

**BOHRAS
AND
THEIR STRUGGLE FOR REFORMS**

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THE ORIGIN OF BOHRAS IN INDIA

Asghar Ali Engineer

The Ismaili movement, right from its inception, was proselytizing mission which had spread the network of its missionaries to countries like Africa, Persia, Central Asia, Yaman and India. In India, however the missionary activities had not spread beyond the Sindhu valley. It was during al-Mustansir's reign (A.D.1035 1095) that it was decided to send missionaries beyond the valley of the Sindhu river. From Egypt two eminent da'is, Ahmad and 'Abdallah were sent via Yaman to India. They landed at the port of Cambay. The author of *Mausam-e-Bahar*, which the Bohras consider to be their authentic history (it is, in fact, a legendry account, based more on imagination and religious devotion than on facts), gives a version which it is difficult to verify from other sources. According to him to ruler of Pattan Siddharaja Jayasingha was intent upon killing Muslims. A large number of Muslims had been killed when this news reached the Fatimid ruler of Egypt, al-Mustansir. To set the things right, two missionaries, Ahmad and 'Abdallah were sent to India and they landed near Cambay. The activities of these missionaries were quite peaceful and, it appears, they had no political ambitions. Thus Satish C. Misra says: "The foundation of Isma'ili communities in Gujarat is an unique fact in Indian history. Nowhere else in India did these communities come into being in any sizable dimensions; nowhere else was the penetration of Islam as peaceful or the rise of the new communities as imperceptible. No other Muslim community in India suffered more at the hands of the iconoclastic Sunni rulers. And finally, none other has developed a business outlook which is distinct in Muslim communities. Their only compeer in this respect is the Gujarati community of the Memons."

It is difficult to get historical accounts of these missionaries as no historian has recorded it. We have to rely mainly on the legends current in the community or some sketchy record which itself is by no confusion. Even the name of these first missionaries differ in the various accounts give by the historians. Conolly (Journal of the Asiatic Society, VI.2, 824) calls the missionary Muhammad not Abdullah. The Mirat-Ahmedi (Persian Text, II.87) agrees with Conolly in stating that the name of the first Bohra missionary was Mulla Muhammad Ali and says that the shrine of this Pir at Cambay, known as the shrine of the Pir-i-Rawan or the Ever-alive Saint, still yearly draws large crowds of Bohras from all parts of Gujarat. According to the account given by the author of the Mirat when Mulla Muhammad Ali landed in Cambay the people of Gujarat were ignorant of Islam. A Hindu saint was the object of general faith. The Mulla considering open opposition to this saint dangerous and impossible joined the number of his disciples. His intelligence soon attracted the saint's notice. After mastering the language of the country, he studied the saint's holy books and so worked upon his mind as to convert him to his views. Many of the saint's chief followers adopted the new faith. At lat news that his minister was a convert reached the Raja's ears. The Raja finding his minister at his prayers asked what he was doing. "Searching for a snake," said the minister. As snake appeared in a corner and the Raja became a convert though he kept it secret till on his death-bed he ordered his body to be buried.

However, Mausam-i-Bahar gives a little different version. According to its author the da'i Abdullah landed at Cambay and proceeded further through the land-route. He felt intensely thirsty and went to a nearby garden in search of water; but the gardner Kaka Akela and his wife Kaki Akeli told him that due to famine the well was dry. Maulai Abdullah went near the well and threw a spear in it. Lo and behold!

there gushed out a stream of sweet and cold water. Seeing this miracle both husband and wife embraced Islam. Abdullah learnt the local language and established contact with the priest of a nearby temple. After defeating him in religious polemics he converted him to the Islamic faith. Through the priest he converted the minister Bharmal. All of them kept their conversion to the new faith a secret lest they should be punished by the king of Pattan Siddharaj Jayasingha. Bharmal's conversion was, however, reported to the Raja and when he went to his minister's residence to check, he was praying. The snake appeared and saved the minister. But now Abdullah was interested in converting the Raja himself in order to win general support. The priest told him that the Raja could be converted only if the elephant-god of this temple, for whom the Raja has great regard, is made to fall from its hanging position in mid-air. On close examination Abdullah found that the elephant was hanging in mid-air without any support as there were four powerful magnets of equal pull hidden in the four walls of the temple. The magnets were removed one by one thus bringing the elephant-god tumbling down on the floor of the temple. The Raja shook with terror. On being shown more miracles by the missionary he embraced the new faith.

According to Satish Misra, Raja Sidharaj Jayasingha (1094-1143) was very tolerant towards the other faiths but himself was never converted to any other religion. He says, "The reign of Sidharaj Jayasingha is not only the most glorious in the history of Rajput Gujarat and one of the most well-remembered ones in this land but it has also become one of the important landmarks in the early history of Muslim communities. In popular imagination, Siddharaj himself was the founder of all the important communities in Gujarat -- no less than three Muslim pirs are reported to have converted him to their own particular sect. The legendary Bohra accounts are definite that he accepted their faith and the genealogy of one of the most notable of Bohra houses is traced back to him, a line which has produced several Da'is'. In Khojah memory, he is said to have been converted by their first missionary, Nur Satgur. Finally,

in the Mirat-i-Ahmadi is recorded a tradition that he was secretly converted to the Sunni faith by a Pir of that persuasion." Misra rightly points out that these are popular traditions without any historical authenticity. No sober historical account supports them. No evidence suggests that the great Rajput ruler died in a faith different from that of his fathers. The purpose which these traditions have served, has been to provide each of these communities with a charismatic figure as its early champion and thereby invest it with a romantic halo.

Now let us consider the question of conversion in a sociopolitical perspective. It is clear from the outset that these Arab missionaries had no political ambition in India unlike the Isma'ili missionaries of the second and third centuries hira in Arabia who had the definite political goal of capturing the state power. At least there is no indication - neither in word nor in deed - that these Arab missionaries in India had any political aim whatsoever. In their sectarian scheme of things Hind (India) was also one of the jaziras (regions) where the mission had to spread. The methods of these missionaries were so peaceful that even in the legendary history no violent incident with the followers of local religions has been reported. Now the question arises, among which class of people did the Isma'ili propagandists succeed most and what were its social and political contradictions vis-a-vis other classes?

Raja Siddhraj Jaysingha of Pattan who began his rule in A.D. 1093 seems to have been a popular ruler. He was tolerant towards other faiths too. The Arab Ja is, as legends show, tried to win over converts from among both the rulers as well as the ruled, from the towns among both the rulers, as well as the ruled, from the towns as well as the villages. Does it mean there were no age of by the propagandists of the new faith? These contradictions did exist though they were not very apparent, nor did the propagandists seem to have been

conscious of the same, But we get an indication of these contradictions - however subtle they might have been - from the converts and the classes they belonged to. The legends point out that the Isma'ili missionary Abdullah first met a poor gardener and his wife who had been affected by famine. He converted them to his faith by performing a "miracle", i.e., by producing water in their dry well. This shows that the da'is first approached the local poor for whom religion was not an intellectual exercise in philosophic speculation, but a spiritual solace in "the vale of tears" that this world was for them. Also, the first martyr of this faith was one Maulai Fakhruddin who was killed in Galiakot while passing through a tribal beld in Rajasthan. He was obviously carrying on missionary activity, if not among the tribals themselves, at least among the non-tribal villagers. It is mainly due to his activities that we find today a sizeable number of Bohras (who are mostly poor, having petty-shops in the villages) in the Wagar area of Rajasthan. This also clearly shows that the first missionaries had spread out among the poor both in urban and rural areas. Another early missionary, Maulai Nuruddin, is lying buried in small village called Dongaon in the Aurangabad district of Maharashtra. Maulai Nuruddin was in charge of missionary activities for the Deccan plateau. He was trying to convert people in the remote villages and towns when he died in Dongaon.

Though there are no definite records to prove the contrary, it would not be very wide off the mark to say that there were very few converts from amongst the ruling nobility. Such conversions could have taken place only on the grounds of personal convictions and thus were very few and far in between, where as in the lower rungs of society certain social contradictions did make the task of conversion relatively easier. The caste heirachy in India was highly oppressive and exploitative for those at the bottom or outside it. Islam suffered from no such social stigma; it was more democratic and laid greater emphasis on equality as

it had originated among the pre-feudal trading class of Mecca and the desert nomads of Arabia. In Islam there is greater emphasis on equality in the absence of any such social hierarchy. Thus Islam had great appeal for the lower castes as it promised them equal status with all other faithfuls (although in the Indian milieu this was more illusory than real). However, in case of the Isma'ili sect, there is another factor to be borne in mind; this sect grew in the feudal environment of Persia and imbibed many elements of its religious-cultural outlook. As a result of this and also because it was forced to function underground, it developed a religious hierarchy which basically militated against the spirit of the more democratic, orthodox Sunni sect.

This kind of hierarchical outlook, which at the same time was free of the caste stigma, had a definite appeal for certain classes in India. The ruling nobility did not have to search for any other religion as it had sanction for all it did in the Hindu religion itself. The untouchables at the lowest rung of society were, on the other hand, more attracted towards orthodox Sunni Islam as it was more democratic and free of any notions of the hierarchy. However, there were middle castes and sub-castes like those of traders who had differences not only with the ruling feudal nobility but also with those who were lower in the caste hierarchy like the untouchables. These middle castes were not free of hierarchical notions and were thus more inclined to adopt a partially hierarchical faith like Isma'ilism. It was probably for this reason that these Arab missionaries found most of their converts from amongst the trading castes. The word "Bohra," according to most writers on the subject, seems to have been derived from *vohrwu* or *vyahwar* meaning to transact, to trade. Thus we read in the Bombay Presidency Gazetteer: "The origin of the name Bohra is doubtful. It is generally traced to the class of Hindu Bohoras who are still found in Marwad, Rajputhana, and the North-West Provinces. But as there is no certain record

of Hindu Bohoras in Gujarat, it seems better to derive word from the Gujarati vohorvu to trade, the occupation followed by the first Hindu converts to Islam."

What we read further in the Gazetteer is quite interesting. It says:

Besides the traders there is a larger and not less prosperous class of villag Bohoras, tillers of the soil and Sunnis by religion. The existence of these two distinct classes is an illustration of the fact that in Gujarat Shiahism was spread by the persuasion of preachers and Sunnism by the power of rulers. The early Shiah preachers (A.D. 1067), being treated with much kindness by the Hindu Kings of Anahilavada (i.e., Pattan), settled and made converts chiefly in the great trading centres, while to the Musalman governors it was of more political value to bring over to their religion to sturdy and outlying villager than the weak and peace-loving trader. The use of the same name to classes so unlike as the city and village Bohoras, would seem to be due to the great division of the Gujarat population into armed dharala and unarmed. To distinguish converts from the armed Rajput and Koli castes the Musalman governors coined such names as Molesalam, Malik, and Sipahi. For converts of the trading class the word Bohra was in use, and this they extended to converts from all the unarmed castes, Brahmans, husbandmen and craftsmen.

Thus we see that the Bohras were traders before their conversion to Shi'a Isma'ili faith and mostly belonged to big or small urban areas. Peasantry, by and large, remained outside its orbit. From the Mirat-i-Ahmadi as well as from certain traditions within the community we learn that many Brahman and Bania traders were also converted to this new faith. But - and it was not mean achievement for the missionaries of the new faith - there remained no trace of caste-consciousness among these new converts. It was most probably for

this reason that the system of commensality was introduced and strictly adhered to. Till today the Bohras eat together from a common thali. Praying together in one line was not, from the caste point of view, as radical a step as eating together from a common vessel. Moreover, compared to other similar communities, there has been much more cultural homogeneity within the community. Also, unlike the Khoja converts, the Nohras imbibed the traditions of the new religion in a thorough manner. Though it was basically a batinite sect (i.e., believing in the esoteric interpretation of the Koran and shari'a as explained in an earlier chapter) its followers in India have been very scrupulous followers of all the practices prescribed by the Islamic shari'a. Praying as prescribed by Islam (namaz), fasting in the month of Ramadan, performing hajj, paying zakat and all other Islamic injunctions - obligatory as well as voluntary - were observed fastidiously. It was, in away, a complete break from the past, although, as we shall see later on, the traces of the past traditions continued in one from or the other.

The converts to the new faith, consciously or unconsciously, underwent a complete cultural revolution. Their social and religious outlook underwent a thorough change. Hinduism does not prohibit fine arts like music, dancing and painting. In fact many of its religious traditions find expression through the medium of these arts. Islam, on the other hand, has proscribed these arts. Soon after conversion to the new faith these arts were prohibited and till today the Bohras, by and large, abide by this prohibition. It applies with an equal degree of regour to the Sunni Muslims as well; but these Muslims, as we know, have produced a large number of great musicians and painters, though not dancers. The reasons for this, in my opinion, must be sought in the socio-economic structures rather than in the religious prohibition. The Bohras, as we have seen above, belonged to the class of petty traders which tends to be conservative and anrow in outlook.

Moreover, it does not command enough surplus in a feudal set-up (due to restrictive trade practices followed by the ruling class in the feudals society to keep the merchant class subordinated to itself) to develop a taste for the fine arts. The feudal class and its proteges on the other hand extract enough surplus from the peasantry to spend on refining and developing such arts. As a section of the Muslims constituted the ruling class in India they had enough surplus to patronize musicians, painters and poets, religious prohibition notwithstanding. Among the Bohras not only have music, painting and dancing, been prohibited, there has been no tradition of literature either. At best one can find religious poetry - either didactic, elegiac or eulogistic by hardly any creative poetry. The highly revered Indian poet among the Bohras is Shaikh Sadiq Ali. He has written a few volumes of didactic verse. But judged from the point of view of creative literature was not a talented poet. And no one else among the Bohras has achieved the status of Shaikh Sadiq Ali in versification. We will discuss these socio-cultural aspects of the Bohras' lives later.

In the absence of authentic accounts it is very difficult to establish how many local people from Gujarat were converted to the new faith by Maulai Abdullah and Maulai Ahmad. According to the legendary account of Mausam-i-Bahar along with the Raja of Pattan so many people were converted to the new faith that the weight to sacred threads taken off that day was not less than 260 Arabic pounds. This is incredible. If the author of the book is to be believed then it would mean that lakhs of people embraced Islam in one day. This is not a sober account and, therefore, should be rejected. The real figure cannot be estimated with any accuracy but it can be said that given the missionary zeal there must have been steady progress in increasing the ranks of the new converts. Mulla Abdul Husain says in his account on Daudi Bohras, "The new converts continued increasing considerably and for two centuries and half from A.D 1130 to A.D.1380 there was little in the history of Gujarat to check the

progress of the Ismaili faith. The Dais of the Mastur (hidden) Imams in Yemen sent their deputies to the towns and tracts of India where the Ismaili Shias were spread. These deputies collected the tithes(Zakat) for the Dai in Yemen and preached the Ismaili faith more freely than their co-religionists were able to do in Yemen, Persia and Syria." This clearly shows that the Indian people were more tolerant towards other faiths than the peoples of other countries.

But with the invasion of Muzaffar Shah (A.D. 1390-1413) things began to change for the Bohras in Gujarat. So far the Bohra missionaries had been carrying on their activities unhindered by the Hindu rulers as they did not constitute any political challenge to them. However, with the advent of Muslim power in Gujarat, the sectarian differences also assumed some importance. This was further aggravated by certain differences of a personal as well as religious nature within the community itself. In the opinion of Mian Bhai Mulla -Abdul Hussain: "When Muzaffar Shah's (A.D. 1390-1413) power was established in Gujarat, he noticed with great envy and jealousy the spread of the Ismaili Shias. He, being a new Rajput Sunni convert, vigorously encouraged Sunni doctrine, and the Bohras and the Ismaili Shias were suppressed, persecutions during the period or the rule of the Mughal Empires and other bigoted Mohammadan rulers were under Sultan Ahmad A.D(1411-1443) son of Muzaffar Shah, and Mahmud II(A.D. 1536-1554) rulers of Gujarat. Every Mulla or Deputy of the Dai had to pretentiously (as Takia) observe certain Sunni formalities for self-protection. Even under the more liberal reign of Delhi Emperors, the Gujarati Bohras were also involved in difficulties of concealment and suffered much persecution at the hands of the wicked murders, i.e., Sunni Subordinate Musalman officers invested with wide powers."

However, a close scrutiny of facts would show that things were not as simple as assumed by the author of the *Gulzar-i-Daudi*. Behind the early persecution of the Bohras (persecution it was which no one can deny) by the Sunni rulers of Gujarat there were more complex factors. The internal schism within the community was as much responsible for it (i.e., the bigotry of the Sunni rulers) as anything else. Here we must take cognizance of the great schism which took place in the Bohra community on account of certain delicate questions of faith and beliefs. The author of the *Duat al-Akramin* says that J'afar (the person who brought about the first great schism in the community and to whom we shall refer shortly) came to Ahmedabad amidst great pomp and sought the company of King Ahmed Shah's son, Mohammad Shah who was then governor of that province. The real motive of this visit was to poison the mind of the ruler against the Sayyidna (the Bohra da'i) and his followers and to create an impression that they were all rafdis. In this way J'afar spread his mission easily with the help of Mahmud Shah and in the bargain not a good opportunity to take revenge against the Sayyidna. Thus we see that the persecution of the Bohras by the Sunni rulers started as a consequence of the complaints made by J'afar who had felt slighted at the hands of the Bohra deputy in Ahmedabad.

It will be interesting to throw some light on the dispute with J'afar and its consequences. This dispute arose at the time of Maulai Hassan who was the son of Maulai Adam Ibn Sulaiman. Maulai Hassan became the deputy of the da'i in Yaman after his father's death in A.H.836. He started a madrasa (school) in Ahmedabad with a view to teach religious doctrines. J'afar - a student from Patan - also joined it along with many other faithful followers. Maulai Hassan himself taught these students. Before long J'afar came to Maulai Hassan and implored that he be sent to Yaman for further studies. But Hassan

told him that he had yet not completed his course of studies in India and therefore it was too early for him to proceed to Yaman. However, J'afar ignored the advice of his teacher and proceeded to Yaman on his own. Maulai Hasan was disturbed at his departure to Yaman and wrote to the da'i Sayyidna Ali bin Sayyidna Abdullah about J'afar's defiance. But according to our source J'afar managed to satisfy Sayyidna and soon won over his confidence. J'afar stayed there for two years and then returned to India. He was reportedly advised by Sayyidna Ali to submit to the authority of Maulai Hasan as he was in charge of the D'awa in India. With this advice J'afar left Yaman and came back to India via Cambay. He was received by a large number of Bohras and brought to the city. When it was time to pray, these people requested J'afar to lead the prayer. He said he has not been permitted to do so by the dai in Yaman. But the people insisted, so J'afar led the prayer. The deputy da'i, Maulai Hasan, came to know of this and when J'afar met him he remonstrated him and asked J'afar to write to those Bohras, whom he had led in prayer, to say that prayer again as without specific permission from the dai or his deputy no one can lead a prayer. Though J'afar felt sorry for what had happened was not prepared to write to the Bohras of Cambay to say that prayer again as he had led it without authorization. But Maulai Hasan took the hard line and was not prepared to pardon him unless he wrote such a letter. J'afar did not write the letter and left for Patan.

According to the author of Du'at al-Akramin J'afar came to Patan and by his eloquence and persuasive ways succeeded in inducing them to adopt the Sunnite religion. Many Bohras from Patan and the villages around enthusiastically responded to his call, and leaving the fold of the Shi'a Isma'ili faith embraced the Sunni religion. Alarmed by the situation Mulla Raj, the Amit of Patan wrote to Maulai Hasan in Ahmedabad about the activities of J'afar. Maulai Hasan

informed the da'i in Yaman who instructed Maulai Hasan to meet J'afar and persuade him to give up this course. However, J'afar refused to give up his highly successful drive to convert Bohras to the Sunni faith. It appears that from the beginning Maulai Hasan had not adopted a very reasonable attitude towards J'afar either through a sense of rivalry or because he underestimated his capabilities. The da'i in Yaman, on the other hand, adopted a conciliatory attitude and advised Hasan also to do so. But it was too late as Maulai Hasan had already inflicted injury on J'afar's proud ego. It is said that the majority walked off the fold of the community along with J'afar. According to Abdul Husain about 80 per cent of the Isma'ilis separated at this juncture while according to Najm al-Ghani Khan some twelve lakhs became Sunnis.

From then on it has been a story of persecution for the Shi'a Isma'ili Bohras at the hands of the Sunni rulers in India. J'afar, after his phenomenal success in A.D.1428 came to Ahmedabad and met Mahmud Shah who deputized for the Sultan. He got Mahmud Shah's full support in his campaign to convert the Bohras to the Sunni faith. When Mulla Raja, the Amil of Patan approached J'afar for rapprochement he turned down his request and asked him to leave the city Patan. Thus Mulla request and asked him to leave the city of Patan. Thus Mulla Raja moved to Morbi in A.H. 840-41 (A.D. 1436-37). This harassment to the Shi'a Bohras continued till J'afar's assassination near Champanir on 5 July 1441. The official Bohras sources are reticent about J'afar's murder. May be, one of the sorely affected victims struck the fatal blow. However, with his assassination, the persecution of Bohras did not come to an end. After Mulla Hasan's death his son Mulla Raja became the deputy da'i in India. According to the Bohra riwayats (narratives) he was a pious man who earned his living by making and selling soaps. he was said to be highly learned. When a maulavi from Iran visited India - we read in the Bohra sources - no Sunni alim could reply to his queries. But Mulla Raj fully satisfied

him and the Maulavi from Iran embraced his faith. When this news reached Sultan Muzaffar Shah (1512-1526) he was furious and by his orders Mulla Raja was arrested and executed. This execution took place in A.H.924.

However, till that time, the Shi'a Bohras and the Sunni Bohras had not developed separate identities. Even intermarriages had continued. It was nearly a century after the split with J'afar that formal separation between the two sects occurred. Satish Misra says, " Nearly a century later arose another figure who completed the work begun by J'afar. Syed Ahmad J'afar Shirazi arrived in Gujarat from Sind and established himself in the favour of Sultan Mahmud Shah Begada and his successor Sultan Muzaffar Shah (1457-1512-1526). Till then intermarriages between the two wings had been frequent and the social unit had not been decisively split by the religious cleavage. This was the task accomplished by the learned and purist Syed; he persuaded his fellow-Sunnis to sever all links with their Isma'ili brethren. The two jama'ats became distinct and separate after his missionary work, moving in different directions. These days were not very happy for the Isma'ili Bohra community. They could not offer their prayers openly in the mosques and had to resort to the Shi'a a doctrine of taqiyya. This persecution lasted till the end of the Sultanate and it was only after in Mughal rule was firmly established that the Bohras offered prayers publicly and gave up taqiyya.

Now for a while let us turn our attention to the events in Yaman. After Imam Amir's assassination in Egypt his son Tayyib who was an infant at that time, was hidden by the well-wishers of the Isma'ili mission. The centre of the mission was transferred to Yaman. Though Egypt was sacked by Sultan Salahuddin, Yaman remained under the Fatimids. At the time of Imam Amir's assassination, one Hurrat Malika,

a pious and capable lady was in charge of the province of Yaman. She was sincere and faithful to Fatimid Imams and held the important rank of hujja in the Isma'ili d'awa. It may be recalled that every Imam appointed twelve laili (night-time) and twelve nahar (day-time) hujja. The laili hujja were meant for the batini (secret) d'awa whereas the naharis were in charge of open functioning. Hurra Malika belonged to the second category. She was assisted by al Khattab ibn al-Hasan al-Hamdani and also by the Sayyidna Lamak ibn Malik and Sayyidna Yahya ibn Malik. Hurra, through her statesmanship and experience in the state affairs, had won the position of a recognized leader whom everyone followed. Imam Mustansir had put her in charge of d'awa in India and Amir had let her continue in this position. After the Imam went into hiding Hurra Malika was put in charge of the whole d'awa. She looked after this work for six years and died at the age of 92. She appointed Sayyidna Zueb bin Musa as the first da'i-mutlaq at the time of her death in A.H.532 (A.D.1133). Thus for the first time in the history of the Fatimids a da'i-mutlaq was put in charge of a whole d'awa. Before this the office of da'i-mutlaq was a subordinate one there being the da'i Balagh and hujja above him. During the earlier periods of concealment of Imams a hujja or a da'i-ad-Du'at used to be in charge of the d'awa and he used to be in contact with the Imam in seclusion. Now after Hurra Malika's death in A.H.532 there was no other hujja to take charge of the d'awa and there was no Imam in contact with the officials of the d'awa to appoint another hujja. It was perhaps for this reason that the office of da'i mutlaq was given fundamental importance and put in charge of the mission. Imam Tayyib went into hiding in A.H.524 and Hurra Malika died eight years later. If Imam Tayyib's age at the time of concealment was six months, he must have been around eight years old at the time of malika's death. Even if she was in touch with the Imam till then he (i.e., Tayyib) was too young to appoint any other hujja after her death.

Since Sayyidna Zueb's appointment as the first da'i-mutlaq there has been no authentic record of any da'i-mutlaq having established contact with the hidden Imam. So the da'i-mutlaq became the final authority in all religious matters thereafter. However, a few questions did arise. What should be qualities of a da'i? Could he commit errors like others or was he protected from sinfulness? This and many other questions, arose which created certain problems from time to time. Sayyidna Hatim, the third da'i-mutlaq, in his book Tuhfat al-Quloob, has enumerated the qualities of a good da'i. These qualities of a good da't. These qualities were originally elaborated by Sayyidna Ahmad bin Muhammad Nisaburi in his epistle, Mujzat, al-Kafiya. According to this epistle quoted by Sayyidna Hatim a da'i should be pious, should observe the injunctions of shari'a scrupulously, should pay zakat regularly, and should induce his followers to be pious and truthful. A da'i should be judicious and trustworthy. He should be intelligent and learned and a good administrator as he has to run the affairs of d'awa. He should not be harsh towards others but should be persuasive in his approach. His conduct should be above reproach in every respect and he should scoupolously follow the teachings of the Imam. He should be sincere and devoted to the d'awa and should never put personal interest above that of his mission.

The very fact that these qualities have been laid down for da'i showsthat unlike the Imam who is infallible, a da'i is not infallible and can commit errors. He can become a victim of human weaknesses. Therefore it is highly necessary to exercise due caution in the selection of a da'i. There are many instances of da'is having committed errors and having been reprimanded for the same by Imams. This brings us to the question of infallibility for the da'i-mutlaq in the period of concealment (daur as-Satr). This is a very important question from the point of view of the community. Is the da'i-mutlaq infallible? According

to the eminent Isma'ili scholar, Sayyidna Hamidu'd Din Kirmani, the answer is no. According to his there can be only one infallible person at a time and the Imam is ever-present amongst us (although he may be hidden from our eyes). Thus if we accept the da'i-mutlaq as infallible there will be two such persons at a time which is not possible. In fact the question of infallibility for the da'i-mutlaq did not arise when Sayyidna Zueb was appointed as the first da'i-mutlaq. Until much later the da'i-mutlaq was never adorned with the halo of infallibility. It was only when some disputes arose and the da'i-mutlaq's position was challenged on certain issues that such a pretentious claim was made on behalf of da'i-mutlaqs. Thus we see in some of the epistles of Sayyedi Luqman bin Habibulla that a da'i in the period seclusion has a different position from a da'i during the period of the Imam's manifestation. In the latter period the Imam himself is present and therefore da'is need not be infallible as he can correct their errors, if any. However, during the period of seclusion the Imam is hiding from our eyes and the highest authority is of the da'i mutlaq and if he errs the d'awa will suffer and hence the da'i is protected from committing errors during the period of seclusion. Khauj bin Malik also maintains that in daur as satr da'i mutlaq is kal m'asum (almost infallible). However, such a position will be difficult to maintain except through subtle interpretations and rationalizations of post-facto situations. There have been numerous instances where it becomes obvious to a student of history that da'i mutlaqs have committed tactical errors and that a different course of action could have been more beneficial to the community. Even the most faithful follower would find it difficult to defend the dogma of the da'i being kal-m'asum.

Now let us come back to the history of da'i mutlaqs and the Bohras. As we have already pointed out Sayyidna Zueb bin Musa was appointed as the

da'i mutlaq by the last hujja Hurra Malika. Hurra Malika was also the ruler of Yaman. However, after her death in A.H. 532 Yaman, the last citadel of the Fatimid rule, slipped out of control and the da'is were left with religious control only. Some forts here and there continued to be under their control. These da'is in Yaman continued to appoint their deputies in India where the Isma'ili d'awa continued to make satisfactory progress till the advent of the sultanate and the great schism led by J'afar which reduced the Shi'a Ismaili Bohras to a minority. this split took place during the eighteenth Yamani da'i Sayyidna 'Ali bin 'Abdulla's time. Before we proceed further a complete list of the Yamani da'is would benefit our readers. The list has been compiled by Asaf A.A. Fayzee from the Sahifat al Salat. Against each da'i's name is given the date of his death:

1. Dhu'aib ibn Musa	546/1151
2. Ibrahim ibn Husain	557/1162
3. Hatim Ibn Ibrahim	596/1199
4. 'Ali Ibn Hatim	605/1209
5. 'Ali Ibn Muhammad	612/1215
6. 'Ali Ibn Hanzala	626/1229
7. Ahmad Ibn al-Mubarak	627/1230-
8. Husain ibn ' Ali	667/1268
9. 'Ali ibn Husain bin 'Ali	682/1284
10. 'Ali ibn Husain	686/1287
11. Ibrahim ibn Husain	728/1328
12. Muhammad Ibn Hatim	729/1329
13. 'Ali Ibn Ibrahim	746/1345
14. 'Abdul Muttalib	755/1354
15. 'Abbas Ibn Muhammad	779/1378
16. 'Abdullah Ibn 'Ali	809/1407
17. Hasan ibn 'Abdillah	821/1418
18. 'Ali ibn 'Abdillah	832/1428
19. Idris ibn Hasan	872/1468
20. Hasan ibn Idris	918/1512
21. Husain ibn Idris	933/1527

The nineteenth da'i Sayyidna Idris bin Hasan was a great scholar and a historian. He has written several books of which 'Uyin al-Akhbar is a historical account of the Isma'ili d'awa and is considered most authentic by the Must'alian Isma'ilis. However, the d'awa was losing its hold in Yaman and the da'is were worried about its future. But there were quite hopeful about their followers in India as they were convinced of their devotion. How high the Indian followers were held in the esteem of the Yamani da'is can well be judged by the following incident recorded by the author Akhbaru'd Du'at al-Akramin. According to this author a faithful came from India in the period of Sayyidna Idris, the nineteenth da'i. When he saw this man from India Sayyidna Idris got up, gave him a warm welcome and embraced him. There were some 300 Arabs sitting at that time. Sayyidna Idris seated the Indian near him above all these Arabs. The Arabs were greatly perturbed at this and their faces turned pale. Sayyidna Idris thereupon told the Arabs: "I know you have misgivings in your heart as you have contempt for this man from India. I can read from your faces the question in your mind that why should this Indian be seated above you all? Brothers ! had you known this man you would not have shown contempt toward him. This Indian is a precious stone of the Indian treasure. The mu'minin (faithfuls) from India, as required by the holy Koran, never disobey God and carry out his order. This episode indicates that Yamani da'is had great regard for their followers in India and were convinced of their sincerity and devotion.

Due to the changed political climate in Yaman it was becoming increasingly difficult to continue the activities of the d'awa there and the da'is were more inclined to shift their head-quarters to India. Sayyidna Idris decided to test the devotion of his Indian followers. He wrote to his deputy, Maulai Adam bin Sulaiman, in Ahmedabad that

"the water carrier who brings water to your house should be requested, as per my orders to look after the religious affairs of the Bohras in India and he should lead you all in daily prayers." The deputy read out the letter in the presence of his followers and decided to approach the humble and poor water carrier with a request to look after the religious affairs and to lead them in prayer. The water carrier was highly embarrassed and said that he knew nothing about religion and the daily prayers. Maulai Adam offered to teach him and after the water-carrier learnt how to pray everyone, including the deputy, offered prayer behind him. Maulai Adam then wrote to the da'i in Yaman that he had carried out his orders. Sayyidna Idris was overwhelmed with joy. He gathered his Yamani followers and read out the contents of the letter received from India and predicted that soon the d'awa would be shifted to India as it was there that its future was bright. The above incident well illustrates that the whole emphasis in the Isma'ili sect had been on total surrender to authority. This was alien to the outlook and mental make-up of the Arabs and it was for this reason that this sect registered success with the non-Arab peoples who were long used to feudal and monarchic systems.

The twenty-third Yamani da'i Sayyidna Myhammad 'Izzuddin, in view of his disenchantment with his followers in Yaman induced some of his Indian followers to send their children to Yaman for education and training. Among them was one Yusuf bin Sulaiman. He accomplished training under the da'i and returned to India. He preferred to live in his own country. Sayyidna 'Izzuddin nominated Yusuf bin Sulaiman as his successor before his death in A.H. 946 (1540). Thus Yusuf Najmuddin became the twenty-fourth in succession and the first Indian da'i. Ever since, the head quarters of the d'awa have remained in India. Yusuf Najmuddin, after being appointed as da'i had gone to Yaman

and remained there for about 28 years till his death. But he chose as his successor another Indian Hasan bin Jalal who became the twenty-fifth da'i. Hasan bin Jalal in turn appointed Daud bin Ajab Shah as his successor. By now the Mughal rule had been established over Gujarat. The head of the J'afari sect was one Muhammad bin Tahir who had good connections with the Mughal governor of Gujarat. Sectarian rivalry prompted him to use this influence with the Mughal governor of Gujarat to persecute the Shi'a Isma'ili Bohras in general and their head Daud bin Ajab Shah in particular.

When the persecution became unbearable Sayyidna Daud decided to see that Mughal emperor, Akbar in person. Akbar was then in Agra. Sayyidna Daud was granted audience by him. It is said that there was some lively debate about the Shi'a Isma'ili faith in the presence of Akbar. Sayyidna Daud also drew his attention to the persecution of his followers at the hands of his officers. Akbar readily wrote a letter to his officials in Gujarat asking them to ensure peace and security for the Bohras and their head. He is also reported to have written that he should not receive any complaint in this regard in future. Sayyidna Daud returned to Gujarat with the letter and was accorded welcome by his followers on the way home. The taqiyya (secrecy) was given up in the matter of observing religious practices and prayers were said publicly as prescribed by the Shi'a Isma'ili religion.

Daud bin Ajab Shah was followed by Daud bin Qutub Shah. Here again a controversy arose on the issue of succession and the community was further split. The Daudi Bohra sources say that Sayyidna Daud bin Ajab Shah had appointed Daud bin Qutub Shah as his successor and all the prominent ulama and other members of the community were informed of this decision. In fact these sources

maintain that the predecessor of Daud bin Ajab Shah, Sayyidna Hasan bin Jalal himself, had desired that Daud bin Qutub Shah be appointed as the successor of Daud bin Ajab Shah. Whatever the truth, the fact remains that after the death of Daud bin Ajab Shah in Ahmedabad Daud bin Qutub Shah became his successor and that first Indian da'i's nephew Shaikh Sulaiman was the deputy in Yaman at that time. The Daudi sources maintain that for a period of four years after the death of Sayyidna Daud bin Ajab Shah Shaikh Sulaiman who was at the time acting as the deputy in Yaman continued to acknowledge Sayyidna Daud bin Qutub Shah as the legitimate successor and it was only after four years that he claimed the august office of da'i for himself.

The Daudi sources maintain that a scribe of Daud bin Ajab Shah, his two slave-girls Nurussabah and Rummanah and their sons Ibrahim and Ahmad committed theft from the treasury of the d'awa. They stole precious stones along with the seal of the d'awa. It is said that this theft came to the knowledge of Sayyidna who reprimanded the culprits. The culprits, who were now joined by Sayyidna's son-in-law Khanji ibn Amin Shah, decided to hatch a conspiracy to install the deputy in Yaman Shaikh Sulaiman as the legitimate successor to Daud bin Ajab Shah. They wrote a letter, the Daudi sources maintain, to Shaikh Sulaiman and induced him to accept the offer which the latter did. Sulaiman, who had, according to these sources, accepted the authority of Daud bin Qutub Shah for four years (they claim that Sulaiman had written several letters to this effect to Daud bin Qutub Shah) now turned against him and claimed the office of da'i for himself. It is said that he sent Jabir bin Hadi to India along with a letter purported to have been written by Sayyidna Daud bin Ajab Shah declaring Shaikh Sulaiman as his successor to get the stolen seal affixed on it. The seal

was affixed and the letter was made public thereby winning many adherants in favour of Sulaiman.

However, the Sulaimani Bohras have their own version. Satish Misra on the basis of his personal conversion with Maulana Muhammad Shakir of Baroda, head of the Sulaimani community in India and Pakistan, tells us as follows: "The Sulaimani position is naturally vitally different. The nass-i-jali had in reality been pronounced in favour of Syedna Sulaiman bin Syedi Hasan but since with the Turks in Yemen, he was not in a position where this fact could have been revealed, Shaikh Daud, the mansus was placed in charge of the office, as a temporary measure. The letters written by Syedna Sulaiman were a part of this game of hoodwinking the enemy; the truth was recognized by both parties. In fact, during the preceding da'i's office, Shaikh Da'ud bin Qutub Shah had himself written letters bearing his seal which communicated the fact of nass-i-jali to Syedna Sulaiman. However, once in power, he had no wish to relinquish it and, when the time to do so came, he turned against his rightful master and attempted to prove himself the rightful claimant and Syedna Sulaiman, an imposter.

In this sectarian dispute it is very difficult to ascertain the truth as the claims made are a matter of belief for the respective followers and a historian is not concerned with the beliefs. The Sulaimanis' case appears a little weak in at least one respect : the Sulaimanis themselves accept that Shaikh Sulaiman had accepted Daud bin Qutub Shah as da'i for four years though for the sake of taqiyya. But this seems to be an afterthought. Similarly the Daudis base their entire case on the forging of the letter of nass (appointment) by Shaikh Sulaiman. It is they (i.e., the Daudis) who accuse and it is they who judge. It is best to steer clear of this controversy as such matters rest on belief rather than on historical veracity.

Thus the split became inevitable and the Shi'a Isma'ili Bohra community was further split in A.H. 1005 (A.D. 1597). The majority in India followed Daud bin Qutub Shah and were called Daubi Bohras whereas the followers of Shaikh Sulaiman remained in a small minority and were called the Sulaimanis. The community was split in Yaman also but it is difficult to say which side won the majority.

Now the sectarian fight started between the Daudis and the Sulaimanis. At that time Shahzada Murad was the subedar at Ahmedabad and one Sadiq Muhammad Khan - a prominent Mughal noble --was his ataliq (tutor). In the beginning the Mughals remained neutral in the dispute. But Jabir, whom Shaikh Sulaiman had sent to Gujarat from Yaman established contact with a city Mughal officer named Fateh Mujammad and through his help Ibrahim, who was the son of one of the slave-girls of Syedna Qutub Shah, filed a suit in the court of Subedar claiming eighteen lakhs of rupees (or one hundred and eight lakhs according to another version) as his share in the property. Many prominent Daudi's including the Sayyidna himself were imprisoned on this charge. The incarceration of the da'i spread panic among the Daudis but Sadiq Muhammad Khan helped and secured the release of the head of the Daudis. The Daudis, according to Misra, argued that since office was not hereditary among them and the da'i did not own the properties governed by him but held it in trust for his people, this claim of Ibrahim was false and fraudulent.

The dispute, however, did not come to an end. Relations between the two groups worsened and violent clashes took place in which one person was severally injured. Sadiq Muhammad again came to the rescue of the Daudis and threatened Ibrahim that his nose would be cut off unless he acknowledged the authority of Sayyidna Daud. Ibrahim at first

seems to have agreed but soon resiled from his position saying that he would do so if his preceptor Shaikh Sulaiman preceded him. The Daudis produced letters by Shaikh Sulaiman in which he had acknowledged Sayyidna Daud bin Qutub Shah as da'i (Shaikh Sulaiman, as mentioned about had accepted Daud bin Qutub Shah as da'i for the first four years) which impressed the Mughal officials, especially sadiq Myhammad Khan. However, further developments changed the whole course and Sayyidna Daud, anticipating trouble, had to go into hiding.

Shaikh Sulaiman, who had a taste of Turkish prisons in Yaman for some time, decided to come back to India. He arrived in A.H. 1003. Shaikh Sulaiman insisted on pressing the claim for the money suit filed in the court of the Gujarat Subedar by Ibrahim bin Daud. Both parties tried to court favour with one or an other official of the court and succeeded in getting one or the other imprisoned. But nothing decisive happened. At least Shaikh Sulaiman decided to take the matter to the court of the emperor who was then at Lahore. Shaikh Sulaiman sent Yusuf bin Shahji and Jabir bin al-Hadi to Lahore whereas Sayyidna Daud bin Qutub Shah deputed his would-be successor Shaikh Adam Safiyuddin, Maula Ali Muhammad and many other to represent his case. At Lahore Shaikh Adam Safiyuddin and some of his colleagues were arrested and tortured. With great difficulty they were released on personal surety given by a prominent citizen of Lahore.

After imprisoning Shaikh Adam and others a Mughal official called Kamal Khan was sent to Ahmedabad to bring other leaders of the Daudis to Ahmedabad. He reached Ahmedabad in A.H.1004 and cordoned off the Bohra muhalla. Many prominent Daudis were arrested and produced before Kamal Khan. According to the compiler of Mausam-i-Bahar Shaikh Sulaiman and Ibrahim bin Daud were sitting by

the side of Kamal Khan when these prisoners were brought before him. Kamal Khan asked Ibrahim whether all those required in the case had been arrested. Ibrahim said that the head of the community Daud bin Qutub Shah was still at large. According to Misra Emperor Akbar himself had desired Daud bin Qutub Shah's presence in his court. When Kamal Khan questioned the prisoners of the whereabouts of their head, they pretended ignorance. This engaged Kamal Khan who surrounded the muhalla and indulged, according to the Bohra riwayat, in wanton act of loot and savagery. This was a great calamity for the Bohras of Ahmedabad. At last Shaikh Adam Safiyuddin succeeded in contacting a Shia Irani noble Hakim Ali Gilani and on his personal assurance of safe conduct for the Sayyidna, he came to Ahmedabad and persuaded Daud bin Qutub Shah to come out of hiding. This brought great relief to the harassed Bohras. Sayyidna Daud and Shaikh Adam Safiyuddin then started for Lahore on Rajab 22, 1005 (March 11, 1599) and reached on Ramzan 7, 1005 (April 24, 1599). They stayed there for four days with Hakim Gilani and then proceeded to Kashmir as the emperor had gone there.

However, at this time there occurred an incident which changed the entire course of the dispute. On Ramzan 25, 1005 (May 12, 1599) Sulaimani developed severe stomach pains and died. The Sulaimani sources assert that the Daudi agents conspired to poison him. It is difficult to say anything with certainty. After Shaikh Sulaiman's death only Ibrahim bin Ajab Shah was left in the field to carry on the fight. Despite heavy odds, he decided to fight his battle alone and secured four months' time to produce his witnesses before the emperor. It should be clearly borne in mind that the case taken to the emperor's court was in respect of money claimed by Ibrahim and not for succession as commonly believed. During his stay

in Kashmir, Syyidna Daud was treated well by the Emperor Akbar. On one occasion he presented Sayyidna a Kashmiri Shawl. As the winter began-it was a rather harsh winter - the emperor left Kashmir hurriedly and constituted a tribunal consisting of Abdul Fazl, Khan-i Azam Aziz Koka, Hakim Ali Gilani and Amir Ghizai to try the case at Lahore, As the names of the members indicate, it was a high-powered tribunal indeed, which shows that the emperor attached great importance to this case.

The tribunal subsequently held its meetings at Lahore and the Bohra sources claim that Ibrahim bin Ajab Shah could not substantiate his claims and his case was dismissed. Unfortunately we do not have other independent sources of information as to what really happened at the meetings of the tribunal. Whatever might have happened the Sayyidna won the case and he waited on the emperor. The emperor granted a gold-lettered firman and allowed him to return Gujarat with due honour. The Bohra chief was not troubled thereafter during Akbar's reign. Only once, when Mirza Aziz Koka's son Shadman was the Subedar of Gujarat, Sayyidna Daud had to leave Ahmedabad for a short period. Akbar died in A.D. 1605 and this led to a change of governorship. Shaikh Farid who took over from Aziz Koka maintained cordial relations with Sayyidna Daud till the later's death on 13 August 1612. He was succeeded by his chief lieutenant Shiakh Adam Safiyuddin. His nine-year uneventful career as da'i came to end on 18 May 1612. He appointed Abdu'l Tayyab, Sayyidna Daud's son, as his successor.

After Abdu'l Tayyab took over, the community was faced with another split on the question of succession. Sayyidna Adam's grandson Ali was the claimant this time. In his claim Ali was supported by his paternal uncle and two others. Ali took the matter to the court of Jahangir in Lahore and is said to have cultivated relations with some

influential nobles in the Mughal court. Jahangir summoned Sayyidna Abdu'l Tayyab to Lahore to hear him in person. Sayyidna, according to the Bohra sources undertook the journey to the north. Jahangir decided the case in favour of Abdu'l Tayyab and on the emperor's recommendation he forgave Ali and both of them returned to Ahmedabad. However, according to the official Bohra sources, Ali did not honour his word and finally a small number of people owing allegiance to Ali seceded from the community. They are called Alia Bohras and are mainly confined to the city of Baroda in Gujarat. This split must have occurred around A.D. 1627 or 1628

Sayyidna Abdu'l Tayyab passed away on Rabi 1, 8, 1041 and was succeeded by Sayyidna Ali Shamsuddin bin Maulai Hasan. Ali Shamsuddin was a descendant of the nineteenth Yamani da'i Sayyidna Idris. Thus after a long time a Yamani was appointed to the high office of d'awa. However, he lived for one year after his appointment and died in A.H. 1042. He was succeeded by an Indian da'i called Sayyidna Qasim Zainuddin bin Pir Khan who was a descendant of an early martyr in the cause of d'awa Syedi Hasan Pir. Sayyidna Qasim Zainuddin's tenure was also peaceful. He died in Shawwal 9, 1054. (November 29, 1644). However, this spell of peace did not last very long. The appointment of Aurangzeb as the governor of Gujarat on April 27, 1645 did not augur well for the Daudis. His appointment, according to Satish Misra, "spelt the commencement of a fresh wave of persecution for the community." Again, according to Misra, "The main responsibility for this wanton religious interference which heralded the later events to come rests with 'Abdu'l Qawi, the Prince's mentor and close adviser. This person, ennobled in Aurangzeb's reign as I'timad Khan was, till his assassination in 1077/1666-67, very close to Aurangzeb and as the author of M'aasir-u'l-umara

remarks, he was very pompous and very bigoted. It was he who ordered the execution of Sarmad, a tragic event of Aurangzeb's reign.

Aurangzeb's appointment as the governor of Gujarat coincided with the appointment of Sayyidna Qutub Khan Qutubuddin bin Daud Burhanuddin bin Qutub Shah as the thirty-second da'i. Shi'a Isma'ili Bohras were a heterodox sect and this fact attracted the attention of Abdul Qawi when he arrived in Gujarat along with Aurangzeb. According to the author of *Mausam-i-Bahar*, Abdul Qawi convinced the prince Aurangzeb that the Bohras were heretics (rawafid) and their blood, according to the book of God, could be shed. Aurangzeb believed Abdul Qawi and issued orders to imprison their da'i Sayyidna Qutubuddin. The chief of the city police was Shah Beg who was a Shi'i himself. Abdul Qawi entrusted him with the task of imprisoning the Bohra da'i. He went to Sayyidna Qutubuddin and requested him to accompany him to Prince Aurangzeb's court. Sayyidna Qutubuddin who was very old and physically infirm accompanied Shah Beg along with his colleague Shuja'uddin. Shah Beg also took all the books - about six cartloads - belonging to the da'i into his custody. Both the distinguished prisoners were taken to Shah Beg's house awaiting further orders from the prince.

Abdul Qawi meanwhile asked the Sunni ulama to go through those books establish the charge of heterodoxy against the Bohra chief. However, they could not find any such matter till late in the night. The Bohras of Ahmedabad gathered in large numbers around Shah Beg's house hoping that their chief would be soon released. However, till late in the night there were no such signs and Shah Beg requested them to disperse. Sayyidna Qutubuddin was imprisoned on 25 Jamad I, 1056 and on 29 Jamad I was transferred to the central prison from Shah Beg's house. Despite his sympathy

for the Bohra da'i Shah Beg could not do much for him in view of the bigoted Abdul Qawi's pressure on him. Sayyidna Qutubuddin remained in the prison for about three weeks and was then ordered to appear before Aurangzeb to clearly state his religious beliefs. On being questioned by the prince Sayyidna said that he was a true Muslim and believed in all the basic tenets of Islam. Cross-examination by Abdul Qawi could not establish the charge and the prisoners were sent back to the prison till further orders by the prince. According to the Bohra riwayat, a minor son of the da'i was, by a fraudulent deal, made to say that his father was rafzi and that he believed in the Godhood of Ali ibn Abi Talib. After hearing this minor son, the Chief Qazi put his seal on the mahdar nama (the document vouching for the crime)/ It was presented before Aurangzeb who then gave order for beheading Sayyidna Qutubuddin on the charge of being rafzi. Thus Sayyidna Qutubuddin was killed on 27 Jamad II, 1056 (August 10, 1646). A night before his martyrdom, the Sayyidna had appointed his lieutenant Shujaudin as his successor in the presence of two prominent Bohras who were their co-prisoners.

After the execution of Sayyidna Qutubuddin his lieutenant Pir Khan Shuj'uddin and others remained imprisoned a general campaign of terror was launched against the Daudi Bohras. The Bohra women were forced to wear ivory bangles and men to smoke huqqa (both the things are prohibited among the Bohras) and trim their beards in the Mughal style. Sunni, pesh imams were appointed in the Bohra mosques to lead prayer. The Bohras once again resorted to taqiyya and came to the mosque for prayers after praying at home. Those who did not come to the mosque were publicly lashed. This campaign continued for about four months when Aurangzeb decided to leave Gujarat for the Deccan (according to Mausam-Bahar he was transferred by the emperor Shah Jahan when he learnt of the martyrdom of Sayyidna Qutubuddin

and the persecution of Bohras). Shaista Khan was given charge of Gujarat. He was no fanatic and stopped the harassment of Bohras and permitted them to follow their religion in their own way.

However, Sayyidna Pir Khan Shuja'uddin, the next Bohra da'i in succession remained prisoner of Aurangzeb who took him in handcuffs to Deccan. Sayyidna Shuja'uddin, anticipating the same fate as that of his predecessor, nominated Shaikh Isma'iliji Badruddin of Jamnagar as his successor. While in the Deccan Aurangzeb could not decide the fate of his Bohra Prisoners and took them along to Lahore. According to the Bohra sources Sayyidna Pir Khan, along with other Bohra prisoners, was kept in a small hut by the side of the royal stables. One day the stable was destroyed by fire killing many horses, but the hut by its side remained unaffected. When Aurangzeb came to inspect the fire ravaged stable, he happened to pass by the hut. Sayyidna Pir Khan and his followers stood up to greet the royal visitor. This probably impressed the prince and he ordered their immediate release and gave them costly presents alongwith horses to travel back to Gujarat. Sayyidna Pir Khan returned to Ahmedabad via Sironj, Dohad, Ujjain, Rampura and Udaipur in A.H. 1058 in the holy month of Ramadan.

Sayyidna Pir Khan's freedom did not last long. He was soon to be imprisoned by the deputy of Dara Shikoh, Ghairat Khan. Ghairat Khan took charge of the Gujarat province in A.H. 1058 (October 17, 1648). It was complained to him that the Bohras had collected Rs. 3 lakhs to secure the release of their da'i Qutubuddin but Aurangzeb refused to accept the sum and instead ordered his killing and the sum was then made over to his successor Pir Khan. For reasons not very clear Ghairat Khan demanded the sum to be deposited back into the state treasury but Sayyidna Pir Khan, denied knowledge of any such transaction. Ghairat Khan

thereupon imprisoned him. After waiting for a month Sayyidna Pir Khan sent his trusted man Ahmad to Agra to secure his release. Ahmad went to Agra and waited there for a month but without any result. He therefore returned empty-handed. Sayyidna Pir Khan was expecting some concrete result. When Ahmad went to see him in the prison without any letter of release from the emperor he lost his temper and rebuked him for having returned from Agra without achieving any result. Nevertheless, Sayyidna Pir Khan was released after a couple of months on receipt of an order from the emperor's court at Agra. But he did not forgive Ahmad, even after his release.

Ahmad, as the narrative of *Mausam-i-Bahar* shows, did not turn against the Bohra da'i right away. Though he was insulted and humiliated by Sayyidna Pir Khan while in prison, he sent two prominent Bohras namely Yusuf bin Chandji and Chand Miyan Abuji to Pir Khan Shuja'uddin for arranging reconciliation. He was even prepared to tender an apology though he does not seem to have been very much at fault or at least the author of *Mausam-i-Bahar* does not give any such indication. Sayyidna Pir Khan, however, firmly rejected this more on the part of Yusuf which virtually amounted to ex-communicating him. This brought about yet another split in the community. Ahmad took the position that the da'i has erred in this case and any da'i who commits such an error ought to be replaced by his ma'dhun. He, therefore, made some overtures to the nominee for the office of da'i Maulana Isma'il of Jamnagar, but seems to have failed as Maulana Isma'il remained loyal to Pir Khan. By saying that the da'i has erred, Ahmad raised the very fundamental question of whether a da'i can commit error. Some epistles were written to say that though a da'i can err in the period of zuhur i.e., when Imam is present before his followers a da'i in the period of star

i.e., when Imam is in seclusion cannot err as there is no Imam to correct his error and any error on the part of da'i can do harm to the cause of d'awa. Thus at the time of the challenge of hujumiya a new theory that a da'i in the period of seclusion is ka-m-'asum was evolved. This dogma of near infallibility had important repercussions later in the fight for reforms. It is obvious in this case that had Sayidna Pir Khan adopted a conciliatory attitude the community would not have split further. His obstinacy can hardly be justified.

Initially the Hujumiya group seems to have gathered some strength and Ahmad succeeded in obtaining the favour of Murad when he was the subedar of Gujarat and got the Sayyidna imprisoned once again. This time the sayyidna could regain his freedom only after spending a great deal of money. Sayyidna died on Zi'l-qada 9, 1065 (September 10, 1655) as a result of severe pain in the stomach. It was strongly suspected that it was the case of poisoning by his enemies. He was succeeded by Sayyidna Isma'ilji Badruddin bin Mulla Raj, the first Rajput da'i who traced his ancestry to Bharmal. The new da'i remained at Jamnagar. Sayyidna Isma'il made some efforts to win over the head of the Hujumiya sect Ahmad but did not succeed. The sect was active and created some trouble. Otherwise his period was unevenful. He passed away on 24 September, 1674 and was succeeded by his son Abdul Tayyab Zakiyuddin.

The lull in persecution of the community experience in the last days of the Sayyidna Isma'il was shortlived. Satish Misra says, "It was in his (Abdul Tayyab Zakiyuddin's) time that the impact of the new religious policy initiated by Aurangzeb, the foretaste of which had been given during his short governorship of Gujarat, was felt by the community. By now, the famous interdict of 1665 had virtually ended that age of toleration which despite occasional lapses had characterized the Mughal era. Besides, Jamnagar had been made khalsa, directly administered

territory, in 1663 and was no longer a safe haven.

It is really difficult to apportion blame between Aurangzeb and his Subedars. Misra rather oversimplifies the issue by throwing the entire blame on Aurangzeb whereas Mausam-i-Bahar, compiled by a Bohra author, is far more cautious in this respect. No doubt the bigoted Sunnis considered the Shi'a Isma'ili Bohras as rafdis i.e., those have turned away from the faith. But the persecutory measures were not directly inspired by the religious bigotry alone; there was more to it than meets our eyes in these books. Aurangzeb, though a strict follower of the orthodox Sunni faith, was not altogether intolerant of other faiths as he has been pictured in our history books. Above all he was a statesman and did not interfere with others' religion as far as possible. But the persecution of the Bohras is no myth. Although we cannot undertake any detailed analysis of this phenomenon here we will confine ourselves to a few remarks throwing some light on it. The Bohras, as we have seen above, had split into a number of sects mostly on the issue of succession. The rival groups tried to court favour with the Mughal officials. As there were some rich businessmen among them financial inducements to win over officers were by no means rare. Even the author of Mausam-i-Bahar admits in many cases that the officials were bribed either to secure the release of a da'i or to get the leader of the rival group arrested. The emperor or the governor did not always get the true picture. It is not quite improbable that they were presented with a distorted picture by the subordinate officials. We have seen in the case of Sayyidna Qutubuddin that the Qadi was refusing to sign the documents testifying the charge of reneging against the Bohras da'i and without it Aurangzeb would not agree to pass the death sentence. A son of Sayyidna Qutubuddin was then tutored to give false evidence to get the Qadis

signature. We have also seen than Sayyidna Pir Khan who succeeded Sayyidna Qutubuddin was Aurangzeb's prisoner for quite some time. But he did not execute him, and later released him costly presents when convinced of his innocence. A close scrutiny of the Bohra history of this period also shows that as: soon as the new governor or some influential official arrived the rival groups vied with each other to win his favour. Besides this, there were conflicting class interests at work. The Bohras belonged to the merchant class which was sought to be suppressed by the ruling feudal class by means of monetary exactions and heavy punitive taxes. This also seems to have played no mean role in this dispute which acquired religious overtones. Thus the persecution of the Bohras cannot ascribed to the religious bigotry of the ruler alone though it did play a role.

Sayyidna Isma'il Badruddin never visited Ahmedabad, Jamnagar being his headquarter. However, his son came over there by the end A.H. 1085 (A.D.1675). Sayyidna 'Abdul Tayyab remained there for a couple of years and all seemed well. In A.H. 1091 15 April, 1680, he held a public congregation to declare nass in favour of his son Musa Kalimuddin. But by about A.H. 1093 (A.D. 1682-83) complaints against the Sayyidna began to be made to the Subedar of Gujarat who ordered his arrest. Saiyyidna Zainuddin was forewarned and he secretly left Ahmedabad for Jamnagar. Unable to find the Bohra head, the Subedar's men imprisoned a number of prominent Bohras. These prisoners were sent to Aurangzeb who was then in Aurangabad. From the Bohra sources the reason for these arrests is not clear. But the auther of Mirat-i-Ahmadi, Ali Muhammad Khan gives us some inkling into it. Two retail cloth dealers Isa and Taj were reportedly collecting money to spread "false" religion and it was also brought to the notice of the emperor that one Khanji, a deputy of Sayyidna Qutubuddin who was executed had collected, along with twelve other, a sum of a lakh and fourteen thousand rupees

for the release of prisoners imprisoned by royal orders and that they were also busy spreading "false" religion. Satish Misra has pointed out that the author of Mirat-i-Ahmadi ascribes these events to A.H. 1115 (A.D. 1705) while the Bohra riwayatats relate them to A.H. 1093 (A.D.1682-83) when Sayyidna 'Abdul Tayyab left Ahmedabad in face of the threat of his arrest.

A new wave of persecution started. Orders were given banning a number of "objectionable" practices. Visits to tombs, observing of Id according to the Misri Calendar instead of the usual Muslim practice of sighting the moon etc., were prohibited. Thus the Bohras were compelled to observe a fast even on Id. The ten-day mourning assemblies in the month of Muharram were also banned both at homes as well as in public places. According to the Bohra source Sunni pesh Imams were appointed in the Bohra mosques once again and the absentees were punished by flogging. Even the funeral prayers were conducted by the Sunni pesh Imams. The community once again resorted to taqqiya in the face of these inquisitional regulations.

Abdul Tayyab Zainuddin was forced to leave the town of Jamnagar fearing arrest and moved to Khambhalia, the capital of the Jadeja ruler of Jamnagar. he lived here during the period of trial through which his followers were passing. Later on he seems to have moved back to Jamnagar where he died in A.H. 1110 (A.D.1699). He was succeeded by Musa Kalimuddin. He saw the last decade of the Alamgiri era. For reasons unknown he displeased the Jadeja ruler of Jamnagar who arrested his son and successor Syedi Nur Muhammad. During his father's tenure da'i Syedi Muhammad spent most of his time in detention and was released only on payment of three lakhs of the Mahmudi coins -- a coin which was current in that part of Gujarat. The imprisonment of his son seems to have affected the Sayyidna very deeply and

he is said to have passed away the day after his son was released i.e., on Rab I, 22, 1123 (May 21, 1710).

Sayyidna Nur Muhammad Nuruddin lived for about eight years and died in Rajab A.H.1130 (May 1718). He was succeeded by his cousin and brother-in-law Sayyidna Isma'ilji Badruddin bin Shaikh Adam Safiyyuddin. In view of pressure from the Jam of Jamnagar he moved his headquarters to Anjar in Kutch. Sayyidna Isma'il was known for his generosity and hospitality. He was very liberal towards the poor students for whom he did everything to help them acquire knowledge. He enforced the tradition of 10 mourning assemblies in the month of Muharram and is also said to have issued orders not to arrange communal dinners without the permission of the da'i as it entailed ruinous expenditure, often for those who were unable to bear it. He also made it compulsory to read a chapter of the Koran after the morning prayer everyday. The most notable thing of his period is that the Hujumiyans who had split from the community at the time of Sayyidna Pir Khan Shujauddin returned to the fold. Their da'i Latif Bhai submitted to the Ma'zun and was made a Shaikh. He refused to go to Ahmedabad when invited by the Bohras of that town, saying that it would entail wasteful expenditure for the poor Bohras of Ahmedabad and moreover there he would not be able to devote much time to studying and dissemination of knowledge. In Mundra, Kutch, he appointed Syedi Wajihuddin bin Syedi Abdul Kadar Hakimuddin. He then moved to Nawanagar (i.e. Jamnagar) where he died on Muharram 7, 1150.

Syedi Abdul Qadar Hakimuddin, it is important to note, was an influential person in Malwa. He was widely respected and had been elevated to the position of ma'dhun ad-d'awa and would have certainly become da'i had he lived longer. Due to his early death in Burhanpur in A.D. 1730, Ibrahim

Wajihuddin was appointed the next da'i. Ibrahim Wajihuddin was at Ujjain when he received the testament of his predecessor. He made Ujjain his headquarters. It was for the first time that that headquarters of the Fatimi d'awa in India were shifted to Malwa - a region outside Gujarat. There is a considerable population of the Daudi Bohras in this region even today.

While appointing Sayyidna Ibrahim Wajihuddin as the next da'i it was also made very clear in the testament that the d'awa will return to Shaikh Adam Safiyuddin. Sayyidna Wajihuddin therefore, arranged matches between his family and that of the late Sayyidna to strengthen his position in the d'awa. He married his daughter to Abd-i-Musa, and his son's daughter to Syedi Abdul Tayyab both sons of Sayyidna Isma'il, the marriages having taken place in A.H.1150, soon after his accession. Ten years later Shaikh Safiyuddin died and he married his widow to his son Hibatullah al-Mu'yyad. Even with this preparation the nass could not be announced in favour of his son without the claim of "divine inspiration."

The unsettled period in the eighteenth century made the central government weak and consequently the petty provincial rulers became more powerful. The Bohras who constituted the trading community attracted the attention of these petty rulers who needed more and more money for upholding their feudal glory. The Bohras, therefore, very often had to pay through their nose to these petty princes or the provincial rulers. More often than not, it used to be the case of a conflict between the feudal and mercantile classes. Very often the Bohras had to pay the demanded sum by the ruler or else had to face public humiliation or imprisonment. In Ujjain as well as Rampura the Sayyidna and his son had to face the wrath of the respective rulers and, therefore, Sayyidna Ibrahim Wajihuddin and Hibatullah al-Mu'yyad had to bide their time in Burhanpur till the beginning of the year A.H. 1158

(February, 1745). Buhranpur during this period became one of the important centres of the community.

Such a conflict between the Bohra traders and the ruling dynasty arose in Surat also. The Nawab caste his covetous glances over the wealth of the community. The Sayyidna was arrested and released on payment of a security deposit of one lac rupees. The Sayyidna left the city before the matter was aggravated further. The Hibtia sect came into existence at this juncture. Its founders were Shaikh Isma'il and his son Shaikh Hibatullah. It is interesting to know that the Hibtia claim was based on the fact that the Imam had contacted Shaikh Isma'il and his son and had appointed Shaikh Isma'il as da'i al-balagh, a position which was above that of da'i ai-mutlaq. Shaikh Isma'il, succeeded in gathering some followers. Sayyidna Hibatullah had to make efforts to conciliate his namesake and bring him back to the fold but without any success. The fanatic followers of Sayyidna Hibatullah later cut the nose of Hibatullah, but his father, Shaikh Isma'il managed to escape. Hibatullah, even claimed that he was appointed as the highest functionary in the Isma'ili da'wa next to the Imam and that he had married the daughter of the Imam. The Sayyidna had to make tours to dissuade people from accepting such claims and he largely succeeded.

But it must be said to the credit to Shaikh Isma'il and his son Hibatullah that they were great scholars and it is they who compiled an extremely useful bibliographical catalogue of the Isma'ili books called the Fihrist al-Majdu. It was on this basis that Ivanow prepared his Guide to Isma'ili Literature. Sayyidna Hibatullah was compelled to undertake tours to counteract the propaganda of his rivals. He went as far as Aurangabad but had to leave that city as the local official became covetous of his wealth. For some reasons, not

very clear, there was a fight between the two groups of Bohras in Ujjain. He returned to the town but did not stay there very long. Sayyidna, during his tours went to Surat in 1772 (A.H. 1186). Surat was by then under British control. He stayed there for three years and his representatives contacted the British headquarters at Bombay for the Sayyidna's safe conduct. From now on Surat began to acquire importance as the centre of the d'awa.

After his three-year stay in Surat Sayyidna Hibatullah again undertook a tour of Gujarat before returning to Ujjain. After facing some trouble in Ujjain he went to Rampura and Sironj. He died on Sh'aban, 1, 1993 Sayyidna Hibatullah had dynamic personality and devoted his energies towards organizing the community and consolidating his position. Satish Misra rightly observe: "Sayedna Hibt-u'l-lah was an accomplished man, among other things an Urdu poet. His career bridged an important transition period during which he gave to his people an able guidance. His defence against the Hibt-u'l-lah attack protected the community from a serious secession, and from the Bohra accounts, both the leading figures in this movement appear to have been men of considerable ability. His political relations were equally consummate; with the Mughal Emperor, Shah 'Alam from whom he received a farman for the Qaziship of Ujjain, with Peshwa Madhav Rao and Nana Phadnavis whom he visited in Poona, with Mahadaji Sindhia and the Holkar rulers of Indore and finally with the British who by this time had come to control sough Gujarat - with all these powers, generally at loggerheads with each other - he maintained cordial relationships.

Now Sayyidna Abdul Tayyab Zakiuddin, the son-in-law of Sayyidna Hibatullah took charge as the next da'i. He belonged to the Rajput dynasty of Gujarat and shifted the head quarters of the

dawa back to Jamnagar although he died in Burhanpur. He remained mostly in Gujarat. He left for Burhanpur in A.H. 1199 (A.D. 1785) and passed away there on Safar 2,2100. His son Muhammad Yusuf Najmuddin, 23, succeeded him. Probably on account of the British influence over Surat, he shifted his head quarters to that town. He subsequently went to Burhanpur and got his brother, who succeeded him later, married to the sister of Main Saheb Jiwanjee of Aurangabad whose family gradually acquired more importance. He then toured Malwa and returned to Surat where he built a palatial house for himself. However, he did not live very long and passed away in A.H. 1213 (A.D. 1798)!

Sayyidna Abde-ali Saifuddin who succeeded him is another important personality among the Indian da'is. He was also very young when he assumed office. An year after his accession two of his wives passed away and later, in A.H. 1217 (A.D. 1803), his brother Syedi Abdul Qadir Hakimuddin. He was also faced with other troubles like a widespread fire in Bombay affecting many Bohras, tension in Rampura and political troubles in Ratangarh, Malwa. This was followed by the flood in the Tapti at Surat and then famine in 1805 in northern Saurashtra. The Sayyidna did his best to help the afflicted on both occasions.

Abde-ali Saifuddin was a majestic figure. He brought many reforms in the community. He is said to have banned public wailing and breast-beating in Muharram although he made it compulsory to attend the sermons during the first ten days of that month, it was he who founded the seminary at Surat for training mullahs and imparting higher religious education for the Bohras. It was called dars and is now known as Jami'a Saifiyya. He also died comparatively young in A.H. 1232 (A.D. 1817). Sayyidna Abde-ali Saifuddin's regime saw further

consolidation of the British power in India and an end to persecution of the community.

Now Shaikh Jiwanji's son Muhammad Izzuddin of Aurangabad became the next da'i. He was Abde-ali Saifuddin's wife's brother although very Junior in the heirarchy of the d'awa. Anticipating some trouble his nomination was kept secret for the time being. Like his two predecessors, his life was also short. He succeeded at the age of twentynine and died in A. H. 1236 (A. D. 1821) at the age of 34. Before his death he nominated his elder brother Sayyidna Tayyab Zainuddin as his successor. Sayyidna Zainuddin had to face a serious of troubles immediately after his succession. First there was an unprecedented flood in Surat which remained alive in the memory of the people for years to come. Then Sayyidna Tayyab Zainuddin visited Mandasore in 1240. There, a scuffle issued between the Bohras and other Muslims. According to the Bohras sources the trouble was started by a Muslim Maulavi Ramzan Ali. The Arabs sided with the Bohras and one Muslim was killed in the scuffle. This worsened the situation and the house in which Sayyidna Tayyab Zainuddin was staying was surrounded and fired at. Rioting followed in which a number of Bohras and other were killed and the situation was brought under control with the help of white regiment requisitioned from Neemuch. Uneasy peace prevailed for some time, then the situation flared up again causing many deaths.

Sayyidna Zainuddin left Mandasore in A.D. 1825 and proceeded towards Indore and then to Ujjain which he reached on 8 June 1825. One Mazhar Ali incited the Muslims in Ujjain and called for the vengeance of Ramzan Ali who was killed in Mandasore. Again troops had to be called out to control the situation. Due to the advent of the British the Bohras not only won more security and peace, they also became more prosperous with the increased volume of trade. Thus, like of

other trading communities, the Bohras also welcomed the British whereas the artisans and the masses of people resented the foreign rule. The advent of the British rule had other repercussions which we will discuss in the the next chapter. Increased prosperity encouraged ostentation in marriages and other similar functions causing embarrassment to the less fortunate. Sayyidna Zainuddin preached against ostentation and his daughter's marriage was extremely simple, thus setting an example. In A.H. 1249 (A.D. 1833), the Sayyidna who had now returned to Surat nominated his son-in-law Muhammad Badruddin as his successor. The latter belonged to the Rajput dynasty. A few years after this the Sayyidna fell sick and passed away in A.H. 1252(A.D.1837).

Sayyidna Badruddin was the son of Sayyidna Abde Saifuddin and was the last of the Rajput da'is. He was just 26 when he succeeded as da'is and 30 when he died in August 1840. His death was so sudden that poisoning was strongly suspected. The author of *Mausam-i-Bahar* says that fine ground diamond powder, along with piles, was the cause of his death. In a special issue of *Dawn*, Karach, published at the time of Sayyidna Taher Saifuddin's visit to that city, his son Yusuf Najmuddin had written an article in which he admitted that Sayyidna Muhammad Badruddin was poisoned. The article says: "Unfortunately, the only son of Sayyidna Abde-ali Saifuddin, Sayyidna Muhammad Burhanuddin died on account of poisoning at a young age and with him ended the Rajput dynasty of Gujarat." Later on, all efforts were made by the present dynasty of da'is to suppress the story of poisoning. It was for this reason that the famous source book on the history of the da'is was also proscribed. The notice of poisoning Sayyidna Muhammad Burhanuddin is not clear but it is alleged by some knowledgeable ulama in the community that the Sayyidna was poisoned as he was not likely to nominate a particular person as his successor.

After the tragic death of Sayyidna Muhammad Badruddin the one who succeeded him was Sayyidna Abdul Qadar Najmuddin. He was son of the forty-fifth da'i and great-grandfather of the present da'i Sayyidna Muhammad Burhanuddin. Most of the Bohras accepted him as the legitimate successor but among the ulama around him the question of clear pronouncement of nass in his favour was disputed and has not been resolved till now. Some people firmly believe that the forty-seventh, Sayyidna Abdul Qadar Najmuddin was not validly appointed. At best they accept him as the nazim da'i i.e., charge de affaires. But the majority of the Bohras, as pointed out above, was not much concerned as to whether nass was properly proclaimed or not. They were more concerned with having a religious head who anyway they got. Thus Abdul Qadar Najmuddin, de facto or de jure became the head of the community, the ulama's opposition notwithstanding. It is also alleged that some ulama were bribed or coerced into accepting the legitimacy of Abdul Qadar Najmuddin as a da'i. Perhaps it was on account of this that it was alleged in some circle that his (i.e., Abdul Qadar Najmuddin's) accession was actually the handiwork of four Shaikhs who certified his right to the office of da'i. Nevertheless, some ulama remained firmly opposed to the claim of nass and it was for his reason that the trial judge in the Burhanpur Dargah case was constrained to remark " that it was taken almost as an accepted fact among the prominent learned men of the time that Najmuddin Saheb had no nass and he was a da'i for administrative purposes only. "

Some conscientious Shaikhs were in real dilemma as, for them unambiguous declaration of nass in favour of a successor was a religious obligation. An alternative in the form of a Grand Council of the Learned (Hilful Fada'il) was tried, but failed. The institution of da'i was too well entrenched

to be displaced so easily. Many traditional ulama seriously entertained the possibility of the appearance of the Imam, as the chain of da'is sustained so long by duly proclaimed nass had been cut off. Even some letters purported to have been written by the Imam appeared mysteriously, further confounding the confused. A party of ulama set out towards Arabia in search of the Imam. The Turkish rulers of Arabia suspected them to be foreign spies and released them with great difficulty. However, nothing came of this venture which had to be abandoned.

Despite all this Sayyidna Abdul Qadar Najmuddin's position was not very seriously affected. He continued to be in the saddle for nearly forty-five years. But he paid a price for this. The position of mashaikhs was virtually devalued as the ordinary people were welcomed to the fold without any formal qualification provided they remained loyal to the da'i. The annual grant for the religious academy at Surat was reduced as then it was becoming the hot-bed of intrigues. The ulama till then had enjoyed a good status in the Bohra society and were comparatively more free. They could perform the rituals on these occasions without any restraint from the ruling da'i. The new mashaikh were the Sayyidna's creation and thus were more dependent on him. Slowly more and more restraints on the functioning of these mashaikh were put in order to better control them. The controversy about the nass never completely died down. It brought about another split in the community.

Due to these dissensions the position of the da'i was weakened and his authority seriously eroded. The author of *Mausam-i-Bahar* tells us that the people around the Sayyidna were not sincere. They were after the wordly possessions and all their actions were motivated by greed.

No one cared for the da'i and his religious sanctity. The forty-seventh da'i also faced considerable financial difficulties which, in fact, had begun from his predecessor's time. Sayyidna Abdul Qadar Najmuddin passed away on Rajab 26, 1302 (May 11, 1885). He was succeeded by Sayyidna Abdul Husain Husamuddin. His tenure was no less dogged by financial troubles. As the da'i's authority had been weakened it became more and more difficult for him to collect money to meet his expenses. It is said that the sons of Sayyidna Abdul Qadar Najmuddin had divided different areas among themselves establishing their right to collect money from their respective "fiefs." This right they were not ready to surrender. They enjoyed a considerable degree of freedom. Syedi Burhanuddin, who later succeeded his uncle, was the Amil of Bombay which was a very fruitful area from the point of view of collecting money, it being the centre of coastal trade. In 1886 the Sayyidna visited Bombay and appealed to his nephew to relieve the pressure of debt on d'awa but the latter refused to oblige and the Sayyidna left Bombay much disheartened. Sayyidna Husamuddin's reign was notable for two things: he persuaded his followers to construct rest houses (musafir khanas) at various centres of pilgrimage thus enabling the Daudi Bohras to have better rapport with their fellow religionists. Secondly he campaigned against superstitious beliefs in ghosts, vampires etc., which commonly prevailed at that time. Sayyidna Husamuddin died in Ahmedabad in A. H. 1308 (A. D. 1891).

Now his nephew Sayyidna Burhanuddin took over as the next da'i. He too had to face stiff opposition. His own younger brother Abdullah Hakimuddin was among the ranks of the opposition. The Sayyidna tried to patch up with him. It is said that in order to conciliate him, he conceded to his brother, that he was a caretaker da'i.

During the Burhanpur case the plaintiff had filed the photocopies of the declaration which was allegedly made by Sayyidna Burhanuddin to his brother that he was not a Da'i-u'l mutalq and that he was only managing the affairs of the d'awa as a caretaker. Isma'il Poonawala also says: "Muhammad Burhan al-Din, the forty-ninth da'i and the son of 'Abd Al-Qadir Najm al-Din, succumbed to the opposition and acknowledged in a document that he and his two predecessors were merely caretakers of the community."

The financial troubles continued and were even further aggravated. The Sayyidna was heavily indebted. Two Hindu mahajans and one of his own Amils filed suits in the court of the first class Judge at Surat. The Amil Shaikh Abdul Tayyab Shaikh Abdul Husain claimed Rs. 56,680 including interest. The case was settled and Sayyidna Burhanuddin agreed to pay Rs. 54,000 along with interest along with interest in 12 instalments from his personal income as well as from the d'awat account. The Sayyidna later on drew up a Dastur al-amal (a constitution) which was promulgated at Dhoraji in a conference held there at the instance of the famous Bohra industrialist Sir Adamjee Peerbhoy on Shawwal 26, 1216 (March 9, 1899). This was done with a view to abolish certain undesirable customs. to simplify the procedure for marriages etc., and to put restrictions on excessive powers enjoyed by the local functionaries. It was also made obligatory for Amils to remit part of their collections to the centre (earlier the entire amount was retained by the Amils). This was perhaps the beginning of a process which resulted gradually in monopolizing all powers in the hands of the da'i, completely throttling the freedom of his followers.

Sayyidna Burhanuddin appointed his cousin Abdullah Bardruddin as his successor after returning from hajj, before he passed away on 22 February 1906. As indicated earlier, the dispute about nass after the forty-sixth da'i brought about another split in the community in the period of Sayyidna Muhammad Burhanuddin. A new sect called the Mehdiabagh sect came into existence with its headquarters at Nagpur. Its founder was a highly talented young man called Abdul Husain bin Jiwaji of Kapad/wanj. He had a shop in Bombay but later shifted to Nagpur. Maulana Abdul Husain (as he came to be called now) claimed that he was in direct communication with the Imam and that he had been appointed as hujjat-an office which is much higher in the hierarchy of the Isma'ili d'awa. The author of Gulzare-Daudi Mulla Abdul Husain says: ".Some learned young Mashaikhs also joined the Mehdiabagh party for motives well known to them. Their example was followed by several rich and enterprising merchants. Abdul Husain started a separate colony at Mehdiabagh at Nagpur.

Maulana Abdul Husain appointed as his successor one Ghulam Husain (Khan Bahadur H.H. Malik). Maulana Ghulam Husain took over in 1903 and remained head till 1922. Maulana Ibrahim Raza Saheb became head in 1922 and continued till 1956 when Maulana Hasan Nurani succeeded him in the high office. It is interesting to note that this small sect believes that the Daur al-Kashf has begun and it is no longer necessary to observe the manifest practices of shari'a. What is needed, according to the followers of this sect, is to understand the hidden (batini) meaning of prayer, fasting, hajj, zakat and the Koranic verses. Thus, like other Bohras or Muslims, the followers of this sect do not pray or undertake fasts during the holy month of Ramadan or perform hajj. They also reckon their era from the time when the light dawned on Maulana Malika Saheb and with

this the period of zahur begins. Of their era it is the ninetieth year. However, in all other respects its followers are like other Bohras. Their number, according to one source, does not exceed 1,000, many of whom live in Nagpur and Bombay.

Coming back to the Bohra da'is what we saw earlier was that Sayyidna Abdullah Badruddin succeeded Sayyidna Muhammad Burhanddin. However, the fiftieth da'i's term lasted only for seven years. During his short term, he initiated reforms to improve functioning of the d'awa and local administration. He further curtailed the powers of Amils. He also brought under check the liberal distribution of titles as done by his predecessor (and was again revived by his successor Sayyidna Tahir Saifuddin). He awarded these religious titles strictly on the basis of knowledge and learning as was the standard of teaching at the seminary at Surat. It was during his time that serious trouble broke out between the Bohras and other Muslims in Bhopal resulting in the flight of many Bohras from there. However, it was during the early period of his successor Tahir Saifuddin that a decision about that case was made, which made him (i.e., Saifuddin) unpopular among the Bohras of Bhopal. Sayyidna Abdullah Badruddin died of heart trouble in A.H. 1333 (A.D. 1915). Before his death he had nominated his nephew Tahir Saifuddin as his successor, his elder nephew Syedi Tayyab Zainuddin having declined to accept the office. Tahir Saifuddin remained in the saddle until his death in 1965. He was followed by his son Muhammad Burhanuddin who has been the da'i since then. He could not measure up to the challenge posed by the reformists. Rather than grappling with the issue, he resorted to crude persecution thus further aggravating the problem.

REFORM AND SOCIAL CHANGE AMONG THE BOHRAS

Asghar Ali Engineer

Change is always painful, specially if what involved is faith, intellectual beliefs and traditions. One more aggravating factor is added, if I may say so, if the group or Community undergoing, or required to undergo - and the Bohras fall under the later category - happens to be closely-knit and dominated by religious hierarchy with the pretensions of being the sole-interpreter of the tradition and faith. There is one more factor to be considered: change need not necessarily involve a forward or progressive thrust; it may be retrogressive or confined within the sphere of orthodoxy. Modernisation, on the other hand, is progressive adjustment to or creative assimilation of the changes brought about by the on-going social and economic forces in the society as a result of changes in the techniques of production, both material as well as spiritual, the later involving the changes in the intellectual beliefs.

The Bohra Ulama who challenged the succession of Abdul Qadir Najmuddin, the 47th Dai (religious head) to the high office in 1840, acted though unwittingly, to introduce ripples of change within the set-compass of doctrinal orthodoxy. The challenge, though sought to be quietened by liberal distribution of titles and similar other inducements, created tension was leading to change. However, the process of modernisation was set into action only later by the precursors of education movement within the Community at Burhanpur. The then high priest countered the challenge by ex-communicating the agents of modernisation, ostensibly to preserve the sanctity of tradition. More about it later.

Description of the Community:-

The Dawoodi Bohras are a Shi'a Isma'ili sect numbering over a million today. The breeding ground for this dissident sect was non-Arab territories of what was once Babylonia, Assyria and a few areas of Persia, besides Yemen in the South of the Arabian Peninsula - the homeland of the Islamic orthodoxy. Except few Arabs of the Yemenite stock the Bohras are of Indian origin conversion in India having taken place in twelfth and thirteenth centuries. Those converted mainly pursued commerce and trade (Gujarat vyahwar and hence a derivative vohra which is pronounced as Bohra in Hindi meaning one who pursues the avocation of commerce) and still it continues to be their chief avocation. Originally of the Indian stock they are also found in the countries of East Africa (mainly Madagascar, Kenya, Tanzania etc.) Middle East, Ceylon, Bangkok, Singapore, Pakistan, U.K., The U.S.A. and Canada.

Except those of Yemenite stock whose number does not exceed a few thousand, all other Bohras speak chiefly Gujarati; like the Yiddish of the European Jewry, the Bohras have also evolved highly Arabicised Gujarati used for religious discourses (although their liturgy is mainly in Arabic). Also, being a community of petty traders it is highly tradition bound and conservative and have tradition inspired| weltanschauung. Though highly Islamised as compared to the other Isma'ili sects like the Khojas, the Bohras have retained much from the native Indian culture. Some elements of Hindu philosophy and mythology have also found some place in thier religious lore. One of the Saint-poets of the Bohras Syedi Sadiq Ali Saheb has even expounded through his didactic poetry a revised version of the theory of transmigration of soul. Their customs have imbibed much from

the native soil. The religious heads over the centuries, not only protected their sense of identity, but also imparted to followers an intense religious feeling.

Since the Bohras were a persecuted lot—they were, more often than not, intensely persecuted by the Sunni rulers of Gujarat who saw in them a heretic *rafzi* sect — they found their security in clinging to the centre. Thus they developed a strong centripetal tendency and a psychological aversion to any centrifugal one. In the circumstances, it was quite natural for the community to evolve such a closely-knit structure as it exists today. Over the centuries of persecution, high priests not only remained a focal point of religious authority, but also, as father figures, provided a sense of security to the community.

However, with the advent of British power things began to change. The community heaved a sigh of relief from the sense of external persecution. Apart from the religious persecution the community had also of late greatly suffered at the hands of the petty rulers and feudal lords who arbitrarily exacted large sums of money from the traders. Under the British, initially at least, the trading communities not only benefited from the expanding overseas commerce but also experienced relative freedom to carry on their trade under the 'rule of law'. Under the petty long period of chaos and anarchy as a result of unending feuds between the petty rulers, the British rule provided a sense of relief for the trading communities along the west coast.

The Bohras too now enjoyed greater prosperity and religious freedom. The sense of external danger receded giving rise to greater sense of confidence among the individual members of

the community. Thus the individual felt stronger vis-a-vis the community. This led to generating centrifugal tendencies. Cohn has observe in the case of Thakurs:

With the coming of the British... the basis of the solidarity of the group was cut away; they no longer had to co-operate from fear of outside subjugation....?

This, as noted by Theodore Wright Jr. also applies equally well to the Dawoodi Bohras. At the turn of the twentieth century some prominent Bohras of Burhanpur sought to establish a modern educational institution though it involved the risk of earning the displeasure of the Chief Pontiff. The Pontiff was not in favour of permitting modern education as he feared - perhaps rightly so - such a course would lead to dilution of his authority as well as religious orthodoxy. But, inspired by the modern western thought, these individuals strove very hard to establish the educational institution of their dream. Thus the process of modernization led to tension within the community. The process of modernization and change, it must be noted, leads to weakening of traditional authority and emergence of new power centres. This in other words, leads to struggle for power which is usually waged in ideological terms namely need to preserve tradition sanctioned by religion vis-a-vis to usher in a modern scientific outlook.

When the 51st pontiff succeeded to the high office, he sought to assert his authority by crushing the modernist opposition. He aggressively used the weapon of ex-communication to discipline his opponets: However, greater prosperity and economic resources induced sense of individual autonomy and human dignity and spread of western

education further strengthened these tendencies. The individual, in the western value-system, is the core and measure of all values. Thus many individuals came forward from among the Bohras to contest the authority of the high priest. Law suits were filed in the British courts to compel the pontiff to honour the 'rule of law'. This meant eroding his traditional authority. Thus the process of change led to great tensions within the community.

The Pontiff was very shrewd. To counter the elitist challenge he vigorously strengthened his authority among the backward and illiterate Bohras masses who were mainly petty traders as pointed out earlier. He pretended to possess powers not claimed earlier by other Dais by re-interpreting the Koranic verses. He made ingenious use of **t'awil** (esoteric meaning of Koran which forms an integral part of the Shi'a Isma'ili faith, unlike other Muslims) to claim powers for himself what are ascribed to the prophet, his executor (wasi) 'Ali and the Imams from the progeny of 'Ali'. Such claims passed muster among the Bohras as traditionally they have been having great respect for the authority.

This strategy coupled with his determined bid to crush opposition by the use of the weapon of ex-communication paid him rich dividends. Soon the ranks of opposition began to deplete and many individuals among whom were prominent businessmen as well as legal luminaries and other eminent professionals apologised to the high priest and withdrew from the movement for reforms. What had begun as a great challenge to the high priest ended in a meek opposition by a few isolated families. The modernised elite -- this needs to be emphasised here - championing the cause of individual dignity, liberal thinking and democratic functioning failed to carry the

Bohra masses with it. Used to authoritarianism for long, the backward masses of the Bohra community responded far more vigorously to reinjection of orthodoxy and greater degree of authoritarianism. Modernization, with all its attendant thought structure, it seems, was not the felt need or the desideratum of the community at that stage. It was for this reason that despite the final victory in the court case, the Adumjee family remained isolated in the community.

The Chief Pontiff making clever use of the doctrine of esoteric teachings not only successfully claimed extra ordinary powers for himself, he also began ruthless exaction of taxes (both sanctioned traditionally as well as some levies introduced by him) and amassing wealth. Rejecting the doctrine of accountability he claimed as the sole trustee and the only master with whom all the powers have been vested. Also, he made clever use of his newly acquired power of the purse to buy political influence. He made strategic donations in the thirties to win over some Muslim politicians in his fight against the reformist challenge. The reform leaders could have hardly matched the resources of the high priest as they had to fall back on their own limited personal resources. The strategy is still being followed with a degree of success by the Pontiff and his family.

Post Partition Phase :

The Pontiff had stood by the Muslim League on the eve of partition and paid a little price for it immediately after it. The Congress Ministry headed by the late B. G. Kher in the then Bombay State passed a bill preventing ex-communication. The Act (prevention of Ex-Communication Act) was challenged by the Pontiff in the Bombay High Court unsuccessfully but later successfully

in the Supreme Court which struck it down on a technical ground by majority judgement Chief Justice Sinha, however, wrote a dissenting judgement upholding the Act. However, the high priest lost his privilege to use the power of ex-communication arbitrarily as a rigorous procedure for the same was prescribed by the court in the interest of natural justice and also the scope of ex-communication was confined to religious dissent only.

However, the high priest lost no time in building up his bridges with the new national leadership. Donations and superior organizational skill -- demonstrating his command over the Bohra votes -- once again stood him in good stead. The student of modernization have to reckon with the fact that the political democracy in a backward situation can be highly successfully manoeuvred by the well-organised and powerful vested interest for their own ends. The Bohra priesthood had the shrewdness to exploit this situation to its maximum advantage. The Pontiff, through some Muslim leaders, established political contacts with Nehru and in turn exploited this contact at the highest level to consolidate his position within the community. There is another contradiction which must be taken note of by the perceptive students of modernization and social change in India. The Bohra Pontiff, in order to win support of the political leadership, swore by secularism and democracy but ironically enough, denied his community the benefits of these modern concepts. Within the community, he enforced strict orthodoxy (within this frame he refused to entertain the idea of separation between the religious and secular authorities advocated by the reformists) and regimentation frustrating any attempts at introduction of democratic reforms. Thus it is one of the most successful attempts of

manoeuvring external democracy in a backward country in order to frustrate internal democracy within a backward community. Perhaps these are a hazards of making democracy functional in backward situation **dominated by powerful vested interest.**

Role of Muslim Politics

To win prestige among the Muslims in India the Bohra Pontiff, in mid-fifties, announced, what could be described as the most strategic donation to the Aligarh Muslim University and won its coveted chancellorship. This proved to be a well-calculated step to boost his position in Muslim politics in India. This brought him in intimate contact with the eminent Muslim leaders two of whom later rose to the august position of President of India. These contacts have been of immense help to him in meeting the challenge of reform leaders. These leaders have exercised subtle or open pressures on the Government not to take any step against the Pontiff although there is strong public opinion in favour of doing so.

The present Pontiff (52nd in succession) advised by his brother and political adviser Y. Najmuddin, has sought to forge much closer alliance with Muslim politics in India. He has even sought, although not with much success, to exploit the Islamic fundamentalism to his advantage. We will throw more light on it later. First we shall deal with the Muslim politics as it is being harnessed by the Bohra priesthood to thwart attempts at social reforms within the community. The fact that the Muslim leaders are themselves striving hard to oppose any change or reforms has greatly helped the Bohra high priest.

The substantial issues of Muslim politics in India today are three : (1) that the government should not interfere with the Muslim personal law or, in other words, the Shariat Act of 1937 as enacted by the British Government should be perpetuated. This clearly implies that the laws pertaining to Muslim marriage, divorce or inheritance should not be changed.

(2) that the Status of Aligarh Muslim University as a minority institution should be statutorily recognised and (3) that Urdu be given its rightful place in those states where there are sizeable number of people speaking that language.

As far as Indian Muslims are concerned these are highly emotional and identity-bearing issues. In the present situation - which has been creation of Muslim politician themselves - no Muslim politician can climb up the political ladder ignoring the potential of these issues. Which in other words means that in the present socio-political milieu no one aspiring to assume leadership of the Muslims can talk of any social change or reformation even within the Islamic frame-work. Not only that, no Muslim leader is prepared to seriously consider proposals to stop misuse of various provisions of the Shariat Law as it operates in India strictly in the spirit in which it was revealed by the law-giver.

We have thrown some light on these issues as today they have important bearing on the Bohra reform movement. The present socio-political milieu as described above have been fully exploited by the Bohra Pontiff and his political adviser. Y. Najmuddin has established close link with the Muslim Personal Law Board. He was even elected as the treasurer - perhaps looking to his finance-providing capacity. These

close links have been forged with the Muslim Personal Law Board in order to create an impression -- albet deceptive - that the issue of Muslim personal law is inalienably connected with the practices being imposed by the Bohra Pontiff on his followers. It would be quite in order to throw light on the immediate issues which are central in the fight for reforms in the Bohra community. These issues are as follows:

1) The Bohra high priest should render account for all the moneys he collects from them in the name of charity and religion. This amount according to one estimate based on the figures published by the priestly establishment runs into several crores (twelve to be precise) per annum. The reformists maintain that the Pontiff is under no obligation to render account for the money he collects from the community as the same is of charitable nature as laid down by the holy Koran. The Koran clearly lays down various items under which the Zakat amount ought to be spent. No one, therefore, can refuse to account for Zakat maintain the reformist.

2) The Pontiff should not insist on obtaining permission by his followers for everything from marriage to death, including purely secular activities like contesting elections, establishing charitable institutions like philanthropic trusts, schools or hospitals and similar other activities. The Pontiff seeks to control all such activities whether initiated by individuals or societies.

3) No one from amongst the Bohras should be socially ostracised (i.e: by being ex-communicated or socially boy-cotted) for maintaining views as listed under the items (1) & (2) above as is presently done. The reformists and their supporters,

quoting various historical sources of the community point out that even tradition does not sanction such ostracisation is being practised by the present Pontiff and his family. This kind of ostracisation results in complete denial human and democratic rights available under the constitution to any Indian citizen.

That the reformists have been fighting precisely for the issues listed above and not for any other extraneous considerations, much less for any personal ambitions, was established by the Nathwani Commission appointed by the Citizens for Democracy at the instance of Shri Jay Prakash Narayan. The Nathwani Commission which the high priest vehemently opposed held its sessions at various important centres of Bohra population to examine both oral and documentary evidence in respect of the charges levelled by the reformist Bohras. The Commission, in its report, concluded:

"Our enquiry has shown that there is large infiragement of civil liberties and human rights of reformist Bohras at the hands of the priestly class and that those who fail to obey the orders of the Syedna and his Amils, **even purely secular matter** (emphasis added) are subjected to Baraat (social boycott) resulting in complete social boycott, mental torture and frequent physical assaults. The Misaq (the oath of unquestioning obedience to the Head Priest) which every Bohra is required to give before he or she attains the age of maturity, is used as the main instrument for keeping the entire community under the subjugation of the Syedna and his nominees".

The report, quite a significant document based on pains-taking inquiry goes on to add:

"On the threat of Baraat (social boycott) and the resulting grave disabilities, Bohras are prevented from reading periodicals which are censored by the Syedna (such as the Bombay Samachar, the Blitz and the Bohra Bulletin); from establishing charitable institutions like orphanages, dispensaries, libraries, etc. without the prior permission of the Syedna except by submitting to such conditions as he may impose; from contesting elections to municipal and legislative bodies without securing beforehand the blessings of the Syedna; and above all, from having any social contact with a person subjected to Baraat, even if the person is one's husband, wife, brother, sister, father or son. The weapon of Baraat has been used to compel a husband to divorce his wife, a son to disown his father, a mother to refuse to see her son, and a brother or sister to desist from attending the marriage of his or her sister or brother."

As can be clearly seen from the findings of the Nathwani Commission quoted above, the Bohras in general and, the supporters of the reform party in particular, are suffering from grave disabilities in the form of total suppression of their basic rights and the thrust of the reform movement is to win back these rights. As the Nathwani Commission comprised, among others, of two retired High Court judges, besides some eminent scholars, one can reasonably assume that the findings of the **commission have been based on careful scrutiny of all available documents.** It should also be noted that the high priest has not seriously challenged from any forum the contents and the findings of the report.

The demands put forward by the reformists thus stand fully vindicated by the findings of the commission and make out a convincing case

for restoration of human and democratic rights the Bohras are being deprived of at the hands of the priestly establishment. It also becomes clear that the issue of Muslim personal law as explained above does not relate directly or indirectly with the issues the reformists among the Bohras are fighting for. And yet, although not altogether surprisingly, in view of the financial resources commanded by the priestly family, the Muslim leaders (specially right-wing-Muslim leaders and those belonging to religious establishments), at the instance of the Bohra high priest, have linked it up with the issue of Muslim personal law. These leaders condemned appointment of Nathwani Commission as an interference, into the Muslim personal law by outsiders. They took this stand despite the fact that the leaders of the reformist Bohras had personally met them and tried to convince that the scope of inquiry by the proposed commission would be strictly limited to the issues of civil and democratic rights and that no religious belief, much less the issues relating to the Muslim personal law. Even the commission, at the instance of the reform leaders issued a press statement to this effect.

However, the few Muslim leaders supporting the Syedna did not relent. Not only this, these leaders completely ignored the pleas by the reformists to constitute a panel of Muslim 'Ulama and leaders to hold an inquiry into the allegations of atrocities perpetrated by the high priest on the reformists and their followers. This attitude of the Muslim 'Ulama and leaders (of course, there are some exceptions to this rule) raises some important question in the context of Muslim minority and their religious rights in India.

These Muslim religious and political leaders not only would not allow any change in the Muslim

personal law but would not permit the political authority in the country to legislate away misuses of religion by unscrupulous elements. Thus, in their all unscrupulous acts assume sacred character if perpetrated under the garb of religion. They are powerful obstruction in the process of modernization and change; this can be explained away say by their conservative outlook; but their vehement opposition to prevention of misuses of religion through legislative measures can hardly be explained by anything other than opportunism.

Here, it is important to note the provisions of the constitution in respect of freedom of conscience and free profession, practice and propagation of religion. The article 25(1) clearly states "**Subject to public order, morality and health and to the other provisions of this part, all persons are equally entitled to freedom of conscience and the right freely to profess, practice and propagate religion'** (emphasis added). Also the section 2 of the article 25 lays down:

Nothing in this article shall affect the operation of my existing law or prevent the State from making any law:-

- a) regulating or restricting any economic, financial political or other secular activity which may be associated with religious practice,
- b) providing for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus:

The religious minorities including the Muslims claim their right to freely profess and propagate their religious under this provision of the constitution. However, the article makes it abundantly clear that this right is **not absolute** but is subject

to public order, morality and health and that the state can not be prevented from making any regulating or restricting any economic financial, political or other secular activity which may be associated with religious practice.

The Bohra reform movement, as emphasised, earlier, is mainly directed against misuse of religion and religious authority and not at reforming the basic doctrines of the Shi'a Isma'ili faith, much less reforming the religion out of existence. Although it cannot be denied that modern and democratic values-which in a sense though not strictly part of the community's tradition, are certainly not alien to its spirit - they have never wished to touch or alter the doctrinal core of thier religion. In this sense their attempts at reforms may even be characterized as non-modernist. The reformists, let it be understood properly while rejecting the doctrine of total and unconditional submission to authority, have not, at any time, advocated unqualified use of reason for examining their religious beliefs. A critical and scientific scrutiny of the religious moving passion instead, is, misuse of the faith and its exploitation for personal ends.

Thus they plead that since in the constitution the right to free profession, practice and propagation of religion is not absolute but "subject to public order, morality and health" and this qualifying condition has not been seriously challenged by any minority community or section of a minority community, the state must intervene through appropriate legislative measures to check this misuse of religion. Such legislative measures can not, by any stretch of imagination, be constued as interference into the religious affairs. The reformists, in keeping with this constitutional provision, also argue that there cannot be a blanket application of this freedom to profess and practise religion on all the activities of its followers.

One has to distinguish between religious activity and activity associated with religion cannot go beyond the purview of state intervention in the interest of society as a whole. It is precisely in this spirit, the reformists further argue, that the state has enacted Wakf Act, Ajmer Durgah Sharif Act of Tirupathi Devasthanam Act without inviting, constitutionally or otherwise, the stigma of interfering into the religious affairs of these religious communities.

Also, it is in this spirit that untouchability was legislated away, although, and it is important to note, it has a religious sanction according to the Hindu scriptures. The reformists and their supporters have been victims of either ex-communication or social boycott (baraat) which has, as such, no religious sanction at all. The reformists want the state to enact a law to abolish baraat (social boycott) in as much as this practice results in severe social disabilities depriving a person so boycotted of all his civil rights within the community in addition to disrupting his entire family life and financial security. A boycotted person is prevented from maintaining contacts with his own family members including his wife, children and parents (Nathwani Commission Report has highlighted several of such instances with documentary and oral evidences) and thus his fate becomes worse than that of an untouchable. He suffers mental anguish which can hardly be described in words. To legislate against such practices is strongly warranted by the article 25 and 25(2)(a).

Chief Justice Sinha, in his judgement in the case challenging the Prevention of Ex-Communication Act in the Supreme Court had observed: "Actions of the **Dal-ul-Mutlaq** (the chief Pontiff) in the

purely religious aspect are not a concern of the courts, but his actions touching the civil rights of the members of the community are justiciable and not outside the pale of interference by the legislature or the judiciary. I am not called upon to decide, nor am I competent to do so, as to what are the religious matters in which the Dai-ul-Mutlaq functions according to his religious sense. I am only concerned with the civil aspect of the controversy relating to the constitutionality of the Act, and I have to determine only that controversy." Chief Justice B. P. Sinha has, in above words, as if summarised the case of the reformist Bohras. Upholding the Act he also succinctly observed :

"On the social aspect of ex-communication, one is inclined to think that the position of an ex-communicated person becomes that of an untouchable in his community, and if that is so, the Act in declaring such practice to be void has only carried out the strict injunction of Art. 17 of the constitution, by which untouchability shall be an offence punishable in accordance with law. The Act, in this sense, is its logical corollary and must, therefore, be upheld."

It is thus obvious that the reformists, without challenging the central religious doctrines of their faith, are (although it is not *since qua non* of their struggle) in some of the practices being perpetrated by the religious head leading to grave disruption of social health and which are not integral part of the Shi'a Isma'ili faith either. It is also interesting to note here that even the doctrine of *ta'wil* (esoteric interpretation of the Koran) does not empower a Da'i to claim for himself extra ordinary powers to re-interpret the faith and its teaching formulating new practices (in Chandabhai Gulla case the 51st Da'i sought to do so but failed to substantiate his claims and even withdrew them) as, according to the

Dawoodi Bohra tenets he is not infallible, the doctrine of infallibility being applicable on to Imam who is in seclusion. The present Da'i and his father had sought to claim infallibility but failed to do so firstly because such a position is not supported by the available religious literature of the sect and secondly because such a claim would lead to there being two infallible personalities living contemporaneously which is not admissible proposition.

The reformists, therefore, argue that the practices being imposed by the present Da' leading to unprecedented social turmoil within the community have, as argued above, neither religious sanction nor constitutional validity. The Muslim leaders have thus no case in defending the high priest either on the grounds of non-interference in Muslim personal law or on the constitutional grounds under article 25 which specifically qualifies the freedom to profess and practise religious subject to public order, morality and health.

It should also be noted here with due emphasis that the high priest has been using the weapon of ex-communication or baraat (social boycott) not against religious dissenters (i.e. either those who renounce the accepted tenets and doctrines of the Shi'a Isma'ili Must'alian faith or those who have innovated new doctrines) but chiefly against those who assert their constitutional rights to promote either purely secular activities or activities associated with religion and also against those who demand of him to render accounts of the huge collection of funds made by him institutionalised system of taxes in the name of religion. Also, the doctrine of accountability forms integral part of all the Shi'a Muslim sects as 'Ali, next only to the prophet in the Shi'a religious hierarchy, is reported to have practised it most scrupulously. But the Bohra high priest not only refuses to accept this doctrine but socially ostracises by declaring

social boycott against those who insist on its acceptability. It may be recalled that the chief issue in the Chandabhai Gulla case, the major turning point in the Bohra reform movement in the early twentieth century, was the doctrine of accountability and the same was upheld, was the judge Martin of the Bombay High Court as in keeping with the religious tenets of the Dawoodi Bohras.

A large number of Dawoodi Bohras are facing severe persecution today at the hands of their high priest not because they have revised or innovated new religious doctrines but simply because they have been insisting on the acceptance of the doctrine of accountability by the Syedna. Article 27 of the constitution even lays down that "No person shall be compelled to pay any taxes, the proceeds of which are specifically appropriated in payment of expenses for the promotion or maintenance of any particular religion or religious denomination." The Bohra high priest compels, under the pain of social boycott, his followers to pay such taxes. The Nathwani Commission report also clearly indicates the element of compulsion in collection of these taxes. It would be a sheer myth to maintain that these taxes are volutary in nature so far as the followers of the Syedna are concerned.

However, respecting the religious susceptibilities of the Muslim and other minorities the reformists have not invoked the article 27 of the Constitutions so far in their campaign. They are, however, demanding from the government to enact a comprehensive act on the lines of the Ajmer Dargah Sharif Act, or Tirupathi Devasthanam Act to control and regulate the huge amounts collected by the Bohra priestly establishment by way of charity and, there are very strong grounds to believe, the same is being misappropriated on large scale. The article 26(a) of the constitution, which allowing the right "to establish and maintain institutions for religious

and charitable purposes ", qualifies this right too, as under article 25, with the phrase "subject to public order, morality and health". And, it is in this spirit, that the Acts above referred to (i.e. Ajmer Dargah Shari Act etc.) have been enacted and it is in this spirit that the reformists want an act to control and regulate the Bohra charitable institutions.

It is also very important to note that the constitutional rights guaranteed to the minorities whether under articles 25 and 26 or any other articles are meant for the welfare of the general members of these communities and not for powerful coteries which emerge within these communities to monopolise these right and in the process denying helpless members of these communities enjoyment of these rights for whom they are primarily meant. What is happening in the Bohra Community is the best example of this situation. If these rights have any meaning for the ordinary member of the community the power of such powerful coteries will have to be broken. The reformists are engaged in the gigantic struggle to break this power so that ordinary Bohras - more than fifty per cent of whom live in dire poverty - could benefit from the huge amount of charitable funds made available by many rich philanthropists.

Role of the Politician

It is obvious that no movement for social change can succeed in the long run without the political will on the part of the political leadership which guides destiny of the country. Theoretically speaking the political leadership stands committed to progressive social change. However, as all of us know, the situation is very much different in practice. Any movement for social change meets with powerful constraints from the political leadership. This leadership is concerned, more than anything else

with power for its own sake i.e. power to control and monopolise resources rather than for bringing about their just and equitable distribution and accelerating progressive social change. In every caste and community, in such a situation, there have emerged powerful groups and coteries which, speaking in the name of their respective caste and community, act as vote banks for the political parties and dictate terms to them. Thus the vicious circle comes into existence. These groups and coteries provide mass votes to enable politicians to win and in return expect the victorious politicians to protect their illegitimate interests. Thus democracy, in its institutionalised functioning in a situation like that of India where, due to social backwardness, individual consciousness stands super-imposed by communal or caste consciousness which can be easily manipulated by the interested groups, becomes conducive to opposing progressive change. Also, smaller the numerical strength of a caste or community and greater its sense of deprivation real or imagined, more heightened is communal or caste consciousness. It can also be described as identity-consciousness. The Muslim community in India (we are not concerned here, at least directly with horizontal and vertical stratifications which undoubtedly exist among them), though numerically not insignificant like Parsis, have strong sense of deprivation and hence have relatively more heightened communal and identity-consciousness.

For understanding the complex process of social change it is necessary to bear these two factors i.e. numerical strength and sense deprivation (one factor is physical whereas the other is psychological) as far as minorities are concerned. It is also important to note that greater or more heightened the communal consciousness, lesser will be the scope for operation of individual rights. This is precisely the situation prevailing among the Indian Muslims today. They have heightened communal

consciousness on account of sense of deprivation and hence rights of individuals in the community (whether in matters of divorce, marriage of other social matters) tend to take back seat. In a ballot-box oriented democracy, heightened communal consciousness can be cleverly manipulated to produce mass vote. The ruling party does precisely that and thus becomes a powerful factor in blocking any meaningful social change.

Case of Modernization and change among the Bohras.

The case of the Bohra community is, in a way, comparable to that of the Parsi community. Unlike other Muslims, it is numerically much smaller but does not live under the sense of grave deprivation and feels comparatively economically more secure.

Also, being a business community, it has had some share (obviously I am saying this only in a relative sense) in the fruits of development in the country. Yet, like the Parsis, its insignificant numerical strength i.e. its tiny size makes it more identity-conscious and change resistant. Greater economic prosperity and relatively higher degree of education, at least among its elite, drives it towards change and modernisation but its size and sense of preserving its identity compels it to conserve its tradition. It leads to tension but so far this tension has remained within the manageable limits and under the control of conservative forces. The forces of change, in other words, are not strong enough to generate powerful pressures for change.

There are several reasons for this. The bulk of the Bohras are petty traders living in small towns (it is primarily an urban community. Agriculture is exception rather than rule, among the Bohras). These petty traders hardly feel any functional need for education beyond elementary levels. Their sons join them in their calling after madrasa education

(of which the priesthood has taken care to provide a fairly good net-work as it helps strengthening the religious identity of the community), which, normally coupled with elementary secular education is considered fair enough for the requirements of their calling. The girls of course, after madrasa education, join their mothers in performing household chores and are later married off. The level of education among the Bohra women is alarmingly low except in a few major urban centres where in middle and upper-class Bohra families have encouraged their daughters to go for college education. Such a situation helps in keeping the traditional structure of the community intact. This structure for historical reasons as explained above, has been highly centralised and strongly discourages any centrifugal tendencies. Needless to say for the community as it saw it through the most difficult circumstances of external persecution and threat to its identity-conscious existence.

However, this strongly centralised structure has thrown up its own problems today in as much as it prevents individuals from exercising their rights and are totally subordinated to the centralised structure. Greater degree of industrialisation and expansion of commerce and trade is bringing more material prosperity to quite a few trading Bohra families which in turn leads to greater assertion of individual rights. This has created a social malaise within the community and the reform movement is one of its symptoms. The priestly family, sitting at the apex of the power pyramid, is trying to curb with strong hands the emergence of individual consciousness as it militates against their monopoly of the power over the community. The priesthood, of late, has been taking ruthless measures to strengthen the traditional structure of the community. And, it must be admitted that to meet the challenge of reform and social change which is gathering momentum no doubt, the priestly family has used

this centralised structure more efficiently. Not only this, it is employing modern scientific techniques of organisation most methodically to preserve and strengthen the centralised structure which was evolved to suit the needs of medieval ages.

Role of Islamic Fundamentalism.

The Bohra priesthood, as pointed out earlier, has drawn support from the conservative Muslim leadership in their campaign against the reformist.

The demands of the reformists, as analysed above, are essentially non-modernist but nevertheless, have been inspired by the modern thrust for social transformation and as such is dreaded by not only the Bohra priesthood against whose authoritarianism it is chiefly directed but also try other Muslim 'ulama and conservative political leadership which looks upon it with suspicion. Although Islam has no concept of priesthood much less church-like priestly hierarchy, and the thrust of the reform movement is against the hierarchy yet it fails to evoke any response from the orthodox Muslim 'Ulama. Further, despite many anti-Islamic practices (mainly from the Orthodox Muslim point of view) being perpetrated by the Bohra priesthood, the ulama, both for political and personal reasons, tend to support the Bohra pontiff.

The Syedna, on his part, in order to force closer links with the Muslim 'Ulama has started emphasising orthodox practices long given up by the members of the Community. In this venture the Pontiff has taken his cue from the wave of Islamic fundamentalism sweeping across the Islamic world. At the end of eighties the high priest issued an edict requiring all the male members to grow beard and wear traditional head gear and all the female members to wear veil. He also issued a separate injunction banning interest (the practice

of giving and taking interest is very widely prevalent in the Bohra community in view of its business needs and many members of the priestly family are also known to be indulging in interest bearing transactions) and dissolving co-operative societies giving interest bearing loans to the merchants. The latter directive caused much furour in the community as interest as sought to be abolished without making any alternate arrangements for interest-free loans.

The high priest sought to drive maximum propaganda benefit out of these measures among Indian Muslims as well as in the Islamic countries. The high priest's brother Yusuf Najmuddin began to attend international seminars convened by the Islamic countries in search of developing closer links with these countries and using these connections back home to bring pressure on the Indian government not to take any steps against the priestly establishment under pressure from the reformists. In order to refurbish his Islamic image the high priest undertook repairs to a dilapidated mosque al-Jami's Answar belonging to the Fatimid period in Cairo. According to the press release the high priest spent 3 million dollars on the first stage of the extensive repairs and an equal amount is planned to be spent on its second stage.

A grand inaugural function was held in Cairo and the mosque was thrown open after the repairs by the Egyptian president Anwar Sadat. Needless to say the members of the community had to bear the entire financial brunt for promoting the high priest's fundamentalist image. The high priest, with a view to develop effective counter-weight to the reform movement at home, is also trying to promote active relationship with militant Muslim organisation, in non-Muslim countries. He has thus developed close relationship with the leaders of the European Council of Islam. In fact the high

priest got this organization to launch a signature campaign against Nathwani Commission in 1977 construing the commission's inquiry as an unwarranted interference into the 'religious affairs' of the Muslim minority community in India. In the U.S.A. the Bilal News a militant black-Muslim paper - was approached to carry an article against the Nathwani inquiry depicting the same as a grave danger, to the identity of Indian Muslims. There are a number of Bohra families in the U.K. U.S.A. Canada and countries of the Middle-East, East Africa and Pakistan. The Bohras were made to approach the Muslim organisation for a jointy protest against the grave dangers to the "Muslim identity" (read the Bohra a priestly interests) in India.

It would be seen that the Bohra priesthood has tried to successfully exploit, for its own self interest on the one hand what could be described the community's obsession to preserve its historical identity by sharply distinguishing itself from the mainstream of Sunni Muslims in the country in particular and from other sections of population in general (reformists have been posed as obliterating this self-identity of the community) and, on the other, by linking up the issue with the minority rights guaranteed in the Indian Constitution, thus playing up the sensibilities of the Muslim minority to preserve its religious identity in hostile (imagined or real) environment. Such a course is, of course, fraught with doctrinal contradictions which the reformists have sought to exploit. It would be interesting to throw some light on this aspect also.

The Bohras are, strictly speaking, a dissident sect within the larger Islamic community. Historically they have been looked down upon -- even severely persecuted - for their heretical doctrines and esoteric beliefs. At best it could be said to have been maintaining an uneasy truce with the orthodox

Sunni Muslim. The 51st Da'i Syedna Taher Saifuddin, in one of his books compiled by him through esoteric interpretations of the holy Koran (**ta'wil**), claimed that only those who follow him are true Muslim as he holds one end of the God's string in his hand, all other being a misguided lot doomed to end up in hellfire. This book raised a storm of protest from the Muslim leaders and eventually resulted in being banned by the British Government. The 51st Da's, in the later part of his reign, when he was seeking support of the orthodox from the orthodox Sunni point of view within the community through his sermons although refraining from publishing such views.

The reformists too consider the Muslim support vital to exercise pressure on the government to curb the exploitative activities of the Bohra pontiff. They, therefore, frequently expose the pontiff's 'anti-Islamic' 'anti-orthodox' activities before the Muslim masses. Thus it would be seen that in an essentially backward society like that of India a movement for social change (and modernising by implication) has to be conducted in an orthodox framework. This becomes a great drag on the movement and results in giving it a very tortuous course. There can hardly be a straight path - let alone any short-cut-to social change in such a situation. The fact that even a movement for social change has to be couched in a traditional idiom reflects upon the complexity of the objective situation.

It also must be made clear that the reformist leaders, fully respect the religious sensibilities of the Bohra masses who have great faith in the doctrines of their religion. The Bohras also have shown great degree to tenacity in preserving their sectarian identity and the reformists argue that the present religious establishment has cleverly manoeuvred this situation to demand total submission to and uncritical acceptance of its authority.

The rapid social transformation is widening the base for change in the Bohra community also and the social milieu is becoming less and less conducive to such unqualified submission to any authority. Thus situational dynamics - and its constraints which cannot be ignored either - throws up areas of tension which must be creatively resolved. Static sense of identity would not help longer. Self-identity must also lead to self-alteration if the group of the community has to find organic moorings in the new situation. For, the truth (around which a community's identity crystalises) while based on revelation or intuition can not be entirely divested of conformity to fact. The community, argue the reformists, must develop respect for fact while having abiding faith in the revealed truth. The two can be integrated harmoniously.

Total submission to authority may provide solace and sense of security - and this eminently suits the pathos of petty traders and hence has been the forte of the priesthood and weakness of the reform movement - but it dulls the creative faculties of the community. The present situation, the reformists feel, is not conducive to dynamic growth for the community although it may have helped preserve its static identity. If the creative energies of the community are released from the bondage to priesthood, the Bohras can contribute much more than what they have been able to do in view of these rigid constraints. The Parsis, tinier in size than the Bohras, and no less obsessed with preserving their identity, have produced many more noted industrialists, scientists, politicians, legal luminaries, writers, and artists.

It is high time the Bohras loosen their shackles and begin in right earnest to develop institutional frame-work to material and spiritual development of the community and for which enough resources

are available to it. There are far less educational, financial and similar other institutions to provide, infra-structure for development than needed and whatever are, are under the rigid control of the priesthood which effectively throttles their growth and causes their creative energies to be atrophied. The present well-knit structure of the community is eminently suited for orderly growth and development. What is needed is to liberate it from the rigid control of the powerful priestly interests.

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NOTES

1. Mausam-e-Bahar.
2. Theodore Wright Jr. Modernisation etc.
3. Qaramita - a Sub-branch of the Ismai'lis had its stronghold in the Babylonian area. They were mostly of peasant stock.
4. It is difficult to trace out authentic historical records as what mainly exist is a semi-legendary accounts given by Mausam-e-Bahar by Miyan Saheb Mohammed Ali Ibn Mulla Jivabhai, Bombay-1299 A.H.
5. Please see the present author's article on Syedi-Sadiq Ali in Journal of Medieval Indian Literature, Panjab University, Sept. 1977 Vol. 1. No. 1 for the detailed treatment of the subject.
6. See Chapter-5 in "The Bohras" by Asghar Ali Engineer. Vikas, 1980.
7. Cohn Bernard S. "Some Notes on Law and Change in North India. Economic Development and Cultural Change" quoted by Theodore Wright Jr. in "Competitive Modernization within the Dandi Bohra Sect." See **competition and Modernizations in South Asia.**
ed. Helen E. Ullrich, 1975. p - 154
8. See the details of the Burhanpur Durgah case and Chandabhai Gulla case described by the present author in his book **The Bohras** op. cit. pp-165-217.
9. Those who advocate modernism better try to understand the complex social phenomena at work in a backward society manipulated by the powerful vested interests. A transformation of the social base conducive to the ethos of modernism is highly necessary for its acceptability. Mere abstract notions, without functional needs, do not help much. This hypothesis has been successfully tested, at least in the case of the Bohra community.
10. The famous Chandabhai Gulla case was instituted

by the Advocate General of Bombay at the instance of Sir Ibrahimbhoj Peerbhoj, the illustrious son of Sir Adamjee Peerbhoj. The judgement delivered by J. Martin makes an extremely interesting reading. See the judgement of the Supreme Court of India an Original side No.-128 of 1958.

11. He went to the extent of claiming that all his followers are merely his account-keepers (**mehtas**) and he is the real owner of all their properties. See the judgement.
12. Sinha C.J. wrote in his judgement: "It (i.e. the prevention of Excommunication Act) is also aimed at ensuring human dignity and removing all those restrictions which prevent a person from living his own life so long as he did not interfere with similar rights of others. The legislature had to take the logical final step of creating a new offence by laying down that nobody had right to deprive others of their civil rights simply because the latter did not conform to a particular pattern of conduct". The learned Chief Justice also most pertinently observed, "On the social aspect of excommunication, one is inclined to think that the position of an excommunicated person becomes that of an untouchable in his community, and if that is so, the Act in declaring such practice to be void has only carried out the strict injunction of Art, 17 of the Constitution, by which untouchability shall be an offence punishable in accordance with law. The Act, in this sense, is its logical corollary and must, therefore, be upheld." See Supreme Court Judgement op-cit.
13. The high priest collected money from the community for the announced donation but as yet it is by no means established whether he paid the entire amount to the Muslim University.
14. The Bohra Pontiff collects from each head of the family the following seven taxes. (1) Zakat (2) Fitra (3) Sila (4) Nazar Muqam (5) Khums (6) Haqqun Nafs (7) Personal offerings. Under all these heads

the Pontiff collects a huge amount yearly from the community.

15. Not all the levies imposed by the Pontiff are obligatory as per the Koranic injunctions. Some levies do not have even traditional sanction like Nazar Muqam or Haqqun Nafs. However, they have been ostensibly levied for charitable purposes and must be, as such, accounted for, the reformists maintain.
16. Shri Jaiprakash Narayan wrote to Justice V. M. Tarkunde. "... the high priest functions like a state within a state. He levies txes and penalises his followers for acts which he considers an offence to him. Recently, a deputation headed by S. M. Joshi went to see the Prime Minister to appoint a commission to enquire into the grievances require into the grievances regarding harassment of the reformist section of the Bohra community. The Prime Minister expressed his inability to appoint a commission on behalf of the Government but he suggested that a non-official committee should be asked to do this work.
17. Nathwani Commission Report, published by CFD, Ahmedabad, 1979, pp-133.
18. Vide Judgement on writ petition filed in the Supreme Court of India on Original Side bearing No-128 of 1958.
19. Ibid.
20. One of the distinguished Isma'ili authors Syedi had advocated the concept of Da'i being Kalm'asum i.e. near infallible or like infallible which is not same thing as infallible.
21. See **Egyptian Gazette**, Nov. 23, 1980.
22. Syedna Taher Saifuddin Dau' Nuri'l Haqqi'l Mubin, Bombay.

THE BOHRAS TERRORISED

Asghar Ali Engineer

The reform movement in the Bohra community has greatly shaken the Bohra high priest and his establishment. Unable to counter the well argued case of the reformists, the high priest's powerful establishment has resorted to naked terror. The victims of this terror are not merely the reformists but the whole community of around a million Bohras. Again, it is not only those who reside in India who face this terror, all those Bohras residing abroad namely Pakistan, Thailand, Ceylon, the Yemen, East Africa, countries of the Middle-East, The U.S.A., the U.K., Canada and other countries as well, are helpless victims of this 'holy terror' as a leading weekly from Calcutta called it. It would be my endeavour in this article to give some horrifying details of these terrorising acts being perpetrated by Syedna Muhammad Burhanuddin and his hirelings.

These are no mere statements of exaggerated, false, or restrained allegations; on the contrary, these are statement of facts. The Nathwani Commission, headed by a retired high court judge duly verified many of these allegations and found them to be true. The report of the commission is a published document. It has not been challenged by the high priest or any of his agent in the court of law for libel or defamation. Neither was there any refutation of the contents of the report through any other forum. All this speaks volumes about the authenticity of the report.

The report by way of conclusion says: "Our enquiry has shown that there is large-scale infringement of civil liberties and human rights of reformist Bohras at the hands of the priestly class and that those who fail to obey the orders of the Syedna and his Amils, even in purely secular matters, are subjected to Baraat requiring in complete social boycott, mental torture and frequent physical assaults."

What kinds of orders are issued by the high priest and what exactly are the consequences of defiance of these orders? What is the mechanism of enforcement and why is non-compliance so severely punished? These are some very important questions which need to be dealt with in order to understand the severity of the problem.

The strict compliance of its orders are insisted upon by the Bohra priesthood so that people pay them money they demand out of terror. It is hard to believe to what extent religion can be commercialised. The Bohra priesthood demands money on any and every occasion, death too being no exception. The burial grounds, though belonging to the Bombay Municipal Corporation in Bombay and to the district collectors elsewhere are under strict control of the priestly network. No dead can be buried without written permission from the high or local priest and the permission can be had only for a price.

In no other religious community bargaining for a price is done for the burial or cremation of a dead body. Money is demanded for two yards of burial ground and also for the 'salvation' of the dead. The 'pugri', to use the Bombayite language, for two yards of burial ground in Narialwadi cemetery in Bombay ranges from Rs. 5,000 to 25,000 or even more depending on the financial status of the person concerned. In addition to this money is charged, like the Pope once used to sell indulgences, for the 'salvation' of the dead. It is compulsory for everyone to pay, the amount in this case too varies according to the capacity to pay. The salvation money so paid is known as 'haqqun nafs'. The bereaved of a near and dear one in the Bohra community have to worry first for arranging for payment to Syedna than for the disposal of the dead. It is most agonising experience for any Bohra.

The occasion of marriage too brings no cheer to him. Before he can experience the joy he has again to worry about the permission from the high

priest or his agent which can be had only for a price. Not only he has to worry for the payment he has to meet many other stringent conditions, if he has to go through the Nikah and reception ceremonies smoothly. Conditions include all the invitees must come in qaumi libas (i.e. the prescribed dress for the community) - men wearing cap and women properly veiled. Any indication of infringement or defiance normally result in termination of permission for marriage as well as the hall (the marriage halls are also under strict control of the priesthood). In many cases the priesthood takes substantial deposit from the parents of the groom and the same is forfeited if anyone without quami libas is admitted into the hall. There is also a famous Dadhi deposit case filed by the Baxamusa family in Surat. The high priest had insisted on deposit for a surety for growing beard before solemnising marriage and later refused to return the deposit saying it is necessary as a guarantee against its being shaved.

If a person has any past or present record of defiance burial of the dead or solemnisation of marriage would become still more problematic. I would give two instances to prove my point. I would refrain from mentioning names for obvious reasons. Last year the Syedna's wrath descended on the Bombay Mercantile Co-operative Bank as his establishment failed to bring it under its control. He ordered all the Bohra employees of the Bank to resign. Some did; others who did not ran into serious trouble on different occasions. One senior official of the bank who failed to comply with the Syedna's fiat faced the music on the occasion of his son's marriage. He had to cancel, through newspaper notice, reception arranged as the Bohra priesthood would not agree to solemnize marriage unless he resigned his job. The poor official had to undergo great deal of humiliation as well as agony.

More condemnable, for its most anti-human character, was another incident reported to the present writer by the relative of an unfortunate young female employee of the Mercantile Bank. She also had, in view of difficult economic condition of her family, refused to resign her job as per the Syedna's directives. Last year she and her entire family were killed in a building fire near Masjid Bunder where they resided. The priestly establishment, instead of sympathising with the family for this grim tragedy, thought it fit to wreak revenge by delaying permission for burial for 24 hours as the girl had failed to resign her job despite Syedna's fiat. There is another equally pathetic incident in which a the marriage of a young Bohra female employee of the bank was got forcibly dissolved (here husband was compelled, under threat of social boycott, to divorce her) which caused, needless to say, great agony to the aged parents of the girl in addition to ruining her life.

If this is the plight of the non-reformist Bohras one can well imagine the fate of the reformist Bohras. They have to face total social boycott which sends shivers down the spines of many a powerful family in this closely-knit community. Even the rich and politically well connected individuals or families dread the consequences of Baraat (social boycott). Even Bohra M.P.s (presently none, M.L.A.s, mayors and ministers shake with fear and believe me there is no exaggeration in this whatsoever. The families of the Bohra reformists are divided, thus completely shattering the family life. Such a division in the family becomes all the more tortuous when living in a traditional society like that of India. In such a society family ties are of great importance. The agony of this division becomes all the more acute at the time of marriage of death and also if the separation is forced between a widowed mother and her only son (the present writer is undergoing similar agony presently).

In certain cases the Syedna's well-organised spy net-work even goes to the extent of tracking down letters exchanged between mother and son. The letters can be easily tracked down by bringing a local postman. Such a case with documentary proof was put before Natwani Commission. A widowed mother, separated from her reformist son, was 'caught' writing letters to her only son who live in Malegaon. She was threatened with social bouycott, if she ever wrote again. One can well imagine the agony of both mother and son.

The reformists are not permitted to enter any Bohra mosque or holy shrine and if they do, they get physically thrown out. Merciless violence is unleashed in many cases on those who attempt an entry. The most recent case is of 30 helpless Bohra ladies from Udaipur who tried to enter the holy shrine of Syedna Qutbuddin Shahid in Ahmedabad in the first week of December, 1983. A large number of goondas set upon them, looting and molesting them. Many ladies lost their valuables and got their clothes torn to pieces. The ladies simply fled in terror.

Also, there is no question of reformists getting permission for marriage or burial. there are many pathetic instances of forcible prevention of burial of the dead belonging to the reformists. The dead bodies have been stoned and dishonoured in other ways. One Suleman Contractor's body, on being brought near Khar cemetery, had to meet with shower of stones by the hirelings of the Syedna. Many notorious characters were in the forefront. The police had to lathi charge, burst teargas shells and fire in the air and arrest scores of these hirelings before the body could be laid to rest.

Even the ex-reformists are not spared this agony. One Mr. Hussain Tajani of Rajkot, an ex-reformist, died some six months ago. The local priest refused to permit his burial. His body had to be carted away good 40 miles from Rajkot for burial before the Amil's fiat could reach there. A Muslim friend of Mr. Tajani has filed a suit in the local court in this connection. No Bohra from Rajkot, for fear of obvious consequences, came forward to file a suit though secret sympathies have been shown by many.

The Bohras do not escape Syedna's wrath even in countries like U.S.A., U.K., East Africa, ect. The natwani Commission reports:

"One can continue with the Bohra Community only at the expense of loss of one's personality and human dignity. A report from London by Yusuf N. Patwa shows how Nuruddin A. Kirefu was forced to kiss the feet of Prof. Hatim Hamiduddin Sahib (one of the Syedna's younger brother, A.E) at Misaq ceremony (Misaq is oath of allegiance) of his children. He had to pay 17 pounds for the Misaq. Thereafter the Head of Leicester Jamat ordered him to sever all connections with his people from Kampala. In England too the writ of Orthodoxy runs. This is also seen in another instance when the father of the brid Asgharali of Cambridge was compelled to cancel invitations for the wedding sent to the reformers amongst the Dawoodi Bohras. The followers are also compelled to do Sajdah (prostration) before the Dai (the high priest). No Muslim sect can approve of such an act which is prohibited by the Holy Koran; "Sajdah" can be offered only to God and not to any human being. Several such instances have been brought to the notice of the Commission."

Qaumi Libas (Community dress) is strictly insisted upon and the violaters humiliated in other countries as well. Thus natwani Commission records:

"Fida Hussain Adamali from Nairobi states that Dr. Y.A. Yamani was turned out of of the graveyard in Nairobi when he attended without sherwani the burial of the patient who was under his treatment. The respondent has also produced a copy of public appeal by Dr. Y.A. Yamani to all the members of the Dawoodi Jamaat complaining against his insult and suspension from the Community. The respondent has further stated that in Kenya, males are not allowed to enter Masjid or graveyard without turban and sherwani (a kind of overall) and all Chitthiwala Bohras (those holding indentity cards to distinguish them from the reformist Bohras,A.E.) are compelled to wear beard. Women on reaching 18 years old and above are not allowed in Masjid and are boycotted if they do not wear Burqa (Veil)"

This is not the only form of harrassment of the reformists. They are subjected to a systematic campaign of character assassination as well as physical assault. On 12 June, 1977 a reformist leader Noman L. Contractor, alongwith his daughter Yasmin and son-in-law Rahim Contractor narrowly escaped being burnt alive in Godhra at the place of their reformist host Saifee Pawagarhwala. However, Mr. Contractor's car was reduced to ashes and Mr. Pawagarhwala's valuables looted. He lost all he had. Another reformist preacher Mulla Abbas Aurangabadi was burnt to death in Karachi. In his dying declaration he indicted one of the Syedna's brother. Syedna's powerful political connection in Pakistan helped him hush up the gruesome murder.

One Sheikh Sajjad Hussain, a reform^{ist} priest who dared to rebel against the Syedna, was got murdered through mob violence. The Na^{thwani} Commission report says, on the basis of recorded evidence:

"On 22-11-1974 at night the teacher and pupils and other miscreants held a meeting at the school and after planning the assault they divided themselves into three groups and attacked the witness's family (i.e. the family of his father Sajjad Hussain) at about 10 P.M.... All household furniture, utensils were looted and stones were thrown and food was destroyed and costly articles and glass-ware were broken. Sheikh Ali Ahmed and his family members also were protected by neighbouring Hindu families."

Sheikh Husain later died as a result of internal injuries sustained due to severe beating on 25.11.74. When he died, says the report, the priestly class celebrated 'victory' by a show of fire-works from 2 to 10 P.M. and sweets were also distributed.

The present writer was also thrice assaulted on different occasions in Calcutta and Hyderabad and once stabbed on 15th February, 1981, while presenting a paper on the Reform Movements in Islam in Nizam College, Hyderabad. For me too, it was a narrow escape. Recently the Bohra high priest's establishment forged a press release in the name of C.B.I. indicting me in the Lata rape and murder case in Bombay. The C.B.I. has instituted an enquiry into the matter as to who is behind this forgery.

In view of all this most Bohras privately maintain that it is very difficult to fight the mafia like organization of the Bohra priesthood. It can get

away with most heinous crimes due to phenomenal wealth and enormous power they wield. Naturally such a well-grounded belief has paralysed the entire community with fear. One must also bear in mind that the Bohras are a community of petty traders and petty traders are generally more submissive as compared to others. This is exploited to the maximum by the priesthood. The priesthood has most systematically organised machinery for this purpose. It has also devised very well planned information flow and feedback system. It is interesting to note that once late Mr. Jyotirmoy Bosu who used to contest election for parliament from the Diamond Harbour Constituency of Calcutta - and Calcutta has a sizeable population of Bohras and second centre after Bombay whereto financial resources are diverted by the priestly establishment - told me that your high priest is the most scientifically organised Mulla I have ever come across. No Muslim Mulla can match his organizational capabilities. And Jyotirmoy Bosu was absolutely right.

One must give the Bohra high priest his due by admiring his ingenious ways of collecting money. Any developing economy has its own quota of neo-rich who want social recognition. In a highly closed and centralised system such a recognition can be legitimately assured only by the authority in control of the system. The Bohra high priest has devised number of ways - among them dispensing high sounding Arabic titles like al-Nashit fi Khidmatit Dawah (N.K.D.), Al-Moin fi Khidmatit Dawah (M.K.D.) etc., to ensure recognition within the community. Lakhs of rupees are charged - needless to say all in black - to award these titles. The amount charged ranges from two lakh fifty two thousand to five lakhs fiftytwo thousands. Also, under the pretext of expanding mosques, renovating mausoleums,

etc. - one or the other project is always on - millions of rupees are collected from the rich, not so rich and even from poor Bohras.

Such donations are demanded usually on the occasion of death and marriage. The fear of refusal of permission makes people pay and thus unceasing flow to the Syedna's coffers is ensured. Certain taxes are collected with such severity that even the poorest have to beg and pay. When the poor show their inability to pay they are told by the heartless priest "it's due to you, go and beg and pay up." One poor Bohra woman Malmoonabhai from Raipur who had lost her job as a cook, had to obtain a loan to pay the high priest's 'dues'. There are sever such instances. There are thousands of Bohra families living in most miserable conditions in various slums of Bombay. The priestly establishment has done nothing to alleviate the misery of these slum dwellers although, as pointed out above, he collects millions of rupees from the Bohras. Also, the priesthood has taken control of hundreds of charitable properties - many of them specifically donated for housing for the poor - and converted them into commercial use creating one or the other legal fiction. No one from amongst the Bohras dares to question them due to fear of social boycott.

A systematic campaign also goes on brainwashing the people into total submission to ease the blows of terror. Halqa (study circle) are regularly held for this purpose quite regularly. It is impressed upon the participants in these study circles that the enemies of Da'i (the high priest) are the enemies of Allah and they would be consigned to hell. They are product of sexual union during menstruation (haizi pilla) and are illegitimate children of their parents (nutfai haram). It is also impressed upon them that they must surrender to the absolute

authority of Da'i to ensure their 'salvation'. Any contact with the enemies of Da'i would consign them to hell. In all the communications sent on behalf of the Da'i he is described as Aqa-Mawla i.e. our Lrd and Master. On the other hand the the follower addressing any communication to him must describe himself as 'slave' of Syedna ('abde Syedna). If one does'nt he will be punished through social boycott.

These are entirely un-Islamic practices. There is no concept of priesthood in Islam, neither of any human mediator. Also, Islam is most egalitarian religion and believes in equality of human beings. "Only one who is most pious", declares the holy Quran, "is nearest to God". The Bohra high priest, in open contravention of the precepts of the Quran, is carefully cultivating a culture of slavery and total submission. The Quran ' calls upon people to think, to brood, and to make use of reason and often addresses its readers Ya Ulil Albab i.e. 'O! People of reason' and the Bohra high priest demands from his followers blind submission, any attempt to question his authority resulting in ostracism.

It is no exaggeration to say that the Bohras are living in terror and the Government not only does not come to their rescue to stop this gross misuse of religion but seems to be encouraging it by associating itself with the priesthood on various occasions. Recently, despite strong pleas of the reformists, the President of India visited the Mausoleum of the father of the present high priest located near Bhindi Bazar in Bombay. This is most unfortunate. Needless to say are powerful vested interests in the society are allied with each other and we are quite clear in our mind that the fight for reforms in the Bohra community cannot be fought in isolation. The reformist Bohras have allied themselves with all the progressive and secular forces in the country, the forces which are fighting for meaningful social change.

The Key-note Address for the Dawoodi Bohra Jamat
Conference, Leicester, U.K.

Asghar Ali Engineer

Dear sisters and brothers, Assalam 'alaykum wa Rahmatullah wa barkatuhu,

It is an historic occasion indeed that we have gathered here today from various places in the U.K. and the world. We have held five all world Dawoodi Bohra conferences in various cities of Bombay but it is for the first time that the Dawoodi Bohra Jamat, U.K., is holding a conference in England. I must congratulate Fazalbai Kapasi and his colleagues for taking great deal of pains in organising this conference on the soil of U.K. where hundreds of m'uminin and m'uminat have found place to set in their feet for purposeful life and they are quite proud to be here. Thanks to modern democratic policy all of them, alongwith other British sisters and brothers, are treated as equal citizens. All right thinking people, for that matter, aspire for universal brotherhood and let me proudly stress the fact that it was the revolutionary religion of Islam which, for the first time, declared the ideal of universal brotherhood in the most unequivocal words. Islam is the first nonparticularist and non-denominational religion which not only abolished distinctions of language and race but also of religion.

The Qur'an declares its universal creed thus : "O mankind, surely, We have created you from a male and a female, and made you tribes and families that you may know each other. Surely the noblest of you with Allah is the most dutiful of you." (49:13) Again the holy Qur'an says : "Surely those who believe, and those who are Jews, and the Christians, and the Sabians, whoever believes in Allah and the Last Day and does good, they have their reward with their Lord, and there is no fear for them, nor shall they grieve. (2:62) Thus both these verses make it quite clear that

what matters unto Allah are good deeds, piety and dutyfulness, not race or religion and there certainly is no favoured race or religion. Think of it this universality of human race was declared by the holy book of Islam more than 1400 years ago. The Quran is not only heritage of Muslims but of entire humanity as it inspires us to fight against narrowness of racial and credal discriminations and teaches us to be true human beings having faith in Allah and the Day of Judgement. This absolute universalism is much needed by the modern world being torn asunder into narrow racial and national and credal groups endangering peace and harmony.

The same ideal was preached by the compilers of Ikhwanus Safa who belonged to the Isma'ili faith among Muslims. This encyclopaedic work was compiled around 875-909 A.D. and was described as Qur'an al-imama (as the Qur'an is Qur'an al-nubuwwah) by Saiyyidna Idris 'Imaduddin, the 18th Da'i of Yemen. This encyclopaedic work is full of philosophic wisdom and encompasses a breath taking range of subjects including mathematics and music. When it comes to human beings Ikhwanus Safa emphasises fellow-feeling (rifq), kindness (rahma) and affection (shafaqa). It says "We have delegated to each group of them a brother from our brethren, whose knowledge and insight we approve, to represent us in their service by counselling them with fellow-feeling (rifq), kindness (rahma) and affection (shafaqa)" (IV, 188).

It is interesting to note that this encyclopaedic work stresses the importance of youth and its dynamism. It goes on to say that "It behooves our good and eminent Brethren, may God guide them and us with His spirit, to follow the example of the philosopher in wisely choosing (i.e. seeking the company of) the members of the youth groups (ahdath and fityan) who are good and noble; well mannered and cultured, understanding and intelligent, for sustaining our knowledge and the secrets of

our wisdom, following the tradition of God. This is because He does not send a Prophet who is not young nor does He give wisdom to any devotee who is not young (hadath) from among the group of youth (fityan). (IV, 151).

Thus we see that Ikhwanus Safa, an Isma'ili work, very much stresses fellow-feeling, kindness and affection on one hand, and nobility, intelligence, wisdom and youth, on the other. It also goes on to stress that God does not send a Prophet who is not young. It is indeed very pertinent as healthy change can be brought about only by those who are young, wise and dynamic. The Ikhwan go a step further and declare :

"Do not occupy yourself with reforming of old men who have kept since their childhood false ideas, bad habits and evil qualities, for they will weary you and will not be changed. If they do change, it would be very little and of no avail. Your concern is with young men of sound heart who incline towards letters, begin to study sciences, seek the path of truth and the other world, believe in the day of reckoning, make use of the religious codes of the prophets, study the secrets of their books, renounce passion and polemic and are not fanatical in matters of doctrine." (IV, 161-68).

The Ikhwan thus make it clear that it is no use reforming the old petrified minds and instead applauds those youth who take no letters and sciences, have belief in the day of reckoning and the Prophets' codes and what is most important, are not "fanatical in matters of doctrine". The Ikhwan's liberalism is reflected in the following passage as well :

"Know that the truth is found in every religion (din) and is current in every tongue. What you should do, however, is to take the best and to transfer yourself to it. Do not ever occupy yourself with imputing defects to the religions of the people; rather try to see whether your religion is free from them." (III, 501).

It also goes on to say, "Acquire knowledge, any type of knowledge, philosophical, legal, mathematical, scientific or divine. All that is nourishment for the soul and life for it in this world and hereinafter." (III, 538).

We have quoted these long passages from Ikhwanus Safa not only to show its profound respect for knowledge wisdom, reason and faith but also to identify our own ideals. It is not insignificant that we have named our trust after it (the reformist Bohras trust is known as Ikhwanus Safa Trust). We, the reformist Bohras, are not only proud of this precious heritage, we have also chosen it as symbolising our movement which is the movement against fanaticism, dogmatism, blind following and sectarianism and it is the movement for tolerance, enlightenment and progress.

We are against fanaticism, we are against intolerance, we are against slavery of thought, we are against tyranny, oppression and exploitation. All this has been strongly condemned by holy Quran. We are ahl-iman (faithfuls). We have faith in Allah and His din (religion), in the Prophets and their books. in the Day of Reckoning, in the angels (malaik) and good deeds. Our mission is to wipe out ignorance, oppression and exploitation from the face of the earth. The Qur'an's clear injunction is to establish 'adl and ihsan (justice and benevolence) and we are strong partisans of these ideals. We consider it our primary duty to establish justice and practice benevolence. Our iman cannot be complete without them.

The reformist Bohras have made it their mission to fight against corruption and misuse of religion for personal ends. As they stand for justice they uphold the doctrine of accountability. It is the Prophet's Sunna and Ali's doctrine. They owed accountability to ummah (the Muslim community) and never refrained from it. The Bohra priesthood indulge in corruption and completely disown the doctrine of accountability to the community. Hence the reformists are committed to fight against such corruption and misuse

of religion. They can never uphold the nauseating concept of religion as commerce. Religion for them is an embodiment of noblest ideals.

Today there is stinking corruption in the Bohra religious establishment. It negates all the high ideals of Isma'ili religion propagated by the Imams, da'is and other hudud (and hierarchy of religious functionaries). The hudud used to be appointed earlier by Imams to propagate faith and discipline m'umini (faithfuls) Tarbiyatun nufus (disciplining the souls) used to be their main preoccupation. And what a degeneration of this institution today! Hudud are appointed for money. Ignoramuses are made sheikhs and mullahs just because they have the capacity to pay lakhs. Ikhwanus Safa, as we saw, lays down before us the ideal of acquiring both worldly and religious sciences as knowledge is nourishment for soul. The Bohra priesthood, on the other hand, accords religious titles to total illiterates.

The Bohra reform movement accords great significance to freedom of thought as knowledge and freedom cannot be separated from each other. Lack of freedom can only inculcate slavery of thought and encourage blind following. The Bohra priesthood not only deny freedom but demand total submission. It degrades human reason and nips in the bud all the potentialities for spiritual and material development. The reformists believe that human genius cannot flower without genuine freedom of thought and action.

The reformists are being inhumanly persecuted by the Bohra high priest Muhammad Bhuranuddin and his powerful priestly establishment for exposing corruption and misuse of religion. The chief instrument of persecution is bara'ah (social boycott), a concept which is totally alien to Islam. It was the enemies of the Prophet who had imposed social boycott on him and his family. The Bohra high priest has, on

the other hand, made bara'ah an integral part of his religion. The concept of bara'ah does not exist in the whole history of Isma'ili religion. We find only one instance mentioned by Saiyyidna Hatim in his celebrated work Tuhfat al-Qulub i.e. of Ali al-Zawahi who belonged to the prominent Zawahi family. This family was in control of Da'wah in pre-Sulayhid times. Saiyyidna Hatim gives reasons for his bara'ah namely he was guilty of breaking the 'ahd (covenant) and contravening its conditions.

It is interesting to know in what way did he contravene the conditions of the covenant. He exaggerated the status of Imams and said about the Prophet what the Jews, Christians and fire-worshippers (Majus) say about him. He also found fault with the people of merit (ashab al-kamal) and preached divinity of human beings. He was also guilty of denial of superiority of the Prophet. Thus 'Ali al-Zawahi questioned the tenets of religion and also defied organizational discipline and for that reason he was put under bara'ah by uttering the words wa ana bariun min fa'ili dhalik (I disown the doer of all this). Thus Saiyyidna Hatim disowned his views but did not stop him, or any member of his family, from having intercourse with other members of the community much less stopping him from entering into the mosque or any other sacred place. he was only stopped from performing his organizational duties as an officer.

However, what the present Da'i does by way of bara'ah is complete travesty of religious injunctions. He physically stops one under bara'ah from entering mosque, mausoleum of jamatkhana. Not only this he forcibly dissolves his/her marriage, stops burial of the dead, separates children from parents and much more. it is a matter of great shame that he requires children to curse thier parents under bara'ah whereas Islamic shari 'ah requires Muslim children to maintain even kafir or mushrik parents.

I would also like to stress here that the reformist Bohras today do not deserve even Hatimi bara'ah because they are in no way guilty of questioning the tenets of religion like 'Ali Zawahi nor have they questioned hierarchy of hudud (religious functionaries) like him thus breaching the organizational discipline. They only, and rightly so, question rampant corruption in the Barhani establishment. Anyone close to this establishment knows how much it is reeking with corruption. The reformist Bohras have taken up this crusade in keeping with the Prophet's famous saying that "telling truth in the face of powerful tyrant ruler is superior form of jihad".

They are facing severe persecution for telling the truth as the reformist Bohras are proud and humble followers of Hazrat Imam Husayn Saiyyid as-Shuhada' (the Lord of the martyrs) who never hesitated to sacrifice even his life along with the lives of his near and dear ones to uphold the banner of truth. Here we are not glorifying our sufferings; we are only indicating that as the humble but proud followers of the great martyr Imam we do not hesitate to suffer for the cause of truth. We also request our other oppressed brethren also not to suffer tyranny in silence but to challenge it. Remaining silent when other fellow human beings are being oppressed amounts to lending moral support to the oppressor.

This conference, which is no doubt historic one, would do better to discuss concrete measures, both long as well as short term, to combat the menace of the unprecedented religious corruption, swindling of huge amounts of money collected in the name of religion and perpetuation of ignorance and blind faith which is very antithesis of the teachings of the Isma'ili sect of Islam. I also wish to stress that the problem should not be underrated as this fight is most arduous and long drawn one. It demands lot of patience and optimism, perseverance and hope.

It is not for nothing that Allah say in the Qur'an la tay 'asu (do not despair). As we despair and loose hope we loose the battle before it is fought.

Before I end I would like to emphasise that no battle against oppression and exploitation can be fought on narrow sectarian lines. Humanity is an integrated whole despite ethnic and national devisions. We must built up unity of all the oppressed wherever are. We must denounce apartheid in South Africa and deprivation of Palestinians of their homeland as strongly as our own oppression at the hands of the Bohra priesthood. As a corollary I would say we must develop universal, not particularist outlook. I would end with an apt quotation from Ikhwanus Safa on universality of outlook and behaviour. Describing an ideal person the Ikhwan say:

"He is Persian in origin, Arab in faith, a hinif in religion, an 'Iraqi in manners, a Hebrew in tradition, a Christian in conduct, a Sryan in devotion, a Greek in knowledge, an Indian in vision, a mystic in his way of life, an angel in his morals, a leader (rabban) in opinion, a divine in gnosticism and of everlasting qualities (samadani)."
(II, 376).

Let us reformist Bohras aspire to achieve at least some of these qualities enumarated by Ikhwanus Safa in order to make our movement worthy of world attention.

SOCIAL BOYCOTT - THE SIKH AND THE BOHRA
- CASE COMPARED

Asghar Ali Engineer

It is commonly believed that in Islam religion cannot be separated from politics. Such a view was alright all through the medieval ages. However, such a view became rather untenable in modern secular set up, especially in a country like India where Muslims were neither dominant, nor dominated politically, but an equal partner with other religious communities. W.C.Smith, a noted Islamicist, construed it as a challenge for Indian Muslims, and an opportunity to be creatively used. Muslim leaders like Muslims, and an opportunity to be creatively used. Muslim leaders like Maulana Abul Kalam Azad and Dr. Zakir Hussin undoubtedly were aware of this challenge and opportunity. They did try to give a new direction to Muslim politics by reinterpreting the Islamic political thought. But unfortunately this was a short lived endeavour. Events soon overtook it. For variety of reasons not to be analysed here fundamentalism and neo-Islamic orthodoxy came to the fore and acquired a predominant position. Empirical events have often proved more defiant than systematizers of thought assume them to be.

Whatever the case of Islam, no one until yesterday seriously debated that religions and politics are inseparable in the Sikh community too. Sikh" were thought to be happy go lucky lot rather than zealots. The latter stereotype was usually reserved for the Muslims. One should therefore seriously ponder over the proposition that it is neither Islam nor Sikhism which is inherently fanatical, it is rather objective situation which makes them so. Communism was also thought to be closed and doctrinaire. It is also opening out both in Russia and China in response to the changing situation. However, this is besides the point as far as our present article is concerned.

A close examination of history of Islam as well as that of Sikhism would bear out the proposition that religion and politics become inseparable situationally, not ideologically. Of late the Sikhs, or at least a section among them, began to take this view in response to an emergent situation in Punjab. Similar is the case with the Bohra community. The Bohras, very much in the news for quite sometime, are a heterodox Shi'a Isma'ili sect of Islam. Numbering about a million most of them were converted along the western coast and historically have been known for being honest traders and a peaceable lot. They were never known for militancy, nor did they take much interest in political power game, directly or indirectly. They rather pursued, steadfastly and diligently, their petty trading activities.

However, the things began to change when the Bohra priesthood developed an insatiable lust for money and power. The priesthood had never indulged in politicking so far, nor had they forged any political linkages in the ruling party or among other Muslim political organizations. But, after their religious pursuits acquired the complexion of amassing wealth and power, they felt a strong need for developing political connections both with the ruling party and the orthodox and fundamentalist groups among the Muslims. The need became greater as the challenge from the Bohra reformists grew in magnitude.

The reformists are opposed to politicisation and commercialisation of religion. They are not only striving for promotion of communal harmony but what is more important, for delinking religion from politics. Also, they are demanding democratisation of the functioning of the community and acceptance by the clergy of the doctrine of accountability. The Bohra high priest collects from the community, by way of regular levies, crores of rupees every year which remain unaccountable and untaxed as well,

as most of it is collected in black money. The political linkages with the ruling party at various levels provide them with adequate protection. The power of the priest is derived not only from religion but from huge mass of wealth which he commande.

The Akalis too have come to possess rich resources through collections from Gurdwaras with one difference of course. To Gurdwara funds are to an extent controlled by the Gurdwara Act and elections are held for the SGPC. Though the control over the SGPC is acquired through various means but there is a semblance of democracy. However, this is not the case with the Bohra community. A single family of the priest has the final say and no one dare question them about the huge resources and their uses and misuses. The priestly control is absolute and unaccountable.

The Bohra priesthood responded to the growing challenge from the reformists firstly by resorting indiscriminately to the dreaded weapon of baraat (social boycott/ex-communication), a Sikh equivalent tankhaya, and secondly by linking itself up with the fundamentalist Muslim politics in India, and to a limited degree, to that of other Islamic countries. It also began to amass more fortune from the Bohras in other countries like Pakistan, Kuwait, Dubai, U.K., the U.S.A., Canada, Sri Lanka, Singapore, Hong Kong and the countries of the East Africa. From a single party in Hong Kong, a member of the priestly family is alleged to have knocked out HK\$75 lakhs. It is a common knowledge in the community though the Government of India may not know about it. Needless to say a part of this collection goes to finance the Muslim political organisations for buying their support. It is again somewhat similar to the case of the Sikh fundamentalists. They too collect money abroad for financing their militant movement in India. They too have begun

to resort to the weapon of social boycott/ex-communication. Anyone who defies or questions the ways of Sikh Granthis faces this plight. Again there are some important differences as well. The Sikh tankhaya does not face the plight a Bohra does. A socially boycotted Bohra gets isolated from his own family and relatives, let alone the community. He cannot enter any mosque, shrine or Jamaatkhana, nor can he attend any marriage or funeral, be it of his close relatives. This is certainly not the case with a Sikh tankhaya. Moreover, the priest of Golden temple do not necessarily got support from the priests of other important Gurdwaras like in Patna or Nanded. A Sikh tankhaya thus has other religious shrines to fall back upon and he is not isolated from his own family or relatives. Thus both Buta Singh earlier and Barnala later got support from other Gurdwaras and Granthis which a Bohra cannot even dream of. A Bohra can at the most get secret sympathy from his co-religionists smarting under the religious dictatorship.

One more thing is to be kept in mind. Mr. Barnala, the Chief Minister of Punjab when declared tankhaya by the acting chief priest Darshan Singh Ragi, did not oppose the institution of social boycott. He only pleaded that he does not deserve to be boycotted as he is a good Sikh in religious sense. In the reply sent to the chief priest Mr. Barnala went on listing the virtues he possess as a good Sikh thus trying to establish his Sikh credentials rather than challenging the institution itself.

The reformist Bohras, on the other hand, have challenged the concept of baraat itself. It was through their efforts that the then Bombay Government had passed a legislation against ex-communication. The enactment known as Prevention of Ex-Communication Act was upheld by the Bombay High Court but was unfortunately struck down by the Supreme Court in 1962 by a majority judgement on rather

narrow technical grounds that the Act takes away the high priest's power to ex-communicate even on religious ground thus depriving him of his right to maintain religious discipline in his community. However, the chief justice Sinha wrote a dissenting judgement arguing that the high priest should not enjoy right to ex-communicate even on religious grounds as a boycotted person alongwith his religious rights; loses his civil rights also within his community and becomes a pariah in his own community. No person, he argued, should be made to loose his civil rights merely because his religious convictions change. Unfortunately the other judges then did not agree with this view and struck the Act as ultra vires the Constitution.

The Act could have been validated by making suitable changes in the light of the Supreme Court's objections but by now the high priest had come to acquire political clout and could exert enough pressure on the state government not to oblige the reformists. The reformists are however, have been carrying on a relentless campaign against the evils of social boycott. It deprives the citizen, they argue, of his fundamental rights accorded by the Constitution and hence must be legislated away. For more than a decade and a half the reformists have also drawn the attention of the Government as well as of the people of India to the fact that the menace of social boycott can spread to other communities and this is precisely what has happened. The harijans often face this coercive measure in villages and now a Sikh Granthi has used it against the chief minister of a stage to make him fall in line with the religious dictates.

Such a coercive power is a deadly weapon which can destroy the very secular fabric of our society. No religious head should be allowed to coerce his followers into toeing his political line. By allowing social boycott to be exercised we are consciously

destroying the secular nature of our polity, instead consolidating it. The Bohras have often been humbled into submission by the priesthood to toe its political line and hence the reformist among them have taken this challenge very seriously and have ever since been waging war against it. They have repeatedly appealed to the Indian people to exert pressure on the Government to outlaw social boycott. Not only this they have drafted a bill and presented to the Prime Minister Rajiv Gandhi on 4th February, 1986 when they met him personally. Though the Prime Minister promised to look into the demand sympathetically, nothing has come out of it so far, and for understandable reasons. They also have been passing resolutions to this effect in their world conferences. They again urged upon Government in their sixth All World Dawoodi Bohra Conference held at Indore in the first week of February, 1987 to immediately pass a law against social boycott as it has acquired much greater urgency now in view of the developments in the Sikh politics. The reformists are planning to organise a demonstration in Delhi to this effect and also to lead a broad delegation of Bohra and non-Bohra prominent citizens to the Prime Minister for this purpose. Only a relentless battle against communalists, fundamentalists and religious militants of all hues and colours can save the country and true spirit of religion. It is for all progressive and secular elements in the country to joint the battle.

THE SIXTH ALL WORLD DAWOODI BOHRA CONFERENCE - AN HISTORIC EVENT

Asghar Ali Engineer

The reforms movement in the Dawoodi Bohra community has continued to make news for more than two decades now. Though it started right at the turn of the twentieth century defying the priesthood's fiat against modern education, it had a very chequered history and often received setbacks. It was difficult for many to face severe consequences of total isolation in the community and what is worse, among ones own family and close relatives, and so often they surrendered in the face of such severe pressures.

However, it was different with the new leadership which emerged on the reformist scene in the early seventies after a mass revolt in the picturesque town of Udaipur. The Bohra high priest Syedna Muhammad Burhanuddin and a powerful coterie of his brothers tried to put down the revolt in Udaipur with the degree of severity unknown before but failed miserably. The repression let loose included physical assaults on the committed activists of the movement. But such assaults only resulted in furthering the determination of the reformists.

It would be interesting to throw some light briefly on the objectives of the reform movement. The Dawoodi Bohra community is well-structured and closely knit and is tightly governed by its religious head called Da'i which literally means summoner to the cause of Allah. The Da'i supposedly officiating in the absence of Imam, the supreme religious leader after the Prophet who is in seclusion, is charged with the responsibility of looking after the religious affairs of the Dawoodis. The Da'i in the earlier centuries led exemplary life and avoided riches.

However, the father of the present incumbent Syedna Taher Saifuddin, reversed this policy and chose to accumulate riches and what is worse, to ensure continuing accumulation, sought to control the secular aspects of the Bohras. Through clever moves and repressive measures he succeeded in establishing very tight control over the community. The doctrine of raza (permission) earlier confined to religious activities was now extended to the secular ones as well and it was made virtually impossible for the Bohras even to breathe without the priestly permission. A Bohra could not even participate in the democratic processes in the country without such a permission.

The Uadipur revolt started on the question of forced dissolution of the Bohra Youth Association which was formed to promote welfare activities as the priesthood thought the Association was guilty of functioning without its permission. Unable to get the Association dissolved the high priest incited his followers to brutally assault men and women supporting the youth association on 1st March, 1973 at Galiakot, a place about 75 miles from Udaipur where they had gone to visit a shrine. The women were publicly molested by the fanatics as well as some hired goons. This incident gave a new turn to the reform movement.

The reformists were now organised under the banner of The Central Board of Dawoodi Bohra Community to wage their fight for reforms. The reformists put forward very moderate demands before the priesthood. They asked him to confine his domain to religious activities, allow democratization of the community's set-up (i.e. allowing free elections for the Jamat bodies in various towns), account for huge amounts collected in the name of religion and stop the use of hated weapon baraat

(i.e. social boycott) to terrorise people into submission. The arrogant priesthood of course refused to even negotiate with the reformist leaders, let alone accepting the demands.

As the challenge of the reformists increased the priesthood sought to meet it on two planes: firstly by using more severe repressive measures and secondly by intensifying fundamentalist moves for which they found favourable climate throughout the Islamic world. Assuming fundamentalist postures also helped them court orthodox Muslim support in India as well as abroad. In late seventies the priesthood began enforcing strict purdah (veiling) for women, made growing of beard for men compulsory, persecuted those who went for bank interest (though the priesthood never stopped taking itself) and compelled the Bohra ladies to give up their jobs and confine themselves to the domestic chores. The priesthood also began taking active interest in the activities of the Muslim Personal Law Board (something never known to the Bohras before as they always considered themselves aloof from the Muslim mainstream) in order to forge closer links with the orthodox Muslim leadership in the country.

In short run the two measures brought dividends to the priesthood. Increased repression spread panic in the community and people meekly submitted to the priestly authority which was perceived as formidable. Also the intensification of fundamentalist moves won the high priest the much sought after support of the Muslim leadership. The priesthood also forged close links with the central as well as state governments by loosening its purse strings for the ruling party and also by tempting them through its vote-delivering power. The government functionaries unabashedly associated themselves with the priestly functions, some chief ministers even seeking his blessings publicly. Recently the M.P. Government surpassed all others by sending its state plane to bring him to Indore with two ministers in attendance to deliver his private sermons. So much glory for the secular state.

However, despite all this the priesthood could neither succeed in consolidating his hold over the community nor could he win support of the common Muslims, let alone of the people at large. The reformists, on the other hand, through their determination and principled stand continued to gain ground. Apart from others civil rights activists lent their powerful support to them. Justice Tarkunde, the noted jurists and civil rights activist constituted a commission of inquiry headed by justice Narendra Nathwani which produced a well documented report about the inhuman persecution of the reformist Bohras and their supporters.

Also, in order to focus public attention the reformists began to organize biennial conferences since 1977. The first two were organised in Udaipur, the third in Bombay, the fourth in Pune, fifth in Ahmedabad and sixth we are writing about in Indore from 6 to 8 February, 1987. The reformists are firmly opposed to the exploitation of religion for political and personal ends and firmly uphold the principle of secularism. They, therefore, associate themselves with all the secular forces in the country and believe that in a multi-religious society like India democracy cannot effectively survive without secularism. It is for this reason that the reformists give equal importance to the casue of communal harmony in the country and incessantly work for it.

The reformists also believe that their liberation from the clutches or orthodox priesthood is not possible without aligning themselves with all those forces fighting against unjust structures in the soceity. Religious slavery cannot be soon in isolation from other exploitative forces in the society whether these exploitative forces are religious, economic or political in nature. The reform movment has adopted this perspective under its new leadership.

The Bohra reformist conferences are therefore attended by prominent social activists, champions of human rights, secular democrates, workers for communal harmony and liberation theologists. The conference consequently concerns itself with many broad issues of national and international importance. The sixth All World Dawoodi Bohra conference was inaugurated by Maulana Ishaque Sambhli, a noted liberation theologian and a political activist.

Inaugurating the conference he said that the Bohra high priest is grossly distorting the Islamic teachings for his personal ends. Islam has emphasised egalitarian values and universal brotherhood and is totally against exploitation in any form. It also stands for freedom and reason. The Syedna, on the other hand, imposes total control on the minds of his followers and demands unqualified submission to his authority, something totally alien to the teachings of the holy Quran. The Quran opposes accumulation of wealth whereas the Syedna has amassed huge wealth. The Quran requires of its followers to spend all that which is more than basic needs in the way of Allah whereas the Bohra high priest spends all that he has on personal luxuries and refuses to donate for the cause of the needy and the poor. The Quran glorifies human dignity when Syedna crushes it under his overbearing authority. Asghar Ali Engineer, the Maulana said, has represented through his writings and speeches true spirit of Islam and we all stand by his campaign for human dignity, democratic rights and secular values.

Khwaja Ahmad Abbas, the noted writer and journalist, speaking as a chief guest, said that I do not consider anyone religious unless he is human in his behaviour. For me there cannot be religion without humanism and, therefore, I do not consider the Bohra high priest as religious from what I just heard from a young girl from Udaipur who narrated the sensational story of

torture and persecution of the Bohras at the hands of the Syedna and his followers. I have never wept in my life but today I could not hold back my tears when I heard the young girl speak of these inhuman acts. I am so choked with emotions that I cannot speak further. All I can say is that as long as I live I shall stand with the cause of the reformists. I am with those who fight against oppression and exploitation.

Mr. V.M. Tarkunde, the noted jurist said that I have known the cause of the Bohra reformists first hand as I was closely associated with the Nathwani Commission. The reformists, he said, are fighting not only for healthy reforms within their own community, but for healthy change in modern Indian society. They are fighting for secularism, democracy and human rights. It is fight of us all. The Syedna, he said, is suppressing fundamental rights and I have personally filed a review petition in the Supreme Court against its earlier judgement striking down the Prevention of Ex-Communication Act passed by the ten Bombay Legislative Assembly in 1948. The petition has been admitted and stands very good chance. Mr. Tarkunde also said that the practice of misaque (taking oath of allegiance) is also unconstitutional and can be challenged in the Supreme Court. It is totally violative of fundamental rights guaranteed under the constitution.

Mr. Asghar Ali Engineer said that we stand for human dignity, social justice and communal harmony. All these are integrally woven in a harmonious structure and cannot stand in isolation. There can be no human dignity in the absence of socio-economic justice and communal peace. A starving and dying person cannot think of dignity. And, there cannot be justice without human dignity. A slave, mental or physical, an exploited person, economically or otherwise, cannot conceive of dignity, even if they are well-fed and well looked after.

The reformist are, therefore, fully committed to these ideals and believe in struggling for realization of these ideals alongwith other progressive forces in the society. They also believe in secularism and oppose resolutely religious fundamentalism and fanaticism. The reformists also feel all the oppressed must unite as all oppressore have.

Mr. Krishna Kant, well know political leader felt that like Mahatma Gandhi in pre-independence days, the reformists are making sustained efforts for social reforms in independent India and hence need our fullest support. There is no parallel to this movement in our country today. Religious fanaticism and communalism is raising its ugly head and reformists have thrown a gauntlet to it and because of this I have come to attend this conference. What struck me most was the enthusiasm of large number of women. They are so determined to fight against forces of fanaticism as they have suffered at their hands. This gives me great hope for the future. If so many women have gathered around reformists their causes is bound to succeed. I hardly see so many women in other such conferences.

Among other who spoke were Ladli Nigam, a senior Janata party leader, Om Prakash Rawal, social activist and ex-education minister of Madhya Pradesh, Prof. Qamar Rais of Delhi University Hasan Kamal, editor, Urdu Blitz Prof. Naim Ahmad of AMU and several others.

The business session took up issues related to women and youth apart from others. The Bohra women led by Dr. Zainab Poonawala decided to wage struggle for equal rights. They felt the Bohra high priest was trying to confine them to the four walls and also isolate them from other

communities. It was therefore necessary to conduct a campaign from house to house to bring awareness among the women and prepare them for the struggle for reforms. It is also necessary for us, they decided, to join hands with other women's organizations in the country to realise our goals. Bohra women cannot fight in isolation. Their problems are integral to the problems of other sections of the society. The women asserted that they have been suppressed for long and they can no longer be fooled. The Quran has not only respected our individuality but has accorded us equal status. The priests on the other hand, are not only denying us this status they are trying to use us as an instrument of their vile policies and ambitions. One cannot liberate the society without demolishing such structure which seeks to marginalise women. Moreover, it is women who suffer most when the priesthood use the oppressive instrument of baraat (social boycott). Their woes are, therefore unlimited. No one can fight their battle except themselves. The women delegates therefore decided to undertake an indefinite fast outside the Prime Minister's house if early steps are not taken to bring legislation against social boycott.

It was for the first time that the Bohra women played such an assertive role in the conference of this nature. It was a symbol not only of their determination but also of changing times. The women of Udaipur had put up a brave fight against the persecution of the Bohra priesthood and now they were resolving along with other women to wage their fight for equal status and liberation. Dr. Zainab Poonawala who has taken part in many international women's conferences can provide proper leadership in integrating the Bohra women's struggle with the struggle of other women in the country.

The youth was no less assertive. There were prolonged discussions in the youth panel. A large number of Bohra youth took part in these discussions. Nasir Rasiya, a young journalist, Masuma Ranalvi, a budding writer, Irfan Engineer, a political and student activist, were most assertive and vocal. The youth panel aroused so much interest that even seniors like Ladli Mohan Nigam and Om Prakash Raval participated in it.

The Bohra youth saw itself as the van guard of the movement. It demanded greater role in decision making and leadership structure. The decided to organize separate youth camps in different parts of the county so that they can have more meaningful discussion of their problems. The international conferencelike this was very important but was dominated by senior leaders and their scope was restricted. They also decided to invite the youth of other communities in their camps to develop broader perspectives, to promote better integration and to launch joint struggles for bringing about meaningful change in the society. They youth awareness can play very decisive role in bringing about such change.

It was indeed very healthy sign that the women and youth were so much asserting themselves. Not only this, they were inclined to see their problems in much broader perspective as well. Communalism can be weakened only when such perspective developes.

The Commission on programme of action felt that the menace of social boycott and ex-communication is spreading in other communities as well. The Chief Minister of Punjab Mr. Barnala has also been declared tankhayya by the Sikh Granthis. It is yet another instance of blatant interference of religion into politics. It is therefore highly necessary for the Central Government to wake upto this danger and propose legislation against the menace of social boycott. It was

therefore decided to take deputation of the prominent citizens of India to the prime Minister to impress upon him the need for legislating against social boycott. Krishna Kant and Maulana Ishaque Sambhil promised to secure appointment with the P.M. as early as possible. It was also decided to organise a demonstration in Delhi when the parliament is in session. It was also decided to observe black day on 1st March throughout India and abroad as it was on this day that the women were molested publicly by the Bohra priesthood and thier hirelings.

The resolutions passed at the conference urged the Central Government to legislate against social boycott as this menace was now spreading in other communities as well, the chief minister of Punjab having been boycotted by the Sikh Granthis. It is yet another example of exploitation of religion by the vested interests and it is high time the Government acted firmly. The reformists have been impressing upon the Government the urgency of legislation against social boycott for more than a decade now. However, the Government ignored their pleas under pressure from the vested interests. This resolution also called upon the Government to bring legislation to control the finances of the Syedna on the lines of Ajmer Dargah Sharif Act or Tirupathi Temple Act. The high priest has amassed huge amount of wealth in the name of religion. All this remains unaccounted. In fact the reformists have repeatedly drawn the attention of nation to the fact that the combination of black money and religion is a deadly one and effective steps should be taken to delink the two.

By another resolution the conference condemned the act of M.P. Government in sending the state plane to bring Syedna to Indore with two ministers in attendance. It is gross misuse of the resources of a secular state. The resolution

urged upon the Government not to associate itself with any religious head or function, if it has any regard for the secular principles of the state policy.

A resolution on communalism drew the attention of the people of India to the fast spreading menace of communal canker and the danger it has posed to the integrity of the nation and unity of the people of India. It appealed to the people of India to remain united and frustrate the designs of communalists and fundamentalists of all hues and colours. The exploiters are using religion as the most potential weapon to frustrate the attempts of the people to realise justice. The real issues facing the people have been pushed to the background and highly emotional issues are being deliberately played up to preserve the status quo. It is high times these designs of communalists and fundamentalists are thoroughly exposed.

Yet another resolution condemned the ostentation indulged in by the high priest on occasions like his birth day and millions collected in the name of religion are squandred on such tamashah. It is the very negation of the principles of religion. The high priest also indulges in paid publicity in news papers on such occasions. The resolution therefore urged upon the Bohras to condemn such ostentation and paid publicity and refrain from participating in such acts of showbiz. It is crass commercialization of religion.

In conclusion one can say that the Bohra reform movement has great potential for the modern India. It should not be viewed in the narrow confines of a religious community. In fact it is an attempt to delink religion from political economic exploitation and orienting it to social justice and human dignity. The reformists have

been steadfastly struggling for human rights, secular values and socio-economic justice. Their whole attempt is to break unholy nexus between religion and politics of vested interests. It is struggle like this which would promote healthy value-based polity in India. The movement has served and would continue to serve the cause of promoting just structures in the society and that of conscientising people of India in that direction.

It also aims at freeing people from mental slavery, inculcating freedom of thought, respect for human dignity and democratic rights, interpretation of Islam in keeping with the contemporary challenges, promoting creative thinking and developing anti-authoritarian social structure. The reformists also believe that we should not be mere recipients but also providers, recipients of values and providers of social, political and economic structures based on these values. A paradise is born only when divine values are creatively blended with human ideas in the space-time continuum.

THE REFORMISTS AND THE GALIAKOT STRUGGLE

Asghar Ali Engineer

The Bohra reform movement has shown the way not only for modern secular and democratic reforms, but also in fighting with all determination against corruption and gross misuse of religion. What is more important in this respect is the militant participation of women in large number, especially from Udaipur, the nerve-center of the reformist movement. These women recently fought resolutely for their right to visit the Galiakot shrine which is 150 Km. from Udaipur. The Bohra high priest who has been using religion as cover for his political and financial interests, maintains illegal possession of various Bohra shrines and mosques and denies entry to all those who dissent and expose his corrupt practices.

A Galiakot is buried Syedi Fakhruddin who was martyred in the thirteenth century by the local tribals while preaching the Shi'a Isma'ili Islam among them. His tomb has ever since been the centre of attraction for lakhs of Bohras all over the world. The reformist of Udaipur visited it last on March 1, 1973 when their women were beaten up and publicly molested by the hirelings and fanatic followers of the Bohra high priest at his behest and right in his presence. The 'fault of these women was that they had stood by the reformists and supported their cause. For public molestation and dishonour suffered by these women from Udaipur, they had been deeply hurt and took a vow never to bow before the religious head who did not hesitate to incite his fanatic followers to publicly molest innocent women.

Quite a few reformists, however, were eager to visit the Galiakot shrine which they had not been able to visit for last fourteen years. In their sixth All world Conference held in Indore in the first week of February, 1987, they therefore decided to collectively visit the shrine and fulfill their vows and also to donate blood as a mark of their respect for human life. Accordingly, the Bohra Youth leaders from Udaipur contacted the Home Secretary as well as the district collector and SP in the matter. They assured them all possible co-operation and even promised protection in the event of any trouble.

After getting the signal from the authorities the Udaipur friends intimated other friends in India and it was decided to proceed to Galiakot on the morning of 28th February and to visit the shrine on 1st March. From here begins the story of the struggle the reformists had to wage to realise their fundamental right and that of open collusion between the state and the religious fundamentalists.

To be in time I reached Udaipur on 27th morning. Other firends were also arriving. When the Bohra high priest came to know of our plan to visit the shrine, he rushed to Galiakot and was instantly declared 'state guest' by the Government of Rajasthan, flouting all the norms of secularism. The priestly machinery began moving fast and the Chief Minister Hardeo Joshi was pressurised into giving oral instructions to the concerned district officials not to allow the reformists to go to Galiakot under the pretext of 'law and order'. Thus it was double murder of the Constitution: violating its secular principle by making religious head a state guest and by denying us our fundamental right to visit a public shrine. And all this by a Government which swears by secularism and declares repeatedly its intention to fight against fundamentalism.

The district officials in Udaipur asked the RTO to cancel the perimits for the buses we had hired to go to Galiakot. We contacted the Collector of Udaipur and asked him the reason for cancelling the permits. He of course denied this and maintained that we were free to go. However, it was a sheer lie as the authorities had set up chowkies with armed police just 4 Kms. from Udaipur, in case we used any other transport. I drew the Collector's attention to this. He had no answer except requesting us to postpone our visit to Galiakot by two days.. until the high priest leaves. We accepted the Collector's request in good grace and hoping that our reasonableness would induce the authorities to permit us to go. (Of course, no such permission is required, constitutionally speaking).

We contacted the Collector of Udaipur again after two days. All he could say was that Galiakot was in Dungarpur district and hence we should contact the Collector and SP of Dungarpur which we did.

It proved equally futile. The SP of Dungarpur seemed to be under the influence of Syedna. We now rushed to Jaipur to meet the Chief Minister and the Home Minister. However, before proceeding to Jaipur we started dharna before the Collectorate. A large number of women, besides men, participated in the dharna. I requested all the participants to remain peaceful, whatever the provocation. Firstly because the social reform movements can succeed by persuasion, not by coercion of violence. Secondly, any slightest degree of violence could give the state machinery the much desired chance to come down heavily and destroy our movement. The youth remained peaceful and highly disciplined.

Meeting with the Chief Minister and Home Minister did not produce any result either. They were very cold in their response. After much egging the Home Minister Gulabsingh Shaktawat said that many followers of the Syedna have gathered at Galiakot and he would require three days to get the shrine vacated before we would visit it so that there is no clash any kind. The fact is that both the Chief Minister and the Home Minister contest election from those constituencies which have few hundred orthodox Bohra votes. Moreover, the high priest gives liberally to the election funds of the ruling party. How then the Chief Minister could displease the high priest? In order to secure these few hundred votes, they did not hesitate to collude with the fundamentalists openly and unabashedly. Ballot-box oriented democracy is a double-edged sword. While masses of people can make their voice heard through it the vested interests, as well as the religious fanatics, can also use it to mount pressure on the authorities. And much more so in a backward country like India. The democracy in India, it must be noted, is unfortunately moving farther from its ideals and yielding more and more to manipulations by the vested interests.

We came back to Udaipur with little hope of being able to move on to Galiakot. However, the morale of our people was very high. A large number of Bohra women, some 15,00 alongwith men, continued to sit on dharna before the Collectorate even on the 5th day. Other people of Udaipur, Hindus, Muslims and Sikhs, also came in the evenings to show their solidarity with the reformist cause. The movement represented not only a crusade against fundamentalism but also for communal unity and human solidarity. All collectively took pledged to do everything possible to promote communal harmony and integrity. This gave a new dimension to our movement. It was now focussed on fight against fundamentalism, promotion of people's solidarity and protection of fundamental rights.

We waited for two more days for a word from Jaipur as promised by the Home Minister and the Chief Minister, but in vain. The Collector and SP of Udaipur, though sympathetic to our cause as individual, pleaded their helplessness as authorities. The Divisional Commissioner, Mr. M.L. Mehta, an officer of proven integrity, was equally helpless, though sympathetic. Here an important question arises which needs to be debated seriously. Should high officials, of the ranks of secretaries and commissioners, be loyal to the Constitution and the law of the land, or unquestioningly bow down to the political pressures of their ministerial bosses. I raised this question with Mr. Mehta and others. Are you loyal to the law of the land or not? Do you think our rights guaranteed by the Constitution has any meaning? If the other side is bent upon mischief and creating law and order problem dliberately should you deal with them as per law or should you deny our right against the law? They maintained discreet silence. It was obvious they were acting under pressure from the Chief Minister.

On 6th March, tired of waiting for green signal from Jaipur, I announced to go on indefinite fast from 7th March until we are permitted to go to Galiakot. It gave a new turn to our movement. There was an unprecedented emotional outburst. Many women and men wanted to go on fast along with me. But after consultations it was decided to restrict it to five other, besides me. The team included Dr. Zainab Bano, an Assistant Professor in Political Science in Sukhadia University, Miss Zulekha Sadriwala, a bank employee, Taiyebi Zamindar, a Congress -I leader from Gujarat, Dr. Ashfaq, a medical practitioner from Udaipur and Asghar Ali, a Hindi poet from M.P. Along with us all the reformist Bohra women and men and many Hindus and Muslims decided to observe one day fast, on the first day. The prominent citizens of Udaipur including writers, journalists, political and social workers, civil rights activists and trade unionists decided to form an Action Committee to struggle with us for our casue. The whole of Udaipur without any distinction of caste and creed poured out its sentiments and pledged support. Abid Ali Adeeb and Ghulam Husain Manager, the Bohra Youth leaders had thrown themselves into struggle with unprecedented energy.

The dharna also continued alongwith our indefinite fast. Thousands gathered everyday in front of the collectorate. Also, the prominent writers, intellectuals and academics from Udaipur, Jaipur and Delhi issued statements expressing their solidarity with Mr. Engineer and his colleagues on indefinite fast and urging upon the Government of Rajasthan to concede their just demands. These demands included an enactment against social boycott (a powerful instrument of coercion being used by the Bohra high priest as well as the Sikh Granthis in Punjab), ensuring entry into all the shrines and religious places in keeping with ones belief, immediate arrangement for the visit of the reformist Bohras to the shrine of Galiakot and assurance by all the political parties to delink religion with politics.

The fast went on for three days and the gathering public opinion made the Government nervous. The divisional commissioner Mr. Mehta requested the member of the Public Action Committee to persuade Mr. Engineer and his colleagues to give up fast and that arrangements would be made for the reformist Bohra to go to Galiakot though of course in view of the orthodox opposition, it may or may not be possible to guarantee their entry into shrine. The reformists accepted the proposal and the member of the Public Action Committee assured me in this respect and said that we would accompany the reformists to Galiakot so that there is no breach of promise on the part of the Government.

On thier assurance I accepted the proposal and we gave up our indefinite fast on 10th March, morning after the buses were lined up Mr. Nagar, the Vice-Chancellor , Rajasthan Vidyapith gave me the glass of juice in presence of most distinguished personalities of Uadipur. There was great jubiliation was shortlived. The Government was out to cheat. After the fast was broken the bus owners were again pressurised not to go. The officials began to say that they can take only 150 persons and try whether they can enter the shrine. This was outright betrayal and the jubiliation turned into consternation. The women were very angry and greatly annoyed. They rushed to the collector's office and threw ring around it. Both the Collector and the S.P. were gheraoed by the slogan shouting women. The militancy of the women was worth witnessing. It was great bout of energy pouring out of them spontaneously. The gherao continued for 12 hours and women took turns. Throughout these women continued to shout slogans against betrayal of the solemn promise by the Government officials. With great difficulty and persuasion they were made to give up the gherao.

This clearly showed how much the Bohra Youth women from Udaipur had wareness of their rights and how fearlessly and militantly they could fight for these rights. No one should think that these women are merely confined to the home and hearth and would meekly submit to the authorities. In fact men could easily withdraw but not these brave women. It was a matter of shame for the so called democratic government swearing by women's rights to perpetrate such injustice against them and deny them such an elementary right to visit a shrine under pressure from the Bohra priesthood.

After withdrawing the gherao, the women were in no mood to relax and decided to stop the functioning of the collectorate next day i.e. 11th March Early morning they gathered there and despite the shown of naked force by the government and presence of mounted police, these women were not deterred and sat near the gates of the collector's office and persuaded the employees not to attend office. The employees were also sympathetic and readily agreed not to work on that day. All agreed that no such peaceful long gherao of high officials and stopping of functioning of collectorate had even taken place in the recent history of Udaipur. The credit without doubt goes to these women.

Some members belonging to the Public Action Committee now decided to undertake indefinite fast as the Government had betrayed their confidence and it was at their request that Mr. Engineer and his colleagues had given up the indefinite fast. Mr. Himmat Singh of Janata Party, Mr. Gulab Singh Kataria of BJP, Mr. Meghraj Tawad of CPM and Ishaque Attarwala of the Bohra Youth undertook the fast for indefinite period in repentence.

This once again bestirred the city. Everyone was aghast at the breach of faith by the Government officials simply because the Bohra high priest was

pressurising the Government and the Government of Rajasthan was kneeling down before him under the false pretext of 'law and order'. Our definite information was that there were no more than 1,000 followers of the Syedna. However, the Government officials maintained that there was a crowd of around 5,000 orthodox Bohras. It was highly exaggerated figure. Member of the Action Committee, however, argued with the Divisional Commissioner that even it was not difficult for the police to control the crowd of that size, if at all it is determined. The police is normally trained to handle such large crowds. However, the official kept mum. One member later commented that the Government of Rajasthan wants to create another Bhindranwale in the Galiakot shrine by encouraging the Bohra high priest to accumulate his armed defenders there. The Government was in fact allowing large number of the orthodox followers of the Bohra high priest to gather there, in some cases under its own protection while preventing the reformists to visiting the shrine. The Divisional Commissioner had no answer to the question why the orthodox followers of the Syedna were being allowed to gather there in large number? Could they also not be prevented from coming to the shrine? Or, could they not be dispersed after they have visited the shrine? Why allow them to stay there for long, and in strength? One could only see the stony silence on his face.

On the second day of the indefinite fast by the ones mentioned above, some members of the Action Committee left for Jaipur to contact opposition and Congress-I MLAS and the Chief Minister. The MLAS were briefed fully on the issue. They raised it in the Assembly on 12th March and the Chief Minister was grilled on his partisan attitude and for surrendering to the fundamentalists. The Chief Minister said in his reply that the reformists are being permitted to go to Galiakot very soon.

On the third day of the fast, we were summoned by the Divisional Commissioner and told that he could arrange to take us upto Chitri, a place about 4 Kms. from Ghalikot. But we refused and told him in no uncertain terms that he must make arrangements to take us right upto the wall of shrine which he declined and we left the office. However, the issue was hot in the assembly and the Government was getting nervous and wanted to wriggle out of the situation. We were again contacted in the evening on 13th March and were told by Mr. Mehta Divisional Commissioner that we could go right upto the wall of the shrine. Accordingly the instructions were issued to the bus operators and RTO was requested to issue permits for Galiakot.

There was jubiliation once again among the reformists and the people of Udaipur heaved a sigh of relief. The fast was broken on 14th morning and a caravan of 23 buses, two cars, one jeep and a truck started at 1 P.M. for Galiakot. Little did anyone realise that there was another treachery in store. We passed through some important towns on the way and were welcomed by the residents of those towns. Tea and biscuits were offered. The caravan was proceeding smoothly when it was obstructed by an armed police posse 4 Kms. after Aaspur and 50 Kms. from Galiakot. No one expected such a treachery on the part of the Government. Same day the Chief Minister made a statement in the House that 23 buses have left for Galiakot but did not disclose that they will be stopped 50 Kms. from Galiakot thus defecting the very purpose of the whole struggle.

The police was fully armed and extremely harsh towards the peaceful reformist women and men and small children. The S.P. Dungarpur behaved as if he was the absolute ruler. We were stopped in a jungle where there was no provision of any kind. Many women and men were fasting on that day.

The members of the Public Action Committee and number of journalists who had accompanied us were taken aback at this fraud. A delegation set out to meet the Divisional Commissioner and the D.I.G. at Sagwada. Nothing came out of it. The Divisional Commissioner went back on his words under pressure from Jaipur. It was second fraud played on us and most shamelessly.

We were tricked into what we feared most all the time by the fraudulent administration. We were taken to a jungle and stopped there. We could not advance as we were being obstructed by more than three thousand armed police though we were only 1300 unarmed women, men and children. The show of force was deliberate, to frighten us, and to overawe us. Our women were brave. Many of them wanted to break the cordon, but the course of collision was avoided. We decided to court arrest after much discussion as it was the only honourable course left. We courted arrest at 2 A.M. and were brought to Udaipur at day break on 15th March.

Thus the heroic struggle of the reformists came to an end in its first phase. The glorious struggle steeled our people in determination on one hand, and, exposed the naked collusion between the Government and the fundamentalists, on the other. It also consolidated unity between people of various castes and creeds, one of the important objectives of the struggle. It also proved to be a rich educative experience for our women. Many of their illusions were shattered. Our youth also realised the importance of communal unity and need to fight against fundamentalism. Another achievement of the struggle was coming together of all political parties, of right and left, to protect the fundamental rights and democratic values. The struggle also exposed the collusion between vested interests of all sorts.

One important question is how to measure the success of a struggle ? Many were asking me what did we achieve through this struggle. Well, it is important to evolve proper yardstick to measure the success. There are certainly yardsticks more than one. One could be to achieve final objective for which a struggle is launched. It is rarely possible for variety of reasons, especially when it is directed against powerful vested interests, or collusion between them, as in the present case. The other yardstick could be to create awareness among the people for their rights and their individual dignity and what is important to induce them to fight, rather than submit with a sense of helplessness. This by itself is, in my opinion, a great measure of success. To despair and to submit is to lose the battle for ever. To fight and 'lose' is to win the battle partially, in physical sense, and wholly, in moral sense. The fight for truth and justice is its own reward. To fight such battles one draws inspiration from the values (truth and justice), not from 'success'. No battle would have been fought, and no sacrifices made, if the only consideration had been physical success.

The Bohra reformists did not submit with a sense of helplessness in the face of great odds and fought with determination and induced other people as well to join them on the issue of civil rights and justice and exposed the collusion between various vested interests. This itself is great achievement, more than success in the physical sense. People are aware and fighting. Human dignity cannot be crushed, whatever the might of the tyrants.

'Religion'

A NUMBER of letters received by this newspaper over the past few months—some from far afield beyond our borders—warn Tanzania and East Africa against a supposedly common practice among some religious leaders who come to this part of the world from their celestial seats in foreign countries and collect large sums of money from their followers living here and fly with it back home.

On receipt of these letters we have made investigations and assembled a dossier on some of the religious leaders mentioned in the correspondence which for reasons best known to us would not be proper to divulge at this time.

It is necessary for us, however, to restate most emphatically Tanzania's policy with regard to religion and the right of worship.

This is particularly important now that one of the celebrated leaders of religious sect followed by a community living in Tanzania is scheduled to visit this country from next Monday.

There is complete freedom of worship in this country. That freedom is guaranteed. Everyone has the right to worship anything he feels like believing in or to follow any religious faith he is interested in or even to start his own religion provided it does not preach things which are contrary to the principles of our nation, peace and good order.

What we mean by this is that anyone can for example start a religion of his own which may even go as far as preaching such mundane things as polygamy, although at the same time no one would be allowed to start a religion that preaches such things as racial hatred or anti-socialism.

As a matter of principle also Tanzanians have prescribed for themselves a strict code of conduct which sets a clear demarcation between religious work and other field. Tanzanians for instance do not tolerate anyone meddling religion with politics. In the same way, Tanzanians do not regard religion as a money-making enterprise. It is for this reason that Tanzanians consider highly immoral for anyone to try to use religion for purposes of making money.

We recognise that there were days in our history when some religious leaders used to be weighed against gold and other precious stones robbed from our soil by their followers. But those days are gone and gone for ever. They must be forgotten.

What we are doing now is to tackle the problems of developing our country. We have inherited a poor economy. We need all the money that is available to us for development. It is highly immoral for anyone to rob his country of its hard-earned cash in the name of religion.

Let it be hoped that this serious warning will sink deeper into the consciences of all religious leaders-local and Overseas that none of them shall at any time whatsoever contemplate encroaching upon the property of this nation by repairing it to foreign lands-whether in cash or kind.

'The Nationalist' August Friday, 9, 1968
-Editorial.

DARKNESS AT NOON

The Report of the Dawoodi Bohra Enquiry Commission released last week, can only be described as shocking. The manner of control over all aspects of life of the member of the Bohra community exercised by its priestly hierarchy, which the report reveals, is reminiscent of the dark Ages and not modern times. The Report is actually an expose of the priesthood's barbarous treatment of its non-conformist member, especially the progressive-minded young men and women, who seek to lead their social lives as free people enjoying fundamental rights in a modern society nurtured in a democratic set-up. These rights, which are constitutionally guaranteed to every Indian are apparently being denied to some in the name of religion. If so, they constitute a violation of civil liberties as rightly pointed out by the commission.

When a young Bohra attains majority and takes the 'missaq' (the oath of unquestionable obedience to the head priest), the report would have us believe, he is virtually handed over, so to say, bound hand and foot and gagged to the tender mercies of the Syedna the spiritual and temporal head). And the head priest, it seems happily exercises his extraordinary powers particularly over forward-looking, progressive young Bohras, through the weapon of "Baraat" (social boycott), which in practice means ex-communication of the members from the Bohra community. Besides, at the instigation of the pious clique they are said to be regularly physically assaulted, mentally tortured and cut off from their dear and near ones. Further, under threats they are not permitted to read newspapers of thier choise, much less stand for municipal or legislative elections without the sanction of the Sydna, who also, at the time of elections decides to which party the community should vote. These assertions do sound incredible in our age. They are a perversion of

civil rights and it is a matter for sorrow that for the last 30 years a section of our people has been forced to lead a life of restrictions that border on slavery.

The commission, headed by Mr. N. P. Nathwani, M.P.(Janata), though an unofficial body appointed by the citizens for Democracy and comprising eminent lawyers and academicians, is entitled to the respect of any official body for its objective outlook and its recommendations offered without fear or favour. On the ground that it is impossible to institute any reformist movement within the community, the commission has recommended that suitable legislation be passed by the state to divest the Syedna of his super-authority so that he is stopped from curbing or eliminating the civil rights of the Bohras. It behoves the Government to give serious consideration to this recommendation. It would of course, be better if the Syedna, seeing the writing on the wall, voluntarily relinquished his temporal powers as befitting a civilised leader in a civilised society. This is bound to enrich the community and obviate every trail of bitterness.

Free press Journal,
Bombay, April 22, 1979

RELIGIOUS INTOLERANCE

The attack on Asghar Ali Engineer, General Secretary of the Central Board of reformist Dawoodi Bohras in Hyderabad on Sunday only confirms the intense intolerance displayed by Bohra Muslim orthodoxy. To harass the reformists, who held a three-day seminar in Bombay recently, diehard - Aohras tried their best to hold up the proceeding of the third world conference not only by physically obstructing traffic near the venue but also by intercepting buses carrying delegates. Even women were manhandled. This was no chance confrontation but the result an organised vendetta against reformists who all along-even before the constitution of the Nathwani commission which confirmed grave allegations of extractions of money and swearing blind allegiance to the Syedna of religious head have been conducting their protest movement with due decorum and restraint.

The Nathwani Commission was not 'official' as such and much has been made of this by the religious hierarchy. But it is significant that not a single of its allegations-including the omnipresent threat of social and religious boycott, which led to the first major confrontation some years ago when priests refused to perform the marriages ceremonies of the reformists children - has been found to be false. It is high time, therefore, that the Centre stepped in and inquired into the affairs of the Bohra community itself. It is certain that the priest collect huge amount from the faithful all over the world as tribute on a variety of occasions (the reformists put it Rs. 12 Crores a year) and this sum alone is sufficient ground to call for management by a trust.

The Government can hardly shelter under the excuse that this would amount to religious interference. On the contrary, the misuse of a concept

like "Misaq" or oath of allegiance to the priesthood can amount to a denial of the right to practise religion, as enshrined in the constitution. There are surely ample precedents for the Centre as in Tirupati and Pandharpur. In both these cases, however, only the management of funds was in question. For the Bohra community, the issues are for more fundamental.

Indian Express,
February 18, 1981

ENDING OBSCURANTISM

By any reckoning the three-day Fourth Work Conference of Dawoodi Bohra reformists which concluded in Pune on Sunday, must be said to have achieved its principal purpose of creating awareness about the objectives of the reform movement and the securing of popular support for it. Not even the most gullible of Indians would imagine that the thrust of the deliberations at the conference and a number of resolutions passed by it would immediately result in the loosening of the stranglehold of the religious orthodoxy on the Bohra community. Such a thing never happens. Social reform is a long-drawn process which takes its own time to make, its impact felt. Yet, the consciousness created by the conference about the grievances of the Bohras and the need for their removal can be expected to bring forth wider support to the movement. This is where the success of the conference lies. The main thrust of the deliberations was on the obliteration of the feudal and barbaric practices like 'Misaq' (total surrender to the priestly establishment) and 'Baraat' (social boycott of those who do not do so). Human beings are born free and to seek to tie them down to a particular religious practice or social thinking is a crime against the spirit of that freedom. This kind of indoctrination is objectionable any time. In a rationalist era, it deserves to be condemned outright. Orthodoxy has not completely gone out of the Hindu society too. Indeed, it has created the problem of Dalits. That too calls for a sustained fight, which is happily going on in the country. But the Hindu Orthodoxy has not imposed any kind of social boycott on the fighters for the cause of the Dalits. The Bohra orthodoxy has clearly not realised the mistake it is making in sticking to obscurantist methods. It must learn to treat religion as a matter of one's personal belief. Social boycott of those who do not see eye-to-eye with the establishment is an anachronism of the most laughable kind. The demands

of the Bohra reformists are not religious but essentially human. The wide support received by the conference from non-Bohra has to be understood in this light. Those from the pro-establishment side, who tried to obstruct the holding of the conference not only by circulating mischievous posters but also by resorting to the muscle power, did the greatest disservice to the very concept of tolerance implicit in religion. It was undoubtedly sad that the conference had to transact its business under police protection and its organisers had to be provided with police escort. But that went not against the organisers of the conference but against its opponents, in as much as it, showed their intolerance of dissent. (That even a newsman covering the inauguration of the conference should have been chased by the pro-establishment section showed the extent of the intolerance). There was no wisdom involved in the reformists refusing to take police protection. For, what was important was sending out a message. And in the absence of police protection, the message would not have gone out the way it has. It will be in the interest not only of the Bohra community as a whole but also of the Indian society, of which it forms a part, for the Bohra orthodoxy to see the signs of the times and enter into a dialogue with the reformists. For, urge for freedom is ultimately bound to assert. The Government on its part must take steps to implement the Natwani Commission recommendations on the subject.

Maharashtra Herald, Pune
February 15, 1983

Ahmedabad : The story goes that in 1426 (precisely one hundred years, that is, before the first battle of Panipat, when Afghan Lodis were at the height of their power in Delhi) Sultan Ahmed Shah was out hunting in Gujarat. At one point in the forest, his dog, spying a hare, immediately gave chase. The hare, instead of behaving like hares are supposed to when pursued by powerful hunting dogs and fleeing, suddenly turned around and launched a counterattack on Shah's dog. The Sultan was so impressed that he decided to build a city at the spot where even the hares were so brave as to give fight to dogs. Thus was Ahmedabad built; *Jab kutte pe sassa aya, tab Badshah ne shahar banaya*, as the saying goes in Gujarat.

The story may be totally apocryphal, but it had a fine relevance on 22 February when the fifth world Dawoodi Bohra conference opened in this city. The hare was once again confronting power, standing up, not running away from the bully. These were the Bohras who had rebelled against the astonishing dictatorship of their religious leader Syedna Burhanuddin. There is very little that the Bohra can do - apart from being born, one supposes, without the permission of the Syedna. Yes, he can die too without asking the Syedna, but can't be buried. It seems incredible, that a religious dictatorship not only exists in modern India, but flourishes in the Dawoodi Bohra community, which is a sect within the Islamic faith. Of course how Islamic it truly must remain open to debate, since the Syedna, has the tamerity to describe himself as a living God. Anyone who knows anything about Islam will appreciate how repugnant such human claims will be to a Muslim. But at the age of 15 every Bohra must take an oath of allegiance not to Allah but to the Syedna, and anyone who dares challenge this preposterous bondage is not only excommunicated but terrorised and hounded. Sustenance lies in slavery; wealth and protection will come from acceptance of inferior status; those who dare ask for reason

and reform will be physically, emotionally, mentally crushed - it is an old and familiar syndrome. The Dawoodi Bohra has to surrender, by his oath to the Dai(that is, the Syedna) his mind, his heart, his convictions - and, just in case he thinks he can get away with sphemeral things, also his wealth and his property. He keeps everything at the pleasure of the Dai. And if anyone breaks the oath, not only is he thrown out of the pale of the community, but his property and wealth can actually be looted by the loyalists. If this had been fiction I would not have believed it.

It was only one's duty, therefore, to be present at the inauguration of the conference where some 1,000 Bohras had gathered to demand that this atrocious slavery be stopped. I was reminded of Gandhiji's faith, it needed only one man to speak the truth for a lie accepted by millions to be destroyed. This group had decided to stand up on the side of right. Once they had been so few they could be counted in single digits. Now they were in thousands. The movement is in the hands of courageous men like Asghar Ali Engineer, who have suffered enormously (including physical violence) for their convictions, for their demand for reform. What was particularly heartening was to see to so many women in the audience.

Many societies in every age have fallen pray to small groups of vulture-priests, that class of oppressors who hawk as sacred a trust as religion. Where kings and queens have been replaced by their modern equivalent, dictators, the Syedna can understandably buy his way towards continuing this vicious control on his community. But how is he able to conduct his theocracy in a secular state like ours? We have guaranteed freedom of religion, and it is one of our most cherished rights, but can we allow slavery in the name of religion? Supposing tomorrow someone-perhaps a mahant in Bihar - begins to justify bonded labour and oppression of the destitute temple lands in the name of religion?

Can we allow that? Clearly not. The time has come to allow the Bohra community a whiff of the freedom that the human race has managed to restore at least in some places on this earth.

Editorial, Calcutta,
Sunday, 10-16 March, 1985.

AN OBNOXIOUS PRACTICE

Suddenly there seems to be a recrudescence in various parts of the country of the practice of social boycott of dissenting members of a community by the rest, or of social ostracisation of one caste, ethnic or kinship group by another living in the same village or town. The Sulekha Beevi case from Bheemapalli in Kerala is the most notorious instance of this. But there are many other cases; from Gujarat and Maharashtra, of the boycott of the "reformist Bohras" by the orthodox followers of the Dawoodi Bohra head priest; from Bihar of Khilanand Jha, who has for the past three years faced persecution and harassment at the hands of the other Madhubani and Darbhanga Brahmins for having married a Harijan woman; from Andhra Pradesh of Harijans who have been driven out of Karamchedu village in Prakasam district by the caste Hindus and have now had to seek refuge in a church in Chirala; and from Kerala again of 40 families of the Vaduka caste who have been ostracised by the Chieftains of their community in Palghat district. Such examples can be multiplied, what they show in each case is that certain powerful groups and individuals within some communities have lost whatever compunction they might have had in resorting to the barbaric practice of social boycott. While not as violent, social ostracism is in some ways more nagging and cruel than overt physical attacks on members of one group or on an entire community. It not only destroys and burts its victim, it leaves him or her with no will and

few resources with which to resist it; the pressure to comply with the unreasonable demands of fanatical confirmists often becomes unbearable and breaks the individual. The recrudescence of social ostracism represents a serious set-back for the cause of social reform in this country and an undoing of some of the work done by reformers for the past several decades. It entails a direct return to primitive, uncivilized notions and values, to the law of the jungle. This evil must be fought vigorously. Legal measures against the practice are urgently needed; but they might not achieve much on their own in the absence of social awareness and a strong grass-roots reform movement.

Editorial, Times of India,
July 24, 1985.

THE TAMASHA FOR TWO LAKHS

The Government melda is for anyone to buy provided one has price to pay. This was recently demonstrated by the showing of the Bohra religious head Muhammad Burhanuddin continuously for two days in Hindi as well as English news bulletins on 26 and 27 August 1985 in national hook-up. On 27 August the Syedna was shown reading a message for couple of minutes in presence of some of his followers. This was shown in both the news bulletins in the net-work programme.

It is a matter of great shame for Government media to publicise and glorify a person against whom there are serious charges of persecution of his own followers, a person who has allegedly misappropriated charitable funds of the community amounting to several crores of rupees. The religious head and his family are riding roughshod over the community and terrorising them. Some of the members of this family are involved in foreign exchange scandals.

The whole family of the Bohra high priest is using religion as a camouflage for their nefarious activities. The Nathwani commission report has sufficiently exposed all these activities. How can then a Government allow its media to glorify such a person? The answer is that anything and everything in our society is for sale. The vested interests have very deep links with other vested interests including those in the Government.

The Government hardly did anything to curb highly objectionable and illegal activities of the high priest and now one of the ministers has rubbed salt in the wounds of the Bohras by glorifying a person against, whom they have serious complaints. The Government talks of modernization, secularisms and compuerization and 21st Century technology on one hand ,and allows most obscurantist practices and gross exploitation in the name of religion, on the other, What is worse is Government does not only tolerate such gross misuse of religion but associates itself with it. It was highly unbecoming of Mr. V. N. Gadgil, the information and Broadcasting Minister, to have allowed T.V. newscast to be misused repeatedly by the Bohra high priest, Mr. Gadgil owes an explanation to the public for this misuse of the media.

What was most ironical was that the high priest was shown reading a message on T.V. on the occasion of Eid-al-Zuha in which he talked of removing economic disparity. One would like to ask what the 'spiritual head' himself has done to remove lark poverty found to his own community? It is not true that he and his family roll in vulgar luxury when thousands of Bohras are living in ramshackle hutments many of which have gutters underneath under his very nose in Bombay? Is it not true that he and his family indulge in extracting money even from these poor semi-starved people? Many of the Bohra women can be seen collecting pickings from dustbins. It is not a fact that many Bohra women in the mohalla in Bhindibazar in Bombay are compelled to go for

prostitution? Despite all this the Bohra high priest and his family's lust for money remains as insatiable as ever.

The Government controlled T.V. and radio always suppress the news about the activities of the reformist Bohras under the pretext that they do not want to involve themselves in the internal controversy of a religious community. Why then glorify one part in the dispute which is the accused. Only because it has tons of unaccounted money?

The Bohra Chronicle,
15-9-1985

PROBE BOHRA BOMB

The accusations and counter-accusations hurled by the Bohra disciples of Syedna Mohammed Burhanuddin and the members of the reformist Central Board of the Dawoodi Bohra Community in the aftermath of the bomb blast on January 23 has created further tension in this trading community which already is experiencing an unbridgeable rift between the well-entrenched orthodoxy and the progressive sections.

The entire rationale behind the bomb remains nebulous. Was it aimed at obliterating the Syedna who had returned from a foreign tour and was to lead the Magrib or sunset prayer at the very spot? Or was it a clever ruse to discredit the reformist section which has remained completely non-violent and has resorted only to peaceful agitation to press its demands? It is precisely this grey area of motivation that is sowing the seeds of distrust and animosity between brother and brother and vitiating peace and harmony in the city.

In the circumstances, the only remedy would be a highlevel inquiry by the CBI into the bomb blast, which an hour earlier would have resulted in a grisly human tragedy as thousands had assembled for an audience with their leader. In the meantime, both sides should desist from bitter recrimination which would only serve to exacerbate rather than heal the divisive wounds.

The Daily,
January 28, 1986

OUTLAW SOCIAL BOYCOTT

Quick on the heels of the excommunication of the Punjab chief minister by the Akal Takhat head priest - and the furore this provoked throughout the country - comes the demand by the leaders of the Bohra Muslim reform movement that the Centre should bring in legislation outlawing the practice of social boycott. The succession of events is more than a mere coincidence: the reformist Bohras have taken advantage of the nation's concern over developments in Punjab to press their demand. The practice of excommunication and boycott of dissidents are not unique to any one religious group. As numerous instances from different parts of the country show, these cut across all religions. Social and geographical barriers. What is involved in each case is punishment - at times public lashings have been threatened - ordered by a religious authority. The purpose of such practices is to delegitimise all dissent and impose a false homogeneity upon diverse members of community by the simple expedient of terrorising them. In the case of Punjab, the problem has acquired an explicitly political dimension but that is not a good enough argument for ignoring other cases of excommunication.

What is of immediate concern here is its implication for individual liberties and fundamental rights. A social boycott of "tankhaiyas" or "heretics" is in fact calculated to immediate them into acting against their beliefs. It ordains, in the name of religion, a complete negation of the right to freedom of belief, expression and association and makes it impossible for the concerned individual even to think of choosing freely. The practice of social boycott and excommunication belongs to the medieval age, not to the modern epoch because it is incompatible with elementary democratic values. In essence it is indistinguishable from the practice of untouchability. By the same token, social boycotts should be outlawed. It is the duty of modern state to ensure that those in authority cannot terrorise into submission those who disagree with them. Such a law does not represent state interference with religion; it is merely a way of preventing the illegitimate intrusion of religious bigotry into public life. True, a mere law will not suffice. It is nevertheless a first step in the right direction.

Times of India,
February 17, 1987

THE PERSONAL LIKES AND DISLIKES OF RULERS

Two incidents which happened recently bring no credit to the people at the top. One is connected with Prime Minister Rajiv Gandhi and the other with Rajasthan chief minister Harideo Joshi. Both incidents are separate, but they send out the same message: rulers have little respect for norms.

The first incidents is the transfer of Bhure Lal, who was director of the enforcement directorate in the finance ministry. For some time, it was rumoured that he would be shifted from finance,

not because he was one of the chosen men of V.P. Singh, but because he had tried on forbidden territory.

It all began when Bhure Lal was asked to personally look into assets held by Indians abroad. V.P. Singh, as finance minister, had established a special section for the purpose. The Prime Minister was told about it. Many foreign agencies, which are engaged in similar exercises, were hired to give the relevant economic information.

One foreign agency informed Bhure Lal at that time that an American firm which belonged to a non-resident Indian was receiving huge sums of money at regular intervals. This American firm separately demanded a fee of \$33,000 to probe further. V.P. Singh sanctioned the money but this time he did not keep the Prime Minister in the picture. The agency hit upon "certain information" which it found too hot.

V.P. Singh was contacted to find out if he wanted the agency to probe further. Around the same time, word was also sent through "reliable" channels to the Prime Minister who noted that V.P. Singh had not consulted him before deciding on the matter and paying the amount. The rest is common knowledge. V.P. Singh was shifted and now the officer involved. Bhure Lal has also been removed from finance, the punishment of Bhure Lal was on the cards. At least those who knew that the "definite information was about the brother of a matinee idol, believed so. This speaks volumes of Mr. Clean's cleanliness.

The other thing that happened is the strange behaviour of Harideo Joshi regarding the entry of Bohras into Muslim Shrine at Galiakot, 70 miles from Udaipur. Because of Syedna Muhammad Burhanuddin the Bohra high priest, the chief

minister barred the liberal branch of the Dawoodi Bohra community from entering it.

I came to know about it when Asghar Ali Engineer, a civil liberties activist and a liberal Bohra, went on an indefinite hunger strike on the question of free access to the shrine, a basic right of every member of the Muslim community. This is what told the chief minister in Jaipur: "If the Harijans can have access to any Hindu temple, why not Muslims to a shrine?" And the chief minister argued that it was private shrine of the Syedna'a group. He was wrong.

Engineer told me that he was tricked into ending his fast. The Chief minister assured him and the liberal Bohras were put in 20 buses by the police to go to the shrine. The authorities even said that the arrangements for their entry had been made. naturally, Engineer had to end his fast. Almost immediately, the government changed its stance and sided with the Syedna. I can understand the Syedna tricking Asghar Ali Engineer and his men but why did the Rajasthan Government behave in the queer manner it did?

The chief minister has not appreciated the sacrifices some persons like Asghar Ali Engineer have been making to retrieve the Bohra community from fundamentalism and personal aggrandisement. The Dawoodi Bohra community is rigidly governed by its religious head, called Da'i which literally means summoner to the cause of Allah. The Da'i supposedly officiating in the absence of the Imam, the supreme religious leader after the Prophet, is charged with the responsibility of looking after the religious affairs of the Dawoodis. In the earlier centuries, they had led an exemplary life and avoided riches.

However, the father of the present religious sect, reversed this policy and chose to accumulate riches. Through clever moves and repressive measures he succeeded in establishing a very tight control over the community.

The reformists organised themselves to fight for reforms. They put forward demands before the priest and asked him to confine his domain to religious activities, allow democratisation of the community's set-up, and stop the use of the hated weapon, baarat (social boycott) to terrorise people into submission. Their struggle continues. Harideo Joshi's ban on the entry into the shrine has only helped the Syedna.

The Rajasthan chief minister thus threw his morals to the winds. The Prime Minister has also done the same in a different way. One lesson that everyone can learn is that every rule and regulation is stretched when it comes to the bias of the rulers.

'SUNDAY'

4th April, 1987

IN REACTIONARY CAMP

The Rajasthan government has refused to protect the right of reformist Bohras to visit their holy shrine at Galiyakot in Dungarpur district. In doing so it has put itself firmly on the side of Syedna Mohammed Burhanuddin and the continuation of his stranglehold over the Bohra community as its spiritual and temporal head. The reformists within the Bohra community have been struggling for the last 4 years to gain access to the Galiyakot

shrine. In February this year, the Rajasthan government has agreed to make security arrangements for them to worship at the shrine. However, this turned out to be a false assurance and thirteen busloads of reformist Bohras were stopped on March 13 in a thick jungle on the way to the shrine and prevented from going anywhere near it. The reformist Bohras and the members of the opposition in the state assembly have accused the government of supporting the fundamentalists with an eye on their votes as orthodox Bohras are to be found both in the constituency of the chief minister of Rajasthan and his home minister. The orthodox among of the Bohras, it is believed, vote according to the wishes of the Syedna.

However, considering that there are only about 10,000 Bohras in three southern districts of Rajasthan, viz., Udaipur, Dungarpur and Banswara, Bohra votes alone are unlikely to account for the behaviour of the state government. To meet the challenge of the reformist Bohras, the orthodox priesthood is reported to have formed links with Muslim fundamentalist organisations. And according to the reformist leader, Mr. Asghar Ali Engineer, a part of the collection made by the priesthood from Bohras in Pakistan, Kuwait, Dubai, the U.K. th U.S., Canada, Singapore, Hong Kong and the countries of East Africa also goes to finance certain Muslim political organisations for buying their support. Under these circumstances, what the Rajasthan government is likely to be frightened of is not only the loss of the Bohra votes alone but the wider repercussions of supporting the reformists. This also might explain its according the status of a state guest to the Syedna on Republic Day, although he stands for the violation of the civil rights that the Bohras, as much as many

other citizens of India, are guaranteed under the Constitution. But the question is, can the state government be seen to be an active accomplice in violation of the civil rights of a section its population? How can any one talk of separation of religion and politics when politics itself is used to bolster religious fundamentalists? These are some questions that Harideo Joshi's government needs to ponder over.

THE TIMES OF INDIA, BOMBAY
6th April, 1987

IN THE SUPREME COURT OF INDIA

ORIGINAL JURISDICTION

Writ Petition No. 128 of 1958

SARDAR SYEDNA TAHER-
SIFUDDIN SAHEB

.. Petitioner

Versus

THE STATE OF BOMBAY .. Respondent

JUDGEMENT

SINHA, C. J.-

By this petition under Act. 32 of the Constitution, the Petitioner, who is the 51st Dai-ul-Mutlaq and head of the Dawoodi Bohra Community, challenges the constitutionality of the Bombay Prevention of Excommunication Act 1949 (Bombay Act XLII of 1949)(hereinafter referred to as the Act) on the ground that the provisions of the Act infringe Acts, 25 and 26 of the Constitution. The sole respondent in this case is the State of Bombay.

The Petition is founded on the following allegations. The Dawoodi Bohra community consists of Muslims of the Shia sect, holding in common with all members of that sect the belief that there is one God, that Mohammad is His Prophet to whom he revealed the Holy koran; that Ali, the son-in-law of Mohammad, was the Wasi (executor) of the Prophet, and that the said Ali succeeded the Prophet by Nas-e-Jali. The Dawoodi Bohra believe the said Ali was succeeded by a line of Imams, each of whom in turn was

appointed by Nas-e-Jali, by his immediate predecessor. The Shia sect itself become divided into two sub-sects, known respectively as Ismailia and Isna Asharia. The Dawoodi Bohras belong to the former sect, and believe that owing to presecution Imam Tyeb (the 21st Imam went into seclusion and that an Imam from his line will appear, it being their belief that an Imam always exists although at time he may be invisible to his believers, while in seclusion that owing to the impending seclusion of the 21st Imam (Imam Tyeb his predecessor, the 20th Imam, directed his Hujjat (a dignitary ranking next to an Imam, one Hurra-tul-Malaka, to appoint a Dai, a Mazoon (a dignitary next to a Dai) and a Mukasir (a dignitary ranking next to a Mazoon) to carry on the Dawat (mission) of the Imam so long as the Imam should remain in seclusion, and to take and receive from the faithful on oath of allegiance.

The Dais are known as Dai-ul-Mutlaq. The petitioner, as the Head Priest of the community of Dawoodi Bohras, is the Vicegerent of Imam on Earth in seclusion. The Petitioner is a citizen of India. As Dai-ul-Mutlaq and the vicegerent of Imam on Earth in seclusion, the Dai has not only civil powers as head of the sect and as trustee of the property, but also ecclesiastical powers as religious leaders of the community. It is the right and privilege of the petitioner, as Dai-ul-Mutlaq, to regulate the exercise of religious rights in places where such rights and ceremonies are carried out and in which religious exercises are performed. In this capacity as the Dai-ul-Mutlaq that is to say as religious leader as well as trustee of the property of the community, one of his duties is to manage the properties which are all under his directions and control. He has also the power of excommunication. This

power of excommunication is not an absolute, arbitrary and untrammelled power, but has to be exercised according to the usage and tenets of the community. Save in exceptional circumstances, expulsion from the community can be effected only at a meeting of the Jamat, after the person concerned has been given due warning of the fault complained of and an opportunity of excommunication properly and legally effected involves exclusion from the exercise of religious rights in places under the trusteeship of the Dai-ul-Mutlaq. The petitioner claims that as the head of the Dawoodi Bohra community and as Dai-ul-Mutlaq he has the right and power, in a proper case and subject to the conditions of legal exercise of that power, to excommunicate a member of the Dawoodi Bohra community, and this power of excommunication is an integral part of the religious faith and belief of the Dawoodi Bohra community. The petitioner further affirms that the exercise of the right of excommunication is a matter of religion, and that, in any event, the right is an incident of the management of the affairs of the Dawoodi Bohra community in matters of religion. He also asserts that the Dawoodi Bohra community consists of a religious denomination within the meaning of Art. 26 of the Constitution, the said right of the petitioner to excommunicate a member of the community for reasons of which the Petitioner is the sole Judge in the exercise of his position as the religious head, is a guaranteed right under Arts. 25 and 26 of the Constitution.

The Bombay Legislature enacted the Act, which came into force on November 1, 1949. The petitioner asserts that the Act violates his right and power, as Dai-ul-Mutlaq and religious leader of the Dawoodi Bohra community, to excommunicate such members of the community as he may think fit and proper to do so; the

said right of excommunication and the exercise of that right by the petitioner in the manner aforesaid are matters of religion within the meaning of Art. 26(b) of the Constitution. It is submitted by the petitioner that the said Act violates or infringes both the Arts. 25 and 26 of the Constitution, and to that extent, after the coming into force of the Constitution, has become void under Art 13 of Constitution. The Petitioner claim that notwithstanding the provisions of the Act, he, as the religious leader and Dai-ul-Mutlaq of the community, is entitled to excommunicate any member of the Dawoodi Bohra community for an offence, which according to his religious sense justifies expulsion; and insofar as the Act interferes with the said right of the petitioner, it is ultra vires the Legislature. The Act is also challenged on the ground of legislative incompetence of the then Legislature of Bombay, inasmuch as it is contended that such a power is not contained in any of the entries in the Seventh Schedule of the Government of India Act, 1935.

One Teyebbai Moosaji Koicha (Mandviwala) instituted a suit being suit No.1262 of 1949, in the High Court of Judicature at Bombay, praying, inter-alia, for declaration that certain orders of excommunication passed by the petitioner against him prior to the enactment of the Act were void and illegal and of no effect, and that the plaintiff continued to remain a member of the Dawoodi Bohra community. The said suit was heard by J.C.Shah, J., who, by his judgement dated February 21, 1952, held that the Act was not inconsistent with Art. 26 of the Constitution, and was not ultra-vires the legislature of the Province of Bombay. The Petitioner being dissatisfied with the judgment of the learned Judge, preferred an appeal that come up for hearing before the Court of appeal,

composed of Chagla C.J., and Bhagwati, J. By its judgement dated August 26, 1952, the Court of Appeal upheld the Judgement of the learned Single Judge, though on different grounds. The Petitioner obtained leave from the High Court to appeal to this Court, and ultimately filed the appeal, being Civil Appeal No.99 of 1954. During the pendency of the appeal, the plaintiff-respondent aforesaid died and an application made on behalf of his heirs for being brought on the record was not granted by the High Court of Bombay. This Court dismissed the said appeal on the ground that the plaintiff having died, the cause of action did not survive.

The petitioner further alleges that parties inimical to him and to the Dawoodi Community have written scurrilous articles challenging and defying the position, power or authority of the petitioner as the religious head of the community; the challenge to the petitioner's position and his power to excommunicate as the head of the Dawoodi Bohra community is violative of the petitioner's claimed that it is incumbent upon the respondent, in its public character, to forbear from enforcing the provisions of the Act against the Petitioner. By the petitioner's attorney's letter annexure B to the petition, dated July 18, 1958, the petitioner pointed out to the respondent the unconstitutionality of the Act and requested the latter to desist from enforcing the provisions of the Act against the petitioner or against the Dawoodi Bohra community. In the premises, a writ of Mandamus or a writ in the nature of Mandamus or other appropriate writ, direction or order under Art.32 of the Constitution was prayed for against the respondent restraining it, its officers, servants and agents from enforcing the provisions of the Act.

The answer of the State of Bombay, the sole respondent, is contained in the affidavit sworn to by Shri V.N. Kalghatgi, Assistant Secretary to the Government of Bombay, Home, Department, to the effect that the petitioner not having taken any proceedings to excommunicate any member of the community had no cause of action or right to institute the proceedings under Art 32 of the Constitution; that it was not admitted that the Dai-ul-Mutlaq as the head of the community, has civil powers, including the power to excommunicate any member of the community; that alternatively, such power is not in conformity with the policy of the State, as defined in the Constitution, that the petitioner, and the head of the community, may have the right to regulate religious rights at appropriate places and occasions, but those rights do not include that right to excommunicate any person and to depriave him of his civil rights and privileges; and that, in any event, after the coming into effect of the impugned Act, the petitioner has no such rights of excommunication; that it was denied that the right to excommunicate springs from or has its foundation in religion and religious doctrines, tenets and faith of the Dawoodi Bohra community; that, at any rate, it was denied that the right to excommunicate was an essential part of the religion of the community; that alternatively, assuming that it was part of a religious practice, it runs counter to public order, morality and health. It was also asserted that the impugned Act was a valid piece of legislation enacted by a competent legislature and within the limits of Arts. 25 and 26 of the Constitution; and that the rights to manage its own affairs vested in a religious community is not an absolute or untrammelled right but subject to a regulation in the interest of public order, morality and health.

It was denied that the alleged right of the petitioner to excommunicate a member of the community is guaranteed by Arts. 25 and 26 of the Constitution. In the premises, it was denied that the petitioner had any right to the declaration sought or the relief claimed that the provisions of the Act should not be enforced.

At a very late stage of the pendency of the proceedings in this Court, in April 1961, one Hussein Kurbanhusein Sanchawala of Bombay, made an application either for being added as a party to the Writ Petition or, alternatively, for being granted leave to intervene in the proceedings. In this petition for intervention, he stated that he was a citizen of India and was by birth a member of the Dawoodi Bohra community and as such had been taking an active part in social activities for bettering the conditions of the members of the community. He asserted that members of the community accepted that upto the 46th Dai-ul-Mutlaq there was no controversy, that each one of them had been properly nominated and appointed, but that a controversy arose as regards the propriety and validity of the appointment of the 47th Dai-ul-Mutlaq which controversy continued all along until the present time so that opinion is divided amongst the members of the Dawoodi Bohra community as to the validity of appointments as to the existence of Dai-ul-Mutlaq from the 47th to the 51st Dai-ul-Mutlaq including the present petitioner. The intervener also alleged that but for the impugned Act, the Petitioner would have lost no time in excommunicating him. In the premises, the claims that he is not only a proper but necessary party to the Writ Petition. He, therefore, prayed to be added as a party respondent, or, at any rate, granted leave to intervene at the hearing of the Writ Petition. We have to dispose

of this petition because no orders have been passed until the hearing of the main case before us. In answer to the petitioner's claim the intervener has raised the following grounds, namely, that the Holy Koran does not permit excommunication, which is against the spirit of Islam; that, in any event, the Dai-ul-Mutlaq had no right or power to excommunicate any member of the community, and alternatively that such a right, assuming that it was there was wholly "out of date in modern time and deserves to be abrogated and was rightly abrogated by the said Act." It was further asserted that the alleged right of excommunication was opposed to the universally accepted fundamentals of human rights as embodied in the 'Universal Declaration of Human Rights'. It was also asserted that the Act was passed by a competent legislature and was in consonance with the provisions of Arts. 25 and 26 of the Constitution. The intervener further claims that the rights to belief, faith and worship and the right to a decent burial were basic human rights and were wholly inconsistent with the right of excommunication claimed by the petitioner, and that the practice of excommunication is opposed to public order and morality; that the practice of excommunication was a secular activity associated with religious practice and that the abolition of the said practice is within the saving cl.2(a) of Art. 25 of the Constitution. It was also asserted that, under the Mohamadan Law, properties attached to institutions for religious and charitable purposes vested in the Almighty God and not in the petitioner, and that all the members of the Dawoodi Bohra community had the right to establish and maintain such institutions, in consonance with Art.26 of the Constitution; that is to say that Art.26 guarantees the right of the denomination as a whole and not an individual like the

petitioner. It was also asserted that the provisions of the Act prohibiting excommunication was in furtherance of public order and morality and was just and reasonable restriction on a secular aspect of a religious practice. The petitioner challenged the right of the intervener either to intervene or to be added as the party-respondent. In his rejoinder to the petition for intervention, the petitioner further alleged that the practice of excommunication was essential to the purity of religious denominations because it could be secured only by removal of persons who were unsuitable for membership of the community. It was, therefore, asserted that those who did not accept the headship of the Dai-ul-Mutlaq, including the petitioner, must go out of the community and anyone openly defying the authority of the Dai-ul-Mutlaq was liable to be excommunicated from the membership of the community, entailing loss of rights and privileges belonging to such members. It was, therefore, claimed that the practice of excommunication was, and is an essential and integral part of the religion and religious belief, faith and tenets of Dawoodi Bohra community, which have been guaranteed by Art. 26 of the constitution.

It has been argued on behalf of the petitioner in support of the petition, that the Dawoodi Bohra community, of which the petitioner is the religious head, as also a trustee in respect of the property belonging to the community, is a religious denomination within the meaning of Art. 26 of the Constitution; that as such a religious denomination it is entitled to ensure its continuity by maintaining the bond of religious unity and discipline essential tenets, doctrines and practices; the right to such continuity involves the right to enforce discipline, if necessary by taking the extreme step of excommunication;

that the petitioner as the religious head of the denomination is invested with certain powers, including the right to excommunicate dissidents, which power is a matter of religion within the meaning of Art. 26(b) of the Constitution; that the impugned Act, in so far as it take away the power to enforce religious discipline and thus compels the denomination to accept dissidents as having full rights as a member of the community dedicated to religious use, violates the fundamental rights of the petitioner guaranteed under Art. 26. In this connection, reliance was placed on the decision of this Court in *The Commissioner, Hindu Religious Endowments Madras v. Sri Lakshmindra Thirha Swamiar of Sri Shiru Mutt* which, it is contended, has laid down that the guarantee under the constitution not only protects the freedom of opinion, but also acts done in pursuance of such religious opinion, and that it is the denomination itself which has a right to determine what are essential parts of its religion, as protected by the provisions of Art. 25 and 26 of the Constitution. It was further contended that the right to worship in the mosque belonging to the community and burial in the graveyard dedicated to the community where religious rights which could not be enjoyed by a person who had been rightly excommunicated. In so far as the Act took away the right of the petitioner as the head of the community to excommunicate a particular member of the community and thus to deprive him to the use of the funds and property belonging to the community for religious purposes, had the effect of depriving the petitioner, of his right as the religious head to regulate the right to the use of funds and property dedicated to religious uses of the community. It has also been contended that religious reform, if that is the intention of the impugned Act, is outside the ambit of Art. 25(2)(b) of the Constitution.

The learned Attorney-General for the respondent contended on the other hand, that the right to excommunicate, which has been rendered invalid by the impugned Act, was not a matter of religions within the meaning of Art. 26(b) of the Constitution, that what the Act really intended was to put a stop to the practice indulged in by a caste or a denomination to deprive its members of their civil rights as such members, as distinguished from matters of religion which were within the protection of Arts. 25 & 26. Alternatively, it was also argued that even assuming that excommunication was concerned with matters of religion, the Act would not be void because it was a matter of reform in the interest of public welfare. It was also argued that there was no evidence on the record to show that excommunication was an essential matter of religion. The right to worship at a particular place or the right of burial in a particular burial ground were questions of civil nature, a dispute in respect of which was within the cognizance of the Civil Courts. The legislation in question, in its real aspects, was a matter of social welfare and social reforms and not within the prohibitions of Art. 25(1) or Art.26. Excommunication involving deprivation of rights of worship or burial and the like were not matters of religion within the meaning of Art. 26(b); and finally, Art. 26(b) was controlled by Art. 25(2)(b) of the Constitution, and therefore, even if excommunication touched certain religious matters, the Act, in so far as it had abolished it, was in consonance with modern notions of human dignity and individual liberty of action even in matters of religious opinion and faith and practice.

Shri Shroof, appearing for the intervener, attempted to reopen the question whether the petitioner as Dai-ul-Mutlaq, assuming that he had been properly elected as such, had the power to excommunicate, in spite of the decision of their Lordships of the Judicial Committee of the Privy Council in *Hasan Ali v. Mansoor Ali*. He also supported the provisions of the impugned Act on the ground that they were in furtherance of public order. As we are not here directly concerned with the question whether or not the petitioner as the head of the religious community had the power to excommunicate, we did not hear Mr. Shroff at any length with reference to that question. We shall proceed to determine the controversy in this case on the assumption that the petitioner had that power. We are only directly concerned with the question whether the provisions of the Act, in so far as they have rendered invalid the practice of excommunication, and unconstitutional as infringing Art.26(b), and enacted by legislature which was not competent to do so, as contended on behalf of the petitioner. We will, therefore, confine our attention to those questions. Keeping in view the limited scope of the controversy, we have first to determine the ambit and effect of the impugned Act. The Bombay Prevention of Excommunication Act (Bombay Act XLII of 1946) is an Act to prohibit excommunication in the province of Bombay. Its preamble, which shortly states the background of the legislation, is in these terms:

"Whereas it has come to the notice of Government that the practice prevailing in certain communities of excommunicating its members is often followed in a manner which results in the deprivation of legitimate rights and privileges of its members;

And whereas in keeping with the spirit of changing times and in the public interest, it is expedient to stop the practice; it is hereby enacted as follows:-

The definition of "Community" as given in s.2(a) would include the Dawoodi Bohra community, because admittedly its members are knit together by reason of certain common religious doctrines, and admittedly its members belong to the same religion or religious creed of a section of the Shia community of Muslims. The term "community" includes a caste or a sub-caste also. "Excommunication" has been defined by s.2(b) as meaning "the expulsion of a person from any community of which he is a member depriving him of rights and privileges which are legally enforceable by a suit of civil nature ..", and the explanation to the definition makes it clear that the rights and privileges within the meaning of the definition include the right to office or in any religious place or a right of burial or cremation, notwithstanding the fact that the determination of such right depends entirely on the decision of the question as to any religious rites or ceremonies or rule or usage of a community. By s.3 excommunication or member of community has been declared to be invalid and of no effect notwithstanding any law, custom or usage to the contrary. Any act of excommunication, or any act in furtherance of excommunication, of any member of a community has been a penal offence liable to a punishment, on conviction, of fine which may extend to one thousand rupees. The explanation has made it clear that any person who has voted in favour of a decision of excommunication at a meeting of a body or an association of a particular denomination is deemed to have committed the offence made punishable by s.4., as aforesaid. Sections 5 and 6 lay down the procedure for the trial of an offence under

the Act, the limit of time within which the prosecution must be launched and the necessity of previous sanction of the authority indicated therein.

These, in short are the provisions of the impugned Act. It will be noticed that the Act is a culmination of the history of social reform which began more than century ago with the enactment of s.9 Regulation VII of 1832 of the Bengal Code, which provided, inter alia, that the laws of Hindus and Muslims shall not be permitted to operate to deprive the parties of any property to which, but for the operation of such laws, they could have been entitled. Those provisions were subsequently incorporated in the India Act (XXI of 1850) known as the Caste Disabilities Removal Act which provided that a person shall not be deprived of his rights or property by reason of his or her renouncing or exclusion from the communion of any religion or being deprived of caste, and that any such forfeiture shall not be enforced as the law in the Courts. The impugned Act, thus, has given full effect to modern notions of individual freedom to choose one's way or life and to do away with all those undue and outmoded interferences with liberty of conscience, faith and belief. It is also aimed at ensuring human dignity and removing all those restrictions which prevent a person from living his own life so long as he did not interfere with similar rights of others. The legislature had to take the logical final step of creating a new offence by laying down that nobody had the right to deprive others of their civil rights simply because the latter did not conform to a particular pattern of conduct. The Act, in substance, has added a new offence to the penal law of the country by penalising

by action which has the effect of depriving a person of his human dignity and rights appurtenant thereto. It also adds to be provisions of the Criminal Procedure Code and has insisted upon the previous sanction of the prescribed authority as a condition precedent to launching a prosecution for an alleged offence against the provisions of the Act. In my opinion, therefore, the enactment, in pith and substance, would come within Entries 1 and 2 List III of the Concurrent Legislative List of the Constitution Act of 1935. It is true that "excommunication" does not, in terms, figure as one of the entries in any one of the three lists. The legislative competence of the Bombay Legislature to enact the Act has not been seriously challenged before us, and therefore, no particular argument was addressed to us to show that the legislation in question could not be within the purview of Entries 1 and 2 of List III aforesaid. What was seriously challenged before us was the constitutionality of the Act, in the light of the Constitution with particular reference to Arts. 25 and 26, and I shall presently deal with that aspect of the controversy. But before I do that, it is convenient to set out the background of the litigation culminating in the present proceedings.

The first reported case in relation to some aspects of Shia Imami Ismailis is that of the Advocate General ex-relation Dave Muhammad v. Muhammad Huson Huseni. That was a suit commenced before the coming into existence of the Bombay High Court on the Equity Side of the late Supreme Court, instituted by an information and bill, filed by the relators and plaintiffs, representing a minority of the Khoja community, against the defendants representing the majority of that community. The prayers in the action was that an account be taken of all property belonging to or held in trust for the Khoja community of Bombay in the

hands of the treasurer and the accountant, respectively called Mukhi and Marmaria, and other cognate reliefs not relevant to the present controversy. In that case, which was heard on the original side by Arnould J., Judgment was delivered in November 1866, after a prolonged hearing. In that case, the learned Judge went into a detailed history of the several sect amongst Muslims, including the Shia Imami Ismailis, with particulars reference to the Aga Khan and his relation with the Jamat of the Khojas of Bombay. In that case it was laid down that there was no public property impressed with a trust, either express or implied, for the benefit of the whole Khoja community and that Aga-Khan, as the spiritual head of the Khojas was entitled to determine on religious grounds who shall or shall not remain members of the Khoja community. In that case, the learned Judge, with reference to authoritative texts, went into the detailed history of the two sects of the Sunnis and Shias. He discussed the origin of the Ismailis as an offshoot of the Shias, and traced the hereditary succession of the unrevealed Imams in broken line down to Agha Khan. Except for its historical aspect, the case does not deal with any matter relevant to the present controversy.

The next reported case which was brought to our notice is the case of the advocate General of Bombay v. Yusufalli Ebrahim. That was a case directly in relation to the Dawoodi Bohra community, with we are concerned in this case. In that case, there was a dispute a regards a mosque and a tomb, and was heard by Maten J., on the Original side in 1921. We are not concerned with the details of the controversy in that case. But the learned Judge has noticed the history of this community,

with particular reference to the position of the Dai-ul-Mutlaq, and how the differences between the majority of the community and the minority arose on the question of the regularity of the succession of the 47th Dai in 1840. The learned Judge has pointed out that the powers of the Dai are at least thrice delegated, namely by God to Prophet Mohammad, by the latter to the Imam, and by the Imam to the Dai-ul-Mutlaq.

The more directly in point is the litigation which was concluded by the Judgement of their Lordships of the Judicial Committee of the Privy Council in the case of Hassanali v. Mansoorali. In that case, the powers of the Dai-ul-Mutlaq to excommunicate were directly in controversy. The petitioner was the fourth defendant in that action, which had been commenced in October 1925, and was decided by the judgement of the Subordinate Judge of Burhanpur, dated January 2, 1933. That decision was reversed by the Judicial Commissioner of Central Provinces & Berar (later the High Court at Nagpur) by his judgement dated October 25, 1934. That judgement was taken on appeal to the Privy Council and the judgment of the Privy Council very succinctly traces the history of the Dawoodi Bohra community until we come to the 51st Dai, who was the 4th defendant in that action, and is the petitioner before us. In that case, certain orders of excommunication, the plaintiff has been obstructed in and prevented from entering the property in suit for the purposes of worship, burial and resting in their house. In that case, their lordships did not uphold the claim of the Dai-ul-Mutlaq that he had unrestricted power of excommunication, though they found that he could be regarded as Dai-ul-Mutlaq. As regards the power to excommunicate, it was held that though the power was there,

it was not absolute, arbitrary and untrammelled; and then their Lordships laid down the conditions for the valid exercise of that power. The effect of a valid excommunication, in their Lordships view, was exclusion from the exercise of religious rights in places under the trusteeship of the head of the community, because the Dai was not only a religious leader but also a trustee of the property of the community. After examining the evidence in that case, their Lordship held that the persons alleged to have been excommunicated had not been validly expelled from the community.

The judgment of the Privy Council was given on December 1, 1947. Within two years of that judgment the impugned Act was passed, and soon after a suit on the original side of the Bombay High Court was commenced (being suit No.1262 of 1949) That was a suit by a member of the Dawoodi Bohra community, who had been excommunicated by the petitioner, functioning as the Dai-ul-Mutlaq by two orders of excommunication, one passed in 1934 and the other 1948, soon after the judgment of the Privy Council. The suit was, inter alia, for a declaration that the orders of excommunication were void in view of the Act. A number of issues were raised at the trial which was heard by Shah J. Two questions, by way of Preliminary issues, with which we are immediately concerned in the present proceedings, were raised before the learned Judge of the Bombay High Court, namely-

- (1) Was the Act within the legislative competence of the Legislature of the Province of Bombay
- (2) Whether after the coming into force of the Constitution, the Act was invalid in view of Art. 25 and 26 of the Constitution?

The learned Judge, after an elaborate examination of the Constitution Act. of 1935, came to the conclusion that the Bombay Legislature was competent to enact the Act, and that it was not unconstitutional even after the coming into effect of the Constitution because it was not inconsistent with the provisions of Art.25 and 26. An appeal was taken to the Court of Appeal, which was heard by Chagla, C.J. and Bhagwati J. The Court of Appeal upheld the decision of Shah J. The matter was brought up on appeal to this Court in Civil Appeal No. 99 of 1954. During the pendency of the appeal in this Court, the plaintiff died and it was held, without deciding the merits of the controversy, that the suit giving rise to the appeal in this Court had abated by reason of the fact that the plaintiff had died and the cause of action being personal to him was also dead. The order of this Court dismissing the appeal as not maintainable is dated November 27, 1957.

The Writ Petition was filed on August 18, 1958 by the petitioner as the 51st Dai-ul-Mutlaq and head of the Dawoodi Bohra community, for a declaration that the Act was void so far as the petitioner and the Dawoodi Bohra community were concerned, and that a writ of Mandamus or a writ in the nature of mandamus or other appropriate writ, direction or order under Art.32 of the Constitution be issued restraining the respondent, its officers, servants and agents from enforcing the provisions of the Act, against the petitioner or the Dawoodi Bohra community, or in any manner interfering with the right of the petitioner, as the religious leader and Dai-ul-Mutlaq of the Dawoodi Bohra community, to excommunicates any member of the community for an offence which the petitioner, in the exercise of his religious sense as the religious head of the community may determine as justifying such an expulsion.

It is not disputed that the petitioner is the head of the Dawoodi Bohra community or that the Dawoodi Bohra community is a religious denomination within the meaning of Art.26 of the Constitution. It is not even disputed by the State, the only respondent in the case, that the petitioner as the head of the community had the right, as found by the Privy Council in the case of *Hasanali v.Mansoorali*, (2) to excommunicate a particular member of the community for reasons and in the manner indicated in the judgment of their Lordships of the Privy Council. But what is contended is that, as a result of the enactment in question, excommunication has been completely banned by the Legislature, which was competent to do so, and that the ban in no way infringes Art.25 and 26 of the Constitution. I have already indicated my considered opinion that the Bombay Legislature was competent to enact the Act. It now remains to consider the main point in controversy which was, as a matter of fact, the only point urged in support of the petition, namely that the Act is void in so far as it is repugned to the guaranteed rights under Art. 25 and 26 of the Constitution. Art. 25 guarantees the right to every person, whether citizen or non-citizen, the freedom of conscience and the right freely to profess, practise and propagate religion. But this guaranteed right is not an absolute one. It is subject to (1) public order, morality and health, (2) the other provisions of Part III of the Constitution, (3) any existing law regulating or restricting an economic, financial political or other secular activity which may be associated with religious practice, (4) a law providing for social welfare

and reform, and (5) any law that may be made by the State relating or restricting the activities aforesaid or providing for social welfare and reform. I have omitted reference to the provisions of Explanations I and II of Art. 25 which are not material to our present purpose. It is noteworthy that the right guaranteed by Art. 25 is an individual right, as distinguished from the right of an organised body like a religious denomination or any section thereof, dealt with by Art. 26. Hence, every member of the community has for right, so long as he does not in any way interfere with the corresponding rights of others, to profess, practise and propagate his religion and everyone is guaranteed his freedom of conscience. The question naturally arise; Can an individual be compelled to have a particular belief on pain of a penalty, like excommunication? One is entitled to believe or not to believe a particular tenet or to follow or not to follow a particular practice in matters of religion. No one can therefore, be compelled, against his own judgment and belief, to hold any particular creed or follow a set of religious practices. The Constitution has left every person free in the matter of his relation to his Creator, if he believes in one. It is thus, clear that a person is left completely free to worship God according to the dictates of his conscience, and that his right to worship as he pleased is unfettered so long as it does not come into conflict with any restraints, as aforesaid, imposed by the State in the interest of public order, etc. A person is not liable to answer for the verity of his religious views, and he cannot be questioned as to his religious beliefs, by the State or by any other person. Thus, though his religious beliefs are entirely his own and his freedom to hold those beliefs is absolute, he has not the absolute right to act in any way he pleased in exercise of his religious beliefs. He has been guaranteed the

right to practise and propagate his religion subject to the limitations aforesaid. His right to practise his religion must also be subject to the criminal laws of the country, validly passed with reference to actions which the Legislature has declared to be of a penal character. Laws made by a competent legislature in the interest of public order and the like, restricting religious practices, would come within the regulating power of the State. For example, there may be religious practise of sacrifice of human beings, or sacrifice of animals in a way deleterious to the well-being of the community at large. It is open to the State to intervene, by legislation, to restrict or to regulate to the extent of completely stopping such deterious practices. It must, therefore, be held that though the freedom of conscience is guaranteed to every individual so that he may hold any beliefs he likes, his actions in pursuance of those beliei. may be liable to restrictions in the interest, the community at large, as may be determined by common consent that is to say, by a competent legislature. It was on such humanitarian grounds, and for the purpose, and for the purpose of social reform, that so called religious practices like immolating a widow at the pyre of her deceased husband, or of dedicating a virgin girl of tender years to a god to function as a devadasi, or of ostracising a person from all social contacts and religious communion on account of his having eaten forbidden food or taboo, were stopped by legislation.

But it has been contended on behalf of the Petitioner that the right guaranteed, under Art.25, to freedom of conscience and the freedom to profess practice and propagate religion is available not only on an individual but to the community at large, acting through its religious head; the petitioner, as much a religious head

has, therefore, the right to excommunicate, according to the tenets of his religion, any person who goes against the beliefs and practices connected with those beliefs. The right of the petitioner to excommunicate, is therefore, a fundamental right, which cannot be effected by the impugned Act. In this connection, reference was made to the following observations in the leading judgment of this Court, bearing upon the interpretations of Arts. 25 and 26 (vide *The Commissioner Hindu Religious Endowments, Madras v. Sri Lakshmindra Tirtha Swamiar of Sri Shiru Miutt*).

" A religion may not only lay down a code of ethical rules for its followers to accept, it might prescribe rituals and observances, ceremonies and modes of worship which are regarded as integral parts of religion, and these forms and observances might extend even to matters of food and dress".

The guarantee under our Constitution not only protects the freedom of religious opinion but it protects also acts done in pursuance of a religion and this is made clear by the use of the expression "practice of religion" in Article 25". On the strength of these observation it is contended on behalf of the petitioner that this practice of excommunication is a part of the religion of the community with which we are concerned in the present controversy; Art. 26, in no uncertain terms, has guaranteed the right to every religious denomination or a section thereof "to manage its own affairs in matters of religion" (Art.26(b)). Now what are matters of religion and what are not is not an easy question to decide. It must vary in each individual case according to the tenets of the religious denomination concerned. The expression " matters of religion" in Art. 26(b)

and "activities associated with religious practice" do not cover exactly the same ground. What are exactly matters of religion are completely outside State interference, subject of course to public order, morality and health. But activities associated with religious practices may have many ramifications and varieties-economic, financial, political and other - as recognised by Art. 25(2)(a). Such activities, as are contemplated by the clause aforesaid cover 'a field much wider than that covered by either Art. 25(1) or Art.26(b). Those provisions have, therefore, to be so construed as to create no conflict between them. We have, therefore to classify practices into such as are essentially and purely of a religious character, and those which are not essentially such. But it has been contended on behalf of the petitioner that it is for the religious denomination itself to determine what are essentially religious practices and what are not. In this connection, reliance is placed on the following observations of this Court in the leading cases aforesaid, of the Commissioner, Hindu Religious Endowments, Madras v. Sri Lakshmindra Thirtha Swamiar of Sri Shirur Mutt.

"As we have already indicated, freedom of religion in our Constitution is not confined to religious beliefs only; it extends to religious practices as well subject to the restrictions which the Constitution itself has laid down Under Art. 26(b), therefore, a religious denomination or organisation enjoys complete autonomy in the matter of deciding as to what rites and ceremonies are essential according to the tenets of the religion they hold and no outside authority has any jurisdiction to interfere with their decision in such matters." It should be noted that the complete autonomy which a religious denomination enjoys under Art.26(b)

is in 'matter of religion', which has been interpreted as including rites and ceremonies which are essential according to the tenets of the religion. Now, Art.26(b) itself would seem to indicate what a religious denomination has to deal not only with matters of religion, but other matters connected with religion, likely laying down rules and regulations for the conduct of its members and the penalties attached to infringement of those rules managing property owned possessed by the religious community, etc., etc. We have, therefore, to draw a line of demarcation between practices consisting of rites and ceremonies connected with the particular kind of worship, which is the tenet of the religious community, and practices in other matters which may touch the religious institutions at several points, but which are not intimately concerned with rites and ceremonies the performance of which is an essential part of the religion. In this connection, the following observations of this Court in *The Durgah Committee. Ajmer v. Syed Hussain ali* which were made with reference to the earlier decisions of this Court in the *Commissioner, Hindu Religious Endowments, Madras v. Sri Lakshmindra Thirtha Swamiar of Shirut Miutt* and in *Sri Venkataramana Devaru v. the State of Mysore* that "Matters of religion" in Art. 26(b) include even practices which are regarded by the community as part of its religion, may be noted;

"Whilst we are dealing with this point it may not be out of place incidentally to strike a note of caution and observe that in order that the practices in question should be treated as a part of religion they must be regarded secular practices which are not an essential or an integral part of religion are apt to be clothed with a religious form and may make a claim for being treated as religious practices

within the meaning of Art.26. Similarly, even practices though religious may have sprung from merely superstitious beliefs and may in that sense be extraneous and unessential accretions to religion itself. Unless such practices are found to constitute an essential and integral part of a religion their claim for the protection under Art.26 may have to be carefully scrutinised, in other words, the protection must be confined to such religious practices as are an essential and an integral part of it and no other".

But then it is contended that a religious denomination is a quasi-personality which has to ensure its continuity and has, therefore, to lay down rules for observance by members of its community and, in order to maintain proper and strict discipline has to lay

1. C.A No.272 of 1960, judgment dated March 17, 1961.
2. (1958) S.C.R. 895

down sanctions; the right to excommunicate a recusant member is an illustration of that sanction. In this connection, it was contended that the Privy Council had laid down in the case of Hasanali v. Mansoorali that the power of excommunication was a religious power exercisable by the Dai. In my opinion, those passages in the Judgment of the Privy Council do not establish the proposition that the right which the Privy Council found inhered in the Dai was purely religious right. That it was not a purely religious right becomes clear from the judgment of the judicial Committee of the Privy Council, which laid down the appropriate procedure and the manner of expulsion, which had to be according to justice, equity and good conscience, and that it was justiciable. A matter which is purely religious could not come within

the purview of the Courts. That conclusion is further strengthened by the consideration that the effect of the excommunication or expulsion from the community is that the expelled person is excluded from the exercise of rights in connections not only with places of worship but also from burying the dead in the community burial grounds and other rights to property belonging to the community, which are all disputes of a civil nature and are not purely religious matters. In the case before their Lordships of the Privy Council, their Lordships enquired into the regularity of the proceedings resulting in the excommunication challenged in that case, and they held that the plaintiff had not been validly expelled. It cannot therefore, be asserted that the Privy Council held the matter of excommunication as purely religious one. If it were so, the Courts would be out of the controversy.

The same argument was advanced in another form by contending that excommunication is not a social question and that, therefore, Art.25(2) (b) could not be invoked in aid of holding the act to be constitutional. In this connection it has to be borne in mind that the Dai-ul-Mutlaq is not only the head of the religious community but also the trustee of the property of the community in which the community as a whole is interested. Even a theological head has got to perform acts which are not wholly religious but may be said to be quasi religious or matters which are connected with religious practices, though not purely religious. Actions of the Dai-ul-Mutlaq in the purely religious aspect are not a concern of the courts, but his actions touching the civil rights of the members of the community are justiciable and not outside the pale of interference by the legislature or the judiciary. I am not called upon to decide, nor am I competent to do so,

as to what are the religious matters in which the Dai-ul-Mutlaq functions according to his religious sense. I am only concerned with the civil aspect of the controversy relating to the constitutionality of the Act, and I have to determine only that controversy.

It has further been argued on behalf of the petitioner that an excommunicated person has not the right to say his prayers in the mosque or to bury his dead in the community burial ground or to use other communal property. Those may be the result of excommunication, but I am concerned with the question whether the legislature was competent and constitutionally justified in enacting the law declaring excommunication to be void. As already indicated, I am not concerned in this case with the purely religious aspect of excommunication. I am only concerned with the civil rights of the members of the community, which rights they will continue to enjoy as such members if excommunication was held to be invalid in accordance with the provision of the Act. Hence though the Act may have its repercussions on the religious aspect of excommunication, in so far as it protects the civil rights of the members of the community it has not gone beyond the provisions of Act. 25 (2)(b) of the Constitution.

Then it is argued that the guaranteed right of a religious denomination to manage its own affairs in matters of religion (Act. 26(b) is subject only to public order morality and health and is not subject to legislation contemplated by Art. 25(2)(b). This very argument was advanced in the case of *Shri Venkataramana Devaru v. The State of Mysore.* (6) At page 916 this argument has been specifically dealt with and negatively. This Court observed as follows :

"The answer to this contention is that it is impossible to ready any such limitation into

the language of Art.25(2)(b). It applied in terms to all religious institutions of a public character without qualification or reserve. As already stated, public institutions would mean not merely embles dedicated to the public as a whole but also those founded for the benefit of section thereof, and denominational temples would be comprised therein. The language of the Article being plain and unambiguous, it is not open to us read into its limitations which are not there, based on a priori reasoning as to the probable intention of the legislature. Such intention can be gathered only from the words actually used in the statue; and in a Court of law, what is unexpressed has the same value as what is unintended; We must therefore hold that denominational institutions are within Art. 25(2)(b)".

In that case also, as in the present case, reference was made to the earlier decision of this Court in *The Commissioner, Hindu Religious Endowments, Madras v. Sri Lakshmindra Thirtha Swamiar of Sri Shirur Mutt (1)*, but the latter decision has explained the legal position with reference to the earlier decision, and after examining the arguments for and against the position at pages 916-918, it has been distinctly laid down that Art.26(b) must be read subject to Art.25(2)(b) of the Constitution.

It has further been contended that a person who has been excommunicated as a result of his non-conformity to religious practices is not entitled to use the communal mosque or the communal burial ground or other communal property, thus showing that for all practical purposes he was no more to be treated as a member of the community, and is thus an outcast. Another result of excommunication is that no other member of the community can have any contacts, social or religious, with the person who has been excommunicated.

All that is true. But the Act is intended to do away with all that mischief of treating a human being as a pariah, and of depriving him of his human dignity and of his right to follow the dictates of his own conscience. The Act is, thus, aimed at fulfilment of the individual liberty of conscience guaranteed by Art.25(1) of the Constitution, and not in derogation of it. In so far as the Act has any repercussions on the right of the petitioner, as trustee of communal property, to deal with such property, the Act could come under the protection of Art. 26(d), in the sense that his right to administer the property is not questioned, but he has to administer the property in accordance with law. The law, in the present instance, tells the petitioner not to withhold the civil rights of a member of the community to a communal property. But as against this it is argued on behalf of the petitioner that his right to excommunicate is so bound up with religion that it is protected by cl.(b) of Art. 26, and is thus completely cut of the regulations of law in accordance with the provisions of cl.(d) of that Article. But, I am not satisfied on the pleadings and on the evidence placed before us that the right of excommunication is a purely religious matter. As already pointed out, the indications are all to the contrary, particularly the judgment of the Privy Council in the case of *Hasanali v. Mansoorali* on which great reliance was placed on behalf of the petitioner.

On the social aspect of excommunication, one is inclined to think that the position of an excommunicated person becomes that of an untouchable in his community, and if that is so, the Act in declaring such practise to be void has only carried out the strict injunction of Art.17 of the Constitution, by which untouchability has been abolished and its practice in any form forbidden. The Article further

provides that the enforcement of any disability arising out of untouchability shall be an offence punishable in accordance with law. The Act, in this sense, is its logical corollary and must, therefore, be upheld.

In my opinion, it has not been established that the Act has been passed by a legislature which was not competent to legislate on the subject, or that it infringes any of the provisions of the Constitution. This petition must, therefore, fail.

(B.P. Sinha)...C.J.

New Delhi.

RECOMMENDATIONS OF THE NATHWANI COMMISSION

(The commission was set up by the citizens for Democracy in 1977 to inquire into the allegations of persecution of the reformists by the Bohra priesthood)

Our enquiry has shown that there is large-scale infringement of civil liberties and human rights of reformist Bohras at the hands of the priestly class and that those who fail to obey the orders of the Syedna and his Amils, even in purely secular matters, are subjected to Baraat resulting in complete social boycott, mental torture and frequent physical assaults. The Misaq (the oath of unquestioning obedience to the Head Priest) which every Bohra is required to give before he or she attains the age of majority, is used as the main instrument for

keeping the entire community under the subjugation of the Syedna and his nominess. On the threat of Baraat (social boycott and the resulting grave disabilities, Bohras are prevented from reading periodicals which are censored by the Syedna (such as the Bombay Samachar, the Blitz and the Bohra Bulletin); from establishing charitable institutions like orphanages, dispensaries, libraries, etc. without the prior permission of the Syedna except by submitting to such conditions as he may impose; from contesting elections to municipal and legislative bodies without securing beforehand the blessings of the Syedna; and above all, from having any social contact with a person subjected to Baraat, even if the person is one's husband, wife, brother, sister, father or son. The weapon of Baraat has been used to compel a husband to divorce his wife, a son to disown his father, a mother or refuse to see her son, and a brother or sister to desist from attending the marriage of his or her sister or brother. An ex-communicated member becomes virtually an untouchable in the community, and besides being isolated from his friends and nearest relatives, is unable to attend and offer prayer at the Bohra mosque. Even death does not release him from the taboo, for his dead body is not allowed to be buried at the community's common burial ground. Bohra Jamats in India and abroad are not allowed to frame their own rules and regulations, but are subjected to authoritarian constitutions granting absolute power to the Syedna and his nominess. Millions of rupees are collected every year from Bohras in India and abroad as customary taxes and Nazaranas by the Syedna and his nominess, but the Syedna is not accountable for them to any one. The Syedna also claims to be the owner of all the Bohra mosques and the sole trustees of all Bohra trusts, and where the account of any of these trusts are audited, the work is done by a firm composed of some members

of the Bohra Community who are also bound by the Misaq given by them to the Syedna.

For obvious reasons, it is almost impossible to improve this situation by organising a reform movement from within the Bohra community. Any person who fails to obey implicitly the orders of the Syedna and his Amils commits a breach of his Misaq and is liable to be subjected to Baraat or social boycott. The consequence is that although a large number of Bohras resent the disabilities imposed upon them by the priestly class, they are unwilling to give any public expression to their resentment. We thus found that although a systematic public campaign was organised in the Bohra community to condemn our Commission and to put a stop to its enquiry, quite a few of the campaigners wanted us to carry on the work.

While the majority of dissenters are thus unwilling to express their opposition to priestly domination, those who have the courage to do so are unable to carry on a reform movement from within the community. although they are willing to accept the religious, as distinguished from the secular authority of the Syedna as an essential part of their faith, Baraat is proclaimed against them, and being thus deprived of social contact with other Bohra brothers and sisters, their movement has only a peripheral impact on the community.

The situation therefore calls for the authority of the State to be invoked for passing suitable legislation to relieve the hardships of the community, without encroaching on the fundamental rights which it enjoys as a religious denomination. Under Articles 25 and 26 of the Constitution, members of the community have the right to freely protest, practice and

propagate their religion, to establish and maintain institutions for religious purposes, and to manage their own affairs in matters of religion. These rights, however, do not prevent the state from making any law (a) regulating or restricting any economic financial, political or secular activity, which may be associated with religious practice, or (b) providing for social welfare and reform.

We will indicate in this chapter the types of enactments which are required for regulating the economic and secular activities of the Bohra priesthood and for providing social reform in the community. Before doing so, however, it is necessary to emphasise that such legislation is not likely to be passed and implemented unless it receives the active support of all progressive sections of the Indian people including those belonging to the minority communities. We appeal in particular to Indian Muslims to peruse this report, see the ghastly picture of persecution which it presents and decide whether legislation is not necessary to regulate the secular activities of the Bohra priesthood and to introduce social reform in the Bohra community.

We recommend the following types of legislation in order to mitigate the evils described in the earlier chapters.

- I. Baraat or social boycott should be made illegal and penalised as an offence.

The full facts about the Baraat and its consequences were obviously not placed before the Supreme Court when it decided the case Saifuddin Saheb Vs. State of Bombay (AIR 1962 S.C. 853). Baraat among the Bohras is not proclaimed for religious apostasy, nor does it merely imply exclusion from communal worship and use of communal property. Baraat is proclaimed for non-conformity in secular

matters and it implies complete social boycott, isolation from close relative and friends, loss of business and employment, and virtual imposition of untouchability. Contrary to the view expressed by the majority of the Supreme Court in the above case, abolition of Baraat is undoubtedly a matter urgent social reform.

We are, however, of the view that in drafting a law for the abolition of social boycott, the defect which induced the majority in the Supreme Court to declare the Bombay Prevention Ex-Communication Act, 1949, to be invalid, should be avoided. It is also desirable that a law against the imposition of social boycott should be of general application and should not be confined to the custom of Baraat in the Bohra community. As a model of such a law, we recommend Bill No.67 of 1977 which has been introduced in the Lok Sabha (House of the People) by Dr. V.R. Pandit, M.P. and is circulated for eliciting public opinion. A copy of the Bill is annexed to the Report at Appendix "H".

II. We have seriously considered the question whether the abolition of Misaq should be recommended as a measure of necessary social reform. There can be no doubt that in so far as the Misaq involves an undertaking to accept the guidance of the Syedna in religious matters, it represents an essential feature of Bohra faith and calls for no interference. But we have seen in Chapter IV that the Misaq is so far-reaching as to involve unconditional surrender to the Syedna in secular as well as religious matters and that it amounts to a virtual charter of slavery. We have also seen in subsequent chapters that it is the breach of Misaq in secular matters which is made the basis of all sides persecution of dissenting Bohras. We therefore recommend

that the Syedna should in the first place be requested to limit the Misaq to obedience of his directions in religious matters. If he refuses to do so, the giving of Misaq in its present form should be prohibited by law.

III. It is essential that all the trusts where the Syedna claims to be the sole trustee, and the receipt and expenditure of all the customary taxes and nazaranas, should be regulated by suitable legislation. Acts like the Wakf Act of 1954 and the Durgah Khwaja Saheb Act of 1955 show that such legislation is constitutionally valid. Since many of the trusts receive income from different parts of India and abroad, and since the customary taxes and Nazaranas are also collected in India and other parts of the world, legislation for the regulation of such trusts and income should be the responsibility of Parliament rather than of any State Legislature. "Trust and Trustees" is a topic in the Concurrent list of the Indian Constitution (Schedule VII, List III Item 10).

In respect of such trusts and incomes we recommend legislation as mentioned below:

(a) The Syedna claims to be the sole trustee, if not the sole owner, of all Bohra mosques. (We have seen a copy of a judgment of the Madras State Wakf Board dated 1.7.1962, where a claim made by the Secretary of a Bohra mosque that the mosque properties were not Wakf properties but were the personal properties of the Syedna, was rejected.) It is necessary to have a law to regulate the management of the Mosque properties. The law should provide for a Board of Trustees with the Syedna as its Chairman. It should be necessary to keep regular accounts and the same should be open to inspection by members of the community.

(b) A similiar law is necessary for the management of all the trusts of which the Syedna or his family members are the trustees. The law should provide a scheme for the appointment of trustees, an independent Secretary and the necessary staff. The Government should have the right to designate a Chartered Accountant to audit the trusts' accounts, which should be open to inspection by members of the community.

(c) In many charitable trusts set up by individual Bohras, the settler was pressurised to make the Syedna or his nominee the sole trustee. A provision should be included in the enactment visualised by (b) above to enable the District Judge of the district where the office of such a trust is located to frame a suitable scheme for the management of the trust under a more representative Board of Trustees.

(d) Most of the customary payments made by Bohras to the Syedna or his Amils and described in Chapter XII of this Report are impressed with obligations in the nature of a trust. A separate law is necessary for the accounting of the amounts received and their expenditure for the welfare of the community. The law should provide for a scheme of management by a Board of Trustees who would represent the interest of the entire community, and for getting the accounts audited by an independent firm of auditors designated by the Government. The accounts should be open to inspection by members of the community.

On the basis of the available material, we are not able to say whether the amounts collected as Nazaranas and Salams described in Chapter XII are also trust properties. This will depend on the purpose for which the payments are made. It appears, however, that if the amounts do not partake of the nature of trust property, they would be personal income and would be liable to income-tax. Since the amounts are customary payments made on certain occasions, they are not receipts of a casual and non-recurring nature so as to be exempt from income tax assessment.

IV. We have referred in this Report to the ways in which the Syedna or his nominee influence the election to municipal and legislative bodies. We have pointed out that such practice, apart from constituting a corrupt practice when done with the consent of candidate or his election agent, is by itself an offence of "undue influence" under section 171-C of the Indian Penal Code and is punishable under section 171 - F of the Code. We hope that this clarification will result in the discontinuance of such electoral interference by religious heads. In any case, the present law is sufficient to meet the situation and additional legislation is not called for.

V. We have seen in an earlier chapter how Bohra Jamats in India and abroad were compelled to accept authoritarian constitutions under which autocratic powers were granted to the Syedna and his nominees. Pressure for the acceptance of such constitutions could be exercised because of the force of Misaq and the fear of Baraat is made illegal and if the Misaq is either improved or prohibited, the aggrieved Jamats will be free to make such alterations in their constitutions as they may desire. No additional legislation appears to be necessary for his purpose.

TEXT OF THE REVIEW PETITION FILED IN THE
SUPREME COURT ON BEHALF OF THE
CENTRAL BOARD OF DAWOODI BOHRA
COMMUNITY ON 5.3.1986

IN THE SUPREME COURT OF INDIA

ORIGINAL JURISDICTION

WRIT PETITION (CIVIL NO. _____ OF 1986

IN THE MATTER OF:

1. The Central Board of Dawoodi Bohra Community, through its General Secretary Shri Asgar Ali Engineer, having its Office at Busheri Building, 2nd Floor, North Crose lane, 3 Jail Road, Umerkhadi, Bombay 400 009
2. Asgar Ali Engineer, Irene Cottage, 2nd Floor, 4th Road, Santa Cruz (East), Bombay 400 055 PETITIONERS

VERSUS

1. State of Maharashtra, through the Secretary, Ministry of Social Welfare, Mantralaya, Bombay 400 001
2. Syedna Mohammad Burhanuddin, Badri Mahal, Dadabhai Naoroji Road, Fort, Bombay 400 001 RESPONDENTS

TO

HON'BLE THE CHIEF JUSTICE OF INDIA
AND HIS COMPANION JUSTICES OF
THE SUPREME COURT OF INDIA.

The humble Petition of the
Petitioners abovenamed

MOST RESPECTFULLY SHOWETH:

1. This is a Writ Petition under Article 32 of the Constitution of India. By the present Writ Petition, the petitioners seek a reconsideration of the decision of this Hon'ble Court in the matter of Sardar Syedna Taher Saifuddin Sahib Vs. State of Bombay reported in 1962 (Supp.2) SCR 496, which held by majority of 4:1 that the provisions of the Bombay Prevention of Excommunication Act, 1949, (Bombay Act 42 of 1949) hereinafter referred to as "the Act", were ultra vires as being violative of Art. 26(b) of the Constitution of India, and directed the then State of Bombay not to enforce the provisions of the Act. It is submitted that the aforesaid decision need to be reconsidered by this Hon'ble Court for several reasons which will be set out in the present Writ Petition. It is also submitted that although this Hon'ble Court in the aforesaid decision directed the Respondent State not to enforce the said Act, it continues to remain on the statute book, and the Petitioners seek that this Hon'ble Court may direct the Respondent to enforce and give effect to the same. The text of the Act as amended up to date is reproduced herewith and marked Annexure - 'A'

2. Petitioner No. 1, The Central Board of Dawoodi Bohra Community is an organization of Dawoodi Bohras of a reformist persuasion and is a federal body, having as its members both individuals as well as 'Jamaats' of reformist Dawoodi Bohras from all over India and other parts of the World. The Central Board of Dawoodi Bohra Community came into existence in 1975 and was constituted with the purpose of unifying all those among the Dawoodi Bohra Community struggling to bring about social reform in the Community. Petitioner No.2 is himself a reformist Dawoodi Bohra, and is actively interested in advocating social reforms in the Community and is consequently opposed to the coercive practice of Excommunication/Baraat which is used in the Community. Petitioner No. 2 himself is a victim of Excommunication/Baraat which is being practised in the Dawoodi Bohra Community. Respondent No.1 is the State of Maharashtra. Respondent No. 2 is Syedna Mohammed Burhanuddin, the 52nd Dai-Ul-Mutlaq or head of the Dawoodi Bohra Community.

3. The contention of the present Petitioners is that the non-implementation of the said Act, and the practice of Excommunication/Baraat or Social boycott and the threat thereof, violates the fundamental rights of the members of the Dawoodi Bohra Community, and particularly the reformist sections thereof, of freedom of conscience guaranteed under Article 25 as also the fundamental rights guaranteed by Articles 19(1)(a),(C), of and (g) of the Constitution of India.

4. The Petitioners state that in the aforesaid decision in the case of Sardar Syedna Taher Saifuddin Sahib, this Hon'ble Court held the

Act to be bad inasmuch as it prohibited excommunications even if made purely on religious grounds. It was held that this contravened the right of the religious denomination to manage its own affairs in the matters of religion. The Court also proceeded on the basis that the deprivation of legal rights and privileges which the Act sought to prevent merely consisted of the deprivation of the right to worship in mosques belonging to the community and enjoyment of the properties belonging to the community. It is submitted that due to the practice of offering Misaq described hereinafter, the religious head is able to excommunicate any member of the Bohra Community on grounds which have nothing to do with religious apostasy, such as reading a prohibited newspaper, establishing a charitable institution, standing for civic election, etc. It is further submitted that the effects of excommunication which go very far beyond this were not brought to the notice of this Hon'ble Court. Excommunication for instance in the Dawoodi Bohra Community, does not merely result in loss of rights of worship in the mosques belonging to the community or enjoyment of the communal property, but results in the breaking up of marriages, separation of close family members from each other, closing down of institutions formed for the purpose of the welfare of the community, and above all, expulsion of those who maintain any kind of social intercourse or personal contact with an expelled member. It is submitted that these facts were not placed before this Hon'ble Court when it decided the Sardar Sydna Taher Saifuddin Sahib's case. In the subsequent paragraphs of this petition, the Petitioners will place on record the facts which go to show that members of the Bohra Community are excommunicated on purely secular grounds

and that the practice of excommunication results in untold personal misery totally inconsistent with the principle of the dignity of the individual and freedom of conscience enshrined in the preamble to the Constitution and in Article 25(1) thereof.

5. The Petitioners state and submit that excommunication is practiced in the Dawoodi Bohra Community not merely by a formal or written order to that effect, but a decision to boycott a member of the Community or to impose Baraat on him is taken at the highest levels and secretively passed on by word of mouth, resulting in the total and complete social boycott of the person concerned. It is however, made to appear as if this boycott is a spontaneous boycott imposed by the members of the Community against a person of whose actions or activities they disapprove.

6. The Petitioners submit that at the outset, it is necessary to set out briefly the historical background of the Dawoodi Bohra Community by its head, the Dai-Ul-Mutlaq. The Dawoodi Bohras are Muslims belonging to the Shia Ismaili-Mustalian Sect of Islam, and are mostly settled in Gujarat, Maharashtra, Rajasthan, Madhya Pradesh, Andhra Pradesh, Karnataka, and West Bengal. They are also found in Pakistan, Sri Lanka, Singapore, the East African Countries U.K., Canada etc. and their total world population is estimated at about one million.

7. Like all Muslims, the Shias believe that there is one God and that Mohammad was his prophet, to whom he revealed the Holy Book (Kuran). The Shias further believe that Ali, the son-in-law of the Prophet Mohammad, was his "Wasi" or Executor and succeeded the Prophet Mohammad by a "Nasse-e-Jali" or "declaration". Ali was succeeded by a line of Imams, each of whom in turn was

appointed by a "Nasse-e-Jali" by his immediate predecessor. At a later date, the Shia Sect itself got divided into 2 Sects known as the Ismaili and the Isna-Asharias. The Dawoodi Bohras belong to the ismaili Sect. The division occurred approximately in 765 AD as a result of the dispute over the succession on the death of the 5th Imam. At the end of the 11th century there was another division over the succession on the death of the 18th Imam, in the Ismaili Sect and the two Sects which emerged were the Mustallians (Bohras) and the Nizarians (Khojas).

8. According to the Dawoodi Bohra belief, the last Imam seen on earth was the 21st Imam, who went into seclusion on account of the danger to his life in the Twelfth Century A.D. It is believed that the Imam is always in existence though invisible to his followers on account of his seclusion, and on account of the impending seclusion of the 21st Imam, the 20th Imam directed his "Hujjat" (a dignitary next in rank) to appoint a "Dai" (Missionary), to carry out the Dawat (Mission) of the Imam, as long as the Imam remained in seclusion, and to take and receive from the faithful an oath of allegiance. The Dai is the representative of the Imam and is called the Dai-ul-Mutlaq. Every Dai would appoint his successor by a Nasse-e-Jali. When the Imam came out of seclusion, the powers of the Dai would cease immediately.

9. Approximately in 1589 AD, there was another division in the Sect over the succession after the death of the 26th Dai; among those who believed that the successor named by the 26th Dai was Suleiman, and those who

believed that the successor so named was Dawood. The latter came to be known as the Dawoodi Bohras.

10. The present Dai-Ul-Mutlaq or the High Priest of the Dawoodi Bohras is the 52nd Dai who succeeded to the Gadi in 1966. The Dai is also known as the Syedna Sahib or the Mullaji Sahib.

11. After the death of the 46th Dai there was a controversy as to whether the succession of the next incumbent was a valid succession. This was inter-alia the subject matter of a litigation which culminated in the decision of the Privy-Council in the case of Hasan Ali & Ors. Vs. Mansoor Ali & Ors. reported in 75 Indian Appeals 1 = AIR 1948 PC 66, in which a claim was made that the 51th Dai, Syedna Saifuddin Sahib, could not be said to have been validly appointed, as all the successive appointments after the 46th Dai were invalid. It was held by the Privy Council that Syedna Saifuddin Sahib must be regarded as the 52nd Dai-Ul-Mutlaq. This, however, is not a subject matter of the present Writ Petition. It was also held in this case that the power of excommunication which the Dai had, was not an absolute power, but could be exercised only after giving a notice to the concerned person, and at a meeting of the 'Jamat'.

12. Another decision which is of great importance in order to appreciate the manner in which authority is wielded by the High Priest in the Dawoodi Bohra Community is the case of the Advocate General of Bombay Vs. Yusafali Ebrahim reported in (1922) 24 Bombay law Reporter 1060. This was a suit filed by the

Advocate General of Bombay in the High Court of Bombay at the relation of some members of the community for a declaration that the mausoleum in Bombay named after Chandabhoy (a Dawoodi Bohra Saint), the tomb of Chandabhoy, the offerings placed in the Gulla there and the several immovable properties purchased out of the gulls funds formed the subject matter of a trust created for public purposes of a charitable and religious nature. A prayer was also made for accounts on the ground of a wilful default in keeping them. The claim of the 51st Dai, who was a defendant in the suit, was that as a Dai he had absolute control over the gulla offerings that he was entitled to dispose of them as he pleased, that the properties could not form a subject matter of a trust and that all the properties vested in him as the spiritual and temporal head of the community. The witnesses produced by the Dai stated that the Dai was not accountable to any one except the Imam in Soclusion, the he being the representative of God on earth is immaculate and infalliable, and that according to their religious tenets he is the master of the mind, property, body and soul of each of his followers. He was entitled to take any property from his followers. At one stage, it was also contended on behalf of the Dai by his Counsel that the Mullaji Sahib was om effect God, and it was a sacrilege to bring the suit against him. These extreme claims were rejected by the **L**earned Judge hearing the matter (Marten J.) who held that the Mosque was the subject matter of trust for public purposes of areligious and charitable nature and the Dai was a trustee thereof and was as such, accountable. Martin J. also observed that the extreme claims made on behalf of the Dai were never seen to have been put forward by any Dai prior to the suit, and gave an

instance of a suit being filed against the 49th Dai by a Dawoodi Bohra Priest for the recovery of a sum of Rs.54,000/- which was in fact decreed in favour of the creditor Priest, who actually attempted to execute the decree by trying to secure the imprisonment of the Dai. This is also being emphasised by the Petitioners herein in order to demonstrate, with respect, the truth of the words of caution that this Hon'ble Court iterated in the decision in the case of Durgah Committee Ajmet Vs. Syed Hussain Ali, reported in 1962 (1) SCR 383, that in order that religious practices shall be treated as a part of religion, they must be regarded by the religion as its essential and integral part; otherwise purely secular practices which are not an essential or integral part of the religion are apt to be clothed with a religious form, and may claim to be treated as religious practices within the meaning of Article 26.

13. At this stage it may be pointed out that there is a large section of reformists among the Dawoodi Bohra Community, represented by the Central Board of the Dawoodi Bohra Community being Petitioner No.1 herein. Some of the leaders of the Reformist group made complaints of the persecution of its members by the priestly class in the name of the head Priest to the citizens For Democracy (CFD), which is a non-political organisation dedicated to the strengthening of democratic values and institutions, and one of the aims of which is to secure recognition to the right of public dissent and the defence of civil liberties. The Reformist leaders complained of the large scale oppression and exploitation, and the infringement of human rights practised by the priests in the name of the High Priest of the Dawoodi Bohra Community, and requested the CFD

to make an investigation into these allegations. A Commission, which later came to be known as the Natwani Commission was appointed for this purpose. The members of the Commission were as follows:

1. Shri N.P. Nathwani
M.P. Chaiman A former Judge of the High Court of Bombay and a sitting member of the present Lok Sabha.
2. Dr. (Miss) Aloo
Dastur, Member Head of the Department of Science, Bombay University, since retired and now a member of the Minorities Commission appointed by the Government of India.
3. Shri V.M. Tarkunde
Member. A former Judge of Bombay High Court now Senior Advocate of the Supreme Court and General Secretary of the Citizens for Democracy.
4. Dr. Alam Khundmiri
Member. Department of Philosophy, Osmania University Hyderabad.

5. Dr. Moin Shakir Member Department of Political Science, Marathawada University, Aurangabad.
6. C.T. Daru Advocate and General Secretary of the RADical Humanist Association.

The Commission circulated a questionnaire prepared by it among all sections of the community both in English and Gujarati. There was a great deal of opposition to the Commission from the orthodox sections of the community. The Commission had made it clear that it was investigating only into the allegations of infringements of human rights, and was not conducting a probe into the merits of the religious beliefs of the Community. The Commission requested the High Priest to send his representatives to its request. There were attempts to prevent its meetings being held, and on one occasion the residence of the Commission's Chairman in Bombay was attacked. On the other hand, however a number of letters and telegrams were received welcoming the appointment of the Commission. 1075 persons answered the questionnaire and some of them requested that their names be kept secret. The Commission in addition to scrutinising the questionnaire examined witnesses and submitted its report on 7th April, 1979. A copy of the said report is annexed herewith and marked as Annexure 'B'. The Petitioners herein craved leave to rely upon the said report in its entirety in support of their contentions.

14. The Petitioners seek briefly to set out the practices prevalent in the community which are being used as instruments of oppression and exploitation:

(a) The Misaq or the oath of allegiance:

Every Dawoodi Bohra boy and girl on attaining the age of puberty (13 to 15 years) is expected to take this oath which is administered by an Amil, who is the representative of the Dai in every town which has a number of members of the Dawoodi Bohra Community. There are several paragraphs of the oath, which are read out by the Amil either in Arabic or in incomprehensible Arabici-sed Gujarati and at the end of every paragraph, the boy or girl is expected to say "yes". The parents of the child are to pay some amount to the Amil on this occasion. The oath or "Misaq" is to be given to the Dai. A true copy of the Misaq which was produced before the court as Exh. 17 in the case reported in 24 BLR 1060 is set out hereunder:

M I S A Q

- (1) " And if the Imam of the time or his Dai calls upon you to war against the enemy then you should make war. you should help with your life and property. And you should obey the Imam of the time or his Dai sincerely. ...Say yes.
- (2) And whatever the Imam of the time or his Dai orders you to obey you should obey the Dai and you shall not become a sinner (by disobedience), and you shall not become hostile to the Dai. Y o u shall not lay claim to the Daiship. You shall back up the Dai as true and You shall not falsify the Dai.

- (3) You shall keep up the command of the Imam and that Imam is Imam Tyeb Abdul Qasim, Amirul-Mominin. He is your Imam.

..Say yes.

- (4) And you shall accept the order of the Dai of Imam in all things. And you shall not use that thing which the Dai shall forbid you, and you shall not take steps (towards it). You shall love him whom the Dai loves. You shall be enemy to him with whom the Dai is hostile. You shall war against him against whom the Dai makes war. Any person transgressing those engagements to the Dai he is outside the pale of religion. Whether he be great or small, whether he is a close relation or a distant one you shall not have any inter-course with him. You shall not correspond with him openly or secretly You shall not do any act calculated to be friendly to him. And by no manner or means or pretence shall see the enemy of the Dai. The enemy of the Dai is your enemy.

....Say yes.

- (5) And you shall attend on the summons (of) the Imam or the Dai to make religious war. At that time you shall not shirk or play the coward. You shall with all heart spend your report fully to the Dai or to the Deputy of the Dai any person who transgresses the Covenant of the Imamuzzamam.

.....Say yes.

- (6) And you shall not permit yourself to be induced to withhold assistance from the Dai, service and obedience to him, and prevent you from carrying out the order of the Dai. Further, you shall not suffer any disbeliever to turn you away from taking the oath of the covenant to the Dai. You shall render perfect service with your property and with the offer of your life (to the Dai). The master of your life is the Dai of the Imam of the time.

....Say yes.

* 7...8 (This has been omitted from Ex. 17)

- (9) And you shall be pleased by the order of the Dai of the Imam. The Dai shall raise among you or degrade among you persons as he likes as shall gift to and shall deprive persons as he please. The Dai shall reward persons and shall punish them in his discretion. The Dai shall smile upon or shall break his wrath on whomsoever he thinks fit. You shall be pleased in that in which Dai is pleased.

....Say yes.

- (10) The persons to whom the oath is due enjoins to this effect that if a person on whom it is made obligatory by me to keep faith to the oath openly or secretly breaks if the defaulter is forsaken by God the Creator of

the earth and heavens the framers of limbs of creatures, the Conferer of blessings on him and Bestower of health. The breaker of the oath is shut out from the books Taurat (laws of Moses), Injeel (the Bible), Zaboor (Psalms of David), and the Holy Quran. He is also deprived of the perfect words (blessings of Imam.)

...Say yes.

- (II) If a person taking the oath breaks as his possessions, i.e. moveables, cash, housing, utensils jewels, ornaments carriages, horses, cattle milching cows, she buffallows, slaves, males and female and all wordly materials become unlawful for him. All his property is liable to be looted and to be distributed among the poor and the needy. When he takes the oath again and accepts all the terms of the convenat then his things become lawful to him and then only he is entitled to get his things back.

....Say yes.

- (12) All the benefits|which he had already enjoyed (from his possessions) becomes unlawful i.e. with a prespective effect unless he takes the oath a fresh (the past enjoyments) do not become lawful. Say yes. All the slaves males and females of the breaker of the oath become free and the defaulter looses all ownership over them until a fresh oath and he keeps faith with the covenant.

....Say yes.

- (13) And if the breaker of the covenant has a wife that wife becomes forbidden to him. The breach (of covenant) has the effect of three Talaqs (divorce) against the wife i.e. Kataee Haraj and Sunnat (three forms of dicorce). The woman can never marry him again, neither he can take her as a wife. Say yes. If the breaker of the oath performs Hajj thirty time with naked fect even then God shall not forgive him his sin (in breaking the covenant) or God shall accept his Hajj. But if he takes the oath again by the true Dai's covenant his master then and then alone God shall accept his Hajj, his prayers, fasts and other good deeds.

.... Say yes.

- (14) And the breaker of the covenant accursed of God by that curse which was inflicted on Iblis, the Satan the effect of which was that paradise was lost to Satan and hell became his inheritrance.

..... Say yes.

- (15) And the breaker of the covenant shall face his God as Kafir and apostate after his death. He is beyond redemption by the power of God. He will be thrown on his own soul and shall curse him and shall extend places. There is no God but he, Merciful and Benevolent. The defaulter turns away his face from the worship of God and turns it to the worship idols and thus shall become attached to the idols and the grace of God shall destroy the breaker of the oath with repidty and shall confine him to hell in which there is nothing but torture.

.... Say yes.

- (16) There is no freedom for your soul but loyalty to the covenant and there is no salvation for you but in fulfilling the terms of the covenant. You have made God your witness and the testimony of God is enough.

.....Say yes.

- (17) You heard my words and you are pleased with my conditions. The person to whom the covenant is due say that you took upon your neck the obligation to hear the covenant of God and you took the mighty oath and you gave oath of allegiance which is very strong and which for our Lord the Imam Tyeb Abdul-Casim Amiril Mominin may generous descendants who are expected till the day of resurrection. When Imam Tyeb went in seclusion owing to the highhandedness of the oppressors, he left in Dawat three ranks behind him, namely, the rank of Mukasir. Owing to the existence of these three ranks the existence of the Imam of the time is known to be in existence. The present Dai of the Imam of the time is the grand Maulana the singular Sayedna Zainuddin, May God prolong his life and his Mazoon is Bhai Saheb Shaikh Alam and his Mukasir is Bhai Saheb Hibtulla Bhai. Whoever recognises Zainuddin and these three ranks be recognises the Imam of the time.

.....Say yes.

- (18) Then 'be pleased that you have given the oath of allegiance to the Imam and his Dai, God says in Kuran to prophet: "O Mohammed the people do not give the oath of allegiance to you, rather they give it to God. The hand of God is above the hands of all people. Whoever breaks the covenant his soul will be tormented and whoever fulfils the covenant God will bless him and will highly recompense him. The 'persons from whom the Misaq is taken says that God may keep the covenants firm to the covenant and it may not be that he may treat the covenant as a mere deposit. May God grant you and me, the true believers, to be faithful to the covenant and may God keep you and me steadfast to His obedience and the obedience of God's prophet and the obedience of Wali of God, the present Imam and his Dai and may God make it complete for you and us to remain firm for the mercy of God through the good end. And (all) praise is due to God, the one, the great Avenger; and peace of God be on Mohammad the Selected and on his Wasi, Preserver, and on his Progeny, the good, the pure, the righteous.

AND SALAAM

- (19) It is written on the 10th of the month of Rabial Awal by the slave of Grand Dai Mōwalana Zainuddin, may God prolong his life, Ahmedji the son of Mulla Murkanji in the year 1248 (higra) in the twon of Ajmer, may God the Exalted protect him."

It is clear that by taking this oath, a member of the Community subjugates himself completely, body and soul to the control of the High Priest. The taken of the oath makes a commitment to obey the Dai | in all things religious or secular. The result of the Misaq is that person who disobeys the Dai is a |sinner and places himself outside the pale of religion. He is beyond redemption. he can be subjected to baraat which is more than excommunication as described hereinafter. |To have any intercourse with such a person is itself a breach of the oath. the property of a person who breaks the oath is liable to be looted and all his wordly belongings become unlawful to him until he takes the oath afresh. The Dai is the master of the life of a person taking the oath. According to the practice of the Community, a boy or girl who is still a minor of about 15 years offers Misaq, i.e. takes this oath of unquestioned obedience to the Dai and his Amils. Unless a person takes this oath, he is not considered to be a member of the Dawoodi Bohra Sect. The effect of the breach of the covenant leads to Baraat resulting in complete ostracism and pauperisation. The breaker of the oath must give a Deed of Apology and take the Misaq a fresh if he is to return to the fold. A deed of apology given by one ali Hussain Jafar Hussain on 2.2.1975 reads as under:

786
110

Dated 2nd February, 1975
Anjumane Burhani Jamat Committee,
Bhavnagar

With respectful compliments:

I Ali Hussainbhai Jafer Hussain Rangwala
against whom Baraat (social boycott) has been

proclaimed, hereby agree before the Anjumane Jamat Burhani Committee that it is not my habit to say anything against the Dawat but even if I have said anything (unconsciously against the Dawat or raise some controversy, I now say in the name of God and the Dai of God that I am slave of the Maulaa and I have been so believing and shall continue to so believe. I assure you that henceforth if I make any such controversy you may take any steps you like. But I am an humble slave of the Syedna and may Maula be my master and he may pardon me.

Abde Syedna Ta. U. Sha.
Alihussain Jafarhusein

(b) B A R A A T : The Baraat generally translated means "disowning" or "dissociation". It, however, is not merely boycott in the sense of excommunication. It involves positive persecution and harassment and includes exclusion from the Mosque, burial ground and also separation from close relatives who are otherwise themselves socially boycotted for having any intercourse with a boycotted persons who appeared before the Nathwani Commission stated that the practice of Baraat started with 51st Dai and has been imposed more and more frequently since 1965. The declaration of Baraat is generally not in writing but is announced in the Masjid, and other gathering of the members of the community and is orally, conveyed. It is after secretly pronounced and spread by work of mouth. Generally no opportunity is given for showing cause against Baraat. A substantial number of persons including thousands in Udaipur and hundreds in the city of Bombay suffer from the rigours of

Baraat. Baraat has been imposed for publishing a journal or news-bulletin without the permission of the Dai or his Amils, for reading a newspaper or magazine banned by the Dai, for forming an association or union or cooperative society without the Dai's sanction, for establishing a charity such as an orphanage or a School without the Dai's permission, and above all for having any contact with a any person subjected to baraat, be her husband, son, father any other relation or your dearest friend. Baraat is also imposed for standing for a civic election or supporting a candidate contrary to the Dai's wishes. Baraat is lifted only upon the tendering of an apology and the readministering of the Misaq. Even after the tendering of the apology and lifting of the Baraat, the name of the person, concerned remains on the black-list, and that person is harassed and persented on every available opportunity. Instance have been given in the report of the Natwani Commission of the consequences of the Baraat being imposed. Those relatives of the boycotted persons who try to keep in touch with them or try to be on speaking terms with them are subjected to the Baraat themselves. Sons are prevented from attending the burial ceremonies of their fathers. Husbands have been known to prohibit wives from returning to their matrimonial homes for going to the house of their parents or relatives who are boycotted. Some of the witnesses have deposed to physical assaults being made against the persons on who Baraat was declared. Sons have been compelled to disown fathers who are under Baraat.

In some instances, wives have been forced to divorce their husbands who were under the Baraat. Baraat has been declared for expressing the view that the Dai was not properly appointed as such; supporting such candidates in elections who did not have the support or the blessings of the Dai reading the Urdu Blitz, the Dawoodi Bohra Bulletin, or the Bombay Samachar which have been indexed or prohibited by the High priest; or associating in any manner with the progressive or Reformist Groups among the Dawoodi Bohras. The Nathwani Commission has given detailed instances of the Baraat and its consequences in Chapters VII and VIII of its Report which has been annexed as Annexure 'B' herewith. For the sake of brevity, the Petitioners are not reproducing all the said instances and crave leave to be allowed to treat the same as part of the present petition.

(c) R A Z A : The Raza of permission from the priestly class is necessary not only for religious activities but also for secular, educational, cultural, social, economic business, political and welfare activities. In chapter VI of the Nathwani Commission Report the said Commission has given instances where an Orphanage which was started by philanthropist in 1955, which was started without the permission of the High Priest, was directed to be boycotted and all the orphans were asked to leave the institution. A directive was issued to the member of the Jamat not to keep any relation with the orphans (a list of whose names was made) or with the members of the staff running the institution. In another instance, a Cooperative Bank started by the Bohra Youth Association in Udaipur which represents

the Reformist elements was directed to be closed down, as the institution had been started without a permission of the High Priest. There are other instances where the Saifi Dispensary and Maternity Home were not permitted to be established as the founders thereafter refused to obey the directives of the Syedna of dedicate the same to him One library known as the Burhaini Library was directed to be closed as it was being managed by persons who had been sponsored by the Bohra Youth Association. Four institution, (the details of which are on page 54 of the said Report) had to be closed down on the ground that they were established without the permission of the Syedna. One of them was subsequently taken over by the High Priest. A large number of such institutions have been mentioned by the Nathwani Commission in its Report in Chapter VI entitled "Interference with Civil Liberties and Human Rights" and the Petitioners crave leave to rely upon them for the purposes of the present petition. Even before standing as candidate to contest in the election, the permission of the High Priest has to be taken. In Udaipur, four workers of the Bohra Youth Association wanted to contest Municipal Election, and were refused permission to do so. The said four members contested the election in spite of the refusal of such permission and defeated the candidates sponsored by the Syedna. This resulted in the Syedna sending his representatives with a directive to dissolve the said association Upon refusal of a majority of the Bohras of Udaipur to do so, Baraat was declared against nearly 10,000 (ten thousand) Bohras in Udaipur. Marriages have to be performed with the

permission of the High Priest and in several instances in Udaipur, the marriages of 200 couples remained unsolemnized for a long time for lack of permission and ultimately had to be performed without such permission. All marriages performed without such permission or not solemnized by the Deputy of the High Priest are declared to be null and void, and children born of such marriages are declared to be illegitimate.

15. The other consequences of social boycott which are given as findings by the Nathwani Commission are that Bohra employees are forced to resign from services of the reformist or boycotted employees. Those under Baraat are prohibited from entering into and praying in the Mosque. There are large number of instances of harassment including throwing stones at the dead body and delivering Lathi blows during the burials of those under Baraat. Very often, the burial can take place only under police protection.

16. Another practice prevalent in the community is a practice of the Ruga Chithi which is a letter of recognition which is given by the Head Priest or his Deputy after the death of person. This letter is sold to the relatives of the dead person for a fee in the nature of a Death Duty terms as Haqqun-Nafs which can range from a minimum of Rs. for a poor person, and several times more for a well-to-do person. The purpose of this letter is to ensure the well-being of the dead person after death. A belief has been created that a dead person cannot enter paradise without this letter. This practice results in the harassment of the bereaved family, and is extortionist in effect.

17. The aforesaid discussions clearly show that the weapon of Baraat or social boycott is used not merely for religious purposes but for any act done without the permission of or to the displeasure of the High Priest in the Community. At the Misaq or the oath of allegiance compels every member of the community to obey every command of the Dai, whether religious or otherwise, my departure from it can entail a Baraat with the consequences earlier detailed which so gravely affect the personal, economic and social life of the person concerned.

18 It is submitted that the above material was not before this Hon'ble Court when it decided the case of Sardar Syedna Taher Saifuddin Sahib Vs. State of Bombay reported in 1962 (Supp. 2) SCR 496. It is submitted that it was for this reason that this Hon'ble Court came to the conclusion that the aforesaid act was not a law providing for social welfare and reform protected by Article 25(2)(b) of the Constitution.

19. The Petitioners submit that the practice of Baraat/ex-communication, the Bohra Community, as well as in other communities, even when enforced on religious grounds, is clearly contrary to the recognised principles of morality and is therefore not protected by Articles 25 and 26 of the Constitution. Religious tolerance and freedom of conscience are moral principles and the practice of ex-communication violates those principles. It brings about a separation between relatives and friends and violates morality on that ground also. Moreover, it causes pain and anguish to a person who may conscientiously object to a particular traditional belief or practice and who is ex-communicated on that account. Baraat or

Ex-communication even on religious grounds is thus clearly contrary to morality.

20. The Petitioners further submit that apart from what is stated in the proceeding paragraph, abolition of ex-communication is a measure of social welfare and reform and the Act, is clearly valid on that ground as it does not violate Articles 25 and 26 of the Constitution.

21. In the alternative, the petitioners submit that, supposing the majority in Sardar Sydna Taher Saifuddin Saher Vs. The State of Bombay (1962 Supp. SCR 426) to be right in accepting the contention that prevention of excommunication on religious grounds is violative of Articles 25 and 26 and is not a measure of social welfare or reform, the Act should not have been struck down as void. Excommunication can be enforced on various grounds, secular and religious. Ex-communication on secular grounds can be distinguished from excommunication on religious grounds. It was open to the majority in the above case to uphold the Act, in so far as it prevented excommunication on any ground other than religious grounds. In the State of Bombay Vs. F.N. Balsara, 1951 SCR 682 this Court upheld the Bombay Prohibition Act in so far as it applied to liquor "other than medical and toilet preparations containing alcohol". A similar approach, it is humbly submitted could in any case have been adopted in the present case. This submission is without prejudice to the main submission of the petitioners that the Act is wholly valid.

22. The Petitioners submit that the practice of Baraat/Ex-communication and the threat thereof, and the continued existence of this

practise due to the non-implementation of the Act results in the numbers of the Dawoodi Bohra Community, and particularly the reformist sections thereof being deprived of their fundamental right of freedom of conscience guaranteed by Article 25 of the Constitution, as also their fundamental right of free speech and expression guaranteed by article 19(1)(a). The members of the Community are unable to express their opinion freely due to the fear of imposition of Baraat which entails such grave consequences to them and the members of their family, extensively set out hereinbefore. As referred to hereinbefore, the members of the Community do not have the freedom to form associations or to start business ventures which do not have the blessings of High Priest, and if such activities are done without the blessings of the High Priest, to concerned person is under the threat of Baraat. Such Practices, which continue to exist due to the non-implementation of the Act, are violative of the rights of the members of the Community under Articles 19(1)(1) and (g) of the Constitution.

23. The Petitioners submit that it is necessary in the interest of justice that this Hon'ble Court should reconsider its aforesaid decision in the case of Sardar Syedna Taher Saifuddin Sahib on the following among other grounds which are taken without prejudice to one another:

G R O U N D S

1. It is submitted that the Bombay Prevention of Excommunication Act, 1949 is a valid law protected by Article 25(2)(b) as a law providing for social welfare and reform. It is submitted that contention raised in the present Petition and the facts found by the Nthwani Commission in its Report which is Annexure 'A' herein, clearly show that the practice as weapon of persecution to penalise those who incur the displeasure of the High Priest of the Community in any manner, not merely in religious activities but all other social activities including their personal life, financial affairs, business activities etc. It is submitted that it has been clearly laid down by this Hon'ble Court in its judgment in the case of Shri Venkatrama Devaru Vs. State of Mysore reported in 1958 SCR 895, that the right given to a religious denomination under Art. 26(b) is subject to Art. 25(2) of the Constitution. It is submitted that if the material which is sought to be presented by the present Petitioners to bear out their contention had been before this Hon'ble Court while deciding the case of Sardar Syedna Taher Saifuddin Sahib, this Hon'ble Court would have taken a different view of the validity of the Act. It is respectfully submitted that the decision of this Hon'ble Court in the case of Sardar Taher Saifuddin Sahib requires reconsideration.

- II. It is respectfully submitted that the very intention and purpose of the enactment of Art. 25(2)(b) in Constitution was that measures of social welfare and reform should not be invalid on the ground that they interfere with the right of a religious denomination to manage its own affairs in matters of religion. In Devaru's case reported in 1958 SCR 895, this Hon'ble Court came to the conclusion that if only Art. 26(2)(b) was to be taken into consideration, Sec.3 of the Mdras Temple Entry Authorisation Act, 1947, would be invalid; as questions as to whether who are the persons entitled to worship in a temple, where they are entitled to stand etc. were all "matters of religion". Within the meaning of Art. 26(b). However, it was held by this Hon'ble Court, that no limitation could be read into the plain and unambiguous language of Article 25(2)(b). It was also held that the limiting words "subject to other provisions of this Part" were found only in Art. 25(1) and not in Art. 25(2). It is therefore submitted that the observation of Justice Ayyangar who wrote a separate concurring judgment in the case of Sardar Syedna Taher Saifuddin Sahib to the effect that the saving in Art. 25(2)(b) was not intended to cover the basic essentials of the creed or religion are not correct and goes contrary to the ration of the decision in Devaru's case.
- III. It is submitted that the fact power of excommunication was not a purely religious power is itself apparent from the decision

of the Privy Council in the case of Masan Ali Vs. Mansoor Ali 75 Indian Appeals, 1 = AIR 1948 Privy Council, 66, which held that the Dai-ul-Mutlaq did have the power to excommunicate. The Privy Council in that case held that there would be no excommunication by implication on the ground that the authority of the Dai was questioned by any person or on the ground that any person had consorted with an excommunicated person. The Privy Council held that the power of excommunication must be exercised in accordance with justice, equity and good conscience in so far as the offence alleged must be brought to the notice of the member, he must be given a warning and an opportunity of repentance and should not be excommunicated for reasons publicly stated in a meeting of the Jamat. As a matter of fact, in that decision, the two excommunications which were challenged were expressly held not to have been validly ordered. The very fact that excommunication was treated as being a justiciable issue and certain procedural safeguards were prescribed before a valid excommunication could take place, showed that the power of excommunication was not a purely religious power.

The facts disclosed by the Nathwani Commission, however, state that the Privy Council was with respect not right in its view that the head of the

Community (the Dai), acting in accordance with the usage of the Sect, should have to power to decide what amounts to an offence warranting expulsion from the Community. The Privy Council did not have before it the material which shows that the practice of Misaq and the Weapon of Baraat empowers the Dai to deprive the members of the Bohra Community of their essential civil liberties and human rights.

- IV. That the practice of Baraat/excommunication amounts to the imposition of untouchability and violates Article 17 of the Constitution of India.
- V. It is submitted that the practice of Baraat/Excommunication even on religious grounds is wholly contrary to the principles of morality and is therefore not protected by the provisions of Articles 25 and 26 of the Constitution. Freedom of conscience and religious tolerance are moral principles and the practice of Baraat/Excommunication violates those principles. It visits a person who may conscientiously object to a particular traditional belief or practice with social ostracism, separation from family members and friends and causes untold pain and anguish. Such a practice is contrary to principles of morality and is therefore not protected by Articles 25 and 26.
- VI. It is submitted that the practice of Baraat/Excommunication and the treat therefore, and the continued existence of this practice due to the non-implementation of the Act, results in the deprivation of the members of the Dawoodi Bohra Community and Particularly the reformist Sections thereof,

of the fundamental right to freedom of conscience guaranteed by Article 25 of the Constitution.

- VII. It is submitted that the practice of Baraat/ Excommunication and the threat thereof, and the continued existence of such a practice due to the non-implementation of the Act violates the fundamental rights of the members of Dawoodi Bohra Community and particularly the reformist sections and thereof under Articles 19(1)(a), 19(1)(c) and 19(1)(g) of the Constitution. The members of the Community are unable to express their opinions freely due to the fear of imposition of Baraat which entails such grave consequences to them and to the members of their family, which have been set out hereinbefore. The members of the Community do not have the freedom to form associations and to start business ventures which do not have the blessings of the High Priest. If such activities are done without the permission of the High Priest, the Concerned persons are under the threat of Baraat. Such practices continue to exist due to the non implementation of the Act.
- VIII. In the alternative, and without prejudice to the contention of the Petitioners that the Act is wholly valid, even insofar as it prevents excommunications made on religious grounds, it is submitted that excommunication can be enforced on various grounds, both religious and secular. Excommunication on religious grounds can be distinguished from excommunication on other grounds. It is respectfully submitted that it is possible to uphold the validity of the Act insofar as it applies to excommunication on any ground other than religious grounds. It is

therefore submitted that in the alternative and without prejudice to the contentions of the Petitioners in the foregoing paragraphs, that the Act may be held to be valid and operative insofar as it prevents excommunications made on grounds other than religious grounds.

IX. The Petitioners crave leave to be allowed to raise additional grounds in support of the Writ Petition, if necessary.

24. The Petitioners have not filed any other similar Writ Petition in this Hon'ble Court or in any other High Court.

25. It is therefore, most respectfully prayed that this Hon'ble Court may be pleased to :

P R A Y E R

- (a) Issue a Writ of Mandamus or Writ in the nature of Mandamus or any other appropriate Writ, direction or order, directing the State of Maharashtra to give effect to the Bombay Prevention of Ex-communication Act, 1949, after reconsidering the decision of this Hon'ble Court in the case of Sardar Syedna Taher Saifuddin Sahib Vs. State of Bombay reported in 1962 (supp 2) SCR 496; and
- (b) Pass such further and other orders as this Hon'ble Court may deem fit in the facts and circumstances of the present case.

AND FOR THIS ACT OF KINDNESS, THE
 PETITIONERS AS IN DUTY BOND, SHALL EVER
 PRAY.

Filed by :

(MRS. MANIK KARANJAWALA)
 ADVOCATE FOR THE PETITIONERS .

IN THE SUPREME COURT OF INDIA
 ORIGINAL WRIT JURISDICTION

WRIT PETITION (CIVIL) No. _____ OF 1986.

IN THE MATTER OF:

The Central Board of Dawoodi
 Bohra Community and Another. ...PETITIONER

VERSUS

State of Maharashtra
 and Another. RESPONDENTS

A F F I D A V I T

i, Asghar Ali Engineer, son of shaikh Qurban
 Hussain, age about 46 years, resident of Irene
 Cottage, (2nd Floor) 4th Road, Santa Cruz (East),
 Bombay 400 055, presently in New Delhi, do
 hereby solemnly affirm and state as under:

1. I am the General Secretary of Petitioner No.1 in the present Writ Petition and am also Petitioner No.2 in the present Writ Petition. I am fully familiar with the facts of the case and I am therefore, competent to swear the present Affidavit.

2. I have gone through a copy of the accompanying Writ Petition, and state that the contents thereof are true to my knowledge.

3. I state that the Annexures to the Writ Petition are true copies of their respective originals.

DEPONENT.

VERIFICATION :

I , the Deponent above-named, do hereby verify that the contents of my above affidavit are true to my knowledge; no part of it is false and nothing material has been concealed therefrom.

Verified at New Delhi on this 27th day of February, 1986.

DEPONENT.

THE BOMBAY PREVENTION OF EX-COMMUNIC-
NICATION ACT, 1949.

(As notified upto the 30th April, 1984)

CONTENTS

PREAMBLE

SECTIONS.

1. Short title and extent
2. Definitions.
3. Ex-communication not to be valid and of any effect
4. Penalty.
5. Jurisdiction under this Act.
6. Mode of taking cognizance of offence.

BOMBAY ACT NO. XLII OF 1949

[THE BOMBAY PREVENTION OF EX-COMMUNICATION ACT, 1949]

[1st November 1949]

Adapted and modified by the Adaptation of Laws, 1950

Adapted and modified by the Bombay Adaptation of Laws (State and Concurrent Subjects) Order, 1956.

Amended by Bom. 2 of 1960.

Adapted and modified by the Maharashtra Adaptation of Laws (State and Concurrent Subject) Order, 1960.

An Act to prohibit ex-communication in the [State of Bombay]

WHEREAS it has come to the notice of Government that the practice prevailing in certain communities of ex-communicating its members is often followed in a manner which results in the deprivation of legitimate rights and privileges of its members;

AND WHEREAS in keeping with the spirit of changing times and in the public interest, it is expedient to top the practice; It is hereby enacted as follows:-

1. (1) This Act may be called the Bombay Prevention of Ex-communication Act, 1949. Short title and extent

(2) It extends to the whole the (State of Maharashtra)

2. In this Act, unless there is anything to pugniant in the subject or context:- Definitions.

(a) "community" means a group the member of which are connected together by reason of the fact that by birth conversion or the performance of any religious right

they belong to the same religion or religious creed and includes a caste or sub-caste.

(b) "ex-communication" means the expulsion of a person from any community of which he is a member depriving him of rights and privileges which are legally enforceable by a suit of civil nature by him or on his behalf as such member.

Explanation - For the purposes of this clause a right legally enforceable by a suit of civil nature shall include the right to office or property or to worship in any religious place or a right of burial or cremation notwithstanding the fact that the determination of such rights depends entirely on the decision of the question as to any religious rites of ceremonies or rule or usage of a community.

3. Notwithstanding anything contained in any law customs or usage of the time being in force to the contrary no ex-communication of a member of any community shall be valid and shall be of any effect.

Ex.com.
motivation
not to be
valid and of
any effect.

4. Any person who does any act which amounts to or is in furtherance of the penalty ex-communication of any members of a community shall on conviction be punished with fine which may be extended to one thousand rupees.

1. For statement of objects and reasons See Bombay Govt. Gazette 1949 Part V page 424.

2. These words were substituted for the words "the province of Bombay" by Bom.2 of 1960 S. 3

3. This sub-section was substituted for original.

4. This Act is extended to and shall by virtue of such extension be in force in the rest of the state of Bombay (vide Bom. 2 of 1960 sec. 2)

5. These words were substituted for the word "State of Bombay" by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

Bombay Prevention of Ex-communication Act,
1949 [1949: Bom. XLII]

Explanation:- When any person alleged to have committed an offence under this section is a body of an association of individuals, whether incorporated or not if the offence is alleged to have been committed at a meeting of such body or association. Any individual who has voted in favour of the decision regarding the excommunications shall be deemed to have committed the offence.

Jurisdiction under this act. 5. Notwithstanding anything contained in the Code of Criminal Procedure 1898, V of no Court interior to that of a Presidency Magistrate or a Magistrate of the First 1898. Class shall try any offence punishable under section 4.

Mode of taking cognizance of offence 4.- 6. No Court shall take cognizance of an offence punishable under section 4.- (a) after the expiry of one year from the date on which the offence is alleged to have been committed and

(b) without the previous sanction of the [State] Government of any officer authorised by the [State] Government not below the rank of the Commissioner of Police [in any area for which a Commissioner of Police has been appointed] and the District Magistrate elsewhere.

1. This word was substituted for the word " Provincial" by the Adaptation of Laws Order, 1950.

2. These words were substituted for the words "in Greater Bombay" by Bom.2 of 1960 sec.5

* See now the Code of Cummunal Procedure, 1973 (11 of 1974).

DRAFT BILL ON SOCIAL BOYCOTT
The Prevention of Social Disabilities Act,

WHEREAS it has come to the notice of the Government that the practice of imposing social disabilities prevails in certain communities which amongst other things deprives their members of the rights and privileges to which they are entitled by reason of birth or otherwise and which results in flagrant violation of their fundamental rights as citizens of this country.

AND WHEREAS in keeping with the spirit of social change and democratic set up of our country and in the larger public interest it is expedient to prevent the imposition of such social disabilities, it is hereby enacted as follows:-

1. SHORT TITLE EXTENT AND COMMENCEMENTS

- i) This Act may be called the Prevention of Social Disabilities Act.
- ii) It extends to the whole of the State of Maharashtra.
- iii) It shall come into force forthwith.

2. DEFINITIONS:

In this Act, unless there is any thing repugnant in the subject or context:-

- i) "Community" means a group of members who are connected together by birth conversion or performance of religious rites or ceremonies or they belong to the same religion or religious creed and includes a caste or sub-caste.
- ii) Member includes members, male and females.

3. Whosoever commits any of the following act or acts shall be deemed to impose a social disability on a member of his own community;

i) if he denies, prevents or obstructs or causes to deny, prevent or obstruct any member of his own community from having access to or using any place of worship or prayers or any place intended to be used for performing any religious ceremony or rite, prevalent or practised in his own community;

ii) if he prevents or obstructs or causes to prevent or obstruct any member of his own community from having access to or using any place or intended to be used for a charitable, religious or public purpose and established, run, or maintained wholly or partially by his own community or for and on behalf of the community and which is normally available for use by any member of his own community;

iii) if he prevents or obstructs or causes to prevent or obstruct any member of his own community from enjoying any benefit under a charitable trust or Wakf created for the benefit of his own community;

iv) if he prevents or obstruct or causes to prevent or obstruct of his own community from having access to or using the facilities of any school, educational institution, medical institution, community hall, club hall cemetery, burial ground, or any other place intended to be used by, or for the benefit of, his own community;

v) if he prevents or obstructs or causes to prevent or obstruct any member of his own community from observing any social or religious custom or usage or ceremony or taking part in a social, religious, marriage or funeral function, meeting or procession;

vi) if he prevents or obstructs or causes prevent or obstruct any member of his community from establishing such social, professional, or business relations as he would ordinarily establish or maintain with other members of his own community;

vii) if he incites, provoke, or encourages any member of his community, directly or indirectly to sever social, religious, professional or business relations with any other member or members of his community;

viii) if he refuse or denies or causes to refuse or deny to any member of his community the right to perform such marriage, funeral or other religious ceremonies and rites as the members of his own community usually and ordinarily perform;

xi) if he prevents or obstructs or causes to prevent or obstruct any member of his own community from entering, lodging in or otherwise using any Dharmashala, Sarai or Musafarkhana which is ordinarily open to members of his own community;

PUNISHMENT:

i) Whosoever imposes social disability on any member of his own community shall be punished with imprisonment of either description which may extend to six months and with fine, which may extend to one thousand rupees;

ii) Whoever aids or abets the commission of any offence punishable hereunder or connives at the commission of any such offence or harbours any offender or secretes or destroys any evidence shall be punished with....

5. Offences under this Act to be cognizable and compoundable:-

Notwithstanding any thing contained in the Code of Criminal Procedure, Code 1998.

i) every offence under this Act shall be recognizable and

ii) every such offence may, with the permission of court, be compoundable.

6. i) A police officer may

a) remove or cause to be removed, any barricade or obstruction erected, placed or found in any place if such police officer has reasonable ground to believe that the barricade or obstruction was so erected or placed in order to be used for the purpose of committing an offence under this Act; or

b) open or cause to be opened any gate or door if such police officer has reasonable ground to believe that such gate or door was closed for the purpose of committing an offence under this Act;

ii) Whenever a police officer has reasonable ground to believe that any person is likely to commit an offence under this Act, he may arrest such person without a warrant and deliver him into the custody of the officer-in-charge of a police station who may either release the person arrested on his executing a bond with or without a surety for his appearance in a Magistrate's court or without a surety for his appearance in a Magistrate's court or within twenty-four hours after the arrest, take or cause to be taken the person arrested before a Magistrate;

iii) When a person appears before a Magistrate in compliance with a bond executed by him under sub-section (ii) or is brought before a Magistrate he may require such person to show cause why he should not be ordered to execute a bond with or without sureties for his good behaviour for such period not exceeding three years as the Magistrate thinks fit. If after due inquiry the Magistrate is satisfied that such person should execute a bond with or without sureties, the Magistrate shall make an order accordingly and the provisions of section 107 and from 112 to 123 (both inclusive) of the Criminal Procedure Code shall apply to or in relation to all orders to furnish security made under this sub-section.

FROM CONCEPTION TO DEATH, THEY'RE TAXED ALL THE WAY.

WHEN it come taxing his flock, the high priest of the Dawoodi Bohras is inventive beyond words, Not content the Syedna has introduced certain uniquely Bohra taxes, which every member of the community pays on pain of severe punishment, besides what he pays to the state of course, reinforcing the charge that the Bohra community is a state within a state.

Every Bohra is burdened with seven kinds of taxes:

ZAKAT: Though this tax is sanctioned by the scriptures, a majority of Muslims believe that only an Islamic state has the right to collect such taxes Otherwise, a Muslim is free to distribute the Zakat among the poor and needy.

It is only among the Bohra that its collection is obligatory. And it is collected at the rate of 2.5 per cent on the accumulated wealth of the family during that year. The high priest does not permit anyone to distribute the amount among the poor and needy himself. Every family has to pay without fail.

The reformists charge that this amount like other taxes, is not used for the betterment of the community but goes into the personal treasury of the high priest.

KHUMS: While this is supposed to be a part of the Zakat with other Muslim communities, among the Bohras a further one-fifth is collected on the unexpected gains through lottery jackpot ect., over and above the Zakat amount. Here again no one is spared.

FITRA: This is the only other obligatory charity compulsory to all Muslims, though it is not meant to be collected compulsorily as the Bohra priests do. The charity is meant to be distributed among the poor on Id-Ul-Fitr day (Fitr means breaking the fast and Firta is some sort of thanks giving.)

The priestly class collects it as a compulsory extraction and does not recognise the right of a Bohra to make the charity himself, as other Muslim sects do.

SILA: This is a typically Ismaili tax, not to be found among any other Muslims. It is meant to be a reward for the Imam or Dai for guiding the believers.

The rates according to some sources for the above taxes, applicable from the year 1394 hira of 1973-74 revised upwards since is:

- a. Rs. 5.74 per adult male or female
- b. Rs. 2.87 per minor child male or female
- c. Rs. 2.87 per conceived child in the womb of the mother (hamal).
- d. Rs. 2.87 per head.

In other words, an Bohra begins paying taxes to the Syedna from the times the woman becomes pregnant. Another typical Syedna innovation.

HAKKUN NAFS: There is no such tax prevalent in any other sect of the Muslims. There is no mention of its in Islamic law. In other words, it seems to be another invention of the Bohra high priests. It is collected by the Bohra high priest through his agents at the time of a death of person from the survivors, on the ground that the dead will have no salvation if this amounts not paid. It is collected at the rate of Rs. 119 or a multiple thereof.

SABIL: The practice of collecting this additional amount another Bohra invention has been prevalent in Bomby and other towns since 1962 at least. It is collected on the occasion of marriage etc. and without this payment, clearance is not given for the person to perform a marriage to bury the dead etc.

SALAM AND NAZRANA: This is perhaps the most insidious of all offerings that a Bohra is obligated to pay to the high priest. For there is no occasion where he can escape it.

Whether he is hosting a community feast, performing a marriage or naming a child, for all which he has to take the high priest's permission. The supplicant pays a Nazrana for seeking the high priest's favour, any favour from naming a child to writing Bismillah on the opening page of his permission or Raza, the supplicant then pays a salam to the priest for that, and a further salam to the Imam in seclusion.

Even on the occasion of a death, beside the huqquan nafs, a further amount has to be paid to the high priest agent for permission for the burial ceremony.

It is normally considered a great honour among the Bohras to have the high priest attend their feasts. In such cases the nazrana could be as high as 51,000. The menu for the feast is decided by the high priest. And if by chance the high priest feels the supplicant is capable of paying more, he won't move towards the feast till the amount is suitably increased. And God help the person concerned if the high priest were to walk out without partaking in the feast.

In other words, virtually every step the Bohra takes is at the whim of the high priest, for which he has to pay a tax on. And the high priest has evolved an efficient system for the collection of these taxes from his flock.

Annual circular are sent to the Amils on the collection of these taxes, and where to remit them. The country has been divided into different zones for purposes, and every family is sent a bill to fill and send back to the Amil. And every year the family has to product the receipt of the previous year to show he has paid his dues up to date. Failing which, permission for marriage, burial of the dead etc. is refused.

RESOLUTIONS FOR THE SIXTH ALL WORLD DAWOODI BOHRA CONFERENCE

Resolution No.1

This conference notes with serious concern the act of the M. P. Government in sending the State Plane along with a Minister and a Parliamentary Secretary, to bring the Bohra religious head to Indore from Bombay on 1st September, 1986 for delivering his private sermons. He was also made a state guest and accorded special facilities. This is total negation of secularism and secular functioning of state. Also, it was gross misuses of state Machinery which no state which cares for public money, can allow. This conference, therefore, urges upon the state Government not to misuse its state machinery in future to cater to the requirements of any religious head. There cannot be greater dishonour to the principles of secularism and doctrine of accountability.

Resolution No.2

This conference is greatly pained to take notice of the fact that Mr. Arjun Singh, the vice president of the Congress-I came to receive the Bohra religious head at the Indore airport on 1st September, 1986 all the way from Delhi. The Indian National Congress has had the glorious tradition of secularism which means keeping politics out of religion. Where was the need for Mr. Arjun Singh to specially receive a religious head at the Indore airport? Also, Mr. Arjun Singh is well aware of serious charges of inhuman persecution of the Bohras and tax evasion on a large scale by the Bohra chief and his family. How can vice president of ruling party and Indian National Congress honour a religious head and that too such a religious head?

This conference, therefore, urges upon Shri Rajiv Gandhi, President of the Congress-I and the Prime Minister of the Country to issue instructions to all the office bearers of his party as well as all the Congress ministries not to associate themselves with any religious personalities or heads and to rigorously follow the principle of delinking politics with religion and this conference also requests him to take disciplinary action against these who breach this rule.

Resolution No.3

This Conference is greatly perturbed by the fact that despite repeated memoranda and reminders the Central Government has not taken step to legislate against social boycott (baraat) resorted to by the Bohra priesthood to punish those who object to its commercialization of religion, distorting its teachings and extorting money in the name of religion. Needless to say thousands of families have been ruined socially as well as economically due to this evil practice. It is highly regrettable that the Government has still not taken any effective step in this direction though the six world conference have successively passed resolutions to this effect. It is unfortunate fact of the political life of this country that the political interests have been inextricably linked up with the religious vested interests.

This conference also urges upon the Central Government to enact a law in the lines of the Ajmer Dargah Sharif Act to control the finances of the Bohra high priest and his family. The fabulous amounts collected every year remains unaccounted for and misappropriated by the members of the Bohra Priestly family. Ajmer Dargah Sharif Act, Tripathi Temple Act etc. have been enacted to stop misappropriation of the religious funds and to give

benefits of these funds to the ordinary members of the respective communities. Why then the Bohra religious head be exempted from such an Act? The Government owes an explanation to the people of India for not doing so,

Resolution No.4

This conference urges upon the members of the Bohra Community to take serious note of various desepive measures adopted by the Bohra priesthood to keep the community perpetually in mental bondage. Every two to three years the priesthood resorts to such measures. First it made a dubious claim of a miracle of stones of Raudatut Tahera weeping and collected in Bombay thousands of gullible Bohras. Then they collected thousands of Bohra in Egypt saying that Imam will appear there. Also million of rupees were spent on a mosque in Egypt to repair it which brought no benefit to any Bohra thousands of whom live in dire poverty in India. Last year they staged the drama of "exploding the bomb" firstly, to give bad name to the reformists, secondly to terrorise Bohra into submission and thirdly to get some political mileage out of it. Unfortunately the Chief Ministers of Gujarat & Madhya Pradsh rushed to attend state-managed processions to celebrate 'survival' of the Bohra high priest and to congratulate him. The whole story was a great hoax and was very crudely executed so much so that even many simpletons found it difficult to swallow.

Such deceptions and miracles not only violate the sanctity of religion but also impede the mental growth of the community. The Bohras should give a serious thought to the

fact that deliberate attempts at spreading such irrational beliefs does an incalculable harm to its rational development and acquiring dynamic outlook. Had the religious leadership truly Islamic and conscientious, it would have provided it with proper spiritual guidance on one hand and dynamic leadership to grow with purpose, on the other. But as we all know it has made reckless efforts to spread irrational beliefs and culture of mental slavery.

This conference therefore urges upon the conscientious members of the community to break away from such an unscrupulous religious leadership and help in proper growth of the community. Not only this the religious leadership has played ducks and drakes with the charitable resources of the community and squandered them for personal use depriving the needy and poor of the community from benefits thereof in clear violation of the express Quranic injunctions. How long can the community suffer in silence in the face of reckless plundering of its valuable resources? Come brothers and gird your loins for final encounter with the forces of batil (untruth). The future generations would be grateful to you.

Resolution No. 5

The women and youth can play special role in liberating the community from the clutches of the priesthood and its culture of slavery. The Bohra women and youth should join other progressive and secular forces in the country to fight against the forces of communalism and obscurantism. The Bohra youth and women should take lead in organizing seminars and conferences to this effect and invite other fellow countrymen to share their experiences with. They should also form social action groups for non-formal education of the community and set up organizations for vocational guidance and for helping

the needy and poor keeping in view their human dignity and rendering them help in a way which would make them self-sufficient and stand on their feet.

This conference therefore urges upon the Bohra youth and women to come forward and initiate such measures though it would take long time to establish these new traditions in the community. They may have to face great deal of resistance and opposition. However, we should not give up hope and faith.

Resolution No. 6

This conference expresses its anguish in the way the Bohra Wakf properties have been tempered with in Madhya Pradesh by the Bohra priesthood and the way the M.P. Wakf Board has convinced at it despite the assurance to the contrary given by the Wakf Minister and the Chairman, Wakf Board. This conference therefore urges upon the Wakf Minister and the Wakf Board to immediately initiate action to hold a thorough inquiry into the affairs of the Bohra Wakf properties throughout M.P. and take appropriate action under the law and stop conniving with the vested interests in the Bohra community.

Resolution No.7

This conference views |with seriousness the move of the Indore administration to ban the public meeting on communal harmony in which Mr. Asghar Ali Engineer whose work on communalism and communal violence is highly respected throughout the country. Mr. Engineer was to address this meeting on September 27th evening at 7 p.m at the Rajbada Chowk Indore. To say the least, such trampling upon

of elementary democratic rights even after 4 decades of Independence is utterly shocking. This conference strongly condemns this high handed action of the collector and S.P. of Indore and urges upon them to respect fundamental rights of peaceful citizens of this country. The gravity of this arbitrary action can be appreciated when it is born in mind that the administration was bending backwards to welcome the Bohra high priest only a few days before that and also that Mr. Engineer is himself a crusader of civil rights and is vice-president of the PUCL and CPDR, the two prime-civil rights groups of this country today.

TRANSLATED COPY OF THE FORM REQUIRED TO BE FILED BY THE PRIEST FOR THE TAX REMITTANCES.

AI-DAWATIL HADIYAH ALAL LAHO MINARAHA

FORM OF TAFSILUL EWAZ

Through..... Name of City.....
Name of District....

	Rs.	Ps.	Rs.	Ps.
Total as per Blue Form of Zakatul Fitr & Silatul Imam				
Deducted as per the form of the Tafsilul Nafaqat....				
As per Yellow form of Alwajibaat				
Balance Amount				
Total..				
Total Amount remitted to Sarkar-e-Aali				

DETAILS

Amount Remitted	Bombay	Calcutta
-----	Rs. Ps.	Rs. Ps.

Through Draft.....

By Money Order.....

By Cash.....

Amount thus sent to Sarkar-e-Ali

Signature of the RemitterAl-Aamil / Al Mamoor Bilkhidmat Minal Jamat /
other

Date of remittance:-

Give your full name and address: _____
 The full address of your residence
 after Ramzan Service below
 so that you may be contacted
 if there is any problem of accounts.

=====

DETAILS OF REMITTANCES-----
Give particulars below if amount has been
sent by draft:

Date of Draft	Draft No.	Bank's Name	Rs.	Ps.
Date	Receipt No.	Name of Post office		
Cash Rs.	Remitted	dated		

=====

BACK PAGE

If there is need of writing any details regarding only Sila and Fitra and Wajibaat it may be written here:-

Amount Remitted

Amount of Eid day Silat ul Imam to be written here Silatul Imam on Eidul Fitra day. From Men.....Rs.....ps..... From Women.....Rs.....Ps..... Total.....

And this should be sent directly to Sarkar at Bombay Draft No..... M.O.'date..... Bank's Name... Minus.. Commission..

Signature of the Remitter

Balance of Total

Total Remittance

FOR OFFICE USE ONLY

Checked By Date Amount Date

Remarks. Signature

DETAILS OF REMITTANCES

Give particulars below if amount has been sent by draft

Cash Rs. Remitted dated Date of Draft Draft No. Bank's Name Rs. Ps. Receipt No. Name of Post office

THIS IS THE TRNSLATION OF THE PAMPHLET
ISSUED BY THE MAJILISIL VIZARATUS SAIFIYAH
ENCLOSED WITH THIS TRANSLATION.

SEAL

From:- MIN MAJLISIL VIZARATIS SAIFIYATIL
MUAZZAMATI ADDAMMALLAH BAHJATHA
VA BAHAAHA.

(BOMBAY)

To:- TO PLACE _____ the Present Aamil or the
Person in charge of Ramzan Service (May
God protect him.)

After salam etc. please let it be known that
it is ordered by His Holiness that:-

Whatever amounts of Zakat ul Fitra and Silatul
Imam...and Waajibaat you may receive should be
sent as per the forms of Tafeelul Ewaz (Particu
lars of Amt) toAs Shaikh Muhsinbhai
Abdut Taiyeb Mughal at Calcutta.

Form in Gujarat script is annexed which
should be filled in giving details of remitt-
ance. It should be put in enclosed ready/-
made and addressed envelope which
should be mailed by Registered Post
to Calcutta.

The "Form of Sila, and Fitra and Wajibaat"
etc. should be sent to His Highness at Bombay.
It should also be intimated to His Highness
through the from of "Tafseelul Ewaz" (on
its reverse) as to on what date the amount
has been remitted to the said Mr. S.K. Mushin-
bhai together with the Gujaratiform.

Was Salaam,

Note:- If you remit the amount by cheque or draft the name of His Highness should be written thereon like this:-

H.H. DR. SYEDNA MOHAMMED
BURHANUDDIN SAHEB

Calcutta Adress:-

DAWAT E HADIYAH
C/o Hatim & Co
90, Binon Street,
CALCUTTA 700 016

BACK PAGE
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Form to be sent to Calcutta.

Village

Date....Hijri Era.....

To Dear Brother Nasih-ud-Dawat-ul Imamiya
Sheikh Mushsinbhai Abdut Tauyeb Mughal
Calcutta (May Almighty Allah Protect him)

After Salaam please know that

Mamluko Saiyedna (TUS) (Mauzel-ul-
Khidmat)

From:

ZAKATUL FITRA & SILLATUL IMAM &
WAAJIBAAT

Amount of Rs.....(in word.....) as being
sent by drat/M.O./ Registered Post as detailed
below which may be credited to Sarkar's account.

If remitted through one or more drafts:

	Rs.	Ps.	Name of Bank	Draft No& dt.
1.				
2.				
3.				
4.				

By Money order:-

Rs. Ps.....Name of Post Office.....Receipt....
No.....date.....

Full address of place where
you will go after the month of
Ramzan.

Sender's(Aamil/
Mammor's) full name

FOR OFFICE USE ONLY

-----BY -----Deposited in Bank

Total Amount Received.	Draft	M.O.	Regd.	Name Amt. Date
Rs.	ps.			

THIS IS A TRANSLATION OF URDU LEAFLET
ENCLOSED WITH IT.

ATTENTION:

786

Regarding filling
up Form Necessary
Instructions

Read all the instructions before filling the forms of Wajibaat carefully. After following the guidelines accounts should be tallied on a separate sheet so that there may not be any erasures.

Full in the columns of the forms thereafter with care. It is essential to do so for every Aamil and Mamoor bil Khidmat.

SIX KINDS OF FORMS:

1. Form for Collection of Silatul Fitra
...White Colour.
2. Form for collecting Waajibaat - white
Colour.
3. Form for joint account of Sila and
Fitra ...Blue Colour.
4. Joint form for Wajobaat .. Yellow
Colour.
5. Form for details of Nafaqat
..Pink Colour
6. Form for details of amounts ..Dark Colour

have been sent to you

1. 2 Sila & Fitra form and Wajibaat's form should be filled in completely after collecting the amounts.
2. 4 Sila & Fitra's joint Form and Wajibatt's a joint form should be filled in such a way that : page numbers should be entered in the column for page numbers in Form No. 1 and 2. Similarly, if two,

three or more forms are used serial page numbers should be put on each. And while filling the joint forms the page number of the used form should be entered in the column for page number and against the total of the used form's amount should be entered in the space provided against it as that all the details of the used forms may be collected in the form joint account.

5. Form for Tafsil un Nafaqat.

If the amount is sent through draft its commission (as per receipt) and if it is sent by money order its commission (as per receipt) may be deducted;

Total Postage of Sila & Fitra forms and draft.

Total postage of draft if mailed separately
Total postage of the forms if sent separately

Exact postage should be ascertained by weighing the article and the same should be deducted.

6. In the Form of Tafsil ul Ewaz

Figures of rupees and paise should be entered in respective columns:-

S A M P L E

Total (as per Blue Form) of the joint account of Zakatul Fitra and Silatul Imam Rs. ps.
11,000.00

Deduction as per Pink form of Tafsil un Nafaqat	110.05
Balance	10,890.05
Total (as per yellow form) of Wajibaat's account	726.15
Total amount remitted to His Highness	11,616.20

2. You should fill the columns like this and remit the total amount to His Highness either through bank draft or by money order or by cash. The amount cannot be sent in any other way.
3. This amount should be sent to either Bombay or to Calcutta. If it is sent through draft the number, bank's name, date of draft, where it is remitted should be entered in the respective columns. If it is sent by money order the receipt No. of the M.O. Receipt, name of the post office, date of posting, and the place where it is sent should be entered in the respective columns. Similarly if the amount is sent in cash it should be mentioned in the column of either Bombay or Calcutta.
4. If the amount is sent through draft the name of His Highness should be written as: H.H. SYEDNA MOHAMMED BURHANUDDIN SAHEB.
5. The amount should never be sent through cheque. Otherwise the cheque will be sent back. The amount should never be sent through a cheque of either your own bank account or of anyone else's bank account. If the givers send cheques they should be advised to send drafts, as far as possible, in the name of His Highness. In the meanwhile this matter should be explained clearly to the Momineen.
6. You yourself should remit the amount before leaving the station. It should never so happen that while leaving the village of service you entrust the amount to the Main Yali or any other fellow so that he may remit it. This should never happen.

7. If it is necessary to write any details only regarding Sila and Fitra and Wajibaat than only that details should be written on the reverse of the form of Tafsilul Ewaz.

Nothing also should ever be written like jamat's problem's anything concerning Darul Imarat, anything about your ownself or any other matte should be not be written there. If any details is required to be mentioned then only it should be entered in the said column.

- 8 At the end of the Form for Tafsilul Ewaz you should enter your signature, date and your permanent address and in the column of

AL AAMIL / AL MAAMoor MINAL
KHIDMAT....

You should retain the relevant word and check off the others.

2. Silatul IMAM FI YAWMIL EID UL FITR
It is obligatory to pay Sila before the Sermon (Khutba) of Eid ul Fitra and so it is being always collected as per High⁷ Highness's orders. It should never be included in the amount. But the amount of Sila and Fitra should be remitted separately, the account of the Eid Day Sila should be entered in the column provided on the reverse of the form for Tafasilul Ewaz, and the amount should always be sent separately to His Highness in Bombay.

3. AL MAWLA AL AJAL MAAZON DAWATUL HAQ..... If an amount of Najwa for Al Maazoon is received then its account should be written on separate paper. That amount should not be entered in the form for Wajibaat and Sila Fitra. That amount should be submitted separately to him by money order or draft. your name and address should invariably be written also on the M.O. coupon. Any expense on that should be deducted from his amount.

The address of Al Maula Al Ajal should be written like this:-

SYEDI MAZOONSAHAB KHUZEMABHAISAHEB
QUTBUDDIN, BADRI MAHAL, DR. D.N.
ROAD, BOMBAY - 1.