, politics, and religious exegetics have all been studied. However, no major work appears to have studied his views on *ijtihād* and their relevance to the contemporary Muslim society. A survey of the available work shows that there is no single book or academic work on the subject. The methods adopted in these writings generally lack the social, historical and geographical background of the issues involved, and his

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<sup>1</sup>See Sayyid Abul A‘lā Mawdūdī, *The Islamic Law and Constitution*, translated and edited by Khurshid Ahmad (Lahore: Islamic Publications Ltd, 1983), 76.

methodology of *ijtihād*.<sup>2</sup> This study attempts to fill this void in the thought of Mawdūdī.

Mawdūdī encountered the crisis faced by the *ummah*<sup>3</sup> in the twentieth century and pioneered the movement for *ijtihād* in economic, political, and social sectors at the level of thought and institution building. He offered an ideological alternative to the modern world. His ideological contribution appears to be one of the major factors behind the global Islamic reawakening in the twentieth century.<sup>4</sup>

Indeed, the Muslim *ummah* is concerned about the lack of sufficient progress in *ijtihād* even after its need has been trumpeted over the last two centuries. Mawdūdī's *ijtihād* is a quest for truth, i.e. a quest for the transcendental principles whose embodiment in social reality would establish the conditions responsible for unleashing human creativity and energy, and bringing unity, integrity and co-operation to society.

### ***Thoughts on Ijtihād***

Speaking in a seminar conducted by the *Jamā'at-i-Islāmī*<sup>5</sup> during its 'All Pakistan General Meeting' in November 1995, Khurram Murād (d. 1996), one of Mawdūdī's main deputies and former chief editor of the

<sup>2</sup>A survey of some of the available work include: Sheila Mc.Donough, *Muslim Ethics and Modernity--A Comparative Study of the Ethical Thought of Sayyid Ahmad Khan and Mawlana Mawdudi* (Waterloo, Ontario: Canadian Corporation for Studies in Religion, 1984); Charles J Adams, "The Ideology of Mawlana Mawdudi", in Smith Donald E, ed., *South Asians Politics and Religion* (Princeton: n.p.,1966); Seyyed Valī Rezā Naṣr, *Mawdudi and the Making of Islamic Revivalism* (New York: Oxford University Press, 1996); Abul Kalām Moḥammad Shāhed, *Shah Waliullah's Thought and Its Impact on Sayyid Abul A'la Mawdudi* (MA Thesis), Kulliyah of IRKHS, IIUM, February, 1997. See also among others Tāhā Jābir Al-Alwānī, *Ijtihād*, (Herndon, Virginia: International Institute of Islamic Thought, 1993), wherein the author appears to reflect Mawdūdī's thought as regards to the unfortunate separation of religious and political authorities in Islam right from the time of the Umayyad dynasty (661-750 CE).

<sup>3</sup>*Ummah* literally means nation, but is commonly used to mean the Muslim nation which has neither geographic boundaries, nor a national language.

<sup>4</sup>For a brief exposition on this, see Prof. Anis Ahmad's article entitled: "Syed Abul Ala Maududi" on:

[http://www.masmn.org/documents/Biographies/20th\\_Century/Syed\\_Abul\\_Aa\\_Maududi\\_01.htm](http://www.masmn.org/documents/Biographies/20th_Century/Syed_Abul_Aa_Maududi_01.htm)

<sup>5</sup>Around the year 1940 Mawdūdī developed ideas regarding the founding of a comprehensive and ambitious movement and this led him to launch a new movement under the name of the *Jamā'at-i-Islāmī* (The Islamic Organization). Mawdūdī who founded the *Jamā'at* was also elected its *Amīr* (Chief) and remained so till 1972 when he withdrew from that responsibility for reasons of health. See Khurshid Ahmad and Zafar Ishaq Ansari (eds.), *Islamic Perspectives: Studies in Honour of Mawlānā Sayyid Abul A'lā Mawdūdī* (Leicester: The Islamic Foundation, 1979), ix.

journal, *Tarjumān al-Qur'ān*,<sup>6</sup> said that in the light of Mawdūdī's thought, it was certain that the distinctive role of *ijtihād* in shaping the future and destiny of the Muslim *ummah* could not be overlooked. For Murād, Mawdūdī's thinking and action in the cause of *ijtihād* can be summarized into a few basic strands of thought. Firstly, he determines the significant role of *ijtihād* in the rise and fall of the *ummah*. Secondly, he denounces apathy and indifference on the part of Muslim scholars and incites them to forge ahead in the domain of *ijtihād*. Thirdly, while he vehemently checks those who take recourse to the fault of *ijtihād*, he is against those who advocate closing the gate of *ijtihād*. Fourthly, he determines and explains the scope of *ijtihād* with clarity and broadens its dimensions. Fifthly, he lays down principles on the basis of which the *mujtahidūn* have to find Islamic solutions to problems of modern society.<sup>7</sup>

This paper attempts to critically examine Mawdūdī's views on these issues with special reference to the socio-political background of his times and seeks answers to the question: what psychological, sociological and political factors prevented Mawdūdī from doing what he wanted done?

### ***Appearance of First Writings on Ijtihād***

Mawdūdī's writings and expositions on *ijtihād* appeared mainly in the issues of the *Tarjumān al-Qur'ān* during the first four or five years of its launching. In the first editorial section, Mawdūdī expressed the message of the *Tarjumān al-Qur'ān* in the following words:

The sole purpose of the journal is to proclaim the word of God and to invite men to supreme effort in the way of Allah. Its special purpose is to comment from the point of view of the Qur'ān upon the thought, the ideas and the principles of the culture and civilization that are spreading in the world..., to explain the principles advanced by the Qur'ān and the *Sunnah* in the context of contemporary philosophy, science, politics, economics, culture, and

<sup>6</sup>The Urdu monthly journal *Tarjumān al-Qur'ān* (Interpretation of the Qur'ān), which Mawdūdī had edited since 1933, has exercised a major influence on the minds of the Muslim intellectuals of the Indian subcontinent. Since the 1940's when Mawdūdī's writings began to be available in their translated versions in other languages, especially in Arabic and English, his ideas began to attract an increasing number of people far beyond the confines of the subcontinent. See Aḥmad and Ansari, (eds.), *Islamic Perspectives: Studies in Honour of Mawlānā Sayyid Abul A'lā Mawdūdī*, 362.

<sup>7</sup>Khurram Murad, "Ijtihād as Conceived by Mawdūdī," in, *Jasārat*, Urdu Newspaper-Special edition, Karachi, November, 1995, 48-49. The text in Urdu has been translated into English by the author of this article.

sociology and to formulate the application of the principles of the Qur'ān and the *Sunnah* to conditions of the present age. This journal invites the Muslim *ummah* to a new life.<sup>8</sup>

An exploration into his thoughts sheds light on the various aspects of his *ijtihād*ic thinking. He seems to adopt a different approach to *ijtihād*; one that is different from the traditional and legalistic approach. His approach was more comprehensive in as much as it transcended the purely traditional and legal approach to encompass larger issues like the creation of an Islamic state, a written constitution, budget, *shūrā*, etc. He wanted to transform the static *Fiqh* into a dynamic *Fiqh* (*Fiqh ḥarakī*) whereby it could keep pace with and meet the challenges of contemporary times.

It may be added that his writings on *ijtihād*, *Huqūq-al-Zawjain* (rights and duties of the spouses), the issue of *khul'* (divorce initiated by the wife), offering of Friday prayers in villages, delivery of Friday sermon in a non-Arabic language, use of loudspeakers, reciting *Sūrat al-Fātiḥah* as a *muqtadī* (one who prays behind the Imām), etc.<sup>9</sup> were not only problems as such; but through carrying out *ijtihād* on these issues, he put forward many meaningful thoughts and principles, which shed light on a methodology for effectuating *ijtihād*.<sup>10</sup>

The substance of Mawdūdī's discourses and the force of diction thereof attracted the attention of no less an individual than Sir Muḥammad Iqbāl (d.1938), himself a distinguished poet, philosopher, thinker and lawyer, who requested Mawdūdī to launch and lead the mission and movement of the re-construction of Islamic *Fiqh*. However, Mawdūdī had other priorities like the establishment of an Islamic movement in the form of *Jamā'at-i Islāmī*. For him, the establishment of an Islamic society was indispensable as *Fiqh* or law could not be implemented in a void. According to him, it was essential that first an Islamic trend come into existence having in its fold such individuals who would guard, act upon and implement the Islamic Law in letter and spirit. He, therefore, focussed his attention towards the formation of a

<sup>8</sup>Mas'ūd al-Ḥasan, *Sayyid Abul A'ālā Mawdūdī and His Thought*, 2 vols. (Lahore: Islamic Publications Ltd, 1986), 1: 91.

<sup>9</sup>See Sayyid Abul A'ālā Mawdūdī, *Rasā'il-o Masa'il*, 4 vols. (Queries and Responses), (Lahore: n.p., 1951- 1965) for details. *Ijtihād* carried out by Mawdūdī calls for a separate study. Such a study will be still more useful if Mawdūdī's *ijtihād* were compared to some of his contemporaries like Dr. Mohammad Hameedullah, for example.

<sup>10</sup>Murad, *Jasārat*, op. cit., pp. 48-49.

movement, which would strive to actualise the supremacy of Islam by making it dominant in all spheres of life.<sup>11</sup>

### ***Methodology and Approach to Ijtihād***

Quite contrary to the dominant thinking and approach to *ijtihād*, it seems to me that Mawdūdī, instead of approaching *ijtihād* from a strictly legal point of view, he saw it as a tool and mechanism for the development of Islamic thought, directed to the development of the Islamic *ummah*. *Ijtihād* to him is directly related to the rise and fall of the *ummah*.

### ***Role of Ijtihād in the Rise and Decline of the Ummah***

On the issue of the significant role of *ijtihād* in the rise and fall of civilizations, he argues that the decadence of the Muslims came about with the weakening spirit of *jihād* on the one hand, and the exclusion and elimination of *ijtihād* on the other. The West continued to develop its civilization and culture, and kept exercising independent judgement in the sphere of thought. Bereft of *jihād* and *ijtihād*, Muslims became ignominiously isolated from their role of leadership.<sup>12</sup> He observes:

Intellectual ingenuity, academic creative pursuits and *ijtihād*ic endeavours are the factors, which make up the chemistry of the political domination and intellectual supremacy of a community over other communities of the world. The community of people, which takes initiative on this path, becomes the genuine guide and leader of other nations as its ideas become the dominant ruling ideas of the time. Those nations, on the other hand, which lag behind in this respect, are forced to assume the role of followers and imitators. These latter may have their beliefs and ideals but they lose force and become too weak to maintain their hold on minds. They are unable to stand and are easily swept against the strong waves of ideas of the intellectually creative nation. Until the time Muslims kept their forward movement in searching and thinking, and proved themselves more creative than others, other nations of the world followed and imitated them. Islamic thinking remained the dominant paradigm of the whole humanity. But when the Muslim community stopped producing thoughtful and industrious creative men of thinking, when the habit of thinking and probing was abandoned and the forces of tiredness and inertia took over them, they in fact resigned themselves from their natural role of being the leader and guide of humanity. At the same time, on the other side, the nations of the West stepped forward to employ the faculties of

<sup>11</sup>Ibid.

<sup>12</sup>Sayyid Abul A'la Mawdūdī, *Tanqīhāt* (Explications); 'Hamārī Zahnī Ghulāmī Aur Uske Asbāb' (Our Mental Slavery and its Causes), (Lahore: Islamic Publications Ltd., 1974), Ch.1, 6-22. It is generally understood that while *jihād* is related to ones life and property, *ijtihād* is related to ones mind, intellect and thought.

thinking and searching. They probed into the mysteries of the universe and uncovered the treasure of powers hidden in the nature. The result of all this was same as expected. They became the leaders of the world and Muslims had to submit to their authority in the same way as once the world had submitted to the power and authority of Muslims themselves.<sup>13</sup>

From the above statement, one can justifiably conclude that intellectual endeavor for the understanding of human society as a whole is fundamental. Critical and creative thinking is needed in all domains of life. It would be wrong to conclude that Mawdūdī is all praises for the West and the Western philosophy and that the *ummah* should always think in terms of borrowing and learning from others. Instead of blindly following the East or the West, it should itself become a producer of knowledge. Khurshid Ahmad points out that Islam accepts the scientific and technological advancement of Western civilization but it rejects its philosophical foundation. He elaborates Mawdūdī's views on this point:

He (Mawdūdī) appreciates the scientific and technological achievements and the vigor shown in general by the Western civilization during the past few centuries. At the same time, he thinks that the Western civilization does not possess the right sense of direction and is inherently rotten because of the falsity of its foundational principles. The fundamental fault of that civilization—the fault which lies at the basis of all of its other evils, is that it is based on man's independence of, and indifference to, Divine guidance.<sup>14</sup>

This is the reason why Mawdūdī urges the *ummah* to utilize all the faculties of reasoning within the framework of Divine guidance and develop an alternative Islamic civilization. The thrust and focus of his thought on *ijtihād* is the development of civilization. However, it does not mean that he neglected the need of *ijtihād* in the area of Islamic law. We shall discuss later in this paper Mawdūdī's views on the role of *ijtihād* and the scope of legislation and how it is to be implemented in the framework of Divine guidance through sovereignty of Allah and the prophethood of Prophet Muḥammad (ﷺ).

### ***Apathy of the Ummah***

Mawdūdī set out his views on the general apathy of the *ummah*. It is not certain, he says, whether the apathy initially came to surface in the

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<sup>13</sup>This was first published in *Tarjumān al-Qur'ān* (Lahore, September, 1934) and then included as a chapter in *Tanqīhāt*, 8-9. This translated passage is taken from Muḥammad Mumtāz 'Alī, (ed.) *Conceptual and Methodological Issues in Islamic Research: A Few Milestones* (Kuala Lumpur: Dewan Bahasa dan Pustaka, 1996), xi (Epigraph).

<sup>14</sup>See Aḥmad and Ansārī, *Islamic Perspectives*, 368.

fourth century or the sixth century AH, whether it was partial or complete, or whether the gates of *ijtihād* were ever closed. However, it is clear that on the whole, a sense of indifference, lassitude, and complacency had pervaded the entire *ummah*. Mawdūdī condemned and attacked this attitude of the traditional '*ulamā*' (sing. '*ālim*: Muslim Scholar) for their resistance to change and their insistence on maintaining the status quo. He unequivocally contended that our traditional '*ulamā*' had not come out of their shells of past glory and were ignorant of the rapid scientific inventions and developments, currently taking place. Identifying the causes of indifference of the '*ulamā*' and their *taqlīdī*<sup>15</sup> (imitative) thinking style, he said that the basic sources of Islam in order of primacy were the Book of Allah, the *Sunnah* of the Prophet, and then *ijtihād* of the scholars. Subsequently, this order was reversed to *ijtihād* of the scholars, the *Sunnah* of the Prophet, and then the Book of Allah. This unnatural reversal of the order gave birth to numerous sects and sub-sects with diverse ideas, differing with each other on many major and minor issues. Moreover, these man-made divisions assumed the disguise of real Islam, so that whenever confronted with a problem, the people began to take recourse to the secondary sources, which were neither eternal, nor Divine like the Book of Allah. They also considered the thoughts and rulings of the founders of the various schools and sects as ultimate. This was the real cause for the apathy, which became all the more deeply rooted as even the scholars had adopted this course.<sup>16</sup>

We may deduce from the above that Mawdūdī's views run counter to those of the traditional '*ulamā*'. He seems to be nudging and prodding them to rise up and get involved in the process of progress, reform and revivalism. The whole world is a victim of a civilization that is self-destructive. Mawdūdī invites the '*ulamā*' to realize their duty and struggle hard to develop an alternative civilization in the light of Divine guidance.

Mawdūdī knows how *taqlīd* took away from the common Muslims the right as well as the courage to think for themselves in that they are always supposed to follow the '*ulamā*'. Did he do enough to stop this? Is there not a difference in his tone and emphasis in the three periods of his intellectual career—before formation of the *Jamā'at-i-Islāmī*, after this but before creation of Pakistan, and after entering into Pakistani politics?

<sup>15</sup>*Taqlīd* refers to the blind following of a particular school of Islamic legal thought.

<sup>16</sup>Mawdūdī, *Tanqīhāt*, 181-183; See also Murad, *Jasārat*, 48-49.

Mohammad Nejatullah Siddiqī in his book *Islām, Ma‘āshiyāt Aur Adab, Khutūt ke Āine Main (Islam, Economics and Literature, Mirrored in Letters)* raises some searching questions in his letters addressed to Mawdūdī pertaining to urgent economic issues like interest-free banking among others, but the only response he gets from Mawdūdī is that the right time to tackle such issues is *after* the establishment of the Islamic polity and system. In the face of such response, one may well wonder why it did not occur to Mawdūdī that lack of clarity on these issues might stand in the way of the establishment of the Islamic system itself. For Mawdūdī, raising such issues will cause new controversies and create problems for the *Jamā‘at-i Islāmī* in Pakistan. What is more important—avoiding giving a chance to your adversaries to point out that Islamists are divided on certain issues or trying to resolve the unsettled issues? History has shown, argues Siddiqī, that leaving issues unresolved means opting for the most conservative positions.<sup>17</sup>

Reading Mawdūdī’s *Purdah* and *Zabt-e-Wilādat*, which touch on issues related to women, one wonders whether his opposition to Western culture was decisive in moulding his positions on such issues. It is a fact of history, asserts Siddiqī, that even in the matter of the role of women in Islamic *tehrīk* (movement), many practical improvements came *after* Mawdūdī. No woman had sat on the *Shūra* of *Jamā‘at-i Islāmī* in Pakistan. It was a great achievement he says that later on women were treated at par with men in matters of membership of the *Jamā‘at-i Islāmī*. For Siddiqī, this too may be considered an example of *ijtihād*.

### ***Need for Guided Ijtihād***

Mawdūdī, while stressing the need for *ijtihād*, accentuates that *ijtihād* should neither be absolutely independent and unguided, nor carried out by unqualified people. He repeatedly emphasizes that there is no way that any provision of the Qur’ān or the *Sunnah* can be ignored or bypassed. There is also no room to do away with the precious work of compilation and codification of *Fiqh* carried out so assiduously by the *Salaf* (pious ancestors/early Islamic community). Whatever is applicable from the records of *Fiqh* to contemporary times should be adopted. All that is inapplicable or anachronous should be supplanted by new rulings in the light and framework of the Qur’ān and the *Sunnah*.<sup>18</sup>

<sup>17</sup>Mohammad Nejatullah Siddiqī, *Islām, Ma‘āshiyāt Aur Adab, Khutūt ke Āine Main* (Aligarh: Educational Book House, 2000), 47-49 and 397-426.

<sup>18</sup>*Ibid.*, pp. 186-187; See also Khurram Murad, *Jasārat*, op. cit., pp. 48-49



### *Parameters of Ijtihād*

Mawdūdī also outlined the parameters of *ijtihād*. His broad-mindedness on the scope of *ijtihād* is noteworthy. *Ijtihād*, according to him would not only cover issues in respect of which no specific rulings are found, but also those where the *Sharī'ah* is silent, or where the *fuqahā*<sup>19</sup> have made an *istinbāt* (inference) and the conditions have since changed. He says that there is also a scope of *ijtihād* in the area of *nuṣūṣ*,<sup>20</sup> and that is to determine the objective and spirit of the text. There were differences of opinion among the *Ṣaḥābah* (Companions of the Prophet) even in such rulings, which appeared to be lucid and clear in the Qur'ān and the *Sunnah*. There were some who looked into the semantics of the text, and there were others who delved into the import and implication of the text. There are examples of such instances even during the life of the Prophet.<sup>21</sup>

We read in *Sūrat al-Tawbah* (9:122): “Let a contingent from each division of them devote themselves to the study of religion [*li-yatafaqqahū fī al-Dīn*] and warn their people...” Mawdūdī, commenting on this verse in his *Tafhīm al-Qur'ān*, says that the expression *li-yatafaqqahū fī al-Dīn* used in this particular verse has been grossly misunderstood by the later generation of Muslims. Allah has made *tafaqquh fī al-Dīn* the purpose of education, which means having an understanding and insight of *Dīn*, so as to discern the right from wrong in every sphere of thought and action of human life. However, the knowledge of law began to be called *Fiqh*, which with the passage of

<sup>19</sup>*Fuqahā* (sing. *Faqīh*): specialists in Islamic jurisprudence.

<sup>20</sup>*Nuṣūṣ* (plural of *naṣṣ*): clear textual rulings.

<sup>21</sup>Murad, *Jasārat*, op. cit., pp. 48-49. On one instance ‘Adī bin Ḥātim al Ṭā’ī who, as a new convert to Islam, stuck to the literal meaning of the Qur’ānic verse: “...eat and drink (during Ramaḍān) until you are able to distinguish between the white and the black lines” (2:187). He understood “lines” to mean strings when the reference was, in fact, to rays of light separating night from day. In this case the Prophet (ﷺ) reacted with diligence, indicating tactfully to ‘Adī that he did not grasp the meaning of the verse. Another instance involved ‘Ammār bin Yāsir’s interpretation of the verse about *wuḍū’* (ritual ablution preceding *ṣalāh*): “...and (when) you find no water, then take for yourselves clean sand or earth and rub therewith your faces” and sand to cleanse himself of *janābah* (the state of ritual impurity of the Muslim). The Prophet (ﷺ) reacted in the same way as he did with ‘Adī. He said: “Suffice it for you to have rubbed your face and your hands once.”

time took away its spirit and presented Islam as a skeleton, “a soulless religious formalism.”<sup>22</sup>

Mawdūdī’s expression of Islam being presented as a skeleton, “a soulless religious formalism” may incline a layman to assume that his leaning is towards modernity; an ideology that challenges the Islamic legacy, and considers it irrelevant to modern times. This is not so. His observation is couched in his extreme concern for the *ummah*. He argues that academic research, intellectual effort, and creative and critical thinking are needed in all spheres of life. For Mawdūdī, *samʿ*, *baṣar*, and *fuʿād* are the tools of knowledge. In the Qurʾān, these words are used with a deeper meaning. *Baṣar* (seeing) implies gaining knowledge through personal observation; *samʿ* (listening) signifies knowledge by way of reading and understanding, both ancient and modern works on different subjects; and *fuʿād* means perceiving or arriving at conclusions based on *samʿ* and *baṣar*. Those who do not fully utilize these faculties remain behind and those who make use of them excel.<sup>23</sup>

### *Islam and Modernity*

Mawdūdī’s later works refer to an amazing array of western thinkers, from Plato, Aristotle, Augustine, Leibniz, Kant, Saint Simon, Comte, Goethe, Hegel, and Nietzsche to Darwin, Fichte, Marx Lenin, and Bernard Shaw.<sup>24</sup> His study of Islam helped him to understand the premises of modernist thought and to distinguish and identify the philosophical differences between Islam and modernity. He became particularly interested in understanding the theoretical basis and practical application of modern scientific discoveries in the context of an Islamic worldview. To debate effectively with modernity, Mawdūdī had to critically approach many modernist assumptions, especially those involving scientific truths. His views also involved a process of examining modernization. His rationalistic and realistic impetus of Islamic revivalism was not limited to the use of tape recorders, facsimile machines, and other instruments of the modern world, as some observers

<sup>22</sup>Sayyid Abul Aʿlā Mawdūdī, *Tafhīm al-Qurʾān*, 6 vols. (Lahore: Idārah Tarjumān al-Qurʾān, 1991), 2: 251-253.

<sup>23</sup>Sayyid Abul Aʿlā Mawdūdī, *Taʿlīmāt* (On Education), tr. By S. M. Rauf (Karachi: Islamic Research Academy, 1988), 56-57; See also Muḥammad Mumtāz ʿAlī, “Reconstruction of Islamic Thought and Civilization: An Analytical Study of the Movement for the Islamization of Knowledge,” in *The Islamic Quarterly* (vol. 53, no. 1, 1999), 26.

<sup>24</sup>Mawdūdī, *Tanqīhāt*, Ch. 1, 6-22.

of this phenomenon have contended, but encompassed values, ideas, and institutions. He characterized his efforts in the following terms:

We aspire for Islamic renaissance on the basis of the Qur'ān. To us the Qur'ānic spirit and Islamic tenets are immutable; but the application of this spirit in the realm of practical life must always vary with the change of conditions and increase of knowledge.... Our way is quite different both from the Muslim scholars of the recent past and modern Europeanized stock. On the one hand we have to imbibe exactly the Qur'ānic spirit and identify our outlook with the Islamic tenets; while on the other, we have to assess thoroughly the developments in the field of knowledge and changes in conditions of life that have been brought during the last eight hundred years; and third, we have to arrange these ideas and laws of life on genuine Islamic lines so that Islam should once again become a dynamic force, the leader of the world rather than its follower.<sup>25</sup>

Raising the question of a fresh interpretation of the Divine texts in their proper context, Mawdūdī identifies the need to develop a new methodology of Islamic thought where the term *Fiqh* is not restricted to the understanding of legal principles of Islam but to all areas of human life. This calls for untiring intellectual pursuits to be able to gain diverse knowledge and skills. He writes:

The world has changed beyond recognition. The conditions prevailing in the world, its views, trends and theories have entirely changed. The social problems and issues have taken many turns, but our religious leaders are still living in the same old conditions five or six centuries back.... If their leadership fails to guide them in the ever-new intellectual, academic and practical issues and problems, then it is quite natural that their followers will discard their leadership.<sup>26</sup>

For Mawdūdī, the works and researches of Muslim scholars and thinkers of the past may not adequately guide and assist in solving the problems of today. If Islam is to lead the world, it must produce such thinkers and researchers who can distinguish between the philosophical foundations of the Western materialist civilization and Islam. Contemporary Muslim scholars should produce pure Islamic thought that can revive the Muslim *ummah* to lead the world of today.<sup>27</sup> Does it not follow, therefore, that *ijtihād*, at each and every step of life will have to be applied to each area of human activity? Does it not mean that for Mawdūdī, *ijtihād* as a whole is a methodology of Islamic thought for the

<sup>25</sup>Quoted in Nasr, *Mawdūdī and the Making of Islamic Revivalism*, p. 51.

<sup>26</sup>Mawdūdī, *Tanqīhāt*, op. cit., pp.181-183.

<sup>27</sup>Mawdūdī, *Tanqīhāt*, tr. by S. Waqar Ahmad Gardezi and Abdul Waheed Khan (Lahore: Islamic Publications, 1991),14-16 and 87.

development of civilization? According to Mawdūdī, the whole process of thinking and understanding for the purpose of civilizational development is *ijtihād*.

Anis Ahmad, talking of Islamic movements as agents of social change, reflects and confirms Mawdūdī's thoughts on *ijtihād* when he observes that Islamic movements, such as the *Jamā'at-i Islāmī*, call for a holistic understanding of Islam. Islam is not reduced to intellectual, economic or social activities of a people. He writes:

This holism of Islamic movements is complemented by their most outstanding character, namely the practice of *ijtihād*. I call them *ijtihādī* movements because they insist on going back to the two non-variable Islamic principles, namely the Qur'ān, and the *Sunnah*. Their call to return to the Qur'ān and the *Sunnah* is often misconstrued as a call for literal application of the Qur'ān and the *Sunnah*. The fact of the matter is Islamic movements do not limit *ijtihād* to *fiqhī* or legal matters. They advocate and practice *ijtihād* in educational, economic, social, political, cultural, in brief in all matters in social life...<sup>28</sup>

Writing on the intellectual origins of Islamic resurgence in the modern Arab world, Ibrāhīm M. Abū Rabī' elucidates Sayyid Quṭb's thoughts, which endorse Mawdūdī's views. Quṭb maintains that to revive the Qur'ānic text and make it relevant to the modern world, one must stress *Fiqh ḥarakī* (Dynamic *Fiqh*). The text cannot be understood in a vacuum, but in a dynamic relation to action, activism, and movement. The modern arguments of many a Muslim scholar about *Fiqh* and the application of *Sharī'ah*<sup>29</sup> according to Quṭb, is futile because a true Muslim community has not yet existed. It is when we have Islam in practice that we can delve into *Fiqh* questions in order to find solutions to needs of the emerging Muslim community.<sup>30</sup> Sayyid Quṭb observes:

<sup>28</sup>Anīs Aḥmad, "Islamic Movements as Agents of Social Change: Framework for Analysis", in Muḥammad Mumtāz 'Alī (ed.), *Modern Islamic Movements: Models, Problems & Prospects* (Kuala Lumpur: A. S. Noordeen, 2000), 138.

<sup>29</sup>The *Sharī'ah* refers to the sum total of Islamic laws, which were revealed to the Prophet Muḥammad (ﷺ), and which are recorded in the Qur'ān as well as deducible from the Prophet's divinely guided lifestyle (called the *Sunnah*). See Muḥammad Muṣṭafā Shalabī, *Al-Madkhal fī al-Ta'rīf bi-l-Fiqh al-Islāmī* (Beirut: Dār al-Nahḍah al-'Arabīyyah, 1968), 28.

<sup>30</sup>Ibrāhīm M. Abū Rabī', *Intellectual Origins of Islamic Resurgence of the Modern Arab World* (Albany: State University of New York Press, 1996), 197; See also Sayyid Quṭb, *Fī Zilāl al-Qur'ān*, vol 3, rev. ed. (Beirut: Dār al-Shurūq, 1974), 1634; See also Sayyid Quṭb, *Fī Zilāl al-Qur'ān*, Vol 4, 2006, quoted in Ibrāhīm Abū Rabī', 197.

Islamic *Fiqh* did not emerge in a vacuum, neither does it live or can be understood in a vacuum. It (instead) arose in a Muslim society responding to the realistic needs of the Islamic life. Also *Fiqh* did not establish Islamic society; on the contrary Islamic society established *Fiqh*.<sup>31</sup>

### ***Objective of a Ruling***

According to Mawdūdī, even in the area of *Fiqhī ijtihād*, it is important to know the objective of a ruling and to comprehend its meaning. It is also required to determine the conditions and circumstances in which the ruling was promulgated. In matters of principles of *ijtihād*, he always stresses and elucidates the two terms *maṣlaḥah* (public interest) and *ḥikmah* (sagacity; wisdom; rationale).

A ruling wherein the *maṣlaḥah* and *ḥikmah* of the *Sharī'ah* are defeated or lost warrants keen attention and focus on the issue along with the execution of *ijtihād*. For instance, on the issue of *Huqūq al-Zawjayn* (rights and duties of the spouses), he dealt with many matters. He exercised *ijtihād*, but did not make any radical change in the previous rulings. To him, *Dīn* (religion; faith; way of life) takes due cognisance of the significance of public interest, and public harm or injury. On the issue of *khul'* (divorce initiated by the wife), it is well known that it is almost impossible for a woman to obtain a ruling in her favour because the rules laid down in the books of *Fiqh* make it extremely difficult for her to prove her case of mistreatment by the husband. Mawdūdī tried to resolve the situation and said that in the light of many traditions, the crux of the matter is that the *qāḍī* (judge) should be satisfied and convinced that the couple can in no way live a conjugal life of mutual love, peace and harmony. If this is the case, then it is not important to delve into the reasons of divorce or for the woman to prove her case. He deduced from the traditions that even if the wife does not like her husband's face and considers it to be ugly, the Prophet (ﷺ) permitted *khul'*. Later, all courts in Pakistan made this stand on the divorce issue the basis of judging numerous cases of *khul'*<sup>32</sup>

### ***Sectarian Aspect of Fiqh***

There were persons who held that if one belonged to a particular school of *Fiqh*, and then accepted the *Fiqh* of another school he was guilty of a grave sin. Mawdūdī said that if such conversion was due to any *ijtihād*, that was permissible and no sin was involved. If such a

<sup>31</sup>Khurram Murad, *Jasārat*, op. cit., pp. 48-49.

<sup>32</sup>Khurram Murad, *Jasārat*, op. cit., pp. 48-49.

change in view was induced by some ulterior motives that would be objectionable. Those who followed these schools blindly, and held the interpretations of the other schools of thought as invalid and beyond the pale of Islam were guilty of converting such schools of thought into sects and that was unlawful.<sup>33</sup>

It appears that Mawdūdī's views are apparently different from the general Muslim populace who are of the position that the *madhāhib*<sup>34</sup> are divinely ordained and that every Muslim must choose from one of the four *madhāhib* and follow it without question, and that it is wrong to pick and choose rulings across *madhāhib*. We know for certain that there is no provision in the *Sharī'ah* that confines people to a particular school of law. Since the late thirteenth century, not only have the *madhāhib* become grounds for sectarianism, but *Fiqh* has also declined, unable to keep pace with the changing environment.

#### ***Ijtihād of the Imāms***

One of the points of criticism against Mawdūdī was that he preferred his own *ijtihād* to the *ijtihād* of the Imāms. He said that he had the highest regard for the Imāms, but he did not regard them as infallible. He examined the precepts of the Imāms respectfully, and where he was convinced of their validity he accepted them, but if they did not appeal to him he looked for some other interpretation that was sanctioned by Islam. He also made it clear that in matters of *Fiqh* when he disagreed with the *fatwā* of Imām Abū Ḥanīfah in any way, he did not issue a counter *fatwā*; he merely made some proposals for the consideration of the 'ulamā'. Again he seldom tried to impose his own views. Whenever he disagreed with the ruling of Imām Abū Ḥanīfah, he looked for the rulings of some other Imāms, which appealed to him most. He did not cling blindly to a particular school of *Fiqh*. His vision comprehended all the four schools and he adopted the best in every school. To him that was the right approach and provided no grounds for criticism.<sup>35</sup>

#### ***Benefiting From Schools of Fiqh Other Than One's Own***

Mawdūdī implemented his views about adopting another school of *Fiqh* in matters of *ijtihād*. In the case of the *mafqūd al-khabar* (someone who is absent and there is no news about him, i.e. husband), the Ḥanafī

<sup>33</sup>Mas'ūd al-Ḥasan, *Sayyid Abul A'lā Mawdūdī and His Thought*, 1: 293-294.

<sup>34</sup>*Madhhab* (pl. *madhāhib*) is a school of thought whether legal or philosophical.

<sup>35</sup>Mas'ūd al-Ḥasan, *Sayyid Abul A'lā Mawdūdī and His Thought*, 1:402-403; See also "Ijtihād of the Imāms" in *Tarjumān al-Qur'ān* (Lahore, September, 1951).

*fuqahā*' realized that the period determined was detrimental to human society and especially to the woman; and therefore, it is not right.<sup>36</sup> Mawlānā Ashraf 'Alī Thānwī (d. 1943), a great jurist of the Ḥanafī School in India opined that the followers of Ḥanafī *Fiqh* could derive benefit by taking recourse to other schools of *Fiqh*, especially Mālikī *Fiqh* whose ruling on this issue appears to be more amenable to the middle course, to reason, and also to the *Sharī'ah*.<sup>37</sup> A committee of '*ulamā*' was formed to discuss the issue and some headway was made. Mawdūdī, however, wrote in *Ḥuqūq-al-Zawjayn* that Mālikī *Fiqh* could be adopted completely. It is not right to think that the adherent of one school cannot opt for another school because all the schools sprout from the same source. Therefore, any school of *Fiqh* ruling on issues beneficial to the Muslims at large and which provide them with peace and stability and remove obstacles from their path can be adopted.<sup>38</sup>

#### ***Taqīd as Understood by Mawdūdī***

Mawdūdī was asked to explain the doctrine of *taqīd*. He said that *taqīd* meant to follow unquestioningly. In Islam only the Holy Prophet could be followed without question. The *taqīd* in the case of the Holy Prophet (ﷺ) was binding as all that the Holy Prophet (ﷺ) complied with the orders of God. As a matter of fact, it is God alone who is to be followed. He observed that the four Imāms deserved our respect as they assessed the various injunctions and tried to codify them. They were merely compilers or editors; they were not in a position to give any command of their own. For those persons not versed in *Fiqh*, the exercises of the Imāms serve as a guide. Under these circumstances there is no alternative for an ordinary man except to follow an Imām whom he is confident of. But whosoever attaches any finality to the views of these Imāms, and regards non-acceptance of these views as a deviation from Dīn, is guilty of *Shirk*.<sup>39</sup>

It is difficult to agree with Mawdūdī's opinion that the four Imāms were merely compilers or editors, the reason being that there is a consensus among majority of Muslim scholars that the four Imāms are in

<sup>36</sup> See Muṣṭafā Dīb al-Bughā, *Athar al-Adillah al-Mukhtalaf fihā: Fī al-Fiqh al-Islāmī*, 2<sup>nd</sup> edition (Damascus: Dār al-'Ulūm al-Insāniyyah, 1993), 309-406 for details.

<sup>37</sup> Ibid.

<sup>38</sup> Khurram Murad, *Jasārat*, 48-49.

<sup>39</sup> Mas'ūd al-Ḥasan, *Sayyid Abul A'la Mawdūdī and His Thought*, 1:292-293. (*Shirk* means to profess conceptually or confirm practically the idea or faith that Allah's power, authority and rights are shared by other partners).

the category of *mujtahid mustaqill* (independent *mujtahid*) who excelled in *ijtihād*.

### ***Principles of Legislation and Ijtihād***

In January 1958 Mawdūdī presented a paper entitled “The Role of *Ijtihād* and Scope of Legislation in Islam” at an International Conference in Lahore. He said that for an adequate appreciation of the subject under discussion, two basic facts have to be clearly borne in mind, namely, the Sovereignty of God and the prophethood of Prophet Muḥammad (ﷺ).<sup>40</sup> In 1966, Mawdūdī wrote his monumental book *Khilāfat awr Mulūkiat* (“Caliphate and Monarchy”)<sup>41</sup> in which he discusses in detail how the *Khilāfat* (Caliphate) was established; how it came to be converted to monarchy, and what was the result of such transformation. Without going into the details of this work, it may suffice to highlight Mawdūdī’s thoughts relevant to the subject of legislation in an Islamic State and the scope of human legislation therein.

The conspicuous features of an Islamic State, according to Mawdūdī include: obedience to Allah and His Prophet; obedience to those in authority; that those in authority should be men of faith and character; that the people have the right to differ with the government; that in the event of dispute, the Divine law is to prevail; and that there should be an independent judiciary.<sup>42</sup>

### ***Scope of Legislation***

Mawdūdī explains that from the above discussion, one is apt to think that there is no room for human legislation in an Islamic State. The fact of the matter, however, is that Islam does not completely exclude human legislation. It only limits its scope and guides it on right lines. Human legislation, according to Islam, is and should be subject to the Supremacy of Divine law and within the limits prescribed by it. The scope and limits of this legislation take the following four forms:

1. *Interpretation*: In certain matters, the Qur’ān and the *Sunnah* have laid down clear and categorical injunctions and prescribed specific rules of conduct. In such matters, no jurist, judge, legislative body, not even the *ummah* as a whole, can alter the specific injunctions of the *Sharī’ah* or the rules of behaviour expounded by it. This does not mean, however, that there is no scope left for legislation in this sphere. The scope of

<sup>40</sup>Mawdūdī, *Tafhīmāt* (Elucidations) (Delhi: Markazī Maktaba Islami, 1989), 3:7-14.

<sup>41</sup>Mawdūdī, *Khilāfat awr Mulūkiat*, 13-55.

<sup>42</sup>*Ibid.*, p. 39.



human legislation in relation to such matters lies in functions like finding out precisely what the law is; its nature and limits, determining its meaning and intent, investigating the conditions for which it is intended and the way in which it is to be applied to practical problems. Functions may also include working out minor details in the case of such laws as are too brief for direct application in actual life, and determining the extent of its applicability or non-applicability in the case of exceptional circumstances.

2. *Analogy*: Then there are those types of problems about which although no specific injunctions have been laid down in the *Sharī'ah*, but provisions have been made for certain analogous situations. In this sphere, the function of legislator would be to apply such injunctions after a precise appreciation of the reasons and causes underlying them to all similar cases whilst excluding dissimilar cases.

3. *Inference*: There is yet another category of human affairs about which the *Sharī'ah* has prescribed no specific guidance but has laid down broad principles or has indicated the intention of the Lawgiver as to what is to be encouraged and what is to be discouraged. In regard to such affairs, the function of the legislator is to understand the principles of the *Sharī'ah* and the intention of the Lawgiver and formulate such laws for practical problems.

4. *Area of Independent Legislation*: There is yet another vast range of human affairs about which the *Sharī'ah* is silent. It has neither made any direct provision in respect thereof, nor is there any guidance for identical or related situations so as to enable us to draw analogical inference. This silence is by itself indicative of the fact that the Lawgiver has left it to human beings to decide such matters according to their own discretion and judgement. Hence independent legislation is resorted on condition that it must coincide with the real spirit of Islam and its general principles, and, what is more important, should in no way disagree with the general pattern and temperament of Islam. It must naturally and appropriately fit into the general scheme of Islamic ideology.<sup>43</sup>

### ***Interpretation of Ijtihād***

After understanding Mawdūdī's thoughts on the scope of legislation, let us try to understand how he interprets *ijtihād* in the area of law.

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<sup>43</sup>Mawdūdī, *Tafhīmāt*, 7-14; See also by the same author, *The Islamic Law and Constitution*, 71-92.

According to him, the legislative process which makes the legal system of Islam dynamic and makes its development and evolution in the face of changing circumstances possible, results from a particular type of academic research and intellectual effort called *ijtihād*. Literally, the word *ijtihād* means to exert maximum effort in performing a job but technically it signifies ‘maximum effort to ascertain, in a given problem or issue, the injunction of Islam and its real intent’.<sup>44</sup>

Mawdūdī stands to build a new society based on Islam. For him, *ijtihād* represents the principle of movement within the system of Islam. It involves creative thinking and action with a view of bringing the stream of life under the guidance of Islam. *Ijtihād* at the intellectual level is to be accompanied by *jihād* (struggle) at the practical level. Both ought to be combined so that Muslims have, on the one hand, clarity of vision regarding their objectives and the means to achieve them, and on the other hand, the resolve and the energy needed to actualize these objectives.<sup>45</sup>

According to Mawdūdī, it is wrong to think that *ijtihād* means complete independent use of one’s reason as generally understood by modernists. He asserts that anyone conversant with the nature of Islamic law can understand that there is no place for this kind of independence in Islam’s legal system. The real law of Islam is the Qur’ān and the *Sunnah*. For *ijtihād* that purports to be independent of the *Shari’ah* can neither be an *Islamic ijtihād* nor is there room for such an incursion in the legal system of Islam.<sup>46</sup>

Here we witness Mawdūdī rejecting outright the neo-modernistic approach to *ijtihād*,<sup>47</sup> which interprets certain explicit texts like those pertaining to *hudūd* (clearly specified punishments in the Qur’ān or *Sunnah*) in a rather symbolic manner. For Nurcholish Mājid<sup>48</sup>, corporeal punishments, like the amputation of the thief’s hand and the flogging of a fornicator seem to be harsh for two reasons: (i) they reflect the nature

<sup>44</sup>Mawdūdī, *Tafhīmāt*, 14; See also by the same author, *The Islamic Law and Constitution*, 71-92.

<sup>45</sup>Aḥmad & Ansārī, *Islamic Perspectives*, 376.

<sup>46</sup>Mawdūdī, *Tafhīmāt*, 7-14; See also by the same author, *The Islamic Law and Constitution*, 71-92.

<sup>47</sup>Abd Allāh Sa’id, “*Ijtihād* and Innovation in Neo-Modernist Islamic Thought in Indonesia”, in *Islam and Christian – Muslim Relations* (vol. 8., no. 3, 1997), pp.279-295.

<sup>48</sup>See *Ibid*, p.280 for a brief biographical account of Nurcholish Majid, one of the exponents of neo-modernism in Indonesia. He appears also to have been influenced by the late Fazlur Raḥmān, the University of Chicago based Pakistani-American scholar.

and way of life of the Arabs; in a harsh society, the punishments to prevent various crimes were also harsh, and (ii) such harshness is a reminder that man at any time, in any place, has the potential to be barbaric. But at the same time it should be interpreted within the context of the time and place. What is important is not the form of the punishment but it is the moral and the ethical message which counts.<sup>49</sup> Here modernist interpretation of *hudūd* apparently ignores the facts of modern life such as capital punishment for trafficking in drugs and other crimes.

One may also develop a misunderstanding that Mawdūdi is a traditionalist. His thought seems to have a leaning towards the traditional approach, but with further developments and dimensions added to it as we shall see later. He seems to maintain a balanced approach between the traditionalist and the modernist within the revivalist and reformist tradition of Islam.

### ***Purpose of Ijtihād***

The purpose of *ijtihād* according to Mawdūdi is not to replace the Divine law by man-made law. Its real objective is to properly understand the Supreme law and to impart dynamism to the legal system of Islam by keeping it in conformity with the fundamental guidance of the *Sharī'ah* and abreast of the ever-changing conditions of the world. It is not, and should not be, the purpose of *ijtihād* that every generation may necessarily destroy or discard what previous generations have built and thus try to build the entire structure afresh.<sup>50</sup> The purpose of *ijtihād* is to construct the contemporary Muslim society into an Islamic one by reappropriating the unique and essentially complete vision of Islam as presented in its revealed sources. Here he rightly differentiates himself from the modernists who intend to reinterpret Islam in accordance with the spirit of modernity.<sup>51</sup> The main purpose behind all intellectual exertion is to return to a purified Islam by removing un-Islamic beliefs and practices that have infiltrated the thoughts and lives of Muslims. This infiltration for Mawdūdi is the biggest obstacle towards the progress and development of the Islamic *ummah*.

<sup>49</sup>Ibid., p.286

<sup>50</sup>Mawdūdi, *Tafhīmāt*, 7-14; See also by the same author, *The Islamic Law and Constitution*, 71-92.

<sup>51</sup>Modernity here refers to the ideology that challenges the Islamic legacy, and considers it irrelevant to modern times. At times it also questions the interpretation of the scriptures.

Central to Mawdūdī's program for Islamic revival is his earnest call for collective and organized efforts for the revitalization of the Islamic civilization. He asserts that this is not possible without opening the gates of *ijtihād*. For him, stagnation (*jumūd*) was the biggest barrier impeding the revival of the Islamic civilization. Quite contrary to other reformers, he thought that instead of responding to the agenda created by others, the '*ulamā*' should elaborate the correct worldview of Islam which is naturally conducive to the peace and prosperity of people. This would also provide a response to external challenges. The process of revival and reconstruction of the Islamic civilization that he advocated went beyond that 18th century revivalism. He contended that a return to Islam is not simply to appropriate answers from the past, but in light of Islamic principles, to guide people to conduct their own life and society in view of the changing conditions of life. Here he definitely advocates a different approach to *ijtihād*. He considers the understanding of modern society and thought as indispensable qualification of a *mujtahid*. The goal of *ijtihād* is to once again make Islam a relevant force in the intellectual and civilizational life of people. In this way, according to Mawdūdī, Islam would serve as the source of a peaceful, prosperous and harmonious society that would guarantee intellectual emancipation of Muslims from modernist thinking.

For Mawdūdī, the holistic image of Islam can liberate the Muslim society from both traditional stagnation and modern westernization. For the reassertion of the Islamic civilization and solidarity of Muslims, the restoration of *ijtihād* in all domains of life is indispensable. It cannot be adopted in isolation. It should be applied to life as a whole. His vision of *ijtihād* is not simply to use reason or elaborate an issue to develop a legal ruling. He rejected the modernist and traditionalist tendency to regard Islam as a religion and *ijtihād* to be restricted and related to Islamic law. As other revivalists, he believed that Islam as the code of life must once again reassert its place in contemporary times. *Ijtihād* is the only mechanism through which this can be achieved.

### ***Techniques of Ijtihād***

Elaborating the technique of *ijtihād*, Mawdūdī argues that just as *ijtihād* or any legislation based thereon depends for its popular acceptance on the ability of those responsible for it, similarly its success would, to a large degree, depend upon the employment of its correct method and proper technique. He adds that a *mujtahid*, whether he is

engaged in the interpretation of injunctions or is busy in analogical reasoning, has to base his reasoning on the Qur'ān and the *Sunnah*.<sup>52</sup>

For Mawdūdī, the methods for establishing a reasoned judgement based on the Qur'ān and the Sunnah should be reasonable and well organized. While interpreting the meaning of a verse from the Qur'ān, it is important to do so in accordance with the requirements of the language, i.e. Arabic lexicography, grammar, and established usage. In addition to this, it must conform with the word or deed of the Prophet (ﷺ) on condition that the tradition is authentic. For Mawdūdī, any *ijtihād* based on wishful interpretation and in disregard to these precautions even, if raised to the status of law by dint of political power, will neither be accepted by the collective conscience of the Muslim community, nor can it form an integral part of the Islamic system of law.<sup>53</sup>

#### ***How Ijtihād Attains the Status of Law***

Mawdūdī lays down a number of methods whereby an *ijtihād* acquires the force of law. Firstly, it is through the consensus of opinion (*ijmā'*)<sup>54</sup> by the learned men of the community. Secondly the *ijtihād* of an individual or a group of individuals may gain wide popularity and people may adopt the verdict, for instance, the *ijtihād* of the Ḥanafī, Mālikī, Shāfi'ī, and Ḥanbalī schools of law were voluntarily accepted by large groups of Muslim masses. Thirdly, a Muslim government may adopt a particular *ijtihād* as its law; as in the case of the Ottoman government and the Mughal Empire who adopted the Ḥanafī Law as the law of the land. Fourthly, an institution may be constitutionally empowered in an Islamic State to legislate and it may enact a particular *ijtihād* in the form of law. Apart from these methods, any *ijtihād* performed by various Muslim scholars can be no more than a verdict (*fatwā*). As regards to the judicial pronouncements of the judges (*qādīs*), they are enforceable as law only in respect to the particular case. It cannot be classified as law in the true sense of the term so much so that even the judicial pronouncements of the Righteous Caliphs given by them in their judicial capacity as *qādīs* did not acquire the force of law.

<sup>52</sup>Mawdūdī, *The Islamic Law and Constitution*, 78-79.

<sup>53</sup>Ibid.

<sup>54</sup>*Ijmā'* is the unanimous agreement of the companions of the Prophet, or scholars in general, on a point of Islamic law. Technically, in the parlance of jurists it is the agreement upon a *ḥukm shar'ī* by the *mujtahids* of a determined period. This definition would exclude the employment of this principle by a political institution, unless it is composed of *mujtahids*.

According to Mawdūdī, the concept of the “Judge-made-law” is foreign to the legal system of Islam.<sup>55</sup>

### ***Ijtihād to be in Accordance with Maṣlaḥah***

Mawdūdī, in unambiguous terms, says that *ijtihād* should accord with *maṣlaḥah* (public interest) and *ḥikmah* (wisdom).<sup>56</sup> Of the principles laid out by him, a significant one is that every ruling of the *Sharī'ah* is based on *maṣlaḥah*. A change in times bringing about a general change in circumstances and conditions would necessitate amendment in the structure of the ruling. To this effect, he himself undertook the translation of the chapter of Ibn Qayyim's<sup>57</sup> book entitled *A'lām al-Muwaqqi'īn* dealing with amendments to rulings with the change of time and place, and had it published in *Tarjumān al-Qur'ān* in 1934. It was republished in 1957. Human intellect is not free or empowered to devise and frame its rulings independently and outside the ambit of the *Sharī'ah*. Any *ijtihād* undertaken had to be done with this premise that the *Sharī'ah* had outlined what was good and what was bad.<sup>58</sup>

### ***Separation of Religious and Political Authority***

Mawdūdī favours *ijtihād* in matters of the religious-legal code because he is not satisfied with the legal structures elaborated by medieval jurists. These jurists, in his view, participated in an imperfect system because by their time the religious and political authorities had, to a certain degree, separated.<sup>59</sup> The period of the Umayyad dynasty (661-750CE) was characterized from the beginning by the unfortunate separation between political and religious authority. For the first time, the Muslim community had a political leadership that was not entitled to or capable of exercising religious authority. Conversely, there were a large number of intellectual and religious scholars who were practising *ijtihād* but had no political authority to enforce it. This dichotomy had a drastic effect on *ijtihād* as a discipline and on the intellectual and psychological environment of the Muslim community. Two forces were

<sup>55</sup>Mawdūdī, *Tafhīmāt*, 14; See also by the same author, *The Islamic Law and Constitution*, 80.

<sup>56</sup>The words *maṣlaḥah* and *ḥikmah* are often used by scholars interchangeably.

<sup>57</sup>Ibn Qayyim was the student of Ibn Taymiyyah.

<sup>58</sup>Murad, *Jasārat*, 48-49.

<sup>59</sup>McDonough, *Muslim Ethics and Modernity – A Comparative Study of the Ethical Thought of Sayyid Aḥmed Khan and Mawlānā Mawdūdī*, 72-74.

at work: on the one hand, the rulers whose chief concern was to strengthen their power and maintain control over the people and the intelligentsia; on the other hand, the *fuqahā'* who sought to preserve the integrity of the Faith and the efficacy of *ijtihād* as a source of legislation and protection against abuse by the rulers.<sup>60</sup> The founders of the main schools of Islamic law were often in conflict with the political authorities of their times. Some had to endure imprisonment for their views. The majority of Muslims in the world belong to Sunni Islam, which means that they have accepted as legitimate both the legal structures worked out by these early jurists and the implicit division of power that occurred after the death of 'Alī.<sup>61</sup>

### ***Unity of Religious and Political Authority***

According to Sheila Mc Donough:

Mawdūdī wants to restore the position that existed before that division of powers and to unite religious and political authority in one entity, the *Amīr* and his consultative council. In arguing this way, he demonstrates new dimensions to *ijtihād*; he attempts to reverse the decision made by earlier Muslims to accept that division. Those trained in traditional legal schools have believed that what the consensus of legal scholars has decided cannot be reversed. Mawdūdī supports *ijtihād* because he wants to reverse even that basic premise of medieval jurisprudence.<sup>62</sup>

Mawdūdī believed that the renewal of Muslim society and its social transformation or modernization must be rooted in Islamic principles and values. Thus, instead of speaking of democracy as such, he accepted the traditional concepts of consultation and community consensus, but noted that in Islamic democracy, the will of the people remained subordinate to the Divine will. Mawdūdī called this a theo-democracy to distinguish it from a theocracy, or a clergy-run state, which he rejected. In an Islamic state, democracy could never mean that the majority had the power to legislate laws that contradicted religious belief regarding alcohol, gambling, prostitution, and so forth.<sup>63</sup> Thus in Mawdūdī's own words, "The *Amīr* has the authority to make decisions, as indeed 'Umar and the early caliphs once had." Mawdūdī does not like the idea of

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<sup>60</sup>Alwānī, *Ijtihād*, 9-10.

<sup>61</sup>McDonough, *Muslim Ethics and Modernity – A Comparative Study of the Ethical Thought of Sayyid Ahmed Khan and Mawlānā Mawdūdī* 72-74.

<sup>62</sup>Ibid., 73.

<sup>63</sup>John L. Esposito, *Islam The Straight Path* (New York: Oxford University Press, 1988), 156.

democracy based on the notion that the people are sovereign and have the right through their elected representatives to design laws and other social institutions as they wish.<sup>64</sup>

On the question of democracy, it is worthwhile to record an observation made by Mohammad Nejatullah Siddiqi in his meeting with Mawdūdī in 1978. Siddiqi observed that those who were familiar with the speeches made by Mawdūdī in both East and West Pakistan would remember the core of his argument: Since the overwhelming majority of the people, being Muslims, wanted Islam, democratic elections conducted fairly on the basis of adult franchise were the best route to the establishment of an Islamic system in Pakistan. With that argument in the background, and having worked for the democratic procedure in Pakistan since its inception, why was Mawūdī now supporting a military dictator (General Mohammad Ziaul Haq)? Mawdūdī's reply was: "No other ruler had ever declared so openly, so clearly, his commitment to Islam and his resolve to implement the teachings of Islam in all walks of life." This response, for Siddiqi, left something to be desired. He expresses his anxiety by asking: "Is our commitment to the democratic procedure a matter of principle or merely a matter of strategy?" That was the big question.<sup>65</sup>

It is well known that the primary interest of Islam is the well-being of the people. The form of government, whether it is a parliamentary democracy, a republic, a theocracy, a diarchy or a monarchy is immaterial as long as the government performs its functions well within the Islamic framework. The *Shari'ah* does not prescribe any specific form of government or any definite procedure or pattern that the Islamic state must follow. Being a Divine law, the *Shari'ah* left a vast area in the constitution-making activity open to the citizen and to the government of the time. As regards to the method employed in choosing leaders, the only method approved is consultation and representation. These two are both inalienable tools of an ideal government.

It can justifiably be inferred that Mawdūdī saw in Ziaul Haq, not only a military ruler but also a God-fearing practicing Muslim and hence the Jamā'at-i-Islāmī's participation in a government under General Ziaul Haq. "Bhutto had set his goons after me. The Islāmī Jamīat Talabā spent

<sup>64</sup>McDonough, *Muslim Ethics and Modernity – A Comparative Study of the Ethical Thought of Sayyid Ahmed Khan and Mawlānā Mawdūdī*, 73; See also Adams, "The Ideology of Mawlānā Mawdūdī", in Smith, ed. (*South Asians Politics and Religion*), 389.

<sup>65</sup>Muhammad Nejatullah Siddiqi, "A Meeting with Mawlana Mawdudi" in *The Muslim World* (Vol., 95, No. 1, January, 2005), 121-124.



nights sitting on these walls, protecting me from their threatened attacks”, said Mawdūdī, pointing towards the boundary wall of his villa. “This man (Ziaul Haq) is a practicing Muslim. He promises to follow in the foot steps of the Khulafā’i-Rāshidīn (The Righteous Caliphs).”<sup>66</sup>

### ***Closure of the Gate of Ijtihād***

Mawdūdī is of the opinion that due to the elimination of difference between *nuṣūṣ* and *mubāḥāt* (permissible) the gate of *ijtihād* was closed. Mawdūdī directed the scope of *ijtihād* from liturgical and other issues to societal issues. When he presented the constitution of the Jamā‘at-i-Islāmī in the 1950’s, he wrote in the *Tarjumān* that what the Jamā‘at had adopted were few forms and practices of the many forms and practices of *mubāḥ* which it found suitable. He said that people should not demand the *naṣṣ* for each and every thing. They should not unnecessarily insist that what was not done in the time of the Righteous Caliphs should not be done now, or what was done in their time must be done now. This is because the forms and practices adopted by the righteous caliphs in their times were also based on *ijtihād*. Out of the many choices of *mubāḥāt*, they chose only a few. It is incumbent though that there should be consultation in all matters. The nature, type and duration of the consultation are matters of expediency. There should be an *Amīr* who is relied upon and who should be obeyed. However, the parameters of his power and prerogatives, the nature and condition of the obedience due to him, ascertainment of his reliability, etc. are matters that will have to be determined according to the times and within the sphere of permissibility.

### ***Qualifications of the Mujtahid***

For Mawdūdī, it becomes evidently clear that no healthy *ijtihād* is possible unless our lawmakers are duly equipped with the necessary qualifications. These may be enumerated as hereunder:<sup>67</sup>

1. Faith in the *Sharī‘ah* and conviction of its truthfulness; a sincere intention to follow it, absence of any desire to act independently of it; and the will to derive inspiration and acquire all objectives, principles and values from it and not from any other source.

2. A proper knowledge of the Arabic language, its grammar and literature.

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<sup>66</sup>Ibid.

<sup>67</sup>Mawdūdī, *Tanqīḥāt*, 36-43; See also his *The Islamic Law and Constitution*, 76-78.

3. Such knowledge and insight in the teachings of the Qur'ān and the *Sunnah* as would enable one not only to be conversant with the details of Islamic injunctions and their application in actual practice, but to fully appreciate the basic principles of the *Shari'ah* and its objectives.

4. Acquaintance with the contributions of the earlier jurists and thinkers of Islam—this is necessary not merely for training in the technique of *ijtihād* but also for the sake of ensuring continuity in the evolution of law.

5. Acquaintance with the problems and conditions of our times—the new problems of life to which an answer is sought and the new conditions in which the principles and injunctions of the *Shari'ah* are to be applied. A correct appreciation of the current problem is essential for the proper exercise of *ijtihād*.

6. Commendable character and conduct according to the Islamic ethical standard—absence of this virtue is bound to adversely affect the public trust in legislators.

The idea is to show that a healthy development of Islamic law on proper lines through *ijtihād* is possible only if the system of legal training and education starts producing learned men of such calibre and qualifications. Any legislation undertaken without these requisites would neither fit into the legal system of Islam nor would it ever be palatable to the Muslim society.<sup>68</sup>

#### ***Revivalist Movement in Islam***

Finally, Mawdūdī highlights that the prime task of a *mujtahid* of the contemporary age is the revival of Islam and its civilization. Hence in his book entitled *Tajdīd-o-Ihyā-i-Dīn* (A Short History of the Revivalist Movement in Islam), he discusses the nature of Islamic revival. To him, Islamic revival is cleansing Islam of all un-Godly elements and presenting it in its original pure form. For the purpose of *tajdīd*, the task of a *mujaddid* is to diagnose the correct ailments; to launch schemes for reformation; to estimate one's limitations and resources; to shape the ideas of the people into the Islamic mould; to eradicate evil customs; to comprehend the fundamental principles of religion; to judge contemporary culture and its trends from the Islamic view-point; to encounter political forces seeking to suppress Islam; to wrest authority from the hands of 'un-Islam' and establish government on the pattern of the rightly-guided caliphate; and to initiate a movement to make Islam a

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<sup>68</sup>Mawdūdī, *The Islamic Constitution*, 77-78.

world force. A *mujaddid* in Mawdūdī's views should also have an unusual competency to undertake *ijtihād*. We have to fully understand the process of *tajdīd*, and constructively benefit from past experiences.<sup>69</sup>

For Mawdūdī, *ijtihād fī al-Dīn* is a crucial and integral part of *tajdīd* and entails the comprehension of the fundamentals of Islam in its totality, understanding the contemporary civilizational and cultural development and ethos from an Islamic perspective and determining the ways and means of effecting the necessary changes in past cultural legacy, within the spirit and bounds of the *Sharī'ah* so that Islam leads the world towards the right civilizational and societal development.<sup>70</sup>

For Qāḍī Ḥussain Aḥmad, the present *Amīr* of Jamā'at-i Islāmī in Pakistan, the work on *ijtihād* started by Mawdūdī remains incomplete. The need to codify the principles of *ijtihād*, the issues and problems requiring *ijtihād*, and the need to embark on *ijtihād* are matters, which have yet to mature. Mawdūdī himself preferred to concentrate on '*Al-Jihād fī al-Islām*', as a consequence of which '*Al-Ijtihād fī al-Islām*' had to take a back seat. Despite this, his views on *ijtihād*, and his practical execution are sources that will go a long way in tackling and resolving the increasingly complicated issues of modern civilization.<sup>71</sup>

### **Conclusion**

Our study concludes that Mawdūdī considers *ijtihād* to be a vital issue directly related to the rise and fall of the *ummah*. He places *ijtihād* side by side with *jihād* and contends with historical and logical evidence that Muslims lost their role of leading the world when they turned their backs on these two obligations of Islam. He forcefully argues that intellectual inventiveness, academic pursuits, and creative and critical thinking are needed in all domains of life. Thought provoking endeavors for understanding the human society, as a whole, is fundamental. *Ijtihād* at the intellectual level is to be accompanied by *jihād* (struggle) at the practical level. He asserts that at a time when the whole world is a victim of a civilization that is self-destructive, it is the responsibility of the '*ulamā*' to realize their duties and struggle hard to develop an alternative

<sup>69</sup>Mas'ūd al Ḥasan, Sayyid Abul A'la Mawdūdī and His Thought, 1:196-203; See also Sayyid Abul A'la Mawdūdī, *Shakhsiyāt* (Personalities), (Rampur: Maktaba Zikrā, 1979) for a full treatment of the subject.

<sup>70</sup>Mawdūdī, *Tajdīd-o-Ihyā-i-Dīn*, 44-54.

<sup>71</sup>Qāḍī Ḥusayn Aḥmad, "Concluding Speech," in *Jasārat*, Urdū Newspaper-Special edition, Karachi, November, 1995, 49.

civilization in the light of Divine guidance. *Ijtihād* for him is the mechanism through which the development of civilization is achieved.

For Mawdūdī, it is essential that an Islamic trend first come into existence having in its fold such individuals who would guard, act upon and implement Islamic law in letter and spirit. Therefore, the establishment of an Islamic society and state is indispensable. Mawdūdī himself preferred to concentrate on ‘*Al-Jihād fī al-Islām*’, as a consequence of which ‘*Al-Ijtihād fī al-Islām*’ had to take a back seat. Despite this, his views on *ijtihād*, and his practical execution are sources which have gone and will go a long way in tackling and resolving the increasingly complicated issues of modern civilization. Mawdūdī’s main concern is the revival of Islam through the establishment of an Islamic society and state. He considers *ijtihād* to be an integral part of Islamic revivalism.

There are innumerable issues in the Muslim world related to civilizational development which require fresh thinking. This, however, is not taking place because the general Muslim populace consider *ijtihād* to be limited to the sphere of *Fiqh* and consider the exercising of such *ijtihād* to be the work of the selected few. There is a need that Muslims, especially those engaged in relatively active areas such as industries, finance, politics, international relations, medicine, education and so on gain courage to edify themselves directly through the Qur’ān and the *Sunnah*. At the same time, Muslims, especially the scholars of Islam, should try to understand issues more closely. In this way, a close co-operation between Islamic scholars and experts in human and natural sciences can pave the way for a meaningful *ijtihād*.<sup>72</sup>

It may be concluded from the study that Mawdūdī has in fact dealt with *ijtihād* as an all-pervasive and comprehensive instrument of Islamic thought and Islamic law. He considers *ijtihād* to be a mechanism for the revival and development of Islamic civilization, relevant to all domains of life. He considers the *ijtihād* of a generation not to be necessarily relevant to future generations, and even in the contemporary age, the *ijtihād* of a group of scholars in a particular region is not necessarily applicable to people of another region. He relates the issue of *ijtihād* to the revival of Islamic civilization leading to the prosperity, harmony and peaceful co-existence for all nations.

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<sup>72</sup>Muḥammad Nejatullah Siddiqi, “*Jihād, Ijtihād, aur Mujāhadatun Nafs*” (*Jihād, Ijtihād and Struggle with the Self*) in *Zindagī-e-Nau Monthly* (New Delhi, Sept. 2003), 52-53.

The study has also shown that Mawdūdī's concept of *ijtihād* is neither traditionalist nor modernist. It is also not neo-traditionalist or neo-modernist. In terms of his ideas he belongs to the revivalist tradition according to which the purpose of *ijtihād* is the revival of Islam and the development of the Islamic civilization.<sup>73</sup>

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<sup>73</sup>While terms such as traditionalist, modernist, revivalist, etc. are normally too well understood in Islamic discourse to be elaborated here, a good discussion on them is available in Mir Zohair Husain's *Global Islamic Politics* (New York: Harper Collins College Publishers, 1995).