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The Middle East War—Vital Issues of Law and Morals

"The Arabs would not have been in the unhappy military position in which they now find themselves if they had struck first"

There are certain aspects of the recent hostilities in the Middle East which will cause a great deal of anxiety to international lawyers throughout the world. War, of course, itself represents a serious breakdown in the machinery of the law. It is also a sign of impotence or lack of desire by the international community to make the legal system work and fulfil its proper function of settling disputes. When war is on a substantial scale it likewise represents the failure of the United Nations, a body set up for the sole purpose of preventing war. The very first words of the U.N. Charter, the Preamble, are: "WE THE PEOPLES OF THE UNITED NATIONS DETERMINED to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind..."; and Article 1 of the Charter provides that the purposes of the United Nations are to maintain international peace and security, to prevent and remove threats to the peace and to suppress acts of aggression.

It is not the mere outbreak of a war that would worry international lawyers. In the best of legal systems crimes are committed and rights violated. But the legal system as a whole is not undermined or threatened unless the crimes or violations are very frequent, and unless the members of the community do not seek to put matters right, at least by pro-claiming the rights and wrongs of the situation, if not by actually doing justice to the victim and punishing the guilty. The cause for alarm about the recent fighting in the Middle East is that few people in the West seem to be worried by elementary questions about the rights and wrongs of the matter, and are systematically avoiding the apportionment of blame for what has happened on the recognized basis of law or equity. Furthermore, in some Western quarters there has been obvious jubilation and glee at the outcome of the war, and this for obvious selfish or irrelevant reasons. Not many here seemed to be concerned with the simple question of whether there was any violation of international law involved in starting the war, in its conduct, or in its outcome.

Legal questions not "academic"

Legal questions concerning the recent hostilities have been dismissed by Western statesmen as "academic" or irrelevant. But for honest and realistic lawyers these matters cannot possibly be "academic" or irrelevant. Nor should they be for the average intelligent and impartial person. The main, if not the essentially characteristic feature of civilized society is that it is ruled by law. In primitive society disputes were settled solely by force, and settled, obviously, to the advantage of the strong and not of the weak. In this kind of
society — to use a phrase made famous by the 17th century English philosoper Hobbes — the life of man was “solitary, poor, nasty, brutish and short.” It is a sign of the progress and maturity of human society that the strong is not always right, and that the weak can, if right, succeed against the strong. To consider law “academic” or irrelevant in a dispute, to pay no attention to the violation of the law, and to refuse to punish violations of the law, would be to move backwards in the realm of human progress. Such a retrograde step is bound in the long run to harm the international community as a whole, including many states that may at present be strong and smug in the belief that they are beyond the law or immune from its violations by others.

Aqaba Gulf closure

The first point of principle raised by the recent Middle East war is — who started it? There can be no doubt that Israel did. The Israeli authorities have admitted as much, almost directly and in open terms. The severity of the attack, the degree of synchronization of the strike against targets in the various Arab countries by land, sea and air, and the lack of preparedness and alertness of the Arabs against these attacks all demonstrate very clearly that it was not the Arabs who struck the first blow. The Arabs would not have been in the unhappy military position in which they now find themselves if they had struck first.

Starting a war is not an “academic” point. Under customary international law it is an act of aggression. It is also a violation of the Charter of the United Nations as a whole, and particularly of Article 2(4) which provides: “All members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.” Israel’s claim that the closure of the Gulf of Aqaba to its ships was an “act of war” is without merit in international law. The closure of the Gulf is a matter which could have been resolved by peaceful means — through the U.N. or outside it — and Israel did not exhaust political remedies before launching its attack. By all impartial estimates the U.A.R. ban on Israeli ships was likely to be of only minimal inconvenience to Israel. It is also significant in this respect that several important resolutions of the U.N., particularly the one passed in 1948 for the repatriation and compensation of the Palestinian Arab refugees, remain unheeded by Israel. The Arabs had not resorted to war to give effect to these resolutions in their favour.

The massing of troops

The other claim by Israel that the massing of U.A.R. troops on the border was a threat to Israel’s security does not justify the starting of a full-fledged war. Israel knew very well that the Arab move was a purely defensive measure intended to deter it from striking against Syria (as Israel had openly threatened a few days earlier). Israeli military intelligence, and that of some of Israel’s friends among the Western powers, had every reason to believe that the Arabs were not intending to be the first to attack — and subsequent statements by Israeli politicians and military leaders confirm this.

Self-defence?

There can also be no question in this case of justifying the Israeli attack as self-defence. The U.N. Charter (Article 51) allows the exercise of the right of self-defence only “if an armed attack occurs against a Member of the United Nations”. Self-defence cannot be pleaded as an excuse for starting a preventive war or launching a pre-emptive attack. What has sometimes been described as “Herod’s policy”, i.e., attacking long before you think you are likely to be attacked, on the pretext that if you did not you will eventually be the victim, is not permitted by the U.N. Charter or international law generally. Otherwise states would have justification for attacking one another without warning, on the pretext that the country attacked has military bases likely to be used at some time in the future against the attacking country. It is noteworthy in this regard that Israeli statesmen have on many occasions indicated that they considered Arab unity as the greatest threat to Israel’s existence, and for this reason the consolidation of Arab ranks that had occurred in the past few weeks must have worried Israel. But would Israel be justified at law in striking against the Arabs to prevent them attaining their God-ordained destiny of unity and solidarity? The answer must plainly be that it would not.

Laws of war violated

Another point that should worry sane and honest people everywhere, but seems to have been relegated to irrelevance as a result of blind prejudice or irrational animosity towards the Arabs in some quarters, is the way in which Israel conducted the war. After the destruction in the first hour or two of the campaign of the Arab air forces, on the ground, the outcome of the war was assured in Israel’s favour. Subsequent military operations against Jordan in the West Bank, and against Egypt in Sinai, were heartless massacres. United Nations observers and many impartial reporters have testified that the Israelis used napalm against military and civilian targets. In the Sinai campaign there was unnecessary cruelty by the Israelis, who are reported to have shot Egyptian prisoners-of-war out of hand or driven thousands of them into the scorching desert without water or food, after stripping them of clothes and footwear. The Israelis also haggled and bargained a great deal with the International Red Cross, and stalled, before allowing relief to be brought to helpless and desperate Egyptian stragglers in the Sinai desert. There was also undue humiliation of Egyptian prisoners-of-war, as pictures illustrating this fact have appeared in the world press. Many thousands (almost a quarter of a million) of Arab civilians have been driven out of their homes and on the land of their fathers, and rendered refugees. All these Israeli acts are contrary to the laws of war and to solemn international conventions and humanitarian principles accepted by civilized nations. Not many people in the West, however, seem disposed to think of this aspect of the matter. Indeed, there has instead been effusive comment praising Israel and congratulating it on a “victory”. The cynicism of all this must be obvious to right-thinking people. Israel’s attack was a pre-emptive one — a Pearl Harbour style onslaught — and far from being courageous it was perfidious and cowardly. Israel’s treatment of prisoners-of-war, its use of napalm, and its hounding of the refugees, are crimes against humanity.

“Fruits of victory”?

There is another aspect of the recent hostilities over which international lawyers must be feeling extremely perturbed and indignant. It is the talk about “spoils of war” for Israel and “the fruits of victory”. Israel has now staked a claim to territory it has occupied as a result of the fighting. This claim is based not on justice or equity, or on any one
Islamic Solidarity the only Cure for the Present Ills—the only Reliable Guarantee for the Future of the Muslims

(Part 1)

We publish in this issue the first of two instalments of a study sponsored by the Muslim World League of Mecca on the various aspects of the concept of Islamic solidarity. We consider this study the best that has hitherto appeared on this vital subject. It deals impartially and in depth with both the theory and the practical reality of Islamic solidarity.

The following appeared in the preface of the booklet (in Arabic) published by the Muslim World League:

A great deal has been said about the Middle East, but this has created little stir amongst foreign politicians, journalists or propagandists, and the agents of the aggressive and greedy Powers which are seeking to dominate this part of the world have shown little reaction. But then a voice was raised in favour of Islamic solidarity, and the moment this was heard it became the subject of serious attention; and profound argument raged in regard to it. A great dust was raised in the political sphere, and the bugles of propaganda and the agents, both open and secret, of alien forces made a great hullabaloo—warning, foreboding and threatening. The whole operation was designed to suppress the call to Islamic solidarity and to thwart this movement.

What is the reason for all this? Why should talk about the Middle East not cause alarm and despondency while talk about Islamic solidarity does all this? The answer to this question is not to be found in the pages of ordinary newspapers or magazines, nor in the raging radio broadcasts, nor in the slanted books published by the Communists. One must go to a respectable university and to a bastion of detached and honest learning to find the answer. We have approached a learned scholar in such a place, and asked for his opinion. The views he expressed are presented hereunder, and it is hoped that after studying this treatise the average impartial and honest reader will be able to make up his mind on the case for and against Islamic solidarity.

We wholeheartedly agree with these remarks and associate ourselves with the conclusions reached in this scholarly and valuable treatise.—Editor.

INTRODUCTION

The Middle East and Islamic solidarity

When scholars talk about peaceful coexistence between “East” and “West”, or about the political struggle or the industrial and technological competition between “East” and “West” they mean by “East” and “West” something different than that understood by the average person. They do not mean the geographic “East” or “West”. What they intend by the term “East” is primarily the countries which profess the “Communist” doctrine, and by the “West” those that believe in the “Capitalist” doctrine. These doctrines provide the characteristic identity of the civilizations of the two geographical entities “East” and “West”. The East has its characteristic identity in the doctrine it professes and the civilization it practises; and the same is true of the West. It is generally admitted that the characteristic identity of each of these regions is in contrast with that of the other.

When scholars speak of the “Middle East” they also do not mean merely the geographical region which the term implies and which the ordinary listeners to radio broadcasts and the ordinary readers of newspapers understand by the term. The scholars by this term mean a region with historical, cultural, doctrinaire and religious characteristics distinguishing it from other regions, and making it a middle region between “East” and “West”. The distinguishing characteristics of this “Middle” region centre round Islam, which represents the region’s history, civilization, creed and way of life. Between the terms the “Middle East”, which is in current use, and the term the “Muslim World” there is but one difference. The first term is devoid of religious or ideological significance, while the second defines clearly and precisely the ideology, doctrine, creed, culture and civilization of the region which make up its personality and predetermine its attitude and stand in regard to the world blocs in the “East” and in the “West”. The hollow term — the “Middle East” — is the one favoured by those who are anxious to distort the image of the region, and who want to strip it of its characteristic identity and make it subservient to, or dependent on, one or the other of the two conflicting ideological forces seeking to dominate the world at present — the Eastern Communist bloc, and the Western Capitalist bloc.
The peoples of the Middle East, who are anxious to bolster up their ideological, doctrinaire and religious edifices independent of the two competing world blocs, find that their personality and characteristic identity can lie only in the civilization of Islam which has been a unifying factor in the ideological, religious, cultural and other spheres. The Muslim world consists of two elements — a geographical element comprising the Middle and Near East, and an historical, cultural, ideological and religious element comprising the Islamic civilization. And that is what is meant by the term "Muslim world" in the following study.

THE REALITY OF THE MUSLIM WORLD

Weakness and division

The state of affairs of the Muslims at present can be summed up in two words: weakness and division. The history of Islam shows that these two words have always been synonymous, and that they represent an identical condition. Ever since the rise of Islam the unity of the Muslims has meant strength, prosperity and glory for them, while disunity has brought about weakness, collapse and backwardness. At present the weakness and backwardness suffered by the Muslims is in proportion to the disunity prevailing in their ranks and the disputes and divisions affecting their peoples. If the history of Islam were to be depicted by a graph line representing the condition of the Muslims, it would show that today the line reads rather low, with the causes leading to weakness and backwardness coinciding with the degree of division and disagreement between the Muslims. The condition of the Muslims today is not as strong as the Muslims would wish, and their status in relation to other world civilizations leaves much to be desired.

The Muslims today do not occupy in the world a position compatible with the sublime nature of the religion they profess, or with the civilization which they had championed and which had shone upon the whole world during the Middle Ages when other nations were enveloped in the deep darkness of backwardness and ignorance. The Muslims today are disputing with one another, and are rent by sectional and ideological disputes; and these divisions and quarrels are distracting them from engaging in unified efforts for the promotion of their genuine main problems and their common interests. The Muslims are wasting their potentialities on local disputes, domestic battles and regional problems, instead of joining hands and standing shoulder to shoulder in support of those of their brothers who are still waging battles for liberation and for the restoration of their legitimate rights in Palestine, Kashmir, Somaliland, the Arabian South and other parts of the world.

Descent ends and ascent begins

The problems with which the Muslims are afflicted at present are on the whole more in the nature of problems of growth and development rather than problems of unmitigated deterioration and collapse. The decline of the Muslim states began at the end of the Middle Ages, when they fell a victim to backwardness and disintegration. This coincided with the time when Europe began its march along the path of renaissance and strength as a result of natural and economic factors which gave rise to an industrial revolution, a scientific progress, and a growing military strength which helped the European powers to indulge in imperialist expansion. European colonialism conquered the greater part of the Asian and African continents. It also besieged the Islamic Ottoman Empire, which remained a beleaguered and isolated bastion resisting the tide of colonialism until its collapse after its defeat in the First World War. That marked the stage when the Muslims hit the abyss of backwardness and collapse. The last vestige of strength and unity disappeared, and the Muslim countries were divided up into disparate regions under the bayonets of foreign colonialists in the form of colonies, mandated territories, protectorates or spheres of influence.

But the Muslims did not submit to the tyranny of the invading European empires which sought to dominate and exploit them. They raised the banner of resistance and national struggle in every part of their greater homeland, and they succeeded in deflecting the imperialist tide by means of great sacrifices in life and in blood shed in the Eastern as well as the Western parts of the Muslim homeland. The majority of the Muslim peoples have consequently regained their sovereignty and independence, and in this way the world of Islam has begun its upward march towards strength and glory, and has got on to the first rung in the ladder of development and progress after its triumph in the battles of national independence.

Triumph in the battles of national independence

The first stage on the upward path towards progress was the stage of national struggle which was waged by every one of the peoples of the Muslim world for the purpose of ridding their countries of foreign colonialist occupation. This struggle was inspired by the principles of Islam, principles which have been summed up by Jamal al-Din al-Afghani when he said: "Islam and servility cannot exist in the same heart." Not one of the peoples of the Muslim world submitted to the conditions of servility, disunity and backwardness imposed by the forces of foreign occupation, and they all engaged in national struggle for liberation from colonialist domination and foreign occupation and for the restoration of freedom and the defence of the homeland and of national sovereignty. This movement showed itself in the Turkish revolution against the Greek occupation of Anatolia, and the re-occupation of Constantinople, the Egyptian revolution against the British protectorate régime and the British occupation in 1919, the revolutions of Iraq and Syria, the struggle of the people of Palestine, the Wahhabi movement in the Arabian Peninsula, the Muslim League Movement in India, the uprising of 'Abd al-Karim in Morocco, the struggle of the Duster movement in Tunisia, the struggle of the heroic Libyan people under the leadership of Umar al-Mukhtar and the Sanusi uprising against the Fascist Italian invasion, and other uprisings and movements which took place throughout the Muslim world, from Indonesia to Morocco. This stage in the history of the Islamic struggle was crowned in 1962 by the triumph of the Algerian revolution, and this can be considered the concluding chapter in the first stage of the Islamic nationalist struggle. And with the triumph of the Muslim peoples in this stage there began the next stage — the stage of construction and development. And this is being undertaken with the same strength, determination, conviction and foresight that have characterized the previous stage.

The aims of the current struggle

The Muslim peoples face at present the same difficulties and problems as those faced by all the peoples who have been liberated from imperialism and foreign occupation, and who have inherited from the previous imperialist régimes conditions of backwardness and under-development. These are the problems which afflict all the peoples of the so-called
“Third World”, or the “developing” countries. These difficulties centre around two main aims. The first aim is the ending of the conditions of economic under-development and cultural, scientific and technological backwardness. This can be achieved by the setting up of industries and the national control of the sources of natural wealth, and by the attainment of a state of technological and scientific self-sufficiency which would make possible the utilization of local raw materials and their conversion into finished products wherever possible. Simultaneously, with this there should be development and expansion of agricultural resources to a degree that would match the present population in these countries, and its expected increase. Everything necessary should be done to make possible the raising of the standard of living of the people, and their cultural, educational, scientific and technological standards and their capacity to produce; and in this way the people’s self-respect would be enhanced and they would become more capable of aspiring to greater achievements in the ideological sphere free of the handicaps of material needs and hardships.

The second aim to be sought in the present stage of the struggle of the Muslim peoples concerns the fulfilment by them of their role in regard to human civilization as a whole, as free peoples with a feeling of complete equality compared with other peoples. This requires the complete eradication of the last vestiges of foreign domination and the “pockets” of colonialism still in existence. When colonialism found that it had to withdraw in the face of the national struggle waged by our peoples against foreign occupation, it surrendered some of its secondary interests but remained determined to protect, for the longest possible time, what it considered to be vital interests. For this reason colonialism is trying to perpetuate certain bases or “pockets” in various parts of the Muslim world. The best example of such bases and “pockets” is Israel, which is protected by the colonialists in the belief that it would serve as an important base or a bridgehead to be used when necessary for the purpose of protecting what the colonialists conceive to be their vital interests, and from which the colonialists can set forth their forces and agents to strike against any people deemed to be threatening the allegedly vital interests of colonialism.

The Muslim peoples, like all other developing peoples, are capable of destroying these artificial colonialist bases if they make clear to the colonialist powers which are perpetuating these bases that their interests cannot be preserved or maintained except through maintaining genuine friendship with the Muslim peoples and co-operating with them. The colonialists should be made to realize that the only means of safeguarding their interests is friendship and co-operation with the Muslim peoples on a basis of common humanity, and the full and unqualified recognition of the rights of the Muslim peoples and respect for their dignity and honour, as well as the eradication of all traces of foreign domination in the Muslim peoples, be that direct or indirect, as in the case of the establishment of artificial bases and “pockets” in the Muslim countries. The colonialists should also understand that the sole basis for co-operation between Muslims and other countries, whether big or small, is mutual respect, equality in dignity and rights, and the rejection of aggression irrespective of the direction from which it comes.

The Muslims’ potential is unquestionable

Islam has been shown in the past, and is being demonstrated at the present, as capable of infusing into its followers tremendous power to achieve success and open up the road to dignity and glory if the Muslims consolidate their ranks, determine their objectives, and decide to engage in struggle and endeavour, armed with their beliefs and fortified by their sacrifices. This is a well-established historical fact which cannot easily be ignored by friend or foe alike, and must be taken into consideration by all serious people. When at any stage in history the Muslim peoples had proclaimed their resolve to attain a particular legitimate objective, and when years had passed without this objective being realized, or when in fact the Muslims had appeared to be getting farther away from the realization of their professed aim, the fault was not found to lie with the peoples themselves, but in the plan that had been devised by the governments or in the means adopted by these governments or leaders for the realization of the objective. There is no justification whatsoever for doubting in the slightest degree the capacity and potential of the Muslim peoples to attain their objectives and to triumph in the end.

In the previous stage of the struggle waged by the Muslim peoples — the stage of national struggle — every one of the Muslim peoples embarked upon a struggle entirely on its own, lacking military weapons or capacity, without the benefit of political statehood, without an organized army, and often in isolation from brothers, neighbours and supporters generally. Nevertheless, these Muslim peoples succeeded in their campaigns and were able to attain national independence. They forced the foreign powers which had occupied Muslim territory to retreat and withdraw from the Muslim homeland, and to recognize the independence and sovereignty of the Muslims over their countries. The Greeks withdrew from Anatolia, the British from Egypt, Iraq and Jordan, the French from Syria and the Lebanon and from Arab North Africa as a whole. And now that the peoples of these countries have become independent and have regained their freedom it is wrong for anyone in these countries or outside to doubt for one moment that these countries can, after their independence, achieve in Palestine what was achieved by the Algerian people on their own in Algeria, and achieve for Kashmir what has already been achieved by the peoples of Pakistan and Indonesia, and defend the rights of the Turks of Cyprus in the same way as the rights of the people of Anatolia were defended.

From the standpoint of the standards of industrial and material development generally the renaissance of the Muslim world appears to have begun at the same time as the renaissance of Japan, a country which has now completely rid itself of backwardness and under-development. But the Muslim world has not yet achieved this stage. This does not mean that we Muslims are less capable than the Japanese people, or that we are less able to achieve the miracles in industry, science and progress generally which have been achieved by the Japanese people. It only means that we have missed selecting the right path to the realization of our aspirations. We must endeavour to find how the mistake has occurred, and to remove the causes which lead to the incapacity of the Muslim peoples at the present time to solve their problems and to build up the edifice of their economy and their stature generally.

The causes of the present weakness

Why is it that the various Muslim peoples and states have failed to achieve what has been achieved by a single people, such as the Japanese people, in the industrial, scientific and technological spheres? In fact, why should one have to go as far as the Far East to find a comparison with
the state of affairs of the Muslim peoples. It can be asked: Why have so many independent Muslim countries failed to achieve in regard to Palesinie and Kashmir what has been achieved by peoples in separate countries, as in Algeria, Tunisia, Egypt or Syria? There may be many answers to this question, and some of the causes contributing to our failure may be beyond our control — such as international events and situations, or geographical considerations, or the special circumstances of certain problems. But there is one cause which readily comes to mind, and which it would not be feasible for the Muslims to ignore. It is that the inability of several Muslim peoples to achieve what has been achieved by a single country may be due to the fact that the existence of the Muslim peoples as separate and independent units has not been a source of strength for them collectively. Separation and independence naturally mean weakness where the separate units are quarrelling or disagreeing with one another; and the only way to strengthen in such cases is for the people concerned to consolidate their ranks, unify their plans, and make joint efforts to protect their interests and realize their aspirations, armed with a unified resolve and with the solidarity of the masses. It is necessary for the Muslims in the circumstances to consider ways and means for the peoples in the various parts of the Muslim world to strengthen themselves in their present struggle and equip themselves with the weapons with which each of these peoples separately had equipped themselves in their national struggle — namely the weapons of unity, solidarity, determination and faith. The framework necessary for the promotion of co-operation and solidarity between the Muslim peoples must be in harmony with the circumstances of the modern world, a world characterized by international blocs and dominated by the movement for world unity. It must also be in line with the role which the Muslim peoples have undertaken in the movement for world groupings. What exactly is that role?

**THE ROLE OF THE MUSLIMS IN A WORLD OF POWER BLOCS**

**A world of unity**

This is the age of the United Nations. The world is progressing towards unity, and the United Nations is an organ chosen by the peoples of the world to serve as a vehicle for co-operation for the purpose of attaining this objective. All the peoples of the world must prepare to face this prospect of unity, and all nations must make themselves ready to serve this objective of unity and to march in its caravan. Peoples, and national or other groups, who adopt a different policy in this regard, must realize that they would be embarking upon a trend which is contrary to the current world trend. They are also thereby condemning themselves to perdition, in just the same way as satellites who leave the orbit of their planets eventually burn up and become extinct. The world movement towards unity has not stopped at the setting up of the United Nations. Several regional organizations and economic and political groups have been established, and in their limited and specialized spheres these carry out functions similar to those undertaken by the United Nations. The only justification for the existence of these organizations and groupings in this age of the United Nations is that they serve to bring peoples closer together and make possible rapprochement and co-operation for the realization of the aim of world solidarity and unity sought by the United Nations.

**The stage of international blocs**

The existence of international blocs is something that is bound to come, and is an inevitable historical stage of development. In the same way as nationalist movements were natural and necessary developments in the history of man, the movements towards groupings and solidarity between various peoples and states are natural and inevitable steps bound to be taken in the world of today. The nationalist movements which swept over Europe in the 19th century C.E. were necessary for the liquidation of the empires that had been built up on military conquest and racial supremacy. This movement later affected the peoples of Asia and Africa, and they had a similar objective — the liquidation of the European colonialist empires which had imposed their domination and influence over the peoples of Asia and Africa. The nationalist movements that arose among the various Muslim peoples also come within the framework of the national struggle against foreign domination and colonialist occupation of various parts of the Muslim world.

At present the Muslims, like all the other peoples of the world, feel they are being propelled towards groupings and blocs, and it would be inconceivable for the Muslims alone to ignore the existing world trend which is moving peoples towards unity, solidarity and grouping. And as in the case of other peoples, this movement amongst the Muslims must not be solely the product of temporary or transient sentimental considerations, nor of selfish interests, nor of artificial political factors. It must be the product of a definite desire dictated by material, economic, scientific and other practical factors which cannot be ignored or avoided. This movement towards grouping and solidarity is something which is made necessary by the realities of today's world, a world of speedy communications that have shortened distances, or aeroplanes and rockets, of heavy industries and mass production, of artificial satellites and space rockets, a world in which it is no longer possible to close frontiers between nations, or to create barriers between peoples, or to live in isolation. Today's world is a world of continents, of large human groups, of an Eastern bloc and a Western bloc, of the Organization of American States, of the Organization of African Unity, of the Afro-Asian bloc, of the bloc of non-aligned states. There is no room in today's world for states that seek to live in isolation in a state of quarrelling and disunity with the outside world.

**A series of international blocs**

It can be said now that there is hardly a state in the world today which does not belong to one of the many international blocs or groups. The reason for this is that no state now believes that it can safeguard its existence unless it associates itself with a group of other states and consequently relies on the assistance and support of other states. That is the reason why there is in existence at present such a large number of groups and organizations in various parts of the world. The states of North and South America are grouped together in the Organization of American States; the United States of America and Western Europe are grouped together in the North Atlantic Treaty Organization; the Soviet Union and the Eastern European states have their own Warsaw Pact; the African states have joined together in the Organization of African Unity; the Arab states belong to the League of Arab States; the non-Arab Islamic states of Turkey, Iran and Pakistan are members of the Central Treaty Organization; the countries of South-East Asia have a South-East Asia Treaty Organization; the various countries of Asia and
Africa are members of the Afro-Asian bloc; the so-called non-aligned states are endeavouring to establish a separate and distinct organization of the non-aligned; and China, which is so huge and vast as to be able to form a separate bloc of its own, is associating itself with a group of Communist states in East and Central Asia.

All this demonstrates that there is at present a large network, or a long chain, of international groupings, and that every part of the world, including the Muslim world, is covered by one or other of these groupings.

**A positive and honourable role for the Muslims**

What is the role of the Muslims in the structure of these international groupings and blocs, and what are the Muslims doing in the matter of the promotion of groupings and blocs for the protection of their own interests?

To be fair to the Muslim peoples, one must admit that they have demonstrated great vigilance and alertness, and have participated in a positive manner in the formation of some of the international blocs at present in existence. Except in the case of the Organization of American States (which is concerned primarily with an area of the world geographically removed from the Muslim states) and the Warsaw Pact (which professes an ideology alien to the Muslim ideology — unless one were to take into consideration the Muslims of the Soviet Union who have participated in the formation of the Pact), the Muslim states and peoples have played a positive role in the formation of all important international groups or blocs, and they continue to participate loyally and effectively in the realization of the aims and objectives of these groups or blocs. Indeed, it can be said that in many cases the Muslim peoples or states have taken the initiative in the formation of blocs or groupings, particularly in the case of those affecting the continents of Asia and Africa. The first regional organization in Asia and Africa was the League of Arab States. It was set up before the United Nations, and when it came into being only one international group or bloc was in existence — the Organization of American States. The Arab states also took the initiative in the formation of a group of developing countries at the United Nations known as the "Arab-Asian bloc". This bloc, which was formed before the Bandung Conference, was subsequently converted into the "Afro-Asian bloc" following the attainment of independence by a number of African states and the accession of these states to the bloc; and this fact paved the way for the holding of the Bandung Conference and gave it great historical significance. The Arab and Muslim states also played a leading role in the formation of the Organization of African Unity and in the promotion of the aims of the Organization. A similar role was played by the Muslim states in the establishment of the bloc of non-aligned states.

**The dynamic vitality of the Muslim peoples**

It is definitely ascertainable that the Muslim peoples have played a major positive role in the historic stage of the formation of international groups or blocs. This is shown by the fact of the membership of the Muslim states in many international groups or blocs, and the important part they took in the setting up of these blocs or groups. It is no exaggeration in this respect to say that the honourable role which the Muslim peoples have played in the movement for international groups and blocs is greater than that played by any other international group, particularly in the so-called "Third World". The secret of the dynamic vitality which impelled the Muslim peoples towards the formation of international groups and blocs and made them march on the path of regrouping among nations and states on a basis of solidarity and co-operation is without doubt the Islamic ideology which they profess, an ideology based on the principle of fraternity and equality of peoples. This principle is illustrated by the Saying attributed to the Prophet Muhammad — "You all come from Adam, and Adam comes from earth". This is a concept which implies equality and requires that people should get to know one another, and that there should be co-operation between all races, peoples and nations. The Qur'an says: "O mankind, surely We have created you from a male and a female, and made you tribes and families that you may know each other."

**Negative results of association with blocs**

The Muslims feel at present that the positive role which they had undertaken, and which they are still undertaking, within the framework of the international blocs or groups in which they participate has not led to the positive results which they have been expecting in regard to their own fundamental interests and main problems. The Muslims feel grieved that these negative results conflict with the positive role which they have played in the movement for groupings, and are not in line with the loyalty and the great efforts which they have shown in the formation of these groups and the promotion of their objectives. The Muslims feel, for example, that while the Muslim states members of the Organization and have always taken a firm stand in the forefront of those defending the rights of the African peoples against racial oppression in South Africa and Rhodesia, many African states members of the Organization do not adopt a similarly firm attitude in regard to the racist Zionist aggression against the people of Palestine. The same can be said about the leaders of the so-called "non-aligned" states who actually take the side of the Zionist aggressors against the people of Palestine. A similar attitude is adopted by some states which have vital interests in the Arab world, and these states have not as yet come to realize that their interests require that they should adopt a more sympathetic attitude towards the Arab viewpoint in regard to Palestine. Likewise, the Muslims find that although a Muslim state like Pakistan belongs to two military alliances its allies do not consider this a sufficient reason for supporting the Pakistani viewpoint in defence of the right of the people of Kashmir to self-determination, and are not prohibited from competing with the Soviet Union in supplying arms and equipment to India, which is committing aggression against Kashmir, and which is not a member of any of these alliances. In the spheres of industrialization, development and the raising of the standard of living, the Muslim peoples feel that they have not achieved any positive advantages as a result of their membership of the various international groups or blocs. Of course the Muslim countries did not expect immediate or dramatic benefits from the African and Asian developing countries who are members of these organizations or from the non-aligned states generally. But they did expect some significant help from the big Powers which are associated with a large number of Muslim countries through military and other pacts or which have vital interests in Muslim lands.

The Muslims are aware that they must primarily rely on themselves for the safeguarding of their rights and interests against aggression — be that in Palestine, Kashmir, Cyprus, Somaliland or any other place. They know that they cannot justifiably attribute their failure or lack of achievement to the actions or omissions of their allies or associates in the African and Asian continents or in other parts of the world.
— East or West. But it is now felt by the Muslims that the association of some Muslim peoples with these international groups or blocs has not only brought no tangible benefit to the Muslims but has at times positively inflicted harm upon them by undermining their unity and their national interests generally. The fact that some Muslim states adopt towards Israel an attitude which conflicts with that of the majority of the Muslim and Arab states is sometimes explained as a necessary concomitant of membership of such groups or blocs, and as the result of the influence exerted upon them by their allies or associates. Some Muslim states, for example, have found it necessary to adopt towards Israel an attitude which is dictated by the Muslim states’ allies in certain pacts and blocs. Many people believe that the existence of such contradictions and conflict among the Muslim states, as a result of the commitments which some of these states have outside the Muslim sphere, have caused some Muslim states to adopt a rather ineffectual attitude towards the major Islamic problems such as the problems of Kashmir and Cyprus, or to positively support those who have committed aggression against the peoples of Kashmir or the Muslims of Cyprus, Eritrea or Somalia. The Muslim peoples on the whole therefore feel greatly pained at the fact that their countries’ zeal for certain groups or blocs, and the positive role which they have played in forming these groups or blocs, have led to definitely harmful results such as the disunity and discord among the Muslim peoples, the spread of political conflict, and the lack of support for vital Muslim problems. In consequence the Muslims have become unable to attain their aspirations in the economic sphere or raise effectively the standard of living of the masses. The Muslim states have become handicapped by these fundamental problems, and have been prevented from devoting full attention to other problems, such as construction and development in the various spheres.

**The choice for the Muslims**

This is the reality of the Muslim world today, as seen by many Muslims. It is something which is not in line with the aspirations of the Muslim peoples or in harmony with their interests; and it is something which they cannot accept for long. But what is the solution? It would be easy for the Muslims to throw on to somebody else’s shoulders the responsibility for their failure so far; and they would have every justification for attributing their failure to solve some of their vital problems — such as Kashmir, Palestine, Somalia, and Cyprus, and the problems of economic and industrial development — to the attitude which has been taken by the African and Asian states. It would also be easy to seek some kind of solution for the present situation by advising the Muslims to find better and more reliable allies in the future than the African and Asian states and the Western powers; and such new potential allies are said to be eagerly stretching a hand of friendship (although, of course, the Muslims do not know what is hidden in the other hand, which is hidden by these alleged allies behind their back!). There are also some who would advise the Muslims to open their doors and hearts to an entirely new alliance — despite the dangers which such new alliances imply in the importation of new ideologies and trends.

There are some people, however, who object to the aforementioned policies; and who feel that we, the Muslims, have not reached the abyss of weakness and desperation as to have to throw ourselves into the arms of one or the other of the two world blocs in order that we may get support for our problems, assistance against our enemies, and relief against the lack of consideration by our allies. They believe that there is a better alternative — that we should rely solely upon ourselves, upon our history, upon our ideology and upon our personality. These are the views held by the advocates and champions of Islamic solidarity, who consider this policy the only cure for the present ills of the Muslims, and the only reliable guarantee for their future, their personality, their ideology, their faith, their independence and their freedom. The Muslims must judge which of the conflicting ideas and policies is the one likely to make possible the fulfilment of the aims and aspirations of the Muslim world.

*(To be continued)*

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**The Woking Muslim Mission & Literary Trust**

The Trust was founded with the object of the propagation of non-sectional Islamic ideology and to dispel various misunderstandings about Islam in the West. It continues to render this service to the best of its resources. Some of its important spheres of activities are:

**THE SHAH JEHN MOSQUE** — a world-famous Islamic centre where Muslims as well as non-Muslims both from England and abroad come in search of knowledge about Islam. Muslim scholars go out from this centre to give talks to various organizations in the country.

**THE ISLAMIC REVIEW** — a monthly journal in its 55th year of publication. Scholars from all over the world reach the Muslim intelligentsia through its 40 pages.

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Modern Authorities on Economics vindicate Islam’s Interestless (Usuryless) Economic System

By NASIR AHMAD SHEIKH

A Reply to Professor Sabri Ulgener, “Monetary Conditions of Economic Growth and the Islamic Concept of Interest” (vide The Islamic Review, February, 1967)

“The great economic principle of the elimination of interest, as enunciated by the Qur’an, is found by modern research and experimentation to be sine qua non for full employment and economic growth”

In The Islamic Review for February 1967, Professor Sabri F. Ulgener, in his article entitled “Monetary Conditions of Economic Growth and the Islamic Concept of Interest” raises the question:

“Should Muslims as sincere Muslims still banish interest by following the old interpretation and then search possibilities elsewhere, say within an interestless economy, or try to reinterpret Islamic Law so as to confine riba to usury and then have complete freedom in accepting economic institutions based largely on interest taking?”

and then comes out with the plea:

“Instead of launching on a hopeless experiment of fighting usury as such, it seems far more desirable to plant the seeds of monetary institutions into the body of under-developed economies so as to make the adaptation a short and painless one, just as in medicine preventive measures against certain diseases are taken by injecting viruses of these same diseases into the organism.”

The views on interest of some eminent economists

It is out of place to apply the remedies of one branch of knowledge to another. In medicine the diseased portions of the body organs are cut off by surgical operation so as to relieve the animal or the human body of their harmful effects. The harmful effects of interest in the body economic of the traditional capitalistic countries were found to be so deep, especially during the Great Depression of 1929-33, that the economists of these countries were forced to discard the classical economic theories and evolve new ones advocating the elimination of interest from their economic institutions. John Maynard Keynes (1883-1946), the pioneer of the new economic theories, looking at the expanding money supply, had predicted in his famous book, The General Theory of Employment, Interest and Money, published in 1936, that the rate of interest would approach zero in the next thirty years (page 220).

R. F. Harrod, in his book Towards Dynamic Economics, published in 1952, said that that period would have to be longer as it would take more time before physical capital (in the shape of machinery and capital goods) becomes sufficiently abundant, after the destruction of the Second World War (p. 146).

Geoffrey Crowther, in his book An Outline of Money, 1951 Edition, feels that “a gradual and imperceptible fall in the value of money is necessary to enable the world to slip out of its self-imposed chains of usury” (italics are mine) (p. 98). He attributes the rise of prices in every succeeding century to this fall in the value of money which is necessary “to keep the steadily mounting money from becoming a burden” (p. 178). In other words, as interest was not eliminated from the economic structure of the capitalistic societies, a natural step towards elimination came into play in the form of rising prices which lowered the value of money so that the creditors lost in the shape of a decrement of the real value of the capital, thus equalizing whatever increment they had gained by way of interest. This was nature’s way of healing things and neutralizing the harmful effects of interest which man had refused to eliminate during the centuries.

Another great economist, Professor Hansen, suggests the issue of interest-free Treasury Bills as security for paper money instead of the present-day method of issuing interest-bearing Government securities (cf. his Monetary Theory and Fiscal Policy (1949 Edition, p. 196).

Lawrence R. Klein, in his book, The Keynesian Revolution, even doubts the existence of positive rate of interest at the full employment stage in the following words:

“A loanable-funds theory of interest should imply that regardless of the levels of other variables influencing savings and investment there should always exist a rate of interest which will equate savings and investment. The Keynesian theory shows that there do exist levels of other variables, namely, full-employment income, such
that no positive rate (italics are mine) will equate savings and investment” (1950 Edition, p. 119).

Private ownership of land stands in the way of a low or zero rate of interest.

The basic reason that the rate of interest did not fall to zero is the fact that whenever moneyed people found the rate of interest dwindling they bought agricultural land and began to live on its rent, either cash or in the shape of share-cropping. Keynes in his book (op. cit.) remarks on page 242:

“That the world, after several millenia of steady individual saving, is so poor as it is in accumulated capital assets, is to be explained, in my opinion, neither by the improvident propensities of mankind, nor even by the destruction of war, but by the high liquidity premiums formerly attaching to the ownership of land and now attaching to money.”

Similarly, Pierre Masse, a French economist, in his article “Risk and the Rate of Interest”, in The International Economic Papers No. 2, prepared for the International Economic Association, published by UNESCO in 1952, says:

“To sum up, it is legitimate to say that private ownership of land stands in the way of a very low perpetual rate of interest used in its ordinary sense. By large, it acts similarly on the other rates of interest, without, however, making it absolutely impossible for these to dwindle to nothing.”

This fact is also alluded to by Boulding in his Economic Analysis, 1951 Edition, p. 854. He says:

“Now, as the rate of profit falls in the course of historical development, the rate of interest must fall likewise if the ‘proper’ difference is to be maintained. But certain factors prevent the fall of the interest rate beyond a certain level, notably the fact that property can always be held in a form which bears a zero rate of interest — the form of money.”

Interest has ceased to be reckoned as a discount factor.

Professor Sabri F. Ulgener justifies interest as a factor in computing the overall efficiency of the economics of the under-developed countries and exhorts that interest in this sense ought to be adopted. He writes:

“Over and above its simple aspect as a premium paid to the lender, it serves as the most dependable discount factor in evaluating and comparing different investments and plays in this capacity a major role in determining the overall structure of investment and production.”

Professor Ulgener should know that interest has ceased to be reckoned as a discount factor in evaluating any investment, not to say of the most dependable discount factor. At present the marginal efficiency of capital or the rate of profit on a given investment is reckoned as a discount factor in the evaluation of investments. In modern economics the Liquidity Preference Theory of Interest has replaced the Loanable Funds Theory. Lawrence R. Klein, in his book (op. cit.) remarks on page 53:

“A major point of the new theory is that investment does not depend upon interest rates alone and that investment is not indefinitely expansible.”

He further remarks on page 63:

“According to Keynes, the individual firm will pur-

chase capital goods as long as the expected future earnings from this good, properly discounted, exceed the price of additional capital goods. The marginal efficiency of capital is defined as that discount rate which will just equate the discounted stream of anticipated earnings to the price of new capital goods” (italics are mine).

On page 64 he says:

“However, in the interesting case of the real world, great risks and uncertainties accompany investment opportunities in a capitalist universe. The appropriate discount rate must account for these risks and uncertainties and hence must be greater than the interest rate. The appropriate discount rate is made up of an interest component and a subjective-risk component. The latter element belongs as much to the study of psychology as to economics. The non-interest component of the discount variable may far outweigh the interest component, making any fluctuations in the interest rate of little importance” (italics are mine).

He says further on page 65:

“These remarks about the interest elasticity of investment have been well substantiated by different types of empirical investigations. Two studies made on the basis of questionnaires submitted to a large sample of business men show conclusively that the interest rate is largely neglected when investment decisions are made (italics are mine) (J. Franklin Ebersole, “The Influence of Interest Rates upon Entrepreneurial Decisions in Business — Case Study” in Harvard Business Review, Vol. XVII, 1938, p. 35; H. D. Henderson, “The Significance of the Rate of Interest” in Oxford Economic Papers, No. 1. 1938, p. 1; J. E. Meade and P. W. S. Andrews, “Summary of Replies to Questions on Effects of Interest Rates,” Oxford Economic Papers, No. 1, 1938, p. 14). Also econometric studies have been made to determine the quantitative significance of the different factors affecting investment. Tinbergen found in the investigations that the interest rate is an insignificant variable in the investment equation of his statistical model (italics are mine). The present author has also carried out statistical calculations of the investment equation for the economy as a whole, and for various sub-sections such as agriculture, manufacturing and mining, public utilities and transportation, housing, etc. In few cases has the interest rate, in several trial formulations, proved to be a statistically significant variable (italics are mine).”

Islam forbids rent-receiving or share-cropping landlordism along with its injunction against interest.

The liquidity preference theory of interest was evolved during the Great Depression of 1929-33, when unemployment was raging in all the capitalist countries. Working on this theory these countries were able to bring about full employment conditions. Full employment means full employment of men and resources, and full employment of resources means economic growth. Hence the same theory holds good for economic growth as for full employment, of course with proper adjustment for the under-developed state of the economy. We have seen that we cannot have zero rate of interest until we abolish rent-receiving or share-cropping landlordism. Incidentally, Islam forbids this sort of landlordism along with its injunction against interest. Hence ideal conditions for growth can be achieved by simultaneously abolishing interest and rent-receiving or share-
cropping landlordism. It is no fault of these principles if the Muslim countries do not act upon these. Moreover, the Zakah has to be levied on uninvested money as a necessary concomitant of keeping investment running at full throttle. It is a height of defeatism not to remove the “Open Conflict between Law and Practice in the Muslim World” and then try to find a compromise in the shape of low interest rates. In fact, risk taking is at the root of all economic development and the system of Mudarabah or equity investment in Islam is based on risk taking as it allows financing an enterprise on a profit-and-loss-sharing basis. You cannot have a model of optimum growth unless you make all the above injunctions work concurrently in the economic system. They have to be acted upon in concert. Any one injunction working in isolation will produce a lop-sided state of affairs, as is the case in almost all the Muslim countries.

Conclusion

Professor Sabri F. Ulgener remarks at one point of his article:

“To construct a model of an economy where interest does not exist while the premium of risk and normal profit are tolerated, and then to call it an ‘interest-less economy’, would be too naïve an experiment to rely upon seriously.”

It is strange that Professor Ulgener does not want to differentiate between risk taking, which is the basis of normal trade, and allowed in Islam, and interest taking, which is forbidden in Islam, according to verse 275 of chapter 2 of the Qur’an, itself quoted by Professor Ulgener:

“. . . but God has made trading lawful and usury unlawful.”

But all professors and scholars in Muslim countries maintain that Islam is not a religion but a code of life, and it offers a solution to all ills of mankind: political, social, economic, individual. When the great economic principle of the elimination of interest from the body economic of a society is found by research and experimentation to be a sine qua non for full employment and economic growth, Professor Ulgener should feel satisfied in the vindication of his article of faith. Instead he calls it “too naïve an experiment to rely upon seriously”. Islam was a bold departure from the status quo and Islam succeeded only by acting upon its principles of departure. It is very timid on the part of any Muslim country not to act upon a principle which has already been incorporated into an economic model and which has brought about results even when adopted in a restricted and an indirect form.

In the end I shall refer the reader to chapters III and V of my book, Some Aspects of the Constitution and the Economics of Islam, published by The Islamic Review, Woking, England, for a more detailed treatment of the subject.

The Middle East War—Vital Issues of Law and Morals—Continued from page 4

of the recognized roots of title to territory recognized in international law, but on the simple pretext of military conquest or purported need by Israel of the territory in question. But in law force, particularly where its use is wrongful or aggressive, is no basis of title. Nor is need, actual or imaginary, a legitimate ground of claim. Otherwise the poor (genuine or false) could take the property of whosoever they considered to be rich, and it would not be robbery. In modern international law only uninhabited land known to belong to nobody (res nullius), or land inhabited by unorganized savages, can be acquired by military conquest. Otherwise territory can be acquired by cession by the owner state. Obviously these two grounds do not apply in the case of the Israeli claim against Arab territory.

Law of the jungle

Israel and its supporters seem to act on the presumption that the world is a jungle where the big beast can go out on a rampage and lawfully grab what he can. They seem to forget that on this basis Israel is bound to be the eventual loser in the Middle East. True, Israel has so far appeared to benefit from practising this law of the jungle — e.g., even before the recent fighting Israel held much more territory than was allotted to it under the 1942 U.N. scheme for partitioning Palestine. But this state of affairs will continue only so long as Arab States, with whom the injustice rankles, are not strong enough to do something about it. In other words, the big beast will have things his own way only until a bigger beast comes along. And there is no guarantee that Israel will always be the biggest beast.

Conclusion

From the legal angle there is not a single redeeming feature in the part which Israel played in the recent hostilities. Its pre-emptive attack is crude and vicious aggression, its treatment of prisoners-of-war and civilians is criminal and inhuman, and its insistence on not surrendering territory and other spoils it seized by means of this attack is contemptuous of the law and of the standards governing relations between the civilized members of the family of nations. And it is in the interests of the international community as a whole that there must be firm and unequivocal denunciation of Israel’s wrongful deeds, and a determination to uphold right and justice. To be hesitant or neutral in this matter is to share Israel’s guilt. It is also both cowardly and misguided. Cowardly for lack of courage to uphold right against wrong, and misguided for not realizing that the evils of countenancing behaviour of the type in which Israel has been indulging would undermine the whole structure of the civilized way of international life and jettison the principles of right and justice which operate for the benefit of all nations, and without which no country can feel safe or plan for the future in peace.

MUSA E. MAZZAWI.

JULY 1967 13
Theory of Islamic Law

Characteristic of Municipal Law in Islam

By ZAKAUR RAHAMAM KHAN LODI

In the Islamic legal system the legislators, unlike the British Parliament, for instance, have to exercise a duty created, delegated and imposed by higher law—God.

"The aim of law in Islam is not the repression of any class but it is to subserve the moral aim of the State."

Introductory remarks

A theory of law should be capable of explaining the nature and purpose of law, the reasons for obeying law, and the relation between law and state and that between law and religion. This is by no means an easy task, and aid might be called from comparative systems of jurisprudence. Lord Phillimore for the Judicial Committee of the Privy Council said:

"In all civilized systems of jurisprudence there are many common principles and many historical processes of development which are very similar, and light may often be thrown from one system upon another, but when this is done the comparison must be handled with care."

Cowell is of the view that religious personal laws have no territorial concept. In his words:

"The notion of a territorial law is European and modern. The laws which Hindus and Mahomedans obey do not recognize territorial limits. The Shasters and the Koran revealed religion and law to distinct peoples, each of whom recognized a common faith as the only bond of union, but were ignorant of the novel doctrine that law and sovereignty could be conterminous with territorial limits."

According to the Qur’ân the primary object of law is to define and establish the rights and redress the wrongs

Despite this weighty observation there is no difficulty in reading a definition of municipal (intraterritorial) law from the Qur’ânic provisions cited infra.

The Qur’ân lays down, in respect of the believers, that:

"(They are) those who, if We give them (political) power in the territory will enjoin the right and forbid the wrong ..."

This clause in all probability points to the political power. Further, it is prescribed thus:

"Let there arise out of you a body of people ... prescribing what is right and proscribing what is wrong."

"You are the best of peoples evolved for (the benefit of) mankind; obliging what is right and prohibiting what is wrong ..."

Obligations ('amr) and prohibition (nahy) are actually analogous to one another in so far as an obligation can be looked upon as a prohibition of certain abstention, and prohibition as an obligation of a certain abstention. The words 'amr and nasy in the above provisions are couched in imperative terms which fortify the interpretation that they belong to the class vinculum juris (legal obligation) and not merely vinculum pudoris (pious injunction).

The idea conveyed by John W. Salmond that strikingly conforms to Islamic system of municipal law is that "law" arises from the union of "might" and "right". The provenance of "law" is the political power, and its content the ethical righteousness. In contrast, Hans Kelsen is not concerned with the "content" of the binding rules of conduct which he calls norms because the content of law is changing at different times and among different peoples. He observes:

"But the pure theory of law simply declares itself incompetent to answer either the question whether a given law is just or not, or the more fundamental question of what constitutes justice."

The necessary intendment of the definition of municipal law as the rule of conduct allowing what is right and forbidding what is wrong, is that the primary object of the law should be to define and establish the rights, and to define and redress the wrongs. Further, justice should be administered according to the impersonal legal rules thus set up.

The Qur’ân declares thus:

"Of the people of Moses is a nation who direct with haqq (law) and dispense adî (justice) therewith."

1. AIR 1921, P.C. 138 at 142.
2. 1870 Tagore Law Lectures, p. 40.
4. The Qur'an, 3 : 104.
5. The Qur'an, 3 : 110; see also 9 : 11.
8. The Qur'an, 7 : 159.
"Of those We have created is a nation who direct with haqq (law) and dispense ‘adl (justice) therewith."

The above provisions give as crux the duty of an Islamic government towards its subjects, arising from their allegiance, of protecting the secure enjoyment of their rights, in promulgating and enforcing an equitable system of law.

The definition of municipal law that can be read from the provisions referred to above is closely analogous to that laid by Cicero (c. 1 B.C.), who says:

"Sanctio justa, iubens honesta, et prohibens contraria" (Sanction what is just, order what is proper, and forbid the contrary).

Muslim and non-Muslim thinkers on the bases of municipal law

Here it would be of interest to note that the Roman law did not clearly distinguish between law (vinculum juris) and morality (vinculum pudoris). Roman Praetor enforced strong moral claims. The XII Tables, in addition to legal rules, contain moral precepts like honeste vivere, alterum non laedere, suum cuique tribuere, but can it be denied that the XII Tables are a book of legal doctrine?

In this connection, the definition of municipal law as given by Sir Justice William Blackstone (18, c) would be found to be of special attention to the Muslim jurists. Law, according to him, is:

"a rule of civil conduct prescribed by the supreme power in a state, commanding what is right and prohibiting what is wrong."

It may usefully be recalled that in eighteenth-century England, two movements held ground — the juristic movement stressing law to be based on reason, and legislative movement stressing the idea of authority in the source of law. Blackstone in his definition of municipal law combines both these ideas. He says that legislation is the greatest act of superiority. In his words:

"Sovereignty and legislature are indeed convertible terms; one cannot subsist without the other."[1]

Stressing the sovereignty of reason he says:

"This law of nature...no human laws are of any validity, if contrary to this; and such of them as are valid derive all their force, and all their authority, mediate or immediately, from this original."

The criticism of Blackstone's definition by Professor Roscoe Pound, which equally applies to the definition of Islamic municipal law made here, was in the following words:

"A question arises at once upon this definition. Would Blackstone say that what is prescribed is right because it is prescribed and that what is prohibited is wrong because it is prohibited, or did he mean that it is prescribed because it is right and prohibited because it is wrong, and that prescriptions are only valid because and in so far as they prescribe what is right and prohibitions valid because in so far as they prohibit what is wrong? He makes no attempt to choose between these two conflicting ideas which were current in the legal thinking of his time."

The answer to this criticism can be readily found. According to the Imam Râghib Isphahâni:

"Ma‘arif connotes every declaration or conduct whose validity can be supported by Share‘ah law or reason, and Munkar is everything that is not so approved...Ma‘arif is that meritorious thing whose quality is granted by all."

The Maulâna Abu-al-Kalâm Azâd is of the view that:

"The word ma‘arif is derived from ‘arafa meaning to know what is well-known. So ma‘arif is that which is recognized on all hands. Munkar means that which cannot be accepted on all hands. The Qur’ân has used these terms particularly because whatever the differences among mankind, there are certain things which are recognized on all hands to be good, and likewise there are certain things which are denied that appellation or are not recognized as good."

On the relationship of reason with Islamic law, Mubashshir Husayn Kidwai, in a case cited as Khalil Ahmad v. M. M. Nigar Begum (AIR 1954, All. 362), decided by a Full Bench comprised of five learned judges, observed thus:

"As to the contention of Sir Iqbal Ahmad that the Islamic law is not amenable to the rational application of principles, it only shows his ignorance of the very fundamentals of that law. Ever since the second Khalifa, ‘Umar, issued his directions to his governors and kâzîs, ‘Kiyas’, which signifies the logical deductions to be drawn from established principles has been considered to be one of the principal sources of Islamic law and Imam Abu Hanifa himself attached the greatest importance to this source, preferring it even to those so-called Hadith which he considered to be opposed to reason and as such of doubtful authenticity."

Characteristics of Municipal Law in Islam

(1) The hallmark of municipal law in the Islamic system appears to be that it emanates, directly or indirectly, from ‘Ulu al-amr, that is a plural legislative body of Muslims having political power. Ma‘arif (right) and Munkar (wrong) are essentially ethical questions; therefore, to decide these, a composite law-creating organ composed of right-minded people is required.

(2) The exercise of legislative power by ‘Ulu al-amr is unilateral as opposed to contractual, and calls obedience of those to whom it is addressed, because the words ‘amr and naﬁh connote imperativeness in contradistinction to advice or counsel. ‘Abd al-Mâjid Daryâbîdî translates the word ‘amr in 22 : 41, 3 : 104 and 3 : 110 as “command”. With the highest respect for the learned commentator, it may be pointed out with hesitation that ‘amr cannot be correctly translated as command with respect to laws addressed to mankind worthy of volition, because these laws can be disobeyed. Therefore physical laws, being causal laws, can properly be called commands. Command ordains “is” — proposition: social law enjoins “ought” — conduct. There is yet another legal impediment to the use of the word command. According to Professor Hans Kelsen, if a rule of conduct is called a command then for it to be binding two things must co-exist, namely, the “will” of the particular

9 The Qur‘ân, 7 : 181.
10 Commentaries on the Laws of England, Book I, 1765, p. 44.
11 Ibid., Book I, p. 46.
13 See p. 613 of Mufradât al-Qur‘ân (Urdu); Maktabatul Qasmiyya, Lahore.
15 See para. 51 of the report.
law-breaker and the “expression” of that will, both being the essential constituents of a *command*. In his words:

“If someone issues a command to me, and before its execution I have adequate reason to assume that it is no longer his will, then neither is it any longer a command, even though the expression of his will should remain.”

To explain it further it may be added that law is the expression of the will of the law-creating organ established in a territory, and continues to exist till repealed or abrogated, even after the will that created the law has lapsed, e.g., due to the change in the law-creating organ, or the death of its members, etc. Law, therefore, is to be looked as prescribing “ought-conduct” by means of *norms*. The root of the word *norm* lies in the Latin word *norma*, which means rule or yardstick. As Hans Kelsen puts it:

“A rule prescribing or forbidding a certain behaviour, we call norm. The specific meaning of a norm is expressed by the concept of ‘ought’. . . . A behaviour is lawful if it ‘corresponds’ to a legal norm; it is unlawful if it ‘contradicts’ a legal norm.”

In Kelsen’s *Pure Theory of Law*, the word “‘ought’” has no moral significance, but has reference to the guarantee of coercive obligation behind the norm.

(3) The *amr* (positive conduct) and *nahy* (negative conduct) have within their scope the conduct of subjects themselves. Such conduct is to be regulated between subjects themselves and with the governmental organs.

(4) Furthermore, it is to be noted that the Qur’ānic provisions cited supra are organic in nature inasmuch as they direct the generation of laws further to and under the Qur’ān and the *Sunnah*. Professor A. V. Dicey, with respect to the British law-creating organ, observes:

“In a legal point of view Parliament is neither the agent of the electors nor in any sense a trustee for its constituents. It is legally the sovereign power of the state.”

In the Islamic legal system, however, the legislators have to exercise a duty created, delegated and imposed by higher law, and their office appears to be in the nature of a public trust to be discharged in public benefit. The Qur’ān prescribes thus:

“God does order you to surrender trusts to those who are worthy of them.”

This principle was adopted by Pakistan in the Objectives Resolution (March 1949), which laid *inter alia* that:

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

When office and power are in the nature of a trust then Locke enunciates the principle that:

“There remains inherent in the people a supreme power to remove or alter the legislative, when they find the legislative act contrary to the trust reposed in them: for when such trust is abused, it is thereby forfeited, and devolves to those who gave it.”

Legislation is an attribute of sovereignty, but legal sovereignty for *Ulu al-amr* is not supreme but subordinate, being the residuum of freedom for legislating under the limitations prescribed directly or circuitously by the law-giver. In the unreserved domain, however, the delegated powers of reasonable legislation appear to be unfettered and as plenary as the law-giver’s plenitude possessed.

(5) The laid law cannot be sustained if it is discovered to be repugnant to the higher law, namely, the pre-emptory precepts set by the law-giver and His Messenger, because the Qur’ān lays down a hierarchical system of norms thus:

“Obey God, obey the Prophet, and those in authority from among you.”

In a descending order of status and force of law, we have:

(a) the Qur’ān, (b) the *Sunnah*, (c) the *Ijmā‘*, and (d) *Ijtihād*. Webster and Kent are of the view that if the question of repugnancy of ordinary law to the supreme law were left to the judgment of the legislature itself, then the status of the supreme law would be relegated to the position of a merely moral restraint.

(6) The law laid down by *Ulu al-amr* should also conform to the conscience of the right-minded of the community as to the principles of right and wrong. Professor H. Krabbe in his *The Modern Idea of the State* observes that all positive law, custom, usage and other unwritten law is based in the sense of right residing in the conscience of man. According to him:

“A statute which does not rest upon this foundation is not law; it lacks validity even though it be obeyed voluntarily or by compulsion.”

Earlier on this basis Lord Coke exercised judicial review in the well-known Dr. Bonham’s Case, asserting thus:

“When an Act of Parliament is against common right and reason . . . the common law will control it, and adjudge each Act void.”

There is no reason why a Qadi should have no such power when as correctly said by the Imam Rāghib Ispāhānī all laws should be in accordance with *Sharī‘ah* law and reason (*vide supra*).

(7) The immediate object of Islamic municipal law appears to declare the right and to prevent and eliminate the wrong in the interest of society. The Prophet said: *Ittihat fi al-Mā‘ruf* (obedience is due in what is right). It clearly appears from the clauses referred to above that legislation in the Islamic system has to subserve a social purpose and therefore all individuals are called upon to collaborate to their utmost power under the given conditions to maintain and restore the rule of law. ‘Ābd al-Majīd Daryābādī in his explanation of the Qur’ān says:

“Since the duty of enjoining the right and forbidding the wrong entails conditions in which the whole nation cannot share, the Holy Qur’ān, while addressing the entire Muslim people, demands the action of part of it only.”

But the Prophet Muhammad has enjoined that:

“Whoever among you sees wrong it is incumbent
upon him to prevent it with his own hands; or if he is unable to do this, he must forbid it with his tongue.24

(8) Coercive sanction does not appear to be an essential component of municipal law. It has obligation being enforceable by a mere guarantee of coercive compliance at its back. It might be recalled that according to several others, including Jean Bodin (16, c), Hobbes (17, c), Spinoza (17, c), John Austin (19, c) and Thomas Holland, coercive sanction is an essential element in the definition of municipal law. The emphasis in Islamic law is on the purposes that it is made to subserve and not on sanctions. With us, law is made for men and not men for law. When the human preservation and welfare conflict with law, the latter gives way:

"But whosoever is forced by necessity through hunger (to eat of what We have forbidden) not inclined willfully to transgress: Verily God is Forgiving, Compassionate.25"

In the Islamic system law is not an end but a means to an end. Islamic legal order corresponds with what is called a "Welfare State", which is the middle course between "police State" and "laissez-faire State".

Structure of Islamic Legal Order
In a static theory of law, as that of John Austin, all rules of law lie horizontally. The Qur'anic theory of law is dynamic in so far as:

(a) a hierarchical gradation of norms is laid in the descending order of status given above;
(b) the superior norm lays down the manner in which the other norms are to be created; and,
(c) the legal existence or validity of an inferior norm is derived from a superior norm.

Islamic jurisprudence is concerned both with the "validity" and the "efficacy" of law. When we talk of "validity" of a tradition reportedly emanating from the Prophet, it means it is in accordance with the basis — the Qur'an. Every legal system is found to have some origin — norm or norms. As Sir John Salmond wrote:

"There must be found in every legal system certain ultimate principles from which all others are derived, but which are themselves self-existent. Before there can be any talk of legal sources, there must be in existence some law which establishes them and gives them their authority.224"

A norm laid by ijtihad is stated to be valid if it is not inconsistent with or repugnant to the higher law, namely the Qur'an and the Sunnah. Similarly, a norm laid by ihtihad is valid if it corresponds with all law higher to it.

According to Professor Hans Kelsen, the "efficacy" of a norm means that the subjects actually behave as prescribed by the norm. A norm "exists" in the eye of law if it is "valid", not because it is efficacious. But the validity of a norm depends on the reason of its belonging to a legal order which legal order is valid in turn due to its being by and large or generally efficacious; that is to say, a legal order actually obeyed. In his words:

"... effectiveness is a condition for validity of law.
No social order, not even the one we call morality or justice, is considered to be valid if it is not to a certain extent effective, that is to say if the human behaviour regulated by the order does not at all conform to it... Hence, effectiveness as a condition of the validity of the

law must not be confused with coercion as an essential element of the concept of law."

Therefore, in the eye of law, the norms made under the general legislative power of 'amr bi al-Ma'ruf wa al-nahy 'an al-Munkar can only be valid when these belong to the higher Islamic legal order which in turn would be valid if enforced effectively by and large. Consequently Muslims have been vehemently urged to make the fundamental law laid in the Qur'an and the Sunnah efficacious as a law-creating factor. The Qur'an says:

"Whoever judge not by that which God has revealed, such are disbelievers."

Legal obligation
Vinogradoff opines that the existence of law does not depend on coercive sanction but on its recognition and observance by the people, and a law which is not observed by the people ceases to be law. He thus makes "efficacy" of law synonymous with "validity" or "existence". Hartmann does not consider as essential in the definition of law the concept of physical force. Law, as he views, needs be aided by force, but should never be based upon it. Jellinek is of the view that actual compulsion is not necessary; its mere guarantee is enough. Zietelmann puts forward that "the obligatory force of law is only and can only be psychological". In this way he brings law closer to morality and religious precepts whose sanction is only psychological. Dr. Goodhart points out that if a rule of conduct is obeyed by the people for threat of force behind it, then it is not that rule which is being obeyed by them but the force at its back, and such a rule cannot last for long. The modern view is that one of the aims of law is to eliminate the use of force. A law that remains effective without the aid of force would be the perfection of law and not its atrophy.

If a municipal law were to prescribe what is generally believed by the community to be the right, and forbid what is so believed to be the wrong, then the general obedience or effectiveness of that law will not rest upon the threat of force but on a natural compliance of the community in accordance with their belief. So far as the obligation of Revealed Law is concerned, it may be said that the believers thereof would obey it being the word of God irrespective of any man-made coercive sanctions. Forcible compulsion is thus assigned only a subordinate place and it would be necessary only for a recalcitrant segment of the community. Thus coercive sanction is not an essential element in the Qur'anic definition of municipal law.

Relationship between the law and the state
The Qur'anic provision, "Believers, obey God, and obey the Prophet, and those in authority from among you" (4:59), establishes what in modern terminology can be called a political and legal order whose members owe allegiance and obedience to certain superiors whom they have delegated authority to govern. The counterpart of "allegiance" is "sovereignty". The words 'Ulu al-amr (those in authority) are used in the plural sense. They point to a number of persons in authority, which is popular government or democracy. Personal absolutism has thus no place in this system so established.

25 The Qur'an, 5:3.
28 The Qur'an, 5:44.
Some modern jurists and municipal law

Hering, the German sociological jurist, and Jellinek, advocate that law is created by the state, but the latter's submission to law (e.g., suavity of the State) is an act of self-abnegation. It has been criticized that a voluntary limitation falls short of a true limitation.

Leon Duguit, the French jurist, is of the view that law is not the product of the state, but independent and separate from it. It is imposed on the state in the like manner it is imposed on subjects.

Dr. Giercke pleads that neither the state is anterior to law, nor the law prior to the state; both spring from another, are intertwined, and are supplemented and complemented by one another.

Marx and Engels have not clearly expressed the relationship between the law and the state, save that both are interconnected, interdependent and destined to dissipate together. According to them there are three predetermined stages in the evolution of the state, namely capitalistic, socialistic and finally Communist. In a capitalistic state, which is internally divided into two antagonistic economic classes, namely the bourgeois (dominant class) and proletariat (dominated class), law was a necessary coercive instrument of the state for aiding and assisting the dominant class in its measures of exploitation of the dominated class. In the transitional socialist state, law was still necessary, but his time for the dominant proletariat class for the ruthless repression and elimination of the hostile bourgeois element. It was only in the final Communist state that both the state and the law are liable to "wither away" together. Engels observes that:

"... as soon as there is no longer any social class to be held in subjection, as soon as class rule and the individual struggle for existence based upon our present anarchy in production, with the collisions and excesses arising from these, are removed, nothing more remains to be repressed, and a special repressive force, the state, is no longer necessary."

The original contribution of Stammel and Hans Kelsen is stated to be their concept that state and law are synonymous and identical: state is the legal order personified. On this theory, the population of a state represents the personal sphere of legal order, and the territory of a state represents the territorial sphere of validity of municipal legal order. But Roman law, 2,000 years back, enunciated that a state was not its individuals, but the "union" of individuals as a vinculum juria.

If the definition of Islamic municipal law as attempted to be propounded is correct, then the view that corresponds more with the Islamic system is that laid by Kelsen; that is to say, the Islamic state is synonymous with the monolithic legal order. All valid municipal law made under the general legislative power of 'Amr bi al-Ma'ruf wa al-Nahi 'an al-Munkar further to, but under, the Qur'an and the Sunnah, and Ijmâ' is like the blossoms and fruits of one tree, and leaves of one branch:

"A good word is as a good tree — whose roots are firm and whose branches are high yielding its fruit in every season by the permission of its Lord."

The aim of law in Islam is not the repression of any class but it is to subserve the moral aim of the state. Sir Paul Vinogradoff has remarked that:

"History is full of examples of measures for promoting morality and virtue by laws and political institutions. This aim was emphatically put forward by the Greek philosophers; it was the root of many measures of Roman statecraft — the cura morum, the censorial jurisdiction, etc. It is inherent in any political construction under the influence of theoretical ideas: Catholicism, Puritanism, Islam, Brahmanism, Buddhism, have all influenced legislation with this view."

There is no theocracy in Islam and yet it directs legislation with a moral aim.

29 Socialism : Scientific and Utopian. p. 76.
30 The Qur'an, 14: 24.
The Golden Age of
THE MUSLIM SPAIN

By JEAN SHAHIDA COWARD

(Part 1)

The Caliph ‘Abd al-Rahman (912-961 C.E.)
Islam’s Gift to Spain

‘Abd al-Rahmán

A new era opened in the history of Muslim Spain when, on the night of 15/16 October 912 C.E., courtiers and members of the royal family, dressed all in white, assembled in the palace of Cordova to proclaim Abú al-Muta‘arif ‘Abd al-Rahmán the Emir of Cordova, in accordance with the expressed wish of his grandfather, ‘Abd Allah. ‘Abd al-Rahmán was then 21 years old.

In appearance the new Emir was typical of the mixed race, half European and half Oriental, which formed the bulk of the population of Muslim Spain. Little of pure Arab blood remains due to intermarriage, but so much with the indigenous population as with slaves imported from the north; from France and from Scandinavia. ‘Abd al-Rahmán’s mother was a French slave. The chroniclers tell us that he was short of stature, chubby, with lively blue eyes and fair hair, inclining to red. His father had died three weeks after his birth and he passed his early life in the Alcazar at his grandfather’s home. He was highly cultured, ambitious, but nevertheless quick to grasp the realities of a situation, tenacious, courteous to all, generous and merciful. In religious matters he was no fanatic and his reign was, in fact, marked with extreme tolerance so that Arabs, Christians and Jews not only lived in close proximity but worked together in harmony. He brought to the throne youthful fire tempered with wisdom far beyond his years and the family dissensions, which could have been feared to arise out of ‘Abd Allah’s having passed over his own sons in favour of his grandson’s succession, did not materialize.

Nevertheless, the inheritance was indeed a crown of thorns.

Christian pressure from the north had already won back large sections of territory whilst, for more than 100 years, anarchy and civic disturbance had rent the political fabric of al-Andalus, so that, by the year 912 C.E., the government at Cordova exercised effective control over little more than the city itself; not only was the state menaced by the Christian armies from the north but was also infiltrated by the Fatimids from the south.

Internally the population never fused to form one race but remained always a series of castes which took up the standpoint of their original ancestors. Divisions of land often sparked off clashes between the descendants of Arabs and Berbers, which periodically flared into open revolt. The Muwalladín (converts to Islam) were a dangerous element. They were often secret Christian agents and usually political malcontents. Most of them were serfs or freedmen who cultivated the soil or worked as day labourers. By the end of the first century after the conquest they had become the majority of the population in several cities and lived in an almost permanent state of revolt against the Muslims. The Muwalladín are not to be confused with the Mozarabs, who were Christians by religion and indigenous by race, but were such profound admirers of Arab art and learning that they adopted the Arab way of life! Their education was in Arabic, they wrote their letters in Arabic and the Bible was published in Arabic for their use. Usually they were merchants or artisans, and it is to these people that Spain owes many of her best preserved artistic treasures. The Jews, too, although forming a race somewhat apart, were friendly towards the Muslims and played a constructive role in the development of the country.

Two other castes, apart and yet related, were the bandit barons and the semi-independent príncelings. Belonging to the latter group could be anyone who managed to gather a few men under his command, throw off the authority of the central government and rule his strip of territory as an independent ruler. There were many such. They rose and fell with a rapidity almost impossible to record and their
administrations could be anything from very bad to rather good. The bandit barons seized power in the same manner as the princelings, but they lived purely by plunder. They had two great allies: the geography of Spain and the Muwalladun.

Even today the Peninsula is relatively sparsely populated. The central plateau lies some 1,500 feet above sea level, rivers alternate with great chains of high rocky mountains, so barren that often not even a blade of grass can grow. Water is a constant problem and in summer many of the smaller rivers run dry. The population lives huddled together on the coastal plains and in the extremely fertile valleys of the great rivers. Only in Extremadura and in Galicia (by which the time of 'Abd al-Rahmán had already been reconquered by the Christians) can large numbers of sheep and cattle be reared. Elsewhere agriculture is of the intensive pattern and irrigation is often a necessity. Even so, less than one half of the total land surface of the Peninsula can be brought under cultivation.

On the very day of his enthronement 'Abd al-Rahmán announced his programme — internal peace! The new Emir set out to restore the political authority of the central government and the prestige of the House of Umayyah; to reconquer the dissenting provinces and make an end of the semi-independent principalities and put down, once and for all, the rebellions of the bandit barons. The task must have seemed overwhelmingly to the small army on whose loyalty he could depend. But 'Abd al-Rahmán's greatest asset was that he was a gifted leader and, just as down through the centuries the Arabs have always given unstinting loyalty to the man whom they instinctively felt was a real leader, so 'Abd al-Rahmán's loyal troops threw themselves into, what appeared at first glance, a hopeless struggle. 'Abd al-Rahmán intended to lead his army in person, which meant that he had to leave at home in Cordova an administration on which he could rely. The chronicler 'Arib Ibn Sa'd gives minute details of those men who were appointed, or confirmed in their appointments, to carry out this task: 'Abd al-Rahmán gave the job to the man whom he considered best able to carry it out, regardless of family or religion.

Salobreña, with remains of Arab fortress. Since 'Abd al-Rahmán's time the sea has receded, and crops are grown on land which in his day was sand

"seventy positions of strength and 300 strategic positions of secondary importance".

Savilla capitulated towards the end of 913 C.E. But now the war against Hafsun bogged down into guerrilla tactics, and although 'Abd al-Rahmán nibbled away at his area of influence, each small victory had to be dearly paid for, as Hafsun was still able to receive supplies from Africa by sea. When Hafsun died in September 917 C.E., he left four sons, the eldest of whom became a Christian although the others remained nominally Muslim. The rebellion dragged on for another ten years, but the enthusiasm had gone out of it. The Emir was able to leave it to the lesser men to gradually wipe out the strongpoints one by one until finally this particular menace to his power ceased to exist.

Hafsun is only the most famous of the bandit barons; he is not the only one to have existed, and during all these years 'Abd al-Rahmán was, at the same time, reducing other rebel fortresses and bringing other cities back to acknowledging his supreme authority. It was a stupendous achievement and it was not until 932 C.E. that Toledo fell to 'Abd al-Rahmán. It can be said that the state was territorially consolidated.
Dissensions in the Muslim camp

There was little doubt that, in 912 C.E., a vast network of Fatimid espionage existed throughout al-Andalus. It has been suggested that the Cordovan, Ibn Masarrah, who taught a system of symbolic writing whose meaning could only be understood by the initiated, was a Fatimid spy. Realizing the importance of preventing Hafsún from receiving overseas supplies and the landing of agent-provocateurs, 'Abd al-Rahmán began the building of a first-class fleet only two years after his enthronement. In 931 C.E. he captured Ceuta in North Africa. This was an important step forward in securing his realm from foreign interference, for it gave him a base on African soil from which to operate against the Fatimids. By this time his fleet, based on Almeria, was second to none in the Mediterranean and, by 957 C.E., had become sufficiently powerful to win a battle against a fleet of some 70 ships and afterwards to devastate parts of the African coast.

Successful as he was in settling the problems connected with the Fatimids and wiping out the semi-independent princlingens and bandit barons, neither he nor his successors were able to permanently heal the dissensions in the Muslim ranks themselves nor to stem the tide of the Christian reconquest. The original conquerors of Spain, Tariq with his Berbers, Muṣá with his Syrians and Arabs (many from the Quraysh), brought their tribal quarrels as surely as they brought the Qur'ān. Generation after generation they carried on these quarrels, their intrigues faithfully mirroring those of the Eastern Islamic Empire. They were able to inflict on the government at Cordova damage out of all proportion to their numbers. 'Abd al-Rahmán, like his predecessors, considered that the best defence for his dominions was a belt of no-man's land between al-Andalus and the Christian states and, to achieve this, he burnt the crops and left a stretch of barren land, which, however, was not difficult for an individual to cross, and so carry information to the north. The soft climate of the great river valleys made those hardy sons of the desert soft and pampered. Luxurious living with all the pomp and outward display of the Abbasids had been introduced by 'Abd al-Rahmán (822-852 C.E.) and the royal household organized on imperial lines. But the administration remained largely tribal, each man an individual — until a leader arose who could command their respect and admiration, and such a leader they followed gladly, but too many years were spent in dissensions which sometimes flared into open rebellion against the central authority. One of the more permanent of these quarrels arose from the apportionment of land. When the conquests were over and the tribesmen settled down to enjoy what they had won, the Berbers complained, and with some justification, that they were apportioned the higher and therefore less fertile land whilst the Arab aristocracy took over the lush valleys.

Christian reconquest

The Christian kingdoms stretched across the whole of the north of Spain, Navarre and Aragon towards the east; Leon to the north-west, Castile immediately to the north. Now, after two centuries of continuous warfare against the Muslims, the Christians were well organized and knew how to take advantage of the disturbances prevailing in al-Andalus. In 914 C.E., Odon, King of Leon, mounted a daring attack on the south which 'Abd al-Rahmán was unable to meet and, three years later, in 917 C.E., he captured one of 'Abd al-Rahmán's generals, executed him, and hung his head beside that of a wild boar above the gateway of the frontier fortress of San Esteban de Gormaz. It was three years before 'Abd al-Rahmán was able to avenge this insult, but when he did, he razed San Esteban to the ground and destroyed other strongholds before going on to meet the combined forces of Ordoño II and Sancho the Great of Navarre at the "Vale of the Reeds" on 26 July 920 C.E. Here he inflicted on them one of the worst defeats the Christian kingdoms were ever to suffer. Many nobles and four bishops were amongst the prisoners sent back to Cordova, but 'Abd al-Rahmán himself continued northwards, penetrating deep into Navarre before returning in triumph to his capital.

On 27 April 924 C.E. 'Abd al-Rahmán left his capital on what is, perhaps, the greatest campaign of his reign — the capture of Pamplona, the capital of Navarre. The chronicler 'Arib Ibn Sa'd has left us minute details of this campaign, from which we learn that 'Abd al-Rahmán did not turn directly to the north-east, as could have been expected, but first eastwards to Tadmir, and then up the eastern coast to Valencia, wiping out the last rebel strongholds wherever he found them. He crossed the river Ebro and captured the various fortresses guarding the road to Pamplona. A battle took place outside of the city itself which ended in utter rout for the Christian forces, and when the Muslims entered the city they found it empty — the entire population had fled. The city was sacked and burned. This act brought home to the Christians the realization that the situation had changed; they could no longer raid al-Andalus without fear of counter-attack. Navarre was reduced to military impotency for fifteen years. Seen in retrospect it was an inconclusive victory, for it was never followed up and the advantage pressed home. It might have proved a turning
point in the history of al-Andalus; instead it did nothing more than to halt the southward advance of the Christian forces. Consequently, when, in 939 C.E., 'Abd al-Rahmán again met the combined forces of Leon and Navarre at the “Battle of the Ditch”, he met with a crushing defeat.

Beyond the bare statement that such a battle did, in fact, take place, the Arab chroniclers give us no details of this battle. It is from Christian sources that we learn of this military disaster for the Muslims. Through it the King of Leon gained not only a military victory but a moral victory which was sung far beyond the boundaries of his own land and produced the impression, in Christian lands, that 'Abd al-Rahmán could be “rubbed out very soon without too great an effort”. That the King of Leon was unable to follow up his victory was entirely due to the fact that rebellion broke out in his own camp and menaced his throne.

Islam's gifts to Spain

On January 16 929 C.E., 'Abd al-Rahmán was proclaimed Caliph. The Eastern Caliphate had already sunk to a very low ebb and 'Abd al-Rahmán was far more a master in his own house than the Eastern Caliph was in his. Although the first twenty-seven years of 'Abd al-Rahmán's reign were spent in active campaigning he was never able to regain the territory in the north lost to the Christians. But after the “Battle of the Ditch”, or, to give it the name by which it appears in the Christian chronicles, Alhambega, he occupied himself with administrative measures and cultural affairs which made his capital the wonder and envy of all Europe. Accredited to the court of Cordova were, amongst others, envoys from Byzantium, Italy, France and Germany, and the fame of the Muslim capital’s breathtaking beauty and grandeur was so widespread that a nun, writing in her quiet cell in a cloister in Saxony, referred to it as the “world’s ornament”.

Including the twenty-one suburbs, the city of Cordova covered a total area of some 50 square miles, two square miles of which were covered by the royal palaces! It was divided by turret walls into five sections. Amongst the population of 500,000 there was a considerable Jewish element and a growing number of Christians. The city had 3,000 mosques, 20 churches, several monasteries, 70 libraries, 113,000 houses (excluding places of business) and 300 bathhouses. At one and the same time it was bureaucratic, cultural and commercial. The city had paved streets, street lighting and a piped water supply — all amenities which no Western capital was to enjoy until many centuries later.

Governmental organization followed closely that of the Abbasid caliphate. The office of the Caliph was hereditary and the highest officer was the Hājiḫ, who stood above the Vizirs. Vizirs and secretaries together formed the Dwān. There were six provinces, excluding Cordova, each of which was administered by a Wālī (governor): a few especially important cities had their own Wālī. Justice was the personal responsibility of the Caliph who, however, delegated power to the Qadhīs (judges), at the head of whom stood the Qadhī al-Qudhāt in Cordova. Criminal cases were heard by a special judge, the Sāhib al-Shurta. Cases against public officers were heard by yet another judge having special jurisdiction, the Sāhib al-Mazāzīlim. All judges had wide powers to inflict sentences ranging from a fine to corporal punishment, and even death. An officer with a wide range of power was the Muhtasib, whose primary responsibility was overseas trade and markets, including such things as weights and measures, as well as to direct the police. Under his jurisdiction came also cases of gambling, improper dress and sex immorality.

Under the personal patronage of the Caliph and the nobility gathered the groups of learned men, astronomers, mathematicians, physicians, philosophers, geographers, historians and poets who lived and worked there. Whenever the neighbouring Christians needed a surgeon, an architect or a dressmaker they approached Cordova. The Regent Queen Tota of Navarre, whose forces had helped to inflict a crushing defeat on 'Abd al-Rahmán at Alhambega, came to Cordova, bringing her son, Sancho the Fat, and seeking a cure for his obesity. She was royally received, and not only did the Jewish court physician, Hsday Ibn Shāpūr, cure him of his affliction, but with the help of the Caliph, Sancho was later able to regain his crown which had been lost to a usurper.

Al-Andalus was a great trading state and depended for its revenues largely on import and export taxes. Perhaps Islam's greatest gift to Spain was in the field of agriculture. Although irrigation had been known since remote times, the Muslims greatly improved the system and extended it, thus bringing huge tracts of land under cultivation for the first time. The system they invented for regulating the flow of water to individual fields is still in use in many parts of Spain today. They brought from Africa and Persia rice, apricots, peaches, pomegranates, oranges, sugar-cane, cotton and saffron. Grapes, wheat and other cereals as well as olives were also grown. They also brought with them their handicrafts. Cordova's principal industry was leatherwork, but important also was the weaving of silk and wool. Sericulture had been brought to Spain by the Muslims. Almería was the home of glassware and brasswork; pottery came from Valencia and Toledo was the home of fine swords and damascene (inlay) work. Gold and silver were mined in Jaen and in the Algage; Cordova itself had iron and lead, and Malaga, rubies. The ivory work is to be especially noted. There was a great love of books. Some 60,000 were produced every year, and 200 women were employed in Cordova alone to copy them. The Arabs also introduced paper to Spain.

Such an abundance of agricultural and industrial products were more than sufficient for home consumption, and the Muslims had trade ramifications which extended, through Alexandria, to Central Asia and India. Trade with Baghdad, Damascus and Mecca was especially brisk. Savilla, on the Guadalquivir, was the largest port, and amongst its chief exports were cotton, olives and oil. Malaga exported saffron, marble, figs and sugar. There was a regular postal service and coinage was modelled on that of the Abbasid caliphate.

Although, except for the Great Mosque, one of the finest in the world, few of Cordova's original buildings remain, the Medina of North Africa give us a good idea of the smaller houses of Cordova in the days of her glory. Indeed, Cordova today is a maze of enchanting narrow streets, set at odd angles with one another, the blank outside walls of the houses whitewashed and here and there a box of brightly flowering flowers set on a window sill, behind a wrought-iron grille. Inside are large, cool, paved courtyards, usually with a fountain in the centre, and, in the less sophisticated parts of the city, the tradesmen still offer their wares from the small shops which might have been on that very spot for centuries.

The university, founded by 'Abd al-Rahmán, in the Great Mosque, rose to such pre-eminence amongst the world's educational institutions that at one time it preceded al-Azhar
and attracted students from all over the world. However, the
great educational activity of the age took place under al-
Hakam, who was himself a scholar. He it was who established
27 free schools in the capital, established a system of grants
for scholars and set aside endowments for the salaries of
professors from foreign lands. He also enlarged the Mosque,
brought water to it through lead pipes and established a
library which is said to have numbered 400,000 volumes.
Many of these volumes were in manuscript form and came
from the East. Al-Hakam used some of them himself and
even made marginal notes in his own handwriting.

The fortress palace of al-Zahrā

It is not possible to refer to Cordova in this age of its
glory without referring to its two great monuments — the
fortress-palace of al-Zahrā, now totally destroyed and which
we know only from a few fragments of stone and many
glowing descriptions, and the Great Mosque.

Al-Zahrā stood some three miles outside of Cordova on
a site about one mile long and half that in width, and was
arranged in three terraces. Begun in 936 C.E., it took 40
years to complete and contained 400 rooms. The chronicler
Ibn Hayyān has left us a detailed account of the costs
involved in the building of this fantastic palace and a minute
description of its furnishings and decorations. The total cost
of the palace was 3 million dinars: 4,000 columns were used,
some of them presented by the Byzantine Emperor, and vast
quantities of coloured marbles were brought from Carthage
and Tunis and basins with golden statues from Constantinople.

On the upper terrace was the palace of the Caliph and
a line of forts; the second terrace was a game reserve with
many shaded gardens; the third consisted of living quarters
for servants and slaves. The Mosque was also built on this
lower level.

Ibn Hayyān tells us of two fountains, extraordinary in
shape and magnificent in workmanship. The larger was in
gilt-bronze, sculptured with bas-reliefs of human figures, and
the smaller one was of green marble. It was placed in the
"Salon of the Caliphs" and around it were placed twelve
pieces of statuary, made of gold and set with pearls and other
gem stones. These figures represented a lion, a crocodile, a
stag, an eagle, a dragon and seven various birds, and were
made in the workshops at Cordova. All these jewelled figures
emitted water from their mouths, as do the lions in the
"Court of Lions" at Granada. The ceiling of the "Salon
of the Caliphs" was, like the walls, of translucent marble.
Some accounts tell us that in the centre was a large pool
filled with quick-silver which, when disturbed, filled the room
with flashes of light, and those gathered around would begin
to tremble, for it appeared that the whole room was revolving
round a central axis, following the movement of the sun.
The pool was designed by the Caliph himself.

Although completed in 48 days the Mosque was worthy
of the rest of al-Zahrā. It consisted of five naves and the
courtyard was paved in wine-coloured marble. The last thing
to be placed into position was the extremely finely wrought
Minbar. On that day, 22 January 941 C.E., which was a
Friday, public prayers were said for the first time. The Caliph
attended the ceremony but a Qādi officiated as Imam.

Al-Zahrā had two bath-houses as well as opulent houses
for the court officials. Al-Zahrā had running water in its
latrines — an innovation unknown in the rest of Europe
until some eight centuries later.

In the vicinity of Cordova were some 3,000 villages, all
with mosques and musallas (religious courts). On Fridays all
the Qādis of these small towns were duty bound to accom-
pany the Caliph to the Great Mosque and afterwards give an
account of their areas to the Caliph in person. But, in spite of
'Abd al-Rahmān's having his finger so well on the country's
political pulse through these personal accounts and, in spite
of his many cultural achievements, he never felt secure in the
capital. His authority was always in the balance and his
person always in danger. It is for this reason that at al-
Hakhrā he surrounded himself with a bodyguard of "Slavs", 3,750 men, who headed his standing army of 100,000
men. Like the "Janissaries" these were foreign mercenaries
— purchased young — Germans, Franks and Lombards, but
Arabised. The import of these "Slavs" was in the hands of
the Jews who travelled as far as the Black Sea regions to
procure them. Some towns in the south of France, Verdun,
for example, made an industry of breeding these eunuchs.
They ran the harem and the palace; they acted as clerks and
controlled the public administration; they served as soldiers
and organized the army. Towards the end of his reign 'Abd
al-Rahmān became ever more dependent on these "Slavs",
and their total finally approached 15,000.

'Abd al-Rahmān was not the one to have built the Great
Mosque, but he did add to it. Originally the Visigothic
church of St. Vincent stood on this site, and both Christians
and Muslims worshipped in it until, in 785 C.E., 'Abd al-
Rahmān I purchased the Christian portion and built the
Mosque over it. 'Abd al-Rahmān II extended it towards the
south side, but the present façade on the north side, together
with the pillars and horseshoe arches, date from the time of
'Abd al-Rahmān III. His son, al-Hakam, further extended it
towards the south, until it reached the river on that side, but
its most dramatic extension came in the time of al-Mansūr,
who, being unable to extend it further south on account of
the river, pulled down the eastern side and added eight more
naves. Disarmingly simple, its double row of superimposed
arches are a technically ingenious way of preventing lateral
displacement in the gigantic structure — a monument built by
conquerors, strong, noble, imposingly grand — in direct con-
trast to the filigree in unsubstantial materials which the
politically decadent period following the death of al-Mansūr
has bequeathed to us.
Islam’s Key Problem—Economic Development

A non-Muslims’ Approach

By Professor JAQUES AUSTRUY

INTRODUCTION

The problem of the choice of the methods of economic growth and Islam

No one has so far written the history of conquered peoples or that of missed opportunities. The prospect of finding possible solutions to the crucial problem of economic development is in no better shape. Yet this is an urgent matter, for between the developments that are possible and their probable fulfilment it is often resignation and ignorance which decide the outcome. And between the diversity of the methods of development which are possible, in theory, and the few systems which will see the light of day in the foreseeable future, only the historians of tomorrow will record the details.

The margin of choice is very limited, due to our lack of imagination. Another reason is that the under-developed countries, who are now fully aware of the affluence of the others, feel very keenly the gap between their present situation and the development which they envisage, and which they would like to implement.

This phenomenon of dissatisfaction on a continental scale has a dramatic aspect, but there is also a comforting aspect. The world is in a state of gestation. The moral urge to find a solution applicable to the problem of under-development is setting in movement the evolution of communities that for centuries have been in a state of lethargy.

The recognition of the evil leads to the search for remedies. But the problem is not merely to know whether humanity, which is increasing numerically at a disquieting rhythm, will succeed in increasing its supplies of food rapidly enough to lay the spectre of hunger. It is also to know by what means and at what cost this project will be brought to fruition.

We never create without destroying, yet there is creation which is more or less devastating. As regards the social values we may seriously ask ourselves if the urgency that is felt concerning the development of elementary forms of production does not conceal the extent of the sacrifices implied by the choice of certain methods of growth. The cost of certain types of growth, where efficacy is assured only by the definite abandonment of an irreplaceable socio-cultural heritage, would doubtless be deemed excessive, if the ever-present threat of hunger and destruction did not make inopportune a wider vision of the future of communities.

But a ray of hope can be seen in the original activity now being undertaken by a number of societies in an effort to solve the elementary problems by utilizing the ways and means that are at their disposal.

The Western observer and the East

In this connection the case of Islam seems significant, for it abounds in attempts at new creative activity. Today the shock-effect produced by the impact of the West is giving rise to a reaction which is no longer mechanically but profoundly felt. This reaction is manifesting on the economic plane, where we are witnessing the construction of a new economic system, a movement which is still a little hesitant, but which is daily becoming bolder.

The object of this study is to look for those guiding factors which can help to orientate such a system towards success, and to try to examine on an up-to-date basis the problem of the economic development of Muslim countries. The task is a delicate one, for generally speaking, nothing is less straightforward than a study of the Islam of today or of tomorrow. The fille des élus produced by a study of this kind is due not only to accidental causes, political prudence, or selfish interests, but also to deeper reasons which render Islam ambiguous for the foreign observer as well as for the Muslim.

For the foreign observer, Islam is the Orient of the Occident, or the Occident of the Orient, but it is the caricature of an Occident, which we cannot excuse for portraying the exaggerated effects of the Western world.

“I find it hard to pardon Islam,” writes C. Lévi-Strauss on his return from the East, “for showing me our own image, for forcing me to take note of the fact that France is in the process of becoming Muslim. With the Muslims, as with us, I notice the same bookish attitude, the same Utopian spirit, and the stubborn conviction that it is sufficient to solve problems on paper for them to be settled at once.”

1 In European language the words “Islam” and “Muslim” are often interchangeable. The writer of the article is a French scholar. (Ed., I.R.)
Continuing his reproaches, the same author accuses Islam of having "masculinized" the West. "Islam 'Islamized' us when the West, carried away by the fanaticism of the Crusades, opposed it, and thus came to resemble it. The West did not lend itself — if Islam had not existed — to that slow and gradual osmosis with Buddhism which would have made us even more Christian. In fact in this sense we should have evolved far beyond Christianity itself. And it was at that point that the West missed its opportunity of remaining 'feminine'."

For this cleavage between the West and the East, Islam is said to be responsible because of this strange paradox: it represents the most evolved form of religious thought, without however being the best, and for this reason is the most disturbing of the three.

Modern Muslim thinkers and the West

And some Muslim thinkers do not hesitate to attribute the skill and mastery of the West to the consequence of the fault on which, according to them, Christianity was based. Thus for Dr. Kamil Husayn, of Egypt, the event of Calvary is a profound principle which explains the two fundamental traits of Christian civilization: "First, the fact that it pays more attention to abstaining from sin than to doing good; to the fear of injustice than to the love of justice; to the fear of hell than to the desire for heaven; to the prohibition of evil than to the ordering of good deeds". But also the fact that by this event the West has isolated itself from the world, and has evolved separated from it and opposed to it. Thus the success of the West is, in a way, the price of the fault.

And Malek Bennabi of Morocco recently denounced in harsh terms the Westernization of the world. According to him: "Europe, which was to light the way for the progress of humanity, has transformed the flame of civilization into an incendiary torch."

But usually these violent outbursts against foreigners are today followed by some rather painful examinations of conscience by Muslims. Anxiety, distress, uproar, complexes — such are the terms which aptly describe the present-day situation of Islam.

The alternation of inferiority and superiority complexes in the Muslim world

This alternation of inferiority complexes, which are particularly evident in debates between Muslims as to the best way to become adapted to the necessities of modern life, and superiority complexes, which are in evidence when Islam encounters the external world, has profound significance — it is the manifestation of an examination of conscience, a kind of spiritual stocktaking. Islam is thrown into turmoil and disarray because it has realized that it must make some effective reply to the challenges of the modern world. And such reply can no longer take the form of fallacious solutions arrived at by taking refuge in the symbols of tradition or in sterile imitation, but by creating original forms of symbiosis with that material civilization which the West has revealed to it.

Islam is consciously endeavouring to orientate this immense material force which Europe has set in motion in a moral direction, which it feels Europe is not taking. So perhaps it is not enough to decide that Islam is, by its nature, a generator of complexes, "... that it is a method of developing insuperable conflicts in the minds of believers, which can then be solved by methods which are extremely simple (but too simple)." It would doubtless be more equitable to look for the real significance of this cleavage in the soul.

There is no doubt that after the battle of Siffin (656 C.E.) the original state of Muslim unanimity had been broken up by the dispute (fitnah) concerning caliphate succession. This disruption, which was many times prolonged, creating a gulf between the state and the popular conscience, finally resulted in the inversion of Muslim values into non-values, future separations, and opposing political factions in the heart of Islam. It gave birth to a new kind of man — the post-Almohadian man — "who carried with him all the germs from which were to come, successively and sporadically, all the problems which were to afflict the Muslim world."

But today this resurgence of the qalq (the Arab malaise of modern times) is due to a more recent cause — the traditional wisdom has been disrupted by the need for adaptation to the world of others.

But this time the disruption has led to contact with the real world. "Reflection has divorced experience," wrote J. Berque. "Conscience, more and more sensitive and demanding, giving itself several names — wa'iy, shu'ur — has lost the cosmic. It is true that in exchange it gains simultaneously both nature and history."

Thus the movement exists, the starting-signal is given for an attempt at original creation, which can bring an important contribution to civilization.

Beyond the petty dispute lies hope, the hope of seeing emerge new forms of human creation which can result in progress only by the diversity of its methods.

Why in the case of Islam it is essential to relate the economic development of Islam to the religious and cultural factors

In the economic sphere, which offers partial but fundamental prospects of possible forms of progress, it is important to discover what original avenues Islam can open to development, what specific methods will be used to promote economic growth.

As a matter of fact there exists no necessary and unique prototype of a method of growth, as the short-term doctrines of the two present-day dominant economic régimes would have us believe. But the Narcissism from which the affluent societies are suffering should not conceal this essential fact: on the common bases of technique, science and certain economico-social constants, it is free selection over fairly wide domains which will orientate and give specific qualities to the method of growth which will be followed by any particular community.

The economist must here play the part of midwife, helping to bring into the world the materialized result of latent ideas and possibilities. He must contribute to the birth of development, and the economy, which is limited to human possibilities, must seek out the most suitable types of structural arrangements for any particular civilization, as thoroughly as it would strive for the best possible results from the mechanisms of any given structure. This widening of the economic horizon shows the great utility which respect for its own values represents for each community. It also shows the importance of the powerful motives which an economic orientation, emerging from the essential vocation of this community, can bring to development. Here the moral is combined with the practical, and the long-term prospects are initiated by the most immediate and effective form of action.
That is why we would like during this study to try to relate the economic development of Islam to the religious and cultural factors which appear to us to characterize it. It seems to us to be more useful to attempt this, even with the limited means at the disposal of the economist for such a vast undertaking, than to add a few trite details to the enormous mass of economic literature dealing with the theoretical conditions of development.

In a world which is being transformed rapidly — too rapidly sometimes — what is important is to find "vital ideas" which interpret what is essential, rather than to work out exhaustive analyses which run the risk of remaining a dead letter.

As far as Islam is concerned, it would seem that the crucial problem of development can be envisaged in two ways: when we exclude the (not absurd) hypothesis of the disappearance of Islam as an autonomous socio-cultural system and its assimilation by another more dynamic society, the question of the economic future of Islam is brought to a dilemma: Will the modernization of Islam be carried out against the Qur'ân, or by the Qur'ân?

In this brutal and necessarily outrageous form, the problem will doubtless appear to be out of place to specialists in Orientalism and Islamology. It seems, however, that, as a reply to the often serious misgivings of the masses who are concerned with Islam and whose reactions contribute very substantially to the making of history, this discussion, which may seem to border on the naïve, will not be entirely useless.

THE THREE POINTS

We will therefore examine three points which seem to us to be relevant to the issue:

First, the new conditions governing growth and the present position of Islam. Secondly, the obstacles raised by Islam against Western methods of development. Finally, the possible orientation of Islamic dynamism in the direction of economic growth.

1. The New Conditions Governing Development and the Position of Islam

An examination of some of the unfavourable conditions in under-developed countries militating against their economic development

There is a general tendency today to lay stress on the particularly unfavourable conditions prevailing in the countries aiming at economic development, when compared with those countries which began their development during the 19th century. And to explain this handicap, several reasons are given. They are based on the conditions prevalent in countries with a low standard of living. There the relationships between population and resources are usually less favourable and the demographic tendencies more dynamic and more dangerous. They have no financial market or exchange similar to the one which was available to those now-developed countries at the time when they started their development. They have not inherited the traditions of rationalism and respect for the law which played an essential part in the period when conditions were becoming ripe for development in the former countries. Finally, they are the latecomers, and for them there will be no possibility of following the example of the now-developed countries. These countries were able to set up industrial enclaves by penetrating a world consisting of backward countries, which they could exploit as markets for their manufactured goods and as sources of raw materials, incidentally keeping such countries in a more or less "colonial" type of subjection. These factors, reinforced by the various vicious circles of poverty and need, would explain the ever-widening gulf separating the affluent from the non-affluent countries.

No doubt this analysis has the merit of throwing some light on one of the most important problems of our age, and of helping to stimulate the moral conscience of the "developing" countries vis-à-vis their duties and the rights of the peoples in need, the populations of the Tiers-Monde. Yet it is liable to engender in under-developed countries the feeling of disparaging rancour. It could lead them to demand from their former "oppressors" reparation for a wrong for which they are not solely responsible. And the hope — rapidly becoming a right — to obtain not only assistance but just and adequate "damages", is alarming. There is the danger that duties will be forgotten, and especially the effort at independent and original creation which should be made by those countries that are on the threshold of their economic awakening.

So that rather than return to our discussion of this now well-known aspect of the problem of under-development, we should like to make a study of the present-day opportunities offered to countries — particularly to Islam — whose aim is to develop in the economic sense.

If difficulties which were not experienced by the Western nations during the period of the industrial revolution now arise in the countries wishing to develop, fresh opportunities are also offered to them. In the case of Islam, these new opportunities exist in several domains, particularly in the domain of available resources and that of human behaviour.

Resources Unknown in the 19th Century are Today Accessible to Islam

Muslims have begun to realize that natural resources cease when the extent and scope of their knowledge ceases

The age of iron and steel was followed by the age of oil. There is no need here to dwell at length on the change in the situation of Islam in the battle for energy. From 1945 to 1958 the contribution of the Near East to the world production of oil rose from 7.5 to 25.4 per cent. But the size and importance of the deposits discovered grew even more rapidly. In 1920, these reserves were estimated to be 5 per cent of world reserves. Today the figure is approximately 85 per cent. According to an expert on oil, if the deposits in the Middle East continue to be worked at the same rate there will still be enough oil to last for 150 years. "When the pressure diminishes, it will be restored by exploding underground atomic bombs." 14

The migrations of raw material markets, and the transformation of their nature, brought to Islam unexplored possibilities during the age of iron and coal. Even if oil was not a gift from God, evolution has nevertheless favoured Islam, for one can say that "never since Prometheus brought to man the gift of fire, has history known such a multiplication of the possible sources of the production of energy. And never, since the beginning of the Industrial Revolution, has this variety of sources heralded such a timely liberation from the controls exercised for the past two centuries, either
through the medium of geological knowledge, or by the commercial organization of a small number of powers apparently favoured by nature (or by the knowledge of nature which they possessed), or by their past. It would seem that energy will soon become abundant, and fairly widely distributed over the world.”

We are beginning to understand that only the resources which are “organized” have any durable value. It is the capacity for managing the organizable resources of world space which is the foundation of economic and political power. We know also that raw materials are not a free gift of nature but the product of the effort and the ingenuity of man. “Between the volume of needs and the volume of materials available is no longer composed of the objects we are speaking about. As Islam has remained fixed in its view of a society which was a real society seven centuries ago, and in order to solve the problems for which it then found effective solutions, we are no longer capable of thinking the limits of an epoch which terminated a century and a half ago, which was the epoch when we could effectively come to terms with history. And even this was only a brief duration for Napoleon, that Muhammads of the West, failed where the other succeeded. In parallel fashion with the Muslim world, the France of the Revolution suffered the fate reserved for repentant revolutionaries, which is to become the nostalgic conservators of that state of affairs of which, at one time, they were the staunch supporters.”

In fact (again according to C. Lévi-Strauss): “Men have made three important attempts to free themselves from persecution by the dead, from malefic influences from the other world, and from the fear of magic. At separate intervals of about five hundred years, they have in succession brought into being Buddhism, Christianity and Islam. And it is a striking fact that each stage, far from achieving an advance on the preceding one, has marked a regression. In Buddhism there is no hereafter. Everything is reduced to a radical kind of criticism and analysis, such as humanity has never since been capable of producing. Finally the adept arrives at the concept of the Void, a refusal of the very existence of objects and beings, a discipline which abolishes the Universe, and which even abolishes itself as a religion. Again motivated by fear, Christianity re-established the other world, its hopes, its menaces, and its Day of Judgment. All that remained for Islam to do was to add to this: ‘The temporal world and the spiritual world are brought together.’ The social order is vested with supernatural prestige, and politics becomes theology. In a word, spirits and ghosts which superstition had somehow never succeeded in bringing to life were replaced by masters who had already become universal, who were promised the monopoly of a hereafter which was to add its weight to the already crushing weight of the life on earth.”

6 C. Lévi-Strauss, Tristes Tropiques, p. 498. He continues: “Sheltered by a juridical and formalist rationalism, we also build up an image of the world and of society, where all the problems are amenable to a cunning kind of logic, and we do not realize that the universe is no longer composed of the objects we are speaking about. As Islam has remained fixed in its view of a society which was a real society seven centuries ago, and in order to solve the problems for which it then found effective solutions, we are no longer capable of thinking the limits of an epoch which terminated a century and a half ago, which was the epoch when we could effectively come to terms with history. And even this was of too brief a duration for Napoleon, that Muhammads of the West, failed where the other succeeded. In parallel fashion with the Muslim world, the France of the Revolution suffered the fate reserved for repentant revolutionaries, which is to become the nostalgic conservators of that state of affairs of which, at one time, they were the staunch supporters.”

In brief, natural resources cease where the extent and scope of our knowledge ceases. This is clearly seen in the agricultural development of Muslim countries which were at one time desert regions, and which the unhoped-for discovery of water and desert grass can radically transform.

If it is perhaps too soon to hope for the “re-blooming of Paradise” it is none the less probable that the discovery of accumulations of water in Su’udi Arabia and Egypt will offer in the near future splendid prospects for agricultural development in hitherto desert regions.

It is true that the attitude of Islam, generally speaking, has been negative to agriculture, but it would seem that today this attitude has changed and that the influence of Egypt, an essentially agricultural country, and the detested but striking example of the Israeli colonies in Palestine have orientated Islam towards a return to the land. There is nothing in the Qur’ân or in the Sunnah which forbids such a movement.

It is evident that the technical progress and the transformation of the interplay of economic forces in the world have enabled Islam to realize that it also possesses natural wealth. This realization, now reinforced by strong demographic pressure, doubtless played its part in the “Great Awakening” of Islam. But the evolution of techniques and socio-economic structures has furthered the economic development of Islam in another way — it has made possible, and effective, types of organizations and economic regions which were unthinkable under the Pax Britannica in the 19th century.

(TO BE CONTINUED)

FOOTNOTES

C. Lévi-Strauss, Tristes Tropiques, p. 498. He continues: “Sheltered by a juridical and formalist rationalism, we also build up an image of the world and of society, where all the problems are amenable to a cunning kind of logic, and we do not realize that the universe is no longer composed of the objects we are speaking about. As Islam has remained fixed in its view of a society which was a real society seven centuries ago, and in order to solve the problems for which it then found effective solutions, we are no longer capable of thinking the limits of an epoch which terminated a century and a half ago, which was the epoch when we could effectively come to terms with history. And even this was of too brief a duration for Napoleon, that Muhammads of the West, failed where the other succeeded. In parallel fashion with the Muslim world, the France of the Revolution suffered the fate reserved for repentant revolutionaries, which is to become the nostalgic conservators of that state of affairs of which, at one time, they were the staunch supporters.”

9 J. Berque, Les Arabes d’hier à demain, p. 28.
10 Cf. the relevant ideas brought forward by J. Lhomme in La grande Bourgeoisie au Pouvoir, in particular p. 45 et seq., Paris 1960.
12 This is one of the fundamental ideas maintained by M. Bennabi in his work Vocation de l’Islam. In his view the essential problem lies in the fact that their clamant insistence on rights has often caused Muslims to forget Muslims are human beings, to forget their human status, and to identify with their group instead of with their humanity. Islam thus loses its dynamism and becomes a nationalist religion. The call for a “Third World” which lies beyond the two blocs which are formed in the international political scene today, has been the expression of a new consciousness of being humble among nations.
15 J. Gottmann, Les marches des matières premières, p. 411.
16 Ibid., p. 414 and p. 429. To the words of Bodin, “The only wealth is men,” should be “organized” (men).
18 On this subject, cf. the works of Xavier de Planhol, Le monde islamique. États de géographie religieuse, pp. 45 to 73, Paris 1957. The author deals especially with the nuances and the various interpretations which can be found in the Qur’ân and the Hadiths concerning land. The indifference with regard to land appears to be more general than the Bedouin tradition than to Islam.
19 Cf. A. Chouraqui, L’État d’Israel in the series “Que Sais Je?”, Paris 1959. Cf. also the interview given by M. Izeddine Shawa, Deputy Minister of Agriculture of Su’udi Arabia, and recounted by Benoist-Ménich in his Un printemps Arabe, p. 192 et seq.
What our Leaders Say . . .

"The Responsibility of Pakistan and Iran towards the future Evolution and Progress of the World."

SOME EXCERPTS FROM THE SHAHANSHAHS ADDRESS

His Imperial Majesty the Shahanshah Artyá Mehr of Iran

On 7 March 1967, Peshawar University, Peshawar, Pakistan, conferred the honorary degree of LL.D. (Doctor of Laws) on the Shahanshah Artyá Mehr of Iran, who, in the course of his address, said:

"Pakistan is one of the countries which has a first-hand knowledge of Persian culture and customs. Perhaps nothing can be more spiritually satisfying for an Iranian than these lines from your greatest poet, Iqbal: 'My body is a flower from the Paradise Garden of Kashmir, heart from sacred Hejaz and voice from Shiraz'. For centuries this message from Shiraz has resounded not only in my country, but in yours as well.

"This heritage is the greatest gift left to us by our past, and our future too must be based on this ancient tradition, but we must bear in mind our present situation and the needs of our age. In other words, in order to lay the foundations of a society that will give guidance and inspiration to humanity and make the ideal fulfilment possible we must combine modern materialism with the immortal principles of Eastern idealism.

"A century and a half ago, Goethe, the famous Occidental poet and philosopher, proposed this as a solution in his West-East Divan, which has been deeply influenced by the thought of Hafiz and was a source of inspiration to Muhammad Iqbal.

"Today we are able to comprehend the authenticity and originality of these proposals all the more. We know that at present modern societies are striving for greater material comforts and welfare, and that through the advancement of science, industry and technique, living standards are continually rising. But at the same time, we believe that material welfare is not adequate for man's happiness. The human spirit, the epitome of divine manifestation, must also be satisfied, and this is not possible except through taking into account spiritual well-being.

"Luckily, two great sources, the principles and teachings of Islam and the philosophy, mystic beliefs and ethics of the East, continually satisfy our nations' spiritual needs. The greatest idealistic principles are embodied in these thoughts which surely cannot be found in a more perfect form elsewhere.

"We must combine this treasured heritage with the advancement and scientific progress necessary to present-day society. That is to say, we must create a society in which both the most advanced material and technical possibilities of the era, as well as the principles of social justice and an austere respect for human rights, can be witnessed. At present, although material advantages are enjoyed in a number of societies, social justice in the true sense of the word is not practised. This state of affairs as well as a state of spiritual well-being, void of material welfare, is quite unacceptable to us.

"I feel that our nations, which bridge the gap between East and West, have a vital responsibility in the future evolution and progress of the world, since it is here that science and technology of the West mixes with the ethics and spiritualism of the East, the perfect combination of which the future world is in need. Each of these two factors is complementary to the other. Naturally, in pursuit of such a noble, though arduous, task, our universities, the centres of education and culture, have the prime responsibility. Thus while various new chemical products are being invented in Western scientific laboratories, work must go on at other cultural centres, such as your faculty of law, where various sociological and philosophical hypotheses must be analyzed, so that the competent brains and talents, which I am sure exist in all these centres, will be able to present new and original products of their research to mankind."
Non-use of property—land is not allowed by Islam

The Shari‘ah of Islam lays down eight specific rules concerning the right of private ownership of property and the method of use of private property. I shall deal with them in the following lines:

1. The first rule laid down by the Shari‘ah in regard to the conduct of the owner of private property is that he should continue to use it. The non-use of property is wasteful, and impoverishes the owner as well as the community as a whole. The Prophet Muhammad is reported to have said that the person who seizes land belonging to nobody, for the purpose of developing such land, would cease to have any right to the land if he did not reasonably exploit it after three years of possession. The Caliph ‘Umar applied this doctrine when he decreed that a person who took land without an owner, and exploited it by developing it, would have a title of ownership to the land. He is also reported to have said if the owner of land did not use it for three years, and it lay fallow and unexploited, then any person who could develop the land and make reasonable use of it could claim it as his property. The Caliph ‘Umar is said to have taken back some of the land which the Prophet Muhammad had given to Bilāl ibn al-Harith. ‘Umar is reported to have said to Bilāl: “The Messenger of God did not give you land so that you withhold it from the people. He gave you the land so that you can use it, so you must take only what you can utilize, and leave the rest.” The wisdom of this policy is quite obvious. The intention is that property should be fully utilized, because the ownership of the property is recognized in theory to be that of God and of the community, and the owner of property who does not utilize it for his own benefit, as well as for the benefit of the community as a whole, is not using the property in the way God ordained. Property should be so used by the owner as to secure benefits for him, and thereby to increase his wealth and that of the community. If the owner did not use the property in this manner, for his and the community’s benefit, the state can intervene and deprive him of ownership. The rule about continuous utilization of property also applies to the method of utilization. The teachings of Islam require that whoever undertakes a task must perform it in the best possible manner. If the owner utilizes the property in a wrongful, wasteful or unproductive manner the state can intervene to prevent such use. The general rule is that property should be used at all times, and used properly. The Shari‘ah also provides that if the people concentrate on acquiring a particular type of property, to the neglect of other property and to the detriment of the community as a whole, the state can intervene to change habits. Thus, where people concentrate on acquiring agricultural land, and neglect other types of property, industry or investment, the state can make rules to ensure that they spread their wealth evenly and engage in the trades or industries which would, in the long run, be to the benefit of the community. There must be secured in the Islamic community a balance of economic interests and activities which would promote the general welfare.

The Muslim jurists also maintain that the above rule provides that where there has been an unduly heavy concentration of wealth in the hands of a small section of the community, and where that wealth is by nature a productive wealth and the welfare of the community depends on its proper distribution and utilization, and where also it is shown that such concentration of wealth, and the utilization of it, are not enlightened or progressive or in the interests of the

1 See The Islamic Review for June 1967 for the second part of the article.
community, the state can intervene in order to protect the interests of the community. The guiding principles in this respect are the maxims: “Behaviour towards the community is governed by the good of the community”; “Private harm must be tolerated in order to prevent public harm”; and “Minor harm must be tolerated in order to prevent public harm.” State intervention in this respect can take either the form of compelling the owners of property to utilize it in enlightened and beneficial manner, or of depriving the owners of some or all of the property, which would be taken over and utilized by the state or given to other persons to use. The state would pay compensation for this dispossession. But the rule about compensation does not apply where the property was not originally acquired by lawful means, in which case the state may take over the property without making any compensation.

The owner of private property must pay Zakah

II. The second rule of the Sharī'ah in regard to the conduct of the owner of private property is that he should render zakah (a tax on property payable to the state) in proportion to the property owned. The Zakah is one of the five pillars of the religion of Islam, and its fulfilment is a primary duty imposed upon every Muslim. The jurists are agreed that where zakah is due, and is not paid, enforcement measures can be taken against the defaulter. The history of Islam records many incidents where the state took severe steps to enforce payment of zakah, and there is the instance when the Caliph Abu Bakr al-Siddiq, the first Caliph of Islam, waged war against those who defaulted in rendering zakah. He is reported to have said: “By God, I shall fight those who differentiated between prayers and zakah.”

What is Zakah?

There is at the present time, however, some difficulty in regard to determining what, in practice, is zakah for the Muslims, and Muslim states, for this reason, find difficulty in defining their attitude to this matter. The reason is that the forms of property known in modern times are in very many ways different from, and more complicated and subtle than, those known fourteen centuries ago, when the rule about zakah was first formulated. Islamic jurists have adopted various theories on this subject. Some except from zakah the property of a minor or of the insane, others claim that zakah is due on property from farming and nothing else, yet others argue that the profits of certain trades or the practice of professions is exempted from the payment of zakah, and others still maintain that property which is not invested and which does not produce (e.g., jewellery and clothing) cannot be assessed for zakah. The theories and arguments advanced on this subject are prolix and complicated. The late Shaykh Mahmūd Shaltūt dealt with this controversy. He said: “The duty of zakah should be viewed by the Muslims in the same way as they view other duties, such as prayers. The provision in regard to prayers, for example, is clear and unambiguous. There are to be five prayers a day. . . . The unity of Islam requires that the ‘ulemas and leaders should hasten to reconsider the views expressed by the Imams of old in regard to the various aspects of the controversy which, it is feared, might affect the very basis of this duty. This reconsideration should be founded on the original purpose of this duty and in the light of the paramount intention expressed in the Qur‘ān in regard to the imposition of the duty.”

What is property?

The main cause of the controversy in regard to zakah is the meaning of the term “property” referred to in the verses of the Qur‘ān which decree the zakah. The Qur‘ān says: “Take alms out of your property — thou wouldst cleanse them and purify them thereby — and pray for them. Surely thy prayer is a relief to them. And God is Hearing, Knowing” (9:103); “The parable of those who spend their property in the way of God is as the parable of a grain growing seven ears, in every ear a hundred grains. And God multiplies further for whom He pleases. And God is Ample-giving, Knowing” (2:261); and “Surely man is created impatient, fretful when evil afflicts him, and niggardly when good befalls him, except those who pray, who are constant at their prayer, and in whose property there is a known right for the beggar and the destitute” (70:19-25). In some verses of the Qur‘ān there has been reference to gold and silver as property, and also to the produce of agricultural land. The Prophet Muhammad had given examples of the practical implementation of the rules about zakah. He divided property into three categories. The first category was gold and silver and the profits of trade. Here the zakah levied was 2.5 per cent. The second category of property was cattle and other domestic animals. The percentage of zakah was approximately the same as in the case of the first category. The third category was agricultural and farming produce, and the proportion of zakah was assessed at one-tenth in regard to land irrigated by natural means (e.g., rain) without any extra effort by the owner, and one-twentieth in the case of land irrigated by artificial means and requiring extra effort on the part of the owner. In the opinion of the late Shaykh Shaltūt this example which was set by the Prophet Muhammad provides the essential basis for a detailed formulation of rules on the subject. It would be up to the jurists to work on this basis and produce specific rules governing the varieties of cases which exist at present (see al-Aqīdah wa-al-Sharī‘ah, p. 89). It must be noted here that the property which is subjected to zakah must be that which is in excess of the basic needs of the owner and of what is required for his bare livelihood. Thus such things as the house in which the owner lives, the clothes he wears, the food he obtains for the sustenance of his family, and the tools he uses in his trade or occupation, would not be assessed for the purposes of zakah.

The question is now asked whether it is right in modern times that the categories of property defined in the early days of Islam should be accepted as final and relevant. The answer to this, in the writer’s opinion, is that the old classification should not be rigidly maintained. The problem has been carefully studied by a group of eminent Islamic jurists.

The Arab League’s Report on Zakah

The Arab League held a seminar on this subject, and a comprehensive report on social solidarity in the Arab world was presented to a meeting held in Damascus in December 1952. The report was prepared by the Shaykh Muhammad Abu Zahrah and the Shaykh ‘Abd al-Wahhab Khalaf of the Faculty of the Sharī‘ah at the University of Cairo, and the Shaykh ‘Abd al-Rahmān Hasan of al-Azhār University.

In this report, to which frequent reference would be made, the view is held that zakah would now be due on all

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kinds of property not known in the early days of Islam. Such things as industrial machinery, banknotes, the profits of professions and trades would now be taxable. The basis of the view which these jurists have advanced is that zakah was decreed to be levied on certain things because they were produced from other things, and because they represented an increase in wealth. It is not necessary that the produce should be agricultural or of the kind which was known in the early days of Islam. As long as it comes from something else, and represents a profit, it is liable to the payment of zakah. The same is true of the profits made by a person as the result of his own skill and not the result of a trade or profession, unknown in his time. Property which can grow and bring about a gain or a profit is also liable to zakah. This would apply to money which can, if properly used and invested, bring profit and increase. To leave money unused and uninvested in a productive enterprise is not to use it properly, according to the Shariah of Islam. The jurists of old, following the examples of the Companions of the Prophet and of the early Caliphs, have exempted from zakah certain property which was in the nature of basic requirements for the pursuit of a trade and without which a person could not make a living. Things like carpenters' and blacksmiths' tools, and the accommodation used for the practice of a trade or profession, were exempt from zakah. These kinds of property were considered unproductive by themselves, and the source of the wealth and the profit was considered to be the skill of the person. The jurists agreed that property required for the satisfaction of basic needs is not liable to zakah. Houses in which the person lived, and which are modest and not in excess of reasonable requirements, were not subjected to zakah. In regard to another category of property, which was used for increasing and multiplying, the jurists considered that zakah was due. There was a third category — property which was used by the owner himself and which was sometimes productive and would increase. In this category were such things as cattle and jewellery. Here the jurists have held different views. Some considered that because there would be an increase in the property, by some means or other, it should be liable to zakah. Other jurists maintained that where the predominant characteristic of the property was the satisfaction of need it should be exempt, although it may at times incidentally increase or produce a profit.

Zakah on industrial machinery and factory produce

The modern view on this subject was expressed in the report on social security in the Arab world submitted at the Arab League Seminar just referred to. The report says: “The application of this distinction in our time leads us inevitably to add to the category of property liable to zakah property which is now considered productive and which was not known to be productive at the time when the jurists originally formulated their theories on the subject. Where property is a means of exploitation for its owner, as where the owner of a big factory employs labour to run it and utilizes industrial machinery as the means of bringing about profit, the property would be considered productive for the purposes of zakah, and a charge made upon it. Here the gain which the owner of the factory secures comes from the industrial machinery he uses, and this machinery is not in the same category as the tools of the blacksmith or the carpenter who alone uses the tools and without whom there would be no production from the tools. For this reason zakah should be levied on this kind of industrial property on the ground that it is productive property and not in the category of property needed for the basic requirements of the person owning the property. The jurists of old did not impose zakah upon industrial implements because these implements were of a primitive nature and were not of themselves productive, as is the case at present. Production from industrial implements came only through their use by the worker. Now, however, machines produce more or less by themselves, and can be considered in the category of productive goods for the purposes of zakah. Modern factories consider their industrial machinery as their growing asset. But it must be pointed out here that tools owned by the craftsman and used solely by him, such as the tools of a hairdresser who works alone, should be exempt from zakah because they would be the basic and essential requirements for the craftsman without which he cannot produce anything. But zakah would be levied on large factories employing labour. And it cannot be said here that this view is contrary to the views of the old jurists, for the simple reason that the old jurists did not know of this problem and could not have made any reasonable pronouncement in regard to it. We are merely applying the basic theories which the old jurists have devised on the subject.”

The aforementioned report discussed the rate of the zakah to be levied on industrial machinery and similar property, and came to the conclusion that it would be 10 per cent of its net produce, by analogy to zakah levied on the produce of agricultural property. The report says: “In regard to fixed industrial implements zakah would be levied on the product, but not on the capital, and the assessment would be made on the basis of the net profit after deduction of all costs. The Prophet Muhammad ordered that the zakah on agricultural produce irrigated by rain or from springs would be one-tenth, and the rule here is the same.” The writer does not agree entirely with this proposition in regard to the products of industrial machinery. The analogy with agricultural produce is not altogether apt. Land would not be exhausted by use, while industrial machinery might be so exhausted. The life of industrial machinery is also limited, and there would come a time when it would need repairs and renewing, or might be scrapped. It would be more appropriate, in the writer’s opinion, that the amount liable to the payment of zakah should be assessed after making proper deductions in respect of the exhaustion of the capital by use.

Zakah on bank notes, etc.

The above-mentioned report also dealt with the question of zakah in regard to banknotes and other forms of currency and bills of exchange, such as stocks, shares and bonds. These, of course, were not known in the early days of Islam. The report says: “Stocks, shares and bonds, if acquired for the purpose of trade and gain, are dealt with as commodities liable to the payment of zakah. For this purpose the value of the stocks, shares and bonds at the beginning of the year should be compared with the value at the end of the year, and the zakah charged on the profit or gain secured. The jurists of old would agree with this. And where the stocks, shares and bonds are acquired for investment zakah would be payable on the profit or dividend obtained from the investment.” This view is subject to criticism on the ground that it has combined stocks and shares, on the one hand, and bonds, on the other, and devised the same rules to apply to all three. Stocks and shares give a dividend which varies from year to year, and this is a permissible profit according to the Shariah, while bonds give a return which is fixed beforehand and not variable, and this may be contrary to the Shariah and more like usury and illicit profit. The report has this to say on the rate of zakah: “The rate of zakah in the case of stocks and shares should be 2.5 per cent of the value of the stocks and shares and the dividend thereon, as suggested by the Imam Malik, or 2.5 per cent of the value.
of the stocks and shares themselves, as suggested by a number of jurists. This applies only in the case where the stocks and shares are traded in as a commodity. But where stocks and shares are acquired for personal possession and as a security the rate of zakah should be 2.5 per cent, as in the case of money and other valuables hoarded by the owner as security."

Zakah on rent profits, etc.

The report submitted to the Arab League conference discussed the question of the rate of zakah in regard to the profits or remuneration of a trade or profession. It said:

"There is no doubt that if this brings enough return which would be liable to zakah, and this lasts for a whole year, or prevails at the beginning and end of the year, zakah would be due. The reason is that if the return remains for the whole year, and is not expended, this would be proof that it was in excess of the needs of the persons who made it."

The question of the rate of zakah on the rent levied from houses and other accommodation is examined in the report referred to. It says: "The majority of the jurists are known not to have agreed that zakah is chargeable on houses. The reason is that houses at that time were not exploited for commercial purposes but were used primarily by the owner, and were thus essential and basic needs. . . Things are different now, and houses and other property are built for the purpose of investment and for letting to others, and the return on houses is now higher than the return that can be expected on land. With the changed situation, the public interest requires that zakah should be charged on houses in the same way that it was in the past charged on land. There is no difference in reality between the owner of land who lets it out to others to farm and then collects a return on it, and the owner of houses who lets them and collects the rent. It would be utterly unreasonable to charge tax on land but not on houses in such a case, and this would also be an injustice to the owners of agricultural land. Another result of this would be that people would give up ownership of agricultural land in preference to the ownership of buildings. The Shari'ah cannot be said to make such an illogical rule. The difference between us and the jurists of old is not a difference as regards theories but as regards the application of the theories. In their days buildings were not exploited for profit, as they are now."

The owner of property must utilize his wealth in the way conducive to the prosperity of society

III. The third rule governing the conduct of the owner of property is contained in this verse of the Qur'an: "The parable of those who spend their property in the way of God is as the parable of a grain growing seven ears, in every ear a hundred grains. And God multiplies further for whom He pleases. And God is Ample-giving, Knowing." (2: 261). There are several other verses of the Qur'an in a similar vein, and the Traditions and Sayings of the Prophet Muhammad also emphasize this theme. The jurists are all agreed that the utilization of wealth "in the way of God" is essential if the community is to prosper. They say that the utilization of wealth in this way is in fact a duty incumbent upon the Muslims and the Muslim state. In the opinion of the jurists "in the way of God" means all causes beneficial to the community as a whole and conducive to its prosperity and welfare. The Islamic state is a "Welfare State" in every sense of the word — and is in fact the first "Welfare State" known in history. The leaders of the Muslims are under obligation to ensure that the country's wealth and resources are all used for such beneficial purposes. What is beneficial to the community is a question which can be answered only by reference to the conditions of that community at the particular time. It is difficult to lay down hard and fast rules on the subject. The reaction of the people to the requirement of spending their wealth "in the way of God" varies from time to time also. At one stage in the history of Islam rich people themselves used to organize such expenditure, and there were times when there was more money in the zakah fund than could be used to meet the known needs. There were also times when people gave more by way of zakah than they were strictly under obligation to do. In such circumstances the leader of the Muslim community would not need to intervene personally in order to ensure that the provisions of the Shari'ah were fulfilled. It would be unnecessary in such cases for rules to be devised in regard to the rights which the state has to control the expenditure and utilization of property by private owners. But things have changed, and the state's attitude in this matter must change accordingly.

The duty to utilize property "in the way of God" cannot initially be interpreted as implying an obligation to spend a specific percentage of property on this purpose. The obligation cannot be determined or fixed beforehand, and its exact nature would vary with time and place. It is relative to the needs of the community, and this changes. But perhaps the best way in which the state can ensure that the owners of property utilize it "in the way of God" is for the state to formulate a just taxation system, levying from people that which is their just contribution, and using the proceeds for the promotion of the public good. The taxable wealth of a person would be assessed after deduction of the zakah. Modern taxation methods are confined to the proceeds of property and rarely affect capital assets. But there may be cases where a levy on the capital is justifiable. This would be a case of emergency, and there is a rule in the Shari'ah that "necessity justifies departure from the normal". But it must be pointed out that a levy on capital would have adverse effects in the long run, and would represent a heavy burden on the owners of property. There is no doubt that such a levy would be permissible, for there have been occasions in the history of Islam when it did take place. But the justification was always an exceptional case of national need. The jurist al-Qurtubi says: "The 'ilemas are agreed that if the Muslims are afflicted with a special need which is not satisfied by the zakah, extra to what is contributed. The Imam Malik says that the people are under obligation to ransom their prisoners, even though this might require them to give all their wealth." The philosopher al-Ghazzali says: "If the soldiers have no money, and if there is not in the public treasury enough to meet the expenses of the soldiers, and if because of this it is feared that the enemy might enter the lands of the Muslims or that there might arise internal sedition, the Imam may decide that the rich be charged with meeting the expenses of the maintenance of the soldiers. The basis of this is the rule that the lesser of two evils must be preferred. What will be given by the rich and the risk they would take as regards their property is nothing compared to the evil which would befall them if the lands of the Muslims were to be deprived of the soldiers who maintain order and eradicate evil" (al-Mustasfa, Vol. I, pp. 303-304).

The Imam al-Shàfì'ì says on this subject: "If the accepted Imam finds that he needs more soldiers in order to ensure the security of the land, and if the public treasury cannot meet the expenses, and the needs of the soldiers increase and cannot be met, the just Imam can decide that the rich should pay what would be needed to maintain the
soldiers until such time as more money is available in the public treasury. . . . No precedents for this can be found in the early days of Islam for the simple reason that in those days the treasury had ample funds, which is not the case now. . . . The public interest is the primary consideration, and if the Imam were not to act in this manner then he would not be fulfilling the task entrusted to him, and his country would be exposed to the risk of being taken over by the infidels. . . . Those who would suffer if the soldiers were defeated must be prepared to offer whatever property they possess to prevent this happening. The ensuing harm is very much greater than the harm that would result from property being taken, and the lesser of two evils should be preferred, for this is the main principle of the law” (al-Fītsām, Vol. II, p. 104).

Property must not be used in a way that causes harm to others

IV. The Shari‘ah imposes upon the owner of property the duty not to use it in such a way as to cause harm to others or to the community as a whole. There is a general rule in the Shari‘ah of Islam that rights must not be abused or enjoyed in such a manner as to cause harm to others. In Islam there are no such things as absolute rights, and the Shari‘ah at all times and in all respects pays regard to the general interests of the community, and seeks to apportion freedom and liberty among them in equal measure and without prejudice to any person or group of persons. The Shari‘ah consistently seeks a balance of rights and freedoms. A right will cease to be a right if its enjoyment leads to the infliction of harm on others. The essential concept in the laws of Islam is that all rights belong originally to the Creator. Such things as the right of private ownership of property or of enjoyment and utilization of property exist only by grant of the Almighty, on the assumption that the Almighty bestows these rights primarily for the benefit of the whole of the community, and does not prefer any one individual or group of individuals to others. The presumption in the Shari‘ah is that the grant made to the individual by the state is subject to the use being in the interest of the community and not harmful to it. Where harm is done to others this would be aggression, which is forbidden. The Qur‘an says: “And fight in the way of God those who fight against you, but be not aggressive. Surely God loves not the aggressors” (2: 190); and “O you who believe, forbid not the good things which God has made lawful for you, and exceed not the limits. Surely God loves not those who exceed the limit” (5: 87) (Iṣlāh Islāmî al-Haqq (The Abuse of Rights) by Muhammad Abu Zarah, p. 85). The jurist Ibn al-Qayyim says on this subject: “If one contemplates over the laws which the Almighty ordained for his creatures one finds that they are all designed to ensure a balance of benefits, and that where there is a conflict, preference is given to the more important as against the less important. The laws also seek to prevent the infliction of harm, but where harm is inevitable the lesser of evils is preferred. These are the principles implicit in the laws of God, which eloquently speak of His wisdom and compassion” (Miftah al-Sa‘īdah, p. 350). The basis of this rule is the maxim of “No harm is allowed whether the doer benefits from it or not”, which is a Saying of the Prophet Muhammad.

Many subsidiary rulings have been formulated from this principle. Islamic jurists have explained the distinction between the various types of harm — e.g., harm that befalls the entire community, harm that is intentional, harm that is not intentional, harm of a serious nature, harm of a minor nature, harm that is inevitable, harm that is very probable, etc. In all cases a balance is sought between the various interests, and the predominant intention is to promote benefits and prevent harm (see on this al-Muwīdāfār by al-Shātibī, Vol. II).

The rules evolved by the jurists over a long period can be summed up as follows:

Five rules defining “harm”

(i) Harm that befalls the community as a whole must be prevented, and any use of property which causes widespread harm is prima facie wrongful, and an abuse of right. That which is permissible becomes prohibited where it will result in harm to the community, because such general harm is considered a great evil and must be prevented at all costs.

(ii) Where harm is general and affects the whole community, it is not relevant to consider whether the harm was intentional or unintentional. The result is the most important consideration, and not the motive. Acts which lead to general harm are not permitted, irrespective of the motive which induces such acts. The law regards as the most important factor the result of the act, and concerns itself primarily with protecting the interests of the community. Al-Shātibī says on this: “If the matter relates to the public as a whole, the harm would be a general harm. Whatever may be the harm that would result to the person who has the right if he is prevented from using that right, the harm would ensue to the community would be greater. The law gives preference to the right of the community. But the person who has the right must be compensated for the harm he would suffer by not enjoying the right and procuring a benefit for himself” (al-Muwīdāfār by al-Shātibī, Vol. II, p. 369).

(iii) In regard to harm inflicted by one person on another as a result of the use of a right, the user of the right is not considered to have done wrong unless he had intended by the use of his right to inflict harm upon the other person. The harm must be motiveless and not justified by any benefit secured by the user for it to be considered wrongful. It would also be wrong where the gain secured by the user of the right is minute compared with the harm suffered by the other person, or where the user of the right has acted unreasonably and without due regard to the interests of others and not mindful whether he would be inflicting harm upon others. Examples of such cases are where a person who has a right to use a source of water for irrigation purposes decides to use the whole of the water at a time when his neighbours wanted to use the water, and where he could have postponed his use while the neighbours could not and would suffer inordinate harm by being denied the water. Where the intention is to deny another person a benefit, and there is no justification such as objective gain derived by the person using the right, the use of the right would be wrongful (see The Abuse of Rights, by Abu Zarah, ante). The jurisprudence of Islam provides many examples of the application of this rule as regards the sphere of public and private interests. It has something to say on the harm which has resulted in some Muslim countries from the practice of the right of private ownership of property. Freedom of ownership appears to have resulted in some cases in an unduly heavy concentration of wealth in the hands of a very small minority. This leads to a great deal of harm to the community as a whole in the economic, social and political spheres. These evils are similar to those suffered by the Western capitalist society. It is certainly a state of affairs which the proper application of the teachings of Islam would not permit. For this reason it is maintained that the government in a Muslim country should take active steps to prevent undue concentration of wealth in the hands of the few. There

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can be no hard and fast rules here, but the guiding principle must be that property should be available to the masses and not made the special prerogative of the privileged few.

(v) Another condition imposed by the Shari'ah of Islam in regard to the private ownership of property is that the owner must endeavour by every possible and legitimate means to increase the property. Islam, however, categorically prohibits such devices as cheating, monopoly and usury for the purpose of increasing wealth. The Shari'ah gives the state full powers to punish dishonest activities. As regards monopoly Islam provides that the property hoarded or monopolised would be punished. There is, however, among the jurists some disagreement as regards the kind of property which it would be wrong to monopolize. Some jurists say that commodities such as wheat, barley and dates cannot be hoarded or subjected to a monopoly. The Prophet Muhammad is reported to have said that "Those who bring food are blessed, while those who hoard it are sinners and cursed".

In the opinion of some jurists the prohibition of hoarding and monopoly applies only to these specific commodities — wheat, barley and dates. Others maintain that there is no such restriction, and that the Shari'ah prohibits the hoarding of any type of food. There are also jurists who say that the prohibition regarding food applies also to the food of animals and other living creatures. The jurist Abú Yûsif (731-798 C.E.), a companion of the Imam Abú Hanifah, founder of the Hanafi school of thought, says: "If the withholding of anything from the public would harm it then the act is wrongful, whether the commodity be gold or silver. He who hoards such commodities abuses his right of ownership. Whatever would harm the community if withheld from it should not be withheld. The hoarding of clothes is just as harmful as the hoarding of food. The reason for the prohibition of hoarding and monopoly is that harm should not befall the community. The community would suffer as from the hoarding and monopoly of food as from the hoarding and monopoly of clothes. The community has various needs, and suppressing any of these needs would be wrongful."

In modern society the harm that results from the hoarding and monopoly of essential commodities is great. In almost all the spheres of production monopolies have secured a stronghold, and the monopolists in various parts of the world have collaborated and succeeded in exploiting their position of advantage and exhorting unduly high prices for necessary commodities, to the detriment of the general public. International crises have been created in this way, as where the monopolists have conspired to reduce the price of raw materials produced by the poorer countries, which include about two-thirds of the world's population. The United Nations has been aware of this problem and has made strenuous efforts to alleviate it. But the root of the evil remains unchecked.

I have said that the Shari'ah of Islam prohibits resort to usury as a means of promoting the development of property and increasing wealth. Usury (Arabic: ribā) — sometimes called "interest" — is the main cornerstone of the economy of the modern world. There is perhaps an awareness of the harm which usury causes, but people appear convinced that there is no alternative to the economic system based on usury. Islam, however, provides an answer which is emphatic and clear, and it behoves the Muslim world to revert to the true teachings of Islam on this subject, and to set an example for the world in the remedy of the evil of usury.

Parsimoniousness and prodigality censured by the Qur'an

VI. The Shari'ah of Islam decrees that the owner of property should be neither prodigal or parsimonious in its use. The Qur'an says: "And make not thy hand to be shackled to thy neck, nor stretch it forth to the utmost limit of its stretching forth, lest thou sit down blamed, stripped off" (17:29). This Qur'anic rule applies as much to the capital asset as to the proceeds thereof. As regards prodigality the state has always been recognized as entitled to seize the property of the prodigal and control its use. Prodigality is determined by reference to the needs of the community as a whole and the relative value of the property involved. What might be ordinary and acceptable in certain circumstances may become prodigality in others. During World War II, for example, many non-Muslim countries found it necessary to introduce legislation to control the use of property by private individuals. Many countries continue to impose restrictions upon their citizens as to what they can spend abroad. Prodigality does not necessarily mean wickedness or grave irresponsibility on the part of the individual, but is simply a behaviour which does not harmonize with the needs of the community as determined by the responsible authorities in the state. As regards parsimony, on the other hand, it must be admitted that the state would find it difficult to exercise effective control. One way of preventing undue parsimony is to impose heavy taxes on capital on a rising scale, which might induce the parsimonious that it is not worthwhile to be too niggardly. Where parsimony becomes tantamount to the hoarding or monopoly of essential commodities the state can take steps to prevent it, as indicated earlier.

VII. It is provided in the Shari'ah of Islam that the owner of property must not utilize it for the purpose of securing for himself undue special benefits in the political sphere. The practice which was prevalent in most Western countries up to only one or two generations ago, namely to restrict the parliamentary franchise to the holders of property of a certain value, is not permitted in Islam. But in the Western democracies, despite the removal of property qualifications for the franchise, it remains possible for the wealthy to secure for themselves special advantages in the political and governmental spheres. Money seems capable of persuading people to vote one way or the other, and of dissuading them from doing certain things. The control exercised by the wealthy minority over the main sources of the economy often leads to pressure being exerted to procure selfish advantages in politics and government. In Islam, the state must ensure that property is never used for the attainment of such selfish objectives. The law would guarantee economic, social and political freedom and not subject it to financial control.

The interests of the living are paramount

VIII. The Shari'ah of Islam does not allow the owner of property to control its distribution or use after death. There are detailed rules about inheritance and wills, and the theory governing these rules is that the interests of the living are paramount, and that justice must be done to the living.

In this essay it has been endeavoured to list and explain the main principles which apply to the possession and use of private property. The ethical and moral injunctions laid down by Islam have been discussed — injunctions which are designed to condition the mind of the Muslim and induce voluntary behaviour on his part in the best interests of himself and the community as a whole. Also the specific injunctions which Islam provides for action by the state in the

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THE ISLAMIC REVIEW
The Caliph

‘Ali Speaks

Muslims! What has come to you
To warp the truth the Qur’án brought to us?
You speak of God incarnate in the man
Who was our leader. Oh, how well I knew
This man with whom I lived and toiled.
And would I call him God? May God forbid!
How many times he said he was a man,
No angel, but a man of human flesh.

And now I hear it said that he was God,
With God incarnate in the sons of men
We have called prophets. And in other men,
The imams, also, God incarnate in the flesh!
Is our faith better than the Christian faith
Which says that Jesus was a god,
Or God incarnate in a son of man?
Your theories are no better than their own.

Enough! When men say God incarnate in a man
Has walked the Earth, then do not say
That they live by the Qur’án or the Faith.
Was Jesus God? And were the prophets God?
They were but megaphones by which the Voice,
The voice of God, spoke to the sons of men.
To call them more is to blaspheme
And drag God’s glory in the desert dust.

I’ll say no more, for wrath Divine forbids.
No one of us is God. No man on Earth,
Or one who ever lived on Earth, could ever claim
That God has been incarnate in his life.

Why did God give the Qur’án unto men?
It was to tell mankind for all of time
That God is God, and man is man,
And God is far above the world of men.

So, let us cease to err. And we must learn
That God has never been incarnate in a man.
Wouldst thou belittle thus thy God
And seek to make Him comprehensible to thee?
“And know thou that it is God
To Whom belongeth sovereignty and might
And ye have not beside your God
A friend or helper for the life of man?”

NORMAN LEWIS.
Dear Young Readers,

Last time I started to talk about the baby Muhammad and his mother, whose name was Aminah, but I did not mention that his father's name was 'Abdullah, belonging to that noble family of Hashim of Mecca.

Mecca in those days was not a huge place like London, but it was and is and will always be a very important place. Of course, it is bigger now. In those days idols were in a building called the Ka'bah in Mecca, a place I will tell you about another time. Well, to this Ka'bah went Muhammad's grandfather with Aminah's baby, Muhammad, to give thanks at this baby's birth. The grandfather held in his arms something belonging to his dead son. His heart was full of joy. He had lost a son but had been given a grandson. What happiness! He knew he must give thanks to something or someone far above him, something or someone far above all (we could have told him it was God).

The grandfather brought the baby back to its mother, who told the grandfather that she had found a foster-mother for her baby. The name of the foster-mother was Halima; she had offered to take the baby and look after it. It was the custom of high-class Arab families not to let the mother feed her own baby. Halimah knew that Aminah was not rich but she wanted to feed this little fatherless child. At that time the higher-class babies never knew what it was to nurse in and take their mother's milk, the reason being it was thought that foster-mothers who came from the desert were very strong, and so the babies would be strong.

Muhammad stayed with Halima for two years and loved her, and even when he grew up he never forgot the kind woman who looked after him so well. He remembered her all through his life. When Muhammad was six years of age, his mother took him to Medina. But for this poor little boy life seemed harsh to him; for on the return journey Muhammad's mother Aminah died after a sickness. She died in a place called al-Abura, and there she was buried. So here, at the age of six, is a poor little boy who never knew his father, has also now lost his mother. At six years of age one really needs the father and mother. How well Muhammad knew what it was to be an orphan, and what great feeling he had for orphans in later years.

Muhammad was then taken along to Mecca by a young person, who although she was very young, looked after this little boy of six with love and care. Her name was Umm-Ayman. She gave this little boy into the care of his grandfather, whose name was 'Abd al-Muttalib. She then consented to look after this dear little boy, who had made her love him with all her heart, for he was so brave, and such a little man in his ways, always thoughtful. So she became his faithful nurse and companion.

The little boy's life was quite happy, until at the age of eight years, another blow. His grandfather died. How sad! You know how grandparents love their grandchildren and make them happy. Now this, another death. More sadness for this poor little boy. Shock after shock, death after death. Now at the age of eight — no mother, no father and no grandfather. So the little boy went to live with his uncle, who was Muhammad's father's brother — Abu Talib, who was a merchant. When Muhammad was twelve years of age his uncle said to himself, " This poor little chap has not had much out of life. I will do something for him which most children of his age have never done. I will take him on a mercantile journey to Syria next time I go." So Abu Talib took this young boy of twelve years on this long journey (not like nowadays, when you can get anywhere in a very short time). This journey would take nearly six months.

The time came. The boy Muhammad was so happy. His uncle took him right up to Busra in Syria. Muhammad came back from this journey with a knowledge which only travel could bring. He tried to help people around him. Always willing to help those in need; kind to dumb animals, never hurting them in any way, carrying the poor little lambs if they got hurt, and always helping old people. All authorities agreed what a good youth Muhammad was, with such purity of morals, which at that time was rare amongst the people of Mecca and everywhere.

But, of course, there are good and bad everywhere. The good people of Mecca were struck by the goodness and fair character of this youth, and by common consent of the citizens of Mecca he, Muhammad, was given the title of al-Amin, which means "The Trustworthy".

Muhammad in his youth tended the sheep, goats and camels of Mecca upon the neighbouring grazing grounds and valleys and hills, just as Jesus and Moses and many other prophets tended the helpless animals with love. As all prophets came from the East, and naturally were Easterners, nearly everybody did his job some time or the other. What a thing to remember — all Holy Books, religions and prophets came from the East. When Muhammad was tending the sheep and camels, he must have felt how wonderful nature was and how this must all be ruled by someone supreme.

When Muhammad was twenty-five, his uncle said to himself, "Now my nephew has done what most of the boys do. He is grown up and twenty-five years of age. I want him to become a merchant." The uncle went to see a rich widow called Khadijah who also lived in Mecca, and asked her if she would take his nephew Muhammad into her service and let him travel with her merchandise. Now Khadijah knew that in Muhammad she would have a good person, truthful, honest and upright. So she said, "Yes, I will be happy to

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Power Generation in Western Europe depends mainly on Arab Oil

Egypt

The extent of recent oil discoveries in Egypt are growing so much that it now looks like the country may soon become one of the world's important oil producers.

After years of being told that their meagre oil supplies around the shores of the Red Sea would soon dry up altogether, Egyptian oil production rose from a low of 1.75 million tons in 1956 to 6 million tons in 1964. This was mainly due to offshore discoveries in the Red Sea at Belayim exploited by a joint Egyptian-Italian company.

In 1964 another major oil area was found by the Pan American oil company in the Red Sea. This field, called Murgan, has begun producing at the rate of 30,000 barrels per day and increase to 220,000 barrels per day in two years. On top of this, another smaller field has just been found nearby called Ras Shukair.

At the same time oil was found last November right in the middle of what was the battleground of Britain’s fateful Battle of El Alamein. Hopes that this new discovery could lead to “another Libya in the Western Desert” were bolstered in recent weeks by the discovery of oil in a well drilled ten miles from the first one. With the whole Western Desert yet to be explored the prospects, according to American oil men in Egypt, are good.

Meanwhile, the Italian ENI company struck “large quantities of gas mixed with oil” in the Nile Delta.

What does this mean in financial terms for Egypt? Instead of spending $43 million on imported fuel as it did in 1966, Egypt will be a net exporter by 1968 at the tune of $80 million -- a hard currency earning of $120 million. Crude production should reach 16 million tons this year compared with 6 million in 1964.

The Cairo newspaper al-Ahram even predicts that by 1970 oil production will reach 30 million tons and produce a million pounds sterling in revenues — more than the present income of the Suez Canal.

With these estimates constantly being increased as new finds are announced, it is surely accurate to predict that Egypt's importance in the world will now have to be adjusted to make it an "oil rich" as well as a "talent rich" Arab country.

Rich Oil Deposits in Iran

The richest petroleum fields in the world have been discovered on Iran’s territory on the Caspian Sea coast by Soviet experts carrying out a geological survey of the area. These deposits are in the south-east areas of the Caspian Sea. The cost of production in these areas will be 2 1/2 times less than those in other petroleum fields in Iran.

Growth of Libyan Economy

Since 1959, when oil was struck, Libya has made rapid strides in economic development. In the past years oil has formed the vast bulk of Libya’s $800 million export trade.

In the first three-quarters of 1966, exports were 250 per cent of the imports. Naturally, a large balance of payments surplus is building up.

Five years ago there were less than 15,000 radios — now there are 100,000. Before independence there were 9,000 telephones — now 500,000.

Hospitals and schools are being built, houses and harbours are being constructed and industries are being set up. The only shortcoming is the want of skilled labour. The population is only two million, but recruiting is going on in other Muslim countries, especially from the Sudan and Morocco.

KUWAIT’S FERTILIZER PLANT

The Kuwait Chemical Fertilizer Company was inaugurated in February 1967 as Kuwait’s first big enterprise in a long-term diversification plan.

The twelve-man board of directors has six Kuwaitis and two from each of the three share-holding companies. The chairman is a Kuwaiti, Mr. Faysal Mansour al-Miryadi.

The company’s projected annual output is to be 150,000 tons of urea and 155,000 tons of ammonium sulphate. The ammonia will be piped from a natural gas field.

Kuwait, with foreign income from oil running at more than 200 million pounds a year, has little need to develop agriculture; so the whole output of fertilizers will be exported.

At present the exporters of fertilizers are Japan (758,000 tons), Germany (550,000 tons), the U.S.A. (393,000 tons) and Britain (360,000 tons). Kuwait, with its over 300,000 tons, will become the fifth.
DIVORCE AMONG MUSLIMS IN CEYLON

No. 2 Somor Government Quarters,
Colombo Road,
Puttalam, Ceylon.

Dear Sir,

A symposium was conducted recently by the Ceylon Daily News of Colombo on “Divorce and Society”. These few lines were written with a particular reference to the Muslim community in Ceylon. I believe they will be of interest to the readers of The Islamic Review.

Islam, according to its teachings, does not approve of divorce. However, it permits it more as an exception to the rule: “... turn them (women) not out from their houses nor let them go forth unless they commit open immorality...” (The Qur’ān, 65 : 1); “Of all things permitted by law,” said the Prophet Muhammad, “divorce is the most hateful in the sight of God” (Abū Dawūd, The Sunan, 13 : 3).

The only concessions allowed to a man or a woman to obtain a divorce are chiefly on grounds of sexual incompatibility and infidelity by either party. These, in the main, are the basic teachings of Islam on divorce.

In reality, however, divorce is both possible and permissible in modern Muslim society for a variety of reasons, and is easily obtained. It is the normal climax in an unhappy marriage. Seldom if ever is it understood by non-Muslims especially that according to Islam theology divorce should be the last resort.

Muslim law provides for a system of arbitration between disparate couples. The Qādī system provides for the Qādī to bring about concord between estranged couples. Only when all other means of settlement have failed are they permitted to seek legal separation.

It is, however, a matter of regret and concern that Muslim society has degenerated so that divorce is sought on frivolous grounds. Whether this could be due to a breakdown in religious values is a moot-point.

Many legally separated couples would not have sought separation if only the elders of the community or the parents of the couples had intervened. I believe that in many cases it is society that should be blamed collectively for the Muslim divorces that take place.

There is a great difference between what is normally right, as is seen in the teachings of the Qur’ān, and what is legally right as interpreted in the Muslim Marriage and Divorce Laws. The law is lax and permits divorce for a great many reasons. This is because the law itself has been evolved by society. Therefore, if we must look for a definitive teaching on divorce, we have to go to the Qur’ān, which strictly prohibits it except in certain circumstances.

Why then has divorce become common in Muslim society? Primarily it is because couples are ill-matched. This, together with the various social pressures in a society of unequal status, has led to a breakdown in a great many marriages.

The Muslim community, unlike any other community, is composed of opposites and extremes. Side by side with the immensely wealthy are the desolately poor. So too with literacy. On the one hand we find the educated and literate and on the other the colossally ignorant and the illiterate. All living in a closely-knit small community. Couples with diverse interests are paired by over-anxious parents. The wealthy among Muslims have found educated husbands for their daughters while many educated Muslim parents have to be satisfied with uneducated wealthy husbands for their equally educated daughters. Such social disparity is one of the reasons for divorce among the higher rungs of the community.

Marriage is compulsory for a man with health, wealth and strength, according to the teachings of Islam. The Prophet has said, “He who is able to marry should marry for it keeps the eye cast down and keeps a man chaste...” (Bukhari, the Sahih, 67 : 1). This is misinterpreted by many ignorant parents who get their dependent sons married early and long before they are mature enough to face up to the responsibilities of married life. They become dependent on their parents and parents-in-law and are unable to set up a home of their own. Naturally the rift between husband and wife widens inasmuch as they have to depend on their parents.

Yet another cause for the failure of Muslim marriages is the prevalent dowry system. The giving of a dowry to the bridgroom is not among Islamic traditions. Quite the opposite is the giving of Mahr. This is the giving of a dowry by the bridgroom to his bride on the day of the wedding. This practice, though observed more in the breach, has its roots in the teachings of Islam.

From a religious point of view the dowry system is taboo. But the custom of giving a dowry to a prospective son-in-law has come to stay, probably originating from ante-Islam customs. This practice has made many an anxious father promise more than he possesses to “settle his daughter”. The bridgroom “so bought”, on finding that he has not been “paid his worth”, as promised, seeks divorce from his wife. Many Muslim marriages flounder due to no fault of the couples in this way.

In some parts of the Muslim world and in Ceylon it is customary for the newly-weds to live with their parents-in-law even for years after marriage. Such sheltered lives, where all their wants are met and their problems ironed out by their parents-in-law, often create difficulties. The influence of the parents and parental interference lead to strained feelings between husband and wife, who ultimately end in the divorce courts. It is common in such instances to find that at bottom
parental influence had become irksome to one partner who had had to compete with his or her parents-in-law for a greater share of affection from the other. When such couples set up a home of their own, they are unable to meet the challenge and responsibility of marriage by themselves. This often leads to bickerings between the couples and portends a disrupted union.

There is the popular misconception that merely because Muslim law permits a man to have up to four wives, divorce is uncommon. Though the law permits plural marriage very few men have more than one woman. The conditions under which polygamy is permitted are so stringent as to make it almost impossible for any Muslim to be married to more than one woman. Divorce, being the more convenient way of finding another suitable partner, is resorted to when a marriage has broken down.

Yours sincerely,

FAZAL MAHMOOD.

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The Uniqueness of the Islamic Concept of Private Ownership—Continued from page 34

regulation of the concept of private ownership of property have been discussed. The subject is in great need of study that can lead to the formulation of detailed rules which can eventually be promulgated as positive legislation by the Muslim countries. This should be considered to be a matter of great importance and urgency. The religion of Islam contains principles which, if properly understood and applied, can be the best possible solution of the endemic ills of the modern world. It can rid us all of the evils of both Communism and capitalism, and ensure good order, justice and prosperity.

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Children's Page—Continued from page 36

have such a person as Muhammad to look after my interests."
So with Khadijah’s servant, whose name was Maysarah, Muhammad started to travel once more along the route he had taken thirteen years before. Travel had not changed much over the thirteen years. Again he went as far as Busra, a city about 60 miles to the east of the River Jordan. He also visited Aleppo and Damascus.

I know you must have heard of Damascus before, especially if you go to school. Yes, Muhammad was going where the prophets before him had gone. But he did not know that one day he would be a prophet. I doubt if he even knew much about the prophets who had been there before him. All this was made clear to him afterwards when God called upon him to be the Last Prophet.

So now we have come up to the time when Muhammad is twenty-five years of age. Next time we will go on with the story of this great man’s life; who, as we see, knew what it was to have sorrow at a very early age and who grew up to be such a nice person, although he had very few years of mother-love and none of father-love, which so many of you have. In later years Muhammad is known to have said, “Paradise lies at the feet of your mother”.

Next month I will tell you, as I said, about the Ka’bah—a blackish-grey building to which Muhammad went when a baby in his grandfather’s arms. I will have many facts and names to give you next time, because Muhammad’s life is history and the Ka’bah is history. Who knows, one day at school you may be asked to write a composition on whatever you like. In talking about schools, I have thought of a young boy called Tarick ‘Ali Khan, who at his home for the last two years has led the Tarawih prayers. His age is 13 years, and he has finished reading the Qur’an in Arabic. He is very keen on talking about Islam. Which I think is very good.

This little boy was born in England. As you must know, in English schools the Qur’an is not taught. One must learn it at home after lessons. His father, Dr. ‘Ali Muhammad Khan, who kindly gives lectures on Islam all over England on behalf of the Shah Jehan Mosque at Woking, taught his son. It might interest you to know that the Imam of the Mosque at Woking, al-Hafiz Bashir Ahmad Misri, has asked this young boy to come to the Mosque, where lectures are held every Sunday afternoon, to recite from the Qur’an and also give a short talk. The young boy tells me he has chosen the subject of his talk. It is: “Why I know the Prophet Muhammad is the Last Prophet.” I will tell you what his talk was like when I have heard it.

Any one of you can send in a little talk you would like to go in this page of yours in The Islamic Review, and also any questions you would like answered. Please remember wherever you are, if you want to learn about Islam or the Qur’an you can do it. This young boy did, and talks about his religion. Be proud of it, and let no one call you a Mohammedan. Why do I say this? Because if you worship Christ you are a Christian. You do not worship anyone but one God, and Muhammad is His Last Prophet. We are Muslims, and our religion Islam.

Assalamu Aleykum.

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JULY 1967
PILLARS OF ISLAM.—These are five in number: (1) Declaration of faith in the Oneness of God, and in the Divine Messenger-ship of Muhammad; (2) Prayer; (3) Fasting; (4) Alms-giving; (5) Pilgrimage to the Holy Shrine at Mecca.

ATTRIBUTES OF GOD.—The Muslims worship One God—the Almighty, the All-Knowing, the All-Just, the Cherisher of All the worlds, the Friend, the Helper. There is none like Him. He has no partner. He is neither begotten nor has He begotten any son or daughter. He is indivisible in Person; He is the Light of the Heavens and the Earth, the Merciful, the Compassionate, the Glorious, the Magnificent, the Beautiful, the Eternal, the Infinite, the First and the Last.

FAITH AND ACTION.—Faith without action is a dead letter. Faith by itself is insufficient, unless translated into action. A Muslim believes in his own personal accountability for his actions in this life and the Hereafter. Each must bear his own burden and none can expiate for another’s sin.

ETHICS OF ISLAM.—“Imbue yourself with Divine Attributes.” says the noble Prophet. God is the prototype of man, and His Attributes form the basis of Muslim ethics. Righteousness in Islam consists in leading a life in complete harmony with the Divine Attributes. To act otherwise is sin.

CAPABILITIES OF MAN IN ISLAM.—The Muslim believes in the inherent sinlessness of man’s nature, which, made of the goodliest fibre, is capable of unlimited progress, setting him above the angels, and leading him to the border of Divinity.

THE POSITION OF WOMEN IN ISLAM.—Man and woman come from the same essence, possess the same soul, and they have been equipped with equal capability for intellectual, spiritual and moral attainments. Islam places man and woman under the like obligations the one to the other.

EQUALITY OF MANKIND AND THE BROTHERHOOD OF ISLAM.—Islam is the religion of the Unity of God and the equality of mankind. Lineage, riches and family honours are accidental things: virtue and the service of humanity are matters of real merit. Distinctions of colour, race and creed are unknown in the ranks of Islam. All mankind is of one family, and Islam has succeeded in welding the black and the white into one fraternal whole.

PERSONAL JUDGMENT. Islam encourages the exercise of personal judgment and respects difference of opinion which, according to the sayings of the Prophet Muhammad, is a blessing of God.

KNOWLEDGE.—The pursuit of knowledge is a duty in Islam, and it is the acquisition of knowledge that makes men superior even to angels.

SANCTITY OF LABOUR.—Every labour which enables man to live honestly is respected. Idleness is deemed a sin.

CHARITY.—All the faculties of man have been given to him as a trust from God for the benefit of his fellow-creatures. It is man’s duty to live for others, and his charities must be applied without any distinction of persons. Charity in Islam brings man nearer to God. Charity and the giving of alms have been made obligatory, and every person who possesses property above a certain limit has to pay a tax, levied on the rich for the benefit of the poor.
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