

Developing an Ethic of Justice: Maududi and the Solidarity Youth Movement

THAHIR JAMAL KILIYAMANNIL

Abstract

New Muslim movements in South India, such as the Solidarity Youth movement, re-formulated Muslim priorities towards human rights, democracy, development, environmental activism, and minorities. I read Solidarity Youth Movement as proposing an ethic of Islam's conception of justice, while also drawing inspiration from the influential Islamist Abul A'la Maududi. Focusing on jurisprudential debates, I look at the ways in which

Thahir Jamal Kiliyamannil is a PhD research scholar at the University of Hyderabad. He is presently a DAAD visiting fellow at the Centre for Modern Indian Studies, University of Göttingen. His inter-disciplinary work focuses on Muslim engagements with the state in the colonial and post-colonial contexts in South India. He was formerly a Manipal-Sutasoma fellow (2015) at MCPH, Manipal University, and an Erasmus fellow (2021) at BGSMCS, Freie University. His areas of interest include identity, community, religion, state, and minorities.

Kiliyamannil, Thahir Jamal. 2022. "Developing an Ethic of Justice: Maududi and the Solidarity Youth Movement." *American Journal of Islam and Society* 39, nos. 1-2: 115–145 • doi: 10.35632/ajis.v39i1-2.3000

Copyright © 2022 International Institute of Islamic Thought

Maududi's intervention informs the praxis of Solidarity Youth Movement. This paper seeks the possibility of examining their activism as an instance of juristic deliberation, linked to the revival of *maqāṣid al-sharī'ah* in the latter part of the twentieth century. I suggest a reading of their *maqāṣid* approach, born out of praxis in a Muslim minority context, as potentially informing the development of *fiqh al-aqalliyah*.

Introduction

Muslim political mobilization in India has undergone significant changes in the last three to four decades. Muslims found themselves subject to a new discourse on religion, minorities, and rights, questioning the contours of a secular democracy. In south India, it has led to the formation of new Muslim movements like Popular Front of India, People's Democratic Party, and Solidarity Youth Movement. As their names, slogans, and patterns of mobilization suggest, these movements articulate Muslim concerns in a constitutional language of rights.¹ They developed concerted moves with other marginalized groups like Dalits and Adivasis to challenge the majoritarian Hindutva mobilization. These movements offered new ways of understanding and prioritizing the questions of community, caste, minorities, human rights, environmental activism, and gender justice. Recasting Islam as a pursuit of rights and defiance² and taking up the language of civil rights, they sought public recognition. Most scholars identified this new revival as a threat to secularism,³ while others specified it as an entry of democratization and politics of citizenship.⁴ This new revival of Muslim movements has been influenced by similar changes in the other parts of the Muslim world since the 1970s, which has been recognized as the second phase of Islamism after the Iranian revolution.⁵ Other scholars have characterized these revivalist tendencies as post-Islamism,⁶ civil Islam,⁷ Islamist democracy,⁸ secularizers,⁹ public Islam,¹⁰ and new Islamists.¹¹ As there are striking similarities between these mobilizations and that under discussion in India, these categorizations remain useful but inadequate at many levels.

The new movements are influenced not only by sociopolitical changes, but also by claims of ‘Islamic legitimacy,’ facilitated through jurisprudential reasoning. As Muslims always tend to fall back on ‘Islamic legitimacy,’ the new movements had to correlate their articulations based on principles in Islamic law. The translation of an Islamic principle into a regional and modern context through ‘jurisprudential mediation’ has always been complex, despite universal resemblances at many levels. Halim Rane expounds on the jurisprudential aspects of the second phase of Islamist movements as espousing a *maqāṣid* approach, which is seeking Islam’s higher objectives. “These parties are Islamic in orientation and identity but regard democracy, economic prosperity, good governance, human rights, and pluralism as Islamic objectives, rather than the implementation of *sharī‘ah* law or creating an Islamic state in the modern, conventional sense.”¹² Going by these definitional characteristics, the new movements in South India could be effectively considered as espousing a *maqāṣid* approach. However, Rane’s analysis is largely concerned with minimizing the tension between Islam and the West, through an accommodationist approach. On the other hand, as I will show in the remaining part of the paper, the new movements in South India are not envisaging an accommodationist approach, but a confrontationist approach based on an ethic of justice.

A critical study of these movements demonstrates that the meanings produced through *fiqh* are internal to Muslims yet refer to something outside. They engage with the modern categories of politics, secularism, nation, state, constitution, rationality, and progress. As a prominent scholar who engaged with these modern categories, Maududi has been an influential presence in the new movements. Maududi employed jurisprudential reasoning, through a creative belaboring with tradition and modernity, to claim ‘Islamic legitimacy,’ and at times a ‘legitimate authority.’ I read *Jamate Islami’s* youth wing, Solidarity Youth Movement’s (henceforth Solidarity) articulations as a continuation of Maududi’s Islamic activism. Thus we can place Maududi as a precursor to the recent changes in the Muslim movements in general and Solidarity in particular. In this way, I intend to bring Maududi into contemporary discussions around *maqāṣid*, and to introduce some of the unattended regional jurisprudential

developments into the modern academic engagements on Islamic law. The purpose of the paper is not to establish any direct equivalence between Maududi and Muslim movements, but to make a modest claim about the influence of Maududi's thought in enhancing the *maqāṣid* approaches. Divided into four sections, the first section of the paper, taking cues from Wael Hallaq, will examine the legitimacy of movements as legal actors. The following sections will embark on an attempt to discern the jurisprudential engagements of Maududi and his influential presence in Solidarity's invocation of *maqāṣid*. The last section will explore the possibilities of developing the jurisprudence of minorities, specific to the Indian context, as exercised by juristic actors like Solidarity.

Movements as Legal Actors

Before moving to the contribution of the movements to Islamic jurisprudence, it is imperative to establish the legitimacy of movements as actors in jurisprudential developments. Hallaq argues that, since the 1970s, "there are four major actors on the legal scene... namely, the state, the "secular" modernists, the ulama and the Islamists."¹³ Though Hallaq recognizes Islamists as influential and pervasive juristic actors, he claims that there is a rupture of continuity in the traditional juristic process and authority. Traditionally, it has been the task of a *mujtahid* or *faqih* to read the sources of the Islamic legal system in a spatio-temporal context and to give guidance to the existing Muslim community. Hallaq negates the possibility of having *maqāṣid* universals with any genuine Islamic meaning and content in the modern context, as they are conceptually disharmonious with modernity's conditions. His primary contention is against dependence on an alternate hermeneutics instead of "an individualistic, socially-embedded, Arabicate-driven *ijtihad*."¹⁴ Thus, for Hallaq, even the reviving of *maqāṣid* will either undergo a process of codification or a readjustment into a profoundly new legal ecology due to the inescapability of the modern state and its legal power. In such a context, the hermeneutic engagement with text will be shaped by the state to envision a 'good citizen,' to the extent that *maqāṣid* will lose its Islamic character.¹⁵

While many of the criticisms by Hallaq are significant here, especially the loss of an Arabicate hermeneutics and the problems with enacting the modern ‘good citizen,’ it would be an overstatement to relegate the evocation of *maqāṣid* as exclusively embedded in modernity’s predicaments. Though referred to as a most systemic thinker of modern Islam,¹⁶ and influential Islamist, Maududi has categorically criticized any tendencies that force Muslims to demonstrate the conformity of Islam with modern values as coming from an inferiority complex of Muslims.¹⁷ For him, this emphasis on conformity arises from the lack of systematic study of Islamic political order in relation to the place and nature of democracy, social justice, and equality. Maududi stresses the importance of knowledge of Arabic and opines that “it is the history of *fiqh* which reveals the evolution of Islamic Law.”¹⁸ Thus, alongside *uṣūl al-fiqh* (sources/basis of Islamic jurisprudence), the history of jurisprudence acquires prime importance in Maududi’s curricula for producing Muslim jurists. This would complicate, if not contradict, Hallaq’s argument that the Islamists have “shed the mantle of traditional juristic and hermeneutical authority.”¹⁹ Attention to the history of *fiqh* corresponds to the acceptance of the legitimacy and authority of preceding jurisprudential engagements in Islamic law.

As Hallaq rightly proposes, with modern conditions there have been numerous changes in the locus of nature of *faqīh* and *mujtahid*. Hallaq’s argument about de-individualization is centered on the critique of *fiqh* becoming a codified system under the modern nation-state. Such a predicament might well hold value, as his analysis is mainly centered on the Islamist revival in Egypt, Pakistan, Indonesia, and Iran, which are Muslim countries and have the potential to evolve into an Islamic state. In India, codification is driven through the introduction of personal laws, earlier by the colonial government and later by the Indian nation-state. As the new Muslim movements like Solidarity do not hold the power to change the personal law or engage in the process of codification, their attempts to revive *maqāṣid* are potentially moving outside the codified system, questioning the modern-secular order, and bringing the question of religion into the public rather than limiting it to the private. In other words, instead of recasting *sharī’a* into code-like forms, the revival of *maqāṣid*

by these movements would, in effect, contribute to reclaiming the moral community. What Hallaq misses is the de-individualized, yet non-state approaches to the interpretation of Islamic law. For instance, Taha Jabir Alalwani proposes a collective enterprise where scholars from different disciplines come together to address political, economic, educational, philosophical, or ethical questions.²⁰ This would presume the possibility of having ‘collective *ijtihad*.’ Consequently, it assumes a collective nature of *fiqh* which is not necessarily statist. The collective nature, by default, is not leading to a codification as there is no political authority to impose the rules. Thus, following Hallaq and Alalwani, we can rightly assume that movements like Solidarity, through their collective nature, are legitimate actors of Islamic jurisprudence in the contemporary period.

Once we recognize the legitimacy of the movements as juristic actors, what follows is to discern their influence and to take stock of their actual contribution. As a Muslim legal predicament,²¹ the new movements locate their activism within the larger corpus of Islamic tradition. For instance, Solidarity has claimed a direct continuity from the prophetic tradition, passed through *mujaddids*. The preface to their Constitution reads: “after the prophets, *mujaddids* and different wise people emerged at different epochs in history, to revive and lead human beings to the straight path. Islamic movements are a continuity of this tradition.”²² Solidarity, thus, makes a claim on the authority to lead the community. In other words, it affirms the nature of contemporary Islamic movements as that of *mujaddids* and the “heirs of the prophets.”²³ Another article by the leader of *Jamat-e Islami* justifies the activism of Solidarity, claiming it is a prophetic tradition to be among the people, to find solutions to their problems, and to fight against injustice.²⁴ Interestingly, the article is titled “prophet is in the streets,” indicating that Solidarity locates its Islamic legitimacy as a continuity of prophetic tradition. Claims of continuity, of tradition, are advanced as a claim of authority.

This produces a question of authority within the community while, on the other hand, requires juristic legitimacy for all their activities. According to Rane, the *maqāṣid* approach enables the organizations to maintain Islamic legitimacy during their transformation.²⁵ Likewise, Solidarity’s articulations significantly point to the influence of *maqāṣid*

universals in their policy and programs. The major areas of activism taken up by Solidarity are human rights, displacement of marginalized communities, and environmental protection. These engagements were not the principal priorities of the earlier Islamist movement, though not entirely absent. For Solidarity, existence, justice, and development are mutually inclusive, developed through *tawhīd*, *khilāfah*, *islāh*, and *ist'imār*. While *tawhīd* and *khilāfa* give a philosophical location of human beings in the larger ecosystem, *islāh* and *ist'imār* prescribe the code of conduct to not destroy but preserve the ecosystem:²⁶ to produce a sound nexus between living beings and natural order. Through Islam's interpretative resources, Solidarity articulates protection of the environment and establishing justice as the responsibility of *khalīfa*, the human being.²⁷ Maududi's idea of *khalīfa* (vicegerent), who is supposed to enlighten this world with the divine vision, is instructive in developing this paradigm. Thus, neither humans nor the environment, but human beings as divine vicegerents, are at the center of the human action, which points to the larger world order that is governed by the divine.

However, in my proposition, Solidarity's approach to *maqāṣid* is not a replication of what Rane has seen in the cases of Turkey's Justice and Development Party (AKP), Malaysia's People's Justice Party (PKR), Indonesia's Prosperous Justice Party (PKS), Morocco's Justice and Development Party (PJD), Tunisia's An-Nahda Party, or Egypt's Freedom and Justice Party (FJP). Rane approaches *maqāṣid* as an instrumental and utilitarian effort to resolve the tension between West and the Muslim world and thus between the secularists and Islamists. It is achieved, according to Rane, through maintaining Islamic legitimacy without explicitly referring to the "Islamic" label. In the case of Solidarity, even though the so-called "Islamic" label has been kept at bay, they haven't given up the confrontationist approach. By confrontationist approach, I mean, most of their activities are oriented at questioning the state's narratives, whether it is on development, democracy, or human rights. Rane elaborates *maqāṣid* approaches that emphasize Islam's compatibility with modern values of "democracy, human rights, gender equality, pluralism and peaceful coexistence with non-Muslims."²⁸ But Solidarity's attempt is to claim a legitimate space within the Indian civil society

through democratic measures. Here, democracy is understood not as a system in itself but rather, following Maududi, a concession by the state.²⁹ *Jamat-e Islami's* experience of being banned during the emergency in 1975 and the demolition of Babri Masjid in 1992 emphasizes the fact that democracy is indeed a concession which is at the arbitrary discretion of the state. Following such an understanding, for the new juristic actors like Solidarity, democracy is instrumental while the *maqāṣid* approach is not merely instrumental, but an aim in itself.

To appreciate these nuances, the next section will take a look at the influence of Maududi's ideas in Solidarity's contemporary discourse. I outline Maududi's jurisprudential engagements as crucial in opening multiple avenues for contemporary Muslim movements.

Maududi: Jurisprudence of a Political Philosopher

Maududi's significant contributions to the development of Islamic law and jurisprudence are largely unacknowledged due to two reasons. Firstly, Maududi is said to lack formal madrasa training.³⁰ Secondly, an excessive emphasis on the sociopolitical context that influenced Maududi has led to an overly political reading of Maududi's ideas. Maududi's exegesis of the Qur'an is understood as a sociopolitical reading disguised as *fiqhi*,³¹ and he is said to have not left any systematic work in theology, as his writings are more practical than theoretical.³² Some critics of Maududi, as Irfan Ahmad noted, evaluate Maududi as lacking proper universalism and argued that *maqāṣid* is a medium to pursue universalism. They claim that Maududi viewed the Islamic state without considering conditions of time and space, and cited Caliph Umar's abrogation of the ruling of cutting off a thief's hand during a severe drought as an instance of being attentive to such context.³³ A careful reading of Maududi shows not only that he was attentive to the *maqāṣid* universals, but he has also cited the same case of Caliph Umar for emphasizing the importance of context and *sharī'a's* comprehensive nature. To describe the possibilities and limits of human legislation, Maududi elaborately refers to Imam Shatibi's proposals in *al-ʿItisām*. It has to be noted that Imam Shatibi is the most referred scholar, after Imam Shafi'i, for laying the foundation

for *maqāṣid shari‘a*. This clearly points to Maududi’s awareness about the higher objectives of *shari‘a*.

Maududi claims that the silence of *shari‘a* in certain human affairs is not a symptom of Islamic law’s futility; rather, it affirms the human agency to legislate. He has upheld the process of *ijtihad* (independent reasoning) as an enduring principle of Islam, making the legal system dynamic, for an effective rendering of *shari‘a* in a given time and place.³⁴ This has effectively made Maududi’s ideas more influential.³⁵ However, for Maududi, new legislations have to be “in conformity with the ultimate objective of Islam” and should be “capable of meeting the real needs of the people.”³⁶ While *maṣlaḥa mursala* are “those experiences which have been left to our own choice and nothing has been prescribed either way”, *istiḥsān* is “a concept of equity, wherein although a certain commandment is arrived at through analogy (*qiyās*)..., the expediency is given preference over the apparent inference through analogy.”³⁷ For achieving this standard, Maududi was critical of any layman doing interpretation of Islamic law, while being equally critical of the priesthood. He took a moderate path between traditional and liberal approaches to *ijtihad*, neither proposing unfettered *ijtihad* nor dissociating from it altogether.³⁸

Maududi recommended the task of re-reading the text, not merely to reproduce, but to explicate modern constitutional problems from the dispersed and mixed-up chapters in the books on *fiqh*.³⁹ Such a method Taha Jabir Alalwani calls “combined reading.”⁴⁰ Accordingly, Maududi evokes *ta‘wīl* (interpretation), *qiyās* (deduction by analogy), *ijtihad* (disciplined judgment of jurists) and *istiḥsān* (juristic preference) as the four processes of human legislation in Islamic law. However, the new legislation won’t acquire the status of Islamic law unless the ruling undergoes further tests of *ijmā‘* (consensus among scholars) or *jamhūr* (approval by the majority). While the *ijmā‘* of the entire Muslim world is not subject to review, the *jamhūr* is dependent on spatio-temporal contexts. To navigate sectarian differences and to affirm legal pluralism, Maududi suggests that *jamhūr* (majority ruling) won’t be imposed on the personal matters of those who differ from the opinion. Those minorities are “entitled to demand the enforcement of their own code in their personal matters.”⁴¹

In another instance, Maududi says that there can be differences in understanding the injunctions of the *sharī'a*, but that doesn't give authority to anyone to expel another from the fold of believers.⁴² This attention to minorities and legal dynamism can be seen throughout Maududi's ideas, which emphasize his consideration for legal pluralism irrespective of any attempt for codification.

Ijmā' or *jamhūr* can happen through one of four ways: Firstly, a consensus by the learned men of the community; secondly, a broad acceptance so that people suo-moto adopt a verdict (like the *ijtihād* of the Hanafite or Shafiite, etc.); thirdly, an adoption of a particular *ijtihād* by a Muslim government; and fourthly, a constitutionally empowered institution in an Islamic state enacting a particular *ijtihād*.⁴³ Of these, the fourth one points to the possibility of having a collective for enumerating the validity and necessity of a particular *ijtihād*. In other words, framing Islamic law has become a collective act, with political undertones, while at the same time, the juristic exercise of the scholars is not controlled. Thus, it would potentially correspond to producing a new authority, whereby chosen scholars become the custodians of law in specific settings. *Ijtihād*, then, is no more an "ulamā' function,"⁴⁴ but a collective work. But this is not synonymous with the rejection of the monopoly of 'ulamā' or an attempt to redefine *sharī'a*;⁴⁵ rather, an attempt to navigate legal plurality and juristic disagreements. Maududi's proposal of a body of experts, rather than completely doing away with authority, has given an expanded scope for considering *shūrā* in Islamic movements as the newly evolved authority.

However, for Maududi, there are some unalterable elements of Islamic law and certain checks and balances (*hudūd*) to reduce the "possibility to commit errors" in human legislation. He says that "God has retained the right of legislation in His own hand not in order to deprive man of his natural freedom, but to safeguard that very freedom."⁴⁶ One may disagree with Maududi, but the limits are ordained for achieving the conditions for expressing the full potential of freedom for the weak, underprivileged, and minorities. Maududi uses the same idea of good (*ihsān*), which he had proposed as the basis of human legislation, to theorize the necessity of limits. He associates freedom with the well-being

of human beings. He draws a sharp distinction between the best interest of the people and the sectional and class interests.⁴⁷ Maududi recognized that unhindered freedom to legislate would cause oppression through majoritarian desires. As Iqtidar points out, Maududi's idea of *hakim-iyat-e-ilahiya* (Allah's political sovereignty) is a check to counter the cruelty and oppression of minorities within a democracy, as popular sovereignty could potentially become a rule of the majority.⁴⁸ In the absence of such a limit, the best interests of people are often relegated to the majority's desire for power.

In the foregoing section, I have detailed how Maududi addressed the possibilities and limits of human legislation within Islamic law. For him, Islamic legal system and judiciary is not a 'business' but a religious duty and obligation of an Islamic state.⁴⁹ In a radical departure from the modern legal system, he argued that court fees should be abolished to ensure easy and fair access to systems of justice. This is crucially different from the judiciary in the modern state that essentially functions as an arm of the state to protect the elites.⁵⁰ Protection of life, property, and honor, protection of personal freedom, freedom of opinion and belief, provision of basic necessities of life, freedom of assembly and association, and equal opportunity were central to Maududi's conception of citizenship.⁵¹ This resembles most of the contemporary human rights concerns, such as the right to thought, right to choose religion, right to social equality irrespective of caste, race and class, right to property, right to marry and family, right to travel, right to justice, and right to profess good. At the same time, it resembles the elaborated *maqāṣid* universals, such as the ideals of justice, fraternity, equality, freedom, and dignity, as drawn by Qaradawi.

From Maududi to Solidarity: Approaches in *Maqāṣid al-Sharia*

Having briefly described certain basics of Maududi's approach to Islamic law, I will proceed to Solidarity's engagements to understand the potential manifestation of the *maqāṣid* approach, the seeds of which were dormant in Maududi's ideas. In one of their articles, *Jamat-e Islami's* mouthpiece in Kerala, the *Prabhodhanam Weekly*, counted Maududi

alongside Imam Shafi, Imam Ghazali, Ibn Taymiyyah, Shah Waliullah, and Imam Shatibi as developing the *maqāṣid* approach.⁵² Maududi is credited for emphasizing a holistic approach to life. Following Maududi's conception of Islam as an integrated life project rather than a mere 'religion,' Solidarity describes itself as a group committed to justice and well-being and stresses the importance of moral and ideological-based youth power to transform the society. Solidarity intends to articulate the idea of "social liberation from all power, organized as inequality, discrimination, exploitation, and domination."⁵³ One leader of Solidarity says that their organization is "a strong representation of the sociopolitical content of Islam, and it has roots in the history of Kerala, the global Islamist interventions that became visible with the Iranian Revolution, and the youth activism in Kerala."⁵⁴ The description creatively combines two simultaneous aspects, the local and the universal, which are important to our discussion. They produce a locally rooted Islamic narration, engaging with the immediate sociopolitical context, unlike the earlier tendency of Islamist movements to replicate the universalist ethos. Yet, they take inspiration from the universalist Islamist mobilizations.

Scholars mistakenly associate the emphasis on the geographic specificity as persuasion to secularizing⁵⁵ and liberalizing approach.⁵⁶ On a different note, Irfan Ahmad, in his analysis of *Jamat-e Islami*, has argued that secular democracy acted upon *Jamat-e Islami* internally and externally, leading to recasting their ideology, moving away from fusing religion and state.⁵⁷ Instead of seeing Solidarity's emphasis on sociopolitical context as a move away from the Maududian paradigm towards secularization or liberalization, I intend to view it as moving closer to Maududi's emphasis on knowing context as a necessary feature for *ijtihād*. A Maududian paradigm doesn't necessitate canonizing Maududi, but a critical expansion of his ideas. Such a move ahead, if not away, is Maududian in its true spirit. In a perhaps parallel argument, Sherman Jackson, referring to Shihab al-Din al-Qarafi, stresses the importance of centering the "socio-political, cultural and economic reality as the focal point of one's juristic deliberations."⁵⁸ In that light, Solidarity was not privatizing the Islamic symbols, which secularization demands, but rather seeking to bring the Islamic content into sociopolitical interventions.

Some peripheral analyses tend to reduce the emphasis on justice and human rights as mere ‘survival tactic’ and ‘masquerading’ or as emanating from a modern secular perspective. However, as Talal Asad argues, there is “no reason why one shouldn’t draw on the *sharia* as a way of addressing questions of justice.”⁵⁹ In other words, moral and ethical frames can get inspired and developed from *shari‘a*. As Sajjad Idris points out, more than forty titles in Maududi’s corpus are connected to the discourse of human rights.⁶⁰ Maududi’s reading of justice in Islamic thought was independent of Enlightenment ideals.⁶¹ Affirming such a conception of the idea of justice and rights, the President of Solidarity says: “We have a philosophy which can’t seclude away from activism and an activism which can’t seclude away from philosophy. Those who delegitimize the social-liberation activities based on religious ethos are delegitimizing the prophetic traditions. Ours is not a farce mask, but an ideal/ideological face.”⁶² It would be unwise to think, then, that the turn in Islamic movements is merely a survival tactic. Some other critics accused Solidarity as being driven by post-secular debates, instead of *shari‘a*. However, the President of Solidarity rejects it, saying, “this style was not adopted because Solidarity was influenced by post-secular theories. Solidarity testifies to the fundamental nature of Islam.”⁶³ In short, the movement emphatically affirms its commitment to Islam and its distance from any influence of secular, post-secular, or modern ideas. Thus, I intend to see Solidarity’s emphasis on context and global influences as part of the Maudidian paradigm of Islamic law and method of ‘combined reading,’ which can creatively engage with other developments in the *maqāṣid al-shari‘a*.

In an attempt to realize their goals, Solidarity develops Maududi’s Islamic political theory into the Muslim minoritarian context in India. For Maududi, justice and equity along with balance and moderation is the distinguished quality of the Muslim community, who are described in the Qur’an as “*ummatan wasatan*” (the community of the middle way).⁶⁴ The conception of justice, which is central in Maududi’s theorization, has emerged as such a critical paradigm for Solidarity that they insist their cadres be witnesses to justice through their activism. They conduct campaigns under the title, *neethikku, nila nilppinu, yuvathayude*

samarasakshyam (the struggle of the youth for existence and justice), invoking the Islamic paradigm of ‘*adl* and *ihsān*. This clearly recalls Maududi’s Islamic revolution that was aimed at establishing ‘*adl* (justice) and *ihsān* (benevolence).⁶⁵ Maududi further elaborates that the principles of government are to lighten the burden of people and to look after their welfare, betterment, and prosperity.⁶⁶ Accordingly, as a principle of *shari‘a*, all exploitative forms and harm to others are forbidden. This includes not only murder, blood spilling, etc. but also theft, forgery, monopoly, hoarding, black marketing, etc.⁶⁷ Solidarity echoes the same concerns in their campaigns when they resist corporate capitalism and indiscriminate development models. They try to redefine development, bringing in the issues of displacement of marginalized communities, human rights, and morality. Solidarity argues that “it is a mistake for the world to mark development only on the basis of GDP and per capita growth and to formulate development policies for them. That is why the overall growth and well-being of human beings is not evaluated in developmental circles.”⁶⁸ Consequently, Solidarity proposes a development scheme based on social justice and sustainability. That is to say, the objective of an Islamic state, which as explained by Maududi is to ensure social justice,⁶⁹ is taken by Solidarity in a non-state spatio-temporality: not as a process of superimposition, but a process of creative abstraction.

Nasr makes a striking remark, without elaborating on it, that Maududi’s Islamic state was intended for India, and only later for Pakistan.⁷⁰ Reading this alongside Ahmad’s suggestion that “the Islamic state was one among many manifestations of politics”⁷¹ would produce an idea of an Islamic state as a manifestation of an ethical order founded on justice. Although Maududi is credited with affirming the importance of the state for the effective implementation of Islamic law, for him, Islamic law is not confined to the rules enforceable by the coercive power of the State. It includes the entire schema of moral and social guidance.⁷² Jackson has opined that a panacean view of *shari‘a* as an all-encompassing rational system would spell the secularization of Islam and its religious law.⁷³ Thus, he proposes jurisdictional boundaries. But for Maududi, jurisdiction is intrinsically linked with all other aspects of life, and hence producing the ethical life world is a condition for

implementation of rule of law. For instance, according to the legal injunction, the penalty for theft is amputation of the hand. However, Maududi suggests that the implementation of such an injunction presupposes an Islamic society molded in an ethical economic system. In a society with unequal privileges, Maududi says, “it is doubtful if theft should be penalized at all, not to speak of cutting off the thief’s hands!”⁷⁴ Through emphasizing such a pre-condition, it is quite clear that Maududi was not merely imagining *shari‘a* as a legal code, nor was his idea of Islamic state simply an enforcing power. This contradicts the criticism against the idea of Islamic state as a totalitarian regime and the assumption that the idea of the modern Islamic state essentially divides moral and legal laws.⁷⁵ The proposed method of interpretation through integrated readings of text would effectively qualify Rane’s exposition of the *maqāṣid* approach. Rane describes the *maqāṣid*-oriented approach as requiring “a comprehensive reading of the text as an integrated whole in order to identify the higher objectives and then interpreting particular verses on a given topic according to the identified *maqāṣid* or objectives, intent or purpose.”⁷⁶

Like the abstraction of the idea of an Islamic state, some of the other engagements of Solidarity can be read through Maududi’s development of crucial terms, such as *khilāfa* and ‘*ibāda*. Maududi used the term ‘*ibādah* to denote not only rituals but the whole aspects—the ritual, economic, social, and political—of human life. He says, “if you help the poor and destitute, give food to the hungry and serve the afflicted and do all this not for any personal gain but only to seek the pleasure of God, this is all ‘*ibādah*.”⁷⁷ Solidarity, as a continuation of the Islamist ideology, precisely capitalized on the concept of ‘*ibāda* with their slogan “*janasevanam dhaivaradhanayanu*” (serving humanity is worshipping God). They have used the slogan to do charity work and to help the needy. Thus, they have effectively critiqued the traditional understanding of what constitutes ‘*ibāda* and connected it with social obligations and political articulations.⁷⁸ Similarly, Solidarity’s narrative about their struggles as their responsibility to the creator and creators⁷⁹ is an abstraction of Maududi’s idea of the vicegerency (*khilāfa*) of man on earth, which asserts that all creation has certain rights on man.⁸⁰ It proclaims that

not only human beings, but nature, animals, plants, and other living and non-living beings have due rights to human beings.

The Jurisprudence of Minorities: A South Indian Experiment

As a movement working in India, where Muslims are a minority, Solidarity's engagements have significant implications for the jurisprudence of minorities (*fiqh al-aqalliya*). The new scholarship on *fiqh al-aqalliya* is primarily aimed at addressing the conflict between Islam and the West in the context of Muslim immigration to the West.⁸¹ According to Zahalka, *fiqh al-aqalliya* is designed to allow Muslim minorities to honorably subsist and integrate into their new countries while preserving their Islamic identity.⁸² The new developments within *fiqh al-aqalliya* grew out of the critique by the contemporary scholars, who are residing in the West, against the previous approaches as Arab-centered.⁸³ Both *wasatī* and *salafī* approaches⁸⁴ to Muslims migrating to non-Muslim lands have barely addressed the liberal-secular order in the West. The migration to non-Muslim lands was considered temporary, and fatwas prominently attempted at providing temporary reliefs. But with the growing permanence of Muslims in the West, the 'ad hoc fatwas,' were inadequate to address the new minority condition.⁸⁵ Taha Jabir Alalwani, Yusuf al-Qaradawi, Abdallah bin Bayyah, Hamza Yusuf, Jasir Auda, and Tariq Ramadan widely used *maqāṣid* approach and developed *fiqh al-aqalliya* to articulate a legitimate, peaceful co-existence of Muslims in the West.

However, when we consider the population statistics, more than 90% of the Muslim minorities live outside the European and American contexts. They have totally different histories and sociopolitical circumstances. Consequently, the imminent issues are different from that of the Western contexts. The West finds its Muslims "as immigrants, students and professionals" after the 1960s or 70s, "who left their Muslim lands to live in the West, forming a real, settled and permanent Muslim existence in Europe and the United States."⁸⁶ In this counter example, while European Muslims, supposedly, have no significant roots in the history or culture of the country, Muslims in India are the chief architects of

many historical developments in their country. As Khaled Abou Fadl notes, “the history of the juristic discourse on the problem of Muslim minorities is the history of an attempt to reconcile the demands of theory with the challenges of history.” Therefore, as Hussain argues, jurisprudence applicable to Muslims in India who enjoy the political right to self-determination and equal citizenship needs to be formed within a broader framework than the current minority jurisprudence.⁸⁷

Muslims in India are a conundrum in many ways. Firstly, they are minorities. Nevertheless, they are not numerically irrelevant, as they constitute a population of 200 million in India (higher than that of most Muslim countries). Secondly, they have a history of ruling the Indian subcontinent for more than 600 years, but presently they are a marginalized community. Such a long history of a tryst with Islam in India also produces reminiscences of the culture and heritage of Islam in the land. It makes complicated the ‘jurisprudential status’ of India in the traditional classification as ‘*dār al-ḥarb*’ (abode of war), ‘*dār al-ṣulḥ*’ (abode of treaty) or the ‘lost land.’⁸⁸ These classifications resurfaced in different epochs like partition of India and after Babri masjid destruction.⁸⁹ Thirdly, Muslims in India are those who chose (or were forced) to remain in the geography of a non-Muslim majority after the partition. These three aspects make it difficult, as well as necessary, to develop a distinct jurisprudential frame for Muslims in India. When it comes to Muslims in Kerala in particular, they are assumed to have historically achieved naturalization through the hermeneutical engagements of Muslim scholars under Hindu kings in the fifteenth and sixteenth centuries.⁹⁰ A jurisprudence of minorities specific to such varied contexts is yet to be developed. It is in that void that scholars like Maududi and movements like Solidarity are providing opportunities to take the Islamic legal system forward in more nuanced ways.

In an attempt to seek co-existence between *sharī‘a* and the West, scholars explore different methods. Sherman Jackson, following the mode of Christianity’s engagement with the modern secular state in the West, proposes a self-limiting *sharī‘a*, instead of an all-encompassing *sharī‘a*, as a necessary process to protect itself against modernity’s propositions.⁹¹ On a different note, Khaled Abou Fadl claims that a relationship

of reciprocity and self-restraint would help to avoid the polarization and thereby secure the Muslims better in the West. While such an analysis is driven by an idea of liberal democracy as primarily upholding the values of accessibility, inclusion, and equal respect, it overlooks the power of the state, the coercive nature of inclusion and integration. Likewise, Andrew March's search for an overlapping consensus between Islam and liberalism is primarily grounded on a utopian, idealized, and hypothesized Rawlsian liberal model that envisages a public reason capable of producing justice, legitimacy, and social unity.⁹² The ideal and neutral secular-liberal order is juxtaposed with the real condition of Muslims, leaving aside the real violence and hegemony of secularism in subjugating minorities. Jackson's *shari'a* self-limiting, Abou Fadl's relations of reciprocity and self-restraint, and March's search for 'justificatory projects' share comparable, if not identical, 'purposive approaches' to legitimize the American political system and to integrate Muslims into the Western society.

In India, as Muslims have been co-existing with other communities for a long time, the immediate questions at hand are different from that of integration. After the loss of Muslim autonomy with colonialism, *shari'a* has been forcefully limited to personal laws, through institutional apparatuses; there it is not a choice of self-limiting, but an uninterrupted surrender. Reciprocity is demanded, either legally or through the force of Hindu public conscience. It arises due to frequent questions about the loyalty of Muslims to the Indian nation. While in Europe and America, the question of Muslim loyalty to the nation-state arises from the immigrant condition,⁹³ in India, Muslim loyalty comes as a reminder of the formation of Pakistan. Hence, debates about multiculturalism, diversity, and integration are not completely absent, but are only marginal in India. In such a context, one of the pressing issues is to claim the legitimacy of Muslim political mobilization rather than legitimizing the state through justificatory projects or self-restraint. The ways through which new Muslim actors articulated the minority questions of integration and difference prompts new ways of articulating the politics of minorities, significant for the *fiqh al-aqalliya*. Instead of building the juristic positionality on integrating themselves, Muslim

movements are holding difference as a crucial category to articulate a politics of self-respect.

A Paradigm of Justice: Questioning the State

Within the *fiqh al-aqalliya*, Muslim minorities, in general, are assumed to maintain a positive relationship with non-Muslims. In some ‘exceptional circumstances,’ Ghannouchi considers entering into alliances with secular democratic groups that will ensure human rights, security, and freedom as the best option for Muslim minorities. Ghannouchi considered these qualities as Islam’s fundamental responsibility to mankind.⁹⁴ In the West, this is invoked through the narrative of possible interaction with the people of Book and with those who abide by the liberal and secular system.⁹⁵ In the Indian case, the new Muslim actors grounded their relationship with non-Muslims, exploring the idea of *haqq* (right). Dalits, Adivasis, and other marginalized communities in India are victims of a long-existing caste system and discrimination. Their human rights and civil rights are compromised. Solidarity considers these rights as their *haqq* and thereby implores society to stand with them. As elaborated by Qaradawi, self-respect or the right to dignity is part of the *darūriya* (necessity) of *sharī‘a*.

The qualities that are repeatedly invoked for gaining the confidence of non-Muslims and to make Islam acceptable to them are generosity, kindness, mercy, and affection.⁹⁶ It is entirely plausible that the prioritization of these particular characteristics as essential for *da‘wa* activities is influenced by a certain way Christianity has positioned itself in the modern world. However, in the Indian case, it is not merely the qualities of kindness and mercy that have led to religious conversions; rather the unabated positioning of Islam as antithetical to the injustice perpetrated through the Hindu caste system.⁹⁷ The antithetical position to caste hierarchy demands restricting the power of certain groups over others to cherish the “unrestricted scope for personal achievement.” It stems from the imagination of an Islamic society where, as Maududi opines, “slaves and their descendants were appointed as military officers and governors of provinces...Cobblers who used to stitch and mend shoes rose in the

social scale and became leaders of highest order (*imams*), weavers and cloth sellers became judges, *muftis* and jurists.⁹⁸ Maududi considers equality as a birthright given by God.⁹⁹ This sense of equality prompts Maududi to critique the 'divine authority to rule.' Maududi's proclamation is a rejection of any authority, within the community of believers,¹⁰⁰ simply based on the lineage that is central to the caste hierarchy in India. In other words, there is a paradigm of justice that is at work.

Maududi's propositions would help us to identify the importance of the critique of the system for the effective actualization of Islam. As Iqtidar pointed out, "unlike other Islamist thinkers such as Syed Qutb and Khomeini, Maududi lived for most of his life as a minority."¹⁰¹ But Maududi's understanding of minorities is usually read from his influential conception of an Islamic state, whereby minorities are usually non-Muslims. Thus, scholars' immediate focus reaches on the status of *dhimmis* within the Islamic state, effectively ignoring Maududi's view of minorities within a non-Muslim polity. Alongside Maududi's delicate attention to minorities in an Islamic polity, what is important for our present discussion is his Madras speech, which was delivered in 1947 primarily addressing the Muslims who would remain in India. Delivered at a critical juncture of India's partition, he presented a four-point strategy, intended at ending communal conflicts, reforming the Muslim community, producing Muslim intellectuals, and engaging in regional languages. Maududi wanted to get rid of Hindu prejudices, for which he proposed a (temporary, five-year) Muslim abstinence from political claims. Maududi's proposal came at a time when there was a crucial lack of clarity on the safeguards for Muslim minorities against the dominant Hindu nationalism. With partition, Muslim political claims were considered as settled for once and all, consequently stripping them off their political claims to the constitutional category of religious minorities. In the absence of a clear idea of their goals and aims, the methods proposed by Maududi will be easily misunderstood as political quietism. This mistake has been critical not only for scholars but also for the course of action of *Jamaat-e Islami* in India. Without being attentive to the aim but only to the methods, they followed Maududi's advice that "Like gentlemen, you must refrain from confrontation and endure their [Hindus] excesses quietly."¹⁰²

Maududi's proposal has to be read from three vertices: a critique of the system, a critique of the modern nation-state, and a critique of constitutional guarantees. His proposal to produce intellectuals is to equip Muslims in the regional languages to effectively critique the system. It is interesting that Maududi reserved a considerable portion of his speech to analyzing the problems of majorities in the Hindustan and to different solutions like socialism. Maududi had rightly analyzed the concerted efforts to espouse Hindu culture and the Western way of life, whereby injustice, prejudice, and differentiation will continue beneath the superficial claims of equality and justice.¹⁰³ This is an extension of his critique of nationalism and democracy as instrumental in exerting dominant cultural and political ideas onto minorities. Maududi says that though modern democracies claim to give equal rights to minorities, in effect it has become the rule of the majority. "The minorities either get eliminated or would absorb themselves beyond recognition in the majority."¹⁰⁴ Equally, he was critical of the fundamental rights guaranteed by most of the modern nation-states, as these rights which are available for individuals can be taken over at any point on the condition of interest of the state or collective welfare.¹⁰⁵ Analyzing the situation of minorities in Europe, Britain, and America, Maududi pointed to their discriminations irrespective of the legal and constitutional safeguards. Keeping these in mind, Maududi's appeal to move out of the political claims has to be understood as a critique of the modern system, where he found legal safeguards inadequate to protect the minority rights and to make the minorities capable of political action.

Hindutva mobilizations and the state's affirmation of Hindu ethos in the 1980s testifies to how egregious the modern nation-state can be. However, in the post-Babri demolition period, there was a general recourse to constitutional rights. "Solidarity sought to transform the analysis and solution of the problems facing the Muslim community into human rights and denial of constitutional rights."¹⁰⁶ On the one hand, this was motivated by a surreal faith in the constitutionally guaranteed safeguards; but what it effectively did was to expose the limitations of constitutional safeguards, the futility of the very system of nation-state, and the structuring of democracy and secularism on Hindu moral

ethos.¹⁰⁷ Muslim political mobilization was delegitimized as ‘extremist’ and ‘communalist’ tendencies. The issue at hand, as Ghannouchi opined in a different context, is not to convince the Islamists to accept democracy, pluralism, and power-sharing, but to convince the ruling regimes “of the right of Islamists—just like other political groups—to form political parties, engage in political activities and compete for power or share in power through democratic means.”¹⁰⁸ The very hesitance to accept the legitimacy of Muslim political actors exposed the Hinduness of Indian secular polity. Through asserting constitutionally guaranteed rights, the movements provoked a claim for equality in existence and power share.

The case of house arrest of Hadiya in 2017 and the response of Solidarity would substantially delineate this approach. Hadiya, a medical student from Kerala, renounced Hinduism and embraced Islam. Due to her family’s reluctance to accept her conversion to Islam, she left home and married a Muslim man. Upon her parent’s complaint, the High Court of Kerala annulled the marriage, leading to the house arrest of Hadiya. There was large scale propaganda by right-wing groups against the marriage, alleging it to be a case of ‘love jihad.’¹⁰⁹ The annulling of the marriage and house arrest clearly violated the fundamental rights of conscience, religion and movement enshrined in the Indian Constitution. On the issue, Solidarity in their pamphlet says: “Hadiya represents democracy, which has ethical content and shades of divine thought. The other groups, who try to destroy Hadiya, represent fascist politics.” The qualifiers to democracy here, ethical content and divine thought, destabilize the dominant understanding of democracy, forcefully bringing the Islamic ethos into the discussion. An inscription of the divine and ethical in democracy, thus, becomes a critique of existing democracy framed within the Hindu ethos.

Conclusion

Through discussion of Solidarity, as a representative of new Muslim movements in South India, I have tried to show their capability to bring *maqāṣid al-sharī‘a* into the praxis of sociopolitical activism. This has been significantly informed by Maududi’s method of combined reading and

ideas of justice. Such a jurisprudential exercise has benefitted Solidarity to reorient their priorities towards democracy, human rights, justice, development, and environment. Under the secularism of the modern nation-state, as Hallaq argues, communities have become “a marginalized definitional element” and religion has become a private matter that “cannot, at least in theory and in law, be turned into a political privilege.”¹¹⁰ In other words, the political identity of religious communities is subsumed and disciplined. Solidarity’s activism, through *maqāṣid* approach, has to be located in this nation-state context in India, whereby its communitarian mobilization challenges not only the privatization of religion but also caters to the resurrection of the political. While this resurrection is inspired from Maududi’s paradigm of justice and *maqāṣid* universals, they are also born out of praxis. To put it differently, the *maqāṣid* approach is not only something to be sought outside the movement, but it has to be read and developed through their engagements.

In the wake of rising Islamophobia, discrimination, and harassment of Muslims, these recurring questions are not concerned only with “solving problems within Islamic law”, but “to work out problems with the local law.”¹¹¹ Such legal challenges are primary for Muslims in India as seen in the recent Citizenship Amendment Act that, in effect, disenfranchised Muslims. Thinking *fiqh al-aqalliya* in such context has to depart from legitimizing the role of Muslims as ‘representative model citizens’¹¹² to claiming the status of rightful citizens. What they seek is not the possibilities of integration or mere co-existence, but the democratic avenues of disagreements. Solidarity’s methods of developing broader coalitions with other minority communities and narrating a paradigm of justice hint at different articulations of minority discourse, where confrontation is an ethic of Islam’s conception of justice. This can potentially develop the *fiqh al-aqalliya* with a new sense of higher objectives.

Most of the discussions on *fiqh al-aqalliya* are centered on how Muslims should behave in a non-Muslim land. Here, the values of liberal-secular order are taken for granted and escapes scrutiny. For instance, Alalwani’s focus is ‘*fiqh* of coexistence’, which he distinguishes from a ‘*fiqh* of conflict.’ He says that a *fiqh* of co-existence is the contemporary need.¹¹³ What is missing here is an understanding of the possibilities and

limitations of modern citizenship. On the one hand, it offers different ways of expressing dissent or claiming individual and group rights within the larger law of the land; on the other hand, it disciplines the Muslim subject according to the modern-secular order.¹¹⁴ Alalwani is not seeking the possibilities of dissent and proclamation of group rights that can be achieved through struggles within the constitutional boundaries, but in the coexistence that invariably produces a disciplined ‘good citizen’ within the registers of the nation-state. In the absence of conflicts with the liberal system, invocation of *istihsān* or *maṣlaḥa mursala*, as Hallaq opines, will end up succumbing to demands of modernity.¹¹⁵ Instead, the new juristic actors could effectively push the debate to reorient attention from how Muslims should behave to a criticism of the modern state structure and constituent elements. Notably, new Muslim movements, such as Solidarity, explore such possibilities of dissent and group rights, and thereby develop an alliance with other marginalized communities in their pursuit of rights. These new methods and reasoning, born out of praxis, are significant to the contemporary discussions on Islamic law.

Endnotes

- * I thank and acknowledge the support by Erasmus and DAAD visiting fellowships at BGSMS, Frei University and CeMIS, University of Goettingen, received during the writing of this article. I thank the two anonymous reviewers for their detailed and precise comments that significantly helped me to improve the manuscript. I am grateful to Prof. M.T. Ansari, Prof. Dietrich Reetz and Prof. Patrick Eisenlohr for commenting on an initial draft of the manuscript.
- 1 The new movements acquired what can be categorized as ‘secular’ or ‘constitutional’ names compared to the ‘Islamic names’ of their antecedent counterparts: *Samastha Kerala Jamiyyathul Ulama*, *Tablighi Jamaat*, *Jamate Islami*, *Kerala Nadvathul Mujahideen*, Indian Union Muslim League, Students Islamic Movement of India, Sunni Students Federation, Ithihadu Shubbanil Mujahideen, Mujahid Students Movement, Students Islamic Organization, etc. For details about the changes in their orientation, see Thahir Jamal Kiliyamannil, “Political Mobilization of Muslims in Kerala: Towards a Communitarian Becoming of democracy,” in *Companion to Indian Democracy: Resilience, Fragility, Ambivalence*, eds. Peter Ronald deSouza, Mohd Sanjeer Alam, and Hilal Ahmed (Delhi: Routledge India, 2021), 175-186.
 - 2 Irfan Ahmad, *Islamism and Democracy in India* (Princeton University Press, 2009).
 - 3 The same approach is employed in one of the earliest analyses (Rajni Kothari, “Pluralism and Secularism: Lessons of Ayodhya,” *Economic and Political Weekly* 27, nos. 51-52 (1992): 2695-2698) and in a recent one (R. Santhosh and Dayal Paleri, “Ethnicization of Religion in Practice? Recasting Competing Communal Mobilizations in Coastal Karnataka, South India,” *Ethnicities* 21, no. 3 (2021): 563-558).
 - 4 Asghar Ali Engineer, “Remaking Indian Muslim Identity,” *Economic and Political Weekly* 26, no. 16 (1991): 1036-1038; and Arndt-Walter Emmerich, *Islamic Movements in India: Moderation and Its Discontents* (London: Routledge, 2019).
 - 5 Nilüfer Göle, “Islam in Public: New Visibilities and New Imaginaries,” *Public Culture* 14, no. 1 (2002): 173-190.
 - 6 Asef Bayat, *Making Islam Democratic: Social Movements and the Post Islamist Turn* (Stanford University Press, 2007).
 - 7 Robert W Hefner, *Civil Islam: Muslims and Democratization in Indonesia* (Princeton University Press, 2011).
 - 8 Gilles Kepel, “Islamism Reconsidered: A Running Dialogue with Modernity,” *Harvard International Review* 22 no. 2 (2000): 22–27.
 - 9 Mohammad Fadel, “Islamic Law and Constitution Making: The Authoritarian Temptation and the Arab Spring,” *Osgoode Hall Law Journal* 53, no. 2 (2016): 472-507.
 - 10 Armando Salvatore, and Dale F. Eickelman, eds. *Public Islam and the Common Good* (Leiden: Brill, 2004).

- 11 Raymond William Baker, *Islam Without Fear: Egypt and the New Islamists* (Harvard University Press, 2009).
- 12 Halim Rane, "The Impact of *Maqasid al-Shari'ah* on the Islamist Political Thought: Implications for Islam-West Relations," *ICR Journal* 2, no. 2 (2011): 337-357, 338.
- 13 Wael B. Hallaq, *Shari'a: Theory, Practice, Transformations* (Cambridge University Press, 2009), 474.
- 14 Wael B. Hallaq, "Maqasid and the Challenges of Modernity," *Al-Jami'ah: Journal of Islamic Studies* 49, no. 1 (2011): 1-31, 26.
- 15 Ibid.
- 16 Wilfred Cantwell Smith, *Islam in Modern History* (Princeton University Press, 1957), 236.
- 17 Sayyid Abul A'la Maududi, *Political Theory of Islam*, trans. Khurshid Ahmad, 6th ed. (Lahore: Islamic Publications Ltd, 1980), 2.
- 18 Sayyid Abul A'la Maududi, *The Islamic Law & Constitution*, ed. and trans. Khurshid Ahmad, 7th ed. (Lahore: Islamic Publications Ltd, 1980), 112.
- 19 Hallaq, *Shari'a*, 476.
- 20 Taha Jabir Alalwani, *Towards a Fiqh for Minorities: Some Basic Reflections*, 2nd ed. (International Institute of Islamic Thought, 2010), 37.
- 21 Hallaq, "Maqasid and the Challenges of Modernity," 12.
- 22 Updated Constitution of Solidarity Youth Movement, 6.
- 23 See Imam Ahmad, *Al-Musnad*, Book 5/196, Hadith no. 21763.
- 24 Khalid Moosa Nadvi, "Nabi Theruvilaanu [Prophet is in the Streets]," *Prabodhanam Weekly* Feb 11, 2012.
- 25 Halim Rane, "The Relevance of a Maqasid Approach for Political Islam Post Arab Revolutions," *Journal of Law and Religion* 28, no. 2 (2013): 489-520.
- 26 Muhammed Shameem's article ["Paristhithiyum Neethiyum [Environment and Justice]," *Prabodhanam Weekly*, Jan 20, 2007] gives more insights into this method of developing an eco-theology.
- 27 Shahul Ameen K. T., "Piety and the Civic: Solidarity Youth Movement and Islamism in Kerala, South India," in *Religion and Secularities: Reconfiguring Islam in Contemporary India*, eds. Sudha Sitharaman and Anindita Chakrabarti (Hyderabad: Orient Blackswan, 2020), 146.
- 28 Rane, "The Relevance of a Maqasid Approach," 490.
- 29 Seyyed Vali Reza Nasr, *Mawdudi and the Making of Islamic Revivalism*, (Oxford University Press, 1996).
- 30 Jan-Peter Hartung, *A System of Life: Mawdūdī and the Ideologisation of Islam* (London: Hurst, 2013), 130.
- 31 Nasr, *Mawdudi and the Making of Islamic Revivalism*, 61.

- 32 M. Abdul Haq Ansari, "Mawdudi's Contribution to Theology," *The Muslim World* 93, no. 3/4 (2003): 521-531, 521.
- 33 Irfan Ahmad, *Religion as Critique: Islamic Critical Thinking from Mecca to the Marketplace* (University of North Carolina Press, 2017), 140-150.
- 34 Maududi, *The Islamic Law & Constitution*, 76.
- 35 Muhammad Qasim Zaman "The Sovereignty of God in Modern Islamic Thought," *Journal of the Royal Asiatic Society* 25, no. 3 (2015): 389-418, 418.
- 36 Maududi, *The Islamic Law & Constitution*, 87.
- 37 Ibid.
- 38 Anis Ahmad, "Mawdudi's Concept of Sharia," *The Muslim World* 93, nos. 3/4 (2003): 533-545.
- 39 Maududi, *The Islamic Law & Constitution*, 206.
- 40 Alalwani describes 'combined reading' as "a reading of Revelation for an understanding of the physical world and its laws and principles, and a reading of the physical world to appreciate and recognize the value of Revelation." See Alalwani, *Towards a Fiqh for Minorities*, 15.
- 41 Maududi, *The Islamic Law & Constitution*, 68.
- 42 Sayyid Abul A'la Maududi, *Fundamentals of Islam* (Lahore: Islamic Publications Limited, 1982)
- 43 Maududi, *The Islamic Law & Constitution*, 79-80
- 44 Wael B Hallaq, "Was the Gate of Ijtihad Closed?," *International Journal of Middle East Studies* 16, no. 1 (1984): 3-41.
- 45 Sohrab Behdad, "Islam, Revivalism, and Public Policy" in *Islam and the Everyday World: Public Policy Dilemmas*, eds. Sohrab Behdad, and Farhad Nomani (New York: Routledge, 2006), 19-20.
- 46 Maududi, *Political Theory of Islam*, 23.
- 47 Ibid., 24.
- 48 Humeira Iqtidar, "Theorizing Popular Sovereignty in the Colony: Abul A'la Maududi's 'Theodemocracy'," *The Review of Politics* 82, no. 4 (2020): 595-617, 607.
- 49 Maududi, *The Islamic Law & Constitution*, 117-118, 320.
- 50 Wael B. Hallaq, *The Impossible State: Islam, Politics, and Modernity's Moral Predicament* (Columbia University Press, 2012), 45-46.
- 51 Maududi, *The Islamic Law & Constitution*, 248-51, 316-18.
- 52 Muneer Muhammad Rafeeq, a Santhulithathwam, Muslim Ummah, *Maqasid al-Shariah: Oru Charithra Vishakalanam* [Balance, Muslim Ummah and *Maqasid al-Shariah: A Historical Analysis*], *Prabodhanam Weekly*, November 24, 2017.
- 53 "About Us", Official website of Solidarity. <http://solidarityym.org/solidarity/>.

- 54 T Shakir Velam, "Solidarity Oru Kalpanika Bhavanayalla [Solidarity is not a Fantasy of Imagination]" *Prabodhanam Weekly*, April 26, 2013.
- 55 Olivier Roy, *Secularism Confronts Islam* (Columbia University Press, 2007).
- 56 Baker, *Islam Without fear*.
- 57 Ahmad, *Islamism and Democracy in India*, 9
- 58 Sherman A. Jackson, "Islamic Law, Muslims and American Politics," *Islamic Law and Society* 22, no. 3 (2015): 253-291, 265.
- 59 Ovamir Anjum, "Interview with Talal Asad," *American Journal of Islam and Society* 35, no. 1 (2018): 55-90, 77.
- 60 Sajjad Idris, "Reflections on Mawdudi and Human Rights," *The Muslim World* 93, no. 3-4 (2003):547-561, 548.
- 61 Humeira Iqtidar, "Jizya against Nationalism: Abul A 'la Maududi's Attempt at Decolonizing Political Theory," *The Journal of Politics* 83, no. 3 (2021): 1145-1157, 1145.
- 62 P Mujeebrahman, "Solidarity Vettakk Pinnil Mafia Thalpanyangal [Mafia Interests Behind the Witchunt of Solidarity]," *Prabodhanam Weekly*, June 5, 2010.
- 63 PI Nowshad, "Aikyartyathinte Puthiya Mugham [New Face of Solidarity]," *Prabodhanam Weekly*, Sept 10, 2011.
- 64 See description of Quran 2:143 in Abul Ala Maududi, *Tafhimul Qur'an*. <https://tafheem.net/>
- 65 Nasr, *Mawdudi and the Making of Islamic Revivalism*, 76.
- 66 Maududi, *The Islamic Law & Constitution*, 185.
- 67 Sayyid Abul A'la Maududi, *Towards Understanding Islam* (London: The Islamic Foundation, 1980), 107.
- 68 Nowshad, "Aikyartyathinte Puthiya Mugham".
- 69 Maududi, *The Islamic Law & Constitution*, 145.
- 70 Nasr, *Mawdudi and the Making of Islamic Revivalism*, 99.
- 71 Irfan Ahmad, "On the State of the (Im)possible: Notes on Wael Hallaq's Thesis," *Journal of Religious and Political Practice* 1, no. 1 (2015): 97-106, 102.
- 72 Maududi, *The Islamic Law & Constitution*, 45.
- 73 Jackson, "Islamic Law, Muslims and American Politics," 286.
- 74 Maududi, *The Islamic Law & Constitution*, 45.
- 75 Hallaq argues that a modern Islamic state is impossible and is a contradiction in terms due to the different nature of *shari'a* and modern state, and it leads to the division of moral and legal laws. While Hallaq's thesis revolves around the changes in the conception of *shari'a*, the implication of modernity, and the contradiction of Islamic state, inexplicably neither his book *Impossible State* nor *Sharia: Theory, Practice*,

- Transformations* gives a single reference to the original works (except a secondary reference) of Maududi, who of course is an indispensable figure in conceptualizing *sharī'a* and Islamic state in the modern context. A comparative reading of Hallaq's propositions in these two works with Maududi's *Islamic Law and Constitution* would potentially elucidate disconcerting parallels, which is beyond the scope of this article.
- 76 Rane, "The Impact of Maqasid," 348.
- 77 Maududi, *Towards Understanding Islam*, 88.
- 78 K. T., "Piety and the Civic," 146
- 79 Abdul Hameed Vaniyambalam, "Neethikk Sakshikalaavuka [Be Witness to Justice]" *Prabodhanam Weekly*, January 20, 2007.
- 80 Maududi, *Towards Understanding Islam*, 114.
- 81 For a historical account of different trends within the development of *fiqh al-aqalliyah*, see Said Fares Hassan, *Fiqh al-Aqalliyat: History, Development, and Progress* (New York: Palgrave Macmillan, 2013); Adis Duderija and Halim Rane, *Islam and Muslims in the West: Major Issues and Debates* (Cham: Palgrave Macmillan, 2019); and Uriya Shavit, *Shari'a and Muslim Minorities: The Wasati and Salafi Approaches to Fiqh Al-Aqalliyat Al-Muslima* (Oxford University Press, 2015).
- 82 Iyad Zahalka, *Shari'a in the Modern Era: Muslim Minorities Jurisprudence* (Cambridge University Press, 2016)
- 83 For example, see Tariq Ramadan, *Western Muslims and the Future of Islam* (New York: Oxford University Press 2005); Adis Duderija, and Halim Rane, *Islam and Muslims in the West*, and Jackson, "Islamic Law, Muslims and American Politics."
- 84 The two approaches within the Arab-Sunni jurists that arises due to the differing interpretation of *maṣṣḥala* are identified as *wasatī* and *salafī* approaches. See, Shavit, *Shari'a and Muslim Minorities*.
- 85 Duderija, and Halim Rane, *Islam and Muslims in the West*.
- 86 Alalwani, *Towards a Fiqh for Minorities*, xvii.
- 87 K. T Hussain, Islamika Akademika Activisathinte Kerala Parisaram [Context of Islamic Academic Activism in Kerala], *Prabodhanam Weekly*, January 14, 2012.
- 88 For a detailed discussion on the subject through classical jurisprudence, see, Fadl, *Uddat al-Umara'* (Cairo: Matba' al-ḥujra al-hamida 1857 [Rajab 1273]) and for contemporary discussions, see Alalwani, *Towards a Fiqh for Minorities*.
- 89 Ahmad, *Islamism and Democracy in India*.
- 90 Abdul Jaleel PKM, "Arab Immigrants under Hindu Kings in Malabar: Ethical Pluralities of "Naturalisation" in Islam" in *Migration and Islamic Ethics of Issues of Residence, Naturalisation and Citizenship*, eds. Ray Jureidini and Said Fares Hassan (Leiden: Brill, 2020): 196-214.
- 91 According to Jackson, there are rules and regulations that fall outside the parameters of what is strictly *shari'a* and are not anti-religious but simply non-*shari'a*. Muslims

- can engage in this realm of what he calls “Islamic secular” without invoking and without abandoning Islamic law. For details, see Jackson, “Islamic Law, Muslims and American Politics,” 290.
- 92 Andrew F. March, *Islam and Liberal Citizenship: The Search for an Overlapping Consensus* (Oxford University Press, 2011).
- 93 For details of the immigrant condition, see Ian Law, Amina Easat-Daas, Arzu Merali, and Salman Sayyid, eds. *Countering Islamophobia in Europe* (Cham: Palgrave Macmillan, 2019); and Jackson, “Islamic Law, Muslims and American Politics,” *Islamic Law and Society* 22, no. 3 (2015): 253-291.
- 94 Rachid Ghannouchi, “The Participation of Islamists in a Non-Islamic Government,” in *Power Sharing Islam*, ed. Azzam Tamimi (London: Liberty for Muslim World Publications, 1993): 51-63.
- 95 March, *Islam and Liberal Citizenship*.
- 96 Shaykh Ibn Bāz and Shaykh Uthaymeen, *Muslim Minorities: Fatawa Regarding Muslims Living as Minorities* (UK: Message of Islam, 1998), 15, 18, 20-21.
- 97 Mass conversions, especially by the lower castes, that took place in India are primarily motivated by the desire to escape the clutches of Hindu caste system. Conversion of thousands of lower castes in Malabar (Kerala) in the 19th century and at Meenakshipuram (Tamilnadu) in 1981 attest to the fact.
- 98 Maududi, *The Islamic Law & Constitution*, 150.
- 99 Abul A’la Mawdudi, *Human Rights in Islam* (Lahore: Islamic Publications Ltd, 1995), 20.
- 100 For Maududi, the distinction between believers and non-believers is crucial and rights are distributed accordingly, especially in his proposal of Islamic state. This may go against the modern conception of equal citizenship.
- 101 Iqtidar, “Jizya against Nationalism,” 1153.
- 102 Maulana Sayyid Abul A’la Maudoodi, *A Historic Address at Madras* [1947], Trans. Mohammad Siddiqui Naveed (New Delhi: Markazi Maktaba Islami Publishers, 2009), 6.
- 103 *Ibid.*, 14.
- 104 Syed Abul Aala Maududi, *Al Jihad Fil Islam* [1930], trans. Syed Rafatullah ShahIdara (Lahore: Tarjuman ul Qur’an, 2017), 63.
- 105 Iqtidar, “Jizya against Nationalism,” 1149.
- 106 Nowshad, “Aikyartyathinte Puthiya Mugham”.
- 107 Constituent Assembly debates demonstrate how Hindu ethics were systematically incorporated in the constitution. For details, see Shabnum Tejani, *Indian Secularism: A Social and Intellectual History, 1890-1950* (Indiana University Press 2021); Pritam Singh, “Hindu Bias in India’s “Secular Constitution”: Probing Flaws in the Instruments of Governance,” *Third World Quarterly* 26 no. 6 (2005): 909–926; Tahir

- Jamal KM, "Mathethara-Desheeya Udgrandanavum Nyoonaapaksha Samudaya Chodyangalum: Niyama Nirmana Sabhayile Islam Pedi [Secular-Nationalistic Integration and Minority Community Questions: Islamophobia in Constituent Assembly]", in *Islamophobia: Prathivicharangal* ed. V Hikmathullah (Calicut: Islamic Publishing House, 2017).
- 108 Ghannouchi, "The Participation of Islamists in a Non-Islamic Government," 63.
- 109 Love Jihad is an Islamophobic conspiracy theory that alleges Muslim men seduce and convert Hindu women in an organized attempt to change the demography of India and to receive money from international Muslim sources.
- 110 Hallaq, "Maqasid and the Challenges of Modernity," 13.
- 111 Muhammad Khalid Masud, "Islamic Law and Muslim Minorities," *ISIM Newsletter* 11, no. 1 (2002):17-17, 17.
- 112 Alalwani, *Towards a Fiqh for Minorities*, 3.
- 113 *Ibid.*, 10.
- 114 The question of whether *maqāṣid* universals are a temporary adjustment due to loss of power or are innate in the Islamic principles would generate two ways of understanding the *maqāṣid* approach of Muslim movements: firstly, as reinventing the scope of making law, and thereby reinventing sovereignty, considering sovereignty as the authority to make rules. Secondly, as enforced due to the disciplining by the State, and thereby limiting the sovereignty. The second analysis, as a criticism of the *maqāṣid* turn, would demand a critical discerning of the genealogy of Muslim sovereignty, which is beyond the scope of this paper.
- 115 Hallaq, *Shari'a*, 508.