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## Justice Perspective of Hazrat Ali A Study of Maududi's *Tafhim al-Qur'an*

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ARTICLE DETAILS	ABSTRACT
<p><b>Article History</b> Published Online: _Published</p> <p><b>KEYWORDS</b> Hazrat Ali Justice in Islam Maudūdī Nahjul Balagha</p>	<p>Sayyid Abul Ala Maududi (1903-1979) is the most influential and authoritative scholar of Indo-Pak subcontinent in modern times. His famous works <i>Khilafat-o-Mulkiyyat</i> is one of the master pieces in Islamic history that honestly analysis how the institution of Khilafah was transmitted to kingship in early Islamic History. The great scholar has always tried his best to deal justly with the holy companion of the Prophet while elaborating their human mutual conflicts. Maududi's Tafsir <i>Tafhim al-Quran</i> in six volumes deals with the great personality of Hazrat as a Caliph, His democratic system of Government, his judicial opinions, his firms stand taking in favour of Muslim community and his implementation of <i>Shariah</i> in an Islamic society. This article is an effort to see the exemplary role of Hazrat Ali in the light of the <i>Tafhim al Quran</i></p>

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## Introduction

Maududi has well illustrated how the consultative assembly elected Hazrat Ali as the fourth caliph of Islam. He has elaborated on the importance of the consultative assembly in the History of early Islam. They were called *Ahl-al-Hall Wal' Aqd* (those who could tie and untie).

The Prophet himself, by saying that the *Qur'an* should be learned and understood from such and such persons, but his seal on their erudition. Thus, these two groups also were elected as a matter of course, like those before them, by the same process of natural selection and became automatically included in the Consultative Assembly of the Prophet's successors. There was, thus, no need to take a vote for them, and even if the vote was taken, there was nobody else in that society who would have been preferred by the voters. And those constitutional conventions under which fresh nominees continued to be incorporated in the Consultative Assembly by virtue of their services, experience, and outstanding intellectual attributes automatically received universal approval. This was the class of people which was known as *Ahl-al-Hall wal-'Aqd*, and it was these people without whose advice no decision was ever taken in any important matter. As to their constitutional status, some opinion can be formed by the fact that when, after the unfortunate assassination of Hazrat Uthman, some of the companions came to Hazrat Ali to ask him to accept the office of the caliphate,<sup>[i]</sup> Hazrat Ali said:

This is not a matter where you can make a decision. This is a task for all those who can advise and have fought in the battle of Badr (*Ahl-al-Shura Wa Ahl-al Badr*). Whosoever is approved by them will be the caliph and let us, therefore, congregate and consider it.<sup>[ii]</sup>

It is thus clear that at that time, there were certain specific persons called "*Ahl-al-Hall wal-'Aqd*" who had been continuously holding the position of great trust for a very long time and were thus entitled to take collective decisions in all important matters



affecting the Ummah. There is, therefore, no valid ground to presume that the Khalifah could call for consultations with whomsoever he liked or that it was not generally known to who were his advisers (*Ahl-al-Shura*) entitled to give advice to him in the most important matters affecting the collective good.[\[iii\]](#)

### **The Popular Vicegerency**

The principle of 'Popular Vicegerency' should be translated into action has been described clearly in the following:

They manage their affairs by mutual consultation.[\[iv\]](#)

This verse tells us the distinctive feature of the Islamic way of life, namely, that all the collective affairs are performed by mutual consultation. From the context where this verse occurs, it is evident that it is not a mere statement of fact but an injunction and a command. In this connection *Khatib-al-Baghdadi* quotes the following from Caliph Ali:

I said, 'O Messenger of Allah! What should we do if, after our demise, we are confronted with a problem about which we neither find anything in the *Qur'an* nor have anything from you? He replied: 'Get together the obedient (to God and his law) people from amongst my followers and place the matter before them for consultation. Do not make decisions on the basis of the opinion of any single person.

The important right is that of freedom of opinion and belief. Hazrat Ali, the fourth caliph, has given the best exposition of Islamic law in this respect. During his period, the party known as the kharjites reared its head in revolt. This group was very similar to the modern anarchists and nihilists. Its members defined the state openly and denied the need for its existence in Islam, and they were making preparations to wipe it out by the sword. Hazrat Ali (God bless his soul) sent the following message to them:



You may live wherever you like, the only condition between us being that you will not indulge in bloodshed and will not practice cruel methods.[\[v\]](#)

On another occasion, Hazrat Ali addressed them thus:

As long as you do not indulge in actual disruption and disorder, we will not wage war against you.[\[vi\]](#)

This mistake is quite clear that even an organized group may entertain any set of ideas and may also peacefully practice them; and an Islamic state would not hinder or harm it. But if it tries to foist its ideology on others by violent means and endangers the security of the state or its administration, necessary action shall certainly be taken against it.[\[vii\]](#)

The holy Prophet (peace and blessings of God be upon Him) and his Rightly Guided successors (*Khilafat-i-Rashideen*) also have impressed the importance of doing justice between the people, as for instance:

When the kharijites who did not believe in any state, rose in revolt during the khilafat of Caliph Hazrat Ali, he wrote to them:

You may live and move about wherever you like provided you do not shed blood or spread chaos and resort to terrorism. But if you are guilty of any of these, I will go to war against you.

This means that no action would be taken against anyone, whatever political ideas he might hold, so long as he does not try to overthrow the Government by violent means. From these details, it must have become perfectly clear that the Islamic conception of justice does not at all allow the executive to be given the powers to arrest or imprison or exile or suppress the rights of belief, opinion, or expression of anybody without the due process of law that meets the end of justice.[\[viii\]](#)

### **Wisely Judgments of Hazrat Ali**

Whenever the relationship between a husband and a wife starts to break down, an attempt should first be made to resolve the dispute at the family level before it is aggravated and leads to the



disruption of the matrimonial tie. The procedure to be followed is that two persons, one on behalf of each family, should be nominated to look into the matter together and devise means whereby the misunderstanding between the spouses may be brought to an end.

Maududi has cited a number of historical events of early Islam while interpreting different verses of the *Quran* to prove that Hazrat Ali had a wider vision of the religion and a deeper understanding of the Islamic text. The precedents which have come down from early Islam, however, are the judgments of Hazrat Ali. These indicate that they conferred upon the mediators the authority to issue judgments binding on both parties. When the dispute between 'Aqil b. Abi Talib and his wife Fatimah b. 'Utbah b. Rabi'ah came up for the judgment of Hazrat Uthman; he nominated Ibn' Abbas and Mu'awiyah b. Abi Sufyan from the families of the husband and the wife respectively. He also told them that if they thought that separation was preferable, they should declare the marriage annulled. In a similar dispute, Hazrat Ali nominated mediators and authorized them either to bring about reconciliation or annul the marriage, whichever they considered appropriate. This shows that the mediators do not have judicial authority as such. Such authority, however, may be conferred upon them by the courts, in which case their decision will have the force of a judicial verdict.[\[ix\]](#)

The injunction is to cut off one, not both hands. There is consensus among jurists that in the event of the first theft, the right hand should be cut off.

This punishment has been laid down for theft alone. The Prophet (peace be on him) declared:

There is no cutting off of a hand for he who embezzles.[\[x\]](#)

This shows that the punishment prescribed for theft does not cover acts involving embezzlement and other dishonest practices. It is applicable only to acts involving the seizure, by stealth, of someone else's property.



There are several things the theft of which would not necessitate cutting off a hand. The Prophet (peace and blessings of God be upon Him) directed, for instance, that

No hand should be cut off if the stolen article was food.[\[xi\]](#)

According to a tradition from Hazrat Aishah:

(the hand of) the thief was not cut off during the time of the Messenger of Allah for the theft of trivial things.[\[xii\]](#)

Furthermore, Hazrat Ali gave the judgment, and none of the companions disagreed with it –

which a person's hand should not be cut off for stealing birds.[\[xiii\]](#)

Hazrat Ali did not cut off the hands of those who had stolen from the public treasury, and on this question, no disagreement on the part of any companion has been reported. On these grounds, the founders of the schools of Islamic law exempted certain things from the application of this penal injunction.[\[xiv\]](#)

In the time of the Prophet (peace and blessings of God be upon Him), no specific punishment had been laid down for drinking. A person caught drunk would be struck with shoes, fists, and whips made of twisted cloth and palm sticks. The maximum number of lashes to which any culprit was subjected was forty lashes. In the time of Hazrat Umar, the punishment initially remained at forty lashes also, but when he saw people persist in drinking, he fixed the punishment at eighty after consulting the companions. This was considered the prescribed legal punishment for drinking by Malik and Abu Hanifah and even by Shafii, according to one tradition. But Ahmad b. Hanbal, and according to a variant tradition, Shafii, considered the punishment to consist of forty lashes, and Hazrat Ali is reported to have preferred this opinion.[\[xv\]](#)

Suppose there develops any rancour or ill-will among good people during the course of their worldly lives, such rancour will be removed in the Hereafter. Their hearts will be purged of all



hostile feelings, and they will enter Paradise as cordial friends. They will not feel envious towards those who had formerly been opposed or hostile to them that they share with them the bounties of Paradise. Significantly, 'Ali once recited this very verse and remarked: 'I wish that I and 'Uthman and Talhah and al-Zubayr will be among those about whom God has said: "And We shall take away all rancour from their hearts"' (verse 43).

According to Maududi, reflection on the verse leads one to conclude that out of His mercy, God will first purge the righteous of their blemishes. This will be done before admitting them to Paradise. Thus they will enter Paradise in a state of untainted purity.[\[xvi\]](#)

Sodomy is established as one of the deadliest sins, and that it incurred God's courage on those who indulged in it. We also know from the teachings of the Prophet (peace and blessings of God be upon Him) that the Islamic state should purge society guilty of it. There are several traditions from the Prophet (peace and blessings of God be upon Him) that mention that very severe punishments were inflicted on both partners of this act. According to one tradition, the Prophet (peace and blessings of God be upon Him) ordered that:

Both partners be put to death.[\[xvii\]](#)

In another tradition, it has been said that:

Stone the upper and the lower; stone them both.[\[xviii\]](#)

However, since no case of sodomy was reported in the lifetime of the Prophet (peace and blessings of God be upon Him), the punishment did not acquire a very clear and definitive shape. Among the companions, Hazrat Ali is of the view that such sinners should be beheaded and, instead of being buried, should be cremated. Hazrat Abu Bakr also held the same view. However, Hazrat Umar and Hazrat Uthman suggest that the sinners be made to stand under the roof of a dilapidated building, which should then be pulled down upon them. Ibn' Abbas holds the view that those guilty of such a sinful act should be thrown from the top of



the tallest building of the habitation and then pelted with stones.[\[xix\]](#)

Among the Rightly - Guided Caliphs only Hazrat Ali combined the two punishments in a case. This incident was reported by Ahmad ibn Hanbal and Bukhari on the authority of 'Amir Sha'bi. A woman named shurahah confessed that she had become pregnant as a result of unlawful sexual intercourse. Hazrat Ali had her lashed on a Thursday and stoned to death on a Friday, saying that he had inflicted the former punishment in accordance with the *Qur'an* and the latter in accordance with the Prophet's *Sunnah*.[\[xx\]](#)

As for the flogging itself, it should be of average intensity. Hazrat Umar used to direct the flogger:

'strike in such manner that your armpit is not revealed'.[\[xxi\]](#)

In other words, the arm should not be stretched fully, nor should the flogging not cause any wound, and should not concentrate on any particular part of the body. It should rather be spread all over. Only the face, the private parts, and, according to the Hanafis the head should be spread while all other parts of the body should be subjected to flogging. While having someone flogged Hazrat Ali said: 'Give each part of the body it's due except the face and the private parts'. According to another tradition, he instructed:

'spare the head and the private parts'.[\[xxii\]](#)

In this respect, the Prophet (peace and blessings of God be upon Him) directed:

'If anyone of you hits someone, he should avoid the face'.[\[xxiii\]](#)

Men should be flogged in a standing position, whereas women should be flogged whilst sitting. In the days of Abu Hanifah, had woman flogged while she was standing. Abu Hanifah took strong exception to this and publicly declared this practice to be wrong. This, incidentally, also sheds light on his position regarding the idea of contempt of court. During a flogging, a woman was to remain fully dressed; indeed, her clothes were to be so folded and bound that during the flogging no part of her body was to be





exposed. All that was required of such a woman was that she cast aside clothes that were extraordinarily thick. There is some difference of opinion regarding the dress of male culprits. According to some jurists, they should be allowed to wear only such dress a covers their body up to the waist while other jurists insist that their shirt should also not be taken off. Abu' Ubaydah Once ordered a person who was convicted of unlawful sexual intercourse to be flogged. The culprit said: 'Let my sinful body be punished fully'. So saying, he started to take off his shirt. Abu' Ubaydah, however, saw to it that he did not do so.[\[xxiv\]](#). In the time of Hazrat Ali someone was even flogged while he was wearing a shirt of cloth.[\[xxv\]](#)

Flogging should not be entrusted to rough executioners. It should rather be entrusted to the person of knowledge and understanding who is well aware as to what kind of beating accords with the requirements of the *Shariah*. As reported in the Zād al - Ma'ād of Ibn al - Qayyim, Hazrat Ali, Zubayr, used to perform this duty in the time of the Prophet (peace and blessings of God be upon Him).[\[xxvi\]](#)

Should the culprit be so sick that there is no reasonable chance of recovery, or if he is too old, he should be hot only once with a branch with a hundred twigs, or with a broom with a hundred straws so as to meet the formal requirements of the law. In the time of the Prophet (peace and blessings of God be upon Him), a sick and old person was apprehended for unlawful sexual intercourse, and he was awarded the above-mentioned punishment.[\[xxvii\]](#) If a pregnant woman is to be flogged, her punishment should be deferred until she has delivered the child and completed the period of perinatal hemorrhage. If she is to be stoned to death, she cannot be punished before the baby is fully weaned. If the case of unlawful sexual intercourse is supported by due evidence, the witness will initiate the flogging, whereas in the case of the culprit's confession, the judge himself would initiate it. This mechanism was devised to instill into the minds of both witnesses



and judges the gravity of the matter. When Hazrat Ali decided the case of shurahah and sentenced her to be stoned to death, he said: 'Had there been a witness to this offense, he should have initiated the strike. However, as she has been sentenced in view of her own confession, I will initiate it'.[\[xxviii\]](#)

### **Nature of Matrimonial Relationship**

According to Hazrat Ali, this injunction is related to the cessation of sexual relations as a result of unpleasantness in the relationship of the spouses. It would not apply, however, if a husband were to decide to abandon sexual relations with his wife out of some beneficial consideration-say because the wife is breastfeeding at a time when their relationship was pleasant. According to other jurists, however, any vow which prevents sexual intercourse between a husband and wife is *ila*, and ought not to last longer than four months, irrespective of the state of the matrimonial relationship when it was taken.[\[xxix\]](#)

There is consensus among Muslims that if a boy or girl is breastfed by a woman, that woman attains the status of the mother and her husband the status of the father. It is forbidden to marry relatives through milk where the degree of relationship is such as to constitute a bar to marriage in the case of blood relations. The basis of this rule is the saying of the Prophet (Peace and blessing of God be upon him): 'whatever is rendered prohibited by descent (*Nasab*) is likewise rendered prohibited by breastfeeding.'[\[xxx\]](#)

There is also disagreement about the maximum age up to which breastfeeding leads prohibition of marriage with the woman concerned.

In this connection, jurists have expressed the following opinions:

1. Suckling is of legal significance only when it occurs before a child has been weaned and when milk is its main source of nourishment. If a child suckles from a woman's breast after having been weaned, this is legally no different from drinking anything else. This is the opinion of Umm Salamah and Ibn Abbas, and a



tradition to this effect has also been reported from Hazrat Ali. This is also the view of Al-Zuhri, Hasan al-Basri, Qatadah, Ikhrimah, and Awzai.

2. Some other jurists are of the opinion that the prohibition comes into effect irrespective of the age at which breastfeeding takes place. This opinion is based on the view that the effective cause of the prohibition is a woman's milk rather than the age of the person fed. Hence, even in the case of an older person, the same prohibition would apply as in the case of an infant. This is the view of Hazrat Aishah, and this has been supported on the basis of a tradition from Hazrat Ali, which is presumably authentic.[\[xxxii\]](#)

There is disagreement about prohibition in respect of the mother of the woman with whom one has merely contracted marriage (without having consummated it). Abu Hanifa, Maliki, Ahmad b. Hanbal and Shafii believe that such a relationship is prohibited. Hazrat Ali, however, holds the opinion that unless the marriage has been consummated, the mother of one's wife does not become prohibited.[\[xxxiii\]](#)

The limit for the restoration of matrimonial relations is four months. The mere termination of that period proves that the husband has decided to repudiate the marriage, and so divorce automatically ensues. It will be reckoned as an irrevocable (*ba'in*) repudiation. This means that separation between the spouses will come into force and the husband will not have the right to revoke it during the period of waiting (*'iddah*). The two parties will, however, have the right to re-contract the marriage by mutual consent. Statements from Hazrat Ali, and also a statement from ibn' Umar, have been reported in support of this doctrine and have been accepted by the Hanafi Jurists as the basis of their doctrine.

Some early jurists agree with this doctrine to the extent that divorce comes into force after four months. But they consider that the husband may revoke it during the period of waiting, and even



after the lapse of that period the spouses may re-contract marriage by mutual consent.

However, Hazrat Aishah, Abu al-Darda, and the majority of the jurists of Madina are opposed to this opinion and hold that after four months, the matter should be placed before the court when the judge will order the husband either to resume matrimonial relations with his wife or divorce her. Statements from Hazrat Ali as well as a statement from Ibn' Umar have come down in support of this doctrine. This opinion has been accepted by Malik and Shafii.[\[xxxiii\]](#)

There is disagreement as to what is meant here by the verb *Lamastum*, which literally means 'you touched'. Hazrat Ali, Ibn Abbas, and several other leading jurists are of the opinion that it signifies sexual intercourse.[\[xxxiv\]](#)

Jurists disagree about the legal import of this verse. According to some, as long as a woman has not completed her third menstrual period, repudiation will not have the effect of irrevocable divorce. This is the view of Hazrat Abu Bakr, Hazrat Umar, Hazrat Ali, and several distinguished companions of the Prophet. This is also the accepted doctrine of the Hanafi jurists. On the other hand, another group of jurists is of the view that, as soon as the third monthly period of a woman begins, the husband ceases to have the right to revoke the divorce. It should be clear, however, that this injunction is applicable only when the husband has pronounced single or double divorce. In case of triple divorce, the husband ceases to have the right of revocation.[\[xxxv\]](#)

It is known from authentic traditions that it is totally illegitimate for a person to arrange the marriage of his divorced wife with someone else on the understanding that the latter will divorce her to make it possible for the former husband to re-contract marriage with that woman. Such trickery would in fact, be an act of sheer sexual corruption and would not render the woman liable to remarriage with her former husband. According to tradition transmitted from Hazrat Ali, the Prophet pronounced his curse on



those who arrange, as well as on those who agree to contract, such fictitious marriages.[\[xxxvi\]](#)

'To observe a waiting period' does not mean merely that they should refrain from marrying, but also from self-adornment.

Hence, we find categorical directives in the *Hadith* that a widow should neither wear colourful and showy dresses and jewelry, make use of henna, Kohl, and perfumes, nor set her hair in an attractive style. There is disagreement, however, as to whether the widow may go out of her house during the waiting period. Hazrat Umar, Hazrat Uthman, and the founders of the four legal schools are of the opinion that during the waiting period, a woman should stay in the house in which her husband died. During the daytime, she may go out to do necessary errands, but her residence should be her own home. On the contrary, Hazrat Aishah and Hazrat Ali, are of the opinion that a widow may spend her waiting period wherever she likes and may even go on journeys.[\[xxxvii\]](#)

### **The Legal Verdicts of Hazrat Ali**

The term *janabah* denotes the state of major ritual impurity and is derived from the root meaning: 'to ward off'. The word *ajnabi*, meaning foreigner or stranger, is also derived from the same root. In Islamic terminology, *janabah* denotes the state of ritual impurity (in both male and female) that results from the act of intercourse or from seminal emission (either from sexual stimulation or from a wet dream).

One group of jurists and Quranic commentators interpret verse no.6 from *Surah al-Maidah* to mean that one should not enter a mosque in a state of major ritual impurity (*Janabah*), unless out of necessity. This is the opinion of 'Abd Allah b. Masud, Anas b. Malik, Hasan al-Basri, and others. Another group thinks that the reference here is to travel. In the opinion of this group, if a traveller is in a state of major ritual impurity, he may resort to *Tayammum* (i.e. symbolic ablution attained through wiping the hands and face with clean earth). The Qur'an says:



Believers! When you stand up for Prayer, wash your face and your hands up to the elbows, wipe your head, and wash your feet up to the ankles. And if you are in a state of ritual impurity, purify yourselves (by taking a bath). But if you are either ill, traveling, have satisfied a want of nature, or have had contact with women and find no water, then have recourse to clean earth and wipe your faces and your hands therewith. Allah does not want to lay any hardship upon you; rather, He wants to purify you and complete His favours upon you so that you may give thanks.[\[xxxviii\]](#)

This group considers it permissible to stay in the mosque in this state, provided one has performed ablution. This is the view of Hazrat Ali, and some other authorities. The opinion that a traveler in the state of major impurity may perform ablution if he is unable to take a bath is supported by consensus, but while some authorities infer it from traditions, others base it on the Quranic verse mentioned above.[\[xxxix\]](#)

There is some disagreement among jurists about the manner of performing *Tayammum*. According to some, one should strike one's palms on the clean earth, then gently wipe one's face, then strike one's hands and arms up to the elbows. This is the view of Abu Hanifah, Shafii, Maliki, and the majority of jurists. Among the companions and successors, Hazrat Ali, and many others are of the same opinion. Other jurists are of the view that it is sufficient to strike one's palms once on the clean earth, then wipe one's face and one's hands up to the wrist; it is not necessary to wipe the arms between the wrist and the elbow.[\[xl\]](#)

The expression 'hunting animals' signifies hounds, cheetahs, hawks, and all those beasts and birds which men use in hunting. It is a characteristic of animals that have been trained to hunt that they hold the prey for their masters rather than devour it. It is for this reason that while the catch of these trained animals is lawful, that of others is prohibited.

Hazrat Ali's opinion about hunting animals is very interesting. There is some disagreement among the jurists as to hunting



animals whose catch is lawful. Some jurists are of the opinion that if the hunting animal, whether bird or beast, eats any part of the game, it becomes prohibited since the act of eating signifies that the animal hunted for its own sake rather than for the sake of its master. This is the doctrine of Shafii. Other jurists hold that the prey is not rendered unlawful even if the hunting animal has eaten part of the game; even if it has devoured one-third of the animal, the consumption of the remaining two-thirds is lawful, irrespective of whether the hunting animal is a bird or a beast. This is the view of, Malik. A third group of jurists is of the opinion that if the hunting animal which has eaten part of the game is a beast, it becomes prohibited, but not so if the hunting animal is a bird. The reason for this distinction is that hunting beasts can be trained to hold the game for their master, whereas experience shows that hunting birds are not fully capable of receiving such instruction. This is the opinion of Abu Hanifah and his disciples. Hazrat Ali, however, is of the opinion that it is unlawful to eat the catch of hunting birds because they cannot be trained to refrain from eating the game and to hold it merely for the sake of their master.[\[xli\]](#)

### **His Courageous Stands**

The discourse runs from the opening verse to the fifth section of the *Surah al-Tawbah* (i.e. verse 1-37) it was revealed in or around *Dhu al Qa'dah* 9 A.H./ 631C.E., soon after the Prophet (peace and blessings of God be upon Him) dispatched Hazrat Abu Bakr as the leader of the pilgrims to Makka. After the verses had been revealed, the Prophet (peace and blessings of God be upon Him) instructed Hazrat Ali to follow Hazrat Abu Bakr and to recite the same verses proclaiming the new directives embodied in them before a representative gathering of Arabs who had gone there for pilgrimage.[\[xlii\]](#)

The discourse (verse 1-37) was revealed in 9 A.H./ 631C.E. at a time when the Prophet (peace and blessings of God be upon Him) had already sent Hazrat Abu Bakr as leader of the pilgrims to



perform Hajj. Since these verses were revealed during Hazrat Abu Bakr's absence, the companions in Madina asked the Prophet (peace and blessings of God be upon Him) to have them conveyed to Hazrat Abu Bakr with the instruction that they may be recited publicly during the Hajj. The Prophet (peace and blessings of God be upon Him), however, decided that the verses should be recited on his behalf by someone from his own family. Accordingly, he entrusted the task to Hazrat Ali and directed him that not only should he publicly recite the verses concerned, but should also make the following proclamation on that occasion:

1. That no one who refuses to accept Islam would enter Paradise;
2. That no polytheist would henceforth be allowed to perform Hajj;
3. That naked circumambulation around the *Ka'bah* – a pre-Islamic Arabian practice would henceforth be forbidden;
4. That the treaties concluded between the Prophet (peace and blessings of God be upon Him) and the unbelievers, which were still in force since the other party had not broken them, would be honoured until the expiry of their terms.[\[xliii\]](#)

*Zakah* may be used to secure the emancipation of slaves. This may be done in two ways:

- Firstly, if a slave has entered into an agreement with his master that he would be granted freedom on payment of a specified sum of money, financial assistance may be provided to him to make that payment and thus secure his freedom.

- Secondly, *Zakah* funds may be used to buy slaves with the intention of setting them free.

All jurists agree that the first of the two alternatives is lawful. As regards the second method, Hazrat Ali and the Hanafi and Shafii jurists, in general, hold it to be unlawful, whereas Ibn Abbas, Hasan Basri, Malik, Ahmad b. Hanbal and Abu Thawr consider it lawful to use *Zakah* funds for this purpose as well.[\[xliv\]](#)





The word *dhurriyah* used in this verse literally means "offspring. We have, however, rendered this into English as 'a few youths'. We have preferred this translation because the Qur'an employed this particular expression so as to convey the idea that it was a few youths - male and female — who had the courage of their convictions to embrace and champion the truth in those perilous times, whereas their parents and the more elderly members of the community were unable to do so. The older segment of the population was too deeply concerned with its materialistic interests, too engrossed in worldliness, and too eager to enjoy a life of security to stand by the truth when that seemed to invite all kinds of peril. On the contrary, this older generation tried to persuade the young ones to stay away from Moses for the simple reason that it would invite the wrath of Pharaoh upon themselves and upon others.

Maududi says that the *Quran* underscores this point (*dhurriyah*), for again, those who came forward and courageously supported the Prophet (peace and blessings of God be upon Him) were not the elderly. They were rather a few courageous Makkan youths. Those who embraced Islam at this very early period in its history—the period of the revelation of these verses – and who supported the message of truth despite fierce persecution were all young people. This group was altogether bereft of the aged doters of a life free of peril and hazard. Hazrat Ali ibn Abi Talib, Jafar ibn al- Aqil, Zubayr were all young people, and each one of them, at the time of embracing Islam, was under twenty. [\[xlv\]](#)

The expression *bahimat al-an'am* denotes cattle such as camels, oxen, sheep, and goats, as is clearly stated in al-An'am 6: 142-4.

That the name of God should be pronounced over those animals means that the name of God should be pronounced while slaughtering them. This is mentioned in the phrase that follows.

The allegorical expression 'to pronounce the name of Allah over the cattle Allah has provided them' has been employed throughout the Qur'an in connection with sacrificial animals. On all such



occasions when this expression has been used, people are told that slaughtering these animals without pronouncing the name of God over them, or slaughtering them in the name of anyone other than God, is a characteristic practice of unbelievers and polytheists. On the contrary, a Muslim can only slaughter an animal after pronouncing the name of God. Similarly, whenever he makes a sacrificial offering, he is required to consecrate it to God.

There is disagreement as to which days are meant by the 'appointed days' mentioned in this verse. According to one view, the expression signifies the first ten days of the month of Dhu al-Hijjah. This view was held by 'Abd Allah ibn' Abbas, Hasan al-Baṣri, Ibrahim al-Nakha'i, Qatadah, and several other Companions and Successors. Abu Hanifah, too subscribes to this view. We also find a statement from Shafi'i and Ahmad ibn Hanbal in support of it. According to another statement by Shafi'i and Ahmad ibn Hanbal the expression refers to the 10th of Dhu al-Hijjah and the three days following. This variation is also supported by 'Abd Allah ibn' Abbas, 'Abd Allah ibn' Umar, Ibrahim al-Nakha'i, Hasan al-Baṣri, and 'Atä".

This expression signifies of three days, from the 10th to the 12th of *Dhu al-Hijah*. Reports on the authority of Hazrat Umar ibn al-Khattab, Hazrat Ali ibn Abi Talib, Abd Allah ibn' Umar, 'Abd Allah ibn' Abbas, and Sa'id ibn Jubayr are cited in this respect. Among jurists, Sufyan al-Thawri, Malik, Abu Yusuf, and Muhammad ibn al-Hasan al-Shaybani also hold this view. This is also accepted by the Hanafi and Maliki Schools.[\[xlvi\]](#)

According to Maududi, this is the way, the only way through which one may expect to achieve true success. However, even those who follow this way should be wary of arrogance, complacency, and belief that because of their religious devotion and righteous conduct, they are bound to attain true success. Instead, they should seek God's bounty and focus all their hopes on His Grace and Mercy. No person can achieve true success



unless God bestows it upon him, for no one has the power to achieve success by dint of his own power.[\[xlvii\]](#)

The first group bases its opinion on the apparent command to prostrate. The Quran says:

Believers, bow down and prostrate yourselves before Your Lord and serve Your Lord and do good that you may prosper.[\[xlvi\]](#)

Another piece of evidence from which they derive support for their views is the following tradition narrated by 'Uqbah ibn' Amir as recorded in the Musnad of Ahmad ibn Hanbal and in the *Hadith* collections of Abu Da'ud, Tirmidhi, Ibn Marduwayh and Bayhaqi:

'I asked, "O Messenger of God, has *Surah al-Hajj* been made superior to all other *surahs* by virtue of having two verses of prostration in it?" The Prophet (peace and blessings of God be upon Him) replied: "Yes; he who does not prostrate himself after reciting those verses should better not recite it".[\[xlix\]](#)

The argument advanced in support of this view is the tradition found in the works of Abu Da'ud and Ibn Majah on the authority of 'Amr ibn al-'As that the Prophet (peace and blessings of God be upon Him) directed him to prostrate himself twice while reciting *Surah al-Hajj*.[\[li\]](#)

The other argument consists of the tradition from Hazrat Umar ibn al-Khattab, Hazrat Ali ibn Abi Talib, Hazrat Uthman ibn' Affan, 'Abd Allah ibn' Umar, 'Abd Allah ibn' Abbas, Abu al-Darda, Abu Musa al-Ash'ari, and Ammar ibn Yasir in which it has been claimed that there are two places in this *Surah* which require prostration.[\[li\]](#)

When 'A'ishah reached the camp on Safwan's camel and it became known that she had been left behind, 'Abd Allah ibn Ubayy instantly exclaimed: By God! She has not returned untouched. Look! The wife of your Prophet spent the night with another person and now he is publicly bringing her back."



Hazrat Aisha says that in my absence, the Prophet (peace and blessings of God be upon Him) summoned Hazrat Ali and 'Usamah ibn Zayd and sought their advice. Usamah spoke highly of me, saying: 'O Messenger of God! We have seen in your wife nothing but goodness. It is a sheer lie and falsehood which is being disseminated against her'. Hazrat Ali said: 'O Messenger of God! There is no dearth of women. You can replace her with another wife. Should you like to find out, send for the slave girl who serves her and ask her about the matter? Hence the slave girl was summoned and interrogated. In her reply, she said: 'By God, who has sent you with truth, I have never observed anything bad in her. The only lapse I can think of is that sometimes I knead flour and while I attend to something else and request her to look after the flour, she falls asleep and goats eat the flour up'.[\[lii\]](#)

### **Implementation of the *Qadhf***

Hazrat Ali sincerely and strictly implemented Islamic *Shariah* during the period of his caliphate. Maulana Maududi has cited a number of events to prove the Islamic nature of the system of government Hazrat Ali had established. Hazrat Ali was no more lenient and sympathetic towards those who violated Islamic law in society. In the case of capital punishment, clearly defined the Qur'an, and the Hadith Hazrat Ali did not provide any undue relaxation. The case *Qadhf* is very important. Ahmad Ibn Hanbal and Ishaq ibn Rahawayh are of the opinion that if such a statement is made in the course of a quarrel, it amounts to *Qadhf* while if such a remark is made in just, it does not constitute *Qadhf*. However, among the rightly-guided Caliphs, Hazrat Umar, and Hazrat Ali enforced *hadd* punishment in such cases. In the days of Hazrat Umar there ensued a fight between two people where one said to the other: 'neither my father was an adulterer nor my mother and adulteress'. The matter was brought before Hazrat Umar. He asked the audience what they made of the comment. Some said that the person concerned had paid a



compliment to his own parents, without necessarily calling into question the character of the adversary's parents.[\[liii\]](#)

What should the punishment be for the person who commits *Qadhf* more than once? The Hanafis and the majority of jurists are of the opinion that he should only be punished once, regardless of the number of times that he levels the charge against the person concerned before he is punished or during the time that he is punished. Not only that, if he persists in his charge even after the execution of the sentence of punishment against him, the *hadd* once meted out is deemed enough. However, if he levels the charge of another act of unlawful sexual intercourse against the same person after the punishment has been meted out, a new case will be instituted against him. After being subjected to *hadd* punishment in Mughirah case, Abu Bakrah continued to say publicly: 'I affirm that Mughirah had committed unlawful sexual intercourse'. 'Umar considered prosecuting him again. However, since Abu Bakrah was reiterating the same charge he had leveled earlier, Hazrat Ali expressed the view that a new case could not be instituted against him. Hazrat Umar accepted this advice of Caliph 'Ali's; subsequently, there developed a near consensus among jurists that a *Qadhf*, who had been punished for failing to prove his charge of chastity, could not be prosecuted for repeating the charge for which he had been punished. He may be prosecuted afresh only if he leveled a new charge.[\[liv\]](#)

In reporting one case, 'Abd Allah ibn Umar adds that after the couple had resorted to li'an, the Prophet (peace be on him) effected a separation between them.[\[lv\]](#) There is another tradition from the same authority. "Abd Allah ibn' Umar, to the effect that a husband and wife took the oaths of li'an. The husband contended that his wife's pregnancy was not by him. Here, too, the Prophet (peace be on him) effected a separation between them, declaring that the child would be ascribed to the mother alone.[\[lvi\]](#)

There is yet another tradition on the authority of 'Abd Allah ibn Umar whereby after the li'an proceedings, the Prophet (peace be on



him) said: 'Both of you are accountable to God, and one of you is certainly a liar. He then said to the husband. 'She is not yours any longer. You have no [conjugal] rights with respect to her. Nor may you commit any excesses nor take any vindictive action against her. The husband said: 'O Messenger of God! Help me get back my money [i.e. the bridal due which he paid her] The Prophet replied: "You have no right to reclaim your money. If you are true in your charge, then that money is the recompense for the pleasure you legitimately derived from her. On the other hand, if you have lied against her, you are even farther removed from your money; that money is now farther from you than it is from her."[\[lvii\]](#)

Daraqutni has quoted the following opinion of 'Ali ibn Abi Talib and Abd Allah ibn Ma'sud: 'the principle that has been established is that spouses who resort to *li'an* may never come together again [i.e. they may never remarry]'. Daraqutni also narrates a tradition from 'Abd Allah ibn' Abbas that the Prophet (peace and blessings of God be upon Him) himself said: 'Such a couple may never come together again [that is, they may never remarry]'.[\[lviii\]](#)

Let us consider the question as to whether the spouses who are separated as a result of *li'an* can ever remarry. Malik, Abu Yusuf, Zufar, and Hasan ibn Ziyad are of the opinion that they stand forbidden for each forever. Even if they mutually agree on remarriage, they are not entitled to do so. Hazrat Umar, Hazrat Ali, and Abd Allah ibn Masud also share the same opinion. On the contrary, Sa'id ibn al-Musayyab, and Muhammad ibn al-Hasan al Shaybani argue that if the husband subsequently admitted that his earlier statement was false, and if he received the *hadd* punishment for *Qadhf*, then they could remarry. In their opinion, what makes the former husband and wife forbidden is *li'an*. Hence, they remain forbidden for each other as long as the *li'an* lasts. However, once the husband admits that he made a false statement and receives his due punishment for the same, the *li'an* is voided, and thus, the restriction on their remarrying ends.[\[lix\]](#)



Another good that ensued from this incident was that it made the Muslims realize that the Prophet (peace and blessings of God be upon Him), with all his spiritual loftiness and the very special mission bestowed upon him by God, did not have access to the realm that lies beyond sense-perception. All that he knew pertaining to this realm consisted of what God himself chose to acquaint him with. Unless God revealed anything pertaining to this realm, the Prophet's knowledge was like that of any other human being. We note that for one full month, the Prophet (peace and blessings of God be upon Him) remained in great anguish. Sometimes he would ask his made servant, then his other wives, and then Hazrat Ali and 'Usamah about the matter. Likewise, he told Hazrat Aishah: 'If you have committed this act, you should repent, and if you are not guilty, God will proclaim your innocence'. If he had known the unseen, he would not have conducted such an investigation, nor would he have asked Hazrat Aishah to repent. It was only God who clarified the whole matter, and the Prophet (peace and blessings of God be upon Him) came to know – thanks to his revelation – what he had been unable to know for a whole month.

This is an allusion to 'Abd Allah ibn Ubayy who had concocted the calumnious allegation and who was the mastermind behind the slander campaign. Some traditions mistakenly identify Hassan ibn Thabit as the one to whom this verse alludes. However, such a view stems from a misunderstanding on the part of the narrators of those traditions. As for Hassan ibn Thabit, at the very most his lapse constituted no more than his being carried away by the propaganda campaign launched by the hypocrites. Ibn Kathir is quite right in saying that had there not been a tradition in Bukhārī on this matter implicating Hassan ibn Thabit it would not even have been worth considering.[\[1x\]](#)

The greatest lie, rather the greatest calumny in this connection, is the statement by Hisham ibn Abd-al-Malik, the Umayyad Caliph that the present verse refers to Caliph'Ali. It is reported in Bukhari,



Tabarani, and Bayhaqi that Hisham ibn Abd-al-Malik considered the words *al-ladhi Tawalla Khibrahu* to refer to Caliph' Ali ibn Abi Talib. However, Hazrat Ali was not at all involved in the incident. All that happened was that Hazrat Ali found the Prophet (peace and blessings of God be upon Him) highly agitated about the matter and that he asked Hazrat Ali for advice. On this occasion, Hazrat Ali said that God had placed no restriction on the Prophet (peace and blessings of God be upon Him) in this matter. There were many women, and if he so wished, he might divorce Hazrat Aishah and many other women. This did not mean at all that Hazrat Ali endorsed the slanderous charge that had been made against Hazrat Aishah. Caliph'Ali's only concern was that the distress of the Prophet (peace and blessings of God be upon Him) should come to an end.[\[1xi\]](#)

### **Reference to Nahj al – Balaghah**

Maulana Maududi, opposite to other Sunni scholars of Islam in modern times, has referred to *Nahj al-Balaghah* as a source of the speeches and commandments of Hazrat Ali. Another point seems noteworthy, namely that while this promise of God pertains indirectly to Muslims of a later date, it was, in the first instance, directly addressed to the Prophet's companions. Moreover, this promise was made at a time when Muslims lived in a state of dire insecurity because Islam had by then not put down any strong roots, even in the Hijaz. However, after only a few years, this state of insecurity was replaced by a state of peace and security as Islam spread from Arabia to dominate major parts of Asia and Africa. Not only was Islam established in the region from which it had arisen, but also in many other parts of the world. That did make his promise come true is corroborated by the events which unfolded during the caliphate of Hazrat Abu Bakr, Hazrat Umar, and Hazrat Uthman. God's promise was fulfilled in such a resounding manner that a fair-minded person can hardly have any doubt about the validity of the caliphate of these three since the





Quran itself testifies to it, and God himself confirmed them to be true believers. If anyone has any doubt regarding this, he would be well-advised to read Caliph'Ali ibn Abi Talib's speech in *Nahj al – Balaghah* which he delivered in order to dissuade Hazrat Umar from personally joining the battle against the Persians.[\[lxii\]](#) He said:

That this cause should gain strength or be weakened is not contingent upon the numbers (of the believers who take part in the fighting). It is the religion of God he himself has promoted, and it is God's army which he himself has strengthened and supported until it has reached its present stage. God himself promised us:

Allah has promised those of you who believe and do righteous deeds that He will surely bestow power on them in the land even as He bestowed power on those that preceded them and that He will firmly establish their religion which He has been pleased to choose for them, and He will replace with security the state of fear that they are in. Let them serve Me and associate none with Me in My Divinity. Whoso thereafter engages in unbelief, and such indeed are the ungodly.[\[lxiii\]](#)

God will fulfill his promise and certainly help his army to victory. The position of leader (*qayyim*) in Islam is that of the cohesive thread in a necklace of pearls. If that cohesive thread is broken, the pearls will be scattered. Once things become disorderly, it becomes that much harder to record them. The Arabs are no doubt small in number, yet Islam has made them large in number, and their cohesion has made them strong. You should better remain here as the axis and keep the handmill of Arabs revolving around yourself and keep directing the war from here. Once your move away, the cohesion of the Arabs will start to shatter, and things might reach a point when you are more concerned with threats from the rear than from the enemy in the front. On the other hand, the Persians have focused their eyes on you. They believe that you are the very root of the Arabs. They believe that once this root is amputated, they will enjoy smooth sailing. Therefore, they concentrate all their



strength upon destroying you. You say that the Persians have amassed in large numbers [and hence you should personally go and fight]. To this, I say that we have also been confronting them in the past, but not by dint of our numbers. It is God's help and support which has led us to victory until now. [\[lxiv\]](#)

Anyone who reads this can readily understand what Hazrat Ali understood by the use of the term *Istikhlaf* in the present verse.

### **Conclusion**

This introductory contribution reveals Maududi's understanding and recognition of Hazrat Ali as fully reflected in his *Tafsir Tafhim al-Qur'an*. Maududi was beyond the Sunni-Shia discourse in the modern Muslim World. His balanced approach to the issue of the *Khilafah* and *Mulukiyah* itself provides sound proof of his inclusive approach to Islamic culture and civilizations. Hazrat Ali and his insight into Islamic law have been recognized globally both by Sunni and Shia scholars. This inclusive approach may bring the two communities of Islam closer to each other and contribute jointly to the revival of Islam

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