

In Love with Law

A Story Spanning Sixty-five Years

Tahir Mahmood

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I had spent five years of my youth days in obtaining legal education and have devoted the next sixty in pursuit of a career as a researcher, teacher, author, editor, critic, columnist, and the like, all in the areas of law. Since 1968 I have been writing books on various branches of law. My knowledge of Urdu and Arabic helped me in presenting Muslim law in keeping with the changed social conditions and, weary of its time-worn understanding, the courts have cited me in numerous judgments. Throughout this long journey I have been in camaraderie with a galaxy of law teachers, lawyers and judges. These few pages are being written as a trip down memory lane.

I was born in Lucknow and grew virtually in the arms of law. Hailing from a deeply religious family my father, late Syed Mahmood Hasan, had obtained a law degree from Aligarh Muslim University in 1927. On returning home, the city of Bahraich in the Oudh region of Uttar Pradesh, he had gradually established himself as a prominent lawyer and a freedom-fighter. Twice he was at the helm of the city's famous shrine, Dargah Syed Salar Masood Ghazi, first as a Court-appointed Receiver and the second time as Manager nominated by the UP State Wakf Board. In later years he was elected President of the District Bar Association. In Lucknow, my maternal hometown, he used to appear in appeals before the Chief Court of Oudh, headed since 1940 by Sir Ghulam Hasan (later judge of Supreme Court), and amalgamated after independence with Allahabad High Court as its Lucknow Bench.

Keenly watching my father's professional activities I developed curiosity about legal issues in my adolescence. After finishing my school I joined the two-year BA course in St. Andrew's College of Gorakhpur, with political science and English literature as my main subjects. The study of comparative constitutions as part of political science syllabi intensified my interest in law; and Charles Dickens's famous saying 'law is an ass' made me anxious to explore if it really was. On completing my graduation in mid-1958 I joined the two-year LLB course in Lucknow University, where the Law Faculty Dean VN Shukla was a constitutional law specialist and author of a well-known book on the subject. Prominent among my other teachers was Sardar Avtar Singh who had written popular textbooks on mercantile laws. Adarsh Sein Anand, destined to be in distant future the Chief Justice of India, was among my classmates.

I cleared the LLB final examination in 1960, and, quite unexpectedly, was among the top five successful students. My father wanted me to join him in his well-established legal practice. As per his wish I undertook professional training for one year, attending District Courts in and around Bahraich and the High Court Bench in Lucknow. In his company I met some prominent legal figures of the town including former High Court judge Chowdhry Niamtullah then serving

as President of the State Wakf Board, eminent Urdu poet Anand Narain Mulla who also had been a High Court judge, and Supreme Court judge Justice Saghir Ahmad's lawyer-father Mohammad Husain.

Due to my deep interest in the academic aspects of law I was not happy with the idea of remaining a professional lawyer all my life. Seeking an escape route, I left home in mid-1961 to do a Master's in law at the Aligarh Muslim University. Behind my preference of Aligarh to Lucknow was the highly inspirational background of legal education in that historic institution. Its founder, the great Sir Syed, had served as a judge and written commentaries on several laws of his time. Set up in his lifetime, the Law Department there was developed by his illustrious son Syed Mahmood who as an Allahabad High Court judge became a legal legend. I had fondly read his celebrated judgments as part of my LLB curriculum.

During my father's legal studies in Aligarh in late 1920s a leading lawyer of the town Maulana Abdul Khaliq was looking after the Law Department. When it later became an independent Faculty Maulana's US-educated son Hafeezul Rahman took over as its Dean, and was holding the position when I took admission to the two-year LLM course. The most learned among my teachers in the Faculty was Dr. Shiv Dayal, who later moved to Punjab University. My most prominent friend there was NR Madhava Menon, then in final year, who in future rose to great heights in promoting legal education in the country. My student days in Aligarh were quite stressful for various reasons, and yet only I in a sizable batch cleared the 1st year of the course. As examiner of our constitutional law paper PK Tripathi, then in Allahabad University, failed everyone else. In the final year I wrote my dissertation on *Custom and Usage as Sources of Family Law*, and stood first at LLM final examination in 1963.

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With a Master's degree in hand in 1963 I wanted to begin teaching law. A postgraduate College in Jaunpur offered me the post of Senior Lecturer in Law. The offer had come by a telegram sent by Principal Hriday Narain Singh in response to my application, even without an interview, which was a pleasant surprise for everyone. Accepting the offer I spent fifteen months there, taking LLB classes in substantive and procedural laws. In October 1964 I moved to another college in the city of Balrampur, but barely five weeks later returned to Aligarh as a Lecturer placed in a temporary vacancy. I had been selected for it, in the absence of Dean Hafeezul Rahman who was then on leave, by the Acting Dean Syed Misbahul Hasan.

I took LLB classes in legal history and Muslim law, and taught Hindu law to LLM students. My friend Madhava Menon had also been appointed with me, and we occupied adjoining rooms in Sir Syed Hall. Among our prominent students were Riaz Punjabi and Avtar Krishn Koul, who at the prime of their careers served as Vice-Chancellors of Kashmir University and Jodhpur Law University. During 1965 I wrote articles in the Aligarh Law Journal and the Journal of Indian Law Institute. An abridgement of my LLM dissertation was published in the Punjab University

Law Review in 1966. Later the same year the vacancy I was working in became permanent but despite my sizable published work and high reputation as a teacher Dean Hafeezul Rahman, who had by that time returned to the Faculty, gave it to a Lucknow University teacher VS Rekhi. I then left Aligarh which, in retrospect, proved to be a blessing in disguise for me. Shibli National College in Azamgarh offered me a job but I decided to try my luck in the capital of India.

At a seminar in Aligarh I had met Dean LR Sivasubramanian of Delhi University Law Faculty, and he had invited me to join him. Keeping this in mind, I met his successor PK Tripathi who warmly greeted me. As two of my former colleagues in Aligarh, Madhav Menon and Ahmad Siddique, had already joined the Faculty I had a naïve expectation to be soon in their company. When I met the Dean again two weeks later he had changed his mind, for reasons which I could never discover. Later I appeared at an interview for a vacancy in the Law Department of the Institute of Chartered Accountants of India. To the interviewers' query why I wanted to switch over from family law -- the subject of my classes in Aligarh and of my published work -- to mercantile laws my reply was 'because it paid me no dividends.' Perhaps impressed by my commercial vocabulary, Institute Director BR Malhotra said in my presence 'this is the boy for us.' Happier on being called a boy than on securing a job, I joined the Institute on 27 March 1967 and became a Delhi'ite for the rest of my life.

While teaching Hindu law to LLM students in Aligarh I had begun writing a textbook on the subject but was discouraged by some of my colleagues, saying I was too young to 'father a book.' As my unceremonious exit from Aligarh had made me mature enough to venture it now, I resumed work on the unfinished task and published a slim volume titled *Changing Law of the Hindu Society* (1968). This was my debut for a long book-writing career. Early next year I was abruptly transferred by the CA Institute to its Bombay campus. Least interested in leaving Delhi, I desperately began looking for other possibilities in the town. In Aligarh I had met two past Directors of the Indian Law Institute, AT Markose and MP Jain, and had seen its massive library during a visit to Delhi. Imagining it to be my next place of work, I went there to meet my friend VD Kulshreshta who was on its research staff. On hearing from him that an interview for filling some vacancies was to take place shortly I met Director SN Jain who, glancing through my CV, agreed to let me appear before the selection committee on the appointed day. Chief Justice of India Mohammad Hidayatullah, as *ex officio* President of the Institute, was chairing the meeting. He put some questions to me on my publications and said 'we will set up an Islamic law cell here and you can take charge of it.' The learned judge had perhaps seen in me some potential to work on the much-needed reform in Muslim law. I joined the Institute in July 1969 but, contrary to what the learned CJI had said, was asked to work on a company law project.

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Within a month of joining the Law Institute I received from London University a letter offering me a Research Fellowship, which put me in a big quandary. I had to choose between the newly secured job and the prospect of doing research abroad. Being a fresher, I could not have expected

the Institute to let me go on study leave. Incidentally came the festival of Mahavir Jayanti, and I had a sudden impulse to go to the Chief Justice's residence to greet his Jain wife. Pleased with my bold gesture she let me meet her illustrious husband -- and Lady Luck smiled on me. I was sanctioned unpaid leave for availing the fellowship offer from England.

On reaching UK I pursued research in Islamic law reform at London University's Institute of Advanced Legal Studies and the School of Oriental and African Studies (SOAS). The reformist ideas of a great poet-philosopher of the East Sir Muhammad Iqbal, whose works I had been taught by my parents since my childhood, had been a great inspiration for me. His couplet *Karenge ahl-e-nazar bastiyan nayi abaad, meri nigah nahin su'e-Kufa'o-Baghdad* -- meaning that legal rules evolved by jurists in the first few centuries of Islam could not remain perpetually binding -- had always been on my mind. It was now the time for me to translate into field work the lessons I had taken from his revolutionary thoughts.

Sir Norman Anderson, an eminent scholar of Islamic law, was then the Institute Director. I had first met him in 1964 in Aligarh where he had been invited to a conference, and was sent with him to Agra to show him the Taj. Throughout my stay in London I kept meeting him, and he was always very affectionate. Besides him I consulted two other renowned professors, Islamic law scholar Noel J Coulson and Hindu law specialist JDM Derrett. At the earliest opportunity I also met constitutional law specialist Sir Allan Gledhill whose works on Indian law I had been reading since long. Among my batch mates in London was Indira Jaising, today's leading lawyer and former Additional Solicitor General of India. In search of the required materials I spent some time also in Oxford and Cambridge.

Chief Justice Hidayatullah once visited London and I had a chance to seek his guidance for my future plans. A memorable moment was when I met Paris-based Justice Sir Mohammad Zafarullah Khan, visiting SOAS for an extension lecture. He had been, before independence, a judge of the Federal Court of India but the country had lost him due to the unfortunate partition of the subcontinent. As he belonged to the oppressed Ahmadiya sect of Islam, Pakistan too had eventually disowned him. Meeting the very graceful and learned jurist inspired me to explore tenets of the Ahmadiya faith and its legal status in various countries. Towards the end of my Fellowship term I visited, en route to India, Egypt and Saudi Arabia to meet the scholars of my subject in the historic Al-Azhar University of Cairo and centres of higher education in Jeddah, Makkah and Madinah. In the two holy cities I supplicated to God and Prophet for blessing me with the valour to pursue the goal I had set for myself. Finally I stopped over in Pakistan and obtained first-hand knowledge of the social impact of Muslim Family Laws Ordinance that had come into force there a decade earlier.

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On returning home I resumed my job at the Law Institute, which soon published my research work done abroad as a book titled *Family Law Reform in the Muslim World* (1972). It was launched at an international conference by Sir Norman Anderson who had especially come from

London. Among the prominent participants were Justice VR Krishna Iyer (then a member of the Law Commission), Supreme Court judges KS Hegde and Hameedullah Beg, and prominent lawyers of Bombay and Delhi Kamila Tyabji and Danial Latifi. With Krishna Iyer and Latifi this was the beginning of my lifelong friendly relations. The conference proceedings, edited by me, were published by the Institute as a book titled *Islamic Law in Modern India* (1972).

Alerted by these works, widely commented upon in the media, the Dar-ul-Uloom of Deoband organized a Tahaffuz-e-Shariat (protection of Muslim law) conference. Unexpectedly, I too was invited and delivered a long speech drawn on my works. Perhaps the organizers wanted to hear from the horse's mouth what was going on in regard to their professedly divine law. Soon the clerics established an All India Muslim Personal Law Board, with a declared objective to oppose any 'interference' with Muslim law as understood by them. My Deoband speech in Urdu was published the same year by Jamia Millia Islamia, and was referred to by Justice V Khalid of the Kerala High Court in *KC Moyin* (1973). This was the first judicial decision in which I had been cited.

For three years I edited Law Institute's *Annual Survey of Indian Law*. In its earlier issues Muslim law was called 'Mohammedan' law -- an odd term coined during the British rule in India. With some effort I managed to get it replaced with 'Muslim' law in all publications of the Institute; and the new nomenclature was soon adopted by most of the country's law reports. Further, I prepared a special issue of the Law Institute Journal to mark the centenary of the Indian Contract Act and the Indian Evidence Act. Throughout my days in the Institute I published articles in different legal periodicals. My critique of Justice Hameedullah Beg's ruling in *Ghulam Abbas* (1972) appeared in the Supreme Court Journal, which made the learned judge so upset that he persuaded Danial Latifi to defend his ruling in the Law Institute Journal.

In 1974 the Indian Council for Cultural Relations sponsored my visit to some Muslim countries where I collected materials for a new updated edition of my book. Before I could begin work on it, however, I gave up the Institute job. Director SN Jain and I remained friends and in 1978 were the main speakers at a conference in Goa, organized by Portuguese law expert Manohar Usgaonkar and inaugurated by Chief Justice YV Chandrachud. Manohar became my friend and later served as the Solicitor General of India. My last work for the Institute, *Civil Marriage Law*, was published after I left it, and was cited by the Delhi High Court in *Harvinder Kaur* (1984) on a point of Hindu law.

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In mid-1974 Delhi University notified some vacancies in its Law Faculty. I took a chance and was interviewed soon by a selection committee consisting of the Faculty Dean KB Rohatgi, Head of its South Delhi Centre Upendra Baxi, and a Delhi High Court judge SI Rangarajan. The committee put me on top among the teachers it picked up, and I began teaching at the Faculty in July 1974. My LLB classes were held in the Faculty's South Delhi Centre, and LLM in its other

two Centres in the North Campus and central Delhi. The subjects I taught at different times included comparative jurisprudence, conflict of laws, human rights, contracts, family relations and succession. A former colleague Jaffar Hussain, then on leave, had introduced a course in Islamic jurisprudence for LLM students which I taught until the Faculty removed it from the syllabi, on the plea that it had no place in secular India. My offer to prepare and teach a similar course on Hindu jurisprudence was turned down.

In my early years in the Faculty today's senior-most judges of the Supreme Court of India, CJI Dhanjay Chandrachud and Sanjay Kishan Kaul, were studying in the North Campus for the basic law degree. Among my students in the South Delhi Centre were Badar Durrez Ahmed, former Chief Justice of Jammu and Kashmir High Court, and the Law Institute Director Manoj Kumar Sinha. I supervised the work of several PhD scholars, including some from Middle East countries who were very comfortable with me due to my knowledge of Arabic and Persian languages. One from Sri Lanka later served as Legal Advisor to the Speaker of his country's Parliament.

In December 1975 I suffered the tragedy of my ailing father's death in Saudi Arabia where he had gone on pilgrimage. His friends in religious circles, unhappy with my views, had poisoned his mind and we had been estranged for some time. This was an unconscionable cost I had paid for deviating from the misbelief that Muslim law in its entirety is a divine law not open to any human interference. His demise in these circumstances shattered me for a while. Justice Krishna Iyer came to my residence to offer condolence and blessed my two-month old child Saif -- today's busy lawyer and litterateur having the expanse of his activities in and outside the country. Overcoming my grief, I was back on my table before too long.

During 1984-87 I served as the Head of Faculty's South Delhi Centre, and in 1992-94 as the Dean of the Law Faculty as a whole. In the latter capacity I revised the Master's degree syllabi and edited an annual issue of the Faculty journal, the Delhi Law Review (1994). As administrative work had never been my cup of tea, neither of these positions was a bed of roses for me. The system of entrance test for the LLB program was introduced soon after I assumed the responsibilities as the Dean. On some disgruntled students' petition its result was cancelled by Justice Jaspal Singh of Delhi High Court, and to get it restored the Faculty had to file an SLP in the Supreme Court through my friend late PP Rao.

Shortly after I took over as the Dean former Chief Justice of Delhi High Court VS Deshpande, my elderly friend since my days in the Law Institute, suddenly passed away. To mourn his demise I organized a largely attended condolence meeting at the Faculty. In 1983 he was invited by DU to conduct the process of elevation of law teachers to higher ranks but, just as it began, a junior colleague served a stay order obtained from a lower court judge SK Mahajan (later judge of the High Court). After I personally addressed Mahajan's court and got the order vacated, the process was re-fixed and the learned judge, then away from Delhi, curtailed his visit

to return in time for conducting it. He used to speak highly of my works with his colleague on the Bench, NN Goswami, who had been my neighbor for long years.

Another tragedy I suffered the same year was the sad demise of an angel who used to affectionately call me his *protégé*. This was former Chief Justice and Vice-President of India Mohammad Hidayatullah, who passed away on 18 September 1992. I had been close to him since my days in the Indian Law Institute. When he was appointed Vice-President, some critics wondered how a former Chief Justice who had once also officiated as the President of India could agree to accept that rather lower position. But, as he once confided to me, he had feelers for elevation to the Presidency which was to fall vacant two years later. Strange as the ways of politics are, when the time came for it the party in power preferred over him its activist in Punjab Giani Zail Singh.

At the time of my appointment in DU, scientist RC Mehrotra was the Vice-Chancellor. He was succeeded by Gurbux Singh, and the latter by Moonis Raza to whom I had been close since my days in Aligarh. After him the position went to my senior in the Law Faculty Upendra Baxi. A year earlier we had participated, along with former Chief Justice PN Bhagwati, in a conference at the University of Iowa in US. We demitted our respective offices in DU one after the other before the onset of 1965. Enjoying a position of preeminence among the top legal scholars of India, he remains active in the field.

One more Faculty colleague I must mention here was the late Lotika Sarkar, my loving and beloved Didi. We were together in the Faculty only for about a decade. She left it in 1983 but I kept meeting her at the Law Institute where she had an office, and at her house that was in the vicinity of mine. We had family friendship and were always received by her and Chanchal Da at their place with great affection. I was present at the Law Institute when a festschrift in her honour, *Engendering Law* (1999), was released there by Justice MN Venkatachaliah. In the last few years of her life she suffered a lot at the hands of some ungrateful people who had pushed her into a property dispute, and it had to be judicially resolved under the senior citizens' law of 2007. The noble soul breathed her last in 2013.

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Throughout my years in DU Law Faculty I kept pursuing my own academic work, both in and outside the country. My first book published after joining the Faculty was a festschrift for Asaf Ali Asghar Fyzee, titled *Family Law and Social Change* (1975). A year earlier the eminent jurist had published the 4th edition of his textbook *Outlines of Muhammadan Law*, and had cited in it my work on Muslim law reform. Together we had been members of the Law Panel of Government of India's Bureau for Promotion of Urdu. Editing a book in his honour was indeed an honour for me – more so since the festschrift had a foreword by a person of Nani Palkhivala's eminence and a contribution by someone of Justice Hidayatullah's stature.

At a family law conference eminent jurist LM Singhvi spoke some memorable words -- ‘Prophet Muhammad was indeed ahead of his time by a thousand years. My God! Look at the rights he gave to women. But those thousand years have passed’ – which kept echoing in my ears for long. He suggested to me that I integrate into a monograph my articles published till then in legal periodicals and the media. Soon I began working on it and my book, *An Indian Civil Code and Islamic Law*, was published in 1976 by the Institute of Constitutional and Parliamentary Studies with his and Justice Krishna Iyer’s forewords.

Next year Vikas Publications brought out my two books -- *Muslim Personal Law: Role of State in the Subcontinent* and *Family Planning: Muslim Viewpoint*. Based on my doctoral thesis, the first of these was cited by Chief Justice YV Chandrachud in the Supreme Court’s Constitution Bench decision in the celebrated *Shah Bano* case (1985). A year earlier I had delivered a series of Justice PB Gajendragadkar Memorial Lectures in Bombay University. Revised in the light of *Shah Bano*, these were published as a book titled *Personal Laws in Crisis* (1986).

The simple issue before the court in *Shah Bano* was whether the maintenance provisions of the CrPC were applicable to divorced women among the Muslims, which in two earlier cases Justice Krishna Iyer had already answered with a positive yes (*Bai Tahira*, *Fuzlunbi*, 1979-80). As he was severely criticized in Muslim religious circles, when a third similar case came before Justice Murtaza Fazli he referred it to CJI for a higher Bench decision. I personally knew Fazl Ali and had met him in Kashmir when he was the High Court Chief Justice there. He was a progressive judge but perhaps did not want to bear the brunt. In a naïve attempt to make the decision acceptable to religious circles the learned Chief Justice tried to show that his judgment in the case was in full accord with Quranic verses on the issue. This was rather unwise on his part, and also quite uncalled for.

A massive agitation followed *Shah Bano*. Its supporters were unduly excited, and its opponents unduly agitated. With a view to counselling both I attended events being held all over the country to oppose or support the ruling. All India Muslim Personal Law Board President Maulana Abul Hasan Ali Nadwi sent me a draft-bill which the Board lawyers had prepared for being submitted to the government for restoring by law divorced women’s rights in Islam as understood by them. Finding the bill awful, I sent him a note with my suggestions and, as he did not agree with me, forwarded it to Law Ministers Ashok Sen and Hansraj Bhardwaj. When Parliament eventually enacted the Muslim Women (Protection of Rights on Divorce) Act in 1986 it seemed to be subtly reflecting some of my humble submissions.

During 1980-81 were published my two textbooks -- *Muslim Law of India* and *Studies in Hindu Law*. The first of these was cited by Justice Krishna Iyer, no sooner than published, in the Supreme Court case of *Fuzlunbi* (1980). That was the first apex court judgment to cite me. The book was later referred to by the court in *Shia Conference* (2000) and *Shamim Ara* (2002), the latter decided by Justice RC Lahoti, and in many High Court cases. My Hindu law book was also

cited in several judicial decisions including a Full Bench ruling of Calcutta High Court (*Babra Gupta* 1989).

In mid-1975 I had attended a conference in Berlin organized by a renowned German scholar Dieter Giesen, which had led to the formation of an International Council of Family Law. Elected to its Executive Council there, I attended its biannual conferences in various countries. Maintaining contacts with my alma mater in London, I kept going there for academic events. Among my new friends in the legal circles in UK were David Pearl of Cambridge who wrote a book on Muslim law and later became an Immigration Judge, his sworn enemy Lucy Carroll who never missed a chance of finding faults with his works, and Werner Menski of SOAS who later revised his book. As Menski was married to an Indian girl, I used to call him my brother-in-law. An octogenarian student of Indian origin Ehsan Ehsanullah obtained PhD in Islamic law under my supervision from the University of Leicester.

Several opportunities for teaching abroad came my way during my long innings at DU Law Faculty. Lead universities in Libya, Uganda and Malaysia offered me Law Chairs but – treading the footprints of eminent Urdu poet of Delhi Shaikh Ibrahim Zauq who had declined a golden opportunity elsewhere, saying *Kaun jaye zauq par dilli ki galiyan chhor kar* (how can one go out leaving the Delhi lanes behind) -- I never liked to leave India for the sake of a better job abroad.

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As my classes in DU were mostly held in the evenings, I utilized the day time for helping other institutions in the town with their teaching and research programs. In mid-1980 eminent educationist late Hakim Abdul Hameed, founder of the Indian Institute of Islamic Studies, invited me to begin there a program in law. He was a father-figure for me whose wish was my command. I set up there a Department of Islamic and Comparative Law and involved in its work my LLM students in DU Law Faculty. Two of them, now holding senior teaching positions, Poonam Pradhan and Kiran Gupta, had begun their career there -- the former as a scholarship awardee and the latter as a research fellow.

I launched there a journal titled Islamic and Comparative Law Quarterly the maiden issue of which was released by Vice-President Justice Hidayatullah. Chief Justice YV Chandrachud cited me from one of its issues in *Shah Bano* (1985), and Justice Krishna Iyer reviewed in it my book *Personal Law in Islamic Countries* (1987). The journal won me several eminent friends abroad, including the architect of Bangladesh Constitution Kamal Hossain, and eminent lawyer of Pakistan Sharifuddin Peerzada who was later elected as Secretary-General of OIC. Pakistan President Ziaul Haq sent me, through his country's High Commissioner in Delhi, the draft of a proposed law called Qisas Ordinance (retributive justice), and deferred issuing it in view of my sharp criticism.

Asghar Ali Engineer, renowned social reformer belonging to Bohra Muslim community, was once present at one of my seminars on Islamic law reform. Among the participants there were some so-called ulama (experts in religion) one of whom angrily said that Muslims must

respect *mashiyat-e-aizidi* and *aql-e-muhammadi* (divine will and prophetic wisdom). Pat came Engineer's rebuff '*magar ye sab bhi tou aap hi batayen ge na*' (but these too will be spelt out by you only). His meaningful words impacted my thinking about the professedly divine nature of Muslim law.

In 1989 the Indian Institute of Islamic studies and its sister institutions were given the status of a university by the name Jamia Hamdard. Two years later my Department in Jamia Hamdard was elevated as the Centre for Advanced Socio-Legal Studies. DU Vice-Chancellor Moonis Raza, on demitting office, joined the Hamdard campus to set up a Centre for South Asian Studies and associated me with its work as well.

Justice Hidayatullah had been the Chancellor of Jamia Millia Islamia since 1969 and, on become the Vice-President of India in 1982 had made me his nominee on the university court which he earlier used to chair. On being placed under an Act of Parliament in 1988, Jamia decided to start a Law Faculty and Vice-Chancellor Zahoor Qasim invited me to organize it, which I did during the summer break. I was offered the position of its Dean which I thankfully declined, as my chance to hold the same position in Delhi University was not too far.

A centre for multi-disciplinary studies known as the Institute of Objective Studies invited me to help it in its legal programs. In 1992 I started there a journal, *Religion and Law Review*, with its focus on religion-state relations across the world. During 1995-97 the Institute published my three books -- *Statute Law relating to Muslims in India*, *Criminal Law in Islam and the Muslim World*, and *Islamic Law in the Indian Courts: Fifty Years of Judicial Interpretation*. The first of these was cited by Justice AS Anand of the Supreme Court in *Noor Saba* (1997).

Late Justice Bashir Ahmad Sayeed of the Madras High Court had been my friend. A Trust established in his memory set up a Department of Islamic Studies at Madras University and the Trustees designated me as its Honorary Chairman. They also put me, along with the former Supreme Court judge Justice Hansraj Khanna, on the jury for an award which they had instituted. The illustrious author of the lone dissenting judgment in the notorious *ADM Jabalpur* case (1976) was an exemplar for me. Since demitting office as the Law Commission Chairman he was living in my neighbourhood where I often met him. He once mentioned to me how after writing his judgment in *ADM Jabalpur* he had told his sister that it was going to cost him the position of Chief Justice of India -- and it did.

Justice Hameedullah Beg, no match to Justice Khanna's immaculate judicial conscience, superseded him. After demitting office, Beg was appointed Minorities Commission Chairman and held the post for seven years. I often met him and his elder brother Justice Nasirullah Beg, then a Law Commission member, at the residence of the latter's daughter Shahnaz Hussain in whose business concern my wife held a senior administrative position.

In 1995 a search committee was constituted to prepare a panel of professors for the vacant position of Director of the Indian Law Institute. It put me on top of the panel, but the proposal fell through. Chief Justice Aziz Ahmadi as *ex officio* President of the Institute favoured it but Justice Kuldip Singh, as the Treasurer, sat over it until the panel lapsed. This was the cost I had to pay for my book *Uniform Civil Code: Fictions and Facts*, in which I had criticized glaring inaccuracies in his judgment in *Sarla Mudgal* (1995). The book had been released at the Law Institute by former Andhra Pradesh High Court judge Sardar Ali Khan, then Chairman of Minorities Commission. He was a friend and had cited me in *Usman Bahmani* (1992).

Early next year Government of India's Bureau for Promotion of Urdu was elevated as the National Council for Promotion of Urdu Language (NCPUL), and I was given the responsibility of chairing its Legal Studies Panel. The Council published Urdu translations of several law books and a glossary of legal terms.

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In November 1996 the Government appointed me Chairman of the National Commission for Minorities (NCM) – an assignment which unexpectedly came out of the blue. DU Vice-Chancellor VR Mehta hailed it as an honour for the university and sanctioned three years' deputation leave. Set up in 1978 during the Morarji Desai regime, this Commission was initially chaired by an Andhra Pradesh High Court judge MRA Ansari and, after him by former Supreme Court judge Hameedullah Beg. Next to him its Chair was offered to another Supreme Court judge V. Khalid but he declined it. In 1992 the Commission was placed under an Act of Parliament and Justice Sardar Ali Khan was appointed its Chairman, from whom I took over. On hearing this, Justice Krishna Iyer wrote to me: 'The task is tough, the journey is long, but the goal must be attained. Your office is a patriotic challenge for the fulfillment of the secular and egalitarian promise of the nation.'

In my three-year term I worked with three Prime Ministers – HD Deve Gowda, Inder Kumar Gujral and Atal Bihari Vajpayee. None of them was from legal background, but I had a good rapport with all three. Punjab politician BS Ramoowalia, a former NCM member, was in the Union Cabinet and in charge of Nodal Ministry. He and his successor Maneka Gandhi were ignoramus in matters of law and yet tried to teach me the Constitution. As I refused to take lessons from them, it led to tensions and they tried even to unseat me, albeit unsuccessfully.

Two of the NCM members, Bombay politician Marzaban Patrawala and an ex-student leader of Lucknow Zafar Ali Naqvi, had a law degree, but were more interested in politics than our work. All other members were from non-legal backgrounds – Bawa Singh was a teacher, Kamla Sankritayan a Hindi writer, James Massey a Dalit rights activist, and Neminath a political worker. In these circumstances I had to run from pillar to post to duly perform my statutory obligations. A quarterly newsletter titled *Minorities India*, personally prepared by me, regularly updated readers on minority rights and the Commission's hectic activities.

In January 1997 the Supreme Court admitted a petition relating to minorities' educational rights, for which Chief Justice Aziz Ahmadi set up a Constitution Bench. I decided that the Commission must seek intervention, and invited lawyer Salman Khurshid to be its counsel. Former President Dr Zakir Hussain's grandson, personally known to me since long, readily agreed. However, Justice Ahmadi retired soon and his successor, JS Verma, shelved the case.

A few weeks before taking over the NCM Chair I had published a special issue of my journal *Religion and Law Review* on Justice Verma's so-called Hindutva judgments, reproducing in it critiques of the same by eminent jurists like Nani Palkjivala, Soli Sorabjee and Rajinder Sachar. He must have been aware of it but showed no acrimony in our meetings on a few occasions. He was succeeded as CJI by MM Punchhi and the latter by AS Anand, my former classmate in Lucknow University, who in private meetings appreciated my work in the Commission. But two judges of the court, DP Wadhwa and SP Bharucha, left a sour taste in my mouth. Wadhwa, who had conducted an extrajudicial inquiry into the ghastly murder of Australian physician Graham Staines in Orissa, made unpalatable remarks in his report on the Commission's report on the same incident. This was strongly criticized by eminent lawyer-journalist of Bombay, AG Noorani, in the national media. Bharucha, who was to be the next CJI, once visited Port Blair where I was on official tour but, despite my overtures, kept arrogantly avoiding me. Both were among judges who see everyone else as intellectually inferior to them.

The reports of the Commission were earlier prepared by its office staff and presented to Nodal Ministry. Deciding to personally write them and present to the Head of State, I met President Shankar Dayal Sharma who was quite receptive to the idea. Before it was time for me to submit my first report his term was, however, over and I submitted all of my reports to his successor, KR Narayanan. One of these, titled 'Hindu Minorities in Secular India' had recommended that the benefit of all laws and welfare measures meant for the minorities should go to the Hindus wherever they were not in majority.

The UN Declaration on the Rights of Minorities had been proclaimed on 18 December 1992. I suggested to the government that the day be observed in India every year as Minorities Rights Day. As there was no response, I decided that the Commission on its own would celebrate it year after year. The first Minorities Rights Day was organized by NCM on 18 December 1998 and was, on my request, inaugurated by former President Shankar Dayal Sharma.

On deciding to set up a local Minorities Commission Delhi Chief Minister Sheela Dikshit approached me for drafting a Bill for its proposed statute and, on my suggestion, appointed as its first Chairman former Gujarat High Court judge AS Quraishi. The West Bengal Minorities Commission set up in 1996 had been placed under the chairmanship of an Islamic studies teacher, which I vehemently opposed in a meeting with Chief Minister Jyoti Basu. As suggested by me, he appointed former Calcutta High Court judge Khwaja Yusuf as the next Chairman. In Chennai I met Governor Fathima Beevi, former Supreme Court judge and member of the first

Human Rights Commission (NHRC), to get resolved some problems of the local Christian community.

The first NHRC Chairman Justice Ranganath Misra had demitted office a few weeks before I took over the reins of NCM. In terms of the Protection of Human Rights Act 1993 I was now *ex officio* member of NHRC. After Justice MN Venkatachaliah joined as its next Chairman, I religiously attended its meetings and began referring to him cases of human rights violation coming to NCM. I organized in NCM a joint conference of all National Commissions of the time which was inaugurated by him and addressed, on my request, by two other eminent judges, Krishna Iyer and Hansraj Khanna. Venkatachaliah completed his term as NHRC Chair a month before I completed mine in the NCM. Among his successors I had friendly terms with AS Anand (my classmate in Lucknow University), and Rajendra Babu who had decided *Danial Latifi* (2001) asserting that the Muslim Women Act 1986, contrary to popular belief, had not abrogated *Shah Bano* (1985).

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On demitting office as NCM Chair on 25 November 1999, I did not want to go back to DU Law Faculty where the atmosphere was no more congenial for academic work. Vice-Chancellor VR Mehta constituted a two-member Human Rights Committee with me and former Nagaland Governor VK Nayar as its members, but he retired soon and his successor Deepak Nayyar consigned it to cold storage. Delhi Chief Minister Sheela Dikshit offered me the State Minorities Commission Chair, which I thankfully declined. My friends in Aligarh and Jamia proposed my name for the position of Vice-Chancellor but, thanks to campus politics, the proposals did not make much progress.

Availing as much leave as I could under Delhi University regulations, I kept myself busy with academic work, the first of which was a book on the history and performance of the parastatal body I had chaired for three years. Titled *Minorities Commission: Minor Role in Major Affairs*, it was published in 2001 and released by Justice Venkatachaliah. The same year LexisNexis published my Urdu translation of DF Mulla's popular book on Muslim law -- and the All India Muslim Personal Law Board my English translation of their new book in Urdu. The latter, titled by me as *Compendium of Muslim Law*, was cited by the Bombay High Court in *Dagdu Pathan* (2002).

In mid-2003, while I could have continued in the DU Law Faculty for another three years, I made up my mind to quit and after serving it for nearly three decades -- half of my total teaching career -- put down my papers. Jamia Millia Vice-Chancellor Mushirul Hasan offered me a senior position in its Academy of International Studies, and the Founder-President of Amity University Dr Ashok Chauhan a Chair in Law. I opted for the latter which, in retrospect, was a wise choice as in the years to come Amity grew into Asia's largest private university with an intercontinental expanse. I set up there, separate from the Amity Law School established in 1999, an Institute of

Advanced Legal Studies to conduct Master's and Doctoral programs in law. The Institute, and its library started with my gift of a large number of books, were inaugurated on 9 June 2003. As the official organ of the Institute I launched a journal called the *Amity Law Watch*, and the Amity University Press published my thematic autobiography *Amid Gods and Lords: My Life with Votaries of Religion and Law* (2005).

The intake for both Master's and Doctoral degrees at the Institute gradually increased. Two foreign students, Naima Haidar of Bangladesh and Vida Abdali of Iran, registered for PhD under my supervision; and the former later became a judge of her country's Supreme Court. I conducted a crash course on Islamic law which was attended, among others, by a US attorney Joy Chambers. My engagement at Amity was not exclusive; the Founder-President had given me full freedom for other academic pursuits. With the sponsorship of the Jamiat Ulama-e-Hind I set up another institution called the Jamiat Law Institute to arrange coaching for judicial service examinations, mainly for Amity students. The arrangement, however, did not last long.

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In 2004 there was an unexpected change of guards at the Centre and Dr Manmohan Singh, who had known me since my days as Chairman of the Minorities Commission, took over as Prime Minister. Sincerely wishing to fulfill some of the tall promises his party had made during the election, he called me to his office to explore the possibility of associating me with either of the two committees he proposed to constitute – one to examine the issue of reservation for minorities in general and the other to suggest special welfare measures for Muslims. Both of these were soon in place, the former chaired by ex-Chief Justice of India Ranganath Misra and the latter by ex-Delhi High Court judge Rajinder Sachar. As per my choice, I was made a member of the former body, set up by the name National Commission for Religious and Linguistic Minorities.

At a later stage the controversial issue of opening the doors of Scheduled Castes to members of the same castes among Christians and Muslims, then under litigation in the Supreme Court, was also assigned to us. As the other members, St Stephen's College Principal Anil Wilson and Punjab Studies scholar Mohinder Singh, were from non-law backgrounds, I was given the onerous responsibility of writing the Commission's report. I did my job, strenuously and against heavy odds, and the report was presented to the Prime Minister in May 2007. It recommended removal of the religious rider from the Constitution (Scheduled Castes) Order of 1950, and a sub-quota for minorities within the established quota for backward classes of the society. Wilson died soon after the submission of the report, and Justice Misra passed away in 2012, but the Sonia Gandhi-steered dispensation slept over the report without any action till it lost power in 2014.

A National Commission for Minority Educational Institutions also came up in 2005 under an Act of Parliament and my friend MSA Siddiqui, former judge of Delhi and Madhya Pradesh High Courts, was appointed its Chairman. We often discussed the issues he had to take up, the most prominent among them being the recognition of Jamia Millia's minority status. I prepared

an anthology titled *Politics of Minority Educational Institutions*, for which Justice Krishna Iyer wrote the foreword. Published in 2007, it was released by Soli J Sorabjee.

Soon after the Misra Commission was wound up, I was appointed a member of the Law Commission of India – the only full-time member besides the Chairman, former Supreme Court judge AR Lakshmanan. The two of us did a lot of work and prepared several reports on various legal issues of the time. I wrote three of them – on the need for a total secularization of the marriage law of India, enactment of a central law for mandatory registration of all marriages, and amendment of the Hindu Marriage Act to stop the trend of bigamy by fake conversion to Islam which the Supreme Court had outlawed in *Sarla Mudgal* (1995). My fourth report, on the need to update the outdated Muslim Personal Law (Shariat) Application Act of 1937, got leaked to the press and the clerics smelled a rat in it – a backdoor attempt to facilitate a uniform civil code which has always been a nightmare for them. Chairman Lakshmanan thereupon decided to drop it.

In March 2009 Supreme Court judge Markandey Katju, hearing the case of a Muslim student against his school which was forcing him to shave off his beard, made a remark ‘we don’t want talibanization of the country’ and it led to an uproar in Muslim religious circles. Apprehending that it might snowball into another *Shah Bano*-type agitation, I met him at his residence and apprised him of the simmering discontent. Deciding the case later, he expressed regrets for the unsavoury remark.

The Institute of Objective Studies selected me for its Shah Waliullah Award, earmarked for the year 2009 for ‘Contemporary Understanding of Islamic Law.’ Chairman Lakshmanan chaired the conferral ceremony at which the award was handed over to me by the Attorney General for India late Goolam Essaji Vahanvati. After the learned AG’s death in 2014 his wife instituted merit scholarships for law students of Amity University.

Law Minister Hansraj Bhardwaj wanted to give the Commission another term and, after his elevation as Karnataka Governor, his successor Veerappa Moily too was not averse to the idea. However, the plan did not work and our term ended in September 2009. Among the later Chairpersons of the Law Commission former Delhi High Court judge Ajit Prasad Shah, reputed for his pioneering decision on decriminalization of homosexuality, sought my input on some of the issues under his consideration.

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I maintained regular interaction between the two Commissions and my Institute at Amity. Debates on the issues under their consideration were held on the Amity campus, and its students were given the facility of interning in the Law Commission and consulting its library. Simultaneously, I continued with my academic work both in and outside India. Since 1997 I had been associated with St Gabriel Institute of Religion and Theology in Austria headed by my friend Fr. Andreas Bsteh. When it started a biannual program of interdisciplinary Summer Schools I taught legal subjects in its classes held in Vienna and attended by students from across

the world. During 2006-08 three of my LLM students at Amity participated in these events. One of my co-teachers there was eminent reformist poet Sir Mohammad Iqbal's daughter-in-law Nasira Iqbal. She had retired as a judge of the Lahore High Court, and her husband Javed Iqbal as a judge of the Pakistan Supreme Court. We became friends and kept meeting in Vienna and Lahore.

In 2006 I attended a human rights conference in Malaysia along with Justice PN Bhagwati. After the event a committee of scholars, chaired by New York's Imam Feisal Rauf, was set up to draft a charter of governance based on human rights tenets in Islam. Malaysian Chief Justice Dato Abdul Hamid, Turkish scholar Recep Senturk, and I, were its members and attended its biannual meetings in Kuala Lumpur till the completion of the project. Another committee of Islamic law experts from various countries was set up by the Oslo Foundation of Norway to suggest reforms in Muslim law on women's rights. As one of the members I attended its meetings in Egypt and Morocco.

At a conference of the International Centre for Law and Religion Studies in Brigham University of USA I was put by Director Cole Durham on his Advisory Board. In the coming years I participated in periodical events organized by him in various parts of the world. At one of these I met Pakistan Chief Justice Tasadduq Hussain Jeelani who knew me since long. On his request I later sent him my comments on a frivolous petition in his court challenging 'Islamic validity' of bank interest. With the support of Cole's Center I organized law and religion conferences in India and Nepal. He associated me also with his G 20 Interfaith Forum which holds consultative sessions on the eve of G 20 summits wherever they take place. A conference on 'Religion-State Relations in Southeast Asia' was organized by me in Kuala Lumpur with the support of my old friend there, eminent Islamic law scholar Mohammad Hashim Kamali.

A Consortium for Law and Religion Studies (ICLARS) was launched in Italy in 2008 with Silvio Ferrari of the University of Milan as its President, and I was included in its Steering Committee. After a similar regional body was set up for the African continent, I established a South Asia Consortium for Religion and Law Studies (SACRALS) in Delhi, to work in association with my Institute at Amity University.

I always had a deep interest in revising great legal treatises of the past, and a new edition of Justice Syed Ameer Ali's monumental work on Muslim law had been published with my updates in 1985. In 2004 Oxford University Press approached me for revising Asaf AA Fyzee's classic works -- *Cases in Muhammadan Law of India Pakistan*, and *Outlines of Muhammadan Law* -- which had not been updated since his demise in 1981. New editions of the two books prepared by me were published in 2005 and 2008 respectively. DF Mulla's well-known book on Muslim law, initially published in 1906, was last revised by Justice Hidayatullah (19th edition 1990). Its publishers wanted me to prepare the next edition but, as they did not agree to my insistence on dropping from it some old cases misinterpreting Muslim law, the proposal fell through.

In 2008 Universal published my book *Laws of India on Religion and Religious Affairs*, with a foreword by Justice Krishna Iyer. As Chairman of the Kerala State Law Commission he had been sending me his legal reform proposals for my comments. I met him at his residence in Cochin in 2011, which turned out to be our last meeting. The great jurist-judge, my inspirer and supporter since 1972, passed away on 4 December 2014. After the demise of my father and Justice Hidayatullah in 1975 and 1992 respectively, this was my third bereavement.

During 2012-16 Universal published a number of my new books – *Muslim Law in India and Abroad* (2012), *Religion, Law and Society across the Globe* (2013), *Principles of Hindu Law* (2014), and *Reminiscing on Law Brains* (2015). The first of these, co-authored by my lawyer son Saif, was released by Chief Justice Altamas Kabir at a function chaired by Soli J Sorabjee. It was extensively quoted from by Chief Justice JS Khehar in the famous *Shayara Bano* case of 2017; while its second edition (2016) was cited by Justice M. Shantanagoudar in *Mohammed Salim* (2019).

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The quinquennium of 2017-21 brought me exceptional honours. I was selected for the ‘Best Law Teacher Award’ instituted jointly by Kerala’s Menon Institute of Advocacy and Delhi’s Association of Law Firms (2017), and for Calcutta’s Asiatic Society Award for ‘Outstanding Contribution to Law and Society’ (2018). In 2019 the Supreme Court constituted a committee to mediate between litigants in the Ayodhya mosque dispute pending for a decision since long. Chaired by its former judge FM Ibrahim Kalifulla, the committee had as its members religious leader Sri Sri Ravi Shankar and lawyer-mediator of Chennai Sriram Panchu. The highly revered Dharmguru personally invited me for private consultation, and later to full Committee meetings. Unfortunately, nothing came out of its deliberations and the court had eventually to dispose of the matter on its own.

The same year a group of my former students decided to bring out a festschrift for me in my two major interest areas. Titled *Religion-State Relations and Family Rights* and edited by former Delhi High Court judge Jaspal Singh, the book was published in 2021 with a foreword by my former student in DU Justice Badar Durrez Ahmad. The Introduction to it was written by Justice TN Singh, former judge of Assam and Madhya High Courts who had cited me in *Noor Mohammad* (MP, 1969). Since the establishment of my Institute at Amity University I had associated with its research work both Jaspal Singh and TN Singh. On the latter’s request I had collected and edited his writings under the title *Quest for Justice* which was published as a book in 2014.

Since long I have been writing media articles in English and Urdu – the Indian Express alone has so far carried over sixty pieces penned by me. Two collections of my media musings in both languages, *Finger on the Pulse* and *Kis se Munsifi Chahen* (Who to Seek Justice From) were published in 2019. Since then, invitations from two leading publishers of Delhi and

Lucknow for writing new books had been pending, but I was not inclined to accept them. After the outbreak of the Covid-19 pandemic I changed my mind and used the lockdown times to work on them. The two books -- a critique on Supreme Court's major decisions on Muslim law since 1950 and an analytical study running the entire gamut of family laws in the country -- were released in 2022.

The publishers of my two old books -- on the laws of India on religion (2008) and religion-state relations (2013) -- now want to bring out their new editions. But, can I update them with truth and the whole truth? I am still being invited to academic events abroad, but will I be able to speak there nothing but truth? I am hale and hearty but have to rest my restless pen, perforce. In the words of an eminent Urdu poet late Ahmad Faraz, *mera qalam to adalat merey zameer ki hai* (my pen, after all, is the court of my conscience).