

AN
ANALYSIS
OF
THE MUNIR REPORT

JAMAAT-E-ISLAMI PUBLICATIONS
KARACHI

AN ANALYSIS
of
The Munir Report

[A critical study of the Punjab Disturbances Inquiry Report]

Translated and edited by
KHURSHID AHMAD, M.A.

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EDITOR'S INTRODUCTION

Lord Bacon's much quoted dictum that 'some books are to be tasted, others swallowed; and some few to be chewed and digested, fails at least on one count: for, there are some books which are deceptive and misleading and mischievous and are challenging to all clear thinking and sober reflection. They look 'authoritative' and 'accurate' but on scrutiny turn out to be erroneous, fallacious and spurious. And because of their deceptive appearance they succeed in sowing the seeds of confusion and ill-will in countless, innocent and uninformed minds. Such books cannot be just 'tasted' and spurned. Their challenge must be met and their hollowness fully exposed. If they are ignored, they may prove a mainspring of confusion and mischief and great evil may be done to the peril of clear thinking and to sovereignty of facts.

It is unfortunate that the number of such books is increasing nowadays. A notable addition to this kind of literature had been the publication of 'The Punjab Disturbances Court of Inquiry Report'.

We hold the learned authors of this Report in high esteem. But the hopes which were entertained by the enlightened intelligentsia about this judicial inquiry were completely belied by the Report. It fell upon those expectations like a wet blanket, and extinguished them. In fact, it turned out to be a most disappointing document.

It was hoped that as the court of inquiry consists of two highly educated, cultured and learned members of the judiciary, the Report would be correct and authoritative on points of facts, impartial and

uncoloured in its approach, relevant and to the point in its analyses and conclusions and will do some tangible service towards the solution of a problem which is not a mere academic dispute, but is menacing the peace and tranquillity of the Pakistani people. But, *what has been achieved?*—nothing which contributes towards the realisation of these hopes and something which adds to the confusion which was already in abundance. After finishing the Report one finds oneself encircled by fog and mist and is lost in a blind alley, 'with nowhere yet to rest his head'.

The report indulges in a discussion of the nature and the prospects of the Islamic state and vomits out a lot of venom on this point. It ridicules the ulema and so presents their position, that they appear to the average reader as bigoted, illiterate and ignorant fanatics who live in a tiny shell of orthodoxy and know nothing of the world around them.¹ Unfortunately the Report is highly prejudiced and inaccurate and is inexact even on statements of facts. But as it comes from the pen of two judicial authorities, its statements are being taken as 'official' and 'authoritative' and 'authentic' and are being indiscriminately used in the country and abroad. It has become a mighty vehicle for spreading confusion and has virtually become a challenge to all clear-thinking. The Secularists and the Communists are using it in their vituperative propaganda against the Islamic State. The foreigners are being misled as to the real nature of the Islamic polity. Awe and distrust is being spread among the non-Muslims on the autho-

1. Mr. Herbert Feldman gives his impression in "A Constitution of Pakistan". He writes: "It is probable that they (i.e. the ulema—Ed.) are all chauvinistic, narrow-minded and subject to the intellectual paralysis to which the Punjab Inquiry Commission referred in its report"....(P. 40)

urity of this 'Sacred Document.' All this has become quite challenging and cannot be left unchecked.

The Jamaat-e-Islami, Pakistan fully realised the challenge which this Report unleashed. It offered a brief but comprehensive analysis of its contents. This ANALYSIS (in Urdu) was published in 1954. But the English translation of the ANALYSIS was delayed because of some insurmountable difficulties and it is only now that we are able to publish it. We realise that this Analysis is most needed by the English-reading sections of our society on whom the impact of alien thoughts has been most devastating. They have been educated in a system of education which is devoid of Islamic ideals, and is alien to our culture, distasteful to our civilization, insulting to our history and affronting to our traditions. As such, they can be easily misled. We are publishing this ANALYSIS to present before them the real worth of the Report and thus, remove, as best as a small book can, the confusion which has been spread by the Report.

This is also being published for the benefit of those foreigners who are interested in Islam and Pakistan and who have unfortunately been led astray by the said Report. We fully realise the adroitness of the situation. We also feel that a brief ANALYSIS cannot cover all the points which have been advertently or inadvertantly raised in the Report running into 387 pages. It has been well said that a gardener has to spend ten-times more time in throwing back the stones than the time taken by the naughty children to throw them in the garden! But circumstances did not permit us to produce at this stage,

anything more voluminous.² Nevertheless, we hope that if the views that have been expressed in the forthcoming ANALYSIS are read in earnestness they will suffice to enable the reader to sift the grain from the chaff.

II

THE USES AND ABUSES OF THE REPORT

The Analysis throws ample light upon the problems raised in the Report. But a perusal of the writings and speeches of those who have made use of the Report shows that certain definite conclusions have been drawn from this document and they are being accepted and presented as indisputable statements of facts. It is in keeping with the scheme of things here to review these uses and abuses of the Report. It is not possible to comprehend all that has been said in this respect in this brief introduction. But we would like to refer to three important points which are being raised *ad neuseum*.

1) The Report is being used by a vast number of people, in and outside the country, as a SOURCE-BOOK on the Qadiani Problem, the religious thought in Pakistan and the nature and prospects of an Islamic State. This Report has been quoted in the Constituent Assembly of Pakistan by the non-Muslim Members and the secularists as an official and authentic document and strange inferences have been drawn from it. Orientalists are using it as the main source

2. The reader is requested to consult the companion works of the ANALYSIS. They are: 'Trial of Maudoodi'; 'The Qadiani Problem'; Statements of Abul Ala Maudoodi before the Punjab Disturbances Inquiry Committee No. 1, No. 2, No. 3, and The Qadiani Problem: 'A Political Analysis' (Chiragh-e-Rah: March 1955.) 'Trial of Maudoodi', 'The Qadiani Problem' and 'Statement No. 1' are available in English too.

of information and a plethora of literature has appeared which bears the tinge of its twisted and new fangled ideas. *Herbert Feldman* used it as the basis for his book on constitution and acknowledges it as a source book. He writes:

"This Inquiry was presided over by the present Chief Justice of Pakistan and the Report is a *mine of valuable and accurately stated information*"³

Dr. John J. Honigmann, Associate Professor of Anthropology at the University of North Carolina derives a case for 'Intentional Orientation' in Pakistan from this very Report.⁴ He concludes, on the basis of this Report, that "radical opposition over the nature of Islam, by helping to foster hesitation and vacillation, nearly reduced Pakistan to civil war"⁵ He has been led astray to such an extent that he even writes:

"To complicate matters further, certain leaders of the agitation, including the Head of the *Jamaat-e-Islami*, *Maulana Abul Ala Maudoodi* had once spoken in favour of a secular state".⁶

3. A Constitution for Pakistan. By Herbert Feldman, Oxford University Press (1955) p. 22.

4. "Intentional Orientation and National Unity: A case study for Pakistan." A Review of General Semantics Vol. XIII No. 2

5. 'Radical Opposition in National Culture' By Prof. John J. Honigmann. Davidson Journal of Anthropology. Winter 1955.

6. Ibid. On this point many orientalist have been led astray, Mr. Herbert Feldman also writes: "It is also worth mentioning that certain organisations which are vehemently Islamic in religious conviction were nevertheless against the idea of an Islamic State and one of the ablest of the *ulema* in Pakistan, *Maulana Abul Ala Maudoodi*, held that the form of Government in the new Muslim State, if it ever came into existence, could only be secular" (A Constitution of Pakistan p. 22) For a refutation of this baseless charge see Part I.

This Report is being used for such purposes in most of the articles which are appearing on Pakistan and Islam in the leading journals of the world. The fact, that it has been published by the Government, has lent a sort of authenticity to this document and the world is being deceived by its spurious ideas and statements. This is a menacing use (or abuse?) of the Report.

2) Secondly, the Report is being used as a decisive verdict on the impossibility of an Islamic State. It is being said, that the concept of Islamic State is infested with unconquerable dangers and complications. The declaration of Pakistan as an Islamic State would clog the wheels of progress and put the clock back. It would be a movement in the inverse gear. The *mulla* would rule the rust. All fine professions would be banned. Democracy would be whittled down once for all. Religious rivalries would fill the air. Non-Muslims would be reduced to a hectic existence. Pakistan would be turned out by the 'world brotherhood' for her retrogressive activities. Muslims in the rest of the world will have to pay in their blood and honour for our 'crime' of making Pakistan an Islamic State.⁷

Foreigners have also been misled to believe that the concept of an Islamic State is loaded with dangerous potentialities and will prove only an obstacle

7. These and similar ridiculous things were said by some honourable members of the Consenbly on the floor of the House during the discussion on B.P.C. Report in 1952-53 and on the Draft Constitution in 1955-56. See the proceedings of the Constituent Assembly. Mr. Grace J. Calder has summed up some of these objections in his lengthy article on "Constitutional Debates in Pakistan" (Muslim World, U.S.A. Jan 1956, April 1956 and July 1956). In the last instalment of the article he tabulates Prof. Chakravarty's speech on the B.P. Report. He writes: "This constitution-making is based upon the mischievous two-nation theory that the Muslims are a majority and SUPERIOR, the non-Muslims a minority and INFERIOR.

to progress. *Mr Campbell S. Milford* writes in the "Muslim World" (U.S.A.):

"As matters stand, therefore, Pakistan aims at being an Islamic State and at incorporating some of the characteristic features of a secular state. Is this a tenable position? The answer to this question is obviously of supreme importance both for the whole future of Pakistan and more specially for the prospects of Christianity and the Church. The Report of the Court of Inquiry of the Punjab Government *answers the above question with a most emphatic negative*".⁸

Mr. Milford is of the opinion (after reading this Report), that its real contribution lies in unveiling "*some of the dangers inherent in the combination of democratic institutions with a theocratic conception of the Islamic State*".

Mr. Herbert Feldman thinks that the demand for Islamic Constitution turned out to be an "obstacle to constitution making" and extensively refers to the Report for elucidating his point.⁹

Prof. Grace J. Calder of the Hunter College of the City of New York gives his opinion of the effect

A—Examples of discrimination in the B.P.R. as amended:
1. The name: "Islamic Republic of Pakistan".

(The Report of the Punjab Disturbance Inquiry Committee states on the authority of the leading Maulanas and Chief Justice Munir—that non-Muslims can never have equal rights over Muslims in an Islamic State).....

B—Evidence that Islam is not democratic to non-Muslims.
1. The 'Munir Report' p. 312.

(The fate of the Qadianis: the theory of the Maulanas)
(The Muslim World, April 1956, p. 258)

8. The Muslim World vol. XLV No. 2 p. 197.

9. A Constitution for Pakistan, by Herbert Feldman, Oxford University Press (1955) p. 19-21.

of the Report (according to him a "bombshell") on Constitution-making. He writes:

"On April 23, the concept of an Islamic Republic came under fire in a report by two of the country's most eminent jurists *who deduced that a Government founded on the Quran could not be democratic*. This 387-page Report questioned the 'democracy' of Islam and brought up many inconsistencies between ancient religious concepts and modern theories of Government.... The conclusions covered every fact of the Islamic religion as it might affect a state based on the principles of the Quran".¹⁰

Dr. Wilfred C. Smith of the McGill University, Montreal (Canada) regards this document as the greatest challenge to the idea of Islamic State and thinks that the Muslim intellectuals have failed to grapple with it.¹¹

These few references would suffice to show the conclusions which have been drawn by the intellectuals in the country and abroad from this Report. It is alleged that the Report has given a shattering blow to the concept of an Islamic State which is a dangerous idea embedded with grave consequences and the prospects of whose success are bleak and brittle.

3) Lastly, the Report is being cited as a living testimony to religious fanaticism and intolerance. It

10. "Constitutional Debates in Pakistan II" by Grace J. Calder. The Muslim World April 1955, p. 153.

11. This he said in a talk he gave at the Karachi University on the occasion of his recent visit to Pakistan on the subject: "The Islamic State: As a Foreigner Sees It". Reported in the New Era Weekly Vol. I No. 11.

is being said that if religion is allowed to have a say in the political affairs, the country would be reduced to a state of perennial civil war. Sectarian feuds would hold the ground and indiscriminate riots would destroy the calm and tranquillity of life. Religion breeds fanaticism and results in intolerance. This happened in Punjab in 1953. And if religion is allowed to preside over the political destiny of Pakistan, it would become the seat of unprecedented religious strife and intolerance.

Unfriendly critics of religion have always preferred this charge over religion but now the Report is being taken as a decisive proof of fanaticism and intolerance in Islam.

Let us briefly consider these allegations.

III

THE ALLEGATIONS CONSIDERED

Is the Report really authentic? Does it convey truth and nothing except the truth? Is it a judicial verdict on the dangers of the Islamic State? And do the direct or indirect aspersions cast in this Report on Islam and Islamic polity carry any weight?—our well-considered reply is an emphatic NO.

The authors of the Report have relied on informations which have been inaccurate and coloured. They have taken as authentic the reports of Criminal Investigation Department of Police, but it is nothing short of an illusion to think that such reports enjoy undoubtable correctness and sea-green incorruptability. They are supplied by inspectors, many of whom are uneducated or half-educated and it is

doubtful whether many of them are capable of even understanding and grasping all that they are asked to report. Examples of their inaccuracy and incorrectness are numberless. In the **ANALYSIS** some instances of wrong statements have been given and we need not repeat them. They are a living proof of its inauthenticity and show that the Report does not deserve, even in respect of the 'facts' stated therein, the blind faith which is being reposed in it.

Nor is the Report a judicial verdict. It is the report of a Commission and is subject to all the dangers of inaccuracy, inexactness, bias and folly. A perusal of the Report only confirms these doubts. Part I of the **ANALYSIS** gives ample evidence in this respect.

The method of inquiry which was adopted by the Commission was also the least suitable for such a venture. Particularly when some important academic issues were dragged into the controversy, court's cross-examination box was most inappropriate a place for their elucidation and discussion. But the Commission thought it appropriate to use these methods and more so to infer important conclusions from the record of that cross-examination. In the inference of the conclusions it seems that a certain mind has constantly been at work and instead of reaching at some sober conclusion through serious deliberation, certain things have been arbitrarily selected and put in such a context that the position of the Ulema may look ridiculous. This attitude robs the Report of its impartiality and one can justifiably ventilate the doubt that the Report has been so presented that a certain section of our intelligentsia may

use it to its own advantage in the current ideological conflict in Pakistan and the Muslim World.

The Government itself has denied the authority of the Report vis-a-vis matters concerning the Islamic State. The Law Minister of the Government of Pakistan in reply to the criticism on the Basic Principals Committee's Report categorically said that the Report should not have been quoted in the debates of the Consenbly for the said *justices were not pronouncing any judgement on the merits of the Islamic State but were only citing various opinions to show the cause of a certain confusion.* The then Chief Minister of East Pakistan said that the Report was "*not an authority on Islamic Laws*" and must not be taken as something necessarily correct.¹³

In the face of these facts how can we regard the Report as "a mine of valuable and accurately stated information" and as a verdict on the dangers of an Islamic State?

As to the alleged dangers of the Islamic State we claim without any fear of contradiction that the authors of the Report stand guilty of travesty. They have themselves presented a twisted picture of the Islamic State and then have 'boldly' criticised it and have tried to show that it is undemocratic! How honest is this approach, we leave it to the reader to judge. A careful perusal of the Part II of the ANALYSIS would show that instead of presenting the real fundamentals of an Islamic State in their proper perspective, they have painted an arbitrary picture and then have embarked upon the noble task of exposing the dangers that are inherent in *that* Islamic

¹³ See the proceedings of the Constituent Assembly of Pakistan.

State. The study of human thought shows that such positions have always been adopted by those who are conscious of the weakness of their own case and who try to camouflage their own feet of clay by creating a smoke-screen of travesty and misrepresentation!

We give below the fundamental principles of an Islamic State as formulated by 33 accredited Ulema of Pakistan representing all the various schools of thoughts in Pakistan. Any body can judge the position of the Report by a comparative study of these and the relevant sections of the Report.¹⁴

BASIC PRINCIPLES OF AN ISLAMIC STATE

The Constitution of an Islamic State should comprehend the following basic principles:—

1. Ultimate Sovereignty over all Nature and all Law shall be affirmed in Allah, the Lord of the Universe, alone.
2. The law of the land shall be based on the Qur'an and the Sunnah, and no law shall be passed nor any administrative order issued, in contravention of the Qur'an and the Sunnah.

Explanatory Note:—

If there be any laws in force in the country which are in conflict with the Qur'an or the Sunnah, it would be necessary to lay down

14. See the Report p. 200 to 232.

(in the Constitution) that such laws shall be gradually, within a specified period, amended in conformity with the Islamic Law or repealed.

3. The State shall be based not on geographical, racial, linguistic or any other materialistic concepts, but on those principles and ideals which form the life-blood of Islamic ideology.
4. It shall be incumbent upon the State to uphold the Right (Maruf) and to suppress the Wrong (Munkar) as presented in the Qur'an and the Sunnah, to take all measures necessary for the revival and advancement of the cultural pattern of Islam, and to make provision for Islamic education in accordance with the requirements of the various recognised schools of thought.
5. It shall be incumbent upon the State to strengthen the bonds of unity and brotherhood among all the Muslims of the world and to inhibit among the Muslim citizens of the State the growth of all prejudicial tendencies based on distinctions of race or language or territory or any other materialistic consideration so as to preserve and strengthen the unity of the Millat-al-Islamiyah.
6. It shall be the responsibility of the Government to guarantee the provision of basic human necessities, i.e., food, clothing, housing, medical relief and education to all citizens who might temporarily or permanently be incapable of earning their livelihood due to unemployment, sickness or other reason, and to make no distinction of religion or race in that regard.

CITIZEN'S RIGHTS

7. The citizens shall be entitled to all the rights conferred upon them by the Is'amic law, i.e., they shall be assured, within the limits of the law, of full security of life, property and honour, freedom of religion and belief, freedom of worship, freedom of person, freedom of expression, freedom of movement, freedom of association, freedom of occupation, equality of opportunity and the right to benefit from public services.
8. No citizen shall, at any time, be deprived of these rights, except under the law, and none shall be awarded any punishment on any charge without being given full opportunity of defence and without the decision of a court of law.
9. The recognised Muslim schools of thought shall have, within the limits of the law, complete religious freedom. They shall have the right to impart religious instruction to their adherents and the freedom to propagate their views. Matters coming under the purview of Personal Law shall be administered in accordance with their respective codes of jurisprudence (fiqh), and it will be desirable to make provision for the administration of such matters by their respective judges (Qadis).
10. The non-Muslim citizens of the State shall have, within the limits of the law, complete freedom of religion and worship, mode of life, culture and religious education. They shall be entitled to have all their matters concerning Personal Law administered in accordance with their own religious code, usages and customs.

11. All ob'gations assumed by the State, within the limits of the Shari'ah, towards the non-Muslim citizens shall be fully honoured. They shall be entit'ed equally with the Muslim citizens to the rights of citizenship as enunciated in paragraph 7 above.
12. The Head of the State shall always be a male Muslim in whose piety, learning and soundness of judgment the people or their elected representatives have full confidence.
13. The responsibility for the administration of the State shall primarily vest in the Head of the State, although he may delegate any part of his powers to any individual or body.

GOVERNANCE OF THE STATE

14. The function of the Head of the State shall not be autocratic but consultat ve (Shura'i), i.e., he will discharge his duties in consultation with persons holding responsible positions in the Government and with the elected representatives of the people.
15. The Head of the State shall have no right to suspend the Constitution wholly or partly or to run the administration in any other way but on a consultative basis.
16. The body empowered to elect the Head of the State shall also have the power to remove him by a majority of vote.
17. In respect of civic rights, the Head of the State shall be on the level of equality with other Muslims and shall not be above the law.

18. All citizens, whether members of the Government and officials or private persons, shall be subject to the same laws and the jurisdiction of the same courts.
19. The judiciary shall be separate from and independence of the executive, so that it may not be influenced by the executive in the discharge of its duties.
20. The propagation and publicity of such views and ideologies as are calculated to undermine the basic principles and ideals on which the Islamic State rests, shall be prohibited.
21. The various zones or regions of the country shall be considered administrative units of a single State. They shall not be racial, linguistic or tribal units but only administrative areas which may be given such powers under the supremacy of the Centre as may be necessary for administrative convenience. They shall not have the right to secede.
22. No interpretation of the Constitution which is in conflict with the provisions of the Qur'an or the Sunnah shall be valid.

One thing more. Theorists have always cried about the complications in state-systems and ideologies and the fact is that no system is totally free of problems and difficulties. It is only in practice that the complications are solved and the riddles are un-

15. "These principles were unanimously formulated by a convention of the Ulema representing all the schools of thought which was held in Karachi in January 1951. The unanimous decision of the Ulema gives lie to allegation of their unbridg-

locked. Unfanciful people have always trembled at the horrors that do not exist and run away at the first distant smell of danger. Such people starve even before the food-stocks are exhausted and die thousand times even before the signal of alarm is rung. They always spin nightmarish illusions about political ideologies and never see things in the yellow light of reality. We hold no brief for such people. The study of the principles of an Islamic State convinces us that this is the most human, most progressive and most advanced system of polity and we must labour hard to establish such a state. Difficulties will arise; complications will crop up; and this is what has always happened particularly during the transition period when one system is to be supplanted by another. It is for the leaders of that state to solve them and in the light of the Divine Guidance, which we possess, we will *Insha Allah* succeed in solving them. This is something natural and the natural way to their solutions lies in thoughtful practical implementation. The idealistic critics will be silenced only when the Islamic polity has been practically demonstrated. History bears testimony to it.

To the Western critics we ask: Was not the idea of the Nation-state infested with gnawing dangers and complications? Has not the history of this system showed its menacing potentialities? The systems which

able differences. The Report harps on the theme of doctrinal differences but the fact is that the convention of the Ulema formulated these principles without even one dissenting voice. Later on in January 1953 when another convention was held to consider the B.P.C. Report the Ulema suggested amendments with complete unanimity. Only on one point there was an alternate device presented by some Ulema. Does it not tear to shreds the much-trumpeted allegation of insurmountable and menacing differences. For a detailed study of the fundamentals of the Islamic State the reader is referred to 'Islamic Law and Constitution' by Abul Ala Maudoodi and 'The Conduct of State in Islam' by Dr. M. Hamidullah.

the West has tried are now being openly acclaimed as wanting. Nationalism has resulted in widespread despair and destruction. The world is baffled at its bitter fruits.¹⁶ Now is it reasonable for those who have adopted such a dangerous system (which has spelled

¹⁶ Aldous Huxley writes in "Science, Liberty and Peace":

"Nationality, wrote Lord Acton in 1862, does not aim either at liberty or prosperity, both of which it sacrifices to the imperative necessity of making the nation the mould and measure of the state. Its course will be marked with material as well as moral ruin.

"Acton's prophecy is still in the terrible process of fulfilment. The material havoc wrought by applied science in the service of nationalism is such that it will take a generation to repair the damage. For many millions of men, women and especially children, the moral ruin caused by the war is irreparable; to the end of their lives they are doomed to remain psychologically warped, crippled and stunted. And these, of course, are not the only gifts of the nationalism which (having repudiated all belief in the fatherhood of God and the brotherhood of Man) we have set up as our idolatrous religion.

"Nationalism leads to moral ruin because it denies universality, denies the existence of a single God, denies the value of the human being; and because, at the same time, it affirms exclusiveness, encourages vanity, pride and self-satisfaction, stimulates hatred and proclaims the necessity and righteousness of war.....

"The modern world differs from that of ancient Greece (which according to Huxley "perished, self-destroyed by nationalism"—Editor) in degree and scale, not in kind. What separatist patriotism did for the inhabitants of a few thousand square miles in the eastern Mediterranean, it is doing today for the population of the entire planet. As Athens and Sparta died of idolatry and flag-waving and jingoism. But whereas the technologists at the service of the various Greek nationalisms had got no further than chariots and javelins, the technologists at the service of our fifty-odd self-worshipping administrative units have given us bombers that can fly non-stop over eight thousand miles, incendiaries which nobody can put out, and atomic missiles that are guaranteed to do to whole cities what a quart of boiling water does to an ant's nest." (Science, Liberty and Peace p. 33-35.)

For detailed study of this topic see:

- Foundations of Human Conflict. by William Brand;
- Nationality in History and Politics. by Fredrick Hertz;
- The State of the World. by Adam De Hegedus;
- The Crisis of Civilization. by Alfred Cobban;
- The World and the West. by Arnold J. Toynbeen;
- Nationalism and India. by Abul Ala Maudoodi.

disaster to the entire mankind), to tremble at the prospects of the imaginary dangers of an Islamic State and on this basis dub that polity as retrogressive and anachronistic?

The myth of the alleged 'dangers' has been exposed in part II of the ANALYSIS.

IV

THE BOGY OF INTOLERANCE

The critics, let us say at the very outset, have been most unfair in this respect. They think that a virtual state of civil war prevailed in the former Punjab in those days. They allege as if thousands of people were massacred in those riots. They paint the picture in darkest colours and try to strike awe and terror in the hearts of uninformed people. But this is a fantasy and a figment of fertile imagination. We are opposed to the use of violence and unconstitutional means for the solution of political disputes. The Jamaat-e-Islami was perhaps the only organization which even on the eve of the riots courageously opposed the policy of resort to violent means and tried to check it.¹⁷ She directed all her resources towards the canalisation of the movement in constitutional channels. But we do not hesitate to say that false propoganda and blasphemous charges of civil war or mass massacre also affront every instinct of justice

¹⁷ For details see "The Trial of Maudoodi" published by Jamaat-e-Islami Pakistan, p.24 to p.38 and p.46-48. Briefly it may be stated that:

(a) Jamaat-e-Islami is bound by its constitution to pursue democratic and constitutional methods. Section 10 of the Constitution of the Jamaat-e-Islami says:

"The Jamaat will resort to democratic and constitutional methods only, in order to bring in the reform and change which it envisages i.e. it will mobilize public opinion with the help of propoganda and persuasion."

and honesty. Even the estimates of the Report show that the actual loss of life during the riots was not heavy—IN NO WAY IT WAS MORE THAN THE AVERAGE RATE OF CASUALTIES BECAUSE OF ACCIDENTS ETC. IN THE AREA. It is fantastic to allege that there was any mass massacre *on sectarian grounds*. The entire loss of the Qadianis, according to the official figures was that five persons were murdered, and some twelve shops and houses were looted and this too happened only after the news about the jeep-car of Ahmadis indiscriminately showering bullets upon the Muslim people had got currency. The Report admits of this "mysterious vehicles" (p. 156) although it does not try to probe its real identity. The Military G.O.C. in his statement has claimed that he controlled the entire situation within six hours and with the help of just one battalion. The fact is that although we condemn

This is the method which it is following for the last fifteen years.

- (b) As the feelings were rife on the Qadiani issue, Jamaat-e-Islami tried to direct the movement in constitutional lines and thus to solve it peacefully.
- (c) When the Ahrars resorted to direct action the Jamaat disapproved of that and dissociated themselves from the direct action. On February 20th the Secretary General instructed the workers of Jamaat not to put their signatures on the pledge form which the Ahrars had issued. (see The Daily 'Tasneem', Lahore, Feb. 20, 1953). The Working Committee of the Jamaat, in its sessions held on 4th & 5th March in Lahore passed a resolution which appeared in the Daily 'Tasneem' Lahore of 5th March. "This resolution", in words of Maulana Maudoodi, "comprised of three parts: in the first part, we pointed out the mistakes committed by the Government in handling the Qadiani question; in the second part we took notice of the mistakes committed by the leaders of the Direct Action; and in the third part after stating that WE HAD NO CONNECTION WHATSOEVER WITH THE DIRECT ACTION, it was positively laid down that we endorsed the real demand of the public about the Qadianis and that we would adopt effective measures in accordance with our own principles to achieve it." (Statement before the Martial Law, 'The Trial of Maudoodi' p.37-38).

(Continued on Page 21)

the riots which are a filthy blot on our history, it is extremely fallacious to regard them mass massacre or huge sectarian clash. The Report presents the things in such a way that the reader is left with an exaggerated and false impression of widespread bloodshed and violence. And who can deny that the unscrupulous attitude of the Government itself went a long way in bringing about the catastrophe.

These are undeniable facts and hundreds of thousands of people bear testimony to that. Can a false propaganda eclipse them?

Another very important thing must not be ignored. The movement was not AGAINST THE QADIANIS. It was not a Muslim-Qadiani clash. People demanded something *from the Government* and from the Constituent Assembly and tried to ventilate their feelings on the demands. Although some methods used by certain parties were untoward and uncalled for and we disapprove them and condemn them with all the force at our command, but the fact remains unblemished that the two parties to the dispute were the Muslim masses on the one hand and the Government and the Consenbly on the other, and it was not, in view of the real nature of the movement, a sectarian feud. It is a misnomer to call it so.

(d) When arrests were made and the direct action was launched Maudoodi in his press statement pointed out the mistakes and the blunders of the Government. But alongwith that he did not fail to openly point out that: "There may be difference of opinion with regard to the methods of achievement of this end, but there can be no two opinions about the demand itself."

(e) Two members of the Jamaat violated the instructions of the party and participated in the Direct Action. They were immediately expelled from the party.

These things clearly show the real position of the Jamaat-e-Islami of Pakistan vis-a-vis use of force and the Punjab riots.

And what, after all, did the Muslim masses demand of the Government and the Constituent Assembly in respect of the Qadianis? Did they demand that they should be wiped out of existence—as is done to ideological minorities in the Soviet Russia? Did they demand that they should be driven out of Pakistan—as was done in the case of Jews in Germany? Did they demand that they should be deprived of their vital basic rights—as is the practice in many of the 'Peoples' democracies' and in 'democratic' colonies? Did they demand that they should be dis-enfranchised? Did they demand that they should not be allowed to enter common educational institutions or recreational places—as is done in the case of Negroes and other coloured people in America,¹⁸ Australia, South Africa and other places? Did they demand that they should be lynched or persecuted? Did they demand that they should not be treated equal in the sight of law?¹⁹ That their social status should not be at par with other citizens? That they should be deprived of their separate existence and be either eliminated or absorbed? No

18 Prof. Denis Brogan has rightly pointed out in his recent book on revolutions, **the fact that of all the powers of the world "America is the most colour conscious"**. In the House of Representatives of U.S.A. Representative Williams of Mississippi defended the gnawing colour discrimination and indicted the **Survey-Graphic** magazine which opposed it. He said: "The **Survey-Graphic** contained anti-Christian, un-American and pro-communist tripe, ostensibly directed towards the elimination of the custom of racial segregation in the South". It may be of interest to note what a leading politician of America has to say about the terrorists' party Ku Klux Klan which openly had taken the law in its hands and indiscriminately assassinates the Negroes. "It is relevant to remember that when Rankin was asked why his committee did not investigate the Ku Klux Klan he replied that the Klan was not un-American, it was American!"

(**Freedom, Loyalty, Dissent** by H. S. Commager p. 96)

19 Harold J. Laski writes in **Reflections on the Revolution of Our Time**: "The rule of law is not an automatic principle of action which operates indifferently as to time and place and the persons to whom, as judges, its application is entrusted. It is very likely to be one thing for a Negro in Georgia and another thing for a white man in Georgia."

and never! Their simple demand was that they should be recognised *de jure* a separate entity, distinct from Muslims (which they *de facto* are) and given seats in Assemblies in proportion to their numbers just as had been provided for in regard to other non-Muslim communities like Christians, Buddhists, Parsis, Hindus etc. And this demand grew out of the admitted position taken by the Qadianis that they were altogether distinct and different, in faith and ethics, from 500 million Muslims residing throughout the world whom they regard as *Kafirs* and outside the fold of Islam. And above all it was exactly that very demand which was made by Qadianis themselves before the Partition when they demanded of the erstwhile British rulers to declare them a separate minority—Muslim masses wanted that this demand of theirs be immediately granted. But the Government did not concede to the popular demand, and some untoward events happened.

And how justified is the conclusion that religion is responsible for the violence. Is it not a fact that greater violence is being used by the Cypriots in their fight against the British?—is that because of religion? Is it not a fact that unpardonable violence is being displayed by the Southerners in America in their movement to defend the colour discrimination? Negroes are being humiliated, insulted and treated contemptuously. They are being refused front seats in the buses and protest strikes have ensued. They are not being admitted to the white schools and colleges despite of the Supreme Court's verdict. The discrimination is rampant in economic institutions, hotels and hostels, and even in housing localities. Riots are breaking out in larger numbers and violence is being used against the Negroes. They have even been lynched (that is roasted on fire by the public which took the law in its own hands and spelled death for

them).—Now, is religion responsible for all this violence? Is it not a fact that greater violence is being done by the French in North Africa, by the British in the Middle East, by the Russians in Hungary and other satellites, even by the Africans in their own country? The fact is that it is not religion which leads to violence, which unfortunately is a human weakness, a universal failing from which none is free. It would be a folly to regard religion as responsible for violence. *Charles Dickens* rightly said that: "*Cruelty and abuse of absolute power are the two bad passions of human nature.*"

The criticism about religious intolerance is also based on flimsy grounds. First of all it must be clearly understood that tolerance has its limits. Had tolerance been without any limits, intolerance must have been tolerated without any scruples. But that is not the case. Tolerance is a cultural virtue; but it is not an absolute value. If the life of an individual is threatened, he can't tolerate that. If the existence of a community is threatened, she cannot tolerate that. If the honour of the sovereign is threatened with high treason in a state, that cannot be tolerated. Even *BERTRAND RUSSEL* has said that a *democracy cannot tolerate the victory of communism by a democratic vote*. He writes:

"We profess to favour democracy, and at the same time we say that we cannot tolerate a recently elected Parliament which has a communist majority, because we are apprehensive of future irregularities. On the face of it this is an inconsistency, but the problem is not a new one.

"What is an upholder of democracy to do when a majority votes against democra-

cy? I think the answer is that democracy involves legal opportunities for changes of opinion, and *that it is anti-democratic* to allow a momentarily popular clique to secure itself in power indefinitely. . . ."20

This discussion touches a very important point about the limits of liberty and tolerance. MR. NATHANIEL MICKLEM in a talk on the B.B.C. says:

"But there are, there must be, limits to this freedom. For instance, could we permit communist schools within the national educational system? My answer quite clearly would be 'No'—on these grounds, that it is the duty of the Government to maintain national unity and to see that education produces good citizens to take their place in the traditional life of the nation. Communist

20 Bertrand Russel, in a letter to "Manchester Guardian" (England) published on Oct. 13, 1953 (Emphasis mine). MR. PEREGRINE WORSTHORNE of the 'Daily Telegraph' in an important article on "Democracy vs. Liberty" published in the leading British magazine ENCOUNTER (Jan. 1956) makes a similar plea. He writes:

"We assume that the Communist Party is allowed to campaign for power in this country because of our own innate belief in democracy. The truth is that we grant this right because the Communists have no chance of winning. If they did have a chance of winning, political instinct would very quickly suggest that our democratic assumptions needed re-examination. It would then be discovered that Communist participation in the electoral process fulfills none of the conditions—practical, historical, or ethical—on which the Anglo-American tradition depends. Communism so debauches the basic conditions of the Anglo-American tradition that to accept Communist electoral victory as 'democratic' would be base apostasy." (ENCOUNTER, January 1956 p.13).

It is interesting to note that The New York Times, refused to review senator McCarthy's own book 'McCarthyism', on the ground that it might spread his ideas. (Vide, The Menace of Free Journalism in America by Marry McCarthy,—The Listener, London, May 14, 1953). Without disputing the right or the prudence of The New York Times' refusal, it may be inferred that one cannot be asked to tolerate everything merely on the pretext of democracy!

schools would be bound to educate children to be bad, even seditious, from the point of view of the kind of national life we desire to have. At that point plainly we must say 'No'. *The difference between us and the authoritarian states, then, is not absolute; it is that they will tolerate diversionism at no stage, and we are prepared to take action only with great reluctance and as a last resort.*" ²¹

Thus we are bound to conclude that tolerance has certain limits and a community or a state cannot tolerate everything, for instance a threat to its very unity, integrity or existence. And those who indiscriminately hurl the charge of intolerance must know that they stand on flimsy grounds.

SECULARISM AND INTOLERANCE

Moreover the allegation that religion breeds intolerance is unfounded and baseless. A critical study of human history does reveal that religious intolerance was perpetrated by the narrow-minded leaders of the Christian Church and through inquisition an unholy attempt was made to put fetters to human thought, but, it is illogical to conclude from this that *religion engenders fanaticism and intolerance*. History shows that with the separation of state and religion and the advent of secularism intolerance has increased in volume and gravity and as such religion cannot be held responsible for it. If intolerance was rampant in a lesser degree under a *certain* religious regime and if it has increased manifold in the age of secularism and materialism and has even multiplied beyond compre-

²¹ "Freedom is not so simple" by Nathaniel Micklem. The Listener weekly (London), September 9, 1954.

hension under athiestic and anti-religious communism, only a trick of jugglery—and not sound logic—can “prove” that religion (all religions of course!) and intolerance are the inseparable twins!

This is what history tells us:

SECULARISM IN THE MUSLIM WORLD

1. In the Muslim world the fact is that *secularisation of politics and political intolerance have gone hand-in-hand*. MUSTAFA KAAL of Turkey and RAZA SHAH of Iran were the pioneers of the secularist movement. And their regimes were most despotic, intolerant of opposition and fanatical in their approach and outlook.

Mustafa Kamal inaugurated his regime by launching a vituperative campaign against religion and the religious leaders. It was out-and-out fanatic and a master-piece of frenzy. *Azan* in Arabic was banned. Arabic was banished and Turkish was revived. The Arab script was changed at the point of dagger and the whip (March 26, 1926) and people were forced to adopt the Latin script (Nov. 3, 1928). Use of fez was *stopped by law* (Nov. 25, 1925) and the English head-gear was officially introduced. Later on the entire Western dress was adopted. The word ‘Islam’ was scratched off the Constitution of Turkey and so beastly and fanatic was the wrath of this secular regime against the religion of submission to Allah that even mosques were forcibly closed down—for instance two most famous mosques of Istanbul *Aya Sophia* and *Fatih Mosque* were closed and changed into museum and depot respectively.²² This was the secularists’

²² See: The Middle East (1953). The Middle East Survey by Mr. S. A. Morrison; Turkey by Barbers Ward; Foundations of Turkish Nationalism by Dr. Uril Hyde and “Grey Wolf” by H.C. Armstrong.

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tolerance towards religion! Now, something about the political parties: All political parties were dissolved and a dictatorial regime was established. Attaturk could admit of no opposition and his *intolerance* was so great that even those without whom he would have never achieved the revolution could not escape the gallows or the exile (All his sermons on tolerance and his tirade against religious intolerance apart!) To what extent his intolerance reached can be imagined from this instance:

"In 1926, following a not very professional attempt on his life *hc HANGED what amounted to the entire leadership of the opposition*. Among those he allowed to be sentenced to death and executed were Col. Arif, who had been his comrade-at-arms in the Greek campaign, and Djavid Bay, the best financial mind in Turkey. Kamal had a champagne party in his lonely farm house at Chankeya near Ankara to celebrate the occasion (i.e. the execution of the death sentence of the leaders of the opposition—Ed.) and invited all the diplomats. Returning home at dawn, they saw the corpses hanging in the town square." 23.

—This is the way 'tolerance' has worked in the secularist regimes of the Middle East. The story of Iran is a true replica of it. And Egypt is also witnessing similar tolerance at the hands of its secularist rulers!

"TOLERANCE" IN EUROPE AND AMERICA

2. In the modern West too secularism and atheism failed to implant real tolerance. Separation of state and religion was firmly established in Europe after

the bitter mediaeval wars of religion came to an end. These were fought between the two sects of Christianity and caused great bloodshed and destruction and left behind a long trail of frustration and embittered feelings against religion. But the era of secularism, that dawned in 1648, failed to lit the horizon. War and intolerance could not be banished. If a few years passed in calm, it was not because of any respect for man and the beliefs of others. Nay, it was a mere 'tolerance of exhaustion'. Soon the hostilities were resumed. The last two centuries have witnessed an unending series of *wars of nationalism* and every inch of the European soil was soaked with the blood of innocent human beings who were slaughtered at the altar of the Goddess of Nationalism. These wars have been unprecedentedly devastating and horror-spelling. Not only has there been an enormous increase in the loss of life, money and material; the interval between respective wars has continued to shorten. "The interval between the Napoleonic and Franco-Prussian wars was 53 years, the interval between Franco-Prussian wars and World War I was 43 years, and the interval between World War I and World War II was 21 years—and this at a time when man has all the MATERIAL conditions necessary for his happiness."²³ Secularism has not been successful in abolishing war and inaugurating an era of peace and prosperity and tolerance.

Today intolerance and antagonism reign in every sphere of Western life. Secularism successfully cut asunder all the ties of brotherhood and affection which were forged by religion. Thus shorn of all moral scruples, man became a leviathan and a brute—class

²³ Communism and the Conscience of West by Fulton J. Sheen.
p. 17.

antagonism became rampant,²⁴ colour discrimination²⁵, raised its monstrous head and local and national discord assumed menacing proportions. Spiritual values dwindled into naught. The eminent historian *Arnold J. Toynbee* clearly points this out when he writes:

“Our own Western post-Christian secular civilization might at best be a superfluous repetition of the pro-Christian Greco-Roman one, and at worst a pernicious back-sliding from the path of spiritual progress. In our Western world of today, the worship of leviathan—the self-worship of the tribe—is a religion to which all of us pay some measure of allegiance, and this tribal religion is of course sheer idolatory”.²⁶

The race-worship of Germany, the class-worship of Russia, the colour-worship of America and Africa

24 Marx's description of class antagonism in the *Das Capital* (Vol. I) has since become a classic. Later studies by Sidney and Beatrice Webb, J.L. and Barbara Hammonds, and Prof. G.D.H. Cole provide authentic information about the real nature and volume of the crises. A recent work of Prof. Pauline Gragg: 'A Social and Economic History of Britain (1760-1950)' is also an illuminating treatise on this subject. Dr. Cyril Garbett's well known book 'In an Age of Revolution' (1952) also furnishes important information from reliable sources.

25 The inquisitive reader would do well to read at least the following to understand the gravity of this Problem: *New York Times*—Eight-page survey of the situation in the South. (Summary in International Edition March 18, 1956); *The Manchester Guardian Weekly*—"Ordeal of the South" by Alistair Cooke (7 instalments from May 10, 1956 to June 21, 1956); "The Colour Problem" by Anthony H. Richmond; "The Disenfranchisement of the Negroes" by Ralph J. Bunche, "Discrimination against Coloured People" by Mary Yeats and "The Negro Year Books". See also "Colour Bar in Britain" by Andrew Roth in *The Times of India* August 31, 1952.

26 "A Study of History by Arnold Toynbee. And it may be noted that according to Toynbee: "Thus state worship was the spiritual disease that Hallenism died of". (Essays in Honour of Prof. Gilbert Murray (1936) p. 308).

and the 'nation-state-worship' of all of them are a bitter commentary on the cure-all-claims of secularism. In the reign of secularism, intolerance, cruelty, fanaticism and violence are grossly rampant. This is the evidence:

PROF. E. F. M. DURBIN says: "*We are becoming hardened to horrors. Over a large area of Europe torture has been resorted to as a normal instrument of government. In Russia, man and woman are made to stand packed together in specially heated rooms, with lice crawling over them for days at a time until they die or go mad or confess to anything with which they are charged. Or they are kept without sleep for weeks in tiny cells with blinding lights suffering from incessant noise until their will is broken and their personality destroyed. In Germany men are beaten with thin steel rods until they die. They are kicked to death without any charges being preferred against them.*"²⁷ Conditions in England too are not totally different. According to DURBIN "*Even in this quiet country our hands are not wholly clean*"²⁸. In Germany, the ruthlessness reached its limits when after assassinat-

²⁷The Politics of Democratic Socialism by E. F. M. Durbin p. 24-25 (Emphasis mine).

²⁸The Politics of Democratic Socialism by E. F. M. Durbin p. 25. In their evidence before the Royal Commission on the laws of Mental Health, Miss Elizabeth Allen, General Secretary of the National Council for Civil Liberties and Mr. F. Haskell a council official arrayed a plethora of facts that are inhuman and shocking. They said that patients in mental hospitals in England are detained even when they should have been released because of their value as cheap labour. The members and officers of National Council gave ample instances of inhuman punishments even in hospitals. A girl who was a high-grade defective, was found by her mother in a bed in a ward surrounded by aged imbeciles as a punitive measure. Another patient was locked away in a dark room for 16 days as a punishment. Instances of those detained merely for cheap-labour were also given. A memorandum submitted by the Council stated: "In general the institution is so dependent on

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ing the political deviationists, even their bodies were not spared. Soap was made out of their fats.²⁹

In the past, it has been alleged that people were tortured and put to death for heresy or religious rebellion. Today they are being subjected to greater torture for mere difference of opinion, non-conformity, political opposition or the Himalayan 'crime' that they belong to a certain class (Russia), or race (former Germany) or colour (America and Africa and even Europe) or even political group (U.S.A.). It is calculated that in Russia nearly 4,000,000 wretched 'kulacks' were driven out of their homes and occupations to die of starvation or to work in prison-camps.³⁰ Estimates about the number of people in concentration camps in Russia vary from 15,000,000 to 30,000,000.³¹ The conditions in these camp are indescribable and the rate of mortality astoundingly high.

In the pre-war Germany, although the number of the persecuted in proportion to the population was less, nevertheless, between 30,000 and 70,000 persons were in concentration camps and the community of Jews numbering half a million was slowly squeezed to death or exiled. Today in the East Germany the situation is no better. Every conceivable torture

patient-labour that even if the medical superintendant believed that a large number of high-grade patients were qualified for release it would be impossible for release to be granted without bringing the institution to a standstill"—And the poor patients, even after recovery, are kept in the hospitals merely for the purpose of extortion of cheap labour.

²⁹ Glimpses of World History by Jawahar Lal Nehru. An account of the horrowing conditions of Germany can be found in "The Scourge of the Swastika" by Lord Russel.

³⁰ Economic Life of Soviet Russia by Calvin Hoover.

³¹ Forced Labour in Soviet Russia by David Dallin.

is being committed upon the non-conformist.³² Other Western countries, including America, Britain and France, present no better a picture. Although different in degree, the nature of the problem is the same.

These and other facts have made the enlightened intelligentsia cry. PROF. E. F. M. DUURBIN declares:

"SUCH LARGE SCALE BRUTALITY WAS RARELY BEEN WITNESSED, I AM THANKFUL TO SAY, IN THE PREVIOUS HISTORY OF THE WORLD".³³

DR. ALBERT EINSTEIN writes in an autobiographical essay:

"In Europe to the east of the Rhine free exercise of intellect exists no longer, the population is terrorised by systematic lies. . . . *Nothing of all that remain but a few pitiful pages in the history books, briefly picturing to the youth of future generations, the follies of its ancestors*"³⁴

MONTAIGNE in an essay on *Cannibalism* declares.

³² See the fully documented book "Injustice the Regime" published by the Federal Ministry of All German Affairs. Only one instance is quoted here Gunter Herting was arrested on Dec. 27, 1948. He says: "When I insisted on my innocence and refused to sign a statement put before me, I had to kneel on a chair and was whipped on the bare soles of my feet with a whip of several throngs. After the whipping I was punched in the face and knocked several times against the wall. . . . Once I was locked up for three or four hours in a dark cellar where I had to stand in ice cold water above the knees. . . . a Russian entered the room, I had to put one foot on a chair and he burnt it with a red hot iron. . . . when I still would not give in he did the same to my other foot. In my cell I screamed with pain and could move only on all fours". (Injustice the Regime p. 43).

³³ Principles of Democratic Socialism by E. P. M. Durbin p. 25.

³⁴ Believe p. 74-75.

"There is more barbarism in eating men alive, then to feed upon them being dead; to mangle by torture and torments a body full of lively sense than to roast and eat him after dead."³⁵

BERTRAND RUSSEL comparing the Greek and the Western civilizations declares:

"Many of the unpleasant features of the age existed among the Greeks. They had Fascism, nationalism, militarism, communism, bosses and corrupt politicians; they had pugnacious vulgarity and some religious persecutions. They had good individuals, but so have we; then, so now, a considerable percentage of the best individuals suffered exile, imprisonment or death. Greek civilization had, it is true, one very real superiority over ours, *namely the inefficiency of the police, which enabled a large proportion of decent people to escape....* Now the white races are reverting to the theological bigotry which the Christians took over from the Jews.... I am afraid Europe, however intelligent, has always been rather horried, except in the brief period between 1848 and 1914. Now, unfortunately Europeans are reverting to type."³⁶

35 Quoted by Dr. Cyril Barbett in "In an Age of Revolution" p. 94.

36 "Western Civilization" in "In Praise of Idleness" by Bertrand Russel, p. 173-175. Russel thinks that European persecution is the result of its "type" and the religious persecution of Christians was also a manifestation of that very European type. From this one may conclude that the charge of persecutions, so commonly levelled against religion, has been laid at the wrong door. European type and not religion was responsible for the Inquisition of the Middle Ages. It is hollow to indulge in prattle against religion on this count.

This is the inhuman record of Europe and the secular regimes. In the face of them, how can it be claimed that it is religion which breeds intolerance—for here we witness greater and unpecedented intolerance in the *absence of religion?*

WESTERN INTOLERANCE TOWARDS OTHER CULTURES.

3. The intolerant attitude of the modern secular civilization of the West towards other cultures and civilizations is most horrowing, baneful and shocking.

It is an irony that the age of democracy has also been the age of Imperialism. When Paris was ringing with the revolutionary slogans of 'liberty, fraternity and equality', the French forces were crushing the independent states of Africa and South-East Asia and were harnessing them under their Imperialist yoke. While new *democracy* was being experimented in England, China and India were being subjugated and enslaved: these countries were ruthlessly enchained and their cultures were destroyed most inhumanly. The Indian industries were strangled to death only to give a lease of life to the Lancashire Industry. China was empooverished only to enrich Britain. The Great Shanghai library was burned to ashes only to quench the Imperialist thirst for domination. Africans were and are being poisoned to death for the crime that they want to preserve their culture and independence.³⁷ Death is being rained over Algeria,

³⁷ See the recent study of Africa by Father Trevor Huddleston: "Naught for your Comfort" (Collins, 12s. 6d.). This book narrates the shocking realities of Imperialist intolerance. He quotes the Minister of Native Affairs Dr. Werwoerd as openly saying "There is no place of natives in European society above the level of certain forms of employment." On the part colour plays in it Mr. Huddleston says: "It is not merely a contrast between wealth and poverty that he sees—it is a contrast based upon the accident of colour. Wealth is white, poverty is black."—One may ask: of what value is the westerner's sermon on tolerance when this is their own record?

because she wants 'liberty'. Cyprus is being terrorised because she demands self-determination. What happened in Latin America is an open book now. Western Imperialism has tried its level best to crush other cultures and civilizations and establish the domination of its own civilization—and this has been christianised as the 'great civilizing mission of the West!'—Throughout Asia and Africa every endeavour has been made to eliminate the local cultures. In the minds of the new generations seeds of revolt against their own civilization have been meticulously sowed, and through the agency of education an assassination of their mind and thought has been accomplished.³⁸ Their culture and civilization are not tolerated and the system of the West has been super-imposed upon them. The Russians were invaded by Western armies in 1610, 1709, 1812, 1915 and 1941. The peoples of Africa and Asia were subjected to successive waves of Imperialist aggressions—in the forms of Western missionaries,³⁹ traders and adventures and finally the Western forces, ever since the 15th century. During this very period, the West occupied the last vacant lands in the

38 Lord Macaulay in his treatise on Education (India) said that they wanted to produce a generation of youngmen who should be Indians by birth and Englishmen by thought.

39 About the role of missionaries, G. B. Shaw's following description is instructive:

"Every Englishman is born with a certain miraculous power that makes him the master of World. When he wants a thing, he never says to himself that he wants it. He waits patiently untill there comes into his mind, no one knows how, a burning conviction that it is his moral and religious duty to conquer those who possess the things he wants. Then he becomes irresistible.....He is never at a loss for an effective moral attitude. As the great champion of freedom and national independence he conquers and annexes half the world, and calls it colonization. When he wants a new market for his adulterated Manchester goods, he sends a missionary to teach the natives the gospel of Peace. The natives kill the missionary: he flies to arms in defence of Christianity; fights for it; conquers for it; and takes the market as a reward from heavens....." Quoted by Christopher Lloyd in "Democracy and its Rivals". p. 31.

America, Australia, New Zealand, and South and East Africa. Africans were "enslaved and deported across the Atlantic in order to serve the European colonizers of the Americas as living tools to minister to their Western master's greed for wealth." The Eastern countries have suffered and suffered and suffered at the hand of these pioneers of tolerance. *ARNOLD TOYNBEE* admits:

"In the encounter between the world and the West that has been going on by now for four or five hundred years, the world, not the West, is the party that, upto now, has had the significant experience. It has not been the West that has been hit by the world; *it is the world that has been hit—and hit hard—by the West.....The West, (the world will say—Ed.) has been the arch-aggressor of modern times....*And certainly the world's judgement on the West *does seem to be justified* over a period of about four and a half centuries ending in 1945."⁴⁰

ISLAM AND SECULAR INTOLERANCE

4. The Western 'tolerance' of Islam and the Muslims has been most significant. A systematic endeavour was made to twist the teachings of Islam, besmirch its system of life and implant a bitter prejudice against Islam in the minds of the learned and

⁴⁰Arnold Toynbee, *The World and the West* p. 1-4. It may not be out of place to mention that ancient civilizations have been eliminated from the surface of the earth only for some paltry economic gain or mere adventure. One of such inhuman calamities befell Canada's 'People of the Deer.' They were deprived of their only source of livelihood and their community has been slowly vanishing. In 1952 only 30 persons were left. There was no woman survival. It is thought that this would be the last of their generations. They have reached the 'journeys end'. See Michael Joseph's book: "People of the Deer".

the unlettered alike. *WILLIAM DRAPER* exposes this conspiracy of black-out and black-mail in his "*History of the Intellectual Development of Europe*". He writes: "I have to deplore the systematic manner in which the literature of Europe has contrived to put out of sight our scientific obligations to the Mohammedans. Surely they cannot be much longer hidden. Injustice founded on religious rancour and national conceit cannot be perpetuated for ever." *ROBERT BRIFFAULT*, *SCOTT*, *ROBERT L. GULLICK (JR.)* and a host of other historians complain of the same calculated attempt at the twisting and the suppression of Islamic teachings. Most of the Western writers are not even prepared to call Islam as Islam. They always baptize it as "Mohammadanism" which is obviously a misnomer.

This was on the intellectual front. The cultural and political side of this *anti-religion frenzy* is more gnawing. In Greece the entire population of *Mouria* was squeezed to death—even women, children and old-men were not spared. Nearly three hundred thousand people were put to death. In Spain and Sicily Muslims were eliminated like anything and not a single Muslim was left alive or unexiled. In the Baltic states the Muslim majority was reduced into a minority by hook and crook and terror and persecution. In Greece all the mosques were banished. In Palestine an alien community was illegally smuggled into the country and was given a "homeland" by rendering the Muslims homeless. The Palestine refugees are still living a life of misery and tribulation. The Imperialist dagger of Israel has been driven in its back and the Muslim world can never forgive the West for its *anti-Muslim fanaticism*.

What is happening to Muslims in the Soviet Russia is too well-known. Secular West and atheistic Rus-

sia both are one in this respect. Their fanaticism and intolerance has been shocking. If this is the 'tolerance' which separation of religion and politics has engendered, we wonder what else is intolerance!

SCIENCE AND "TOLERANCE"

5. The most attractive myth is that with the elimination of the authority of religion the era of toleration has dawned in the realm of science and learning. Religion is always antagonistic towards freedom and science and free intellectual pursuit while on the other hand, in words of *WESTER-MARCK* "the concealment of truth is the only indecorum known to science." It is claimed that science has established its moral supremacy by inculcating in the men of learning the true spirit of tolerance. Now there are no fetters to free thinking. Expression of one's mind is everybody's basic inalienable right. There is no inquisition, persecution or discrimination for holding different or opposing views. Differences with the current climate of opinion are not rebuked—they are welcomed. This is the merit of science and secularism as against religion.

These are beautiful claims. But, unfortunately facts do not support them. They point just to the contrary.

In the world of science, differences and deviations from the current climate of opinion are only rarely tolerated. Free thinking is still in chains. Persecution too is rampant—although its nature is a bit different and that is because of the reason that science is not *as organized as is the state or as was the*

church in its period of degeneration when it instituted the Inquisition. Here are some facts.

Scientists have to encounter and face greater opposition and rebuke from their own rank and file—from scientists and the learned 'authorities' themselves—than from any other group or authority. *GALILIO GALILEI* met with even greater opposition from his contemporary scientists than from the misguided Pope. He invented the telescope, and his first teacher at the University of Padua flatly refused to examine the planets or the moon through his telescope. He tried to disprove Aristotle and his colleagues and other professors and scientists refused even to listen to him or see him throwing down different weights from the Tower of Pisa. And this happened even before Church took any notice of Galileo.

LORD BACON, the so-called inventor of the Inductive method, stubbornly and bitterly opposed the Copernican system. HARVEY became the butt of severest criticism when he stated his revolutionary theory of the circulation of blood. He was dubbed as a crack and an unbalanced man. The opposition reached such limits that he lost half of his consulting practice—a new type of persecution of course! PROF. STENSON, who discovered that the heart was a muscle, found the scientists of the Netherlands so unsympathetic that he had to leave Netherland. He moved on to Italy. JENNER'S views on vaccination met with bitter opposition. AUVENBRUGGER, who discovered the method of the percussion of the chest, was subjected to such bitter attacks that he had to confess that: *"Envy and blame and even hatred and calumny have never failed to come to man who*

have illuminated art or science by their discoveries."
 "Medicine provides many examples of heresy-hunting. The fact that Sir Herbert Barker has been knighted suggests that his work is not altogether valueless; yet Dr. Axham was struck off the Medical Register for administering anaesthetics to Sir Herbert's patients. If people choose to consult the arch-heretic Barker, let them at least suffer as much physical pain as possible in the process."⁴²

British Medical Association has really made things uncomfortable for medical innovators and 'heretics'. It may be noted that as medical science is organized this expulsion was resorted to. In other cases, opposition and boycott were the usual methods.

The criticisms of SAMUEL BUTLER on the Darwinian theory of Evolution were simply ignored and ridiculed; perhaps, because he opposed a 'giant' of science. This neglect has been admitted by Prof. Thomas in his work "DARWIN AND MODERN SCIENCE". Even Mendel and his views on heredity were blissfully ignored because they were critical of the 'accepted views' of the age.⁴³

DR. DOUGLUS DEWER, a Fellow of the Royal Zoological Society, was not given a chance even to present his view-point, which was a challenge to the evolutionary thought, in The Proceedings of the Zoo-

⁴¹ These instances are from "Science and the Supernatural": A controversy between Arnold Lunn and J.B.S. Haldane. They have been quoted by Arnold Lunn and despite his 'protests' Prof. Haldane could not disprove them.

⁴² Science and the Supernatural, p. 78.

⁴³ The Revolt Against Reason by Arnold Lunn. (Eyre & Spottiswoode, London). p. 152. This has been admitted by the leading scientist Baleson also. About Darwin himself Carlyle's intolerance is well known. See "Science and Religion" by Bertrand Russel, p. 78.

logical Society. The editor returned his manuscript with Secretary's following remarks: "I am sorry, but the Publication Committee cannot accept your paper. We got the opinion of a first-rate palaeontologist and geologist about it, and he told us that although it must have taken a very long time to compile it, *he thought this kind of evidence led to no valuable conclusion.*"

The validity of the evidence is not being challenged; the 'authority' has only *disliked* the conclusion. Dr. Dewer rightly writes about the evolutionary theory which he has challenged on scientific grounds:

"Those who do not accept this creed are deemed unfit to hold scientific offices; their articles are rejected by newspapers and journals; their contributions are refused by scientific societies and publishers decline to publish their books. Thus the independents are today pretty effectively muzzled."⁴⁴

Commander Acworth's brilliant book on birds and his first law of currents viz: "No bird and no machine can experience any pressure from the movement of the medium in which it is supported and operating" received similar treatment. *Nature* the leading scientific magazine reviewed this book of Commander Acworth with smears and ridicules—a book which was described by the *Manchester Guardian* as "a really remarkable book—a direct challenge soundly reasoned, to generally accepted ideas about flight, especially migratory flight of birds, insects and indeed anything."⁴⁵

44 Difficulties in the Evolutionary Theory by Dr. Douglas Dewer.

45 The Revolt against Reason by Arnold Lunn p. 154.

Earlier, even T. H. HUXLEY, the famous scientist and the colleague of Darwin pointed out that "pedentary and jealousy are the besetting sins of scientific men." In a letter, which he wrote after sending a manuscript to scientific society he said: "I know that the paper I have just sent in is very original and of some importance, and I am equally sure that if it is referred to. . . . that it will not be published. He won't be able to say a word against it, but he will pooh pooh it to a dead certainly. You will ask with some wonderment why? *Because for the last twenty years. . . . has been regarded as the great authority on these matters and has had no one to tread on his heels, untill at last, I think, he has come to look upon the natural world as his special preserve and "no poachers allowed."*⁴⁶

Mr. Lunn calls this heresy-hunting: "An attempt to rule the amateur out of court and to impose upon the man in the street a dictatorship of specialists." He thinks that "organised science is gradually usurping the position which was once held by the Church."

This muzzling of the free opinion is most menacing in the case of the dogma of evolution. Mr. Arnold Lunn quotes a Fellow of the Royal Society who once told him that it was professional suicide for a biologist to attack the prevalent theory of organic evolution. Dr. Dwight, Professor of Anatomy at Harward declares in a ringing tone:

"The tyranny of the *Zeitgeist* in the matter of evolution is overwhelming to a degree of

⁴⁶ In this letter Huxley earlier wrote:

"You have no notion of the intrigues that go on in this blessed world of science. Science is, I fear, no purer than any other region of human activity; though it should be. Merit alone is very little good; it must be backed by tact and knowledge of the world to do very much."

(Science and the Supernatural).

which outsiders have no idea. Not only does it influence (as I admit in my own case) our manner of thinking, but there is oppression as in the days of Terror. How very few of the leaders of science dare to tell the truth concerning their own state of mind."⁴⁷

DR. ALXIS CARREL, author of the well-known book "Man the Unknown" who is also a Nobel prize winner also complains of the same. He undertook a study of the miracles of Lourdes and declared that he embarked upon the venture when it was "*dangerous for his future career to become interested in such a subject.*"

SIR OLIVER LODGE, a leading scientist declares:

"It is singular and perhaps depressing that the obscurantist attitude of theologians in the past has been so amply imitated by the pontiffs and high priests of science in the recent past. They will oppose their admirable theories and great knowledge of the universe to resist the incursion of fresh information; they oppose observed facts on *a priori* and utterly inadequate ground."⁴⁸

We have confined ourselves to a study of the conditions in the free world. The situation in Russia and its satellites is more depressing. The reader is referred to "Scientists in Russia" by E. Ashby, "Death of a Science in Russia" by Conway Zirkle, and 'Soviet

⁴⁷ Quoted by Lunn *ibid*, p. 104.

⁴⁸ Science and the Supernatural p. 219.

Genetics' by Julian Huxley to have an idea of the thought control that is the order of the day in the communist countries.

LIBERTY IN THE MODERN WORLD

6. This is happening in the world of science. The overall state of liberty and free-thinking in the modern world is appalling. Even BERTRAND RUSSEL cries in agony. When asked why he thought that Russia was not as black as she has been painted and America not as bright and shining as we tend to be told, he replied:

"I don't think Russia is quite as black as a good many people believe. I don't know much about Russia, but from all I can learn, it is pretty bad. Bad enough. America, of course, is white-washed. A lot of horrible things happen in America of which people are not sufficiently aware. There is a kind of underground tyranny, a tyranny which is not very much in the open but is very very effective. Any man whose opinions are the least bit radical lives in a state of terror that—

- (a) he will lose his livelihood; and
- (b) still further that he may be tarred and permanently out, so to speak.

I think there is a very great state of terror in America and our newspapers don't sufficiently emphasize it."⁴⁹

⁴⁹How Near is War by Bertrand Russel. (A Fleet Forum Publication) p. 20.

Another question and its reply are germane.

"Q: Isn't that the tragedy, on both sides of the Atlantic—that the thinking man is afraid to open his mouth. And is it not true that a very real underground of censorship exists which silences all sorts of worthwhile voices and ideas, keeping facts out of circulation?"

A: (by Russel): Yes, yes. And you must expect me to be aware of this considering that I was sentenced to six months in goal for saying that, in America, troops were sometimes used against strikers. That is what I was sent to gaol for. They didn't deny the fact, they simply said it was the sort of fact you shouldn't mention. Nobody denied the fact, which I quoted from an official American document. So you must expect me to be aware of this."⁵⁰

The conditions in America are such that they make all the worshippers of liberty and freedom bow down their faces in shame.⁵¹ DR. ROBERT M. HUTCHINS, a well-known American and who was at one time President of the University of Chicago says:

"Education is impossible in many parts of America today because free enquiry and free

⁵⁰ Ibid. p. 25.

⁵¹ It may be noted that seven employees of UNESCO refused to appear before the Congressional Committee of U.S.A. for "screening" on the plea that the oath as international civil servants precluded them from discussing either their own political views or those of non-American colleagues with agents of U.S. Government. Dr. Luther Evans, the Director General of Unesco sacked them for this 'crime' because the Congressional subcommittee had told him that the dismissal of those seven officers was a condition of the U.S. dues payment to Unesco. So they were dismissed and despite the verdict of the I.C.C. Tribunal that the dismissal were illegal, they were rehabilitated. (The New Statesman and Nation, London, November 3, 1956).

discussion are impossible. In these communities, the teacher of economics, history, or political science cannot teach. Even the teacher of literature must be careful. Did not a member of Indiana's textbook commission call Robin Hood subversive?"⁵²

Teachers and other responsible officers have been fired and expelled in the universities of Harvard, California, Texas and Michigan for discussing 'dangerous ideas.'

"Censorship of textbooks is flourishing throughout the country, though it rarely reaches the dizzy heights of imbecillity attained by the Jersey City Junior college. Everywhere textbooks of history, politics, and economics are under attack by patriotic or filiovietist organisations."⁵³

And free inquiry and real objectivity have become a forlorn hope. The result is that:

"Already civil servants are afraid to read certain magazines or to join certain organisations. Already teachers hesitate to discuss certain issues in class; not long ago the New York City Board of Education sought to reassure them on this: *you may discuss communism objectively, it said, as long as you tell the pupils how wicked it all is!* Already men and women hesitate to join minority parties or 'dangerous' organisations, or to agitate for reform. And well they might! Sometime ago a much decorated Negro army captain was asked to resign from

⁵² Quoted by Nathaniel Mickleen, *The Listener Weekly*, (London), Sept. 9, 1954, p. 388.

⁵³ *Freedom, Loyalty, Dissent* by Henry Steel Commager (Oxford University, Press) 1954, p. 12.

the service because he was charged with reading the *Daily Worker* and because his father was alleged to have fought segregation in public housing."⁵⁴

About the plight of freedom in education a thorough pursual of the Investigation Report of the California Civil Liberties Union will be very instructive. We quote just one paragraph:

"Cost a year of horror and failure for students, teachers and administration; the firing of twenty-six instructors; the dropping of forty or fifty regular courses; the resignation of a large number of professors; the refusal of many well-known scholars to accept appointment; condemnation of the Regent's action by faculties of other universities and learned societies; and a general loss of confidence in the University. . . . In the long record of higher education no offence against freedom and justice has equalled in scope and ruthlessness of the offence now committed at the university."

The conditions so deteriorated that a leading psychologist in his speech in an international psychological meeting in Montreal (Canada), while criticising the McCarran-Walter Immigration Act, said that it made it impossible to hold international, scientific meetings in the United States. He said that too many foreign scientists have been refused visas to come into the country. Speaking of the climate of fear, this professor said:

"A strong fear that his family may starve and a strong fear that what he says will

lead him into conflict with the current climate of opinion will tend to make a scholar a poorer; more timid teacher, a blind type of research worker, and a neurotic committee man."⁵⁵

Most staggering proof of this climate of fear is provided by the behaviour of the lawyers who are afraid to defend those charged as subversives. The Canon of Legal Ethics provides ²⁴ that a lawyer owes 'entire devotion to the interests of the client. . . . No fear of judicial disfavour or public unpopularity should restrain him from the full discharge of his duty.' A Report of a Special Committee of the American Bar Association of July 1953 states that 'American lawyers generally recognise that it is the duty of the Bar to see that all defendents, however unpopular, have the benefit of counsel for their defence! *Yet, persons charged with the so-called subversive activities are finding it almost impossible to obtain proper counsel—nay, even any counsel at all.*' In the Baltimore case of *U.S. Vs. Frankfeld* defendents appealed in vain to more than thirty lawyers to take their case. In the case of *Commonwealth of Pennsylvania Vs. Nelson* the defendent was forced to represent himself in a trial for sedition after having appealed to 700 lawyers in different cities, but all in vain. In the case of *U.S. Vs. Flynn et al.*, defendents submitted to the U.S. Circuit Court of Appeals an affidavit stating that "They have written to more than twenty-eight law firms throughout the country requesting an interview to discuss the retainers of said firms on appeal therein. Of this number twelve did not reply at all to appellant's requests; and all sixteen

⁵⁵ Quoted by Helen Freeland Gibb in a letter under the caption 'Free Speech and American Liberty' in *The Listener*, July 22, 1954, p. 142.

²⁴ Canon No: 15.

who did reply refused to grant the requested interview on the grounds that they either could not or would not accept a retainer therein."⁵⁶

It is this climatic of fear, of the persecution of free thought of the intolerance of non-conformity⁵⁷ and differences that made Bertrand Russel say:

"I cannot remember any occasion in England when the leading elected representatives of the sovereign people had to be sent to prison as common thieves, as happened in Indiana some thirty years ago. Any Englishman going to America at the present time has the strange experience of a population subjected to a reign of terror, and always obliged to think twice before giving utterance to any serious conviction. English people hold the clearly subversive opinion that a teacher should not be deprived of his post merely on the ground that he has published a well-documented investigation of some facts inconvenient to certain rich fan. *Yet this is part of the system which in America is called "democracy". The word "democracy" was not ambiguous untill recently. It used to mean government by elected representatives of the people. Now it has lost this significance. In Russia it means government by a military tyranny, in*

⁵⁶ See Freedom, loyalty, Dissent —by H. S. Commager p. 11-12.

⁵⁷ The views of a leading journalist Mr. Herbert Tingstan may be instructive. He writes: "The investigation of Un-American activities has not been limited to Congressional Committees or to the last decade or two: it has gone on unceasingly in America and by a very large part of the American people. Intolerance is to some degree the fruit of America's unique situation and has been the basic condition for the forming of an American people."

(The Manchester Guardian: "Conformity in America" by Herbert Tingstan. April 12, 1956).

America it means government by a plutocracy; or, at any rate, government in which plutocracy is uncurbed."⁵⁸

This lengthy and painful discussion has been presented only to point out some living realities which are often ignored in a debate when passions hold the ground and sober reasoning is relegated to the lumberhouse. Often the critics of religion try to confuse the issue by narrating in an emotional vein, the follies of the Christian Church and therefore, concluding that religion and intolerance are the twins. It was not a pleasant venture to describe the festering sores of humanity.⁵⁹ But we had to do that only to balance the situation and thus present the true picture before the common reader. This discussion leads to two pertinent conclusions:

(a) The state of liberty in the modern society is not as rosy and satisfactory as some uninformed propagandists try to paint. Fanaticism, violence, intolerance and cruelty are not merely things of the past; they are the bitter facts of today. Despite all enlightenment and emancipation, man has not risen above the level of the brute. The apologists of the

⁵⁸ The Manchester Guardian Weekly, November 1. 1951. "Democracy and the Teachers in the United States" by Bertrand Russel. Mr. Russel is very modest about England. I remember correctly, not very long ago, an important officer was fired in England on the grounds that his wife was a communist some twenty years ago!

For the latest situation in America the reader may read with profit 'The Torment of Secrecy' by Edward A. Shils.

⁵⁹ This description does not, and must not mean that the modern civilization has no virtues and that science has not been conducive to human welfare. The writer is an admirer of many pleasant features of the West and fully credits it for countless scientific and other achievements. But he cannot close his eyes to the other side of the picture. And in these pages he has presented only that part of it because the nature of the inquiry he had embarked upon called for that alone. Whatever he has presented has been taken from authentic Western sources and necessary references have been given for those who want to see the study further.

modern West must know that their valley is not so green!

(b) History shows that intolerance has been more severe, more biting and more inhuman in the secular and atheistic regimes, and this *fact* drives the winds off the sails of those critics who allege that *religion breeds intolerance*. If intolerance reigns in the absence of religion, its causes must be searched somewhere else. It is fallacious to say that religion is the mainspring of fanaticism and intolerance and with the purge of religion from the socio-political life a haven of peace, prosperity and tolerance would descend upon the suffering humanity.

TOLERANCE AND ISLAM

7. Lastly we claim that a comparative study of the history of religions shows that Islam has never been intolerant, in the sense it is alleged. On the contrary, Islam has been a great liberating and civilizing force for humanity. It enkindled the torch of knowledge and learning. It gave a fillip to science and technology. It introduced to man the true concepts of freedom, equality and justice. It taught man the greatness of love, brotherhood and tolerance. It was none other than the Holy Prophet of Islam who asked Muslims not to call the idols of the infidel with bad names—respect for other people's feelings is an article of faith with the Muslims. The Qur'an and the Hadith inspired man with the real ideals of tolerance and the history of Islam bears ample testimony to it. It is not possible here to embark upon a discussion of this topic from academic or historic viewpoint. Nevertheless, let us refer to some of the non-Muslim historians who despite their enmity for Islam, admit this historic fact. Gibbon in his *Decline and Fall of*

the Roman Empire writes:

"To his Christian subjects, Muhammad readily granted the security of their persons, the freedom of their trade, the property of their goods and the tolerance of their worship."⁶⁰

Dr. Robert Briffault says:

"Theocracy (a term he uses as synonymous with religious government—K.A.) in the East (meaning particularly the world of Islam—K.A.) has not been intellectually tyrannical or coercive. We do not find there the obscurantism, the holding down of thought, the perpetual warfare against intellectual revolt, which is such a familiar feature of the European world, with Greece and Rome at its back."⁶¹

According to Muir, the Islamic "leniency towards the conquered and their justice and integrity presented a marked contrast to the tyranny and intolerance of the Romans. . . . The Syrian Christians enjoyed more civil and popular liberty under the Arab invaders than they had done under the rule of Heraclius and *they had no wish to return to their former state.*"⁶²

Sir Thomas Arnold has said the same thing.⁶³ He writes:

"In the first century of the Arab Rule the various Christian churches enjoyed a toler-

⁶⁰ Gibbon: *The History of the Decline and Fall of the Roman Empire*, p. 269-70.

⁶¹ Robert Briffault: *The Making of Humanity*, p. 113.

⁶² Muir: *The Caliphate; its Rise, Decline and Fall*, p. 128.

⁶³ Quoted in *The Spirit of Islam*, p. 488.

ation and a freedom of religious life such as had been unknown for generations under the Byzantine Government."

Such references can be multiplied beyond number. Every honest historian has to admit that. And this proves that *every religion has not necessarily engendered intolerance*. Decidedly, Islam has not. Hence, the phrase that religion generates intolerance is a pack of lies and a tissue of falsehood; and the attempt to hurl this charge against Islam is stupid and nonsensical. The allegation cannot stand the test of scrutiny on any count. On inquiry it falls to the ground because it is a false allegation and has feet of clay.

V

THE LAST WORD

We have tried to assess the real worth of the allegations that have been made against Islam in the light of the Munir Report and have also shown how fallacious are the conclusions that some people are trying to draw from it. The important weaknesses of the Report itself have been pointed out in the ANALYSIS and let the reader proceed on to it. We only wish that the ANALYSIS should be read in a most objective way and the reader will come to know how much of the Report is true and how much the otherwise. If it helps even some members of our intelligentsia in seeing the things in their proper perspective, we shall feel that our labours have not gone in vain.

It would be height of ingratitude not to acknowledge the help and guidance which I have received from many learned and respected friends.

The translation work has been shared by many persons and I particularly owe a great debt to *Mr. Misbahul-Islam Farooqi* and *Mr. Fazlur Rehman Ansari* both of whom had been of such immense help and whose co-operation has been so unstinted that I find no proper words to express my gratitude. Prof. Abdul Hamid Siddiqi, Maulana Zafar Ahmad Ansari, and my friend Mr Zafar Ishaq Ansari have helped me by their suggestions and criticisms. And above all, my greatest debt is to Maulana Maudoodi whose books have played a mighty part in the development of my mind and thought. He was kind enough to give me some suggestions about the contents of this introduction, but is in no way responsible for what I have written. I must thank Mr. Shahzad Muhammad and Mir Hafiz Ali for typing my badly written manuscripts: Messrs. Mohamed Ismail Arab and Irfan for reading the proofs and Chaudhry Ghulam Muhammad Sahib for his constant encouragement and co-operation. My younger brother Anis Ahmad has helped me by freeing me from many household responsibilities and by maintaining my library and reference files and I take this opportunity to thank him and all those friends who have helped me ceaselessly and selflessly in this venture.

KHURSHID AHMAD.

7th December, 1956.

INTRODUCTION

A Court of Inquiry consisting of two Hon'ble members was appointed in 1953 to investigate the disturbances in the Punjab during that year. It was presided over by the then Chief Justice of the Lahore High Court, Mr. Justice Muhammad Munir who, shortly after the publication of the Report* by the Court of Inquiry, became the Chief Justice of Pakistan. The other member of the Court was Mr. Justice M. R. Kayani, also a judge of the then Punjab High Court. The Report which came out not very long ago, was published extensively in the newspapers and received wide publicity both in this country and abroad.

Under the special Act, the following were the three specific terms of reference for the Court of Inquiry:—

1. *The circumstances leading to the declaration of Martial Law in Lahore on March 6th 1953;*
2. *the responsibility for the disturbances ; and*
3. *the adequacy or otherwise of the measures taken by the Provincial Civil authorities to prevent, and subsequently to deal with, the disturbances.*

The proceedings of the Court started in the beginning of July 1953 and were concluded by the end of February 1954. The detailed Report, comprising 387 pages, was made public towards the end of April 1954.

*Report of the Court of Inquiry constituted under Punjab Act II of 1954 to inquire into the Punjab Disturbances of 1953, hereafter referred too as the Report.

Like everyone else who has read the Report, we too have felt that its contents are certainly not confined to the abovementioned terms of reference. In fact, the Report discusses many other problems which deserve serious consideration not only because the matters discussed therein are of vital importance in themselves, but also because they are pregnant with far-reaching consequences; for, it has been penned by two learned judges and published officially. That is why we did not hazard any hasty comment, and this ANALYSIS is now being offered after months of cool deliberation, dispassionate analysis and deep thought.

WRONG METHOD OF INQUIRY

Before we begin our ANALYSIS of the main Report, we think it is necessary to point out that the method of Inquiry adopted by the Government to investigate the disturbances in the Punjab was highly objectionable. The Punjab has in the past, witnessed many disturbances of great magnitude, and in 1919 even Martial Law had to be imposed in several districts. At that time we were ruled by an alien Government, but the method it adopted to investigate the disturbances was far more just and satisfactory than the one employed by our own national Government. Even a cursory glance at the basic features of the two methods is sufficient to show the great difference:

1. The Punjab disturbances of 1919 were treated not as a mere Provincial affair but as a clear and definite responsibility of the Centre. As the Central Government had intervened to quell them, the inquiry that followed was initiated by the Government of India *and not by the Provincial authorities*, and thus all the measures taken to suppress the disturbances

by the members of the Central as well as the Provincial Services were thoroughly examined and reviewed, and the conduct of all the officials was investigated.

In 1953, on the contrary, although the Central Government had been deeply involved in the affair, *the disturbances were treated as a merely Provincial matter*, and the inquiry was initiated by the Provincial and not by the Central Government. *Consequently, the conduct of most of the Central officials, and a great many other matters having direct bearing on the disturbances, could not be touched during the course of the Inquiry.*

2. In 1919, the scope of the inquiry was comprehensive enough to include all the measures employed to suppress the disturbances, whether before or after the imposition of Martial Law. Moreover, the measures themselves, and not merely their adequacy or otherwise, formed the subject-matter of inquiry. As a result of this, each and every act of civil as well as military officials was investigated. Furthermore, the measures taken by the officials were investigated from the stand-point of their justice and fairness. The inquiry laid bare many irregularities and offences committed by the Army, the Police and the Magistracy, which subsequently formed the subject-matter of long debates in the Indian Legislative Council and even in the British Parliament. As a result, General Dyer was removed from service and the Government paid compensation to those who had suffered unjustly.

In 1953, on the other hand, the Martial Law administration was completely excluded from the range of any investigation, and if the events before the proclamation of Martial Law were allowed to be examined at all, the object was not to find out whether the measures adopted by the civil authorities were fair, just and proper, but merely to report whether they were adequate or not for the suppression of the disturbances. This clearly means that as far as the Army is concerned the Government considers it to be above law and its conduct beyond the jurisdiction of any judicial examination. The presumption seems to be that our Army officials are exempt from any kind of inquiry, whatever they choose to do. And as to the civil officials, the only aspect of their conduct in which our national Government seems to be interested is their *adequacy*—to be more frank their harshness and rigour—and not their justice and fairness.

3. The Committee appointed to inquire into the disturbances of 1919 was not wholly an official one. It had three non-official Indian members on it. They were men of the calibre of Sir Chimanlal Harilal Setalvad, Mr. Jagat Narain Lal and Sir Sultan Ahmad Khan. Because of the presence on the Committee of these non-official members, all the varied aspects of the situation came into the limelight; and the report that was subsequently published did not discuss happenings from one particular point of view only.

As opposed to this, not a single non-official public man was included in the tribunal

set up for inquiry of the disturbances of 1953. Thus a most casual comparison between the Hunter Committee Report and the present Report is sufficient to demonstrate all the difference caused by the presence in one case and the absence in the other of non-official personnel.

4. In 1919 the inquiry was conducted not by a "Court" but by a Committee, which did not enjoy the privilege of invoking the law of contempt of court in its support. Its proceedings could be freely published and subjected to public criticism and discussion, thereby rendering it possible to rectify the shortcomings that had crept into the report in spite of the effort to accommodate different points of view. And this is what actually happened.

As opposed to this, in 1953, the task of investigating the disturbances was entrusted not to a Committee but to a Court of Inquiry, which, on the one hand, enjoyed all the powers and privileges of a Court of Law, including the power to punish for its contempt, and, on the other hand, was bound neither by the provisions of the Code of Criminal Procedure nor by that of the Law of Evidence.

On these grounds we consider the Act regulating this Inquiry as a piece of unjust and improper legislation.

We are constrained to observe that while our Government is vehement in stressing those powers for itself which form the natural privilege of every national government, it is generally unmindful of its

own obligations and duties towards the people, and, in that respect, it has lagged behind even the alien rulers of the past regime.

STATUS OF THE COURT OF INQUIRY

While attempting to analyse and review this Report, it is essential at the very outset, to determine true position of the Court of Inquiry. We are of the opinion, that in spite of having been given the powers of a High Court under a special Act for the purpose of conducting its special business, the Court of Inquiry was, in point of fact, in the nature of a Commission which, after performing its specific functions, stands automatically dissolved. It does not exist as a permanent court of law any more, and its jurisdiction, privileges and powers have all expired with the completion of the task for which it was constituted.

Moreover, the fact that the document emanating from it is merely a 'report' and not a 'judicial verdict' proves beyond doubt that it was a sort of Inquiry Commission which investigated certain facts and incidents and, instead of framing charges and pronouncing any concrete judicial verdict, has analysed matters of deep import, has assessed the motives, circumstances, causes and consequences of a mass movement, and has commented upon the religious and political ideologies of various groups and parties. We believe, therefore, that it is not only the right, but also the duty of every citizen to discuss and comment upon the views and opinions expressed in the Report and to analyse the ideas and events contained therein.

This Report is of great significance also even if looked upon purely from an academic point of view.

Hence any discussion and comment on it must add to the advancement of knowledge. Academic discussions of this sort always help to develop the intellectual level of a nation. They sharpen the mental faculties of the people and develop their capacity to analyse human problems and to scrutinise varied opinions and viewpoints. Indeed, Commissions which undertake inquiries of this type in the world are themselves generally large-hearted and liberal enough to profit by the discussions that usually follow the publication of their reports.

Besides, the Report deals with problems which are closely related with the different movements in our country and have a vital bearing on the practical issues that confront our people and form the subject of frequent discussions in our social gatherings. Especially, issues like the Islamic Constitution, the Islamic System of Life, the future of Democracy and the Qadiani problem itself are hanging fire all around. Now, just as no single speech, article or book on these issues can be treated as the last word, putting an end to all future discourses and discussions, similarly no one can be forced to keep his mouth shut when an Inquiry Commission's report is presented to the public. No assessment of events and no analysis of ideologies can be claimed to be final and above all comment and criticism and thus raised to the status of a Holy Writ. To hope for anything of the sort would clearly be tantamount to declaring that the human mind should refuse to think beyond a certain limit and that man's intellect should be debarred from fresh avenues of thought,—which would mean nothing less than freezing the flow of human life itself!

The Report, then, must be regarded as primarily an intellectual and academic endeavour, and any elucidation, criticism or appreciation of it must also be looked upon as an academic contribution. Moreover, just as the authors of the Report think in terms of patriotism in giving expression to their viewpoint, similarly those who comment upon their Report can be equally patriotic in their task.

SCHEME OF THE ANALYSIS

We have divided our ANALYSIS of the Report into three parts:

Part I deals with such contents of the Report as are directly related to the three specific terms of reference for which the Court of Inquiry was called upon to conduct its investigations.

Part II relates to those issues and problems which, though they do not appear to have been included in the terms of reference, have nevertheless been discussed in the Report.

Part III discusses whether the Report has solved, even to a minor extent, or left just unsolved, or rendered even more complicated and intriguing, the basic issue which caused such widespread disturbances in the Punjab.*

* Whenever the word "Punjab" occurs in this ANALYSIS, it should be taken to mean the former province of Punjab. After the integration of West Pakistan, effected on 14th October 1955 no separate province exists by this name. Now it has become a part of the West Pakistan Province—Editor.

Part I
on
FINDINGS OF THE COURT
under
THE TERMS OF REFERENCE

FINDINGS OF THE COURT UNDER THE TERMS OF REFERENCE

It is well-known that the findings and conclusions of a court of law concerning a matter which has been legally entrusted to it for investigation hardly admit of any freedom to criticise them. Thus even if there be any minute possibility within legal limits, we do not wish to take advantage of it. This analysis will not, therefore, deal with the question whether the findings of the Court of Inquiry on matters falling within its terms of reference are faulty in any measure, and if so, in what respect. Nevertheless, there are certain important side-issues which must be mentioned.

1. RELIANCE ON INCORRECT OFFICIAL REPORTS

The first thing that forcefully strikes the attention of the reader of the Report is that in narrating the facts, drawing inferences therefrom, and finally passing judgment on the issues involved, the Court has relied to a very large extent—nay, almost wholly—on the official information contained in the reports of the C.I.D.* about the activities of different persons and parties. These official reports contain many things that are definitely incorrect and absolutely contrary to facts. Yet these reports have not only been quoted by the Court, but also taken into account in arriving at its own conclusions. Here are a few instances:—

The Report quotes on pages 109-114 a lengthy communication of the Home Secretary of the Pun-

* Criminal Investigation Department of the Police.—Editor.

jab Government addressed to the Deputy Home Secretary, Ministry of Interior, Government of Pakistan, on October 21, 1952. It contains two patently incorrect statements:—

(a) The first mis-statement is:

When the other parties, such as the Jamaat-e-Islami, the Islam League and the Shias observed that the Ahrars were stealing a march on them in winning over the public opinion in their favour on the **khatm-i-nubuwwat** question, they joined them in their denunciations against the Ahmadis in right earnest in the beginning of August last. The Jamaat-e-Islami added a ninth demand to their eight demands that the Mirzais should be declared a separate minority community and Sir Zafrullah Khan should be removed from his office.*

Now, the Jamaat-e-Islami's nine-point Demand has been widely published and we invite everyone to consult that document to verify that it makes no mention at all about Sir Zafrullah's removal from office.

As regards the motives attributed to the different parties for their participation in the movement against the Qadianis, the least that can be said about it is that it is an instance of the manifestation of a very low bureaucratic mentality. These people seem to harbour queer notions about those who might choose to disagree with them. Their presumption appears

* "Report of the Court of Inquiry constituted under Punjab Act II of 1954 to enquire into the Punjab Disturbances of 1953." P. 110. In this ANALYSIS this Report will be referred to as "Report."

to be that when a group or a person does anything against the wishes of the powers that be he does so necessarily from dishonest, mean and utterly selfish motives. They seem to labour under the illusion that to be conscientious and to hold honest opinions about things and affairs is the privilege solely of the occupants of chairs in Government offices. What an irony that those who receive promotions to higher and more lucrative posts in return for their "services" should be regarded as most honest and sincere, while those who sacrifice their wealth and risk their lives for the sake of their mission should be denounced as doing everything out of selfish and dishonest motives!

It is surprising to observe that this standard of official information prevails in the highest circles of our administration, and that it forms the basis for taking important decisions about parties and movements and for adopting practical steps in matters of far-reaching consequences.

(b) The second mis-statement is even worse:

According to a recent secret report the active members of the All-Muslim Parties Council of Action of Lahore were not unanimous on their future line of action. The group that favours taking direct action against the Government to compel it to accede to the demands consists of Sheikh Husam-ud-Din of the All-Pakistan Majlis-i-Ahrar, Nasrullah Khan Aziz and Amin Ahsan Islahi of the Jamaat-e-Islami, Maulana Daud Ghaznavi of the Ahl-i-Hadith, and Abdul Haleem Qasimi of the Jamiat-ul-Ulama-i-Islam. The other group that is in favour of carrying on the agitation in a

constitutional and peaceful way consists of Master Taj-ud-Din Ansari of the All-Pakistan Majlis-i-Ahrar, Maulana Abdul Hasanat Muhammad Ahmad Qadri, Ghulam Muhammad Tarannum of the Jamiat-ul-Ulama-e-Pakistan, Maulana Muhammad Arshad Panahvi of Hizb-ul-Ahnaf, Hafiz Kifayat Husain and Muzaffar Ali Shamsi of the Shia Party and Maulana Akhtar Ali, proprietor of the Zamindar.*

This and the details that follow, extending right upto page 114 of the Report, are nothing but pure fabrication and absolutely devoid of truth. The facts are that out of the whole Committee of Action only some members of the Majlis-e-Ahrar alone were in favour of direct action at that time, and they too, on the advice of Malik Nasrullah Khan Aziz of Jamaat-e-Islami had changed their mind and accepted the plea for the adoption of peaceful and constitutional means.

It is most regrettable that even the highest officials of our country are in the habit of forming opinions on the basis of incorrect C.I.D. reports. The tragedy is that their opinions do not merely adorn the pages of the files, but also form the basis of decisions regarding the arrests and detention of people without trial.

Further, on page 174, the Report says that a public meeting was held under the auspices of the Committee of Action at Gujranwala on 2nd and 3rd November, 1952, "which was also attended by Mian

* The Report P. 113.

Tufail Muhammad, a representative of the Jamaat-e-Islami", and that the social and economic boycott of the Ahmadis was advocated at this meeting. Here again the Report is absolutely incorrect in so far as it mentions Mian Tufail Muhammad of the Jamaat-e-Islami as attending the meeting. In fact, it was one Maulvi Tufail Ahmad of Jamiat-e-Ulana-e-Islam who attended that meeting. Because of a slight similarity in the names, the C.I.D. gave the name of Mian Tufail Muhammad! If it was by mistake, the mistake was of such magnitude that the Party to which Mian Tufail Muhammad belongs and its responsible leaders had to bear the wrath of the Government for quite a long time.

Then again, on page 178 of the Report, Masud Malik, a student of Government College, Rawalpindi, is described as a "Communist student". This is also based on incorrect official information. Hundreds of Rawalpindi students are well aware of the fact that Masud Malik is not at all a Communist. On the contrary, he belongs to that group of the student community which is waging an uncompromising fight against the Communist influence in the schools and colleges. Unfortunately, the learned authors of this Report could not devote their attention to the task of scrutinizing and verifying such false and incorrect official information; otherwise they would not have been prepared, without first ascertaining the facts, to record a single word against anyone which was likely to injure his reputation.

These are only some of the conspicuous instances of mis-statements embodied in the official information and included in the Report. Many more could also be cited.

2. UNBALANCED STATEMENTS OF FACTS

It can hardly escape the notice of anyone that, in the narration of facts, the Report abounds in exhaustive details of the writings, speeches and activities of the opponents of the Qadianis; but very seldom does it mention what the Qadianis themselves had been saying, writing, and doing during all this period.

Thus, while one side of the picture is presented with such details, the other is very sketchy and hazy. We do not at all mean to imply that this is due to any partiality. We only wish to point out that to an impartial reader of the Report the narration appears to be very unbalanced. On the one hand, there is the all-too-brief description of the Qadiani utterances and practices covering only four or five pages of the Report (from page 196 to 199 and 260 and 261), while, on the other hand, there are the details of the activities of the anti-Qadiani groups covering the greater part of the Report. A perusal of this part of the Report cannot but create the impression, at least on the minds of those not conversant with the actual facts—whether Pakistanis or foreigners—that, throughout the long period of this controversy, one party has been the aggressor, while the other one has been merely an “aggrieved party”, whose role does not seem to be prominent enough to form the subject of an inquiry or discussion. If the Court itself was of the same opinion, it should have been expressly stated in the Report. It is possible that this lack of balance is just accidental. But the question is: What is the remedy for the wrong impression likely to be left on the minds of those who are not aware of the true facts? Perhaps no remedy is possible now!

3. IRONY AND SARCASM

The Report is written in a style in which sarcasm and satire, ridicule and irony have been employed at length. Here are some examples:

Between the alternatives of a head-on clash with the **ulama** and the ex-communication¹ of Pakistan, the only course left for Khwaja Nazimuddin was an appeal for mercy to the **ulama**—appeal in the name of the country, in the name of the people who were faced with imminent starvation.² But what are profane considerations such as country, people and hunger against the wish and command of Allah, and it is with that wish and command that the *ulama* had come to Khwaja Nazimuddin. They were, therefore, adamant, inexorable. Khwaja Nazimuddin reminded them that Chaudhri Zafrullah Khan had been appointed to his office by the Quaid-i-Azam himself, and would they not respect the judgment of the deceased founder of the State?³ But though everything else in the

1. Did the Court really believe that the acceptance of the demands would have inevitably resulted in Pakistan's excommunication from the community of nations? (This point has been fully discussed later on).

2. Was it really feared that the moment these demands were accepted USA. would communicate her inability to send food-grains to a people who were removing a particular person from the Foreign Ministership, and thus the acceptance of the demands would have at once resulted in a famine endangering the lives of millions in Pakistan?

3. It is indeed regrettable that the honourable authors of the Report did not quote the historic will of the Quaid-i-Azam which lays down that while all the appointments made by him could be altered, changed, violated and nullified, one particular appointment, specifically made in his capacity of the founder of the State, should never be touched.

world may change, the **ulama's** views, once formed, do not, and the argument failed to convince them.⁴

2. (In the opinion of Khwaja Nazimuddin) **Fatwas** of **Kufr** have been quite a feature of Islam since the Four Caliphs, but they have never resulted in the denial of civic rights to the individuals or classes against whom the decree was made. This is very comforting, indeed, in a State where **Fatwas** are likely to become as necessary as guns and butter. The last remark is our own.⁵
3. Maulana Shabbir Ahmad Usmani, the "Arch-bishop" of Pakistan.⁶
4.clerical staff, principally in the Secretariat and the Accountant-General's office (two very religious bodies)⁷ struck work.⁸

The Report is full of similar taunting remarks and ironical expressions. To adopt, while discussing a serious issue, a style which is generally employed when some particular point of view is to be supported and advocated and some other point of view is to be opposed and contradicted, can land the reader in misunderstanding. As regards ourselves, we consider the prestige of our judiciary to be such a lofty thing that we wish to see it above any and every such ugly possibility.

4. Report P. 282.

5. Ibid., P. 291.

6. Ibid., P. 302.

7. Probably the idea underlying this sarcastic remark is that the interest in religious problems should be confined to mosques alone and the employees of Government offices should have no concern with them.

8. Report, P. 356-57.

4. IMPUTATION OF MOTIVES

Another special feature of the Report which strikes the attention of the reader is that opinions have been expressed regarding the motives of many people, and it is a strange coincidence that such an expression of opinion happens to relate only to persons holding among themselves similar views about the Qadiani problem. Of all of them, only Khwaja Nazimuddin appears as an exception. To the reader of the Report, the honesty and integrity of every one of them becomes doubtful and questionable. Not to mention the living personalities, even those were not spared who were no more in this world when the Report was being penned. In fact, some of them had died long before the Direct Action and the institution of inquiry. Some examples are given below:—

1. One Abdul Ghaffar Asar, B.A., who earlier had succeeded in his drive against the prostitutes, also joined the movement to widen⁹ his sphere of influence.¹⁰
2. Indeed none who was a party to the Direct Action could have admitted the political character of the demands without making himself directly responsible for the disturbances and the admission about their religious cha-

9. The Report is silent as to the authentic source through which the Court had come to believe that Mr. Abdul Ghaffar Asar's participation in the movement was not the result of his sincere convictions and higher sentiments, but was motivated by the desire "to widen his sphere of influence."

10. Report, P 174.

racter had to be made perforce¹¹ by everyone concerned in an attempt to avoid his being held responsible for the disturbances for a worldly reason.¹²

3. In the meeting of the citizens at the Government House on the afternoon of 5th March no leader, politician or citizen was willing to incur the risk of becoming unpopular or marked by signing an appeal¹³ to the good sense of the citizen.¹⁴
4. It is surprising that the Board of Ta'limat-Islami which is a Government body should also have jumped whole-heartedly in this business of direct action. Maulana Suleman

11. There really existed some confusion about the religious and political nature of the demands. They were religious in the sense that they originated in a religious controversy between the Muslims and the Qadianis; and they were political because when that controversy produced certain social and economic evils the Muslims demanded that constitutional and administrative measures should be adopted to curb them. Thus the political and religious aspects were intertwined. And to call those demands religious instead of political may not necessarily have been on account of the motive which the Court has—for unknown and unrevealed reasons—attributed without exception to everyone who described the demands as such. Indeed, one could regard them as religious out of purely honest conviction. Here again the question arises as to what reasonable ground the Court had for preferring one out of two equal possibilities? It is to be regretted that the Report offers no answer to this question.

12. Report, P. 185.

13. No one who has any experience of public life can be unaware of the fact that when a clash occurs on any issue between the Government and the people and the masses flare up as a result of lathi-charge and firing on them, merely issuing appeals for peace (especially when drafted in the Government House) without offering some satisfactory solution of the problem is completely useless and cannot even slightly improve the situation. Hence the refusal to sign the proposed appeal could not necessarily have been due to the one reason which the Court has put forward. There was equal possibility of another one. Here again a reader may well enquire that, in the presence of two equal possibilities, what reasonable ground the Court had to drop the one and adopt the other? The Report fails to give any reply and the reader is left in suspense.

14. Report. P. 234.

Nadvi,¹⁵ the President, Maulana Zafar Ahmad Ansari, the Secretary and Maulana Muhammad Shafi, the member of the Board, were parties to the resolutions relating to the direct action and the setting up of a Majlis-i-Amal.¹⁶ All these gentlemen, we understand, are in Government employ and receive substantial emoluments. It may be that *ulama* live in a world of their own and judge things by their own standards, but nobody has yet enunciated to us the principle by which a person can conscientiously remain in Government, receive a substantial pay from the public exchequer and at the same time be a party to a movement which is nothing less than a revolt against that very Government. If these gentlemen were so perturbed over the Qadiani issue, they should have like honest¹⁷ people severed their con-

15. It may be noted that at the time of the publication of the Report Maulana Syed Suleman Nadvi had died.

16. In the first copy of the Report which was released to the Press even Maulana Ihtisham-ul-Haq had been described as a member of the Board, and that version was published in the newspapers. When, later on, the Court learnt that Maulana Ihtisham-ul-Haq was never a member of the Board, his name was deleted from that edition of the Report which is now being supplied to the public. Similarly, instead of Maulana Zafar Ahmad Ansari, the name of Maulana Zafar Ahmad Usmani was mentioned as the Secretary of the Board, and this mistake also was rectified later on. This is conclusive proof of the fact that the Court did not possess necessary information about the Board while recording these remarks and got it only subsequently.

17. It would have been more proper if, before giving such a categorical verdict about the honesty and integrity of these persons, the Court had acquired relevant and necessary particulars and had made sure whether according to the Government Servants Conduct Rules the members of the Talimat-e-Islamia Board were actually Government servants. The Board was doubtless a Government institution, but its members were not at all regular Government servants. Their position resembled that of non-official members serving on official committees. They were drawing 'honorarium' only and not any pay or salary. Legally they were not bound by the Rules and Regulations which apply to Government servants. Had it not been so, the Government Department itself, whom they served, would have taken action against them, even before the Court could say anything.

nection with Government before they became parties to a direct action resolution against their own employer.¹⁸

5. REFLECTION ON THE HONOUR AND REPUTATION OF CERTAIN PERSONS

The reader comes across passages in the Report where the honour and reputation of certain persons appears to have been attacked. The following extracts are presented as an illustration:—

1. Qazi Murid Ahmad was a non-entity in Sargodha, paying no income-tax and owning only twenty kanals of land.¹⁹
2. The baby (the Qadiani Problem) is still alive and waiting for someone to pick it up. And in the God-gifted State of Pakistan there are careers for everybody—political brigands, adventures, non-entities. The only two persons who have denied such careers for themselves before us are Khan Sardar Bahadur Khan, the Communications Minister and Mr. Hamid Nizami, the editor of the “Nawa-i-Waqt”. They have repudiated the baby, with all its consequences.²⁰

18. Report, PP. 242-43.

19. Report, p. 274. While going through these lines one wonders whether the only measure of a person's status and importance is the amount of income-tax he pays and the area of the land he owns?

20. Report, p. 286. Does the Court really wish to imply that, in the Qadiani-Muslim controversy, those who opposed the Qadianis and supported the three demands were all “political brigands, adventurers and non-entities,” and the motive which prompted them to take interest in the controversy was to build careers for themselves? Among those who appeared before the Court of Inquiry none except Hamid Nizami and Sardar Bahadur Khan are exempt from the onslaught of this sweeping remark. Have these two gentlemen been honoured with an exemption only because they regarded these demands to be wrong or because of some other reason? Unfortunately the tone of the Report here is such that one fails to catch the real import.

On reading these remarks every reader, citizen or alien, must wonder whether a country in which all religious and political workers (with the exception of only two gentlemen) are "brigands, adventurers and non-entities," can have, in any other walk of life or field of activity, honest and conscientious men. Naturally, a country where moral depravity and political corruption and vitiation in social and public life is so widespread and deep, cannot boast of even a few individuals whose souls are not tainted. And now if by reading this Report, the world gathers the impression that Pakistan is a country of only brigands and wicked people, will it in any way contribute to the prestige of our country?

In fact, this question in itself calls for attention. Was probing into peoples' personalities and sitting in judgment on their characters in any way relevant to, or demanded by, the terms of reference of the Court of Inquiry? And should it not have been attempted, or at least not included in the Report, would that have left the inquiry incomplete?

But, in this respect, when the Report itself is silent, every reader must also remain lip-sealed. What causes concern is that if in the pages of this important Report—which will be widely read both in this country and abroad and which will be printed again and again in thousands and passed on to posterity—a slur is once cast on somebody's character and honour, there remains no means to wipe it off. We ask: If somebody's name is unnecessarily or unjustly tarnished, what remedy is there to undo the wrong?

6. WRONG INTERPRETATION OF PEOPLE'S IDEAS AND VIEWS

Another aspect of the Report deserves scrutiny. The views, utterances and actions of persons have been

misrepresented at places. The reason may be lack of information or error of judgment, but the result remains that either the persons' viewpoints appear misinterpreted or something seems to have been ascribed to them which does not coincide with the true facts.

For example, on page 201, it is stated:

"The parties who are now clamouring for the enforcement of the three demands on religious grounds were all against the idea of an Islamic State. Even Maulana Abul Ala Maudoodi of Jamaat-e-Islami was of the view that the form of Government in the new Muslim State, if it ever came into existence, could only be secular."

It is a revelation to us that the Jamaat-e-Islami or Maulana Maudoodi were ever opposed to the conception of an Islamic State. Millions of people in this sub-continent have read the literature of the Jamaat-e-Islami. They will really be wonder-struck to know of this discovery. Indeed, none of them could ever find out in the literature what these two learned judges have ascribed to Maulana Maudoodi and the Jamaat-e-Islami. The meaning, which the last sentence is conveying in this context, seems to be diametrically opposed to the real position.

Maulana Maudoodi's idea that the proposed Pakistan might not become an Islamic State was not based on the ground that he was against the creation of an Islamic State. On the contrary, he remained aloof from the Muslim League because he could not hope a party of such mental outlook and character as was the League, could ever establish a truly Islamic order. Moreover, he had said that at a time when neither the divi-

sion of the Punjab and Bengal had been envisaged in the scheme of partition, nor, as a matter of fact, anyone had in his mind any plan for the transfer of population. Thus, in the presence of 46% non-Muslim population of United Bengal and about 46% non-Muslims in West Pakistan (including United Punjab), there was apparently no possibility of an Islamic State being ever established in Pakistan—specially when the West-ridden class of the Muslims, who wield real power, would also have joined the chorus with the non-Muslims. Maulana Abul Ala Maudoodi had expressed his views along with this reasoning and these hard facts, the record of which is available in printed form even to-day. *

Similarly, on pages 243-244 of the Report, the Jamaat-e-Islami is presented in a manner which is contrary to its real position. Neither the literature of the Jamaat nor its history does in any way support the Report's version of the Jamaat.

Indeed, no one who is even superficially acquainted with the Jamaat-e-Islami would ever accept or confirm as true the picture of the Jamaat drawn in the Report. At this juncture the Report discusses such things that anyone making a serious and critical study of it will find himself confronted with the question: Whether these things had any bearing upon or relevancy to the

* Maulana Maudoodi has always stood for the Islamic State and has been working for its establishment for the last thirty years. Even the first editorial of his Journal *Tarjuman-ul-Quran* (1932) bears testimony to it. But he was of the opinion that the process of Islamic Revolution is not the same as that of the nationalist revival. He has explained his views in different books and pamphlets. The inquisitive reader may kindly refer to "Political Theory of Islam"; "Process of Islamic Revolution" and "Muslims and the Current Political Conflicts" (Three volumes—in Urdu). Maulana Maudoodi's post-partition speeches and writings have been published under the title "Islamic Law and Constitution" and its study too will also help the reader in understanding the viewpoint of Maudoodi and the Jamaat-e-Islami.—Editor.

terms of reference, and whether the Jamaat-e-Islami had ever been asked or given an opportunity to explain and clarify its stand thereon. For instance, such things as the views which various parties held about Pakistan before partition; and the means and methods believed to be proper by various parties for the attainment of their objectives, were neither in the terms of reference nor was any party asked to explain its position on those issues.

What is still more astonishing—and unfortunate—is that the Report takes no notice of the real views of the Jamaat-e-Islami with regard to the justifiability or not of the direct action, so fully explained in the Second and Third Statements of Maulana Abul Ala Maudoodi. On the contrary, it has tried to attribute a viewpoint to the Jamaat which neither conforms to the contents of the said statements nor to the literature of the Jamaat, its constitution, history and past behaviour. Thus, for instance, on page 244 of the Report, the following has been attributed to the Jamaat:

Where there is a popular demand which the Government does not accept or agree to consider, all constitutional means may be thrust aside and an ultimatum of civil revolt given to the Government.

We find another similar example of interpretation of our party's policy and creed on page 381, which we reproduce here with a deep sense of pain:

The Government were reluctant to employ the troops unreservedly for fear of bloodshed, as Mr. Anwar Ali says, and the Ministers were upset with the protests of leading citizens that the police were firing even on

violent crowds—even on violent crowds, we repeat, which did no more than attack a police station with bricks, or burn a stray omnibus here and there, or put to fire a sinning post office, or stone a railway train full of passengers because it tried to move out of the station, or blackened the faces of tonga-drivers and shop-keepers who plied their trade.

Ignoring the sarcastic tone of the paragraph altogether, we ask: when did any "leading citizen", either at the Government House meeting on March 5, or on any other occasion, lodge a protest against the firing on violent crowds? In fact, whenever a protest was made by anyone it was against the *indiscriminate* shooting which killed not only the passers-by and the innocent pedestrians, but also made a target of those who happened to peep out of the windows of their balconies. Moreover, when the protest was lodged in the Government House meeting, the Inspector General of Police was himself present, and he did not dare challenge the statement that the firing was indiscriminate. Neither the Governor nor any of the Ministers could deny that. As the protest was based on facts and was quite justified and reasonable, its weight was duly felt by all present. But the perusal of this Report creates the impression that the protest was not lodged against 'indiscriminate firing', but against the firing itself, and that, too, on the violent crowds! This slight laxity in the presentation of facts paints an altogether different picture and presents a totally different view of the persons and parties concerned, and it is this great misrepresentation which forms the basis of the discussion and comments of the Report. It may be the result of some slip on the part of the Court of Inquiry which, after all, consisted of human-beings. But the fact can never be lost sight of that such slips have caused irre-

deemable loss to individuals and parties, the retrieval of which may not be easy to accomplish.

7. SOME CONTRADICTIONS

The Report also abounds with views and ideas which even to a man of average intelligence appear to be contradictory, and no interpretation succeeds in making the meaning coherent and consistent. As an example we quote serially herein below certain passages which defy all our efforts to see in them any consistency, and the Report itself could not afford us any help:

1. If Jamaat-e-Islami's reasons for the demands were to be found in social and political factors, the obvious course for it was to engage in a constitutional agitation and to try to convert the Constituent Assembly to its view or to wait till the next elections and fight them on this issue.²¹
2. Khwaja Nazimuddin (at the time of meeting with a deputation of the Majlis-e-Amal on 16th August, 1952) said that the question whether Ahmadis should be declared a non-Muslim minority was for the Constituent Assembly and that he was not willing to make any move in that direction.²²
3. The second point that clearly emerged from the resolution (Provincial Muslim League's resolution of 27th July, 1952) and from the speeches (of Mr. Daultana which he deli-

21. Report, p. 244. (Emphasis our own).

22. Report, p. 129.

vered at Pasrur, Hazuri Bagh, Lahore and Rawalpindi) was that the demands in respect of Ahmadis were in their nature essentially constitutional and that, therefore, they were conclusively within the cognizance of the Central Authorities, i.e., All-Pakistan Muslim League, the Central Government and the Constituent Assembly of Pakistan.²³

4.after the Muslim League's resolution of 27th July, every one interested in the movement had come fully to comprehend the constitutional position that propaganda brought in the regular manner before the Constituent Assembly, no tangible result could be expected from the negotiations. All the energies of the parties, who were clamouring for the acceptance of the demands, were, therefore, diverted to the Central Government of which Khwaja Nazimuddin found himself unable to accept the demands, with the result that 'direct action' had to be resorted to and the disturbances broke out, the responsibility for what happened must be clearly put on the Muslim League as on the All Pakistan Muslim Parties Convention.²⁴

In passage No. 1, the Court itself suggests that these demands should have been taken to the Constituent Assembly. In passage No. 2, Khwaja Nazimuddin too is shown stressing the same thing. But, with all this, in passage Nos. 3 and 4, the Punjab Muslim League is being accused of turning the agitation towards the Centre by declaring these demands to be constitutional and throwing all the responsibility for accepting or rejecting them on the Central leadership.

²³ Report, p. 264.

²⁴ Report, p. 274.

Now another and a more interesting example. In the first quotation cited above the Court has expressed the view that if the Jamaat-e-Islami supported these demands for social and political reasons, the obvious course for it was to try to convert the Constituent Assembly to its view or "to wait till the next elections and fight them on this issue". In other words, the Court has accepted the principle that if the public opinion is moulded and the majority of voters agree to support a certain demand, the wishes of the people must be carried out. But when after reading this opinion of the Court one proceeds further and is confronted with a diametrically opposite view, he becomes dumb-founded. Just go through the following passages:

1. We believe that our common man is essentially sound and that, though he is, as other people in the world are, religiously disposed, perhaps more than anyone else in the world, he is capable of understanding things²⁵ in their own perspective, if those things are properly placed before him. Honest and patriotic citizen of a new State as he is, he would have listened to our leaders, if any effort had been made to explain to him the dangerous possibilities that underlay the current of popular feeling which had been aroused by a few politically frustrated men to wash their past sins. The man in the street could have understood, if properly told, that a political party, who were attempting to come into the

25. If while going through this sentence the impression is created that the religious disposition is a thing which adversely affects the intelligence of a man and that he nearly forfeits the capacity to think and understand things properly, this Report neither helps to save the reader from this impression nor does it condescend to answer the question as to the effects of an irreligious or anti-religious disposition on the intelligence of a person.

field as a rival of the Muslim League, were using religion merely as a lever to raise themselves in the popular estimation and that they were making a fool of him.²⁶

2. Repeated²⁷ appeals to democratic principles were made before us by learned counsels of the parties and it was vehemently urged that the demands were unanimous and that in a democratic country when a particular demand has such strong and universal support, the Government is bound to accede to it, irrespective of the consequences of its acceptance. It was said that our political leaders, who are elected by popular suffrage, are in their present positions merely because people have put them there, and that therefore they are bound to act as their voters require them to do. The same principle has been reiterated before us on behalf of the Ministry and the Muslim League²⁸ and it has been urged that in a representative form of Government a political leader can be described to be a representative of the people only if he respects and carries into effect the

26. Report, p. 275. Here the reader finds himself confronted with a knotty problem and is left to wonder as to the real intention of the authors of the Report. Do they mean to impress that it is the necessary implication of the possession of sound judgment, patriotism, and honest citizenship that our common man should see and think about his affairs and problems from the particular angle offered to him and reject the three demands about the 'Qadianis', and that if he refuses to act in that manner and decides at last, because of his 'religious disposition', to support the three demands, his intelligence, patriotism, and honest citizenship, all should be considered doubtful? Apparently, this should not be the purport of the Report, but one has to consider the wordings and to see where they lead us.

27. We find these sentences just sixteen lines after the previous quotation.

28. Perhaps the Daultana Ministry and the Punjab Muslim League are referred to.

feelings, prejudices and aspirations of people. We think that it is a poor ideal for our leaders to adopt. **In a country where the bulk of the people are uneducated and only a small percentage of them is literate, a recognition of this position would lead to the disconcerting result that our leaders must remain an embodiment of popular ignorance and prejudices and completely devoid of higher ideals.** Where the elector knows the value of his vote and has the requisite sense and intelligence to understand problems peculiar to his country and broad world events and currents and has a sufficiently developed mind to form a right judgment in all matters of national concern, the leader has got to abide by the popular judgment or quit his office. But in a country like ours, we have little doubt that the true function of the leaders is to lead the people and not throughout be driven by them, as Mr. Qurban Ali Khan rightly puts it, "at the head of the herd all the time."²⁹

These three passages present two diametrically opposite views. The purport of the first and the second passage is that the people of our country are intelligent

29. Report, pp. 275-16. (Emphasis our own). Leaving aside the fact that the presence of these lines in such an important historical document as this Report can greatly affect the practical shape of things and strengthen the hands of the forces hindering the growth of democracy in the country, and also leaving aside the fact that this part of the Report deals with issues that are of an ideological and doctrinal nature instead of the facts and problems directly connected with the issues under inquiry, what the reader wants to know is the real import and intention of the Court. First of all the premise has been categorically laid down that the people of Pakistan are not fit for democracy. Then, as a logical consequence, it has been argued that the will of the people should not be followed and, instead, the wishes of the leaders be carried out. Further, if the demands of the people are in harmony

and possess the capacity to understand things and affairs. Hence democracy is workable here, and it should be practised in order that different parties may explain their viewpoints before the public in a suitable manner and whoever earns the support of the people should rule. On the contrary, the purport of the third passage is that the people of the country do not possess the capacity to understand their own affairs and problems and thus cannot for themselves arrive at a correct judgment. They do not know the worth of their votes. Hence the principle that the leaders should either carry out the mandate given by the people or quit, is not workable here.

These two views are so divergent and contradictory to each other that even if we wish to find out any coherence and consistency in them, it is well-nigh impossible to deduce a method. As regards the Report itself, it also fails to lend us any help in our predicament.

with the wishes of the leaders, there should be no hinderance in their implementation. But if, in spite of the leaders' persuasions and "teachings", the demands of the people remain at variance from the sweet will of the leaders, then, instead of the verdict of the people, the wishes of the leaders should prevail. But this logic creates still another problem which, too, ought to have been solved in this Report. The question is: by whose will do the leaders attain leadership? If they attain it through the votes of the people, would then the decision of the illiterate and ignorant voters, who are not aware of the value of their votes and who do not possess the intelligence and the wisdom to know and understand the problems and affairs of the state, be correct or not? If it would be correct, then the very foundation on which the edifice of the above-mentioned argument is built is demolished. If it would be wrong, then, according to the theory propounded by the Court, only two courses are open to the country to have leaders: either they should be appointed by some court, or some political adventurers who, by dint of sheer force, once happen to occupy the seat of authority in the country, may style themselves as leaders and declare that they would not carry out the wishes of the people but would enforce their own will on them. Even then the problem would still remain unsolved (that if such rulers become degenerated and prove devoid of all healthy understanding and sound intelligence, what course should the nation adopt to reform them or to get rid of them?)

The reason we feel so anxious about this part of the Report is that when this historical document is read in foreign lands—not with a sympathetic but critical, or even hostile, attitude—what impression will it create about our country and her leaders of thought and action?

8. ASPERSION ON DEMOCRATIC VALUES

We have seen above, to some extent, the view expressed in the Report about democratic values. But the matter does not end there. Many an important and basic feature of democracy has been ruthlessly trampled upon.

We will discuss only three things by way of example:

One of the most important and basic values of democracy is the institution of responsible Government. That is, the executive should be under the Ministers' who should be answerable before the legislature elected by the people. Thus, ultimately, they are responsible to the voters. The real and the fundamental defect of an undemocratic system (and the reason why the world had to prefer a democratic form of Government) is that, under it, the executive is responsible to none. It ignores the people's wishes and does what it chooses. If the people, in order to get their grievances redressed and their demands accepted, are compelled to start a campaign, the Government, on every slight pretext, crushes them by means of the police and the army whose salaries and expenditure on arms and ammunition are met out of those very people's exchequer. This is morally wrong and its consequences are always bad. Repeated and

frequent clashes of the national army and police with the nationals of the State are harmful and unjustifiable not only on the basis of morality and expediency, but also because it cuts at the root of the people's sense of patriotism and the solidarity of the national State, so much so that after a time there remains for a persecuted people no perceptible difference between a national Government and the slavery of any foreign tyranny, especially when their own national rulers begin to commit the same type of atrocities that one might expect from a foreign imperialist. When a man's life, property, honour, self-respect, in fact, everything dear to him, is mercilessly trampled upon in his own country, what reason can he find to fight for his country or to make sacrifices for preserving his country's independence?

That the executive should be under the control of public men, subject to regular and frequent elections, is not only the demand of wisdom or moral obligation, but also the *sine qua non* of national independence and the solidarity of the national State. There are two advantages in this method. *Firstly*, unlike the bureaucrats, the public men (in spite of all the defects which political-manoeuving might create in them) do not merely pass orders to maintain law and order. Their long experience in the political field creates in them the knack to understand the people's viewpoint and to explain their own ideas to them. They possess the capacity to solve problems by dint of argument, practical wisdom and erudition instead of by brute force. When they run the administration of a country, it seldom happens that any cultural, economic, social or political problem surpasses the stage of mutual negotiation and understanding and becomes a question of law and order to be solved by lathi-charge and firing. The *second* advantage of entrusting the administration of the country to public men is that the persons who have to face the people

in elections at regular intervals cannot afford to be so callous and merciless in breaking the heads of their countrymen as those who are Government servants and whose stability of service does not depend upon the votes of the people.

This is the very essence of democracy. But in the eyes of the learned authors of the Report, it is this very thing which is the defect of democracy, and they complain of it at so many places.

The Report presents the matter thus: The cause of all the trouble in the Qadiani affair was the fact that the Government was in the hands of those who hesitated to reject the public demands and to suppress them by force for the sole reason that in future they had to face the same public at the time of the elections.

In the opinion of the Court, if the executive had behaved as the 'Lion of God'³⁰ and the 'Rustam of Ancient Lore'³¹ and had full powers in their hands, the agitation for the demands would have been nipped in the bud and the disturbance which broke out in the Punjab would not have occurred at all.

Here are the relevant extracts from the Report in this connection:

The record of the cases that were dealt with by the officers of the administrative side shows that recommendations were being made from time to time either to arrest a person under Section 3 or stop him from making speeches or to restrict his movement to certain locality under section 5 or to prosecute him under section 21 for abusing

30. & 31. Report, p. 384.

high dignitaries of Government or for arranging their mock funerals, *but the Punjab Public Safety Act was a hated Act to the politician* ³² and whenever any recommendation for taking action under that Act was made, it was looked upon with political spectacles and in the decisions taken the politician throughout dominated the administrator. An administrator in charge of law and order only looks at the law and order side of the step he is required to or wishes to take, while with the politician the first consideration is the effect of the proposed action on his own and party's popularity.

.....

Now the principle of the politician, when he is acting as an administrator, that a certain action which is open under the law or which the exigencies of the case require to excite popular dissatisfaction, comes perilously near the proposition that if a murder is applauded by the public and the prosecution of the murderer would be resented by the public or would excite public sympathy with the accused, the murderer need not be punished. ³³

And all this was due to the Muslim League and its leaders' desire to remain popular with the masses and not to do anything which by its repercussions on the electorate might throw the League out of office. ³⁴

There was undoubtedly a meeting (on 5th March in Government House) in the afternoon at

³² What a sarcasm! Perhaps for the first time in the judicial history of the civilised world two high-ranking judges have upheld and sanctified laws like the Safety Act, which miserably fails to fulfil even the minimum demands of justice. The role of law courts throughout the civilised world has been to rescue humanity from the clutches of such despotic laws. This Report has, however, provided the first glaring contrast.

³³ Report, p. 278.

³⁴ Report, p. 279.

which the leading citizens protested against heavy firing consequential upon the lawlessness which followed the murder of Sayyad Firdaus Shah. Some of the Ministers also were impressed. After all, the next election is more important than a temporary frenzy.³⁵

The real aim of all this discussion unfolds itself in the concluding lines of the report:

Consequently, we are prompted by something that they call a human conscience to enquire whether, in our present state of political development, the administrative problem of law and order cannot be divorced from a democratic bed-fellow called a Ministerial Government which is so remorselessly haunted by the political nightmares. But if democracy means the subordination of law and order to political ends—then Allah knoweth best and we end the report.

We cannot say whether the question posed in this sentence is a proposal in the form of an interrogation or whether it is the expression of a wish. But whether it is a proposal or a wish, in both cases it is too difficult for us to suppose that two learned jurists (which, in fact, the authors of this Report are) would be unaware of that form of Government which is the only alternative if the reply to their question is furnished in the affirmative. In what other way can the administrative problem of law and order be separated from the "democratic bed-fellow of Ministerial Government" except by spreading a separate bed for the Ministerial Government on which it may rest, faced only with such problems as education and local self-government. And the

35 Report, p. 372.

36 Ibid, p. 387.

problem of law and order may then be entrusted to an administrator who may not be responsible to any Assembly or Parliament and who may not be haunted by the nightmare of facing the public in an election! Such an administrator must necessarily be either an autocratic king, or a person responsible to some such higher authority who is not answerable to the people, namely, he should be, not the President of a Republic, but someone like the British Crown's representative—the Governor-General or the Viceroy. It means that, if the advice of this Report is accepted, the country will be thrown back to the pre-partition days, nay, still further back: *to the position before the reforms of 1935 were introduced. It was a period when, according to Montague-Chelmsford Reform Scheme, diarchy was in vogue.*

In those days departments like education and local self-government were run by the ministers, and law and order was in the hands of the goddess called "Executive Council" which was never haunted by the nightmare of facing the people in any election. This is the conception of law and order this historic Report presents.

2. The second great democratic value is the concept of the Rule of Law. One of its fundamentals is that nobody's life, property or freedom can be arbitrarily encroached upon by the executive. It should, on the other hand, be legally incumbent upon it that, in case it considers it necessary to proceed against anybody, it must come with a definite charge in an open court of law and prove his guilt. According to this conception, enactments like the Safety Act and the Security Act are lawless laws. The whole country has been demanding since long that these laws be repealed and the task of deciding whether a person is guilty or not be left to the courts, who, in their turn, should give judgments

after providing equal opportunity to the prosecution and the defendants in accordance with the due process of law. But how disappointing it is to observe that this Report, coming from such high ranking judges, forcefully pleads free use of the Safety Act and thus strengthens the hands of the Executive. The Report criticises the Daultana Ministry with great vehemence on the ground that it hesitated to use safety laws. Although this thing has been repeated in the Report at several places. it is on pages 277 and 278 that the Court has expressed its views in an open manner. There the Court admits that in its election manifesto the Muslim League had openly condemned the Punjab Public Act and had won the election on the specific promise that this law would be abrogated. In spite of that, however, the Court insists that it was the duty of the Muslim League Ministry to have used the Safety Act, although in doing so it would have gone against its manifesto and the promises due to which it had been successful in the elections. And now, since the Ministry had not used this Act, it is being condemned! This not only cuts at the very root of the concept of rule of law, but also demolishes that fundamental principle of democracy which lays down that the election manifesto through which a party wins an election is, in fact, the voters' mandate to the Government. *If democracy means that the country belongs not to any particular person or group, but to all people, the manifesto, after accepting which the majority of the people entrust the Government of the country to a particular party, is nothing but a mandate. If to act according to this mandate is sin and to disobey it is duty the best course is not to talk of democracy at all, but to straightaway accept bureaucracy or dictatorship.*

3. The third important democratic value is the freedom of the Press without which no democratic system

can function. Here we will not discuss this problem in all its varied aspects, but will deal only with such parts of it as are directly affected by certain remarks made in the Report. Also, we wish to make it clear at the outset that we do not believe in such unbridled freedom of the Press which gives birth to mischief-mongering, creates disorder, and permits slanderous remarks and provocative utterances against parties and individuals. In this connection we fully endorse the Court's criticism of the objectionable trend of certain newspapers. *But we do not agree with the Report in the idea of buying the conscience of the newspapers and exerting influence on their policies through tantalizing offers. We also do not believe that the newspapers should be asked to black out the news of certain happenings in the country.* Such happenings may not be stopped by these tactics. But still the publication of news about them is not considered proper on the pretext that in this way the spread of an "undesirable" movement may be arrested. We regret to say that while reading the Report we feel as if the Court has fully advocated this policy.

Discussing the responsibilities of the Press, the Report says on pages 280-281:

The 'Zamindar's'* popularity and circulation is stated to have been due to its constant abuse and ridicule of the Ahmadis. We, however, do not believe that if the Director of Public Relations, in view of the substantial help that Government had given to this paper, had wished to control its activities, it would have persisted in its attitude, particularly in view of the relations that existed between Maulana Akhtar Ali Khan and Mr. Daultana

* The "Zamindar" is an Urdu daily of Lahore—Editor.

himself. The 'Ehsan' and the 'Maghribi Pakistan'** could certainly not have afforded to displease the Director of Public Relations: The Government aid to the former was a sheer windfall, and in view of its small publication the contribution to the latter was substantial

Publication of long and argumentative articles to show that Ahmadis were a separate community, sensational news and events and incidents connected with the agitation, results of interviews, speeches made in meetings and of resolutions passed in mosques and elsewhere could only lead to the spread and accentuation of the agitation and this result was not only known to these papers, but must have been intended by them.

It is difficult to say how the Court can remove the misunderstanding—if it is merely a misunderstanding—that the above passages create in the mind of a reader. Does the Court want to say that the bribe which had been given to these newspapers from Government Treasury should have been fully made use of in exerting pressure on them and in buying and dictating their policies on this issue, and that it was a mistake if no such business deal of buying and selling the commodity called conscience was not struck? Another question which arises on reading the above quotations is whether the black-out of the news, and intentionally hiding the facts and events occurring in the country, was a just method in the eyes of the Court? Are these things really proper? Is it just that the Government should purchase policies of the country's newspapers and exert influence on them at public expense? Does this not clearly fall under the definition of bribery? If such conduct is declared justifiable in some particular case,

** Two other dailies of Lahore—Editor.

will it really be possible to impose limits at any stage, and shall its working not be extended to almost every sphere of national affairs? Is it possible that democracy may survive and dictatorship may not ultimately entrench itself in a country where the ruling party, through the use of public money, acquires open licence to exert its influence on that power which is the most effective vehicle in moulding public opinion? Is it really just, proper or even expedient to face and oppose parties and movements by acting on the policy of black-out? Is it not the same blunder of hiding one's head in the sand like the ostrich for which Khwaja Nazimuddin has been reproached³⁷ by the Court itself? Will those newspapers, who consciously hide the true conditions prevailing in the country and try to keep the people ignorant of the actual facts, be not guilty of journalistic dishonesty and disloyalty to the State? After all, what use is there of this secrecy and who is going to be benefitted by it? If people will not get correct information from the newspapers, baseless rumours will spread among them and they will be misled by them. Moreover, if the newspapers do not bring to light the real happenings in the country, the Government will have to fall back upon its only source of information, i.e., the C.I.D. reports, which, by always presenting only one side of the picture which too is not always unadulterated, will mislead even the Government. One wonders from what angle and how far is it justifiable that both the public and the Government be kept groping in the darkness of misunderstandings.

If, in reply to this, the plea is advanced that this policy is necessary in order to cope with "undesirable" movements, it does not form a cogent and weighty ground. The question arises: "undesirable" for whom? If some movement is undesirable in the eyes of the

37 Report, p. 284.

public, it will die of its own accord and none need worry about it. But if it is desirable for the public, and undesirable only in the opinion of certain high-placed officials, what right has the Government to spend public money to prevail upon the Press and to force them to black-out the news? This act is not only unjust and uncalled for, but also futile and stupid.

There is only one way to face a mass movement: whoever wishes to oppose it must come before the people and try, through just and proper methods, to persuade and convince them about the correctness of his stand. He who suffers defeat there shall not be able to remain in the field for long through those tactics which originate generally in bureaucratic brains.

The fact is that whenever the complex and varied problems of life are viewed from the narrow angle of some particular requirement or any limited phase of it, errors of judgment occur and the issue appears complicated. This has happened in the present case also where the varied and extensive demands of social and political problems have been judged only through the narrow angle of the requirements of 'law and order'. This is the same "single-track-mind" weakness of which the **ulama** have been allegedly accused in the Report.

9. THREE IMPORTANT ISSUES WHICH HAVE NOT BEEN CLARIFIED

Before proceeding with the second part of our analysis, we deem it necessary to point out that among the matters entrusted to the Court for inquiry, there were three very important issues clamouring for a decision. We are at a loss to understand why they have

remained undecided, and why the Report is silent about them.

Was Not The Police Firing Indiscriminate ?

The question is: Was not the police firing from the evening of March 4 upto the noon of March 6 indiscriminate and excessive, and was it not responsible for exciting the public and causing the disturbances to flare up? This question is closely related with the issue of the responsibility for the disturbances. It has also a direct bearing on the circumstances leading to the imposition of Martial Law. Hence it should have been discussed in the Report.

The various parties that took part in the inquiry made repeated submissions before the Court that the atrocities committed by the police had a great deal to do with the flaring up of the disturbances. The Court was informed that in the meeting of March 5, in the presence of the Punjab Governor, the Ministers, the Inspector General of Police, the Chief Secretary and the Home Secretary, the leading citizens had complained of indiscriminate and excessive firing, and none could say anything to contradict them. It was also brought to the notice of the Court that the real cause of the strike in Government offices was the grief and resentment which everyone felt because of indiscriminate firing on the citizens. In fact, in all the resolutions passed by the protest meetings organised by the Government servants of the Accountant General's Office and the Secretariat, complaint was made against "indiscriminate" and "excessive" firing. And the same complaint recurs in the resolution of the District Bar Association. If the Court had paid due attention to the summary of events which is to be found on pages

151 to 166 of its own Report, most probably it also would have arrived at the conclusion that there was a vast difference between the conditions prevailing before and after the evening of March 4 when the Deputy Superintendent of Police (Firdaus Shah) was killed. Until the afternoon of March 4, demonstrations were being held and arrests were also being made, but the police resorted to lathi-charge only on four occasions, firing took place just once, and there were only two incidents of throwing stones at the police. During all this period, nothing happened from which it could appear that the whole populace of the city of Lahore had flared up and that all classes of people had jumped into the struggle. Then, on the afternoon of March 4, a certain person appeared in a public meeting and narrated the story that the police had resorted to lathi-charge in Chawk Dalgaran in which one volunteer fell down on the ground after being wounded, that he had a copy of the Holy Qur'an with him, and that a certain police official jumped forward and kicked that copy of the Holy Qur'an after he fell down. After narrating the story he presented before the public some loose leaves of the Holy Qur'an said to have been desecrated.³⁹ This news spread provocation in the city and, a short time after it, the same police official who, it was believed, had insulted the Holy Qur'an, was killed in the Vazir Khan mosque. After this incident there was a sudden change in the atmosphere. Firing was resorted to at many places. The public became violent, and even that class of people which had kept itself aloof till then, we mean,

³⁹ It is interesting to note that this person presented himself afterwards before the Military Court as a Police witness in the cases of Maulana Abdus Sattar Niazi and Saiyyid Khalil Ahmad Saheb, and then it was revealed that he was a man of the Police. Chaudhri Nazir Ahmad, Counsel for Jamaat-e-Islami, submitted full details about it before the Court of Inquiry.

the students and the Government servants, aligned themselves with the struggling forces. This change of condition is of such vital importance that it cannot be easily ignored. To find its real cause was necessary, because this question bore direct relation to the question of the responsibility for the disturbances. And the question of 'responsibility' is one of the three terms of reference into which inquiry was legally entrusted to the Court. But the Court says :

By our terms of reference we are required to report only on the adequacy or otherwise of the measures, and excessive firing is not within the scope of these terms unless such firing contributed to or accentuated the disturbances. ⁴⁰

In this connection suffice it to say that since many persons, and especially the parties that participated in the Inquiry, were repeatedly alleging that the indiscriminate and excessive firing contributed to and accentuated the disturbances, we believe it was incumbent upon the Court to state whether their allegation was correct or not.

The Mysterious Motor Car

The second issue on which the Court has not given any clear verdict relates to the identity of the occupants of the mysterious jeep that had been showering bullets on the Muslims on March 4. This issue was of great importance and required a satisfactory explanation, because it was generally believed by the Muslims that the jeep belonged to the Qadianis and that it was they who killed Muslims and wounded them through intense firing from it. This event turned the provocation of the Muslims towards the

40. Report P. 161.

No one having legal knowledge can be unaware of what the Anglo-Saxon system of law, which is in force in our country and which is followed in our law courts, has to say on this issue. We are quoting below the opinion of some of the important authorities of this system of law in order to refresh the memory of our readers. A.V. Dicey says:

- ✓ Martial Law, in the proper sense of that term, in which it means the suspension of ordinary law and the temporary Government of a country or parts of it by military tribunals, is unknown to the law of England. ⁴¹

Dealing with the same question, he says on p. 293:

- ✓ Now, this kind of Martial Law is in England utterly unknown to the Constitution. Soldiers may suppress a riot as they may resist an invasion, they may fight just as they may fight foreign enemies, but they have no right under the law to inflict punishment for riot or rebellion. During the effort to restore peace, rebels may be lawfully killed just as enemies may be lawfully slaughtered in battle, or prisoners may be shot to prevent their escape, but any execution (independently of military law) inflicted by a Court Martial is illegal and technically murder.

In the same book, he writes at another place:

- ✓ It (i.e. Martial Law) originates in and is limited by the necessity of war. A ne-

41 Dicey's Law of the Constitution, p. 287. 9th Edition.

cessity creates the rules; so it limits its duration; for if the Government (Government by Martial Law) is continued after the courts are reinstated, it is a gross usurpation of power. Martial Law can never exist where the Courts are open and in the perfect unrestricted exercise of their jurisdiction.

The opinion of Sir James Stephen, expressed in the minority report of the Hunter Committee and quoted by him in his "History of the Criminal Law of England", is as follows:—

They (Military officers) are not justified in inflicting punishment after resistance is suppressed, and after the ordinary courts of justice can be re-opened. (*Hunter Committee Report* 98).

In 1838, Sir John Campbell and Sir R. M. Rolfe, discussing about the right of the Governor of Canada to introduce Martial Law, wrote:

✓ "When the regular courts are open, so that criminals might be delivered over to be dealt with according to law, there is not, as we conceive, any right in the Crown to adopt any other proceeding.... It is hardly necessary for us to add that, in our view of the case, Martial Law can never be enforced for the ordinary purposes of civil or criminal justice, except, in the latter, so far as the necessity arising from actual resistance compels its adoption".⁴²

42. W. Forsyth: Cases and Opinions on Constitutional Law and various points of English Jurisprudence, p. 196.

PART II

THE REPORT AND THE ISLAMIC STATE

**(MATTERS NOT RELEVANT TO THE
TERMS OF REFERENCE)**

The Report and the Islamic State

In the concluding lines of Part I above we have shown that the Court has not clarified three such issues which fell under the scope of the terms of reference for the inquiry. Now we would like to show that the Court has, on the contrary, discussed in great detail and with full force and vigour certain matters which appear to the reader quite outside the scope of the terms of reference. The Report itself does not adequately explain in what way such issues could be regarded as relevant to the inquiry. Taking up each such issue, therefore, we will present the Court's opinion about it and will show what weight they can carry.

1. COURT'S OBSERVATIONS ON THE DEMANDS

It is open to all to see for themselves that the matters which were entrusted to the Court to inquire into did not include the question whether the demands in support of which the anti-Qadiani agitation had started were justified or not, and what repercussions would have followed in case these demands were accepted. But we find repeated mention of the Court's feelings that it was necessary to combat these demands ideologically, and that the weakness of the Government lay in that it could not prove these demands to be wrong and harmful. The Report says on page 145 that when the ultimatum for direct action was served on January 22, the following preparations had been made to launch civil disobedience in the Punjab:—

volunteers, funds, bases of operation, committees of action, lists of dictators, a population charged

with hatred of Government and Ahmadis and a complete absence of any ideological resistance.

On page 174 we find the following observations:

During all this period, nothing was done by the Muslim League or any of its leaders to resist the movement or to offer to the people any counter-ideology.

On page 283 the Court again says:

but in situations like these where the whole population is seized with religious frenzy, something more than a motion of legal and administrative mechanism is necessary, and this 'something' did not exist in the Punjab and was not thought of in Karachi.

The Court did not stop at merely analysing the practical situation which arose due to lack of 'something more'. It has in fact given clear indications as to what that 'something more' was. The discussion does not end after merely discussing what happened and what did not, but it goes on to suggest what should have been done. It appears that the Court, in addition to analysing the past events, takes a step forward and seems to offer advice of a permanent nature to the political leaders. Perhaps the very fact that the discussion reached such a climax—in spite of its having no relevancy at all with the terms of reference—made the Court discuss the desirability or otherwise of the demands in a manner which tries to allure that Khwaja Nazimuddin, while considering these demands, must have thought so and so, or this and that. In point of fact, it seems to be an after-thought. Otherwise, the best

course was to ask Khwaja Sahib himself when he appeared before the Court as a witness as to what opinion he held about the matters which have become, afterwards, the subject-matter of the Court's unnecessary speculation. We produce below the interesting discussion which is to be found on pages 233 and 234 of the Report. It proceeds thus:

In view of the long and frequent discussions Khwaja Nazimuddin had with the *ulama*, the correctness and justification of the demand on theological grounds *must have been* discussed. Khwaja Nazimuddin is a devoutly religious man, and since he did not straight away reject the demands, he *must have been* impressed by their plausibility. At the same time, he *must have* realised that the demands were merely a thin end of the wedge and that if the principle that such religious matters were to be discussed and determined by the State were conceded, he *might be* confronted with some more awkward demands. He *must also have* thought of the possible repercussions of the acceptance of demands not only on the Islamic world, but also on the international world. (Emphasis ones).

There does exist such a thing as the art of reading other people's minds. But we believe—rightly or wrongly—that if any attempt is made to make use of this method in judicial proceedings and judgments, the whole theory of evidence will have to undergo a complete change and even the recognised principles of justice will have to be revised and remodelled.

However, employing the same method in reading the mind of Khwaja Nazimuddin, the learned authors

of the Report put forward following arguments against the demands as *his* and *not as their own*:—

1. These demands are definitely based on the assumption that in an Islamic State the rights of the Muslims and the non-Muslims are basically different.

2. This, in its turn, implies that it is one of the duties of such a state to declare who is a Muslim and who is not.

3. Chaudhri Zafrullah Khan is a famous and respected international personality and his removal would have been publicised and commented upon throughout the world, and an explanation which could satisfy the world would have been difficult to find out.

Trying to read Khwaja Nazimuddin's mind at one place in the Report, we come across the following statement:

(Khwaja Nazimuddin) could not have accepted the demands as it would have exposed Pakistan to ridicule and disillusioned the international world of her claims as an advancing, progressive and democratic state.⁴⁶

Moreover, we find the following sentence which appears there as a reflection of Khwaja Sahib's mind:

If the demands had been accepted, Pakistan would have been ostracised from international society.⁴⁷

4. Under the Constitution Act, Chaudhri Zafrullah Khan and other Ahmadis in the Government ser-

46. Report, pp. 264—265.

47. Report, p. 282.

vice cannot be removed from their posts for the sole reason that they believe in some particular creed.

5. The Constituent Assembly has passed a preliminary report on the basic rights of the citizens according to which everyone irrespective of his caste, creed, race, sex, family and place of birth is entitled to have a Government job in accordance with his ability. Moreover, freedom of conscience, freedom to profess any religion and to propagate it has been guaranteed to all.

6. Under Article 113 of the Human Rights Charter which has been prepared by a Commission appointed by the General Assembly of the United Nations Organisation, and among the signatories of which Pakistan is one, it is laid down that everyone has freedom of thought, conscience and religion. Under it a man is free to change his religion and creed, and he can express it through his actions, mode of worship and teaching. The acceptance of these demands, therefore, would have greatly perturbed the international world. The attention of all the countries would have been directed to the happenings in Pakistan, because the acceptance of these demands would have indicated that in Pakistan the rights of citizenship are fundamentally different from those of other countries, and that here the doors of Government services are closed on the non-Muslims simply on account of the differences in religious beliefs.

7. India, which loses no opportunity to ridicule and criticise Pakistan, would certainly not have hesi-

tated to make full use of this situation.⁴⁸ Its accusations would have been like this: Pakistan has gone back from the agreement which was signed by the two countries on April 8, 1950, and under which both the countries had guaranteed that the minorities would be given equal opportunities with the majority community for taking part in all the social and political activities of their respective countries and for the purpose of appointment to Government posts, both civil and military. In this pact these rights are agreed upon as the fundamental rights. *Although India has no concern with Ahmadis nor she is interested in the religious controversies from which she has completely freed herself, she would have foreseen the necessary consequences, if these demands were accepted, and would have argued that in a country where Ahmadis could be debarred from Government services, the Hindus, in whom India is naturally interested, could not remain unaffected.*

Concluding these arguments the Report says on page 234:

These implications must obviously have been present in the mind of Khwaja Nazimuddin and he must have felt a troublesome conflict between his own religious convictions and the implications resulting from the acceptance of these demands. (Emphasis ones).

48. If we start thinking in terms of India's reaction, it may also be feared quite reasonably that she would take advantage of this Report itself. Even if she is unaware of the manner in which to take advantage, the Report will show her the way in that respect also. Thus, if India adopts the argument set forth in the Report, it shall have the authority of an important document of our own judiciary to back her.

THE ARGUMENTS CONSIDERED

We may now take these arguments one by one and see what substance they contain:—

Real Background of the Demand

The first argument is presented in a way which divorces the demands from the factual background and pushes them into the field of ideological controversy, and there the Report subjects them to a severe blow which to a "modern" mind appears to be most appropriate. The factual background of the demands is: The Qadianis are immersed deep in sectarian prejudices, and the Muslims have been experiencing for a long time the undue advantages these people draw from their positions in preaching the Qadiani cult and in favouring the Qadianis through every lawful and unlawful means they might be able to employ. This was testified before the Court of Inquiry by Sardar Abdur Rab Nishtar, the ex-Governor of the Punjab. It was openly admitted by Mr. Daultana⁴⁹, the former Chief Minister of the Punjab, while addressing a public meeting. It was clearly stated even in the official Communiqué⁵⁰ of August 4, 1953, of the Central Government. Above all, it has been admitted by the Court of Inquiry itself in its Report.⁵¹ And now, if the Muslims, after all the painful experiences, demand that these people should be removed, not from all Government jobs, but only from certain key-posts which provide them the opportunity to take undue advantage of their authority, naturally their stand cannot be reasonably viewed in isolation from the factual background. But here the demands have been alienated from this background and the Report appears to point out that, instead of being based on

49. Report, pp. 97, 98.

50. Report, pp. 127, 128.

51. Ibid., p. 261.

certain facts, they originated in the theory that the "rights of Muslims are different from the rights of non-Muslims." Naturally, if the demands are judged as based merely upon this ideological basis, they do not seem to be so weighty, convincing, and important as they are,—indeed, they appear to be so flimsy that even a casual reader would reject them.

However, if we give the matter deep consideration—as distinguished from a casual attention—even on this ground, it would appear that in fact the demands are not so baseless. Had they not become the subject-matter of a judicial Report and had someone challenged their wisdom in an open debate, we would have requested him to set aside this empty theorisation and mention even one country where the rights of a ruling nation and the rights of a national—not political, but national—minority are in practice equal. We ask: Is it so in America? Is it so in any European country? Is it so in any Asian country? Is it so in Australia, or Newzealand, or the U.S.S.R.? In fact, can any country of the world be cited as an example? It would be wrong to bring in the written provisions of constitutions. We do not want words, but hard and solid facts. We should have been much obliged if the learned authors of the Report had quoted even one country as an example where the national minorities enjoy equal rights with the national majority *in actual practice*.

Islamic State and the Non-Muslim

The second argument is logically wrong, and it is strange that the contradiction contained in it was overlooked by the learned judges. The contention implied in it is that it should not be the duty of the

state to declare a man to be a Muslim or non-Muslim, and, therefore, the demand to declare the Qadianis as non-Muslims must be rejected. But, let us pause and think. When Muslims argue that the Qadianis are not Muslims and should, therefore, be separated from them and the State rejects that demand, will it not mean that the State has thus declared the Qadianis to be Muslims? Moreover, leaving aside this logical error, we ask: What duty did the un-Islamic and secular British Government perform when, before Partition, it decided that the Sikhs were not Hindus, or, again, when the untouchables were declared a minority separate from the Hindus?

International Implications

While studying the third argument we could not understand which international fraternity is being referred to, that would boycott us the moment the decision to remove Chaudhri Zafrullah became known to it? Is it the same fraternity, one member of which is Britain, in which the King was compelled to abdicate for the sole reason that he wanted to marry a woman from the common run of people; and where it is hotly debated whether Mr. Eden, a divorced husband, could be made the Prime Minister? Another member is the U.S.A., a country where the fate of the Red Indians and the plight of the Negro population is too well known to need any comment. Still another member is South Africa, where the colour problem is present in its ugliest form. And in it is also the U.S.S.R., whose forced labour camps are now no longer a secret. Another member of this very fraternity is Bharat, whose Muslim population is continuously crossing the border into Pakistan by way of Khokhropar. If this is the international fraternity

which is being referred to, what right has it to say anything to us when its own record is what it is?

Demands and the Constitution

In reply to the fourth and the fifth argument we only wish to state that neither in the said Constitution nor in the Report on the Fundamental Rights it is laid down anywhere that a group of people against whom the public has so many grievances and against whose high-handedness the whole country has been protesting, can in no case be removed from Government posts. Indeed, a government which, in reply to the grievances of the people, takes refuge in such flimsy technical excuses, is not a wise government!

Declaration of Fundamental Rights and the Demand

The reply to the sixth argument has been already given to a great extent while discussing the third argument. We know that Pakistan is one of the signatories to such an international agreement, but we are also quite sure that no country of the world is practising its principles, and that they permit its application to their national life only to the extent to which their environment, traditions and exigencies allow them. We also know it very well that there is no country in the world, except Pakistan, where the feelings, the sentiments and the vital problems of the people are ignored in deference to the opinion of the international world,⁵² and where this opinion forms the criterion in all matters of policy and decision. It

52. On page 282 of the Report, the Court itself admits that if the demands had been accepted, the following consequences would have ensued:--

is only we who have reduced ourselves to the level of a characterless street girl in whose eyes the people of her own household matter little while the outside spectators possess all the importance.

As regards the international pigeon-house, its occupants behave in a very peculiar manner. Confronted with some weakling, whose approach betrays fear and hesitation, they flutter to show off bravery. But when Russia or India, or a wild cat of any other country, jumps inside, all the pigeons appear as if they have been stung to death.

Much Ado about Bharat

About the last argument we would merely say: It would have been much better if the pacts with a country like India had not been made the basis of argument and discussion. India's hands are already stained with the blood of agreements and pacts about Kashmir, Junagarh, Canal Waters and many other issues, and its attitude about the agreement referred to in the Report is also well known to all. Perhaps the darkest hour in our history would be that when India would be permitted to influence even the formation and changes in our Cabinet. It is also just possible that this Report may be taken as an authority for that purpose.

(1) There would have been no disturbances; (2) Khwaja Nazimuddin would have become the hero of Pakistan; (3) the small group of the Ahmadis could not have done anything to disturb the peace; (4) the removal of Chaudhri Zafrullah Khan would have created some stir in the international circles, but Pakistan's own people would have welcomed it wholeheartedly. Now the question is: If these would have been the consequences, why were the disturbances invited by rejecting the demands? The only possible answer to which the discussions in the Report lead the reader is: "Pakistan would have been ostracised from international society".

Here again the reader observes traces of the single-track mind which emphasises one aspect of the problem so much that the other aspect recedes totally from view. God alone knows what undesirable repercussions and consequences can accrue from such an unbalanced approach to problems.

2. DISCUSSION ON THE OBJECTIVES RESOLUTION.

The consideration of the rights and wrongs of the demands has culminated in the discussion on the rights and wrongs of the Objectives Resolution. The line of argument which apparently seems to have evolved this idea is: the demands are the cause of the disturbances,⁵³ and the Objectives Resolution is the cause of the demands: hence the root-cause of all evil is the Objectives Resolution; and, therefore, it is imperative to repudiate the idea that it has laid the foundation of an Islamic State. The Court says:

Almost all the *ulama* whom we questioned on the subject have stated that the demands are a corollary from the Objectives Resolution passed by the Constituent Assembly of Pakistan on 12th March, 1949, and from a religio-political system which they call Islam.⁵⁴ It has been most vehemently urged that Pakistan was claimed and was brought into existence so that the future political set-up of the new State may be based on the Qur'an and the *Sunnah* and that the actual realisation of the demand and the express recognition of that ground for the demand by the Objectives Resolution, had created in the mind of the *ulama* and the citizens of Pakistan the belief that

53. & 54. Report, pp. 184, 185.

any demand which could be established on religious grounds would not only be conceded but warmly welcomed by the people at the helm of affairs of the State who had during the last several years been crying themselves hoarse over their intention to establish in Pakistan an Islamic State with a set-up of political, social and ethical institutions of the Islamic pattern.⁵⁵

At this stage, before we attempt to scrutinize the Court's views on the Objectives Resolution, we wish to point out: Firstly, not all the *ulama*, but only a few of them, had regarded these demands as the outcome of the Objectives Resolution—we are sure Master Tajuddin Ansari and Saiyyid Muzaffar Ali Shamsi would never agree to share the responsibilities which pertain to a theologian. Secondly, Khwaja Nazimuddin himself had made it quite clear before the Court of Inquiry that even if the Objectives Resolution had not been passed, these demands could be pressed under a purely secular government. Thirdly—and this fact is more important than the first two,—the assumption that the Objectives Resolution gave birth to these demands is belied by history. Who does not know that the demand to declare the Qadianis a non-Muslim minority was first made during the British regime, long before the partition had taken place, and the late Dr. Sir Muhammad Iqbal had advocated it with great force? Also, who does not know that when Chaudhri Zafrullah Khan was appointed a member of the Viceroy's Executive Council during the British regime, Muslims of India had protested strongly against it and had declared plainly that he could not be considered as their representative. Besides that, we all know that Chaudhri Sahib was often ac-

55. Report, p. 186.

cused of partiality towards the Qadianis during British rule. As regards the demand about key-posts, no doubt this question was not raised at that time. But we ask, if the officials belonging to a particular sect behave in such a manner as the Qadiani officials do, would not the public under a secular form of government put up demands similar to those which now have been made in the case of the Qadianis? We, therefore, cannot make out how these demands could be regarded as the outcome of the Objectives Resolution?

Now let us see what the Court has to say with regard to the Objectives Resolution itself:

.....but it has been freely admitted that this Resolution, though grandiloquent in words, phrases and clauses, is nothing but a hoax and that not only does it not contain even a semblance of the embryo of an Islamic State but its provisions, particularly those relating to fundamental rights, are directly opposed to the principles of an Islamic State.⁵⁶

Three things have been said in this passage and all the three call for a serious scrutiny:

First: that the Objectives Resolution is nothing but a hoax, and that its being a hoax is freely admitted. It is possible that some people might have intended to use it as a hoax but the people accepted it as the echo of their hearts' throbbings. And at the time this Report was compiled the Constituent Assembly had completed the outlines of a Constitution on the basis of this very Objectives Resolution, which hardly leaves room for considering it a hoax.⁵⁷

56. Report, p. 203.

57. Now this Resolution forms the preamble of the Constitution of Pakistan.—Editor.

Second: that the Objectives Resolution does not contain even the semblance of the embryo of an Islamic State. The facts are otherwise. There was not only a "semblance" but the embryo itself existed, and when it was developed and was nearing birth those who regarded it as dangerous could not think of a better course than to kill the mother herself before delivery and thus get rid of it.

Third: that its provisions, particularly those relating to fundamental rights, are directly opposed to the principles of an Islamic State. Even if this contention were true, it would be for the people of Pakistan, and not for any Court, to decide whether all things in this State should conform to the ideal of the Islamic State or this ideal should be sacrificed at the altar of other considerations. If the majority of the people cherish faith in the concept of an Islamic State, the loopholes left in the Constitution shall be set aright through constitutional amendments. Indeed, whatever has been achieved so far is the result of the struggle of the people, and the same factor will decide finally which of the two conflicting attitudes survives. Consequently, the presence of anything contradictory to the principles of the Islamic State in the Objectives Resolution cannot be made the handle for the argument that there exists absolutely no basis here for an Islamic Constitution.

3. DANGERS IN AN ISLAMIC STATE.

The discussion on the Objectives Resolution does not end at merely stating whether it lays the foundation of an Islamic State or not. The Court goes further and the discussion proceeds in two directions: First: What was the basic ideal and objective of Pa-

kistan—whether an Islamic State or a National Democratic Secular State? Second: What is the basic concept of an Islamic State and what are the ideas of the *ulama* about it; and if Pakistan becomes such an State, what will be the consequences?

On page 200 of the Report it is argued that as the demands are based on a concept of the Islamic State which does not allow equal rights to the Muslims and non-Muslims, “we, with the help of Ulama, had to go closely into the question” to find out what in fact an Islamic State is and what its implications are. Then follows, in full 30 pages, a discourse on such topics as: Islam, Islamic State, legislation in the Islamic State, position of non-Muslims in the Islamic State, definition of a Muslim and the differences of the Ulama in that behalf, punishment of apostasy, propagation of other religions, Jihad, Dar-ul-Islam, Dar-ul-Harb, position of Muslims in a non-Muslim State in times of war, position of the prisoners of war, plight of Muslim subjects in non-Muslim countries, clash of the Islamic Law with the International Law, the plight of fine arts⁵⁸ in Dar-ul-Islam—in fact, every such topic a discussion of which could present a loathsome and horrible picture of Pakistan in the event of its becoming an Islamic State. Then on page 231 of the Report we find the following excuse for that discussion:

We have dwelt at some length on the subject of Islamic State not because we intended to write a thesis against or in favour of such State but merely with a view to presenting a clear picture of the numerous possibilities that may in future

58. What reasons can be there, after all, for the “relevancy” of this discussion?

arise⁵⁹ if true cases of the ideological confusion which contributed to the spread and intensity of the disturbances are not precisely located If there is one thing which has been conclusively demonstrated in this inquiry, it is that provided you can persuade the masses to believe that something they are asked to do is religiously right or enjoined by religion, you can set them to any course of action, regardless of all considerations of discipline, loyalty, decency, morality or civic sense.

These passages of the Report leave us wondering where, in this thesis of 30 pages (which crossing the bounds of a mere article has assumed the form of a full-fledged treatise), has the Hon'ble Court pointed out that it is because of such and such things inherent in the very concept of an Islamic State (which the Court chooses to call *ulama's* concept) that the people behave regardless of all consideration of discipline, loyalty, decency, morality, or civic sense.

4. THE FUNDAMENTAL OBJECTIVE OF PAKISTAN

Let us first consider the basic ideology and the fundamental objective of Pakistan. When we go through this part of the Report we come across a very strange thing. On the one hand, a mention has been made at several places of the statements, declarations and promises of those "leaders" who, before the partition of the country as well as after that, had spoken in terms of making Pakistan an Islamic State, but it is strange to find not even a passing reference

59. Was the Court entrusted with the task of taking stock of future possibilities also?

to the fact that among these "leaders" the greatest and the most prominent was the Quaid-e-Azam himself. On the other hand, where the objective of Pakistan has been described as the establishment of a national democratic secular state, the reference to the Quaid-e-Azam—"the founder of Pakistan"—figures most prominently!

Just see. In the following passages where the objective of Pakistan has been described as the establishment of an Islamic State, among the "leaders" who expressed this view-point the Quaid-e-Azam is mentioned not even once.

Some leaders, it is pointed out, had publicly declared that achievement of this objective was their life's mission.⁶⁰

And throughout the inquiry every one has taken it for granted that the demands were the result of the ideology on the strength of which the establishment of an Islamic State in Pakistan was claimed and had been promised from *certain quarters*.⁶¹

Some speeches of important leaders who were striving for Pakistan undoubtedly lend themselves to this construction. *These leaders* while referring to an Islamic or to a State governed by Islamic laws, perhaps had in their minds the complex of a political structure based on or mixed up with Islamic dogma, personal law, ethics and institutions.⁶²

60. Report, p. 186.

61. Ibid., p. 200.

62. Ibid., p. 201.

And in the following passage the Quaid-e-Azam is quoted again and again as it suits the purpose of the Report:

Before the partition, the first public picture of Pakistan that the Quaid-e-Azam gave to the world was in the course of an Interview in New Delhi with Mr. Doon Campbell, Reuter's Correspondent. The Quaid-e-Azam said that the new State would be a modern democratic State, with sovereignty resting in the people and the members of the new nation having equal rights of citizenship regardless of their religion, caste or creed. When Pakistan formally appeared on the map, the Quaid-e-Azam in his memorable speech of 11th August 1947 to the Constituent Assembly of Pakistan, while stating the principle on which the new State was to be founded, said. . . .⁶³

After it the relevant portions of the speech are quoted verbatim and then the following comments occur:

Quaid-e-Azam was the founder of Pakistan and the occasion on which he thus spoke was the first landmark in the history of Pakistan. The speech was intended both for his own people including non-Muslims, and the world, and its object was to define as clearly as possible the ideal to the attainment of which the new State was to devote all its energies. There are repeated references in this speech to the bitterness of the past and an appeal to forget and change the past and to bury the hatchet. The future subject of the State is to be a citizen with equal rights, privi-

63. Report, p. 201.

leges and obligations, irrespective of colour, caste, creed or community, the word "nation" is used more than once and religion is stated to have nothing to do with the business of the State and to be merely a matter of personal faith for the individual.⁶⁴

While writing this analysis of the Report we did not find any portion more difficult than this one. It is really very difficult for us to assume that the Court was unaware of those speeches of the Quaid-e-Azam which he had delivered both before and after the partition,—till one month before August 11, and then a few months after that also—in connection with the establishment of an Islamic State in Pakistan, basing it on Islamic Shariah (not merely on dogmas, personal law and moral code alone, but on Islamic law). Those speeches were mentioned by Khwaja Nazimuddin and Sardar Abdur Rab Nishtar when they appeared before the Court as witnesses. Relevant portions of those speeches were quoted verbatim by Maulana Abul Ala Maudoodi in his Second Statement which was duly submitted to the Court of Inquiry. In one of them the Quaid-e-Azam says:

The Muslims demand Pakistan, where they could rule according to their own code of life and according to their own cultural growth, traditions and Islamic laws.⁶⁵

In his second speech the Quaid-e-Azam emphasises:

64. *Ibid.*, p. 203.

65. Speech delivered at the Frontier Muslim League Conference, Peshawar, on 21st November, 1945.

Our religion, our culture and our Islamic ideals are our driving force to achieve independence.⁶⁶

Following is the extract from another speech of the Quaid-e-Azam:

The League stood for carving out states in India where Muslims were in numerical majority to rule there under Islamic Law.⁶⁷

Again, exactly one month and 12 days before the speech of August 11, i.e., on June 29, 1947, the Quaid-e-Azam issued a statement contradicting the allegation of Khan Abdul Ghaffar Khan and Dr. Khan Sahib in which they had said that the Pakistan Constituent Assembly will ignore the basic principles of Islamic Shariah. And still again, on January 25, 1948, four and a half months after his speech of August 11, while addressing a meeting of the Karachi Bar Association, he refuted with full force the ideas of those who thought that Pakistan's Constitution was not to be based on the Shariah.

It is indeed beyond our comprehension why the Report, while referring to the Quaid-i-Azam's speech of August 11 and drawing inferences from it, has ignored the clear-cut and unambiguous speeches made so repeatedly by him, and why the name of the Quaid-i-Azam has not been mentioned as one of those "leaders" who had declared that Pakistan would be "based on Islamic Shariah" and its Government would be run according to "Islamic Law".

66. Speech delivered at the Session of the Frontier Muslim League Conference, Peshawar, on November 24, 1945.

67. Address to the Students of Islamia College, Peshawar in November, 1945.

Maybe, in the eyes of the Court, the Quaid-i-Azam's interview with Doon Campbell and his speech in the Constituent Assembly were the final words and deserved greater importance than the numerous speeches and statements which he made before huge gatherings of Muslims throughout the long period of the struggle for Pakistan. If this is really so, we will have to consider whether it is a just evaluation of facts. The speeches—in which people reposed faith, which urged one hundred million Muslims to stake their lives and property and led hundreds of thousands of them to sacrifice not only their lives and property, but even their honour and dignity—every word of these speeches was, in fact, a sacred pact between the Quaid-i-Azam and the Muslims, whose value is infinitely more than the interview with any Doon Campbell or some speech in the Constituent Assembly. If the Muslims had not believed in those promises and had not sacrificed their all, no Doon Campbell would have gone to the Quaid-e-Azam to ask the meaning of Pakistan, nor would any Constituent Assembly have come into existence for the speech of August 11. It is the ideal which brought Pakistan into being that should form the basic ideology and the objective of this State, and not something which never formed part of the pledge and the contract between the Muslims and the Quaid-i-Azam and on account of which not a single Muslim would have given the least sacrifice for the establishment of Pakistan.

In case the Court adopted this method on account of the fear that if both kinds of speeches of the Quaid-i-Azam were quoted, it would become incumbent either to accuse the Quaid-i-Azam of giving contradictory statements or to try to affect a concordance between the two views, and the Court did not like to

pursue either of the courses, we would like to point out that to leave out one kind of speeches and to present those of the other kind in a way as if they reflected the most authentic and the most correct version of the mind of the Quaid-i-Azam about the basic ideology of the country in his capacity as "the founder of Pakistan" may greatly mislead the people about his personality and the Court's notions. Whether or not the Quaid-i-Azam himself held these views, it becomes quite clear that the Court seems to believe that religion has nothing to do with politics,⁶⁸ that it is a private affair of the individual and that all the inhabitants of this country should become a "Pakistani nation."⁶⁹

68. Proceeding further one finds that, according to the exposition of Islam which the Court itself has given, it is the necessary demand of Islam that religion should have a bearing on the state, or rather, the state should be based on religion. This leads to the curious conclusion that, in the eyes of the Court, although such is the demand of that version of Islam which it accepts, it is a demand which should not be fulfilled!

69. The manner in which the Report presents the conception of this "Pakistani nation" is bewildering for us. How, at all, can it be possible for a person of average intelligence to believe that those two groups who formed two nations before partition, i.e., until the midnight of August 14, 1947, and were arrayed in fight against each other for and against the establishment of Pakistan, could become one nation as soon as the clock struck the first minute of August 15? Would anyone tell us that if Pakistan was not established as a separate state on grounds of religious nationality, what sound reason was there, or can exist today, that the people of East Bengal should sever connections with those of West Bengal for cementing the bonds of nationality with the people of West Punjab, Sind and Frontier, or that the inhabitants of West Punjab should look to the inhabitants of East Bengal, instead of those of East Punjab, for building up their national fraternity?

The conception of "Pakistani nation" under reference is actually an irrational and unnatural conception, which if anyone so desires, he may assume as valid for the sake of satisfying his own prejudices and without regard for hard facts. But how can it be expected that others also will condescend to believe in such things!

This part of the Report seems to suggest as if even the question of the basic ideology and objective of Pakistan depended upon the verdict of a Court of Inquiry, and now the Court has given decision accepting one view and rejecting the other. As the discourse enters here again into the domain of ideological discussion, there remains no line of demarcation between the personal opinion of the judges and the judicial verdict of the Court. The discussion proceeds in a manner that presents all those holding a different viewpoint about the ideology of Pakistan in a very ugly light and makes them the targets of contempt and ridicule. And the tragedy is that there is no remedy for it now. In fact, if the discussion on the ideological basis of Pakistan had taken place outside a law-court, the people would have smashed the arguments of the opponents of Islamic ideology to pieces, and truly speaking many ministers, officials and writers of this country have already gone through an experience of this sort. However, from the practical point of view, it is even now the people of Pakistan who must decide whether the basic ideology and the objective of the State of Pakistan is that presented by the Court of Inquiry of the Punjab Disturbances, or that which formed the rallying point for the Pakistan movement and which materialised itself in the form of the Objectives Resolution and the constitutional lay-out. The aims, ideals and aspirations of a people and the objectives of a state cannot be decided by such Reports. It is the collective mind of a nation which has the final say.⁷⁰

70. It is most fortunate that Quaid-i-Azam's speech of 11th August, 1947 has been torn from the context of his thought and teachings and has been exploited by the vested interests in most ignoble, dishonest and unscrupulous a manner. It must be regretted that their mischievous propaganda has even influenced the views of the learned authors of this Report. The interpretation which has been given to those words of the Quaid by the secularists of our country is most regrettable. For these people, who are always ahead of others in paying

5. ISLAM AND THE ISLAMIC STATE

We now turn to that part of the Report in which the Court, after explaining its own concept of Islam (which it call true Islam), defines the conception of Islam as upheld by the **ulama** and points out its drawbacks, its difficulties and the consequences of its acceptance. Leaving aside the question whether this discussion is relevant to the inquiry or not, we consi-

lip-tributes to the sacred memory of the Quaid, have tarred his face black, painted him as a hypocrite, a cheap opportunist and a Machiavellian politician—something which even his greatest critics could never say about him.

His speeches, some of which have been quoted in this ANALYSIS clearly show his promise to the people that Pakistan would be an Islamic State. This he said before partition and said it time and again. Again after partition he reiterated the same with invigoriated zeal and emphasis. Before partition he said:

"Pakistan not only means freedom and independence but the MUSLIM IDEOLOGY our bedrock and sheet-anchor is Islam. We are one and we move as ONE NATION and then alone shall we be able TO RETAIN PAKISTAN" (March, 1944). "We (the Hindus and the Muslims) have differences in everything. We differ in our religion, our civilization and culture, our history, our language, our architecture, music, jurisprudence and laws, our food and our society, our dress—in everything we are different. WE CANNOT GET TOGETHER ONLY IN THE BALLOT BOX." (November 1945).

And more explicitly:

"It is extremely difficult to appreciate why our Hindu friends fail to understand the real nature of Islam and Hinduism. They are not religions in the strict sense of the word, but are in fact, a different and distinct social orders and it is a dream that the Hindus and Muslims can EVER EVOLVE A COMMON NATIONALITY".

Quaid-i-Azam spoke in the same veins and ventilated the same views even after the partition. He declared:

"Pakistan is the embodiment of the unity of the Muslim Nation and so it must remain. The unity we, as true Muslims, must jealously guard and preserve." (March, 1948).

"The establishment of Pakistan for which we have been striving for the last ten years is by the grace of God

der it to be the most important part of the Report. Fortunately, for the first time, the case of those who are opposed to making Pakistan an Islamic State has been presented here in great detail and with forceful arguments. Prior to this, no one had dared to express these ideas with such zeal and fervour.

and established fact today, but creation of a state of our own was means to and not the end in itself. The idea was that we should have a state in which we could breathe as free men and which could develop according to our own light and culture and where principles of Islamic social justice would find free play". (October, 1947).

"I am sure that it (the constitution of Pakistan) will be a democratic type, embodying the essentials of Islam. Today they are as applicable in actual life as they were 1300 years ago." (Feb., 1948).

And six months before his sad demise he warned that:

"Now you have to STAND GUARD over the development and maintenance of ISLAMIC DEMOCRACY, ISLAMIC SOCIAL JUSTICE and the equality of manhood in your own native soil," (Feb., 1948).

These extracts clearly present the viewpoint of Quaid-i-Azam and give a glimpse of Pakistan of his vision. It is a consistent stand and speaks of his steadfastness, moral integrity and devotion to higher principles. But if the word of these secularists is given currency what would be the picture of the Quaid-i-Azam? In fact, they are responsible for the greatest insult to the memory of the Quaid. Do they think that Quaid-i-Azam abandoned the Two-Nation Theory as soon as he achieved power? That he used this theory as a device and an instrument to grab power? That he talked of Islam merely for public consumption? That he did not mean what he said and although he talked about Pakistan in terms of Islam, but in the heart of his hearts he wanted to see it grow into a secular state. What does all this indicate? That he was not a man of principles; he was not a straightforward idealist, but simply a political opportunist, a believer in Machiavellian hypocrisy. Now, the fact is that never during his 74 years of life, have even his worst enemies been able to hurl this abuse upon Quaid-i-Azam. Whatever differences people might have entertained in regard to his viewpoint, none had the cheek to pour out this venom against Mr. Jinnah-- that his tongue was at variance with his heart! that he was not sincere to the ideology he advocated; that he indulged in 'double talk'!

Now the question arises: what is the real meaning of his speech of 11th August? This much is clear that it cannot be said to mean that what the secularists allege. We feel that the said speech can be understood only in the historical

(i) THE COURT'S OWN CONCEPT OF ISLAM

The sequence of discussion demands that we should know first of all the Court's own concept of Islam. This concept, and the type of state which this concept envisages, has been given with great detail in the Report from page 205 to page 210. We are quoting below some of the relevant passages:—

context in which it was delivered. Hindu-Muslim riots had set the entire sub-continent to flames. Bitter antagonism held the sway. Hindu-Muslim distrust was at its highest pitch. It was in this context that he appealed the Hindus and other minorities to co-operate with the nascent state and assured them of full protection and liberty. It was not a constitutional document but a gentleman's advice to the minorities. In that state of emotional animosity and communal disturbances he went even more than half way to welcome the minorities and to assure them of their legitimate rights. But how his words were welcomed; listen it from his own mouth.

"Before we could assume the reins of office, non-Muslims started pulling out of Pakistan which subsequent events have proved, was part of well-organised plan to cripple Pakistan. But for a few sporadic incidents here and there, nothing has happened to mar the peace of Sind, but despite the prevalence of peaceful conditions here the exodus of Hindus continues. Some have given way to passive and others have been leaving Pakistan in the hope that it will be paralysed economically and socially." (Oct., 1947).

Despite that he said:

"The Minorities had nothing to fear so long as they remained loyal to the State." (Oct., 1947).

And in June, 1948 he declared:

"Minority communities must not by mere words, but by actions show this that they are truly loyal and they must make majority community feel that they are true citizens of Pakistan. It is now upon minorities to show BY ACTIONS AND DEEDS that they are true to Pakistan and dispel suspicion and distrust that has been created by deplorable and disgraceful events that have taken place."

This is the proper context. Now every reader can very easily understand what the Quaid really meant, and what twists and turns are given to his words by the vested interests—
—EDITOR.

Islam emphasises the doctrine that life in this world is not the only life given to man but that eternal life begins after the present existence comes to an end, and that the status of a human being in the next world will depend upon his beliefs and actions in this world. As the present life is not an end in itself but merely a means to an end, not only the individual but also the State, as opposed to the secular theory which bases all political and economic institutions on a disregard of their consequences on the next life, should strive for human conduct which ensures for a person better status in the next world.⁷¹

..... Apart from how these learned divines have expressed themselves, we conceive of Islam as a system that covers, as every systematic religion must, the following five topics:—

- (1) the dogma, namely, the essentials of belief;
- (2) the cult, namely, religious rites and observances which a person must perform;
- (3) ethics, i.e., rules of moral conduct;
- (4) institutions, social, economic and political; and
- (5) law.

The essential basis of the rules on all these subjects is revelation and not reason, though both may coincide. This coincidence, however, is accidental because human reasoning may be faulty and ultimate reason is known only to God, Who sends His message to humanity through His chosen messengers for the direction and guidance

71. Report. p. 205.

of the people. One must, therefore, accept the dogma, observe the cult, follow the ethics, obey the law and establish institutions which God has revealed, though their reason may not be apparent—nay even if they be opposed to human reason.⁷² Since an error by God is an impossibility, anything that God has revealed, whether its subject be something occult or preternatural, history, finance, law, worship or something which according to human thought admits of scientific treatment as, for instance, birth of man, evolution, cosmology, or astronomy, has got to be accepted as absolute truth. The test of reason is not the acid test and a denial of this amounts to a denial of the supreme wisdom and design of Allah—it is *kufr*.⁷³

After this the Court says that the last Prophet who was endowed, through revelation from God, with the knowledge about these five things was Muhammad (Peace be on him).

Having determined the position of the Qur'an thus, the Court discusses the Sunnah:

Since every action or saying of a prophet is, in the case of our own Holy Prophet it certainly was, prompted by Allah, it has the same degree of inerrancy as the formal revelation itself, because

72. Not opposed to "human reason" as such but only to the intellectual approach of certain individuals! Without doubt there can be persons to whom the Divine Commands appear opposed to **their** reason, but it is impossible for any Divine Command to conflict with human reason as such. The present error has possibly crept into the statement of the learned judges through a slip of the pen. Otherwise, the matter is obvious enough.

73. Report. pp. 205—206.

prophets are *ma'sum*, incapable of doing or saying something which is opposed to Divine wishes. These sayings and actions are *Sunnah*, having the same infallibility as the Qur'an. The record of this *Sunnah* is *Hadith* which is to be found in several books which were compiled by Muslim scholars after long, laborious and careful research extending over several generations.⁷⁴

To show how far this record suffices to declare whether a thing is in accordance with the *Sunnah*, the Court says:—

According to modern laws of evidence, including our own, the *Ahadith* are inadmissible evidence of *Sunnah* because each of them contains several links of hearsay, but as authority on law they are admissible *pro prio vigore*. The merit of these collections lies not so much in the fact that (as is often wrongly stated) their authors decided for the first time which of the numerous traditions in circulation were genuine and which false but rather in the fact that they brought together everything that was recognised as genuine in orthodox circles in those days.⁷⁵

Since the basis of Islamic law is the principle of inerrancy of revelation and of the Holy Prophet, the law to be found in the Qur'an and the *Sunnah* is above all man-made laws, and in case of conflict between the two, the latter, irrespective of its nature, must yield to the former. Thus, provided there be a rule in the Qur'an or the *Sunnah* on a matter which according to our conceptions falls within the region of Constitutional Law or Inter-

74. Report, p. 206.

74. Reuort, p. 206.

national Law, the rule must be given effect to unless that rule itself permits a departure from it.⁷⁶

This long discussion proves conclusively the following things:—

Firstly, the Court itself holds the view that Islam is a religio-political system and not merely a religious system. It, therefore, follows that the Court and the **ulama** do not differ on the point whether or not Islam is a religio-political system. The point of difference is that the Court regards a particular religio-political system as Islam while the **ulama** believe in a different one. As regards their respective claims to genuineness and validity, the final verdict rests with the people and not with the law-courts. The utmost that the law-courts can do is to give verdicts by employing their powers of interpreting the Constitution. But if the people amend the Constitution itself, the judges will either have to submit to their will or to give up their posts.

Secondly, even according to the Court's own version of Islam it is incumbent upon a Muslim that he should not only follow the injunctions of God in matters of belief, worship and morals, but should also endeavour to establish all those cultural, economic and political institutions which have been ordained by the Creator. Indeed, he should make the Divine Law his guide in all walks of life. This clearly shows that Islam is after all not a private affair of the individual. Rather, it demands that if a people profess this religion, they should also base their state on the law given by God and reject man-made laws. It means that if, in a country where the votes of the people, can decide the form and structure of the government and its laws,

76 Ibid., p. 209.

the Muslims are asked to reject the theory of the unity of religion and politics and limit the religion to such things as individual beliefs and modes of worship and base the foundation of their state on something else than their religion, it is tantamount to saying that they should give up Islam and adopt *kufir*. Even if such a thing had been said by the Quaid-i-Azam himself, it could never have been acceptable to a Muslim, because in his eyes, however high placed the Quaid-i-Azam might have been, God and His Apostle are higher than everyone else.

Thirdly, the Court itself has declared in unambiguous words that the Islamic theory and the Secular theory are incompatible with each other. It admits that in their principles as well as in their objectives the two are diametrically opposed to each other. One regards life hereafter as the ultimate objective and on this concept bases not only the life of the individual but also the structure of the State. The other attaches no importance to life hereafter and builds on this negation the foundations of all its political and economic institutions.

It follows automatically that the Islamic way of life and the Secular concept of life cannot be bundled together. The adoption of the one means the rejection of the other. To profess Islam in one's individual existence and to adopt the Secular theory in the collective sphere is an enigma which confronts every reader of the Report and is beyond comprehension.

Fourthly, the Court itself is of the view that the real and original sources of Law in Islam are the Book of God and the *Sunnah* of His Apostle, and their injunctions must remain above all man-made laws. The

Court has also admitted that the record of the *Sunnah* is contained in the *Ahadith*, and one will have to turn to them in order to know what is *Sunnah* and what is not. The **ulama** also demand nothing more than that, the Qur'an and the *Sunnah* be accepted as the basic and original source of law, and that the *Sunnah* be ascertained through *Ahadith*. As regards the teachings of the Qur'an and the *Sunnah*, the differences of interpretation can be settled only through research and academic discussion, and the decision will rest on the force of the arguments offered and not on mere claims of certain individuals or groups. Indeed, without the backing of sound reasoning neither the **ulama** nor any judge or minister or governor can lay any claim to acceptance.

(ii) COURT'S CRITICISM OF ULAMA'S VIEW OF ISLAM

This was the discussion of the Court's concept of Islam. We may now see what, in the opinion of Court, is the **ulama's** concept of Islam and what are its implications.

Method of Inquiry: In this connection the first question is: From what source did the Court find out as to what is "Ulama's Islam"? When we try to discover the reply to this question and probe deep for that purpose into the Report and the record of the evidences that was published in the newspapers, we come to the conclusion that two methods have been employed to find out "Ulama's Islam":—

Firstly, the Court has supposed that all such persons were **ulama** who had some connection with any party working for the establishment of the Islamic

order and who appeared before the Court as witnesses. Consequently, while Mufti Muhammad Shafi, Maulana Muhammad Idrees and Maulana Abul Hasanat are **ulama**, persons like Master Tajuddin Ansari, Ghazi Sirajuddin Munir and Mian Tufail Muhammad are also **ulama**, and whatever is said by them is authentic.

Secondly, in order to know their views, the method of judicial cross-examination is adopted in which the questioner is the Court itself, has the full liberty to ask whatever it likes and in whatever manner it deems best; while the witness, on the other hand, is debarred from explaining in the manner he likes or considers necessary for the elucidation of the question put to him.

The question arises: *Can this method of inquiry, which may be quite proper for the investigation of certain facts and events, be in any way regarded as suitable and sufficient for the research of academic and ideological problems and issues?* If it is considered suitable and sufficient, can any expert of law or philosophy or economics be able to express his ideas and thoughts fully and correctly when he is made to stand in the witness-box and the "research-scholars" are seated in the judicial chairs,—specially when the answers have to be furnished under the limitations prescribed by the questioners?

Let us, for the sake of argument, assume for a moment that the present order has changed. The **ulama** have occupied judicial chairs and certain persons are made to stand before them in the witness-box to answer questions in support of Secularism, Democracy, Communism, or any other such 'ism' or ideology. Will the picture thus prepared out of their answers be really a true and correct representation of

their mind and views? This is precisely the method which has been employed to find out what is the **ulama's** concept of the religio-political system of Islam, and what, in their opinion, is the nature of the State which they call the Islamic State.

We will discuss in the following pages all such problems and issues as have been discussed in this connection in the same sequence in which they have been dealt with by the Court.

(iii) LEGISLATURE AND LAW-MAKING

The first question that has been raised in this context is whether Islam permits law-making and the existence of legislature.⁷⁷ The Court's own view in this respect is that the idea of legislature of the modern type is foreign to Islam. It argues that the moment an Islamic State is established, someone would challenge in the Supreme Court any legislation passed by the Parliament on the ground that because Islam does not permit legislation, the very existence of the Parliament is *ultra vires*. Although the arguments which the Court has given in support of this opinion are its own, it has sought support from the contention of Maulana Abul Hasanat that the legislature is not an integral part of the Islamic State. It has further relied on some speech of "Amir-e-Shariat Saiyyid Atallah Shah Bukhari"⁷⁸ which was published in the "Azad" of April 22, 1947. Undoubtedly, Shah Sahib occupies a prominent place as an orator and public speaker. But it does not necessarily follow that he also

77 Report, pp. 211, 212.

78. It is worthy of note that the title of "Amir-e-Shariat" has been specially added here to Shah Saheb's name. Is it meant to present him as an eminent authority on the constitutional problems of Islam?

claims the position of an expert in all the branches of knowledge and that his opinion should be regarded as authoritative even on the constitutional problems of Islam. As for Maulana Abul Hasanat, he is certainly one of the *ulama*. But, in the first instance, his individual opinion does not imply that it is held by all the *ulama*. Secondly, had he been further cross-examined in respect of this opinion, it could have been very easily ascertained that he was not against that sort of legislation which had been recognised and approved by all Islamic jurists (with the exception of only one group, namely, the *Zahiriyyah*). What is denied by the Maulana is that in Islam we do not have such *absolute legislative powers* as are enjoyed in the modern times by the legislative assemblies of the secular states. And here he is perfectly right, because the possession of such legislative powers would mean that we ourselves have become Law-Givers instead of God and His Apostle; and this view is not tenable in Islam.

The legislative activity which is permissible in Islam, which, indeed, becomes imperative in certain circumstances, and which has continued from the days of the Right-Guided Caliphs till the present times, is of three kinds:—

1. Out of the various interpretations of *Nass*, to give to one particular interpretation the status of a law on the basis of either a unanimous decision or a majority vote.⁷⁹

79 In the absence of a unanimous or a majority decision, every theologian shall have the right to issue *fatwa* (verdict) according to his interpretation and every judge shall be free to give decision in accordance with his interpretation. But once there is consensus of opinion on some particular interpretation, it would be accepted as law by the theologians and judges of Islam.

2. To deduce an order through *Qiyas* or *Ijtihad*, or to give the status of law to some previously deduced order. If this *Qiyas* or *Ijtihad* is exercised by one or more **ulama**, it will be regarded only as *Qiyas* or *Ijtihad*. But if some authorised body does the same thing by itself or accepts the *Qiyas* or *Ijtihad* of others, it becomes law.

3. To make rules and formulate injunctions in order to meet our necessities and requirements about matters which have been left to our discretion by the Shariah. Here also, if only some individual does it, it shall be a mere suggestion, but if it is decided upon by an authorised assembly, it will have the force of law.

Can any one with even the least knowledge of Islamic jurisprudence deny the permission of such legislative powers in Islam? During the days of the Right-Guided Caliphs, the members of the *Shura* called *Ahl-hall-wal-Aqd*, acted in all these three ways and their decisions were enacted as laws. The compendium of the Qur'an which we have today is the result of a similar decision arrived at in the days of Caliph Usman whereby the recitational variations were rejected and a standard compendium was adopted. The punishment of 80 stripes for using liquor was prescribed by acting upon this principle of legislation in the time of Hazrat Usman, and similar is the case of the law of *tadmin-i-*

even without its ratification by an authorised legislative body. In case there is a "**Majlis-e-Shura**", like the one which existed during the days of the Right-Guided Caliphs, even its majority decision will have the status of law, and no theologian or judge shall any more have the right to issue verdict or to decide in contravention of it.

*sani*⁸⁰ which was formulated during the period of the Right-Guided Caliphs. The law to give non-*Ahl-e-Kitab* the status of *Zimis*, the law of preserving the *status quo* of the owners of land in the conquered territories and numerous other laws were made by Caliph-in-Council in those days. And this sort of legislation was regarded as quite different from the orders and decisions of any Right-Guided Caliph which he gave in the capacity of a judge. No such judgment of any of the four Right-Guided Caliphs was ever given, in its own right, the status of law. Indeed, many such judgments were rejected by later Caliphs, judges and legal experts of Islam. On the contrary, any legal decision which was once taken in the *Shura* of the *Khilafat-e-Rashida* is regarded as law even today.⁸¹

If these matters are discussed in detail with Maulana Abul Hasanat or any other *alim*, it is not possible to get the reply that legislation at all levels is prohibited by Islam. But, unfortunately, the method adopted by the Court has submerged even such a clear and vital problem of Islamic polity in the quagmire of confusion. And side by side with it a most curious picture of the *ulama*'s mental attitude and their intellectual calibre has also been depicted.

Is there any remedy possible now if this Report creates misunderstandings about the *ulama* and even about Islam itself, and prejudices the minds of our own intelligentsia as well as the intellectuals of other coun-

80. It means: holding an artisan responsible for the loss of, or damage to, a thing entrusted to him for repairing or making. Thus, for instance, the washer-man is responsible for the clothes given to him for washing.

81. The inquisitive reader is suggested to read Maulana Maudoodi's important book: "Islam Law and Constitution" so that he may be able to understand the Islamic viewpoint in all its details—Editor.

tries, whose view of Islam is already prejudiced? As matters stand, anyone who reads the Report will think that there is no place at all for legislature in the *ulama's* view of the Islamic state. And this is absolutely contrary to the fact.

(iv) POSITION OF NON-MUSLIMS

Another problem, which has been discussed not once but at several places in the Report and on which such emphasis has been laid, relates to the position of non-Muslims in the Islamic state. According to the evidence furnished by the Report, the demand to remove Sir Zafrullah Khan and other Qadianis from the key-posts is closely related to it, and, therefore, it is imperative to cut at its root in order to demolish the foundation of this demand. The Court does not make a secret of this objective and has expressed it more than once.

With this clear-cut objective in mind the judges ask the *ulama*. What is the status of non-Muslim subjects in an Islamic State? Can they be given government posts? Can the Head of the State entrust to them any part of his own powers?⁸² and when the reply is given in the negative, the judges, at another place in the Report, present the dangerous consequence that in such circumstances the non-Muslims too would establish a theocratic order and, after reducing their Muslim subjects to the same status, would deprive them of all the rights of participation in the governance of their countries.⁸³ They have further stated that in India the Muslims will be relegated to the status of Sudras and Malichs and the 30 crores of Muslims

82 Report, pp. 212—214.

83. Ibid., p. 227.

in other parts of the world would become "hewers of wood and drawers of water".⁸⁴ Finally, they have ended their scholarly discourse with the following allegation against the **ulama**:

The **ulama** have frankly told us, without the blinking of an eye—to say nothing of tears—that they do not care what happens to Muslims in other countries, so long as their own particular brand of Islam gains currency here. To quote a single instance, the Amir-i-Shari'at said that the remaining 64 crores—the figure is his own—"should think out their own destiny."⁸⁵

But the interesting thing to be noted is that the Court's brand of Islam is just the same as the **ulama**'s "own particular brand of Islam". The Court itself has maintained that, during the *Khilafat-e-Rashida*, no non-Muslim could be admitted in the *Majlis-e-Shura*; the Khalifa could not delegate any of his powers to the *Kuffar*; no non-Muslim could be appointed to important posts; it was legally not possible for a non-Muslim to have any say either in the law-making activities or in the interpretation or administration of it; and the reason of it all is "too obvious and need not be stated."⁸⁶

Evidently, what the Court has complained about is not particularly the **ulama**'s "brand of Islam" — its own view of Islam is not a jot different!

The Report appears to convey the impression that the position of the Muslims in various countries of the world is based on the principle of reciprocity, namely,

84. Ibid., p. 228.

85. Report, p. 299.

86. Ibid., p. 214.

the treatment meted out to the Muslims in non-Muslim States will be the same as the non-Muslims will receive in a Muslim State. In truth, the social and collective life happens to be such that to think in these terms would be quite wrong and contrary to all experience. In every country the position of a particular group of people is determined by its own historic context and social circumstances. If the Muslims of a country are historically a non-entity and culturally backward, they will remain "hewers of wood and drawers of water", no matter what respect and dignity we might bestow on the non-Muslims in our own State. On the other hand, if the Muslims of a country are powerful as a group and command respect, their position shall not be altered by what a Muslim State might choose to do to her non-Muslim subjects. In Turkey, under the Ottoman rule, the non-Muslims enjoyed great privileges for a very long time, but the enslaved Muslim subjects under the Western powers could get nothing "in exchange" for it. And even today, for the peace and tranquillity enjoyed by the Hindus in East Bengal, the Muslims of Bharat get nothing "in exchange". What is actually happening is that they are forced to leave their hearths and homes and to flee across Khokrapar into Pakistan. The idea of "exchange", therefore, is a mere supposition and exists only in the fanciful realm of imagination.

We fear our learned judges regard religion as a commodity of exchange. They seem to believe that the moment we decide to practice our religion, others, too will declare that they want to practise theirs. Hence if it is desired that others should give up their peculiar religious behaviour, let us enter into an agreement with them to renounce our respective religions. The fact is that if others are relinquishing their reli-

gion and divorcing it from their practical life, they are doing it not because of any understanding or agreement with us or as a gesture of good-will towards us but solely because their religion does not satisfy their national needs, or rather, it is harmful for them. They are not going to simply copy what we may or may not do. We, too, should evaluate our religion not on the exchange value which it will fetch but on its own merits and advantages. If our religion is supposed to have drawbacks and is considered harmful for us, it must be proved and shown explicitly. In that case it will be driven out not only from politics but also from our homes and mosques and even from our hearts. But if the people have firm faith in the truth and the blessings of Islam, no amount of coercion and distortion of facts will be able to alter their opinion.

Besides that what has been discussed above, the learned authors of the Report perhaps also think that the real value of the Islamic State depends entirely on whether or not the non-Muslims of the State enjoy those few specific civic rights which pertain to the running of the administration. This is not the proper approach to the problem. It cannot even help in comprehending the real position of the non-Muslims themselves, what to say of the light it can throw on the real worth of an ideological state? It must not be forgotten that a correct idea about the true value and worth of an ideological state can be formed only in the light of the results it bequeaths in the collective life of the community. Only a comprehensive picture of the situation can unveil the reality.

The Islamic State confers basic human rights upon the non-Muslims. It provides for the development of their proper genius and gives them ample

opportunities for economic, social, religious and cultural growth. Their rights and duties have been adumbrated in detail and are sheet-anchor of Muslim society. They are not mere words or professions—the Islamic State is bound to implement them. The Islamic State disapproves of the sham practices of hypocrisy, as are the order of the day in our times. If, along with the conferment of some lofty constitutional rights, a community leads that life which the Muslims of India, the Negroes of America, the natives of Africa, and the non-Communists of the Soviet Union lead today, it would be far better for that community not to have that theoretical eye-wash but to have, instead, its life, honour, property and freedom of action secured in practice. These theoretical rights are like 'a tale told by an idiot, full of sound and fury, signifying nothing.' What is essential is the guarantee of life, property and freedom, equal position in the sight of law, proper opportunities for social and economic development and protection against injustice, irrational discrimination and contemptuous treatment either in society or in the behaviour of the Government. If these things are respected in practice, minorities can have no cause to complain and we are sure that in the Islamic State they will be among the most contented people.

If, having an eye on all these aspects of the problem, someone says that we intend to do in our country which is best according to our belief and we are not going to consult others what is advisable for us and what is not, this Report adopts a satirical tone for such an attitude and remarks that, after enforcing Islam of your choice, you want to destroy the Muslims of the whole world!

But, let us pause here. Hasn't the discussion strayed too far from the original question? The very

first thing on that has got to be considered is: why, on the mere demand for the removal of Sir Zafrullah Khan and other Qadiani officials from the *key-posts*, did the discussion proceed to the big issue concerning the position of non-Muslims in the Islamic State, with all its probable as well as imaginary implications? Who demanded that these people should be removed merely because they were non-Muslims and as such had no right to occupy these posts in the Islamic State? When was the question raised to remove other non-Muslims from their posts? A non-Muslim has served as a Central Minister in the Pakistan Government: was his removal ever demanded? Even now there are Hindu Ministers on the Central and Provincial Ministries,—has anybody stressed for their purge? Then, there are non-Muslim members in our Provincial and Central Legislatures,—who at all raised any voice against them? Similarly, in the forthcoming Constitution of Pakistan, the non-Muslims are being given all the rights that are regarded as the basic rights of citizenship,—can anyone say that any agitation was started against it or even a voice of protest was ever raised? The *ulama* themselves are aware that the peculiar conditions obtaining in our country and certain historical factors existing here demand that we should be liberal in this respect. Indeed, a liberal view about it under such circumstances is permissible in Islam and the participation of non-Muslims in the governance of the country has not been prohibited by Islam *in toto*. Therefore, neither the *ulama* nor the Muslims in general ever raised this question. In spite of that, however, the Court of Inquiry has dealt with it again and again in such an exhaustive detail on and such masterly a way!

As regards the demand about the Qadianis, it was repeatedly stressed that their conduct during the past

so many years had provided abundant cause for the complaint and that their removal was the only solution of the problem. But it is extremely surprising and painful that the Report has dealt with it in such a manner that the Hindus, the Christians and the Schedule Castes may all feel deeply perturbed about their probable fate in Pakistan. India will think that such will be the treatment meted out to Pakistani Hindus. Other countries of the world will be embarrassed to learn that, after getting power, Muslims are thinking in these terms about the non-Muslims! And the inevitable result of these impressions would be that not only the **ulama** (who are a convenient target for all sorts of attacks upon their honour and reputation) but also Islam and the Islamic Constitution will be brought into disrepute, and all attempts for the revival of Islam will be resisted and opposed by the non-Muslims of Pakistan, the people of India, and the international world,—even though it may not be the intention of the Court and its two learned judges. Can anyone save the country from the ill-effects of this faulty approach! Hardly! Our face has been tarred black, with out any cause or reason, by our own friends—however good their intentions may be!

(V) THE DEFINITION OF A MUSLIM

The problem of the discrimination between a Muslim and a non-Muslim in an Islamic State naturally gave rise to the question as to how it would be decided that a particular individual or group is Muslim or non-Muslim. Thus the question of the definition of a Muslim came up during the inquiry and the Court asked it from the **ulama** as well as from others. The result of this inquiry and cross-examination has been stated in the Report in a most pathetic manner and

deserves attention. We will first consider this and then deal with the question whether the definitions given by various **ulama** do actually contain anything which deserves so much pity, sorrow and disappointment, nay even ridicule and sarcasm!

At one place the Report says:

But we cannot refrain from saying here that it was a matter of infinite regret to us that the **ulama** whose first duty should be to have settled views on this subject, were hopelessly disagreed amongst themselves.⁸⁷

The result of this part of the inquiry, however, has been anything but satisfactory, and if considerable confusion exists in the minds of our **ulama** on such a simple matter, one can easily imagine what the differences on more complicated matter will be.⁸⁸

The discussion comes to an end with these words:

Keeping in view the several definitions given by the **ulama**, need we make any comment except that no two learned divines are agreed on this fundamental. If we attempt our own definition as each learned divine has done and that definition differs from that given by all others, we unanimously go out of the fold of Islam.⁸⁹ And if we adopt the definition given by any

87. Report, p. 205.

82. Ibid., p. 215.

89. How good, in truth, would it have been if the learned judges had given expression to their own definition also in this Report, as they have stated their opinions in so many other matters. Not only would the **ulama** have been guided by it but it would also have opened new avenues of thought in the field of learning and erudition. It was all the more important because the Report has itself demanded that a bold stand should have been taken before the public on March 5 even if there was risk of being torn to pieces by the people. Why then was there hesitation in recording this piece of truth in the Report? Was it simply because of the fear that "we unanimously go out of the fold of Islam"?

one of the *ulama*, we remain Muslims according to the view of that *Alim* but *kafirs* according to the definition of every one else.⁹⁰

Let us now consider the "confusion" which the Court observed in the definition of the term 'Muslim' given by the *ulama* and which it regarded so deplorable and disappointing. The fact is that there is probably not a single concept in defining which there has not been difference of opinion among the men of learning. For instance, let us take the question what is the definition of "health" and what distinguishes it exactly from "disease"? Putting it to as many physicians of the world as we like, we will find that no two replies are the same. Again: what is "loyalty" and what differentiates it from "treason"? Every jurist will define it in his own words and in his own way and no two statements will be quite similar. Terms like "State", "Society" and "Nation" have been differently defined by the political philosophers. The same is the case of the definitions of "intellect", "self-consciousness", "life" and innumerable other concepts and facts.⁹¹ But all these differences are actually the differences of interpretation and emphasis, and there is hardly any vital and cardinal difference in understanding the true meaning of any concept to explain which the different ways of expression are employed. That is why, in spite of the differences in the matter of definition, the behaviour of all in dealing with a particular thing or concept is just the same.

90. Report, p. 218.

91. And if, to determine the definition of these concepts, various people are subjected to judicial cross-examination, there is every possibility that nothing definite would result and the differences of the witnesses may prove to be even more appalling and disappointing.

Similar is the case with the term 'Muslim',—namely, it is the same basic fact which has been defined differently by various scholars. Whatever difference appears there is not about the essential reality of it but only as regards the mode in which it is expressed.

The learned authors of the Report have showered benevolent ridicules at the differences in the definition of 'Muslim' given by different ulema. We hold no grief at their attitude but would it not be instructive for the reader to cast a glance at the bewildering diversity of human thought. We can't go in details in this brief footnote but a few examples may be given for the benefit of the common reader.

Let us start with the definition of MAN (for it must come even before any talk about 'Muslim'). There is no agreement on the concept of Man. He is known to the scientists as a 'schema, consisting of other schemata built up by the techniques of each science.' Dr. Alexis Carrel, a leading scientist and a Nobel Prize Winner writes that:

"He is at the same time, the corpse dissected by the anatomists, the consciousness observed by the psychologists and the great teachers of the spiritual life, and the personality which introspection shows to everyone as lying in the depth of himself. He is the chemical substance constituting the tissues and humours of the body."

To the physiologist he is "the amazing community of cells and nutrient fluids" whose organic laws he studies. But to the hygienists he is "the compound of tissues and consciousness." To the economist he is "the homo economicus who must ceaselessly consume manufactured products in order that the machines may be kept at work." And to the sociologist and artist he is a pact, a political animal, a social being, a hero, a saint and what not. Dr. Carrel says: "A materialist and a spiritualist do not agree with one another upon (the definition) of the human being. A mechanistic and a vitalistic physiologist do not consider the organism in the same light. The living beings of Jacques Loch differs profoundly from that of Hans Driesch." And these differences are not superficial, they are very profound. (For details see: Dr. Alex Carrel's "MAN THE UNKNOWN").

After 'man' look to the definition of nation and civilization. No two sociologists agree on any one definition. Take the case of 'Nationalism' — the creed of our times. Prof. Louis L. Snyder writes in "The World in the Twentieth Century":

Thus, one person says that whoever believes in the Qur'an and whatever was brought by the Holy Prophet Muhammad (peace be on him) is a Muslim.

"The deceptively simple term nationalism is used to describe what it, in reality, a complex historical phenomenon. Several generations of scholars have devoted their efforts to the task of clarifying the meaning of nationalism. Despite their labours, they have not been able to achieve a unanimity of definition." (The World in Twentieth Century P: 20).

Dr. Joad has discussed the confusion which exists in the realm of philosophy. His discussion of the meaning of decadance is very instructive. The reader is referred to Chapter II Part I of Dr. C. E. M. Joads' "DECADANCE".

One meets the same baffling diversity in the economic and political thought. G. B. Shaw rightly remarked that: "If there are ten economists, there are eleven theories of trade cycle."

'Socialism' is one of the most used words of our age. But does any unanimity exists as to its meaning? Even greatest authorities most profoundly disagree. William Graham Summer defines it thus: "Socialism is any device or doctrine whose aim is to save individuals from any of the difficulties or hardships of the struggle for existence and the competition of life by the intervention of the State". According to this definition a government which enacts a Poor Law is socialistic!

Prof. James Bover defines "Socialism" in Encyclopaedia Britannica (13th ed.) as: "Socialism is that policy or theory which aims at securing by the action of the central democratic authority a better distribution, and in due subordination thereunto a better production, of wealth than now prevails." This means that Dr. Bover would classify even a mildly progressive income-tax as socialism!

On the other hand Dr. Paul M. Sweezy defines it as "a complete social system which differs from capitalism not only in the absence of private ownership of the means of production but also in its basic structure and mode of functioning". (Socialism By: Paul M. Sweezy P. 7). Mr. and Mrs. Webb say that: "The only essential feature in socialisation is that industries and services, with the instruments of production which they require, should not be 'owned' by individuals and that industrial and social administration should not be organised for the purpose of obtaining private profit" (The Decay of Capitalist Civilization P. 247). What a world of difference exists between the definitions of these four authorities on socialism. (They have been taken, it may be noted, at random and the list can be endlessly multiplied).

— These are the facts of the contemporary situation. How kind it had been of our learned authors to refer to the alleged differences, whose hollowness has already been exposed, as the dangers of an Islamic State?—EDITOR.

A second person says that a Muslim is one who believes in the Unity of God, the Prophethood of Muhammad and of all the prophets who preceded him, the finality of the Prophethood of Muhammad, the Qur'an and the Life Hereafter and considers the injunctions of the Holy Prophet Muhammad (Peace be on him!) as binding.

A third person says that a Muslim is one who believes in the Unity of God, the Prophets, the Books of God, the Angels and the Last Day.

A fourth person says that a Muslim is one who believes in the *Kalima*: "There is no deity but Allah; Muhammad is the Apostle of Allah", and follows the guidance of Muhammad (Peace be on him!)

A fifth person says: To be a Muslim one should believe in the Unity of God, in the Prophets and in the Last Day, should render obedience to God and should believe in whatever is proved to have been ordered by Muhammad (Peace be on him!).

A sixth person says: A Muslim is one who believes in the Unity of God, the institution of Prophethood and the End of the World and accepts the religious obligations, for instance, those of honouring the Qur'an, offering the obligatory prayers, observing the obligatory fasts and performing the obligatory Pilgrimage to the Ka'aba.

A seventh person says: Whoever believes in the Five Pillars of Islam and the Prophethood of Muhammad (Peace be on him!) is a Muslim.

An eighth person says: One who obeys the injunctions of the Holy Prophet Muhammad (Peace be on

him!) and accepts the religious obligations as binding is a Muslim.⁹²

Let us compare and analyse these various definitions. Is there any difference so far as the *basic concept* of the term 'Muslim' is concerned? 'Religious obligations' are the same thing as the 'injunctions of the Holy Prophet Muhammad (Peace be on him!)' and the expression 'whatever was brought by the Holy Prophet Muhammad' also bears exactly the same meaning. Similarly, to believe in the Prophethood of Muhammad is to believe automatically in the Qur'an, the Unity of God, the Life Hereafter, the Angels, the Prophets and the Books of God; and the same follows when one starts from the belief in the Qur'an. If a person says he believes in the Qur'an, or says he believes in the Prophethood of Muhammad, or declares separately his belief in the two, in all the three cases he is making actually one and the same declaration about his belief in Islam. Similar would be the case when he simply declares the Kalima: *La Ilaha Illallah Muhammad-ur-Rasulullah*.

Therefore, whatever these eight men have declared in different words is just one and the same thing. There does not exist among them even the slightest difference on the *real concept* and *meaning* of the word 'Muslim'. Whenever you so desire, you pick up any one of these eight definitions and present it before any 'Alim anywhere in the world, he will, without a moment's hesitation, declare that it is the true definition of a Muslim. And you may even ask these eight persons themselves. Everyone of them will declare that the definition given by others is not wrong. As regards the assertion that whichever person's definition

92. Report, pp. 215-217.

you might accept, all the rest will declare you to be a *kafir*, if it has not been said in the Report by way of sheer humour, the reader would find it difficult in what respect to consider it weighty.⁹³

Superficially it appears that the definition given by Maulana Amin Ahsan Islahi is different from the definitions given by others.⁹⁴ But when we go deeper into it, the fact becomes clear that by differentiating between a perfect Muslim and a political Muslim—or, in other words, a “legal Muslim”—, he is endeavouring to remove a misunderstanding which might arise after hearing merely the definition of a Muslim. What he wants to convey is that the compliance of just a few religious obligations by a Muslim does not imply that he has fulfilled all the obligations of religion laid down for him and has thus become entitled to all the blessings and rewards which have been promised by God for a Momin and a Muslim in the Qur’an and the Sunnah. Its implication is only that the Muslim society will accept such a person as one of its members and will treat him in the manner in which a Muslim should be treated. If this point is properly understood, there can be no difficulty in realising that actually there is no difference of opinion between Maulana Islahi and other Ulama in this regard.

(V) PUNISHMENT FOR APOSTASY

The Court then turns its attention to the problem of apostasy, because the question: ‘who remains a Muslim and who does not’ follows logically the dis-

93. This way of expression is perhaps intended to convey the impression that the Ulama are in the habit of making *kafirs* of each other on every conceivable difference of opinion.

94. Report, pp. 217-218..

cussion of 'who is a Muslim and who is not'. On this issue the Court has expressed itself with the greatest vehemence and has attacked the Ulama in a manner which it would be difficult to surpass.⁹⁵ We shall first present here the different parts of the discussion separately, so that the Court's point of view may be fully and easily understood by the readers, and then we will review the discussion as a whole.

1. The Court discusses first of all the consequences which, in its opinion, would follow if some group of the Ulama gets the opportunity of administering Pakistan and the verdict of punishing apostasy with death, which is upheld by all the Ulama, including Mr. Ibrahim Ali Chishti,⁹⁶ is enforced. Perhaps the first victim will be Sir Zafrullah Khan, unless he has inherited Qadianism from his parents. Again, if Maulana Abul Hasanat or any other from the Bareilvi group becomes the Head of the State, he will put to death all those Deobandis and Wahabis who may not be so by birth. If Mufti Muhammad Shafi becomes the Head, all those Barelvis who declare Deobandis to be Kafirs will be in trouble. Then the Shias will be in hot waters because the Ulama of Deoband have given their verdict to the affect that those who dishonour Caliph Abu Bakr's status as the Holy Prophet's Companion or attack the character of Lady Ayesha or believe that the Qur'an has suffered in its purity are Kafirs. And Mr. Ibrahim Ali Chishti has given the verdict that the Shias are Kafirs because they believe that Hazrat Ali shared the prophethood with our Holy Prophet. On the other hand, according to the Shias,

95. Report, pp. 218-220.

96. Yes, even this gentleman who was an officer of the Public Relations Dept. of the Government of former Punjab, who calls himself a layman and lays no claim to the knowledge of Muslim theology, is one of the Ulama!

all the Sunnis are Kafirs. As regards the Ahl-i-Qur'an, they are Kafirs on unanimous verdict, and similar is the position of all those who stand for freedom of opinion. To quote from the Report:

The net result of all this is that neither Shias nor Sunnis nor Deobandis nor Ahl-i-Hadith nor Barelvis are Muslims and any change from one view to the other must be accompanied in an Islamic State with the penalty of death if the Government of the State is in the hands of the party which considers the other party to be Kafirs. And it does not require much imagination to judge of the consequences of this doctrine when it is remembered that no two Ulama have agreed before us as to the definition of a Muslim.⁹⁷

2. After this the Court turns towards late Maulana Shabbir Ahmad Usmani, "who later became Shaikh-ul-Islam-i-Pakistan,"⁹⁸ and makes the following observations regarding his pamphlet entitled "*Ash-Shihab*":-

The Maulana had attempted to show from the *Qur'an*, the *Sunnah*, the *Ijma'* and *Qiyas* that in Islam the punishment for apostasy (*irtidad*) is death. After propounding the theological doctrine the Maulana had made in that document a statement of fact that in the time of the Caliph Siddiq-i-Akbar and the subsequent Caliphs vast areas of Arabia became repeatedly red with the blood of apostates. We are not called upon

97. Report, p. 219. Perhaps out of modesty the authors say that 'it does not require much imagination to judge ...' for the fact is that imagination and imagination alone is required to fabricate those consequences!—Editor.

98. We are completely in the dark as to when the office of "Shaikh-ul-Islam" was created in Pakistan and the date when the Maulana was given this honour. Of course, some newspapers have used this title for him, but we are at a loss to understand how could such baseless things find a place in judicial Report!

to express any opinion as to the correctness or otherwise of this doctrine but knowing that the suggestion to the Punjab Government to proscribe this pamphlet had come from the Minister for the Interior, we have attempted to inquire of ourselves the reasons for Government's taking a step which *ex-hypothesi* amounted to condemning a doctrine which the Maulana had professed to derive from the Qur'an and the Sunnah. The minister, who was himself well-versed⁹⁹ in religious matters, must have thought that the author's opinion was in fact incorrect.¹⁰⁰

3. Then the Court embarks upon the task of discovering the reasons which were presumably in the mind of Khwaja Shahab-ud-Din at the time of forming the above-mentioned opinion and arrives at the following:

The death penalty for *irtidad* has implications of a far-reaching character and stamps Islam as a religion of fanatics, which punishes all independent thinking. The Qur'an again and again lays emphasis on reason and thought, advises toleration and preaches against compulsion in religious matters, but the doctrine of *irtidad* as enunciated in this pamphlet strikes at the very root of independent thinking when it propounds the view that anyone who, being born a Muslim or having embraced Islam, attempts to think on the subject of religion with a view, if he comes to that conclusion, to choose for himself any religion he

99. As the statement proceeds, it strengthens the expectation of the reader to hear that the learned Maulana was no match for the Minister of the Interior in respect of religious knowledge. This expectation is not, however, fulfilled by the Report.

100. Report, p. 220.

likes, has the capital penalty in store for him. With this implication Islam becomes an embodiment of complete intellectual paralysis. And the statement in the pamphlet that vast areas of Arabia were repeatedly bespattered with human blood, if true, could only lend itself to this inference that even when Islam was at the height of its splendour and held absolute sway in Arabia there were in that country a large number of people who turned away from that religion and preferred to die than to remain in that system¹⁰¹ *It must have been* some such reaction of this pamphlet on the mind of the Minister for the Interior which prompted him to advise the Punjab Government to proscribe the pamphlet.¹⁰²..... Further the Minister, who was himself well-versed in religious matters *must have thought* that the conclusion drawn by the author of the pamphlet, which was principally based on the precedent mentioned in paras 26, 27 and 28 of the Old Testament and which is only partially referred to in Qur'an in 54th verse of the Second Sura,¹⁰³

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101. Here, the important fact should be kept in mind that the Arabs affected by *irtidad* were mostly those who had become Muslims during the last days of the Holy Prophet and had been under the Islamic Government for not more than a year and a half. Both the reasons and the nature of their *irtidad* are worthy of consideration in the historical perspective. No such event happened, however, on any big scale in the later history of Islam, where laborious investigation reveals only certain stray individual cases.
102. Keeping in view the method usually employed in judicial matters, the reader hopes to see the discussion centering round what actually is, but when he is encountered with the words "must have been", he is disillusioned.
103. The detail of this reference is that, while mentioning the incident of calf-worship by the Israelites in the Sura *Al-Baqarah*, Allah says:
 "And when Moses said unto his people: O my people! Ye have wronged yourselves by your choosing of the calf (for worship) so turn in penitence to your

could not be applicable to apostasy from Islam and that therefore the author's opinion was in fact incorrect, there being no express text in the Qur'an for the death penalty for apostasy. On the contrary, each of the two ideas, one underlying the six brief verses of *Surat-ul-Kafiroon* and the other '*La Ikrah*' verse of the second Sura, has merely to be understood to reject as erroneous the view propounded in the "*Ash-Shihab*".¹⁰⁴

After this short commentary¹⁰⁵ of the Qur'anic verses, the Court ends the discussion with these words:-

Creator and kill (the guilty) yourselves." (Holy Qur'an, II: 54).

Further detail of this incident is given in the Bible, where, in the book of Exodus, chap. 32, verses 26-28, we find Moses ordering the Believers that everyone of them should slay that kinsman or neighbour of his who had committed the said sin, and we are told that three thousand persons were slayed accordingly.

If the Court's line of argument is accepted, it would mean that this "religious fanaticism" was definitely present in the religion which God had sent to the Prophet Moses (Peace be on him), but that when the same God revealed the religion to the Holy Prophet (Peace be on him), He had repented from His mistake, although He had not the moral courage to express in the Qur'an His sorrow or remorse on His past deed! We seek refuge with Allah against all such blasphemies.

104. Report, p. 220: It is instructive to note the 'intolerance' of those who are opposed to the so-called 'religious fanaticism' in **proscribing** the book written in a purely **academic manner**, and using the **gallows of law** without even giving any faint glimpse of reason for this 'capital punishment'. Had they the moral courage or any respect for the alleged democratic values they talk of in season and out of season they should have come forward with an argumentative refutation of the said pamphlet and thus have exposed its weakness. This would have saved the Court of the trouble of spurring its imagination and mobilising all the machinery of '**it must have been**' and '**must have thought**'—which we appreciate would not have been a pleasant job for the learned authors.

105. The reader of the Report finds himself in predicament when he arrives at these pieces of Qur'anic commentary. On the one hand, he observes the Ulama standing in the witness-box, giving replies to set questions, and having

“But our doctors would never dissociate chauvinism from Islam.”¹⁰⁶

We have quoted here almost verbatim the discussion entered into by the Court. And now we wish to draw the attention of the readers to a critical consideration of it.

The foremost question on which nearly the entire discussion and denunciation hinges is whether apostasy is actually punishable in Islam with death? Everyone is bound to accept the principle, willingly or unwillingly, that where the Qur'an lays down an injunction in a clear-cut and direct manner, that injunction shall have to be accepted as the Law of Islam and its validity shall in no case be challenged by attempting our own interpretations of it in the light of the wider principles and fundamentals given by the Qur'an. Now, as regards the verse referred to by Maulana Shabbir Ahmad Usmani, it clearly shows that apostasy was definitely punishable with death in the religion of Moses, no matter whether this punishment was actually enforced or not. Mere declaration of it by that Prophet and its reproduction in the Qur'an without contradicting or condemning it in the least, is a positive proof that it was a legally valid punishment in the religion of Moses. The only point to be considered now is whether this law was retained or was abrogated in the religion revealed to the Holy Prophet Muhammad (Peace be on him). In this respect we invite attention

no opportunity of presenting freely the exposition of the Qur'an according to their point of view and of having it inserted in the Report. On the other hand, he realises the fact that whatever exposition of the Qur'an the learned judges consider as correct and pen down in the Report, it is bound to spread throughout the world. Will not the Report, therefore, land the seekers of reality in difficulties?

106. Report, p. 220. This issue has already been discussed in the introduction.—Editor.

to the Qur'an and give below a literal translation of verses 1-12 of Sura *Taubah* (9th Sura), so that the readers may be able to see the truth for themselves:-

“Freedom from obligation (is proclaimed) from Allah and His Messenger toward those of the idolators with whom ye made a treaty: Travel freely in the land four months, and know that ye cannot escape Allah and that Allah will confound those who disbelieve (in His Guidance). And a proclamation from Allah and His Messenger to all men on the day of the Greater Pilgrimage that Allah is free from obligation to the idolators, and (so is) His Messenger. So, if ye repent, it will be better for you; but if we are averse, then know that ye cannot escape Allah. Give tidings (O Muhammad) of a painful doom to those who disbelieve, excepting those of the idolators with whom ye (Muslims) have a treaty, and who have since abated nothing of your right nor have supported anyone against you. (As for these), fulfil their treaty to them till their term. Lo! Allah loveth those who keep their duty (unto Him). Then, when the sacred months have passed, slay the idolators wherever ye find them, and take them (captive), and besiege them, and prepare for them each ambush. But if they repent and establish (Islamic) worship and pay the poor-due (Zakat), then leave their way free. Lo! Allah is Forgiving, Merciful. And if anyone of the idolators seeketh thy protection (O Muhammad), then protect him so that he may hear the Word of Allah, and afterward convey him to his place of safety. That is because they are a folk who know not. How can there be a treaty with Allah and with His Messenger for the idolators save

those with whom ye made a treaty at the Sacred Mosque? So long as they are true to you, be true to them. Lo! Allah loveth those who keep their duty. How (can there be any treaty for others) when, if they have the upper hand of you, they regard not pact nor honour in respect of you? They satisfy you with their words while their hearts refuse. And most of them are wrog-doers. They have purchased with (i.e., accepted in preference to) the revelations of Allah a little gain, so they debar (men) from His way. Lo! evil is that which they are wont to do. And they observe toward a believer neither pact nor honour. These are they who are transgressors. But if they repent and establish (Islamic) worship and pay the poor-dûe (Zakat), then are they your brethren in religion. We detail Our revelations for a people who have knowledge. And if they break their oaths after their pledge (with you) and assail your religion, then fight the leaders of disbelief—Lo! they have no binding oaths—in order that they may desist.”

In these verses, the idolators of Arabia have been divided into two categories. The group belonging to one category honoured the pacts and agreements with the Muslims, who were ordered in return to keep their pledges. The second group consisted of those who never honoured their agreements but kept themselves engaged in subversive activities against the Muslims and whenever any opportunity offered itself to them, they declared war on the Muslims without paying any regard to kinship or pact with them. This latter group was served with a notice of four months and it was proclaimed that, on the expiry of that period, war will be declared against them and no

agreement will be made with them, and that the only way open to them to obtain protection against death was to offer *taubah* (repentance) and profess Islam.¹⁰¹ Where it is said at the end of the discourse that "if they break their oaths after their pledge," it clearly means the pledge of acceptance of Islam and their oath in that regard, because there was no question of entering into any other pledge or pact with them. It follows, therefore, that the "leaders of disbelief," against whom order has been given to fight in the last verse, were definitely apostates.

It might be said that it is the idolators of the first category who are meant by it,—namely, those who honoured their pacts and agreements with the Muslims, and that the order to fight has been given against them in case they break their pacts. But this interpretation is erroneous on the ground that full four verses intervene between the verse last mentioning these idolators and the present verse. What valid reason is there that the pronoun 'they' in "if they break their oaths" should be considered to refer so far away and not to those mentioned in the immediately preceding four verses.

If it is said that the mention of acceptance of Islam in terms of 'pledge' and 'oath' is foreign to the Qur'an, we would say that belief in Islam (*Iman*) has been spoken of at numerous places in the Qur'an as a pledge and a contract between God and man. As regards the word 'oath', it has been specially used here to signify the acceptance of Islam for the very natural reason that when those inveterate enemies of Islam

¹⁰¹ It should be noted that even the alternative of making them *Zimmis* and accepting from them the *Jizyah* has been ruled out here. In other words, even that written or unwritten pact was not permitted with them which Muslims are allowed to enter into with the *Zimmi* citizens of the Islamic State.

who have been constantly breaking their pledges with the Muslims and have, consequently, lost their confidence, are confronted with death in the battlefield and in such circumstances proclaim their acceptance of Islam—apparently to save their skin—, the only way open to them to assure the Muslims of their sincerity is to make the declaration on oath. Consequently, no advantage can be obtained from the words 'pledge' and 'oath', whereby the pronoun 'they' may be made to jump across four verses and to get attached to the fifth verse.

Let us now turn to the *Ahadith* (Prophetic Traditions) which are accepted at least as the record of the Sunnah even by the two learned judges. The traditions which contain the injunction of punishing apostasy with death and which also furnish definite legal cases, are not only abundant in number, but also of a high order in respect of their authority, and the best proof of their authenticity is that all the jurists of Islam have unanimously regarded their contents as correct, and upto this day no sect and no legist belonging to any school of thought has ever challenged them.

It has always been the practice of the *Fuqaha* (legists) that they accept only after the profoundest scrutiny the traditions containing injunctions whereby a certain thing is forbidden or declared lawful or a certain right is upheld or withheld. Their strictness in scrutiny reaches its extreme when they have to deal with a tradition which make a man's blood lawful, and if there is even the slightest ground for doubt, there is always some eminent scholar who comes forward to reject it. But the traditions relating to the punishment of apostasy have been accepted by all the *Fuqaha*, without exception, as true and correct, and it would be an act of great impudence to say that all of them,

from the beginning till today, have added something baseless to the shar'iah.

After the *Qur'an* and the *Sunnah* the third source of law in Islam is *Ijma'* (consensus of opinion). And the *Ijma'* about apostasy is not only proved by the fact that all the schools of Islamic legal thought are unanimous in their opinion and not a single legist holds a contrary view, but also by the more important fact that, just a few months after the passing away of the Holy Prophet, all his Companions unanimously decided to wage war and actually fought against the apostates. That the motive of this war was not to quell a revolt but to punish apostasy is proved from the official Proclamation of Caliph Abu Bakr Siddiq. This is the testimony of history in whose presence it is simply meaningless to say that "if it is so then there is such and such difficulty in the way". The testimony of history can be refuted only by giving historical proofs and not by citing difficulties. If anyone has any proof against it, he must come forward with it. Otherwise, it is not the role of history that if the occurrence of a certain event is agreeable to a certain person, it should declare that it did occur, and in case it is distasteful to him, it should say that it had never happened!

We wish to ask now that if an injunction which is proved and established by the *Qur'an*, the *Sunnah* and *Ijma'* is not Islamic law, what else it is? If someone regards it as religious fanaticism, intellectual paralysis and stifling down of independent thinking, why should he not declare that he regards it to be wrong, and that he would like to have nothing to do with a religion which, in his opinion, keeps the people forcibly in its fold. But what strange policy is it that if there is anything of Islam which is not suited to certain

people's temperament, wishes and ways of thinking, they do not criticise it as something belonging to Islam. What they do is that they try to prove by flimsy and superfluous methods that Islam does not say so, and that it has been just coined by the Ulama. It is deplorable if one behaves in this fashion due to his ignorance, but it is all the more deplorable if it is due to lack of moral courage.

As regards the drawbacks which, in the opinion of learned authors of the Report, are inherent in this law of Islam, we wish to point out briefly that apostasy is not punished when Islam is in the position of a mere religion, but only when it assumes the form of a state. Quite naturally, the demands of a state are different from those of a mere religion or a school of thought or a party. A man may change his ideas and join another party or religion. He may even oppose it, staging revolt against it and joining the ranks of its bitter enemies, and that would not amount to a criminal offence. But is such a freedom permissible in the case of an individual's relation *vis-a-vis* the state anywhere in the world? Can a member of the British nation, or one who has accepted the British nationality, give up his nationality while living in Britain and declare loyalty to some other state in deference to his personal inclinations? Has any American citizen the right to give up his citizenship and adopt Russian¹⁰⁸ or any other nationality while he is still within the boundaries of the U.S.A.? Is it permissible for a citizen of the United States to declare that he does not believe in the Constitution of that country and that, on the contrary, his loyalty is for Soviet Russia? Looking at your own state of Pakis-

108. It may also be asked: Can belief in Communism or association with Communist organisations also find a place now in the sphere of freedom of opinion?

tan: Is high treason not a crime here? Why do you not accept the principle that if a person considers you to be in the wrong and regards the neighbouring state to be in the right in a certain matter, he may lend help to that state in opposition to you? What else shall you say in your defence but that a state assumes the responsibility of maintaining order and peace among millions of citizens inhabiting a vast area, and it cannot, therefore, give so much importance to the freedom of individual conscience that its own security and existence may be jeopardised. It cannot allow the "parts" which constitute its being to be scattered, nor can it allow them to fight with the "whole" or to join the camp of its adversaries. When you yourself argue in this fashion in the case of a state why are you troubled with the nightmare of religious fanaticism and intellectual paralysis when Islam, not as a mere religion but only when it becomes a state, enforces the law of punishing the apostates in order to prevent its constituents from falling a prey to disruption, disloyalty and assimilation in the systems opposed to it?¹⁰⁹

We may now consider those apprehensions which the Court has referred to in the beginning that if Pakistan becomes an Islamic State and if someone from among the Ulama becomes the Head of the State, he will put to death all except the members of his own group. We wish to point out the punishment for apostasy does not depend upon the verdicts (*fatwas*) of the *muftis* (legal advisers) but on the decision given by the *Qazis* (judges of the Court). It is possible that a theologian, acting in the capacity of a *mufti*, may commit mistakes in pronouncing his *fatwa*, but if he acts as a

109. Maulana Maudoodi as discussed this problem in all its multifarious details in his book "Islam and the punishment of the Apostates (Urdu) which presents in illuminating analysis of the whole problem and also carries a comparative study of the systems of Islam, Communism, and modern democracies vis-a-vis the question of apostecy—Editor.

Qazi and is made to give his judgment after making thorough inquiries and giving due consideration to the judicial requirements, he cannot behave as he might while pronouncing his *fatwa*. And even if he fails in his duty, his mistakes will be rectified by the higher courts while hearing appeals against such judgments.

Viewing the problem from the other side, if exactly the same thing happens which has been alluded to, it should not be a matter of surprise. In a country where every group can blame the other of treason because of simple political differences and can accuse it, without a "blush and blinking of an eye", of receiving foreign aid; where even the most responsible officers can level false allegations against the people in their official letters; where the gravest atrocities can be committed by the police and the army in order to crush the religious aspirations of the people; where the courts can be unwilling to admit such atrocities as atrocities; where death sentence can be pronounced and later on commuted to life imprisonment for writing a pamphlet like "The Qadiani problem"; and where the Central Legislature can pass a law in order to validate such sentences—in such a country it would not be at all surprising if a Barelvi passes death sentence on a Deobandi and *vice versa*. In a country where degeneration is to be found in all ranks, right up from the political leaders, the legislators and the government officials down to the common folk, how can only the "Maulvi" remain unaffected by it?

Before proceeding further we wish to remove also the misunderstanding of the Court that death is the only and the necessary punishment in Islam for apostasy. Students of Islamic jurisprudence know that many jurists, including a great personality like Caliph

Umar, believe that death is not the only punishment for apostasy and that it is *the highest* punishment. Once Caliph Umar was approached in the case of certain apostates, and he declared: "I would have presented Islam before them and, in the case of their refusal, would have imprisoned them". The Hanafi school of law gives immunity to women apostates from death sentence. The jurist Ibrahim Nakh'i is in favour of allowing unlimited period of time to an apostate to return to the fold of Islam.¹¹⁰ Other instances of similar character are also to be found in the different schools of Islamic Law which show that to regard death as the *only* punishment for apostasy is erroneous.

(vii) RIGHT OF NON-MUSLIMS TO PROPAGATE THEIR RELIGION

The discussion of apostasy and its punishment gave rise ¹¹¹ logically to the question whether, in an Islamic State, the non-Muslim preachers would be allowed to preach their religion openly. In order to ascertain the views of the Ulama in this respect, the Court sought information from Master Tajuddin Ansari and Ghazi Sirajuddin Munir¹¹² along with Maulana Abul Hasanat, and has presented the conclusions of its investigation in the following words:

The principle which punishes an apostate with death must be applicable to public preaching of *kufr*.

110. *Nail-ul-Autar*, Vol. 7, pp. 160—163.

111. It is worthy of note how questions continue to crop up one after the other. Because the very first question was somehow considered to be relevant to the terms of reference, every subsequent question is acquiring relevancy on the basis of its connection, somehow or the other, with that first question that "original sin".—Editor.

112. Both of them, as has already been pointed out, are not Muslim scholars—Editors.

Any faith other than Islam will not be permitted publicly to be preached in the State.

The prohibition against public preaching of any un-Islamic religion must logically follow from the proposition that apostasy will be punished with death and that any attack on, or danger to, Islam will be treated as treason and punished in the same way as apostasy. (p. 220).

As regards the impressions which these remarks create and the conclusions to which they lead, they may be read as a warning to all Christian missionaries and to the Western nations who support them that this is going to happen in Pakistan under "Mullah-crazy". It is really very shocking for a reader of the Report to consider how at all this method could be regarded proper, just and adequate for inquiring into vital problems of such deep import and vast consequence,—a method under which one or two of the Ulama and a few other political leaders are made to answer certain specific questions asked by the way during judicial cross-examination, and then their brief answers are made the basis of arriving at certain conclusions, which, after their publication in such an important document as the present Inquiry Report, must acquire historic importance and must reach numberless people. If a correct procedure had been adopted and the problems had been studied in a scientific manner, the following conclusions would have been arrived at:

1. Apostasy is, of course, a crime in Islamic law, but it relates to apostasy from Islam alone. Giving up any other religion and accepting some other is no crime. In other words, if a non-Muslim gives up his religion and joins any other non-Islamic religion, he

commits no crime. An overwhelming majority of Islamic jurists holds this view.

2. The crime of apostasy refers to that Muslim alone who becomes an apostate and not to any non-Muslim under whose influence the apostasy might take place. No jurist has ever said that along with the apostate that person should also be arrested who exerted influence over him for apostasy, nor can such a thing be reasonably inferred from the law. The courts punish the persons who commit crimes under the influence of the plays shown in the cinemas. But we have never come across a single instance in which, along with the accused person, some film company or the proprietor of some cinema-hall was also punished as having been responsible for the commission of the crime.

3. A non-Muslim can publish his religious books. He can teach his religion and expound the things which he regards as good in his religion through speech and writing. Keeping himself within the limits of law, he can also enter into religious discussions with the Muslims, and he can even present all such objections and doubts which he has in his mind concerning Islam. Such things have not at all been prohibited. Even in the days of the Holy Prophet, the Christians, the Jews and others used to come to the Islamic State and have public discussions with him on religion. And, of course, if one enters religious controversy, it automatically follows that the other participant will show the beauties of his religion and will also criticise Islam. Islam is a rational religion and can fight the adversary with arguments. It has no need, therefore, to resort to force or to seek help of criminal courts in its fight with opposing religious ideologies.

4. What is prohibited in an Islamic State is the rise of anti-Islamic movements and we do not know what state of the world would tolerate an ideology or a movement which challenges the very foundations of that state. Britain, the United States, Russia, France—in fact, all non-Muslim states of the world are as vigilant to safeguard their constitutional systems as we wish to be to preserve the basic principles of the Islamic State, and we feel that the Muslims may not perhaps commit those excesses in this regard which even others consider as permissible. Moreover, it should not be lost sight of that to present a principle in words is one thing and its practical application is something else. As regards practical application, every sane person will first take into account the kind of danger and its magnitude and will then determine the measure of severity or leniency required to deal with it. After all, the administration of an Islamic State will not be run by the peons of the post office, who, when a heap of letters comes into their hands, stamp every letter with the same seal, so to say, mechanically and without looking at them.

(viii) JIHAD AND RELATED PROBLEMS

Proceeding further in the discussion, the Court takes up Jihad, and after dwelling at length on the Conception of Jihad, *Dar-ul-Islam*, *Dar-ul-Harb*, position of the prisoners of war, *Ghanima*, *Khums* and the fate of non-Muslim subjects, presents the conclusion that, in case the Islamic State of the Ulama's conception is established, the following will be the repercussions:

Firstly, it will be perpetually at war with the outside world;

Secondly, there will be a bitter conflict between the Islamic law and the international law, rules and conventions;

Thirdly, all the Muslims living in non-Islamic states shall be regarded as suspects,—nay, traitors to their country and its people.

We propose to study these conclusions in their serial order:

1. After defining what is *Dar-ul-Islam*, the Court expresses the view that the People of the Scriptures alone, and not the idolators, can acquire the status of its non-Muslim subjects, i.e. *Zimmis*.¹¹² We are unaware as to the source of this information. The testimony of history as well as of Islamic Jurisprudence is that, during the *Khilafat-e-Rashida*, the frontiers of the Islamic State extended from Afghanistan to North Africa, and large numbers of people belonging to various religions were given the status of *Zimmis* irrespective of the fact that they were People of the Scripture or not. If someone asserts now that those who are not People of the Scripture cannot be treated as *Zimmis*, he should tell us whether such people had been put to the sword under the *Khilafat-e-Rashida* or some other kind of citizenship was invented for them?

2. "An Islamic State is in theory perpetually at war with the neighbouring non-Muslim country, which at any time may become *Dar-ul-Harb*, in which case it is the duty of the Muslims of that country to leave it and to come over to the country of their brethren-in-faith."¹¹³ This is the opinion expressed by the Court.

112. Report, p. 221.

113. Report, p. 221.

But on what grounds? The Court had only enquired: "Is a country on the border of *Dar-ul-Islam* always *qua* an Islamic State in the position of *Dar-ul-Harb*?"¹¹⁴ To this Maulana Saiyyid Abul Ala Maudoodi had replied: "No. In the absence of an agreement the Islamic State will potentially be at war with the non-Muslim neighbouring country. The non-Muslim country acquires the status of *Dar-ul-Harb only* in case the Islamic State declares a formal war against it". Firstly, to deduce from this reply the conclusion which the Court has presented is bewildering. Secondly, if the Court really wanted to ascertain the truth of the problem, it could have requested for relevant literature from the *Jamaat-e-Islami*, which was taking part in the proceedings of the Court as a party. This problem had already been explained in detail by Maulana Abul Ala Maudoodi in his book: "*A Treatise on Interest*", Vol. I, pp. 119-123 and 133-140. The facts could be very easily ascertained from there. To be potentially at war means nothing more than that if a state has no agreement with another state, and also has no diplomatic relations of any sort with it, there is always a possibility of war between them, and it is only expediency which prohibits them from adopting such a course. In what way is it at all different from the modern international law of war?

As regards *hijrat* (migration), it becomes obligatory only when: (1) the Muslims cannot fulfil even the minimum possible religious obligations; (2) they are in a position to move out; and (3) a *Dar-ul-Islam* extends invitation to them to enter into its territory.

The Report fails to explain the grounds responsible for the Court's opinion which gives the impres-

114. Report, p. 221.

sion that the moment an Islamic State is established it will be flooded with millions of Muslim emigrants from non-Muslim countries, who, like the locust, will lick up the whole country within a few days.

3. In order to determine the meaning of *Dar-ul-Harb* and its subsidiary implications, the Court has relied upon such sources as '*Ghias-ul-Lughat*' and '*Shorter Encyclopaedia of Islam*'. *Ghias-ul-Lughat* is a third-rate Persian dictionary, and *Shorter Encyclopaedia of Islam* is a book written by the Western Orientalists who have left no stone unturned in trying to spread misunderstandings about Islam. If it was necessary for the Court to find out the truth about this issue and it was not possible to consult standard books on Islamic Jurisprudence, at least "*A Treatise on Interest*" (Vol. I) by Saiyyid Abul Ala Maudoodi could have been read. There, the author has explained in detail what is *Dar-ul-Harb* and what is its legal position. But how regrettable it is that, relying on *Ghias-ul-Lughat* and *Shorter Encyclopaedia of Islam*, the Court has put before us the following astounding revelation:

Thus, in case of war between India and Pakistan, if the latter is an Islamic State, we must be prepared to receive forty million Muslims from across the border into Pakistan.¹¹⁵

The perusal of the Report conveys the impression that the learned judges think that, in case Pakistan does not become an Islamic State, the war between the two countries will not at all affect the Muslims of India and they will be enjoying all sorts of comforts there. Perhaps, this constant influx of

115. Report, p. 222.

Muslims from India by way of Khokhrapar is due to the fact that Pakistan has been an Islamic State for the last seven years and is being run by the Ulama!

4. The meanings of the concept of Jihad have also been quoted from *Shorter Encyclopaedia of Islam*. Its very opening sentence in the article on "Jihad" is:

The spread of Islam by arms is a religious duty upon Muslims in general.

And after a few sentences we again find:

Whether Muhammad himself recognised that his position implied steady and unprovoked war against the unbelieving world until it was subdued to Islam may be in doubt. Traditions are explicit on the point; but the Qur'anic passages speak always of the unbelievers who are to be subdued as dangerous or faithless. Still, the story of his writing to the powers around him shows that such a universal position was implicit in his mind, and it certainly developed immediately after his death, when the Muslim armies advanced out of Arabia.¹¹⁶

Just imagine, this is the view of Jihad which our worst enemies have created. And how unfortunate it is that this view, after being quoted from the sources antagonistic to Islam, is being presented in the Report as if the Muslims themselves hold it and as if the Ulama also confirm it:

.....but what has to be pointed out is the result to which the doctrine of Jihad will lead if, as

116. Report, p. 222.

appears from the article in the *Shorter Encyclopaedia of Islam* and other writings produced before us, including one by Maulana Abul Ala Maudoodi and another by Maulana Shabbir Ahmad Usmani, it involves the spread of Islam by arms and conquest. 'Aggression' and 'genocide' are now offences against humanity for which under sentences pronounced by different International Tribunals at Nuremburg and Tokyo, the warlords of Germany and Japan had to forfeit their lives, and there is hardly any difference between the offences of aggression and genocide, on the one hand, and the doctrine of spread of Islam by arms and conquest, on the other. An International Convention on genocide is about to be concluded but if the view of Jihad presented to us is correct, Pakistan cannot be a party to it.¹¹⁷

The first question that naturally arises here is that if the Court was in possession of such writings of Maulana Abul Ala Maudoodi and Maulana Shabbir Ahmad Usmani which prove that Jihad means the spread of Islam by force of arms and conquest, would it not have been more proper to quote relevant portions from their writings in the Report? The fun is that the Report has not made even casual reference to any such book, journal or article. On the contrary, one finds quotations from *Shorter Encyclopaedia of Islam* and along with them the names of these two gentlemen have been mentioned in a manner that necessarily creates the impression on the reader's mind as if these two Ulama regarded it to be quite a true interpretation of the Ulama's ideas and beliefs on this subject. And thus this discussion leads to the inference that the Ulama believe in

117 Report, p. 224.

genocide and aggressive methods for spreading Islam.

Whether it is an academic discussion or a judicial inquiry, it is imperative that when such vital and important problems are being studied, greater care should be taken than has been apparently employed by the Court. Certainly those about whom the readers will be forced to form wrong opinions after reading this Report, will find themselves in a helpless position. They will be held responsible for those views on Jihad which, in fact, are not theirs.

The statement that "aggression and genocide are now offences against humanity" deserves attention from another angle also. It does not only mean that formerly the world was not so conscious of the wrongness and impropriety of these acts, but the presence of these words just after the quotation from *Shorter Encyclopaedia of Islam* creates also the impression on the reader's mind as if the Muslims, prompted by the obligation of Jihad, have always been indulging in aggression and genocide, and even the Holy Prophet Muhammad (Peace be on him!) and the Khulafa-e-Rashideen displayed the same mentality and all the Islamic conquests beyond the frontiers of Arabia were due to it;—and it is only now that, under the leadership of Britain and America, that the world has been able to realise that it should consider such acts as crime. No doubt, it deserves gratitude whatever the source from which mankind learns of moral excellence. But we do not know from what date the world has been endowed with this moral consciousness. The 'police action' in Hyderabad was both aggression and genocide, but we know not which international agency or court did

anything about it. Do they mean to say that since the victors of the Second World War, instead of adopting the simple method of making the leaders of the vanquished nation the target of their revengeful bullets, staged the farce of a "court", it could be proved that the world now really regards aggression and genocide as crime?

5. Maulana Abul Ala Maudoodi and Maulana Abul Hasanat were asked certain questions about the provisions of Islamic Law with regard to the prisoners of war.¹¹⁸ In that reference the Court gives the following verdict:

The law relating to prisoners of war is another branch of Islamic law which is bound to come in conflict with International Law.¹¹⁹

We have been totally unsuccessful in our efforts to find out in the Report how and from what source did the Court arrive at the above-mentioned conclusion. At least the evidence given by Maulana Maudoodi, as recorded in the Report itself and paragraph No. 12 of his Second Statement before the Court in which the question of prisoners of war has been discussed very thoroughly, seems to have been completely ignored while writing this Report. In his evidence as well as in his Second Statement Maulana Maudoodi has stated in unambiguous words that the Shari'ah not only permits the exchange of prisoners of war, but gives it preference. How then does the Islamic Law come in conflict with the International Law? The question can, however, arise: What fate will befall the prisoners

118. When the problem of Jihad is relevant to any discussion, it will have to be admitted that the problem of the prisoners of war is also relevant to it!

119. Report, p. 225.

of war if exchange is not possible? On this issue, before attempting to raise objections under the influence of the prejudiced writings of Orientalists, we should open our eyes wide and look at the fate of the German and Japanese prisoners of war in this advanced age which boasts of moral development.

To repeat the question: If no exchange of the prisoners of war is possible and their country also does not arrange to effect their release through the payment of ransom, and they themselves are not able to pay ransom out of their own earnings, what treatment should be meted out to them?¹²⁰ It may be said: why not set all the prisoners free? Yes, it is possible in such case as that of the Allies who obtained complete victory over the enemy in the First and Second World Wars and got all their prisoners set at liberty. But when the people of one nation are prisoners in the hands of another nation, would it be reasonable to advise that it should let off the other nation's men irrespective of the fact whether its own men have been released or not?

It is a great mistake to form opinions in the practical affairs of the world on bare sentiments and without regard for their ultimate consequences. We ourselves possess an independent state of our own now.

120. The arrangement made in connection with the prisoners of war during the days of the Holy Prophet (Peace be on him) and the Right-Guided Caliphs has also been subjected to discussion. Leaving aside the consideration whether to disperse the prisoners in the population and to entrust the affairs of each individual prisoner to particular individuals of the state was better or the treatment which is meted out to the prisoners of war in the compulsory-labour camps of the present age, we wish to point out that the Islamic State of to-day will certainly adopt the modern system of exchange of prisoners, because, according to the Shari'ah, the international matters should be decided on the basis of mutual understanding and the principle of reciprocity.

We should be very cautious in connection with the collective and international problems and should say only that which is practicable. Otherwise, the views expressed by us today, specially the pronouncements of our law-courts, may create trouble for us tomorrow. Let it be remembered that the moment the world comes to know that we will let go the enemy's prisoners of war whether or not our own men are set free, it will not be possible in any future war for any of our prisoners to obtain freedom and after a few wars half of our population will find itself prisoners in the hands of our enemies.

6. As regards *Ghanima* and *Khums*, the following opinion has been expressed in the Report:

Of course *ghanima* (plunder) and *khums* (one-fifth), if treated as a necessary incident of *jihad*, will be treated by international society as a mere act of brigandage.¹²¹

What is the basis of this opinion? None, whatsoever. Here one fails to find a reference even to the evidence of some witness or to *Ghias-ul-Lughat* and the *Shorter Encyclopaedia of Islam*.

We may now invite to what Maulana Abul Ala Maudoodi says in his "A Treatise on Interest,"¹²² on the basis of Imam Abu Yusuf's *Kitab-ul-Kharaj* (.10) :-

"The term *Ghanima* is applied only to that moveable property of the enemy's armed forces which comes in the possession of the Muslim army during war-like operations."

121. Report, p. 227.

122. Vol. I. p. 141.

A few lines before this passage, we find the following in the same book:—

“That movable property which the Muslim army obtains by force of arms in the area of war is *Ghanima*. Its one-fifth part *Khums* belongs to those who have acquired it.”

The question is: Is there any difference between *Ghanima* and the “Spoils of War” sanctioned by the present-day international law whereby the latter should be upheld as the victor’s legitimate right while the former should be condemned as an act of brigandage? If there is any difference, it is that while the present-day governments take hold of the whole war-booty and thus open the way for the soldiers to commit thefts, the Islamic Law lays down that everything which is obtained as spoils of war should be honestly placed before the commander of the army, who shall take out one-fifth of the whole property for the government and shall distribute the remaining four-fifths to the soldiers who have risked their lives in its attainment. Is this thing brigandage? Is it plunder?

7. The most deplorable part of the entire discussion is that where references have been made to the Muslim populations of non-Muslim states and where the Muslims of India have been especially mentioned by name. The Court took pains to ask the following questions from everyone: “Should a Muslim obey a non-Muslim government?” “Is it possible for the forty million Muslims of India to be loyal citizens of their state?” “What shall be the duty of Indian Muslims in case of a war between India and Pakistan?” And having obtained to these questions the replies which a Muslim’s conscience would give, it has not only insert-

ed them in its official Report but has also commented upon them in the following strain:

The ideology on which an Islamic State is desired to be founded in Pakistan must have certain consequences for the Musalmans who are living in countries under non-Muslim sovereigns.¹²³

The ideology advocated before us, if adopted by Indian Muslims, will completely disqualify them for public offices in the state, not only in India but in other countries also which are under a non-Muslim Government. Muslims will become perpetual suspects everywhere and will not be enrolled in the army because according to this ideology, in case of war between a Muslim country and a non-Muslim country, Muslim soldiers of the non-Muslim country must either side with the Muslim country or surrender their posts.¹²⁴

This comment deserves very serious consideration as it refers to the ideas expressed by certain Ulama of Pakistan and some influential political leaders. The questions naturally arise: When did they publicise these purely ideological beliefs? When did they preach them before others? When did they address the Muslims or the governments of India and other foreign countries to the effect that these were the consequences of the ideology they believed in? It was the Court itself which asked these things during the cross-examination and the persons concerned had to perforce submit their replies according to their conscience. But they gave those replies inside the Court-room, and the responsibility of their inclusion in an

123. Report, p. 227.

124. Ibid., p. 229.

Inquiry Report and of their publication rests on the shoulders of the Court and the Government respectively.

The anxiety has been expressed that, not only in India but in all the countries of the world, the Muslim population will be looked upon with suspicion. But the greatest contribution in making their position suspicious has been rendered by the Report itself. After all, who had compelled the Court to put such questions to the witnesses and what was the necessity of recording those replies and their possible inferences in a Report of judicial investigation? Where those questions actually very necessary and totally unavoidable for the conduct of the inquiry? Had the terms of reference really made it obligatory to raise and inquire into such issues and to go to these doubtful extents? And, then, was the discussion so very necessary for the inquiry and helpful in the elucidation of the Qadiani problem or the issue of Direct Action that it had to be made a part of the Report? Moreover, was it not proper to have refrained from publishing such things?

It would have been probably a different matter if the basic issue under inquiry had been whether or not an Islamic State should be established in Pakistan, and whether or not the concept of the Islamic State is practicable. In the present case, therefore, a reader of the Report very naturally looks for the relevancy of this issue in the light of the problems which were really basic to the inquiry. However, even supposing that the discussion about the Islamic State was the necessary demand of the issue under inquiry, it may be pointed out that political, national and international problems always contain such aspects, both ideological and practical, and always admit of the possibility of

conceiving such things about them, which may be permitted to exist as under-currents, but it can never be considered desirable to disclose and publicise them before the world. Indeed, there are many things in the background of the policies of every government which it would never permit to be publicised, and as regards the courts, they never run amuck in disclosing the domestic secrets whenever such matters of their national governments and parties come before them. For example, there are many controversial issues between India and Pakistan, such as those of Kashmir, interstate agreements, refugees, abducted women, evacuee property and canal waters, and the governments as well as the political parties of both the countries remain confronted with such possibilities, such intriguing aspects and such lines of solution that even the highest standards of truth and integrity cannot demand their naked presentation before the public. Otherwise, if the real viewpoints of India and Pakistan on these issues are presented before each other, not only would the life of the minorities on both the sides become impossible, but also it shall not be possible to maintain peace between the two countries for a single moment. It is surprising how this glaring fact escaped the penetrating eyes of such a responsible judicial Commission. And then the most regrettable thing is that, with all this, the Report is shifting its own responsibility on others and is blaming them that their utterings will result in such and such repercussions on the Muslims of India and other countries of the world!

Who is in a position to ask the learned judges that if the replies furnished by the Ulama are wrong, what are their own views on those questions? Are they of the opinion that if there is a war between Pakistan

and some non-Muslim country, the Muslim minority there should join the non-Muslim hordes in invading Pakistan and should show the same zeal and zest in destroying the life and ravaging the habitations of the Muslims of Pakistan as the non-Muslims?¹²⁵

Then, do the authors of the Report believe that the boundary-lines of political geography demarcate right from wrong, so that when a Muslim of Pakistan is fighting to defend his country he is in the right, and when a Muslim of a non-Muslim country is fighting on behalf of the opposite camp and is killing the Muslims of Pakistan he is also in the right? If they really hold this view, what objection can they reasonably have against the view of Maulana Muhammad Ali Kandhlavi (Jallunduri) about which the Report says:

Perhaps for those teeming millions, the solution suggested by Maulana Muhammad Ali Kandhlavi of Sialkot is the most practicable—to change their ideology and religious views according as they are in Lahore, Delhi or Timbuctoo.

Is it not strange that while it is considered objectionable for the Muslims to maintain ideological uniformity in all countries, those who advocate changing the ideology from place to place are also slashed?

We say that if the Ulama had not given the replies they gave in response to the cross-examination by the Court, or had spoken just the opposite of what they said, even then the reality would have remained what it is. For, who could erase from the hearts of the Mus-

125. And the fight of Muslims on both sides must, of course, be "for the sake of God", because as regards fighting "for the sake of the devil", every Muslim has got to consider it as **haram** (totally forbidden)!

lims such exhortations and injunctions of the Qur'an as the following:

"The Believers are but a single Brotherhood."
(XLIX: 10).

"Never should a Believer kill a Believer; but (if it so happens) by mistake (compensation is due)."
(IV: 92)

"Whoever kills a Believer intentionally, his recompense is Hell, to abide therein (for ever): and the wrath and the curse of Allah is upon him, and a dreadful penalty is prepared for him."
(IV: 93)

It is because of these Qur'anic teachings that, even in times of religious decadence and general degeneration, Muslims could never be so callous and cruel in shedding the blood of their brethren-in-faith as the Christians have been in the case of fellow-Christians. It is this consciousness of Islamic brotherhood which has been responsible for the fact that, in spite of their shortcomings, moral as well as intellectual, the Muslim armies recruited from enslaved populations could not be used against Muslim countries as effectively as their ruthless British, French and Italian masters had wished. Is it desired now that this bond of Muslim brotherhood, which has already weakened under the stress of circumstances, should break completely and that Muslims should fight against Muslims with all the venom of nationalistic hatred and hostility with which, for instance, Germany fought against France?

The fact is that in such matters it is the established convention throughout the world that the ideo-

logical and historical forces working in a community and moulding its conduct are always well-known, but neither are they proclaimed with particular address to anyone nor is anybody compelled to confess them. When the time comes, the practical reaction of those forces comes up automatically and the concerned Governments formulate their line of action accordingly.

(x) FINE ARTS AND THE ISLAMIC STATE

Before closing the discussion, the Court has taken up two more issues, one of which relates to the fine arts. The following conclusion has been presented in that connection after recording the evidence of Maulana Abdul Haleem Qasimi:

Other incidents of an Islamic State are that all sculpture, playing of cards, portrait painting, photographing human beings, music, dancing, mixed acting, cinemas and theatres will have to be closed.¹²⁶

As regards this assertion it is sufficient to say that, along with alcoholic drinks and adultery, certain things mentioned here shall also have to be banned, while the form of some other things shall have to be recast. We hope when the time comes and the parliament of our country makes laws in this respect, our law-courts will punish their infringement in the same manner as they have been doing in connection with the disobedience of the laws enforced under the British regime. These are incidents which, however, dreadful they

126. Report, p. 230. These remarks can appeal to the Westernised Muslims more strongly than any scholastic arguments for preparing them to stand up against the establishment of the Islamic order.

might appear before their happening, have got to be accepted in good grace when they do happen.¹²⁷

(xi) DUTIES OF A MUSLIM SOLDIER AND POLICEMAN

The second incident that will happen according to the Report will be, in accordance with Maulana Abul Hasanat's evidence, as follows:

The soldier or the policeman will have the right, on grounds of religion, to disobey a command by a superior authority.¹²⁸

Maulana Abul Hasanat's evidence from which the Court has deduced this conclusion is:

I believe that if a policeman is required to do something which is contrary to our religion, he should disobey the authority. The same would be my answer if 'army' were substituted for 'police'.

* * * * *

Q.—You stated yesterday that if a policeman or a soldier was required by a superior authority to do what you considered to be contrary to religion, it would be the duty of that policeman or the soldier to disobey such authority. Will you give the policeman or the soldier the right of himself determining whether the command

127. It may be noted that there is actually enough scope for the "legitimate" in the sphere of recreations and "art",—of course, taking the word "art" outside the present-day limited and obscene implications. Indeed, even photos, paintings and films will continue to be used in the service of genuine cultural needs and the higher purposes of life.

128. Report, p. 230.

given by his superior authority is contrary to religion?

A.—Most certainly.

Q.—Suppose there is war between Pakistan and another Muslim country and the soldier feels that Pakistan is in the wrong and that to shoot a soldier of the other country is contrary to religion. Do you think he would be justified in disobeying his commanding officer?

A.—In such a contingency the soldier should take a *fatwa* of the “*ulama*”.

About this interrogation and its reply and the inference derived therefrom it is not necessary for us to do anything more than to quote the opinion of one of the leading authorities on the legal system which is still in force in our law-courts. While explaining the Rule of Law in England, Dicey says in his book “*Law of the Constitution*” that if what happened to Voltaire in France had happened in England, Voltaire would have filed a suit against all those officials who had done him harm, and the Court would have convicted them all. In this connection he proceeds to say:

No one of Voltaire’s enemies would, if he had been injured in England, would have been able to escape from responsibility on the plea of acting in an official character or in obedience to his official superiors. (P.210).

The first of these maxims or principles is that every wrong doer is individually responsible for

every unlawful or wrongful act in which he takes part, and, what is really the same thing looked at from another point of view, cannot, if the act be unlawful, plead in his defence that he did it under the orders of a master or superior Now this doctrine of individual responsibility is the real foundation of the legal dogma that the orders of the King himself are no justification for the commission of a wrongful or illegal act. (P. 210-11).

It becomes, too, more and more apparent that the means by which the courts have maintained the law of the constitution have been the strict insistence upon the two principles, first of "equality before the law", which negatives exemption from the liabilities of ordinary citizens or from the jurisdiction of the ordinary courts, and, secondly, of "personal responsibility of wrongdoers", which excludes the notion that any breach of law on the part of a subordinate can be justified by the orders of his superiors." (P. 287).

Now, everyone with a bit of commonsense can see that if the principle of individual responsibility of every official, every soldier and every policeman is correct, it automatically follows that every one of them should use his own intellect to see whether or not the orders received from above are just and correct and in accordance with the law. And then naturally he should have the right to refuse to obey unlawful and unjust orders. If he is deprived of the right to exercise his own discretion and judgment, it will be most cruel that when, in obedience to the orders of his officer, he is forced to commit an act which he deems unjust, the law-court should convict him on the ground of his personal responsibility for that act. Indeed,

once this principle is accepted there remains no ground for objecting to the view put forward by Maulana Abul Hasanat.

We wish to ask a question in the light of a concrete situation. Suppose an officer instructs a policeman that if a certain Court's judgment goes against the prosecution, he should shoot the judge immediately. Should, in such a case, the policeman submit to his officer's command or disobey it? If he should disobey, who will decide at that moment as to the justification of that order—the policeman himself or someone else?

It should also be remembered that, among the things which have stood in the way of the tyrants and the despots of the world, an important thing has always been that the soldiers and the other employees who executed their orders were not mere automatons but possessed a conscience, an intellect and a power of judgment of their own and had a faith in some sort of religious values and moral standards. We may be sure that if those tyrants had not the fear that the persons entrusted with the execution of their orders were likely to revolt at a certain stage, they would have done things a thousand times uglier than they actually did.

Indeed, if there is any last thing which can stop a government from becoming utterly and ruthlessly despotic it is that it may not be able to find such persons for whom there is nothing sacred and respectable and who can commit the gravest crimes for a loaf of bread. And as regards that government which succeeds in finding such two-legged machines, it can no more be regarded a government but only the curse of God on earth.¹²⁹

129. The history of the political changes and revolutions of the world throws lurid light on this problem. But it

REVIEW OF THE SUMMARY OF THE DISCUSSION

Concluding its thesis on Islam and the Islamic State, the Court has given a summary of its views which we reproduce here verbatim. It says:

Pakistan is being taken by the common man, *though it is not*, as an Islamic State. This belief has been encouraged by the ceaseless clamour for Islam and Islamic State that is being heard from all quarters since the establishment of Pakistan¹³⁰ The phantom of an Islamic State has haunted the Musalman throughout the ages and is a result of the memory of the glorious past when Islam rising like a storm from the least expected quarter—wilds of Arabia—instantly enveloped the world, pulling down from their high pedestal gods who had ruled over man since the creation, uprooting centuries-old institutions and supersti-

must not be taken as a plea for lawlessness or the like. Everything has its own limits and the rules of the game. They must be jealously guarded in any case.

As to the viewpoint of Islam suffice it to quote a few injunctions of Quran and the Sunnah:

- ** "Co-operative in virtue and piety; but never co-operate in vice and evil"—Al-Quran.
- ** Obey not those who overstep our limitations and create trouble (*Fisad*) on the earth, and have no tendency to reform themselves." (Al-Quran).
- ** "There is no obedience in an act of sin. Obedience is obligatory only in truth"—*Hadith* of the Holy Prophet.
- ** "No creature has a right to obedience involving Disobedience of the Creator."—The Holy Prophet.

These injunctions are eloquent without a word of comment.—EDITOR.

130 It has been forgotten, perhaps, that the very establishment of Pakistan is indebted to this "ceaseless clamour" and it has also been forgotten that it was the Quaid-i-Azam, more than anyone else, who was responsible for this 'clamour' and who gave not merely the speech of August 11 but many other speeches and statements also.

tions and supplanting all civilizations that had been built on an enslaved humanity. What is 125 years in human history, nay in the history of a people, and yet during this period Islam spread from the Indus to the Atlantic and Spain, and from the borders of China to Egypt, and the sons of the desert installed themselves in all old centres of civilisation—in Ctesiphon, Damascus, Alexandria, India and all places associated with the names of the Sumerian and the Assyrian civilizations. Historians have often posed the question: what would have been the state of the world today if Muawiya's siege of Constantinople had succeeded or if the proverbial Arab instinct for plunder had not suddenly seized the *mujahids* of Abdur Rahman in their fight against Charles Martel on the plains of Tours in Southern France. May be Muslims would have discovered America long before Columbus did and the entire world would have been Moslimised; may be Islam itself would have been Europeanised. It is this brilliant achievement of the Arabian nomads, the like of which the world had never seen before, that makes the Musalman of today live in the past and yearn for the return of the glory that was Islam. He finds himself standing on the cross-roads, wrapped in the mantle of the past and with the deadweight of centuries on his back, frustrated and bewildered and hesitant to turn one corner or the other. The freshness and the simplicity of the faith, which gave determination to his mind and spring to his muscle, is now denied to him. He has neither the means nor the ability to conquer and there are no countries to conquer. Little does he understand that the forces, which are pitted against him, are entirely different from those against which early Islam had to fight, and that

on the clues given by his own ancestors human mind has achieved results which he cannot understand. He, therefore, finds himself in a state of helplessness, waiting for someone to come and help him out of this morass of uncertainty and confusion. And he will go on waiting like this without anything happening. Nothing but a bold re-orientation of Islam to separate the vital from the lifeless can preserve it as a World Idea and convert a Musalman into a citizen of the present and future world from the archaic incongruity that he is today.¹³¹

After this diagnosis of the disease and prescription of treatment, the Court addresses the leaders of Pakistan and tells them that an irreconcilable conflict of opposing principles is raging here, that the disturbances under discussion were the result of this conflict and that unless a definite goal is fixed and a way is thought out to reach it, this conflict and confusion will continue and such disturbances will go on recurring. The Report says:

Opposing principles, if left to themselves, can only produce confusion and disorder, and the application of a neutralising agency to them can only produce a dead result. Unless, in case of conflict between two ideologies, our leaders have the desire and the ability to elect, uncertainty must continue. And as long as we rely on the hammer when a file is needed and press Islam into service to solve situations it was never intended to solve, frustration and disappointment must dog our steps. The sublime faith called Islam will live even if our leaders are not there to enforce it. It lives in

131. Report, pp. 231, 232.

the individual, in his soul and outlook, in all his relations with God and men, from the cradle to the grave, and our politicians should understand that if Divine commandments cannot make or keep a man a Musalman, their status will not.¹³²

When the discussion about Islam, Islamic Order and Islamic Constitution, which has come up, according to the Report as a necessary corollary to the basic issues of inquiry and has become so extensive as to form the most important part of the Report, arrives at this stage, the reader feels as if the real central idea of this document is becoming fully exposed before him. In other words, these points appear as if they form the real purport of inquiry.

These discussions and the inferences made therefrom signify that, in the eyes of the Court, the disturbances were not the outcome of that religious, social, economic and political conflict which had been raging in Muslim society for the last fifty years as a result of the efforts of a group to carve out a separate *Ummat* for itself, but were the product of the ideological conflict which exists between those who want the establishment of the Islamic Order in Pakistan and those who are opposed to it. In other words, when those advocating a particular viewpoint in respect of the establishment of the Islamic Order pressed their demands about the Qadianis, the opposite camp did not view those demands in the light of their reference to Qadianism, but in the perspective of the said ideological conflict, regarding the demands as only the thin end of the wedge. Hence, in order to nip the evil in the bud, they behaved in a manner which culminated in Martial Law. The Court says that such disturbances

132. Report, p. 232.

will continue to recur so long as a definite decision is not reached about this conflict, and one of the two ideologies is not chosen once for all.

How can it be decided and who is to make the choice? In the opinion of the Court, this task should be accomplished by the leaders. In other words, the people of Pakistan should have no say in the choice of an ideology for their country and their collective life, but it is the leaders who should choose and offer it as a gift to the people. (Of course, by 'leaders' are meant those who are now in power in the administration, the legislature and the constitutional machinery of the country.) But here the Court has not stated what would be done in case that ideology is not digested by "that archaic incongruity"¹³³ which is known by the name of Musalman. If force is to be used, the same conflict which is proposed to be resolved by means of this solution is quite likely to arise. But if the implementation of that ideology is dependent on the wilful agreement of the Musalman to become "a citizen of the present and the future", it means that not the leaders but the common Musalman will choose the ideology.

The Court does not appear to be contented in giving the advice that in order to do away with the disturbances the said ideological conflict must be resolved, and it does not seem to stop at entrusting the task of choosing one of the two ideologies to the leaders. Rather, the manner of expression adopted in the Report and certain words used there clearly indicate which of the two ideologies should be accepted and which should be rejected. Whoever will realize that such an indication is there, he will be

133. Report, p. 232.

confronted with the question whether it was also the responsibility of the Court to point out and suggest the acceptance of a particular ideology in opposition to another one? However, whether or not one is confronted with this question and whether or not one gets a satisfactory answer to it, the picture of Islamic ideology depicted in the Report presents itself in such form, such garb and such colour as to create an impression of great ugliness. Of course, the following words of the Report, said in praise of Islam, will fill the hearts of all Muslims with gratitude:

It lives in the individual, in his soul and outlook, in all his relations with God and men, from the cradle to the grave. . . .¹³⁴

And here too, what is the upshot? It is that Islam should be exiled from the collective life of mankind and should adorn only the private lives of the individuals!

Now we wish to discuss the ideas expressed in the first paragraph and the last sentence of the second paragraph quoted above.

Why is it that the "phantom of an Islamic State has haunted" the Musalman throughout the ages? The two learned judges have answered this question by referring to a cause which is purely imaginary and bears no relation to the facts of history. Perhaps, while stating the cause, they forgot what they themselves had said concerning Islam only 25 pages back, giving there not the Ulama's view of Islam but the one based on their own research. They had said:

134. Report, p. 232.

As an organised religion it takes into its orbit five things: creed, religious rites and customs, rules of moral conduct, economic, cultural and political institutions, and law.¹³⁵

After this they had themselves written that because these five things are based on Divine Revelation, and God has sent them through His Messenger, whoever believes in God and His Messenger, he is bound to accept the creed, act upon the injunctions, follow the moral code, obey the law, and establish the political, economic, cultural institutions which Islam envisages, whether he is able to understand the reason or the expediency of any injunction or not, it being "kufr" to entertain doubt in the "supreme wisdom and designs of Allah".¹³⁶ Further on they had said: "any rule on any subject that may be derived from the Qur'an or the Sunnah of the Holy Prophet is binding on every Musalman."¹³⁷ And, finally, while describing the essentials of the Islamic State, they wrote:

Since the basis of Islamic law is the principle of inerrancy of revelation and of the Holy Prophet, the law to be found in the Qur'an and the Sunnah is above all man-made laws, and in case of conflict between the two, the latter, irrespective of its nature, must yield to the former.¹³⁸

These are the Court's own views and there remains no difficulty in understanding why the "phantom" of an Islamic State is "haunting" the Muslims.

135. Ibid., p. 205.

136. Report. p. 206.

137. Ibid., p. 207.

138. Ibid., p. 209.

The reason for this is not that the Musalman of today is dreaming about that remote past when the "nomads" from the Arabian desert had conquered the lands from Sind to the Atlantic coast and is, therefore, restless now to imitate them in conquering the world. Actually, its reason is that a common Musalman, however degenerated he may be, is not prepared to become so deceitful that, out of the law given by God, he may retain only that part which pertains to personal law, throwing away the whole remaining law as unpractical, and, after giving up all the political, economic and cultural institutions of Islam, may accept for his collective life their secular counter-parts whose very foundation, in the words of the Court is "the disregard of life hereafter".¹³⁹ Even a Muslim of ordinary understanding finds while reading a translation of the Qur'an that, along with the creed and the religious rites and customs, there are to be found also civil and criminal law, instructions about economic and cultural life, guidance about political affairs, rules and regulations about peace and war and international relations. Also, when he reads the life of the Holy Prophet and the history of the Early Caliphate, he sees there a state complete in its theoretical as well as practical aspects. This being the case, only two ways are open to him: either he should believe as true the entire ideology and accept it as a code for his individual as well as collective life, or he should reject the whole system with all its metaphysical beliefs and religious observances and declare openly that he is not a Muslim. It is characteristic

139. Ibid, p. 205. The Quran says: "Do you then believe in part of the Book, and disbelieve in other parts thereof? What then is the reward of he who does this among you?—except disgrace in the life of this world and severest agonies on the Day of Judgment."(2:85)

of the unsophisticated common man that, even when he suffers from moral failings, he is sincere in matters of belief and straightforward in his ideas, and once he declares his faith in God and His Messenger, it is not possible for him to try, in the fashion of the hypocrites, to play tricks with them.

The reason why the mind of a Muslim jumps across the long period of Muslim history, from the Turkish and the Mughal periods to the Abbasid and the Omayyad regimes, and loves to dwell in the days of the Holy Prophet (Peace be on him) and of the Right-Guided Caliphs, and is never weary of regarding that period as his sublimest ideal, is not that in those days the Arab Bedouins rose from the desert and over-turned the great empires of Rome and Iran, but that in the whole history of mankind,—that period is the ideal period in respect of true Godliness, moral purity, individual and collective well-being, political honesty, social justice, true democracy, human fellow-feeling and social equality, and he is fully sure that those principles which gave to humanity such blessings during that period can also bestow them on us, nay on the whole human race, in the present age. This leads him to desire that his national state may be built on those principles, bringing to him and to his fellow-Muslims their benefits and blessings and assume the plan of a beacon-light for entire humanity. It was this belief—expressed in the slogan: “Pakistan means nothing else than the practical realisation of *La ilaha illallah*”!—which rendered it possible for millions of Muslims to undergo sacrifices for the establishment of Pakistan, and it is this belief which is keeping their hearts attached to it in spite of disappointments, frustrations and failures. You des-

stroy those hopes of the Musalmans which they entertain in connection with its becoming an Islamic State, and you will see that just as, according to the statement of Mian Anwar Ali, the talk of Islamic State and Islamic Constitution has made the hearts of the officials cold and lessened their interest in Pakistan, the Muslim masses too will lose their interest in the State as soon as they become totally disappointed about the realisation of the ultimate goal of Pakistan and no power shall be able to arouse them again for action. After that only a few high officials and the upper wealthy class shall remain interested in Pakistan.

Believers in the ultimate destiny of Islam do not labour under the misunderstanding that Islam could put up a successful fight against those forces only which were arrayed against it during the first century of the Hijra and that it is not capable of facing the hostile forces of today. They are not so superficial in their vision as the West-ridden persons of the upper class in the matter of understanding the nature of the essential difference between the old forces and the new. They know that the superiority of the new forces does not lie in any realistic and correct world-view, or conception of man, or philosophy of life but only in the knowledge and control of the physical forces when application in the social domain of life has resulted in marvellous material advancement.¹⁴⁰ They do accept the super-

140. This fact, although totally ignored by our ultra-modernists, is now being increasingly realised by the Western thinkers themselves. Bertrand Russel — in no way kind to religion — fully realises this weakness of the modern civilization. He writes:

“Broadly speaking, we are in the middle of a race between human skill as to means and human folly as to ends. Given sufficient folly as to ends, every increase in the skill

iority of the West in respect of the physical sciences. They also consider it necessary to learn those sciences, and Islam imposes no checks on them in this regard. But they are at the same time convinced that their own world-view and conception of man and philosophy of life is as superior to the ideologies of today as it was to the ideologies of the first century of the Hijra, and that they have no need to borrow anything in this respect from anyone. They are convinced that if they make up their

required to achieve there is to the bad. The human race has survived hitherto owing to ignorance and incompetence; but, given knowledge and competence combined with folly, there can be no certainty of survival. Knowledge is power, but it is power for evil just as much as for good. It follows that, unless men increase in wisdom as much as in knowledge, increase of knowledge will be increase of sorrow." (The Impact of Science on Society P: 120-2).

Mr. Henry C. Link writes in 'The Rediscovery of Morals': "The third annual Conference on Science, Philosophy and Religion, consisting of a hundred scholars—sociologists, archaeologists, physicists, theologians, psychologists, psychiatrists, biologists, anthropologists, economists, etc.—concluded their five-day session with the remarkable statement that the economic and political catastrophies of our times were due to the intellectual confusion of modern science, its failure to recognise "the great inherited body of accepted truths", and the consequent deterioration of moral and spiritual values." (The Recovery of Morals P. 20-21).

Mr. Arnold Lunn concludes his "The Revolt against Reason" on these significant words:

"In the last analysis Europe cannot be saved by material factors alone. Europe must recover her soul and not only her soul but her mind. If the anti-rationalists are not dethroned Europe will be lost." (P. 229).

And Dr. Muhammad Iqbal says:

"And religion alone can ethically prepare the modern man for the burden of the great responsibility which the advancement of modern science necessarily involves and restore to him that attitude of faith which makes him capable of winning a personality here and retaining it hereafter. It is only by fresh vision of his origin and future, his whence and whether, that man will eventually triumph over a society motivated by an inhuman competition, and a civilization which has lost its spiritual unity by its inner conflict by religious and political values."

These are hard facts and our West-ridden intelligentsia is ignoring them at its own peril.—EDITOR.

deficiencies in the physical domain with the help of Science and get an opportunity of demonstrating their philosophy of life in the frame-work of state-organisation. They can unite the world on a better ideology. An ideological conquest does not mean military operations. For instance, the conquest of China for Communism was not accomplished by the armed forces of the U. S. S. R. Rather, China was conquered for Communism by that dynamic section of the Chinese population which had come to believe in the Communist philosophy of life, or the conquest of many countries of Western Europe for socialism and social democracy has not been the result of any military operation—it has been a victory of relatively more powerful ideas and ideologies.

If anyone wants to re-orientate or reconstruct Islam, let him do so. His efforts shall be welcomed, however severe and uncompromising be his attitude, provided he proves, on the basis of sound arguments, what parts of Islam are lifeless, why are they lifeless and on what grounds can they be changed, and also: what are its vital and living parts and in what form does he want to retain them. But he should grasp two things thoroughly: Firstly, we can obtain decisions from the law-courts in our law-suits, but we cannot be forced to accept their decisions on ideological issues. Secondly, a Muslim may be convinced either by the arguments based on the Qur'an and the Sunnah, or by universal intellectual appeal. But if Islam is placed before America, Britain, India and other leaders of 'the international fraternity' and they are requested to cut off from it whatever they dislike, to retain whatever they like, and to add whatever they consider necessary, and, after these

'improvements', amendments, substitutions and additions, something is presented to the Muslims in the name of "Islam", however much it may appeal to certain high officials and the upper bourgeois classes, for an ordinary Muslim there would be no other way to greet it with a flat rejection than to kick it away with utmost hatred.

As regards the assertion that if Divine commands cannot make or keep a man a Musalman, state-laws will not,¹⁴¹ it is nothing but a fallacy. The question is: when the Divine commands have actually made a man a Musalman and he has come to know of those commands of the same God which can be enforced by an administrative machinery of the Government and a Judicial system only, what should that man do if he is really a Musalman and desires to remain a Musalman? Should he—God forbid!—throw that part of the commands in the wastepaper basket or should he exert all his force in making his free national state to adopt them and to abide by them?

141. Report, p. 232.

**THE REPORT
AND
THE QADIANI PROBLEM**

PART III

**(The Part Played by the Report in the Solution
of the Qadiani Problem.)**

PART III.

THE REPORT AND THE QADIANI PROBLEM

In this part of our Analysis we have to see whether the real issue which caused such widespread disturbances in the country has been solved to any extent in the Report, or evaded, or made more complicated?

Before we offer any comments in this regard, we wish to draw the attention of the readers to the fact stated in Part II of this Analysis. Towards the close of that part we had shown, through the evidence of the Report itself, that the Court did not at all look at the issue as a conflict between the Qadianis and the Muslims but only as a part of the ideological struggle that exists between those who want Pakistan to become an Islamic State and those who do not want it. And because the trend of the arguments of this Report in respect of this struggle is not only absolutely but also severely against the former group, the attitude adopted with regard to the Qadiani issue is naturally influenced by that trend.

Keeping this in view, let us see what facts have come before the Court according to the Report itself.

THE DIFFERENCES BETWEEN QADIANIS
AND MUSLIMS

The first fact relates to the Qadiani-Muslim differences, about which the following things have

either been accepted or at least narrated as a statement of fact in the Report:

(a) The Court accepts that all those who do not believe Mirza Ghulam Ahmad to be a prophet are *Kafirs* and outside the pale of Islam in the view of the Qadianis and that the recent interpretations presented by the Anjuman Ahmadiyya of Rabwah do not alter the position.¹⁴²

(b) The Court also admits that, in spite of their recent interpretations, the former position of the Qadianis persists with regard to the funeral prayers of the non-Qadianis,—namely, because a non-Qadiani is a *Kafir*, his funeral prayers can not be offered.¹⁴³

(c) The Court does not give a clear verdict on the question whether the attitude of the Qadianis in not giving their daughters to the non-Qadianis in marriage is due to expediency or to the fact that they place the non-Qadianis in the same category as the Christians and the Jews.¹⁴⁴

However, the clear statements and injunctions found in this regard in the religious literature of the Qadianis, submitted before the Court, have not been proved to be incorrect anywhere in the Report.

(d) The Court admits that the exaggerated reference by Mirza Ghulam Ahmad to himself in comparison with the different Prophets, including our own Holy Prophet (Peace be on him), and the use by the Qadianis of such titles and epithets for

142. Report, p. 199.

143. Report, p. 199.

144. Ibid., p. 198.

their leaders which the Muslims employ only for the Holy Prophet, his Companions and his family is resented by the Muslims, and that the resentment is natural.¹⁴⁵

(e) The Court also admits that the beliefs of the Qadianis, their "aggressive propagation", their "offensive references" to the non-Qadianis, their programme to make Baluchistan their own province and a base for further operations, the speech of Mirza Bashiruddin Mahmud Ahmad at Quetta, the declaration that the entire Muslim population would fall into the lap of the Qadianis by 1952, and calling those who did not believe in Mirza Ghulam Ahmad as enemies and criminals—all these things were most provocative for the Musalmans.¹⁴⁶

(f) It is also admitted that the Qadiani officials had used their official position for the propagation of Qadianism.¹⁴⁷

(g) The Court also records that the "utter sycophancy" of the British by the Qadianis and their founder, calling British Raj a blessing because of its "liberal religious policy" and enjoining rejoicings and celebrations at the fall of Muslim countries to the British, caused bitter resentment among the Muslims.¹⁴⁸

(h) It is also admitted that the article of "*Al-Fazl*" captioned "*Khuni Mulla ke Akhri din*" (last

145. *Ibid.*, p. 197.

146. *Ibid.*, p. 261.

147. *Ibid.*, pp. 197. 260—261. The Court is of the view that the Circular of the Central Government, issued on August 14, 1952, has put an end to it. But, the extent to which the Circulars of the Government succeed in combating the illegitimate activities of different groups is no secret for anyone in Pakistan.

148. Report, p. 196.

days of the bloody *mulla*) was really highly provocative.¹⁴⁹

(i) It is also admitted that a battalion named "Furqan Battalion" was really serving in Kashmir.¹⁵⁰

All these things are there in the Report of the Court itself and it has been admitted that the resultant conflict between the Muslims and the Qadianis is more than half a century old.¹⁵¹

Now a thinking mind would decidedly come to the conclusion that these elements and off-shoots of the Qadiani-Muslim differences could not have remained confined to a mere theological conflict but were bound to affect the social life also.

Let us state the facts briefly as they happened. An organised society took birth inside the Muslim society and strove to expand through aggressive propagation of its ideals and beliefs. Its expansion caused dissensions within the units and sub-units of the parent society. Kinsmen could no more strengthen their kinship by marriage. The father refused to participate in the funeral service for his son. The brother hated to share the joys of his brother. Families were torn to pieces and the entire social life suffered disruption. How, under these circumstances, was it possible for the conflict to remain purely theological and not to transform itself into a full-fledged social and cultural conflict?

149. Ibid., p. 198.

150. Ibid., pp. 197—198.

151. Ibid., p. 260. Maulana Maudoodi has discussed the nature of the Qadiani problem in detail in his booklet "The Qadiani Problem". The reader is referred to this book, if he wants to appreciate the true magnitude of the problem.—Editor.

Then, the new society, though claiming to be a part of Muslim society, stood differently from it in its political aspirations and ideals. And not only that. It openly declared the ambition to subjugate the latter politically. Could the conflict between the two save itself, after that, from becoming a full-blooded political conflict?

Again, taking undue advantage of their official positions, the officials belonging to the new society applied themselves to the task of strengthening Qadianism at the cost of Muslims. Should not have this thing created ill-will among the Muslims against the Qadiani officials?

Furthermore, those people started hurling violent threats against the Muslims and the provocative character of those threats has been admitted by the Court itself.

All this plainly shows that due to the above-mentioned reasons, there existed plenty of explosive material for a bitter social and political conflict between the Qadianis and the Muslims. The Court's own admission in this regard is in the following words:

We are, therefore, satisfied that though the Ahmadis are not directly responsible for the disturbances, their conduct did furnish an occasion for the general agitation against them. If the feeling had not been so strong against them, we do not think that the Ahrar would have been successful in rallying round themselves all sorts of heterogeneous religious organisations.¹⁵²

152. Report, p. 261.

GENERAL RESENTMENT AMONG THE MUSLIMS

The second thing which stands fully proved in the pages of the Report is that the Qadiani-Muslim conflict had embittered the hearts of Muslims in general even before the establishment of Pakistan and that, after its establishment, that bitterness had increased to such an extent that, according to the impression which the Report conveys, the leaders of an unpopular body like the Ahrar, who could not otherwise show their faces in the public, were able to become popular once again by launching an anti-Qadiani movement based on that bitterness, and even the leaders of the Muslim League had no alternative but to support and co-operate with them.

While narrating the history of the Ahrar, the Court tells us at the very beginning of the Report that the hostility between the Ahrar and the Qadianis dates back to the days of the Kashmir agitation of 1931 and that the former took advantage of the Qadiani-Muslim conflict to take revenge of their grievance in that connection.¹⁵³

After this, the reports of the officials of Pakistan come before us in quick succession, and they testify to the existence of high-pitched sentiments which prevailed among the Muslims against the Qadianis and of which the Ahrar took advantage. In June 1950, Mian Anwar Ali, the then D.I.G., C.I.D., wrote a long note wherein the following sentences are worthy of consideration:

Lately the Majlis-i-Ahrar has, apart from making obscene and indecent references to the

153. Report, pp. 11, 12.

founder of the Ahmadiyya faith and the present *khalifa*, began to advocate violence advertently as well as inadvertently. It will be recalled that last year a young Ahmadi officer of the rank of a Captain was brutally attacked and killed at Quetta because he took exception to the conduct of certain anti-Ahmadiyya demonstrators. The Majlis-i-Ahrar was opposed to the Partition of the Indian sub-continent. Ahrar leaders enjoyed the confidence of the Congress and used to hobnob with Congress workers. After the Partition they went low. For a time they were afraid of public fury and used to give occasional statements to establish that they were loyal to Pakistan. They were purely on their defensive and did relief work in refugee camps and elsewhere. The members were scattered and for a while the party broke up. Sayyed Ata Ullah Shah Bukhari shifted from Lahore and took refuge in a village in Muzaffargarh district. Sheikh Husamud-Din announced that his political career had come to an end and opened a joint stock company for the purpose of doing inter-Dominion trade....the Ahrar began to concentrate on the Ahmadis vilifying them in a most shameful manner. As confidence was gained, Sir Zafrullah Khan began to be attacked and described as a traitor. The Ahrar are no longer on the defensive but have positively become aggressive.¹⁵⁴

Further on Mian Anwar Ali says in the same note:

Public memories are tragically short. In spite of the fact that about two years ago the Ahrar

154. Ibid., pp. 19, 20.

leaders were looked upon with distrust and suspicion, they are able to attract large audiences whenever they address public meetings. There are few who question their *bona fides* or even care to ask why all this fuss is made about the Ahmadis. The Ahrar have partially achieved their objective; they have rehabilitated themselves and will before long emerge as a political party not necessarily on the side of the Muslim League. . . . If they are sincere, they should have dissolved their organisation and should have become Muslim Leaguers.¹⁵⁵

A few lines after this, Mian Anwar Ali quotes the following opinion of Khwaja Shahab-ud-Din, then Minister for Interior in the Central Government:

. . . . he mentioned quite rightly that unless action is taken at this stage against the Ahrar party and its workers, its popularity may have increased manifold and later action might give them the role of martyrs apart from creating practical difficulties.¹⁵⁶

155. Ibid., p. 21. The last sentence is worthy of note in as much as it has been written by the Deputy Inspector General of Police of the Punjab in an official note and not by any Secretary of the Punjab Muslim League. It would have been regrettable if such a stricture had been passed by some office-bearer of the League. But, perhaps Pakistan is the only country in the democratic world where govt officials associate themselves with the party in power and do not refrain from demonstrating this partisanship in their official communications. Perhaps this sentence escaped the notice of the Court when it expressed its opinion on the administration of the country. Otherwise, the dangerous consequences which it contains in its bosom were also worthy of mention.

156. Report, p. 22.

Sardar Abdur Rab Nishtar, who was Governor of the Punjab in those days, writes in one of his notes:

I further told him (i.e., Master Taj-ud-Din) that it is believed, and not without justification, that the conferences held by Ahrar under the garb of *Khatm-i-nubuwwat* are really meant to further their political ends. The object is to gain popularity among the Muslim masses who are naturally averse to Ahrar on account of their pre-Partition activities.¹⁵⁷

After this, the Court itself records the fact that although the Muslim League swept the polls in the elections of 1951, all the Qadianis who stood on the League-tickets were defeated.¹⁵⁸

Further on, we come across the note which Mian Mumtaz Muhammad Khan Daultana wrote in June, 1951 on the official report of the provocative speeches of the Ahrar:

Ahrar are merely trying to capture a political 'living space' on an issue which has obvious attraction for the common run of people in Pakistan.¹⁵⁹

Then we find a note written in April, 1952, by Khan Qurban Ali Khan, then Inspector General of Police in the Punjab, in which he says:

They (i.e., Ahrar) are men of no importance. They have no following and no programme, but they are ambitious.... They are, therefore, waiting that some day.....they would come

157. Ibid., p. 23.

158. Ibid., p. 29.

159. Ibid., p. 30.

into prominence. For that day they are keeping the fire of anti-Ahmadi feeling burning. If this fire extinguishes the Ahrar would be left with nothing to attract anyone to their party.¹⁶⁰

Having expressed these ideas, he puts the following questions to his C.I.D. :

What is the total strength of Ahrar and how far would they be prepared to oppose or defy Government and what would be the general reaction if the question of Ahmadis is made an issue?¹⁶¹

A reply to these questions is sent to Khan Qurban Ali Khan on behalf of the C.I.D. in May, 1952. The following sentences are worthy of note therein:

The Ahrar have almost regained the influence among the Muslim masses of the Punjab which they had lost by their opposition to the creation of Pakistan. This has been possible by their identifying themselves politically with the Muslim League and by an extensive anti-Mirza-eet campaign. The former brought them support from the popular ruling organisation and the latter won them the goodwill of the general Muslim public who always takes pleasure in satire against the cult of new prophet-hood in Islam.....Unfortunately the trend of mind of the general Muslim public has so far gone against the Ahmadis that the workers of the Muslim League are sometimes forced to find security of their public influence in openly sharing these sentiments of the people.¹⁶²

In May 1952 itself Mian Anwar Ali, D.I.G., C.I.D., writes another note, wherein he says:

Ahrar leaders who are afraid of facing crowds after the Partition, have since become heroes. Syyed Ata Ullah Shah Bukhari lived in seclusion at a remote village of Muzaffargarh district for nearly two years and declined to accept invitations for addressing public meetings. He now commonly addresses meetings all over the Province and is no longer on the defensive.¹⁶³

In July 1952, Khan Qurban Ali Khan, who appears at the stage of the Report under discussion as a veritable "Philosopher of the Nation", writes again:

The Ahrar by themselves are not strong enough to have raised this demand but someone from amongst them or those who are behind them are clever enough to have foreseen that none of the so-called religious *jama'ats* would be foolish enough to lag behind on an issue over which every Musalman has the strongest feeling against the Ahmadis.¹⁶⁴ That every single Muslim will rise on this issue cannot be denied It will nevertheless be the strongest issue, since the formation of Pakistan, on which the League will be challenged with the hope that if Government in power should give a verdict projecting these demands the majority of Musalmans will go against them. There is not the slightest doubt of this happening if in the meantime Government does not devise ways

163. *Ibid.*, p. 56.

164. Just notice the mode of thinking of these Government officers! It is difficult for them even to conceive that anyone can do something in the world out of sincerity also.

and means to counteract the mischief which will now start in right earnest. What ways and means Government can find or employ it would be possible for them only to examine. No time should be lost. It is now a race and Government must be on its toes and let no grass grow under its feet.¹⁶⁵

All these evidences which have been quoted in the Report from official documents prove very plainly that the Qadiani problem was a living problem for the Muslim masses of the Punjab, that it existed there because of its natural causes, that it had plunged the people in unrest, and that the unrest was so deep-seated that when none came forward to handle it, people accepted the lead of a party whose leaders had been afraid of facing them before, but the moment that dead party took up that problem it instantly regained life and acquired the leadership of the people. We, on our part, fail to understand how the problem of deducing the conclusion from these evidences remained hidden from the penetrating vision of our learned judges. When the reader thinks of it, the following words of the beginning portion of the Report echo in his mind:

From exploiting an existing agitation there is only one step down to creating an agitation.¹⁶⁶

But leaving aside the consideration whether this view is correct or not,¹⁶⁷ the observation may be

165. Report, pp. 80, 81. Here Khan Qurban Ali Khan is appearing in the same role in which Mian Anwar Ali was just seen. A Government officer is anxious that the Muslim League may not suffer defeat because of this issue in the next elections!

166. Report, p. 13.

167. Truly speaking, it is very difficult to accept this view. One might succeed in firing the minds of a few persons

made: How unthinking are those leaders of a country who witness the presence of a problem creative of general unrest, who recognise very well its dangerous possibilities, who also realise that if someone so desires he can derive wrong advantage from it, but who ignore it deliberately instead of making some effort to solve it!

INTENSITY OF PUBLIC OPINION AND ITS EXTENSIVE CHARACTER

The above evidences prove the existence only of general unrest among the masses of the Punjab. But there are other official evidences which go to show that public opinion on this problem was so widespread, tense and powerful that although Ahrar continued to indulge in unlawful activities for a long time, the Government did not touch them for the fear that to proceed against any Muslim on the Qadiani problem or to do any such thing which might be interpreted as backing up the Qadianis would severely inflame the Muslim masses.

In January 1950, a case was prepared against certain Ahrar leaders for delivering certain speeches which were said to be conducive to "engendering hatred" and the Police proposed that action should be taken against them. The Government's Adviser for Law wrote the following note on that case:

.....the Muslims are very touchy on the point of Ahmadism and to prosecute the Ahrar for

by means of provocative speech in respect of a problem for which people may have no sentiments of their own and for creating unrest on the basis of which no natural causes may be present. But it is totally impossible for millions of people to become agitated on such a flimsy problem, whoever may be the person who provokes them, and to remain agitated continuously for years.

their vituperations against the Ahmadis would give them an air of martyrdom in the eyes of public which they do not deserve. I would not, therefore, advise any action against the Ahrar leaders for the present.¹⁶⁸

The same opinion was repeated by him in February 1950 in connection with another case,¹⁶⁹ and in June of the same year Mr. Fida Hasan, Chief Secretary to the Punjab Government expressed his agreement with it.¹⁷⁰ In the same month, again, Sardar Abdur Rab Nishtar, the then Governor of the Punjab, gave his approval to the view of the Adviser for Law that any action against Ahrar in connection with their activities against the Qadianis will enhance their popularity.¹⁷¹

In May 1952, Mian Anwar Ali, D.I.G., C.I.D., wrote a lengthy note against the activities of Ahrar. Khan Qurban Ali Khan, Inspector General of Police, commented upon it in these words:

It is a difficult decision¹⁷² to take, I know, but someone has to take it. The Central Government is not likely to share the responsibility of getting involved in a matter which has the remotest chance of raising another opposition especially on an issue which may be exploited as a religious all-Muslims *versus* Ahmadis issue.¹⁷³

In June 1952, the Government formulated the policy that, in taking action in respect of anti-

168. Report, p. 16.

169. *Ibid.*, p. 17.

170. Report, p. 18.

171. *Ibid.*, p. 22.

172. i.e., the decision to take action against Ahrar.

173. Report, p. 59.

Qadiani speeches, only the prominent members of Ahrar leadership should be proceeded against while others of lesser importance or those who do not belong to the Ahrar party should be ignored. The Home Secretary of the Punjab Government gave the following reason for this policy in a demi-official Circular:

If we throw our net wider....we shall only succeed in arraying a vast section of ~~the~~ public against the administration.¹⁷⁴

In the same month of June, Khan Qurban Ali Khan wrote in his note that what was stopping the leaders from taking action was "just the fear of becoming unpopular with the Muslim masses by challenging the Ahrar on an issue when the popular support will not be with them."¹⁷⁵

This fear coloured the situation to such an extent that although the Central Government had decided to reject the anti-Qadiani demands, it was not prepared to disclose this fact to the public until February 27, 1953. It had informed the Provincial Governments confidentially of its decision, but had at the same time stressed that while they were to carry on powerful propaganda against the demands, they were not to disclose its own stand in the matter.¹⁷⁶

Does not this vast array of evidence prove beyond doubt that the unrest among the masses caused by the Qadiani problem had reached a most

174. Ibid., p. 61.

175. Ibid., p. 76.

176. Report, pp. 148, 283, 353.

violent stage and that it was due to this that the Government remained hesitant and afraid, not for a day or two but for years, in the matter of taking action against those who, according to the facts stated by the Court itself, were openly violating and belittling law and order? Besides this, the responsible officers of the Government themselves admit in their documents that the overwhelming majority of the people was opposed to the policy which the Government was pursuing in respect of the Qadiani problem and only those persons were popular among the masses who were advocating the three anti-Qadiani demands under discussion.

PROOF THAT THE DEMANDS WERE "PEOPLE'S" DEMANDS!

The fact that the demands enjoyed the general support of the Muslims, especially those of the Punjab (whose problem they really formed), is borne out not only by the evidences quoted in the foregoing, but also by other evidences with which the pages of the Report are replete.

As regards the different parties in the country—Muslim League, Jamaat-e-Islami, Majlis-e-Ahrar, Jamiat-i-Ulama-i-Islam, Jamiat-ul-Ulama-i-Pakistan, Jamiat-i-Ahle-Hadith, Anjuman Tahaffuz-i-Huqooq-i-Shia, etc.—almost all of them stood for the demands¹⁷⁷ and, with the exception of the Azad

177. At one place the Court has minimised the actual importance of this fact. It says that none of the parties which participated in the Muslim Parties' Convention had passed resolutions in support of the demands independently and under their own constitutions, and that only the members—office-bearers or non-office-bearers—who represented them at the Convention did the task of supporting the resolutions passed there. The conclusion

Pakistan Party and the Jinnah Awami League, there was perhaps no party which did not openly voice its views in its favour,—and even those two agreed with the people, on their own grounds, in regard to the demand for the removal of Sir Zafrullah Khan.

In the Punjab alone, 390 meetings were held in support of these demands from July 1952 to March 6, 1953.¹⁷⁸

The Home Secretary to the Government of the Punjab admits in his D.O. letter addressed, on 21st October, 1952, to the Deputy Secretary to the Ministry of the Interior that there was no important mosque in the whole of the Punjab where these demands were not repeated on every Friday.¹⁷⁹

The Court's own statement, based on official information, is that fifty-five thousand volunteers enrolled themselves for Direct Action in the Punjab.¹⁸⁰

As regards the happenings of March 1953, the Court itself says that the students of the Colleges

which the Court has drawn from this is that the unanimous character of the demands is in respect of those individuals only who participated in the Convention and not of the Parties which they represented. (p. 185).

We differ from this line of reasoning and its conclusion on the ground that if the representatives of any Party had violated the policy of the Party in agreeing to the demands, that Party would have certainly taken them to task and would have surely expressed its disapproval in one way or the other. Besides that, the fact that the leaders, workers, speakers, and writers of all the Parties combined to voice their support to the demands after the Convention, and no voice was raised in protest against them from any quarter, forms a positive proof that the demands were upheld unanimously by the Parties.

abandoned their classes and the employees of the Punjab Civil Secretariat, the A.G's office, the Telephone and Telegraph departments, the departments of Railways and Electricity and several other departments of the Government went on strike and all of them were in favour of the acceptance of the demands.¹⁸¹

It is the admission of the Court itself that the entire population was "seized with religious frenzy" and the hearts of the people were full of hatred against the Government for not accepting the demands.¹⁸²

Indeed, matters reached such a climax that even the members of the Police, who are always ahead of everyone else in loyalty to the Government and behind everyone else in being influenced by any public movement, began to be influenced rapidly according to the evidence of Mr. Chundrigar, who was Governor of the Punjab at that time. The words of Mr. Chundrigar are:

.....the I. G. Police was not quite sure whether he could fully rely on the loyalty of his men. When I put this to the I. G. Police, he admitted that he could not fully rely on the loyalty of his force on this issue, and he was of the opinion that sooner or later the control of the situation would have to be given over to the army.¹⁸³

The admission of Mian Anwar Ali, D.I.G., C.I.D., has been quoted by the Court in these words:

181. Ibid., pp. 158—164.

182. Report, pp. 145, 283.

183. Ibid, p. 376.

.... junior police officers thought that the demands should be conceded.¹⁸⁴

Now the question is: If the demands which had the support of all the section of Muslim population, with the exception of some upper-class Government officers and a very small group of wealthy people, were not unanimous national demands, what else were they?¹⁸⁵

184. Ibid., p. 376.

185. At one place the Court has brought the following statement of Maulana Abul Ala Maudoodi also in support of its reasoning that the "demands were not sufficiently public":—"the movement was known only in the Punjab and Bahawalpur, where also it had not the support of the intelligent section, and considerable propaganda was necessary to enlist public sympathy". The conclusion which the Court has deduced from this is: "The demands, therefore, must be regarded to be those of the Ahrar in the first instance and of the Ulama later". (p 299). But, if a superficial view had not been taken, it was not difficult to grasp the real import of Maulana Maudoodi's statement. For the movement to be not known, or not sufficiently known, among the masses of areas other than the Punjab and Bahawalpur means that although, in its theological perspective, Qadianism is a problem of the entire world of Islam, as a social and economic problem it was confined mainly to the Punjab and Bahawalpur, because Qadianism has not penetrated other areas to such an extent that the common people may feel that bitterness and those complications which appear in Muslim society wherever the tentacles of this ideology spread. It is this fact which necessitated considerable propaganda for enlisting the support of Bengal, Sind and other areas, and it is a plain truth that it was impossible to get the issue decided by the Constituent Assembly without the active backing of the representative of those areas.

As regards the intelligentsia, the reasons for its indifference and disagreement are of a different nature. The masses always use the Direct Method in understanding the social, political and other problems of collective nature, and they do not experience much difficulty in forming their opinion about a thing whose bitterness they can feel directly in their practical life. This is not the case with the educated class, for the brain of an educated person has many zig-zag paths and he is accustomed to continue swinging for long periods, under the pressure of his pre-conceived notions and opinions, between the different interpretations of such things about which the

THE BABY CALLED 'QADIANI PROBLEM' IS STILL ALIVE

Let us see now that if the above was the position on March 6, 1953, what special event has taken place after that which might lead us to think that the problem which gave rise to all those disturbances exists no more and the demands which caused the different sections of the people to stand up so furiously for supporting them are now dead and buried? Evidently, no event has taken place except that, through the imposition of Martial Law and through the harsh and demoralising measures practised for two and a quarter months, the Government has terrified the people.¹⁸⁶ But, have all those causes which brought forth the Qadiani-Muslim conflict as a natural sequence died out? Have those causes died out which transformed theological differences into a bitter social conflict and made it to spread to the remotest village and hamlet—every nook and corner—of the former Punjab? Have those causes died out which pushed the conflict into the market-places, the Government offices and the agricultural, industrial and commercial concerns?

sentiments of the common folk become sufficiently intense in the meantime. Consequently, it takes enough time to resolve intricacies of the thought of the educated class and to bring it in line with the outlook of the masses. It is a matter of only yesterday that the Muslim masses of United India, guided by their direct experiences, were standing, so to say intuitively, on the side of the two-nation theory and the one-nation theory had totally failed to appeal to their minds. But, because the one-nation theory had penetrated the warp and woof of a large part of the intelligentsia under the influence of the Western philosophy of nationalism which they had imbibed in the Colleges and the Universities, it became necessary to continue to din arguments into their ears for years in order to force the two-nation theory into their brains.

186. Or, this change may also be noted that restrictions are imposed day in and day out on the movements, speeches and writings of the people under such laws as the Safety Act.

Has it ever been possible in the world to change the feelings, the thoughts and the sentiments of the masses through court-martials and at the point of bayonets that we should expect these measures to effect a miracle in the present case?

It is not necessary for us to give reply to these questions. The Court itself says:

The baby (i.e. the baby of the explosive Qadiani problem) is still alive and waiting for someone to pick it up.¹⁸⁷

COURT'S CONTRIBUTION TO THE SOLUTION OF THE QADIANI PROBLEM

The Court's observation is perfectly correct and true. But the question is: Has the Court also suggested in its Report any arrangement for getting rid of the baby? None, to be sure, except that:

1. It has proved the baby to be the offspring of the ideological conflict existing between those who desire the establishment of the Islamic State and those who do not, and it shall be consequently possible now for the antagonism of all those anti-religious groups who hold the political strings of the country and have a hand in its administration to come into action against this baby.
2. By putting forward such arguments that are weak and flimsy from the purely rational as well as the factual points of view, but possess extreme fascination for the

187. Report, p. 286.

anti-religious minds, it has no doubt made the arrangements to some extent that the anti-Qadiani demands may never be accepted for getting rid of this baby. But, side by side with that, it has furnished no material for satisfying the Muslim masses that their demands are wrong. On the other hand, it has performed the service of adding to the unrest of the Muslim masses by connecting the Qadiani problem with the problem of the Islamic State and, again, by stirring up painful discussions in respect of the ideal of the Islamic State.

3. It has considered the negative stand sufficient that the anti-Qadiani demands should be rejected. But as regards the basic problem of resolving the Qadiani-Muslim conflict, it has put forward no positive suggestion.

All this means that this mischief-creating baby will not only remain alive, but will continue to weep and moan by the roadside so that some "mischief-monger" may pick it up at the first opportunity to plunge the country into a storm again.

This is the up-shot of the Inquiry on which so much public money and so much precious time of many of the useful public men was spent lavishly.

THE LAST WORD

Our point of view in writing this Analysis has been academic to the best of our effort and we have

not desired on any occasion to deliberately and intentionally attack the motive or the honour either of the learned judges of the Court of Inquiry (who possess an acknowledged position and that position is bound to be honoured) or of any connected individual or party, nor have we intended to injure the sentiments of anyone. But, in spite of this, the atmosphere of differences is such a thing that under its influence even the most cautious writer may inadvertently commit a slip of the pen, and even when he does not do so, there remains a likelihood that someone may harbour some misunderstanding or complaint against him. Keeping such a possibility alone in view, we wish to assure all those individuals and parties who might in any way have anything to do with the Report or its Analysis that the purpose of this Analysis is not to injure the feelings of anyone but only the exposition of facts and explanation of academic truths. We hope none will entertain any misunderstanding after this clarification about our viewpoint.