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THE IDEOLOGICAL FOUNDATIONS OF PAKISTAN

*The University of Oklahoma*

PH.D.

1980

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THE UNIVERSITY OF OKLAHOMA  
GRADUATE COLLEGE

THE IDEOLOGICAL FOUNDATIONS OF PAKISTAN

A DISSERTATION  
SUBMITTED TO THE GRADUATE FACULTY  
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1980

THE IDEOLOGICAL FOUNDATIONS OF PAKISTAN

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## PREFACE

My decision to write on The Ideological Foundations of Pakistan was primarily based on my desire to explore in the writings of the intellectual and political elite of the Muslim community of pre-partitioned India and later of Pakistan, those who struggled for and were responsible for the creation of Pakistan and later were engulfed in structuring its political institutions, the epistemological sources, the metaphysical concepts, their view of man, society, state, etc. Even though some interest was shown in the West on the efforts made in Pakistan to reconstruct its political institutions on the "ideal principles of Islam," yet a systematic and comprehensive work, as is undertaken in this dissertation, remained on the whole unexplored.

My knowledge of Urdu, Persian and English was a great asset to me in understanding the subject and undertaking this study and, these are the languages in which almost all of the research material is to be found. I must admit that the completion of this work was delayed due to the non-availability of the research material in the United States. Utilizing an opportunity I was offered, I stayed in Pakistan for more than a year examining several original works, pamphlets, newspapers, etc.

I would like to thank Dr. John Paul Duncan, David Ross Boyd Professor in Political Science, for his

painstaking efforts in supervising and directing this work from the beginning covering a period of several years. The introductions to chapters 2, 3, 4, 5, and 6, were written by him and I have incorporated many valuable suggestions made by him without proper acknowledgement in this work. I owe a great debt of gratitude to Dr. Cliver E. Benson, George Lynn Cross Professor of Political Science, who offered help and encouragement when I needed most and also allowed me to make full use of his library. I wish I had followed his advise all the way. It was a letter written by Dr. Scheffer which brought me to the University of Oklahoma and, on the culmination of this program, I would like to thank him. I would also like to acknowledge the help and encouragement given by Dr. Hugh G. MacNiven and Dr. Rufus G. Hall Jr., Professors in Political Science at the University. On several occasions the late Mrs. Duncan read the manuscript, made corrections and offered valuable suggestions. I shall always recall with a great sense of obligation the help given by her.

If I could dedicate this work it would be to my father, the late Hasan Khan "Girdish" a poet of repute and scholar in Urdu, and who served as a teacher in Urdu at the University of Mysore in India.

TABLE OF CONTENTS

PREFACE. . . . . iii

CHAPTER

I. THE EMERGENCE OF PAKISTAN AND ITS LATER  
POLITICAL HISTORY. . . . . I

II. EPISTEMOLOGY. . . . . 59

III. METAPHYSICS. . . . . 98

IV. THE NATURE OF MAN. . . . . 138

V. THE NATURE OF SOCIETY. . . . . 174

VI. THE ORIGINAL THEORY OF POLITICS AND  
THE STATE. . . . . 217

VII. AYUB KHAN PHASE. . . . . 267

VIII. POST-AYUB KHAN PERIOD AND THE TERRITORIAL-  
ECONOMIC CONFLICT. . . . . 308

IX. FUNCTIONS OF THE STATE. . . . . 346

X. CONCLUSION. . . . . 399

BIBLIOGRAPHY . . . . . 417

## CHAPTER 1

### THE EMERGENCE OF PAKISTAN AND ITS LATER POLITICAL HISTORY

#### Introduction

To understand the political theory of the modern founders of Pakistan and indeed the political theory expressed in the constitution and the government of the so called "newly developed nation" it is necessary to survey, even though succinctly and somewhat generally, the political history. In doing this it will become obvious that even a superficial account shows that what is sometimes called a "newly developed state" is but an extension of the political movement which has been extending backward, in the case of Pakistan much more than a thousand years. What will not appear here but will be portrayed in our latter examination is that the superficial political activities also rest on belief systems and economic-social arrangements which also extend backward in history and form the foundation of the so called "newly developed nation." In fact as any cultural anthropologist knows the latter is a misnomer.

Geography and the People

The Indian sub-continent as it was designated before the partition of 1947 which led to the creation and independence of Pakistan, now embraces within its geographical fold four independent states, viz., India, Pakistan, Nepal and Bangla Desh. The sub-continent has long been a well marked geographical area bounded on the north by the great Himalayan range of mountains extending in the northwest to a series of mighty ranges known as the Karakorum and Hindukush. To the northeast it has some of the world's highest peaks such as Everest and Kinchinjanga. To the north of the Himalayas extend the desolate Tibetan Plateau and north of that again is the Gobi Desert. To the northwest is a plateau of Afghanistan leading into Iran and the plains of Turkestan. There are several mountain passes here, the most famous of which is the Khyber Pass through which many of the foreigners, ancient and modern entered India.

To the south of the Himalayas is the great northern plain watered by two great river systems which originate in the Himalayas, viz., the Indus and the Ganges. The Indus with its tributaries forms the lifeline of Pakistan. The river Ganges and its main tributary Jamuna, irrigate the rest of the plain. To the east of this the Ganges forms a delta with another river, viz., the Brahmaputra which flows for the most part through the

Himalayas, and partly through the Indian province of Assam. This deltic region at one time constituted the united province of Bengal, then (1947) it was partitioned into West Bengal and what later became the province of East Pakistan. Now the Indian province of West Bengal and Bangla Desh (formerly East Pakistan) form this region.

South India is a great plateau. There are also great deserts in the sub-continent such as the desert of Baluchistan in Pakistan and that of Rajasthan in India. Most of the sub-continent has an average rainfall of twenty-five inches per year. Most of the rains come in particular periods and are called Monsoons.

The oldest inhabitants of India are aboriginies now considered as non-Aryans. They have left no written records, and, in fact the use of letters or of simple hieroglyphics was not known to them. Their descendants still dwell in remote hills and mountains. The Dravidians who live in the southern most parts of India are possibly the descendants of these people driven out of their northern abode.

The earliest invaders of India were the Aryans with their origins in Central Asia. They settled down in India from 1,500 to 1,000 B.C., and they have left a record of their conquests, life, etc, in the form of hymns which are called the Vedas. There are four Vedas the oldest of which is the Rig Veda. In course of time other

works were added to the four Vedas and acquired sacred status. There were the Brahmas which were the explanations of the Vedic hymns. Later came the Upanishads. Finally there developed the Sutras, the legal and ritual treatise out of which a collection of customary law grew. The net outcome of all this is the Hindu religion, in essence a religio-social system. The other religions which took birth in India were, Jainism and Buddhism. Jainism has a small following in India even today, whereas, Buddhism spread to the southeastern part of Asia.

Yet another wave of invasion came from the Greeks. Even though some indirect contact between the Greeks, the Mediterraneans, and the Indian peoples seems to have existed from very ancient times, it was however, in 327 B.C that Alexander the Great invaded India. He crossed the Indus and came down toward the south of the river. During his stay of two years Alexander subjugated an area which roughly corresponds to the present day Pakistan. Alexander's successor to Indian conquests, Seleucus, surrendered the Greek conquests in India to Chandragupta Maurya, a new king who had risen to dominate the whole of northern India.

Still later a new set of invaders attacked India. from 100 B.C to 500 A.D. They have been called Scythians and they were mostly from Central Asia. The last great invasion was that of the Muslims followed by the Britishers. However, there is a difference between the

Muslim and British conquerors; viz., whereas the Muslims settled down in India permanently, the British never intended to and never did.

Early Muslim conquest of India, its  
rise to power and decay

The Muslims came to India primarily as conquerors. Through a period extending over centuries, they settled there and a succession of Muslim rulers ruled India from Delhi, on whose outskirts India has its present capital, New Delhi. The Muslim control of India largely extended over the northern part as far as Bengal and its authority over South India was brief and uneven. Muslim conquerors had different racial origins; they were Arabs, Afghans, Turko-Afghans, etc., and there was often deadly rivalry among themselves. Nonetheless, with all the internecine conflicts these conquerors had one socially integrative factor in common, viz., they were all Muslims.

The first Muslim conquest of India occurred under Muhammed ibn Qasim, who was sent by Hajjaj (A.D 661-714) the powerful viceroy of the eastern wing of the Muslim Umayyad Empire as an act of reprisal against the Hindu ruler of Sind in India. The Arabs had been carrying on trade with Sri Lanka, and when one of their ships capsized on its return journey near Debal,<sup>2</sup> the port of Sind; some Hindu pirates plundered the ship and took prisoners. The ruler of Sind, Raja Dahir, was evasive when compensation was demanded by Hajjaj. Subsequently Hajjaj despatched

Muhammed ibn Qasim, who attacked and captured Debal in A.D 711, and decisively defeated Raja Dahir in the battle of Brahmanabad in A.D 712. He extended his conquests to the whole of Sind, which is a part of Pakistan now, and the southern part of Punjab. However, he was recalled in A.D 714.<sup>3</sup> The Arab rule, notwithstanding Muhammed ibn Qasim's recall continued until A.D 828, when Hindus "regained possession of that province."<sup>4</sup>

The second wave of conquest was undertaken by Mahmud of Ghazni, ruler of the mountain kingdom Ghazni in Afghanistan. Mahmud, an Afghan of Turkish origin led seventeen expeditions into India, the most famous of which was against Somnath. Somnath, the Hindu temple and city famous for its riches, was situated in Gujrat on the West coast of India, and following a bloody conflict, Muhammed captured it in A.D 1024. However, most of Mahmud's invasions were directed at reducing the "Western districts of the Punjab to the control of his Afghan kingdom of Ghazni" and he never "set up as a resident sovereign in India."<sup>5</sup> Nonetheless, he ruled from Ghazni an area in India which roughly corresponds with the present-day boundaries of Pakistan, to the exclusion of the province of Sind.

While Mahmud of Ghazni had limited his conquests to the northwestern part of India, another ruler of an Afghan kingdom, Sultan Muhammed of Ghor, commonly referred

to as Muhammed Ghori, first subjugated the kingdom of Ghazni in A.D 1173, and then planned to extend his kingdom into India. In this he encountered fierce resistance by Prithivi Raj, the Hindu Rajput ruler of Delhi and Ajmer. Prithivi Raj defeated Muhammed Ghori in their first encounter at Tarain in A.D 1191, but was himself decisively beaten in a following battle at the same place in A.D 1192. In the following year, Delhi, the future seat of Muslim power in India was thus occupied. Later Ghori generals branched out in all parts of northern India and Muslim power extended as far as Bengal covering the Indo-Gangetic plain. Muhammed Ghori ruled India through his viceroys from Ghor in Afghanistan until his assassination in A.D 1206.<sup>6</sup>

Following his assassination the control of his Indian possessions passed on to his viceroy in India, a slave who had risen to that high rank, Qutb-ud-din Aibak. Aibak had himself crowned at Lahore, the present provincial capital of Punjab in Pakistan, and although he acknowledged "the supremacy of the new ruler at Ghor, he was virtually independent."<sup>7</sup> The rule of Aibak marks a momentous beginning in the Muslim history of India. Until then the Muslims governed such parts of India as they had conquered from their seat of power located outside of India. But from then on until the extinction of Muslim power in India in 1857, Delhi remained their capital, although sometimes the nearby city of Agra acted as an alternate. Aibak

began to consolidate his power but died prematurely of a fall from a horse in 1210. He was succeeded by his own slave Iltutmish. The slaves, of course, were in fact princes of noble birth captured in the course of wars and assigned high positions, and thus a succession of slaves ruled India until 1290. Between 1206 and 1526, when the Mughal dynasty was established, India witnessed the rise and fall of five Muslim dynasties whose chronology is given below. This period has generally been referred to as the Sulatanate period:

The Slaves	1206-1290
The Khaljis	1290-1320
The Tughlaks	1320-1413
The Sayyids	1414-1451
The Lodhis	1451-1526

During the Sultanate the control exercised by the various kings and dynasties was not even. The Oxford History of India, for instance, says about the Slave dynasty:

Politically they acquired a tolerably firm hold on the regions now called the Punjab, the United Province of Agra and Cudh, with Bihar, Gawalior, Sind and some parts of Rajputana and Central India.<sup>8</sup>

However, Muhammed Adil ibn Tughlak (1321-1351), during the early part of his reign, controlled more or less the whole of India although with some exceptions.<sup>9</sup>

Towards the beginning of the sixteenth century the Lodhi dynasty, last of the dynasties in the Sultanate period was beset by internal feuds among the nobles and was decaying. Taking advantage of this situation, Babur,

a Turk, invaded India and laid the foundation of the Mughal Empire. Babur was the ruler of a petty principality called Farghana in Turkestan. He was a descendant of Ghengiz Khan. On the eve of his invasion of India he had made himself master of Kabul. In 1526, he entered India as a new conqueror after decisively defeating the ruler at Delhi in the battle of Panipat on April 26, 1526. In the following year he also defeated the Hindu Rajput ruler of Mewar at Khanva, a village near Agra. Babur died in 1530 when he was only forty-six years old, but "bequeathed to his son, Humayun, Afghanistan, Punjab, the fertile Gangetic plain,"<sup>10</sup> in short, the whole of North India except for Bengal and Bihar.

Humayun, who succeeded Babur, had a stormy career. An Afghan named Sher Khan Sur had established his power in Bihar and Bengal and defied Humayun. Subsequent efforts of Humayun to subjugate him proved unsuccessful; in fact, Humayun in turn was defeated in 1540 in the battle of Kanauj and driven out of India, whereupon he sought refuge with the king of Persia. Sher Khan Sur then established himself as the ruler of North India but died in 1545. However, it was not until 1555, when taking advantage of the weaknesses of the successors to Sher Khan Sur, that Humayun could conquer Delhi again with the help given to him by the King of Persia. Humayun's triumph was shortlived as he died in the following year.<sup>11</sup>

Akbar (1556-1605) who succeeded Humayun was only thirteen years old when his father died. The affairs of the state were thus in the hands of a Turkoman chief, Bairam Khan, who consolidated Muslim power in North India, beating off challenges until Akbar could come of age.<sup>12</sup> Akbar has been almost unanimously acclaimed as a great king. Probably the most sagacious act of Akbar in establishing his empire was to win over the confidence of the Rajputs, the Hindu clan which had been the main source of opposition to the Muslim conquerors. He married a Rajput princess, which ensured Rajput influence in his court. He also appointed Rajputs to influential positions such as governors of provinces.<sup>13</sup>

Apart from associating the Rajputs with him, Akbar also took other steps to secure the confidence of the Hindu community in his rule. He abolished "Jizya" in 1579. "Jizya" was a poll tax levied on a non-Muslim "in theory in lieu of military service, a sort of fee for protection."<sup>14</sup> However, it was despised as a symbol of servitude and its abolition was a welcome step.<sup>15</sup> He also gave greater protection to the Hindu places of worship, viz., the temples.<sup>16</sup>

Akbar was succeeded by Jehangir (1605-1627), who carried on his father's policies and is also known for his patronage of art and literature as well as painting. Shah Jehan, the successor to Jehangir is well

known as the builder of the Taj Mahal, the magnificent mausoleum near Agra. In 1656, Shah Jehan fell ill. He had four sons, and since succession to the throne was not decided on any accepted principle such as age, rivalry for power broke out among his own sons during his lifetime. Ultimately, one son Aurangzeb, "after a treacherous conflict with his bretheren, deposed his father and proclaimed himself emperor in 1658,"<sup>17</sup> Subsequently, he had his brothers exiled or put to death.

Aurangzeb then extended his empire once again to South India. However, he failed to suppress the resistance put up by the Marathas who were the indigenious inhabitants, as they are now, of a geographical area which constitutes a linguistic state in India, namely Maharashtra. The territory is largely hilly with scanty rainfall and a not very productive soil. They were thus a hardy and austere people in their habits. The confrontation between Marathas and Mughals actually dates from the rise of Shivaji, a petty chieftan who rose to power by capturing forts in the hilly terrain and welding them into a kingdom with its capital at Taragarh (1646). Aurangzeb marched his forces into the area in 1655 to crush them and also some other small kingdoms in the south of India. While he succeeded in the latter, he failed in his efforts against the Marathas even though he spent a considerable part of his reign there and

ultimately died in 1707, an old and frustrated warrior without actually subduing the area.<sup>18</sup>

It was during the lifetime of Aurangzeb that the decay of the Mughal Empire began, and this was partially evident from the failure of Aurangzeb to subjugate the Marathas. The Mughal army was no longer as strong a force as it previously had been. It was slow and cumbersome in its movements.<sup>19</sup> Moreover, although Akbar had won support of the Rajputs in particular and Hindus in general through his tolerant policies, this influence was alienated by Aurangzeb through his anti-Hindu policies. Aurangzeb, an orthodox Muslim, restored the much hated "Jizya" in 1679 and in other ways was less tolerant towards the Hindus. Since the Muslims were in a minority in India, Hindu support if not acquiescence was essential to successful rule, and Aurangzeb by his policies lost this influence. In fact, one of the factors attributed to the success of the Marathas was this policy of oppression directed towards all non-Muslims.<sup>20</sup>

The successors to Aurangzeb also were weak and their energies were sapped in "wars of succession" the pattern for which was set by Aurangzeb himself. In fact, this was a characteristic feature of the Mughal dynasty and within a decade of Aurangzeb's death "two wars of succession" had killed the ablest princes.<sup>21</sup> This obviously meant that the king was left without the support

of those who were related to him by blood, and he had to rely upon the counsel of those who did not place the interests of the dynasty as paramount. Furthermore, the Mughal Empire was not a sea power and it had made little or no progress in the new developments in military strategy or that of armaments. They had become pleasure lovers with little desire for military action.<sup>22</sup>

Hence, after the death of Aurangzeb, the Mughal Empire was first challenged by the Marathas in 1738, and the Mughals fared so badly "that they had to cede the province of Malwa."<sup>23</sup> In 1739, Kadir Shah, a Persian "adventurer" also attacked Delhi, plundered the capital and removed the famed "peacock throne."<sup>24</sup> As a result Bengal became independent in 1740, and Sind followed suit in 1750. Oudh became independent in 1754 and although the Mughal ruler, now a shadow of his famed predecessor, continued to rule Delhi he was unsure of himself and his power.<sup>25</sup>

The weakening of the Mughal Empire obviously invited other foreign interference, the usual page in the history of India. The interference this time came, however, from an unexpected source, viz., the British from Europe.

The rise of British power in India and its consequences for the Muslim authority

The British first came to India as traders

operating through the East India Company formed in London in 1599.<sup>26</sup> Later a new Company was formed in 1698 under a Charter given by the British Parliament. However, the two companies finally merged in 1708-9 as "The United Company of the Merchants of England." The "United Company" received a shorter name in 1833, viz., "The East India Company" by which it is familiarly known.<sup>27</sup> Permission to trade in India was given by the Mughal rulers. However, with the decay of the Mughal Empire, the Company became virtually independent in its dealings with the people of India. The British "factories" or "warehouses" situated on the coasts of India were gradually fortified as anarchy spread in India, and those fortified factories were given such names as Fort St. George, Fort Williams, etc.<sup>28</sup> The Company maintained its own army, had its own political system in these areas.<sup>29</sup>

In London the Company's affairs were managed by a Board of Directors which controlled its trade and commerce, its political policies, directed its military expeditions, and as the Company acquired territorial possessions, it also appointed governors.<sup>30</sup>

In 1772, the Company's financial affairs became weak and it approached the British Government with a request for loan. The government thus took this occasion to exercise some political control over the Company and its affairs. It passed an Act known as the Regulating Act

of 1773, through which Warren Hastings was appointed as Governor General of Bengal with ill-defined authority over the governors of Madras and Bombay. He was also to be assisted by a Council of Four. All the appointments were subject to the approval of the British government. Also, the Board of Directors in London was asked to submit to the Parliament copies of all their correspondence and half-yearly accounts. "Thus the foundations of British rule in India were laid."<sup>31</sup>

By yet another Act, the Pitt's India Act of 1784, the Governor General's authority over provincial governors became well defined. He also made the decisions concerning the armed forces. In 1833 a Law Member was added to the Governor General's Council. This system continued until 1857.<sup>32</sup>

The British ascendancy to power in North India, largely at the expense of the Muslim rulers, and its effects on the Muslims as a whole have to be observed against this background. However, it must be noted that the British were not alone in India in this period; there were French, Dutch and other Europeans. The decay of the Mughal Empire prompted all of these Europeans to territorial, as well as economic and trading ambitions. This naturally brought about a rivalry and conflict, which ultimately "set the Europeans in India at each others' throats, and impelled rival traders to seek allies among

Indian princes."<sup>33</sup> The other factors were also there. There was rivalry among these powers in Europe itself.<sup>34</sup> Once interference began, it did not stop. The decay of the Mughal Empire, and the bid for independence made by the feudatories hastened such interference. Eventually, Robert Clive, Commander of the British military forces, defeated the Nawab of Bengal, a Muslim, at Plassey. It was victory at Plassey which established the real political power of the British in India.<sup>35</sup>

Nominally Bengal was still a feudatory of the Mughal Emperor at Delhi. Following the defeat of the Nawab, the Company asked and was granted the "Diwani of the provinces of Bengal, Bihar and Orissa."<sup>36</sup> Diwani meant the right to the collection of revenues and the exercise of civil jurisdiction. In 1772, Warren Hastings removed the Nawab, and the Company became the wielder of actual power displacing the Nawab of Bengal.<sup>37</sup>

Following the acquisition of the provinces of Bengal, Bihar and Orissa, the Company next fought an engagement with the ruler of the neighboring state of Cudh. The Company's forces defeated the army of Nawab Shuja-ud-Daulah, the Muslim ruler of Cudh, at Buxar in 1764, and ultimately annexed the state in 1856.<sup>38</sup> Earlier in 1843 the Muslim province of Sind was also annexed by the British.<sup>39</sup>

In 1857, the great Indian Mutiny flared.

Recently, it has been fashionable to call it the "first war of independence." Irrespective of whether it was a Mutiny or war of independence, the British soon quelled it. Delhi fell on September 20, 1857, and later, following a brief trial, the Mughal Emperor was exiled.<sup>40</sup>

The end of this ruler marked the end of official Muslim political authority in India. Thus during a period extending over a century, the Muslims found themselves gradually deprived of authority by the British and the benefits that went with them. Thus, too, politically, militarily and economically the Muslims soon found themselves at the bottom of the ladder of power. As system analysts point out, they were no longer the elite.

Having been the conquerors and rulers of India, the Muslims had of course monopolized the army and high positions in the defense forces. The events of 1857 and the fact that much of the Indian territory had been conquered by the British from Muslim princes caused the Muslims at first to be looked on with suspicion by the British who realized unconsciously that an elite does not like to relinquish power. Being a martial power the men had customarily aspired to high positions in the army of which they were deprived now. Sir W. W. Hunter, who wrote the classic work on the conditions of the Muslims during the period says:

Three distinctive streams of wealth ran perennially

into the coffers of a noble Mussalman House - the military command, the collection of revenue and judicial or political employment. They were its legitimate sources of greatness.

The first of them, the army is now completely closed. . . . No commissioned officer now-a-days expects to make a fortune by serving the Queen, But they covet the honours and descent emoluments of a military career.

We shut the Mussalman aristocracy out of the army, because we believed that their exclusion was necessary to our own safety. We deprived them of their monopoly of the most lucrative functions in the administration, because their deprivation was essential to the welfare and just government of the people.<sup>41</sup>

Moreover, the British at first debated about introducing English as the medium of instruction, and of imparting western knowledge in the same language. Consequently, an Education Commission was created with Lord Macaulay as the Chairman. In the Minutes of Education, Macaulay observed, "that neither as the language of law nor as the language of religion have the Sanskrit and Arabic any peculiar claim to encouragement,"<sup>42</sup> and he expressed the opinion that Indians could attain scholarship through the use of English language.<sup>43</sup> Later the government implemented the recommendations of Macaulay.<sup>44</sup> Of course the real motives of imperialism were not stated.

Irrespective of the merits or demerits of the English language as such, the Muslims naturally did not take kindly to it. They had come to India as conquerors and considered it below their dignity to learn the local

languages. They themselves were haughty and paid dearly now in confronting this new conqueror and his imposition of a new language. The net effect was that the Hindu community, which began to learn the new language with greater grace and less resistance, made substantial progress in securing positions and influences and left the Muslims behind.<sup>45</sup> Logically too, the Muslims shunned the new system of education and as a consequence increasingly found every avenue of public life closed in their face."<sup>46</sup>

When Warren Hastings took over as Governor General he found the administrative system chaotic. Yet, he deemed it expedient to retain the legal policy that prevailed under the Mughals. The Muslim rulers had introduced Islamic Law, and it was particularly well codified in the criminal field. Hastings paid tribute to this law when he said that it was, "as comprehensive, and as well defined as that of most states of Europe."<sup>47</sup>

In each administrative district, therefore, Warren Hastings provided for two courts to try the civil and criminal cases. The civil courts designated as the Mofussil Dewani Adwalut were presided over by the English administrative officers known as Collectors, and applied laws with the assistance of Cazees (judges). The courts which applied Criminal Law were entirely manned by Muslims, viz., the Cazees and Muftis (canon or religious law jurists) of the districts. They applied only the Muhammedan Law.

The higher courts were also manned by Muslim judges designated as the Chief Cazees and Chief Muftees. Thus in the matter of the administration of criminal law, a privileged position was at first occupied by the Muslims. The Muslim jurists expounded the laws and the Muslim Cazees sat as judges. This monopoly was broken, however, when the Indian government passed the Act of 1864 which abolished the appointment of Cazees. The Muslims, learned in the legal profession, were thus deprived of even this livelihood.<sup>43</sup>

The Conciliation of the Muslims to the British Supremacy and Formation of the Muslim League

The British ascendancy to power was complete when the Great Mutiny was crushed in 1857. Political authority in India, through the Government of India Act of 1857 was transferred to the Crown. Its administration became the direct responsibility of Westminister. The East India Company was abolished. India was to be governed in the name of the Queen of England through one of her principal Secretaries of State, designated as the Secretary of State for India, assisted by a Council of fifteen, who in turn was responsible to the Parliament.

In India itself a Governor General, the immediate executive head, was assisted by a council of his own, but ultimately responsible to the Secretary of State for India in England. The Chief executive in each province was a governor, who was also assisted by a council. He functioned under the overall supervision of the Governor

General.<sup>49</sup>

As pointed out in the preceding section, the Muslims suffered heavily due to the rise of the British power in India. However, there was a gradual change in Muslim attitude towards the last quarter of the nineteenth century. They became more conciliatory. They realized the futility of continued hostility. This change was brought about to some degree by Syed Ahmad Khan, whose ideas will be discussed later. On their part the British also began gradually to treat the Muslims with greater respect by recognizing their separate identity. Syed Ahmad Khan, to be referred hereafter as Ahmad Khan, more familiar as Sir Syed, was born of a noble family at Delhi in 1817. He was well educated in Persian classics and Urdu with a good knowledge of Arabic too. When the Great Mutiny occurred he held a minor judicial post, as the Muslims were barred from high posts, and he remained loyal to the British.

Following the end of the Mutiny he wrote voluminously to allay the British misgivings about the Muslims and carried on an incessant propoganda among his own people to convince them of the futility of any attempt to overthrow the British rule. From the beginning he realized that it was not in the interest of the Muslims to remain aloof from the educational system introduced by the British or to refuse to learn the English language. He also felt the

necessity for popularizing the validity of scientific knowledge. Consequently, he directed his efforts toward founding an institution where Western knowledge along with Muslim religious training could be imparted. He also undertook a journey to England and there studied the functioning of Cambridge University in particular. His efforts bore fruit when, with the cooperation of the British, he founded the "Anglo-Oriental Muhammedan College" in 1875, which was raised to the status of a university in 1921 and designated as the Muslim University of Aligarh. In 1870 he also started a periodical entitled Tahzeeb-al-Akhlaque on the pattern of the English magazines of the eighteenth century such as The Tatler and Spectator.

Ahmad Khan's journal, whose title can be roughly translated as the "preacher of morals" tried to bring about a partial transformation in Muslim society through the introduction of contemporary Western ideas and methods of thought. Ahmad Khan himself became the chief contributor with articles on religion, philosophy and politics, etc. As a result of all of these efforts he was eventually knighted by the British government. He died in 1898.<sup>50</sup>

Toward the close of the nineteenth century, therefore, many Muslims had reconciled themselves to the British rule. However, a new element began to overshadow their attitude, the fear of Hindu domination, and this was accentuated when the Indian National Congress was

formed in 1885. Ahmad Khan was the first to draw attention to this new factor, specifically the domination of Hindus in terms of sheer numbers. For example, when the Indian National Congress, following its foundation in 1885, demanded that a section of the Governor General's Council be elected rather than appointed, he opposed the demand on the ground that Muslims would be outnumbered by a ratio of four to one.<sup>51</sup>

Nonetheless, it was not until the beginning of the twentieth century that the Muslims finally realized the grave necessity to organize themselves politically. The first action was taken by certain of their leaders in 1906 when the Government of India was considering the expansion of the Governor General's Legislative Council with the "extension of the native element."<sup>52</sup>

This proposed expansion of the Governor General's Council caused the Muslims real alarm. They realized at once the need for a united action, and under the leadership of H. H. the Aga Khan, the leader of the Ismaili sect of Muslims, a leader trusted by the British, a deputation waited on the Governor General, Lord Minto, on October 1, 1906. The deputation stressed that the Muslims of India formed a separate community and, the deputation expressed the fear that the voice of this community, if not treated as a unit, might be suppressed by the majority community, viz., the Hindus. Hence the deputation demanded separate

representation for the Muslims of India and recognized privileges in the representative bodies and governmental services.<sup>53</sup>

Lord Morley, the then Secretary of State for India, in making a report to the Parliament in London, conceded that the Muslims did form a separate community.<sup>54</sup> This was a significant concession as it formed the basis of Pakistan.

Emboldened by this success, the Muslims decided that it was an opportune time for them to form a separate political organisation. Thus, Vaqar-ul-Mulk, one of the leading "Mussalmans of India, decided to convene a meeting of the leading Mussalmans and other representative organisations at Dacca."<sup>55</sup> The meeting was presided over by Vaqar-ul-Mulk himself, and the following resolution was passed:

Resolved that this meeting of Mussalmans from all parts of India assembled at Dacca decide that a Political Association be formed, styled the All India Muslim League, for the furtherance of the following objects:

1. To promote, among the Mussalmans of India, feeling of loyalty to the British Government and remove the misconception that may arise as to the intention of Government with regard to any of the measures:
2. To protect and advance the political rights and interests of the Mussalmans of India and respectfully to represent their needs and aspirations to the Government:
3. To prevent the rise among the Mussalmans of India of any feeling of hostility towards other communities.<sup>56</sup>

The 1919 Act and the Khilafat Movement<sup>57</sup>

During the First World War, the British Government, anxious to win over Indian public opinion, issued a statement on August 20, 1917, which stated:

The policy of His Majesty's Government, with which the Government of India are in complete accord, is that of the increasing association of Indians in every branch of the administration and the gradual development of self-governing institutions with a view to the progressive realization of responsible government in India as an integral part of the British Empire.<sup>58</sup>

Following the First World War, the British Government, in keeping with the promise it had made, viz., "the gradual development of self-governing institutions" for Indians, announced a set of reforms popularly known as the Montague-Chemsford Reforms of 1919, Mr. Montague being the Secretary of State, and Lord Chemsford the Governor General of India. The 1919 Reforms stipulated complete popular control in local bodies. At the provincial level, the Reforms introduced "dyarchy" or dual government. According to this plan, certain subjects such as education, health, etc., were designated as "transferred subjects", and they were to be administered by the Governor of a province with the help of his ministers who were "appointed by him from the elected members of the provincial legislature."<sup>59</sup> The ministers held office at the pleasure of the Governor, and were accountable to but not removable by the provincial legislature (which meant in effect that they were

not effectively accountable). Other subjects were to be directly administered by the Governor with assistance from the members of the executive council who usually were selected from the Indian Civil Service. The Act also stipulated legislatures elected on a basis of a limited franchise for the provinces.<sup>60</sup>

However, at this time the attention of the Muslims was not focussed on the Reforms as such. They were engulfed in a movement known as the Khilafat Movement. It is difficult to give a rational explanation for the enthusiasm shown towards it. Essentially the movement was designed to permit the Caliph (or Khalifa) of Turkey to retain control of his pre-World War possessions, including the custody of Holy Places. The sympathy of the Muslims for the Caliph of Turkey arose from two factors: Firstly, the Muslims sought to derive some psychological satisfaction from the rule of a Muslim Caliph as a throwback to the rule of the ancient Muslim Caliphates over vast territories.<sup>61</sup> Secondly, the Caliph was looked upon as an embodiment of Muslim unity, even though the Muslims of India themselves knew they were a dependent people.<sup>62</sup>

Probably because the question of the Holy Places was involved, a leading part was taken by the Ulema or Muslim divines. They organized themselves into Jam'iyat-ul-Ulema-i-Hind (The Organization of the Muslim Divines of India), and largely due to their leadership an All India

Khilafat Conference was constituted in the middle of 1919 with a view to launching a campaign of support for the movement.<sup>63</sup> Its first public session was held at Delhi in the month of November, 1919, and M. K. Gandhi, popularly known as Mahatma Gandhi was made the president of the Conference.<sup>64</sup> No plausible explanation can be given to this move. In all probability, the Muslims, a minority, hoped to bolster their cause by enlisting the help of Gandhi, a leader of the Hindu community in its demand for greater independence from Great Britain. Mahatma Gandhi on his part might have thought of capturing Muslim as well as Hindu leadership thus laying claim to undisputed leadership of the entire "Indian" people. It is also likely that thought of it as an opportunity of uniting Hindus and Muslims towards independence.<sup>65</sup> However, nothing came of all this enthusiasm, since the Turks themselves unilaterally abolished the Caliphate in 1924.<sup>66</sup>

#### Demand for an Independent Pakistan and Its Realization

Following the failure of the Khilafat Movement disillusionment set in for the Muslim community concerning the possibility of achieving political identity through Indian independence. In the practical sphere of politics there was a distinct shift of interest among the Muslims. They showed a keenness to promote simply their own interests. Thus in 1930 Muhammed Iqbal began reflecting

in his literary and intellectual efforts a cultural identity and, even homeland for the Muslims of India and in doing so began to change the whole course of Muslim history in India.<sup>67</sup> Muhammed Iqbal was born at Sialkot in Punjab in 1873. He was given customary religious education and later studied at the Government College, Lahore, from where he graduated in 1899, majoring in philosophy. He also studied at Cambridge University, England, and in Germany, where he took his Ph.D. During his stay in Europe he was influenced by the writings of Nietzsche and Bergson, and through his teacher at Cambridge, McTaggart, he was also influenced by Hegel. He returned to India in 1908.

His knowledge of Islamic thought and literature especially of the Persian classics was profound. He chose poetry as a vehicle to express his thought and is considered a great poet of both the Persian and Urdu languages. He has left a collection of essays in the English language too. In 1922, he accepted a knighthood "conferred upon him in recognition of his greatness as a poet."<sup>68</sup> He took some part in practical politics but probably his greatest contribution to it was the building of the cultural unity idea as a prelude to political identification. However, he specifically called for the latter in the famous address he delivered as President of the All India Muslim League at its annual session

held at Allahabad in 1930, wherein he said:

I would like to see the Punjab, Northwestern Frontier Province, Sind and Baluchistan amalgamated into a state. Self government within the British Empire, or without the British Empire, the formation of a consolidated Northwest Indian Muslim state appears to me to be the final destiny of the Muslims, at least of Northwest India. 68

Elaborating this idea a few years later, Iqbal then argued that the Muslims of Bengal had a right to self-determination, too. In a letter he wrote to Jinnah on May 28, 1937, he asked, "why should not the Muslims of Northwest India and Bengal be considered as nations and entitled to self-determination?"<sup>69</sup> Iqbal, thus began to envision the creation of actual Islamic State separable from India. He particularly argued that in such a state Islamic Law could be developed and applied in its proper context.<sup>70</sup>

Practical shape to this idea was soon given by Jinnah, whose full name is Muhammed Ali Jinnah, and is also popularly known as Qaid-e-Azam (the great leader). Jinnah was born in Karachi in 1876. His father was a merchant of modest means yet affluent enough to send his son to England for training as barrister. Following the completion of his studies he returned to India in 1896 but set up his practice at Bombay where he remained until the creation of Pakistan. He began his early career as a member of the Indian National Congress and came under the influence of the Parsi liberal, Dadabhai Naoroji who

also served as the President of the Indian National Congress. In 1913 he joined the Muslim League. No satisfactory explanation has been given for this shift. During the Khilafat Movement he kept himself aloof and criticized its emotionalism, he himself being known for belief in a more rational approach to politics. In fact, he retired to England and settled down there shortly afterwards.

In 1933, Liaquat Ali Khan, who later became the first Prime Minister of Pakistan, visited England and appealed to him to return to India to help the Muslims. Jinnah hesitated at first, but finally returned in 1934. In the subsequent history of India and of the Muslims in particular, he became such a significant figure that he is treated now as the Father of modern Pakistan. He died thirteen months after the creation of Pakistan.<sup>71</sup>

The British government issued a new set of Reforms known as the Government of India Act, 1955. The chief feature of the Act was to provide for a federation. The Indian Federation was to consist of the provinces in India and the Indian Princely States (their status will be discussed shortly). The Act implemented the principle of division of powers and three lists of powers drawn viz., the federal list, provincial list, and the concurrent list. There were fifty-nine subjects on the federal list including defense, external affairs, etc., on the provincial list there were fifty-four subjects such as

education, public health, etc., and on the concurrent list were subjects such as labor, civil and criminal procedure code, etc.

As far as federal authority was concerned the Governor General continued to be the executive head responsible to the Secretary of State for India. He had exclusive authority with regard to external affairs, defense, etc. For other federal subjects he was to act in consultation with a Council of Ministers who were appointed with the consent of the leader of the majority group in the House of Assembly.

The federal legislature was bi-cameral and the two Houses were designated as the House of the Assembly and the Council of States. Both the Houses were to include nominees of the Indian Princely States, some members nominated by the British Government, but otherwise the members were elected on the basis of limited franchise. The Council of Ministers selected from among the members of the House of Assembly was accountable to both the Governor General and the Assembly, but was subject to dismissal by the Governor General.

With regard to provinces this Act was an improvement on the 1919 Act in so far as it stipulated an executive responsible to the legislature in each province. Nonetheless, there were limitations on the powers of the legislature, too. Certain kinds of legislation

such as those which would discriminate against British commercial interests was declared ultra vires.<sup>72</sup>

In addition, the British government maintained relations with the princely states on a separate basis. although they were welcome to join the federation, too. Following the decay of the Mughal Empire the vassals and princes who owed allegiance to the Mughal King acted independently or had proclaimed independence. During the period of anarchy that prevailed in India until the British authority was fully established many local chiefs had risen to power and proclaimed their authority over the areas under their control. Also some kingdoms remained outside the Mughal orbit. Thus there were several kingdoms whose rulers were called Rajas, Maharajas, Nawabs, Amirs, Khans, etc. The Company had no uniform policy with these rulers. Some were conquered and their territories annexed as in the case of Bengal, Cudh, Jhansi, etc. In other cases the Company concluded Treaties. Some states were big and many were petty principalities. Yet, "under the Company's regime no meticulous regard had ever been paid to treaties. Many states had none; only some forty states now possess such compacts i.e., in 1935 .<sup>73</sup>

Following the suppression of the Great Mutiny, the authority of the Crown replaced that of the Company, and the British government through its proclamation guaranteed the security of the states from annexation

by the Crown or any other state. Since many of the states had remained loyal to the British government during the Mutiny their rulers were given titles, some were knighted. Until the grant of independence to India, the policy of the British government towards the princely states could be summed up as follows:

1. Their foreign relations were entirely in British hands:
2. The British government reserved the right to interfere in the internal affairs if it felt necessary for whatever reason:
3. Each state was definitely bound to facilitate defense by affording to the British government all necessary facilities in regard to the Indian army:
4. In a few states, by virtue of treaties concluded, the rulers had been required definitely to aid economic schemes for the welfare of the country. 74

However, the British government, "made no effort to alter the constitutions of the states or to enforce the adoption of principles such as the separation of state and personal revenues, independence of judiciary organization of civil service, etc."75

Under the 1935 Act, the British government promised to hold country-wide elections on the basis of limited franchise. The Muslim League decided to participate in the elections and established a central parliamentary board with branches to contest the elections. The whole organizational responsibility for Muslims was given to Jinnah. Jinnah was also made the life-president of the

Muslim League. Thus the Muslims of India showed once again signs of political activity,<sup>76</sup>

Even though Iqbal had demanded the creation of a Muslim state, the Muslims were still not sure of the final form their political destiny should take. However, by the year 1940, this ambivalent attitude had come to an end. The Muslim League held its annual session at Lahore in 1940, Jinnah presided over the session, and Fazlul Haque, a prominent leader from Bengal, introduced a resolution which has come to be known as the Pakistan Resolution. The Resolution did not make mention of Pakistan as such. Nevertheless, it demanded the creation of separate states out of provinces in India where the Muslims were in a majority. The Resolution was still vague in certain regards, but it became the goal of the Muslims of India. It reads as follows:

Resolved that it is the considered view of this session of the All-India Muslim League that no constitutional plan would be workable in this country or acceptable to the Muslims unless it is designed on the following basic principles, viz., that geographically contiguous zones are demarcated into regions which should be so constituted with such territorial readjustments as may be necessary that the areas in which the Muslims are numerically in a majority, as in the northwestern and eastern zones of India, would be grouped to constitute independent states in which the constituents united shall be autonomous and sovereign.<sup>77</sup>

Meanwhile World War II had started, Japan had conquered much of Southeast Asia and was threatening India. Under these conditions the British government

decided to send Sir Stafford Cripps, a Labor Party member of the war cabinet, to win over the support of Indian leaders for the war and reach an agreement on the future of India.

Sir Staffor arrived in New Delhi on March 22, 1942, "to conduct negotiations with the leaders of the Indian political parties and communities."<sup>78</sup> On behalf of the British government he promised setting up of a constitution-making body for India on the cessation of hostilities. He also promised that India would be free to determine its political future. The proposals made by Sir Stafford came very near to accepting the Pakistan Resolution in so far as they gave the provinces choice to opt out of the proposed constitution as independent or autonomous states. An excerpt from his announcement is as follows:

With such non-acceding provinces, should they so desire, His Majesty's Government will be prepared to agree upon a new Constitution giving them the same full status as the Indian union.<sup>79</sup>

The Indian National Congress dominated by Hindus rejected the proposals on the basis that nothing short of independence would be acceptable to it. It also took exception to the principle of "non-accession of provinces."<sup>80</sup> The Muslim League on its part affirmed its demand for the creation of an independent state to be called Pakistan and expressed its dissatisfaction with the illogical basis on which the non-accession of provinces had been provided.<sup>81</sup> With such divergence of views

between the two parties it was not a surprise that the Cripps Mission failed.

As the war drew to an end the British Government again tried to reach a settlement with Indian leaders. In 1945 the Governor General, Lord Wavell, called a conference at Simla between the representatives of the I. N. Congress the Muslim League and the Indian Government officials. In the Conference there was general agreement on the desirability of forming a constituent assembly to draw up a constitution for India and to have a cabinet as a central feature. However, while the I. N. Congress claimed to represent all of the Indian peoples without communal distinctions, the Muslim League claimed to be the sole representative of the Muslims, and talks broke down on this issue.<sup>82</sup>

Following the failure of the Simla Conference the Viceroy, as the British Government representative, announced on August 21, 1945, that elections to central and provincial legislatures would be held. In December 1945, the central legislative assembly was elected on the basis of communal representation. The Muslim League captured all of the thirty (30) seats allotted to the Muslims in a house of one hundred and two (102), the I. N. Congress representatives were otherwise dominant. In the provincial elections held in the early part of 1946, the Muslim League captured four hundred and twenty-

eight (425) of four hundred and ninety-two (492) seats allotted to the Muslims. Thus, it bolstered its claim to represent the Muslims.<sup>33</sup>

Meanwhile the Labor Party had come to power in Britain. Mr. Attlee, the Prime Minister of Britain, announced on behalf of his government his decision to send out to India a special mission of three Cabinet Ministers to seek, in association with the Viceroy, an agreement with those leaders of India on the principles and procedures relating to the constitutional issues.<sup>34</sup> The Cabinet Mission, as it was called, consisted of Lord Pethick Lawrence, Secretary of State for India, Sir Stafford Cripps and Mr. A. V. Alexander. The Mission arrived in New Delhi on March 24, 1946, and extensive deliberations followed with the I. N. Congress and the League leaders. In the end, the Cabinet Mission rejected the demand for the creation of Pakistan on the ground that a substantial population of the minority communities, i.e., Hindus and Sikhs, would be absorbed in the proposed boundaries of Pakistan against their will, apart from the fact that a large Muslim population would be left in India. However, in order to allay the fear of Muslims, as well as to show a desire to satisfy their demands within the context of an undivided India, the Mission proposed the reorganization of the whole of India into three groups. The Muslim majority provinces of Punjab, Sind, N. W. F. Province

and Baluchistan formed Group "B," Bengal and Assam Group "C" the rest of India constituted Group "A." The Groups were given the option to "call for a reconsideration of the constitution after an initial period of ten years and ten year intervals thereafter."<sup>85</sup> The federal authority was to possess a minimum of powers. This was called the "Long Term Plan." As a short term measure an Interim Government was to be formed.<sup>86</sup>

Both parties accepted the "Long Term Plan" subject to their own interpretations: The I. N. Congress hoped to construct a united India out of it, and the Muslim League an independent Pakistan. However, both parties disagreed on the issue of the formation of an Interim Government. The League claimed the right to represent all of the Muslims of India and the Congress refused to accede to such claims. On June 25, 1946, the Congress rejected the Interim Government proposal but decided to join the Constituent Assembly. The League took a contrary position and offered to form a government to the exclusion of the Congress. The Viceroy, possibly fearing that such a government would be ineffective, refused the request. But Jinnah, alleging "Anglo-Congress" collusion, called for "direct action" to achieve Pakistan. He fixed the date for "direct action" on August 16, 1946. This started a frenzy of communal slaughter, first in Calcutta, which rapidly spread throughout much of India, particularly the northern part.

In the same month the Congress changed its attitude and offered to form the Interim Government to the exclusion of the League, and the Viceroy accepted. But by October, 1946, Jinnah became suspicious that Congress would become too powerful and allowed the League to join the Interim Government, which led to a stalemate and deadlock.<sup>87</sup>

The situation in India in terms of "law and order" had been getting out of control with anarchy and civil strife widespread. Thus on February 20, 1947, Mr. Attlee declared that Britain would completely withdraw from India "not later than June 1948,"<sup>88</sup> and he replaced Lord Wavell with Lord Mountbatten as the new Viceroy. The latter arrived in India on March 4, 1947, and realized at once the need for speedy action. On June 3, 1947, he announced a plan for the partition of India and British withdrawal on August 14, 1947. Thus Pakistan was allowed to come into being. The plan according to which partition of India took place was briefly as follows:

The new state of Pakistan was recognized with two wings in northwest India and eastern Bengal. The decisions for this purpose were taken by the provincial assemblies voting, where divisions were sharp, by community areas. In this way the Punjab and Bengal both were divided between India and Pakistan. The fate of the Frontier province was decided by a plebiscite, as was that of the districts of Sylhet in Assam. The detailed boundary in disputed areas was to be drawn by a commission presided over by the British Judge Radcliffe. There was a division of assets between the states, and the government could opt for either. Finally, the princely states were released from their allegiance to the Crown and strongly urged to join one or the

other states. The whole settlement was ratified in legal form by an Act of Parliament which conferred Dominion Status on both countries as from August 14, 1947. Mountbatten was the first Governor General of India, and Jinnah of Pakistan.<sup>89</sup>

Pakistan under the Government of India  
1955 Act and Basic Democracy

The latter part of this study will go into some details not only concerning the theory of the State of Pakistan but how well the structure, etc., fits the theory. Thus only a sketch of political developments are given from here on to summarize this introductory history.

The new Dominion of Pakistan which came into being on August 14, 1947, consisted of two geographical areas separated by more than a thousand miles of Indian territory, viz., West Pakistan and East Bengal, later designated as East Pakistan, and presently as Bangla Desh.<sup>90</sup>

West Pakistan, which is presently Pakistan, is approximately 1,000 miles from north to south, and an average 300 miles from east to west. Its area is estimated to be 308,273 square miles, with a density of 109 per square mile at the time of partition. The northern part of Pakistan and part of Kashmir under Pakistan's control are characterized by high altitudes. There are two main mountain ranges, viz., (1) the Karakorum which runs through Kashmir into Tibet, and (2) Hindu Kush which runs into Afghanistan. Some of the mountain peaks are imposing, for example, Nanga Parbat (25,860 ft), Tirich Mir (25,263 ft). Otherwise most of the area is irrigated by the River

Indus and its tributaries.

East Pakistan, now Bangla Desh, is a fertile delta of India's two biggest rivers, viz., Ganges and Brahmaputra. It has an area of 54,015 square miles and, at the time of partition, a density of 850 per square mile.<sup>91</sup>

At the time of partition West Pakistan consisted of the Governor's provinces of West Punjab, Sind, North West Frontier Province (N. W. F. P), and Baluchistan governed by an Agent of the Governor General. The princely states which were released by the British Government and acceded to Pakistan were Bahawalpur adjoining Punjab, Khairpur in Sind, the states of Dir, Amb, Swat and Chitral adjoining the N. W. F. Province, and Kalat, Las Bela, Makran and Kharan adjoining Baluchistan.

East Pakistan consisted of the eastern and larger part of the old Bengal province, bulk of Sylhet district in the province of Assam, some other parts of the Assam province and Chittagong Hill tracts.<sup>92</sup>

Strategically West Pakistan, presently Pakistan, is more important. Across the N. W. F. Province lies Afghanistan and the rough boundary separating the two was unilaterally drawn by Col. Duran in 1893. The Durand line deliberately avoided any contiguity between India and Russia. "Thus Pakistan has a six-hundred-mile border with Afghanistan, it nowhere touches Soviet territory."<sup>93</sup> To the southwest of Pakistan, Baluchistan has a boundary

with Iran.<sup>94</sup>

Kashmir is a special case. This princely state with a majority population of Muslims but ruled by a Hindu Raja acceded to India on October 26, 1947, which led to conflict between India and Pakistan. Subsequently, the northern part of Kashmir, mostly hilly, came under Pakistan's control and through this area Pakistan has a common border with the Sinkiang province of China.<sup>95</sup>

East Pakistan, now Bangla Desh, except for the extreme southeastern corner where it borders on Burma is surrounded on land by the Indian territory.<sup>96</sup>

The N. W. F. Province lying between Afghanistan and Punjab is mainly hilly. Only two of its districts, Peshawar and Mardan, are fertile.

Baluchistan is barren and a desert. Only the Quetta valley is fertile.

Punjab, carved out of the old province of Punjab in India is the heart of Pakistan now. Its land is irrigated by a canal system radiating from the river Indus and its tributaries and is considered to be the most extensive in the world.

Sind is entirely dependent upon the river Indus. It has a deep sea harbor, Karachi, and a coastline on the Arabian Sea.

East Pakistan, now Bangla Desh, is a fertile area through which the Ganges and Brahmaputra flow into the

sea.<sup>97</sup>

Following the partition of India, under Section "8" of the Indian Independence Act of 1947 "the Government of India Act of 1935 became, with certain adaptations, the working constitution of Pakistan."<sup>98</sup> Under the arrangement Pakistan continued to be Dominion of the British Commonwealth but had the right to secede from it. Domestically Pakistan also remained a federation (federal system) and the principle of division of powers between the center and federating units was implemented. The chief executive continued to be the Governor General who was formally appointed by the Crown, but in practice nominated by the cabinet.

At the center a Constituent Assembly was set up which functioned in a dual capacity, viz., as a constitution-making body and as a federal legislative assembly. The Constituent Assembly had the right to amend the 1935 Act and the 1947 Act without any intervention by the British Parliament and also, no act of the British Parliament extended to Pakistan.<sup>99</sup>

The form of government according to the new arrangement was parliamentary, with the cabinet responsible to the legislature. The leader of the majority party formed the government and was designated as Prime Minister. At the center the chief executive was the Governor General. The provinces were also established in terms of

parliamentary form of government and the executive head in the provinces was designated as a Governor who worked under the overall supervision of the Governor General. The first Governor General of Pakistan was Jinnah, also popularly known as Qaid-e-Azam (the great leader).

Jinnah, however, did not live long and died on September 11, 1948. Following his death, Khwaja Nazimuddin, a Bengali, became the Governor General and, Liaquat Ali Khan became the Prime Minister. Nazimuddin acted as a constitutional head while the substance of power passed into the hands of Liaquat Ali, the Prime Minister, who preserved the parliamentary traditions. But Liaquat Ali's assassination in October, 1951, brought to an end that phase of political life. Nazimuddin stepped down to become the Prime Minister and Ghulam Muhammed, a Punjabi, took over as Governor General. The following three years witnessed an escalating struggle for power between the Punjabi Governor General and the Bengali-dominated Constituent Assembly. Ultimately the Governor General dismissed the Constituent Assembly and the Cabinet in October 1954.<sup>100</sup>

A new Constituent Assembly was called in 1955 and a constitutional draft sponsored by the government was introduced in January 1956, approved in the month of February of the same year and put into operation in March 1956. On the 23rd of March, 1956, the country

ceased to be a Dominion of Great Britain and was proclaimed the Islamic Republic of Pakistan. Under the new constitution Pakistan remained a federation with a President and a Parliament. Meanwhile Ghulam Muhammed had died and the Assembly had elected as President, Iskander Mirza, who, many believed, had long shown "contempt for democracy" and now proceeded to behave in what is conceived as the manner of a "typical bureaucrat." The 1956 Constitution was parliamentary in nature and on paper assured the supremacy of the legislature. But Mirza as President manipulated the members of the Assembly. He had his own "king's party" and through a skillful use of patronage actually could "make and unmake" Prime Ministers. Thus a very unstable and undemocratic atmosphere prevailed.<sup>101</sup>

Consequently, a political atmosphere existed of which the General of the army, Ayub Khan, who was also Commander-in-Chief of all the armed forces, decided to take advantage. Hence, in the month of October, 1958, Ayub Khan staged a coup in collaboration with the President of the country. As Ayub Khan himself said:

I said to the President: 'Are you going to act or are you not going to act? It is your responsibility to bring about change and if you do not, which heavens forbid, we shall force a change.'<sup>102</sup>

Thus, on October 8, 1958, Ayub Khan abrogated the constitution, and the central and provincial assemblies along with their cabinets were dismissed. Martial Law was declared in the whole country. Under the new

arrangements Iskander Mirza became the Chief Martial Law Administrator and President, while Ayub Khan acted as his deputy. But this arrangement did not last for more than three weeks, Mirza was then sent into exile. Ayub Khan assumed Presidency of the country in addition to retaining his position as Martial Law Administrator. One of the most important acts of Ayub Khan was to remove the former politicians from office and to ensure that they remain out of the political scene for a period that would give him time to consolidate his rule and also ensure his contrived authority. Hence, he decreed the Elective Bodies (Disqualification) Order, 1959, under which almost all politicians were disqualified from holding an elective office until December 31, 1966.<sup>103</sup>

Following this "coup" Ayub Khan also introduced a scheme known as "Basic Democracy." Under this scheme the two territorial divisions of the country, viz., East and West Pakistan, were divided into forty thousand (40,000) constituencies and each constituency had an average population of one thousand (1,000). Each constituency elected one representative on the basis of "universal franchise"; the 80,000 so elected formed an electoral college for the purpose of selecting the President and National Assembly, as well as the provincial assemblies.<sup>104</sup>

In 1962, Ayub Khan announced a new constitution based on the Basic Democracy scheme. Under this constitution the bulk of the power was placed in the hands of the

President, who was as might be expected none other than Ayub Khan, and it would not be wrong to say that a "one man institutionalization of power" had come about.<sup>105</sup>

However, by 1969, dissatisfaction with the "Basic Democracy" found its expression in country-wide protests, and the constitutional machinery had broken down. In what can be called government by a succession of generals, the Commander-in-Chief of the army, General Yahya Khan was handed over power by Ayub Khan. Thus Yahya became the President and he also imposed Martial Law besides abrogating the 1962 Constitution along with the national and provincial assemblies and cabinets.<sup>106</sup>

Events leading to the Secession of East Pakistan,  
and the Present Political Structure of Pakistan

Following the overthrow of Ayub Khan the new regime promised that there would be a return to constitutionalism and democracy in Pakistan. Yahya Khan in his address of March 26, 1969, had this to say:

I wish to make it absolutely clear to you that I have no ambition other than the creation of conditions conducive to the establishment of a central government. It is my firm belief that a sound, clean and honest administration is a pre-requisite for sane and constructive political life and for the smooth transfer of power to the representatives of the people elected freely and impartially on the basis of adult franchise. It will be the task of these elected representatives to give the country a workable constitution.<sup>107</sup>

On March 28, of the same year he said that elections to a National Assembly, which would serve as a constitution-making body, too, would be held on December 7, 1970.

The President also outlined the guidelines or the minimum requirements which the National Assembly was supposed to fulfil in an Order the Legal Framework Order. The guidelines were briefly:

1. That the constitutional framework of Pakistan was to be based upon and not violate Islamic ideology:
2. That Pakistan was to be a federation:
3. The provinces were to enjoy maximum regional autonomy in consonance with national integrity and interests:
4. It was to be assumed that the country would be a democracy:
5. A time limit of one hundred and twenty days for framing the constitution.<sup>108</sup>

The President kept his promise by holding the first ever general elections on December 7, 1970. The National Assembly had a total strength of three hundred (300) members. The results in East Pakistan went overwhelmingly in favor of the Awami League headed by Sheikh Mujibur Rehman, his party having won 161 of the 162 seats allotted to that province. In West Pakistan, the Pakistan Peoples' Party headed by Zulfikar Ali Bhutto won a major victory, having garnered 82 of the 138 seats allotted. There were several splinter parties from West Pakistan, too.<sup>109</sup>

Zulfikar Ali Bhutt, who emerged as the dominating figure from West Pakistan was born in January, 1928, at Larkana, Sind, a province of West Pakistan. His father Sir Shahnawaz Bhutto was a landed aristocrat and a loyal

servant of the British government, who was knighted for the services rendered.

Ehutto studied at the University of California, Berkeley, where he obtained the Bachelor's Degree in Political Science in 1950. Later, he joined Christ Church College, Oxford University, obtaining his Master's degree in Jurisprudence in 1952. In the same year he was called to the Bar from Lincoln's Inn, London. On completing his education, he was appointed a lecturer in International Law at the University of Southampton, England.

On his return to Pakistan, he practiced law and also served as lecturer in constitutional law at a college in Karachi.

In 1958, when Ayub Khan staged a coup and became the President, Ehutto was appointed as a Minister in the Cabinet and allotted the Commerce portfolio. Later he became the Minister of Foreign Affairs in Ayub Khan's Cabinet. He was the Minister of Foreign Affairs when Pakistan had a conflict with India in 1965. He took part in the deliberations which led to the conclusion of the warfare in the Tashkent Declaration. However, he denounced the Declaration as a sell-out to India and resigned from the Cabinet in 1966. In 1967 he laid the foundations of Pakistan Peoples Party, which as we have seen emerged as the majority party from the elections held in West Pakistan in 1970.<sup>110</sup>

Following elections to the National Assembly, Yahya Khan kept himself in the background leaving the newly emerged political leaders to reach a constitutional settlement among themselves. The strategy of Yahya Khan appeared to be that an agreement arrived at between the political leaders outside the National Assembly by mutual consultation would facilitate the passage of a new constitution in the National Assembly. However, it soon became apparent that there were wide differences between the Awami League leader Mujib representing East Pakistan and Bhutto as the overall majority leader from West Pakistan.

Mujib and his party demanded complete autonomy for the federating units, that is the provinces, in fiscal matters. In essence, he said that the Central Government was to be entrusted only with the responsibility over foreign affairs, defense and the regulation of currency. Also the federal government was deprived of the power of taxation.<sup>111</sup>

Bhutto, following the elections had a couple of meetings with Mujib and, following these meetings declared that a "two-subject center" (defense and external affairs) would be unacceptable to him and his party. Furthermore, he asserted that the Awami League intended to pass a constitution already prepared through the National Assembly by virtue of the majority that Awami League possessed.<sup>112</sup>

Later Bhutto in a press conference said that his

party was willing to cooperate with the Awami League and its leader, Mujib, in framing the constitution, but demanded substantive adjustments on the provisions relating to currency, foreign trade and taxation. However, he did not elaborate on what changes he deemed necessary.<sup>113</sup> Mujib, refuting Bhutto, contended that, "colonial exploitation of the people of Bangla Desh had been done primarily through the control of foreign trade, foreign aid and foreign exchange by the center,"<sup>114</sup> and he refused to yield on this issue.

Meanwhile, the National Assembly session was scheduled to be held on March 3, 1971. On February 28, 1971, Bhutto demanded postponement of the Assembly in order to enable him to continue his political dialogue with Awami League leadership. As an alternative he suggested waiving of the 120 days restriction on the constitution-making so that there could be more discussion inside the Assembly. Bhutto threatened to launch a movement throughout West Pakistan if the Assembly session was to be held without his demands being met.<sup>115</sup>

During this period Yahya Khan had kept himself more or less in the background. However, in the face of this impasse, he as President, in a proclamation of March 1, 1971, postponed the Assembly session. The postponement of the Assembly session led to widespread protests throughout East Pakistan. Mujib himself reacted

to the postponement of the session by calling a civil disobedience movement, which was completely successful in East Pakistan. The situation appeared to the political leaders in West Pakistan to be getting out of control, and Yahya Khan decided to enter into negotiations with Mujib which began on March 15, 1971.<sup>116</sup>

This period wherein talks were held between the President and Mujib, lasted for ten days and was marked by hopes and frustrations. By the time the talks had been concluded Mujib presented the President with three conditions for calling off the civil disobedience movement, viz., (1) the withdrawal of Martial Law, (2) immediate transfer of power to the Awami League, (3) a National Assembly session to be held in each of the two areas, that is, members from East and West Pakistan to sit separately. Mujib's conditions were unacceptable to the President as well as to Bhutto and other leaders from West Pakistan. Consequently, the President in a statement of March 26, 1971, declared that:

In view of the grave situation that exists in the country today, I have decided to ban all political activities throughout the country. As for the Awami League, it is completely banned as a political party.<sup>117</sup>

Yahya's actions resulted in a civil war. The army crackdown in East Pakistan was massive and the cruel suppression of the local populace brought charges of genocide against the Yahya regime. L' Express, for

example, in its issue of April 27, 1971, said, "what is heppening in Bengal, backed by the Pakistani Army, which systematically assassinates the entire intellectual elite, the entire bourgeoisie, is the beginning of a bloody genocide." There was an influx of hundreds of thousands of refugees across the border in India. Resistance to the Pakistani Army stiffened in East Pakistan. At this point India intervned on behalf of the Awami League and defeated the army of Pakistan. East Pakistan seceded and claimed its independence as the State of Bangla Desh.<sup>118</sup>

Following the defeat of Pakistan at the hands of India in December 1971, Yahya Khan decided to relinquish office and transfer power to Bhutto by virtue of the latter being the leader of the majority party in what remained of Pakistan. This occured on December 20, 1971.<sup>119</sup> At the time Bhutto assumed power the whole country was under the same Martial Law which had been imposed on March 29, 1969. Upon assuming power, Bhutto promised the restoration of democracy and to put this into effect, he also promised to call a session of the National Assembly.<sup>120</sup>

The Pakistan Peoples Party, whose chairmanship and leadership in the National Assembly was held by Bhutto presented a draft of an Interim Constitution to the Assembly on April 14, 1972. As Bhutto presented the draft, he also adopted tactics which would ensure quick passage of the new draft. On the opening of the National Assembly

he offered to withdraw Martial Law on the condition that the Assembly approve the Constitution in three days, which it did.<sup>121</sup> Later constitutional developments are traced in chapter 9 along with a critical appraisal.

#### Notes

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## CHAPTER 11

### EPISTEMOLOGY

#### Introduction

Epistemology in general deals with the question: How do we know that we claim to know about both facts and values? That is, how do we secure knowledge? While there is no doubt about the significance of the question raised, the answers given are varied. Different philosophers have made an effort to answer the problem, but there is no unanimously agreed-upon answer. Most of the historic religiously based philosophies, for example, rely to some extent upon the idea of a supernatural origin as the ultimate source of knowledge- at least about values or "oughts." On the other hand scientific-secular theories usually argue that empiricism and/or "human" rationalism are more valid origins. However, a close examination of any theory will show that "authoritative sources" (such as but not necessarily including religion as supernatural) are usually supported by some empirical and rationalistic evidence and vice versa empirical and rational systems usually rely at certain points upon non-rational and non-empirical "authority" if not "divine" revelation.

We will see that these conclusions are true below in the case of the political philosophy of Pakistani thinkers and the epistemological process on which it is based.

The Authoritative Dogmatic Sources  
and Interpreters

As we have just said and as the chapter on metaphysics also will show, the Pak Islamic thinkers begin with the idea of going to a revealed truth- the "Book" as the first step in the epistemological process vis-a-vis all the meaning of life including politics. Here we see the authoritative source to be the Quran, Sunna, and Ijma. The Quran: It contains the collective "revelations of Muhammed in definitive written form."<sup>1</sup> The Quran was supposedly given by God in instalments so that the people be progressively instructed:

And We have parcelled out the Quran into sections that thou mightest recite unto men by slow degrees.<sup>2</sup>

The revelations are roughly classified into the pre-Hejira and post-Hejira period. The pre-Hejira period is also called as the Meccan and the post-Hejira period as the Medina period. The Quran contains 114 Suras or chapters.

Sunna: Literally it means customs, usages. However, Sunna has come to mean "Muhammed's deeds, utterances, unspoken approval (fi'l, kawf, takrir)."<sup>3</sup> Hadith is a vehicle of Sunna, an account of what the Prophet said or did.<sup>4</sup>

Ijma: In theory, it is the unanimous agreement of the

community of Muslims (Umma) on a regulation imposed by God. Technically it is the "unanimous doctrine and opinion of the religious authorities at any given times."<sup>5</sup> Closely allied to Ijma is Ijtihad. Ijtihad literally means "exerting oneself."<sup>6</sup> However, it is used for bringing about modifications in religious law through individual reasoning.<sup>7</sup>

#### The Interpreters (Biographical sketches)

Abul Kalam Azad: Abul Kalam Azad, to be referred hereafter as Azad, was born in Mecca to Indian parents who had migrated to the Holy City following the great Mutiny. In 1898, Azad's family returned to India and settled in Calcutta. He was educated at home by his father and by teachers qualified in such branches of learning as were given in a traditionally conservative Muslim family, i.e., knowledge of Arabic and Persian, theology and the philosophy of Islam, Islamic jurisprudence, etc. As late as the nineteenth century Azad was deprived of the benefits of English education, altho he later taught himself that language.

Azad appears to have been a child prodigy. He was only fourteen years old when he contributed to the Urdu<sup>8</sup> magazine "Makhzan." In the year 1904-5 he met Shibly Naumani. Shibli was a famous historiographer of his day and an enthusiastic Pan-Islamist. Shibli was a great admirer of the Prophet Muhammed and the period known in

Islamic history as the perfect period, viz., the rule of the Khulafa-e-Rashidin or the rule of the four Caliphs who succeeded Muhammed on his death in A.D 652. Azad was considerably influence by him.

Azad came to prominence with the publication of a daily called the "al-Hilal" (crescent moon) in 1912. It was immensely popular with the Muslim public of India. Here Azad attacked the British government and after two years of publication the newspaper was suppressed. Following the end of the First World War, the whole Muslim community was in agitation in support of the Turkish Caliphate as that agency might unify and rule a Muslim state. Azad became one of the foremost leaders of this movement known as Khilafat Movement and was jailed by the British. However, he appears to have been disillusioned when the Turks abolished the Caliphate and his enthusiasm for pan-Islamism or the political unity of all Muslims waned. He joined the Indian National Congress and from 1937 onwards he was the adviser of Mahatma Gandhi in Muslim affairs. He was also President of the Indian National Congress during World War II years. When India gained independence he was made Minister of Education (though not immediately) and retained this position until his death in 1958.<sup>9</sup>

Abul Ala Maududi: Abul Ala Maududi, to be referred hereafter as Maududi, was born in 1903 at Aurangabad in

the formerly princely state of Hyderabad, South India, of a displaced family that claims descent from Maudud, a relator of the traditions of the Prophet. He left school in the tenth class to support himself following the death of his father. He was only sixteen when he took to journalism. During this period he educated himself in the traditional branches of learning in which the conservative youth excelled such as Islamic jurisprudence, theology, logic, Muslim philosophy, etc. "As a journalist he showed an acumen in interpreting Islam and its relative problems in a way that common man could understand."<sup>10</sup> This endeared him to the learned "Ulema" or theologians of his day, and he was only seventeen when he was appointed as sub-editor of "al-Jami'at" a journal published by the Jam-i'at-al-Ulama-i-Hind (Organization of the theologians of India). He remained at his work until 1927. Between 1927 and 1932 he worked as a journalist and in 1932 he decided to edit a monthly of his own called the "Tarjuman-al-Quran."

In 1928, Muhammed Iqbal invited him to head a religious institution which was attached to a mosque in Punjab, which he accepted. In 1941, he laid the foundations of a political party called the Jamaat-i-Islami. In 1947 when the partition of India took place he migrated to Pakistan, even though he had kept himself aloof from the movement.<sup>11</sup> During the recent elections, his party was

able to win only four seats to the National Assembly which had a total strength of 300 (prior to the creation of Bangla Desh) which was a setback to him. Nonetheless, he and his party have a strong following among the college educated youth and the middle class.

### The Dogmatic Works Described

The Quran and Muhammed: The message of God is supposedly contained in the Quran. According to traditional sources the Quran was first revealed to Muhammed when he was spending some time, as he often did, in meditation in a cave in the mountain of Hira near Mecca. Suddenly, as Gibb a noted scholar of Islam, describes the Islamic belief, "the human conscience was rent asunder by the archangel, Gabriel, whose function in Islam is in many ways like that of the Holy Ghost in Christianity."<sup>12</sup> The passage in the Quran which is accounted as the first to be revealed is as follows:

Recite  
 In the name of thy Lord, who created-  
 Created man from a clot of blood  
 Redite, for thy Lord is the most bounteous  
 Who teacheth by the pen,  
 Teadeth man what he did not know.<sup>13</sup>

The message was delivered in further instalments from time to time. Even then the Quran, like the sayings of Jesus, was not actually compiled in written form during Muhammed's lifetime, but in the year A.D 651, nearly twenty years after Muhammed's death.<sup>14</sup>

Muhammed was born in Mecca, the principal city of what is now Saudi Arabia, in the year A.D. 570. His father was already dead when he was born and his mother died when he was six. The Meccans traded with Syrians and other peoples; Muhammed also went on these journeys and was commissioned by a woman of some means, Khadija, to take charge of her goods on a trading mission. Later she married him. He was twenty five and she was forty.

Muhammed was forty when he received the first message from God. At first he communicated the message to his close friends including his wife. Later he came out in the open and was persecuted by the Meccans. In A.D. 622, tired of this persecution he migrated to the neighboring city of Medina. The Islamic era begins with A.D. 622, the year of the Hejira or Emigration. At Medina he established himself as the undisputed chief and, by the time of his death in A.D. 632, he was ruler of most of Arabia and almost the whole of the populace was converted to Islam, the religion he preached.<sup>15</sup>

The Pak Islamic thinkers, as we have seen, hold that the will of God has been transmitted through the person of Muhammed and that it is as a messenger of God that he acts. The Quran in various verses has used the word "messenger" for Muhammed. For example, it says even though on Muhammed's behalf:

O, my people, but I am a messenger from the Lord of the worlds.<sup>16</sup>

I bring to you the message of my Lord, and  
I give you friendly counsel; for I know from  
God what ye know not. 17

In some verses the word used is "apostle":

And We sent to you an apostle from among  
yourselves to rehearse our signs unto, and to  
purify you, and to instruct you in the "Book", and  
in the wisdom, and to teach you that which  
ye know not.18

In some Quranic verses Muhammed is referred to as "nabi"  
meaning "prophet."<sup>19</sup>

It is also the Islamic belief that messengers of  
God have been sent in all countries and at all times  
as the conditions and times demanded. Thus, no people  
have been left without guidance. In the Quran in a direct  
address to the Muslims the names of some are enumerated:

We have revealed to thee as We revealed to Noah  
and the prophets after him, and We revealed to  
Abraham, Ishmael, Issac, Jacob, and the Tribes,  
Jesus and Job, Jonah and Aaron and Solomon,  
and We gave to David Psalms and Messengers We  
have already told thee of before, and Messengers  
We have not told thee of; And unto Moses God  
spoke directly. 20

Sunna: As we have said, next in importance to the Quran  
itself is the "Sunna." Sunna, broadly speaking implies  
social customs and legal usages practiced by the Muslim  
community when Muhammed was alive and which were approved  
by him in the light of the teachings of Quran. The  
Sunna, is considered by Muslims essentially to supplement  
the Quran and it is not considered to be a part of the  
Quran as a revealed word. Through the passage of time,  
however, the term of Sunna came to be treated as the

"usage set by Muhammed himself, either in the form of definite prescription or prohibition or by example."<sup>21</sup>

Or, as Kaududi says, "Sunna . . . clarifies, explains and exemplifies the meaning of the Quran."<sup>22</sup>

It should be added here that the Sunna of the Prophet was supposedly handed in the form of short narratives told later by one of the companions of the Prophet. Such a narrative is called "Hadith" or "tradition." The usual form taken by a "Hadith" is that the relator says;

It was told by A, who had it from B,  
who had it from C, who had it from D, who  
was a companion of the Prophet. 23

The Hadith were not collected and compiled during the lifetime of Muhammed, and in fact a suspicion grew early in the history of Islam that "authentic sayings were slightly altered in order to make a legal point," while at the same time "much of the inherited wisdom of the Middle East was fathered on him."<sup>24</sup> Hence an effort was made early to establish the genuineness of Hadith. The basic method employed was to scrutinize the character of the narrators who came to be called as "Isnads" or "chain of authorities." It became important to know at what possible date an authority could have heard an anecdote from his predecessor tracing this all the way back to a "companion" of the Prophet. It also became necessary to consider whether all the "Isnads" or "chain

of authorities" were men of sound views. If there were one or more "Isnads" who belonged to a heretical sect the authority of the Hadith became weak. The inclusion of a man who was known to be careless and inexact in his methods also weakened a "tradition." If a "tradition" met the above requirement it was designated as "sound Hadith." Two great collections of reportedly "sound Hadith" were made by al-Bukhari (d. A.D 870) and Muslim (d. A.D 875). The compilation of Traditions came to an end in the ninth century for the simple reason that it became increasingly difficult to authenticate the "Isnads."<sup>25</sup>

#### Interpreters Analysis

The Quran: In connection with the problem of the sources of values, Azad justifies the need for "divine guidance, which is contained in the Quran, because of man's inherent limitations. To begin with, he says that man possesses "instinct" or that "inward force which actuates a thing to be drawn by its own inward urge to its means of sustenance."<sup>26</sup> Thus, it does not need any external assistance or direction. He gives the example of the offspring of man and animals which seek their own sustenance by suckling their mother's breasts.<sup>27</sup>

Azad, like St. Thomas admits that although the capacities of man are important yet they are limited (In fact, this idea is distantly analogous to the automaticity idea of Edigius Colonna in connection with

the spiritual). That is, according to Azad, man along with the lower animals is bound by his need for habitation and possesses a "talent to the extent to which, he, as they can, satisfy and regulate his wants of life."

"But in man" says Azad, "there exists a third type of Hidayath (guidance from God) and that is the Hidayath of reason."<sup>28</sup> He alone among living things has been given this faculty. Azad presumes that mind is provided with a number of ready made faculties and, in order to obtain knowledge, man only needs to reason in accordance with these faculties. The fact is that Azad's views about the "reasoning" or rational faculty of man are in accordance with Plato's epistemological rationalism and Kant's "categories," whereby Plato asserts belief in a system of eternal necessary truths accessible to human reason. Azad and other Pak Islamic thinkers like western "natural law" theorists, including Greek philosophers, rely upon observation of the outside world from which to draw conclusions applying this rational faculty. Maududi, for example, argues that there is the law of God, "an all-pervasive law, which governs all that comprises the universe,"<sup>29</sup> from the following observation:

Everyone can see that the universe we live in is an orderly universe. Everything is assigned a place in a grand scheme which is working in magnificent and superb way. The sun, the moon, the stars and in fact all the heavenly bodies are knit together in a splendid system. 30

Iqbal also speaks of the "rational foundations

of Islam" and quotes the following verses from the Quran as laying emphasis on the "observable aspect of Reality."<sup>31</sup>

Assuredly in the creation of the Heavens and the earth; and in the alternation of night and day; and in the ships which pass through the sea with what is useful to man; and in the rain which God sendeth down from Heaven, giving life to the earth, after its death and scattering over it all kinds of cattle; and in the change of winds and in the clouds that are made to service between the Heavens and the earth, are signs for those who understand.<sup>32</sup>

However, Azad admits simultaneously in a somewhat Platonic vein that there is almost continuous conflict between reason and desire (the feeling or animal aspect of man) with desire tending continuously to mislead man from using his reason. Hence to guide man where man's reason proves ineffective due to "animal pressure," God has revealed His message. Azad states this in a rhetorical question answer format thus:

Is there no further directive force or Hidayath to help us where reason proves ineffective?

The Quran points out that there is such a force and that is the Hidayath of Revelation. The Quran repeatedly asserts: 'Truly it is for us to show man and truly ours the future and truly the past.'<sup>33</sup>

Ahmad Khan's approach is somewhat different. He holds the view that God has revealed Himself in nature and nature operates according to a set of principles or rules, which are also the "laws of nature." Thus, nature is the work of God. Also, God affirms the above through His "word" which is contained in the Quran and he says, "there cannot be any contradiction between

the two."<sup>34</sup> Further, he says "man by applying his rationality, with which he has been gifted can discern the relationship between the two."<sup>35</sup> He tries to validate his contention by citing references in the Quran to the biological and physical laws. Following are some of the verses he quotes from the Quran:

Verily, all things  
Have We created in proportion and  
measure.

It is not permitted  
To the sun to catch up  
The moon, nor can  
The night outstrip the day  
Each (just) swims along  
In (its own orbit (according to law)).<sup>36</sup>

The Pak Islamic thinkers on the whole assert, therefore, that the revelatory truths contained in the Quran can be better understood and appreciated by virtue of the rationality that man possesses. In this context, the Pak Islamic thinkers may have been influenced by a school of thought in Islam known as Mu'tazilites. The founders of this school were Mu'ammār Abul-'l-Hudhayl and an-Nazzām at Basra, and Bishr ibn-al-Mu'tamir at Baghdad. The dates of their deaths are given as A.D., 830, 841 (or later), 846 and 825 respectively.<sup>37</sup> They argued that God by an appeal to our reason, "has urged upon us the necessity and propriety of believing in His existence and following His commands."<sup>38</sup> It is by the help of reason that man can recognize the divine character of the Quran. They also hold the opinion that the Quran represents a rational

scheme of the universe as well as life and that man by using his rationality can pursue and follow the principles contained in the Quran. What made the Mu'tazilites unpopular, however, was the fact that they asserted that Quran was created in a specific period of time, hence they denied its eternality.<sup>39</sup>

On the other hand a greater influence upon the Pak Islamic thinkers may possibly have been al-Ash'ari whose full name is Abu-'l-Hassan Ali ibn-Ismail. He was born in Basra in A.D 873 and studied under a Mu'tazilite al-Jubai. After the death of his master in A.D 915, he began to preach a doctrine which in essence said that "revelation was superior to reason as a guide to life."<sup>40</sup> He did not see any contradiction between the two and also held the opinion that Quran is eternal, so also are the principles contained in it.<sup>41</sup>

In addition the Pak Islamic thinkers may possibly have been influenced to some extent by the prevalence of rationalism in Europe and thus through British scholars who worked in the educational institutions of India following the introduction of English as a medium of instruction to which reference has been made earlier.

In any case the Muslim theorists of Pakistan claim the Quran to be the embodiment of God's word and the basic "document" from which to proceed as a priori "truth." Maududi, for example, says:

The Quran exists exactly as it had been revealed

to the Prophet; not a word-nay, not a dot of it has been changed. It is available in its original text and the word of God has now been preserved for all times to come. 42

Furthermore, he adds:

The language of the Quran is a living language; millions of people speak, and millions more know and understand it. It is being taught and learnt nearly in every university of the world; every man can learn it. 43

In order to comprehend still further the significance of the message embodied in the Quran, it is necessary, however, to make a reference to the metaphysical assumptions that Pak Islamic thinkers make, which are both derived from it but in turn support the belief in its values. An "Omniscient" and "Omnipotent" God has not only created but directs the universe, too. Iqbal, as we have said, one of the foremost Pak Islamic thinkers, conveys his idea in the use of two Arabic words, viz., "khalq" (creation) and "amr" (direction).<sup>44</sup> This foregoing conception in turn envisages a set of universal principles inherent in the "God-head" according to which the universe is governed (analogous to the Platonic forms) as unchanging and eternal. From this argument the Pak Islamic thinkers then explain not only the physical, biological and moral, but in fact every aspect of life as emanating from God. It is this fact which shows them to be like believers in the traditional religious natural law in the West derived from Hebrew and Christian tradition as they move from the biological laws of reproduction, the

planetary system and its operation to prove the authenticity, universal and eternal character of moral and political rules given by a Divine Creator who arranged life so and thus whose laws are to be looked upon as supreme. Obviously, there is little difference except in personal terminological reference (i.e., the Arabs using Allah instead of Jehovah or God) between the western religious concepts about a "Divine" lawgiver and the ideas of the Muslim Pakistani theorists.

This means that the Muslim theorists of Pakistan as do western religious thinkers, for the most part believe that man as part of the cosmic order is, inspite of his own rationality, subject to the authority of the "Omniscient" and "Omnipotent" God, whether he "sees" the sense in God's will or not. It is God, they argue, who wills and directs man's individual, social and political conduct and through the revealed word commands, which in turn are the embodiments of universal and eternal principles, perfect and fit. Thus, Ahmad Khan cites the correctness of the latter argument in terms of the authentic language of the Quran itself:

And thus (it is) that We  
 Have sent down the Book  
 To these, So the people  
 Of the Book believe therein  
 As also do some of these  
 (Pagan Arabs): and none  
 But nonbelievers reject our signs.

For there are glad tidings,

In the life of the present  
 And in the hereafter  
 No change can there be  
 In the words of Allah.  
 This is indeed  
 The Supreme Felicity.<sup>45</sup>

In fact there are many passages in the Quran governing the individual and social conduct of the Muslims presumably to be obeyed everywhere. These verses supposedly revealed to Muhammed during his stay in Medina from A.D 622 onwards have great importance because they are supposed to regulate the conduct of a community newly formed, and which is to be looked upon as an ideal one.<sup>46</sup>

Following are some examples although outlined very briefly which are covered by the Quran:

Marriage and Divorce: There are several passages in the Quran dealing with marriage and divorce. It clearly specifies forbidden relationships such as between father and daughter, brother and sister, step-father and step-daughter, step-mother and step-son, etc. This factor, as Maududi says, "strengthens the bonds of family, makes relations between these relatives absolutely pure and unalloyed, and they can mingle with each other without any restraint and with sincere affection."<sup>47</sup> There is also permission given to a male to have four wives. Yet the Quran says:

If ye fear that ye may not act with equity in regard to the orphans, marry such of the women as seem good to you, two or three or four- but if ye fear that ye may not be fair to them, then one only.<sup>48</sup>

The Quran also deals with divorce in general, the actual procedure to be followed and with the husband's financial and other responsibilities towards the divorced woman and her children than with the grounds of divorce. Thus, the Quran says:

They who intend to abstain from their wives (with intentions of divorce) shall wait four months; but if they go back from their purpose, then verily God is gracious.

And, if they resolve on a divorce, then verily God is He who Heareth, Knoweth.

The divorced shall wait the result, until they have had their courses thrice, nor ought they to conceal what God hath created in their wombs, if they believe in God and the last day; and it will be more just in their husbands to bring them back when in this state, if they desire what is right. And it is for the women to act as they (the husbands) act by them, in all fairness; but the men are a step above them.

Ye may divorce your wives twice; keep them honorably, or put them away with kindness. But it is not allowed you to appropriate to yourself ought of what ye have given to them. No blame shall attach to either of you for what the wife shall herself give for her redemption.

But if the husband divorce her a third time, it is not lawful for him to take over her again, until she shall have married another husband; and if he also divorce her, then shall no blame attach to them if they return to each other. 48

Nonetheless, there is a great flaw in the Quran.

No justification is demanded of the husband for divorcing his wife. But no such privilege is given to the wife.<sup>49</sup>

Inheritance: There are verses in the Quran clearly stating the rules which govern the division of property.

In this context, it must be stated that the Quran assumes

that property belongs to individuals, both to men as well as women. "The main aim of the Quranic rules was to ensure that no relative towards whom a man had some obligations was defrauded of his fair share of the inheritance."<sup>50</sup>

It prescribes that before the inheritance is handed over to normal heirs, fixed shares are to be given to certain persons in certain circumstances. The main "sharers" are the widower or widow(s), the parents, the daughters and in certain cases a son's daughters, and the man's sisters and uterine brothers.<sup>51</sup> After the prescribed shares have been paid, the main part of the estate goes to the sons, father, and brothers, in that order. The essential part of the Quranic rules are as follows:

In regard to your children God charges you (as follows): The male receives the portion of two females; if they be women, more than two, then they receive two-thirds of what a man has left, but if they be only one she receives a half. His parents receive, each of them, a sixth of what he has left, if he have children; but if he have no children and his parents heir him, then his mother receives a third; if, however, he have brothers, his mother receives a sixth-(this) after any bequests he may have made or debts have been paid. <sup>52</sup>

A half of what your wives leave belongs to you if they have no children; if they have children, a fourth of what they leave belongs to you. To them belongs a fourth of what ye leave, if ye have no children; if ye have children, an eighth.

If a man or a woman whose property falls to be inherited have no direct heirs, but have brother or sister, each of the two receives a sixth; if there be more than that, they share in the third.<sup>53</sup>

Zakat: It was a kind of tax levied on property owners.

Its purpose was primarily to offer relief to the needy. Yet there is no verse which specifies, in any exactness as to how, to whom or in what amount the rate is to be paid. The only verse where there is some exactness is the one which says that of the booty taken in war one fifth is to go "to God and his apostle, to near of kin and orphans, and to the poor and wayfarer."<sup>54</sup>

Usury: The prohibition was first made in the early years of the Prophet's stay at Medina.<sup>55</sup> The Quran reprimands those who take usury and says that they "shall arise in the resurrection only as he ariseth whom Satan hath infected by his touch."<sup>56</sup> It is probable that Muhammed only tried to stop lending for the purpose of consumption than for productive purposes. The prohibition on taking the interest, in the modern age has "hindered the financing of productive commercial and industrial enterprises."<sup>57</sup>

Wine-drinking: The evil effects of wine-drinking and gambling were realized and finally forbidden altogether.<sup>58</sup>

Debts and Mortgages: The Quran recognizes that lending and borrowing are a necessary condition in human transactions, hence the rules relating to them are laid down. Every such transaction should be written down and the writing should be dictated by the person who owes the debt. The Quran exhorts:

O, believers, be faithful to your engagements.<sup>59</sup>

O, ye who believe, when ye contract a debt (payable) at a fixed rate, write it down, and let the notary faithfully note between you: and let him who oweth the debt dictate, and let him fear God his Lord, and not diminish aught thereof. Put if he who oweth the debt be foolish or weak or be not able to dictate himself, let his friend dictate form with fairness; and call to witness two witnesses of your people: but if there be not two men let there be a man, and two women of those whom ye shall judge fit for witness: if the one of them should mistake, the other may cause her to recollect.<sup>60</sup>

Also, slavery which had been common in Arabia, was accepted as an institution. However, it was laid down that slaves should be treated kindly, that they should be given a share of wealth at the discretion of the owner.<sup>61</sup> The Quran forbids an owner to take advantage of the female slaves and even suggests that they be freed.<sup>62</sup>

The Quran also contains regulations regarding the performance of certain rituals in Islam. Thus, it mentions that Muslims should pray at daybreak, sunset and night,<sup>63</sup> however, the prevalent practice among the Muslims is to pray five times a day. It has not been determined how this came about. In order to bring about Muslim unity, special emphasis is placed on the midday prayers on Fridays.<sup>64</sup>

Sunna: The significance of the Sunna as governing the lives of the Muslims, along with the injunctions of the Quran, in a professedly Muslim state such as Pakistan, rests on the ground that Quran and Sunna lay down the norms which an Islamic State, as Pakistan has declared itself to be, must implement in its own legal form and

functions. This means that religion and politics are inseparable in Islam.<sup>65</sup>

Furthermore, there is a conception held that by implementing the commands of the Quran along with the Sunna, the Muslim state and society would be modeling itself upon the society organized and led by none other than Muhammed himself. It will be following in letter and spirit the first ideal society to observe Quranic injunctions made by Muhammed. That is, the Muslims of Pakistan are in fact looking back to the classical period, the golden age in Islam.

Elaborating the above point, Maududi says that Muhammed's obligations did not come to an end with the mere transmission of the Quran. But the Prophet gave a practical shape to the norms which he had communicated from none other than God Himself. In order to lay further emphasis he asks a rhetorical question:

In what capacity did the Prophet perform these functions which were in addition to the transmission of the Quran? Were these tasks performed in his Prophetic capacity in which he represented the will of God in the same manner as it is represented in the form of the Holy Book.<sup>66</sup>

And he asserts that since the Prophet performed acts in his capacity as the representative of God, the Muslims have no option but to follow Sunna "as possessing legal authority along with the Quran."<sup>67</sup>

Also, according to Maududi, the continuity of the community as a unit rests on its following the

dictates of the Quran and Sunna. The cohesiveness, which there is in the Muslim community, according to him, is there because the followers of Islam share "their beliefs, modes of thinking, ethical standards and values, acts of worship and mundane affairs."<sup>68</sup> This in itself offers positive proof that this "society has continued without interruptions throughout these long centuries."<sup>69</sup>

Furthermore, Maududi says, in every age, following the death of Muhammed, there has been an endeavor to ascertain the exact nature of Sunna. This endeavor begun immediately after the death of Muhammed has continued to this day, "right up to our times, and the labors of each generation have been fully preserved."<sup>70</sup> Here Maududi implies that by a systematic study one can ascertain "sound hadith" and make it a way of life since that is the righteous way and the exemplary one. Much in the same vein Iqbal says:

A further intelligent study of the literature of the traditions, if used as indicative of the spirit in which the Prophet himself interpreted his Revelation may be of great help in understanding the life-value of the legal principles enunciated in the Quran.<sup>71</sup>

Ijma: The need for Ijma and the emphasis laid upon Ijma by Iqbal and Maududi reflect the needs of the changing times. In order to fulfil the contemporary needs and interpret Islamic principles in the modern context the principle of Ijma gained significance. The basic issue as Gibb pointed out is not simply arriving at the consensus

of the community on any principle which is not "formally or explicitly authorized by the Quran or the tradition," but of invoking the "authority of the community and the means employed to do so in matters where the Quran is not clear."<sup>72</sup> In this context, the Muslim theorists of Pakistan could look to views propounded by Muslim scholars in the early history of Islam. Ibn Hazm,<sup>73</sup> for example, argued that an issue should be resolved in accordance with the dictates of God as contained in the Quran, failing which resort should be made to "Hadith." That is, he expressed his belief in the traditional view. He also said that if doubts persist the issue should be solved by resort to the unanimity of opinion prevalent among the companions of the Prophet.<sup>74</sup> Iqbal, cognizant of the views of Ibn Hazm refused to concur with him. According to Iqbal, where the issue was one of fact, as for instance where the question was whether certain verses were revealed to Prophet in Medina or Mecca or, "whether the two small Suras known as Muavazatin formed part of the Quran or not," the unanimous decision of the "companions of the Prophet could be accepted as final."<sup>75</sup> However, he did not see any reason why, on other matters, the later generation should be bound by "the decisions taken by the companions."<sup>76</sup> Maududi on his part refused to give his opinion except to show deference to the views expressed by the companions to the Prophet.

Al-Shafii<sup>77</sup> expressed the view that a decision reached unanimously by Muslim scholars should be accepted by the Muslim community.<sup>78</sup> However, al-Ghazzali, the most famous theologian of Islam, argued that Ijma means the agreement of the community of Muhammed, that is the believers in general. But, al-Ghazzali, also said that the decision making power should rest with those who are qualified to take decisions, viz., the Ulema or the learned, subject to the approval of the community. The question involved, according to al-Ghazzali, could be religious or otherwise, but neither the community or the Ulema could transgress the Quran.<sup>79</sup>

Maududi, in his views is a follower of al-Ghazzali. Maududi, shows an awareness of the need to make the legal system of Islam dynamic, and is confident that "its development and evolution in the changing circumstances is possible."<sup>80</sup> However, he feels that the revealed passages, which are clear, such as "the prohibition of alcoholic drinks, or the directive principles laid down in the Holy Quran, and authentic traditions" cannot be issues at all.<sup>81</sup> Thus, as he sees it, the clear dictates of Quran are not to be tampered with and for that matter sound Hadith. However, a change and innovation can be brought about (Ijtihad) without violating the Quran or the Quranic spirit. And the people who can bring about this change must be equipped with the following

qualifications. The qualifications that Maududi requires these scholars to fulfil also reflect Maududi's opinions and they are summed up as follows:

They must have faith in Shari'ah, show a sincere desire to follow it, and show a desire not to act independently of it:

They must possess a good knowledge of the Arabic language, its grammar and literature because the Quran has been revealed in this language and the means of ascertaining the Sunna also depend upon this media.

They must have such knowledge and insight in the teachings of the Quran and the Sunna as would enable them not only to be conversant with the details of Islamic injunctions and their application in actual practice but fully to appreciate the basic principles of the Shari'ah and its objectives. That is, such knowledge of the Quran and Sunnah is the sine qua non of Ijtihad as would enable them to grasp the essence of Shari'ah.

They must have acquaintance with the contributions of the early jurists and thinkers of Islam.

They must show an acquaintance with the problems and conditions of our times, the new problems of life to which an answer is sought, and the new conditions in which the principles and injunctions of the Shari'ah are to be applied. A correct appreciation of the current problems is extremely essential for the proper exercise of Ijtihad.

They must also possess commendable character and conduct according to the Islamic ethical standards.<sup>82</sup>

Iqbal, as we have seen rejected the view of Ibn Hazm, viz., that the unanimous decisions reached by the companions of the Prophet should be accepted by the Muslim community. However, there is an element of self-contradiction in Iqbal. On the one hand he said that the present generation need not be bound by the decisions

taken in the past, yet he also asserted that "no people can afford to reject their past entirely."<sup>83</sup> In spite of this ambivalent attitude, his rejection of Ibn Hazm is apparent. But Iqbal certainly faced difficulty in accepting or rejecting al-Ghazzali's views. He certainly had respect for the Ulema as being conversant with the subtleties of Islamic Law. However, Iqbal felt that Ijtihad, that is bringing about innovative ideas which do not contradict Quran but are in accordance with its teachings, should be left to the assemblies representing the people. Iqbal accepting the classical norm of democracy that people's representatives should have the decision-making power believed that people's assemblies alone can do the needful, as in his view they alone represent what he calls as the "collective will of the people."<sup>84</sup>

There is no doubt that in reaching this decision he was influenced by what he called as the "growth of republican spirit" in his day.<sup>85</sup> Nonetheless, he also showed awareness of the fact that most of the members of a legislative assembly may not possess "knowledge of the subtleties of Muhammedan Law."<sup>86</sup> Hence, to solve this dilemma, the solution he offered was that:

The Ulema should form a vital part of the Muslim legislative assembly helping and guiding free discussions on questions relating to law. The only effective remedy for the possibilities of erroneous interpretation is to reform the present system of legal education in Muhammedan countries, to extend its sphere, and to combine it with an intelligent study of modern jurisprudence.<sup>87</sup>

Critique

In the criticism of the epistemology of the Muslim theorists of Pakistan, it should be kept in mind that the problem of how men know has in the modern age degenerated largely into a study of the "psychological" processes from a highly subjective point of view. That is, the legitimate field of philosophy known as epistemology has become largely a study of physio-mental process of a "human" being defined in a highly atomistic-materialistic manner. Such assumptions about personality and thus about how men know were not made until the age of so-called "science." The early western religious-classical assumptions about man and nature and thence about how men know were quite different from the modern ones. Man was viewed—even if at times unconsciously—as an integral part of nature and thus knowledge was considered as much objective in form and substance as subjective. In fact, an objective body of knowledge was considered as the very ground of being, even when this was, as just indicated, assumed to exist without conscious thought about it.

The above classical religious assumptions lay at the very heart of the "natural law" philosophy both in its secular (Greco-Roman) form and in its religious, broadly Hebraic-Christian and Islamic. It is, however, a fact that the subjective psychology of the modern age did undercut not only the theory of natural law but the

assumption of an objective body of knowledge on which it rested. It thus became relatively easy for modern skeptical thought to criticize natural law (and objective knowledge of theory) in its religious form because the latter rested upon certain assumptions which the modern mind has found difficult to accept: (1) that some knowledge is beyond empirical or sensory methods of knowing; it exists in a "divine" supernatural or spiritual form; (2) the process of knowing such knowledge or learning of it must therefore be by "revelation," or in a mystical manner, a breaking in upon the knower in a way that he cannot communicate in a sensitive way to others; that is; the "knower" cannot provide others with an explanation of the process in such a way that others may proceed to secure the same knowledge. Thus both the knowledge itself and the method of learning of it cannot be made matters of common knowledge and use but must be taken on "faith."

It is the above "facts" which complicate an argument for validity of political philosophies which are thus religiously based. First, the epistemological description seems inaccurate and unscholarly because of being "unscientific." It appears simply authoritarian to the humanistic skeptical scholar and the practical implication in terms of a valid ethical foundation for a political system seems disastrous. Second, as we will

note later the metaphysical basis of the political philosophy seems similarly to many humanists to be, as a consequence, equally invalid. In fact, it is often argued that the metaphysics is not even necessary because most metaphysics or views of the nature of the universe and being are non-essential clap-trap secured only by a "boogie-woogie" process of knowledge.

There are, however, some more difficulties with the above criticisms.

First, almost all political philosophies, even the most secular and skeptical sooner or later do come to terms with the questions of the nature of being and of the universe even if they do so negatively in trying to deny the validity of the question itself. Sometimes they do this consciously and sometimes they do this unconsciously or by indirection. When they do so consciously they do not often provide answers that are at least analogously as ambivalent, ambiguous, paradoxical and downright inconsistent as are the frank statements of the classical and religious thinkers. Sometimes they are even more invalid because they are not conscious of the predicament into which they argue themselves.

In addition to this value judgment it is a fact that even though the regularly based political philosophies may be criticized for not being grounded in a communicable process of knowing the same is sometimes true of the

materialistic-skeptical systems of thought and ensuing political philosophies. It is of course true that the inaccuracy or inconsistent character of one system may not be used legitimately to justify the same faults in another but neither can the inaccuracies and invalidity of one be used as a basis for valid criticism of the same faults in another.

As a result of the foregoing situation in the realm of thought and "fact" the best that a scholar can do who would be honest and accurate is to describe the epistemological sources and process of a system citing the respective criticisms that are made by other positions which themselves are subject to criticism and to suggest that a reader may take his choice. This is what is intended both in the foregoing survey of the sources of the knowledge of Pakistani thinkers and their beliefs about the process of knowing them and the critique of them which follows.

Logically there are the usual religious natural law contradictions in the positions taken by the Pak Islamic thinkers as there are in those of the similar Western thinkers and, these have plagued both the theoretical and practical aspects of life for the Pak Islamic thinkers, whether they see them or not. For example, on the one hand the Pak Islamic thinkers assert that God has revealed His message so that man can understand Him. Thus, Iqbal

speaking of the Quran says, "that it awakens in man the higher consciousness of his manifold relations with God and universe."<sup>38</sup> On the other hand, the recurrent emphasis on man's desires shows that these thinkers are actually skeptical of man's ability to understand and act in a rational way. In fact, he is at times treated as so low in intelligence that he is seen as a creature whose duty is simply to believe and obey. Thus when they cannot explain man's failure to act rationally they treat him as a stupid animal. Driven to a logical conclusion the implication is that man and his institutions, the political one included, should simply atrictly abide by that which he is told to obey even though it is not clear as to how he should understand, especially in terms of political ideals. Yet the doctrine of blind belief runs counter to the argument that it is because man is of "higher intelligence" than the animals that he can follow the rationale of God's rational system.

In addition this theologically based epistemology wherein there is believed to be a divine creator of the universe who has laid down eternal laws for everything has also been subjected like similar systems in the West and, found by some to be unconvincing in logic. Auguste Comte, for example, held that man's efforts to explain events by referring them to some divine power represents simply the earliest and most elemental stage of man's thinking. Being

elementary it is not only incorrect (incomplete) but not in accord with facts. It gives us a false view of things and thus tends to bind us in a state of ignorance especially in terms of human relations.

Of course, Hume has been credited with having destroyed all the pretensions of natural law to scientific validity. For example, with regard to natural law embodying universal truths, Hume argues that no action can be proved to be intrinsically, empirically, and logically right or wrong. It is simply the general approval of the people that makes an act valid or invalid. Thus an act is good or bad on this latter basis not because of any inherent logic in the facts. What is called "reason" is only a comparison of ideas "in the mind" of the observer-thinker. Seeming connections between facts do not give us immutable values.

However, according to the Pak Islamic thinkers, it is the very nature of divine law, as all-encompassing of life, including the mind of the thinker, which gives universal truths for the individual, and then social and political life. In fact, divine laws as in the Platonic-Hegelian tradition incorporate the whole and are thus presumed to be the road to man's salvation. That is, the Pak Islamic thinkers assert that by man seeing through to accepting and practicing divine precepts he may find and attain the highest good.

It should be emphasized here again that this is not a "new" position adopted simply by modern Pak Islamic thinkers. The Hebrew Orthodox thinkers and the fundamentalist Christian thinkers (both Catholic and Protestant) take the same view. In Judaism, for example, it is only through a general belief in and action upon the revealed truths of the "Torah" that ultimate perfection is to be reached individually and collectively.

Furthermore, the approach of the Pak Islamic thinkers regarding the value and utility of the "Hadith" contains contradictions. While there is general agreement that the "Hadith" is a valuable guide to individual and social conduct, there is considerable doubt regarding the genuineness of many a "Hadith." Also, since the "Hadith" were not collected and compiled during the lifetime of Muhammed, a controversy over the authenticity of the "Hadith" has continuously persisted. Moreover, when the Muslim conquests extended during the early history of Islam a legal interpretation of the Shari'ah including the "Hadith" was made, and where they failed to meet demands of local conditions maxims were freely invented and attributed to Muhammed's daily life and practices. As Iqbal himself says, "these certainly go far beyond the limits of credibility."<sup>89</sup> Maududi also admits the fact when he says

There is no doubt that there have been numerous differences in the matter of ascertaining and establishing the Sunna and such differences can also arise in the future.<sup>90</sup>

But he thinks that the sound traditions of the Sunna can be chalked out by the learned men of the Muslim community or at least a large section of them.<sup>91</sup>

In conclusion it must be re-emphasized that the Pak Islamic thinkers bind themselves to a position wherein the Quran along with Sunna are looked upon as the basic sources of all moral knowledge but fall short of contemporary challenges. Hence, recourse is advocated to "Ijma," but as we have noted there is a difference of opinion in this regard. There cannot be greater testimony to the failure of this position than the fact that in the twenty-five year history of Pakistan success has not been achieved even in codifying Shari'ah. And, while there is general agreement among the Muslims of Pakistan that all laws should be brought in conformity with the Quran and Sunna there is little hope at present that this can be done.

Maududi himself says:

When those endowed with penetrating insight and legal acumen ponder over the injunctions of the Quran and Sunna, they find that many of them are open to different fruitful and valid interpretations. Consequently, every one of them accepts some particular interpretations according to his views on the merits of the case. In this way, the doors of differences of opinion have always been open in the past, are open even today, and will continue to remain so in the future.<sup>92</sup>

Also, in the modern western scholarship, especially that of social science which influences an increasingly large number of educated Pakistanis, belief is not expressed in sources of this type or any "supernatural" epistemology.

## NOTES

1. Kenneth Cragg, The House of Islam (Belmont, California: Dickenson Publishing Co, 1969), p. 35.
2. Quran., 17:106.
3. Shorter Encyclopaedia of Islam, 1953 ed., s.v. "Sunna."
4. Ibid.
5. Encyclopaedia of Islam. 1969 ed., s.v. "Idjma."
6. Idem, s.v. "Idjtihad."
7. Ibid.
8. Urdu is a language written in Persian script. It is a product of the mutual intercourse between the Muslim conquerors and local people. It is the national language of Pakistan now.
9. This short biographical sketch is based on his autobiography in Urdu "Ghubar-e-Khatir," and some political histories of India.
10. Leonard Binder, Religion and Politics in Pakistan (Berkley, California: Berkley University Press, 1961), pp. 79-80.
11. Ibid.
12. Sir Hamilton A. R. Gibb, Mohammedanism (London: Oxford University Press, 1950), p. 28.
13. Quran., 96:1-5.
14. Cragg, The House of Islam, p. 37.
15. Ibid., p. 26.
16. Quran., 7:59.
17. Ibid., 2:145.
18. Ibid., 7:60.
19. Ibid., 33:1.
20. Ibid.,
21. Sir Hamilton A. R. Gibb, Studies in the Civilization

- of Islam (London: Rutledge and Kegan Paul, 1962), p. 194.
22. Syed Abu 'Ala Maududi, Towards Understanding Islam, trans. Khursheed Ahmad (Gary: I. I. F. S. C, 1970), p. 76.
  23. Reuben Levy, The Social Structure of Islam (Cambridge: Cambridge University Press, 1957), p. 170.
  24. W. Montgomery Watt, Islamic Philosophy and Theology (Edinburgh: University of Edinburgh Press, 1964), p. 73.
  25. Ibid.
  26. Abul Kalam Azad, Tardjumanul Quran, vol. 1. trans. Sheikh Abdul Latif (New York Asia Publishing House, 1962), p. 27.
  27. Ibid.
  28. Ibid., p. 149.
  29. Maududi, Understanding Islam, p. 2.
  30. Ibid.
  31. Muhammed Iqbal, The Reconstruction of Religious Thought in Islam (Lahore: Sh. Muhammed Ashraf, 1965), p. 13.
  32. Quran., 2:159.
  33. Azad, Tardjumanul Quran, p. 151.
  34. Syed Ahmad Khan, Al-Tahrir fi Usul al-Tafsir (Lahore: Sh Muhammed Ashraf, 1892), p. 32.
  35. Ibid.
  36. Ibid., p. 35.
  37. Watt, Islamic Philosophy and Theology, p. 59.
  38. Ibid.
  39. Ibid.
  40. Ibid., p. 61.
  41. Ibid., p. 62.
  42. Maududi, Towards Understanding of Islam, p. 110.
  43. Ibid.

44. Iqbal, Religious Thought in Islam, p. 103.
45. Syed Ahmad Khan, Maqalat-e-Sir Syed, vol. 2. (Lahore: Majlis-e-Tarriq-e-Urdu, 1962), p. 232.
46. W. Montgomery Watt, Muhammed at Medina (London: Oxford University Press, 1950), p. 290.
47. Maududi, Towards the Understanding of Islam, p. 110.
48. Quran., 24:3.
49. Ibid., 2:228-231.
50. Watt, Muhammed at Medina, p. 290.
51. Ibid.
52. Quran., 4:12.
53. Ibid., 2:261.
54. Ibid., 8:42.
55. Watt, Muhammed at Medina, p. 196.
56. Quran., 2:275.
57. Watt, Muhammed at Medina, p. 298.
58. Quran., 5:90
59. Ibid., 5:1.
60. Ibid., 2:282.
61. Ibid., 4:36.
62. Ibid., 24:33.
63. Ibid., 11:14, 17:78, 20:130.
64. Ibid., 62:9.
- 65.
66. Syed Abu A'la Maududi, The Islamic Law and Constitution trans. Khursheed Ahmad (Karachi: Islamic Publications, 1967), p. 84.
67. Ibid.

68. Ibid., p. 146.
69. Ibid., p. 147.
70. Ibid., p. 85.
71. Iqbal, Religious Thought in Islam, p. 173.
72. Encyclopaedia of Islam, s.v. "Idjma."
73. Ibn Hazm, whose full name is Abu Muhammed Ali B. Ahmad B. Said, was born at Cordova in 994 and died in 1064. He was a great jurist, philosopher and theologian.
74. Encyclopaedia of Islam, s.v. "Ibn Hazm."
75. Iqbal, Religious Thought in Islam, p. 175.
76. Ibid.
77. Al-Ghazali, whose full name is Abu Hamid Muhammed B. Muhammed, was born at Tus (Iran) in 1058 and died in 1111. He was an outstanding jurist, theologian and religious reformer.
78. Encyclopaedia of Islam, s.v. "Al-Ghazali."
79. Al-Ghazali, Deliverance from Error. trans. W. Montgomery Watt (London: George Allen and Unwin Ltd, 1953) p. 48.
80. Maududi, Islamic Law and Constitution, p. 79.
81. Ibid.
82. Ibid., p. 80.
83. Muhammed Iqbal, The Mysteries of Selflessness. trans. A. J. Arberry (London: John Murray, 1953), p. 35.
84. Idem, Religious Thought in Islam, p. 175.
85. Ibid., p. 173
86. Ibid.
87. Ibid., p. 176.
88. Ibid., p. 171.
89. Ibid.
90. Maududi, Islamic Law and Constitution, p. 83.

## CHAPTER III

### PAKISTANI ISLAMIC THINKERS METAPHYSICS

#### Introduction

Every political ideology is grounded upon or has to come to terms with what is called in philosophy metaphysics or the problem of being or the nature of things in general, or the nature of the universe. In some cases this is not done directly. That is, the politics has to be inferred from the metaphysics or what is more usually the case vice versa is true. In some other cases there are political thinkers who deny the value of dealing with metaphysics at all but these usually deal with it anyhow, at least if they are sophisticated enough to "cover" themselves in their political argument

The above judgment is true even though it is generally argued by political scientists today that the subject of politics has only to do with "power" (Catlin), "influence" (Lasswell), or the "authoritative allocation of values influenced by the distribution of power" (Easton), and that the state is merely an institution pertaining to positive law, government, the temporal order.

Yet even these latter scholars admit that power

or the state or positive law may be grounded on this or that area of philosophy which will provide a particular set of values. Catlin, for example, suggests that it is probable, that when political scientists do seek conscientiously for a value system relative to the exercise of power they will find it in the realm of aesthetics. In any case, ordinarily the historical theories have ultimately been grounded in values found in the field of philosophy known as metaphysics and this is especially true of a religiously based political theory.

The usual questions which are dealt with in metaphysics have to do with the nature, form, and function of the universe or being or with life seen as a totality. Here the questions are: Is the universe a unity and monistic or is it pluralistic, or is it a duality: Is it harmonious as a whole or does it contain as part and parcel of itself the characteristic of the conflict and discord? Does it have a structure and order or is it unstructured, and if it is unstructured what is the major element such as purpose running through the order and holding it together? That is, is it a teleological universe? Or on the other hand is it haphazard and without meaning or purpose? Furthermore, if a purpose be apparent, are both the order and purpose rationally characterized or is the totality an eternal feeling stuff merely seeking continuous reproduction of itself. And if there be a

plan, purpose and rationality, what also of the moral question? Does the universe reflect a moral character with a purpose or is it a-moral? And if moral does it reflect what man's mind can determine as "good" or positive and beneficial and creative or evil, i.e., negative and destructive.

Although answers to the above questions may vary as a ground of a metaphysical politics or in their implication for political thought, yet the answers emphatically are important especially in connection with such further questions in connection with politics as the nature of man, of society, and of the state and politics itself. In certain of these latter areas such problems, for example, arise as that of "freedom" for man, or the existence of "evil" in man, and the answers given in terms of metaphysics have implicit and explicit relevance to the possible political answers. The "fact" of "evil" for example may not be considered a wholly "moral" question for the individual alone but one concerning also the feasibility or practicability for human life in general because it may seem that human beings as such must continuously face as a part of "nature," earthquake, fire and flood as well as human ignorance or passion. In any case whatever specific answers may be given and no matter how incorrect the answers may be in terms of "facts" or how illogical in terms of thought, it is out of such

questions (and answers) in metaphysics that a well organized, knowledgable political philosophy is developed, and this is as true relative to secularly based political theories as for those religiously based. On the other hand, the religiously based ones such as that of Pakistan are often more explicit, even though they cannot be characterized as scientific.

Thus the Pakistani political thought as is true of Hebrew Orthodox political theory (such as exists) and fundamentalist Christian political theory (both Catholic and Protestant) is considered as part of an all-embracing philosophy or metaphysics as based on a particular religion. In fact, this is particularly true in the case of Pakistan wherein because of the nature of Islam there is not a professed demarcation of religion and society or more broadly speaking the religious and secular as in the case of much of Christianity today.

That is, since Pakistan is an avowedly religiously based state identified as Islamic, its theorists in general not only profess a belief in "Islamic values" in general but, also believe that it should be fundamental policy of the state to promote them. The state is supposed to faithfully implement the "dictates of God" "both individually and collectively and in respect of the largest as well as the smallest task."<sup>1</sup> Thus, the preamble to the Interim Constitution of Pakistan, 1972, expressly states

that authority in Pakistan is to be exercised "within the limits prescribed by Him," (meaning Allah) and is to be operated as a "sacred trust" from Him.<sup>2</sup> Furthermore, it says that the "unity and the observance of Islamic and moral standards should be promoted among the Muslims of Pakistan,"<sup>3</sup> and this is to be the constitutional framework and policy of the state.

In addition, according to Pak Islamic thinkers, who are in agreement with many other Muslim thinkers, the ideal state is one which is governed by Shari'ah or the supposedly divinely revealed law, whose nature and origin we have discussed in the preceding chapter. Since Islam knows no distinction between the spiritual and temporal realm, between the religious and secular activities, both form a unity under the all-embracing authority under the Shari'ah. The state is only an agent of God on earth charged with the implementation of the Shari'ah in order to promote the well being of the Muslims in this world as well as guarantee, thereby, their salvation in the world to come. This is so because a Muslim's life, ideally speaking, is governed in its entirety by the Shari'ah. Thus the legal and political structure of Pakistan is supposed to be based primarily on Islamic values. In fact, the Board of Taalimat-e-Islamia, an agency which was composed of the leading theologians of Islam during the formative years of Pakistan defined an Islamic State

as:

A state ruled in accordance with the tenets of Islam, or more correctly, a state where the Divine Order as contained in the Holy Quran and Sunna, reigns supreme and the entire business in its various spheres is conducted with a view of executing the will of Allah as laid down in the Shari'ah.<sup>4</sup>

However, it is because of the entangled character of Islam and politics in Pakistani theorists' ideas that we are going to attempt in some degree to explicate these in the following pages by representing first, in so far as possible, the metaphysical religious ideas and then present the implications (as example) of these relative to certain political problems. Yet it must be kept in mind that most of the implications will appear in other parts of the work as we deal also with such subjects as the nature of man, society and state.

#### Monism

The basic belief of Islam, as we have seen, like that of Judaism and Christianity begins with the idea of a Godhead who is one. Thus the Quran speaks of God as the "sole divinity":

I, I am God, there is no divinity save Me.<sup>5</sup>

The Sura CXII says:

Say: He is God alone;  
God the eternal  
He begetteth not, and He is not begotten;  
And there is none like unto Him.<sup>6</sup>

Every Muslim is also expected to recite the Kalima of Islam

which is an expression of faith, "La ilaha illallah" which as translated by Maududi means that "there is no deity but Allah."<sup>7</sup> He is also to recite as basic to Islamic faith the following prayer along with the above five times a day:

In the name of God, the Compassionate, the Merciful.  
 Praise to God, Lord of the worlds  
 The Compassionate, the Merciful  
 King on the day of reckoning  
 Thee only do we worship, and to Thee do we cry  
 for help.  
 Guide thou us on the straight path,  
 The path of those to whom Thou hast been  
 gracious; with whom thou art not angry, and who  
 do not go astray.<sup>8</sup>

In the early history of Islam, belief was expressed in the above principle. The Mu'tazilites,<sup>9</sup> for example, had proclaimed their faith in the "oneness" and "unity of God" to such an extent that they were called as the people of "unity." Ashari,<sup>10</sup> who followed the Mu'tazilites was even more emphatic in this regard. The chief attribute of God as the creator of this world according to Kindi,<sup>11</sup> is the "oneness" and "unity."<sup>12</sup>

The monotheistic creed of Islam, as interpreted by the Muslim theorists of Pakistan, not only asserts that God is one, but also equates ultimate reality and then the universe with God. This is expressed in the terminology of "Tauhid" which is interpreted by Maududi to mean the oneness and the "unity of God."<sup>13</sup> Although the element of "Tauhid" has been subject to many interpretations, the foremost is the organic unity of the whole universe as a creation of the "oneness" of God of which this earth

is simply a part.<sup>14</sup>

In fact, this element of Tauhid, as shown in the Quren; "And We have created you all from one breath,"<sup>15</sup> according to Iqbal, is manifest even in our human origins by virtue of man being the creation of God.<sup>16</sup> It is also true that all of the parts are considered as unities in themselves but as lesser ones with the whole as one. It follows very obviously that the oneness presumably pervades and manifests itself in even lesser unities and the latter are supposed to exhibit in practical life the character of the oneness of the whole. As Iqbal says, "they all possess a central point of reference."<sup>17</sup> In this respect, the Muslim theorists of Pakistan may have been influenced by Ibn Sina,<sup>18</sup> known in the West as Avicenna, who held that God is one, "the necessarily existent (Wajib-al-Wujud) from whom everything emanates."<sup>19</sup>

Furthermore, the Pak Islamic thinkers assert that God, the single Being, the creator and sustainer of this monistic universe has not created the universe to abandon it. The order there is in the universe is but an expression of this will of Allah. That is, God is continuously the governing influence. The creative mind of God and His energy are not only continuously reflected in the working of the universe but presumably again flow out influencing all things including men. Thus, Azad says, that to visualize God as "Rabbul-Alamin or the Rabb of all

creations is to conceive of Him as not only the creator of everything in the universe but its nourisher and sustainer as well,"<sup>20</sup> including the giver of values. Iqbal further expresses the view that God can be understood only in relation to the universe as its director, a kind of outside force. That is, he does not agree with the view that the universe and man can be treated as an object somehow coeternal and separate from God, because he says, such a belief would make the universe and God two separate entities and place the universe as an independent reality possibly in opposition to God. In other words, Iqbal insists not only upon the idea of God and the universal as "All-Knowing," "Omniscient" and "Omnipotent," but as "Omnipresent"<sup>21</sup> enetring into man's life at every point. These views of Iqbal are of course similar to certain Hebrew and Christian theology of immanence, as can be seen from the following:

The mechanical movement of what we call the atom of the matter to the free movement of thought in the human ego, is the self-revelation of the Great I-Am.<sup>22</sup>

It is then this all encompassing individuality that is given to God, which is presumed to relate the Muslims to Islam as a way of life, wherein, says Maududi, the necessity of God, "transforms itself from an abstract idea into a practical system and the whole edifice of the Islamic way of life is raised upon this foundation."<sup>23</sup>

Order and Harmony in the Universe

Still another idea explicit in the metaphysics of these thinkers is the notion of order and harmony in the universe. The Quran itself says:

No defect canst thou see in the creation of the  
 God of Mercy; Repeat thy gaze, seest thou a  
 single flaw?  
 Then twice more repeat thy gaze: thy gaze shall  
 return to thee dulled and wary.<sup>24</sup>

In fact, so wonderful are the "unfailing order and harmony of the world that man is in danger of worshipping them."<sup>25</sup>

As the Quran says:

Among His signs are the night and day, and the  
 sun, and the moon. Bend not in adoration to the  
 sun or the moon, but bend in adoration before  
 God who created them both, if ye would serve Him.<sup>26</sup>

The same sense is conveyed by Maududi, who somewhat like Plato and St. Thomas, envisaged that the many objects that compose the universe possess diverse and proportionate elements which bring about a balance of life. And that there is an unfailing order and harmony in the universe. Everything, according to Maududi, is assigned a place in the grand scheme which is working in a magnificent and superb way. The sun, the moon, the stars and in fact, "all the heavenly bodies are knit together in a splendid system. They follow an unalterable law and do not make the slightest deviation from their ordained course."<sup>27</sup> Further, Maududi cites the earth rotating on its own axis and its revolution around the sun, as an example of the planetary bodies scrupulously following a path laid out for them.

Also. Laududi says, everything in the world "from the little whirling electron to the mighty nebulae,"<sup>29</sup> follows a specific course. This factor is also apparent in the manner in which matter, energy, and life, in their action and reaction, follow a definite course. The biological law according to which the life of man is controlled, is another example given by him.<sup>30</sup>

Azad, elaborating this point further says that everything has been assigned by God a particular role, however low or mighty it might be (western Catholic principle of subsidiary) and this applies to the plant life as well as the world of animals, "and the world of planets as much as the life on them."<sup>31</sup> Hence Azad concludes:

We, therefore, notice that every object is bound both in its inward and outward aspect by conditions warranted and fixed by its very nature and that these conditions are in perfect consonance with the variegated demands of its growth and development.<sup>32</sup>

Azad cites the Quran in this context which says that "Everything hath He created and measured out to each its measure."<sup>33</sup>

Further, Azad cites the example of the distribution of water on earth, which, according to him is proportionately spread out. On the rain-making process, in a rather rhetorical manner he speaks of the way in which the rays of sun arise from the ocean "sheets after sheets of water into air," and the winds which shake them and let them come down to earth in drops and that, too, in

particular season. Again, says Azād, the element of harmony and proportion is kept up as the rain falls, because only a portion soaks the earth and that, too, to a particular depth, the rest flows out, thus contributing to the fertility of the soil. And Azād draws the conclusion from the above quoted example that this happening is due to the fact that "providence of God is at work in nature; and its purpose is to produce water in this particular fashion and arrange its distribution in this particular way."<sup>34</sup> He cites the Quran itself in this context:

And of His signs is that He sendeth winds with glad tidings of rain, that He may cause you to taste His mercy, and that ships may sail at His Command, and that out of His bounties ye may seek wealth and that haply ye may render thanks.<sup>35</sup>

Apparently Azād ignores the fact that if rainfall is deficient and fails, famine is the result, and if excessive it brings nothing but devastation, flood, havoc, rendering people homeless and their crops destroyed.

#### Purpose and Rationality

Closely related to the foregoing is also the idea that the "orderly and harmonious universe" has a purpose and rationality. In this context, first the Quran asserts that the universe and all things under it are under Divine control, and that everything in the heavens and earth is constrained in obedience to God. He guards, watches and regulates the working of the universe:

And of His signs also one is that the Heavens

and the earth stand firm at His bidding.<sup>36</sup>

Secondly, as we have seen, God is the Creator, the repeater of the creation, according to the Quran. There is an element of Divine purpose behind the very creation. And all things in the universe carry on in obedience to God's will towards the fulfilment of that purpose in harmony and orderliness. The Quran says:

We created not the heavens and the earth, and all that is between them in play. If We had to find a pastime, We would surely have found it in what is with Us if at all We had been so inclined.<sup>37</sup>

The Quranic verse which is often quoted by the Muslim theorists of Pakistan as indicating the purposefulness of the universe is:

Verily in the creation of the heavens and the earth, and in the succession of the night and of the day, are signs for men of understanding; who, standing and sitting and reclining, bear God in mind and reflect on the creation of the heavens and of the earth, and say: O. our Lord Thou hast not created this in vain.<sup>38</sup>

Further, the Quran implicitly asserts that the universe and its creation cannot be considered due to an accident, and from the above quoted verses it is apparent that neither is it an act of purposelessness. But it is the act of God who is "All-Wise."

We have not created the heavens and the earth and all that is between them but in accordance with the requirements of wisdom.<sup>39</sup>

The Mu'tazilites in the early history of Islam inferred that God who is the God of wisdom cannot but act

rationally. In fact, it is impossible for God to act otherwise. They also hold the view that since God is the very incarnation of purity and wisdom, "the very essence of all that is holy and great, it cannot be imagined that He can ever act in a way which does not tally with reason."<sup>40</sup>

The Asharites, who followed the Mu'tazilites, differ with them only in semantics. According to the Asharites, God will never act against reason, but that He can if He so wills.<sup>41</sup> However, the Mu'tazilites deny even the possibility of the Divine Being acting irrationally or undesirably on the ground that such sort of possibility, "tends to attribute lack of sense or responsibility to Godhead, the essence of perfection."<sup>42</sup> In fact, the Quran itself has said, "Verily, your Lord is Omniscient, Wise,"<sup>43</sup>

Meanwhile in agreement with the above and possibly influenced by them, as also in agreement with Stoicism, Catholicism and Hegelianism, the Pak Islamic thinkers likewise argue that the universe is rational in its order and growth. This is true in turn because the universe owes its very origin and operation to the "rationally created will of God, Takhliq-bil-Allah."<sup>44</sup> That is, as in western thought God is believed both to have created the universe with a purpose and is also Himself a rational Being guiding and directing the universe accordingly toward the fulfilment of His rational purpose. The following verse, for example, in the Quran says:

And it is He who hath ordained the stars for you that ye may be guided thereby in the darkness of the land and sea, clear have We made our signs to men of knowledge.<sup>45</sup>

In fact, the Pak Islamic thinkers are not only insistent in asserting the rational purposefulness of the universe, but they also spell out specifically what is sensible and rational, much like the Asharites, according to the will of Allah. They are in this respect also in agreement with the Mu'tazilites who view God as the God of justice. Practically all of the ethical aims of Islam are supposedly established to reflect the rationality of God.<sup>46</sup>

On the other hand, as pointed out earlier, Islamic thought admits that man has been gifted with "free will" again as in the Hebraic-Christian sense of being able to turn away from God, which means that man can even create a state towards the fulfilment of his own ends, although the penalty for such is punishment in hell and hereafter.<sup>47</sup>

However, as is well known in Platonism and much of Christian thought, "free will" is generally associated with the opposite of rationalism, that is to say, the feeling or emotional factors in life. In Islam this is not true. Except for alcohol and drunkenness, the sensual aspects of life are not decried, but are to be enjoyed in moderation and within certain limits. The universe is not treated as a cold machine, but a glorious place, and heaven itself is filled with earthly delights. Thus leading to

a paradoxical situation.

Political Implications of the Metaphysics

Although we will see certain of the political implications of the metaphysics later, it is well to note certain outstanding features at this point.

Monism

Thus from the political point of view the Muslim theorists of Pakistan argue that a state based on the religion of Islam must incorporate in it the universal principles of unity and practice the principles. This characteristic implies that a Muslim state should function as part of a cohesive unity on the pattern of the universe to transform the totality of metaphysical ideas into "space-time" categories. It is for this reason that Iqbal rejects the "nationalist-pluralist" theory of the state as erroneous one.<sup>48</sup>

It was this idea which was important as an ideological rallying cry and the theoretical justification for Pakistan as separate from and independent of India. It has played the same part in the efforts to build an Islamic value system within Pakistan, that is, the idea of an Islamic State of Pakistan for the Muslims in the sub-continent as the theory of Dialectical Materialism and Proletarian Revolution. Further, it has been argued because of the very nature of the universe created by God, etc., Muslims ought not to be submerged into national

states except for creating a Muslim "national state" under the will of Allah. The state should be a union of all Muslims. Interestingly this seems of course to be the same position that has induced some Christians to urge the creation of a "Christian State" or the Jews a "Jewish State." If carried to the logical conclusion only these states would exist in the modern world; a Muslim State, a Jewish State, a Christian State (perhaps several types) and a Marxist State. The territorial pluralist state would disappear--except possibly a state for all of the unbelievers.

As a logical corollary of the concept of monism the Muslim theorists of Pakistan assert also the idea of sovereignty of God very much in a Calvinistic manner. Since God is the sovereign of the universe, it is argued that He is sovereign of Pakistan, too. As presents it:

The Quranic concept of sovereignty is clear, God is the Creator of the universe. He is its real Sustainer and Ruler. It is His Will that prevails in cosmos all around. As all creation is His, His command should also be established and obeyed in man's society. He is the real sovereign and His will should reign supreme as the Law.<sup>49</sup>

Thus as we noted in Chapter 2, in the Interim Constitution of Pakistan, 1972, as indeed in all of the constitutions that Pakistan has had there has been this express declaration that "Sovereignty over the entire universe belongs to Almighty alone," and that it is to be exercised as a sacred trust. Hence, it is argued that

all power that is exercised by the state must be presumed to be in the name of God (defined in Islamic terms) theoretically reducing the position of the state to subservience. It is this idea which has made it difficult for the Pak Islamic thinkers to face and adjust to the democratic concepts prevailing in the twentieth century, and the result at which they have arrived appears to be a paradox. While every constitution that Pakistan has had acknowledged the sovereignty of God over the universe and Pakistan according to the above theory, each constitution, including the Interim Constitution of 1972 in its preamble, also refers to the "sovereign independent State of Pakistan . . . wherein the state should exercise its power and authority through the chosen representatives of the people."<sup>50</sup>

If indeed the State of Pakistan is sovereign through the "will" of the people as sovereign, as the above mentioned constitution specifies, a contradictory position occurs wherein, in terms of Western thought such as that introduced by Marsilio of Padua, the sovereignty of the people (perhaps including people not wholly Godly) is asserted along with the notion of sovereignty of God. Yet it is obvious that logically in terms of the basic notion, either God is sovereign, or the people, and it cannot be both. Of course on a basis of the interpretations of some Pak Islamic thinkers, particularly Maududi, it has been argued that there is no conflict between the "will" of a Muslim people

and that of God, since an Islamic State according to Maududi is a state "run and operated by the Muslims in accordance with the Holy Book and Sunna."<sup>51</sup>

But Maududi admits simultaneously as we noted above that man is endowed with "free will" much as Christian thinkers believe he has, which means that the will of God and the will of even Muslims may not always coincide. According to Maududi man can follow the guidance of God, attain salvation, "ponder over the secrets of the universe, try to fathom the mysteries of nature. . . and not loose his way."<sup>52</sup> But contra, man can also defy God, follow a different attitude in earthly affairs and be damned religiously. Hence Maududi speaks of a man who can defy God as follows:

There is a man who does not exercise his faculties of reason, intellect and intuition for recognising God and creator and misuses his freedom of choice by denying Him. Such a man becomes an unbeliever, in the language of Islam, Kafir.<sup>53</sup>

This is the same dilemma or paradox with which the thinkers such as Augustine, Luther and Calvin struggled and for which none gave a logical answer.

In any case in terms of this interpretation it is logical to infer that the people of Pakistan do have the option to defy God and deviate from His teachings (even if condemned spiritually) and in that case a paradox between the sovereignty of God and of the people exists. In addition we will note later Pakistan "pretends" at least

to recognize the "rights" of the minorities relative to certain civil liberties such as religious belief.

### Order and Harmony

In the early history of Muslim political thought the Muslim thinkers favored political institutions closely patterned on the way the universe functioned with God as the sovereign. Thus, al-Ghazzali, for example, favored the establishment of kingship and argued that "it would be impossible to have a permanent organization of worldly affairs without a ruler or a sultan, and without such an organization it would be impossible to act according to the Divine Commandments with peace and order."<sup>54</sup>

Further, al-Ghazzali, also held the opinion that only under a strong ruler could the society which is so diverse and with such mental contrasts and varieties of individual opinions, as well as talents, could be brought together. There is indeed a close resemblance between the universe made up of so many diverse elements and held together by God, rather kept together by God under His command, and the ruler who holds a diverse society on a similar basis.<sup>55</sup>

More clearly, Al-Farabi says, that only when the supreme head gives everyone the position he merits in a state, can a state said to be properly ordered and organized. He also says, "the supreme head ought to feel himself more or less as the likeness of the First Cause,

i.e., God Almighty, and take a lesson from His work in that He has put everyone and everything in the place best fitted."<sup>56</sup>

Al-Farabi, also expressed the opinion that the whole state organization is to be organized on a basis in which "each man becomes master and servant at the same time, taking orders from one superior in rank and authority and giving orders to one inferior."<sup>57</sup> However, Al-Farabi also felt that there is a ladder of superiority until we reach the supreme head, who does not take orders from anyone, but who is subject to enforce the commandments of God.<sup>58</sup>

The Muslim theorists of Pakistan lay equal emphasis on the maintenance of order and harmony in worldly affairs. In fact, in the tradition of the early Muslim thinkers, Azad so accepted the institution of Khilafat, wherein the ruler is supposed to act as the agent of God on earth, that he considered it indispensable for the survival of the Muslim nation. While championing the Khilafa (rulership) to whom the Muslims should render obedience, Azad did not fail to draw analogy from nature. He said:

God has created the universe and maintains it on the basis of a definite plan and according to a law. And that law is the law of Markaziat. That is, everything has a center, be it the planetary system or a tree. The center of universe is God, so is the center of the Muslim nation the Khalifa.<sup>59</sup>

Only after the institution of Khilafat was abrogated by the Turkish people did Azad give up his championship

of that institution.

In fact, so strong was the notion of a ruler acting as the agent of God on earth that when in the early history of Pakistan the Board of Taalimat-e-Islamia, constituted of the leading theologians of Pakistan, was asked to give its opinion on the form of political institutions that should prevail in Pakistan it clearly favored presidential form and gave the following reason:

Throughout the thirteen-and-a-half-centuries-long history of Islam it has always been an individual and not a group of persons who held the reins of ultimate authority and has been considered as accountable before the Millat Muslim community and such individual has always enjoyed effective power.<sup>60</sup>

Following the creation of Pakistan the notion has prevailed that the state should act as an agent of God on earth. Thus, the acknowledges sovereign as referred to in the preceding section, in all the constitutions that Pakistan has had, is none other than God. Thus Maududi says:

The entire universe is one organic system which is being controlled by one Authority. Thus, whoever else claims partial or total sovereignty, whether for himself or for any group or organization, is laboring under a delusion. The only reasonable course for man is to acknowledge the Creator and the Lord as the Deity and the object of worship in the religious sense of the word, and as the only Sovereign Ruler and King in the political and social meaning of it.<sup>61</sup>

The Muslim theorists of Pakistan are also of the opinion that men are possessors of diverse and multifarious talents. That is, as Maududi says more clearly, all men are provided with certain physical, mental, and moral

faculties which are necessary for their survival. Yet, the other capacities of man are distributed unequally.

As he puts it:

Some possess physical strength and prowess, others distinguish themselves for their mental talents. Some are born with greater aptitude for arts, poetry, philosophy, and some possess sharpness of tongue, some other military acumen, etc.<sup>62</sup>

Ahmad Khan also conveys the same sense:

When we reflect upon a group of men, we find that they possess several qualities. They are strong and weak, superior and inferior. They are created by their Maker in such a way that they can perform different functions differently. Hence, we find that one is suitable for one task while the other shows a liking for the other. Each individual possesses separate but limited qualities.<sup>63</sup>

The coordination of these multifarious talents is brought about by the state. The object of the state, according to Maududi, is not simply to maintain order, but to bring about the excellence in men. "It is for this purpose," he says, that "political power will be made use of as and when the occasion demands."<sup>64</sup>

#### Rationalism

As we have seen, the Quran presents a view of the universe which is an entity, one which has been created for the fulfilment of a purpose. It has a coherence and order which gives form and stability to all aspects of life. This means that out of this coherence and order a "meaningfulness" develops.

Further, the Muslim thinkers, by and large, much

like St. Thomas accept the view that the universe is governed by God, who is also the embodiment of highest reason. He controls and governs the universe according to a rational plan. As pointed out in the preceding chapter, the universe is also regulated by certain eternal laws called the "laws of nature" whose author is none else than God. Consequently, the theorists of Islam have held the view that the state should be governed by the laws of God given to man, which are an embodiment of God's rational guidance to man, viz., the Shari'ah. By obeying Shari'ah man who himself is a rational creature, participates in divine reason. Therefore, the very premise of Shari'ah is the supposedly Divine rationality.

The Quran itself says:

We verily sent our Messengers with clear proofs and revealed them the Scriptures that mankind may observe right measure.<sup>65</sup>

Hence, in this context, the Muslim theorists, almost all of them, looked upon the implementation of Shari'ah as the ideal norm, "as the vindication and upholding of the divine purpose of the Muslim State."<sup>66</sup>

Thus, Al-Mawardi, the first important political theorist of Islam, says that a government based on Shari'ah implies a higher form of government, since it is based on revealed law. It prepares man for the hereafter, besides guaranteeing the enforcement of positive law and justice. In this context, he enjoins the Caliph to supervise and

direct public affairs, apply himself to the conduct of the government, defend the faith, and he also exhorts the Caliph to follow the Quran wherein God says:

O. David, verily We have made thee Our vicegerent on earth. Judge therefore between men with truth, and follow not thy passions, lest they cause thee to err from the way of God. For they who err from the way of God shall meet with a grievous chastisement, for they have forgotten the way of God.<sup>67</sup>

According to Ibn Taimiyyah, power should be so exercised that man is brought nearer to God and the Prophet. In fact it is the duty of every Muslim to abide by the dictates of God and the traditions of Muhammed. He also thinks by virtue of reason that man possesses as well as by the fact that the injunctions of the Shari'ah have been revealed, "obedience to Shari'ah ensures the good order of religion and the world."<sup>68</sup> Ibn Khaldun, considered to be the most original of the thinkers, also speaks of a state which implements the Shari'ah as the ideal state.<sup>69</sup>

Maududi, on his part argues that every man, who of course is also presumed to be rational, can pursue that not only the universe, but a very large part of man's life is controlled by a higher power (God). This higher power (God) controls the universe and man's life, particularly in its physical aspect, with such direct absoluteness, that man is "practically helpless."<sup>70</sup>

From the above he concludes that to faithfully follow "the law of God is the truest and most consistent

attitude for mankind."<sup>71</sup> Obviously it sets the standard for the orderly behaviour of man both individually and collectively. The inference that Maududi makes from the metaphysical conception of the universe that he has, and which has been referred to elsewhere, is but apparent.

Further, Maududi says that having once accepted the philosophy of life enunciated in the "Book" and by the Prophet of God, one has no justification for not obeying God's revealed guidance in the sphere of man's individual and collective life. And he concludes:

Indeed it is but rational that we should admit God's sovereignty in this sphere as well just as we are perforce doing in the domain of physical life.<sup>72</sup>

Iqbal on his part asserts that man's rationality helps him to take a "logically consistent view of the world,"<sup>73</sup> But he goes on to say that this world is in itself a unit, a reflection of the principle of "Tauhid" (which we have discussed earlier with God as the Omnipotent and Omniscient Being). From the presumption that the universe is governed by certain eternal principles, Iqbal draws the inference that any society which believes in God (as conceived by Islam) and the principles which govern the universe, must also possess eternal principles to regulate its collective life. In fact, he goes on to assert that an Islamic State can be called a theocratic state because it aims "at the realization of these ideal principles."<sup>73</sup>

The Moral Question

This is more pertinent to politics than the previous characteristics of the universe. The Muslim theorists of Pakistan pay special attention to its "moral" character. As would be logical in terms of the religiously based metaphysics they affirm, again much like the Hebrews and Christians, that the universe is not a-moral, but like the creator, God is moral-- a Being so ethical that His ethics must be the moral characteristic of all things, binding all human creatures and their institutions ultimately. Thus, Iqbal quotes the Quran to the effect that God holds "goodness in His Hands."<sup>74</sup> As a consequence of the moral character of the very nature of things there is emphasis then that good must be done because it is God's will and that doing evil will bring punishment. In fact, severe punishment waits for the sinner in hell while sweet rewards await the good, a compensation for strictly ordering one's life in accordance with the dictates of God with the difference that it is God who rewards or punishes in heaven or hell.

Whosoever believes in God, and does righteousness,  
He will admit him to gardens underneath which  
rivers flow; therein they shall dwell for ever.  
God has made for him a goodly provision.<sup>75</sup>

Yet the morality is not to be denied or at least degraded. Rather the fullness of God's bounty in a material sense is insisted. Thus the Quran says:

And the earth--We stretched it forth, and cast on  
it firm mountains,

and We caused to grow therein of every joyous kind  
for an insight and a reminder to every penitent  
servant.

And We sent down out of heaven water blessed,  
and caused to grow thereby gardens and grain  
of harvest  
and tall palm-trees with spathes compact a provision  
for the servants,  
and thereby We revived a land that was dead.<sup>76</sup>

In a sense it is in man's actions that evil is found and this is his lack of reason--not in dealing with the use and distribution of the delights of material things or the pleasures of the "flesh" themselves. Islam is not puritanism in its view of the "nature of God" and the universe save in its condemnation of evil. Rather its affinity is a spiritualized utilitarianism--a universe where good and evil rest as pleasures and pains of the flesh, and immorality and punishment come because some do not permit others to enjoy life, as for God He is good and bountiful.

Furthermore, as we have noted, Islam argues that the universe is moral, not a-moral, and that the essence of God is goodness with evil appearing only because of the "freedom of man." On the other hand, the importance of the moral character of the universe lies in the possibility which does exist for man to follow God's will. That is, if God indeed is the embodiment of the noblest, the highest and the best, the Pak Islamic thinkers argue that the ideal for man must be none other than this "good" and "moral" God. So too must be man's institutions. The Shari'ah or divine law

is, in this context, a guide, a right code of living, which also gives the meaning and purpose of life to man. Through the Shari'ah God is presumed to have imparted true knowledge of His attributes to man so that man can mold himself in the image of God.

Shari'ah then (as metaphysically based) lays down ethical standards to govern the practical conduct of man, makes a distinction between right and wrong, good and bad. A statement of this fact is found in the teachings of Azad and Maududi. The Quran, says Azad, enjoins what is universally regarded as "right" (ma'ruf) and forbids "wrong" (munkarat). Furthermore, all agree, he says that such rules also form a part of Shari'ah as "service to parents, kindness towards neighbours, love for the poor and aiding of the oppressed are things good in themselves."<sup>77</sup>

Elaborating further, Maududi says that these ethical standards of behaviour, derived from God, have been set forth for the individual, the society and the state. They have a political value and significance in that the state is not above the Shari'ah but bound by it and is expected to implement it. The Shari'ah in this context, thus, acts as a check on the political authority.<sup>78</sup> The Interim Constitution in its preamble very clearly states, as referred to earlier. not only that no law should be repugnant to Quran and Sunna, but all laws should be brought in conformity with both.

This emphasis on Shari'ah as a moralizer of life is connected integrally with the apparent aim of doing so through the order of positive law. This is, as we have seen, a logical result also of the conception of an organized universe held by the Muslim theorists of Pakistan. That is, Shari'ah, based on the analogy of the law of nature is supposed to maintain order among individuals as order is maintained in the universe through the law of nature.

There is a similarity here also with Stoicism as gradually institutionalized in Roman Law and in medieval Christianity to be enforced both as the canon and state law. The aim of the state law is supposed to be to pursue eternal and unchangeable values expressed by God as a moral Being to be crystalized specifically in state law.

To the Pak Islamic thinkers their conception of law has some advantages: Law is not dependent upon the temporal state or an individual thinker, but exists prior to both. There is also the conviction that the state is charged with the responsibility to realize the idea of law as such (the Kantian concept), in this case the moral law of God defined in some specificity like the ideas of a temporal constitution.

It implies too, by the same token that the high and low, the wielders of temporal power as well as others are bound by this law. It is the criteria for judging.

Therefore, theoretically it is supposed to act as a curb on the temporal authority.

Evil in the Universe and the Politics

The above description of the metaphysics of morality and politics invokes the age-old problem of "evil." The Fak Islamic thinkers, like most political metaphysicians, do not satisfactorily explain the presence of "evil" in an otherwise spiritual, rational and moral universe. To thoughtful critics a problem is obvious. For example, the Darwinian theory brought into sharp focus the continuous struggle of creatures for sheer existence at the expense of each other and survival on earth in which hideous pain and cruelty seems to be part of the natural order of life. Another western philosopher who is otherwise an "idealist" admits to a gap running through the nature of all things which sets the stage for what "ought-to-be." Obviously the struggle for "gap" or "evil" is brutal and there appears no end to it, only that the odds are constant.

Obviously the world of man and politics is beset with conflicts, wars, famines, floods, poverty and a ceaseless human struggle for power not to mention dishonesty and adherence to "bad ideals." Interestingly, Muslim history itself shows the extent to which Muslims also, while believing on the one hand in a benevolent and moral universe according to which plan they are to live, so accept evil as part of the natural order that they have torn their lives

apart by fratricidal warfare, dynastic conflicts, and a relentless pursuit for power as individuals and groups, etc. In Pakistan itself, politics has been constantly brutal with regional strife that has destroyed the original state and led to secession and independence of half of the country, causing suffering to hundreds of thousands of human beings. Structurally, Pakistan has had three constitutions which all bear a testimony to the inability of those who profess an ideal Islamic ideology.

Metaphysically, the Pak Islamic thinkers, like the Christian and Judaic religionists, simply try in a child-like manner to grapple with the problem of evil in nature by using a fundamentalist religious approach and the nature of man as the central device. Thus Azad argues that a man's soul is indestructible but that God who has given man freedom of choice between "good" and "evil" holds man responsible in the "hereafter" for bad acts which are a result of his own "wrongdoing."<sup>79</sup> Iqbal approaches the problem from a more critical although still medieval "Christian" standpoint. As he says:

How is it then possible to reconcile the goodness and Omnipotence of God with the immense volume of evil in His creation? We cannot understand the full import of the great cosmic forces which work havoc, and at the same time sustain and amplify life. The teaching of the Quran, which believes in the possibility of improvement in the behaviour of man and his control of natural forces, is neither optimism nor pessimism. It is meliorism which recognizes a growing universe and is animated by the hope of man's eventual victory over evil.<sup>80</sup>

As he sees it, finally, the fall of Adam became an awareness on the part of man of his own "self", i.e., man thus realized that he possessed a "self," became conscious of it. But at the same time man confronted nature, and in his confrontation not only showed a capacity for adjustment, but also the capability to conquer and mold the elements of nature. In a growing universe, says Iqbal, there is an element of "evil," the presence of which cannot be explained now, but it is there to be conquered by man. It should not be allowed to persist and pervade human life for all time to come. Hopefully, he suggests man's "eventual victory over evil,"<sup>81</sup>

Obviously such an answer does little more than a "Jonathan Livingston Seagull" to prevent the tragedy of "Bangladesh" any more than western theologians or secular nationalists solve the problem of evil. The holocausts of nature and human history defy explanation in terms of metaphysical theories of the political ideologists of Pakistan just as western metaphysics (both religious and secular) leave almost everything to be desired in terms of providing a logical explanation and practical base for law and politics, and they, like the Pak Islamic thinkers, fail to face honestly the problem of "evil."

In summary it can be said that the religiously based metaphysics of the Muslim theorists of Pakistan lends itself to the concept of a divinely ordained state wherein

the state is to serve as an instrument of God on earth and to operate on the same level as the universe does with God as its head. The state is supposed to fulfil the commands of God on earth since the sovereign for both the universe and the state is none other than God. This view which is an outcome of the monotheistic view of universe that the Pak Islamic thinkers have, however, brings them in conflict with the assertion of people's sovereignty, as incorporated in the various constitutions that Pakistan has had, and to which they could not find a solution.

The second and equally important concept they have is that order and harmony should prevail in the state, since there is order and harmony in the universe. And the Muslim theorists of Pakistan expect the state to work on the same basis as the one on which the universe operates. Related to this concept is the notion of purposefulness and rationality in the state, which can be realized through the implementation of Shari'ah. This notion is based on the belief that there is an element of rationality and purpose in the universe, as much of it is linked, like that of other religious based theorists in the West, to the infinity of Godhead and his program. But the Muslim theorists of Pakistan have nowhere pointed out specifically the inherent purpose underlying the universe or the state except to point out that it leads to a better life in the "hereafter." However, this emphasis on the "hereafter" leads

to the championship of moral principles, rather Islamic morality, whose inherent goodness can be perceived through the rationality of man. But they lend themselves to contradictions by saying that man is endowed with the element of "free will" and can defy that which his "rationality" asks him to follow.

Further, these theorists have failed, as have other religiously based theorists in the West, to account for the presence of "evil" in the universe. They have not come forward with any satisfactory explanation.

Nonetheless, in the metaphysical view of the universe and nature that Pak Islamic theorists hold, man occupies an important place. He is seen as possessor of "soul" and "rationality," superior to all other creatures, hence the "trustee" of God on earth. And "man" warrants a closer look which is being done in the following chapter.

#### Notes

1. Syed Abu 'Ala Maududi, Islamic Law and Constitution. trans. Khurshid Ahmad (Lahore: Islamic Publications, 1967), p. 49.
2. The Interim Constitution of the Islamic Republic of Pakistan (Karachi: Pakistan Publishing House, 1972), p. 2.
3. Ibid., p. 9.
4. Leonard Binder, Religion and Politics in Pakistan (Berkeley: University Press, 1961), p. 385
5. Quran., 12:1
6. Ibid., 20:14
7. Syed Abu 'Ala Maududi, Towards Understanding of Islam

- (Gary, Indiana: I. I. F. S. C, 1970), p. 155.
8. Quran., 1.
  9. A brief description of this school of thought is given in chapter 2.
  10. Ashari, whose full name is Abu-'l-Hassan Ali ibn-Ismail was born in A. D., 873 and studied under a Mu'tazilite al-Jubai. He was a famous theologian.
  11. Little is known about his life. He died in 868. He was a great exponent of Arab philosophy and theology as well as science and mathematics.
  12. Majid Fakhry, A History of Islamic Philosophy (New York: Columbia University Press, 1970), p. 94.
  13. Maududi, Understanding of Islam, p. 86.
  14. Ibid., p. 87.
  15. Muhammed Iqbal, The Reconstruction of Religious Thought in Islam (Lahore: Sheikh Ashraf, 1965), p. 140.
  16. Ibid.
  17. Ibid., p. 141.
  18. Ibn Sina (A.D 979-1037) was born in Kharmaitan, in Iran. He was a physician by profession and his principal work "Kitab-al-Shifa" (Book of Healing) is a discourse on logic, metaphysics, philosophy and medicine.
  19. Majid Fakhry, Islamic Philosophy, p. 175.
  20. Abul Kalam Azad, Fardjumanul Quran. vol. 1. trans. Sheikh Abdul Latif (New York: Asia Publishing House, 1962), p. 24.
  21. Iqbal, Religious Thought in Islam, p. 78.
  22. Ibid., p. 79.
  23. Maududi, Islamic Law and Constitution, p. 76.
  24. Quran., 67:3/4.
  25. Encyclopaedia of Islam, 1969 ed., s.v. "Allah."
  26. Quran.

27. Maududi, Understanding of Islam, p. 3.
28. Ibid.
29. Ibid.
30. Ibid.
31. Azad, Tardjmanul Quran, p. 20.
32. Ibid., p. 27.
33. Ibid.
34. Ibid., p. 175.
35. Ibid.
36. Quran., 30:25.
37. Ibid., 21:17/18.
38. Ibid., 3:191/192.
39. Ibid., 15:86.
40. Muzaffaruddin, "Some Aspects of Muslim Thought," Islamic Culture 4 (July 1930) :461.
41. Ibid.
42. Ibid., p. 463.
43. Quran., 12:6.
44. Iqbal, Religious Thought in Islam, p. 60.
45. Quran., 12:6.
46. W. Montgomery Watt, Islamic Philosophy and Theology (Edinburgh: University of Edinburgh Press, 1964), p. 60.
47. Muzaffaruddin, "Some Aspects of Muslim Thought" p. 462.
48. Iqbal, Religious Thought in Islam, p. 156.
49. Syed Abu Ala Maududi, The Islamic Law and Constitution (Lahore: Islamic Publications, 1967), p. 178.
50. Pakistan, Interim Constitution (1972).
51. Maududi, The Islamic Law and Constitution, p. 153.

52. Maududi, Towards Understanding of Islam, p. 6.
53. Ibid.
54. H. K. Sherwani, "El-Ghazali on the Theory and Practice of Politics" Islamic Culture 9 (July 1935) :461-462.
55. Ibid.
56. H. K. Sherwani, "Al-Farabi's Political Theories" Islamic Culture 12 (July 1936) :300.
57. Ibid., p. 303.
58. Ibid., p. 305.
59. Abul Kalam Azad, Masa'ala-e-Whilafat aur Zaziratul Arab (Lahore: Khalid Book Depot, 1963), p.
60. Leonard Binder, Religion and Politics in Pakistan (Berkeley: University of California Press, 1961), p. 427.
61. Maududi, The Islamic Law and Constitution, p. 181.
62. Maududi, Towards Understanding of Islam, p. 33.
- 63.
64. Maududi, The Islamic Law and Constitution, p. 150.
65. Quran,, 2:146.
66. Maududi, The Islamic Law and Constitution, p. 155.
67. Quran., 4:62.
68. E. I. J. Rosenthal, Political Thought in Medieval Islam (Cambridge: Cambridge University Press, 1962), p. 52.
69. Ibid., p. 99.
70. Maududi, The Islamic Law and Constitution, p. 48.
71. Ibid.
72. Ibid., p. 49.
73. Iqbal, Religious Thought in Islam, p. 54.
74. Ibid., p. 155.

75. Quran., Ixv:11.
76. Ibid., 1:2-12.
77. Azad, Tarǎjumanul Quran vol. 1. p.
78. Maududi, The Islamic Law and Constitution, p. 57.
79. Azad, Tarǎjumanul Quran, vol. 1, p.
80. Iqbal, Religious Thought in Islam, p. 81.
81. Ibid.

## CHAPTER IV

### THE NATURE OF MAN

#### Introduction

Although political ideologies sometimes deal with the foregoing metaphysical subjects only by inference, indirection or criticism, they almost always come to terms directly with the question of the nature of man in relation to the "political." Here the approach is quite varied. Most are rather explicit, discussing the relation of man's nature to such subjects as the nature of politics, the nature of society, the state, government, who or how many shall be political decision makers, how much the state shall do and how--the questions of practical policy. The following are some of the major positions from which they lead off in relating the nature of man to these subjects.

Atomism and Subjectivism vs. a Social or Corporate View. This question involves the argument that men should be defined in a highly individualistic way versus the belief that men are part and parcel of physical nature and of a culture. That is, there are those who argue that each

"individual" has a peculiar core of personality--some irreducible "simple" which makes him so unique that he ought not to be interfered with in certain ways by the political instrument and that he ought instead to be the determiner of "his" life and of public policy. Familiar apologists for the irreducible simple of the individualist position are; the religionists who stress the idea of the soul as the center; the laissez-faire conservatives who stress the economic man as measured by each person's "utils" (economic wants) or his "free enterprise spirit." Other examples are anarchists such as Stirner, who stress the "ego" and its "ownness," and the "cultural liberals" who insist upon the intellectual and artistic creativity within each person or a certain "humaness" which ought to be unrestricted. All these positions face the problem of how each can have the same essential "center" and yet be "unique."

On the other hand, there is the "natural-corporate" view of the so called "socialist" or "communist" view or now the "ecological" view which insists upon defining man in terms of an interdependence of certain or all possible imaginable elements of life, including the lives of "others" as the basis of the personality of each and insists that such a definition is important for politics since it sees man as a series of objective as well as subjective relationships which must be considered institutionally and

for public policy making.

Man as Rational and as a Feeling Animal: Still another question about man's nature in relevance to politics turns on the belief by some persons in the primacy of man's rational capacity versus the argument that man is basically an emotional-feeling creature, or finally the view of still others that he is a variable mixture of both emotions and reason and the one or the other factor is developed by social conditioning. In each case it is argued by the proponents of each view that the particular one espoused by them has ideological and practical relevance. Plato, of course, is an example of one who so feared the emotional character which he admitted existed that he attempted to build a state which would be so rationally organized and guided by those who were themselves developed so rationally that the emotions which seemed to dominate the life of most men, certainly the common man, would be channelized, subdued, restrained toward the "good" life. It is also true that Aristotle never quite overcame the spell of Plato in this view (despite his so-called "realism"). However, as Hobbes and the Nazi Rosenberg stated, the opposing notion that man's emotional nature is dominant degenerated into the practical philosophy that since each man is an animal in his feeling-character and since each animal is destined to end in the belly of every other animal (at least theoretically) the politics

of men cannot (Hobbes) and should not (Rosenturg) depart from this reality but rather reflect it--with an absolute leader controlling within the state.

Man's Moral Nature: But a third important question is often raised by political philosophers, the question of man's moral nature, i.e., whether altruism and benevolence and the cooperative tendencies dominate versus those tendencies towards destruction, competition, negativity, self-interest, etc. There is even the argument that man is not a moral creature at all but a-moral, as Hobbes and Bentham infer, a mere creature of fear or of a demand for pleasure over pain.

Pakistani Theorists: Of course the important question for this dissertation is not the above outline of issues in general but the answers given by Pak Islamic theorists to the questions noted and others and the fact that when looked at with some objectivity and scholarship, it appears not only that their answers are again close to those traditionally given by other religionists of the "Book" but that there exist in them the same difficulties, and inconsistencies, and paradoxes.

In general, Pak Islamic theorists view the nature of man in a fashion similar to the ideas of western Fundamentalist Christians (both Catholic and Protestant), and Hebrew Orthodox thinkers. Thus they view him as the creation of a supernatural first cause, God or the Allah,

or Jehovah, who made all creatures on earth and everything in the universe. Derived from this idea, however, is the further one that man is part and parcel of nature, which is created and sustained by this Creator, hence although having a spirit he is dependent upon the Creator. Also, this is supposedly basically true even in the physical and biological areas of life as well as the spiritual.

This dependence of man upon nature and nature's "God" whereby he is subjected to the same natural forces which control the other order of things, begins it is believed even in the pre-embryonic stage of man's individual conception continues during his lifetime and remains until his physical death even when his spirit lives on, although his body returns to dust. The mechanism of the body of man, the air he breathes, the crops he grows and eats, and other methods man employs to sustain himself, indicate that man cannot escape the mechanism of nature, a nature which as just indicated is also dependent upon the Creator. As Maududi says, "man is subject to the will of God as any plant, tree, sun, or moon."<sup>1</sup>

Thus Pak Islamic thinkers view man as bound to nature in this peculiar way. This concept is also in keeping with the metaphysical-legal concept of God's sovereignty over the universe and the earth, wherein He has supreme control over His creations, and man being one of His creatures is expected to abide by the commandments

written into nature and be subservient to them, and in addition to commandments of a moral nature given by God through the Prophets.

Atomistic View of Man vs. Social-Natural  
or Corporate View

The Pak Islamic thinkers, as do the Hebraic-Christian thinkers, begin by characterizing man as the possessor of a "soul," as a special core of personality. For example the Quran says:

Every soul shall taste of death.<sup>2</sup>

It is this idea which al-Ghazzali, a theologian, gives expression to when he views "soul" as a unit, simple and indivisible.<sup>3</sup> Rumi, a Persian muslim mystic poet does the same thing.<sup>4</sup>

Now it is precisely ideas such as these which, as we have said, have special significance for the socio-political and even economic order, suggesting an extreme form of individualism as based on a simple core of personality, in this case the "soul." It is this "core" it is often argued by conservatives everywhere, which must not be interfered with "socially" to any extent by means of the state.

On the other hand, in contrast with much of Western religiously-founded political conservatism, there runs through Islam notions of the "soul" not just as a core "self-created" and independent of the remainder of life and therefore independent of life in the usual individualistic sense, but rather the notion that the soul is at the very

least created by God and not dependent upon Him. For example the Quran says:

And they ask thee of thy soul. Say: the soul proceedeth from the Lord's Amr (command).<sup>5</sup>

However, the usual basic contradictions based on the "core" of personality appear even in Islam and both from the philosophic and the practical standpoints. One of these as we have indicated, is that the soul is the core and comes from a common substance. Yet the Quran, like the western thought, implicitly suggests the fact that man's souls differ from one another. For example:

And if God had pleased He had surely made you all one people; but He would test you by what He hath given to each. Be emulous, then in good deeds, to God shall ye all return, and He will tell you concerning the subjects of your disputes.<sup>6</sup>

Certainly the Pak Islamic thinkers, at least in part, assert that there are qualitative differences between the souls of men. Iqbal, for example, says that each man has been given an individuality and a uniqueness and thus possesses a "unique individuality."<sup>7</sup> Also Iqbal says that man is conscious of his "destiny", rather, he has a "definite view of his destiny."<sup>8</sup> The center of human personality is this consciousness, which is also characterized the "ego of man."<sup>9</sup>

Further, according to Iqbal, there are two sides to this "egohood"; one, of course, is the physical. That is human consciousness is bound by the physical organism of the body, which in itself is bound by space or, as he calls

it "space-bound."<sup>10</sup> Not only is the human consciousness "space-bound," but bound by time also. Every physical event discloses that it has passed through a time duration.<sup>11</sup> However, the "ego" of man also takes a very broad range view of man, involving the past, the present, and the future. It has a multiplicity of views which he calls "mental states" and:

Mental states do not exist in mutual isolation. They involve one another. They exist as phases of a complex whole, called mind. The organic unity, however, of these inter-related states, or, let us say, events is a special kind of unity.<sup>12</sup>

This "ego" of man, which is a unity in itself, acts and reacts to its environment, in so far as it tries to perceive, judge and act. But behind it all there is a singularity of purpose, a "directive energy." Therefore, he says that, "my experience is only a series of acts, mutually referring to one another, and held together by the unity of a directive purpose."<sup>13</sup> It is in this context he also says that the "soul" of man is "individual," possessing a "unity" and "directiveness" acting in "variations," but also balancing such acts.<sup>14</sup> The overall consequence is that, "it makes it impossible for one individual to bear the burden of another, and entitles him only to what is due to his own personal effort."<sup>15</sup>

It is this notion of qualitative differences within a common stuff which has plagued all individualism, at least (as we have said) in terms of practical political significance

aside from the philosophic question. On the one hand man has a common stuff as the core of himself and yet when it is thought desirable by this or that social position, this common core, the soul, suddenly becomes uncommon without an accounting of how it derived its peculiar individuality or difference except by an automatic, original intent and creation, something like man once believed that flies sprang by spontaneous combustion out of a manure pile. For if the common is uncommon it must secure its uncommonness in some way other than from its commonness and this could only seem to come from a source which is not common. It is at this point that Pak Islamic thinkers take refuge as do western religious individualists in the connection with Almighty God, rather than with an "inner" sustaining self. Yet they do not say that God makes souls different.

In addition to this dichotomy, which as we will see also inevitable falls back ultimately on "social environment" as well as God to explain differences-- the Pak Islamic theorists also use the term "self" to indicate man's consciousness of the aims, goals, and objectives of life which used to be perceived. "Self" is thus portrayed as that part of personality which encompasses the perception of life and its objectives. Iqbal, for example says:

When the self awakens to consciousness,  
It reveals the universe of thought.  
Subject, object, means and causes-

All these are forms which it takes for the purpose of action.<sup>16</sup>

This is almost identical with the western conscious theory of individualism. Further, Ahmad Khan says, "man has a self which is conscious of every beginning and end."<sup>17</sup> This idea, too, leads to the notion that all individuals are dependent units, to be regarded as "atoms," something having its own nature, complete in itself, autonomous.

Of course, if individuals are conceived to be of equal worth, and equally autonomous through soul or consciousness, it follows of necessity that no individual can submit to the other individual. That is, if each individual is able to realize his own potentialities in isolation, it would mean the anarchy of atoms. Therefore the Muslim theorists of Pakistan, like western individualists define man in both individual and communal terms. Some sort of unity and harmonization between the individual and society becomes important to them. Thus the Pak Islamic thinkers recognize the mutual dependence of individual and society. This trend is particularly apparent in the works of Iqbal. His first major work published in 1913, viz., the "Asrar-e-Khudi" (Secrets of the Self) is representative of the "atomistic trend." However, in his "Rumuz-e-Bekhudi" (Mysteries of Selflessness) published afterwards, he advocates the view that only as a member of the community can an individual by the "twin principles of conflict and concord" express himself fully and ideally.<sup>18</sup> Also, it

it is only as an association of self-affirming individuals that the society can come into being and perfect itself.

For example, he says:

His man's immaturity is warmed to ripeness  
by their friendship's flame,  
Till he becomes one with the commonwealth.<sup>19</sup>

And Ahmad Khan says:

A community is a component whole made of individuals and individual values. Progress comes from within and not without. Self-perfection found in the bulk of a community is the sign of the community's progress.<sup>20</sup>

Furthermore, it is argued that because man cannot exist as a self-contained individual, he actually feels the necessity of establishing communion with others. Individual personality has the highest value, but it does not exist as a value apart from its relation not only to God, but to other human persons. Thus a person both by virtue of his needs but also propelled by a desire to contribute to the well being of the society achieves a certain fulfilment. It is this idea which is further reflected in the following view of Ahmad Khan:

Tillers of the soil, miners, inventors, poets technicians, philosophers and administrators have contributed towards the welfare of mankind that you may contribute your own.<sup>21</sup>

However, most particularly a society based on Islamic values is supposed to bring about not only a harmonization between the individuals and the society but the fulfilment of the individual through a strong emphasis

on the prohibition of evils, by placing limits and restrictions upon a man so that he does not encroach upon the right of others. Thus a man is not supposed to be so selfish and self centered as to violate the moral standards and "crucify the interests of others,"<sup>22</sup> for the satisfaction of his own pleasure. In fact it is said to be required of Muslims that they cooperate positively with each other to establish relationships and institutions which lead to the formation of an ideal society. Thus Maududi presents an "inventory" of evils whose eradication the religion of Islam calls for in the hope of forming an ideal relationship between individuals as follows:

Islam has strongly forbidden the telling of lies in every form and shape, for it sullies the liar, causes harm to other people, and becomes a source of menace to society. It has totally forbidden theft, robbery, bribery, forgery, cheating, interest, usury, for whatever man gains by these means is really obtained by causing loss and injury to others.<sup>23</sup>

In summary, then, it can be seen that the Pak Islamic thinkers present a view herein, although the individual is expected to preserve his individuality (and there are paradoxes and dichotomies in this view), yet he is to work in harmony with others. That is, they are finally led from the stance of individualism resting on the "soul" as a core of personality to realize that there is little chance or hope of this working out. Therefore, as can be seen later while discussing the implications of this idea in the context of "freedom," there is a cry even for the

implementation of self through law by which they mean Divine Law. As Iqbal says:

The being of Muslim rests  
alone,<sup>24</sup>  
On law.

#### Man as a Rational and Irrational Creature

In addition to the idea of "soul" of man as a core of personality, "somehow" in harmony with other such "souls," the Pak Islamic thinkers also present man in a paradoxical manner in terms of his rationality and irrationality with the ensuing practical social-political significance. Thus, on the one hand as indicated they treat man as a somewhat rational creature. The Quran infers that this is so in its appeals on several occasions:

Thus does Allah make plain to you  
His signs that you may think.<sup>25</sup>

Certainly, We have explained to you  
the signs only if you understand.<sup>26</sup>

Have you then no intelligence  
Are you not, therefore, fully reminded?<sup>27</sup>

Furthermore, several Muslim thinkers hold the view that rationality is the highest quality that man possesses. Ibn Arabi,<sup>28</sup> for example, divides man's "soul" into three categories, viz., (a) rational, (b) vegetative and (c) animal, and argues that it is only the "rational" aspect of soul which helps man comprehend ideas and form judgments.<sup>29</sup> Al-Kindi, another Muslim thinker, also speaks of "soul" as being (a) rational (b) passionate and (c) appetative,

and believes that only through rationalism can man achieve perfection, by the rational controlling the other elements<sup>30</sup> (shades of Plato).

The Pak Islamic thinkers, on the one hand, treat man as a highly rational creature, and in this case there is a great similarity to the Stoic idea of man or of later Western rationalists in so far as they hold that however humble a man may be he is gifted with the capacity to reason. Also in a broad sense, as we will see later, they are also led to the ensuing practical western conclusions, i.e., the equality of man and of a universal brotherhood of all men as based on man's rational capacity. Maududi, for example, speaks of man in the Thomistic manner as follows:

Man is so constituted that there are two aspects of his life, two distinct spheres of his activity. One is the sphere in which he finds himself totally regulated by the Divine Law. He cannot budge an inch or move a step from it. But there is another sphere of his activity as well. He has been endowed with reason and intellect.<sup>31</sup>

And Ahmad Khan more elaborately says:

When we look at man, we see similarities between man and the animals. He eats, drinks, sleeps and performs many functions similar to animals. However, there is a difference between animals and man. The essential difference is that man can think and reason, the animals cannot.<sup>32</sup>

On the other hand, the Pak Islamic thinkers, again along with the western Fundamentalist Christian thinkers (both Catholic and Protestant) obviously admit also to the serious irrationality of man. Here they emphasize the role that "passions and desire play." The Quran

also speaks of men swayed by passions:

What thinkest thou? He who hath taken his passions as a god-  
Thinkest thou that the greater part of them hear or understand? They are just like brutes. Yes They stray even farther from the right way.<sup>33</sup>

Maududi, accepting this idea, says for example:

It is the natural weakness of man that. . . his judgments are usually one-sided and he is swayed by emotions and desires to such an extent that rarely, if ever, can he judge important matters with the impartiality and objectivity of scientific reason. Quite often he rejects the plea of reason simply because it conflicts with his passions and desires.<sup>34</sup>

The solution offered in this accepted conflict of desire or feeling vs. rationality is, first the simple religious notion we will describe later in this chapter that men are partially "free" in relation to "God" but ought to obey Him and not be a "slave" to their passions. It is the argument that men are intimately related to their Creator and are bound upon pain of punishment to do His Will, although on earth they are free to disobey Him at this point.

In terms of politics it is argued that men have rationality with which they can understand the message of God, and that it is their responsibility to contribute towards the construction of a temporal state which will itself be rational (Godly), i.e., built on God's rational plan which will in turn help them bring out their rationality. Maududi, while referring to the Quranic verse, "Thy Lord said unto Angels: Lo, I am about to place a viceroy on

earth," infers that "man should realise his real status of vicegerency, and as such, his duty to obey his Lord, follow His instructions and establish His will on earth."<sup>35</sup>

This view of man and politics as based on the problem of the rational and irrational, can be seen even better in Iqbal, who outlines a plan wherein man should establish a "kingdom of God on earth" but somewhat in a "Tolstoyan" manner. First, Iqbal sees man as such as a representative of God on earth, Here he lays emphasis on man's duty and responsibility to comprehend the purpose with which God has created the earth and the universe. Man is expected to contribute towards the fulfilment of that purpose because he is especially equipped to do so. Thus man as the representative of God on earth is the bearer of a "trust." He cites in defense of his position famous verses in the Quran wherein God first proposed this trust to the heavens, earth and mountains but they rejected it and man alone accepted it:

Verily We proposed to the Heavens and the earth and to the mountains to receive the trust (of personality), but they refused the burden and they feared to receive it. Man alone undertook to bear it.<sup>36</sup>

Further Iqbal says with reference to the Quranic verses:

Three things are clear from the Quran:

- (1) That man is chosen of God:  
'Afterwards his Lord chose him (Adam) (20:14)
- (2) That man, with all his faults is meant to be the representative of God on earth.

'And it is He who hath made you His representative on earth' (6:15)

(3) That man is the trustee of a free personality which he accepted at his peril.<sup>37</sup>

However, like the other Pak Islamic thinkers, Iqbal at the same time admits the defect in man's own nature. That is, he admits man accepted the trust but due to his weakness in comparison with God he tends to fail.<sup>38</sup>

Yet admitting this problem of man's nature, Iqbal outlines a plan, basically "individualistic" as religionists' views so often are, the essence of which is that the ultimate aim and goal of man must be to achieve proximity to God by creating in one's self the attributes of God in order to overcome human weaknesses.

Iqbal developed this idea of individuality in the "Asrare-Khudi," which was later translated by Dr. R. A. Nicholson, a scholar of Persian language and literature at Cambridge University, England, under the title "Secrets of the Self." As Iqbal sees it, life for man is a "forward assimilative movement,"<sup>39</sup> by which he means that through senses and intellect, etc., that man possesses he may set upon himself certain ideals and be governed by them. Objective physical nature is the greatest obstacle to the realization of man's ideals but nature also may help man in the development of his capacities. Thus the main purpose of life for man according to Iqbal, "is the creation of values and ideals and the endeavour to realize

them."<sup>40</sup> These are, of course, religious and moral ideals.

Further, Iqbal says that before man can attain his goals, he has to pass through two stages to attain a final one; the first one being obedience to law (this of course brings him closer to seeing the nature of law). The second stage is "self control," and when man has attained "self control," he has also attained the third or the "highest form of self-consciousness or egoism."<sup>41</sup> Therefore, the man who is self-disciplined and has subjected himself to law, who observes the principles of Shari'ah scrupulously, already lives in the kingdom of God.<sup>42</sup> This, of course, is almost precisely the usual Christian notion of becoming pure in heart in order to build a better social order, rather than creating a better social order in order to become "pure in heart." However, this idea, which is the product of the early life of Iqbal, also led to some rethinking, and later he realized that if pushed to its extreme form it will lead to nothing but excellent anarchism. Consequently, in his later work, "The Rumuz-e-Bekhudi" translated as "The Mysteries of Selflessness," the emphasis is on the need for man to live in society and obey law. Still later in the "Lectures on the Reconstruction of Religious Thought in Islam," he came out for the enforcement of discipline and the implementation of law through the organization of state. It is in this context that he sees the state as a media

which transforms the "ideal principles of Islam into reality."<sup>43</sup> Thus like individualists in the West who begin with the individual as "soul" and "clutch" onto God and the "Book" as a foundation for the soul and more to man as rational and the need for individual "rational" development as a base of society, so does Iqbal begins with man as "soul" and child of God and then as a rational creature requiring the personal development of the same.

#### Man as Moral, a-moral, Good or Evil

Pak Islamic thinkers claim unhesitatingly that man is a moral creature, thus denying the Hobbesian Benthamite a-moral character of man. Furthermore, they insist upon a basic goodness in man. That is based, they believe, in the fact he was created with something of God in him as based on the Quran:

Then He made him and breathed into him of His Spirit.

Speaking of the "soul" with which they believe man, as we have seen, has been endowed by God, Ahmad Khan says, "it is a gift of God so noble, so pure and so divine."<sup>44</sup>

Iqbal in turn speaks of the man having been made of the "goodliest fabric."<sup>45</sup> Maududi, meanwhile sees man as possessing "intellect and wisdom," and he also says that the moral life of man is filled with "godliness, piety, righteousness, and truthfulness."<sup>46</sup>

However, while admitting, even espousing, the fact that man is moral and good, these thinkers also point out

that man can succumb to "evil." Thus the Quran itself admits:

But the wicked, devoid of knowledge, follow their own desires.<sup>47</sup>

Maududi, speaks of man as spreading "confusion and disorder on the earth."<sup>48</sup>

However, these thinkers do believe that following the guidance of God man can achieve good life. He need only follow the rules and regulations set forth in the Quran and avoid that which is prohibited. The Quran itself says:

God it is Who has sent down the Book with truth and also the Balance.<sup>49</sup>

Also they urge that not only this goodness be achieved in the individual sphere but it has to be done so in the communal sphere too.<sup>50</sup> The duty of striving constantly for the good of mankind and for the spread of benefits is recommended by the Quran itself when it says, "you are the best people raised for the good of mankind."<sup>51</sup>

Also, the Quran, it is pointed out, encourages cooperation between men in projects involving "welfare," "charity," but strongly condemns that which can lead to the spread of "evil" or which is based on "evil," "assist not one another in sin and transgression and fear God,"<sup>52</sup> says the Quran.

The Quran also, they add characteristically, seeks to promote moral and spiritual evolution through the

regulation and adjustment of natural desires and instincts. For instance, it is a common desire among men to outstrip each other, that is to compete. This desire leads to vanity, hollow pride, bitterness, although it may also lay the groundwork for healthy competition. The stress in the Quran is to promote healthy competition so that it can in turn lead to progress. As the Quran says:

Vie then, with one another in righteous action.<sup>53</sup>

The greater emphasis is, however, as already stressed on joint effort. It is not on individual effort alone, because that would not lead to collective benefit. It is therefore necessary that the righteous get together and the state as we will see is thus argued simply (as the Greeks urged) as the most desirable institution for communal effort and the development of goodness that men know.<sup>54</sup>

In short, as is true of other questions noted before about the nature of man, the Pak Islamic theorists in dealing with man's moral character thus follow the usual arguments of Western religious theorists, with the same inconsistencies leading to a curious paradox involving the individual as free on the one hand but requiring political and state control on the other.

#### Freedom

In the concept of man that the Pak Islamic thinkers develop, they also use the term "self" apart from "soul"

to portray that part of the personality which encompasses the perceptive capacity of life by man and the resulting objectives. This capacity is of course a way of dealing with what westerners call man's capacity for freedom. This perception begins with man's consciousness. Iqbal, for example says:

When the self awakens to consciousness  
It reveals the universe of thought.<sup>55</sup>

From this base of consciousness (perception) the Pak Islamic thinkers champion the cause of human freedom (although in a paradoxical way which will be dealt with later). But what is important is that the principle of "freedom" so upheld is conceived to be subjected to and certainly closely allied with the rationality that we have seen they believe that man possesses. This is clear when Ahmad Khan says in unequivocal terms:

Man is born free, equal and he is rational.  
He alone possesses the capacity to reason and act.<sup>56</sup>

And Maududi says:

Man has been endowed with reason and intellect,  
the power to think and form judgment, to choose  
and spurn.<sup>57</sup>

Besides endowing man with the capacity to acquire knowledge, the faculty to think and ponder, Maududi, in addition adds that, "God has granted him a certain freedom of will."<sup>58</sup>

This of course is not a new position in the history of Muslim thought. Mu'tazilites held that every man has

the freedom to will and act and that he is responsible for his own actions before God.<sup>59</sup> Ibn Sina said that every living creature is endowed with the freedom of action in proportion to the faculties that it possesses, but man is the possessor of the highest faculties, therefore he has the greatest freedom.<sup>60</sup>

Obviously there is a similarity between the above Islamic thinkers and Stoic thinkers like Cicero, or even natural rights theorists like Locke, who often sounds mechanistic in his psychology. As Cicero says:

That animal which we call man, . . . endowed with foresight and quick intelligence, full of reason . . . has been given a certain distinguished status by the supreme God who has created him; for he is the only one who has a share in reason and thought.<sup>61</sup>

And Locke in turn says:

We are born free as we are born rational, the freedom of man and liberty of acting according to his own will, is grounded on his having reason.<sup>62</sup>

The similarity between these western thinkers and the more immediate Pak Islamic thinkers is equally close. Thus it can be seen that in Locke the freedom of action is partially based on "will" (as it was for Marsilio earlier) as the consequence of the rational capacity that an individual possesses. So also Ahmad Khan argues that the individual has "control" over his "self" and can act with "freedom."<sup>63</sup> In fact Ahmad Khan's statement that man is born free, equal and rational, is as eloquent of the western notion of the "free self" as can be found in

the annals of the history of political theory.

However, just as in the "muddle headedness" of western philosophers of "freedom" the Pak Islamic thinkers also subordinate this "rational freedom of man" to some authority, in this case to religious dictates, as St. Augustine and St. Thomas do. Thus they assert the ultimate supremacy and superiority of an unseen and unheard of "God," whose laws must be obeyed. Ahmad Khan, for example, like Thomas, does not claim as Calvin did that man's actions are predetermind, but he does assert that although man is free to be a virtuous creature or a vicious one, or can be "good" or "bad" he is expected to perform such acts as kindness, love, goodness, etc. This means that he can commit sins such as adultery, theft, murder, etc., too. "But" says Ahmad Khan, "God always expects man to be moderate and not waste the gifts so bountifully given."<sup>64</sup> In other words, like Thomas, Ahmad Khan thinks that God expects man to exercise his "freedom" within the limits of the divine nature given to him and as a "good" Muslim.

Maududi, meanwhile contends that to be a Muslim implies that man voluntarily has agreed to abide by the will of God. Thus the "righteousness" of a man's conduct is determind to the extent to which man follows the Islamic code of life, and according to Maududi, should man choose to "follow and obey God" and "follow His Dictates," he is a Muslim."<sup>65</sup> Otherwise, he is a "Kafir," a non-believer.

one who commits "kufr." "Kufr," according to Maududi, is nothing but "ignorance pure and simple"; it is ignorance of God, the Creator and Lord of the universe.<sup>66</sup> Thus "freedom" for Maududi is like Christian freedom for many in the West or "liberty under law." For the secularist, it is the "freedom" to choose to do "right" with "right" already well defined by God or "law."

To an objective "rational mind" it is obvious that there is confusion here as there is in much western political thought based on traditional religious thought in general, both in inferences for ethics and for positive law and politics. What the Pak Islamic thinkers fail to deal with is how this creature, who is bound to his Creator with the very spark of the latter within him, can really depart "on his own" (by disobeying the Commandments) from "his own nature" as he obviously can--even by their definition of that nature, especially relative to the question of human relations--and get by with it in terms of earthly consequences. The primitive and child-like answer of all of the "children of the Book," Jewish, Christian and Muslim as we have seen (and their counterparts in secular life who do not know where they got the ideas), is simply the old story of "Eden" wherein man presumably secured "freedom" to know and do "evil" as well as "good" (with the question of evil being passed over glibly as noted in the chapter on metaphysics). The lack

of logic of this position philosophically and politically never seems to bother these simple-minded religionists (or their secular counter parts) in the West or East. Of course, it provides a rhetoric and rationalization for man having a "soul" as a core of personality and thus "free will," and thus being left to act as he chooses because he is divine and rational and free--except as he is supposed to obey God--bound only by a belief in other-worldly sanctions. That is, he can do actually what he pleases here (on earth) because he is free. The practical illogic of this position caused the Protestant reformers in the West (such as Luther) and later Hitler, etc., to declare the need for absolute obedience of man to the State (made into a God)--after they had "released" man from "bondage" to the Church as custodian of the "divine" law. In fact the "quietism" of German Lutherism has often been cited as one of the major reasons for the lack of opposition of German Lutherans to the non-democratic German political tradition resulting finally in the statist Nazim. On the other hand, countries dominated by Catholicism have also shown in the modern world little opposition to statism. In a "democracy" it is called "consensus," "liberty under law," "we have decided," or the "good" of the institution requires it--meaning usually not even Mill's "tyranny" of the majority but the dictates of this or that "elite."

In any case, Pakistan (as almost all other Muslim countries) appears to have submitted easily to the resulting dictatorial political traditions as religion defines the person acting as a "free soul" who then easily shows himself to be so self interested that there arises a "backlash" demand for state action and law and order under this or that military ruler.

### Equality

The last judgment raises naturally this question of the Pak Islamic view of "equality" in man's life as a basis of equality. Here the Pak Islamic thinkers' conception of man is paradoxically an emphasis on "equality." This arises from their definition of man whom they see as a creature of God. First, as in the case of western religious thinkers the argument is that men are equal because, again, gifted with a "soul," they have an aspect of divinity and rationality, although both may be limited. Although there is a subjectivist element in this soul concept--and each person, it is argued, has his own personality, yet because everyone has a "soul" which is also rational, everyone is a member of the universal human community with this equal spark of divinity (similar to Zeno's Stoicism). Thus they cite the Quran which speaks of mankind as one. Or Azad asserts that "equality is not a term applicable to the residents of Mecca and Hedjaz but to the whole world."<sup>67</sup> It is this fact the Pak Islamic

thinkers claim that should provide the basis of an egalitarian rather than a tyrannical, elitist state, a state wherein there is in terms of ultimate "spiritual" worth no distinction between individuals who compose the state. However, as in the West it is obvious that the theoretical and practical "slips" in logic and attempted rationalization of inequality appear almost at once.

The fact is that the Pak Islamic thinkers like western thinkers apply this universal principle in a narrow sense and claim that it is the religion of Islam which unites peoples of diverse backgrounds as children of God or of different racial and ethnic affiliations with resulting political conditions. Thus, the distinction of mankind based on race, color, etc., is abolished but one on the basis of religion is established because in the "inner cohesion" of such a people, as Iqbal sees it, "lies the unity of religious and political life."<sup>68</sup>

An immediate question which emerges at once from this argument is the same as one that has arisen in connection with the religion of Judaism and Christianity viz., what is the status of non-Muslims (like the question of non-Christians or of non-Jews) of those who either (1) never heard the appeal of Islam or (2) did not accept it. Are such persons unequal? How are they to be treated in an Islamic State? Do such persons lack a "soul" and the divine spark of the universal? Is the human nature

of such non-believers less human and to be treated as less than human? Here the Pak Islamic thinkers, with the exception of Maududi, have shown a lack of interest in defining the status of a non-Muslim in an Islamic State. Maududi, clearly marks out non-believers in Allah as the "damned," the "kafirs," those who have deviated from the righteous path.<sup>69</sup>

Actually, when considered as a group, the Pak Islamic thinkers, explicitly or by inference, and inspite of their vocal pretensions about equality that Islam has brought about, even bifurcate humanity and the Muslims themselves between the "gifted" and the "rest." Maududi, for example asserts that "those extraordinary talents which are required only to a limited extent, are given only to a small number of people."<sup>70</sup> From this he draws the inference that the "higher capacity" of thought and acumen is given only to a few.<sup>71</sup> In fact the conservative thinkers, viz., Azad and Maududi, on the basis of the famous Quranic verse, "Among you he is preferred who is pious," bifurcate the Muslims between thr "pious" and the "rest," and they follow up this distinction in the political sphere, too, to which reference will be made shortly giving a preferred political position to the "professionally" pious. That is, from their writings, it can be inferred that by "pious" they mean those who are learned and have shown proficiency in the religion of Islam and are commonly known as "Ulema,"

Thus, they are of the opinion that preference be given to the the "religiously intellectual elite" (to which both of them belonged) which bears a close resemblance in Christianity to the "clericals" who dominated medieval states at one time.

Obviously, these thinkers (like the conservatives in the West) do not seem to understand that the qualities they mention are determined not simply by innate, inborn genetic transmissions or by acceptance of a "faith" but by social, cultural and physical circumstances. It is equally obvious that a child who is brought up undernourished in terms of food (unbalanced diet), lives in miserable health conditions and with no informal or formal education in mind and character is not going to have the leadership capacities and perhaps not even have the sense to accept the faith. Such children as they grow up are unlikely to constitute the so-called "elitist" group. It is the lack of understanding of this factor which is apparent in the conservative thinkers of Pakistan, even as it was of Aristotle when he sought to justify "slavery."

In fact, applying the above distinction in the political sphere both Azad and Maududi speak of an elitist group called the "Ashabul-Rai" or "men gifted with sound judgment," and "Arbab-e-Hal-o-Aqd" or "those who can tie and untie the affairs of state."<sup>7</sup> Very obviously these should constitute a well organized power elite, whose

source of strength is its knowledge in terms of religion. Since an Islamic State is avowedly based on Islamic values the justification for this elite is the proficiency in knowledge it shows of Islam and its doctrine. Yet neither Azad, nor Maududi, for that matter, says how this group is formed. Apparently, it is supposed to find recognition and form itself spontaneously.

Iqbal, on the other hand, does not show any inclination to uphold this distinction. In fact, in his last major work, viz., "The Reconstruction of Religious Thought in Islam," he favors simply a supremacy of the "peoples' assemblies." For example, he showed enthusiasm for the "formation of the legislative assemblies in Muslim lands" in his own day and equated their formation with the growth of "republican spirit." Here it is important to note that by expressing confidence in the supremacy of the assemblies, Iqbal is also upholding the principle of political equality, at least of all Muslims. But it must not be forgotten that these assemblies, as they are favored by Iqbal, are supposed to function within the limits imposed by Islam, not outside of it. They are expected to implement and act according to Shari'ah or the divine law, the latter often defined by the religious professionals. Therefore, on the one hand, the distinction between Muslim "souls" and non-Muslim "souls" remains. That is, for all of his republican spirit, Iqbal could not avoid the

distinction between the two and he fails to accord the same status to both. Also, he overlooked the possibility that those elected to the assemblies, who might be required to show a proficiency in Islam and its jurisprudence, might well become an elitist assembly like those of the elect under western Calvinism.

#### Notes

1. Syed Abu 'Ala Maududi, Towards Understanding of Islam (Gary, Indiana: I. I. F. S. O, 1970), p. 3.
2. Quran., 3:182.
3. Al-Ghazali, Deliverance from Error. trans. W. Montgomery Watt (London: George Allen and Unwin Ltd, 1953), p. 8.
4. Khalifa Abdul Hakim, The Metaphysics of Rumi (Lahore: Sheikh Ashraf, 1933), p. 16.
5. Quran., 17:37.
6. Ibid., 42:6.
7. Muhammed Iqbal, The Reconstruction of Religious Thought in Islam (Lahore: Sh. Muhammed Ashraf, 1965), p. 109.
8. Ibid.
9. Ibid.
10. Ibid., p. 102.
11. Ibid.
12. Ibid.
13. Ibid.
14. Ibid.
15. Ibid.
16. Muhammed Iqbal, Secrets of the Self. tr. R. A. Nicholson. (Lahore: Sh. Muhammed Ashraf, 1961), p. 16.

17. Syed Ahmad Khan, Maqalat-e-Sir Syed, vol. 4. (Lahore: Sh. Muhammed Ashraf, 1962), p. 361.
18. Muhammed Iqbal, The Mysteries of Selflessness, trans. A. J. Arberry (London: John Murray, 1955), p. xi.
19. Ibid., p. 6.
20. Ahmad Khan, Maqalat-e-Sir Syed vol. 3. p. 266.
21. Syed Ahmad Khan, Akhri Madhamin (Lahore: Malik Chunandin. Hujira 1313), p. 128.
22. Maududi, Understanding of Islam, p. 162.
23. Ibid.
24. Iqbal, The Mysteries of Selflessness, p. 37.
25. Quran., 2:220.
26. Ibid., 3:118.
27. Ibid., 6:82.
28. Abu Bakr Muhammed ibn Ali Muhyi al-Din al-Hatimi al Andalusi commonly known as Ibn Arabi was born in in 1164 in Murcia in southern Spain. He died in 1240 in Damascus. He is a famous Muslim philosopher.
29. Ibn Arabi, Risalah fi Ma'na al-Nafs wa-l-Ruh (Algiers: Publ'n in the Acts of the 14th Oriental Congress by Asin y Placios), p. 153.
30. Majid Fakhry, A History of Islamic Philosophy (New York: Columbia University Press, 1970), p. 100.
31. Maududi, Understanding of Islam, p. 4.
32. Ahmad Khan, Maqalat-e-Sir Syed, vol. 1. p. 224.
33. Quran., 25:45/46.
34. Syed Abu Ala Maududi. Islamic Law and Constitution trans. Khursheed Ahmad. (Karachi: Islamic Publications 1967), p. 184.
35. Ibid.
36. Muhammed Iqbal, Religious Thought in Islam. p. 95.
37. Ibid.

38. Ibid.
39. Iqbal, Secrets of the Self, p. xviii.
40. Ibid.
41. Ibid., p. xvix.
42. Ibid.
43. Iqbal, Religious Thought in Islam, p. 155.
44. Ahmad Khan, Maqalat-e-Sir Syed, vol. 4. p. 361.
45. Idem. vol. 3. p. 204.
46. Maududi, Understanding of Islam, p. 4.
47. Quran., 2:149.
48. Maududi, Understanding of Islam, p. 8.
49. Quran., 42:18.
50. Iqbal, Mysteries of Selflessness, p. 9.
51. Quran., 3:111.
52. Ibid., 5:3.
53. Ibid., 2: 149.
54. See chapter 6.
55. Iqbal, Secrets of the Self, p. 16.
56. Ahmad Khan, Akhri Madhamin, p. 5.
57. Maududi, Understanding of Islam, p. 4.
58. Ibid.
59. W. Montgomery Watt, Islamic Philosophy and Theology (Edinburgh: University of Edinburgh Press, 1957), p. 74.
60. Majid Fahry, A History of Islamic Philosophy (New York: Columbia University Press, 1970), p. 160.
61. Cicero, De Republica De Legibus. trans. Clinton W. Keys (Cambridge: Harvard University Press, 1928), p. 120.
62. John Locke, The Two Treatises on Government (London:

- Oxford University Press, 1952), p. 51.
63. Ahmad Khan, Akhri Madhamin, p. 5.
  64. Idem, Maqalat-e-Sir Syed, vol. 1. p. 224.
  65. Maududi, Understanding of Islam, p. 4.
  66. Ibid., p. 5.
  67. Abul Kalam Azad, Islami Jamhooriyat ke Taqadhe (Lahore: Maktab-e-Tamir-e-Nayat, n.d.), p. 51.
  68. Iqbal, Religious Thought in Islam, p. 154.
  69. Maududi, Understanding of Islam, p. 10.
  70. Maududi, Islamic Law and Constitution, p. 35.
  71. Ibid.
  72. Azad, for example in Islami Jamhooriyat, p. 48., and Maududi in Islamic Law and Constitution, p. 255.
  73. Iqbal, Religious Thought in Islam, p. 179.

## CHAPTER V

### PAK ISLAMIC THINKERS' VIEW OF THE NATURE OF SOCIETY

#### Introduction

Political thought at least from the days of Aristotle has in the West generally acknowledged a close relationship between the nature and character of the state and that of the remainder of the society. Modern sociological political science theory simply recognizes more definitely the close affinity between the politics of a people and other social factors and institutions. But here one of the most important questions which arises at once is--what is society itself as the ground of politics? What elements or factors make up a society? What holds these factors of society together? What comprises the "social substance?" How does social change--especially as this has a bearing on politics--take place.

These questions and their answers are, as we have seen in the previous chapter, integrally related to the different viewpoints concerning the nature of man, are in a sense simply another side of that although with complications. Certainly the political theory which

emerges from any of the viewpoints, not only about the nature of man but of society, varies in terms of these views. Thus, first and in general again, we have seen there is the viewpoint which defines man in rather individualistic, or atomistically, or subjectively, to use a philosophic term. This view identifies man as consisting of a "core" of personality (such as soul) or in the case of materialism, a bundle of states of mind or feelings, or "drives." Now it is this view which basically forms one answer to the question of the nature of constitution of the society in that this view holds that this so called psych-biological personality of each individual is the essential factor comprising society. That is, it holds that society is held together or constituted by the states of mind and feelings, (or urges and drives) of individuals so defined. This is the factor which is also held to comprise the "interest" groups which some argue are simply a mediary device constituting the society. Here politics is conceived as a competition for power or goods, etc., between the individuals or interest groups or a compromise or adjustment or accomodation between them. In turn the state is considered to be a particular social device securing adjustment of these atomistic factors by the use of centralized violence power belonging to it which is the chief characteristic of the state as an institution. That is, the state to exist must have the force to force the

the states of mind and actions (or behavior) of individuals and groups onto some kind of "order."

There is, however, as we have seen, a different view of man and as we shall also of society which holds that man is part and parcel of the physical-natural conditions of life and of the institutions he creates but which form his personality. That is, man is according to this latter view considered to be the food he eats, the water he drinks, the air he breaths, the land on which he lives and walks and of the complex corporeity of his human institutions.

Such a view as the latter has been expressed well by Cooley<sup>1</sup> and Meade<sup>2</sup> and Jordan.<sup>3</sup> It was George Meade, for example, who pointed out that it is not what people think individually which defines them but how they behave or act or do in relation to each other and to physical nature. It is human actions which constitute the social order or society. It remained for E. Jordan to go a step further and emphasize that it is the natural aspects of life and of institutions--inter-related--which defines man not only mentally but in terms of his actions thus actually constituting man's personality and his society. Society here is not composed of states of mind of "individuals" but is itself the complex of the institutional and natural fabric of life.

In any case it should be clear that the view that society is held together on a basis of the states of mind

of separate individuals or interest groups versus that of society constituted of social institutions and the totality of the physical conditions of life create real differences in view of politics and of the state., its nature and functions.

However, another major question which exists concerning the nature of society also has political importance. This is the question of the particular source of values of the society as these in turn influence the norms of action, either directly or indirectly. That is, are the norms of society and thus of politics derived from simple mores and folkways either secularly or religiously developed? Are they derived from institutional reservoirs either secular or religious? Do they come from the speculative rationalistic conscious thinking of human persons acting in some form of elitist capacity but through the various media of communications? Are they derived from the positive laws of the society? This is a more practical question as a social problem than the epistemological question which we earlier discussed but it is equally important in that system of folkways and mores, some believe, tend to stultify life where the rationalistic system tends to be creative, but reaching toward the solution of developing problems.

Still a third question which emerges (even if the society is considered to be held together by the states of

mind of individuals is that of the nature and condition of the respective institutions through which these states of mind work in influencing political action. That is, what is the character and condition of family life in its bearing on the state? Or what is the character and condition of the educational institutions, etc., or of the social classes in cultural stratification including the ethnic characteristics such as those based on language, or religion etc., or what is the character and condition of the economic institution of a society in its influence on the political norms and structure and actions?

The final question which emerges--sooner or later--but which depends to some degree upon the answers given above is that of the character of social change. Does social change take place significantly through gradual evolution or may it occur only by revolution? Does social change occur through ideological pressures on social relations or through changes in technology or natural environment.

The foregoing is simply a suggestive "rough" framework of the questions bearing on the nature of a society as the latter effects the normative thought and action about the substantive aspects of society, but which affects what is more narrowly considered to be the political institution, as such is defined in the positive law sense. We will follow this outline in dealing with the ideas

about the society the Pak Islamic thinkers envisioned as those bear on political thought.

### The Nature of Society

Superficially and on the one hand Pak Islamic thinkers view man as a social animal or as Ahmad Khan says, "it is natural for man to associate himself with others."<sup>4</sup> That is, society is considered to be a form of association from which man cannot live apart. They think as did Aristotle that, "a social instinct is implanted in all men by nature."<sup>5</sup>

Thus a motivating force in the formation of society according to Iqbal, is the fact that an individual despises anarchy and, it is in the very nature of man to seek an organization which can guarantee "security and preservation."<sup>6</sup> Here Iqbal and Ibn Khaldun argue similarly as when the latter said:

Basically, however, man is an animal, and human organization starts from the realization that, if left to his own animal instincts, man would eat man.<sup>7</sup>

Further, in the tradition of Plato, who advocated the principle of division of labor, the Pak Islamic thinkers believe that it is the function of the society to bring together individuals with disproportionate talents and allot them proper functions, admitting at the same time differences of men from both physical and mental point of view in the performance of their functions. As Ahmad Khan says, "men are created by their Maker in such a way

that they can perform different functions differently."<sup>8</sup>  
That is, men possess multifarious qualities and diverse capacities, but this very fact shows that they need a social organization to coordinate and harmonize them.

In the above it is not certain to what extent Ahmad Khan and other Pak Islamic thinkers were influenced by Greek thought, but it is probably true that they were influenced by Ibn Khaldun, who has been generally considered as not only a great Muslim historian but also an original political thinker and to whom reference has been made. Thus Ibn Khaldun says:

There must exist a group the members of which cooperate to acquire many different crafts and (technical) skills. In this way each individual accomplishes something from which his fellow men can profit. Full co-operation will (in this way) materialize, and the life of the human species and of other animal species will reach perfection.<sup>9</sup>

Furthermore, Ahmad Khan attributes the progress that a society makes and the strength it derives, to the individual. Thus he writes, "society is the sum total of individual labor, individual strivings wherein men are motivated by a desire to contribute to the wellbeing of others on the principle of mutual help."<sup>10</sup> Hence, he infers that a society is a fraternal organization, although a voluntary association of individuals wherein all are united in a natural pursuance of a common goal, which in turn leads to a growth of culture and civilization.

The same point is made by Iqbal, who makes a

departure from the stand he had taken in "Asrar-e-Ihudi" wherein his emphasis was on the development of "self-hood." Thus, in his "Rumuz-e-Eekhuḍi" (The Mysteries of Selflessness) as Arberry says, he realized that if selfhood is developed in isolation from society it ends in "unmitigated egoism and anarchism."<sup>11</sup> Says Arberry:

But he was not interested merely in the individual and his self-realization, he was equally concerned with the evolution of an ideal society, or community as he called it.<sup>12</sup>

Iqbal thus argues that it is only as a member of the community that the individual, "by the twin principles of conflict and concord,"<sup>13</sup> and it is only as an association of "self affirming individuals" that the community can come into being and practice itself.<sup>14</sup> Iqbal further says:

He individual wins respect as being one of them,  
And the society is organized  
As by comprising many such as he.<sup>15</sup>

#### The Role of Religion and the Individual

In contrast with the above view--emphasizing the importance of the social nature of man and its effect upon the nature of society-- the Muslim theorists of Pakistan are very much in the tradition of Western political thinkers who "slip" from such a view as the above to the concept of the "person" in more individualistic terms via the route of "religion." And this is true even though superficially it appears that

religion is itself a social factor for them both in the substance of its thought and its procedure through human action.

In brief, the Muslim theorists of Pakistan, believe that the individual is defined ultimately as a "soul" which is a product of "God." As a result of this notion arise the dichotomies, paradoxes and inconsistencies about the "social" views of their religion which complicate the use of this "social" factor as a "social glue" in that the glue of the "soul" is not very "sticky" but tends to draw men apart. This is to be seen in the following discussion wherein Islam appears as "universal" on the one hand and "particularistic" and "exclusive" in its social effect on the other.

In any case there is often an abrupt change from the more secularist based and more social view of the society noted above to a religious and more individualistic conception without sophisticated interconnection indicated between the two by the Pak Islamic thinkers except that the idea previously noted that God made men "social" and that "good" souls will not harm others. The lack of a more substantial and thoughtful connection can only be attributed to a lack of thought prevalent in most religiously based political thought.

It is true, however, that to the Pak Islamic thinkers the concept of society as an organization whose

unifying force is Islam has great significance for them as a method for social solidarity. Thus, first they argue, as we have said, much like Hebrews and Christian thinkers, that society is a spiritual unity catering around the concept of God although at once the concept appears parochial as it binds men only into an Islamic society.

"All those persons who surrender themselves to the will of God" says Maududi "are welded into a community and that is how the Muslim society comes into being."<sup>16</sup> Or as Iqbal says:

There is no God but one God, this  
is the soul,  
And body of our community.<sup>17</sup>

On the other hand one consequence that follows such a view is that the religion of Islam unites peoples of otherwise diverse ethnic, economic backgrounds and fuses them together. That is, the Islamic religion claims to move beyond racial, geographical and other social differences of peoples and to unite them into one community which is spiritual and, therefore, ultimately more substantial, universal and lasting in nature, although Iqbal characterizes this society as "exclusive in the sense of having a creed and well defined outline."<sup>18</sup>

Yet it means that these thinkers believe that somehow a "spiritual" force defines and characterizes Islamic society in a way somewhat separate from individuals who do not "comprise" it. That is, the

spiritual force is supposed somehow to glue men together whether their individual states of mind recognize the fact or not, no matter what other "distinctions" individuals and groups may have--yet without the same spiritual force they are even more separated.

It is also claimed that the abolition of the divisive factors of race, etc., is that the principle of egalitarianism is established. As Ahmad Khan says, "anyone who has expressed faith in God and His Prophet is the spiritual heir to God and all such men are equal."<sup>19</sup>

Of course it should be obvious from what we have already written that this is little more than the "pious" Western Lutheran statement about the spiritual equality of men and does not necessarily have the practical significance it seems to imply. Obviously all Muslims are not treated as if entitled to equal practical status, and there are all sorts of unequal social conditions, especially noteworthy the status of women, material poverty for the mass of people, arrogant and often brutal officialdom etc.

Of course, since the "political" in Islam is theoretically based on the "spiritual" and there should not be theoretical or practical demarcation between the spiritual and political aspect of the society. In this respect, the views of the Pak Islamic thinkers, although bearing again some similarity to the Christian "brotherhood" concept, are in contrast to the "Two Swords" theory

advocated by the Roman Catholic Church Fathers which dominated the thought of dark ages and medieval Europe, viz., that the spiritual and secular are two distinct spheres of life, each separate from the other, though superiority as to faith being assigned to the spiritual as designated by the church hierarchy. And certainly this view is different from the separation of church and state and "pluralistic" society notion of most modern western states.

However, from the above it can be seen that the Pak Islamic thinkers express their belief in the universality of the Muslim community but to the exclusion of other groups communities and societies. In fact, there was transformation in the views of the Muslims of pre-partitioned India brought about by the failure of the Khilafat Movement which shattered the myth of the political unity of all Muslims at the international level and, Iqbal a staunch propogator of "international Islam" changed his position and was content simply to demand the right of self determination for the Muslims of India only.<sup>20</sup> This stand reaffirmed in what has been known as the Lahore Resolution, is a clear application of the idea of a universal community but in a particularistic form. That is, although the Pak Islamic said that they did not forfeit their belief in the principle that Muslims form a universal community by virtue of their religion, they applied it in this case in a limited sense. Iqbal admitted this when he said:

Indeed it is no exaggeration to say that India is perhaps the only country in the world where Islam as a people-building force has worked at its best.<sup>21</sup>

Here the Fak Islamic thinkers are in the same tradition as the Hebrew Orthodox thinkers and the Fundamentalist Christian thinkers (both Catholic and Protestant) in championing a society religiously defined but with elements of exclusiveness, embodying Islamic values which are presumably universal, but for a particular locality. The result is at least one indication of the "shiftiness" and lack of substance of the Muslims' "soul" as a "universal" social glue.

#### Physical and Social Morality

The social structure that the Fak Islamic thinkers conceive is also claimed to be predominantly "moral" in its character. They insist indeed that the principal aim of the society is the promotion of both an individual and collective goodness. Here "goodness" does not apply as it did for Plato a life which may be defined "by methodical intellectual process, and, which therefore may be intellectually pursued,"<sup>22</sup> but one which through a system of moral values determines and characterizes the personality of men both in the individual and social capacity.

In fact, as Fak Islamic thinkers envision it, all Muslims are bound in this society by a contractual obligation to abide by Shari'ah. Of course, this is a mythical contract, "which has supposedly taken place

between human beings and their creator" whereby individuals agree to abide by "His guidance as supreme."<sup>23</sup>

Thus Maududi asserts that:

It is, therefore, inconceivable that any Muslim society worth the name can deliberately adopt a system of life other than Shari'ah. If it does so, its contract is automatically broken and the whole society becomes un-Islamic.<sup>24</sup>

What is apparent from such ideas is the practical desire of the Pak Islamic thinkers to bind the members of the community, including the governing officials (by inference) and also the political institutions by a set of moral standards (like the western rule of law). Thus too in this respect the Pak Islamic thinkers also bear a similarity to Grotius and Locke who used contract to stress moral limitations upon the rulers as well as the ruled.

The Pak Islamic thinkers also argue, like Augustine, that the state serves the needs of a religious community in which spiritual interests stand above all other interests. Yet they do partially realize that in order to build the Muslim society of Pakistan in accordance with the goals they envision these rules and regulations need to be given legal validation although for this the legal must be validated by the "moral" which is so much a part of the traditional belief system. "Political power," says Maududi, "is essential for protecting the Islamic system of life from deterioration and perversion, for the eradication of vice and the establishment of virtue."<sup>25</sup>

Such an approach involves, therefore, a direct participation of the state in supporting the values of the society. It means that the promotion of morality is subject to an act of the state. Therefore, the role of the state in this context is not negative as the English Individualist thinkers of the nineteenth century limited it to the removal of hinderances to individual expression, but it is positive. The state through a set of rules and regulations is expected to promote and preserve what has often been called the "moral fibre of the nation."<sup>26</sup>

Hence, in order for the state to promote and preserve the morality of the society, Maududi sets forth a set of moral axioms with great emphasis on the removal of sins and evils. That is, Maududi is of the opinion that, if acts which promote a sinful life are eradicated by the state, the society will be cleansed of sins, and there will be an opportunity to operate a "virtuous society."<sup>27</sup> Some of the recommendations of Maududi are logically both puritanical or Calvinistic in nature. That is, Maududi much like Calvin would like to maintain a moral discipline in society through control by the state of both private and public attitudes and behaviours using imposition of censorship and such other disciplinary methods. It should be note, of course, that not all of the recommendations voiced by Maududi are espoused by the rest of the Pak Islamic thinkers. The so called liberal thinkers usually

show their opposition by simply ignoring some of them.

The point that Maududi makes, however, is that certain moral characteristics of goodness are basic to human needs because when attained they can lead to an ideal individual and social life. Implicitly he assumes an original "fixity" of human nature in this regard. Here in the course of future discussion a subtle difference between Maududi and a liberal thinker such as Iqbal can be noted, viz., that while liberal thinkers stand for a certain relativity in personality, Maududi appears to hold a view of human nature as rigid in its potential and consequently requiring stronger state action to help develop it. Yet, the sins of human nature which are meant to be suppressed in the interests of the fulfilment of the "given" Godly potential as seen by Maududi and others are like those affirmed by puritans in the West, viz., sins of the flesh. As with almost all "children of the Book" it is almost always whether one fornicates or is a drunk that is evil--not whether one is uncharitable, lacks compassion, or even steals from the public or pollutes the streams and air--that are considered evils of human nature.

Practically speaking the State of Pakistan has not adopted all of the recommendations of such conservative thinkers, but a few have been incorporated in a recommendary form. Thus, Maududi, for example says:

Islam does not approve of such pastimes, entertainments and recommendations as tend

to stimulate and vitiate the canons of morality. Such pastimes are a sheer waste of time energy and money.<sup>28</sup>

Maududi would like these to be banned, and although the Constitution of Pakistan does not refer to these specifically, it does say in general terms that "observance of Islamic moral standards should be promoted among the Muslims of Pakistan."<sup>29</sup>

Further, Maududi recommends outright prohibition of such vices as "gambling," "prostitution," "use of intoxicants," etc.<sup>30</sup> Again the Constitution of Pakistan does not specifically prohibit these but it does recommend that they should be discouraged.<sup>31</sup> Interestingly no one is aware of any specific measures that the government has taken or is taking to discourage these vices.

Maududi also labels such vices as "murder" "adultery," "blood-spilling," etc., as crimes and calls for their punishment.<sup>32</sup> Needless to say these are almost universally recognized crimes and the Pakistan Penal Code does provide for their punishment and the state does act practically relative certainly to murder.

On the other hand, some of the rules of Shari'ah as Maududi presents them are so ludicrous in the context of modern era that the Pakistani liberals simply do not take them seriously. Maududi, for example says that "to preserve the moral life of the nation, . . . mingling of both the sexes has been prohibited."<sup>33</sup> Further, he

Further, he recommends that women should be properly "veiled and secluded,"<sup>34</sup> Yet the seclusion of women, a practice which prevailed for long in Muslim societies has retarded the progress of women in general.

### Family

Pak Islamic thinkers look upon family as a "natural unit" of the society much as did Aristotle and many later Western thinkers. As Aristotle laid down rules and regulations governing the intimate matters of family life, so does Shari'ah, particularly as interpreted by Maududi. In fact, Maududi's conception comes quite near to that of Aristotle as he upholds the dominance of the male in a "well disciplined family unit consisting of the husband, wife and children."<sup>35</sup> It appears, however, that the source of the concept are different in that Maududi's strong assertion on the role of the male appears to have been influenced by his metaphysical-religious view of the universe, whereas Aristotle's argument is more secular and pragmatic. Maududi thinks that as God presides over the universe, so the family should be headed by one man, and in the same manner the society and its political structure headed by one man. Still Maududi does advance the political argument also in that he claims that the ruler as head of the family has the duty "to earn the living and perform outdoor duties,"<sup>36</sup> The role of the women has been subordinated as pointed out earlier.

On the other hand while there is general agreement among the Pak Islamic thinkers on the nature of family as a unit presided over by the head of the family who is a male, the liberal thinkers like Iqbal differ from Maududi in this relegation of women to an inferior status, viz., the performance of household duties and the rearing up of children. Iqbal, for example, upholds a Turkish poet's lamentation that as long as "the full worth of the woman is not realized, national life remains incomplete."<sup>37</sup> The constitution makers of Pakistan have also encouraged the participation of women in national affairs by reserving seats for them in the law making bodies.<sup>38</sup>

Further, traditionally the Shari'ah has been the most effective instrument in governing the marriage and divorce among the Muslims and their families and this body of law has long favored the male. However, due to the inroads made by western ideas, whereby monogamy is upheld and polygamy is now illegal, equal status is increasingly accorded to women (in Pakistan as in many other Muslim lands) and they are increasingly practically placed on par with men in such matters as divorce, marriages, etc., thereby leading to a change of considerable significance in the family and the social structure of Pakistan. That is, the family structure is undergoing a legal as well as a social redefinition. This change has been particularly brought about by Ayub Khan, who promulgated the "Muslim Family Laws Ordinance, 1961" when he was the President of

of Pakistan. A comparison of Shari'ah marriage and divorce and the modification introduced by this Ordinance illustrate the changing thought.

Under Shari'ah marriage was considered to be a contract between consenting adults and the validity of the contract depended upon the consent of the parties which is called "ijab" (declaration) and "qabul" (acceptance). A minor could also be given in marriage by his/her legal guardian (wali), but when he/she comes of age, he/she has the right to rescind the marriage entered into on his/her behalf. An important part of the marriage is that part of the contract entered into between the bridegroom and the bride whereby the groom undertakes to pay "mehr" (dower) to the bride himself. The value and character of the "mehr" must be specified and "mehr" can be paid promptly upon entering into marriage or paid upon the dissolution of marriage.<sup>39</sup>

Article 12, of the Family Laws Ordinance places the consenting age for the female sixteen (16) and the male eighteen (18) thus defining adulthood for the purpose of marriage and by implication makes illegal the marriage among minors.<sup>40</sup> Furthermore, before the Ordinance was passed there was no need to register marriages. However, under Article 5 of the Ordinance, marriages have to be registered officially before Union Councils the local governing bodies.<sup>40</sup>

Probably the most far reaching effect of the Ordinance lies in the field of the plurality of marriages allowed under the Shari'ah. Even though by and large society in Pakistan is monogamous, Shari'ah does allow Muslims to marry as many as four wives. This right is zealously upheld by the conservatives and Maududi in very strong terms says:

The limitation imposed on human activity by the Quran and the Traditions of the Prophet. . . . can never be transgressed, e.g., the limitation in connection with the plurality of wives where the maximum number has been fixed as four.<sup>41</sup>

Following the influence of the conservatives the Ordinance does not abolish polygamy but it does restrict it under Article 6, stipulating that nobody can take a second wife in addition to his existing wife without the previous permission of the Arbitration Council. The Arbitration Council, in its turn, under the same Article is to consist of the Chairman of the Union Council a local self governing body and one representative from each of the parties concerned.<sup>42</sup>

However, the Ordinance greatly improves the position of a divorced wife both legally and financially. This can be assessed by comparing the position of the divorced woman under Shari'ah and under the Ordinance. Under the Shari'ah divorce (talaq) is classified into "talaq's sunnah," which can be either "ahsan" or the most laudable, or "hasan" the laudable. "Talaq'l ahsan" or the most "laudable method"

of divorce is when the husband pronounces to his wife the sentence "I divorce thee" three times, but each pronouncement is made separately during each period of "tuhr" (the period between menstruation). During this period he must also abstain from sexual relationship with the wife. Following this he allows her to complete "iddah" (waiting) period covering three months. Then alone is the divorce final. Until the expiration of "iddah" the divorce is revocable, but after the "iddah" period it is complete and irrevocable. If the husband wishes to take his wife back he must go through the marriage ceremony again.<sup>43</sup>

The "talaq'l hasan" or "laudable divorce" is when the husband repudiates his wife by three sentences of divorce, either express or metaphorical, giving one sentence in each period of "tuhr" and foregoing "iddah." The "talaq'l badi" or irregular form of divorce is when the husband divorces his wife by three sentences, either express or metaphorical, giving them at a time without any consideration to the period of "tuhr" and of course "iddah." In both of these divorces, the divorce is revocable after the first and second sentences have been pronounced, but is irrevocable after the third sentence.<sup>44</sup>

The wife can also ask for release from marriage ties (khula') and then a marriage can be dissolved by mutual consent (mubarra'h), if the husband agrees.<sup>45</sup>

The ordinance now makes divorce a subject of legal procedure. It stipulates under Article 7, that efforts

should be made to bring about a reconciliation between parties through an Arbitration Council whose constitution is the same as above, and should the Arbitration Council fail in its efforts, divorce can be granted.<sup>46</sup> Article 9 gives the divorced wife a right to maintenance and also a "dower" becomes payable on demand.<sup>47</sup>

In summary it can be said that the Pak Islamic thinkers much like Aristotle and Bodin, look upon "family" as a natural and elemental unit in the social and political organization. Also, not only is the "family" looked upon as a unit which provides security and shelter but it is treated as the basic organization through which religio-ethical precepts are incorporated.

However, whereas Aristotle believed that "family" is one thing and a state is something different, "and it is better that one should not try to imitate the other,"<sup>48</sup> the conservatives of Pakistan hold to the position, that much as the head of the family should exercise authority within the family with an iron hand, so should the head of the state, whose position and authority is like that of "pater familias" exercise his authority in the state. Furthermore, the political organisation envisioned by the conservatives the women are denied any role as their activities are limited to taking care of household duties and children.

The liberals, on the other hand, while in agreement

with the conservatives in viewing family as a "unit," do not think that the state and its political organisation should imitate the familial organisation. Furthermore, as recent events and some of the new laws indicate a trend exists towards more egalitarian relationships between the sexes than the conservatives would allow. The Family Laws Ordinance, for example, which recognizes the rights of the female in terms of marriage and divorce, the seats reserved for women in the law making bodies illustrate the above point. Iqbal, as we have seen, also believes that greater role should be assigned to women. In any case the family is considered an integral aspect of the social--at least the ground of the political order by both sets of thinkers.

#### The Role of Formal Education

That there is the need to impart by formal education to the Muslim society of Pakistan appreciation of the values for which Islam stands was recognized by the Commission on National Education constituted in 1960. The Commission made it clear that the ideology of Islam and the tenets of its faith, should be so incorporated in the society of Pakistan that the latter would truly embody Islamic principles. It was claimed that only a society which expresses the validity of the religious ethics of Islam as well as the need to be governed by these principles and practices can serve as a basis of an Islamic State.

The great majority of our population being

the teaching of Islam assumes particular importance. Indeed Pakistan, to be true to her soul should take inspiration from Islam, its principles and ideology.<sup>49</sup>

In order to incorporate the above in society the Commission recommended that the teaching of the Islamic religion should be divided into three stages, viz., (1) The Compulsory Stage, (2) The Optional Stage and, (3) The Research Stage.<sup>50</sup>

The first stage expressed the realization that the values of Islam should be taught to children when their minds are in the formative years. Thus the Report stipulates that religious education for all Muslims should cover the first eight year period of their education in the following manner:

1. All Muslim students should learn to read the Holy Quran Nazira (with translation).
2. Stories and parables from the Holy Quran, the life of the Prophet and from Muslim history, . . . should be included in the books on Islamiyat.
3. Collections of 'Ayats' (verses) from the Holy Quran, including social virtues and practical goodness, may be introduced in the syllabi and taught with translation.<sup>51</sup>

From here the study of Islam becomes optional. This is, as Rosenthal says, "ironical."<sup>52</sup> The place where an objective study of Islam can be made is in institutions of higher learning, which in this case can be termed as colleges and universities. It is here that mature minds of scholars can be applied to make critical appraisal and

reappraisal of the values of Islam. But by making the study optional for the college youth, those who do not choose to study "are deprived of making an objective study of the religion in mature years."<sup>53</sup>

The third stage stipulates that there should be research in Islamic principles and doctrines culminating in the production of Islamic scholars of the highest quality, i.e., those "capable of interpreting Islam and presenting as a body of thought that can meet the challenge of modern times."<sup>54</sup> In order to do this the 1962 Constitution as well as the present Constitution, stipulates the formation of two institutions, viz., "The Advisory Council of Islamic Ideology" and "The Islamic Research Institute." The two bodies are supposed to perform the above work which it is claimed that the Muslim society of Pakistan needs. Thus the Advisory Council has been specifically assigned the task of bringing all laws in Pakistan in conformity with the dictates of Quran and Sunna.<sup>55</sup> The Islamic Research Institute has been assigned specifically the task of studying toward the "reconstruction of Muslim society," whatever that may mean. As of now it is not apparent what results these efforts have borne out.

Commendable as these objectives may appear to the leadership, there has been a realization that formal education should also be scientific, vocational and technical, that which in the words of Ayub Khan, "could

meet the demands of modern conditions."<sup>56</sup>

Abdus Salam, a leading scientist of Pakistan, put forward the idea that the needs of the times demand solution of such problems as increase in food production eradication of diseases, industrialization of the country, which in turn would lead to a raise in the standard of living "of the whole society, not just a part of it."<sup>57</sup> In order to attain this objective, Salam argued that the country must acquire the required scientific and technical skills.<sup>58</sup>

#### Social Change

The Muslim theorists of Pakistan, as we have seen, also conceive of an ideal society, i.e., a society which incorporates the spiritual-ideological values of Islam. As Iqbal asserts a truly Islamic society is one which embodies the very "ultimate principles of value."<sup>59</sup> Therefore, it follows that the religion of Islam is also to be considered one of the chief influences for transforming a group of individuals into an ideal society. However, as Pak Islamic thinkers perceive the matter there needs to be a coordination of the spiritual-ideal and practical political in attaining the Islamic ideal. Iqbal, for example, asserts that "ideal and the real are not two opposing forces which cannot be reconciled," and he goes on to say that:

The life of the ideal consists not in a total breach with the real which would tend to shelter the organic wholeness of life into painful

oppositions, but in the perpetual endeavor of the ideal to appropriate the real with a view eventually to absorb it.<sup>60</sup>

The greatest role in bringing about change, it is argued, was originally played by the Prophet Muhammed. He saw the need of stating ideals somewhat beyond the present life but also the value of using the political as an instrument for social change. The ideal and political change depended on following him. Thus although the political institution was considered resolvable the process of society is hinged to and dependent on the individual state of mind approach as in western religious-state theory. It especially incorporates the "leader" principle as the modern political right wing like Nazism and Fascism incorporated although they were secular and "godless," whereas in Pakistan and other Muslim states, the leader is supposedly "spiritual" as well as material and secular. Muhammed, is of course, conceived by Muslims as simply the last in the series of the prophets who distinguished themselves in the human society "by their special aptitudes, natural bent of mind and pious living."<sup>61</sup> God selected them to convey His message. So was Muhammed selected to bring about a transformation in both man and society, i.e., both individually and collectively, by communicating the message of God to man and to a people. Hence, the part played by this individual is unique as a "leader." Presumably, he brought to man those ideal principles whose source is none

other than God Himself. In other words, Muhammed gave the Quran to the Muslims, "the last of the divine books sent down by God"<sup>62</sup> in a series of Books as the Old Testament was given by the Jewish Prophets and the New Testament by Christ and the Apostles. As we saw earlier, this idea is especially conveyed to the Muslims by their political theorists that they are people of the Book and that God has chosen to speak to them directly in the Book. This factor supposedly serves to increase their value in their own eyes (as does the chosen people concept with the Jews), keeps them united and at the same time lends them a distinctive quality. Furthermore, Maududi claims that Muhammed actually changed peoples' thoughts, habits and morals. "He turned the uncouth into the cultured, the barbarous into the civilized, the evil doers and bad characters into pious, God-fearing, and righteous."<sup>63</sup> So much does Maududi believe this that he claims further that the Muslim community possesses a distinctive quality of superior worth, and he quotes Quran to this effect:

You are the best community sent forth unto mankind; ye enjoin the Right conduct and forbid the Wrong; and ye believe in Allah.<sup>64</sup>

Certainly from the foregoing it can be seen that at least some of the Pakistan theorists believe that it is mentally and emotionally pursuing particular religious values that the Islamic society can be transferred and make progress from lower to higher ethics and embody the

noblest principles.

Thus the great emphasis laid on Muhammed and his role in the transformation of society is again in fact an assertion of the faith that Pak Islamic thinkers have in the role that an individual can play in the development of society. That is, they argue as do the western individualist democratic thinkers that the uniqueness of the individual, his dignity, his artistic and intellectual creativity form the substance and process of change for society. Of course in Pakistan theory this does not mean that the individual is free to follow his own dictates, but that he is subject to the guidance of God. "Obviously," says Maududi, "to follow faithfully the guidance of God is the truest and most consistent attitude for mankind."<sup>65</sup> Also, the Pak Islamic thinkers claim that there is a positive creative activity in individuals through their minds making changes in their lives and their society—changes which are shaped by the challenges that men face and the efforts men make to overcome them. This view is best represented by Iqbal which is also in agreement with the metaphysical conception that Iqbal has of nature. He says:

When attracted by the forces around him, man has the power to shape and direct them; when thwarted by them, he has the capacity to build a much vaster world in the depths of his own inner being where he discovers sources of infinite joy and inspiration. Thus in his inmost being, man, as conceived by the Quran

is a creative activity an ascending spirit who, in his onward march, rises from one state of being to another.<sup>66</sup>

With regard to the question whether change in society should be made or comes about in a revolutionary or evolutionary manner, the Pak Islamic thinkers claim and believe in constitutional and peaceful means even though Pakistan itself originated in violence. The justification for this, they claim, at least in part lies in the creed of Islam itself. Ahmad Khan, for example, illustrates this point by quoting the Quran:

Invite (all) to the way  
Of thy Lord with wisdom  
And beautiful preaching;  
And argue with them  
In ways that are best  
And most gracious.<sup>67</sup>

At the same time he ignores that Islam allows the "Jihad" or religious war, and that "Jihad" necessarily involves bloodshed even though it is carried on against "infidels." Nonetheless, it must be said to the credit of the modern Pak Islamic thinkers that none of them has officially advocated this. In fact, none of the Pak Islamic thinkers in our study has even dealt with the matter. But the political elite of Pakistan have not, as we have said, desisted from advocating force or use of force should the occasion demand. A case in example is the coup staged by Ayub Khan.

In effect, the Pak Islamic thinkers are committed to a system which desires to bring about a spiritualism

in a materialistic age. They desire to bring about social change within the limits of religion. A case in point is their view on bringing about change in the Shari'ah.

Furthermore, the conservative thinkers especially bear a similarity to earlier Catholic thought in the West by advocating obedience to what they call as "ulul amr" or men in authority. As Maududi puts it, "obedience to ulul amr comes only next to obedience to God and His Prophet and is subservient to both of them. And, the ulul amr must, according to the very verse wherein this term occurs, be from amongst the Muslims themselves."<sup>68</sup>

This doctrine needless to say encourages intellectual authoritarianism and may be one of the important factors leading to the essential lack of democratic spirit among many of the Muslims as a basis for change.

In summary, it must be emphasized, even though this point will be dealt with in some details in the following chapter, that the Pak Islamic thinkers accept the individual state of mind as the basis of society and social change. Yet they also think that the state is necessary in fact inevitable, for bringing about this change. This attitude, as we have seen, can be traced to the role played by Muhammed, who not only gave a people a religion, but also organized them politically and brought about a change in their social behaviour. Following this example, the Pak Islamic thinkers look upon the state

using Shari'ah (as positive law) to implement this change. This reliance upon the state goes to such an extent, at least among some of the thinkers, that they demand unquestioned obedience to men in authority and to the state.

Nonetheless, this attitude is not free of inconsistencies. That is, the Pak Islamic thinkers, much like the western individualistic thinkers, on the one hand argue that a change in the individual state of mind and society can be brought about by laying importance on religious ideals. They are convinced that this can be done so through preaching, through convincing the individual state of mind of the value of these ethical norms embodied in religion in the betterment of the individual and society. Yet they also lay equal importance on the enforcement of these religious ideals and norms crystalized in the form of Shari'ah through the state. In other words they advocate the use of force in implementing Shari'ah and bringing about change. Thus, on the one hand, they quote Quranic verses to express their belief in changing an individual's view through persuasive arguments, through the use of logic and reason, but equally forcefully they also argue for the use of force.

This brings us to the conclusion of this chapter. However, it needs to be pointed out that Pak Islamic thinkers are not unaware of the economic influences on the society and the state. This has been dealt with in some

details in the last chapter which is exclusively devoted to it.

### Summary

The Pak Islamic thinkers, from a superficial point of view look upon man as a "social animal," as did Aristotle, and they believe that man seeks a social organization because only society can provide him with the much needed security. The other motivating force which tends man to form society, they argue, is that society alone can harmonize diverse individual talents and faculties, and thus bring about individual and social progress.

However, the same thinkers also define man in more individualistic and religious terms. They think that man is the possessor of a "soul" and that religion brings about such "souls" together. This view, nonetheless, is not free from inconsistencies. On the one hand, for example, they argue that religion brings individual state of minds together no matter what their ethnic and economic background is. That is, the spiritual force is supposed to keep individuals together, but they ignore the fact that individual state of mind may not recognize the spiritual force as binding.

Further, they also believe that all individuals as possessors of "souls" are equal. However, they think that some souls are more "equal" than others. Again all of the Pak Islamic thinkers believe in the universality

of the Muslim community, yet the creation of Pakistan attests to the fact that this so called universal principle was applied in a particularistic manner.

Furthermore, the social structure that the Pak Islamic thinkers conceive, is claimed to be predominantly "moral" in character. They intend to bind the members of the society to a set of moral standards. And, in order to promote and preserve the morality of the society, they advocate the application of both power and force of the state as well as resort to a peaceful approach too.

As far as the "family" and its influence upon the political is concerned, the Pak Islamic thinkers look upon "family" as a natural unit in the social and political organization. However, the conservative thinkers believe that family should be a tightly knit unit dominated by the male and extending this analogy to the state they argue that in a similar manner the state should be ruled by one person in an "authoritarian" manner. The liberals, on the other hand, are for more equality to all the members of the family and applying this principle to the state they favor a democratic structure.

As far as education is concerned, the Pak Islamic thinkers are of the opinion that the moral standards which should govern an individual, the family, and which should also form the "substance" of the society and the state should be inculcated through an educational system. They also believe that for a society to keep pace with the

modern technological era technical education should also be imparted.

The Pak Islamic thinkers, display a paradoxical attitude in discussing the manner in which a society can be changed. On the whole they stand for the application of evolutionary means yet the political elite have not desisted from employing violence as in the case of the coup staged by Ayub Khan. They think that the individual state of mind and the society can be changed through the employment of peaceful methods, yet they also think that the force of the state is necessary to bring about this.

In the end it must be stated that the Pak Islamic thinkers are well aware of the force that economics plays in a society and the state, and this has been dealt with in the last chapter.

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## CHAPTER VI

### THE ORIGINAL THEORY OF THE POLITICS AND THE STATE

#### Introduction

This chapter covers the "Original Theory of the Politics and the State." It deals with the attempt to create a viable constitutional structure. It also describes such issues as the ethical foundations of the state (religion and politics) the process of law making and administration and federalism.

The next chapter will deal with the breakdown of the system in terms of the rise and role of political parties, the failure of the elite, and the creation of the Basic Democratic system with a new presidential form of government which was later installed.

The following chapter will cover the contemporary period in the country in which the parliamentary form of government has been reestablished. A separate chapter dealing with the functions of the state (especially in economic affairs) will cover the entire period.

Constitutionalism and the Nature of  
State and Politics

In previous chapters (such as metaphysics, the nature of man, etc.,) we have discussed in some details the views of the Pakistani theocrats concerning the nature of politics and the state. However, further description and comment is necessary at this point because the founders of Pakistan were, as we will see, consciously influenced by western ideas of "constitutionalism" or rule of law governing the political system and yet the "constitutionalism" was integrally related to an "ethical system" wedded to a particular body of religious thought. To put it another way, ideas about the nature of politics became institutionalized in constitutionalism of a supreme law governing "state" and "government" and, such a system of course is not unfamiliar to western politics. That is, running through the development of political thought there has been a view which looks upon politics as a process, both ideological and institutional, of finding principles of harmony for human life and ways of structuring these in institutions. Prof. Sabine in his classic and more familiar text in the "History of Political Theory" for example, says much the same thing of the heritage of Plato and Aristotle:

The presumption upon which Plato worked--that human relations may be made the object of rational study and may be subjected to intelligent direction--is a sine qua non of any social science whatever. And the more general ethical principles of political theory--the conviction

that the state ought to be a relation between the free citizens morally equal, conducting itself according to law and resting upon discussion and consent rather than force--have never vanished from European political philosophy.<sup>1</sup>

It is likewise true that mixed in with Hebrew scripture about the need of war and an "eye for an eye" there is the moral claim that men ought to "love mercy, do justly and walk humbly before God." And it is well known that Samuel resisted as long as possible the destruction of the theocracy based on "ethics" vs. the establishment of a tribal kingship resting on force when he told the people who asked for a king that they did not need such a temporal power since they had God and His Law and the latter would govern them well if they were faithful to it.

It is likewise true that even after the Christian Church accepted the doctrines of Augustine (as well as Paul) Caesar not only had his place and should be obeyed but there was the insistence that a temporal state must abide by the ethical commandments laid down by "natural law" or he was not in fact a true ruler and would be denied the sacrament.

Of course it is true that in the case of the theories of most of those who have held the assumption that politics was a search for harmony or the ethicizing of human relations there was always the blending somewhat of the view that a "state" was also a "coercive force." Plato and Aristotle assumed the necessity for the police and army;

Christianity at least after Augustine assumed that the state was the expression of the evil in the human condition including its tendency to use violence even if this might be accepted when used for ethical ends. Few modern "idealists" unless they be certain anarchist utopians such as Tolstoy fail to subsume violence under their ideal politics.

Yet the alternative view of what is the "political" or what is "politics" seems on the face of it more simple. It is that politics is the relationship of power between men although how power itself or as such is to be defined is often quite vague. Sometimes it is considered as "pure" violence or physical force, sometimes as psychological influence (the threat of force), and sometimes as a mere habit of obedience. In any case this view was presumably first most clearly stated by Machiavelli and is reflected later in the ideas of Hobbes and the later positivist lawyers such as Austin and the Scandinavian Legal Realists. It has come particularly to the fore in recent social science wherein some entity or relation such as "force" has been sought which might be studied empirically, and quantitatively. Thus recent scholars in American Political Science have especially pushed this definition: Charles Merriam, Harold Lasswell, George Catlin, and to some extent David Easton and Dahl, etc. Most textbook writers in political science claim it as the core of the

discipline for study.

On the other hand it should be noted that almost all of the members of the "power" school "sneak" ethical assumptions in (as the classical and religious "idealists" "sneak" power in) including such value assumptions as "honor" (Machiavelli) and the "validity" of democracy (Merriam, Gatlin, et al.).

However, whatever view one may take of the nature and meaning of state and politics, ethical or metaphysical, there are certain specific practical questions with which all theorists deal concerning the activity of the state and the political "order." These questions and the answers given to them are what usually form an integrated part of the more practical description of any political theory.

The questions include the following:

1. Who shall be the decision makers in a state and, how many shall there be? This question is also broken into two parts, viz., (a) the question of the immediate decision makers (officers) in the government and, (b) who shall be the ultimate decision makers (such as the voters in a democracy).
2. How shall the power of the state (that is, the power which the state does exert and the functions it performs) be distributed, or organized in terms of the governmental process? Shall there be a distinct branch of the government which shall "make law," and

if so what "kind of law" shall it make? Shall there be another branch which shall be the enforcer of law, and if so what kind of law shall it enforce and how? That is, may it be that it shall also make some law? Finally, what shall the courts do? Can they make law or merely "find and order" the enforcement of the ruler in particular cases? Shall there be a specific separation of powers between three agencies within the governmental process; shall there be checks and balances between these agencies which make law, enforce law and adjudicate law?

3. How shall the state be organized territorially for administrative-power purposes? Shall there be a federal system or a unitary system or a confederation?

4. Finally and perhaps most importantly today, what and how much shall the state do? That is, how many functions of life shall it perform or regulate and why?

Pak Islamic thinkers' View of the nature of  
Politics, State and Law

As we pointed out earlier, in this chapter we will study in some elaboration, the views of the Pak Islamic theorists on the relationship of politics and ethics, as well as the effort made by them, apparently under western influences to incorporate a constitutional system which provided for legislative supremacy (subject to certain limitations), an executive responsible to legislature,

independence of judiciary, territorial distribution of powers, etc.

And in this section we will begin by a study of the view that Fakh Islamic thinkers have towards politics. The fact is that the religious theories in the case of not only Christianity but Judaism and Islam have tended to view politics in its relation to state as a two swords doctrine a blend of the ethical or moral, as the "just" and harmonious together with the needs of power. The origin of this view in Islam, as we have seen, can be traced to the Quran itself which makes it possible for the followers of Islam to evaluate all human beings and their conduct with reference to the moral principles. And the Quran also asks Muslims to follow Muhammed in this context. Thus it says:

Those, on the contrary, who believe and do good works and believe in what is revealed unto Muhammed in as much as it is the truth from their Lord, He will surely remit them from their ill-deeds and improve their minds. All this is because those<sup>2</sup> who believe have adopted the Truth from their Lord.

And We sent you an Apostle from among yourselves to rehearse our signs unto, and to purify you, and to instruct you, in the Book, and in the wisdom and to teach you that which ye know not.<sup>3</sup>

In the implementation of these ethical precepts the Quran also upholds not only the use of but the necessity of coercive power for the maintenance of "law and order" with the aim of perpetuating a morally organized state. Consequently, the Quran recurrently condemns "lawlessness" and "disorder."<sup>4</sup> Also those who cause political turmoil

and disorder are castigated. For instance:

Only the recompense of those who war against God and His Apostle, and go about to commit disorders on earth, shall be that they shall be slain or crucified, or have their alternate hands and feet cut off, or be banished from land.<sup>5</sup>

The Quran is again harsh on "rumor mongers" or those who initiate "false prosecutions" and recommends that they be put down with an "iron hand."<sup>6</sup>

In the Quranic tradition, too, the Prophets have not only been the conveyors of the message of God, but also have acted as "judges" and "enforcers of the divine law."<sup>7</sup> In fact, apart from other factors, they were sent with the Scriptures so "they might be able to decide internecine feuds."<sup>8</sup>

In the above tradition Muhammed himself is thus seen not only as an instrument for the revelation of the message of God but much more. He is the positive law leader of the Muslim community and he is the positive law judge, the adjudicator of their disputes. He thus wielded power and authority to put into operation the ethical and moral precepts in the Quran, as the Quran commands:

O ye who believe in God; Obey God and obey the Apostle, and those among you invested with authority; and if in aught ye differ, bring it before God and the Apostle if ye believe in God and in the latter day. This is the best and finest way of settlement. 9

Following the death of Muhammed, an institution developed in Islam known as Caliphate or Khilafat. The word "Khilafat" simply means "following after, and so

filling the room of another."<sup>10</sup> It did not include revelation, for the Quran was ended. "But the springs of authority, the task of public leadership--these were committed to the successor, first Abu Bakr, then Umar, beginning an institution which continued through many toils down to 1924."<sup>11</sup>

The actual theory of "Caliphate" or "Khilafat" was first propounded by al-Mawardi,<sup>12</sup> who looked upon the Caliph as the vicegerent of the Prophet, the source of all authority bound to perform certain duties. (This is comparable to the theory of the Papacy in Roman Catholicism--Peter as the first Bishop of Rome being given the keys of the "Kingdom of Christ"--although in spiritual sense only, whereas in Islam the Caliph receives the temporal key also). The more important of these responsibilities were; (1) uphold the fundamental principles of the Islamic religion, (2) defend Muslim territories, (3) take care of the finances of the realm, and (4) act as the administrative and judicial head.<sup>13</sup> He was also charged with the "implementation of the law by safeguarding the welfare of the believers in this world, and by enforcing obedience to it, ensuring their salvation in the world to come."<sup>14</sup> Ibn Jamaa<sup>15</sup> in the same vein describes the institution thus:

The duties of the Imam leader are the defense of the din religious faith the warding off of the offenders, granting compensation to those wronged and establishing rights. For herein consists the welfare of lands, the security of the subjects

and stemming the tide of corruption.<sup>16</sup>

However, since by the time Pakistan founded, the Khilafat as an institution had become non-existent, the position became assigned by Pak Islamic thinkers simply to the state, here an Islamic State. That is, the state, as visualized by the Pak Islamic thinkers was to serve as an instrument or media to put into operation the ideological principles contained in the religion of Islam, which, according to Maududi, embody "the highest ethic, virtue and excellence."<sup>17</sup> Ishtiaque Husain Qureshi, a scholar, more specifically says:

The moral concepts of our people are based upon the teachings of our religion. If, therefore, the polity of Pakistan is to be based upon a firm foundation of a righteous ideology, there is no motive force, but that of Islam. . . . To ask an overwhelmingly Muslim people to discard its innermost convictions in framing its constitution is to ask it to commit suicide.<sup>18</sup>

Liaquat Ali Khan, the first Prime Minister of Pakistan, insisted that the Pakistani approach to the concept of politics was the direct opposite of the modern power view when he said:

It is quite true that this is in direct contradiction to the Machiavellian ideas regarding a polity where spiritual and ethical values should play no part in the governance of the people and, therefore, it is also perhaps a little out of fashion to remind ourselves of the fact that the state should be an instrument of beneficence and not of evil.<sup>19</sup>

However, the fact is that the conduct of the political elite in Pakistan has hardly been in conformity with their

lofty moral pretensions. A few examples will show how their conduct has defied the Quranic ethics. The Quran very clearly exhorts all to keep their pledges. Rather, rhetorically it says, "Will you not smite a people who broke their pledges?"<sup>20</sup> Yet the fact is that Iskander Mirza was the Governor General of Pakistan when the 1956 Constitution was adopted and passed, and it was during his tenure as Governor General that the National Assembly met more frequently and for "longer duration than in the past."<sup>21</sup> He had also taken the oath to preserve the constitution. Nonetheless, he did not hesitate to break the oath he had taken and abrogate the very constitution to which he had sworn allegiance<sup>22</sup> when he along with Ayub Khan, as we have seen (ch:1), abrogated the constitution.

Further, Islamic ethics is rooted in the ideal of imitating God and that God is the embodiment of truth. Hence. Muslims all over are expected to embrace "truth" and shun "falsehood." For example, the Quran says:

Say, it is God alone who guides you to the Truth.  
Is He who guides to the truth worthier to be followed,  
or he who guides not unless he himself is guided?  
What is the matter with you then? How do you judge? , ,

In the following chapter several instances are given which will show that the political elite in Pakistan were anything but truthful.

Furthermore, the Quran very explicitly says:

Say, my Lord has only tabooed (harrama) abominable deeds, whether outwardly visible or concealed

within, and sin, and wrongful insolence.<sup>24</sup>

The widely reported atrocities committed by the armed forces of Pakistan in East Pakistan, now Bangla Desh, under the direction of the then prevalent regime certainly belie the above commandments of God. Also the Quran says:

Those who believe and do good works (salihat); such shall be the habitants of paradise, to dwell therein for ever.<sup>25</sup>

Let there be one community of you, all inviting men to good (khayr).<sup>26</sup>

And the political elite of Pakistan, as will be made clear later, hardly if ever stood out as an example of "good." Rather it was their "evil" deeds that made them conspicuous.

#### The Role of Shari'ah

The notion that the ethical ideals of Islam are crystalized in the form of Shari'ah or specific Divine Law and the belief that an Islamic State should implement the Shari'ah, much as Samuel for the Hebrews and St. Thomas for Catholicism envisioned that Divine Law should be implemented by a religious based state. And this is the view shared by such "classical" Islamic thinkers as al-Mawardi, Ibn Taimiyah, Ibn Khaldun, al-Farabi, etc., who fall back on such statements in the Quran as:

This Quran is a manifesto to man, and a guidance and a warning to the God-fearing.<sup>27</sup>

Say: I am no apostle of new doctrines neither know I what will be done with you or me. Only what is revealed to me do I follow, and I am charged to warn openly.<sup>28</sup>

Thus Ibn Taimiyah was a puritan who sought to cleanse Islam from everything which was incompatible with Quran and Sunnah. Ibn Khaldun, argued that only in following the Shari'ah does man's welfare both in this world and salvation in the next one lie.<sup>29</sup> The ideal state (Siyasa Diniya) for Ibn Khaldun is one which is thus based on the divinely revealed law, viz., Shari'ah.

Today all of the Pak Islamic thinkers have claimed that an ideal Islamic State should incorporate the Shari'ah into positive law, the law of the land. Thus the Board of Taalimat-e-Islamia composed of the prominent Ulema constituted to advise the First Constituent Assembly of Pakistan on some of the Islamic provisions relative to the state of Pakistan clearly stated that an Islamic State "means a state ruled in accordance with the tenets of Islam or more correctly, a state where the Divine Order as contained in the Holy Quran and Sunna reigns supreme."<sup>30</sup>

Again the Ulema held a convention from January 21 to 24, 1951, at Karachi wherein it was clearly stated that the "law of the land should be based on the Quran and Sunna."<sup>31</sup> In an explanatory note, the Ulema further stated that all laws which are contrary to the Quran and Sunna should within a specific period be "amended in conformity with the Islamic law or repealed."<sup>32</sup> Maududi expressed the same view adopting a negative stance thus:

If instead of the Islamic Shari'ah the British Civil and Criminal Procedures had to be enforced

what was the sense in all this struggle for a separate homeland.<sup>33</sup>

Meanwhile even the liberals in Pakistan are in complete agreement with the Ulema that Shari'ah should be made the law of the state, although there have been differences of approach between the "Ulema" or the "conservatives" and the liberals. While the "conservatives" have a simplistic belief in the Shari'ah as embodying eternal and perfect rules with their supposedly divine origins, something like the "self evidence" of natural rights in Locke, the liberals raise questions.

That is to say, the liberal thinkers, as pointed out (ch:2), are of the view that the Quran can be interpreted in accordance with the requirements of the contemporary period. Iqbal, for example, denies that the Quran in itself constitutes a "legal code." According to Iqbal, "it lays down a few general principles and rules of legal nature,"<sup>34</sup> which are also subject to elaboration. The elaboration that he suggests, in turn, has to meet the requirements of a society which is undergoing a continuous change and is always subject to a creative process.<sup>35</sup>

With regard to Hadith, the more important source of Shari'ah, as we have seen, the liberals show an inconsistent attitude. Iqbal dismissed the bulk of the Hadith as untrustworthy.<sup>36</sup> However, he also expressed the opinion that an intelligent study of the Hadith "as indicative of

the spirit in which the Prophet himself interpreted His revelation would help," and thought that the value of the Hadith in understanding the "legal principles enunciated in the Quran should not be discarded."<sup>37</sup> Qureshi in similar manner doubted the authenticity of the bulk of the Hadith but attached great value to what he called the "authentic Hadith of the Prophet."<sup>38</sup>

There is also a difference of opinion as to who should bring about this change. Thus while Maududi thinks that only a few can do so, Iqbal, on the contrary, would delegate this responsibility to the representative assemblies of the people (ch:2). Consequently, in view of such differences, the issue even today is hanging in balance. And the problem has been circumvented by a stipulation in every constitution that Pakistan has had to the effect that no law shall be enacted which is contrary to the dictates of Quran and Sunna. The other method resorted to is the creation of a "Council" whose task traditionally has been to report to the President on the advisability of incorporating the dictates of Quran and Sunna into legal norms. Yet twenty-five years after the creation of Pakistan there has not been any progress and the whole issue is rather a moot one.

The General Principle of the Inseparability  
of Church and State

The firmness with which the Pakistani thinkers hold to the concept of an "ethical" state grounded in religion is indicated by the insistence that Pakistan acknowledge itself an Islamic State grounded especially in Islamic thought. Thus the belief that the religious and political are one necessarily follows from the inherent dogma of Islam as interpreted by the Muslim thinkers and the Pak Islamic thinkers. Of the Pak Islamic thinkers Iqbal expresses the view that every religion, Islam included, performs the dual function, viz., to act as a guide in both the spiritual and political aspects of life. And in this context, he criticizes Europe for having forsaken the "universal ethics of Jesus."<sup>39</sup> Contra, he lauds Islam for not developing the cult of a priestly class and an organized church on the one hand which might be antagonistic to the state an institution separated from religious life and thought. Hence, he argues, not only should there not be a demarcation between the spiritual and the secular, but also, unlike the papalists in Europe, he holds that no head of a recognized church can claim superiority over the Head of the State by claiming that he alone is the spiritual heir to God:<sup>40</sup>

Two explanations can be given for this phenomenon. First, the role of Muhammed as conceived by Pak Islamic thinkers, as we have seen, leads to the belief that God

revealed His message for the benefit of all mankind through Muhammed. Simultaneously, it is also believed that Muhammed put into practice this message and elaborated it wherever it was found necessary. Further, Arabia, where he was born and whose political destiny he controlled was in a state of anarchy before he assumed control. There was no government. It was not a state. Overall a tribal system prevailed wherein "every tribe claimed sovereignty and considered itself to be an independent unit."<sup>41</sup> It is well known to scholars of Islamic life, thought, and history that he welded these tribes into a state and became their tribal leader as well as giving them a religion. And by virtue of this faith in the religion of Islam they constituted themselves into a community of believers both temporal and spiritual. Thus, he stands out as the Prophet and messenger of God, as one who is the law giver in the tradition of Moses, as also the creator and ruler of a state, all of which logically leads to the unity of church and state.

The fact is that in Islam the "two swords" doctrine never developed because of historical forces and events which did not lead to a conflict between the law of God and the law of the ruler separately but rather to a unity. We know that in Christianity the formula "render unto Caesar the things that are Caesar's, and unto God the things that are God's" led to the establishment of two realms, each

separate, viz., the church and state, but with the church enjoying "moral" superiority. Since in Islam, traditionally the ruler (Khalifa), and in the present context the state, is the media to implement God's dictates, the temporal is not differentiated from the spiritual.

Furthermore, the events which favored the rise of the church as an independent institution in the West simply did not exist in the early Islamic period and era. It is common knowledge that Christianity owes its "temporal" rise from the time it was declared as the official religion by Constantine. Contra, an Islamic State is supposed to implement the principles of Islam rather than accord it a separate status. The weakening of the Roman Empire, we also know, contributed to the growth of the Christian Church. The weak governments in Rome and in the West in the dark ages meant that a political vacuum was created in morality enforcement and this was filled by the church which had become a well organized institution with tremendous psychological and at times physical power. No such parallel can be found in the early history of Islam.

In any case, contrary to the original Christian doctrine which laid emphasis on the spiritual as opposed to temporality, and thus its tendency to withdraw from the distasteful task of civil rule, Islam has always been considered a "perfect guide" to world affairs, too. Hence, Iqbal in modern times argues that no distinction can be made in Islam between the spiritual and temporal aspects

of life. The source of all ideal principles and acts, he says, is God. It is God's Will which is to be supreme in every area. "The state," Iqbal says further, "according to Islam is only an effort to realise the spiritual in a human organization."<sup>42</sup>

Moreover, logically the Pak Islamic thinkers never associate temporal rule with sin as in Christianity. They believe that if man leads his life in this world on the basis of the ideal principles of Islam, it is a guarantee to perfect life in the other world. Hence, the rule of Muhammed in Arabia is looked upon as the perfect embodiment of "Quranic rule" and the kingdom that he established as "kingdom of God on earth,"<sup>43</sup> so will be the rule based on the principles of Islam.

In conclusion then, positive law and politics as power have never been, are not and theoretically cannot be separated from law and politics as an ethical system integrally related to a religion and a religion of universality at that.

#### Who and How Many Shall Be the Decision Makers

However, as we have noted after a political theorist has defined the relationship between state, law and politics, other questions follow and this was true for the Islamic thinkers. Among the first of these questions about any type of political theory is one of who and how many the decision makers are. In evaluating this one describes

who (as people) actually controls the state. This question of who should control is one that has caused argument among political scientists and political theorists throughout the ages.

In the Quranic tradition, the Prophets as an authoritative elite were generally accepted as the decision makers although the Quran also directed Muhammed to:

Take counsel with them the people in affairs of state.<sup>44</sup>

And also exhorts at one point:

Their rule is by counsel among themselves.<sup>45</sup>

Thus suggesting advisory rule by the many or the principle of democracy.

The political theory of Nawardi suggested that the Khalifa as the decision maker was to bind himself to fulfil certain obligations which have been pointed out earlier, and the more important of these were (1) to guard the faith, (2) to execute and preserve justice, but this still suggested authoritarian rule. Yet in order to provide "legitimacy" the Khalifa was to bind himself to the community by a contract ('ahd) guaranteeing loyal fulfilment of his duties and receiving in exchange a promise of obedience although the contract, of course is a mythical one, thus suggesting again the democratic element.<sup>46</sup>

According to al-Ghazzali, the Khalifa is the decision maker though he is expected to implement the Shari'ah, and practice the religious virtues of piety, humility, charity

and compassion as God's vicegerent.<sup>47</sup>

The "Ulema" of Pakistan, in an application of the Muslim thinkers' view, have looked upon the Head of the State as the chief decision maker in the state who is required to:

Work for the consolidation and glorification of Islam, readicate the vices, propogate virtues, procure the necessaties of life, do full justice to all, diffuse knowledge, maintain internal peace, enforce the punishments prescribed by Shari'ah, control and disburse public funds, meet all possible danger from any quarter, and protect the general well being and prosperity of the masses.<sup>48</sup>

They also considered the Head of the State as, "trustee of the interests of the Millat, the symbol and manifestation of its power and authority and its executive organ in all walks of life in the state."<sup>49</sup>

The Ulema also insisted that any "bill, law, ordinance, or administrative order" that is repugnant to the Shari'ah be declared "null and void."<sup>50</sup> They also proposed that a "Committee of Experts on Shari'ah be set up to decide whether or not a particular law. . . militates against the requirements of Shari'ah."<sup>51</sup> True the functions of the Committee of Experts would be negative in that the Committee could only veto un-Islamic legislation but in the absence of other specification, we can also assume that the Committee of Experts was also to be able to pass upon the legality of acts of the Head of the State, and possibly even ask for his removal too,

On the other hand, as we have seen, the liberal and

western educated statesmen and politicians showed more concern for synthesizing the basic Islamic concepts with modern democratic institutions. As Khwaja Nazimuddin put it:

The principles enunciated in Islam had to be interpreted in terms of the democratic constitutional practices of the twentieth century.<sup>52</sup>

Thus while the Ulema asserted that "political authority" though subservient to God should be legitimately exercised by the "Caliph" and in Pakistan the Head of the State with a "Committee of Experts" in Shari'ah acting as the watch dog, the Muslim liberals favored the viewpoint that, "the state shall exercise all its powers and authority through the representatives of the people."<sup>53</sup>

Also whereas the "Ulema" had taken the stance that they alone should be treated as the ultimate decision makers in deciding whether laws, etc., were in accordance with Islamic thought even though for ordinary purposes this power rested with the Head of the State, Liaquat Ali Khan took pains to assert that the "people" were to be the real governors:

I just now said that the people are the real recipients of power. This naturally eliminates any danger of the establishment of theocracy. It is true that in its literal sense, theocracy means government of God; in this sense, however, it is apparent that the entire universe is a theocracy, for is there any corner in the entire creation where this authority does not exist? But in the technical sense, theocracy has come to mean a government by ordained priests, who wield authority as being especially appointed by those who claim

to derive their rights from their sacerdotal authority.<sup>54</sup>

The above "theories" obviously waiver between the historic idea of a theocratic elite acting as constitutional law makers and the democratic notion of popular sovereignty just as occurred in the West in the days when the modern state began to arise.

Constitutionalism and the Distribution  
of Power in Terms of Process:  
Law Making, Law Administering  
and Law Adjudicating

Law Making and Law Administering: The concept of a popularly based "legislature" as the supreme law-making body representative of the people is therefore new to Muslim tradition as well as to conscious Muslim political thought. Hence the supremacy of the legislature in terms in which Locke envisions it was not supported "really" by the Pak Islamic thinkers. In fact, it is "alien"<sup>55</sup> as Maududi puts it.

However, since these popular legislative bodies have been in vogue intellectually and officially in the contemporary period, and due to other factors elaborated later in this chapter, both the conservatives and liberal thinkers felt the necessity to adopt them officially, but still attaching varying importance to them. That there is the need for a legislative body was thus admitted by Maududi. However, he argued that since God is sovereign, the Shari'ah actually should be the law of the land.

Consequently he says that in an Islamic State the legislature can only, "enact into laws the clear and binding rules of God."<sup>56</sup> Similar was the position taken by the Board of Taalimaat when it declared:

In an Islamic State the implementation of the Commands of Allah is the basic consideration and the will of the people occupies a comparatively subservient position; while on the contrary, an absolute democratic state aims at the unconditional implementation of the will of the people. Hence it follows that in an Islamic State, the real function of any properly constituted legislature is to enact and enforce the commands and injunctions of Allah and His Prophet.<sup>57</sup>

The Board also recognised the fact that the law-making body could face and solve problems which would arise, in fact were sure to arise (beyond reference to the Quran) due to the fact that the contemporary age is a technological and industrial age. The Board, however, did not specify what might be the particular nature of such problems but was content to state that:

Any legislation which does not militate against the injunctions and requirements of Islam and is not detrimental or prejudicial to the aims and objects of an Islamic State is permissible.<sup>58</sup>

The liberals on the other hand, as we have seen, have continuously emphasized and looked upon the representative assemblies as the repositories of "power" and "authority." Applying this principle in its structural form, that is constitutionally speaking, almost all of the political leaders favored a parliamentary system. Nazimuddin, for example, frankly stated that ultimately

"all power will vest in the popular houses elected on the basis of popular franchise."<sup>59</sup> Chaudhari Muhammed Ali, the architect of the 1956 constitution declared that "our constitution . . . has been modelled on the British parliamentary system."<sup>60</sup>

That Pakistan should have parliamentary institutions was therefore simply taken for granted. The one important reason for this was the fact that it was the system most familiar to them due to British rule and western education. It was the form of government practiced in the advanced countries of the commonwealth of which Pakistan was a member. As the Swedish scholar Gunnar Myrdal in his "Asian Drama" puts it:

In view of the long period during which Pakistan has been under the influence of British parliamentary traditions, . . . it is not surprising that legislative organisation and procedure in Pakistan is similar to the British House of Commons.<sup>61</sup>

Moreover, the political leaders of Pakistan such as Jinnah, Liaquat Ali Khan, Nazimuddin, Suharwardy and others were essentially parliamentarians having served in "Indian-British" "western" parliamentary bodies. Their whole political upbringing led to the belief that parliamentary institutions should be adopted.

Also important is the fact that these liberal leaders distrusted the theologians or "Ulema" and showed no desire to surrender or even delegate power to them. Liaquat Ali, for example, equating theocracy with a

government by "ordained priests" clearly vetoed even the possibility of its establishment.<sup>62</sup>

It is appropriate at this stage to point out that Pakistan adopted a form of government which, as Chaudhari Muhammed Ali called it, "has been modelled on the British parliamentary system."<sup>63</sup> As it is well known there is no real separation of powers in the British parliamentary system. The law enforcing authority (executive) is not independent of the law-making body (legislature) and the judiciary is not entitled to declare the action either of the executive or the legislature "to be unconstitutional."<sup>64</sup> In fact, as the English jurists Wade and Phillips point out, "in England the cabinet system of government is incompatible with a rigid separation of legislative and executive powers."<sup>65</sup> Further they say:

The cabinet, the centre of the executive power, is composed of members of the legislature, and tends to monopolise the business of that body. It remains in power so long as it can retain the confidence of the parliament. Not only does the Cabinet to a large extent determine what matters the legislature should consider and enact, but it is able by use of the party majority it normally commands in all vital matters. The life of a parliament is apt to coincide with the life of the government which is responsible to it.<sup>66</sup>

Even though Pakistan adopted parliamentary institutions, there were some departures from the British conventional practices. For example, unlike the British parliamentary system where there is no statute for the Prime Minister, there was a specific provision in the

1956 Constitution which said that:

There shall be a Cabinet of Ministers with the Prime Minister at its head, to aid and advise the President in the exercise of his functions.<sup>67</sup>

Again there was a statutory provision in the 1956 Constitution for the selection of the Prime Minister which said that the President, "shall, in his discretion appoint from amongst the members of the National Assembly a Prime Minister, who, in his opinion, is most likely to command the confidence of the majority of the members of the National Assembly."<sup>68</sup> This is similar to the procedure followed in Great Britain.

While the real law enforcing authority was the Prime Minister, it was the President who was the executive head in the formal sense and nominally he held many powers. In order to clarify the issue further Chaudhari Muhammed Ali stated in the Constituent Assembly that:

Our Constitution. . . has been modelled on the British Parliamentary System. Objection has been raised that extraordinary powers have been given to the President. . . in particular the power of dissolving Parliament. The Law Minister has already explained that, that power will not be exercised by the President in his discretion, but on the advice of the Prime Minister.<sup>69</sup>

In fact, the constitution itself says that, "the President . . . shall act in accordance with the advice of the appropriate Minister or Ministers, except when he is required under the Constitution to act or exercise his functions in his discretion."<sup>70</sup> Later in the Constitution it was clarified that the term "Minister or Ministers"

should be understood to mean the "Prime Minister."<sup>71</sup>

Thus the executive head of the country, in the formal sense was the President. In order to be eligible for election to the presidency of Pakistan a person must be a Muslim, over forty years of age, qualified for election as a member of the National Assembly, and not previously removed from office, by impeachment. The President was to be elected by an electoral college consisting of the members of the National Assembly and the provincial assemblies. He was to hold office for a term of five years and was limited to two terms.<sup>72</sup> The first President, however, was elected by the Constituent Assembly under a special provision of the Constitution.<sup>73</sup>

The President could be impeached on a charge of violating the Constitution or gross misconduct provided that at least one-third of the total members of the National Assembly gave fourteen days notice of their intention to move a resolution of impeachment. Impeachment would become effective and the President would vacate his office when a resolution of impeachment was passed by at least three-fourths of the total number of members of the National Assembly. The President had the right to appear and be present during the consideration of the charge.<sup>74</sup>

Pakistan had no vice-president. If, however, a vacancy occurred in the office of the President, or if for any other reason the President was unable to discharge his

duties, the Speaker of the National Assembly was to act as President until the President resumed his duties or until a new President was elected.<sup>75</sup>

As we pointed out, apart from being the executive head in the formal sense, he also appointed the Prime Minister. Further, the President summoned, prorogued or dissolved the National Assembly. He had also the power to address the National Assembly and send messages to it.<sup>76</sup>

All bills passed by the National Assembly were to be presented to the President, who was required to give his assent to them or declare that he was withholding his assent. or return bills other than money bills to the Assembly for reconsideration. If after reconsideration of a bill returned by the President, it was again passed, with or without amendment by a majority of the total number of members, the President must assent to it. Even if the President withheld his assent from a bill, however, the Assembly could reconsider it and override the President's dissent by a vote of two-thirds of the members present and voting. No money bill could be introduced or moved in the National Assembly without the recommendation of the President.<sup>77</sup>

The President appointed provincial governors and they held the office during his pleasure. All Election Commissioners and Federal Public Service Commissioners were appointed by the President at his discretion. The Chief Justice of Pakistan was appointed by the President

and the other judges of the Supreme Court were appointed by the President after consultation with the Chief Justice. The President also appointed the Attorney General.<sup>78</sup>

The supreme command of the armed forces vested in the President, but the exercise of that command was to be regulated by law.<sup>79</sup>

When the National Assembly was not in session the President could promulgate ordinances having the "like force of law as an Act of Parliament," if he was satisfied that circumstances existed which rendered such action necessary. This power extended to the authorizing of expenditures from the Federal Consolidated Fund. Except for that, ordinances of the President were to be laid before the National Assembly and ceased to operate after six weeks from the subsequent meeting of the National Assembly.<sup>80</sup>

The 1956 Constitution provided for a unicameral legislature. It specifically stated that "there shall be a parliament of Pakistan consisting of the President and one House, to be known as the National Assembly."<sup>81</sup>

The total membership of the Assembly was set at three hundred to be divided equally between East and West Pakistan. For the first ten years after the coming into force of the Constitution, ten additional seats, reserved for women, were to be added to the composition of the Assembly, and were again to be divided equally between the two provinces.<sup>82</sup>

A person was qualified for election to the National Assembly if he was not less than twenty-five years of age, was qualified to be an elector for any constituency, and was not disqualified for being a member by the Constitution or an Act of Parliament.<sup>83</sup>

It has been seen in discussing the powers of the President, that the President, acting on the advice of the Cabinet could summon, prorogue or dissolve the National Assembly.

The Constitution provided that at least two sessions of the Assembly be held every year, and at least one session "must" be held at Dacca, capital of East Pakistan, except that in time of emergency this latter provision could be suspended.<sup>84</sup>

The National Assembly had a life of five years unless sooner dissolved. It elected its own Speaker and Deputy Speaker, and framed its own rules of procedure.<sup>85</sup>

### Judiciary

There has been a great emphasis in the Quran on justice. In fact, God Himself is looked upon as the "Best of Judges," and exhorts the followers to "follow what is revealed to thee; and preserve steadfastly till God shall judge."<sup>86</sup> Further, speaking of the day of judgment it says:

Reward is promised to the just, and punishment to him who turns away.<sup>87</sup>

Also, the very basis of prophethood is the principle of justice. That is, the prophets were sent with the "Books" containing divine law so that they might be able to dispense justice and decide internecine feuds accordingly:

Say: In whatever Books God hath sent down do I believe: I am commanded to decide justly between you: God is your Lord and our Lord: we have our works and you have your works between us and you and let there be no strife: God will make us all one: and to Him shall we return.<sup>88</sup>

The Mutazalites steadfastly argued that God is the God of justice, and "it is obligatory upon God to reward the virtuous and punish the evildoers and that He cannot do otherwise."<sup>89</sup> However, the Ash'arites did not dispute the notion that God is the God of justice, yet they also held the view that reward and punishment are entirely His gift.<sup>90</sup> Al-Ghazzali looked upon the ruler as the fountain of justice. And in accordance with the theory of Khilafa wherein the ruler is looked upon as the representative of God on earth, al-Ghazzali says that the Caliph is entitled to rule only if he is just, otherwise he is the representative of the devil.<sup>91</sup>

In the traditional sense, the function of the judiciary has been to interpret law without making any distinctions. Or as Azad says, "the rich and poor, master and slave, small and big, all should be treated equally before law and justice meted out without distinction."<sup>92</sup> According to Azad, the credit for the abolition of any distinctions goes to Islam.<sup>93</sup> Maududi makes the same

point when he says that:

The judiciary in an Islamic State must be independent competent and bold enough to give an impartial verdict irrespective of the position and powers of the parties.<sup>94</sup>

I.I. Chundrigar, one-time Minister of Law said:

Sir, the independence of the judiciary is a principle very clear to the people of this country, who believe that they receive justice from the courts of this country and that their rights are safe in the hands of the judges. The impartiality of the judge is one aspect of the nature of the judge, of which another is independence. A judge who is not independent cannot be impartial.<sup>95</sup>

The independence of the judiciary was guaranteed in the constitutional provisions whereby efforts have been made that the appointments, removal and tenure of the judges of High and Supreme Court are not tempered with. Thus there are provisions in the Constitution which serve this end. The conduct of the High and Supreme Court judges may not be discussed in the national or a provincial assembly, although the parliament may use a special procedure provided for removing a Supreme Court Judge for proved misbehaviour or infirmity of mind or body.<sup>96</sup>

The remuneration and other conditions of service of a High or Supreme Court judge may not be varied to his disadvantage during his tenure.<sup>97</sup> A person who is or has been a High or Supreme Court judge, according to the constitution, was made ineligible for appointment as a governor of a province. A person who held office as a permanent judge could not plead or act before that court

or any court of authority within its jurisdiction.<sup>98</sup> A High Court judge was liable to transfer by the President from one High Court to another, but only with the consent of the judge and after consultation with the Chief Justice of Pakistan Supreme Court and the Chief Justice of the High Court to which the judge in question belonged.<sup>99</sup>

Further, even though the judiciary does not have the power of "judicial review" in parliamentary institutions, yet the judiciary did not hesitate to exercise this power in Pakistan. The assertion of this power arose from the dismissal of the Constituent Assembly by Ghulam Muhammed in 1954, and the issue was resolved in the following manner.

Soon after the dismissal of the Constituent Assembly, proceedings were instituted to test in the courts the validity of the action of the Governor General. The President of the Assembly, Tamizuddin Khan, denied that the Governor General had the power to dissolve the Assembly, and petitioned the Sind Chief Court to declare the action of the Governor General illegal.<sup>100</sup>

A full bench of the Chief Court of Sind declared that the dissolution of the Constituent Assembly was invalid. The decision was given on February 9, 1955. Also, "the court ordered the issue of a writ of mandamus restoring Tamizuddin Khan to the office of the President of the Constituent Assembly and restraining all respondents from interfering with the duties of the President of the Constituent Assembly and obstructing him in the exercise

of his functions."<sup>101</sup>

The Chief Justice dealing with the Governor General's powers to dissolve the Constituent Assembly, said there was "no case throughout the Commonwealth outside England where the dissolution of the legislature took place except by an express provision in the Constitution and there was no such provision in the Pakistan Constitution."<sup>102</sup>

Mr. Justice Vallani and Mr. Justice Mohammed Baksh gave separate judgments. Both judges asserted the supremacy of the Constituent Assembly. Mr. Justice Vallani for instance, dealing with the powers of the Constituent Assembly said that it has "the supreme power to grant, amend, withdraw, re-grant, and bring into force the Constitution which is indeed a supreme prerogative."<sup>103</sup>

The Government of Pakistan appealed to the Federal Court and contended that:

There exists no legal justification for the supposition by the Sind Chief Court that the Constituent Assembly was the recipient of supreme and sovereign powers at the time of independence.

Further:

That the Sind Chief Court gave absolutely no weight to the fact that the Constituent Assembly uncontrolled by the restraint of the Governor General to its laws, and absolutely immune from liability to dissolution, especially when ceasing to represent the people and even acting in open defiance of their views was liable to be an unrepresentative and autocratic body.<sup>104</sup>

The Federal Court of Pakistan, accepted on March 21, 1955, the appeal filed by the Federation of Pakistan against the decision of the Sind Chief Court on the

petition of Fazizuddin Khan challenging the Governor General's proclamation of October 24, 1954, dissolving the Constituent Assembly.<sup>105</sup>

Following arguments, the Federal Court gave a majority opinion on May 10, 1955, in which it declared that the Governor General had the right to dissolve the Constituent Assembly.<sup>106</sup> In its decision the Federal Court sidetracked the issue whether the Constituent Assembly was a sovereign body or not. Instead it based its decision on the contention that:

The Constituent Assembly, though it functioned for more than seven years, was unable to carry out the duty to frame a constitution for Pakistan to replace the transitional constitution provided by the Indian Independence Act. . . , that for all practical purposes the Constituent Assembly assumed the form of a perpetual legislature.<sup>107</sup>

The Federal Court also ruled that the Governor General formed a part of the law-making and constitution making process and that the Constituent Assembly could not ignore him.<sup>108</sup>

While the Federal Court upheld the decision of the Governor General in dismissing the Constituent Assembly, it also ruled that the Governor General could not govern without such an assembly and that he should call one, afresh. Further, it also gave the decision that in convening a new Assembly the Governor General is within his rights "to nominate the electorate," but he could not nominate members to the Constituent Assembly itself.<sup>109</sup>

The Territorial Distribution of Power

When Pakistan gained independence, the foremost task the country faced was the task of nation building. Or as Karl Deutsch says:

As a house can be built from the timbre, bricks and mortar in different patterns, quickly or slowly, through different sequence of assembly, in partial independence from its setting, and according to the choice, will and power of its builders, so a nation can be built according to different plans, from various materials, rapidly or gradually by different sequences or steps, and in partial independence from its environment.<sup>110</sup>

In the above manner, the principal task the political leaders of Pakistan faced was that of creating a political system which would incorporate the East and West Pakistan regional systems. Rather, the issue was one of forging a political cohesion between East and West Pakistan.

In this context, the foremost problem was posed by the geography of the country whereby the two parts were divided by more than a thousand miles with India intervening in between. And it was presumed that no other form of government would suit Pakistan except federalism. As Liaquat Ali Khan at the very outset said:

It would be idle to think of a unitary form of government when the two parts of our country are separated by more than a thousand miles.<sup>111</sup>

However, Liaquat Ali Khan, and for that matter no prominent statesman gave a good reason why it should not be so.

The second problem was based on the so-called "language controversy." It was presumed that East Pakistan had its own language, viz., Bengali, which was distinct from

the language spoken and understood in West Pakistan, viz., Urdu. In this context, Jinnah, the founder of Pakistan believed that in order to forge national unity it was necessary that there should be only one state language, viz., Urdu.<sup>112</sup> Liaquat Ali more elaborately stated:

Pakistan is a Muslim State and it must have its lingua franca, the language of the Muslim nation. Pakistan has been created because of the demand of a hundred million Muslims in the sub-continent and the language of a hundred million Muslims is Urdu. It is necessary for a nation to have one language and that language can only be Urdu and no other language.<sup>113</sup>

However, Liaquat Ali Khan and Jinnah might have felt the East Pakistanis felt otherwise. In February 1952 the students of Dacca University rioted in Dacca, the capital of East Pakistan resulting in firing by the police.<sup>114</sup> The East Pakistan provincial Assembly passed a resolution to the effect that Bengali should be made one of the state languages.<sup>115</sup> Finally the constitution makers realized the gravity of the issue and provision was made in the 1956 Constitution whereby Bengali was made a state language along with Urdu. The problem was apparently solved but the bitterness was there.

But the most important problem was one of distribution of powers between the federal government and the two provinces, viz., East and West Pakistan. Almost persistently the solution that was offered was that the provinces should be given full autonomy but without weakening the federation. And Nazimuddin expressed the

opinion that this would give "all the opportunity that the people of a province may need to attain their full stature as participants in the fuller life of the country."<sup>116</sup>

As a first step it was agreed that there shall be parity of representation in the National Assembly. This meant that both provinces would be equally represented, thus avoiding the danger of domination by one province.<sup>117</sup>

The Constitution of 1956 had its federal, concurrent and provincial lists of legislative subjects. The federal list contained thirty subjects; the concurrent nineteen; and the provincial ninety-four.<sup>118</sup> The provincial subjects were, however, broken down in great detail, "as if to make the number as large as possible, while many of the federal subjects were very inclusive, apparently with a view to keeping the number as small as possible."<sup>119</sup>

Nonetheless, the lists in the new constitution represented a reduction in the powers of the federal authority in favor of the provinces when compared to the powers the federal authority had inherited from the British government. Railways, for example, was shifted to the provincial list. A few other subjects, such as botanical, zoological and anthropological surveys and cultivation and manufacture of opium were removed from the federal to the provincial list.<sup>120</sup> The Constitution also vested residuary legislative powers in the provincial legislatures.<sup>121</sup>

However, the 1956 Constitution also stated that in case of a conflict between the federal and provincial

authorities, the federal authority was to prevail when the issue concerned the subjects enumerated in the concurrent list. Also, the federal authority was to prevail where the issue was one of security of the country.<sup>122</sup>

### Functions of the State

Even though Pakistan witnessed a few changes in government since its creation in 1947, the views of the Muslim theorists of Pakistan and the policies pursued by various governments relative to the question, "how much the state shall do," remained unaltered. If there has been a change it has been since the present regime took over which has a professed "socialist" bias. In order to explicate the subject clearly a chapter has been written which covers the uniformly professed policies of various governments and their theoretical beliefs. And this chapter has been divided into two periods; one covers the period until 1971 and the other from 1971 onwards.

Nonetheless, a resume of the Pak Islamic thinkers views and the policies pursued by various governments until Ayub Khan took over (1958) are given to round off this chapter. Specifically speaking, the Pak Islamic thinkers have traditionally upheld the right to private property. And, applying this principle to the contemporary technical and industrial era, they upheld the right to private enterprise.

However, gradually but surely, the government of

Pakistan began to exert more and more control on its economic policies. There are two reasons; First, the Pakistan Government inherited from the British the ownership of such public utilities as railroads, wireless and telegraph, generation of hydro electric power, etc. Secondly, the policy of laissez faire did not produce the desired results. Certain industries such as cotton, etc., made progress, whereas other vital industries such as iron and steel lacked behind. Consequently, the government decided to set up a corporation and, by virtue of an Act passed in 1950 the Pakistan Industrial Corporation also known as P I D C was set up. Through the P I D C, either the government set up its own industries or did so in cooperation with other industrialists.

Thus the government decided to spur and initiate development through its own acts of investment, provision of technical skills, etc. In fact, the Government of Pakistan decided to launch major projects because most of the industrially advanced nations recommended such a step besides offering financial capital and technical help. Furthermore, the political elite and the Government of Pakistan decided to mechanize and modernize agriculture. In order to do so they set up fertilizer factories etc. In all these efforts the government received financial and technical help. The Commonwealth countries, the Government of the United States, some western nations such as France, West Germany, etc., have been the traditional

donors.

At the same time the Muslim theorists of Pakistan were also agreed that the basic necessities of life of every individual should be met and the disparities of income between the rich and poor be lessened. However, these were only theoretical expositions, and as Kahin pointed out only "noble ideals."<sup>123</sup> And they were so far from the "existing affairs as to sound unreal to the ears of the common man."<sup>124</sup>

#### Summary

In summary, therefore, the Pak Islamic thinkers subscribe to the view that Islam is a religion which embodies universal moral principles which need to be enforced through the coercive power of the state organization. And in this context they do not differentiate between religion and politics, rather, one is closely allied to the other.

Nonetheless, while there is general agreement that the dictates of Islam should be fully implemented in a legal form, yet there are differences of approach. At the one extreme is the liberal approach which looks upon Islam as flexible, adaptable to the changing needs of the times rather than rigid and static. On the other hand is the conservative element. It sees Islam as rigid with very little room for flexibility. Therefore the compromise reached was that no law should be enacted which is

repugnant to the injunctions of Islam as laid down in the Quran and Sunna. In order to give effect to this provision the President was to appoint a Commission within one year of the day on which the Constitution was to be promulgated (March 23, 1956) which was "to compile in a suitable form for the guidance of the National and Provincial Assemblies, such injunctions of Islam as can be given legislative effect."<sup>125</sup>

Also influenced by the British Parliamentary tradition the Constitution makers constructed their political institutions on the Westminster model. The adaptation of this was also not free from controversy. While the liberals believed in parliamentary supremacy subject to the limits imposed by God, the conservatives felt that parliament should have very limited powers. However, in the end it was the liberals who won and the issue since then has become a dead issue.

Thus Pakistan opted for parliamentary institutions but with many conventions being given statutory form. The 1956 Constitution also guarantees the independence of the judiciary. In fact the independence of the judiciary was not only maintained in the 1956 Constitution but the judiciary itself asserted its right to "judicial review" a novelty as far as parliamentary institutions go.

Pakistan also opted for parliamentary federalism.

Even though Pakistan adopted the 1956 Constitution which stipulated a parliamentary form of government, yet it

did not practice this with any amount of success.

Consequently, in 1958, the General of the Army, viz., Ayub Khan, abrogated the constitution and decided to give a new constitutional structure to the country.

Since the justification for yet another constitutional structure which was bestowed upon the country by Ayub Khan was due to the apparent failure of parliamentary institutions, therefore, the next chapter will deal with the new constitutional structure preceded by a discussion of the causes which led to the failure of parliamentary institutions.

#### Notes

1. George Sabine, A History of Political Theory
2. Quran., 57:1.
3. Ibid., 2:145.
4. Ibid., 2:217.
5. Ibid., 5:37.
6. Ibid., 24:4.
7. Ibid., 38:25.
8. Ibid., 52:15.
9. Ibid., 4:62.
10. Kenneth Cragg, The House of Islam (Belmont, California: Dickenson Publishing Co, 1969), p. 25.
11. Ibid.
12. Abu-l-Hasan Ali b. Muhammed b. Habib al-Mawardi was born in Basra, famous center of Muslim learning, now in Iraq. He is considered to be the first major

political thinker. His chief work is Al-Ahkan al-Sultaniya or the Ordinances of Government.

13. A. H. Siddiqui, "Caliphate and Kingship in Medieval Persia," Islamic Culture
14. Ibid.
15. Ibn Jamaa (1241-1535) was a jurist, theologian and teacher. He held the office of qadi judge in Jerusalem from 1288-1291. He was also the Grand qadi of Cairo and Damascus in 1294.
16. E. I. J. Rosenthal, Political Thought in Medieval Islam (Cambridge: Cambridge University Press, 1962), p. 8.
17. Syed Abul Ala Maududi, Towards Understanding of Islam (Cary, Indiana: I. I. F. S. O, 1970), p. 86.
18. The Constituent Assembly of Pakistan Debates, vol. 3, no. 2.
19. Documents and Speeches on the Constitution of Pakistan ed. G. W. Choudhry, (Dacca: Green Book House, 1967), p. 25.
20. Quran.,
21. Nushtaque Ahmad, Government and Politics in Pakistan (New York: Praeger, 1962), p. 35.
22. The oath that the President of Pakistan was to take (and Iskander Mirza was President) partly reads as follows:  
  
I . . . do solemnly swear (or affirm) that I will faithfully discharge the duties of the office of President according to law.
23. Quran., 19:36.
24. Ibid., 8:31.
25. Ibid., 2:76.
26. Ibid., 3:100.
27. Ibid.,
28. Ibid.,
29. Ibn Khaldun, Muggadima. vol. 3. trans. Franz Rosenthal

- (New York: Parthenon Books Inc, 1958), p. 201.
30. Leonard Binder, Religion and Politics in Pakistan (Berkeley: University of California Press, 1961), p.
  31. Sources of Indian Tradition, ed. Theodore DuBarry (New York: Columbia University Press, 1959), p. 861.
  32. Ibid.
  33. Syed Abu Ala Maududi, Tehrik-e-Azadi-e-Hind Aur Mussalman (Lahore: Islamic Publications, 1964), p. 22.
  34. Muhammed Iqbal, The Reconstruction of Religious Thought in Islam (Lahore: Sh. Muhammed Asraf, 1965), p. 168.
  35. Ibid., p. 170.
  36. Ibid., p. 171.
  37. Ibid., p. 172.
  38. Sources of Indian Tradition, p. 871.
  39. Iqbal, Religious Thought in Islam, p. 163.
  40. Ibid., p. 155.
  41. Maududi, Understanding of Islam, p. 53.
  42. Iqbal, Religious Thought in Islam, p. 155.
  43. Maududi, Understanding of Islam, p. 71.
  44. Quran., 3:159.
  45. Ibid., 42:38.
  46. Rosenthal, Political Thought in Medieval Islam, p. 41.
  47. Ibid., p. 48.
  48. Binder, Religion and Politics in Pakistan, p. 394.
  49. Ibid.
  50. Ibid., p. 385.
  51. Ibid.
  52. Documents and Speeches on the Constitution of Pakistan p. 62.

53. Iqbal, Religious Thought in Islam, p. 176
54. Documents and Speeches on the Constitution of Pakistan, p. 25.
55. Maududi, Islamic Law and Constitution, p. 237.
56. Ibid., p. 238.
57. Binder, Religion and Politics in Pakistan, p. 406.
58. Ibid., p. 407.
59. Documents and Speeches on the Constitution of Pakistan, p. 66.
60. Ibid., p. 307.
- 61.
62. Documents and Speeches on the Constitution of Pakistan, p. 25.
63. Ibid., p. 307.
64. E. C. S. Wade and G. Godfrey Phillips, Constitutional Law (New York: Longmans, Green and Co, 1931), p. 39.
65. Ibid., p. 40.
66. Ibid.
67. Pakistan., Constitution (1956), art. 37, sec. 1.
68. Ibid., art. 37, sec. 3.
69. Documents and Speeches on the Constitution of Pakistan, p. 307.
70. Pakistan., Constitution (1956), art. 37, sec. 7.
71. Ibid.
72. Ibid., art. 32.
73. Ibid., Sixth Schedule.
74. Ibid., art. 35.
75. Ibid., art. 36.

76. Ibid., art. 50.
77. Ibid., arts. 58-68.
78. Ibid., art. 149.
79. Ibid., art. 40.
80. Ibid., art. 69.
81. Ibid., art. 43.
82. Ibid., art. 44.
83. Ibid., art. 45.
84. Ibid., art. 51.
85. Ibid., art. 50, sec. 3.
86. Quran., 10:109.
87. Ibid., 52:16.
88. Ibid., 42:15.
89. Syed Mozaffaruddin, "Some Aspects of Muslim Thought," Islamic Culture 4 (July 1950):472.
90. Ibid.
91. Haroon Khan Sherwani, "El-Ghazali on the Theory and Practice of Politics," Islamic Culture 9 (April 1941):465.
92. Abul Kalam Azad, Islami Jamhooriyat Ke Taquadhe (Lahore: Maktab-e-Tamir Hayat. n.d), p. 47.
93. Ibid.
94. Syed Abul Ala Maududi, Islamic Law and Constitution trans. Khursheed Ahmad (Lahore: Islamic Publications, 1967), p. 195.
95. Documents and Speeches on the Constitution of Pakistan, p. 291.
96. Pakistan, Constitution (1956), art. 195.
97. Ibid., art. 151
98. Ibid., art. 174.

99. Ibid., art. 172.
100. Asian Recorder (India), February 5-11, 1955.
101. Ibid.
102. Ibid.
103. Ibid.
104. Ibid., February 12-18, 1955.
105. Ibid., March 19-25, 1955.
106. Ibid., May 7-13, 1955.
107. Ibid.
108. Ibid.
109. Ibid.
110. Ibid.
  
111. Documents and Speeches on the Constitution of Pakistan, p. 26.
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113. Constituent Assembly of Pakistan, Debates., vol. 2.
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117. Pakistan, Constitution (1956), art. 43.
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119. Callard, Pakistan, p. 165.
120. Pakistan, Constitution (1956), Fifth Schedule.
121. Ibid.
122. Ibid.

## CHAPTER VII

### AYUB KHAN PHASE

#### Introduction

This chapter principally deals with the new political structure which Ayub Khan bestowed upon the country following the abrogation of the 1956 Constitution and the apparent failure of the parliamentary system.

In this context, first of all Ayub Khan explained his conception of "democracy." Then he created "Basic Democracies" in 1959 as a first step in the implementation of a political structure whereby some power was delegated to the people at the local level. Subsequently in the year 1960 he also declared that "Basic Democrats" will serve as an "electoral college" upon which the future political structure was to be based. In 1962 he proclaimed a new constitution for the country which was "presidential" and "federal" but in form only.

Since Ayub Khan felt the necessity to promulgate this new political structure because of the apparent failure of the parliamentary institutions, the first two sections of this chapter are given to a study of the role played by the political elite and political parties in

this regard.

### Failure of the Parliamentary Institutions

#### The Role of the Political Elite

The political elite of Pakistan, as we have seen in the preceding chapter, had adopted parliamentary institutions as their political ideal. However, there were several factors which thwarted the realization of this ideal, such as, ministerial instability, assertion of power and interference in the affairs of the Cabinet first by the Governor General and later on the President, violating thereby parliamentary conventions whereby the head of the state was supposed to be a figurehead only. Yet since the political elite in their conduct were themselves affected by such factors as the long era of colonialism in India which did not provide a political experiment for success for a minority community like the Muslim community which was deprived of power (whatever was delegated by the British), as well as the fact that the more or less feudal system which prevailed in particular in West Pakistan, and the absence of a dedicated social welfare minded elite, made them act in their own self interest rather than in the interest of the country.

Hence a beginning will be made by pointing out the damaging effects that the lack of political experimentation of the Muslim community had on the country. Von Der Mehden discussing the colonial heritage in terms of the soundness

of political institutions inherited and practiced by India says that their success was achieved because India had an "educated elite with experience in western institutions and processes."<sup>1</sup> Since Pakistan was created by carving out portions of India where the Muslim were in majority, therefore, what applied to India should have applied to Pakistan too. However, Pakistan suffered from two handicaps in this context. First, it lost two of its ablest political leaders early in its history, and secondly, the Muslims of pre-partitioned India as a minority community did not have a share in the political process, which could have prepared Pakistan to operate successfully democratic institutions.

Following the creation of Pakistan, there is a unanimity of opinion that it was Jinnah, who, as its founder dominated the political scene and it was due to his shrewd manouvering that the Muslims gained a homeland. And certainly he was groomed in the western political institutions as he was a parliamentarian with long experience. But Jinnah died within a year of Pakistan's creation. Liaquat Ali, his heir was assassinated within four years of the creation of Pakistan. Had Jinnah and Liaquat Ali survived they could have guided Pakistan successfully on the course to parliamentary democracy as Nehru did in India. But this did not happen.<sup>2</sup>

Also, apart from this fact, it is important to know that the Muslims were a minority community in India, outnumbered three to one by the Hindus. Their share of

commerce, representation in other professions was small.<sup>5</sup> Hence they were more concerned about being overwhelmed by the larger Hindu community. Thus in 1906, when there was talk of political reform and the Muslim community made its organized political move, the emphasis was on the protection of its interests (ch:1).

And from the political point of view the fear of Hindu domination can be assessed from the following speech of Ahmad Khan:

And let us suppose first of all that we have universal suffrage, as in America, and that everybody, 'chamars and all', have vote. And first suppose that all the Mohammedan electors vote for a Mohammedan member and all Hindu electors vote for a Hindu member, and now count how many votes the Mohammedan has and how many the Hindu. It is certain the Hindu member will have four times as numerous. Therefore we can prove by mathematics that there will be four votes for the Hindu to every one vote for the Mohammedan. And now how can the Mohammedan guard his interests.<sup>4</sup>

Also, Myron Weiner points out, the Muslim League, the major political organization of the Muslim community, was never eager for the creation of stronger political institutions in undivided India "unless the special position of the Muslims was secured."<sup>5</sup> Later, the goal of the Muslim League was the formation of Pakistan. But as far as the Muslim League was concerned, "the strengthening of the parliamentary institutions meant a weakening of the Muslim position vis-a-vis the Hindu."<sup>6</sup>

Also, following the creation of Pakistan, Pakistan in general and West Pakistan in particular inherited and

retained an economic system which was overwhelmingly feudal in character and which led to a very clear division of society into classes. This was particularly so because the Muslim society of Pakistan was predominantly agricultural in character dominated by the landlords. The peasants voted, if and when the elections took place, as directed by their landlords. For example, when provincial elections were held in Sind in West Pakistan, "there was not a single Hari peasant elected to the assembly."<sup>7</sup>

Further, the effect was felt in both provincial and legislative assemblies. As Keith Callard remarked:

There can be little doubt that Jagirdars, Zamindars, Firs, Mirs, Bahadooms, Khan and Nawabs retain vast influence. A glance through the lists of members of the legislative assemblies shows how much such hereditary leaders or their near relatives are active in politics.<sup>8</sup>

As Von Der Mehden says they were the traditional elite given special privileges by the colonial governments.<sup>9</sup> And Pakistan continued in the legacy it had inherited from the British.

Further, as Callard points out, Pakistan was pledged by its constitution to the creation of a "welfare state."<sup>10</sup> In the 1956 Constitution "the Principles of Policy," which the state was supposed to follow, which however were not enforceable in the courts, but stand out "as a declaration of intent for the guidance of legislators and officials,"<sup>11</sup> were enumerated in the Constitution. And the more important of them were:

The promotion of the well-being of the people, irrespective of caste, creed or race, (a) by raising the standards of living of the common man; (b) by preventing the undue concentration of wealth and means of production and distribution in the hands of a few to the detriment of the interests of the common man; and (c) by ensuring an equitable adjustment of rights between employers and employees and between landlords and tenants.<sup>12</sup>

Further, the Constitution also stipulated a system which was supposed to provide "social security" and care for the sick and infirm.<sup>13</sup>

However, laudable as these objectives were, the political elite hardly followed them. As will be shown later, the concentration of wealth actually increased during the period in discussion and little was done either to eradicate landlordism or to alleviate the sufferings of tenants.

It was in some degree then that the political elite of Pakistan failed to put into practice with any degree of success the parliamentary institutions. They betrayed a "total lack of loyalty to any ideal or set of principles or even to the country."<sup>14</sup> It is true that Pakistan initially represented Hobbes' state of nature and a series of episodes, some of crucial importance to the country, can be recounted. Thus, probably the most important event was the dismissal of the Nazimuddin Ministry by Ghulam Muhammed even though the former commanded the confidence of the Assembly and to which reference has been made on more than one occasion. What is disturbing in this whole episode to

an impartial observer is the fact that Muhammed Ali agreed to be the Prime Minister and head a Cabinet which was already picked for him by the then Governor General, viz., Ghulam Muhammed. The new Cabinet was immediately installed and no less than "half the members of the former Cabinet joined the new administration."<sup>15</sup> This fact implies, as Callard points out, that either these six members collaborated with the Governor General in the dismissal of Khwaja Nazimuddin or they acquiesced to this act because they loved to cling to office.<sup>16</sup>

The dismissal of the Cabinet of Nazimuddin took place on April 17, 1953, but a session of the Assembly was not called until the month of September 1953. "By the time the Assembly met," remarks Callard, "the change of ministry was ancient history, and was not considered worthy of a debate."<sup>17</sup> Apparently the political elite in Pakistan were none too anxious to follow John Stuart Mill's axiom that "eternal vigilance is the price of liberty."

Along with the dissolution of the First Constituent Assembly in 1954, Ghulam Muhammed dismissed the Cabinet of Muhammed Ali. However, he reappointed him as chief of a "Cabinet of Talents." The Minister of Interior in this Cabinet was Major General Iskander Mirza, who had been both a soldier and civil servant. The Minister of Defense was General Ayub Khan, who later usurped parliamentary institutions, and the Finance Minister was Chaudhari Muhammed Ali, former Secretary General of Pakistan's Civil

service.

### The Development and Role of Political Parties

It is an apparent fact to many political theorists that political parties are indispensable to the smooth working of a democracy. In parliamentary democracies in particular, "political parties enable governments to govern more effectively and political decisions to be made more reasonably."<sup>19</sup> Laski, reflecting upon the Constitution of England, remarked that British political parties have had "a doctrinaire approach to the people and discipline in the House of Commons."<sup>20</sup> There is not only the element of doctrine and discipline in a party system which brings together the followers of a party, but as V. O. Key remarked they are the means for "the conduct of competition for the control of the government."<sup>21</sup> Further, it is a well known fact of political life that for the successful working of parliamentary institutions a two party system is very necessary.

A reflection of the political party system in Pakistan during the 1947 to 1958 period shows that Pakistan began its political life with what can be called as a "one party dominant system." But very shortly this "one party dominant system" disintegrated and gave rise to a political group called the "Republican Party," and in East Pakistan two political parties emerged, viz., the Awami League and the Krishak Sramik Party, a product of regional grievances

and consequently very regional in nature. Later the Awami League became totally dominant in East Pakistan and was responsible for the creation of what is now Bangla Desh.

Had Pakistan continued a "dominant party system" power would have resided in one party and given rise to relative stability until such time as a slow process of gradual erosion would have weakened its hold and enabled the opposition party to come to power.<sup>22</sup> But in a very short time Pakistan had a multi-party system, usually formed by popular figures, which led to instability as each party was concerned mainly in the manouvering for power.

This whole process began with the erosion of the popularity and power of the Muslim League. Hence a beginning is made from here.

The Muslim League, following the creation of Pakistan had gained dominance. It controlled the provincial and federal legislative assemblies and thereby the decision making process. However, the League had no specific program to offer to the people. The fact is that the League and its leaders were not sure that Pakistan would be created. Rather as Myron Weiner says, their whole attitude was, "there might not be a Pakistan, so why plan for it."<sup>23</sup>

The main reason the Muslim League was popular among the masses was that it was the party which gave the concept of Pakistan, fought for it and ultimately won it. However, the Muslim League failed to translate this mass following in terms of organizational form. "It did virtually no work

among the trade unions, or peasant associations, nor did it encourage constructive work organizations."<sup>24</sup> Also, the personality of Jinnah was an important factor in the popularity of the League and his early death deprived the League of an immensely popular figure.<sup>25</sup>

The most damaging blow to the popularity of the Muslim League was dealt in East Pakistan and for twofold reasons. First, the Muslim League, early in the history of Pakistan had favored the adoption of Urdu as the national language, and the Bengalis resented it. They owed "allegiance to the elegance of her spoken language and the immense literature embodied in Bengali," and were not prepared to accept Urdu alone as the "State Language."<sup>26</sup>

Secondly, East Pakistan had always grumbled about the economic injustice done to that province. Since in the early years of Pakistan, the Muslim League was in effective control of the Center and the province of East Pakistan, the East Pakistanis charged that "the Muslim League government," was unable to make "substantial headway in alleviating the ills of the province."<sup>27</sup> Added to this was the charge that the main foreign exchange earner of Pakistan was jute, a cash crop grown in East Pakistan and exported from there to western markets, but that East Pakistan had not "received benefits from jute exports proportionate to her area's contributions."<sup>28</sup> As a result when the provincial assembly elections were held in East Pakistan during the month of March 1954, the Muslim League

could get only nine (9) out of three hundred nine (309) seats contested. And the Muslim League was finished as a force. The beneficiaries were the Awami League and the Krishak Sramik parties which together formed a "United Front" and won a smashing victory.<sup>29</sup>

### Awami League

The foundations of this party, which ultimately was responsible for the secession and independence attained by East Pakistan, go as far back as 1949. The party was founded by Husain Shaheed Suharwardy, a very popular leader of East Pakistan and a former Muslim Leaguer, who was thrown out of the Muslim League for harboring dreams of an independent Bengal and consequently "became a natural focus for opposition to the Muslim League establishment."<sup>30</sup> However, the popularity attained by this party in East Pakistan, was not only due to the charismatic hold that Suharwardy had in the province but also due to the dedication of the party to the cause or causes held dear by the Bengalis.<sup>31</sup>

Later, in 1953, the Awami League, also came out in favor of provincial autonomy, nationalization of jute industry, abolition of landlordism, etc., in 1953.<sup>32</sup> In December of the same year it subscribed to the "21 point program" which spelled the notion of provincial autonomy in more clear terms and also brought it in alliance with another famous figure in the politics of East Pakistan, viz.,

A. K. Fazlul Haque and the party formed by him, viz., the Krishak Sramik Party.<sup>33</sup>

Prior to his commitment to the "21 Point Program" Suharwardy, who hoped to attain power at the national level, tried to enter into alliance with the disenchanted elements from the Muslim League in the provinces of Punjab and N. W. F. P. in West Pakistan. Thus, the Nawab of Mamdot, one time Chief Minister of Punjab, agreed to collaborate with Suharwardy following his defeat in the struggle for power in the province by Daulatana. As Mushtaq Ahmad says, "Mamdot's differences with Daulatana were more personal than ideological, and his exit from the League was actuated by no other consideration than his eviction from the seat of authority by a powerful rival."<sup>34</sup>

So was the case in the N. W. F. Province where the struggle for power revolved between Khan Abdul Qayyum Khan and the Fir Saheb of Manki Sharif. The Fir Sahib did not fare any better than Nawab of Mamdot and decided to join Suharwardy.<sup>35</sup>

However, the Awami League and its championship of the Bengali language, as well as the delegation of vast powers to the provinces, was not looked upon with favor in the province of Punjab from where Mamdot derived his strength. Thus following the declaration of allegiance to "21 Point Program" by the Awami League, Mamdot and his group withdrew support given to Suharwardy and the Awami League. Fir Saheb of Manki Sharif was also lukewarm. The withdrawal

of the Pandot group's support meant that Awami League would remain a provincial organization and it was as a provincial party that it flourished.<sup>36</sup>

#### Krishak Sramik Party

The Krishak Sramik (peasant and workers) Party was founded by A. K. Fazlul Haque, the sponsor of the Pakistan Resolution in 1940, also known for his dynamic leadership in East Pakistan. In spite of his popularity in the province he was outmanouvered in his bid for premiership of that province and Nurul Amin instead was elected as the party leader of the Muslim League and consequently was appointed as the Prime Minister of that province following partition. Later when the efforts of the followers of Fazlul Haque to gain party leadership and premiership proved futile, they organized themselves under the leadership of Fazlul Haque and formed a new party even though Fazlul Haque was 85 at that time. Thus Krishak Sramik Party was born following a meeting held at his residence on Sept, 23, 1953.<sup>37</sup>

The program on which the Krishak Sramik Party was allied with Awami League and formed a "United Front" reflected the aspirations of the Bengalis. Thus, the first point of their 21 point program upheld the cause of "Bengali" as a "state language."<sup>38</sup> The second point called for the abolition of landlordism.<sup>39</sup> The program also called for the nationalization of jute industry since the

major jute mills in East Pakistan were owned by West Pakistan industrialists.<sup>40</sup> There was also a demand for the rapid industrialization of East Pakistan. This demand was based on the presumption that East Pakistan had been suffering in comparison to West Pakistan.<sup>41</sup>

The United Front won an overwhelming victory in the 1954 provincial elections but the two political parties promptly broke up and the Awami League seceded from the coalition. Actually it was a clash of the strong personalities of Suharwardy and Fazlul Haque.<sup>42</sup> Nonetheless, Fazlul Haque's "indiscreet reference to the independence of East Pakistan led to his dismissal and Governor's rule was imposed on the province."<sup>43</sup>

In 1955, a new Constituent Assembly was elected indirectly by the provincial assemblies of both East and West Pakistan. Fazlul Haque and Suharwardy, along with many of their followers, were elected to the new Constituent Assembly. The Muslim League which was the majority party in the First Constituent Assembly had lost its majority in the Second one but retained its plurality. The East Pakistan leaders with mutual cooperation could have formed a government but they were rivals. Hence, it became apparent that one of the two had to form a coalition with the League. Thus it was Suharwardy who decided to cooperate with the League and was made Law Minister in the "Ministry of Talents" headed by Muhammed Ali Bogra in 1954. In July 1955 he was reported to have given the Governor General an

ultimatum that if he were not made the Prime Minister he would resign and join the opposition. As a consequence, Muhammed Ali Bogra resigned in August 1955 and Suharwardy was offered the Prime Ministership. However, the day before Suharwardy was to form the government, Fazlul Haque persuaded the Governor General and the Muslim League leadership that a coalition with the Krishak Sramik Party would be advantageous. Suharwardy, therefore, resigned and went into opposition, "while Haque was installed as Minister of Interior with the help of those who had a year previously dismissed him as traitor to Pakistan."<sup>44</sup> Such was the nature of party politics.

#### Ayub Khan's Political Order

Thus, when Ayub Khan took over the reins of government, any idea that he acted like what Von der Mehden calls a "constitutional caretaker"<sup>45</sup> soon vanished. He made it very clear that his role was not one of "establishing conditions within which existing constitutional arrangements could be made effective."<sup>46</sup> Rather, he indicated that he had acted to give a "new order." The fact is that in the annals of the history of political thought, as Friederic points out, various thinkers on various occasions have upheld such attempts. As he says:

They have tried to rationalize it in various ways relating it either to a search for justice (Plato), to the builder's art (Machiavelli), or some sort of contract (natural law writers). The founders of states have been glorified and indeed deified.<sup>47</sup>

The fact is that he realized that having destroyed the old order it became necessary to give a new order as well as a rationale for the new one. Therefore, as a first step in the presentation of his scheme of things, he came out with a democratic ideology whose rationale in his own words was as follows:

We must have a democracy. . . . To my mind there are four requisites for the success of any democratic system in a country like Pakistan:

1. It should be simple to understand, easy to work, and cheap to sustain.
2. It should put to the voter only such questions as he can answer in the light of his own personal knowledge and understanding and without external prompting.
3. It should be able to produce reasonably strong and stable government.
4. It should insure the effective participation of all citizens in the affairs of the country up to the level of their mental horizon and intellectual caliber.<sup>48</sup>

In the implementation of this scheme, Ayub Khan initially presented a scheme known as the "Basic Democracies." And with Basic Democracies as the foundation, he built a political structure which presented the facade of democracy but was in fact an authoritative system. In this context, a remark made by Von Der Mehden deserves to be mentioned:

It is an obvious fact of political life in the postwar world that it is almost mandatory to profess an ultimate belief in democracy. Definitions of democracy and timings may differ, but the ideologies of almost all countries proclaim some sort of democratic system as the ultimate goal.<sup>49</sup>

In any case, since Ayub Khan used the Basic Democracies scheme to build an authoritarian structure, it is necessary to study it briefly. And a first step in this direction would be an examination of its structure.

### The Structure of the Basic Democracies

At the initial level, the scheme envisaged units of local self government which, in the case of urban areas were called "towns" and, in the case of rural areas, "unions." These units were demarcated on a population basis in the order of 10,000 to 15,000 people. Each such unit was to elect its representative, roughly one person representing about one thousand persons. These people chosen by simple majority were to sit on Union Councils for a term of five years.<sup>50</sup>

Also, along with these elected members the government could nominate members to represent special interests such as women, religious communities, or classes of people who might find it difficult to secure election for one of themselves. The number of nominated members was not to exceed one-half of the total number of elected members.<sup>51</sup>

The Union Council elected its own Chairman who was entitled to receive an honorarium. The duty of the Council was to execute the functions allotted to it such as, (1) provision and maintenance of public ways and public interests, (2) regulations of offensive and dangerous trades, (3) registration of births and deaths, (4) voluntary registration of the sale of cattle and other animals,

(5) provision of libraries and reading rooms.<sup>52</sup>

The Councils were to be under the general supervision of the government. Moreover, any action taken by a local Council which was decreed as not in the public interest could be nullified by the government. In the case of large cities, possessing a corporate existence and corporate machinery, the Councils were barred from encroaching upon the rights and duties of the existing corporations. The Councils had the power to levy special community tax on the adult males for the construction of any work of general utility. However, the government again controlled the types of taxes to be levied by the Councils.<sup>53</sup>

At the next stage or "tier" were the Thana or "Tehsil" Councils corresponding to the administrative division. The Chairmen of the Union Councils automatically became members of these Councils. The government nominated officials and non-officials whose total strength was not to exceed the total number of representatives from the Union Councils. They were not allotted any functions except to ensure that the Councils promote coordination among the Union Councils within the Thana or Tehsil.<sup>54</sup>

On almost similar basis the District and Divisional Councils were organized corresponding to the administrative divisions. In both District and Divisional Councils there were to be official and appointed members. At least half of the appointed members were to be Chairmen of the Union Councils within the Thana or Tehsil, District or Division.

Presiding as Chairman of the District or Divisional Council was the District Magistrate and the Divisional Commissioner respectively.<sup>55</sup>

The District Councils were expected to perform extensive functions of which twenty-eight were compulsory. Their duties pertained to education, libraries, hospitals, roads, sanitation, agricultural, industrial development, etc. The Divisional Council was not assigned any specific functions except to coordinate the activities of District Councils within the Division and keep a watch upon their competence.<sup>56</sup>

Finally provision was made for the establishment of two Provincial Development Advisory Councils, one for each province. These Councils were to consist of official and non-official members appointed by the President on the recommendation of the Governor of the Province. The official and non-official members were to be of equal strength, and one third of the appointed non-official members were to be selected from among Chairmen of Union Councils and Committees.<sup>57</sup>

#### An Evaluation

The scheme of basic democracies was neither novel or revolutionary in the annals of Indian political history. In fact, as K. J. Newman, a British scholar, points out with some pride, "the system in a sense goes back to the reforms which Lord Rippon, one of India's most enlightened Viceroys, commenced in 1882."<sup>58</sup> Lord Rippon also

considered local self government to be an "instrument for political and popular education."<sup>59</sup>

Further, as Friedman points out, as early as 1885, Union Committees composed of the representatives from villages were formed. They consisted of five to nine elected representatives who had a fund at their disposal, "resulting from a small levy on adult males and contributions from other government sources."<sup>60</sup> Also, the committees could oversee "construction of schools, roads, bridges, drains and dispensaries."<sup>61</sup> Later, by the Bengal Act V of 1919, known as the Bengal Village Self Government Act, Union Boards were established in East Pakistan formerly a part of the undivided province of Bengal. They consisted of six to nine members, of whom "one third were appointed by the district magistrate and the remainder were elected. They served for a four year term and chose their own president."<sup>62</sup> In 1948-49, the provision for appointed members was repealed and in 1957 "a new act provided for the election of a president and vice president by the voters of an entire union, while remaining members were elected in wards."<sup>63</sup> In this context, Friedman remarks that "the provision for appointed members in Basic Democracies is considered by some to be a step backward."<sup>64</sup>

Further, the "Basic Democracies" scheme had certain merit in so far as it was simple to understand and easy to operate. The people need not have gone far from their neighborhood to elect their representatives. Yet the fact

is that in his quest for endowing the people with responsibility at the local level, Ayub Khan delegated extremely limited powers. In fact in the light of the observations made by Newman and Friedman, it is apparent that not only Ayub Khan did not come up with any novel scheme but actually put the clock back.

Basic Democrats as the Electoral College

The second and most far-reaching decision that Ayub Khan took was to make the "Basic Democrats" the electoral college for elections to the National Assembly (the law making body) and the office of the President (the law enforcing authority). His contention by implication was that the people are too ignorant to be trusted with such a heavy responsibility and his decision was more in keeping with the axiom that he laid down for the successful working of the "democracy" he had in view, viz., "the effective participation of all citizens in the affairs of the country up to the level of their mental horizon and intellectual caliber."<sup>65</sup> More clearly and somewhat rhetorically he said:

Has our society. . . developed to that stage where they can determine individually as to who should be the President? Can they be expected to say 'so and so is better than so and so?'<sup>66</sup>

It is precisely this trend of thought that Mill discounted in what he called as the "two stages of election." Enumerating the benefits of direct election of representatives by the people he said:

There is no difficulty in showing that the ideally best form of government is that in which the sovereign or supreme controlling authority in the last resort is vested in the entire aggregate of the community; every citizen not only having a voice in the exercise of that ultimate power, but being at least occasionally called on to take an actual part in the government by some public function local or general.<sup>67</sup>

And Mill also felt that in the system of indirect election "the voter would be prevented from identifying himself with his members of parliament and the members would feel a much less active sense of responsibility to his constituents."<sup>68</sup>

In fact, a Constitution Commission, which was created under the chairmanship of a retired Chief Justice of Pakistan, Khwaja Shahabuddin, repudiated Ayub Khan in the following words:

We are unable to see how a person, who may not be better qualified than the average person in the area concerned, merely because he commands the confidence of the majority of that area can become capable of judging as between the various candidates who stand for presidency and vice presidency and for membership of the legislature.<sup>69</sup>

Further, when the Martial Law imposed on October 7, 1958 was lifted in 1962, the political elite from East Pakistan issued a statement on June 24, 1962, in which they condemned it. In the brief statement they issued, they castigated the Basic Democracies as a body of eighty thousand electors, "which cannot represent and act for a population of more than eighty million."<sup>70</sup>

Probably stung by such criticism, Ayub Khan

appointed yet another commission to study the issue, viz., the Franchise Commission. At this point it must be pointed out that Ayub Khan totally ignored the recommendations of these commissions. His purpose in appointing these commissions appeared to be to give an indication that he was moving towards democracy and that he was sensitive to the public sentiment whereas in fact he hardly paid any attention at all. The Franchise Commission, which was headed by a civil servant named Akhtar Husain and had on its panel two judges of the High Court,<sup>71</sup> also repudiated Ayub Khan.

The Franchise Commission argued that to deny an individual a right to vote was to deny the classical norm of democracy which presumes that all authority rests with the people.<sup>72</sup> The Commission also disagreed with the view that literacy should be the test for the granting of franchise. It noted:

Bare literacy and political education do not go hand in hand. Literacy has been defined in the 1961 Census Report as the ability to read a simple letter in any language with understanding. A literate of this standard may not have political education at all, whereas an illiterate person, depending on his environment and experience, may have sufficient political consciousness and wisdom to cast an intelligent vote.<sup>73</sup>

#### Law Enforcing and Law Making

The third and most important step taken by Ayub Khan was to "bestow" what he called a "strong and stable government"<sup>74</sup> upon the country which, as we have seen,

he had promised soon after taking over the reins of power in 1958. Since his version of a "strong and stable government" found its expression in the constitution which he promulgated in 1962, we will study this structure in so far as it reflected Ayub Khan's views in terms of the relationship between (1) the law enforcing and (2) law making authority (the executive and legislative bodies), the role of the law adjudicating body, and territorial distribution of power.

In the speech announcing the new constitution Ayub Khan made it clear that he opted for the "presidential system, as it is simpler to work. . . and less liable to instability."<sup>74</sup> The Constitution Commission, in its Report, had also favored the presidential system in view of the apparent failure of the parliamentary system and stressed:

We should have a form of government where there is only one person at the head of affairs, with an effective restraint exercised on him by an independent legislature members of which, however, should not be in a position to seriously interfere with the administration by envisaging political pressure for their personal ends.<sup>75</sup>

Wade and Phillips gave a more comprehensive definition of the presidential form of government:

The executive power is vested in the President. The so-called cabinet consists of the heads of the chief state departments (ten in number), each being personally responsible to the President alone for his department, but not to Congress or to his colleagues. The President holds office for a fixed term; he is not necessarily of the same political party as the majority in

either or both Houses of Congress; he is not removable by an adverse vote; his powers are defined.<sup>76</sup>

Further they say:

Neither the President nor Members of his Cabinet can sit or vote in the Congress; they have no responsibility for initiating Bills or securing their passage through Congress. The President may recommend legislation in his message to Congress, but he cannot compel it to pay heed to his recommendations. He has a veto. The Senate and House of Representatives are elected for fixed terms and cannot be dissolved in the interval.<sup>77</sup>

Also on judiciary they say that the Federal Supreme Court "may decide on the constitutionality of the executive or legislature."<sup>78</sup>

In this context, it can be seen that while there was a superfluous resemblance to the presidential system in the United States, in actuality Ayub Khan had concentrated so many powers in the office of the presidency, which at the same time was synonymous with his person that Professor Wayne Wilcox compared the role of the President in the new constitutional set up "to the symbolic and establishment affairs role of the Governor General (in British India)."<sup>79</sup>

The fact is that a close look at the Constitution shows that by a "strong and stable government" Ayub Khan meant a strong executive overwhelmingly dominant in its relations with the law making body and certainly Ayub Khan presumed that the chief executive would be none else than his own self. The reason for this presumption is not far to find. Under Article 226, Ayub Khan nominated himself as

the first President.

The formidability of the powers of the President can be seen from the fact that in the selection of his cabinet he was the sole judge. That is, he was not bound in any manner by any outside authority in his choice of Cabinet Ministers. They were his appointees and they were not subject to confirmation by the law making body, unlike the United States where they are confirmed by the Senate. Further they held office during his pleasure.<sup>80</sup> Also, if the President felt that a Minister was guilty of misconduct he could remove him from office and "inform him in writing that he has the option of agreeing to disqualification from holding public office for such period, not exceeding five years, as is fixed by the President, or of having the matter referred to a Tribunal for inquiry."<sup>81</sup> If the Minister were to opt to face a tribunal, the President would forthwith refer the matter for inquiry to a Tribunal "consisting of a Judge of the Supreme Court appointed by the President after consultation with the Chief Justice of the Supreme Court."<sup>82</sup> If found guilty he was liable to be dismissed and disqualified from holding public office for a period of five years.<sup>83</sup> Otherwise as Wilcox says, even the Viceroy during the British period was responsible to the British Parliament for the conduct of his Council of Ministers, but the President was accountable to no one.<sup>84</sup>

Moreover, in the Anglo-Saxon tradition the civilians

have exercised control over the defense forces. This was considered a legacy of the British rule. Thus, the Minister of Defense in the Cabinet in Britain has been a civilian.

But the 1962 Constitution specifically states that:

A person holding office as President at anytime within the period of twenty years after the commencing day shall ensure that, for the purpose of advising the President in relation to the defence of Pakistan, at least one of the persons appointed by him as a Minister is a person who has held a prescribed rank in the Defense Services of Pakistan, unless the President has himself held such a rank in those services.<sup>85</sup>

In other words, if the President is not from the Defense Services and he is a civilian, the Minister of Defense shall be a member of the Defense Services.

Further, the President's powers in the field of budget were also many. It is a well known fact that the legislature, whether the government is presidential or parliamentary enjoys control over the purse. However, in the new Constitution, it is the President who presents the budget to the law making body, the National Assembly. But the major part was non-votable. The amount charged on Consolidated Fund and which included such items as, (1) remuneration payable to the President, (2) the Speaker and Deputy Speaker and other members of the National Assembly, (3) the Judges of the Supreme Court, etc., was not subject to vote by the National Assembly.<sup>86</sup>

Also, expenditure approved by the Assembly on long term development plans, taxation, etc., was not subject to vote of the Assembly in subsequent years. It could only

be discussed. The National Assembly could control only that part of the budget which presented new expenditure.<sup>87</sup> While announcing the new constitution this is what Ayub Khan had to say on the above matter:

In order to reduce chances of conflict between the Assembly and the President and to prevent paralysis of the administration and to ensure continuance of on-going schemes, it has been decided that the previously passed budget shall not be altered without the permission of the President, the new taxation shall not be levied without the consent of the National Assembly. This is based on the theory that the President is finally responsible to the country for the administration and the members of the National Assembly present the feeling of the people who have to pay the taxes.<sup>88</sup>

Also, in his relation to the law making body, the veto power of the President was so clearly designed that the legislature could not bring pressure easily upon him. If the President vetoed a Bill, the National Assembly could again pass the Bill by an absolute majority of two thirds. But if the President vetoed the Bill again, the legislature could still pass the Bill by an absolute two thirds majority. In that case, however, the President retained the right to take the issue to the Basic Democracies, the electoral college under the Constitution. The President under the Constitution was not under any obligation to show reasons for disapproving any particular Bill.<sup>89</sup>

#### Judiciary

As we pointed out in the preceding chapter, great importance has been laid in Islamic thought on the concept of justice and great respect and independence for those who

who dispense it. The independence of the judiciary in the 1956 constitutional set-up was assured. Further, "in 1955 the Federal Court . . . compelled the Governor General to summon a new Constituent Assembly after his invocation of the prerogative of the Crown to dissolve the first Assembly."<sup>90</sup>

The idea of the independence of the judiciary is so firmly entrenched that even Ayub Khan could do little to hamper it. Thus the principle was incorporated in the preamble to the 1962 Constitution itself. Also under the Constitution provision was made for a "Supreme Judicial Council." It was constituted, as Ayub Khan characterized it, for the judiciary to discipline itself.<sup>91</sup> However, the main purpose was to give autonomy and independence to the judicial branch in matters of maintaining discipline, etc. Thus the Supreme Judicial Council was to consist of, (1) the Chief Justice of the Supreme Court, (2) the two next most senior judges of the Supreme Court, and (3) the Chief Justice of each High Court.<sup>92</sup> The Supreme Judicial Council was to issue a code of conduct to be observed by the Judges of the Supreme Court and of the High Courts. The President could remove a judge of the Supreme Court or High Court only after the Supreme Judicial Council had conducted an inquiry involving two questions, viz., (1) whether the judge was "incapable of performing the duties of his office by reason of physical or mental incapacity; or (2) guilty of gross misconduct," and favored such action.<sup>93</sup>

Further, in the Constitution, the Courts had been given the advisory jurisdiction. That is, if at any time should the President ask the opinion of the Supreme Court on any question of law considered by him of public importance, "the Supreme Court was to consider a question so referred and report its opinion."<sup>94</sup>

We have seen that the judiciary, even when the constitutional structure of Pakistan was parliamentary, has asserted its right to judicial review. Under the Constitution given by Ayub Khan, the judiciary was given such an opportunity, and it took the occasion to assert the same principle even though there was no such provision in the Constitution itself.

The issue arose from the fact that the "Constitution unambiguously provided in Article 104 that a legislator who might be appointed a minister, or to any other office of profit in the service of Pakistan could no longer be a member of the assembly."<sup>95</sup> However, Article 224 of the Constitution permitted the President to make adaptations for the purpose of removing difficulties impeding the implementation of the Constitution. The President was granted this power for a period of three months.<sup>96</sup> So empowered, Ayub Khan issued an order called the "Removal of Difficulties (Appointment of Ministers) Order, 1962," allowing ministers appointed from the assembly to retain their seats as legislators. The President issued this order because members of the National Assembly from East

Pakistan refused to accept appointments as ministers unless they could be allowed to retain their seats in the National Assembly.<sup>97</sup>

An appeal was made to the High Court of East Pakistan challenging the validity of the President's Order. A special bench of the High Court presided by Justice Murshid in its decision given on April 5, 1963. held that the Removal of Difficulties (Appointment of Ministers) Order, 1962, which allowed the Ministers to retain their seats in the National and Provincial Assemblies was void and ultra vires. The Court in its judgment observed that, "the Presidential Order was promulgated in excess of the powers conferred on the President by the Constitution."<sup>98</sup> The Court also reasoned that to allow ministers to serve in the assembly was to alter the nature of the constitution itself. The Constitution was intended to bring into operation a presidential system of government in which the executive was to be completely separated from the legislature. But the President's amendment would have changed that system to an anomolous parliamentary form.<sup>99</sup>

#### The Territorial Distribution of Powers

As Ayub Khan took the reins of power, a certain alienation between East and West Pakistan had occurred and this fact was as much acknowledged by the Constitution Commission. The Commission went further and said that "the prime need of the hour was for a harmonisation of relations

between the two parts."<sup>100</sup>

The first and foremost cause for this, as we have seen, was the language controversy. However, by the time Ayub Khan took power, this controversy by a due recognition accorded to "Bengali" as one of the "state languages" (the other being Urdu), in the 1956 Constitution. Ayub Khan followed the precedent in the 1962 Constitution.<sup>101</sup>

The second and equally important cause for differences between the two provinces was the disparity in the field of industrialization. The Constitution Commission also acknowledged the very "strong feelings in this matter in East Pakistan."<sup>102</sup> Indeed, the rapid progress made in this field in West Pakistan was resented in East Pakistan. Ayub Khan, on his part took certain steps enumerated later to bridge the gap. Yet the plain fact is that East Pakistanis remained dissatisfied and "parity" between the two wings remained elusive.

However, the most disturbing question was the question of provincial autonomy. That is, how much power should be given to the provinces without weakening the federal authority. The United Front in its "21 Point Program" had demanded that the center should have control over Defense, External Affairs, and Currency only.<sup>103</sup> The Constitution Commission on its part felt that the demand was based "more on passion than reason."<sup>104</sup> And the Commission also felt that the trend in countries which have had a federal form was more towards increasing the power of the center rather

than diminishing it.<sup>105</sup>

Yet the Commission itself refrained from stating clearly how the distribution of powers should be affected. It only generalized and said that there should be three lists of powers, viz., (1) Federal List containing the subjects in which the center alone could legislate, (2) a Concurrent List in respect of which both the center and provinces could legislate, and (3) a third list of powers in which the provinces alone could legislate.<sup>106</sup>

As per the 1962 Constitution, given by Ayub Khan, Pakistan can at best be called a "quasi-federal" state. Whereas in the Constitution of 1956 three lists of powers were enumerated, the 1962 Constitution sets out only a list of exclusive central powers the "residuary" being with the provinces. The more important of the powers allocated to the center were defense, external affairs, national economic planning and coordination, currency and foreign exchange, banking, navigation and shipping other than shipping confined to a province, telecommunications, etc. But the central legislature could make laws on matters not enumerated in the list of exclusive central subjects if the national interests required it to do so particularly where the national security of the country was involved or the economic and financial stability was in danger.<sup>107</sup>

Also, a provincial legislature could legislate for the province or part of it on any matter not on the list of central subjects, yet it was the center which could

make laws on matters with "extra-territorial application" and also could determine what was "extra-territoriality."<sup>109</sup>

Further, the Constitution also provided that a central law shall prevail over inconsistent provisions of a provincial law and the provincial law "shall, to that extent of the inconsistency be invalid."<sup>110</sup> The Governors of the provinces were mere agents of the President. They were directly appointed by him. They were responsible to the President and had to function directly under the instructions of the President.<sup>111</sup>

#### Functions of the State

The policies followed by Ayub Khan in the context of "how much the state shall do," were no different than those followed by the regime which he followed. He upheld and advocated his belief in the principle of private enterprise and initiative as the following statement shows:

There have been no grand experiments in nationalization, no fancy slogans about socialism, no undue intervention in private sector.<sup>112</sup>

His attitude towards intervention by the government was the same as upheld by the earlier regimes, viz:

It has been the constant endeavor of the government to mobilize the creative energies of the nation and to give all possible incentives for the stimulation of private initiative. The government has limited its own role to providing a suitable framework for the private sector and to the creation of those facilities which the private sector has neither the ability nor the willingness to develop.<sup>113</sup>

The government continued to give tax concessions to private

industries known as "tax holidays." Simultaneously the Government of Pakistan took upon itself an increasing role in the industrial field as the earlier governments had done. That is, acting through the F I D C an apparent shift from the consumer to the intermediate industries such as petro-chemicals, pharmaceuticals, fertilizers, petroleum refining, ship building, etc., took place. In fact, Ayub Khan declared that "we are beginning to think seriously in terms of a heavy industrial complex."<sup>114</sup>

In the field of agriculture, Ayub Khan undertook "land reforms" to break what he called as the "concentration of landed wealth."<sup>115</sup> The ceiling on agricultural land which could be owned by any one individual was fixed at five hundred acres of irrigated or one thousand acres of unirrigated land. This limit, according to Shafi Niaz, made farming an "attractive proposition," besides providing opportunities "for free enterprise and leadership."<sup>116</sup> The state action also was apparent when Ayub Khan, as it was the policy of previous regime, laid emphasis on the construction of barrages on the River Indus to reclaim more land for irrigation as well as regulate the flow of water. Further, Ayub Khan initiated the construction of various fertilizer factories in both East and West Pakistan.

Simultaneously, Ayub Khan also expressed hope in "reducing the inequalities of wealth," and making provision for "the basic necessities of life to all."<sup>117</sup> However, while the country did make progress in the industrial field

as will be shown later, the disparities of wealth actually grew in this period. The Land Reforms had little effect.

The Government of Pakistan admitted of its inability to provide for the basic necessities of life to all due to its "meagre resources." However, the Government of Pakistan did succeed in fixing minimum wages for the laborers. It also provided insurance cover for the employes against industrial injury, maternity and sickness. In the field of education the Government continued to lay emphasis on technical and professional education as the earlier regime had done.

In the field of health, the principal objectives of the Government were., (1) to provide essential health services for everyone, (2) to set up health organizations in rural areas, and (3) also to develop integrated health services. Even though the number of doctors increased during this period and more dispensaries were opened, yet Pakistan remained poorly served in this field.

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## CHAPTER VIII

### POST AYUB KHAN PERIOD AND THE TERRITORIAL- ECONOMIC CONFLICT

#### Introduction

The political order given by Ayub Khan did not even last a decade. There was widespread discontent which led to the overthrow of his regime in 1969. In analyzing the causes of this discontent we can find some basic factors simmering over a long time which came to a head in the wake of the conflict with India. The fact is that these elements were there even before Ayub Khan took power but reached a climax during the decade of his rule.

Specifically speaking, the East Pakistanis had long term grievances, both economic and political, against the center, which was almost always controlled by the West Pakistanis. Under a parliamentary regime as stipulated in the 1956 Constitution, they could have hoped to capture power mustering a majority in the National Assembly. However, under the Ayub Khan regime where there was a fixed executive with the implicit backing of the armed forces, there was little hope not only of capturing power at the center but they they did not have enough control in their own province. Consequently, the agitation under Mujib's

lead, particularly after the 1965 conflict with India grew. In fact, Ayub Khan shortly before laying down power admitted this when he said that, "people in East Pakistan feel that in the present set up they are not equal partners and also that they do not have full control over the affairs of their province."<sup>1</sup>

In West Pakistan, too, the integration of the four provinces into one province, viz., West Pakistan, was not a popular step but Ayub Khan was determined to keep it that way and refused "to do away with the political entity of West Pakistan."<sup>2</sup> That Ayub Khan was at fault can be seen from the fact that Yahya Khan who succeeded him admitted to "the general desire (of the people) to revert to the system of separate provinces,"<sup>3</sup> and broke it up. Also, the institution of Basic Democracies as an electoral college was not a success and Ayub Khan himself said:

I am fully conscious of the dissatisfaction that exists in the country with the present system of elections. People want direct elections on the basis of adult franchise.<sup>4</sup>

Lastly, these forces were unleashed with a certain fury in the wake of the hostilities with India, which considerably weakened the position of Ayub Khan. And ultimately East Pakistan seceded and is an independent state, viz., Bangla Desh.

Following the secession of East Pakistan, Pakistan which was constituted of four provinces, viz., Sind, Punjab, N. W. F. P and Baluchistan, once again embarked upon the

task of restructuring its political institutions. Before we discuss the efforts made to frame a new constitution for Pakistan, as well as the constitutional structure itself in terms of "who and how many shall be the decision makers, and how shall the territorial distribution of power be undertaken, etc.," we will recount the causes which contributed to the discontent in East Pakistan, which in turn led to Ayub Khan's overthrow and the secession of that province.

### Discontent in East Pakistan

The East Pakistanis' disenchantment can better be understood by a reference to Aristotle, who, dealing with the origins and causes of revolutions said that:

There are some who stir up sedition because their minds are filled by a passion for equality, which arises from their thinking that they have the worst of the bargain in spite of being the equals of those who have got the advantage.<sup>5</sup>

True to Aristotle's saying, the East Pakistanis felt that the central government's economic policies were oriented toward the development of West Pakistan rather than East Pakistan and this, according to Saunaque Jehan, a scholar from East Pakistan, "created a sense of distrust among the Bengalis toward the central government, whatever its rationalism."<sup>6</sup>

In this context, the first organized expression of distrust and discontent, as we have seen, can be found in the program issued by a coalition of political parties in East Pakistan to oppose the Muslim League in the provincial

elections of 1954 known as the United Front. The fact is that East Pakistan lacked industrial development in particular and overall development in general compared to the development that had taken place in West Pakistan, and this was conceded by the political elite from West Pakistan. Thus Chaudhari Muhammed Ali, the Prime Minister of Pakistan (1955-56) not only admitted to the above in the course of a speech delivered in the National Assembly, but also said:

A great deal more needs to be done and we are determined to raise the development in East Pakistan so as to bring it to parity with West Pakistan. It is essential that every part of the country be developed uniformly.<sup>7</sup>

But of course not all of the responsibility lay with West Pakistanis alone. Gustav Papanek, a research economist, who was in Pakistan for some time for example, made an assessment of his own of the underlying causes in the disparity in development and reached some conclusions which are as follows;

First, says Papanek, many of the traders and merchants who left India following partition, especially those from the Bombay area, preferred to settle around Karachi as Karachi was near to Bombay geographically. Also there was an affinity of language, culture and habits between these people and those who lived in and near Karachi. And, "these refugees became the businessmen, importers, and industrial entrepreneurs of the new nation."<sup>8</sup>

Also, West Pakistan received an overwhelming share of technical manpower and financial resources that flowed

from India. And at the time of partition West Pakistan had a better port and transport system than East Pakistan. Later natural gas was discovered in West Pakistan, all of which spurred industrial development.<sup>9</sup>

Yet, according to Fapanek, "and a most important fact was the location of the powerful central government in Karachi."<sup>10</sup> The Central Government controlled access to scarce resources and the entrepreneurs and managers could gain access to that through personal contact. There was an element of bribery, too, which could not have been done effectively from far-off places, particularly from East Pakistan, situated, as it was, a thousand miles away from the seat of government.<sup>11</sup> Thus, in the first decade of Pakistan's existence, West Pakistan had developed at a faster rate than East Pakistan.

The Ayub Khan regime began to take note of the economic disparity between the two wings of Pakistan. And, when the 1962 Constitution was promulgated it was specifically stated that economic disparities "between the provinces and between different areas within a province shall be removed."<sup>12</sup> Pursuant to the above, the Ayub Khan regime, while implementing the 3rd Five Year Plan (1965-70) increased allocation in the public sector to East Pakistan.<sup>13</sup>

The regime also undertook an economic development program for East Pakistan known as the "Rural Public Works Program." The Program was designed to provide larger employment by creating work opportunities in the rural areas

on small local projects such as construction of roads, bridges, etc. The rural program did achieve a measure of success and was considered a profitable venture in building a rural infrastructure.<sup>14</sup> Yet for all these measures the political elite from West Pakistan and for that matter the masses remained unimpressed. The overwhelming success achieved by Mujib in the 1970 elections on the basis of a six-point program attests to this.

Also, a very important cause of discontent among the East Pakistanis was the fact that the political elite from East Pakistan never had a share of the state power even though they were equally represented in the law making bodies. Real power eluded their grasp, and their influence was never decisive. For example, Nazimuddin from East Pakistan was the Governor General of Pakistan from 1948 to 1951, "but real power lay with Liaquat Ali Khan."<sup>16</sup> Nazimuddin became the Prime Minister following Liaquat Ali's assassination "but lacked force of will, and was ultimately dismissed by the (Punjabi) Governor General."<sup>17</sup> Later, Muhammed Ali Bogra from East Pakistan was brought in as Prime Minister and, "although a Bengali, he remained the captive of the West Pakistani group that provided the main strength of his government."<sup>18</sup>

During the Ayub Khan era, as we have seen, the bulk of power was concentrated in the person of Ayub Khan and the office of the President. The law making body, the National Assembly, where the East Pakistanis were

represented in substantial numbers, lacked power.

Thus the gradual building up of the forces of discontent was noticeable in East Pakistan. However, the situation became worse in the aftermath of the 1965 conflict with India as East Pakistan during the course of the conflict suffered from "isolation and apparent defenselessness."<sup>19</sup>

It was this situation that Sheikh Mujibur Rehman, the Awami League leader decided to exploit. As Talukdar Muniruzzaman, an East Pakistani scholar describes it:

After the cessation of hostilities, Sheikh Mujibur Rehman . . . thought that this feeling could be exploited to spark a political explosion among the politically discontented and economically frustrated East Pakistanis. At a press conference he argued that time has come for making East Pakistan self sufficient in all respects. He then enumerated six points as a 'charter of survival programme' for East Pakistan.<sup>20</sup>

The "six points," which played a decisive role in the history of Pakistan and which will be examined in the following section were:

1. A federal constitution for Pakistan.
2. Central government portfolios to be limited to defense and foreign affairs only.
3. The two provinces to have separate currencies, or alternatively, there should be restrictions on the movement of capital funds from one province to the other.
4. All taxes to vest in the province of collection.
5. All foreign exchange earned in East Pakistan to be at the disposal of East Pakistan.
6. An East Pakistan militia to be formed.<sup>21</sup>

Later, Mujib started a movement which certainly gathered

momentum. He was joined by Maulana Bhashani, an influential leader of East Pakistan. Spurred by this success Mujib became bold and demanded nationwide referendum on the six point issue.<sup>22</sup>

Ayub Khan's reaction to the whole episode was as typical as that of the British when they dealt with such Indian nationalist leaders as Nehru, Gandhi, etc., and with the same results. Mujib was arrested on April 23, 1966, which only increased his popularity. In fact by August 3, 1966, an estimated 3,000 persons were in jails. These events reached their climax during the months of December 1967 and January 1968 when the government accused Mujib and others of hatching a secessionist plot.<sup>23</sup>

The trial, called the Agartala trial (Agartala being the name of the town where the alleged conspiracy took place), was a severe test of Ayub regime in East Pakistan. According to Biring:

Involved in the proceeding was an all-out effort to discredit and silence the man who at this date seemed to best typify Bengali sentiment. If the government could prove its case, Mujibur Rehman might well be written of as a leader of the opposition in East Pakistan.<sup>24</sup>

However, by the close of the year 1968, the government had failed in its case and withdrew it. The Agartala conspiracy was ordered closed and the accused released. "Mujib and his followers had been vindicated and Ayub Khan unceremoniously humiliated."<sup>25</sup>

Dissatisfaction in West Pakistan

The problem in West Pakistan arose from the fact that this province was created in 1955 following the integration of the provinces of Sind, N. W. F. P, Baluchistan and Punjab. However, each province was inhabited by a people who were and are considered separate ethnic and linguistic units. The merger of these peoples in a "unit" violated the principle of federalism whereby, according to Pierre Trudeau, "the citizenry must be made to feel that it is only within the framework of the federal state that their languages, culture, institutions, sacred traditions, etc., can be protected."<sup>26</sup> The inhabitants of these provinces, feared that their linguistic and cultural identity would be merged and resented it.<sup>27</sup>

Secondly, the merger of these provinces also violated the principle of federalism, which, according to Wheare, "consists in a division of the functions of the government between an independent common authority and independent authorities for the constituent parts of the country."<sup>28</sup> The fusion of these provinces meant that they did not possess an independent authority, even in a limited sense of their own.

Specifically speaking, the Pathans occupy most of the north and northwestern part of Pakistan. Their origin is in doubt and Claf Saroe, former Governor of the province and a researcher says that, "in the modern sense there is

no connected history of the Pathans in their own land, whether written by themselves or by any of those through the ages who passed by."<sup>29</sup> In spite of these uncertain origins, they have established themselves as a distinct people roughly divided between the highlanders, i.e., those who dwell in the northeastern mountainous regions of N. W. F. P composed of such tribes as Afridi, Crakzai, Langash, Wazi, etc., and the valley dwellers. The former are the "tribes who never fell under the effective sway of any recorded imperial authority and now form the backbone of the so called tribal belt."<sup>30</sup> Both speak the same language, which with some difference is known as Fakhtu or Pushtu.<sup>31</sup>

The Baluchis are descendants of marauding nomads "Zoch and Baloch from the mountains of Kirman in Iran."<sup>32</sup> Theirs is the smallest population numbering only 1.16 million according to the census of 1961.<sup>33</sup> They speak one language, viz., Baluchi, which is considered to be an Iranian-Aryan family language. "Its grammatical structure and vocabulary are influenced by Persian, and Baluchi literature has expanded in all dimensions."<sup>34</sup>

The inhabitants of the lower part of the Indus valley speak a language called Sindhi. An Indo-Aryan people, they constitute an ethnic linguistiv unit with a poetic tradition of their own. Their greatest poet is a mystic called Shah Abdul Latif.<sup>35</sup>

Also, in the province of West Pakistan, more than

half of the population was Punjabi speaking. They also were the most advanced. And as Keith Callard says, following partition, "the Punjabi middle class was the only group that could fill the gap left by the departing Hindu and Sikh communities."<sup>36</sup> Consequently, they began to spread into other provinces as well. This led to considerable resentment by those who found that "strangers" were dominating their machinery of government and commerce.

In any case, when the West Pakistan province was formed in 1955, it was done so with the apparent approval of the provincial legislatures, however, doubts remain whether fair tactics were employed. In the province of Sind, for example, its Chief Minister, Pirzada Abdus Sattar, was firmly opposed to the creation of the West Pakistan Province and was supported by 74 of the 110 members of the Sind Legislative Assembly. And because of this he was dismissed from office and replaced by Muhammed Ayub Khuro. Khuro succeeded where Pirzada failed. The tactics employed to attain success can be gauged from the accusations of Suharwardy who attacked Khuro of having adopted coercion in winning the approval of the members.<sup>37</sup>

In the N.W.F.P the opposition boycotted the session when the vote was taken on the merger of that province into West Pakistan.<sup>38</sup> In Baluchistan, the Agent who was responsible for the administration of the Province acted on the orders of the Governor General, as there was no

assembly or representative institution in that province at that time.<sup>39</sup>

Also, these provinces lost their individuality. As Herbert Feldman says, not only did each province have a Governor with all the legal authority that goes with that high office, but also "a legislature, ministers, parliamentary secretaries, all enjoying the authority and trappings which go with those high offices."<sup>40</sup>

As we have seen, Ayub Khan refused to do away with the integrity of the West Pakistan province, but Yahya Khan decided to break it into the provinces of Sind, Punjab, N.W.F.P and Baluchistan.

#### The Constitutional Issue and the Political Parties

As pointed out, following the secession of East Pakistan, Pakistan was constituted of four provinces which were also ethnic and linguistic units. And the question that the political elite faced under the changed conditions was of framing a constitution wherein the territorial distribution of powers should be so undertaken that the provinces were guaranteed maximum autonomy but in consonance with the national interest. That this was the issue was admitted to as such by Bhutto in the course of an interview he gave to an Indian journalist.<sup>41</sup> The other issue on which there was an agreement among the political elite was that Pakistan should have parliamentary institutions. Very briefly speaking, Byron Weiner

expressed the issue best when, speaking of the South Asian countries, he said, "the maintenance of national unity . . . is perhaps their most severe political problem."<sup>42</sup> And he also expressed the opinion that "the future of representative government is closely related to how well and in what way national unity is maintained."<sup>43</sup>

Also the breakdown of the federal structure imposed by Ayub Khan demonstrated that the successful formation of a federal structure depended upon the voluntary cooperation of the provinces. This point was well made by Wheare, who, discoursing on the appropriateness of the federal form of government said that it would be suitable for "a group of states, if, they at one and the same time, desire to be united under a single independent general government for some purposes and to be organized under independent regional governments for others."<sup>44</sup>

And in understanding the efforts made to reach a decision on constitutional questions, it is necessary to assess the strength of the political parties, their bargaining, etc.

The party system which emerged in Pakistan following the secession of East Pakistan can be called a "dominant party system" in the words of Duverger.<sup>45</sup> That is, the Pakistan Peoples Party, founded by Bhutto, clearly outdistanced its rivals. In the National Assembly, whose total strength was 141, the F P P had a solid majority of 86 and the support of several independent members. Of the

other parties such as National Awami Party (NAP), Jamiat-e-Ulama-e-Islam and Council Muslim League, none had a membership exceeding ten.<sup>46</sup>

However, even though the F P P had the clear majority in the National Assembly, it could not be said that it was representative of all of the provinces in the country. Its strength was primarily based in and drawn from Punjab and Sind. And since the issue was primarily one of reconciling the regional interests with the national one, the F P P found itself handicapped. And the regional interests of A. W. F. P and Baluchistan were better represented by a coalition of the National Awami Party and the Jamiat-e-Ulama-e-Islam led by Abdul Wali Khan and Mufti Mahmood respectively.<sup>47</sup> Since, in the solution of the constitutional problems faced by the country, the F P P could ill afford to ignore these political parties, an attempt is made to understand their respective positions in this context followed by a discussion of the specific positions taken by these parties.

The appeal that the F P P has, and the support that it derives from the people, is principally due to the charismatic figure of Bhutto. But the popularity and the charismatic hold that the personality of Bhutto has over the masses is not only due to the fact that he is an orator who can sway the masses, but also is an outgrowth of his anti-Indian stand during 1965, which immensely added to his

popularity.

Specifically speaking, Bhutto began his career, as pointed out earlier, by serving in various ministerial posts under Ayub Khan. Known for his anti-Indian views he reluctantly went to Tashkent where India and Pakistan signed the declaration known as "Tashkent Declaration" following their mutual conflict. While Ayub Khan defended the "Tashkent Declaration" Bhutto kept himself aloof and later opposed it. Consequently, he was forced to leave Ayub Khan's cabinet. But this only increased his popularity, particularly among the students and the younger generation. Between 1968 and 1969, he undertook a tour of West Pakistan criticizing Ayub Khan which led to his arrest and made him look like a "martyr" to the common people.<sup>48</sup>

On the question of "who and how many shall be the decision makers" Bhutto at one time favored the political order implemented by Ayub Khan. However, sensing the popular apathy to the Basic Democracies of Ayub Khan, he has been content to voice his support for "parliamentary and federal institutions" in Pakistan.<sup>49</sup> Yet he remained deliberately vague on such issues as the relationship between the federal government and the provinces, the extent of autonomy to be given to the provinces, etc. Instead he has preferred to bargain with the opposition leaders in "smoke filled rooms."

#### National Awami Party

The political elite who founded the National Awami

Party (NAP) in July 1957, with few exceptions were those who had opposed the creation of Pakistan. Abdul Ghaffar Khan and Abdul Samad Achakzai from the N. W. F. P and Baluchistan respectively, were the followers of Mahatma Gandhi, and Ghaffar Khan in particular was such a staunch supporter of Gandhi that he came to be called as the "Frontier Gandhi." In the province of Sind, G. M. Syed, once a Muslim Leaguer, dissociated himself with the League and worked for the unity of India. However, following the partition of India, they became the champions of provincial rights. Their demand was for maximum provincial autonomy. In this demand, they found a natural sympathizer in Maulana Bhashani of East Pakistan. Bhashani, originally had joined the Awami League and subscribed to the "21 Point program." However when Suharwardy became the Prime Minister, Bhashani charged him of "violating the 21 Point Program," and of failing to give "autonomy to East Pakistan."<sup>50</sup>

Following the secession of East Pakistan, the NAP came under the influence of Abdul Wali Khan, son of Abdul Ghaffar Khan. During 1970 the NAP showed some strength in the N. W. F. P and Baluchistan. However, its bargaining position improved when it entered into a coalition with the Jamiat-e-Ulama-e-Islam in 1972. The specific position adopted by the NAP on "provincial autonomy" is discussed later in the chapter.<sup>51</sup>

Jamiat-e-Ulama-e-Islam

The Jamiat-e-Ulama-e-Islam or the "Organization of the Ulama of Islam" has obscure origins. However, it does fall into the category of political parties that are formed by a few influential men at the top. And these were Maulana Ghulam Qaus Hazarvi and Maulana Mufti Mahmood, both learned theologians, but practically unknown outside the provinces of N. W. F. P and Baluchistan.<sup>52</sup>

The party and its leaders subscribe to the belief that reversion to the simplistic life led by the Prophet Muhammed and his followers can be an answer to the complex problems of today. Thus in a radio and television address Mufti Mahmood said:

We want to lay the foundations of a way of life which rids our society of all unIslamic ideas and practices of modern times and regenerate gradually a semblance of life as organized in the times of Khilafat-e-Rashida.

We want that we should today live just as Muslims lived in the days of the Holy Prophet and the Khilafat-e-Rashida like brothers and sisters and without any distinction and discrimination among them, and with the rulers and the ruled, the Khalifa and the common Muslims leading identical lives.<sup>53</sup>

The party also believes in the enforcement of the injunctions of Islam as contained in the Quran and Sunna, As we have seen such a position though apparently simple is not free from complications. Yet the party leaders have not taken a decisive stand on the issue except to express the belief that the implementation of Quranic injunctions is a cure for all of the ills. Thus Mufti Mahmood declared:

Islam lays down that no one from the Head of the State down to the common man, should be exempt from the enforcement and application of Islamic laws. Every person should be accountable before law. By this way all political malpractices will come to an end and the society purified.<sup>54</sup>

However, during the constitution-making process, these questions were left by the Jamiat in the background. In fact the Jamiat, following the coalition it entered with the NAP became a staunch supporter of provincial autonomy.

In any case, the successful formation of a parliamentary federal structure depended upon the cooperation of the NAP, the Jamiat-e-Ulama-e-Islam and the PPP. That this cooperation would be forthcoming was plainly stated by the NAP chief from the N. W. F. Province of Pakistan, Arbab Sikender Khalid, who stated that:

After the separation of East Pakistan things have become much easier and it would not be very difficult for the PPP and NAP to come to an understanding on the issue.<sup>55</sup>

Another prominent leader from the same province, Ajmal Khattak, on behalf of his party said:

We wish to make it explicitly clear that it is not within the power of an individual or a political party to solve the problems facing the country. The damage done to the country by personal and party dictatorship is before us.<sup>56</sup>

Further he said:

The situation calls for a radical change in the attitude of everyone so that ways and means may be found to solve national issues on a national level.<sup>57</sup>

Ajmal Khattak in his statement made certain specific points. First, he warned Bhutto and his party that the

NAP would resist any efforts to impose a dictated constitution. In other words he was saying that the NAP need to be fully consulted in the framing of the constitution and that it would cooperate in such efforts. Secondly, NAP had before it the national interests and did possess an overall national view rather than a sectarian view though its main concern was to ensure provincial interests. Third, that all concerned should adopt a conciliatory attitude rather than one of resistance.

Mufti Mahmood, who headed a coalition ministry of the NAP and the Jamiat-e-Ulama-e-Islam in the L. W. F. P not only gave assurance of his cooperation but also that of the two parties in solving the constitutional issues which centered on the question of the "territorial distribution of powers." Since the main problem centered on the allocation of powers to the proposed central government, Mufti Mahmood assured that both NAP and the Jamiat were opposed to a crippled center, and he also added that "we do not want that the center should live on the charity of the province."<sup>58</sup> Here the implied reference was to the attitude adopted by Mujib whereby not only the proposed center under the six-point program advanced by Mujib was weak, but it lacked the power of taxation and was at the mercy of the provinces in its financial affairs. Yet, Mufti Mahmood also made it clear that a strong center did not imply that, "the legitimate provincial rights should be trampled."<sup>59</sup>

Meanwhile, the opposition political parties in the National Assembly, inclusive of the NAP and the Jamiat, had combined and elected Sardar Shaukat Hayat Khan, a veteran political leader, as their spokesman and leader. Sardar Shaukat Hayat, in the course of an interview that he gave to a correspondent of the English daily Dawn said that the opposition parties had agreed "among themselves that five subjects should be placed on the central list."<sup>60</sup> These, according to him were:

Defense, foreign affairs (including foreign trade), communications, inter-provincial commerce and currency, and the right of taxation for these subjects.<sup>61</sup>

The positive attitude adopted by the opposition parties resembled that of Madison who held that the "powers of the national government" should be exercised, "principally on external subjects, on war, peace, negotiations and foreign commerce, with which last the power of taxation will, for the most part be connected."<sup>62</sup>

Under these rather favorable circumstances, Bhutto decided to invite leaders of the parliamentary parties in the National Assembly for thrashing out the constitutional issues. The meeting between Bhutto and the leaders of the parliamentary parties in the National Assembly was originally scheduled to be held on October 15, 1972, but was delayed by two days due to the non-availability of some of the leaders. Instead the meeting started on October 17, 1972 in Islamabad and lasted three days.<sup>63</sup> However, another

series of meetings was necessary and these were held in camera beginning from April 3, 1973. Following a week of discussions and bargaining, full agreement between the ruling Paeples Party headed by Ehutto and other parties was reported. On April 10, 1973, Ehutto addressed the National Assembly and before the Constitution Bill was voted upon said that "our nation has reached this destination after traversing a long and hard path."<sup>64</sup>

#### The Nature of the Parliamentary Executive

In the new constitution, parliamentary conventions have been written down as in the 1956 Constitution but with certain departures. Thus while in the 1956 Constitution the selection of the Prime Minister was at the discretion of the President, that is, the President could call someone who in his opinion commanded the majority, the new constitution specifically lays down that the National Assembly shall elect its leader and he alone shall be called upon by the President to form the Cabinet.<sup>65</sup> Apparently this step has been taken to prohibit the President from meddling in the affairs of the Assembly.

Also it has been specifically laid down that the executive authority of the Federation "shall be exercised in the name of the President by the Federal Government, consisting of the Prime Minister and the Federal Ministers, which shall act through the Prime Minister who shall be the chief executive of the federation."<sup>66</sup> Further, it has been stipulated that in the performance of his functions, the

"President shall act on and in accordance with the advice of the Prime Minister and such advice shall be binding upon him."<sup>67</sup>

In order to avoid the repetition of an event such as the dismissal of Nazimuddin by Ghulam Mohammed, the Constitution clearly states that the "orders of the President shall require for their validity the counter signature of the Prime Minister."<sup>68</sup>

Further, to ensure the stability of the government, it has been stipulated that a "vote of no-confidence" resolution cannot be introduced in the Assembly, "unless by the same resolution the name of another member of the Assembly is put forward as successor."<sup>69</sup> Also, the no-confidence vote is not to be moved while the Assembly is considering grants submitted to it in the "Annual Budget Statement."<sup>70</sup> Thus, the Prime Minister could be removed by the vote of a simple majority except when the Assembly is considering the budget. However, the resolution is not to be voted upon, "before the expiration of three days, or later than seven days, from the day on which such resolution is moved in the National Assembly."<sup>71</sup>

Further in order to discourage members of the National Assembly from crossing over the floor and causing ministerial instability, it has been provided that:

For a period of ten years from the commencing day or the holding of the second general elections to the National Assembly, whichever comes later, the vote of a member, elected to the National

Assembly as a candidate or nominee of a political party cast in support of a resolution for a vote of no-confidence shall be disregarded if the majority of the members of that political party in the National Assembly has cast its votes against the passing of such resolution.<sup>72</sup>

### The Need for a Bi-Cameral Legislature

The argument most commonly advanced for the institution of a bi-cameral law-making body has been that the upper house should be so constituted that it should act as a check upon the lower house, restrict the passage of "hasty legislation," "and also exercises a healthy influence by its utterances both on the members of that House and the public."<sup>73</sup> A model upper house in this context has been the House of Lords in Great Britain. Herbert Morrison in his "Government and Parliament" points out that the House of Lords has not been devoid of either importance or usefulness. And more specifically he says:

Whilst I certainly would not say that debates in the Lords are more important than those in the Commons, debates in the Lords have a character and importance of their own and are not without their influence on public opinion and government policy.<sup>74</sup>

Lord Bryce in his "Modern Democracies" expressed skepticism of the standards that a popularly elected legislative body could maintain. In his opinion such legislative bodies are, "disposed to press through in hasty or tyrannical spirit measures conceived in the interests of the party or a particular class in the community often without allowing sufficient time for debate."<sup>75</sup> Hence

his remedy was the constitution of the upper house which would contain the "stores of knowledge, wisdom and experience which each country possesses."<sup>76</sup>

The United States Constitution, as is well known stipulates for a bi-cameral legislature. In this context the Founding Fathers, apart from being influenced by the fact that Great Britain had a bi-cameral legislature were also motivated by a desire to give equal representation to all the states in the Senate. Rather as is remarked in the Federalist Paper (No.62), "it . . . is at once a constitutional recognition of the portion of sovereignty remaining in the individual states and an instrument for preserving that residual sovereignty."<sup>77</sup> Or as Bryce remarks:

The most conspicuous, and what was at one time deemed the most important, feature of the Senate is that it represents the several states of the Union as separate commonwealths.<sup>78</sup>

The influence of the United States Constitution was apparent on the framers of the Pakistan Constitution, too. Wali Khan, for example, the NAP Chief categorically stated that, "the minority provinces are demanding maximum autonomy and a federal form of government in which the parliament consist of two houses, and all the provinces get equal representation."<sup>79</sup> Even though Wali Khan did not say so, presumably he was demanding equality of representation for the provinces in the upper house. A similar statement was made by another NAP leader, viz., Kishwar Gardezi.<sup>80</sup>

The reason given for a bi-cameral legislature with

equality for representation for the smaller provinces presumably in the upper house, was the fear that otherwise Punjab would be dominant. As pointed out earlier, Punjab was and still is the most populous and the richest of all of the four provinces which constitute Pakistan now. In addition it has traditionally been the home of the armed forces. That the minority provinces feared the domination of the province of Punjab was made clear by Wali Khan. In this demand of Wali Khan, Sardar Shaukat Hayat Khan, Sardar Shaukat Hayat Khan, a prominent political elite from Punjab, who also acted as the leader of the opposition in the National Assembly while the constitution making was in process, gave full support.<sup>81</sup>

In the 1973 Constitution of Pakistan, provision has been made for a bi-cameral legislature. And in the upper house, designated as the Senate, the principle of equality of representation to the provinces has been conceded with extra representation being given to the Federal Area of Islamabad and the tribal areas.<sup>82</sup> However, the powers of the lower house, designated as the National Assembly, are so preponderant that any advantage the minority provinces might have gained through equality of representation in the upper house or Senate has been nullified. In another respect though the Senate does act as a check on any possible hasty legislation undertaken by the National Assembly.

Thus the Parliament of Pakistan consists of two

houses, viz., the National Assembly and the Senate. The National Assembly is to be composed of two hundred members elected on the basis of adult franchise. The Senate is a smaller body composed of only sixty three members.<sup>83</sup> The principle of equality of representation for all of the provinces is maintained in the sense that each of the provinces, viz., Punjab, Sind, N. W. F. P and Baluchistan have been allotted fourteen seats in the Senate, and five seats have been allotted to the tribal areas while two seats have been reserved for the Federal Capital, Islamabad. While members of the National Assembly are elected directly on the population basis the Senators are elected by provincial assemblies.<sup>84</sup>

With regard to the powers enjoyed by the Senate in relation to the National Assembly, the remarks made in Federalist Paper No. 62 hold good, viz.,

A Senate, as a second branch of the legislative assembly, distinct from, and dividing the power with. . . must be in all cases a salutary check on the government.<sup>85</sup>

However, what the Federalist had to say about the Senate in the United States applies to the Senate in its relations with the National Assembly in Pakistan in a qualified sense only because the powers of the Senate in Pakistan, comparatively speaking, are more related. Thus, bills pertaining to almost all of the subjects given over to the Federal Government as contained in Part I of the Federal Legislative List, can originate only in the National

Assembly. And these include such important subjects as Defense, External Affairs, Currency and a host of other subjects whose number totals fifty nine. If the Bill is passed by the National Assembly, it is transmitted to the Senate for consideration. The Senate is given ninety days from the receipt of the Bill to "either pass it, with or without amendment, or reject it; and upon the failure of the Senate to do so, the Bill shall be deemed to have been passed by it without amendment at the expiration of that period."<sup>86</sup> Also, "if the Bill is passed without amendment by the Senate or is deemed to have been so passed, it shall be presented to the President for assent."<sup>87</sup> Further, if the Bill is "passed with amendment or is rejected by the Senate," it shall be reconsidered by the National Assembly. And the National Assembly has the power to override the Senate and send the Bill directly to the President for assent.<sup>88</sup> The powers of the National Assembly here resemble those of the House of Commons in its relations to the House of Lords in Great Britain more than those of the House of Representatives in its relations with the Senate in U.S.A.

Bills in the Senate can originate with respect to any matter "in part II of the Federal Legislative List or in the Concurrent List."<sup>89</sup> However, the subjects enumerated in part II of the Federal Legislative List and in the Concurrent List are comparatively speaking less important.

Further, the powers of both the Houses even in regard to the Federal Legislative List Part II and the Concurrent List are not equal. In the case of deadlock between the two Houses, the President shall call for a joint session. And, in this joint session the Assembly can outvote the Senate as the decision is taken by "the vote of the majority of the total membership of the two Houses,"<sup>90</sup> and the National Assembly outnumbered the Senate.

Also, all Money Bills originate in the National Assembly and they are presented to the President bypassing the Senate.<sup>91</sup>

#### The Territorial Distribution of Powers

As we have seen, the whole constitutional struggle, particularly in view of the secession of East Pakistan, was to center on the issue of the territorial distribution of powers with some hard bargaining. Yet in the new constitutional structure a formidable list of powers was placed at the disposal of the center. Even at a glance one could see that the center had at its disposal 66 subjects reducing the whole constitutional structure into a "quasi-federal" type, and some of the powers at the disposal of the center are:

1. Defense of the Federation or any part thereof in peace or war.

This included the right to detain any person in the interests of "security." Also the center had the exclusive jurisdiction in "cantonment areas," that is, areas where the armed forces were permanently stationed,

2. External Affairs: the implementation of treaties and agreements with other countries; extraditions, including the surrender of criminals and accused persons of Governments outside Pakistan.
3. Currency, coinage, and legal tender;
4. Posts and telegraphs, including telephones, wireless, broadcasting, and other forms of communications.
5. Railways and railroads;
6. Major ports, that is to say, the declaration and delimitation of such ports and the constitution and powers of port authorities therein;
7. Industries; the Federal Government had the right to acquire control over any industry, industrial corporation, or industrial establishment, which by federal law are declared to be in the 'public interest.' Also the Pakistan Industrial Corporation continued to be under the jurisdiction of the center.
8. Nuclear energy, including-
  - (a) mineral resources necessary for the generation of nuclear energy;
  - (b) the production of nuclear fuels and the generation and use of nuclear energy;
  - (c) ionizing radiation.
9. State Bank of Pakistan, banking, that is to say, the conduct of banking business by corporations other than corporations owned and controlled by a Province and carrying on business only within that Province.<sup>92</sup>

Under the Concurrent List were included such items as:

1. Criminal Law.
2. Civil and Criminal Procedure.
3. Trust and Trustees.
4. Newspapers.

5. Preventive detention for reasons connected with the maintenance of public order, or the maintenance of supplies and services essential to the community; persons subjected to such detention.

The Concurrent List also included:

6. Welfare of labor; conditions of labor; provident funds; employers' liability and workmen's compensation; health insurance; including invalid pensions; old age pensions.

7. Trade unions; industrial disputes, etc.<sup>93</sup>

Furthermore, in the financial fields, too, the center was dominant and had all the lucrative sources of revenue such as income tax, excise tax and custom duties, railways, posts and telegraphs, mineral oil and natural gas.<sup>94</sup>

The provinces, on the other hand, had been hampered by lack of financial resources. Their sources of revenue were taxes on agricultural lands, agricultural income, taxes on professions, trades, callings, vehicles, sale of electricity, court fees, etc.<sup>95</sup>

#### Functions of the State

Zulfikar Ali Bhutto, whose party, the Pakistan Peoples' Party (PPP), is the ruling party in Pakistan, and he himself is the Prime Minister of Pakistan has also proclaimed his belief in socialism. Rather he is a self declared socialist. However, to judge Bhutto and the policies he has been following by any accepted definition of the term "socialism" would be misleading.

The fact is that in common with many a political leaders of the newly independent nations, Bhutto has also

adopted "socialism." However, his "socialism", as will be discussed in the following chapter, is a combination of many things. There is an element of slogan mongering, use of eye catching phrases to appeal to the masses. There is a promise to bring about equalitarianism, put an end to the exploitation of the many by the privileged few, make the masses contented, etc. In short, there are many a promises made to many a people which fall short of and are not in conformity with the socialistic beliefs.

Nonetheless, in effect, what Bhutto promises principally is that he and his government will provide the basic necessities of life to each and all effectively put forward in an appealing phrase, viz., "khana, kapda aur makan,"<sup>96</sup> meaning "bread, clothes to cover and a place to stay." Further, he also stands for reducing the inequalities of wealth. That is, the rich are not supposed to get richer and the poor poorer, and the distribution of wealth is supposed to be more equitable. Thus while the socialists on the whole argue and stand for the abolition of private property, Bhutto is not against the institution. Also, while the socialists believe in the public ownership of the means of production, Bhutto stands for a "mixed economy" wherein all the encouragement need be given to private enterprise and initiative in certain fields and the state is supposed to take initiative in certain other fields. The only thing that is common between Bhutto and the socialists, whom he professes to

to follow, is that he along with them believes that any change that should be brought about must be by constitutional means spread through a period of time.

The fact is that Bhutto has been following the policies which were adopted and followed by such political theorists and decision makers as Liaquat Ali Khan, Ayub Khan, and their regimes. And it would be more proper to say that his beliefs are their beliefs and his policies are but an extension of the policies followed by them, sometimes in a modified form.

In the agricultural field for example, Ayub Khan had placed a ceiling of 500 acres on the ownership of irrigated land in a move designed to preserve the spirit of private enterprise and also bring about an equitable distribution of wealth. Bhutto, following in the footsteps of Ayub Khan, reduced the ceiling to 150 acres with the same objective in mind. Further, Bhutto also believes and practices, as did the earlier regimes, in the use of fertilizers, the regulation of water through the construction of dams, etc.

In industry, Bhutto has followed the same policy as pursued by the earlier regimes. As we have seen, the earlier regimes encouraged private enterprise, but the state also took initiative and undertook such enterprises as the industrialists were reluctant to do through the P I D C. Bhutto has retained the P I D C and allowed private industries to flourish. However, in a rather

confusing move he took over the management of what he termed as "key and basic industries" leaving the private capital untouched.<sup>97</sup>

There is some emphasis in the social welfare field. In the field of education, his primary aim is the universalization of education and removal of illiteracy by making education free up to the eight grade. However, Bhutto did not make it compulsory and as yet it cannot be determined what effects if any the policy had.

In "health" the emphasis has been to increase the availability of health services to a growing number of people. Yet an overall inadequacy is apparent in the field.

Labor, by the earlier regimes had been granted the right to organize. Later, through the Minimum Wages Ordinance of 1965, the minimum wage was fixed and social security guaranteed. Bhutto improved the position further, yet much remains to be done.

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## CHAPTER IX

### FUNCTIONS OF THE STATE

#### Introduction

Pakistan witnessed three major constitutional changes in its brief history, which have been discussed in chapters 6, 7 and 8. However, its policies relative to the question "how much the state shall do," have remained basically unchanged. Consequently, this chapter covers the entire period beginning from 1947. Nonetheless, for clarity's sake, the modifications and developments that were made by Ayub Khan in such fields as industry, agriculture, etc., have been pointed out on the appropriate occasion. Also, in order to specify the policies followed by the present regime a separate section has been included which shows that the present regime is continuing the policies followed by the earlier regimes even though it sometimes uses the word "socialism."

#### Functions of the State

With a simplistic assertion that Islam upholds the right to private ownership of "property," and without ever defining or undertaking an examination of what constitutes "property" or "private property" as Locke,

Marx, Broudhon, etc., do, the political leaders and theorists of Pakistan have laid justification to the right to "private property." Maududi, for example, quotes Prophet Muhammed stressing in his last "Hajj" that the "lives and properties" of all should be treated as "sacred."<sup>1</sup> Liaquat Ali Khan declared that, "Islam believes in the right to private ownership."<sup>2</sup> Fazlur Rehman, a scholar, in some details said:

The Quran insists that the acquiring of wealth is a good thing. Time and again it points out to wealth as "good" (khayr), as the bounty of God (faal Allah) and asks Muslims to spread out on the earth and seek the bounty of Allah.<sup>3</sup>

Applying this principle to the contemporary industrial and technical era, the Pak Islamic thinkers justified the institution of private enterprise in the industrial field. Thus Liaquat Ali Khan in an address declared that, "except for a few industries we have thrown open the entire field of investment to private enterprise."<sup>4</sup> And, from its very inception the policy makers of Pakistan embarked upon a policy which encouraged private enterprise, whose principles emerged following an industrial conference initiated and held by the Government of Pakistan. Among other things it was agreed at the Conference that the Government of Pakistan would encourage private enterprise with certain exceptions. And these were:

State ownership of communications, services like posts and telegraphs, telephones, wireless

and broadcasting and transport services like Railways:

Government proposes to own and operate (i) arms and munitions of war; (ii) generation of hydro-power; (iii) manufacture of railway wagons, telephones, telegraph and wireless apparatus:

Government considers that monopolies and public utilities are peculiarly suitable for nationalization:

Government reserves the right to take over or participate in any industry vital to the security or economic well being of the state.<sup>5</sup>

Later when Ayub Khan seized power, he declared that the theoretical principles which the State of Pakistan will implement would be "equal opportunities for all."<sup>6</sup> Further, he went on to assert that there would be no "grand experiments in nationalization, no fancy slogans about socialism, etc."<sup>7</sup> Thus, he forcefully affirmed the principle of private enterprise.

While there has been this great emphasis on "private enterprise" and encouragement of "private capitalism," it would be wrong to conclude that there was a free and unfettered incentive to private capitalism.

First, from the very beginning Pakistan had inherited from the British the ownership of public utilities such as railroads, wireless and telegraph, generation of hydro-electric power. Or as Liaquat Ali said they were "nationalized before the partition of India,"<sup>8</sup> and the policy has continued. Also, as Fazlur Rehman, the Minister of Industries, declared the state would

control such industries as produce and are geared to fulfil the defense needs of the country.<sup>9</sup>

Further, in the early years of Pakistan's existence a policy of "laissez faire" was followed by the Government giving full freedom to private capital to find its way through. But the results were not satisfactory. The development was unmethodical and private capital was not forthcoming in sufficient amount. Certain industries such as cotton textiles received a spur and made progress while other equally vital industries such as paper, sugar, cement, ship building, etc., were left unattended.<sup>10</sup>

Consequently, while there was great emphasis on "private enterprise" and encouragement of "private capitalism," the State of Pakistan, however, increasingly adopted a positive role for itself. That is to say, the state was to take an active part, indeed play the decisive role, in the economy "by its own acts of investment and enterprise."<sup>11</sup> And the state was also to initiate, spur and steer economic development. As a result development projects in the agricultural and industrial field began to take shape (which will be discussed later). However, it was realized that in the implementation of these projects Pakistan was short in technical skill and technical knowledge. At the same time a shortage of funding was also felt.<sup>12</sup>

In overcoming the above deficiencies several international organizations and some advanced countries

expressed a willingness to assist Pakistan. For example, in January 1950, a meeting of the Commonwealth Foreign Ministers was held in Colombo and a Consultative Committee with the object of surveying the capital, the technical resources, and needs of the member countries of South and Southeast Asia was constituted. And the principal beneficiaries were Ceylon (Sri Lanka) India and Pakistan, Singapore, North Borneo, Brunei and Sarwak.<sup>13</sup>

Further, with its "Point Four Program" of assistance to developing countries, the United States provided the largest amount of aid so far received by Pakistan. The U.S., assistance began with the provision of \$600,000 for technical assistance in 1951 and was followed up by an allocation of \$1,000,000. More direct participation by the United States began in 1952 when development funds were sanctioned not only for the provision of "expertise and training but also for supporting specific development projects."<sup>14</sup>

Also Pakistan's membership in the World Bank otherwise known as the International Bank of Reconstruction and Development in July 1950 acted as a stimulus for Pakistan to launch such economic programs. The World Bank sent out several survey teams to assess the development needs of the country and to "investigate specific projects for which the World Bank's assistance was requested."<sup>15</sup>

Further, beginning in the year 1960, the World Bank

organized an "Aid to Pakistan Club" also known as Pakistan Consortium. Members of this club were and still are Belgium, Canada, United Kingdom, the U.S.A, the World Bank and the International Development Association, an affiliate of the World Bank.<sup>16</sup>

The Consortium members generally met once a year to review implementation of Pakistan's progress in the past and take stock of future requirements. On this basis, they decided upon the volume of assistance its members would offer.<sup>17</sup>

Non-Consortium countries negotiated aid and loan agreements on an entirely bilateral basis. The People's Republic of China, U.S.S.R and Yugoslavia were the most prominent in the non-consortium sources.<sup>18</sup>

During the period in discussion, Pakistan had several projects completed in both industrial and agricultural fields. In so far as theory can be deduced by the practice followed by the nations, the practical policies followed by the governments of Pakistan in the industrial and agricultural fields as well as labor, health, education, etc., are discussed separately. However, before entering into such discussion it would be appropriate to point out that the political theorists of Pakistan also believe in the concept of social welfare which is discussed in the following section.

#### Social Welfare

While the Muslim theorists of Pakistan believed in

the right to "private ownership" and "private enterprise" within the regulatory limits imposed by the government, the concept of social welfare was not absent either. The fact is that the Quran does not condemn the ownership of private property or private enterprise the reward of which the Quran constantly calls the "bounty of Allah."<sup>19</sup> However, the Quran also frowns upon the accumulation of wealth and there is also emphasis upon communal sharing. As the Quran says:

And in this wealth there is due share for the beggar and for the one who is denied.<sup>20</sup>

The fact is that time and again the Muslim theorists of Pakistan have declared that society should be so structured that, as Maududi puts it, "the basic necessities of life to all are provided."<sup>21</sup> And Ayub Khan said that his aim would be to raise "the income of the common man so as to reduce the disparity between the rich and the poor."<sup>22</sup>

Thus the Muslim theorists of Pakistan are agreed that not only the basic necessities of every individual should be met, but the disparities of income between the rich and the poor should also be removed in a society which can be characterized as an Islamic society. And in the achievement of this purpose the conservative thinkers rely heavily upon the institution of "zakat." Zakat, on which so much importance is placed by Maududi and others, is technically defined as the "giving of a stated portion of one's property to a poor Muslim . . . in such a way as to preclude for

the giver any sort of benefit."<sup>25</sup> Zakat's payment is a "fard" (obligation) on Muslims as is the offering of "prayers" (salat). The Quran, for example says:

(Muslims are) those who, if we give them power in the land, establish the system of Salat (worship, and zakat and enjoin the virtue and forbid evil and inequity.<sup>24</sup>

The payment of "Zakat," however, is subject to the ownership of property which is productive. Aghnides a scholar says that:

Productivity, real or hypothetical, is considered to have existed where one of the following cases is present: (1) where property is gold or silver, (2) where animals are pastured, (3) where property is intended for trade.<sup>25</sup>

Besides, the payment of "zakat" is required and gauged on only that part of the property which is over and above the "primary necessities of life," and the property is "free of debt."<sup>26</sup>

Further, Maududi, is of the opinion that the state should take an active part in the collection of "zakat" and through the proceeds for "the basic necessities of the needy and destitute,"<sup>27</sup> the liberal thinkers are, however, cool to the idea. While in the various constitutions that Pakistan has had a stipulation has been made that, "the state shall endeavour as respects the Muslims of Pakistan . . . to secure the proper organization of zakat,"<sup>28</sup> nothing has been done.

Also, while in the various constitutions that Pakistan has had provision was made that:

The state shall . . . provide basic necessities of life, such as food, clothing housing, education and medical relief, for all such citizens, irrespective of sex, creed or race, as are permanently or temporarily unable to earn their livelihood on account of infirmity, sickness or unemployment;<sup>29</sup>

yet nothing has been done.

Thus, theoretically, Pakistan was pledged to the creation of a welfare state. However, as Callard and Wheeler pointed out, they were only noble ideals. And, they were "so far from the existing state of affairs as to sound unreal to the ears of the common man."<sup>30</sup>

Even though these points will be elaborated later in this chapter, suffice it to say at this stage that while the country did make impressive progress in the industrial and agriculture sector, "developments in the social sectors--education, health services, housing--and in matters of economic equity reveal important weaknesses."<sup>31</sup> That is to say Pakistan had made little progress in this area. And as Falcon and Stern point out, "whichever social indicator one considers, Pakistan occupies a place near the bottom in comparison to other Asian countries--and Asia is the poorest continent."<sup>32</sup>

### Industry

The policies followed by the governments of Pakistan illustrate the theoretical position adopted by the political theorists and governments of Pakistan, which were stated earlier. That is to say, the government of Pakistan

encouraged private enterprise and initiative through a variety of methods which are specified later. However, when this policy failed to come up to the governmental expectations, the Government of Pakistan intervened directly and set up the Pakistan Industrial Development Corporation through which it sponsored many projects designed to fulfil the nation's needs.

The fact is that the industries that operated in Pakistan at the time of partition were of a comparatively small size and met very simple needs such as:

Small sugar mills, a fruit squash and canning factory, a few rice and flour mills, a couple of biscuit factories, a brewery, a distillery, a hydrogenated oil well, the salt mills at Khewra, a tea industry in Sylhet, a small oil field and refinery at Attock, five cement works, half a dozen engineering shops, these made up the total inventory more or less.<sup>33</sup>

Furthermore, the area that became Pakistan was a supplier of agricultural products to much of North India such as "cotton and jute for the people of Calcutta, wheat and cotton for the people and mills of Ahmedabad and Bombay."<sup>34</sup> Hence, following partition the country was left with its raw materials but suffered from a lack of manufacturing capacity.

The Government of Pakistan, in its "Statement of Industrial Policy" issued shortly after Pakistan had gained independence, very appropriately noted that a "country producing nearly 75% of the world's production of jute does not possess a single jute mill. There is an

annual production of over 1,500,000 bales of good quality cotton but very few textile mills to utilise it."<sup>35</sup>

Consequently, the "statement" indicated that the Government of Pakistan would encourage any industry for which there was an adequate market in Pakistan. But it also pointed out that "efforts will be made to develop consumer-goods industries for which Pakistan is at present dependent on outside sources."<sup>36</sup> Thus while the first priority went to the consumer-goods industries, the policy makers were not oblivious to the needs of the heavy industry. The "statement" added that no opportunity should be lost to develop any heavy industry "considered essential for the speedy achievement of a strong and balanced economy."<sup>37</sup>

Also, by way of assistance to the industry, the government promised to give all reasonable help for the establishment and development of private industry. These promises included, (1) maintenance of peace and the establishment of stable administration, (2) schemes for the development of power resources and their implementation, (3) development of other infrastructure necessary for the industrial development such as the improvements of the ports of Karachi in West Pakistan and Chittagong in East Pakistan.<sup>38</sup> Also the Government promised to:

Render all assistance for the procurement of capital goods and machinery and essential raw materials from foreign countries; for the development of scientific and industrial

research and for obtaining facilities for technical education and training abroad.<sup>39</sup>

Further, the Government affirmed the principle which was being practiced, viz., "to protect new and nascent industries against outside competition."<sup>40</sup> And the Government promised to give favorable consideration to claims for a reasonable measure of "protection for industries established in Pakistan,"<sup>41</sup> probably as an effort to attract foreign capital.

The Pakistan Government also recognized the chances and the hazards to which the new industrial projects would be subjected, and it offered tax concessions which have been familiarly known as "tax holidays." These were:

New industrial undertakings using power-driven machinery and employing more than 50 men in Pakistan would during the first five years be exempt from income tax, super tax and business profit tax on so much of their profits as do not exceed 5% of the capital employed.

Concession of allowance of initial special depreciation of 15% in respect of the year of erection of new buildings.

Initial special depreciation of 20% which was allowed only on new machinery and plant was extended to machinery and plant which was brought into use for the first time in Pakistan even if it had been previously used elsewhere.<sup>42</sup>

Nonetheless, as pointed out earlier, the Government of Pakistan was not satisfied with the progress made by all the encouragement it gave to private industry. Consequently, it decided to take initiative and set up a corporation to fulfil the needs. The structure, the function and the contribution made by the Corporation are discussed in the

following pages.

Pakistan Industrial Development Corporation

The Corporation better known as P.I.D.C. was established by virtue of an Act passed in the Parliament of Pakistan in 1950. However, its Board was constituted on January 12, 1952, and it began its operation from the same date.<sup>43</sup> The P.I.D.C. has played a very significant part in the industrialization of Pakistan because of several factors. First, it pioneered industries in such areas as were neglected by private investors during the early period of industrialization. This neglect was due to a number of reasons., first, "some investments exceeded the capital available to any individual, family or group."<sup>44</sup> Many of the investments needed a large amount of capital as well as management of a high order.<sup>45</sup> Finally, there were complex projects requiring a long period between initial investment and profitable operation. For many P.I.D.C. projects the construction period was four or five years and even longer.<sup>46</sup> Very obviously private entrepreneurs were reluctant to take such risks.

Furthermore, the P.I.D.C. followed various methods in financing its projects. However, the general pattern was that the P.I.D.C. first engaged experts to make surveys and put both a definite scheme for setting up an industry and ways of financing it. These schemes had to be examined modified if necessary, and sanctioned by the Central Government.<sup>47</sup>

The P.I.D.C placed orders abroad on approved schemes for plant and machinery and also for local civil engineering work, factory building, etc. The funds required for this purpose were taken from the government.<sup>48</sup>

In some cases the P.I.D.C. constructed the factories entirely with Government finances and then formed joint stock companies inviting the public to buy shares. The Farnaphuli Paper Mills, for example, was converted into a joint stock company and its shares sold to the public. The same was done with the Paper-Board and Straw-Board Mills and the Woollen Mills, etc.<sup>49</sup>

A different example was provided by the Sui Gas Transmission Company which was first floated and the necessary finances collected before work on the project was undertaken.<sup>50</sup>

Or else P.I.D.C. joined certain companies already in existence and offered financial cooperation with a view to accelerating the pace of development of the industries under them. In this category fell "Caustic Soda Plant at Nowshera, the Furrum Chemical Company of Rawalpindi."<sup>51</sup>

The accompanying chart indicates the projects undertaken by the P.I.D.C. in West Pakistan and East Pakistan. during the 1950's.

P.I.D.C. projects during the 1960's

During the 1960's the emphasis of the government shifted to "intermediate and capital-goods industries," which also required "heavy initial capital investment,"

were complex and required "high skill or experience."<sup>52</sup> Also, under the 1962 Constitution, it was decided to "provincialise" the industries and the net result was to bifurcate the I.I.D.C. into East Pakistan Industrial Corporation (E.P.I.D.C) and West Pakistan Industrial Development Corporation (W.P.I.D.C).<sup>53</sup>

By the end of 1970, the E.P.I.D.C. had completed the following projects:

	Number of Projects	Capacity
Steel	1	1.5 lakh tons
Jute	16	4,000 looms
Sugar	4	40,000 tons per annum
Hard Board	1	10,000 tons per annum
Oil Refinery	1	15 lakh tons per annum
Cotton Textiles	1	500 looms
Chemicals and Fertilizers	3	EDT-300 tons per annum, TSP-32,000 tons per annum, Ammonium Sulphate 12,000 tons per annum. <sup>54</sup>

The West Pakistan Industrial Development Corporation had completed the following projects:

Development of the Karachi Shipyard and Engineering Works. The scheme for the establishment of a shipyard at Karachi was prepared with the assistance of a German firm and the work started in the middle of 1953 and

completed by 1957.

The K.S.B.W. was one of the Government's largest projects. It occupied an area of over 343,000 square yards and a water frontage of 3,500 feet in length and a channel having sufficient depth to take in ships upto 30,000 dwt.

During the 1960's the K.S.B.W. had developed the capacity to build ships in the range of 10,000 to 13,000 tons and by 1970 it had built several such vessels.<sup>55</sup>

Heavy Mechanical Complex at Taxila. This project was entered into under an agreement signed between Pakistan and China. The agreement known as Economic and Technical Co-operation Agreement stipulated for China to give a \$60 million loan to Pakistan (interest free and repayable after 20 years). By 1970 the Complex had commenced trial production and was producing heavy machinery equipment for cement and sugar mills, road rollers and boilers, etc.<sup>56</sup>

Oil Refineries. The only refinery in Pakistan at Independence was the Attock Oil Company in West Pakistan, based on indigenous crude. With the rising import of petroleum products the need was felt to set up oil refineries based on imported crude. The first such refinery in West Pakistan was the Pakistan Refinery at Karachi with a capacity of 15,00,000 tons which went into production in 1962.<sup>57</sup>

The second such refinery was the National Refinery at Karachi, with a capacity of 5,00,000 tons per annum expanded to 20,00,000 tons.<sup>58</sup>

However, this growth in industrialization had its adverse effects too. A new industrial class grew in Pakistan which was immensely wealthy and had almost monopolistic control in industry. For example, "while there were 3,000 individual firms in Pakistan in 1959, only seven (7) individual families, families of foreign corporations controlled one-quarter of all private industrial assets and one-fifth of all industrial assets."<sup>59</sup> In the field of insurance and banking "fifteen families" were reported to have "three-quarters of the shares."<sup>60</sup> There were a few industries, such as tobacco, paper, machinery, etc., which were dominated by a single private firm.<sup>61</sup>

Such concentration of wealth and monopoly in the industry had other effects too. The luxury and wealth these few possessed was in marked contrast to the mass poverty that prevailed in Pakistan. It was inconsistent with the egalitarianism so often preached by the political elite of Pakistan. A few got richer and the condition of the mass of the people remained what it had long been.<sup>62</sup>

#### Agriculture

In the field of agriculture, the policy of the government was aimed at the modernization of agriculture through the use of fertilizers, tractors, etc. And in order to make fertilizers available, various fertilizer factories were set up. Also, the policy of the government was directed towards the reclamation of land for irrigation

through the construction of barrages on the River Indus and other smaller rivers. Thus, while the initiative of the government in these fields was apparent, nonetheless it left untouched large individual holdings. Cognizant of this Ayub Khan introduced a set of reforms which were designed to bring about an equitable distribution of landed wealth as exhorted by the Quran as well as retain the principle of private ownership.

The fact is that following the creation of Pakistan the agricultural methods employed were primitive and clearly outdated. The use of fertilizers was almost unknown in the modern scientific sense. Consequently, there was a low yield of crops, and as Liaquat Ali himself said, "the yield of crops varies from one sixth to one sixteenth of the yield of various crops in the U.S."<sup>63</sup> Therefore, the solution offered was "the purchase of tractors and modern equipment, the manufacture and import of fertilizers."<sup>64</sup>

Thus in its efforts to modernize agriculture the Government of Pakistan realized the need for using fertilizers as the statement of Liaquat Ali Khan shows. In the beginning fertilizers were imported by the Government of Pakistan. However, the Government decided to set up a fertilizer factory at Dadukhel in Punjab. The Government of the United States contributed more than \$12 million as the cost of machinery, etc. The factory went into production in 1957 with a capacity of 50,000 tons per

annum.<sup>65</sup> Another factory to produce super-phosphate was set up at Layalpur in Punjab with a capacity of 18,000 tons per annum.<sup>66</sup>

During the 60's several fertilizer factories were set up in both East and West Pakistan. In East Pakistan, The Natural Gas Fertilizer Factory, Ghorasal (capacity: 3.4 lakh tons of urea per annum), the Ammonium Sulphate plant at Fenchuganj (12,000 tons), the T.S.P. factory at Chittagong were completed. Besides work was initiated on the second Triple Superphosphate Factory at Chittagong (1,20,000 tons capacity) and an ureas fertilizer plant at Ashuganj (capacity 3.4 lakh tons) was sanctioned.<sup>67</sup>

In West Pakistan, permission was given for the establishment of 2 urea fertilizer factories, with a rated capacity of 3.4 lakh tons per annum each. Nonetheless, by 1970 Pakistan was still dependent on imports for the fulfilment of its needs.<sup>68</sup>

#### Irrigation Projects in East and West Pakistan

East Pakistan, as was pointed out, is a fertile area watered by two of India's biggest rivers, viz., Ganges and Brahamputra. The problem there was to control the waters when the rivers flooded and drain them besides the fact that they needed channelizing.<sup>69</sup> As far as West Pakistan is concerned, it is a common saying that West Pakistan would have been a desert if it had not been for the river Indus. The vast alluvial plain which constitutes the provinces of Punjab and Sind is drained by Indus and

its tributaries. This is the most fertile area of the country. Almost the whole of this area is irrigated by a canal system which falls into two categories, viz., (1) inundated canals and (2) perennial canals or water controlled canals. The first take their supplies through cuts in river Indus and are dependent on the water level in the river. Thus, when there is no water in the river the canals are useless. Perennial canals are fed through properly constructed headworks and the water level is controlled by constructing a "weir" or a "barrage" across the river. They assure better water supplies throughout the year. Also there are areas in Pakistan drained by coastal tributaries and desert streams comprising most of the Quetta and Kalat divisions and the adjoining areas in Baluchistan.<sup>70</sup>

Consequently, the Government of Pakistan undertook a number of projects, the more important of which are:

East Pakistan

Ganges-Kobdak Project. The project was started in 1954, and it was East Pakistan's foremost flood control and irrigation project. It provided for pumping water from the river Ganges to irrigate about 2.53 million acres. The project was divided into three separate units, viz., (1) Kushtia Unit, (2) Jessore Unit and, (3) Khulna Unit.<sup>71</sup>

Teetsa Barrage. The project envisaged a 2,500 foot barrage on the Teetsa river and a system of canals which was to command a total area of 1,850,000 and irrigate

1,112,000 acres.<sup>72</sup>

West Pakistan

Ghulam Muhammed Barrage. The Barrage constructed across the river Indus is situated in the southern part of the province of Sind. It is the second Barrage in Sind, the earlier one was constructed in the thirties in the northern part of the province and is known as Sukkur Barrage. The Ghulam Muhammed Barrage is 2,934 feet long and has created 1.9 million acres of cultivable land. Basic work on the Barrage was completed in 1955 at a cost of \$72.7 million.<sup>73</sup>

Guddu Barrage. It was the northernmost of the barrages constructed on the southern half of the Indus. The Barrage commands 3.2 million acres in Sind and Baluchistan. The land reclaimed following the construction of the Barrage has been devoted mostly towards the cultivation of food crops.<sup>74</sup>

Warsak Dam. The Dam was constructed on the River Kabul near a village called Warsak in the N. W. F. Province with major assistance from the Canadian Government under the Colombo Plan. This project supplies water for irrigation to about 1,200,000 acres of "wasteland" and provides power to the extent of 2,400,000 kw for large areas of the province. The Dam has created a reservoir of an average width of 1,000 feet.<sup>75</sup>

Even though the need for mechanization was emphasized upon early in the history of the country by

Liaquat Ali, and the Government of Pakistan seemed to be aware of the need to do so, yet not much had been achieved by the end of 1960. For example, by 1960, only 14,000 acres of land was ploughed through the use tractors, etc. The total area developed during this period did not exceed 2,370,000 acres. The highest number of tractors used in 1959-60 in East Pakistan was only 66, and in West Pakistan 143. During the same year 146 bulldozers were used in West Pakistan and probably none in East Pakistan since the Government Publication under review does not mention the use of bulldozers in that part of the country.<sup>76</sup>

#### Land Reforms in West Pakistan

Following the creation of Pakistan, West Pakistan inherited an economic system which was overwhelmingly feudal in character and which led to a very clear division of rural society into two classes, viz., the landlords and the tenants. This division was particularly apparent because the society of Pakistan was and still is predominantly agricultural in character. It is against this background that the land reforms were instituted.

The fact is that the landlords dominated the field of political decision making by virtue of their control over the tenants." "There can be little doubt" wrote Keith Callard reviewing the first decade of Pakistan, "that Jagirdars, zamindars landlords, Pirs, Mahdoods landlords cum spiritual chiefs Khan and Nawabs local chiefs retain vast political influence."<sup>77</sup> Hardly if ever was a peasant

represented in the provincial or federal law making bodies of West Pakistan. Power gravitated between a few wealthy families such as Khuroos, Firzadas, Moons, Daulatanas, etc. Since they held power they resisted any attempt to undertake reforms of any sort in the prevalent structure. Even Liaquat Ali, inspite of his talk of an egalitarian society, dared not touch them.<sup>78</sup>

Ayub Khan, following the coup in 1958, appointed a Commission known as the Land Reforms Commission. Based on the report of the Commission he instituted what have been known as the Land Reforms in the year 1961.<sup>79</sup>

The much propogated Land Reforms did affect the power base of the once powerful landlord class, but not in any substantial manner. Land holdings were limited to five hundred acres of irrigated land or one thousand acres of unirrigated land. But the landlords who were aware of the impending limits being placed on their holdings were able to transfer much of the land which was in excess of the limits imposed within the family. And only 2.40 million acres of land was resumed but much of it was not of a good quality and some of it was unproductive.<sup>80</sup>

Nonetheless, the land so taken away from the landlord was sold in easy instalments to the tenants working on the land. And to help such tenants as became owners, the government offered "ready credits, improved seeds and agricultural implements."<sup>81</sup>

Yet the bulk of the peasantry remained unaffected

by the Reforms. The tenants continued to be subject to eviction by the landlord. In order to alleviate the conditions of the peasantry which was unaffected by the "Reforms" it was stipulated in the "Reforms" that the landlord could eject his tenants only when the tenants failed to perform their duties satisfactorily.<sup>82</sup> This stipulation was supposed to guarantee the security of tenure for the tenant. But in effect it did not mean much as there was no machinery instituted to which the tenant could go for the redress of his grievances. It is true that the tenant could in effect go to a court of law, but it was a costly procedure which an illiterate and unemployed peasant could ill afford.

East Pakistan was considerably ahead of West Pakistan. Almost all the landlords before the partition in East Pakistan were Hindus and following the partition they left for India. Subsequently, under the East Bengal State Acquisition and Tenancy Act, 1950, "the state became the owner," and "the tenants were assured full occupancy rights."<sup>83</sup>

### Labor

The governmental policy towards labor had a simple beginning. Initially, it recognized the workers' right to organize and bargain collectively. That is to say, it recognized the labor unions and defined a "Labor union" as "any combination, whether temporary or permanent, formed

primarily for the purpose of regulating the relations between workmen and workmen, or between workmen and employers, as well as the promotion of the interests of the laborer."<sup>84</sup>

Within two years of the creation of Pakistan, there were 6,50,000 industrial workers of Pakistan organized in 150 labor unions. The largest and the best organized of these unions was that of "railway workers" with a total membership of about 1,70,000.<sup>85</sup> However, the one that took care of the welfare of its members apart from being well organized was that of the "Port Trust and Workers' Union." "It ran elementary schools for the laborers' children, operated a free dispensary under a medical Officer, which also was staffed with nurses."<sup>86</sup>

However, it was in 1955 that the Government of Pakistan had moulded its labor policy and given it a broader spectrum. That is, on August 15, 1955, it was officially announced on behalf of the Government of Pakistan, that the basic principles governing the policy of the Government towards labor would be:

To raise the standard of living and working conditions of workers and ensure for them reasonable return for their labor;

To provide social security for all workers by means of social insurance, etc;

To insure that industries work under conditions conducive to efficiency and production, and to appoint labor officers and similar organizations for looking after the welfare and attending to grievances of the workers.

To encourage healthy trade unionism and collective bargaining.<sup>57</sup>

Yet, it took the Government of Pakistan, considerable time to implement some of these principles and that, too, in a limited sense. Thus, in order to ensure the workers a "reasonable return for their labor," a Minimum Wage Ordinance was promulgated in 1961. Under the Ordinance, the provincial governments of East and West Pakistan regulated wages in industries in their own provinces on the recommendation of "wage boards" which were constituted of the representatives of employers and workers with the Government acting as the arbiter. However, there were certain categories in which "minimum wages" were fixed by the Center and were outside the jurisdiction of the provincial governments. And these included cotton, match, jute, rubber and enamel industries in East Pakistan; transport, steel rolling, cotton textiles, woolen textiles, silk and rayon, leather goods, plastic products and sugar industries in West Pakistan."<sup>88</sup>

In the implementation of the second principle, the "West Pakistan Social Security Ordinance" was promulgated in 1965 in the province of West Pakistan as apparent by the designation of the Ordinance. The Ordinance required employers and employees to "contribute 6% of the wages in the ratio of 2:1, to provide insurance cover for the employees against industrial injury, maternity and sickness."<sup>89</sup>

Also, the provincial governments of Pakistan passed two Acts designated as the West Pakistan Factories Act of 1965 and the East Pakistan Factories Act of 1965. Both these Acts were designated to ensure that the factories were well lighted and ventilated, proper sanitation facilities were provided and adequate precautions against fire were taken. Further, the Acts provided for periodical medical examination of the laborer and provision of first aid, etc.<sup>90</sup>

Thus, the Government of Pakistan had moved closer to fixing a minimum standard of living for labor and providing some sort of social security, too. However, as pointed out earlier, the Land Reforms undertaken by Ayub Khan did not benefit the bulk of the peasantry, and it is the landless peasants who constitute a very large labor force in the country. Unfortunately, nothing was done for them.

#### Education

The threefold objectives in the field of education, in Pakistan, have been the (1) promotion and inculcation of Islamic values, (2) removal of illiteracy, (3) and promotion of technical education. Thus, shortly after Pakistan gained independence, an educational conference was called in November 1947. And the Conference, following deliberations recommended that the educational system should be inspired by Islamic ideology, and the school

children and college youth should be made aware of the Islamic values so that they could contribute toward the establishment of a truly Islamic State.<sup>91</sup> Later the 1956 Constitution recommended that the state should take steps "to enable the Muslims of Pakistan individually and collectively to order their lives in accordance with the Holy Quran and Sunnah."<sup>92</sup> Specifically, it stated that the State should endeavor to:

Provide facilities whereby the Muslims may be enabled to understand the meaning of life according to the Holy Quran and Sunna;

Make the teaching of the Holy Quran compulsory.<sup>93</sup>

However, beyond laying down that the instruction of the Quran be required at the primary stage of schooling nothing had been done by the Government.

The Conference also laid emphasis on the importance of making education compulsory at the elementary level in order to remove illiteracy from the country. The specific recommendation of the Conference was that, "free and compulsory education should be introduced for a period of five years, which should be gradually raised to eight years."<sup>94</sup> While universal primary education remained the theoretical goal of the Government of Pakistan, yet by the end of 1970 Pakistan was far from successful. And the Government itself stated that:

While the Government is anxious to achieve universal primary education, limited resources of both teachers and finances mean that this objective can only be achieved gradually as further resources

are mobilized.<sup>95</sup>

The fact is that education was on a low priority as far as financial allocations were concerned. As Kahin pointed out, beginning from 1955 until the end of 1970, the percentage allocation of development resources devoted to education never exceeded six percent.<sup>96</sup>

Also, the bulk of the population in Pakistan is in rural areas, and the children in those areas do not show an inclination to go to school. And even if they do go, many of them "do not continue their studies beyond the primary stage."<sup>97</sup>

Very early in the history of Pakistan, the need to give scientific and technical education was realized. Jinnah, for example, addressing the First Educational Conference laid emphasis on the immediate and urgent need for imparting such education "in order to build up our future economic life,"<sup>98</sup> as he said. Since the Government of Pakistan has opened several (1) Vocational Schools, (2) Polytechnic/Technical Institutes, (3) Commercial Institutes, (4) Agricultural Colleges, (5) Engineering Colleges and (6) Medical Colleges, in the fulfilment of this objective.<sup>99</sup> The accompanying chart gives fair indication of the number of students enrolled educational institutions in Pakistan and the operating educational institutions.

### Health

Early in the history of Pakistan, the objectives of the Government of Pakistan were simply oriented. Priority

was given on the need to adopt preventive measures in the eradication of such diseases as malaria, tuberculosis, etc. Thus, particular emphasis was laid on the need to undertake anti-malaria campaign and anti-tuberculosis program. But the Government was also interested in "educating the people in the elementary principles of health and hygiene."<sup>100</sup>

However, by 1965, the aims and objectives of the Government had expanded to include the following:

To ensure that essential health services are available to everyone;

to place special emphasis on public health and develop an integrated health service;

to set up regional health organizations, particularly in rural areas, so that all health programs can be properly implemented and supervised;

to institute industrial health programs, nutritional programs and child health and maternity services for the benefit of special groups and;

to induce local communities to participate actively in the formulation and implementation of health programs in their areas.<sup>101</sup>

Anti-Malaria Program. From the very independence of Pakistan, the Government had been adopting anti-malarial measures. In 1950, the World Health Organization (W.H.O) demonstrated to the Government a method known as "residual spraying." By 1956 over 32.6 million persons had been protected by the application of this method, and by 1968, 106 million of the "population were covered."<sup>102</sup>

The Government also established a "Malarial Institute" in Karachi. It was subsequently shifted to Dacca in 1952 with its branch in Karachi. The main function of

the Institute was to conduct research in malariology and to impart training and advice to different provinces on the prevention of malaria.<sup>103</sup>

Also, a semi-autonomous organization was set up by the Malaria Eradication Board Ordinance of 1961, amended in 1965, to formulate and implement a program for the eradication of malaria. This organization had a Central Malaria Eradication Board presided over by the Minister of Health, whose functions were policy making, coordination and overall supervision and responsibility for the success of the program.<sup>104</sup>

Tuberculosis. As a preventive measure, E.C.G Vaccination was started by the Government as early as 1949 with the assistance of the Joint Enterprise (Danish Red Cross and its Scandinavian Associates), and later on with the assistance of the WHO and UNICEF. It was estimated that by 1968 about 59 million people had been "tuberculin-tested."<sup>105</sup>

The Government also opened "clinics" for the treatment of people suffering from tuberculosis. By 1967 it was estimated that there were more than 100 clinics in the country and "about 2,800 hospital beds."<sup>106</sup>

Cholera and Smallpox. The Government had also taken some measures for the eradication of cholera and smallpox. The Government claimed that as a result of research work being carried out in the Pakistan-SEATO Cholera Research

Laboratory, established in Dacca in 1960, a satisfactory regime of treatment had been evolved reducing the fatality cases from cholera. Similarly, vaccine produced at the Public Health Laboratory, Mohakhali, Dacca, was expected to meet the needs of the country. Nonetheless, there was a total of 3,517 cases of cholera, mostly in East Pakistan in the year 1968 and 9,365 cases of smallpox mostly in West Pakistan.<sup>107</sup>

There were 13 medical colleges in the country from which over 1,000 medical students graduated every year. Among the existing colleges, Fatima Jinnah Medical College, Lahore, was set up exclusively for women.<sup>108</sup>

There were also 30 nursing schools offering a three-year course. The number of trained nurses which was only 400 in 1947 had increased to around 4,500 in 1966/67. Nonetheless, Pakistan suffered from a shortage of doctors. In 1969, for example, there were about 20,000 doctors for a population of 128 million. That is there was one doctor for 6,400 people. And according to the Government of Pakistan:

The actual range varies from one doctor for 700 people in the big cities to one doctor for 10,000 to 20,000 people in rural areas. Also, East Pakistan has comparatively fewer doctors, some 7,600 as against about 12,400 in West Pakistan.<sup>109</sup>

Further, there were about 38,000 hospital beds in 1968/69 giving a hospital bed population ratio of 1:3,400. In similar manner, there was an average of one dispensary for 50,000 people--a very unsatisfactory situation.

Policies followed by the Bhutto Regime

Bhutto attained dominance in the parliamentary and provincial elections of West Pakistan, which is now Pakistan(ch:l), on a "socialistic" platform. But the fact is that socialism as used by Bhutto is a misleading term and, as Von Der Mehden and others observe, many of the leaders of the developing nations "are quite willing to boast that they are socialistic and that they have every intention of structuring their societies along socialist lines."<sup>111</sup> However, as they also observe:

The socialists of the developing nations endorse a bewildering variety of beliefs, theories and action programs. For the foreign observer to assume that he can anticipate the doctrines, alliances, and programs of a leader once he has declared himself a 'socialist' is a very serious mistake.<sup>112</sup>

This applies equally to Bhutto as his brand of socialism is a mixture of many things. Firstly, the socialist economy, as he conceives it, is supposedly indigenous, "based on local conditions, . . . local heritage, flowering from our traditions and in conformity with our values and ideology."<sup>113</sup> In this context Bhutto is in tune with the so called "socialist" leaders of Burma and Indonesia whose leaders also proclaim their brand of socialism as "unique to the country and particularly suited to the peculiar environment of their nation."<sup>114</sup> Needless to say Bhutto does not elaborate the relationship between his "socialism" and the "local conditions" and "local heritage," etc, which he says does exist.

Likewise, there is slogan mongering, appeal to eye catching phrases without any elaboration. The favorite slogan of the Pakistan Peoples Party which is led by Bhutto for example, is:

Islam is our faith.  
 Democracy is our policy.  
 Socialism is our economy.  
 All power to the people.<sup>115</sup>

Yet, this rhetoric and slogan mongering aside, Bhutto is pledged, as he himself said, "to put the social and economic system right."<sup>116</sup> That is, Bhutto aims to correct the system which prevailed during the Ayub Khan regime as well as other regimes which allowed the rich to grow richer and the poor poorer, wherein there were disparities of wealth and the gulf between the privileged and non privileged had widened. However, he also realizes that this will take time. As he said, "Rome was not built in a day. Those who are enterprising must continue to render the contribution to the nation."<sup>117</sup> Bhutto also realized that these changes are necessiated by the force of circumstances, rather the forces of change which are enveloping the developing countries in Asia. Introducing a series of "reforms" which will be discussed later, he said:

No government of any complexion could ignore these reforms. Even if there had been a right wing government it would have been forced to do so. So compelling are the circumstances.<sup>118</sup>

Therefore, it can be said that Bhutto has one thing

in common with other socialists who believe that "transformation of the economy can be brought about by democratic peaceful means, and that there is no incompatibility between a socialist economy and a democratic government."<sup>119</sup>

Specifically, the changes that he proposes to bring about in the socio-economic structure are the provision for full and complete facilities for all with "food and shelter, with schools and hospitals."<sup>120</sup> That is, each individual is to be provided with the basic necessities of life, literacy, health care, etc. However, as we have seen earlier, this is not an entirely novel idea. The Quran exhorts that the basic necessities of all individuals should be met and Liaquat Ali had also advocated his belief in the principle and declared:

We are fully aware of the fact that the freedom we value so much is of little use to the common man and common woman unless their living conditions can be improved at least to such an extent that when comparing themselves to peoples of the more advanced countries of the world they do not feel bitter and unhappy.<sup>121</sup>

There is also a similarity between Liaquat Ali, the other Muslim theorists of Pakistan and Bhutto in another respect. While Liaquat Ali was a believer in the institution of private property, as were the other Muslim theorists of Pakistan, his aim was to provide for the basic necessities of life to everyone without necessarily eradicating the inequalities of wealth. Bhutto on his part while upholding

the concept of the provision of "basic necessities of life for everyone, has undertaken reforms in the agricultural and industrial fields, though not very successfully, whose primary aim is the reduction of the inequalities of wealth and greater benefit to the masses through state action. Thus judged by the following criteria whereby, according to Hallowell,

All socialists argue that the principle source of evil in the world is the institution of private property and all, although in varying degrees advocate the common ownership of the means of production as the cure,<sup>122</sup>

Ehutto can hardly be called a socialist.

Furthermore, if the various "reforms" that Ehutto has promulgated are any guide, they only point out the fact that Ehutto is following, perhaps a little bit vigorously and extensively, the policies followed by the earlier regimes. In the field of agriculture, for example, he undertook the so called "land reforms." And, even though he proclaimed the need for a "bold and imaginative program at reformation," as well as the duty to abolish "landlordism,"<sup>123</sup> yet, as will be seen later, the land reform program is only a slight improvement upon that undertaken by Ayub Khan earlier. The landed aristocracy was hardly affected by the "reforms" and only a fraction of the peasants actually benefitted.

In the industrial field, Ehutto declared his intention to bring into the "public sector" what he called the "basic and key industries."<sup>124</sup> But he also left the door open for

private initiative and enterprise. In fact, as will be shown later, he favored the "mixed economy" idea, which was followed by earlier regimes.

In other fields, Bhutto's policies are directed towards the universalization of education, minimum standard of public health, support for labor organization etc. In a country where the rate of illiteracy is high, life expectancy low and labor has been at a disadvantage in its bargaining power, these objectives may seem high and also require state intervention. Yet, Bhutto's policies can hardly be termed revolutionary or radical. As Von Der Mehden says, "they are merely an attempt to achieve a social and economic system that would be quite conventional anywhere in the west."<sup>125</sup> It would be proper to say that what Bhutto is aiming at is only the promotion of a "welfare state" so well admitted by some of the Government of Pakistan publications.

In the following pages some of the specific policies followed by Bhutto, which also indicate the theory in the fields of agriculture, industry, health, education and labor, are given.

#### Agriculture

The agricultural policies of Bhutto are directed in such a manner that the individual landlord is allowed to keep enough land to make agriculture a profitable venture for him, yet he is also prohibited from being too wealthy

and influential. Thus the state intervenes to reduce the disparities of wealth but allows private ownership. The fact is that this policy is nothing but an extension of the policy followed by Ayub Khan. Furthermore, the Government is following, as the earlier governments had done, the policy of mechanization and reclamation of land through construction of barrages.

In order to achieve the first objective, Bhutto launched a set of "land reforms" which he called "massive," "sweeping," "vital," aimed at the break up of what he called the "concentration of landed wealth."<sup>126</sup> These "reforms" announced by Bhutto shortly after taking over the reins of Government in Pakistan, reduced the ceilings of individual holdings from 500 irrigated acres, and of unirrigated land from 1000 acres to 300 acres.<sup>127</sup>

At the time of this writing figures on the land which was appropriated as a consequence of this measure point out to the far from satisfactory results produced by the Reforms. The land resumed under these "reforms" so far amounts only to 724,000 acres compared with 2,300,000 acres taken over in the reforms undertaken by Ayub Khan. A little less than half of the land taken is from Baluchistan and the N. W. F. Province, and which is mostly arid and uncultivable. The rest of it is taken from Punjab and Sind. Punjab the biggest and most fertile province contributed 1,96,000 acres while Sind's contribution was 2,13,000 acres.<sup>128</sup>

The Government of Pakistan claims that apart from the land reclaimed, it had 2.55 million acres of state land for distribution among the landless tenants and that it actually distributed the reclaimed land and the state land to over 112,725 farmers. Also, the ceiling on allotment has been fixed at 12.5 acres in W.W.F.P. and the Punjab, 16 acres in Sind and 32 acres in Baluchistan. Further, in order to help the new landowners, the Government also decided to funnel credit through the Agricultural Development Bank of Pakistan.<sup>129</sup>

Mechanization. The Government of Pakistan followed the policy of mechanization through the use of tractors and bulldozers. In 1972-73, 1,80,000 acres of land was developed through tractors and bulldozers as compared to 1,70,000 acres in 1971-72, and 2,19,000 acres in 1973-74.<sup>130</sup>

Further, there has been an increase in the production of fertilizers. The fertilizer factory at Multan has been producing 100,000 tons of ammonium nitrate and 59,000 tons of urea. The Pak-American Fertilizer Factory has increased its production from 50,000 tons to 100,000 tons. The Dadukhel factory is planning to step up its production of ammonium sulphate by 600,000 tons. The expansion of the chemical and fertilizer plant at Lyallpur from 18,000 to 54,000 tons has been completed.<sup>131</sup>

### Industry

Traditionally, as we have seen, Pakistan had inherited

from the British the ownership of public utilities and communications, services like post and telegraphs, telephones, wireless and broadcasting, transport, etc. Industries that were "defense oriented" were also owned and operated by the government.

Ehutto on his part gave every indication that he would continue the above policies. Also, he made it clear that he would follow a policy of "mixed economy" in the industrial field. That is, he would not "nationalize industries that are functioning competitively and whose control in private hands is not detrimental to the security of the state."<sup>132</sup> Rather, as he said:

We propose to bring about a harmonious equation between the public and private sector to ensure that the people of the country stand to gain and do not suffer in the process.<sup>133</sup>

While Ehutto advocated this policy of "mixed economy" one of his first acts upon assuming power was to bring "thirty industrial units in ten basic categories," which were privately managed and controlled, under direct government control "to ensure significant public sector presence in the industrial sector," by an order known as Economic Reforms Order, 1972.<sup>134</sup> That is to say, the capital invested by the private capitalists in these industries was left intact and they were entitled to dividends, too. However, the government divested the private capitalists of any say in the control and management of these industries. The Government of Pakistan

by another order known as Economics Reforms Order, 1973, also reserved the right to invest its own capital. The justification for this move was the apparent "lack of organisational ability and motivation" by the private sector "to adequately tackle the problem of industrialisation."<sup>135</sup> And Bhutto felt that the onus of responsibility by and large for "industrial expansion in technologically new and more demanding fields should be that of public sector."<sup>136</sup> But the policy which is followed by Bhutto is one of making the state almost "all in all" in these categories, yet leaving the door open for private investment. Thus it is a curious policy which falls short of nationalization but still makes the state totally dominant in the following fields:

Iron and Steel Industries

Basic Metal Industries

Heavy Engineering Industries

Heavy Electrical Industries

Assembly and Manufacture of Motor Vehicles

Tractor Plants.

Heavy and Basic Chemicals

Petro-Chemical Industries

Cement Industry, and

Public utilities, that is to say;

(a) electricity, generation, transmission and distribution,

(b) gas, and

(c) oil refineries.<sup>137</sup>

Pakistan Industrial Development Corporation. The Corporation continues to function as before and some of the projects undertaken by it are given on the accompanying chart.

### Labor

In the field of labor Bhutto announced a policy designed to guarantee to the workers, as he put it "their fundamental rights consistent with the requirements of the industrial development of the country."<sup>138</sup> The Pakistan News Digest, a Government of Pakistan publication, labelled it as a "significant step in the direction of transferring Pakistan into a welfare step."<sup>139</sup>

However, all the above rhetoric apart, the labor policy followed by Bhutto can at best be categorized as an improvement upon the policies laid down by earlier governments and, as Der Von Mehden says, it is designed to increase the "bargaining power of the labor."<sup>140</sup> The fact is that as we have seen, a small beginning was made following the creation of Pakistan when labor was given the right to organize. Later, the Minimum Wages Ordinance of 1963 fixed the minimum wages for laborers in certain fields. Further, the West Pakistan Social Security Ordinance, 1965, provided an employee with insurance cover against industrial injury, maternity and sickness,

The new policy of Bhutto, not only preserves the above, but also guarantees labor a 5% share in the annual

profits of the industry. It also makes provision that the workers are to be provided with bonuses if the industries show a profit.

Further, the policy also makes provision for the association of workers' representatives to join the management of an industry to the extent of 20%.

The policy also aims at the provision of education up to matriculation level to one child of each worker at employer's expense. And the Employers Old Age Pension Ordinance, envisages grant of pension for life to workers after a prescribed age and length of service.

The policy also aims at the provision of security of employment of workers against arbitrary retrenchment and termination of services. It has been made obligatory for an employer to hold an independent inquiry in case of dismissal of a worker for misconduct. In other cases the employer has to state explicitly in writing the reason for the proposed action. Victimization of the officers of the trade unions wherein trade union activities are involved has been declared to be an unfair labor practice.<sup>141</sup>

Further, in order to facilitate the speedy settlement of disputes, provision has been made for the setting up of "Junior Labor Courts." The "Junior Labor Courts" are required to dispose of individual grievances against industrial management within a matter of seven days.<sup>142</sup> A National Industrial Relations Commission is to be set up to encourage "formation of trade unions on an

industry-wide basis and to adjudicate disputes at the national level."<sup>143</sup>

### Education

The educational policy of Bhutto, announced on March 15, 1972, is very brief in its contents and contains broad outlines. Nonetheless, it is very clear that its principal aim is to increase literacy in the country, reduce if not eradicate, illiteracy. That is, in a country where illiteracy has been traditionally high, the new policy gives the common man an opportunity to educate his children up to a certain level.<sup>144</sup> In fact the Government of Pakistan itself gave much importance to this aspect by proclaiming October 1, 1972, the day the policy was supposed to go into effect, as the "Literacy Day."<sup>145</sup>

Specifically, the first step taken under this policy is to make school education free up to "class VIII with effect from October 1, 1972, and it is stipulated that free education for classes IX and X would commence from October 1, 1974."<sup>146</sup>

Secondly, the educational policy stipulates the establishment of 50,000 "peoples" public libraries."<sup>147</sup>

Laudable as the objectives of the policy are, its benefits can at best be limited. As Arshad Meer Khan points out, the benefits would have been greater had the education up to class X been made free and compulsory. As it is, the possibility of progress remains, but any

significant improvement is doubtful and he gives some valid reasons for this outlook. According to Ameer Khan:

In today's Pakistan, a school-age child in an average family, 80% of whom live in villages and engage in agriculture for their livelihood is considered an economic production unit. This is especially true of male children. He often help in the field or otherwise contributes towards the production of family income. Sending him to a school, even a free one, is considered by many impoverished parents to be a financial burden, in terms of potential loss in the meagre family income due to loss of his labor. On the other hand compulsion places a direct responsibility on parents to send their children to school on pain of punishment. This is a drastic step but then the problem of mass illiteracy is a drastic problem too.<sup>147</sup>

The other important factor is social. A great many lower-middle and middle class parents in both rural and urban areas are reluctant to send their teen-aged daughters to school. Still, there are those who consider female education to be un-Islamic. There are others who feel that the proper place for a girl is at home. "All these social attitudes add up to a large number of school-age children being kept out of school."<sup>148</sup>

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137. Ibid., p.69.
138. Dawn (Pakistan), February 12, 1972.
139. Pakistan News Digest, March 1, 1972.
140. Mehden and others, Issues of Political Development p. 221.
141. Two Years of People's Rule, p. 51.
142. Ibid.
143. Ibid.
144. Dawn (Pakistan), March 16, 1972.
145. Ibid., October 2, 1972.
146. Two Years of People's Rule, p. 60.
147. Ibid.
148. Arshad Meer Khan, "New Educational Policy in Perspective" Pakistan Journal 1 (November-December, 1972), p. 13.
149. Ibid.

## CONCLUSION

The Muslims of pre-partitioned India sought and won political independence with the avowed purpose of establishing an Islamic State. As W. C. Smith, a famous scholar says, "they strove to create a state through which they could implement the ideal principles of Islam."<sup>1</sup> Thus, in the Judaic and Christian tradition they looked upon the state as a media for the implementation of what they conceived to be the "ideal principles."

Further, in the Platonic, Stoic and Christian tradition, they looked upon these principles as universal and eternal, which also set standards of good and bad leaving it possible for human beings to make a definitive choice. In other words they "ethicized human relations," on a permanent basis and strove to structure them into political institutions.

In this work an effort has been made to explain the epistemological sources of these Islamic ideals as conceived and interpreted by the Muslim theorists of Pakistan, their applicability to the contemporary political institutions and demands. We also discuss the basic view of human nature and human values harbored by

the Muslim theorists of Pakistan, as well as the efforts made by them to give a viable constitution to the country which would implement these theoretical principles.

### Epistemology and Metaphysics

The Muslim theorists of Pakistan, in the tradition of the historic religiously based political philosophies closely relate the concept of human nature to nature itself. This is particularly apparent in the field of epistemology and metaphysics. Thus, they relied to considerable extent on the idea of supernatural origin as the ultimate source of knowledge--at least about values. But this belief in the supernatural origin as the ultimate source of values is also supported by rational evidence, analogous to Plato's epistemological rationalism and Kant's categories. That is, the Muslim theorists of Pakistan believe as did Plato, that a system of eternal necessary truths is accessible to man who is also endowed with reason. Man need only apply this rationality to discern these truths or "values." Also, much like the Western "natural law" theorists, they argue that applying this rational capacity, man can observe the universe and infer certain universal principles, eternal and unchangeable (similar to Platonic Forms), which govern nature as well as men in every respect such as physical, biological, ethical, etc. Yet, while they lay so much emphasis upon the rationality of man, they also present man as a composite of rationality

and desire. And they argue that since desire can overwhelm the rationality of man, God, who governs nature, has revealed His Message for the benefit of mankind through His Messengers such as Moses, Christ, etc, but of whom Muhammed is the last. And this message, as far as the followers of Muhammed are concerned is contained in the Quran.

Since the Quran was considered as God's "word,"-- the "Book" for Muslims,--a belief or faith in its precepts was seen to be the most important epistemological device. However, we noted, that in order to supplement the "Quran," Muslim thinkers also made increasing use of the "Sunnah" or the social customs and legal usages practised by the Muslim community when Muhammed was alive and which were believed to have been approved by him. Also, in order to meet the needs of changing times and fill the gap not covered by Quran or Sunnah, we noted that a resort was made to "Ijma" or the "consensus of the community."

The political philosophy of the Muslim theorists of Pakistan is developed through their metaphysical conception. And this is as true of Pakistani political thought as is true of Hebrew Orthodox political theory (such as exists) and fundamental Christian political theory (both Catholic and Protestant) as each is considered a part of an all-embracing philosophy or metaphysics based on a particular religion. And in this

context, the concept of a harmonious, orderly and moral state with God as sovereign is directly related to their metaphysical view.

More specifically, the basic belief of Islam, like that of Judaism and Christianity begins with Godhead as one. And the monotheistic creed of Islam, as interpreted by the Muslim theorists of Pakistan, apart from asserting the one-ness of God equates the universe and reality with Him. They also believe, as did Plato and St. Thomas, that there is harmony and order in the universe and that the universe possesses diverse elements which bring about a balance of life. Also, the Muslim theorists of Pakistan in agreement with Stoicism, Catholicism and Hegelianism, argue that the universe is rational in its order and growth and that it is purposeful. It is moral too in accordance with the Biblical-Quranic standards.

Further, these theorists make a practical application of these concepts by insisting that in an Islamic State sovereignty rests with God (very much in a Calvinistic manner). Also, we noted that in the early history of Islam such Muslim theorists as al-Chazzali, Ibn Arabi, believed that society should be organized harmoniously and ruled by one man much as a harmoniously organized universe is ruled by one God. The Muslim theorists of Pakistan, on their part are in agreement with the above thinkers but supplement the state for the rule of one.

They are also of the view that the state should maintain harmony through the coordination of the talents of its members and bring about order through the implementation of His commands. They also argue that it should serve as an instrument to implement the ethical precepts as contained in the Quran and Sunnah.

The concept of state which the Muslim theorists of Pakistan present, which in turn is moral, supposedly implements the universally eternal principles, and is harmonious and orderly, is not free from flaws. To begin with the epistemology of the Muslim theorists of Pakistan, we find that their emphasis upon and presentation of man as a composite of rationality and desire is but paradoxical. On the one hand the Muslim thinkers believe that God has sent the "message" for man to understand and implement it, yet they doubt man's capacity to do so.

Further, in modern scholarship, especially that of social science, a belief in "supernatural" epistemology is generally not considered a sound basis of political thought. Modern mind has found it difficult to accept the notion that some knowledge exists in a "divine" supernatural form and that the process of knowing such knowledge should be by revelation. Besides the natural law base on which so much of their epistemology rested has been more or less demolished by Hume.

Moreover, we noted that even though the ideologists of Pakistan, bind themselves to a position wherein the

Quran along with Sunnah are looked upon as the basic sources of all moral knowledge, there are doubts on the part of many of them about the authenticity of the Sunnah, at least the bulk of them. There are also differences of opinion on the ways and means through which the consensus of the community (ijma) can be determined.

There are problems too in the field of metaphysics. The ideologists of Pakistan assert the sovereignty of God in the state on the presumption that God is the sovereign of the universe. However, they also assert the sovereignty of the people (seemingly separate from God) simultaneously. They also argue that the state should serve as an instrument to implement the ethical precepts as contained in the Quran and Sunnah. Yet they do not lay much practical emphasis on implementing the Quranic ethics nor do they point out with any clarity the ethical purposefulness of the state.

Above all no political thinker of any importance in Pakistan has pointed out a solution to the problem of "evil" either in metaphysics or in social relations. As in the West this subject is rather carefully avoided.

In any case, no political ideology can ignore the nature of man and, almost all of them come to terms with the question directly. And most, discuss the relation of man's nature to such subjects as the nature of politics, the nature of society, the state, etc. The Muslim

theorists of Pakistan also present a view of man and society which is not free from paradoxes. Yet in order to understand their political philosophy we need to study their view of the nature of man and society.

#### The nature of man and society

The Muslim theorists of Pakistan present a view of the human being as the possessor of an individuality resting on the traditional religious idea of "soul," who is also expected to work in harmony as well as freedom with others. In addition to this idea of "soul" of man as a "core" of personality "somehow" in harmony with other such souls, they also present man in a paradoxical manner, in terms of his being assumed on the one hand to be rational and on the other hand to be essentially irrational with the ensuing practical socio-political paradoxes leading to an irrational politics.

The same result follows from their claim that man is a moral creature with something "good" in him yet being of sufficient evil that he must be obedient to God. The net effect of all these views is that man is further oriented to have freedom to act or not, much in the tradition of the Mutazzilites in Muslim thought and the Stoic thinkers like Cicero as well as Locke in the West. However, just as the western religious political thinkers do, the Muslim theorists of Pakistan also subordinate the "rational freedom of man" to some authority--presumably

in this case the religious authority. But in a "religious" state in the ultimate analysis, the individual is subordinated to the state and its rulers, who seem always to be the ones who represent God on earth.

In the same manner, the Muslim theorists of Pakistan proclaimed belief in human "equality," which is supposed to lead to an egalitarian state. Yet the fact is that the Pak Islamic thinkers like western political thinkers apply this universal principle in the narrow sense of man being "spiritually" equal before God, and they claim that it is the religion of Islam which unites peoples of diverse backgrounds as children of God. However, the practical effect of this contention is seen in the distinctions that are made between those who are of the faith and those that are not. More specifically aside from other secular expressions of equality, the religious definition becomes a definition of political inequality.

Furthermore, in contradiction to the foregoing, the Muslim theorists of Pakistan, view man much as Aristotle does as a "social animal." That is, as one who forms society and is formed by it primarily because society guarantees man "security" and "preservation." Also they view society in the tradition of Plato and the Muslim thinker Ibn Khaldun, as an organization which coordinates and harmonizes the multifarious talents of the individuals.

Simultaneously as indicated, they hold that the

individual as the possessor of a "soul" is held together in society by religious forces. This concept leads to certain paradoxical consequences. First, under the impact of the religious forces the individuals supposedly establish a spiritual community. Secondly, as indicated the principle of egalitarianism is thus established (each has a soul), a supposedly egalitarian society comes into being. However, all sorts of unequal social conditions such as the unequal status of women, inequality in property and income, religious discrimination, etc, result.

Still it is insisted that the social structure envisioned to be predominantly moral, as these definitions of moral values and regulations exist in the Shari'ah and are supposed to be enforced by the state and the morality is to reflect justice and compassion.

But beyond the "individual" the Muslim theorists of Pakistan, also look upon family as a societal unit. Here there are differences of approach between the conservatives and liberal thinkers. Whereas the conservatives believe that the family should be under the strict control of the head of the family, the liberals are of the opinion that a more relaxed and egalitarian relationship should exist between the members of the family.

Of course there is also emphasis upon imparting of religious education as well as technical education so that the society could be religious and technically advanced too.

Finally, they argue that a change in the society should be brought about by evolutionary means. The justification for this, they claim, at least in part lies in the creed of Islam itself.

#### The Nature of State

In the final analysis, the task the Muslim ideologists of Pakistan faced was to reconstruct political institutions through which the ethical system in which they believed in, which was to govern the rulers and ruled alike, and which was supposedly based on principles of eternal value could be incorporated.

The direct source and inspiration for this, in the case of the Pak Islamic thinkers, we found out was the Quran with some influence provided by the early Muslim thinkers. Yet while there was general agreement that the moral principles of Islam should be implemented and should be given a legal form, there were nonetheless, differences of approach among respective theorists. On the one hand, the liberal thinkers stood for "flexibility" rather than "rigidity." For example, they favored the interpretation of the Quran in the context of changing times. Also, as earlier pointed out, they question the authenticity of the bulk of "Hadith." And, in keeping with the democratic spirit, they presented the view that any adaptation of the Quranic teachings should be decided upon by the assemblies representing the people with the "Ulema" or professional

theologians acting only in an advisory capacity. On the other hand, the conservative element favored rigidity and an almost literal interpretation and application of the Quran and Sunnah--a political situation which would be almost unchanging as to standards and values.

Further, while there was and is general agreement among the theorists that the "injunctions of Quran" and Sunnah should be accorded the force of law, there was and is a lack of agreement upon precisely how the decision as to what the standards are should be reached, and who should do it. Thus during the past twenty five years the constitution makers have been content to insert a clause in all of the constitutions of Pakistan which simply states that no law should be enacted which is repugnant to the injunctions of Islam.

While they faced this difficulty in implementing the principles whose value they cherished, they also faced the task of restructuring political institutions. The history and traditions of the Muslims as well as their metaphysical beliefs favored the view that they choose a presidential form of government with one man wielding authority much as God rules over the universe. However, the liberal element, mainly composed of the western educated, consciously influenced by the rule of law which prevails in the West, made an effort to construct political institutions on the Westminster model. The adaptation

of this system was, of course, not free from controversy. While the liberal element believed in parliamentary supremacy, the conservatives felt that a parliament should have extremely limited powers. In the end it was the liberals who won as Pakistan opted for parliamentary institutions. In fact many a parliamentary convention was given statutory form and the first constitution of Pakistan also contained an impressive array of provisions guaranteeing civil and political rights as well as minority religious rights. However, Pakistan has not only maintained the independence of judiciary, but also asserted the right to judicial review.

Following the creation of Pakistan, we noted that due to the peculiar geophysical situation of the country whereby the country found itself divided into two halves it was felt that federalism would be the logical answer. Also, the differences in language, race, etc, plagued the relationship between the Eastern and Western part of Pakistan. Further, traditionally the ruling elite came from West Pakistan and both economically and militarily West Pakistanis were dominant too, even though ironically the people from East Pakistan were in majority. In order to tackle these problems it was felt that a federal form of government rather than a unitary one would be suitable. Nonetheless, these political institutions proved to be of short duration and Pakistan underwent two major

constitutional experiments.

#### The Ayub Khan Era and the Present Regime

Thus, at this point it was necessary to move from a theoretical and systematic analysis to consider historical-sociological and personal influences on events and theory.

Even though Pakistan had opted for western institutions, there were several factors which thwarted the realization of this ideal. That is, the major share of the blame for not adhering to the Islamic theory lay on the traditional historical political elite, which had the responsibility to operate these institutions successfully and honestly but proved to be after other standards and goods (much as the Christian princes in the West had earlier). The reason for their behavior may also be attributed in some degree to; (1) the long era of colonialism in pre-partitioned India which did not provide a political experience for a minority community like the Muslim community, (2) the more or less feudal system which prevailed in Pakistan--particularly West Pakistan, (3) the absence of a dedicated social welfare minded elite, (4) the "natural" character of mankind under elitist conditions at this stage of human development in general.

Consequently, Ayub Khan, the General of the Army, staged a coup in 1958 and bestowed a new constitution upon the country (1962) which was "quasi presidential" rather than in accordance with the theory. Since the

new constitutional structure took shape step by step, through 1958 to 1962, these were traced in the chapter and need only recounting briefly here. First, he created "Basic Democracies" in 1959 whereby some power was delegated to the people at the local level, pretending to implement religious Islamic equalitarianism but centralizing power in himself. Subsequently, in 1960, he also declared that "Basic Democracies" would serve as an electoral college upon which the future political structure would be based. In 1962, he proclaimed a new constitution which we have already described as "quasi presidential" and "quasi federal."

Yet the political regime of Ayub Khan had weak foundations. Thus it was overthrown in 1969. The basic causes which led to this event (and ultimately the secession of East Pakistan) were; (1) the economic and political discontent in East Pakistan, (2) the demand for autonomy among the four linguistic and ethnic units in West Pakistan, (3) the unpopularity of "Basic Democracies" as electoral college and of the regime itself. All of these causes illustrate both the inconsistencies in political theory noted above and the indifference to certain ideal-equalitarian aspects of the theories.

In any case, following the overthrow of Ayub Khan and the secession of East Pakistan, Pakistan embarked upon the constitution making experiment once again. As a reaction to the thinly disguised authoritarianism

exercised by Ayub Khan in the facade of "presidentialism" there was general agreement that a parliamentary form of government should be restored. However, in order to safeguard the parliamentary conventions whereby the head of the state is supposed to be a figurehead, the chief executive has been specifically designated as the Prime Minister and many parliamentary conventions in this context have been written down.

Also, the independence of the judiciary has been maintained, and the judiciary has been given the right to exercise the power of "judicial review." Yet in some respects its effectiveness has been curtailed.

Further, following the secession of East Pakistan, there was unanimous agreement that federal institutions alone are suitable for what remained of Pakistan and which in turn is composed of four ethnic and linguistic units. However, since Punjab is the predominant unit, and the other three units comparatively speaking are small the constitution makers opted for bi-cameral legislature more or less modelled on the Congress in the United States. Nonetheless, the powers of the Senate in Pakistan, comparatively speaking, are far less than those enjoyed by its counterpart in the U. S. A.

#### Theory and Functions of the State

From a systematic rather than a historical standpoint our analysis shows that the Muslim theorists of

of Pakistan have always expressed their belief in the right to "private ownership and private enterprise." Certainly the Government of Pakistan has given its support to this concept through its policies.

In addition, the Government has also shown the realization that for the industrial and agricultural development of the country further capital investment on a large scale as well as technical know-how was needed. This need was fulfilled both by adherence to private enterprise and encouraging foreign investment and by resorting to long term fulfilment of projects on a planned basis. Thus the government hoped to secure the aid provided by the industrially and technically advanced countries of the world as well as have "controlled" and "stimulated" growth.

However, the Pak Islamic thinkers, as we have noted also expressed belief in such welfare concepts as a provision for the basic necessities of life for all, removal of illiteracy, improvement for housing, provision of medicare, etc. Although little or nothing has been done in this regard practically.

Further, even though often belief was expressed in the removal of disparities of wealth, little or nothing has been done positively to express the theory practically. In fact, the inequalities of wealth have actually grown in recent period. Feeble efforts have been made to reduce the

enormous holdings of "landlords" who were both influential and powerful, but the results were on the whole not satisfactory.

In the ultimate analysis, as H. I. J. Rosenthal a well known scholar of Pakistan has pointed out, the conflict which needs to be solved is "between those who want to build a modern state under the guidance of Islamic ideals, and those who prefer an Islamic State under the strict sense of the term."<sup>2</sup> The conservative element, broadly speaking, aims at the latter, at the "purification and restoration of Islam as practised by Muhammed, his companions and first successors." The liberal element on the other hand, looks to Islam as a guide, an inspiring ideal, with a strong desire to adjust it to the present day democratic norm.<sup>3</sup>

Further, the conservative element favors the literal enactment of the dictates of Islam as the law of life and as the "law of the state." However, the liberals, while in agreement with the conservatives favor modifications in accordance with the times. Thus the net result has been the apparent failure in implementing in a concrete and substantial form the "ideals of Islam," the paradoxes and inner contradictions notwithstanding.

Nonetheless, if recent history and trends are any indication, it is the liberal element with its "romantic notion" of Islam and the view that Islam is an

all embracing ideal which has been dominant and the conservative element has more or less acquiesced to it. There has been an apparent desire to adapt such western notions as "people's sovereignty" "parliamentary supremacy" "individual rights" etc, without forsaking that which is basic to Islam. This view has led, of course, to contradictions such as one between the concept of "people's sovereignty" and that of God, a narrow interpretation of such terms as individual rights, whose beneficiaries are principally Muslims.

In any case, the place that should be assigned to Islam has become more or less a moot issue. The more important question that the Muslims of Pakistan face is one of adapting and practising republican institutions. Whether the Muslims of Pakistan can successfully practise these institutions is dependent upon the political awareness shown by the people, their desire to safeguard their rights, the dedication of the political elite to democratic values, evolution of a two party system and above all to what extent can federalism work in bringing together the diverse linguistic and ethnic units in Pakistan.

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