THE ROLE OF ISLAM IN THE GOVERNANCE OF PAKISTAN

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CHAPTER I

THE ROLE OF ISLAM

An appraisal of the role of Islam in the governance of Pakistan, though at first sight, seems to be an isolated case, yet, as a matter of fact it is a paradigm of other cases in the Islamic world where religious sentiment of the people is striving to find concrete expressions in the socio-political structures appropriate to modern times. Since classical times down to the threshold of the present century, the concept of the unity of religion and politics has been consistently, though, theoretically maintained and hence some sort of arrangement has always been aimed at between religion and political authority. This arrangement has not always been clear cut and simple, neither, has it always been identical in the history of political institutions in Islam, from Khilafat-i-Rasheedah down to the fall of the Mughal Empire in India and the end of Caliphate in Turkey. After a long break in political authority, Islam, in modern times, is reasserting its inner vitality and is struggling to find new spatio-temporal manifestation. Since, in history Islam has expressed in a variety of ways and at times in conflicting modalities, it becomes all the more difficult for it to find a particular mode of expression acceptable to everyone. The implication of this statement is that the platitude often expressed by religious people that we ought to follow Islam, becomes ambiguous, as the only meaning that can be given to such a statement is through the words and deeds of the historical people existing in spacio-temporal contexts; and since there is a plurality of such deeds and thoughts, the meaning of the statement depends on the specification as to which of them is intended.
I said earlier that the concept of unity of religion and politics has been consistently upheld in the history of Islamic thought, yet it is in no way helpful in delineating clearly the role of religion in politics. Various, and at certain times, contradictory opinions have been expressed by Muslim thinkers regarding the nature of an Islamic state, the role of Khalifah and the nature of Shura. A divergent concept of Imamah has also been running parallel which holds that the Imam derives his authority from the Divine source and not through public consent. These problems were the outcome of concrete situations in Islamic history and are relevant to our study, in so far as they help or hinder in our understanding as to how Islamic principles could be applied to concrete situations. A major factor, as we shall see later, in the practical application of Islam in the governance of affairs in Pakistan is the lack of clarity of some basic concepts, and the equivocal nature of general statements about the role of Islam in politics. One example of such general assertions is the proposal consisting of 22² points on which the Ulema put their seal of agreement. The moment we come down to finding detailed implications, and the modus operandi of these principles, practical and theoretical problems arise. No doubt at times, the difficulties have been exaggerated by interested parties, unwilling to give a free hand to Islam, yet it would be inaccurate to say that all difficulties are created by bad motivation.

1. See chapter IV, p. 77.
The best way to explicate what has been said above in general terms is to have a look at Islamic history starting from the beginning and ending at the present scene, i.e., the Indo-Pak sub-continent, since it is the place which is the object of our study.

It would not be inappropriate to begin with a short description of Islam itself. I am not aiming at a definition of Islam. Islam has been regarded as a Din, a complete code of Divine guidance to order the life of the individual in this world. Nevertheless an understanding of what Islam wants to achieve in this world can be had through looking at the modes of its expression in history. The theoretical concepts provided by the Quran and Sunnah can only be properly understood through behavioural patterns of the Muslim community, the pattern of the Prophet working as an ideal or norm. For the purpose of our study the most significant concepts involved in Islamic teachings are faith in God, the concept of Mulk and obedience or Ita'at to the head or Khalifah, Islamic political organization is constituted by Mulk, Millat and Khalifat. Sharie is the body of revealed law. The political authority so created is an amanat or trust. The institution of Khalifat implies the principle of trusteeship. "One of the basic principles of the Islamic state was that every thing was held by man in trust for God in whom all dominion rests".

2. Quran 3: 2.
3. Ahmad, M. Aziz, The Concept of Millat p. 56.
4. Sherwani, H.K., Studies in Muslim Political Thought and Administration, p. 287.
Thus politics is an integral part of religion in Islam and it is not possible to evolve a political philosophy independent of and detached from Islam. "The Khalifah in Islam is the defender of the faith, dispenser of justice and the leader in prayer and in war".5

The Concept of God:

Faith in the Islamic sense is not a mere intellectual assent to a certain dogma or a subjective emotional response to a great responsibility but a dynamic reaction to belief in one God, who stands for a great moral ideal. Hence faith in Islam is the moral ground and basis for action and not a dogmatic assertion for salvation or purification. The Quran says, "Allah is the guardian of the believers and that the believers have to turn towards Him alone for help and protection".6 Quran further delineates the concept of God as the Lord of the Heavens and the Earth", the Lord of the East and the West".7 "The soul of the Islamic culture lies in the principle of Tawheed, which has been variously interpreted as the unity of life, unity of mankind and unity of God. Certainly the idea of monotheism is very prominent in the Quran which repudiates any suggestion as to the duality or plurality of Godhood".8 Similarly, the Quran emphasises the essential unity of mankind.

"Mankind was a single nation, and God sent messengers with glad tidings and warnings; and with them he sent the book in truth, to judge between people in matters wherein they differ."\textsuperscript{10} Again Quran says; "There is no deity but He, all things are going to perish except His Being"\textsuperscript{11}.

**Islamic Millat:**

"The Islamic Millat is composed of the Mussalmans, which is a group set apart from the rest of humanity and charged with the duty of converting the rest of mankind to this faith so as to realize the ideal of a single community. Consequently it is only faith that divides humanity into believers and non-believers for the time being till with the realization of the unity of the whole world into a single community of faith, the distinction between believers and non-believers is lost"\textsuperscript{12}. About the believers the Quran says "You are the best of the ummats raised up for (the benefit of) man; you enjoin what is right and forbid the wrong and believe in Allah"\textsuperscript{13}.

The Islamic ummat would therefore, naturally not remain confined to any particular people. All those who accept Islam would become members of this fraternity of faith". "The believers are but brethren", says the Quran\textsuperscript{14}.

\textsuperscript{10} Quran: 17:213.
\textsuperscript{11} Quran: 28:88.
\textsuperscript{12} Ahmad, M. Aziz, 'The Concept of Islamic Millat'; University Studies, April 1966, p.5.
\textsuperscript{13} Quran: 2:12.
\textsuperscript{14} Quran: 49:1.
Ita'at: The Prophet was actually the representative of God, and obedience to him was imperative. The Prophet never demanded obedience in his personal capacity.

There is a great emphasis on obedience in Islam. Addressing the believers the Quran says, "O you who believe obey Allah and obey the Apostle and those in authority from among you; then if you quarrel about anything, refer it to Allah and the Apostle, if you believe in Allah and the last day."

It has thus been made clear in the Quran that our first obedience is to Allah and then to His Prophet and if differences of opinion arise, the matters are to be settled by mutual consultation known as Shura.

This is the theoretical aspect of the Islamic teachings. For developing and understanding of their applicability and to find out how they blossom in spatio-temporal expressions we may begin with the first written constitution of the world. The development of this constitution through later periods would provide us, both an insight into the nature of an Islamic state and the hurdles that one has to cross in putting it into practice in modern times.

The Prophet in Mecca was basically a preacher. After finding that the society he visualised to establish cannot make a beginning on the land of Mecca decided to migrate to Medina, where he was invited by two of the tribes of Medina. The Prophet finding this opportunity readily agreed to make a beginning at Medina where at the very onset he had to face the following problems demanding his immediate attention:

1. Definition of the rights and duties of his own as well as those of the local inhabitants.

2. Arrangements for the rehabilitation of the Meccan refugees.

3. An understanding of the non-Muslims of the city particularly the Jews.

4. Arrangements for political organization and military defence of the city.

5. Compensation for the life and property suffered by the refugees at the hands of the Quraish of Mecca.

In view of solving these problems the Holy Prophet, in the first year of Hijra, drew up a charter. It was a detailed account of prerogatives and obligations of the ruler as well as of other immediate requirements of the society, (including a sort of social insurance for the needy).


18. Ibid. p. 11.
The Holy Prophet sought to remedy the centrifugal conditions which prevailed in Arabia in general and in Medina in particular, with the principle of 'one ruler and one law'. The institutions of Zakat and Hajj brought about the economic and political unity, and gave the central government wide powers to levy and collect taxes from all. These institutions were acting as supplementary to faith in one God. The sanctimonious position of the Holy Prophet himself created unity amongst the disarrayed tribes of the Arabs. The whole system of ibadat is manifestly aimed at producing a personal character alongwith a collective consciousness in a people which lacked in the latter in particular. The constitution reflects these themes in so far as it is a sacred legal document aimed at training the tribes in respecting objective laws and at suppressing their arbitrariness.

Thus Prophet Mohammad was able to establish not only a new social order and set up a new constitution in the name of Islam, but also converted the Arabs to have faith in one God, united all the warring tribes of Arabia into one political organism, created a nation and gave them a new destiny. Let us have a look at the charter itself:—

The Text of the Constitution (Madina Charter):—

"With the name of God, the Most Merciful, the All Merciful".

1. "This is prescript (Kitab) of Mohammad, the prophet (the Messenger of God) to operate among the Faithful Believers (mu'minin) and the submissive to God (Muslimin) from among the
Quraish and (the people of) Yathrib and those who may be under them and join them, and take part in wars in their company.

2. "Verily they constitute a political unit (Ummah) as distinct from all the people (of the world).

3. "The Immigrants from among the Quraish shall be (responsible) for their ward (tab'ah); and shall pay their blood-money in mutual collaboration, and shall secure the release of their prisoners by paying their ransom themselves, so that the mutual dealings between the Believers be in accordance with the principles of recognised goodness (ma'ruf) and justice.

4. "And the Banu 'Awf shall be responsible for their own ward, and shall pay their blood-money in mutual collaboration as heretofore; and every group shall secure the release of its own prisoners by paying their ransom themselves, so that the dealings between the Believers be in accordance with the principles of recognised goodness and justice.

5. "And the Banu 'I-Harith' shall be responsible for their ward, and shall pay their blood money in mutual collaboration as heretofore; and every group shall secure the release of its own prisoners by paying their ransom themselves, so that the dealings between the Believers be in accordance with the principles of recognised goodness and justice.

6. "And the Banu Sa'idah shall be responsible for their ward, and shall pay their blood-money in mutual collaboration as heretofore; and every group shall secure the release of its own prisoners by paying their ransom themselves, so that the dealings between the Believers be in accordance with the principles of recognised goodness and justice.
7. "And the Banu Jasham shall be responsible for their ward, and shall pay their blood-money in mutual collaboration as heretofore; and every group shall secure the release of its own prisoners by paying their ransom themselves, so that the dealings between the Believers be in accordance with the principles of recognised goodness and justice.

8. "And the Banu'n - Najjar shall be responsible for their ward, and shall pay their blood-money in mutual collaboration as heretofore; and every group shall secure the release of its own prisoners by paying their ransom themselves, so that the dealings between the Believers be in accordance with the principles of recognised goodness and justice.

9. "And the Banu 'Amm ibn 'Amr shall be responsible for their ward, and shall pay their blood-money in mutual collaboration as heretofore; and every group shall secure the release of its own prisoners by paying their ransom themselves, so that the dealings between the Believers be in accordance with the principles of recognised goodness and justice.

10. "And the Banu'n-Habit shall be responsible for their ward, and shall pay their blood-money in mutual collaboration as heretofore; and every group shall secure the release of its own prisoners by paying their ransom themselves, so that the dealings between the Believers be in accordance with the principles of recognised goodness and justice.

11. "And the Banu 'I-Aws shall be responsible for their ward, and shall pay their blood-money in mutual collaboration as heretofore; and every group shall secure the release of its own prisoners by paying their ransom themselves, so that the
dealings between the Believers be in accordance with the principles of recognised goodness and justice.

12.a. "And verily the Believers shall not leave anyone hard pressed with debts, without helping him in recognised goodness with regard to ransom or blood-money.

12.b. "And no Believer shall oppose the client of an other Believer against him (i.e. this latter).

13. "And verily the (hands of 17) pious Believers shall be raised against (every) such persons as rises in rebellion or attempts to acquire any thing by force, or is guilty of any violation of pledge or excess or attempts to spread mischief among the Believers, and verily their hands shall rise all together against such person, even if he be son of anyone of them.

14. "And no Believer shall kill (yaqtulu) an other Believer in retaliation for an unbeliever (Kafir), nor shall he help an unbeliever against a Believer.

15. "And verily the protection (dhimmah) of God is one; the humblest (adna) of them (i.e. of the Believers) can, by extending his protection to anyone, put the obligation on all of them; and verily the Believers are brethren to one another (mawali) as against all the people (of the world).

16. "And verily those who will obey us from among the Jews will have help and equality neither shall they be oppressed nor shall any help be given against them".

17. "And verily the peace of the Believers shall be
one; (and) if there be any war in the path of God, no Believer shall make any peace (with the enemy) apart from other Believers, unless it (i.e. this peace) be the same and equally binding on all.

18. "And verily every detachment that will fight on other side will be relieved by turns.

19. "And verily the Believers as body shall take vengeance for each other of the bloodshed in the path of God.

20/a. "And undoubtedly the pious Believers are the followers of the best and the straightest guidance.

20/b. "And no Polytheist (Mushrik Arab subject) shall give any protection to property and to life of any Quraishite, nor shall he come in the way of any Believer in this matter.

21. "And verily if anyone intentionally murders a Believer and it is proved, he shall be killed in retaliation, unless the heirs of the murdered person agree (to blood money); and verily all the Believers shall actually stand for this, and nothing else shall be lawful for them to do.

22. "And verily it shall not be lawful for any Believer, who has accepted the contents of this document (sahifah) and has faith in God and in the Last Day, to give help or protection to any murderer (Muhadith); and verily whoever give help or protection to such a person, God's curse and wrath shall be on him on the Day of Resurrection, and no expense or compensation will be accepted from him (i.e. from the protector of the murderer to exonerate him).

23. "And whenever ye differ about any thing, its reference
shall be to God and to Mohammad.

24. "And verily the Jews shall bear (their) expenditure along with the Believers so long as they fight in conjunction.

25. "And verily the Jews of the Banu 'Awf' shall be considered as a community (ummah) along with the Believers, for the Jews keeping their religion and for the Muslims their religion be one client or original member of the tribe; but whosoever shall be guilty of oppression or violation (of treaty), shall put to trouble none but his own person and the members of his house (ahl bait).

26. "And verily the Jews of the Banu'n Najjar shall have the same rights as the Jews of the Banu 'Awf.'

27. "And verily the Jews of the Banu 'I-Harith shall have the same rights as the Jews of the Banu 'Awf.'

28. "And verily the Jews of the Banu Sa'adah shall have the same rights as the Jews of the Banu 'Awf.'

29. "And verily the Jews of the Banu Jusham shall have the same rights as the Jews of the Banu 'Awf.'

30. "And verily the Jews of the Banu 'I-Aws shall have the same rights as the Jews of the Banu 'Awf.'

31. "And verily the Jews of the Banu Talabah shall have the same rights as the Jews of the Banu 'Awf'; but whosoever shall be guilty of oppression and violation of treaty shall put to trouble none but his own person and the members of his house.

32. "And verily the Jafnah is a branch of the (tribe of) Tha'labah, even like them."
33. "And verily the Banu Shutaibah shall have the same rights as the Jews of the Banu 'Awf; and verily there shall be fulfilment and not violation.

34. "And verily the clients of the Tha'labah shall have the same rights as the original members.

35. "And verily the sub-branches (bitanah) of the Jews shall have the same rights as the principal members.

36/a. "And verily none of them shall go out (on a Military expedition) except with the permission of Mohammed.

36/b. "And verily no obstruction shall be placed in the way of (anyone's) retaliation of a wound; and whosoever sheds blood shall be personally responsible for it even as the members of his house, or else (i.e. to do otherwise) it will be injustice; and verily God is along with those who observe this most scrupulously.

37/a. "And verily the Jews shall bear their expenses (of war) and Muslims shall bear their expenses; and verily there shall be aid between them as against those who fight the parties (ahl) to this document (sahifah) and there shall be sincere counsel and well-wishing between them; and there shall be fulfilment (of pledge) and not violation.

37/b. "And verily no one shall violate the pledge of his ally (halif); and verily help shall be given in favour of the oppressed.

38. "And verily the Jews shall bear (their) expenditure along with the Believers so long as they fight in conjunction.

39. "And verily the valley (Jawf) of Yathrib shall be
constitute an inviolable territory for the parties to this document (ṣahīfah).

40. "And verily the protected person (jar) shall be considered just like the original member (i.e. who has given protection); neither shall he (the protected person) be harmed, nor shall he himself violate the pledge.

41. "And verily no refuge will be given (i.e. by the protected person to others) without the permission of the original people of the place.

42. "And verily if any murder (ḥadath) or quarrel takes place between the parties to this document (ṣahīfah), from which any trouble may be feared, it shall be referred to God and to Mohammad, Messenger of God, may God bless him and protect, and verily God is the Guarantee of the most faithful and scrupulous observance of the contents of this document.

43. "And verily the Quraysh shall be given no protection nor those who help them.

44. "And verily there shall be aid between them (i.e. Muslims and the Jews) against those who invade Yathrib.

45/a. "And if they (i.e. the Jews) are invited to a peace to participate in and to adhere to it, they shall participate in and adhere to it; and verily if they invite likewise, the same shall be incumbent upon the Believers in their favour, excepting one who fights for the cause of religion.

45/b. "On every group shall rest the responsibility
for the part (of the city) which faces them.

46. "And the Jews of al-Aws, clients as well as original members, shall have the same rights as the parties to this document (sahifah), with the purest fulfilment with regard to the parties to this document; and verily there shall be fulfilment and not violation no evil-doer earns anything except against his own self; and verily God is the Guarantee of the most truthful and most scrupulous observance of the contents of this document.

47. "And verily this prescript (kitab) shall not protect any oppressor or violator of pledge; and verily whoever goes out (on a Military expedition) shall have security, and whoever stays in Madina shall have security, except one who commits oppression and violation of the pledge; and verily God is the protector of those who fulfil and observe the pledge scrupulously, even as Mohammad, Messenger of God—may God bless and protect him is (i.e. the Protector)."

The next most important document relevant to our study is the collection of address delivered by the Prophet at the time of his last pilgrimage on 7th March, 632 A.D. The important part of the text of the sermon is given below:

1). O men! (from now onward) till you meet your lord, your blood and your properties are as sacred as are this day and this month.

2. And surely you will meet your Lord when he will ask you about your deeds and I have conveyed His message to you.

3. He who is entrusted with property belonging to another should deliver his trust to whom it belongs.

4. And all that is lent on usury is cancelled but your capitals are yours; do not do injustice to others nor let injustice be done to you.

5. God has decided that there is no usury. And all interest due to 'Abbas bin Abd-ul-Muttalib is cancelled.

6. And all compensation for bloodshed in the time of ignorance is abolished.

7. After that, ye men, the evil-one has despaired of ever being worshipped in this land of yours but he will be obeyed in other lands. Therefore be careful of your faith lest these other people diminish your good deeds.

8. Therefore O men, understand well my sayings for I have conveyed my message and I have left with you that which if you hold on, your affairs shall not go wrong, namely the Book and God and the religious procedure of his messenger.

9. O men, listen to my speech and made sure that you understand it. You are taught that each Muslim is a brother of every other Muslim and Muslims form one brotherhood. It is not lawful for any man to take anything of his brother's except what is given
with one's free will. Therefore do not do injustice to one another.

10. O people, your Lord is one and your father is one, all of you descend from Adam and Adam was made of earth. The best amongst you are those who are the most pious. And there is no superiority for an Arab over a non-Arab except by virtue of piety.²⁰

Keeping in view the provisions of the above two documents, it can be observed that an Islamic State Law came into existence and the Musalmans recognized the Prophet as its head. The Authority of the Prophet was based on the fine principle of equality of men and submission to law. The arbitrary practices of the chieftains of various tribes and their conventional laws are replaced by more objective and broad based laws of the state. For the first time in the history of human race social welfare becomes the duty of the state. The muwakhat at Medina was only a temporal expression of the fundamental philosophy of brotherhood and equality of mankind in Islam. It would hardly be accurate to say that the final structure of the constitution of the state has been set by the Prophet. Nevertheless, all the necessary ingredients, for a more elaborate structure to come, are provided in the practices of the Holy Prophet in the governance of the state of Arabia. These have now become the source material for any fresh attempt to apply Islamic principles in a modern state.

²⁰ Quoted in M. Serwar, Mohammad the Holy Prophet, p. 409-10.
CHAPTER II

THE CONCEPT OF ISLAMIC STATE

A glance at this sweep of history makes obvious a few points which are very pertinent to our study. The first of which is the absence of any formal structure through which political power could be transferred from one individual to the other. The wisdom of leaving the issue of form open to the Muslim ummah by the Prophet was soon lost and the old tribalism reasserted itself compromising the principles of selection and bait with kingship. It seems, and it was but natural, that in the beginning the form of political power depended very much on persons rather on formal structure. No efficacious methodology for electing or for removing a person in power, specially in view of the teachings of Islam on this topic was evolved. Most probably due to the quick spread of Islamic power no proper education and training of the masses of the converts was possible, therefore, the older modes of thinking persisted. Quran and the sunnah of the Prophet definitely indicate the involvement of the ummah in taking decisions in matters of political importance. There was a practically elected shura at Medina which was always consulted in such matters. We say practically elected because the members of shura, obviously, enjoyed the confidence of ummah. In later periods where the confidence was no more obvious, there should have been a proper method to achieve this end. The tradition of election, instead of developing into a full fledged methodology ended abruptly at this stage. No doubt one can find reasons for such an end of a fine tradition, particularly in
view of the fact that in the stabilization of authority at that time strife was more important than elections, yet there is no justification for this principle not reasserting itself when conditions became more normal.

Amir Huwaij so to say introduced an alien tradition of monarchy in Islam. It is not only a question of an alien tradition that got established in Islamic history; it was the beginning of a bifurcation between the secular and the sacred authorities. In face of such a political establishment a dual principle of obedience to authority, or a well-organized revolt should have been resorted to. The well-organized revolt is justified on the chances of its success only. This seems to be the only legally justifiable means of changing a government in power. No peaceful method was worked out and the only pressure on an unjust ruler was the pressure of the righteous ulama who did time and again speak openly against their tyranny. In other words, the nature of pressure was only moral and religious but it had no legal sanction of the state behind it. The bifurcation of the secular and the sacred became more prominent when sufis adopted a nonchalant attitude towards the affairs of the state. But since idea of the unity of religion and politics was implicitly accepted, a practical solution was automatically worked out, wherein the power of legislature was assumed by the ulama and the executive power rested with the monarch. The working formula on which the state maintained its Islamic character was based on the independence of judiciary and the acceptance of the rule of sharia in the governance of
the state, remained a sacred and respected authority and the monarchs acted as the custodians and protectors of its sanctity.

The state of affairs referred to above crystallises a problem as well as a possible solution to it. One way to make Islam efficacious, in the governance of a modern state is to return to this old division of executive and legislative functions, assigning the former to the Majlis Shura and the latter to a board of ulema. This is no way an ideal, or even a practicable solution these days. We shall come to this point later in our study.

Since the concept of khilafat is crucial for an understanding of the working of Islamic principles, one of the lessons we ought to learn from the history of Islam in the world is to comprehend the mechanism of this concept. It is not a simple mechanism; it had to accommodate many new ideas through the history and has even now to admit some radical adjustments before it can be made practicable today. Let us have a look at this concept through the history.

The history of political power in Islam, as is evident from the previous chapter may be divided in six major periods:

b) The Umayyads (A.D. 661-744).
c) The Early Abbasids (A.D. 754-786).
d) The Later Abbasids (A.D. 786-1258).
e) The Memlukes (A.D. 1254-1517) and
f) Ottomans (A.D. 1512-1924).
a) The classical caliphate constituted the golden age of the Islamic government, and therefore, it is idealized by the Muslim jurists and theologians. The basic features of the Islamic political system during the rule of the truly guided caliphs (khulafa-i-rashidun) were: (i) the secular and the religious powers were assimilated under one law, namely the Shari'ah (ii) there was only one centre of power, any division of which was considered as an act of revolt (iii) the personality of the Khalifah was the main focus of all powers; (iv) shura' was a popular mode of decision-making in all community affairs.

b) Under the Umayyad rule there was no major changes in respect of the centralized character of the government, and the Caliphs continued to remain the focus of all powers yet two major structural changes had occurred, namely, (i) there appears a division between the legislative and executive powers, giving a semblance of a division between the secular and the religious authority, and (ii) the shura' of the earlier times was replaced by autocracy and bureaucracy of the Umayyad dynasty.

c) The major features of the early Abbasids were: (i) the same division persists between the executive and legislative functions; (ii) the administration was to a certain extent decentralized through the delegation of authority by the Imam to the amirs, and other state functionaries; (iii) the focus of powers shifted from the persons of the caliphs to the wazirs, and the amirs; (iv) the shura' seems to lose its glamour and importance.
d) During the later Abbasid period, some major changes occurred: (i) the *khalifah* ceased to exercise his executive powers, and he was reduced to a mere symbol of religious authority; (ii) these executive powers came to be exercised by independent *amirs* and *sultans*, and as such the *khalifah* was no longer the focus of authority.

In this manner we do notice that the bifurcation between executive and religious roles of the *khalifah* was completed. It was under such circumstances that the Abbasid caliphate was wiped out by the invasion of the Mongols. One of the descendants of the Abbasid dynasty was able to make his way to Cairo where the *mamluks* were ruling, who installed him as the Caliph, and consequently, the *'ulama* were called upon to confirm his caliphate.

However, he continued to be a symbol of religious authority. This situation continued until the *Khilafah* was transferred to Ottomans.

**Theoretical implications**

The Muslim jurists of the medieval period through their writings on Islamic constitutional law played a vital role in rationalising the course of Muslim history in terms of Islamic terminology. They provided intellectual linkages between the ideal theory of *khilafah* and the political innovations which were introduced during the later periods. The ideal theory of the *khilafah* based on the precedents of the classical caliphate, provided a general framework of thought within which they developed new approaches for explaining structural changes,
complexities, and growth of new political institutions.

Abul Hasan Al-Mawardi (d/422/1031)\textsuperscript{21}, the celebrated shafi'i jurist in his exposition of the classical theory of the khilafah as replacing the Prophet in defence of the faith and the administration of the world\textsuperscript{22}. Al-Mawardi advocated the traditional historical view that the obligation of institutionalizing the khilafah was founded in the revelation rather than in reason as generally argued by the Kut'azalites. Further, al-Mawardi held the view that it was also supported by the consensus of the Companions of the Prophet. Like other Muslim jurists, he also cites the Quranic verse: "O, believers! obey Allah, and obey His Apostle and those among you who are in authority". Mawardi expounded the contractual basis of the khilafah in so far as the Khalifah was to be chosen by the ummah through an electoral college known as ahlul-ball wa'l-rqd. The formal procedure by which the elite were to place confidence in the Khalifah was called ba'yat al-khassa, 'amma, i.e., public acclaim. Whereas the former ba'yah is constitutive, the latter requirement is merely declaratory, and therefore of less significance in a political sense. However, it is not clear whether the ahl-ul ball wa'l-agd were chosen by the ummah or nominated by the Caliph. Most probably they were chosen on the basis of


their reputation in the fields of knowledge, intellect, justice and good moral character. Al-Kawardi enumerated these qualifications which entitled individual members of the community to be enlisted as the members of the electoral college. If al-Kawardi's exposition of khilafah is accepted as the correct Islamic model there seems to be no scope for universal adult suffrage, and general elections. In our context, the obvious weakness in his scheme arises from the fact that he was unable to elaborate the manner in which this body or the electorate was to be established. He also fails to give us any clear idea about the probable size of the electoral college. He merely states the prevalent views concerning the election of the khaliyfah by either four, five, six, two persons or even one qualified person.

Al-Kawardi further held the view that at a time there could be only one khaliyfah throughout the Islamic ummah. In this respect he disagreed with al-Raghadani who permitted co-existence of two Caliphs in the same age in the farflung parts of the ummah. In this respect he adhered to the concepts of unity, universality, and indivisibility of the ummah, and therefore, maintained firmly the political cohesion of the ummah by insisting on a single headship of the community. According to him, therefore, the khaliyfah of the orthodox rulers during the classical, Umayyad and Abbasid dynasties were legal and the others who claimed the khilafah were wrong. Thus the Umayyad dynasty's claim at Cordova, and the Fatimid caliphate were spurious.
Al-Qarardi, and most of the classical jurists adhered to the notion that the *khalifa* should necessarily belong to the tribe of *Quraysh*. This idea has a basis on a saying of the Holy Prophet. Most of the classical jurists consider it an essential condition. If examined in the historical perspective of the *Shaqifah* affair, it may not be difficult to conclude that the people of Medinah both the Ansars and the *Muhajirin* were not at all clear on this point as was the case in the matter of succession itself. The Holy Prophet did not leave any authentic direction in this connection, and therefore, the matter was debated among the leaders.

There is historical evidence that tribalism had reappeared as a force in Arab politics immediately after the death of the Prophet. In Medinah the two tribes of *Aus* and *Khazraj* wanted to contest the claim of *khilafah*. Among the *Quraysh* themselves, there had developed conflicts over the question of succession. *Abbas* and 'Ali claimed to inherit the *khilafah* as the relations of the Prophet. Abu Bakr and 'Umar based their claim on seniority following the tribal practice. Later, the *'Umayyads* assumed the *khilafah* as their own right. Among the members of the family of the Prophet, later two groups had appeared: (i) the *'Alids* who asserted the *khilafah* for the immediate descendants of 'Ali; and (ii) the *Abbasids* who claimed it for the members of the family of the uncle of the Prophet. In opposition to both of the Sunni and Shi'a theories, the *khawarij* asserted that 'piety' rather than 'descent from the *Quraysh* was the essential condition for the *khilafah*. Some of them even advocated a kind of anarchy where there was no
longer any need for the institution of khilafah.

The functions of Khilafah

Al-Mawardi enunciated ten-fold functions of the khilafah. They are:

i) preservation of the faith;
ii) enforcement of the shari'ah;
iii) enforcing hadd punishment;
iv) waging jihad;
v) collection of zakah and sedaqah;
vi) administration of justice;
vii) defence of Islam;
viii) safeguarding of the rights of the people;
ix) collection of revenues, and distribution of booty;
x) appointment of officials and active personal supervision of all state matter.  

Concerning the question of the procedures of deposition and impeachment of the khilafah, al-Mawardi maintains the typically cautious approach of the traditional Sunni jurists who had been primarily the exponents of the theory of obedience to the khilafah under all circumstances. Therefore, according to him the khilafah can not be deposed so long as he possessed the requisite qualities. Thus, there were only two situations

when deposition of the khalifah was right, i.e. (i) in case he suffered from any serious physical or mental debility; or (ii) when he committed manifest blasphemy (kufr) or moral depravity (fisq). But he does not describe or prescribe the constitutional procedures by which the khalifah could be deposed or impeached.

In expounding the ideal theory of the classical caliphate, Al-Mawardi seems to have formulated in juridical terms the constitutional principles which were derived from the early practices of the truly guided caliphs.

Al-Mawardi wrote his al-ahkam al-sultaniyah in defence of the Abbasid caliph who had practically lost all political power under the continuing pressures of the provincial amirs. The relationship between the caliph and these amirs needed reconciliation in the light of the ideal theory of the khilafah so that the political unity of the ummah could be preserved.

Al-Mawardi also developed the concept of vizierate as a necessary adjunct of the ideal theory of the khilafah. Similarly he developed a theory of Imaarah. He classified Imaarah into two types: (a) Imarat-i-istila (government based on usurpation); and (b) Imarat-i-istikfa (governorate by delegation). In so far as the Imarat-i-istikfa is concerned, there was no difficulty because an amir derived his powers directly from the Caliph as his nominee, and remained accountable to him. But the situation was quite different in case of those governors who were not appointed by the Caliph, but who had established themselves in authority by virtue of their military.
power, and were not in any way responsible to the caliph. In fact, they were independent sultans who were always concerned with establishing their political hegemony over the dar-al-khilafah (the capital of the khilafah). Thus these rulers vied with each other in bringing the khilafah under their exclusive political control in order to seek religious legitimacy for their authority in the secular spheres. Al-Mawardi found a novel solution of the problem in order to legitimize the legal relationship between the dejure sovereignty of the khilafah and the defacto authority of the Sultans. He proposed that the relationship between them should be regulated by means of a mutual agreement so that the khilafah would confer the entitlement of administering secular powers to the amir in lieu of his owning allegiance to the khilafah. This was in fact the beginning of a process of decentralization of authority within the framework of a unitary legal structure.

The concept of Shariah state

A close study of Islamic political theory from Al-Mawardi through, Al-Ghazali to Ibn-Taymiyah shows that the main concern of Muslim political thinkers was, on the one hand, to preserve the ideal Islamic norm and on the other, to adjust the Arab tribal and Sassanian, and Byzantine governmental practices to an all-embracing religious nature of state and society.

Their political realism saved Islam as a spiritual force and sustained a distinctive culture and civilization. Fear of anarchy made Ibn-Tamia, following Ghazali, condone...
usurpation of the khalifah’s office. Ibn-Jama’s even went so far as to deny the necessity of the imama by concentrating on the rule of the divine law. He tried to restore shariah to its full authority and efficacy. He stressed the importance of ijma’, i.e., shariah as interpreted by the body of ulama. Advocates of an Islamic state in our times take inspiration from Ibn Taymiyah and want to reactivate the original shariah, purged of later accretions in fiqh, in view of the welfare of the community.

In refuting the Imamite thesis as expounded by Ibn al-Mutahhar al-Hilli in his Minhaj al-Karama who regarded the institution of the Imam as an act of divine grace (Lutf al-wajib), Ibn Taymiyah maintained that the imamah of the Prophet was divinely ordained, and later the khilafah of the truly guided caliphs was in essence the khilafah of the Prophet (khilafat-an-nabi), and was based on divine law and reason. The imamah of the Prophet was absolute (mutlaq) in comparison with the khilafat of the first four caliphs which was relative (muqaiyid)\(^\text{24}\).

Ibn Taymiyah (d. 1328) in expounding his views on the nature of khilafah comes nearest to the kharajite theory insofar as he rejects the canonical basis of the khilafah. The Quran does neither prescribe any specific form of the khilafah, nor explicitly say anything concerning the question of succession. The Quran also does not lay down any number of the khalifah.

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\(^\text{24}\) Rosenthal, F.I.J., Political Thought in Medieval Islam, pp. 51-81.
Interpreting the Quranic verse 'Obey Allah, obey the Prophet, and those among you who are in authority', Ibn Taymiyah says 'those in authority' implies reference to the amirs and the 'ulama'. Therefore, for Ibn Taymiyah, there is no fixed number of khulafa and his theory of the Islamic state tends to be elitist. The facts are, however, otherwise. By khilafat is meant succession to the political power of the Prophet and as such the Quran does give the precedent, saying that Solomon inherited power from David.

In so far as the method of instituting the khalifah is concerned Ibn Taymiyah taken quite a different position from both the Shi'ite as well as Sunni views. The Shi'ites advocated the theory of nomination by God based on the Quranic authority, and the Sunnis adopted the theory of election. Ibn Taymiyah rejects both of these theories, and instead expounds the concept of cooperation as the basis of the khilafat. According to him, the imamah is set up on the basis of a contract (mubaya'a) between the sovereign and the community. The purpose of the mubaya'a is the will of the community to 'obey God and his prophet'. Like all other contracts, there are two parties involved in the contract, namely, the Imam and not only the 'ulama but all those who are competent to exercise the authority of the community by virtue of their knowledge, capability, wealth, and their influence. Therefore, Ibn Taymiyah's position in this matter is different from that of the traditional Sunni theory which stresses on the
theory of *ijma'* (consensus) expressed by what is called
ahl-hall wa'l aqd as the basis of the caliphal authority.
For Ibn Taymiyah caliphal authority is finally based on
what he describes as cooperation (*ta'awun*), and is ultimately
shared among different elements of the power elites. The
power elite is described by him as *ahl al-shawkah*. The *wilayah*
(public authority) is exercised jointly by the 'ulama and the
*amir*. The state functionaries are called by Ibn Taymiyah as
*nurwah* (agents) who are nominated by the *Imam*.

Ibn Taymiyah’s two major works, namely *Minhaj al-Sunnah*,
and *al-Siyasah al-Shari'ah*, suggest that he was not primarily
concerned with the institution of *khilafah*, or the theory of
political authority as such; he was more concerned with the
problem of enforcement of the *shari'ah* in the community.
According to him, the major purpose of the *wilaya* (public
authority) was to ensure the establishment of religion, and
*shari'ah* in the community. He classified public functions into
five categories: (1) management of public finance; (2) establish-
ment of *hudud* (religious punishment), and prevention of crimes;
(3) leading prayers; (4) waging *jihad*; and (5) organization of
public services.

In order to carry out all these numerous functions, the
*Imam* must seek cooperation of the community. For this purpose,
he should frequently take recourse to the institution of the
*shura* (consultation). The institution of *shura* is not only
enjoined by the *Quran*, but is also sanctioned by the traditions
of the *Prophet*. Although, the obligation of consultation is
admitted by other sunni jurists as well, yet for Ibn Taymiyah consultation (mushawarah) has a much wider connotation than what has been assigned to it by the traditional sunni jurists. It is not only confined to the body of 'ulama, but it also refers to a wider circle including the authorised representatives of the people, and different social classes of the community.

Thus, the Islamic state in view of Ibn Taymiyah is fundamentally based on the idea of the wilayah (public trusts), and is founded on the cooperation (ta'awun) among ahl al-shawkah (those in authority), and is run by the institution of mushawarah (consultation). Finally the objective of the Islamic state is to enforce the shari'ah.

The concept of Mulk

Not less relevant to the present situation, than Ibn Taymiyah's concept of shariah state, is the fruitful distinction made by Ibn Khaldun between khilafah and mulk. A constitutional tangle with Islam as a major issue in Pakistan reveals the crises of Islam more clearly, especially if it is considered together with the vital question of the kind of law that should regulate the life of state. Another reason for reviewing Ibn Khaldun's ideas in our present context is the nature of his thought especially in matters of political theory. He rejected as hypothetical the ideal state of the philosophers and recognised two kinds of states, a) siyasa diniya, identical with the khilafa or imamarah of the jurists and b) siyasa aqliya, the power state founded upon human reason.25

Ibn Khaldun demonstrated a high degree of originality in formulating the ever-changing political realities of the Islamic world. In this task, he differed from his predecessors in at least three ways: (i) instead of continuing the assimilation between religion and politics as his predecessors had been doing, he was able to disentangle the religious and secular bases of political authority, (ii) he substituted the concepts of indivisible, indivisible, and indivisible by a new concept of 'arabiyyah (group feeling) as an explanation of political authority in terms of natural response of man's natural needs as a rational and social being.

In distinguishing between siyasah 'asliyyah and siyasah shari'ah, Ibn Khaldun went beyond his predecessors who believed that the shari'ah was the only basis of political authority, and as such they had not accepted kingship as a legitimate form of government. The khalifatite theory of khilafat regarded that the obligation of instituting khilafah was based on revelation rather than on reason as was held by the Kuta'azalites. Ibn Khaldun also took the same position in so far as he also held the view that the khilafah was based on the shari'ah. But at the same time he argued that royalty was also a natural institution. He distinguished between mulk hagigii and mulk nakhir. In his view, if the khilafah is transformed into mulk hagigii in the natural course of its political evolution, then no harm is done to Islam. Thus in a way, Ibn Khaldun accepted the mulk hagigii as the second best form of government. In his view, the classical khilafah was ideal in so far as it was based on the shari'ah as the restraint on the pious caliphs.
During the transition period although the mulk was a predominant factor, yet the influences of the classical khilafah continued to be operative. Later in the history the mulk pure and simple emerged, and the shariah element of the early khilafah gave way to the forces of 'asabiyah (group feeling) and istilla (possession by force). Thus, the mulk was in fact the power-state. If the mulk was restrained by rational laws, and public interest, it was mulk haqiqi, but in case it was unrestrained by rational laws, and considerations of public interests, and was merely based on brute force, it was mulk naqis. Ibn Khaldun advocated mulk haqiqi as a good alternative for the khilafah. The implication of Ibn Khaldun's theory of mulk seems to be that if the Muslim community finds it difficult to restore the early form of the khalifah, then it should be legitimate to set up a monarchy founded on the support of the asabiyah of the politically dominant group and restrained by rational laws.

According to Ibn Taymiyah the Khalifah was to be chosen by the ahl-al-hall wa'llaqd through bay'a'ah. The electoral college was composed of men who were competent, and qualified. But gradually, even this restricted process of election was abandoned, although formally it was retained. The Ummayad Caliphs used force, and coercion in order to extract allegiance of the 'ulama. This structural change was rationalized by Ibn Khaldun in the light of his theory of asabiyah. According to him, the institution of the shura could function successfully during the short period of the truly guided caliphs, but later, it was substituted by the asabiyah of the Ummayads who held real power. This
deviation from the early practice was justified in so far as the khilifah had to seek support of the dominant asabiyyah. Thus for Ibn Khaldun, it is the asabiyyah rather than the consensus of the elite which is the true basis of political authority.

Ibn Khaldun uses asabiyyah as an explanatory concept in the philosophy of history. He explains the change over from the pious caliphate to kingship and later to sultanate etc. in terms of asabiyyah. In his view it was due to the weakening of asabiyyah that the Umayyads were overthrown by the Abbasids.

The Concept of Constitutional Government

Al-Gazali, another genius of Islamic thought rose to the occasion and faced the realities of power politics during the days of Seljuq rulers who enjoyed all the authority inspite of a khilifah in Baghdad who was the legal centre of power.

In his al'iqtisad fil I'tiq ā27 he starts with defending the classical theory of khilafah which is similar to that of Al-Harawi. According to him the establishment of imamah (Khilafah) was a religious necessity. But since religious objectives cannot be achieved without a good worldly order the institution of Sultan was equally essential. Thus, for him both the institutions have justification in Islamic thought. Khilafah has got to be established as an absolute religious necessity, whereas the Sultan has contingent justification in protecting the caliph and for looking after the worldly affairs,

27. Ilm-al-Kalam, Urdu trans. of Kitab al Iqtisad fil I'tiq ad, pp. 194-201.
(what is called in later terminology *siyasat-e-mudun* and *taqdir-e-manzil*).

Ghazali is another treatise named al-Mustazhirî develops a concept of collective caliphate implying a sort of constitutional government. According to this view, it is not necessary that the *khalifah* should necessarily fulfil all the requisite qualifications individually. If the *khalifah* is assisted by a group of scholars, officers such as the *wazir*, army commanders and others, and if they do fulfil the necessary qualifications of the *khalifah*, then the *khalifah* together with his advisors could constitute a valid *khilafah*.

In other words the qualities which ought to be present in a *khalifah*, in its ideal form, may be found distributively in a number of persons working under the *khalifah*. Thus it becomes a collection of experts to perform the complicated task of *khilafah*, and the term *khilafah* would then refer to this complex structure consisting of *khalifah* and his advisors.

In the light of modern constitutional practices, the concept of the *khilafah* as expounded by Al-Ghazâli approximates to the theory of constitutional government in which a distinction is made between the real executive and the nominal executive as in England between the monarch and the Cabinet. Similar distinctions were made by al-Hawardi when he classified vizierate into *wizarat-i-istikfa*; and *wizarat-i-tanfidh*. Al-Hawardi's *wizarat-i-Istikfa* would be almost the same as that of the *khilafah* of Mustazhirî.

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It seems that the ideas of a peacefully established society was working supreme in the minds of Muslim jurists and thinkers, which served motivation for finding justifications for the existing realities of time. Ibn Jama'a (1241-1333)\textsuperscript{29}, a jurist during the \textit{fag-end} of the Abbasid period tried to legitimize the forceful seizure of \textit{imamah} by a ruler or any military commander. The traditional theory of \textit{khilafah} recognized election as the only valid form of designating a caliph. But we have already noted that earlier Al-Mawardi and Al-Gazali had recognized force and usurpation as the lawful basis of the \textit{khilafah}. Ibn Jama'a included designation of a successor by the reigning \textit{Imam} a legitimate method of appointing a \textit{khilafah}. Of course, by then the election of the \textit{khilafah} had become irrelevant because the \textit{de facto} rulers got their authority by the use of power. The same use of power was justified by Ibn Jama'a in installing a caliph by some one who enjoys \textit{de facto} authority. In recognizing this method, Ibn Jama'a seems to have changed the meaning of the term \textit{bay'a}. According to the traditional theory '\textit{aqd} by the \textit{ahl-al-hall wa'l-aqd} was essential in order to elect a caliph, but Ibn Jama'a dispenses with this requirement of \textit{bay'a} which for him is nothing more than an oath of obedience to the caliph who commands power. Therefore Ibn Jama'a considers it in keeping with the \textit{shari'ah} requirement if a military commander with sheer force of his ascendat power is able to coerce people into obedience, and assumes the caliphal authority either by

\textsuperscript{29} Rosenthal, E.I.J. \textit{Political Thought in Medieval Islam}, pp.43-51 also \textit{Islam in the Modern National State}, p.15
overpowering the reigning Imam or in case there is no Imam. Hence self-investiture by armed force is legitimate in the eyes of Ibn Jama'a.

From the above account of the theoretical aspect of caliphate the following points become obvious:

1) That there is no fixed formal structure for instituting the central authority of khilafah. Elections, nomination and force have been recognized either ideal or at least legitimate ways of establishing the khilafah.

2) More than one centres of powers in the form of multiple khilafah were accepted as legitimate.

3) No mechanism was worked out for the deposition of khalifah. The tendency, however, had been to accept the established system, even though corrupt, lest anarchy prevails in society.

4) The only method, practically adopted for ousting a khalifah was by use of force.

5) Establishment of khilafah in its ideal form seems to have been given up and status quo was rationalized, and attempts were made to prove that every step in the rationalization was in consonance with Islamic principles.

Such has been the case in Islamic history. No doubt that the clarity we lack today in finding out as to how Islam could be effective in the governance of Pakistan has its roots in the history of our thought. We now intend to come to a more proximate scene i.e. the Indo-Pak sub-continent, in our next chapter and would see the problems we face today in their historical perspectives.

CHAPTER III

ISLAM IN THE INDO-PAK SUBCONTINENT

The role of Islam in the governance of Pakistan has its proximate relationship with the history of Islam in the subcontinent. We have, in the last chapter, seen the political implications of the dominance of Islam in the world. The problems thus created were of a universal and theoretical nature. Once an attempt is made at the revitalisation of Islamic role in political institutions, these problems demand a solution. In the context of Pakistan a local dimension is added to these problems. This dimension has two new aspects. Firstly, after a long period of dominance, Islam lost its political supremacy in the subcontinent, and the Muslim nation, along with other, came under the subjugation of the British rule. This was a new situation which Islam faced in the subcontinent, and which demanded fresh approaches to interpret Islamic injunctions. Secondly, partly as a result to this subjugation, and partly due to the influence of western education, a new and exclusive sentiment of Muslim nationalism emerged amongst the Muslims of the subcontinent, which ultimately resulted in the creation of Pakistan where an attempt has to be made de novo to apply Islamic principles in a totally new situation. Let us have a quick look at Islam, in the historical perspective of the subcontinent.

Arabs, as traders entered the sub-continent within a few years after their conversion to Islam. The Muslim traders

31. I.H. Qureshi: The Muslim Community of the Indo-Pak Subcontinent p.11.
played a very significant role in preaching Islam in the subcontinent. Islam became an institution and has rightly been expressed by Hitti that it has passed through three distinct stages "originally a religion, Islam later became a state and finally a culture".

The Arab Muslims conquered Sindh in the seventh century A.D. Sea faring and maritime interest of the Arabs on the coast of India were considerable even before Islam; and under a centralized government of Umayyads, the commercial activities expanded in the subcontinent. Muhammad bin Qasim, the conqueror of Sindh made Sindh Dar-ul-Islam and based his policy on the Sharia; the laws of Islam. The Jizya, poll tax, was assessed on all Non-Muslims; those who embraced Islam were exempted from the Jizya. The majority of converts who entered the fold of Islam belonged to lower castes of Hindus to whom Islam at once brought that social equality which Hinduism had denied them from a long time. Arab missionary activities also played a significant role in the large scale conversion of Hindus. The Arabs became the source of values, attitudes, convictions and orientations for the converts. Thus the groups became part of the greater Muslim community and the difference of Arab Muslim and neo-Muslims disappeared. There emerged a group of Muslims in Sindh who were culturally

34. Al-Kufi: Chach Nama, p. 169.
steeped in Islam and considered themselves a part of the larger brotherhood of Muslims. Politically, they did not accept authority unless it was legitimized by the head of the Islamic state, the Caliph. As T.W. Arnold says, "But for the arrival of the Portuguese, the whole of this coast would have become Mohammadan, because of the frequent conversions that took place and the powerful influence exercised by the Muslim merchants from other parts of India such as Gujrat and Deccan, and from Arabia and Persia."36. Faroze Shah Tughlaq in his autobiography writes, "I encouraged my infidel subjects to embrace the religion of the Prophet, and I proclaimed that every one who repeated the creed and became Mussalman should be exempted from Jizya or poll tax. Information of this came to the ears of the people at large and great numbers of Hindus presented themselves, and were admitted to the honour of Islam. Thus they came day by day from every quarter, and, adopting the faith, were exonerated from the Jizya and were favoured with presents and honours."37.

During the Delhi Sultanate Islam spread in India by persuasion38. The entire Muslim population of India could not be called mere converts because when northern India was conquered by Arabs, who were in minority, it was difficult for them to

to control the local population. For this purpose, colonies were established in strategic places. Turks and central Asians were appointed there to maintain peace. These Muslims of the subcontinent almost always have been inspired by the love of Islam in the political and social life. Islam was the cementing factor in creating a sense of unity among these Muslims, which always sought to eradicate the difference created by birth and environment. Hence, their communal integrity advanced more and more out of the region of race, colour and caste and into that of Islamic unity, equality and brotherhood. The very principle of unity and integrity inspired the Muslims of the subcontinent, psychologically and emotionally, to sustain their existence in the form of ruling race over the entire subcontinent for several centuries. The glory and splendour, the solid achievement and the established traditions, the sound administration and magnificent culture of the Muslim empire have been the significant features of the Muslim history of the subcontinent.

The actual work of propagating Islam started during the Ghaznavid rule in the Punjab. Missionary work was carried on by Muslim Sufis, Shaikh Ismail of Lahore, who was one of the outstanding early Ulama. He migrated to Lahore in 1026 A.D. when the province was annexed by Sultan Muhamud. Thousands of Hindus attended his sermons every Friday and it was generally believed that no unbeliever came into personal contact with him without being converted to Islam. Another eminent Sufi Nasar

39. Ibid.
40. I.H. Qureshi, The Administration of the Sultanate of Delhi, pp. 22, 23.
41. Mahmud Sherani, Punjab Main Urdu (Lahore; Maktaba Mu'in-ul-Adab 1949), pp. 54-55.
Wali, who died in 1225 A.D. was from Asia Minor and devoted his life to religion and went to South India and propagated Islam there. His successor Saiyid Ibrahim Shahid, during his missionary efforts, came into conflict with Pandya king in 1205 A.D. and martyred in 1217 A.L. Baba Pakhruddin also was the disciple of Nasar Wali. The Sufi efforts continued in the Deccan under the Muslim rulers as well. Sultan Mohammad Tughluq transferred numerous saints and Sufis to Daulatabad. Another Sufi Ali Makhduum Hujwari of Ghazni came to Lahore with Sultan Masud, son of Sultan Mahmood. During the 30 years of his life in Lahore he was known among Muslims as Data Ganj Bakhsh. He was supposed to be the great source of inspiration and guidance for the Muslims and under his influence thousands of Hindus were converted to Islam. The non-Muslims of the western plan of Punjab were greatly influenced by Hazrat Baha-Uddin Haqq of Multan (1276 A.D.) and Shaikh Farid-ud-Din Ganj Shakar 1266 A.D. Khawaja Muin-ud-Din Chisti, a very famous

43. Ibid. p. 267.
44. I.H. Qureshi, Muslim Community of Indo-Pak, p. 17.
45. I.H. Qureshi, Muslim Community of Indo-Pak, p. 17.
saint, worked in northern India, who died in Ajmer in 1234. In Delhi on his way to Ajmer, he is said to have converted seven hundred Hindus to Islam. It is significant to note that Islam gained its greatest and most lasting missionary triumphs in time and places in which its political power has been weakest, as in Southern India and eastern Bengal. In Bengal the Muslim missionaries were welcomed by their subdued masses who were despised and condemned by their proud Aryan masters. In the words of Dr. W. Hunter, "Islam came as revelation from on high. It was the creed of the ruling race; its missionaries were men of zeal who brought the gospel of the unity of God and the equality of man to a despised and neglected population." The shining examples are of Khawaja Muinuddin Chishti of Ajmair and Hazrat Gesu daraz of Gulberga, whose services to the cause of Islam will be remembered for all times.

In the absence of Muslim influence on the economic life of the people, the social evils of Hindu Society and the peaceful efforts of Muslim missionaries were the main causes of conversion

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to Islam. This aspect of conversion continued with considerable success throughout the conflicts with the British rule. This is not sound to think that if missionaries had not received a fresh impulse under the Muslim dynasties, its propagation would have been checked. Islam grew more and more with or without the backing of political power to it, especially during the British rule. According to the report of second Decennial Missionary Conference (Calcutta, 1883) Muslims on the west coast were increasing so considerably in number through accessions from the lower classes of Hindus that it had begun to be guessed that the whole of these castes might become Muslim. According to the Census Report of 1891 "It is satisfactorily proved that since 1872 out of every 10,000 persons, Islam has gained 100 persons in Northern Bengal, 262 in eastern Bengal, 110 in western Bengal on an average 157 in the whole of Bengal proper. The Mussalmans increased in real and large. If it were to continue, the faith of Mohammad would be universal in Bengal proper in six and a half centuries, whilst the same condition in about four hundred years ..... Nineteen years ago in Bengal proper Hindus numbered nearly half a million more than Mussalmans did, and in the space of less than two decades the Mussalmans have not only overtaken the Hindus, but have surpassed them by a million and a half".

Thus the history of Islam's expansion in India is filled with the names of missionaries whose individual efforts brought Islam a tremendous success. But there is one thing very significant about the propagation of Islam in Assam and Bengal, which is the cause of present agitation and maladjustment in East Pakistan. This is noteworthy that in Assam and Bengal, there was extreme ignorance of the element of the faith. For instance, the Hindus go to the missionary workers and enrol them as Muslims. But the converts remained as ignorant of Islam as of Hinduism. Some of them have never heard of Mohammad and some regard him as a person corresponding in their system of religion to Rama and Lakhman of Hindus. The Quran is hardly read even in Bengali, and in the original Arabic not at all; many of those who heard of it cannot tell who wrote it. Yet any Muslim peasant is able to repeat a few scraps of prayer in Arabic. This prayer gave him a sense of religion and during the period of his isolation from learned Muslims, he borrowed from the environment Hindu customs which were offensive to the tenets of Islam. These converts became a serious political problem. Although they did not create this problem; they did not know of it; and even they did not understand it; but because of the ignorance of the Islamic principle these converts remained Hindus, culturally and psychologically.

Reactivation of Islamic Values

There were many disruptive forces at work in the Muslim community of post-Aurangzeb India. This was a period of social

52. The Imperial Gazetteer of India, (1885), Vol.I., p.358.
and political disintegration of Muslim India which was intensified by Hindu nationalism. The decline of Muslim political power was bound to effect all phases of national life: social, moral, and religious. This political situation gave birth to many thinkers and reformers to attempt a revitalization of Islamic values and the reconstruction of the religious thought in the Muslim community of the subcontinent.

Shah Waliullah: He was born in 1763 and was a son of a sufi scholar Abūr Bahīm. Shah Waliullah analysed the causes of decline of the Muslim empire which was mostly the result of the social disorder and moral collapse of the society. To him, it was not only political but also spiritual downfall of the Muslims of India. He believed that the Muslim community was losing its sense of unity and integrity due to various conflicts within the community. The greatest and the most poisonous of them was the Sectarian differences, especially the hostility between the Sunnis and Shia's. Besides, economic and social factors were also responsible in shattering the entire community. He thought his first duty as a reformer was to reinterpret Islamic values without breaking with the past. Dr. Iqbal rightly points out that Shah Waliullah was the first Muslim who left the urge of a new spirit in him.

However, none before him, had attempted a tatbiq (propagation) of the total Islamic Structure. Tatbiq can be interpreted within the frame of reference of the traditional School i.e., the four schools of the Sunni Sect. Hanafi, Shafi'i, Maliki, and Hambali, or it could be applied to the total structure of Islam. Shah Waliullah adopted the second method. His reforms can be divided into two categories: 1) Religious Reforms; 2) Socio-economic Reforms.

Shah Waliullah went back to the original sources of the Islamic law, the Quran and the Hadith. He emphasised a rational re-interpretation of Islamic principles to make it acceptable to the new age. He was well aware of the limitation of human reasoning in religious matters; yet he pointed out that "the time has come when every injunction of the Sharia and the general instructions of Islam should be presented to the world in a rational manner." During 1737–38, in pursuance


56. The founder of the Hanafi Sect was Imam Abu Hanifa Al-Numan bin Sabit, he was born in Kufa 700 and died in Baghdad in 766. The Shafi Sect was founded by Imam Mohammad bin Idris al-Shafi'i. He was born in Palastine 767 and died in Cairo in 819. The Maliki Sect was founded by Abu 'Abdullah Malik bin Ans, who was born in Madina in 716 and died there in 795. The Hambl Sect was founded by Abdullah bin Hambal. He was born in Baghdad in 780 and died in 855.


59. This Persian Translation was entitled Fath al Rahman, and accompanied with explanatory notes. It was first lithographed in Kanpur in 1872.
of this object he translated the Quran into Persian. The Orthodox Ulama heaped all kind of abuses on him and even threatened him with death. His approach was analytical regarding the traditional schools of law. Shah's teachings strongly recommended the application of ijtehad (exercise of independent judgment) as obligatory for theological thinkers because each age presents new problems and new situation. The socio-political conditions of the Muslims also needed reform. He tried to eliminate the active hostility and bitter animosity through his writings, between Shias and the Sunnis; and developed a mutual understanding and tolerance among the various sects of the Muslims of India. Shah emphasized that for a well-balanced society, basic needs and requirements of human life should be fulfilled and the institutional development was essential. To him, only a morally healthy society can produce perfect individuals. The anti-social elements, arising from wrong distribution of wealth, injustice, poverty, greed and idleness, should be crushed and eliminated otherwise the entire society would be destroyed.

The present day Pakistanis get their inspiration from Shah Waliullah in getting back to original sources of the Quran and Sunnah. The important feature of Shah Waliullah's work is that it originated in an Islamic environment free from any European influence, decades before the French Revolution.

Shah Waliullah's is looked upon as a source of inspiration by orthodox religious leaders, as well as the modern academicians who want to reform and adopt the shariah of Islam. The modernists find in his principle of *ijtihad* a new ray of light for making the shariah fit for a modern state, and the orthodox religious scholars reverse him because of his unequivocal emphasis on Quran and sunnah of the Holy Prophet. From amongst the ulema who take part in active politics, there are some who belong to the tradition of Shah Waliullah.

Inspite of his sincere efforts for the moral and political regeneration of the Muslims of the sub-continent he could not save the Muslim community from social and political decline. And at last the crumbling throne of the Mughal Empire was shattered with the emergence of the British. After the downfall of Mughal Empire Hindus and Muslims were in the common subjugation under the British rule. British partiality was towards Hindus on account of British antipathy to Islam. Muslims naturally felt insecure politically and economically. The War of independence of 1857 was a final blow to the Mughal empire. The Muslims were bitterly frustrated and came to realize that a new empire established by a foreign race, and this was totally alien to its culture and religion. Muslims were blamed to be entirely responsible for the anti British uprising and the so called Mutiny of 1857. They were, therefore, treated ruthlessly and the government tried to close the doors of progress on Muslims. Every attempt was
made to ruin and suppress them. Jawahar Lal Nehru has expressed his views on British attitude towards Muslims by saying that "after 1857, the heavy hands of the British fell more on the Muslims than on the Hindus. They considered the Muslims more aggressive and militant, possessing memories of recent rule in India and therefore more dangerous".63.

Sir Syed Ahmad Khan:

The last century of Muslim servitude under the British can be divided into three distinct periods: the era of loyalism (1857-1912); the era of romanticism (1912-1935); and the era of realism that was of the constructive efforts for the creation of Pakistan (1935-1947). The half of the nineteenth century after 1857 was dominated by the dynamic personality of Syed Ahmad Khan. The policy of Sir Syed was based on unquestioned loyalty to the British government, simply because there was no alternative for the Muslims, as Sir Syed saw to it.64 He was well aware of the fact that the cooperation with the British Government was essential for the success of his undertaking. He was a man of honesty, selflessness and high principle, who had love for his nation.65 He was the earliest modernist in the history of Islamic thought. Primarily he tried to conciliate the British government and the Indians without any distinction between Hindu and Muslim. But in 1867, the Hindus started agitation to stop the use of Urdu from official courts and

64. I.H. Qureshi, The Struggle for Pakistan, pp. 19-22.
wanted substitution of Hindi. Sir Syed realized that "it was no longer possible for the two nations to be partner with each other in any common enterprise." He was deeply influenced by the teaching of Shah Waliullah. To some extent he faced the same problems in reinterpreting the total value structure of the Muslims as Shah Waliullah has faced during the decline of Muslim rule in the post Aurangzeb period. His aim was to interpret Islam in such a way as to withstand the attacks of English Scholars. English missionaries produced literature designed to create doubts in the minds of the average Muslim. He was the earliest modernist in the history of Islamic thought. To save the Muslims from the charges of disloyalty Syed Ahmad Khan wrote "Loyal Mohammadans of India", in which he tried to clear the minds of the British and condemned the British policy of discriminate hostility. For the enlightenment of the Muslim Society, he emphasised on the intellectual progress of the Western countries, western educational systems and especially physical science. Through his magazine "Tahzib-ul-Akhlaq", he tried to move the mental stagnation of the Muslim Society. His writings on Islam attempted to clear the misunderstanding that modern Science did not undermine Islam. Inspite of many oppositions by the theologians, Syed Ahmad Khan succeeded in establishing "a committee for the Better Diffusion and Advancement of learning Among the Muslims of India". He wanted to establish a centre of Muslim education where the Muslims could work for their integrity and aiming at this goal he retired from his service and settled down at Aligarh.

In 1876, Syed was not mere theorist and not content with the exposition of his feelings about the matter, rather he actually formed a British Indian Association at Aligarh on the model of the one advocated by the Englishman. At last Muslim University came into existence which gave a hope of integrity and progress of the Muslim community in the sub-continent. He was, therefore, badly criticised by the orthodox theologians, yet he always emphasised the claim that Islam can be accepted without violating human reason. He tried to dispel the speculative thought of Greek philosophy from the Muslim mind and laid emphasis on the observed facts of natural Sciences in understanding the teaching and thought of the Quran. He defined his realistic view in politics as republicanism. Politically he was a man of undaunted spirit, and believed that moral cowardice is poisonous for the welfare of the community.

Iqbal:

Meanwhile the desire for independence and to see the end of the British rule grew more and more among the Muslims. The poet philosopher Iqbal, born at Sialkot in 1883, played an important role in stimulating the desire for independence, and in developing a sense of self respect of the Muslims. His poetry left a profound influence on the Muslims of the sub-continent. Like Syed Ahmad Khan he too worked as an Indian Nationalist for the Muslims of the entire subcontinent, having in view the concept of Hindu-Muslim unity. But soon the contrariety of the Hindu and Muslim cultures made him realise the independence of Muslim nation and he became the greatest exponent of the Muslim
Millat of the subcontinent. Iqbal's concept of Muslim nationalism, though developed in close proximity of nineteenth century nationalism, yet is based on different conceptual grounds. Iqbal was well aware of growth of rivalries and a series of destructive wars caused by modern nationalism, which was a kind of projection into modern civilization of the psychology of the savagery of primitive tribesmen. Shorn of the transcendent values this certainly was one of the lowest, most brutal and most dangerous of all psychic attitudes instigated by nationalistic philosophy. Iqbal, therefore, warned the Muslims against these dangers. He criticised the western civilization on the basis of its growing indifference towards spiritual values. He believed that the existing ideologies were inadequate to actualize the aspirations and the emotions of the Muslims, and to accomplish the good of Muslim community. It could neither cure the frustrated humanity nor release the intellectual concept from subconsciousness of the millat and turn it into a living and vibrant idea. He never adopted a reactionary attitude towards any problem, but emphasized upon the need of the reconstruction of Muslim religious philosophy to receive a fresh inspiration from modern thought and experience.

Iqbal visualized the idea of a nation state based on Islamic inspirations at a time when Muslim community was in an utterly confused state not knowing properly as to how a modern nation state could be established on Islamic traditional principles of khilafat.

In the perspective of the Indo-Pakistan sub-continent, Iqbal, for the first time suggested a view which may be regarded as a modern method of applying Islamic political principles. Iqbal sees the abolition of caliphate by the Turkish Assembly as an exercise of *ijtihad* in regard to the institution of *khilafa*.

Iqbal also tries to find support for his views from classical theories of *khilafa* and quotes Ibn-al-Khaldun’s classification of three views about *khilafa* namely; 1) that it is a Divine institution and consequently indispensable, 2) that it is merely a matter of expediency, and 3) that there is no need of the institution of *khilafa* at all. In Iqbal’s opinion, Turks have adopted the Second view, which is the view of *mu’tazilah* who regarded universal *imamah* as a matter of expediency only. The Turks argue, and Iqbal supports their argument, that since the idea of universal *imamah* has not only failed in practice, but, has also stood in the way of a reunion of independent Muslim states, we should learn from our experience and give up the idea in favour of the concept of collective and elected *khilafa*. What is significant and directly relevant in Iqbal’s interpretation of Turkey’s experiment, to our context, is; a) the idea that the existence of an independent Muslim state


70. *Ibid.* p. 157

along with other Muslim states is not against Islamic principles, and b) that an elected assembly can rightly exercise that power of *ijtihād* and work as one of the sources of law and c) that an elected assembly can also replace a single khilīfat.

In practice Iqbal created confidence in the Muslims of sub-continent and reminded them of their glorious past and their heroic deeds as the ruling race; compared it with their miserable present, hoping for their brighter and more glorious future. In 1930, at Allahabad, in his presidential address of the Muslim League he clearly declared that the two religions like Islam and Hinduism, having basically and totally different ideologies cannot exist together; and for the first time he gave the idea of the foundation of Pakistan.

In 1930 Iqbal was appointed president of the annual session of All India Muslim League at Allahabad. In his presidential address he expressed the need for a separate Muslim state as the final destiny of the Muslim *ummah* of India. This Muslim nationalism stands for him as:

"It is the source of my life and behaviour; and which has formed me that I am by giving me its religion, its literature its thought, its culture

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72. "... Islam is neither Nationalism nor Imperialism but a League of Nations which recognizes artificial boundaries and racial distinctions for facility of reference only..." p. 158.
and thereby recreating its whole past as a living operative factor in my present consciousness."

On the basis of this inspiration he visualizes a territory where these percept could be put in practice:

"I would like to see the Punjab, North West Frontier Province, Sindh and Baluchistan amalgamated into a single state --- self government within the British Empire or without the British Empire or the formation of a consolidated North West Indian Muslim State appears to me to be final destiny of the Muslims --- The life of Islam as the cultural force in the country very largely depends on its centralization in a specific territory. We are seventy millions and more homogeneous than any other people in India. Indeed the Muslims of India are the only Indian people who can fitly be described as a nation in the modern sense of the word."

This was the culminating point of All India Muslim League which had a steady growth until 1916. It was slowed down by the khilafat movement in which all the leading members of the Muslim League participated. In 1934 Mohammad Ali Jinnah returned from England and took over the leadership of the Muslim League.

73. Shamloo, Speeches and Statements of Iqbal, pp. 6-11.
In the meantime he delivered a series of speeches in which he expressed the need and demand for a separate state for the Muslims of the sub-continent.

"The Hindus and Muslims belong to two different religious philosophies, social customs, literatures. They neither inter-marry nor inter-dine together and, indeed, they belong to two different civilizations which are based mainly on conflicting ideas and conceptions. Their concepts on life and of life are different. It is quite clear that Hindus and Muslims derive their inspiration from different sources of history. They have different epics, different heroes and different episodes. Very often the hero of one is a foe of the other and, likewise, their victories and defeats overlap. Mussalmans are a nation according to any definition of a nation and they must have their homeland, their territory and their state. We wish to live in peace and harmony with our neighbours as a free and independent people. We wish our people to develop to the fullest our spiritual, cultural, economic, social and political life in a way that we think best and in consonance with our ideals and according to the genius of our people."

In March 1940, the Muslim League in its annual session held at Lahore resolved 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 units are demarcated into regions

74. Jameel Uddin Ahmad, Some Recent Speeches of Mr. Jinnah, pp. 158-181.
which should be constituted, with such territorial readjustments as may be necessary, that the areas in which Muslims are numerically in a majority as in the North Western and Eastern Zones of India should be grouped to constitute Independent States in which the constituent units shall be autonomous and sovereign." While Allama Iqbal had only dreamt of an independent Muslim State in the North Western part of India, the credit for advocating to independent Muslim States, one in the North West and the other in the East of the Indian Subcontinent, goes to the Quad-e-Azam.

The resolution was approved unanimously on 23 March 1940. It has since been known as the Lahore or Pakistan Resolution because it laid down the very principle and provided the motivating factor behind the struggle for Pakistan.

After a disastrous communal and civil war in the Sub-continent Lord Mountbatten presented his plan on 3 June 1947 before the Indian Political leaders for consultation. Its basic feature was the partition of India into two independent dominions with effect from 15th March 1947. On 18 July 1947, British parliament passed "The Indian Independence Act, 1947". By virtue of this Act an independent State of Pakistan came into existence on 15th August 1947.


CHAPTER IV

STRAVING FOR AN ISLAMIC CONSTITUTION 1947-56

The state of Pakistan was created with the declared aim, "the idea was that we should have a state in which we could live and breathe as free men and which we could develop according to our own lights and culture and where principles of Islamic social justice could find free play". Hence after the creation of Pakistan the most significant questions were religio-judicial ones; for instance what kind of State of Pakistan should be and what type of constitution and government should it have? These questions were discussed both inside and outside the Constituent Assembly. In the twenty four years Pakistan has seen three constitutions, two of which were declared to be Islamic.


2. The constitution of 1956 which was framed by the Constituent Assembly and remained in operation from March 23rd 1956 to October 27th 1958.


During the first phase of constitution making in Pakistan from 1947 to 1954 the problem of the relation between State and Religion was the dominating theme with the framers of the

constitution. The Constituent Assembly of Pakistan passed a resolution in March 1949 on the aims and objectives of the state.

The most outstanding and significant feature of the Objectives Resolution was that it sought to base the Constitution of Pakistan on the ideals of Islam. The preamble of the Resolution clearly recognized the sovereignty of Allah and declared that all authorities must be subservient to Him. It was asserted in the resolution that, "the Authority is a sacred trust entrusted to us by Allah for purpose of being exercised in the service of man, so that it does not become an agency for tyranny or selfishness". Emphasising the sovereignty of God, the Resolution declared that God had delegated authority to the State of Pakistan through its people and the State should exercise its powers through the chosen representatives of the people. This means that the Resolution was not a revival of a theory of the Divine Right. Rather, the Resolution recognized the delegation of the Authority to the people with the power to choose their own representative to exercise that Authority. The Resolution ignores the status of the Ulema as the sole interpreters of Islam. It rejects theocracy as Islam does not believe in priesthood. Therefore, the Objectives Resolution clearly indicates that Pakistan as an Islamic State was evolved by the will of its people.

The recognition of the sovereignty of God does not clash with the popular sovereignty. According to Islamic concept man being the superior most creation of God, has been vested with the managerial authority to look after His other creations on His behalf. It is important to note that Islam does not prescribe any special form of government, it rather stresses on the general welfare of the people through democratic institution; Inayat Ali Khan, one of the protagonist of Islamic revival held that, "when we used the word democracy in the Islamic sense, in all aspects of our life, it relates to our society with equal validity"\(^{61}\). He was emphasising the necessity of defining the terms democracy, freedom, equality, tolerance and social justice. To him these terms are used in a loose sense. The Americans and Russians claim their systems to be based on democracy but they are politically different from Islamic polity at least in as much as Islamic polity begins with idea of the sovereignty of Allah. But this difference could not be construed as a conflict between Islamic system and the idea of popular sovereignty, with one possible exception of a fundamental nature. It relates to the position of non-Muslims in an Islamic state. Though they are welcomed in government services\(^{62}\) but with a rider that they may not be placed in positions of policy making for the state.

Maulana Shabbir Ahmad Osmani, a leading member of the Ulema and a member of the Constituent Assembly said "... the Islamic State means a State which is run on the exalted and excellent principle of Islam ... people who do not subscribe to these ideas may have a place in the administrative machinery of the State but they can

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not be entrusted with the responsibility of framing the general policy of the State of dealing with matters vital to its safety and integrity\(^3\).

The resolution seems to emphasise on the Muslims to order their life in the individual and collective spheres according to the teachings of Islam as set out in the Quran and Sunnah. It means that the State would create conditions that were conducive to the building of a truly Islamic society. The resolution, therefore, visualised a positive role for the State in the life of its citizen. It laid the burden of giving a dynamic and progressive interpretation of Islamic ideology on the shoulders of the Constituent Assembly for meeting the requirements of a complex modern state.

This challenge seems to have been accepted by the assembly which thinks that Islamic principle are broad based and all-inclusive. Sir Zafarullah Khan pointed out, "Religion is the way of life that enables each individual to attain the highest possible development of his spiritual, moral, physical and intellectual faculties. Its function is to establish and maintain the most harmonious relationship between man and his maker on the one hand and between man and man in all aspects of their relationship on the other. Politics is only one aspect of the relationship between man and man. Those who seek to draw a distinction between the sphere of religion and the sphere of politics as being mutually exclusive, put too narrow a construction upon the function of religion"\(^4\).

The resolution favours the principles of democracy and emphasises on tolerance and social justice as envisaged by Islamic concept. Commenting on this aspect of the Resolution, the Qua'id-e-A'zam expressed his views on the character of the future constitution in a broadcast to the people of United States in February 1948, wherein he said "... the constitution of Pakistan has yet to be framed by the Pakistan Constituent Assembly. I do not know what the ultimate shape of this constitution is going to be but I am sure that it will be a democratic type, embodying the essential principles of Islam ... Islam and its idealism have taught us democracy". He at the same time emphatically denied that Pakistan would be run by the Ulema: "In any case Pakistan is not going to be a theocratic State to ruled by priests with a divine mission. We have many non-Muslims, Hindus, Christians and Parsis but they are all Pakistanis. They will enjoy the same rights and privileges as any other citizens and will play their rightful part in the affair of Pakistan".35

It is true that the emergence of Pakistan was purely on the principle of Islam. Qua'id-e-A'zam had declared that ".... the Muslims and the Hindus were two major nations by any definition or test of a nation".36 But when Pakistan emerged as a free nation it contained a good number of non-Muslims also which caused a significant rift between modern thinking and classical interpretation of Islam. Hindus, Buddhists, Christians and Parsis were important elements in Pakistan's society. The Hindus

35. Qua'id-e-A'zam's broadcast in the U.S.A., Feb. 1948.
occupied economic positions in East Pakistan. The Buddhists constituted the administrative autonomy as tribal heads in different parts of East Pakistan. Christians and Parsis belonged to Business and Commerce class and played an important role in the economic and cultural life of Pakistan: Parsis being the representative of Business class and Christians being representative of educational life. Thus the Muslims of Pakistan had to realize the valuable contribution of the minorities towards the enrichment of the social, cultural and the economic life of the country. The Objectives Resolution, realizing this significant fact, emphasised on the provision of a clause for the minorities to feel them free to profess and practise their religion and also to develop their culture. Once Qua'id-e-A'zam had expressed on this aspect saying that "the new State would be a modern democratic State with sovereignty resting in the people and the members of the new nation having equal rights of citizenship regardless of their religion, caste or creed". 87

A liberal interpretation of the Objectives Resolution, especially in the light of the views of Qua'id-e-A'zam's on minorities brings it nearer to the idea of a modern national secular State. Some of the Ulema reacted against this idea and were not satisfied with the Resolution for it put great emphasis on the rights of non-Muslims. Maulana Muhammad Ibrahim Ali Chishti

commenting on it remarked, "...why all this fuss about democracy and minorities? Why this emphasis upon western conception?"

The Ulema had their own views of an Islamic State which are found in the following sources.

1. **The transactions of the Board of Talimat-i-Islamia.**
   This board was a committee of Ulema appointed by the Constituent Assembly to advise on matters relating to the Islamic principles.

2. **Fundamental principles of an Islamic State as laid down at a conference of Ulema of the various schools of thought who met in Karachi in January 1951.**

3. **Report of the Court of Enquiry for Punjab Disturbances,** which was setup under Justice Munir. This report examined in detail the views of Ulema on the future constitution.

The Ulema debated vigorously those provisions of the Objectives Resolution which refer to the role of judiciary and rights of the citizens. Maulana Shabbir Ahmad Osmani insisted

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89. See details in Appendix II.

the equality of non-Muslims with the Muslims and agreed with Maulana Abdul Hamid Badayouni that non-Muslims should not be taken in Army, Judiciary or in any responsible post\(^9\). The Ulema emphasised the Islamic character of the State as interpreted by them and cited examples of former Muslim States\(^9\). On the other hand, the members of the Constituent Assembly sided with the concept of popular democracy based on equality, freedom and social justice. Khawaja Nazimuddin then Prime Minister and member of Constituent Assembly said, "The principles enunciated by Islam had to be interpreted in the terms of democratic constitutional practice of the twentieth century... so that we could bring about a synthesis not only of the fundamental teachings of our faith and the requirements of progressive democracy but also of the requirements of the twentieth century and best elements in our own tradition and history\(^9\)."

Professor I.H. Qureshi, another member of the Constituent Assembly and a renowned intellectual advocating the cause of Islamic State recognized the fact that apart from the Quran and Hadith, there is a considerable part of Shariah which requires a new interpretation. He further suggested that this task cannot be accomplished by Ulema alone. According to him "... it is obvious that the only place where discussion can take place in

\(^9\) The Report of the Court of Enquiry, pp. 210-12
connection with the interpretation and re-orientation of the Qur`an is the legislature, because as the supreme representative of the people, the legislature alone can speak for them and accept on their behalf what seems rational and proper out of a mass of arguments and commentary putting forward different points of view.\(^{94}\)

In spite of opposition from orthodoxy against the so-called modernistic interpretation of Islamic principles, a growing trend is discernible in the political thought of that time, i.e., of using modern democratic terms. Islamic political system is regarded as perfectly compatible with the democratic principles of majority rule. The only addition to it is the ethical dimension of Islam; the definition of an Islamic democracy gains a significance if we combine ethical element with the political. It can not exist without the concurrence of both a governmental form and a popular ideal. In the case of Pakistan, the ethical element is Islam.\(^{95}\)

There is no denying of the fact that the role of Islam in constitution making generated a certain amount of polarization of various groups in Pakistan, which later became significant and proved to be the biggest stumbling block for smooth functioning of the constitution. There were two groups

\(^{94}\) I.H. Qureshi, "The conception of Sovereignty and Executive Government", Proceedings of the Second All Pakistan Political Science Conference, Karachi, Edited by Prof. Mohammad Aziz Ahmad, pp. 2-6, 1952.

\(^{95}\) W.C. Smith, Pakistan As an Islamic State, pp. 47-49.
of persons who had serious doubts about the working of an Islamic constitution. The first was of those highly educated (in western tradition) Muslims who believed in secular-democratic westernized State. They would accept Switzerland and Turkey as their model. Their apprehension was that if Pakistan accepts an Islamic Constitution the Mullah will control the State. They held that Shariah can not be adequate for a modern society. They pointed out that religions express unchanging precepts while life goes ahead and needs change rapidly. Religious laws in their opinion, are rigid formulations and are not capable of functioning in a quick changing society. The purpose of laws on the other hand should not be maintaining old customs and beliefs which may have their source in religion, but, assuring the economic and social progress. In short, they believe, that religious precept can not be brought to conform with the needs of our civilization. It may be added here that unlike the Ulema they look upon Shariah as static and incapable of any further development. They maintain that it is a mistake to adhere to the concepts which are retrogressive and irrelevant to present conditions of life. They expected that religiosity, the emotion on which Pakistan was based, will soon disappear and wished for a Kamal Ataturk to found a secular State. The second group was of the non-Muslims, particularly the upper class Hindus of East Pakistan. They opposed any constitution based on Islamic principles as they had opposed this idea in principle during the pre-independence days.96

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The real difference between the orthodox and the modernists was that the former considered the later (represented by the Muslim League) as disqualified to carry out the Islamic revolution and for creating a truly Islamic State. Maulana Maududi on January 6, 1948, had held that Pakistan was created as the home land of Islam. He opposed modernists as well as the Ulema. The principal features of this doctrinal difference was the rejection of Taqleed and of the Traditional view of the Ijma.

In denying Taqleed and Ijma and in blaming Ulema for the corruption of Islam, Maulana Maududi denies the ability and validity of the functions of the contemporary religious institutions in maintaining the Islamic principles. He held that true Islam must be propagated and to achieve this goal he insists that the Constituent Assembly must fulfill the following demands:

1. That we Pakistani believe in the sovereignty of God and that the State will administer the country as His Agent.

2. The basic law of the land is Sharia which has come to us through our Holy Prophet (peace be on him).

3. All the non-Sharia laws will be repealed. Maulana Maududi implied that the non-Muslims could not hold any policy making position. Maududi and Muhammad Acud, the then Director of Islamic Reconstruction in the Punjab Service, gave no authority to Ulema in the Islamic Constitution.

4. The State will not transgress the limits of Islam. The draft Constitution of 1950 had not stated much about the Islamic character of the proposed Constitution, although in 1949 the Objectives Resolution was passed wherein the idea of Islamic Constitution was proclaimed. The interim report of the Basic Principles Committee, published in 1950 contained hardly any provision relating to the Islamic character of the proposed Constitution except that the Objectives Resolution should be incorporated as a Directive Principle of State Policy, subject to the reservation that it should not prejudice the incorporation of Fundamental Rights.

There was no clause regarding the repugnancy of laws to the Quran and Sunnah; nor was there any reservation of the headship of the State for Muslims. The Interim Report was not favourable to the Ulema who wished to establish a full fledged Islamic State.

When after Liaquat Ali Khan, Khawja Nazimuddin became Prime Minister in 1951 he presented a draft of the Constitution in 1952 wherein he proposed that a Board of Ulema be given powers to pass judgement upon the repugnance of legislation to the Quran and Sunnah. But a storm of protest was raised from the people and the Constituent Assembly turned it down. Analysing the Final Draft of the First Constituent Assembly, we can find following four elements which can be taken as a justifying the name of the Islamic Constitution:
V. Some statement which appearcd in the directive principle of state policy containing the following clauses:

a) Steps should be taken in various spheres of governmental activities to enable Muslims to order their lives in accordance with the Quran and Sunnah.

b) Facilities should be provided for them to understand what is laid in accordance with the Quran and the Sunnah means.

c) The teaching of the Quran and the Sunnah to Muslims should be made compulsory.

d) Islamic moral standards should be promoted and maintained.

e) Suitable steps should be taken for bringing the existing laws in conformity with Islamic principles, duly safeguarding the personal laws of the non-Muslims.

1. Clause IV of the Constitution which declared that no legislation should enact any law repugnant to the Holy Quran and Sunnah.

3. The Supreme Court would have jurisdiction for determining repugnancy.

5. The recommendation that the Head of the State should be a Muslim.
Identification with Islam in the proposed Constitution, begun with the preamble in the name of Allah.99

These constituents to the Islamic principles, in no way made the actual task of constitution making any easier. The differences among the politicians of the country on the one hand and the orthodox pressures on a particular Islamic interpretation made the task of writing a constitution highly complex. In addition to these factors certain features of our country's geography and population which lack homogeneity to a marked degree made the task still more difficult.

The contradictions inherent in a reinterpretation of Islamic principles in modern times came to surface in the Latur report prepared on Punjab disturbances about Qadianis in 1953. It shows how difficult it was became to arrive at agreed opinions about the working of Islamic principles.

Appendix I

Objectives Resolution

"In the Name of Allah, the Beneficent, the Merciful;

whereas sovereignty over the entire Universe belongs to

God alone and the authority which he has delegated to

the State of Pakistan through its people for being exercised

within the limits prescribed by Him is a Sacred trust;

This Constituent Assembly representing the people of

Pakistan resolves to frame a Constitution for the sovereign

Independent State of Pakistan;

wherein the State shall exercise its powers and

authority through the chosen representatives of the people;

wherein the principles of democracy, freedom, equality,
tolerance and social justice as enunciated by Islam shall be

fully observed;

wherein the Muslims shall be enabled to order their

lives in the individual and collective spheres in accordance

with the teachings and requirements of Islam as set out in the

Holy Qur'an and the Sunna;

wherein adequate provision shall be made for the

minorities freely to profess and practise their religions and
develop their cultures;

Whereby the territories now included in or accession

of Pakistan and such other territories as may hereafter be

included in or accede to Pakistan shall form a Federation

wherein the units will be autonomous with such boundaries and
limitations on their powers and authority as may be prescribed;

Herein shall be guaranteed fundamental rights including equality of status, of opportunity and before law, social, economic and political justice, and freedom of thought, expression, belief, worship and association subject to law and public morality;

Wherein adequate provision shall be made to safeguard the legitimate interests of minorities and backward and depressed classes;

"Wherein the independence of the Judiciary shall be fully secured;"

"Wherein the integrity of the territories of the Federation, its independence and all its rights including its sovereign rights on land, sea and air shall be safeguarded;

So that the people of Pakistan may prosper and attain their rightful and honoured place amongst the nations of the world and make their full contribution towards international peace and progress and happiness of humanity."
Appendix II

Basic Principles of an Islamic State

The following are the basic principles of an Islamic State as formulated in a conference held at Karachi in January 1959 by sixty-three accredited Ulama of Pakistan representing all the various schools of thought in Pakistan.

The Constitution of an Islamic State should comprehend the following basic principles:

1. Ultimate Sovereignty over all Nature and all law shall be affirmed in Allah, the Lord of the Universe alone.

2. The law of the land shall be based on the Quran and the Sunnah, and no law shall be passed nor any administrative order issued, in contravention of the Quran and the Sunnah.

Explanatory note

If there be any laws in force in the country which are in conflict with the Quran or the Sunnah, it would be necessary to lay down (in the Constitution) that such laws shall be gradually, with the Islamic law are repealed.

3. The State shall be based not on geographical, racial,
linguistic or any other materialistic concepts, but on those principles and ideals which form the life-blood of Islamic ideology.

4. It shall be incumbent upon the State to uphold the Right (ṣaluḥ) and to suppress the Wrong (ṣawākṣar) as presented in the Qur'an and the Sunnah, to make all measures necessary for the revival and advancement of the cultural pattern of Islam, and to take provision for Islamic education in accordance with the requirements of the various recognized schools of thought.

5. It shall be incumbent upon the State to strengthen the bonds of unity and brotherhood among all the Muslims of the world and to inhibit among the Muslim citizens of the State the growth of all prejudicial tendencies based on distinctions of race, language, or territory or any other materialistic consideration so as to preserve and strengthen the unity of the Millat-ul-Islamiah.

6. It shall be the responsibility of the Government to guarantee the provision of basic human necessities i.e. food, clothing, shelter, medical relief and education to all citizens who might temporarily or permanently be incapable of earning their livelihood due to unemployment, illness or other reason, and to make no distinction of religion or race in that regard.
7. The citizens shall be entitled to all the rights conferred upon them by Islamic law, i.e. they shall be assured, within the limits of the law, of full security of life, property and honour, freedom of person, freedom of expression, freedom of religion, freedom of worship, freedom of movement, freedom of association, freedom of occupation, equality of opportunity and the right to benefit from public services.

8. No citizen shall, at any time, be deprived of these rights, except under the law, and none shall be awarded any punishment on any charge without being given full opportunity of defence and without the decision of a court of law.

9. The recognized Muslim schools of thought shall have, within the limits of the law, complete religious freedom. They shall have right to impart religious instruction to their views. Matters coming under the purview of Personal Law shall be administered in accordance with their respective codes of jurisprudence (Fiqh), and it will be desirable to make provision for the administration of such matters by their respective judges (Qadis).

10. The non-Muslim citizens of the State shall have within the limits of the law, complete freedom of religious education. They shall be entitled to have
all their matters concerning Personal Law administered in accordance with their own religious code, usages and customs.

11. All obligations assumed by the State, within the limits of the Shari'ah, towards the non-Muslim citizen shall be fully honoured. They shall be entitled equally with the Muslim citizens to the rights of citizenship as enunciated in paragraph 7 above.

12. The Head of the State shall always be male Muslim in whose piety, learning and soundness of judgment the people or their elected representatives have full confidence.

13. The responsibility for the administration of the State shall primarily vest in the Head of the State, although he may delegate any part of his powers to any individual or body.

**Governance of the State**

14. The function of the Head of the State shall not be autocratic but consultative (Shura'i), he will discharge his duties in consultation with persons holding responsible positions in the Government and with the elected representatives of the people.

15. The Head of the State shall have no right to suspend the Constitution wholly or partly or to run the administration in any other way but on a consultative basis.
16. The body empowered to elect the Head of the State shall also have the power to remove him by a majority of vote.

17. In respect of civic rights, the Head of the State shall be on the level of equality with other Muslims and shall not be above the law.

18. All citizens, whether members of the Government and officials or private persons, shall be subject to the same laws and the jurisdiction of the same courts.

19. The Judiciary shall be separate from and independent of the executive, so that it may not be under the influence of the executive, in the discharge of its duties.

20. The propagation and publicity of such views and ideologies as are calculated to undermine the basic principles and ideals on which the Islamic state rests shall be prohibited.

21. The various zones or regions of the country shall be considered administrative units of a single State. They shall not be racial, linguistic or tribal units but only administrative areas which may be given such powers under the supremacy of the centre as may be necessary for administrative convenience. They shall not have the right to secede.
22. No interpretation of the Constitution which is in conflict with the provisions of the Qur'an or the Sunnah shall be valid.

The Ulema in framing the constitution feel that Pakistan's task is to look back to the past history of Islam and reproduce once again the actual state of affairs that obtained in the seventh century A.D. They do not concede to the right of legislation. Maulana Atul Hasnat, President, Jumiat-ul-Ulema-e-Pakistan told the Court of Inquiry, 'Our law is complete and merely requires interpretations by those who are experts in it. According to my belief no question can arise, the law relating to which cannot be discovered from the Qur'an or the Sunnah.' The same view was expressed by Syed Asquallah, Shaikh Mullah.

Maulana Naqdi said the legislation in the true sense is possible in an Islamic State in matters which are not covered by the Qur'an and the Sunnah. In regard to the position of the non-Muslims they should be dhimmi. That means they would not be full citizens of Pakistan because they would not have the same rights as Muslims.

CHAPTER V

THE CONSTITUTION OF THE ISLAMIC REPUBLIC OF PAKISTAN

The first Constituent Assembly of Pakistan was dissolved in 1951 by the then Governor General in a most undemocratic and arbitrary way. The dissolution of the first Constituent Assembly involved Pakistan in a series of legal disputes and a period of Constitutional crises and confusion.¹⁰¹ The Objectives Resolution with minor modifications was adopted as Preamble to the Pakistan Constitution of 1956. It was also accepted as the Preamble to the new Constitution of Pakistan promulgated by Muhammad Ayub Khan in 1962.

After the dissolution of the first Constituent Assembly, the second draft Constitution was presented to the Constituent Assembly by the second Prime Minister Khawaja Nazimuddin, in 1952. The second draft made elaborate provisions relating to the Islamic character of the Constitution. It provided for a Board of Ulema with some what of a veto power over the legislature on the grounds of repugnancy of law to the Quran.¹⁰² This provision was severely criticised by some sections of the public.¹⁰³ It was regarded

¹⁰¹ Vide, Sir I. Jennings, Constitutional Problems in Pakistan
¹⁰² G. W. Chaudhry, Documents and Speeches on the Constitution of Pakistan, p. 37.
¹⁰³ Ibid, p. 31.
as un-Islamic as Islam did not recognize any special class having the privilege of interpreting its laws.\textsuperscript{104} It was agreed that in a modern State, Islamic Laws can only be interpreted by legislature. All these criticisms against the second draft Constitution led the Constituent Assembly once more to postpone its deliberations.\textsuperscript{105}

It was Judiciary in Pakistan which then played an important role during this period of constitutional crises and created the way for summoning up the Second Constituent Assembly in 1955.\textsuperscript{106} It was inaugurated in July 1955 and on the 8th of January 1956 it presented a fourth Draft Constitution to the country, which, with certain changes and amendments was finally adopted on 29th February 1956. The Constitution of 1956 which was based on the draft of 1955 favoured the retention of Islamic provisions of the Constitution as adopted by the first Constituent Assembly in 1954. It is to be noted that identification with Islam began in this Preamble also which was almost identical with the Objectives Resolution of 1949.

The Constitution of 1956 retained the Parliamentary form of government, both at the centre and in the provinces. It was, however, sought to be guaranteed by statutory provisions, for example, the Prime Minister could be dismissed by the President, but only when he was satisfied that the former had lost the confidence of the legislature.\textsuperscript{107} There were other safeguards against th,

\textsuperscript{104} Ibid, p. 31.
\textsuperscript{106} Ibid, p. 280.
\textsuperscript{107} 1956 Constitution, Part IV, Article 37(6)
arbitrary exercise of the powers by the President. But in actual practice these safeguards proved to be of no use in the absence of a sound party system. The result was that the political instability and frequent changes of Government which characterized Pakistan politics under the Interim Constitution continued under the 1956 Constitution also.

The Preamble reaffirmed what Quaid-i-Azam wanted—Pakistan to be a democratic State based on the Islamic Principles of Social Justice. Article I of the Constitution officially designated Pakistan an Islamic Republic in laying down that Pakistan shall be a Federal Republic to be known as the Islamic Republic of Pakistan. Despite the many divergent concepts of the character of an Islamic Constitution, the framers of the Constitution were successful at last in introducing a commendable synthesis of modern needs and Islamic Principles. On this, some of the extremist Ulema and a few ultra-secularist were disappointed, but the public in general welcomed the Islamic character of the constitution. Identification with Islam began with the Preamble in the name of Allah, it then affirmed the Sovereignty of God, by reading "Sovereignty over the entire universe belongs to Almighty alone". The Islamic provision

108. Ibid., 37(7)
109. See the Preamble of 1956 Constitution.
were continued in the Directive Principle of State Policy to serve as a guide to the State authority in the formulation of policies. According to the Directive Principles, Muslims of Pakistan, individually and collectively, had to order their lives according to the Holy Quran and Sunnah.

**Directive Principles of State Policy: Part III**

**Article 24:**

Promotion of Muslim unity and International peace:

The State shall endeavour to strengthen the bonds of unity among Muslim countries, to promote International peace and Security to foster goodwill and friendly relations among all nations, and to encourage the settlement of international disputes by peaceful means.

**Article 25:**

Promotions of Islamic Principles:

1. Steps shall be taken to enable the Muslims of Pakistan individually and collectively to order their lives in accordance with the Holy Quran and Sunnah.

2. The State shall endeavour, as respects the Muslims of Pakistan:
   a) to provide facilities whereby they may be enabled to understand the meaning of life according to the Holy Quran and Sunnah;
   b) To make the teaching of the Holy Quran compulsory;
c) to promote unity and the observance of Islamic moral standards; and

d) to secure the proper organization of zakat, wakfs and mosques.

**Article 26:**

The State shall discourage parochial, racial, tribal, sectarian and provincial prejudices among the citizens.

**Article 27:**

The State shall safeguard the legitimate rights and interests of the minorities, including their due representation in the Federal and provincial services.

**Article 28:**

a) Promote with special care, the educational and economic interest of the people of Special Areas, the backward classes and the Scheduled Castes;

b) remove illiteracy, and provide compulsory primary education within the minimum possible period;

c) make provision for securing just and human conditions of work, ensuring that children and women are not employed in vocations unsuited to their age and sex, .....;

d) enable the people of different areas, through education, training and industrial development in the Services of Pakistan;

e) prevent prostitution, gambling and the taking of injurious drugs; and
f) prevent the consumption of alcoholic liquor otherwise than for medicinal and, in the case of non-Muslims, religious purposes.

Article 29:
State shall endeavour to:-

a) Secure the well-being of the people, irrespective of caste, and creed or race by raising the standard of living of the common man, by preventing the concentration of wealth and means of production and distribution in the hands of a few to the detriment to the interest of the common man, and by ensuring equitable adjustment of rights between employers and employees and tenants;

b) provide for all citizens, with in the available resources of the country, facilities for work and adequate livelihood with reasonable rest and leisure;

c) provide for all persons in the service of Pakistan and private concerns social security by means of compulsory social insurance or otherwise;

d) provide basic necessities of life, such as food, clothing, housing, education and medical relief, for all such citizens, irrespective of caste, creed or race, as are permanently or temporarily unable to earn their livelihood on account of infirmity, sickness or unemployment;

e) Reduce disparity, to a reasonable limit, in the emoluments of persons in the various classes of Services of Pakistan; and
f) eliminate *riba* as early as possible.

**Article 30:**

The state shall separate the judiciary from the executive as soon as practicable.

Then in the Part XIX and Chapter I of the Constitution some details about the Islamic Provisions have been given.

**Article 97:**

The President shall set up an organization for Islamic Research and instruction in advanced studies to assist in the reconstruction of Muslim Society on a truly Islamic basis.

**Article 198:**

No law shall be enacted which is repugnant to the Holy Quran and Sunnah, hereinafter referred to as Injunctions of Islam, and existing laws shall be brought into conformity with such injunctions, within one year of the Constitution day, the President shall appoint a Commission ........

a) to make recommendations:—

i) as to the measures for bringing existing laws into conformity with the injunctions of Islam, and

ii) as to the stages by which such measures should be brought into effect;

b) 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.

Nothing in this Article shall affect the
personal laws of the non-Muslim citizens, or their status as citizens, or any provision of the Constitution.

In the application of the Article 198 to the personal laws of any Muslim sect, the expression "Quran and Sunnah" shall mean the Quran and Sunnah as interpreted by that sect.

The Constitution however did not declare Islam as the State religion. Since so many Islamic provisions were made in the Constitution, there seemed no need for declaring Islam as a State religion. Besides, Islam has always been considered as a code of life, giving guidance in all spheres of human activity that such an appellation as State religion was not at all applicable. The Head of the State was to be a Muslim but in the absence or illness of the President the Speaker who might be a non-Muslim could be the temporary head of the State.

Excepting the condition for the President there was no discrimination against any citizen on the grounds of religion, colour, race or nationality. The Constitution safeguarded the interests of the non-Muslim minorities.\textsuperscript{113}

Article 198 mentioned that no law should be framed which is repugnant to the teaching of Islam as given in the Holy Quran and the Sunnah; and that existing laws shall be brought into conformity with such injunctions. The procedure for preventing legislation repugnant to the Holy Quran and the Sunnah as adopted by the Second Constituent Assembly

differed from that of the first draft in which the Supreme Court was given jurisdiction for determining whether or not a particular law would be so repugnant. Every citizen of Pakistan was given the right to challenge the validity of any legislation on the ground of such repugnancy. But in the Constitution the authority for decision lay with the National Assembly. The then Law Minister I.I. Chundrigar, commenting on this had held "we have drawn freely from the report of the Basic Principles Committee (B.P.C) and made improvements upon it in several respects to bring it in accord with the demands of the people of the country and to make the Constitution as democratic as possible". He maintained that there was no provision in that report (B.P.C.) to the effect that the existing laws would be brought into conformity with Islamic injunctions as laid down in the Holy Quran and the Sunnah; but such a provision had been made in the new Constitution. He further remarked that it was an un-Islamic provision in the B.P.C. report to have authorized the Federal Court to reject any enactment which it should find repugnant to the teaching of the Quran and the Sunnah, that it should be for the people to decide what was, according to their judgement, in conformity with Islamic injunctions. No special set of people howsoever learned they might be, could be given the prerogative of deciding what was contrary to or in conformity with the injunctions of Islam. 114

The Prime Minister Choudhry Muhammad Ali justified the new procedure on the grounds that: "Our objective is the development of the Islamic Culture and the Islamic spirit as it operates in our society, our politics, our laws and in fact in the entire spheres of collective human relationships. We may have differences as to the interpretation of the injunctions of Islam or the legal system of Islam ... but Islam enjoins upon us, not compulsion but discussion and consultation together and if, therefore, we discuss these matters together in our National Parliament and arrive at conclusions ... I see nothing wrong in that process ... It is the duty of all right-minded citizens to try to reach agreement on how the essential principles of Islam are to work in our society, in our body politic, in our laws and in all concerning that Society".115

Article 198 further proposed the setting up of a Commission to submit its final report after five years of its appointment and might submit any interim report earlier. The Assembly was to enact laws within six months of the submission of a report. But it was clarified that the statutes and the personal laws of non-Muslims would not be affected in any way.116

Although Article 197 authorized the President to set up an organization for Islamic Research and Instructions in Advanced Studies, to assist in the reconstruction of the Muslim Society on a truly Islamic basis, but the President never emphasized the establishment of such a research organization.

115. Ibid. p. 102.
116. Ibid. p. 102.
in Pakistan. He delayed the Commission and for two years no move was taken for the implementation of the Islamic provision or the organization for Islamic research and instructions.

Imposition of Martial Law: 1958

A bloodless revolution took place at mid-night of 7th October 1958 when the Parliamentary institution in Pakistan came to an end and 1956 Constitution was abrogated. President Iskandar Mirza dismissed the Central and Provincial governments in East and West Pakistan, dissolved the National and Provincial Assemblies and abolished all political parties.

In his proclamation Iskandar Mirza said on October 7, 1958,

"For the last two years, I have been watching, with the deepest anxiety, the ruthless struggle for power, corruption, the shameful exploitation of our simple honest patriotic and industrious masses, the lack of decorum and the prostitution of Islam for political ends ... I have therefore, decided that;

a) The Constitution of March 23, 1956 will be abrogated.

b) The Central and Provincial governments will be dismissed with immediate effect.

c) The National Parliament and Provincial Assemblies will be dissolved.

d) All political parties will be abolished.

e) Until alternative arrangements are made, Pakistan will come under Martial Law. I hereby appoint General Muhammad Ayub Khan, Commander-in-Chief
Pakistan Army, as the Chief Martial Law Administrator and place all the Armed Forces of Pakistan under his Command ... To the people of Pakistan, I talk as a brother and fellow compatriot. The present action has been taken with the utmost regret but I have had to do it in the interest of the country and the masses, finer men than whom it is difficult to imagine. To the patriots and the law-abiding, I promise you will be happier and freer. The political adventurers, the smugglers, the black-marketeers, the hoarders will be unhappy and their activities will be severely restricted.\footnote{Dawn, October 7th, 1958.}

In a message to the nation, General Ayub, Chief Martial Law Administrator had explained that the role of religion (Islam) in Pakistan was to be maintained by his government.

"Fellow citizens of Pakistan, 'Assalam-o-Alaikum'. I am going to address you on matters which are both solemn and serious. It is vital that you should listen to them carefully, understand them correctly so as to be able to act constructively, as, in correct action lies the salvation of us all and our generation."

"You should have heard by now the declaration by the President abrogating the Constitution and imposing Martial Law throughout Pakistan. He has appointed me as the Chief Martial Law Administrator and all the Armed Forces of Pakistan, including the Civil Armed Forces, have been put under my command. This is a drastic and extreme step taken with great reluctance, but with
the fullest conviction that there was no alternative to it except the disintegration and complete ruination of the country. History would never have forgiven us if the present chaotic conditions were allowed to go on any further.

"These chaotic conditions as you know have been brought about by selfseekers who in the garb of political leaders have ravaged the country or tried to barter it away for personal gains. Some have done it as a matter of right because they professed to have created Pakistan, and others who were against the very idea of Pakistan openly worked for its dissolution or in any case did all they could to agitate its problems. Their aim is nothing but self-aggrandisement or thirst for power. Meanwhile weak and irresolute Governments looked on with masterly inactivity and cowardice and allowed things to drift and deteriorate and discipline to go to pieces.

"Ever since the death of the Quaid-e-Azam and Mr. Liaquat Ali Khan, politicians started free-for all type of fighting in which no holds were barred. They waged ceaseless and bitter war against each other regardless of the ill effects on the country, just to whet their appetites and satisfy their motives. There has been no limit to the depth of their baseness, chicanery, deceit and degradation. Having nothing constructive to offer they used provincial feelings, sectarian, religious and racial differences to set a Pakistani against a Pakistani. They could see no good in any body else. In this mad rush for power and acquisition all that mattered was self-interest. The country and people could go to the dogs as far as they were concerned."
"There were a few honourable exceptions but their conscience was deadened and they were rendered ineffective by hordes of their supporters in the assembly changing party affiliations from day to day.

"There are two things.— a man of any conscience finds it very difficult to change his religion, change party affiliations. But our so-called representatives in the Assemblies shifted from one party to other without turning a hair or feelings of any pangs of conscience. This is the basis on which democracy has been run in Pakistan and in sacred name of Islam. In the process, all ideals and high sense of values inherent in our religion and culture have been destroyed.

"... Our people are by nature patriotic and good people. They are tolerant, patient and can rise to great heights when well-led. They are also intelligent and could see all these happenings in front of their eyes. But they found themselves helpless as they did not wish to aggravate the problems facing the country or perhaps did not wish to hurt the feelings of the Army which, in the final analysis is responsible for law and order and which had served them so well with loyalty and devotion. But lately I could see that they were beginning to lose faith even in us for not saving them from the tyranny and mental and spiritual torture. I am sure they are sick and tired of the unscrupulous type of politicians who were busy tearing their dear country into pieces. The Army too felt the same much more but held their patience for the reasons which I will just now explain".
Within a couple of weeks, General Ayub emerged as the sole head of the country. He declared a revolution on the 27th October 1958, ousted President Iskandar Mirza and declared himself as the President of Pakistan under the already imposed Martial Law. 119

III. The Constitution Commission 1960–61

President Ayub tried to keep his promises he had made as Chief Martial Law Administrator to abolish Martial Law by taking various steps;

a) the introduction of Basic Democracies scheme in 1959, applying a procedure of adult franchise;

b) appointment of a Constitution Commission on 17th February 1960;

c) promulgation of a new Constitution on the 1st March 1962; and

d) to have elections to be held for the National and Provincial Assemblies respectively on the 28th April and 6th May 1962 respectively.

The most comprehensive and recent political document in Pakistan is the Report of the Constitution Commission of 1960–61. The Report made a thorough and dispassionate analysis of the political and constitutional problems facing our country. Among the terms of reference to the Commission the first requisite was the guidance of Islam; a democracy adaptable to changing circumstances and based on the Islamic Principles of justice, equality and tolerance.
The Commission in reaffirming that Pakistan was based on an Islamic ideology, the main bonds between the two wings of the country, discussed the fundamental problems of State and religion in Islam. It affirmed the view that Islam permeates the whole life of Muslim and does not allow politics to be kept apart from religion as is the case with countries with the secular constitutions. Islam is not merely a code of rituals, ceremonies and rites but an expression of actual social life, in accordance with an idea in which asceticism and mystical quietism have been discredited and social morality is emphasized. The function of the State being, primarily an instrument to protect and promote good life, emphasis throughout the Quran is laid on action for the obvious reason that a mere enunciation of belief, unaccompanied by action in accordance with that belief, besides being hypocritical; does not contribute to one's progress, either, as an individual or as a member of a society. The Constitution Commission once more reviewed the whole problems of the relationship between State and religion and reaffirmed what the framers of the previous Constitution, particularly at the time of adoption of the Objectives Resolution in 1949, had enunciated. The Commission declared "We have an ideology which enables us to establish a model welfare State, and history shows that such a State had been established in the early days of Islam. If the modern generation doubts the efficacy of Islam it is due to their lack of appreciation of the Quranic teaching and history. The remedy lies in acquainting oneself with the principles of Islam and Islamic history, and not discarding religion. Those who talked glibly about Secularism
in Pakistan overlook the fact that by a mere change of expression one's conduct does not change.\textsuperscript{120}

The Commission also examined the non-Muslims' objections to the idea of an Islamic State. It pointed out that the treatment accorded to the minorities in a State depends on the ideals with the majority of those in power set before themselves; if the people are religious in the sense that they allow religion to permeate their practical life as is the case in most Asian countries, the ideals of the majority are coloured by the religion they follow. It is, therefore, obvious that Islam will influence the ideals of majority in Pakistan and as it emphasises justice and fairplay for everybody – the non-Muslims should have no apprehensions about an Islamic State. The Commission cited a number of shining examples of toleration under Islamic ideals and traditions.\textsuperscript{121}

The Commission favoured the retentions of the Preamble and other Islamic provisions of the former Constitution; although it had suggested certain changes and improvements. Literature on a large scale explaining the basic values of Islam in the light of modern knowledge was to be produced and made available to every person who can read and understand. Hence for this purpose the Commission recommended the retention of the Islamic Research Institute as provided under Article 197 of the former Constitution. The Commission affirmed the Islamic provision of Article 198; it further provided for the formation of a Commission to make recommendations.

\textsuperscript{120} Report of the Constitution Commission, 1960, p. 121.
As to the measures for bringing the existing laws into conformity with the injunctions of the Quran and Sunnah and as to the stages by which such measures should be brought into effect, the Commission also noted that unanimity should be reached among different schools of thought on tradition, so that principles should be drawn up from them at a later stage to which the laws of country should conform. The Constitution Commission suggested that such a Commission should take help from similar Commissions in other Muslim countries. The proposed Commission would advise the government about the teaching of Islam for making laws accordingly.

The success of the Islamic provision it may be seen, thus, depends to a great extent on the way in which the Islamic principles are interpreted implying that these principles are dynamic and capable of further development in accordance with the complex requirements of a modern society. The Commission suggested, as a further step, that education of the basic values of Islam and proper training should be given to those who are interested with the task of preaching Islam. It recommended special qualifications for Imams. It wanted that along with theology modern sciences should also be taught for making Islam understandable for those who have a western way of thinking.

The Commission examined the Parliamentary system as introduced in Pakistan after independence and found it a failure. The main causes, it was believed, were lack of leadership resulting in lack of well-organized and disciplined parties;

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122. Ibid. p. 124.
the general lack of character in the politicians and their undue interference in the administration. Defects in the electoral system, undue interference by the heads of the State in ministerial and political matters, and meddling by the central government in provincial affairs were also mentioned as contributing factors.

The Constitution of 1962:

Islamic Provisions

There was no doubt as to the Islamic character of the new Constitution. The Constitution Commission's recommendations with regard to the Islamic provisions were however modified in the Constitution finally promulgated by President Ayub and the new provisions differed in several respects from those of the former Constitution. The Preamble, so far as its Islamic character is concerned, was almost identical with that of the former Constitution. In the first para of the earlier preamble the words "Authority to be exercised by the people of Pakistan within the limits prescribed by Him as a sacred Trust" occurs. In the Constitution of 1962 there is no reference to the fact that people would exercize authority "within the limits prescribed by God". Presumably this was done to avoid difficulties in determining the "limits prescribed by God". The question could arise as to what were those "limits" who would decide those "limits" and so forth. It may be added here that the Objectives Resolution of 1949 on which both preambles were based included additional wording; "The Sovereignty over the entire universe
belongs to God Almighty alone and authority which He had delegated to the State of Pakistan through its people for being exercised within the limits prescribed by Him is a Sacred Trust”.

When the Constitution of 1956 was adopted the then Law Minister Chundrigar explained that the word "delegate" was likely to create more than one apprehension. How was one to say the delegation had been made? How it had been made to one people and not to others and through whom was such delegation conveyed? Accordingly, the word "delegate" was deleted at the time of the adoption of the former Constitution. The wording in the Constitution of 1962 as promulgated was, therefore, simpler than any of the earlier two drafts. But as a result of the first amendment to the 1962 Constitution made in 1963 the words "within the limits prescribed by Him" have been reintroduced, presumably resulting from pressure by orthodox sections of the members of National Assembly who made demands for strengthening the Islamic provision of the Constitution. But these words have not strengthened things; they rather introduced the older confusion.

The preamble follows the Objectives Resolution in laying emphasis on the principle of democracy, freedom, equality, tolerance and social justice, with the qualification that these principles should be observed as enunciated by Islam.

The provisions were continued as were in the former Constitution and in the Directive Principle of State Policy,

123. The daily Dawn, 10th January 1956.
where according to the new Constitution, the Muslims of Pakistan should be enabled individually and collectively to order their lives in accordance with the fundamental principles and basic concepts of Islam, and the facilities whereof would be able for understanding the meaning of life according to those principles and concepts. The sentence of the former Constitution read as; 'lives in accordance with the Holy Quran and Sunnah' has later been substituted as; 'lives in accordance with the fundamental principles and basic concepts of Islam'. The Constitution Commission referred to the diversity of opinion as to the Sunnah. To meet the requirements of the modern complex society the Commission reasoned, these principles and concepts had to be given a progressive and dynamic interpretation. It is further laid down that;-

1) the teaching of the Quran and Islamiat should be made compulsory;

2) unity and observances of Islamic moral standards should be promoted among the Muslims of Pakistan; and

3) proper organization of Zakat, Waqf and masques should be ensured.

Unlike the Constitution of Iran and Saudi Arabia there is no provision for making Islam the State religion in Pakistan nor is there any eclesiastical department.

The Head of the state, the President was to be a Muslim as it was in the former Constitution. The Constitution Commission favoured the retention of this clause. The Constitution further
declared that the non-Muslims should be given due opportunity to enter the services of Pakistan. The new Constitution dropped the word "Islamic" from the Republic of Pakistan, but the National Assembly meeting in 1962 reaffirmed the inclusion of the word.

The most important Islamic provision was Article 198 which laid down that no law should be enacted repugnant to the Holy Quran and Sunnah and all the existing laws should be brought in conformity with them. Under 1956 Constitution it was the National Assembly which could decide the issue of repugnancy. Article 198 provided the appointment of a Commission by the President to make recommendations as to the measures for bringing existing laws into conformity with the injunctions of Islam and also to recommend rules of guidance for National and Provincial Assemblies about such injunctions of Islam which could be given legislative effect. But it was the legislature which had the authority to reject or accept the recommendations of the Islamic Commission.

The new Constitution had substituted for Article 198 of the former Constitution on the "Principles of law making" to the effect that "no law should be repugnant to Islam" and the repugnancy in this matter rests with the legislature and it can not be enforceable in a law court. Chundrigar had contended that by consensus this matter could be decided.

In the new Constitution there was no provision to bring the legal code of the country in conformity with the laws of Islam; but by a demand of the National Assembly it was laid down
that all existing laws should be brought in conformity with the Holy Quran and Sunnah. There was however a novel provision in the new Constitution under Article 199 which provided for an Advisory Council of Islamic Ideology to be appointed by the President.

**The Advisory Council of Islamic Ideology**

According to the Articles 199, 200 and 201, the President could appoint the members of the Council, who had an appreciation and understanding of Islam and of the economic, political, legal and administrative problems of Pakistan. The Islamic Research Institute was to provide the suitable material with consultation with the executive. According to Article 24, the functions of the Council were to recommend to the government all the measures for ordering lives in accordance with the principles and concepts of Islam; and to advise the assemblies, the President or Governors on any question referred to the Council under Article 6.

But the Constitution had restricted disagreement from the jurisdiction of law courts. The Advisory Council was a **Darul Ifta** or a body of Mujtahedun. However, it could be in a position to clarify the involved issues. The Council was to help the legislature in discovering the acceptable content of Islam for legislative implementations. The basic function of the new institution was to elaborate, reconstruct, systematize and formulate the constituent elements of Islamic ideology in accordance with the requirements of modern life.

**The Islamic Research Institute**

The Islamic Research Institute provided for under Article 197 of the former Constitution was retained under
Article 207 of the new Constitution. The Islamic ideology needs proper understanding and appreciation if it is to act as a potent factor in the development of a better society. The Ayub Government soon after coming to power had recognized the research centre with more financial support and other facilities. According to Ayub Khan the justification for insisting upon Islamic ideology in the Constitution of Pakistan was the reflection of the ideal on which the people wanted to base their political lives, but it also safeguarded the fundamental democratic principles that all authority rests with the people.\(^\text{124}\)

The functions of this institute were:

1) to define Islam in terms of its fundamentals in a rational and liberal manner;

2) to bring out its dynamic character in the context of intellectual and scientific progress of the modern world;

3) to carry out research in the contribution of Islam to thoughts, science and culture; and

4) to encourage research in Islamic history, philosophy, law and jurisprudence.

The new Constitution in the establishment of the Institute projected the progressive view. The reassertion of these primary functions of the Institute was no blind imitation of the West. The Commission had also authorized the Institute to prepare a new edition of the Holy Quran with translation in English and Pakistani languages by classifying its subject and topic wise.

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\(^{124}\) Friends not Masters, 1967, pp. 203-204.
CHAPTER VI
NEW START

There were widespread riots in West and East Pakistan in November 1968 as a result of an agitation by students and political leaders. Mr. Zulfiqar Ali Bhutto, the former Foreign Minister and leader of the West Wing People's Party had been arrested under the emergency regulations on November 13th, on a charge of inciting the students to violence and riots. A Democratic Action Committee formed on January 8th 1968 by eight opposition parties put forward a far-reaching programme of Constitutional reforms replacing the system of indirect election of the President, National Assembly and Provincial Assemblies through a college of Basic Democrats who could easily be bribed or intimidated; the lifting of emergency regulations introduced during the war with India (1965) which permitted detention without trial; the removal of restriction on the freedom of Press; full autonomy for East Pakistan and the establishment of a sub-federation in West Pakistan. Faced with growing disorder throughout the country Ayub Khan offered on February 1, 1968 to negotiate with the opposition on Constitutional changes, lifted the state of emergency on February 17; ordered the release of Mr. Bhutto and other political prisoners; and announced on February 21, that he would not seek re-election of the President.125

Demands for full regional Autonomy had been repeatedly put forward in East Pakistan, which contained 55% of the country's population, and supplied a large part of Pakistan's

foreign exchange by its Jute exports. It had often been alleged that the region was underrepresented in the Armed Forces, the Judiciary, and the Civil Service, was receiving less than its fair share of development funds. The following six point programme was issued on February 12th., 1966 by Sheikh Mujeeb-ur-Rehman, President of Awami League.

1. Establishment of a Federal Form of Government, with a parliament directly elected by adult suffrage.

2. The Federal Government would control only Defence and Foreign Policy, leaving all other subjects to the Federating States of East and West Pakistan.

3. To stop the movement of capital from East to West Pakistan, either separate currencies or separate fiscal policies would be established.

4. The Federal Government would share in State taxes for meeting its expenses, but would itself have no powers of taxation.

5. Each of the Federating State would be empowered to enter into trade agreements with foreign countries, and would have full control over its earned foreign exchange.

6. The State would have their own Militia or para-Military forces.\(^{126}\)

This autonomist movement was denounced by Ayub Khan on March 20, 1966, as it aimed at the threat to the integrity of Pakistan. Meanwhile Zulfiqar Ali Bhutto formed the People's Party on December 1, 1967, its aims being described as Islamic Socialism, democracy and an independent foreign policy.\(^{127}\) He

\(^{126}\) Ibid, p. 23746.
also supported autonomy for East Pakistan. Mr. Bhutto was arrested in Lahore on November 13, 1968 under the emergency regulations, which accused him of "inciting the Masses, particularly students, to violate the law and create disorder by resorting to vengeance". Fourteen other persons were arrested at the same time including, Khan Abdul Wali Khan, Chief of the National Awami Party. Khan Abdul Wali Khan was accused of advocating an independent Pathan State which was certainly against the integrity of Pakistan. National Awami Party demanded the reversal of integration of the former provinces of West Pakistan into a single administrative unit, similar demands had been put forward by the opposition parties in Sind and Baluchistan. The arrests were immediately followed by more clashes between students and police. In Lahore hundreds of lawyers took part in a protest demonstration, and the High Court Bar Association passed a resolution condemning the arrests and demanding public trial for those arrested. A number of students and opposition leaders had been arrested on November 14–15 and all colleges and schools had been closed.

Air Marshal Asghar Khan addressed a press conference in Lahore on November 17, 1968 in which he said that he had been watching the deterioration of the political, social and economic conditions of the country for some time, and opined that corruption, nepotism and administrative incompetence are effecting the lives and happiness of millions of our country men. He further said that social in-equality and economic disparity were increasing and the gap between the rich and the poor was widening every day.

In those circumstances people had no confidence in the Government and they considered that the regime had failed to fulfil the people's expectations. He further said that it was his national duty to enter into politics for the restoration of the values for which Pakistan had been created but which were 'bluntly ignored'. On November 19, 1968 in the Bar Association he announced that he has decided to work actively against the present regime because things were so bad that any self-respected man could not remain silent. He charged that private telephones were tapped, opinion was stifled, the opposition was shadowed, and no one could express his views fully. The anti-Government agitation revived on November 25, 1968 and protest demonstrations against the arrests of opposition leaders took place in Karachi, Lahore, Rawalpindi and Peshawar. The demonstrations had been organised by the Pakistan Democratic Movement, an alliance of five opposition parties.

When colleges re-opened in Rawalpindi on November 25, after being closed for eighteen days, about three thousand students marched through the city shouting anti-Government slogans; consequently educational institutions were closed.

again, Serious rioting occurred on November 27, 1968. President Ayub Khan in a broadcast on December 1, 1968 announced that the Government was prepared to accept all the student's educational demands. He said "these political differences should not assume the shape of lawlessness, violence, force and terrorism which are unconstitutional, illegal and undemocratic methods; no civilized society can tolerate them." 132

Democratic Action Committee

The leaders of eight opposition parties met in Dacca on January 8, 1969 and the Democratic Action Committee was formed with the aim of replacing the 'one man dictatorship' which had 'brought degradation and ruin to the country.' 133

Ayub Khan offered to negotiate with opposition on constitutional changes. 134 But the Democratic Action Committee decided on February 3, not to accept the President's invitation unless he ended the state of emergency and released all political prisoners. 135 On Feb. 7, Awami League stated that the party would not take part in the talks unless it were represented by Sheikh Mujeebur Rehman. Ayub Khan said that he was considering this demand but the consequences of withdrawing such a conspiracy case could not be taken lightly, as it involved

133. Keesing's Archives, p. 23219.
134. Ibid. p. 23220. see also Dawn Feb., 2, 1969.
the country's security. It was officially announced on February 14, that the President Ayub Khan had decided to end the state of emergency as from February 17, and that in view of this, the provincial Government of East and West Pakistan had immediately released all persons detained under the Defence of Pakistan Rules but not Sheikh Mujeeb and he was allowed only to attend the talks.\textsuperscript{136} The President Ayub Khan decided not to seek re-election, released Sheikh Mujeeb and Agartala conspiracy prisoners and started the constitutional talks. There were widespread riots and strikes in East and West Pakistan and ultimately President Ayub Khan resigned on March 25, and Martial Law was proclaimed and Agha Muhammad Yahya the Commander-in-Chief of the Army was appointed Chief Martial Law Administrator and assumed the Presidency on March 31.\textsuperscript{137}

In his first address to the nation Yahya Khan held \\
"we are passing through the most fateful period of our history. The recent events have dealt a serious blow to our national prestige and progress. The Martial Law administration can not and will not tolerate agitational and destructive activities of any kind. I urge every one of you to cooperate with my administration in bringing the country back to solility. Let every one, whatever his calling may be, return to his post and do his bit to repair the damage caused to the economy and well-being of Pakistan".\textsuperscript{138} Yahya Khan declared Martial Law on March 25, 1969, and once more poor Pakistanis were suppressed

\textsuperscript{136} Keesing's Contemporary Archives, Op. Cit. p. 23221
\textsuperscript{137} Dawn Karachi, April 1, 1969.
under a military regime; and once more the cloud of
despotism covered the Islamic State. President Yahya, in
his broadcast outlined the legal frame-work for the res-
toration of a Federal Parliamentary system. The general
elections were held in December 1970, on the basis of "one
man one vote" in which the Awami League won a majority in
East Pakistan and Pakistan's Peoples Party in West Pakistan.\textsuperscript{139}

Sheikh Mujeeb was hailed by President Yahya Khan as the
Prime Minister of Pakistan. The Leader of the Awami League
asked for the withdrawal of the Martial Law and transfer of
power, prior to the meeting of the National Assembly.\textsuperscript{140} President
Yahya in his broadcast to the nation told that Sheikh Mujeeb
had proposed that this interim period could be covered by a
proclamation by the President whereby Martial Law would be
withdrawn, Provincial Governments set up and the National
Assembly, sit in two committees – one composed of members
from East Pakistan and other composed of members of West Pakistan
The President banned the political activities. Awami League was
outlawed and complete censorship was imposed throughout Pakistan.
The President held that Sheikh Mujeeb's action of noncooperation
"is an act of treason and he and his party have defied the
lawful authority for over three weeks. They have insulted
Pakistan flag and defiled the photograph of the father of the
nation. They have tried to run a parallel government. They have
created turmoil, terror and insecurity."\textsuperscript{141}

\textsuperscript{139.} Ibid., p. 23745.
\textsuperscript{140.} \textit{Dawn}, March 27, 1971.
\textsuperscript{141.} \textit{Dawn}, March 27, 1971.
This was not an un-expected and sudden uprising of Bengali revolutionaries but it was an old complaint of deprivation which led Sheikh Mujeeb and other Awami Leaguers to plan a military campaign. Mukhti Bahini, the liberation army established by Awami Leaguers had been receiving supplies of small arms from outside sources for a long time but it was generally believed that these weapons could only have come from India." Sheikh Mujeeb was arrested from his house. The President announced that the army was in full control of the situation throughout East Pakistan. India invaded East Pakistan and then war broke out between India and Pakistan on December 3, 1971. On December 16, President Yahya Khan called upon the nation, to carry on the struggle with discipline and determination against Indian aggression. But the entire nation was shocked when the very second day the President ordered the Pakistan forces to ceasefire with effect from 1430 G.M.T.

On December 20, 1971, the People's Party Chairman Mr. Zulfikar Ali Bhutto was handed over power by Yahya Khan and was formally sworn in as the President and the Chief Martial

President Bhutto held that he was not going to foist a constitution of his own on the people. He was an elected representative of the people and would give them a constitution which will be fully approved by them.148

Most of the political leaders of the country blamed the Martial Law regime and its un-democratic principles and for all the bad consequences. Maulana Maudoodi Amir Jamaat-i-Islami, for example, demanded immediate lifting of the Martial Law and warned the government that if democracy was not restored, 'the country would not survive for more than one or two years at the most'. He held that President Bhutto had already seen the results of dictatorship and Martial Law in East Pakistan. "Does he want the same situation in West Pakistan too by continuing Martial Law", the Maulana asked. Analysing the causes of the present tragic situation including the East wing debacle Maulana Maudoodi pointed out that Pakistan was created in the name of Islam and on the plea that the Muslims of the Indian sub-continent wanted a home land to tailor their lives according to the dictates of Islam. Muslim Bengal had joined hands with the Muslims of India with this sole aim. But he regretted that after the establishment of


148. Ibid
Pakistan Islam was never practised, on the contrary religion was made a source of exploitation by the ruling party, from time to time. He held that the strong feeling that East Pakistanis were being ruled by West Pakistani dictatorship and not any anti-Islamic spirit, fanned Bengali Nationalism in East Pakistan, and which ultimately led to its separation. He advocated that we should stop thinking on the lines of Punjabis, Baluchis, Sindhis and Pathans and should live as Muslims. The remaining Pakistan could only be saved if the present society was converted into an Islamic Society based on social justice. He further held that this ideological State hardly ever did any thing to instil this founding concept into the minds of the people. The Objectives Resolution never became more than an un-enforceable preamble to its projected or foisted constitution. Its educational setup was not given an Islamic orientation. The new generation was thus born and bred in an atmosphere characterised by hedonistic views and atheistic ideologies.  

The Secretary General of Jamiat Ulema-i-Islam, Mufti Mahmood demanded immediate lifting of Martial Law and restoration of democracy. Maulana Mufti Mahmood emphasised that the whole nation was demanding lifting of the Martial Law and calling of the National and Provincial Assemblies. He warned that the insistence to continue the Martial Law will create disruption because the people are fedup with Martial Law regimes.

Sahibzada Abdul Hannan, Pir of Bhutan Shairf, addressing a press conference in Karachi held that to save Pakistan from further disintegration and to restore its prestige, the present government should immediately introduce Islamic Constitution. A spiritual leader of more than six million tribesmen of Frontier Province, Pir of Bhutan Shairf, criticised the rulers of the past regimes for their failure to fulfill the idea of an Islamic country and put the entire blame of military debacle on the non-enactment of Islāmic rule in the largest Islamic country of the world.151

On February 12, 1972 President's adviser for Information, Auqaf and Hajj, Maulana Kausar Niazi informed the public that the present government of Pakistan was endeavouring to give a constitution to the country based on the principles of Islam and Sunnah. He declared that no provision of the constitution will be repugnant to Islam.152

In a press interview Khan Abdul Wali Khan, the chief of National Awami Party, held that before the East Pakistan debacle the NAP stood for secularism because more than a crore of our population was non-Muslim. But after the fall, there was no need to indulge in the controversy of secularism.153 But at the same time, another leader of NAP, Mr. Ghaus Bux Bizenjo

declared that his party believes in socialism and on assuming power in Baluchistan, the NAP would nationalise all industries in Baluchistan.\footnote{154}

The Interim Constitution

On April 14, 1972 the President and Chief Martial Law Administrator, Zulfikar Ali Bhutto, made an announcement that he would lift Martial Law on April 21, 1972 if the interim Constitution was adopted on the stipulated date of April 17.\footnote{155} An unanimous confidence vote for Mr. Bhutto was passed, and he was elected President of the National Assembly on April 21, 1972.\footnote{156} The Draft interim Constitution presented to the National Assembly provides for a parliamentary form of Government in the federation of Pakistan which has been named as Islamic Republic of Pakistan. The preamble of the 290 Article document, spread over 112 pages, is the well-known Objectives Resolution of 1949. It provides for an Advisory Council on Islamic Ideology consisting of members, not less than five and not more than twelve, to be appointed by the President.\footnote{157}

Following is the text of the Preamble to the Interim Constitution:

"In the name of Allah, the Beneficent, the Merciful. "Whereas sovereignty over the entire universe belongs to Allah Almighty alone, and the authority to be exercised

\footnote{154}{Dawn, March 25, 1972.}
\footnote{155}{Dawn, April 15, 1972.}
\footnote{156}{Dawn, April 15, 1972.}
\footnote{157}{Dawn, April 16, 1972.}
by the people of Pakistan within the limits prescribed by him is a sacred trust.

Whereas the founder of Pakistan, Quaid-i-Azam Mohammad Ali Jinnah, declared that Pakistan would be a democratic State based on Islamic principles of social justice.

"And whereas the National Assembly, representing the people of Pakistan, has been elected to frame for the sovereign independent State of Pakistan a Constitution.

"Wherein the State should exercise its powers and authority through the chosen representatives of the people,

"Wherein the principles of democracy, freedom, equality, tolerance and social justice as enunciated by Islam, should be fully observed,

"Wherein the Muslims of Pakistan should be enabled individually and collectively to order their lives in accordance with the teachings and requirements of Islam, as set out in the Holy Quran and Sunnah,

"Wherein the territories now included in or in accession with Pakistan and such other territories as may hereafter be included in or accede, Pakistan should form a federal wherein the provinces would be autonomous with such limitations on their powers by authority as might be prescribed,
"Wherein should be guaranteed fundamental rights including rights such as equality of status and of opportunity, equality before law, freedom of thought, expression, belief, faith, worship and association and social, economic, and political justice, subject to law and public morality.

"Wherein adequate provision should be made to safeguard the legitimate interests of minorities and backward and depressed classes,

"Wherein the independence of the judiciary should be fully secured,

"Wherein the integrity of the territories of the Federation, its independence and all its rights, including its sovereign rights over land, sea and air should be safeguarded,

So that the people of Pakistan may prosper and attain their rightful and honoured place amongst the nations of the world and made their full contribution towards international peace and the progress and happiness of humanity.

"Now, therefore, we the people of Pakistan through our elected representatives in the National Assembly do hereby adopt, enact and give ourselves this interim constitution."
Following are the Fundamental rights as guaranteed the Interim Constitution presented in National Assembly on April 15, 1972.

Responsibility with Respect to Principles of Policy

28-(3) The NA, a Provincial Assembly the President or a Governor, may refer to the Advisory Council of Islamic Ideology for advice any question as to whether a proposed law is or is not repugnant to the teachings and requirements of Islam as set out in the Holy Quran and Sunnah.

Islam.

29. No law shall be repugnant to the teachings and requirements shall be brought in conformity with Holy Quran and Sunnah.

Explanation: - In the application of this principle to the personal law of any Muslim, the expression "Quran and Sunnah" shall mean the Quran and Sunnah as interpreted by the school of law to which he belongs.

Islamic Way of Life

30 - (1) The Muslims of Pakistan should be enabled, individually and collectively, to order their lives in accordance with the fundamental principles and basic concepts of Islam and should be provided with facilities whereby they may be enabled to understand the meaning of life according to those principles and concepts.

(2) The teaching of the Holy Quran and Islamiat to the Muslims of Pakistan should be compulsory.
(3) Unity and the observance of Islamic moral standards should be promoted among the Muslims of Pakistan

(4) The proper organisation of Zakat, Auqaf and Mosques should be ensured.

National Solidarity

31. Parochial, racial, tribal, sectarian and provincial prejudices among the citizens should be discouraged.

Fair Treatment to Minorities.

32. The legitimate rights and interests of the minorities should be safeguarded, and the members of minorities should be given due opportunity to enter the service of Pakistan.

 Provision of Basic Necessities.

41. The basic necessities of life, such as food, clothing, housing, education and medical treatment, should be provided for citizens who, irrespective of caste, creed or race, are permanently or temporarily unable to earn their livelihood on account of infirmity, disability, sickness or unemployment.

Administrative Office, to be Provided for Public Convenience.

42. Administrative offices and other services should, as far as practicable, be provided in places where they will best meet the convenience and requirements of the public.

Reduction of Disparity in Remuneration for Public Services

43. Disparity in the remuneration of person in the various classes of the services of Pakistan should, within reasonable and practicable limits, be reduced.
Service in the Defence Services.

44. Persons from all parts of Pakistan should be enabled to serve in the Defence Services of Pakistan.

Elimination of Riba

45. Riba (usury) should be eliminated.

Prostitution, gambling and drugtaking etc. to be Discouraged.

46. Prostitution, gambling and the taking of injurious drug should be discouraged, and printing, publication and circulation of obscene literature should be prohibited.

Consumption of Alcohol to be Discouraged.

47. The consumption of alcoholic liquor (except for medicinal purposes, and in the case of non-Muslims for religious purposes) should be discouraged.

Strengthening Bonds with the Muslim World and Promoting International Peace.

48. The bonds of unity among Muslim countries should be preserved and strengthened, international peace and security should be promoted, goodwill and friendly relations among all nations should be fostered, and the settlement of international disputes by peaceful means should be encouraged.\(^\text{159}\)

The Islamic colour in the statements about fundamental rights in the Constitution is quite clear, yet as it does not provide any clause to prohibit the use, sale and production of

\(^{159}\) Dawn, Karachi April 16, 1972.
liquor in the country, the issue was debated in the National Assembly in an attempt to make it, in the views of the participants, more Islamic. Some members of Jamaat-i-Islami demanded that since the Constitution provided that the President of the country would always be a Muslim therefore, it was necessary to define a Muslim. Maulana Hazarwi gave his own definition and called for incorporating a definition because he refused to accept certain categories of people as Muslim. One of the members held that Communist and Ahmadis should not be considered as Muslims. This contention was challenged by other members of the Assembly for example Maulana Kausar Niazi, the Information Minister held that Islam was "nobody's Jagir", as to be interpreted according to his own beliefs and wishes. Maulana Abdul Haq, a member of JUI, explained that a Muslim is one who believes in the unity of God, the Holy Prophet and in his finality. He said that there was no conflict about it among various sections of the House. A member of Jamiatul Ulema-i-Pakistan speaking on the Islamic provisions asked for the ban on "Sharab" and the issue was debated forcefully by other politico-religious parties as well.

It seems that the religious element of the Assembly considered the ban on alcohol as an important step in the Islamization of the constitution. Eventually when the NAP-JUI Coalition leader, Maulana Mufti Mahmud was sworn in as the Chief Minister of the NWFP he addressed a Press Conference and assured that "a complete ban will be imposed on liquor and licences of selling liquors, its use and business will be totally stopped". He said a board is being constituted to recommend amendments in the laws to bring the legal system in conformity with the Holy Quran and Sharia. The board, would comprise great religious scholars and legal experts. The board would prepare a report, which would be enforced after its approval by the Provincial Assembly. Maulana Mufti emphasised that if the use, sale and production of liquor was completely prohibited in the country, most of the Social and Economic evils would be eliminated and it would pave the way for establishing an Islamic order. Maulana Mufti further held that his government was committed to set an Islamic system guaranteeing justice to every citizen irrespective of his language, culture or creed. He regretted that for the last twenty five years a land created in the name of Islam remained deprived of an Islamic system. On May 6, 1972 Maulana Mufti banned the sale of liquor in shops, clubs and hotels all over the Province and all the wine shops were sealed in the NWFP.

But at the same time a totally different tune was sung by another NAP leader in a different province. Mr. Ghaus Bux Bizenjo e.g. in Baluchistan, held that Pakistan is a multi-national State. The people living in different areas speak different language and have varying cultures in the past, the cloak of religion had been thrown to hide this reality. The foundation of strong Pakistan could be laid only by giving the federating units their rightful place. It means religion is only a facade, what is basically needed is cultural approximation among all the Provinces of the country and economic and social security for each and every individual of Pakistan.  

Maulana Mufti Mahmud has been vociferous throughout demanding the incorporation of the religion of the State in the Constitution. He demanded that a clause should be added to the Interim Constitution to this effect. He gave examples of countries like Egypt and Libya which were called Socialist yet have provided in their constitution that the religion of those States would be Islam.

CHAPTER VII

HURDLES AND DIFFICULTIES. AN ANALYSIS

Constitution Making - The Main Issue:

The foregoing chapters provide a historical analysis and the contemporary background of the role of Islam in the governance of Pakistan. The analysis mostly refers to the most important problem that engaged the attention of the political leaders and the masses of Pakistan, i.e., the constitution making. The history of constitution-making in Pakistan, and its various constitutions can be taken as a paradigm of other problems relating to the application of Islam to modern society. It becomes a fundamental problem when Islamic religion is stated to be, and rightly so, a way of life, meaning thereby that it is a socio-political system, rather than a mere combination of religious rituals relating man to a deity. Other problems relating to the role of Islam in our society become minor problems in relation to this major issue and can very well be solved if once for all the basic attitudes are determined and fundamental difficulties solved. For instance fixing timings for Haj, prayers, fasting etc. on the basis of calculation of time through modern means, rather than on sighting of the moon, or fixing the timings of fasting etc. on the north and south poles where sunrise and sunset are of not much indicators of timings, or the use of modern gadgets and inventions for religious sermons and prayers etc. are much minor problems. Even the differences between
various sects in their performance of religious obligation can very well be solved once the good will is established for accepting Islam as the sole governing principle of our lives and when consensus is arrived at on the basic issues of the constitution of the country.

Though it seems that the polemics of the last 25 years or so centered round the nature of Islamic state has resulted in a sort of consensus that the main purpose of establishing an Islamic state is to achieve social justice in this world, notwithstanding the fact that its ultimate aim is realized in the life hereafter. But the present shift of emphasis on economic provisions of the constitution is significant in so far as it brings down to the earth purely intellectual and theoretical discussion revolving round the concept of sovereignty in Islam and making it the all important issue of an Islamic constitution and state.\textsuperscript{172} Now the more important theme seems to be the welfare of human beings and in particular of the toiling masses in Pakistan. The debate on issues like sovereignty etc. has been relegated to a purely formal domain. There is a consequential shift in the difficulties and hurdles also and now the attitude of Islam towards the problem of nationalization of the means of production and scope of control of state on the economic rights of the citizens has got to be determined. It is

\textsuperscript{172} The Jamat Islami declared Pakistan to be an \textit{un}Islamic State before the adoption of Objectives Resolution by the then Constituent Assembly and prohibited its members to enter into any government service.
expected that on the days to come, even when a constitution is adopted, a vigorous debate would start on this issue. But it would be naive to think that the unresolved issues of political and constitutional nature are no more the stumbling blocks in applying the principles of Islam to the governance of Pakistan.

Equivocation Syndrome, the Orthodox and the Modernists:

One of the most important and most widely spread syndrome is of the lack of self-identity with which the Muslim nations in general and Pakistan in particular are suffering from. This lack of self-identity, resulting in ambiguous or most general definitions of political concepts, makes the role of Islam extremely difficult in the governance of Pakistan. This problem has its roots in the classical theories of Islamic state and has now become more complicated with the introduction of modern concepts of democracy and national states. To explicate the point let us take the case of the Objectives Resolution of 1949 which was later embodied in the first constitution of 1956. The resolution seemed to have satisfied almost all of the sections of people in Pakistan, orthodox as well as the modernists. But what it really means in term of Islamic political thought and how variously it could be, and has been interpreted by various sections of the people of Pakistan is a question that has to be answered.

173. See chapter II.
The Objectives Resolution makes a distinction between the concepts of sovereignty and authority, a sound distinction from the point of view of political science. God's sovereignty is supreme and undivided. He only delegates authority to the state through its people; an authority which is limited in scope. There is, in this concept, no room for popular sovereignty and taking the Resolution at its face value, one can reasonably conclude that the phrase: "the limits prescribed by Him" (which purports to limit the authority of the people) means the prescriptions of Shariah. But in the very same Resolution the next paragraph seems to be going against the intentions of the preceding lines where it speaks of the sovereign independent state of Pakistan. The result is that there occurs a conflict in working out the implications of the Objectives Resolution in terms of constitution-making and in applying Islamic principles to political life. Mohammad Zafarullah Khan, the then foreign minister of Pakistan, interpreted the Resolution and ensuring the non-Muslims of Pakistan that they would enjoy equal status in government and services of Pakistan, whereas Maulana Shabbir Ahmad Usmani, in the light of the same Objectives Resolution, envisaged that non-Muslims could be given only minor positions in the administrative machinery of the state and prohibits them from the positions with responsibility of framing the general policy of the state or dealing with matters vital to the safety and integrity of the state. In this context it is worth noting the

speech of Quaid-e-Azam, wherein he spoke that "... in the course of time Hindus would cease to be Hindus and Muslims would cease to be Muslims ... in the political sense as citizens of the state." The tone of these remarks highlights the diversity in the understanding of the concept of an Islamic State that occurs even now between the orthodox ulema on the one hand and the modern educated persons who are sympathetic to Islam, on the other. The latter, when they speak of an Islamic state, seems to have a modern national state, based on the principles of equality and social justice, in their minds while the former seem to give authority of government to Muslims only and further to such Muslims who are in their opinion well-versed in classical Islamic tradition.

So long as the principles are expressed in general terms, a consensus of opinion is obtained, but the moment particular questions about applying these principles to practical situations arise, equivocation inherent in the general statements becomes evident. G.W. Chowdhry hints at the same fact by saying, "... while at least until 1954 it was generally agreed that Pakistan should aim at becoming an Islamic State, there was no agreement as to the meaning of the term "Islamic State". He contrasts the views of the orthodox interpreters of Islam with those of Quaid-e-Azam whom he quotes as saying, "In any case Pakistan is not going

176. Constitutional Development in Pakistan, p.69.
to be a theocratic state to be ruled by priests with a
divine mission. We have many non-Muslims, Hindus, Christians
and Parsis, but they are all Pakistanis. They will enjoy the
same privileges as any other citizen and will play their
rightful part in the affairs of Pakistan".177

The Tilt Towards Modernism

This basic conflict in the interpretation of the nature
of Islamic state still persists. There, no doubt, obtains a
general tilt in favour of the concept of modern national state,
as is evident from the Interim Report on Fundamental Rights,
accepted in 1950, and against which no serious objections have
been made. The Report lists as one of the fundamental right the
prohibition of discrimination on grounds of religion, race
and caste, and lays down that every duly qualified citizen of
Pakistan is eligible for state service, women as well as men.
Exception was only made for the head of the state who must be
a male Muslim. This exception was made to placate the demands
of the orthodox in particular and to satisfy the general
sentiment of the Muslims in general. Another fundamental
principle was freedom of conscience and of free exercise of
religion, which includes the right to propagate. These rights
are clearly in accord with modern concepts, but not strictly
with the classical interpretation of Islam which seems to
forbid the non-Muslims from positions of responsibility and

177, Ibid, p. 69, f.
policy making and allows freedom of religion to **ahl-al-kitaab** (the people of the book), but not the propagation of any faith other than Islam. The strong feelings that were aroused during the agitation and violence against Ahmadiya sect, and the attempt that was made to exclude it from **umma** brings out the contradictions present in our society between the modernists and the orthodox very clearly. But since then the issue has been pushed into the backyard of political activity by the orthodox who have joined hand with the others in demanding that fundamental rights for every citizen be safeguarded in the constitution”.

**Ambiguity of General Statements:**

Even when accords are reached between the modernists and the orthodox, they are usually in terms of general statements to which all parties seem to agree, but which have possibilities of different interpretations by different groups of people. Take for instance the principle which was laid down in every constitutional draft which says that 'no law in Pakistan shall be enacted which is repugnant to Quran and Sunnah'. This principle is vague and general and leaves the question of methodology of deciding the repugnance or otherwise of a law undecided, so that its import is lost in failing to adopt a suitable methodology. Who would decide whether a law is repugnant to Quran and Sunnah? the legislature? a board of Ulema? If the latter, how this board would be constituted, whether by election or by nomination by the executive? If by nomination which **ulema** would be included in the board? Or
whether the question be left to a court of law? if so whether the present courts are competent to decide the issue? Whether such courts or a board of ulema be given legislative powers or should they be only recommendatory bodies set up specifically for this purpose? In short, a simple statement like the one above is immediately associated with a complicated question of methodology or in other words difficulties arise as soon as one wants to put simple statements of agreement to practice.

The Effects of Dichotomy in Education:

One of the obvious reasons for the lack of communication between the orthodox and the modernist can be found in the dichotomy of our educational system. There are, on the one hand ulema educated in the classical madrasahs and mostly unaware of the intricacies of governing a modern national state which Pakistan seems to be, and on the other hand there are modern educated persons who are competent to handle the legal, political and economic machinery of a modern state, but which lack the knowledge of Quran and Sunnah. The resultant of this dichotomy is that when an agreement of principles is reached between these two groups of persons it almost always remains at a verbal level, vacuous of any content or otherwise capable of containing contradictory meanings.

Though this problem has a reference to the intentionality of the statements but it is not necessarily related to the right or wrong motivations behind them. In other words, when we talk about the differences in interpreting the same statement by the
modernists or by the orthodox we do not mean that either of the group necessarily intends to deceive the other group. The orthodox indeed sometimes suspect the intentions of the modernists when the latter express their desire to see Pakistan to be an Islamic state or in the least the orthodox are doubtful of the capabilities of the modern Muslims for doing so. One group of persons charged the Muslim League at one time that it was either incapable of establishing an Islamic State or was untrue to its own proclamations. The orthodox may have some justification in doubting the intentions of those who always use Islam as a slogan from the pulpit. We shall have to say more about this type of sloganism which has become part and parcel of our political phenomenon, but at the moment we take such statements on their face value and assume that good intentions exist on both sides.

Thus taking for granted the good intentions of all parties concerned, the polarity of meaning still persists between the orthodox and the modernists when they start applying Islamic principles to our political or economic life. Take for instance the views of a person of no less eminence than Dr. I. H. Qureshi, whose intentions cannot be doubted even by the most orthodox of ulema, when he insists that Islam is: "... not a code of certain rigid laws or even legal concepts ... but a dynamic force, a concept of life not of law, a guidance for the springs of thought and action and not a static code of action."

In other words, Islam is a live and dynamic ideology and not a

178. See in this connection Maulana Maudoodi's trilogy.
dead, unprogressive and static collection of injunctions and prohibitions. It requires a new interpretation at every stage of our development and cannot be content merely with precedents and past usage. Islam does not discard precedents and traditions, but it lays emphasis upon the progressive unfolding of the creative instincts of mankind in accordance with the eternal principles defined by revelation."  

These sentiments thus expressed show unmistakable strains of modern education and of western culture and ideas. But in spite of their freshness and modernity, hardly anyone from the orthodox would disagree with what has been said. Even the orthodox themselves have started using such terminology and in their utterances show a marked influence of modern ideas. Yet the difficulty arises when persons from two completely different educational backgrounds start deciding what particular Islamic teachings are contingent and temporal and what are necessary and eternal. Here the differences grow to such an extent that the so-called agreed statements, almost lose their objectivity. The ulema, in general, would consider the bulk of fiqh of the shcool to which they belong as sufficient: even in fiscal and monetary matters, and would consider only minor alterations which could be deductively obtained from their respective fiqhs as necessary.

On the side of the modernists also the list of contingent and temporal items of Islamic teaching may differ widely. There are on the one hand, the radical modernists like G.A. Farwaiz

who would want to base Islam on a fresh interpretation of Quran and Quran only, leaving the saying of the Prophet as mostly relating to contingent and temporal aspects of life (excepting the sayings about moral values, which are of a universal nature). Such radicalists do not see eye to eye with the orthodox of our society. Their views are radically different from those of the ulama and vast disagreement occurs even in the interpretation of some fundamental concepts of Islam. But the problem is no easier with the moderates like Mr. A.K. Brohi. In connection with the Islamic nature of the constitution Mr. Brohi made a statement explaining the meaning of the phrase 'Islamic Republic of Pakistan', a phrase which was accepted by the framers of the first constitution to be the name of Pakistan at the behest of ulama. Mr. Brohi made a statement to the effect that the name of the state (Islamic Republic) does not imply that its laws are Islamic. He said: "The problem of constitution-making in Pakistan has become complicated due to false emotional associations that have been formed, due to what I call a wrong insistence on the slogan, viz., that the constitution of Pakistan would be based on the Islamic law." This explication of the implication of the name 'Islamic Republic' was not, obviously, acceptable to the orthodox and hence Mr. Brohi, had

to face a severe criticism from ulema and Jamaat Islami. Replying to his critics Mr. Brohi's views led him to state further: "I have never said that I do not want Islamic Constitution in this country; all I have said is that having regard to the accepted notion of what constitutional law is, it is not possible to derive from the text of the Quran any clear statement as to the actual content of the constitution of any state". He later adds another hypothetical statement to his previous version by saying, "... if there be any clear and direct statement in the Quran as to what our constitution should be like, then of course it has got to be followed".

We have referred to these two of the most eminent and well meaning scholars who have all the good intentions of making Pakistan an Islamic state. Both these two scholars come from a background of high traditions of modern western education, which shows in their explications of Islamic doctrines. But the polarity of educational and ideational backgrounds between them and the orthodox of the country does not let them go beyond making general statement. The moment the plane of generality changes to that of particularity they seem to lose communication with the orthodox. One of the examples where this difference in attitude can be clearly seen is the Muslim Family Law Ordinance of 1961, which was considered by the modernists as a good example of ijtihad in as much as it fulfilled the requirements

of modern thinking about family life, without letting go the Islamic principles. But the orthodox (including the Jamaat-i-Islami), on the other hand, opposed the ordinance and have been demanding its repeal since then. This case is also revealing of a very significant malaise of our present day society, and that is the improbability of affecting an ijtihad acceptable, both, to the orthodox and the modernists, and subsequently of the difficulties of putting Islam to practice in our social and political life.

This, then, is the most significant and seemingly unsurmountable hurdle in the way of the governance of Pakistan in accordance with Islam. The only way to cross this hurdle seems to be the reunification of our educational system so that the communication gap between the modernists and the orthodox be lessened and they start speaking one language rather than two, with more agreement on intentional meanings, rather than a great disparity.

Differences Amongst the Orthodox (Ulema):

The same equivocation syndrome which exists amongst the polar groups of the people, in general, exists amongst the orthodox as well. They are not one in their understanding of the Islamic principles and the modality of their application to society. Hence there stands another important hurdle in making the role of Islam effective in the governance of Pakistan. This ambiguity in the understanding of Islamic principles by the ulema is clearly brought out in the Report
of the Court of Inquiry relating to the disturbances in Punjab, and which is now commonly called Munir Report, referred to in earlier chapters. This report, apart from surveying the actual events and the history of the anti-Ahmadiyah agitation, also deals, in part IV, with the nature of an Islamic State and with the concept of Islam. The court of inquiry put a seemingly simple question, i.e., 'what is Islam', to ulema and their answers reveal the complexities of defining Islam and Islamic State in the contemporary world. The Report says:—

"We put this question (What is Islam and who is a momin or Muslim?) to the ulema and we shall presently refer to their answers to this question. But we cannot refrain from saying here that it was a matter of infinite regret to us that the ulema whose first duty should be to have settled views on this subject were helplessly disagreed amongst themselves".\textsuperscript{185}

The ulema were also subjected to searching questions on all aspects of an Islamic State, its foundation, scope and functions; on the position of non-Muslims in an Islamic State; on the nature and obligation of jihad; on the possibility of legislation; and on the permissibility of painting, sculpture, mixed acting and so on. The Ulema presented a plurality of view

points on many of the important issues involving the working of an Islamic State whereas the judges of the court seemed to present a coherent picture of what an Islamic State is and what it entails for its Muslim and non-Muslim citizens concerning their rights and duties etc. The judges seem to be of one view in their regard to Pakistan's obligations as a member of the United Nations and to international law, (e.g., in the treatment of prisoners of war in a jihad). The Muslims of the second century of Hijra created this branch of science and developed it to the point that non-Muslim historians admit today without hesitation that it is more humane than modern western international law.

It is obvious that there are traditional differences amongst the ulema who belong to different schools of thought. These schools of thought have been degenerated, through a long period of time, into exclusive politico-legal systems, every one of which is deeply convinced of its self-righteousness. It seemed, at one time that the ulema have at last, agreed on the nature of an Islamic constitution when they met in Karachi to agree on the 22 points referred to earlier. But if one looks at these points they also exhibit the same syndrome as the points of general agreement that obtain between the orthodox and the modernist, i.e., they are too general. In addition to their generality, an other significant
dimension is added in this case and that is the fact that this agreement was a tour-de-force brought about by great personal efforts of certain individuals who implored the ulema to join hands together and save Islam from the criticisms of the skeptics who considered the differences in Islamic beliefs a reason sufficient enough for its impracticability. The unity was not a result of an inner desire to express Islamic principles in uniform modes of behaviours.

This seems to be the only time when ulema showed any amount of cohesion and unity amongst themselves but even this was with misgivings against each other. After this and outside of the domain of these 22 points a scholar of one sect hardly sees eye to eye with the scholar of another sect. They are, so to say, entrenched in the narrow terrain of one particular school of thought and entertaining propositions from another school amounts to them as compromising of fundamental principles of Islam. The most organized religious party of Pakistan, i.e., the Jamat-e-Islami, which spearheaded the demand of an Islamic Constitution for the country is commonly considered to be the party of heretics by Deo-Bandi, Berelvi, and Ahle-Hadith ulema, none of which group is prepared to allow the Jamaat-i-Islami to come to power and decide matters concerning the Islamic character of the state. That there are exceptions to this rule, but by and large the differences between the thinking of

187. Mr. Z.A. Ansari, the then Secretary of the Board of Talimat-e-Islami, made a significant contribution to this effect. This information is based on a personal interview with him.
Jamaat-e-Islami and these ulema are considered to be of fundamental nature.\textsuperscript{183}

The group of the orthodox ulema is divided into many political or politico-religious parties, each adhering to a particular religious school of thought. Overtly all of them identify their goal as establishing an Islamic state in Pakistan and promulgation of the laws of shari'ah in the country. They use almost identical language in the articulation of their aims and objects, and yet they do not present a united front and common thinking with regard to the details or to the methodology of establishing such an Islamic state. They also sound naive when they talk about modern economic or judicial problem \textit{vis-à-vis} Islamic principles, and do not offer any credible solution for them.\textsuperscript{189}

The above analysis of the difficulties that are faced in making the role of Islam effective in the governance of Pakistan may be summarised as follows:

1) That apart from the theoretical differences about the concept of government, in classical tradition, there exists a lack of clarity in the concepts pertaining to the application of Islam to practical situations in modern times.

\textsuperscript{183} The Jamaat-e-Islami ideology is \textit{perjoratively} branded as maujooriat by most of these ulema who have two main objections against it, i.e., a) the Jamat is anti traditionalist and b) that the Jamat is anti sufism.

\textsuperscript{189} \textit{Munir Report, Op.Cit.}, pp. 214-244.
2) That there is a manifest difference of opinion and a lack of proper communication of ideas between the modern educated and good intentioned Muslims on the one hand and the orthodox ulema on the other.

3) That there exists a significant difference of opinion amongst the orthodox groups themselves, significant enough to make the applicability of Islam difficult to practical situations.

4) That the most organised religious oriented political party of Pakistan, i.e. the Jamat-e-Islami is alienated from the orthodox ulema to a very great extent so that any practical steps in applying Islamic principles taken by this party are fraught with the danger of opposition from the other religious circles of the country.

The role of Islam and Economic Sphere of Life:

The role of Islam in the governance of Pakistan has been exemplified in the constitution-making process in the above chapters. But political domain is not the only domain which is exclusively relevant to this problem. Modern constitutions have, invariably, a reference to the economic behaviour of communities as well, and hence problems of purely economic nature also become part and parcel of political activity. We have said earlier that the election speeches of various political leaders\(^\text{190}\) show a marked tilt towards economic problems of the country and in almost every case a reference is made to Islam, as Islam is said to provide guidance for economic behaviour as well.

\(^\text{190}\) See Appendix.
The orthodox ulama lay quite a great emphasis on the economic aspect of the Islamic state, as there are clear injunctions in Quran and the Sunnah of the Prophet which are either purely economic in nature or economic and moral both. The prohibition of riba, the collection of zakat by the central treasury, restrictions on earnings and expenditure, law of inheritance are examples of such commandments. The demand of religious minded persons that these laws and practices ought to be promulgated with constitutional guarantees are reflected in successive constitutions of the country.

One of the most outstanding demands in this connection has been of the prohibition of riba, or interest. This demand seems to be simple, and could be implemented without much difficulties according to the orthodox ulama, who very simply think that the trade, industry and banking can very easily be switched over to the system of mudharabat or partnership. They do not visualize that an interestless economy, for the time being at least, is only possible if means of production are completely nationalized. The orthodox ulama are mostly unaware of the intricate and complex mechanism of modern economics. But the greater hurdle lies with the modernists who find themselves incapable of running an interestless economy with capitalistic perspective. Hence the modernists are either forced to justify the role of interest in our economy\textsuperscript{191}, or

\textsuperscript{191} Fazlur Rehman: 'Riba and Interest', March 1964, \textit{Islamic Studies}. 
make halfhearted attempts to placate the orthodox by making ambiguous provisions in the constitution\footnote{The 1956 and 1962 Constitutions, for instance, containing the following; "The state shall endeavour to eliminate riba as early as possible", or "... riba should be eliminated".} or by opening research cells in the State Bank of Pakistan for research in interestless economy from which nothing comes out.

The collection of zakat is also a tricky problem. The government aided agencies like APWA etc. are hardly able to collect any significant amount of zakat, whereas the government has never made it obligatory for the Muslims to pay zakat to the government treasury; fearing that such move may be opposed by a vast majority of people under the influence of orthodox ulema.

The same is true with restrictions on certain means of income like horse racing, speculation etc. which have never been prohibited by the government. By and large the economic measures have remained inactive throughout this period, except probably for the law of inheritance, were also, ways and means have been found to retain the wealth concentrated in few hands. The role of Islam has thus been minimal in the economic sphere of the country. A petty tradesman may be practising a moral or religious code, but the economic system, of which he is only a cog, has remained indifferent to Islamic injunctions.

There may be a lack of proper good will behind the desire of promulgating Islamic economic system in the country,
but it is not enough explanation for it not being practised. The present day economy is a highly complicated and technical affair and much research and *ijtihad* is required to put Islamic injunctions into practice in the contemporary world. Such research and *ijtihad*, again, is not an easy task due to the polarization of Islamic and modern learning. Apart from the central question of interest much of *qimar* (speculation) is involved in the present day stock exchange markets. Buying and selling, again, is done without actually seeing, or taking possession of commodities which is said to be prohibited by Islam. Modern trade practices are so universal that if you insist on a certain method you either lose, export market or you cannot import a certain commodity thus bringing the trading to a halt. It is due to this complexity, on the one hand, due to the incompetence of modern man and *ulama* on the other, that the role of Islam in the governance of economic affairs of the country has remained insignificant throughout these 25 years of its existence.

**The Problem of Nationalization:**

So far Pakistan economy was run on the capitalistic system, and any talk about nationalization, or socialism has been only nominalistic and theoretical. But since the parties in power have recently given up a capitalistic economy for the country, in the days to come, the problem of nationalization may...
become the main issue between the orthodox ulema and modern educated people with a leftist commitment. After an exposure of Pakistanis to China the antagonism against socialism, and socialistic economy has already diminished. The ulema, by and large, oppose nationalization but their opposition has lost its sting and a group of Jamiat-ul-ulama (Mufti Mahmood and Maulana Hazarwi) are not so much averse to the idea of partial nationalization which is evident from their behaviour in joining their hands with parties (i.e. NAP) who advocate socialism, rather than with those who oppose it (i.e. Jamat-e-Islami).

Even after a constitution is fully accepted by the country economic issues are expected to reign supreme and either a new interpretation of Islam with regard to nationalization is going to be evolved, or the present day clamour for socialistic economy is going to prove itself to be a farce and being used as election stunt only. Whatever be the case, the result is that it has certainly developed an enthusiasm in the country and has created a soft corner in the heart of public who do not now seem to consider socialistic economy anti-Islamic. The traditional Islamic thinking would definitely be facing the impact of this newly aroused consciousness.

Certain other problems which were once an impediment to the effective role of Islam in the governance of Pakistan have gone in the background leaving way to the above mentioned economic problems. One of such is the problem of the place of
minorities in the state. Part of this problem is solved by
the secession of East Pakistan where a most of the minority
communities lived. The problem of Ahmadis which was problematic
at one time has subsided in the clamour of Democratic Socialism.
But it may erupt at any time, since the orthodox thinking,
inspite of its internal differences, seems to agree on excommuni-
cating the Ahmadis from the Muslim Ummah. This is evident from
the report of the court of enquiry cited earlier in this thesis.

The Problem of Intentionality:

This is one of the mostly talked about impediment
supposed to be in the way of making the role of Islam effective
in the governance of Pakistan. It has become a platitude to say
that the Muslims only profess Islam but do not practise it. In
some cases, it is said, they do not even have the intentions to
practise it. Political slogans based on Islam are one of such
examples. The political leaders of the country, without any
significant exception have been proclaiming from the pulpit
that Pakistan is to be an Islamic state. If behaviour be the
criterion of their veracity, the orthodox would say, they have
been telling gross untruths as neither in their personal life
is there any regard for Islamic injunctions nor in their social
behaviour can we discern any serious attempt to implement
Islamic principles. Hence they are accused of bad intentions.

The problem of profession and practice is not as simple
as it looks on the face of it. To an outside observer Pakistanis
would look to be one of the most religious minded and practising
community in the world.
It would be too much to brand all the modernists as devoid of good intentions, or to call general public hypocritical. The masses seem to be religious minded and practise whatever they consider as religious. The fault does not lie with the practice, but with the meanings they attach to their profession of Islam. Practising Islam has been reduced to fulfilling certain religious obligations and conforming with certain outward forms. If you ask a common man who is the most religious man that he knows, he would, without hesitation point out to a man who possesses these outward characteristics and would not bother to look for qualities in character and quality of behaviour. This is a very significant shift in the conceptual understanding of Islam, which shifted emphasis on moral behaviour rather than on outward stereotype of a form. A tradesman practicing obligatory prayer five times a day and fulfilling other requirements of the same nature, may not consider filing wrong income tax returns as irreligious or immoral, not because he is not practising Islamic teachings, but because he considers that his trade behaviour does not come under the purview of Islamic teachings or if it does, it is of minor importance. This is the reason that for a common man the demand of making Pakistan a true Islamic State, hardly means any thing more than observance of some religious practices by the government officials or the prohibition on drinking, prostitution, horse racing etc.

The modernists too who talk about Islamic teachings, cannot be summarily accused of ill intentions. In most of the cases their difficulties are of a different kind. Devoid of
deep Islamic learning, educated in a different system and yet having deep sentiments for Islam, they hardly know what to do and how to do. It may be true that some of them might have used or may still be using Islam as a slogan for their political aggrandizement but this could not be true for the majority of modern educated Muslims. They do not seem to be ill-intentioned, but are rather perplexed and indecisive. The onslaught of modern rationalism and scientism is eroding their faith as no new rationalistic attempt for justification of their religion is forthcoming. Iqbal did try to rehabilitate Islam through his Reconstruction of Religious Thought in Islam but the later scholars failed to respond to the challenge of the time and the cause of religion now seems to be going by default. For a good intentioned modernist in power it is not the lack of motivation, but a lack of the understanding as to how a certain injunction could be implemented that comes in his way for making the governance of Pakistan Islamic.

The need for Research:

It seems clear from what has been said above that the basic need for this community is creative thinking. In the absence of any clear-cut and precise account of the structure of government as envisaged by Islam, the Muslim society has to evolve for itself a viable structure keeping its historical continuity in full view. Nations may live without abundance of material wealth, but they die when they become intellectually sterile, and become a different nation if they are cut off from their history. The contemporary situation in Pakistan is a difficult situation. The polarity of knowledge is growing at the roots of our history on
the one hand and on the other hindering the Pakistani nation to become a different nation. The only desirable course of action lies in ending this polarity and that can be affected by joint efforts of research of the two groups. So long as our educational system is not completely overhauled and the bifurcation of the secular and the sacred ends, one can hardly expect the state of affairs to change significantly. So begin with, it may start by cooperative research activities of the classical and modern scholars on problems that have a direct relevance to our political and economic situations. What is required is the restoration of an enlightened faith and not a blind faith in the efficacy of Islamic principles. One should at least have some knowledge as to how Islam can play a positive role in the governance of Pakistan.

Identification of Islam with other Systems:

The lack of positive and creative thinking about Islam has lauded the Muslim intellectual into apologistics of religion. Apologistics is bound to fail, as it has failed in case of Christianity. So long as Islam is approximated with current fashions in politics, economics or morality its inner creative potentials would remain dormant.

In a sense it is good to look outwards but looking inwards and discovering the possibilities of unfolding the Islamic self in new and appropriate forms is the pre-requisite of the life of a Muslim nation. Looking for confirmation of democracy, socialism, nationalization, or any other modern concept in Islamic teachings is a second rate process and a sign of inferiority complex in this nation. A fresh start with a new faith, a
open mind, along with the cumulative progress of Islamic thought is required if a definite role is expected from Islam in the governance of Pakistan today.
APPENDIX

I. Extracts from the speech delivered by Mr. Z.A. Bhutto, President Pakistan People's Part on television and radio on November 18, 1970.

.... But now today after 22 years of tumultuous existence the country is ripped up by controversies divided by regional prejudices and still in search of its moorings, in this span of time Pakistan has had two constitutions and is in the process of moving towards the third. There have been riots and tensions, a continuing economic crisis marked by general instability. East-West relations remain unsettled, the population has grown from 80 million to a 130 and in the wake of chaotic conditions two Martial Laws have been imposed the country.

Lasting Solution

We have gone up and down, sidewards and backwards but neither parliamentary democracy nor military dictatorship have been able to find a lasting solution to the problems that afflict Pakistan. Frustration and desire is written large on the face of the people. We stand on the edge of catastrophe. A new class, small in number, of capitalist barons is unabashedly plundering national wealth while, the overwhelming majority of the people are without food, shelter and clothing.

Unemployment and underemployment both in the country side and among the educated classes mounts menacingly. Our people have been cheated and humiliated, their feelings have been ignored. They have suffered from a massive deception.
Shall we call this the lost generation or the generation that was betrayed? I leave it to you to choose the epitaph. But what about the future? Are the children of this tormented generation also destined to remain in the same squalor and shame?

Dream of Pakistan

The youth of today is losing faith in the future. The dream of Pakistan was not to end in the agony of its people. It was an invigorating dream. This dream was to mature in a great new society for the benefit of the common weal.

For you, my dear listeners and for all those who have been the victim of the most inhuman exploitation known to contemporary times, this intolerable state of affairs has to be brought to an end. It is our moral duty to lift the people of Pakistan from the quagmire of poverty.

There was a time in the history of Islam when the Great Omar declared that if along the banks of the Euphrates should a goat die of starvation the Khalifa of Islam would be answerable before Almighty Allah. Here is Pakistan — in the largest Islamic State — men and women die of starvation by the thousands. Our children sleep on the streets without shelter.

Islam Not in Danger:

Let me make it quite clear that in truth there is no dispute over religion. Islam is not in danger. Islam can never be in danger. In the history of Muslim nations
the decisive attacks against Islam have come from outside. In Spain the Muslims were conquered step by step by their Christian opponents. In Palestine a foreign colony has been implanted and holy city of Jerusalem wrested from Muslim possession. Here again the attack against Islam has been external; men alien to the faith, that is, Jews have fought against Muslims. In India there has been a long history of confrontation between the Hindus and the Muslims. In recent years however there has been a new and alarming development. Islam is being attacked from within, Muslims are being pitted against Muslim in the name of religion.

There are Muslims who are proclaiming that other Muslims who do not accept their political views are not Muslims but Kafirs and are to be killed. One million Muslims in Indonesia were killed by Muslims because foreign powers wanted it so. The campaign that is being carried out in Pakistan is also quite systematic. Along with the propaganda in the false guise of religious zeal there is a phenomenon which is clearly linked with it. People who have been notorious for their hostility to Pakistan, some of whom vilified Pakistan and its Great Leader when it was formed, are today posing as the upholders of the Pakistan ideology. There are persons in Pakistan who are loudly proclaiming themselves as the sole interpreters of the Muslim faith. Dear listeners, if you are Muslims, please reflect what this implies because the claim that there are self-appointed and final living interpreters of Islamic concerns you closely. The Islamic world is divided into
a large number of sects; classically there are 72. Each sect bases its authority upon its own interpretation of passages in the Holy Quran.

Exploiters and Exploited:

In the course of Muslim history there have been many tragic periods of sectarian persecutions; but since many years, fortunately, most sects have learnt to the doctrine of tolerance established by the major orthodox sects to which the majority of the Muslims of Pakistan belong. This peace is now being broken deliberately by persons who are proclaiming that the touchstone of belief lies not in faith but in politics. This is a most dangerous development and it can lead to fratricidal carnage; but I can assure you, my countrymen, that we are determined never to allow another Karbala to take place on the soil of Pakistan. This country was not made to become the Granada of Asia. The struggle in Pakistan is not between Muslim and Muslim but between the exploiters and the exploited, between the oppressors and the oppressed. If the citizens of Pakistan are provided with employment, with food and shelter, with schools and hospitals, indeed with normal facilities, we would be acting in conformity with the injunctions of the Holy Quran and the Sunnah. I repeat with all the emphasis at my command that Islam is not in danger in Pakistan.

The awakening of the people and their increasing determination to resist exploitation has endangered vested interest. That is why the vested interests are exploiting religion to divert the people's attention from the main point
in dispute. And that is why, in contrast, we are making it plain that there can be no progress, no end to our miseries unless exploitation is wiped out. We require fundamental changes in our economic structure to be able to stem the tide. None of the problems are as serious as this one. For this reason my party has placed its central emphasis on the economic social problems of Pakistan. This generation must end the monstrous economic and social inequalities. The discontent we see around us will lead us to reform if we are wise, or to chaos if we ignore the lessons of history. Which shall it be? This is the burning question, and it must have an answer soon for we are now in a dangerous state of mental and physical agony. We stand face to face with the necessity of making a quick decision which may in all probability involve the fate of our nation. One thing is clear enough.

The preservation of the status quo will not be tolerated for long. Whether the answer to be made shall be for reform or be made for annihilation, that answer will be given by those who are dissatisfied with existing conditions. We are passing through a phase similar to the one that Europe witnessed during the great Depression. Like the institutions of Europe the institutions of Asia are crumbling under the strain of an economic crisis. The same kind of polarisation is taking place here that took place in Europe about forty year ago. That is why it is so necessary that we grapple courageously with the existing realities.
Nationalisation

There are various methods of running nationalised industries. They can be run directly by the State agencies, they can be run by autonomous State organs, they can be run by local organs, they can be run entirely autonomously. How each industry and enterprise is managed will depend on the actual circumstances. We shall bring into the public sector all basic and key industries. We shall take positive steps for creating essential industries. We shall take oil and gas and other natural resources will be nationalised. I need not emphasise the necessity of bringing the infra-structure under the control of the State. The transport will come into the hands of the people. At the same time we do not propose to nationalise industries that are functioning competitively and whose control in private hands is not detrimental to the security of the State. Thus we propose to bring about a harmonious equation between the public and the private sectors to ensure that the people or the country stand to gain.

The rural problem is a complicated one and it requires energetic attention. Positive ways of dealing with the rural problem will be in the forefront of our programme. We cannot leave the fate of our peasantry entirely to the anarchy of private possession. There must be a bold and an imaginative agrarian programme aimed at reformation. The remaining vestiges of feudalism require to be removed. State lands will be given to landless peasants, cooperative farms will be introduced on a voluntary basis. The small landowners will be exempted from the payment of land revenue and self-cultivation will be land
down as a principle of land policy.

It is necessary for the growth of agricultural productivity that surplus labour should be taken away from the land. Under employment works as a deadweight on the growth of an efficient agriculture. We propose the founding of new cities, say about 200 which will be closely linked to the agricultural countryside as centres for processing agricultural products, as market places, as well as localities for establishment of small industries needed for agricultural economy.

**Islamic Socialism**

I am convinced that most of these profound changes can be made but I am equally convinced that none of them can come about under the present economic and social structure. That is why it is imperative to reject the present system of capitalism and to replace it by Islamic socialism. Only by this indigenous system of our own will we be able to banish poverty.

I am not the innovator of the concept of Islamic socialism, I am merely following the doctrines of the Quaid-i-Azam, and of my conscience, by preaching Islamic socialism with all the strength and power that I am capable of mustering. On the 26th of March 1948, the Quaid-i-Azam said:

"You are only voicing my sentiments and the sentiments of millions of Mussalmans when you say that Pakistan should be based on sure foundations of social justice and Islamic
socialism which emphasises equality and brotherhood of man. Similarly, you are voicing my thoughts in asking and in aspiring for equal opportunity for all."

The principal lieutenant of the Quaid and the first Prime Minister of Pakistan, Mr. Liaquat Ali Khan, said on 25th August 1949:

"There are a number of isms being talked about now-a-days, but we are convinced that for us there is only one 'ism', namely 'Islamic socialism', which in a nutshell, means that every person in this land has equal rights to be provided with food, shelter, clothing, education and medical facilities. Countries which cannot ensure these for their people can never progress. The economic programme drawn up some 1350 years back is still the best economic programme for us. In fact, whatever systems people may try out, they all ultimately return to 'Islamic socialism' by whatever name they may choose to call it".

There are not the only utterances of our two great leaders on this question. For want of time I am unable to quote their other speeches on the subject. Nor do I have the time to quote Mr. Hussain Shaheed Suhrawardy, our popularly elected Prime Minister, who is also on record in endorsing Islamic socialism.

Not Alien to Islam

Islamic socialism is not alien to Islam. It is not in conflict with our beliefs. If British parliamentary democracy is not in conflict with Islam. I fail to under-
stand how the values of equality and brotherhood which Islam gave to the world can be opposed to Islam.

Islamic socialism means that we will have a socialist economy according to our conditions, covered by our own traditions and in conformity with our values and ideology. Only this kind of economic structure can provide equal opportunities for all, protect the citizens from exploitation and remove the barriers between the privileged classes and the exploited classes. Socialism is of direct interest to Pakistan, an underdeveloped country marked by internal and external exploitation.

The roots of socialism lie deep in a profoundly ethical view of life. We of the Pakistan People's Party earnestly maintain that the high ideals of Islam in relation to society can be attained only through a socialist system abolishing the exploitation of man by man. We believe that the nature of justice in the world demanded by our religion is inherent in the conception of a classless society. In this Islam differs fundamentally from other religions. Islam recognizes no castes. Capitalist society has a class structure which is opposed to the equality and brotherhood enjoined upon Muslims by Islam. When we call our economic programme Islamic socialism we are perfectly within our rights and also within the moral traditions of Islam. In the name of justice the Pakistan People's Party spells out Islam in concrete terms of fraternity and friendship but our opponents, the self-appointed monopolises of Islam, condemn it in the
name of socialism. Their manifestos, however, use the same language and the same words without calling it socialism. This only shows how they are desperately seeking to double-cross the people.

Such people stand condemned by their own contradictions. The real reason for the spiritual trepidation of big business and its hirelings is the prospect of nationalisation of industries and banks. Although at present we envisage only the nationalisation of heavy industries and other connected industries and not those that can work efficiently under competitive conditions, nevertheless because we start from the premise that the possession of the means of production in private hands is the cause of exploitation of the workers and the masses, a powerful conspiracy of vested interests has been hatched against the Pakistan People's Party. We are not afraid of this conspiracy, we are confident that with the support of the people we will destroy it.

Once far-reaching internal changes are brought into being and the economy of Pakistan harnessed on an egalitarian pattern, we will be able to establish internal tranquility. The acquisition of this new strength will enable us to complete our mission.¹

II. Extract from the speech delivered by Mr. Mian Mumtaz Mohd Daultana, President of Pakistan Council Muslim League on television and radio on November 13, 1970.

Honoured Compatriots.

It is my privilege today to talk to you about a memorable feature of our national landscape. For the Pakistan Muslim League is a part of our history. It has also to a large measure determined the course of that history. Its main function, therefore, is to preserve the inspiration which made the people of Pakistan capable of having a history. This is to be preserved by keeping faith with the evolving endeavour, fruitful aspirations and potentialities of our creative ideology.

The question has to be asked: Why has Pakistan an ideology? Because it is a country not come upon, but created through conscious efforts, a land not found but founded on principles clearly perceived, and achieved through a precisely directed democratic struggle. For such a conscious creation there must be an articulate and irresistible motive. That motive is our ideology.

Pakistan is not the accident of geographical compulsions, nor is it the result of age-old involuntary racial or linguistc affinities. It is certainly not the gift of a conqueror or an autocrat.

The people of Pakistan, in every region and province of Pakistan, are one today, because they acquired identity, personality and the distinctness of nationality
through the conscious possession for a common faith. They fought for and won their freedom from many servitudes precisely and exclusively on that basis. Therefore, the Islamic way of life and adherence to the precepts of our religion is the differential the justification and the guarantee of our patriotism.

Love of Freedom

Islam made and makes us one. The urge for freedom won us our liberation. The struggle for freedom, at one and at the same time directed against British imperialism and Hindu domination was waged by a Muslim people geographically set apart by a shared history, a unified experience, a common danger and a united victory. Love for freedom, then, is a distinguishing and intrinsic quality of the people of Pakistan. That urge, directed externally during our liberation struggle, is today vitally and irresistibly internalised in our commitment to a full, free and unrestricted democracy and a total rejection of all forms of dictatorship and autocracy. The same quality and flame of ideology which brought us liberation in 1947, repudiated and defeated autocracy and arbitrary rule in 1969.

Another strand in our national struggle, for freedom was the rejection of the economic exploitation of man by man. Through a planned and sinister manipulation, the Muslims of India were the most exploited and economically
backward and improvised of the people in the Sub-continent. Exploitation as a nation, and the sharpness given to our struggle by a sense of inhuman and unjust deprivation, gave our fight an economic dimension. It committed us to egalitarianism and fraternity in social and economic terms. Directed externally in our crusade for liberation, it is intrinsic now in our ideology, and therefore demands justice and the end of all forms of exploitation as an internal necessity for the national polity of Pakistan.

The spirit of Islam, based upon the value, the dignity, the inherent merit, the capacity for self-improvement, and the sufficiency for salvation of individual human personality, prescribes freedom not only as a value but as a necessity of life, and poses fraternal equality in all material spheres as a spiritual creed. Therefore the ideology of Pakistan based on faith, freedom and fraternity becomes as integrated harmony which, derived from one source, given significance to our manifold history and direction to all the varied richness of our national needs.

However many-splendoured a mansion, it must be raised on precise and firm foundations. Once built, you cannot keep the mansion and dispense with the foundations. Therefore Pakistan either stands on Islam or falls altogether. To substitute and to import a new ideology for Pakistan today whether it is Communism or Socialism or Capitalism
or any other 'ism' or philosophy or doctrine of materialism is to destroy the home we made and bled for, and to substitute for it, whatever new identity or structure you like, but which would certainly not be our Pakistan. This is truer of us than of other ideological countries, because Russia and China and Cuba and others existed as cohesive units, for centuries before they were converted to an ideology and their age-old interests and pressures ever keep on bulging out of their new clothes, but in our case it was not a land that adopted an ideology, but an ideology that created a country. Nor can we take our way of life for granted following the argument that: "True, Pakistan was created by the community of Islam, but now once it is there, why go on prattling about Islam? In Russia they emphasize and reinforce the doctrine of Communism every minute of the day in the United States they preach and build pride in the American way of life how much more so is our urgency to fortify and hold firmly to the principle without which we would never have come into being nor continue to exist today with any validity.

**Islam and Democracy**

The creed of my Party then consists of Islam, democracy and economic justice according to the spirit of Islamic egalitarianism and fraternity.

The Islamic way of life is all inclusive and seamless and converse every aspect of human conduct. Ultimately
therefore it is a personal responsibility and a crown
won by each individual for himself. But it is the deter-
mination of my Party to ensure by substantive provisions
in the Constitution and by positive law that the
observances of the Islamic way of life and its moral
standards is ensured in such a way that the Muslims are
enabled individually and collectively to order their lives
in accordance with the precepts of the Holy Quran and
Sunnah; that no law repugnant to these precepts is made
and that all existing laws are revised to bring them in
accordance with the requirements of the Holy Quran and
Sunnah. At the same time in direct consonance with the
spirit and traditions of the Islamic heritage it will be
our first duty to protect and promote the interests and
just aspirations of the minority communities, and to give
them a secure and dignified place in the society and
polity of Pakistan.

Our past struggle, trials and tribulations have made
us uncompromising with respect to the attainment of an
unambiguous and unqualified form of democracy. Our immediate
aim is a democracy without its and buts, pretences and
preverification. We stand to achieve a federal parliamentary
democracy wholly and exclusively based on the sovereignty of
the people as expressed through regular, fair and free
adult franchise, direct elections. Justiciable and exhaustive
Fundamental Rights, the abrogation of special repressive laws,
complete freedom of the judiciary, and full liberty
of expression through the Press and other ways will be
some of our immediate aims.

**Economic Justice**

Economic justice, equality of opportunity and a
fraternal sharing of national wealth is a condition of
ture freedom but can only be tranquility and popularly
achieved through democracy. We want economic justice
and human freedom to reinforce and not to negate each-
other. While believing in the right of private property
and the value of individual initiative, we consider the
removal of inequalities, the achievement of a fair
distribution of wealth, and the establishment of a
welfare society as a proper function of the State. The
Economic Resolution passed by the Council of the Pakistan
Muslim League in September, 1968, sets out the details of
our specific objectives in this respect and will be further
articulated in our forthcoming manifesto. In briefest
nutshell, my Party stands for nationalization and public
control of banking and insurance; of heavy industries like
steel, chemicals, heavy engineering, ship-building,
armaments etc., of all sources of energy, mines and mineral
resources; and of all sorts of transport. The profits of
all industries based on indigenous raw-materials should be
colperatively and equally shared by labour, the primary
growers and the enterpreneurs. The rights of workers,
guaranteed by law, should include minimum wages, share in profits, free trade union organization, right of strike and full insurance. While the minimum limit of land-holding should without any exception be 18,000 produce-index units, namely 250 acres of optimum land, the priority of agriculture in our national economy should be emphasized by cheap and easy provision and maintenance of machinery, improved seeds and fertilizers, reduction in water rates, crop and cattle insurances, guarantee of fair price, and application of income-tax exemption to land revenue. By statutory means concentration of wealth would be controlled that private income from any source does not exceed the equivalent of income according from 250 acres of land till every family is assured of minimum annual income of Rs.3,500. Education must be free upto matriculation, and free to resourceless merit beyond. All facilities and conveniences for full concentration on their studies must be provided to the students, as well as a sense of freedom and self-reliance promoted in their extra-mural intellectual activities. We also demand that the accordance with the nobility and import of their profession.

No one who played the slightest part in the Pakistan Movement can commit the blasphemy of forgetting that our freedom was primarily the fruit of the inspired initiative, the superb effort and the unreputable sacrifices of the Muslims of the Muslim Minority Provinces of Imperialist
India. The Muhajareen therefore are refugees in no permissible sense of the term, they are rightful inheritors of the homeland that they above all created for all of us. To defend the interests of Muhajareen, to guarantee in every part of Pakistan, an atmosphere of cordiality, prosperity, security and harmonious assimilation for them, and to remove their glaring grievances the MLR No. 89 and other discriminatory treatment is a primary national obligation which my Party accept without reservation.

**Primary Task**

Fortunately on the primary and immediate task of Constitution-making there is already much national consensus. The Islamic, and federal democratic character of the constitution is a common postulate. Provinces have been restored in West Pakistan. Provincial autonomy is accepted by all but only in so far as the full unity, stability and solidarity of one Pakistan is beyond doubt. One man, one vote vindicates democracy; the federal character must be reflected in one of so many constitutional precedents that ensure equality of status to provinces.

The Muslim League is committed to regional autonomy. It demands the retention of Defence, foreign affairs, currency and federal finances, and inter-wing communications and trade and such other subjects as may be agreed upon to the Federal Government. It will also urge that it is only a strong Pakistan that is the shield and guarantee of each province and that economic imbalances and disparities can only be removed and compensated for if there is a common pool, focus and centre
operative in the interest of the Nation as a whole.

I will end on a word about the Pakistan Muslim League the Pary of the Quaid-i-Azam and Mader-e-Millat. Although we brough Pakistan into being it belongs to others as fully as it does to us. We claim no monopoly of patriotism although we made patriotism a possibility for Pakistanis. Though for many decades we and we alone resolutely fought against each and every one of the national enemies; foreigners like the British and the Hindu Congreas. Muslims who made common cause with them, within Pakistan the despoilers of freedom and democracy, we claim no credit, for doing our patent duty to you the sovereign people of Pakistan. We appeal today that the principles we stand for must be guarded. Your life and honour is pledged to them because you owe them your honour and life. If you give your trust to the Muslim League you will be following a great tradition but choose whom you may our final confident trust is in you.

Pakistan Zindabad.²

². DAWN Karachi, November 14, 1970.
III. Extract from the speech delivered by Mr. Khan Abdul Wali Khan, President, National Awami Party on 6th November, 1970.

Geographical Realities:

... Now in order to assess the political history of this country, certain facts have got to be considered. The first one is the country's geographical position itself. The picture of the Sub-continent as it emerged was Pakistan split in half and India flanked by Pakistan at both its vulnerable points in the West and East Pakistan's own Eastern Wing extending into South-East Asia and Western Wing into the Middle East, strategically lying in the neighbourhood of two Great Powers, Russia and China.

The Sub-continent had hardly recovered from the smock of being torn as under when China fell to Communism barely two years after partition. This warranted a change in the global strategy of the World Powers. Pakistan's geographical and strategic position put it on the global chess board at once. At the international level, infant country had scracely established its normal contacts till then. Its only leader of any international standing, the Quaid-i-Azam had died in 1948. Internally the country had to a start from the scratch. It was almost crushed under the heavy influx of millions of refugees who came pouring in from across the border, and its economy received a severe setback. Almost the entire political leadership came from across the borders who did not have their roots in the country of their choice, so they had to rehabilitate themselves first.
Similarly leaders in the administration, industry and commerce also came to a new country - full of enthusiasm and patriotism, but to a new social and cultural environment, ignorant of the sentiments and aspirations of the different regional societies and the linguistic and cultural attachments of the different regions.

Sacred Trust:

The country's politicians proved themselves thoroughly unworthy of the sacred trust reposed in them and what a trust - the country gave them a blank cheque, put up with economic hardships, even compromised on their civil liberties and fundamental rights, tolerated inroads on their political, democratic and constitutional rights. And yet the politicians started what a foreign correspondent called "political musical chairs". Palace intrigues started and that was the beginning of the surrendering to the bureaucracy gradually. The country was still without a constitution even in 1958 - a country claiming to be an ideological state. In the process we witnessed the dissolution of the Constituent Assembly over which had presided no less a person than the father of the nation.

So political pressures started building up gradually. The country was promised elections under a constitution in the beginning of 1959. At last some hope of subjecting the country's political leadership to the bar of the public opinion was kindled. The Martial Law of October 1958 came in the way of fructification of democracy and transfer of
the sovereignty to the people of the country. Even Martial Law was hailed if it would keep its promise of getting rid of those corrupt and self-seeking politicians who ruled this country.

But the first man arrested by Martial Law was Khan Abdul Ghaffar Khan followed by Abdul Samad, Prince Karim and Maulana Bhashani, even though these people were in no way connected with the Government. They were on the contrary their bitterest critics.

So the Martial Law was not against the past political regimes but their 'bitterest and consistent critics and was directed against those political elements who might have emerged in some effective power if democracy were restored.

Rift in the Socialist camp brought about a second fundamental change in the global strategy of the World Powers. Was it surprising that Field Marshal Ayub Khan's Government started talking of common defence with India and which was turned down by Pandit Nehru in his famous retort, "common defence against whom"?

Economically:

The country is under debt to the tune of about 2000 crores but only a certain class of vested interest has been benefited by it. Their only consideration has been the accumulation of wealth with the result that there are these yawning disparities between the two Wings of the country and also among the different regions and provinces of West Pakistan wherein the per capita income varies from approximately
300 in the N.W.F.P. 400 in Baluchistan over 600 in the Punjab and 800 in Karachi and Sind.

**Politically:**

We find that as the result of the policies of the past Government that killed democracy here and tried to eliminate politics completely by introducing the B.D. system where the concept of collective and national thinking was replaced by going back to our family and tribal loyalties. This cut through the vitals of our national integration and with a limited number of voters money began to play a more effective and rewarding role than policies or political parties. Small wonder there is not a single party in this country which can deliver goods at the national level today.

But the most damaging part of all this is that this country was not given a chance to throw up young and dynamic leaders with vision and foresight who could rise from amongst the people, rise above their provincial prejudices and interest and crossing the local frontiers, function at the national level. This fact became more conspicuous when on Jan 1, 1970, President, Yahya gave a green signal for the resumption of normal political activities in the country. It was painful to see those old or rather ancient leaders jumping into the arena with the same old emotional slogans and sentimental appeals which may have been effective in 1946 but which are totally out of context in 1970.
The country has undergone a tremendous change in the last 23 years of its existence and people have learnt quite a lot by bitter experience and have grown older in the process, but the only people who have not grown a day older are these old politcains. The country is faced with these very serious challenges both at the national and international level. Inter-Wing and intera-regional prejudices suspicious and hatred are there as a result of defective economic planning and lack of political activity. How are we going to meet this challenge is the prime question?

**Serious Challenge:**

Now how are we going to meet this serious challenge when the country has not got its own constitution as yet; by raising slogans appealing to the sentiments or playing on peoples emotions or as quite a lot of these stalwarts are doing - indulging in mudslinging and accusing one another of being agents of one country or another. Pro-this and anti-that - or even coining additional slogans some Islam loving elements thereby suggesting that those outside the fold of those political parties the Islam-hating.

Some so-called custodians of the ideology of Pakistan are harping on a strong, or weak centre never caring to define what a strong centre actually means - forgetting conveniently that our present ills are entirely due to this administrative regimentation and concentration of power in one hand. We should be talking of strong Pakistan and that certainly does not mean a strong centre of former President Ayub Khan.
The NAP feels that the integrity of this country is directly linked with national integration and that can only be achieved by conscious and effective sense of participation by all citizens in the political and economic policies of the State.

All citizens are to be treated as equal irrespective of caste, creed, region, language, culture and religion. No detention without trial - speaking from personal experience when I was detained without any trial. There were thousands like me although accused of anti-state and disruptive activities and being enemy agents and all sorts of other crimes in the press but not one was ever tried in a court of law and they include the Chief Minister of province, Dr. Khan Sahib who suffered the same fate from 1948 to 1954. Also Qazi Ataullah Khan, our Revenue Minister who died in detention and members of the legislature also detained so that the province could be ruled with minority support in the Provincial Assembly.

Our Problems:

Now let us approach our problems in a scientific manner. Religion and the state cannot be controversial issues under any circumstances and they certainly are not the issues involved in the coming elections. The two basic issues are the system of Government and the pattern of the country's economic structure. Here are scores of Muslim countries stretching from Indonesia to Morocco and Algeria and they all have different systems of government. Now which one of
these could be called Islamic and others un-Islamic.
And the same can be said about the economic systems of
these Muslim countries.\textsuperscript{3}
IV. Extract from the speech delivered by Maulana Syed Abul A'la Maudoodi, Amir, Jama'at-i-Islami, Pakistan on television and radio on November 3, 1970.

Jama'at-i-Islami has been working in Pakistan for the past 23 years for building up the society and the State on the principles of probity and equity laid down by Islam.

Its objective is to develop Pakistan into a State which would follow the example set up by the first four successors of our Holy Prophet, would eradicate all form of tyranny, exploitation and corruption, would establish justice in all the spheres of life, would guarantee the provision of the basic necessities of life to every citizen, would increase the country's wealth by all legitimate means and organise its equitable distribution among all citizens.

It will be a democratic State in the real sense of the term. Only such persons will be elected to office in this State whom the people wish to vest with power and may easily remove those whom they want to dislodge from power and both the processes shall be achieved through fair and free elections. The Jama'at is participating in the forthcoming general elections for these very objectives.

Our stand regarding the various problems facing the country is:

That Pakistan has been established through the sacrifices made by the Muslims, and they made these sacrifices so that they could live in this land in accordance with the Islamic injunctions and principles. Therefore,
there is no justification whatsoever for any ideological conflict in this country. It must be taken to have been settled for all times to come that Pakistan is an Islamic State.

The dream of Pakistan became a reality only because the Muslims shed all racial, regional, linguistic and class prejudices and made a concerted endeavour as only Muslims for its achievement. It was because of this unity that regions which did not possess a common language, nor a common way of life, nor geographical continuity merged into one country. Even today this very unity of faith is the sole guarantee of the country's integrity and solidarity.

Sense of Unity

For the continued existence and promotion of this sense of unity among the various elements of the country's population it is imperative that Islam in the name of which this State has come into being, should be followed and practised and full justice should prevail in the political, economic and social fields in this country so that all regions of this land and all groups and classes of the people inhabiting it, may be fully satisfied with regard to their rights. The Jama'at has prepared a detailed manifesto for the achievement of these objectives.

Our manifesto beings with the constitutional issue. It is within everybody's knowledge that the National Assembly, which shall come into existence as a result of
the next elections, shall have to frame the country's constitution within a specified time-limit of 120 days.

Power shall be transferred to it only in case it frames a constitution within the stipulated period and that constitution is authenticated by the Head of State. In order to make this task feasible and easy of accomplishment, we have suggested in our manifesto that the National Assembly should not try to frame a constitution anew. Instead, it should adopt the 1956 Constitution with four amendments and pave the way for the transfer of power to the representatives of the people so that a democratic Government starts functioning in the country with the least delay. Any other change in the constitution can be made later.

Economic Programme

I shall now explain in brief the economic programme of the Jamaat. This programme has been divided into four major portions; namely, "agriculture", "industry and commerce", rights of labour and low-paid workers' and "general economic reforms".

The major reform we have proposed in the field of agriculture is that all Jagirdaris, old or new, should be scrapped. And as for those agricultural estates to which their owners already have a proprietary title, their area in excess to a certain prescribed limit shall be acquired at equitable rate. The ceiling for this purpose in fertile areas of West Pakistan shall be 100 and 200 acres
and in East Pakistan 100 bighas. For less productive regions this ceiling shall vary according to this very standard.

Lands assumed in this manner shall be sold out to landless cultivators and owners of holdings below economic level on easy instalments. The same method shall be applied to State lands and waste lands made cultivable through the construction of barrages. Every possible effort shall be made to give subsistence holdings to the maximum number of cultivators.

After removing the previous disparities by the above-mentioned method, we shall depend fully upon the shariat laws to ensure that in future no landed estates shall come into existence by unlawful or dubious methods. Similarly, we believe that when the laws of Shariah in connection with Batai and lease are fully enforced and all unlawful methods are stopped, no proprietorship of land will ever be able to assume the shape of an instrument of tyranny and oppression.

Lands upto subsistence holdings in West Pakistan and upto 10 bighas in East Pakistan shall be exempted from revenue. We see no reason or justification that while a minimum limit is fixed for income tax and all persons earning below that limit are exempted from tax, why no such limit is provided for income from agricultural holdings is taxed. We also intend to introduce the principle of sliding scale in the revenue assessment to ensure that persons with lesser income shall pay comparatively less revenue and those with higher income shall pay comparatively
more revenue.

Adequate arrangements shall be made to ensure the cultivations a reasonable return for the crops raised by them and see that the middle-men do not take a substantial part of their earnings, special attention shall be paid to put an end to exploitation in the matter of jute, cotton, tobacco, sugarcane and other cash crops.

An effort shall be made to popularise such handicrafts and industries in rural areas as can remove unemployment as well as increase the income of agricultural population.

End of Capitalism

To spell an end to the inordinate concentration of wealth in commerce and industry, to spread it in the nation and to eliminate the possibility of further concentration we have put forth certain measures, and we hope that the adoption of these measures will cure our economic life of this malaise. Prominent among these are.

Interest, speculation, gambling and all other methods of acquiring wealth that are Haram (forbidden) under the Shariah, shall be prohibited by law. The entire system of banking and insurance shall be changed to bring them in consonance with Islamic principles. The wealth which has concentrated into a few hands mostly through unlawful and Haram methods, shall be severely scrutinized and suitable legal and administrative measures shall be taken to resume
it. A ceiling shall be taken laced on the shares of an individual or a family in various limited companies and all surplus shares shall be put up for open sale. The managing agency system shall be ended. The control of capitalists over banks, insurance companies, share market and Government financial bodies shall be brought to an end. Monopolies and cartels shall be dissolved. The policy of advancing loans shall be radically changed so that small and new entrepreneurs can also obtain loans. The export Bonus Scheme shall be reviewed. The licensing system for industries and the export-import trade shall be changed. And adequate arrangements shall be made to ensure that big businessmen do not gain more than a reasonable amount of profit.

We are not in favour of adopting nationalization as a principle. Nevertheless, if a representative assembly deems it necessary that certain industries should be set up or run by the Government itself it may decide to do so. But it is essential to see that the management of such industries does not fall a prey to the too-well-known evils of bureaucracy.

Labourers

The rights of the labour and the low-paid employees have been clearly set out in a separate chapter of our manifesto. The disparity in remunerations for various posts in our country today is wider than 1 to 100. We shall as a first step reduce it to the ratio of 1 to 20 and then gradually bring it down to the ratio of 1 to 10. In our opinion the basic remuneration according to the ruling price index, must
range between Rs.150/- and Rs.200/- per month. This has to be revised from time to time in the light of price fluctuations.

Low-paid employees should get proper residential and medical facilities as well as the facilities of education for their children. Labourers shall be made share-holders of the respective industries through the grant of bonus shares in addition to cash bonuses.

We have given precedence to the organization of Zakat system in our programme with a view to improving the general economic situation of this country. Through this system it shall be so arranged that nobody is deprived of the basic necessities of life. The Zakat Fund shall not only comprise obligatory Zakat on bank balances, private accumulations, stock-in-hand, agricultural produce and live-stock etc. but also include general charitable donation and financial aids given in the way of Allah. The money thus pooled shall be channelized to support the aged, crippled and disabled persons and orphans and poor children. The unemployed shall get doles out of it till they are fixed up in jobs, the poor shall get free medical treatment, the needy and deserving persons shall be advanced interest-free loans and monetary assistance shall be given to those persons who can stand on their own feet with a little capital.

**Taxes**

In addition it has been proposed in our manifesto that indirect taxation shall be decreased while direct taxation shall be increased so that the burden of taxes on the common
man is lessened. Every possible effort shall be made to end the country's dependence on foreign debts and foreign capital investment and to rid the nation of foreign debts already incurred.

Our programme regarding national health comprises eight suggestions including the provision of medicines at cheap rates, slashing down of expenses on medical treatment, expansion of hospitals, dispensaries and maternity homes, prevention of epidemics and contagious diseases, moral reform of hospital staff, end of adulteration in food and drugs, and sanitary arrangements on a very large scale.

In our manifesto we have guaranteed the various Islamic sects complete religious freedom within the limits of law. They shall have every right to give religious education to their children according to their faith. Their personal affairs shall be settled according to their own code of law (Fiqah) and they shall be allowed to preach their views with full liberty.

As for the non-Muslim minorities, we have guaranteed them full civil and legal rights, and have assured all safeguards for their religious beliefs and rights, culture and personal law.⁴

⁴. DAWN Karachi, November 4, 1970.
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