Chapter-6
Dr. Muhammad Hamidullah's 
Juridical Response to the 
Problems of Modern Period
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Dr. Muhammad Hamidullah was one of those eminent Muslim scholars of modern period who not only advocated the application of the principle of Ijtehād to solve juridically the new problems of society, but themselves applied this principle for giving Shari‘at’s attitude towards the problems of modern times. It is noteworthy that the problems responded to by Dr. Muhammad Hamidullah are of varied nature. Broadly speaking, these may be divided into three parts—social, economic and political.

1. Social Problem:

*Imāmat of Woman:*

It has been also controversial issue among the jurists whether a woman can lead prayer or not, in which men also participate. According to Dr. Muhammad Hamidullah, a woman can lead prayer in rare circumstances, such as, when no man is available who is entitled to lead prayer. In this condition, a woman can lead prayer till a man from the concerned locality memories Qur‘ān as recited in prayers and so becomes capable of leading prayer. To support his view, Dr. Hamidullah quoted a Hadith of Prophet Muhammad (SAW) from Sunan Abi-
Daud and Musnad of Ahmad Ibn Hanbal. It is recorded in Hadîth that Prophet (SAW) appointed Umm-e-Waraqah, an ansari lady (who had embraced Islam in the early phase) a leader or Imâm of a mosque in her locality and that men performed behind her including her Mo’azzin. In view of Dr. Muhammad Hamidullah, it was only an exceptional appointment of a lady as Imâm by Prophet Muhammad (SAW), but it shows that leading of prayer by a woman is permissible.

Polygamy:

This is a well-known fact that polygamy is permitted in Islamic Law. In view of Dr. Hamidullah, Islamic Law does not impose polygamy but only permits under certain conditions. Discussing these conditions, he pointed out that in case a wife fell ill and became incapable of doing household work and husband has no means of employing a maid-servant for this purpose, not to speak of the natural requirements of conjugal life. If sick wife gives her consent to her husband for second marriage and a woman agrees with his proposal, then the polygamy is permitted.

Thus, Dr. Muhammad Hamidullah considered the validity of polygamy conditional on the consent of first or second wife. He also pointed out that the first wife had right to demand oath or promise from her husband at the time of her marriage that he would practice monogamy. He further clarified that second wife
may refuse to marry a person who already has one wife. No one can force a woman to enter into marriage without her own consent.\textsuperscript{3}

\textbf{Conversion of Married Non-Muslim to Islam}

This is also a controversial issue of legal interest (debated in every age) that if a married couple or one of them embraces Islam and other refuses it. What will be legal position of their marriage? Dr. Muhammad Hamidullah has discussed this problem, in detailed way, juridically and it would be better to give his opinion in his own words.

“If a married couple embraces Islam, their pre-Islamic contact of marriage remains valid in so far as it is compatible with Islamic law. The rest will be annulled. For instance, Parsis practicing \textit{Khuwaidhugadis} and marrying their own sisters or daughters, or animists marrying more than four wives, or marrying without bride-money (\textit{mahr}) or Nairs practicing polyandry and the like can not expect to remain unaffected by Muslim law. The Parsi wife will at once be separated, the polygamous husband will select only four and the rest of his wives will be divorced. The wife without bride money will get a new right to \textit{mahr}, and the polyandrous wife will be separated from all of her husband except one.”\textsuperscript{4}

If only husband embraces Islam and wife does not, the case is much more difficult. In this condition, he says that the marriage will be intact if the wife
belongs to community of Divine Books like Christians and Jews and will be tolerated with her religions. In other condition, if wife does not belong to community of Divine Books, then she will be asked to become a wife of her husband by changing her religion. If she refuses, separations will follow.

In view of Dr. Hamidullah in case a wife who embraces Islam and her husband does not, the husband should also embrace Islam within three months. During this time he cannot continue conjugal relations. If he refuses to convert, separation would follow.

**Marriage of Siamese Twin Sisters:**

Dr. Muhammad Hamidullah has also examined juridically the complicated problem of the marriage of twin sisters, who have joint organs like hands, foot, heads and stomach etc. In his view, there are several ways to marry such twin sisters. The marriage may be solemnized after separation of such organs like hands, foot, heads etc. by surgery. Secondly, they may be married with two separate men. But the problem arises when typical organs like stomach can not be easily separated. In this situation, Dr. Hamidullah thought that twin sisters should be married with two separate men. When the husband of one comes, other should cover herself by a sheet. It is more reasonable than their marriage with a single man, because this would mean marriage of a man with two sisters which is forbidden in Islam as the Holy Qur'an says:

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\text{“أَنْ تَحْمِلْنَاهُمَا سَوْءاً فَلَأَنْتَشِئَنَّهَا وَلاَ تَخْيَلْنَاهُمَا وَلاَ تَسْأَلْنَاهُمَا وَلاَ تَأْتُوهُمَا وَلاَ تَكْسِبُنَّهَا وَلاَ تَنْفِلُنَّهَا وَلاَ تَتْرُكُوهُمَا وَلاَ تَنْفِرُوهُمَا وَلاَ تَأْخُذُوهُمَا وَلاَ تَنْفِلُوهُمَا”}
\]

(النساء / 23-42)
(Prohibited to you (for marriage) are: your mothers, daughters, sisters, father’s sisters, mother’s sisters, brother’s daughters, sister’s daughters, foster mothers (who gave your suck), foster sisters, your wives mothers, your step-daughters under your guardianship, born of your wives to whom ye have gone in, no prohibition if ye have not gone in- (those who have been) wives of your sons proceeding from your loins, and two sisters in wedlock at one and the same time, except for what is past).

In view of such directive, Dr. Muhammad Hamidullah does not agree with those scholars (Like Maulana Maududi) who are of the opinion that the twin sisters would be married to a healthy man.  

**Women in Army:**

This is generally held that a woman can not join any military service mainly due to the prohibition of men and women working together at the same place. Dr. Muhammad Hamidullah was of the view that a Muslim woman is allowed to join army, because it is well-known that in the period of the Prophet (SAW) women took part in the battles and performed duty of nurses, transporters of wounded and the dead, cooks, water-carriers, attendants and in some emergent cases they worked even as actual fighters. He further says that during the battle of Qadisiyah (in the year 14 A.H.) women dug grave to bury the dead. Besides, Dr. Muhammad Hamidullah does not agree with those scholars who insist that only
ladies of upper age can join the army service. He argues that Hazrat Aishah (RA), the holy wife of the Prophet Muhammad (SAW), was very young when she accompanied him in the battle of Uhud and attended to the wounded Sahābis along with other lady volunteers.\(^9\)

With regards to the position held by Hazrat Aishah (RA) in the battle of Jamal, he was of the view that woman are permitted to take up administrative responsibilities in Army, because Hazrat Aishah (RA) commanded the army on the occasion of the above battle.\(^10\)

With regard to the use of modern weapons by women during war. Dr. Hamidullah was of the view that they can use weapons as it is established from the cases of the period of Prophet Muhammad (SAW) and pious Caliphs. Citing the cases he states that the wife and daughter of famous Sahābi Khalid Ibn Walid got fame for horsemanship. In the battle of Qadisiyah a band of ladies themselves volunteers, armed with thick sticks, lances, arrows etc.\(^11\)

Co-Education:

The co-education is also a controversial issue among the scholars for several years. Dr. Muhammad Hamidullah also has given his opinion regarding this issue. According to him, it is better that there should be separate colleges and schools for girls and boys. If not possible, Islam also gives permission to learn together where boys and girls could have separate seats. In support of his view, he says that in
early age of Islam both men and women would gather in mosque where they sat at different places, but they had access to the place from where the Prophet (SAW) addressed the people.\textsuperscript{12}

**Non-Muslims and their Places of Worship:**

Dr. Muhammad Hamidullah has also discussed the rights of non-Muslims in an Islamic state from juridical point of view. He was of the opinion that their places of worship would be protected and it would be unlawful to damage or destroy them. They would be also allowed to observe their religious practices. In support of his view, he quoted tradition of Prophet Muhammad (SAW). "After establishing Madinah as Islamic state, Prophet Muhammad (SAW) gave full right to the non-Muslims to perform prayers on their belief at their place of worship".\textsuperscript{13}

But in case of war with non-Muslims, Dr. Muhammad Hamidullah was of the view that their religious places would be at the discretion of conquerors or ruler. They can leave it intact, can convert them into Muslim religious places and they may also destroy them. In this connection, he says that after the conquest of Makkah the Prophet Muhammad (SAW) had converted Ka'bah into a place of worship for the Muslim. However in case of Najran, the Prophet (SAW) not only handed over churches to the Christians of that place but also guaranteed full security for their churches and their priests. However, in relation to Taif, Prophet (SAW)'s attitude was different as its idolatry was destroyed.\textsuperscript{14} In the same way, he
observed that during pious caliphate action of conquerors with regard to the non-Muslims places of worship differed in different conditions. So, it may be said that there had been no fixed rule about the religious places of non-Muslims. It depended on the situation and decision of rulers of a particular period. But he clarified that the decision by the Caliph about these places of worship would be binding for the Muslims of later period, and none would be permitted to change it.

Apostasy:

It is often discussed and debated that Islam stands for tolerance and does not allow compulsion for embracing Islam, but it prescribes death sentence for apostates, which goes against the freedom of religions and moral behavior of human beings. Responding to this issue, Dr. Muhammad Hamidullah pointed out that the punishment of death sentence for apostates is not due to change of religion but because of the political treachery. He, further, clarified that no government of the world likes treacherous persons. Instead, they are dealt with sternly and given severe punishment. None, of course, can be forced to embrace Islam but if a person becomes a member of Islamic community, his treachery cannot be tolerated and so he will be awarded punishment of death sentence. Moreover, the punishment will not be given immediately after his treachery against Islam. He will be given opportunity to think over the matter and will be persuaded to return back to the fold of Islam. If he does not agree for the change then he will be
subjected to the said punishment.\textsuperscript{16} Dr. Muhammad Hamidullah also emphasized that there are many persons who may be exempted from or given leniency in the prescribed punishment of apostasy such as delirious, a melancholy and perplexed man, a minor, intoxicated person, one who had declared his faith in Islam under coercion and a person whose acceptance of Islam is not established. Besides, a woman would not be condemned to death, but imprisoned. An old man from whom no offspring is expected may be also exempted.\textsuperscript{17}

\textbf{Legal Profession in View of Islamic Law:}

As regards lawfulness or otherwise of the profession of lawyer from Islamic point of view, Dr. Muhammad Hamidullah was of the opinion that those things which have not been declared forbidden (Harām) are permissible in Islamic Law, even though the things did not exist in the Prophet’s time. He argued that after listing a few forbidden things, the Holy Qur’ān says that the rest are permissible.

(Prohibited to you (for marriage) are: your mothers, daughters, sisters, father’s sisters, mother’s sisters, brother’s daughters, sister’s daughters, foster mothers (who gave your suck), foster sisters, your wives mothers, your step-daughters under your guardianship, born of your wives to whom ye have gone in, no prohibition if ye have not gone in- (those who have

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been) wives of your sons proceeding from your loins, and two sisters in
wedlock at one and the same time, except for what is past).

So, the law profession may be included among those things which are
permissible. He also stated that Qur'an has referred to the advocacy in the verse:

(He! These are the sort of men on whose behalf ye may contend in this
world; but who will contend with Allah on their behalf on the Day of
Judgment, or who will carry their affairs through?).18

In this connection, he further clarified that a lawyer is required by clients
only to plead his case before the court from legal point of view or to present the
case in legal terminology. So, there is no harm in seeking the help of a lawyer.19

Organ Transplantation:

Donation of blood and organs of the body have become essential feature of
the modern medical system. The problem was also examined by Muslim jurists
and Ulama' from the point of view of Islamic law. Dr. Muhammad Hamidullah
was of the opinion that there is no bar in Islam for donation or transplantation of
organs of a person, if it is being used to save life of a person. Similarly, one is
allowed to use extra organ or blood of a person with his permission but not by
compelling him for such, obviously it will be treated as a charity. If it is done by
compulsion, it will be considered violation of human rights and Islam does not permit it.\textsuperscript{20}

**Games of Chance:**

In view of Dr. Muhammad Hamidullah games of chance like lotteries, races of horses, backgammon, ludo, chess etc are sources of germination of many social evils. It leads to the exploitation of poor and accumulation of ill-gotten wealth in a few hands. Discussing the legal position of these games, Dr. Muhammad Hamidullah quoted the following verse:

\begin{equation}
\text{بَيْنَانَا الْجَنَّةَ وَالْجَحِيمَ} \quad \text{الْكَحْلُ} \quad \text{وَالْبَيْكُبُ} \quad \text{وَالْأَزْلَامُ} \quad \text{وَرَجُلٌ مِّنْ عَمَلِ الْسَّبِيطَانِ (المائدة)}
\end{equation}

(O ye who believe! Intoxicants and gambling, sacrificing to stone. And (divination by) arrows are an abomination of Satan’s handiwork).

In his view, such games are totally prohibited in \textit{Shari'at} because of involving one-sided risk.\textsuperscript{21}

**Music:**

It is generally held by Muslim scholars that Islam does not permit music. But Dr. Muhammad Hamidullah differs from such scholars. In his view, music itself is not forbidden in Islam but what is forbidden is that the music should not be played during prayer or music should not be used in such entertainments which develop moral decadent. He has attempted to prove permissibility of music by giving examples from the period of Prophet (SAW). He says that once, on returning from a marriage which was celebrated by Hazrat Aishah’s relatives. Prophet
Muhammad (SAW) told Hazrat Aishah (RA) that there was no music in wedding party of your relative and he had expressed surprise at this. Another example, he given in this regard, is related to the farewell pilgrimage of Prophet (SAW). The Prophet was staying in Mina and a few girls were playing on Duff (a musical instrument) in front of Aishah’s tent. Abu Bakr (RA) came to call on the Prophet and scolded the girls who were busy in music. The Prophet said to Abu Bakr, “It is the day of ‘Id”’. In view of Dr. Muhammad Hamidullah it may be inferred from this event that the girls were not doing any impermissible thing. Accordingly, he held the view that music is not prohibited in Islam, provided it does not obstruct performance of prayer or observation of any other obligation.

2. Economic Problems:

*Nisāb of Zakāt:*

With regard to the minimum prescribed limit of wealth (*Nisāb*) for the obligation of *Zakāt*, Dr. Muhammad Hamidullah agreed with the stand point of other Muslim scholars that what was fixed (200 dirham) in Prophet’s time could not be changed even in the changed situation. But the matter which is required to be examined in relation to the fixation of *Nisāb of Zakāt* in the present days is what the value of dirham was in term of rupee in Prophet’s time? and what was purchasing power of dirham at that time? It means, how much works was done in one dirham then and how many rupees are required for same work at now? For example, in Prophet’s time, the salary of a governor was only 30 dirhams. It
means these dirhams were sufficient for the livelihood of a governor’s family and his servants etc. At present, how many rupees are required for such livelihood? keeping these points in mind. Dr. Muhammad Hamidullah says “that such amount of wealth should be obligatory in place of 200 dirhams which will be sufficient for a common man to lead a stable life even in the case of inflation, recession etc”.

**Expenditure of Zakāt:**

An important problem relating to the Zakāt is who are legally entitled to be paid Zakāt. In this respect, he quoted the verses:

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\text{إِنَّمَا الْزُّكَّاهُ لِلْمُتَقَرِّبِينَ وَالْمُتَّقِينَينَ وَالْمُعَفِّينَ عَلَيْهَا وَالْمُؤْمِنِينَ فَلْيُنَفِّذُوا الْزُّكَّارَةَ وَالْمُهَارِمَينَ وَفُقَارَاءَ فَسَبِيلُ اللَّهِ}
\]

(Alms are for the poor; and the needy; and those employed to administer the (funds): for those whose hearts have been (recently) reconciled (to truth); for those in bondage and in debt; in the cause of Allah; and for the wayfarer (Thus is it) ordained by Allah and Allah is full of Knowledge and Wisdom).

Explaining the meaning of this verse, he pointed out that the Zakāt is to be paid to all those persons mentioned in this verse and the same order of preference is to be maintained as is evident from the verse. Further, he has given his own juridical explanation to the terms used for the deserving persons in the Qur’ān. In his view, *Al-ʿĀmilīn* stand for those employed for the collection and distribution of Zakāt. *Al-Muʿallafah Qulubuhum* means those people whose hearts needed to be
won over. He thought that the ruler is authorized to use the amount of this fund for the propagation of Islam as well as for the work of public interest.

In his opinion, Al-Riqâb (Slaves) includes the slaves who are found in Islamic realm as well as those Muslim or non-Muslim citizens of an Islamic state who have been captured by an enemy and for their emancipation, ransom is to be paid. With regard to Al-Ghârimin, he stated that the term is to be applied to those people who were once prosperous but were rendered destitute owing to some serious financial loss or natural calamity or certain emergent problems. Interpreting the term “fi Sabîl al-Allah” (in the way of Allah), he pointed out that the amount of this head of Zakat may be spent for the defence and security of the country and the maintenance of Army. The amount of Zakat can be spent on military administration including payment of salaries to soldiers, purchase of arms and other military requirements. In his opinion, Zakât under the above head may be used to build mosques, caravan sarais and schools under this category. But this point is not supported by other Ulama' and jurists. Many of the Ulama' of modern period are of the opinion that the amount of this head is to be spent for the Da'wat work and service to the cause of religion. He further pointed out that the amount of the head of Ibn al-Sabîl may be spent for providing hospitality: boarding and lodging to travellers. It may include building of roads and providing security for travellers. In his view, other people can also avail these facilities. Besides, he considers no legal bar in spending this amount for the
market administration and the related works such as preventing black marketing and making arrangements for supply of healthy food to people etc.

With regard to *Al-ʿĀmilīna ʿAlaiha*, he was of the opinion that all officials of revenue department will come under this category. They may include collectors of Zakāt, accountants, auditors, supervisors. In his view, they will be given salaries from the amount of Zakāt.27

In relation to *Al-Muʿallafah Qulūbuhum*, he agreed with Abul Yala al-Farra, who divided them into following four categories:

1. Those people, who are paid to help Muslims
2. Those, who are paid to persuade them to refrain from harming Muslims.
3. The third category consists of those who may be provided financial assistance in order to soften their attitude towards Islam.
4. Those who are provided funds to soften the attitude of their near relatives, families and tribes towards Islam.28

**Zakāt and non-Muslims:**

It is also an debatable issue about the Zakāt in modern period that whether it can be given to non-Muslims or not? Generally it is held that the amount of Zakāt is exclusively reserved for deserving Muslims. Dr. Muhammad Hamidullah held different view. He thinks that it is legally permissible to pay Zakāt to non-Muslim.
In support of his view, he quoted a tradition in which it is recorded that once Caliph Umar (RA) came across a person on a street of Madinah, who was begging. He was shocked to see the beggar and asked for reason of begging. He replied that he was a Jew who earlier used to pay Jizyah. Now, he was too old and could not do any work. So, he was begging. On this reply, Umar was deeply moved and immediately directed that no Jizyah should be charged from him and that he should be given a daily stipend from Zakât fund.29

He further stated that several companions of Prophet Muhammad (SAW), such as Hazrat Umar, Hazrat Zaid Ibn Thabit and Hazrat Abdullah Ibn Abbas were of the view that in the verse (the above cited), fuqarā’ stands for poor among Muslims and Masâkin signifies non-Muslim poor subjects of the Islamic state. Thus according to them, the Zakât may be given to non-Muslim, provided they come under the category of Masâkin.30

**Imposition of Additional Taxes:**

In every period, the government requires resources for the development work or the work of public welfare. Sometimes, prescribed sources of income are not sufficient to meet the expenditure of these works. In such situation, the question arises whether the Islamic state is authorized to impose the new taxes to generate the additional resources. In view of Dr. Muhammad Hamidullah, the government has right to levy additional taxes under the category of Nawā’ib, which means
taxes imposed temporarily to meet emergent requirements. In his view, such taxes would be temporarily realized till the fulfillment of the emergent requirements.\textsuperscript{31}

**Commercial Interest:**

The Muslim jurists have different opinion with regard to the connotation of ribā' and application of this term to commercial interest. A few of them are given below:

Abdullah Ibn Ahmad Ibn Qudama al-Maqdisi (a Hanbali Jurist) says, “Ribā' is of two kinds: ribā' al-fadl and ribā' al-nasia. The prohibition of ribā' al-fadl involves the exchange of one commodity against itself and covers all commodities which are exchanged by volume or by weight regardless of whether the quantity exchanged is small, like one date for two dates or one grain for two grain. Ribā' al-nasia is involved in the exchange of two commodities one of which is not the price”.\textsuperscript{32} Shah Waliullah says, “Remember that ribā' is of two kinds: one is primary (Haqiqi), the other is subject to it. Primary ribā' is only loans. The other ribā' is called ribā' al-fadl and is akin to primary ribā”\textsuperscript{33}. But in the view of Dr. Muhammad Hamidullah, all such commercial interest are forbidden in Islam in which only money lenders share profit and has no share in loss, and borrowers are required to have share in both the profit and loss. He also clarified that if money has been borrowed from such banks which have provision for sharing of the gain and loss by both the lenders and borrowers, and then there is no legal bar in such dealing from the Islamic point of view. According to him, it will be treated as
Mudārabah in which lenders and partners have equal share in gain and loss and this is allowed in Islam.\textsuperscript{34}

Dr. Muhammad Hamidullah also held the view that all those financial transaction with foreign countries, which are based on interest under the international law are forbidden.\textsuperscript{35} He clearly pointed out that Islamic law of interest can not be changed by the provisions of the international law of modern period. However, he considered it permissible (mubah) to borrow money on interest in case of urgent requirement of money and non-availability of any one willing to advance money without interest.\textsuperscript{36}

**Insurance:**

As for as modern insurance is concerned, Dr. Muhammad Hamidullah divides it into two types: capitalists and cooperative or mutual. Under the first system, capitalists establish insurance companies and charge a sum from clients/ policy holders more than the risk covered by an insurance policy. The capitalist collects all the profit. Whereas, in the second system, the client share the profit as well as loss. This system of insurance is permitted in Islam.\textsuperscript{37} He thought that this system of insurance worked in Prophet’s time as it is evident from the following practice:

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All the members of a tribe used to contribute an amount to their tribal treasury. In the event of an accident, the accumulated capital was used for the payment of fine of a member. Then the system was developed to ensure that if a tribal treasury could not meet requirement, it could get help from a
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neighboring tribe. In case such committee had no necessary funds at its disposal, the centre was eventually held responsible for the payment of the claim."

Thus a hierarchical system of mutual insurance was set up in the Prophet’s time. 38

**Inheritance of Orphaned Grandson:**

Responding to a question about the share of an orphaned grandson in the inheritance of his grandfather, he observed that the clear rules of inheritance are laid down in the Qur’ān. These can not be changed because of any particular case. According to the general rule, the son should inherit the property of father; the grandson will inherit from his father and not from grandfather. The problem of his inheritance arises when the father of grandson has already passed away. In his opinion, this problem can be solved by application of other provisions of Islamic law such as Will (wasiyyat). Under this rule the grandfather is permitted to give some parts of his property to his grandson. 39

3. Political Problems

**Taking Help from non-Muslim State:**

This question was asked by his friend, Mazhar Mumtaz Quraishi, about the Gulf war I (1991 A.D.), which was waged between Iraq and Kuwait, saying that America was helping Kuwait against Iraq. Dr. Muhammad Hamidullah replied that war between Iraq and Kuwait was civil war among Muslims, started by Iraq to
capture Kuwait's properties like oil. In Islamic perspective, Iraq has no right to do
so. In view of Dr. Muhammad Hamidullah, a victim Muslim State can take help
from a non-Muslim state for the security of its state in civil war.40

Muslims in non-Muslim State:

The Muslims residing in non-Muslim countries faced a very perplexed
situation. On one hand, they are required to follow the provisions of Islamic law.
On the other hand they are demanded to observe the rules and regulations of the
countries wherein they reside. In this respect, the opinion of Abu Yusuf is often
quoted: "مسلم ملتزم بأحكام الإسلام حيث ماكان" (A Muslim is to regulate his
conduct according to laws of Islam wherever he may be). Dr. Muhammad
Hamidullah says that following the law of Islam in this situation depends upon the
freedom enjoyed by the Muslim of foreign countries. In other words, he stressed
the point that Islam demands from its followers the adherence to Shari'at in their
daily life. But the fact is that a Muslim residing in non-Muslim countries does not
have full freedom to follow the Islamic law as he enjoys in Dār al-Islām.41

Islamic law has limited scope in non-Muslim countries. In non-Muslim
countries, a Muslim is required to follow the rules and regulations of that country.
Besides, he has to face many restrictions under the law of the land. In this
connection, he mentioned those Muslims who had settled in non-Muslim
countries in the period of Prophet (SAW) and followed law according to the
convenience of countries in which they resided like refuges of Abyssinia. They enjoyed full freedom in their religious life.\textsuperscript{42}

**System of Government:**

One of the major issues which had been debatable among the jurists and ‘Ulama’ of different period was that which form of government has sanction of Islam or Islamic law. In view of Dr. Muhammad Hamidullah, Islam has not fixed any particular form of government. It has been left to the demands and requirements of time. He thought that Islam permitted monarchy too in which the eldest son of a monarch usually becomes the heir-apparent. In support of his view, he cited the following verse:

\begin{quote}
(And Solomon was David’s heir).
\end{quote}

He further points out that democracy is also allowed by Islam and even collegial government is not barred either. It is also interesting that he thinks that if there is any government which presents a model of combining the essential features of the above system of government that may be also considered permissible in Islam. According to him, “it does not matter in Islam that which form of government is adopted. What is more important in view of Islam, is doing justice and fair treatment to all subjects of the state without any discrimination. In fact, just treatment and fair conduct of state affair depends on the character of a ruler. A good and just ruler (even though he is a dictator) is acceptable to a common man. In the same way, a tyrant, though he is president of a republic may
not be liked and accepted by common people". Moreover, Dr. Muhammad Hamidullah considered the people duty bound to elect a person of good character, who can truly serve the country and faithfully articulate sentiments of public.

Another important question which is often debated is that who has right to change the government or replace a ruler. According to Dr. Muhammad Hamidullah, the people are authorized to change or replace their ruler because the latter is just like an advocate (wakil) who is selected by them in the capacity of clients. So, the people who choose their advocate have natural right to change or replace their advocate.

**Scope of Khilāfat in Modern Period:**

With regard to the prospect of the establishment of Khilāfat (or Universal Islamic State) in the present situation, Dr. Muhammad Hamidullah was of the opinion that the institution of Khilāfat can be established with the agreement of rulers of Muslim states and acceptance of its membership by them. He thinks that it would be better if each member of them worked as Caliph by rotation (at least under one year term). This formula would help to end the mutual conflict and rivalry among the members of state for the post of caliph.

From the above discussion it is clear that Dr. Muhammad Hamidullah had extensive knowledge of fiqh and Usūl al-Fiqh, and he was competent for ijtehd. He expressed his views over different aspects of fiqh and whatever he said, authenticated it with evidences. It has been proved that apart from Qurʾān, Hadith
he also had extensive knowledge of *Sirah*, Islamic history and *fiqh*. He remained fully aware of the contemporary problems. Besides, his suggestions are also well worth.
Notes and Reference


3. Ibid, pp. 135-136


5. Ibid, p. 126

6. Ibid

7. Ibid


10. Ibid, p. 254

11. Ibid


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13. For detailed information regarding the tolerance shown by the Prophet Muhammad (SAW) to the non-Muslim inhabitants of Madinah see, Muhammad Hamidullah, *First Written Constitution in the World*, Habib and Company, Hyderabad, 1983, pp. 19-23.


15. Ibid


17. Muhammad Hamidullah, *Muslim Conduct of State*, op. cit., p. 172


19. Ibid, pp. 354-355

20. Ibid, pp. 391-392


23. Ibid, p. 256

24. Ibid, pp. 395-396

25. Ibid, pp. 375-376

27. Ibid, p. 377

28. Ibid. pp. 377-378

29. Ibid. p. 377

30. Ibid


34. Muhammad Hamidullah, *Introduction to Islam*, op. cit., p. 125


36. Ibid, p. 122

37. Ibid. pp. 88-89

38. Ibid

39. Ibid. pp. 90-91


42. Ibid, pp. 116-118


44. Ibid, p. 355

45. Ibid, pp. 421-422