

Ideology and Constitution of Pakistan SS1013

Week 1: Colonialism and Imperialism

Colonialism

The Historical Context

From 1870 a series of great economic changes in advanced capitalist powers ("Second industrial revolution") brought a wave of new technologies that radically transformed the economy of the most advanced countries.

Cheaper transportation and communication allowed people to travel throughout the world in a way and in a quantity hitherto inconceivable. This process of global integration has been called the first globalization.

In this context we should understand the phenomenon of colonialism or imperialism. Both terms are used interchangeably to refer to the territorial expansion of the European industrial powers, especially after 1870. The result of this expansion was the formation of large overseas empires.

The Causes of Colonial Expansion

The colonial and imperialist expansion undertaken by the industrial powers from 1870-1914 was motivated by several factors:

- Economic factors (raw materials, new markets to sell and buy, valve for population pressure in the metropolis)
- Political factors (national prestige, lobby groups interested in colonization, action of highly influential politicians)
- Geostrategic factors (geographic privileged enclaves)
- Cultural and scientific factors (thirst for knowledge, extension of Western culture)

Causes of Colonialism

When asked about the causes of the European imperial expansion in the late nineteenth century, historians have traditionally favoured economic causes.

Capitalist development led European powers to seek new spaces in which they could obtain:

- Raw materials to supply its industries (textile fibers, minerals...)
- Markets in which to sell their products

- Territories in which the colonial powers could profitably invest capital, usually in infrastructure such as railways, roads, or bridges
- New lands to locate the growing European population, allowing emigration to ease population pressure in Europe

These factors were important, but have been often overstated. It is now known that many colonies were not a good deal for the European countries that formed empires and that, in many cases, the cost of invading and controlling the colonies considerably exceeded the benefits. In fact, commercial exchanges, demographic flows, and financial investments were much more intense between free countries than between the colonial powers and their colonies.

So, without underestimating the economic reasons, which are keys to understanding imperialism, we should focus our attention on other factors.



The nineteenth century was the century of nationalism. European powers faced a race for power and prestige that eventually would lead to the First World War. These political causes, based on national prestige, were keys to triggering and maintaining the colonial expansion.

Each country had its own motivations: France, to forget its defeat by Prussia in 1870; Germany and Italy, recently born nations, to reach the greatness of the old European states. Important politicians like the British Disraeli or French

Ferry ardently defended the importance of colonial expansion to their respective countries.

Geostrategic considerations joined the political motives. Countries often conquered a country to hinder the expansion of a rival power or to facilitate communication between different regions of the empire. This was the case of Gibraltar, Malta, or Cyprus or the Suez Canal for the British.



We also should mention what can be called ideological and scientific factors:

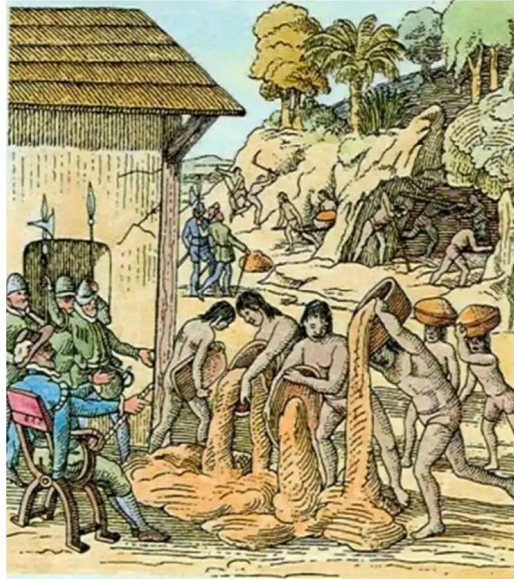
- The eagerness to discover new and unknown territories, something that Europeans had experienced since the fifteenth century.
- The belief on European superiority linked to "social Darwinism".
- The desire to evangelize non-Christian populations.
- The will of extending the values and progress of Western culture.

All these factors were key to understanding European colonial expansion.

Finally, the European imperial expansion cannot be understood without taking into consideration the European technological superiority, the use of quinine to protect Europeans from malaria, and the internal rivalry between ethnic groups that facilitated European invasions.

The Great Colonial Empires and Conflicts between the Powers

European colonial empires were born in the fifteenth and sixteenth centuries. First Portuguese and Spanish, then French, English and Dutch had conquered vast territories on other continents.

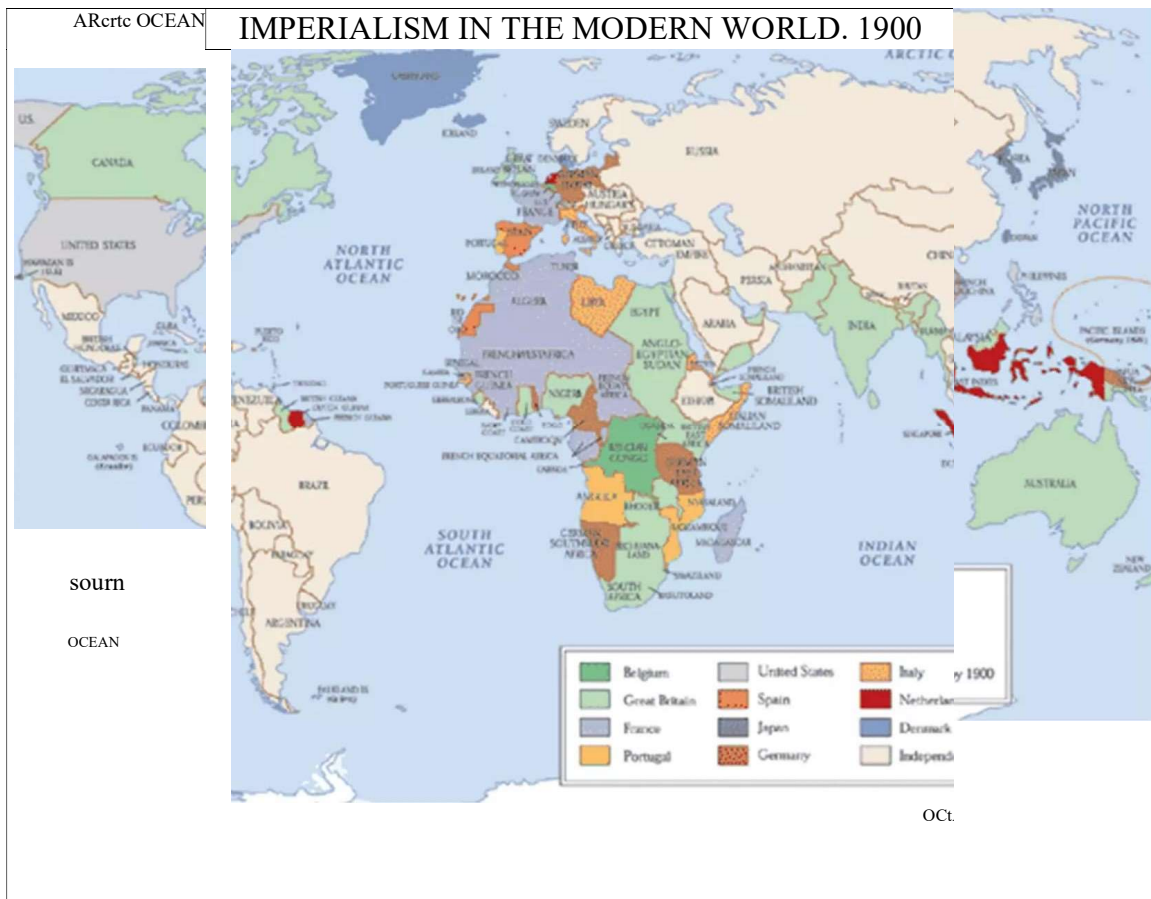


The new expansion of the nineteenth century was led by the great industrial powers.

Throughout the nineteenth and early twentieth century, the various powers were handed an important part of the planet.

- The British Empire constituted the largest in history.
- The French Empire occupied important territories in Africa and Indochina.
- Other empires. European countries like Germany, Italy, Portugal, Holland, or Spain and non-European powers like the United States and Japan.

The metropolis struggle to extend their territories and their interests often clashed and led to diplomatic conflicts. Despite attempts at an agreed upon solution, such as the Berlin Conference in 1895, colonial conflicts were an important factor of international instability.



The British Empire

Great Britain had been established since the seventeenth century as the great European naval power. Encouraged by its spectacular industrial development, the UK configured an empire stretching from Canada in America to Australia and New Zealand in Oceania, from Egypt and South Africa in Africa to the "jewel of the empire," the large colony of India in Asia. Many colonies in Asia and enclaves ranging from the Caribbean (Jamaica) to Asia (Hong Kong and Singapore), to Europe (Gibraltar, Malta, and Cyprus) shaped the most extensive empire in history.

The Consequences of Colonization

The consequences of Western imperialist expansion are complex and it is very difficult to simplify.

Conquest and occupation were based on violence and the colonial system was based on racial oppression and discrimination. In some cases, the economic effects were harmful and indigenous people saw as a foreign culture imposed on their own.

These were some of the most harmful consequences of European colonization:

- Economic exploitation
- Subjection to a foreign control
- Foreigners became the dominant social class
- Loss of its own culture

On the other hand, the Western scientific and technological progress contributed directly or indirectly benefited the colonized populations. We could say that to some extent there were positive consequences:

- Improvement of health conditions
- Access to education for the native elite
- Construction of railways, ports...

Colonialism in Sub-Continent

If looked at the brighter side, even something as out rightly barbaric as colonialism stands a chance of being justified. Apologists for colonialism often use this trademark approach to sweep the British colonial atrocities under the carpet upon which, then, they construct their sandcastle of advantages of colonialism'.

Ascribing advantages to a policy that was premised on oppression not only downplays the endless sufferings that were endured by the millions but also undermines rational thinking. If we start measuring even the most heinous of the acts in terms of the accidental benefits that they might have delivered, as in the case of colonial rule of India, we lose the yardstick to differentiate between the good and bad. But since possessing any such yardstick was least of their concerns, the colonists, and later their apologists, mustered the gall to claim benefits out of the Britain's sordid rule of the subcontinent.

Economy:

The process of colonial rule in India meant economic exploitation and ruin to millions, the destruction of thriving industries, the systematic denial of opportunities to compete, the elimination of indigenous institutions of governance, the transformation of lifestyles and patterns of living that had flourished since time immemorial, and the obliteration of the most precious possessions of the colonised, their identities and their self-respect. In 1600, when the East India Company was established, Britain was producing just 1.8%

of the world's GDP. while India was generating some 23% (27% by 1700). By 1940, after nearly two centuries of the Raj, Britain accounted for nearly 10% of world GDP, while India had been reduced to a poor "third-world" country, destitute and starving, a global poster child of poverty and famine. The British left a society with 16% literacy, a life expectancy of 27, practically no domestic industry and over 90% living below what today we would call the poverty line.

The India the British entered was a wealthy, thriving and commercialising society: that was why the East India Company was interested in it in the first place. Far from being backward or underdeveloped, pre-colonial India exported high quality manufactured goods much sought after by Britain's fashionable society. The British elite wore Indian linen and silks, decorated their homes with Indian chintz and decorative textiles, and craved Indian spices and seasonings. In the 17th and 18th centuries, British shopkeepers tried to pass off shoddy English-made textiles as Indian in order to charge higher prices for them.

The story of India, at different phases of its several-thousand-year-old civilisational history, is replete with great educational institutions, magnificent cities ahead of any conurbations of their time anywhere in the world, pioneering inventions, world-class manufacturing and industry, and abundant prosperity in short, all the markers of successful modernity today- and there is no earthly reason why this could not again have been the case, if its resources had not been drained away by the British.

If there were positive by-products for Indians from the institutions the British established and ran in India in their own interests, they were never intended to benefit Indians. Today Indians cannot live without the railways; the Indian authorities have reversed British policies and they are used principally to transport people, with freight bearing ever higher charges in order to subsidize the passengers (exactly the opposite of British practice).

Railways

The construction of the Indian Railways is often pointed to by apologists for empire as one of the ways in which British colonialism benefited the subcontinent, ignoring the obvious fact that many countries also built railways without having to go to the trouble and expense of being colonized to do so. But the facts are even more damning.

The railways were first conceived of by the East India Company, like everything else in that firm's calculations, for its own benefit. Governor General Lord Hardinge argued in 1843 that the railways would be beneficial "to the commerce, government and military control of the country". In their very conception and construction, the Indian railways

were a colonial scam British shareholders made absurd amounts of money by investing in the railways, where the government guaranteed returns double those of government stocks, paid entirely from Indian and not British, taxes. It was a splendid racket for Britons, at the expense of the Indian taxpayer.

The railways were intended principally to transport extracted resources - coal, iron ore, cotton and so on - to ports for the British to ship home to use in their factories. The movement of people was incidental, except when it served colonial interests; and the third-class compartments, with their wooden benches and total absence of amenities, into which Indians were herded, attracted horrified comment even at the time.

And, of course, racism reigned; though whites-only compartments were soon done away with on grounds of economic viability, Indians found the available affordable space grossly inadequate for their numbers. (A marvelous post-independence cartoon captured the situation perfectly: it showed an overcrowded train, with people hanging off it, clinging to the windows, squatting perilously on the roof, and spilling out of their third-class compartments, while two Britons in *sola topis* sit in an empty first-class compartment saying to each other, "My dear chap, there's nobody on this train!")

Nor were Indians employed in the railways. The prevailing view was that the railways would have to be staffed almost exclusively by Europeans to "protect investments". This was especially true of signalmen, and those who operated and repaired the steam trains, but the policy was extended to the absurd level that even in the early 20th century all the key employees, from directors of the Railway Board to ticket-collectors, were white men - whose salaries and benefits were also paid at European, not Indian, levels and largely repatriated back to England.

Racism combined with British economic interests to undermine efficiency. The railway workshops in Jamalpur in Bengal and Ajmer in Rajputana were established in 1862 to maintain the trains, but their Indian mechanics became so adept that in 1878 they started designing and building their own locomotives. Their success increasingly alarmed the British, since the Indian locomotives were just as good, and a great deal cheaper, than the British-made ones. In 1912, therefore, the British passed an act of parliament explicitly making it impossible for Indian workshops to design and manufacture locomotives. Between 1854 and 1947, India imported around 14,400 locomotives from England, and another 3,000 from Canada, the US and Germany, but made none in India after 1912. After independence, 35 years later, the old technical knowledge was so completely lost to India that the Indian Railways had to go cap-in-hand to the British to guide them on setting up a locomotive factory in India again. There was, however, a fitting postscript to this saga. The principal technology consultants for

Britain's railways, the London-based Rendel, today rely extensively on Indian technical expertise, provided to them by Rites, a subsidiary of the Indian Railways.

Democracy and Rule of Law?

Britain did not work to promote democratic institutions under imperial rule, as it liked to pretend. Instead of building self-government from the village level up, the East India Company destroyed what existed. The British ran government, tax collection, and administered what passed for justice. Indians were excluded from all of these functions. When the crown eventually took charge of the country, it devolved smidgens of government authority, from the top, to unelected provincial and central "legislative" councils whose members represented a tiny educated elite, had no accountability to the masses, passed no meaningful legislation, exercised no real power and satisfied themselves they had been consulted by the government even if they took no actual decisions.

As late as 1920, under the Montagu-Chelmsford "reforms", Indian representatives on the councils - elected by a franchise so restricted and selective that only one in 250 Indians had the right to vote - would exercise control over subjects the British did not care about, like education and health, while real power, including taxation, law and order and the authority to nullify any vote by the Indian legislators, would rest with the British governor of the provinces.

Democracy, in other words, had to be prised from the reluctant grasp of the British by the nationalists. It is a bit rich to oppress, torture, imprison, enslave, deport and proscribe a people for 200 years, and then take credit for the fact that they are democratic at the end of it.

A corollary of the argument that Britain gave India political unity and democracy is that it established the rule of law in the country. This was, in many ways, central to the British self-conception of imperial purpose; Kipling, that flatulent voice of Victorian imperialism, would wax eloquent on the noble duty to bring law to those without it. But British law had to be imposed upon an older and more complex civilization with its own legal culture, and the British used coercion and cruelty to get their way. And in the colonial era, the rule of law was not exactly impartial.

Crimes committed by whites against Indians attracted minimal punishment; an Englishman who shot dead his Indian servant got six months' jail time and a modest fine (then about 100 rupees), while an Indian convicted of attempted rape against an Englishwoman was sentenced to 20 years of rigorous imprisonment. In the entire two centuries of British rule, only three cases can be found of Englishmen executed for

murdering Indians, while the murders of thousands more at British hands went unpunished.

The death of an Indian at British hands was always an accident, and that of a Briton because of an Indian's actions always a capital crime. When a British master kicked an Indian servant in the stomach - a not uncommon form of conduct in those days - the Indian's resultant death from a ruptured spleen would be blamed on his having an enlarged spleen as a result of malaria. Punch wrote an entire ode to The Stout British Boot as the favoured instrument of keeping the natives in order.

Political dissidence was legally repressed through various acts, including a sedition law far more rigorous than its British equivalent. The penal code contained 49 articles on crimes relating to dissent against the state (and only 11 on crimes involving death).

Language and Culture

Of course the British did give India the English language, the benefits of which persist to this day. Or did they? The English language was not a deliberate gift to India, but again an instrument of colonialism, imparted to Indians only to facilitate the tasks of the English. In his notorious 1835 Minute on Education, Lord Macaulay articulated the classic reason for teaching English, but only to a small minority of Indians: "We must do our best to form a class who may be interpreters between us and the millions whom we govern; a class of persons, Indians in blood and color, but English in taste, in opinions, in morals and in intellect."

The language was taught to a few to serve as intermediaries between the rulers and the ruled. The British had no desire to educate the Indian masses, nor were they willing to budget for such an expense. That Indians seized the English language and turned it into an instrument for our own liberation - using it to express nationalist sentiments against the British - was to their credit, not by British design.

This is why Britain's historical amnesia about the rapacity of its rule in India is so deplorable. Recent years have seen the rise of what the scholar Paul Gilroy called "postcolonial melancholia", the yearning for the glories of Empire, with a 2014 YouGov poll finding 59% of respondents thought the British empire was "something to be proud of, and only 19% were "ashamed" of its misdeeds.

And, Certainly, it does not take much of a rigorous inquiry to conclude that under the garb of democracy, bureaucracy and railways were instruments with which the contours of a totalitarian regime were traced; while some mechanisms were meant to perpetuate the British in power, others were intended to satiate their imperial ambitions. No

wonder why the apologists are fond of quoting these advantages' in isolation from their context. For, once the context is established, this sandcastle of 'advantages' crumbles, unveiling an era riddled with murder, plunder and occupation.

The British Art of Colonialism in India: Subjugation and Division

The British Art of Colonialism in India: Subjugation and Division

Aziz Rahman, Mohsin Ali, and Saad Khan

India became a Crown colony in 1876, yet the origins of British colonialism can be traced back to 1757 when the British navy and merchants first arrived in India (Lyer, 2010). During the 1760s, the British acquired India from Mughal emperor (Baber, 1996, p. 110). The demise of the Mughal empire and the consolidation of British colonial power resulted from the intersection of internal and external, historical, conjectural, and structural factors (Baber, 1996; Condos, 2016; DeSousa, 2008).

Colonialism refers to “the conquest and control of other people’s lands and goods” the forceful seizure of local land and economy, and the reshuffling of noncapitalist economies to speed up European capitalism (Loomba, 1998, p. 20). Mercantilism and political and military control were the driving forces behind the British colonial expansion in the Indian subcontinent (Lloyd, 2008). Britain employed the military in territorial colonialism in India while it used maritime commercial colonialism in North America (Lloyd, 2008). According to Lloyd (2008), “The depth of the penetration of British culture varies widely from Ireland or the Caribbean through India to the virtual apartheid regimes of British Africa”

With India’s defeat on June 23, 1757, in the Battle of Plassey, the Indian subcontinent remained colonized under the British Empire for the next two hundred years. The British took two-thirds of the sub-continent under direct administration and achieved their economic and political objectives (DeSousa, 2008). In 1664, the British East India Company (EIC) competed with the French Compagnie des Indes Orientales and tackled the escalation of factional conflicts, wars of succession, and rivalries among the regional Indian powers (Baber, 1996, p. 119). The British took full control of Bengal after the 1757 Battle of Plassey and the 1764 Battle of Buxar, collecting revenues, and establishing its colonial domination in India (Baber, 1996, p. 123; Chatterjee, 1993, p. 284). After the 1857 mutiny, the British Crown established direct rule—giving up the policy of annexation, as a token of recognition to curry favour with some native states

during the mutiny. However, the colonial administration maintained its right to intervene in the internal affairs of those native states whose rulers were considered to be treacherous to the crown (Lyer, 2010). Under the treaties of accession, these native states joined Pakistan or India in 1948, and followed the same legal, administrative, and political systems as the colonial power. However, as history shows, the aftermath of accession is still felt to this day in the case of Balochistan and Kashmir.

With the 1784 India Act, Britain established direct involvement in India, initially through bringing EICs activities under the British Parliament's direct supervision. The 1813 Charter implemented full colonial administration and separate territorial and commercial jurisdictions for the EIC (Baber, 1996; Chaudhary, 2009). In the meantime, the EIC appointed the British ambassador, established permanent factories, and entrenched British settlements in India. Britain's colonial governments controlled 680 "princely states" or "native states" through hereditary local kings that constituted about 45 percent of the total area of British India (excluding Myanmar and Sindh) (Lyer, 2010, p. 610), with 23 percent of the total population (Lyer, 2010, p. 694). By co-ordinating its economic and political objectives, Britain ruled India—one of the largest colonies in terms of land and population (Stokes, 1973).

The British codified laws in India in terms of the rationalization of law in the Weberian sense to ensure "order," "certainty," and "uniformity" (DeSousa, 2008, p. 68), as well as Bentham's liberal ideas of the rule of law and equality principles (Kolsky, 2010). These laws, while giving a sense of uniformity to the rule of law, were also used against the local populace to suppress uprisings. The British abolished the Mughal Court and removed three-quarters of the warlord aristocracy. They eliminated many local feudal landowners and established a British-styled bureaucracy whose new aristocrats tended to follow a British life style. The British introduced the English language, its underlying culture, literature, and philosophy to strengthen its power base, as well as an elite class who were biologically Indians but culturally English.

This article discusses British colonialism in India with a specific focus on three interlocking areas: governance, education, and the law, as well as the legacy of British colonialism in Bangladesh, India, and Pakistan, by applying Johan Galtung's (1990) violence triangle framework. In each section, some cases or examples are used. The elements of the British colonial model applied by Britain to its former colonies include control over land, divide and rule, apartheid laws, ethnocentrism, education and language, religious suppression, native inferiority, depoliticization, and trauma and inward violence (Byrne, Clarke, & Rahman, 2018; Rahman, Clarke, & Byrne, 2017). From the common elements of the British colonial model, this article, however, focuses on

three elements: divide and rule, colonial education, and draconian law, since they are applicable to the colonization of the Indian subcontinent.

Violence, conflict, and peace are explored extensively by Galtung (1964, 1990, 1996). Each of these interlocking terms is conceptualized as a triangle that has been less explored in a postcolonial peacebuilding context. According to Galtung (1969, p. 168), "...violence is present when human beings are being influenced so that their actual somatic and mental realizations are below their potential realizations" (p. 168). Violence is "the cause of the difference between the potential and the actual, between what could have been and what is" (p. 168). Violence can take three forms: a) direct (physical violence that includes murder, assault, rape, torture, hate crimes, ethnic violence); b) structural (that results from the uneven distribution of resources caused by the structural mechanisms—social, political, and economic); and c) cultural (that includes religion, language, symbols, ideology, etc.) (Byrne & Senehi, 2012, pp. 34–36; Reimer, Schmitz, Janke, & Matyok, 2015, p. 24). Structural, cultural, and direct violence are intricately interrelated so that one form leads to another and vice versa (Byrne & Senehi, 2012, p. 3). Direct violence may be utilized to generate and perpetuate structural violence (Galtung & Fischer, 2013).

Cultural violence can be used to maintain and legitimize direct and structural violence (Galtung, 1990). Conflicts are mostly viewed from the lens of direct violence, overlooking indirect and invisible (structural and cultural) violence (Galtung, 1964). According to Galtung (1996), conflict is a triadic construct in terms of equally important aspects: attitudes (A), behaviours (B), and contradictions (C) (p. 71, 72). "The basic contradiction/content of the conflict lies in the verticality of the structure, the repression (of freedom) in the political case and exploitation (of well-being) in the economic case" (Galtung, 1996, p. 93).

Galtung's (1969) notion of peace has two sides: negative and positive (pp. 167, 183). He notes that "peace" is "absence of violence" (pp. 168, 183). The absence of personal or direct violence is negative peace, and the absence of structural violence or social injustice is positive peace or social justice (pp. 172, 183). Peace means the social goals agreed by many, if not most citizens, and that peace is attainable (p. 167). Consequently, as Byrne, Clarke, and Rahman (2018) state, "inclusive and just societies must explore their past and address the legacy of colonialism that continues to fuel and drive conflict" (p. 14). It is argued in this paper that the British sustained their colonial presence in India through the application of divide and rule policy, colonial education, and discriminatory laws promoting direct, structural, and cultural violence, as conceptualized by Galtung (1969, 1990). This paper further argues that this British colonial legacy impacting ethno-

racial and religious minorities requires positive peacebuilding in the post-colonial context.

Divide and Rule

The British used the strategy of “divide and rule” to provoke hostility between Hindus and Muslims. The divide and rule policy used religion to drive a wedge between Indians which eventually resulted in the death and displacement of millions of people, as well as the destruction of key economic assets (Lyer, 2010; Tharoor, 2017).

The British realized that India was a land of sociocultural diversity, and to exploit and control the lands, it was imperative to incite Hindus against Muslims and the masses against the princes, as well as provoking one caste against the other to augment caste divisions and class disparity among the Hindu community. For example, the British denied the legitimacy of the Muslim Sultan Tipu’s rule and used propaganda to violate the Hindu constitution around landed property (Baber, 1996, p. 127).

In the years following Britain’s victory in the Battle of Plassey, the British initiated policies that undermined India’s national cohesion and provoked communal division (Tharoor, 2017). In the 1857 mutiny, Hindu and Muslim soldiers were unified around loyalty to the Mughal prince, which worried the British rulers who devised policies and programs to fracture relationships between Muslims and Hindus. For example, the British ousted Muslims from power and they naturally were hostile to the British who favored Hindus, which further alienated Muslims. The colonizer’s policies were intended to purge Muslims from India’s sociopolitical landscape since they strongly protested and challenged British imperial rules. The divide and rule policy can also be traced to the English education policy that included Hindus while excluding Muslims. As a result, Muslims lagged behind, and the British took no steps to bring Muslims into economic parity.

This divide and rule strategy also surfaced in appeasing the Muslim community when the colonizer became wary of Congress’ popularity, because of the latter’s highly nationalistic undertones. The British knew it was critical that they develop a good relationship with Muslims if the influence of the Indian National Congress was to be countered. Hence, the British reached out to Syed Ahmed Khan, who was later knighted and who believed that co-operation with the

British would benefit Muslims more than forging an alliance with Hindus in national agitation (Lewis, 1962). Britain’s anti-Muslim attitudes waned in favour of initiating anti-Hindu policies.

Another example of the policy of divide and rule was the 1905 partition of Bengal which sought to suppress the spirit of the progressive intellectuals of Bengal (Asiatic Society of Bangladesh, 2003). The partition was an astute project intended to drive a wedge between Hindus and Muslims and stifle their national movement (Lewis, 1962). The British rulers tried to destroy Bengal's integration through its partition by separating the largely Muslim eastern areas from the largely Hindu western areas to undermine people's unity. The British objective was to rule and exploit people, but Lord Curzon viewed it as a policy to promote his administrative efficiency (Asiatic Society of Bangladesh, 2003).

The scars of the divide and rule policy are still evident in modern day India, Pakistan, and Bangladesh. The Hindu-Muslim hostility, spawned by the divide and rule policy, is still prevalent in these countries. The antagonism often takes a serious form that contributes to marginalizing Muslims in India and Hindus in Pakistan and Bangladesh. As such, Hindus and Muslims view each other with suspicion and feel discomfort in co-existing as they did for years before the advent of the British. Hindus do not feel safe and secure in Bangladesh, so they migrate to India. As a result, the Hindu population is declining in the country. According to the 1951 census report, Hindus were 22 percent of the population in Bangladesh; by 1974, this figure declined to 14 percent, and the last 2011 census records only 8.4 percent Hindus living in Bangladesh (Trivedi, 2016). This gradual declining figure suggests that Hindus migrate to India for a safer and better life. Hindus also leave Pakistan for India because of a lack of security, among other things. Like Hindus of Bangladesh and Pakistan, Muslims as a minority group are often persecuted and victimized in India. In recent years, Muslims have often been harassed and tortured and sometimes even lynched by radical Hindus on the suspicion of indulging in selling or buying beef (Chatterji & Babu, 2017; Suri, 2015). However, while the legacy of British colonialism in the form of divide and rule still exists, to hold the British solely responsible for present day affairs in the Indian sub-continent would be unfair. Politicians in India, Pakistan, and Bangladesh have used religion to fan the flames of hostility and to garner votes, a policy which has had disastrous consequences for the region.

The legacy of British colonialism continues implanting divide and rule policies against ethnic and religious minorities in post-colonial India today. In Bangladesh, ethnic violence in the Chittagong Hill-Tracts (CHTs) can now be briefly explored to demonstrate postcolonial violence in Galtung's terms. The CHT has been the home of over eleven Indigenous communities who have been living there from at least the fifteenth century onwards (Adnan, 2004; Chakma, 2010; Levene, 1999; Schendel, 1992; Schendel, Mey, & Dewan, 2000) The tribalism policy of the British colonizers divided the people of the CHT into tribal/hill people (paharis) and the Bengalis, to ensure political control (divide

and rule policy) and for economic exploitation of environmental resources, such as forests. The Pakistani and Bangladeshi governments have inherited a similar colonial mindset by continuation of land-grabbing, displacement, and imposed dominant education and language on CHT Indigenous communities (Adnan & Dastidar, 2011; Chakma, 2010; IWGIA, 2012; Rahman, 2015, 2017; Schendel et al., 2000). The hilly Jumma (Indigenous) nation has experienced rape, arson, assault, kidnapping, and hate violence, as well as military violence (Adnan, 2004; Chakma, 2010; Rahman, 2015). This is direct violence by Bengali settlers and the state against the Indigenous people. Many view the communal riots, rape, murder, and arson attacks as a mechanism for pressuring Indigenous families and communities to leave their traditional land (Chakma, 2010). Postcolonial economic and development policies, such as the Kapati Electric Dam, the massive demographic and Bengali resettlement scheme, illegal or forceful land-grabbing, forced displacement for infrastructure projects, and the imposition of dominant education and language on CHT Indigenous Peoples, affect their land rights, traditional practices, and cultures across indigenous communities in the CHT (Chowdhury, 2008, 2014; R. Datta, 2015; IWGIA, 2012; Partha, 2016; Rahman, 2015, 2017). These political and economic measures and structures create and perpetuate structural and cultural violence among the CHT peoples. Postcolonial nation-building and assimilation policies have not addressed their needs and welfare including the recognition of the cultural rights and identity needs of the Jumma nation (Adnan, 2004; Chakma, 2010; R. C. Roy, 2000). The Bengali settlers have changed the original Indigenous names of localities/settlements and disturbed the Jumma people's celebration of religious and cultural festivals/rituals as a result of the resettlement schemes (Partha, 2016; Schendel et al., 2000). These are examples of structural and cultural violence that led the CHT peoples to resort to armed insurgency.

The Government's 1997 peace treaty with the CHT peoples appears to be cosmetic as it has failed to make any significant progress in resolving the land disputes, their rights to self-recognition and cultural identity as *adibhasi* (Indigenous people). (Bashar, 2011; Dowlah, 2013; P. Roy, 2016; The Daily Star, 2016). For example, after almost two decades of the peace accord, only 26 out of 72 clauses are implemented; the government has not made necessary laws to effect the rest of the clauses (P. Roy, 2016). The invisible and enduring structural and cultural violence has been continued through the Bengali resettlement politics, the non-withdrawal of security forces, and the establishment of infrastructures for economic, religious, and political purposes in the CHT (IWGIA, 2012; Larma, 2016; Rahman, 2015, 2017).

Colonial Education in India

Education in a country is closely related to its culture, as it provides “intergenerational knowledge transfer” (McGregor, 2010, p. 9). Prior to the British arrival, India’s education system was small in scale but well organized with Muslim children being schooled in madrasas and maktabas, and Hindu children being taught in pathshalas and tols. These institutions taught children Arabic, Persian, Sanskrit, theology, grammar, logic, law, mathematics, metaphysics, medicine, and astrology (Chopra, Puri, & Das, 2003; Nurullah & Naik, 1943). The British government, however, ignored this faith-based education system and replaced it with a British system—an action that affirms a colonial motive the British government intended to fulfill by introducing English education into India.

Initially, however, the British showed no interest in education and religious affairs of India (Chopra et al., 2003). The British believed that any interference in Indian education and religious matters might endanger its political and commercial enterprise (K. K. Datta, 1975), and in order to ensure its domination and control of India and to keep Hindus and Muslims quiescent, the British founded madrasas and colleges to provide an oriental education within the relevant cultural framework of the country. The founding of Alia Madrasa in 1780 by Warren Hastings (Governor-General from 1772 to 1785), and Sanskrit College in 1823 by Lord Amherst (Governor-General from 1823 to 1828) are two such examples. To advance oriental studies, Governor-General Lord Wellesley founded Lord Fort William College in 1800 so that English officials could learn local languages (Chopra et al., 2003).

British Liberals and Evangelicals, however, demanded the introduction of British education with English as the medium of instruction. The British formed a Committee of Public Instruction, which was composed of two opposing groups, namely the Anglicists and Orientalists. The Anglicists argued in favor of British education by denigrating indigenous education, while the Orientalists argued in favor of indigenous education. Thomas Babington Macaulay—an influential member of the Governor-General’s Council—recommended introducing English education and the following comment made by Macaulay (1965) indicates the colonial enterprise of Britain:

We must at present do our best to form a class who may be interpreters between us and the millions whom we govern; a class of persons, Indian in blood and colour, but English in taste, in opinions, in morals, and in intellect. To that class, we may leave it to refine the vernacular dialects of the country, to enrich those dialects with terms of science borrowed from the Western nomenclature, and to render them by degrees’ fit vehicles for conveying knowledge to the great mass of the population.

Based on Macaulay's recommendation, Lord William Bentinck (Governor-General from 1833 to 1835) introduced British education in India on March 7, 1835, and devised a filtration model of education, according to which English education was first imparted to the upper classes from whom it would then filter down to the masses (Chopra et al., 2003). Sir Charles Wood, the President of the Board of Council, who drafted a report that provided for a comprehensive education system, followed Macaulay. The report recommended that English should be the medium of instruction for higher education, and local vernaculars remain the medium of instruction in schools. The report also recommended the founding of universities in Kolkata, Bombay, and Madras as teachers' training colleges, and grade schools—elementary schools, middle schools, and high schools. To implement the recommendations, universities were founded in Kolkata, Bombay, and Madras, and English was introduced as a medium of instruction in the Indian sub-continent's higher education system.

Introducing a British-styled curriculum did not impact the lives of most Indians as the new system failed to bring about qualitative changes in the educational system, since the curriculum in this English model pushed learners into rote memorization (Whitehead, 2005). The same was also true for madrasas and pathshalas which did not encourage students to question and share their views. Moreover, English education was not universal as it was designed only for the Indian and British elites, and individuals from humbler backgrounds did not come under the purview of this education project. People who received English education viewed themselves as superior as compared to those who were not educated under this system, and as such, the education system divided people into two classes: a class which received a British education and a class which was deprived of that education. Consequently, this education system encouraged class distinction and engendered antagonism among India's natives, thus weakening cohesion and contributing toward fulfilling the British vision of domination and exploitation. The introduction of English education in India was a key component of Britain's divide and rule policy for engendering hostility and creating divisions among the natives.

The English education system introduced by the British lacked uniformity and homogeneity, which left far reaching effects. For example, the British rulers introduced an English educational system in India, but they did not abolish the traditional madrasa educational system—resulting in the creation of a dual education system. The sustainment of a dual education system continues to engender unrest and tension in educational institutions to this day.

For instance, the students studying in mainstream educational institutions view themselves to be better than those studying in madrasas. On the other hand, the

students of madrasas claim that they have better knowledge about theology and logic than those studying in mainstream institutions. Thus, students of both streams treat each other with suspicion, hostility, and antagonism. Records indicate that madrasa students are more hostile and are more vulnerable to violent radicalization. While madrasas have existed for centuries, many argue that these seminaries are breeding grounds for militancy and radicalization (Rahman, 2016b; Rahman & Kashem, 2011; Riaz, 2008a, 2008b). The study of Ahmed (2009) shows that the madrasa students, indoctrinated with jihadi ideology during Zia-ul-Haq's time, were sent to Afghanistan to fight against Soviet occupiers. The study also reveals that the University of Nebraska-Omaha developed and designed textbooks to inspire and justify the "holy war" against the Soviets.

Radicalization of madrasa students is, therefore, manufactured and manipulated. Radicalization and extremism among youths with non-mainstream education are complex and multidimensional, and the underlying issues of, risk factors for, and pathways to, violent extremism among youths in Bangladesh need empirical research (Rahman, 2016a, 2018b; Riaz & Bastian, 2011). The radicalization of madrasa students came to the attention of law enforcement and scholars during 2005-2006 (Rahman, 2016b; Riaz, 2008b), and the students with private university and English medium schools have been found radicalized afterwards (Rahman, 2016b, 2018b; Riaz, 2016). Students of non-mainstream schools (madrasas and private university/English medium schools) fall victim to radicalization (Rahman, 2016b, 2018b, Riaz, 2008b, 2016). The existing discourses suggest that madrasa students with poor economic background are more likely to be easily radicalized (BEI, 2011; Rahman, 2016b; Rahman & Kashem, 2011; Riaz, 2008b, 2016). On the other hand, private university and/or English medium students from economically solvent families keep themselves aloof from traditional social life, and are more engaged in internet and social media that can easily recruit and purchase them for terrorist activities. Moreover, it should also be noted that graduates with mainstream education background (Bengali) are rarely radicalized and involved in terrorist activities (Rahman, 2016b; Riaz, 2008b). This different trend stems from mainstream education based on indigenous cultural values as compared to the non-mainstream education system that impedes students from being apart of society. Division and discrimination in education systems contribute to generating radicalism and extremism (Rahman & Kashem, 2011; Riaz, 2008b).

To further note, most employers prefer general (Bengali medium) and English medium students to madrasa students, and thus, the society sustains structural inequality. Remarkably, students of these two streams of institutions have a close similarity in a point: English medium students trained in the English education system advocate western values more than national values, and madrasa students trained in theology

practice and plead Islamic values. Thus, they keep apart from each other and cannot unify with mainstream students. These employer perceptions, stereotypes, and negative attitudes of the mainstream society towards madrasa education, indicate the persistence of structural and cultural violence against students and graduates with non-mainstream graduates. The student community of the former British colony—India, Pakistan, and Bangladesh—have been experiencing this triadic division. As the students of the two non-mainstreams are not formally trained in national values, cultures, and traditions, they are less careful about nation and country—a tendency that leads them to radicalization and terrorism. Some key informant interviews suggest the negative attitudes of society toward madrasa education and the unfair treatment by employers who often decline to hire madrasa graduates lacking adequate skills compared to mainstream students (Rahman & Kashem, 2011). The profile of Islamist terrorists in Bangladesh indicates largely non-mainstream educational backgrounds (Rahman, 2016b; Riaz, 2016). To specify, on July 1, 2016, six youths attacked Holey Artisan Bakery (a bakery shop located in Dhaka), where they killed 29 innocent people, including 20 hostages (18 were foreigners), two police officers, and two staff (Fair & Abdallah, 2017, p. 3). Of the six terrorists, five were identified as private university students with English medium education backgrounds, and the last was schooled in a madrasa.

From the viewpoint of justice, Britain's education policy in India was not only an instrument of domination but also a weapon of oppression meted out to Indians. This education system can be compared to the banking education model (Freire, 2012), where education is viewed as a process that deposits knowledge into students. Teachers are the supreme authority in this system while students' pre-existing knowledge is ignored (Freire, 2012). "The more completely they accept the passive role imposed on them, the more they tend simply to adapt to the world as it is and to the fragmented view of reality deposited in them" (Freire, 2012, p. 73). Similarly, the British colonizers imparted British education, science, and philosophy to Indian learners. This indoctrination and oppression imposed on the colonized as an "undue strain inflicted upon pupils" who felt difficulty in expressing their ideas in English (Sundaram, 1946, p. 518).

An effective education must ensure the consent and participation of learners, teachers, and administrators. The British ignored this issue and did not research what students wanted from their education. The British viewed their system of education as superior, and to make superior Indian citizens, they introduced the Western education system to them. This model manufactured skilled clerks who helped the colonizer to collect revenue. Moreover, this new system of education destroyed local cultures and stifled people's political consciousness (DeSousa, 2008).

From a practical point of view, the British taught the Indian elite the English language to get services and benefits from them. By providing British education and culture, and the English language to the Indian elite and the masses, the British made them produce goods for European markets and also consume European goods (Pennycook, 1988). British education was for profit for the colonizers. This kind of profit mongering is reflected in Shakespeare's (1623) play *The Tempest*, where the colonizer Prospero confesses to Miranda that he (Prospero) must not disown Caliban: "We cannot miss him; he does make our fire, fetch in our wood, and serves in offices, that profit us..." (1.2.312-14). To explain, Caliban is one of the major characters in this play whose inherited island is usurped by colonizer Prospero who enslaves and uses him for his colonial enterprise. Like Prospero, the British colonizers made Indians Shakespeare's Calibans from whom they would get profit, cheap labor, and information about the wealth of India.

However, it can also be argued that learning the English language can be viewed from an empowerment perspective. The British taught Indians Western knowledge and the English language, which eventually enabled them to be aware of their rights. It can be argued that, enriched with the power of knowledge from Western education, the Indians began to think of their freedom. They spoke about their independence, reclaimed their land, and finally after ninety years of complete British rule, they succeeded in taking back their land from the colonial masters.

In British India, the colonial education policy imposed English upon the local populace, subjugated local languages, and even created a buffer class to serve the colonists. This language subjugation is an integral component of the colonial power's structural and cultural violence as viewed by Galtung (1969, 1990) that still exists and affects the Indigenous communities in the Chittagong Hill Tracts (CHT) of Bangladesh. The dominant language (Bengali) was imposed by the state on the Indigenous people in Bangladesh. Indigenous languages are not recognized, and the Indigenous people's language rights to this day are not protected despite their demands for having mother tongue education and recognition in their schools (Partha, 2016; Yasmin, 2014). The same applies to ethnic and religious minorities in India and Pakistan, where to this day English is the official language in a majority of educational institutions and in the judicial system (Mahboob, 2017).

The British Raj and the Law

"The foundation of our empire in India rests on the principle of justice, and England retains its supremacy in India mainly by justice. Without justice we could not hold India for a moment" (Kolsky, 2010, p. 1). This section examines the legal system constructed

by the British Raj to govern the Indian subcontinent. Laws used by the British to further their own interests are also examined and finally the impact of the “legal” colonial legacy is explored.

To begin, the codified English law administered by the courts was initially applied only to Europeans residing in the sub-continent. However, by 1773 it was proposed that in matters of marriage, inheritance, and other individual affairs, Islamic laws should be applied to Muslims, and Hindu laws to Hindus (Otter, 2012). While it is not clear whether this bifurcation of the law was proposed to introduce the policy of divide and rule, it had long lasting impacts that ultimately led to the division of the sub-continent based on religion. During the initial 150 years of the British Raj, the colonial masters deferred to Indigenous and local laws for the resolution of disputes (Giunchi, 2010), even though at that stage Islamic law was applied to Muslims and Hindu Law to Hindus. This application of religious laws was convenient for the British, since unlike some other British colonies, the Indian sub-continent already had codified religious decisions such as the Fatawa-e-Alamigiri (The Edicts of Emperor Alamgir), which could be relied upon by judges. Moreover, during this period, anything that was indigenous and local was romanticized, including religious texts and laws. To achieve the colonizer’s goals, key religious texts such as the Fatawa and the Hedaya for Muslims, and the Dharma Sastra for Hindus were translated into English by William Jones, Neil Baillie, and Nathaniel Brassy Halhead, respectively (Giunchi, 2010).

This idealization of Indigenous Indian customs and laws was, however, short lived. For instance, the British philosopher James Mill considered Indigenous Indian laws to be “a disorderly compilation of loose, vague, stupid, or unintelligible quotations and maxims selected arbitrarily from book of law, book of devotion, and books of poetry; attended with a commentary which only adds to the absurdity and darkness; a farrago by which nothing is defined, nothing established” (Judd, 2004, p. 38).

The reason for the eventual disillusionment of the British with Indigenous religious laws was a result of their attempts to categorize the monolithic, fluid, and diverse religious identities within both Hinduism and Islam. For example, Islam can be broadly divided into two major sects: Sunni’ism and Shi’ism. In Sunni’ism itself, there are four different schools of thought, with each school of thought having its own sub-school. Hence, trying to lump the diversity of opinions produced by these scholars into one, single, uniform code would logically entail a failure of the system.

There is another way this change in attitude can, however, be looked at in a manner which is less judgmental of the British. Replacement of religious law with Western positivist law in the public sphere could have stemmed from the desire of the British to

legitimize their rule over the sub-continent and to appear to be more accountable to the native population (Judd, 2004). For example, the codified law would turn the colonizers into “the prisoner of their own rhetoric,” which presumably was meant to create a “feel good effect” amongst the colonizer (Kolsky, 2010, p. 72). However, detractors of the “benign” colonization argument view the subcontinent as a laboratory for the British to experiment with their legal test-tubes before implementing them in Britain (Giunchi, 2010; Kolsky, 2010; Otter, 2012).

After the failed 1857 rebellion, the 1858 British India Act was introduced, which transferred the power to rule from the EIC to the British Crown directly. Moreover, a Secretary of State for India was established, who would be counselled by a 15-member council (Judd, 2004). This was the first of many steps that would lead to a complete and formal control of the Crown over its Indian subjects.

The eventual British disdain for all Indigenous religious laws led to a complete purge of religion from criminal law and a partial purge from civil law. For example, in 1860 the Indian sub-continent was given a new set of laws, the Indian Penal Code. Among other things, the code outlawed adultery, fornication, and struck down corporal punishment for women in cases of adultery (Giunchi, 2010); all of these provisions were part of Shariah law. In addition, the British continued to treat women paternalistically by using the law. Section 506 (i) of the Indian Penal Code provided a jail term for up to three years for:

Whoever, (i) intending to insult the modesty of any woman, utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman, or intrudes upon the privacy of such woman. (The Indian Penal Code, 1860, s. 506 (i))

The provision is still part of the penal code of Bangladesh, India, and Pakistan that may be seen as either a sign of times or as a tool to emasculate men by elevating the status of women and placing them on a pedestal. However, as Justice Willy Brennan once aptly pointed out, “Our nation had had a long and unfortunate history of sex discrimination. Traditionally, such discrimination was rationalized by an attitude of romantic paternalism, which in practical effect put women not on a pedestal, but in a cage” (Frontiero v. Richardson, 411 U.S. 677, 1973).

The key change, in the context of the laws came in 1862 with the enactment of the Code of Criminal Procedure. The Code prohibited Indian judges from issuing arrest warrants or indicting European or British individuals for crimes (Kolsky, 2010). Moreover, the code provided that only British born judges could try the cases of British

born accused persons, and where the alleged crime carried the death penalty, the accused had the right to be tried by a jury, half of whom would consist of British-born persons (Kolsky, 2010). This was, indeed, quite the digression from the implementation of the “principle of justice” as was initially proclaimed by the British when they colonized India.

During 1900-1947, British “illegal laws” governed the Indians. By the turn of the century, it became clear that the British had adopted a carrot and stick policy as a tool of governance. On the one hand, they created the Indian Civil Services by which they would control the Indians through Indians by appointing educated locals in the bureaucracy. On the other hand, the British were quite ruthless when it came to legislation and crimes. For instance, the 1901 Frontier Crimes Regulation (FCR) contended that individuals convicted of certain crimes, such as homosexuality, could be whipped; the jurisdiction of civil courts was barred; a whole tribe could be held responsible for the acts of an individual (their properties could be seized and demolished) and whole villages could be found accountable collectively (Ss. 6, 10, 21, 22, Frontier Crime Regulations 1901). The FCR was not the only draconian law enacted by the colonial masters. The Indian Press Act, for example, outlawed any publications which aimed to “bring into hatred or contempt his Majesty or the Government established by law in British India or the administration of justice in British India or any Native Prince or chief under the suzerainty of his Majesty...” (s. 4(1)(c) The Indian Press Act, 1910). As Otter (2012) points out, curtailment of civil liberties did not just stop with restrictions on the press. For instance, under the Prevention of Seditious Meetings Act, a district magistrate was given power to prohibit any public meeting: “...if, in his opinion, such meeting is likely to promote sedition or disaffection or to cause a disturbance of the public tranquillity” (s. 5, Prevention of Seditious Meetings Act, 1911). This legacy of the British Raj is still present in Pakistan wherein the government has the right to outlaw a public gathering of more than four individuals (S.144, Code of Criminal Procedure, 1898) and to subject speech:

...to any reasonable restrictions imposed by law in the interest of the glory of Islam or the integrity, security or defence of Pakistan or any part thereof, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court.

These laws are still operative even after seven decades of independence in these countries for political reasons or to oppress opponents/ dissidents.

While the British were repressing free speech and expression, they were also leaning toward power-sharing with the locals. Under the 1908-1909 Reforms Act, commonly known as the Minto-Morley reforms, Indians would be elected to the legislative

councils, both in the capital and in the provinces. While the reforms did reserve power at the center for people nominated by the crown, they enabled the provinces to elect natives who would be in the majority (James, 1997). The reforms also gave Muslims the right to a separate electorate.

Whether this move was meant to exacerbate the divide between Muslims and non-Muslims, or whether it was an effort to recognize the demand of the All India Muslim League for a separate electorate, remains open to interpretation.

The watershed moment of draconian legislation leading to massive violence and the ultimate victory of the wretched of India can be traced back to the two Rowlatt Acts of 1918 and 1919, respectively. After WWI, the British, keeping in line with their earlier attitude towards free speech and assembly, enacted laws that enabled an accused person to be arrested without a warrant, detained indefinitely, and not allowed to confront her/his accuser(s) (Vohra, 2002). This law was arguably passed to suppress Gandhi's satyagraha movement and the Khilafat

Movement. The recently enacted stricter laws didn't prevent people from protesting and eventually on April 13, 1919, the worst attack by British law enforcement on unarmed protestors occurred. A group of roughly 10,000 protestors were protesting in Jallianwala Bagh, and on the orders of the officer commanding, General Dyer, the walls of the garden were locked and the British Indian Army opened fire on unarmed citizens leading to the deaths of almost 400 people (Judd, 2004, pp. 131–132). The Jallianwala Bagh massacre eventually resulted in weakening the British position in India and arguably, it led to the enactment of the 1935 Government of India Act, which provided that provincial powers would be devolved to the elected legislatures, and the provinces could function autonomously. However, London still had the final word when it came to federal affairs (Judd, 2004).

The importance of the 1935 Government of India Act cannot be overemphasized. The 1937 elections held under the new Act resulted in a sweeping victory for the Indian National Congress, which alarmed the Muslim League as it had presumed that even if the British left, they would be replaced by a Hindu tyranny (Judd, 2004, p. 149). Moreover, the Act was the de facto Constitution in the newly formed state of Pakistan, and even after Pakistan enacted its own Constitution, many features of the Government of India Act were included in it. Both Pakistan and India followed the Westminster model of democracy as set out in the 1935 Act, but amended it to suit their own interests. For instance, both newly formed nation states were highly centralized, and the provinces were not granted powers for many years (Otter, 2012).

Several civil and procedural laws were enacted during the next decade so that the usual legal battles were over the devolution of powers in the Indian sub-continent, a tool employed by the British to hold onto the region. The most important of these plans was introduced in 1946 by the considerably weakened Raj and is known as the Cabinet Mission, headed by Sir Stafford Cripps. He proposed that India would remain united in the form of an All-Indian Union that would be divided into three provincial governments: Bombay, Central Provinces, Madras, Orissa and the United Provinces predominantly populated by Hindus. The second cluster included Muslim majority regions such as Baluchistan, Khyber-Pukhtunkhwah, Punjab and Sindh. The final cluster included Bengal and Assam. While the provinces could not secede from the Union, they had the liberty to enact their own constitutions. The clusters along with the princely states could also elect a constituent assembly (James, 1997). While the Muslim League agreed to the plan, Nehru and the Indian National Congress rejected it, reinforcing the League's belief that Hindus would never be willing to share power with Muslims. Eventually, a year later, two independent nation states, India and Pakistan, joined the comity of nations.

While there is no doubt that the introduction of British positivist law changed the future of the Indian sub-continent, the legal legacy of the British Raj can be viewed both negatively and positively. On the negative side, it can be argued that by introducing Western law, the British destroyed the quasi-legal practices of native Indians that provided swift justice, which was acceptable to the local population. That system was replaced by a highly bureaucratic system that was mired in red tape. The counter to this argument is that those Indigenous systems/practices were at times unfair, especially when it came to women; the Jirga system and Wani are two such examples. Moreover, the laws introduced by British were flawed, yet they ultimately wrested power from the hands of the ruling monarchs. Furthermore, democracy on the subcontinent may be a flawed system, yet it was because of the Raj, and its legacy, that some 1.5 billion people can cast their votes to elect individuals who can represent their interests. Moreover, the banning of the Sati custom, the permit of widow marriage, and the passage of the 1910 Child Act that fixed the age of majority as 18, are some steps that deserve credit. While it can rightly be argued that the process of divide and rule continues to haunt the region for decades and has resulted in the deaths of hundreds of thousands of people, it is also true that the "rule of law," which is a legacy of the Raj, provides a modicum of security to individuals in establishing their justiciable and non-justiciable rights. Seen through this lens, the introduction of positivist law in the Indian subcontinent, whatever its intentions may have been, can be perceived as beneficial to the people in the long run.

As illustrated earlier, many of the British laws are draconian and apartheid, and were against the will of the natives of India. The 1862 Code of Criminal Procedure separated jurisdictions of judges along racial lines. The FCR, the Indian Press Act, The Prevention of Seditious Meetings Act, the Rowlatt Act, the Public Safety Bill, and the Trade Dispute Bill were used to suppress and discipline Indians by the British, and their fellow Indians by elite Indians (DeSousa, 2008; Kolsky, 2010). These laws and legal structures provided vast powers to the rulers that fueled direct violence and perpetuated structural violence against Indian natives. The legacy of these colonial discriminatory laws has been present in today's criminal justice system.

Bangladesh still inherits the penal code, criminal procedure code, police code, jail code, and evidence act, which were introduced by the British Raj (Khondaker, Kashem, & Rahman, 2018; Rahman, 2011; Rahman & Hossain, 2014; Senese & Kashem, 1997). After seventy years of independence, the rulers today perceive those systems to be useful tools in suppressing their own people, and these laws and legal structures have promoted both structural violence and direct violence as conceptualized by Galtung.

The United Nations Development Program (UNDP) has implemented a police reform project and facilitated the government's use of a draft ordinance during the non-party interim government in 2007 (Patil, 2012; Rahman, 2018a; UNDP Bangladesh, 2018). Yet no legislation has been enacted because of the resistance of the political elites, as they want to use the colonial law to oppress dissents and govern the people with immunity and impunity (Khondaker et al., 2018; Patil, 2012; Rahman, 2011, 2016b, 2018a; Rahman & Hossain, 2014). Finally, while the legacy of British colonialism under the guise of the law continues to haunt the Indian subcontinent, ultimately the responsibility to enact new laws that cater to the needs of indigenous people lies with the elected representatives of Bangladesh, India, and Pakistan.

Conclusion

Prior to British colonialism, previous conquerors could not control India completely. (Stokes, 1973). However, within four years of the Plassey Battle, the British conquest unprecedentedly broke Indian social structures, basic institutions, and the self-sufficient village system. The consequences of the Battle of Plassey influenced the rule and the modes of the British cultural contact in the subcontinent. According to Stokes (1973), "The peculiar multicellular character of Indian society made it both highly resistant to change in its social and cultural aspects and ipso facto subject to constant political change and to conquest from within highly resistant to change" (Stokes, 1973, p. 122).

In the post-colonial period (1956-1987), British areas were found to have higher levels of investments in agriculture and production, but lower levels of investments in schools, roads, canals, and health centers (Lyer, 2010). The public goods in terms of the access to schools, health centers, and roads was minimal in areas that experienced British direct rule because of the heavy taxation and extraction of resources. Poor policies were installed in areas remote to the colonizers. On the other hand, areas that experienced indirect rule exhibited opposite developments. Native rulers had longer tenure to invest in public goods provision, than British administrators (Lyer, 2010). The native rulers' families played an important role in post-colonial politics by manipulating elections and controlling resources.

The British used India to supply raw materials and provide a rich market for Britain. The Permanent Settlement Act introduced in India undermined the land ownership of the peasants. British colonizers forced Indian cultivators to provide goods for export to Britain and the new railway system, and whilst being beneficial to the local population, it also served the economic interests of the colonial power (Das, 2011; Tharoor, 2017). Famines were deliberately created by the colonizers who forced the Indigenous population to seek relief work, such as road-building, so that goods could be transported from factories to ports and shipped to Britain (Tharoor 2017; Lazzaro, 2013).

The formulation of Anglo-Indian law toward having a unified and predictable modern legal system was meant to regulate economic, political, and social relations between individuals and groups. However, the British justified their codification of laws in India to show that they would guarantee the rule of law and justice, yet in reality, those laws were also used to discriminate between Indians and Europeans (DeSousa, 2008; Kolsky, 2005). The "Legal" legacy of the British Raj continues in India, Pakistan, and Bangladesh today. The Police Act, the Evidence Act, the Penal Code, the Jail Code, and many other laws have been inherited from the British (Khondaker et al., 2018; Rahman, 2011; Rahman & Hossain, 2014). While the Indian sub-continent has been independent for seventy years, the continued existence of these laws may depict the utility that sub-continental rulers may find in using them to govern their populations.

The British introduced Western education, the English language and culture, literature, and philosophy to strengthen their power in India. The British demonized Indians, viewing the natives as "incapable of understanding what was in their best interests" (DeSousa, 2008, p. 10).

They succeeded in creating an elite class that worked for the British and helped prolong colonial rule, and they provided a legacy that survives to this very day.

Unlike other colonies such as Canada, British rule in the Indian sub-continent can be viewed as being somewhat beneficial to the local populace, particularly in the fields of education and law. Learning the English language empowered the native population, and local elites (zaminders/babus) were very happy about this system. The positive “side effects” of British colonial rule also deserve appreciation for bringing about an impressive awakening in cultural, social, and scientific fields in India in the late 19th and mid-20th centuries. The colonial measures addressing Sati, widow remarriage, infanticide, witchcraft, child marriage, polygamy, and dowry had some remarkable effects. Because of social movements and significant roles played by individuals like Raja Ram Mohan Roy, many of these superstitions and iniquitous practices were removed from the society.

In India, the British colonizers faced several resistance and nationalist movements. Britain established institutions to justify and secure colonial rule, and used force to curb any challenges to its rule (Condos, 2016; DeSousa, 2008). Ultimately, these repressive measures empowered Gandhi’s nonviolent resistance against the British, which culminated in their departure in 1947, as divide and rule became divide and depart.

Despite some positive social transformative steps, the British policy of divide and rule fueled and nurtured conflict in the Kashmir valley, the port city of Karachi between Mohajirs and other ethnicities, and the Rohingya and Bihari ethnic conflicts in Bangladesh. These conflicts are a legacy of British colonialism that have claimed many lives and abused the human rights of hundreds of thousands of innocent people in the Indian subcontinent. Given the direct, structural, and cultural violence of colonial policies of divide and rule, education, and laws, the postcolonial states must not sustain the legacy of British colonial policy of forced assimilation, division, and subjugation by imposing the dominant language, religion, and culture against ethnic and religious minorities. For example, state policies in the CHT in the name of development, security, and environmental conservation must not create, and promote structural and cultural violence against the Indigenous communities. Positive peacebuilding approaches are imperative for addressing the ongoing religious divide and regional conflicts in Kashmir valley, Arakan State of Myanmar, and the Chittagong Hill Tracts (CHT) of Bangladesh, by granting the right of self-determination to the natives of this region.

Week 2: Sir Syed

The Revolt of 1857 as the First War of India's Independence

Introduction

The British rule in India began after the Battle of Plassey in A.D 1757. Within one hundred years a mere trading company emerged as a mighty political force. After a hundred years a mighty popular revolt broke out in 1857. It was the Indians who challenged against the British rule and attempted to put an end to it in 1857. The attempt has been called the First War of Indian Independence by most of the nationalist historians because a hundred years of the British rule had brought misery to the Indians i.e. the politically, socially, religiously, economically etc. India was divided into many small states by the English and frame many illegal laws and thereby annexed most of the states one by one. It created dissatisfaction among the Indian rulers and large numbers of the Indians those who were in the services in native the states. Economically too Indian people became poorer day by day. The English imposed heavy taxes on land revenue, Indians handicraft were destroyed and foreign trade was monopolized by the English. Even on the basis of merits Indian could not be appointed on high post as English were suspicious of them. Not only this, the English always degraded the Indian social status. According to them Indians were inferior race, "half guerilla half Negro" and uncivilized race of world. They did not permit the Indians to take part in their social activities and did not allowed to enter the waiting rooms, railway carriages and into the parks. Religiously the English were determined to convert the Indians into Christianity and militarily too, the English neglected the Indian soldiers. Indian soldiers required to do odd and hard jobs but were poorly paid. Therefore this outbreak of 1857 was in reality a product of accumulated grievances of the people against the company's administration. Popular discontent had been gaining strength among the different sections of Indian society. It was this discontent which burst forth into a mighty popular movement. "All class of people irrespective of the consideration of caste, creed or religion joined in this war" [Das:1998:19]. The peasants, merchants, artisans and soldiers fought bravely against the foreign government and their sacrifice constituted a brilliant chapter in the pages of Indian history.

Mangal Pandey hoisted the flag of rebellion on 29th March 1857. It became a full-fledged war when the military forces of Meerut cantonment raised the standard of rebellion on May 10, 1857 and the sky was rent with cries of "Delhi Chalo," "Maro Firangi Ko," Anyhow, it become a prelude to the long drama of the epoch making freedom movement that was to unfold in 1885 A.D. The causes of the revolt are to be found in

those hundred years of the British rule to which the greased cartridges were the proverbial ignition which set the whole mine ablaze. In fact, the greased cartridges were merely the match that exploded the mine which had, owing to a number of causes been for a long time preparing. However, the resentment of the Indians found expression in number of insurrections from time to time in different parts of the country like the Kol Insurrection of 1831-33, the Santhal rising of 1855-56 and many others. Various sections of population felt suffocated under the tyranny of the foreign rulers, so they tried to free themselves from foreign yoke. Freedom from foreign domination has been the yearning of all civilized people in every age of India and the Indian people were no exception to it. So they raised the standard of the revolt against the British rule in 1857. According to S.B. Chaudhuri the revolt was widespread and deep seated socially and that 1857 constituted a vast upsurge of the pupil from all sections of Indian society. Its essence was anti British, its aim was independence and its character patriotic and nationalist. The various rebel leaders cooperated with one another and fought outside their immediate district and territories and were motivated not by self-interest but by a wide vision and patriotism.

Statement of the Problem

Historians have expressed divergent views about the revolt of 1857, some of them regarded it as a mere military revolt while others take it as a conflict between the black and the white races for supremacy. Some held the view that it was a peasants revolt the British historian's have ever been trying to call it merely a sepoy mutiny. Still some others consider that it was a conspiracy of the Hindus and the muslims against the English but the modern historian's do not recognize it as a struggle between the eastern and the western civilization and declared it to be the first war of Independence waged by the Indians.

Objective of the Study

- To highlight the revolt of 1857 as the first war of India's Independence
- To study the effects of the first war of India's Independence

Methodology of the Study

While preparing this paper historical and analytical method will be follows bases on secondary sources like books, journals and magazine etc. The authenticity of the sources will be examined.

Revolt of 1857 as the the First War of India's Independence

In 1757, the Battle of Plassey had laid the foundation of the British Empire in India. No doubt there were small and sporadic skirmishes here and there, but it took hundred years for the Indians to organize another revolt against the British in India. This revolt was a widespread public reaction against the British rule as secret emblems in the form of 'Chapattis' and 'Red Lotuses' were used to carry the message of freedom by the wondering 'Sanyasis' and 'faqirs' from village to village throughout the country. May 31, 1857 was the fixed as the day for the revolt throughout the country. This war of 1857, infamously called as the Sepoy Mutiny by some of the European historians and many other of them viewed as "The first combined attempt of many class of people to challenge the foreign power" [Chaudhuri:1957:297] was in fact India's First war of Independence. Historian S.N.Sen also prepared to invest the war of 1857 with the honor of a National war of Independence because the revolt of 1857 was in reality a product of the accumulated grievance of the people against the company's administration. Popular discontent had been gaining strength among the different sections of the Indian society. It was this discontent which burst forth into mighty popular war all section of Indian society irrespective of caste, creed and religion, peasants, merchant's soldiers fought bravely against the foreign government and sacrifice their lives. Even the common people in several areas rose up in arms, often fighting with axes, spears, arrows, lathis and sickles etc. "Government building were destroyed, the treasury was plundered, the magazine was sacked, barracks and court houses were burnt and prison gates were flung open" [Chandra:1989:35]. Their active participation and sacrifices constitute a brilliant chapter in the pages of Indian history. Because the sacrifices of the leaders during the revolt of 1857 were a source of inspiration for future freedom fighters. So it can be said that it for the first time gave birth to Indian nationalism.

The foreign scholars have named Indian attempt to overthrow the English and free their country Foreign Yoke, and a revolt, the nationalist historians regarded it as the first war of independence. It is true that its first and foremost aim was to uproot the English from India at any cost. From the letters written by the Mughal emperor Bahadur Shah to the rulers of Rasputana, it became clear that the struggle was for the independence of the

country. Bahadur Shah II had written a secret letters to the Rajput Princes i.e. "It is my ardent wish to see that Firangi is driven out of Hindustan by all. But the revolutionary war that is being waged for the purpose will not be crowned, with success unless a man capable of sustaining the whole burden of the nation will unify the whole people in himself, comes forward to guide the rising. I have no desire left for ruling over India after the expulsion of the British for my own aggrandizements. If all of your native Rajas are ready to unsheathe your swords to drive away the enemy, then I am willing to resign my imperial power and authority in the heads of any confederacy of native princes who are chosen to exercise it" [Bright: 1968:223]. It is the real evidence that the revolt of 1857 was the First War of India's Independence.

No doubt "the revolt was started by the solders but, later on people of all castes and religions joined it" [Khurana: 2012-13:175]. As is also evident from Bahadur Shah's letters, the man aim of this revolt was to turn out the English from India. Everyone was dissatisfied with the British and all Indians wanted to free themselves from their clutches. Economically they too becoming day by day even on the basis of merit, Indians could not be appointed on the higher post as the English were suspicious of them. India was divided into many small states. The English framed many illegal laws and thereby annexed most of those states one by one. It created dissatisfaction among the rulers too. Even this war broke out with the various accumulated grievances. It remained a shining example before nascent nationalism in India in its struggle for freedom from the British Yoke, and invested wish the full glory of the First National War of Independence against the British. Nana Saheb, Rani of Jhansi become national heroic and champion of National freedom, and stories of their struggle animated the fighters for freedom more than half a century later.

But many historians argue that it was not a first war of Independence, because it was confined only to the limited areas like Central and Northern India. But it is wrong evaluation. If the Swadeshi movement of Bengal which was originally confined to that province, could be called a National movement, why not the revolt of 1857, which covered the whole of Uttar Pradesh, some parts of Rajas than, central India, western Bihar, Orissa and had its repercussion in Maharashtra, should deserve that title .As regards the that most people in the country had kept aloof and therefore it cannot be applied to Indians conditions in the middle of the 19th century. We know that the lost quarter of the 18th century most of the France people gad remained aloof from the French revolution of 1789, and yet no one dare to call it local movement. It was popularly known as the French revolution of 1789, in the world.

So the revolt of 1857 can be said that as the First War of Indians Independence because those who took part in the revolt proclaimed their loyalty to the Mughal King. It was the

result of widespread public reaction against the British. There was remarkable Hindu-Muslims unity, to face the Britishers during this struggle Hindu and Muslim were well represented at all levels of leadership. "In Delhi Bahadur Shah attempted to unite dissatisfaction heavy-handed and oppressive British administration with the arguments of the religious interference, and to bring Hindu and Muslims together in a holy war against the British [Masselos: 2005:28]. Because the Hindu and Muslims too were greatly dissatisfied against British. Hence this revolt was not of any particular community are rulers but all of Indians. It may be however, be admitted that the institutionalization of all Indian services like, the Indian police and Indian army one political and non caste basis promoted equality among the Indians, even though "wide discrimination and inequality existed between the Indian and Europeans [Pannikar: 1944:204-5]. Even the war was received the sympathy of the people, the country as a whole was not behind them. Had there been no popular support behind it the war would not have spread so quickly. "Dehli Chalo" "Maro Firange Ko" was the common slogan of this war of Independence.

The revolt was not merely sepoy mutiny. Because the discontent of the sepoy was not limited to the matters military, they reflected they general disenchantment with and opposition to the British rule. The sepoy in fact was a "peasant in uniform" whose consciousness was not divorced from that rural population. "Almost agricultural family in Oudh had a representative in the army, these were 75,000 men from oudh" [Chandra: 1989:35]. The grease Cartridges was merely the match that exploded the mine which had, owing to a number of causes, been for a long time preparing. "It could be attempt to proved that the uprising of 1826, 1831, 1848 and 1854 were the rehearsal drama played in 1857" [Nanda: 2004:15]. It was much more then a military mutiny and it spread rapidly and assumed the character of a popular rebellion and a war of Independence.

On the other head different historians argued that this uprising was caused by the deposed rulers and Zamindar or their successors. But it is a wrong evaluation. History would bear witness to the fact that a large member of people took part in it and made supreme sacrifices to make their country free from British yoke "when the British annexed native states overthrowing the native rulers, large members of Indians who were in the service of these native states, were thrown out of their jobs and they could not find alternative jobs as the British service was not open to them" [Bright 1968:231].

After the feeling of various discriminatory policies of the British, the educated people also actively took part in this war against the British. Because the charter Act of 1813 the Britishers insisted to the Indians to impart the English language. A large numbers of

the educated Hindu and Muslims vehemently protested against the imposition of a foreign language.

On the other hand "the educated Indians were very much discontented as the higher civil services were kept reserved only for the Europeans and the Indians were kept aloof from such services"[Das:1998:16]. Thus the revolt of 1857 was occurred with the accumulated grievances of all sections of the peoples of India. So it became quite evident that the revolt of 1857 was the First War of India's Independence. This is the turning point in the history of India. No doubt, the British government had crusted it on the strength of its power and resources, but the feelings of discontentment and nationalism continued to be nourished in the hearts of the people. A desire for freedom kept on burning in the hearts of Indian peoples. Thus it for the first time gave birth to Indian nationalism. So it can be said that the revolt of 1857 was the First War of India's Independence.

According to Vir Savarkar and many other Indian scholars call this rising as the first war of Independence rather than a sepoy mutiny. When Vir Savarkar tried to present the actual picture of this rising he was not only persecuted but also a ban was imposed on the publication of his book which he had to get published in Holland. In this book the war of Independence Vir Savarkar admits that the Indian sepoys were the main brunt of the fighting and were the mainstay of the rebellion, but it was because in India the general people never regarded it their duty to fight. No doubt, the Indian soldiers fought against the English in 1857 but thousands of Indian people took part in it though they did not do the actual fighting. Surely it was something more than a mere sepoy rebellion or the rebellion of the selfish Indian rulers. It was a national uprising. The causes of this rising lay quite deep. The Indian people as a whole were tired of English Imperialism and they wanted to get rid of it. The use of grease cartridges only did the work of a spark to light the vast hoard of materials which had been collected for the last year or so.

Effects of the War

The war of 1857 gave the death blow to the all and the outdated British administration in India. The British authorities in India realized the consequences of attempting to govern a vast country like India in the most irresponsible manner and in total disregard towards the wishes and sentiments of the Indian people. So, they began to devise ways and means for knowing the Indian minds. The British had become extremely distrustful to Indians in general and the high caste Hindus in particular and began to treat themselves as a garrison, occupying a country which might always break out in a sudden rebellion. It was thought that Lord Dalhousie's reformist policy legislation affecting

Hindu social life were responsible for uprising. After 1857, the British decided not to interfere with religious and caste question. Even the "the mission adopted in Bentinck's time to convert Indians to English man was abandoned after 1857" [Stein:2006:226-27]. After the war of 1857, the British administration was streamlined. But, apart from the general developments in the administration, the Indian war of 1857 led to the three major changes of policy. "The Government of India act of 1858, passed by the British parliament, ushered in a whole new era for India with incalculable effects on the people of India" [Ponnappa:2003:252]. There was no substantial change in the system of government. The Act provided improvement of the machinery by which the Indian government was to be superintended and control by the Britain. The war of 1857 led to the complete reorganization of British army in India. Steps were taken to strengthen the British element in the Army. More importance was given to ensuring loyalty and efficiency. "The policy of balance and counterpoise was deliberately furthered in the Indian army. Various groups were so arranged as to prevent any sentiment of national unity growing among them and tribal and communal loyalties and slogans were encouraged" [Nehru:1946:390]. The war of 1857 also compelled the British authorities to adopt a completely new attitude towards the Indian princely states for the purpose of having a better balance of power. The Indian Princes and Nawabs enjoyed great support and loyalty of the people and the British realized that to perpetuate their rule in India, unhindered and unprotected, they must win the loyalty of the ruling dynasties of India. The right of adoption of the rulers was recognized and the British policy of annexation of their territory was abandoned. The Queens proclamation of November 1, 1858 gave the assurance to the princes that the crown would regard their right, dignity and honor as our own. It may, however, be pointed out that the British were extremely vindictive and they brutally suppressed the war and a reign of terror was let loose after the war was over. The English killed their prisoners without trial and in a manner held by all Indians to be the height of barbarity sewing Muhammadans in pig-skin smearing them with pig fat before execution and burning their bodies and forcing Hindus to defile themselves. They also massacred thousands of civilian population not only in Delhi, but also destruction and all the men inhabiting them were slaughtered and the indiscriminate burning of their inhabitants occurred wherever our armies moved. The failure of war of 1857 convinced the Indians that the sporadic acts of violence or the methods of blood and bomb would not succeed to win independence without proper organization and rousing the popular consciousness against the foreign ruler. Thus in the post war period attempts were made to organize people and to generate among them a real desire to liberate India from the shackles of British authority. Attempts were made to reform the society in order to make them free from the bonds of age-old customs, superstitions, traditions and dogmas, in order to enable them to achieve political and economic advancement.

After the war of Independence of 1857, the crown took over the powers of administration from the hands of the company. "The governor general became the Viceroy and it abolished the board of control and court of Directors" [Chakravarty: 1992:86]. Their place was taken by the secretary of the state for India and the Indian council. The secretary of state was empowered to superintend, control and directs the Indian affairs. He was a member of the British cabinet, but his salary and that of his establishment was paid from the Indian revenue. The reorganization of the army was another important outcome of the war of 1857. "The government brought about some modifications in the British Indian army after the revolt of 1857" [Nanda:2004:20]. As the company had now ceased to exist, the soldiers were considered to be the soldiers of the crown. The proportion of the British troops to Indian sepoys was increased to one-half in Bengal and Punjab, while in Madras and Bombay it was one-third. The Indian army was divided into two parts; an Indian army under British officers and units of British army in India. A commander-in-chief was appointed for the whole of the Indian army, but he was to be under the control of the Viceroy. The monopoly of the British over high civil services was also kept intact. "The Indian councils act of 1861 was an important enactment of the period" [Das:1998:23]. This act provided for an annual competitive examination for recruitment to the covenant civil service. But the venue of the examination was kept in London. Besides the rules concerning it were so framed that the Indians were virtually kept aloof from the services for a long time. Economic exploitation of the Indians increased further after the revolt. Of course, certain beneficial measures like development of transport and communication, irrigation and agriculture, sanitation etc. as a result of which the Indian people were deprived of their profits. The period after the war was marked with intensification of racial hatred and bitterness, contempt, ferocity became marked features of the English character in India. The Indians on their part remained hostile towards their rulers for many years to come. The war swept the Indian sky clear of many clouds but at the same time, it ushered in several revolutionary effects. As far as the British were concerned, the danger from feudal India came to an end once and for all. But the British had, from now on to face the new challenges from progressive India inspired by the English liberals. Another important effects of the war of 1857 was that the Indian people looked upon the war as a symbol of challenge to the British imperialism in India which helped the growth of Indian nationalism. The Indian freedom fighters were greatly inspired by the deeds of Rani of Jhansi, Nana Saheb and others who were held in great esteem as national heroes and champions. The memoirs of the great deeds of these leaders were kept alive through popular songs and ballads and continued to inspire the Indian masses to fight against the foreign yoke. Thus the effects of the war of 1857 on India's freedom movement cannot be overlooked.

Conclusion

Thus the revolt of 1857 began from Meerut, 10th km from Delhi on 10th May 1857 and then gathering force rapidly embraced a vast area from Punjab in the north to Narmada in the south and from Bihar in the East to Rajputana in the West. Several political, social, economic, religious and military and immediate cause or grievances of the various sections of pupils irrespective of caste, creed and religion had combine together for the outbreak of these first war of India's Independence of 1857. The "Delhi chalo", " Maro Firangko" was the common slogan of this war. But the ruthless repression of atrocities ended the chapter of the revolt with the hanging of Tantia Tope on 18th April 1859, including the numbers of people of India. But effects of the war of 1857 on Indian history cannot be overlooked. It resulted in significant changes in administrative structure. "The crown assumed the direct administration of India which however, was only formal" [Prokash 2004:389]. Thus it brought far reaching political , social, economic, religious and military changes in the history of British India. So the war of 1857 was an epoch making in the history of India. This outbreak of 1857 was a watershed in the British Indian history. It brought about revolutionary changes in the national life of India. "It was an organized national movement. Its great principles were 'Swadharma and Swaraj', in these two, lies the root principle of the revolutionary war" [Savarkar 1949:7]. The sacrifice of the leaders during the war of 1857 were a source of inspiration for future freedom fighters. The war became a symbol of challenge to the British. Thus it became quick evidence that the war of 1857 was a turning point in the history of India. No doubt, the British government had crushed it on the strength of its power and resources, but the feelings of discontentment and nationalism continued to be nourished in the heart of the Indians. A desire of freedom kept on burning in the hearts if Indian Patriots. So it can be said that the revolt of 1857 for the first time gave birth to Indian Nationalism.

We must remember that always a successful war of independence is branded as a rebellion or a mutiny. The game of politics never allows a political vacuum to continue for indefinite period and if the Indians had succeeded in driving out the British, they would have equally become successful in providing a united and organized government for themselves. In a war for national independence it is not material or significant as to how many people join the war, what is important is their dedication and commitment. The success or otherwise of such a war should not be identified with victory and defeat respectively. If the war of independence is to be viewed as a series of continuous and prolonged battlements with the enemy with the ultimate aim of rousing consciousness in the country in driving out the foreign rulers, then the war of 1857, though militarily lost was politically most significant and produced far reaching consequences. Despite the Sepoy's limitations and weakness, their effort to emancipate the country from

foreign rule was a patriotic act and a progressive step. If the importance of a historical event is not limited to its immediate achievements, the revolt of 1857 was not a pure historical tragedy. Even in failure it served a grand purpose: a source of inspiration for the liberation movement which later achieve what the revolt could not. Thus we can say that the revolt of 1857 was purely a struggle for India's independence which can be assumed as the foundation of Indian freedom and weakening of the British government.

Nationalism, Patriotism and Political Ideas of Sir Syed Ahmad Khan: an Analysis

Introduction

Sir Syed was a great nationalist of the British and Hindu-Muslim unity; initially, he was a proponent of the unity of British India. The first era of the 19th century was the time for the downfall of the great Mughal Empire. Sir Syed belonged to a very reputed family, his paternal grandfather was a 'Hazari', and they were all government servants during the Mughal reign. Sir Syed was born on October 17, 1817 CE, in the dark age of the Indian Muslims. Sir Syed realized the tragic conditions of the Indian Muslims in every sphere of life: educational, social, religious, and political (Iqbal, 1989). It was the time when the Mughal Empire started its downfall in India, during the period he received his early education from the Madrasa. He was a very excellent learner of Urdu, Persian, English, and Arabic. He was not merely a great personality but also a significant movement in himself.

He was appointed as a Qazi (Judge) in the British government. He worked as a government official with the Britishers. He tried to comprehend the policy of the British Government about how these few people subjugated most of the land of the Indian subcontinent. Sir Syed appreciated the administration and educational system of the British. When Sir Syed faced challenges and witnessed the miserable conditions of the Indian Muslims, he understood that education is the only mode to answer all the questions. Education was the prime issue of Indian Muslims, and it was merely a policy adopted by Sir Syed to uplift Indian Muslims. The whole country was affected by the revolutionary freedom movement of India. Muslims and other communities of India participated in the freedom movement. But to lead the issue of education, the British Government had established the school. The Muslim Ulema refused to receive an English education, but Sir Syed was the 'Man of Vision' of future time. Only a Modern Madrasa could uplift the Muslim Society. So, he considered establishing the Modern

Madrasa for the Muslim community. Through door to door, he collected the donations and established a Modern Madrasa in 1875 named 'Muhammadan Anglo-Oriental College'; after that, it changed into the University in 1920.

Sir Syed wrote copious books, but after Bijonour's rebellions, he was shocked; then Sir Syed produced two Monumental works, *Asbab-e-Baghwat-e-Hind* (1858) and '*Khutubat-e-Ahmadiyya* (1870).' From the writings of *Asbab-e-Baghwat-e-Hind*, Sir Syed tried to expose the causes of the Indian mutiny by laying the blame on Muslims. It may be considered the most reliable book of the history of that region.

Politics was not an interesting part of Sir Syed, and he never actively indulged in politics, but he was fully aware that the formation of the national government is feasible. The formation of the government would be on the basis of Majority and minority. And the Muslims are in the minority, so; the Muslims should be focused on the development of modern science and philosophy.

The problem needs to be understood; Sir Syed was rejected by the Ulama of the Muslim community. The reason for the rejection of Sir Syed Ahmad Khan's attitude and his proposal for modern education for Muslims was his rational approach to Islam. He wrote a Commentary on the Qur'an (*Tafsir-ul-Qur'an*), the Tafsir was based on the rational and scientific. So, it was the most controversial Tafsir.

His other writings also have controversy like, Qur'an is the accurate Word of God but no Hadith, rejection of the Miracle of Prophets, rejection of Pre-destination, no existence of Angels, no existence of magic, Concept of Heaven- Hell, etc. there were so many writings that depict his rational approach about God and his creatures. Several periodicals such as *Noor-ul-Afaq*, *Noor-ul-Anwar*, and *Ta'ud-ul-Islam* were started by his opponents in opposition to *Tehzeeb-ul-Akhlaq* to discourage Muslims from joining the Aligarh Movement of Sir Syed Ahmad Khan. These approaches were not acceptable by the traditional Ulama of that time, so, he has been declared as Kafir (Unbeliever) by the Traditional Ulama.

At the end of the 19th century, the Muslims were living in underprivileged miserable conditions. They were socially, economically, and even politically backward. They deliberately want to keep themselves away from modern education. But there were few Muslims who were receiving the traditional knowledge of Islam. He did not merely advise Muslims not to participate in politics but also advised them not to blindly follow their religion. He wanted to say that Islam never be traditional it needs reformation (*Islah*) and reinterpretation (*Ijtihad*) according to time. He was the 'man of vision' and profound intellectual. His vision was not simple to understand before the time, this plan

was not for a decade or century, but he was looking for the future of upcoming generations in the Muslim community.

The present study would adopt both Primary and Secondary sources of information would be consulting for the in-depth analysis of the research. Subsequently, the collected material is analyzed and examined systematically and scientifically in a coherent manner with a sense of objectivity. Besides the above, the other sources that may impinge on the present study would also be given due attention to study. The study is also based on historical facts, so secondary and primary sources are relevant to make the study more reliable.

Results and Discussion

More than thousands of articles and books have been written on Sir Syed Ahmad Khan. Most of the articles were written on his life and his great work in the form of Aligarh Muslim University and even his upliftment of the Muslim community. The books were written on his particular thought like religious views and historical aspects. But very rare writings have been written on his nationalism and patriotism ideas, so the researcher tries to ponder the national, political, and patriotism ideas of Sir Syed Ahmad.

Before examining the views of Sir Syed on Nationalism, there is a need to study the Word "Qawm." Sir Syed indicates the meaning of this word as creed, caste, class, and as a social group. He describes Qadis, Mufti, Nawab, sheikh, and Sayyad as a Qawm (Panipati, 1990). He referred to the English, French, Germans, Greeks, Egyptians and Arabs as different Qawm. Before 1884, Sir Syed interpreted "Nation" as the word "National"; he said that "I include the Hindus and Muslims, which is the only meaning I can give." He articulates that the peoples of India are one 'nation', Hindus, Muslims, Bengali, Parsis all are as a 'Qawm,' and they all make a national identity, that is, 'Indians' (Jiang, 2016). Sir Syed was aware of the pluralism of Indian society. India is a country that has massive diversities. The people of India are followers of different religions, but Sir Syed presents the idea of India as one Qawm. Indians and Britishers are different from Qawm because Britishers are not natives of India (Amir, 2000). The works of Sir Syed depict him as a lover of his community. In many speeches, he articulates to love our country by giving the reference to the Hadith of the Prophet Muhammad (PBUH). His efforts were focused on the education of the Muslim community, and he insisted that receiving the National education could be obtained in India only.

He started the Urdu Journal named 'Tehzeeb-ul-Akhlaq' in Aligarh, the purpose of publishing the 'Tehzib-ul-Akhlaq' was to promote faith and love for the motherland (Watan) and country (Balad). Sir Syed intended to say that Qawm in the term for both

‘Watan’ and ‘Balad.’ The motto of Tehzib-ul-Akhlaq was to transfer the sentiments of patriotism in order to create social reforms among the Muslims. He delivered a lecture in his college where he said that there would be no discrimination against any particular community; both Hindus and Muslims would be brothers and receive a similar education. All have equal rights to enjoy within the college, including the enlightenment of scholarship. He also thanked those Hindus who donated the spirit for the college (Amir, 2000). It depicts that Sir Syed wanted to make one nation comprising of Hindus and Muslims.

In India, Sir Syed, in his speech (February 3, 1884), articulates that “by the word Qawm, I mean Hindus and Muslims both. This is the sense in which I interpret the word ‘nation’. He was unhappy to realize that only Hindus consider themselves Indians and Muslims are foreigners (Amir, 2000). Not only Hindus but also Muslims are the natives of Hindustan. The Aryans came to India for prolonged periods.

The people of India mixed up with Aryans, and they all called themselves "Hindu" (natives of India). Even the Hindu Aryans are not natives of Hindustan, and there are many Muslims found in India whose blood match with the Aryans. Both the communities of Hindus and Muslims have been living in India for long periods. He added that “India is like a bride who has two beautiful eyes; if one eye is lost, it would lose its beauty” (Panipati M. I., 1963). Sir Syed said that not only Hindus and Muslims are two communities in India, but also the followers of other religions are also the natives of India. It is the depiction of a great lover of the geographical nationalism of Sir Syed (Panipati M. I., 1979).

His speculation was on the conflict among all the communities of India that make our country very weak, disappointed and it would be shattered into pieces. The blessing of living together has departed from us. It brings to standstill progress for the country. So, there is a need to change this discord and enmity with unity and solidarity through mutual love (Khan, 2004). Sir Syed said: “at present, the great cause of our decline as a people is that we have forgotten the idea of National Unity.” Sir Syed was partly impressed by Tipu Sultan (Ruler of Mysore, Known as ‘Tiger of Mysore’) because of his secular and nationalist outlook (Khan, Muslims In India, 2004). According to Sir Syed, politics is not a solution to every problem related to the Nation, and but merely education is the safeguard of our culture, tradition, and religious identity. He said that some people hold an option that our national cause will be promoted in the best way by discussing political discourse. But I do not agree with them because the spread of education is the only means to the promotion of our national cause’ (Raza, 2001). Sir Syed played a significant role in giving the solution of the national cause and national development in such a critical time. Jawaharlal Nehru (First Prime Minister of India)

wrote in his book *Discovery of India*, p.298: 'Sir Syed was in no way anti-Hindu or communally separatist. But he only opposed the formation of Congress in 1885'.

The family of Sir Syed had traditional relations with Hindus. When his maternal grandfather Nawab Fariduddin Khan divided his property to his son, he also gave an equal share to his Hindu diwan Lala Muluk Chand. He treated him as a family member. When Sir Syed established a madrasa in Ghazipur, and Raja Dev Narayan Singh was invited. When Sir Syed was in Delhi, he always participated in all the festivals of Hindus. When he was in his last days, there were 285 Muslim students, 64 Hindus students, and 7 Hindu teachers in the Muhammadan Anglo-Oriental College (MAO). An excellent example of Sir Syed of communal harmony was that he gave gold medals from his pocket to Hindu students who got the first division in bachelor's degree (Nizami, 1985).

Sir Syed promoted communal harmony by inter-faith dialogue. He wrote commentaries on the Bible to make good relations with the Christians, and he did a sympathetic study of the Bible to make social interaction with Christians (Ansari, 1989). He also advised destroying the British policy of divide and rule (AMU, 1998). In 1860, he started to release a pamphlet called the 'Loyal Muhammadans of India' in which he argued that Jihad is not permissible in India, and he recorded the veracious account of Muslim nobleness (Jain, 1983). During nobleness, he was the symbol of communal harmony. That was the time when there were three communities in India British, Muslims, and Hindus; it was critical to think about how to face the challenges of communalism. Some people were supporting the British Government, and some were against it and were demanding their freedom. The great clash of the ideology of Sir Syed emerged then Sir Syed wrote many articles to bring Hindus and Muslims together on one platform.

He described that he heard the people of Bareilly who had given the proof of love and majestic of communal harmony. One incident he has explained is the collection of funds collected by the Hindu and Muslim communities to construct a mosque in Dhaka (now in Bangladesh). Therefore, Sir Syed showed his sympathy and congratulated them on maintaining brotherhood (Khan, *Selected Essay of Sir Syed Ahmad*, 2004).

Sir Syed was the symbol of Hindu Muslim unity; he delivered a speech at Gurdaspur on January 27, 1884; he said: "O Hindu and Muslim! Do you belong to a country other than India? Don't you live on this soil; are you not buried under it or cremated on its ghats? If you live and die on this land, then bear in mind, that... all the Hindus, Muslims, and Christians who live in this country are one nation" (Sir Syed Ahmad Khan).

The Christians are also part of the Indian national, the word 'Qawm' does not merely related to Hindu Muslim unity, but every community which is living in India is related to

‘Qawm’. Hindu are in the majority and Muslims are in the minority and others communities (Sikh, Christian, Parsi, Jain, and Buddhist) are also in minorities, and the Muslims are the second-largest majority in India, so under the British rule in India, both communities have conflicted to each other, that’s why Sir Syed indicated to both (Hindu and Muslim) as a ‘Qawm’ because of continuous conflict between both.

Sir Syed had not discussed about any specific types of government in his writings but he described what he felt. He thought that God did not create any political society it’s a management of the Human Beings according to their suitable match. Human society form with two things, government and its citizens, both have same collaboration to form the civilized society. Mercy must have the main role in making society better, the state must be the results of mercy but citizens also show mercy towards the state. The Sir Syed did not participate in politics, but he was much influenced by some events in England. The best example was ‘the subjugation of the Britishers’ on the most of the land of the world (Muhammad, 1969).

Sir Syed was not merely an educationist but also a political thinker of his time. His political ideas concerning his contemporary plights were penned down by him, giving an overview of what he felt about politics. He objectively analyzed the real cause of the revolt. Sir Syed was an eyewitness of the mutiny of 1857. The mutiny of 1857 greatly impacted Sir Syed, and he worried about Indians because of the killings of both the communities, Hindus and Muslims. Sir Syed realized that Muslims could not defend their rights without gaining the knowledge of science and technology, without which all efforts of political emancipation would prove futile. He delivered a lecture in Amritsar (a place in India), where he said: "if the government has not conceded some of our rights to us as yet, for which we may have a grudge, higher education, is such a thing that it will secure those rights for us, maybe willy-nilly, or against its wishes." (Jain, 1983). *Asbab-i-Baghwat-e-Hind* (The Book of Sir Syed, The causes of Indian mutiny) was a significant work of Sir Syed Ahmad Khan, but the government ignored the conditions of its subject while the people were unable to understand the policy of British rule (Nizami, 1985). It was the first political pamphlet written by an Indian in the British Government. Even the founder of the Congress, A.O. Hume (Allan Octavian), himself said that he was much impressed by this booklet (AMU, *The Glowing Legend of Sir Syed*, 1998).

The political ideas of Sir Syed were influenced by the remarkable events which took place in England in the 19th century. It was the time of the rise of Britain's most enormous world power. And it made Sir Syed understand the whole politics of India. Sir Syed was also influenced by the political ideas of Lord Ripon and Gladstone (AMU, *The Glowing Legend of Sir Syed*, 1998). Monarchy, constitutional monarchy, parliamentary, and presidential government are forms of government. He did not like monarchy or

even constitutional monarchy. He also opposed every type of hereditary rule. Sir Syed said: "I am Musalman (Muslim), an inhabitant of India, belong to the Arab race. From these two facts that I am a descendant of Arabs and Musalman, one can infer that I am a true radical from the religious and national point of view and then my religion is Islam and teaching radical principles and is not compatible with the despotic rule; neither is it like limited monarchy for it dislikes all hereditary Government." According to Sir Syed, any political agitation is harmful. Any agitation (Dharna-Pradarshan in Hindi) has no justification, and it does not matter which type of government is ruling. In the republic government, it demands to remove the president; in parliamentary government, it affects the ministers, and in a monarchy, it directly affects the ruler.

Sir Syed dared to convey his message through publishing to the government as well as the common people. Once, many people gathered around Sir Syed and were bickering. Even friends of Sir Syed said to him that the brochure would not be published. Another said to Sir Syed that you should burn it, but he ignored all the comments against his decision. But he printed a copy of the pamphlets and sent it to the Government of India (British Rule). There were men like Mr. Cecil Beadon (foreign Secretary) who considered the request of Sir Syed. It was the first time when the partial publication came in 1861, where Indians were admitted for the first time in the GovernorGeneral's legislative council (Sherwani, 1944).

Up to the end of the 19th century, there was no existence of a Muslim party in India. It did not mean that Muslims would segregate from the mainstream of politics. Not all Muslims were supporters of the Congress, but some Muslims were supporters of the education policy of Sir Syed. He realized the conditions of Muslims and asked them, based on non-religious dogmas, to refrain from active politics. He knew that Muslims were more backward and not able to get jobs in the British government. He insisted on uplifting the Muslims by education. 'Education is the only tool that would enable Muslims' upliftment in mainstream society. He never said that participation in politics is religiously forbidden. Sir Syed inculcated three ideas of politics. First, Muslims had to keep away from politics. Second, the British must be befriended. Third, Muslims should not join Congress (INC). He said that Muslims must leave politics until they have reached the level of Hindus. Aligarh (a place in India) became the symbol of Muslim politics, particularly when it became the Aligarh Muslim University. Sir Syed said that political rights: "were more important than religious traditions, and so long as the Muslims lived freely under British rule, they would remain good subjects." (Hasan, 1997).

The Hindus and Muslims were living under the British Government, and they had political differences. Most of the Hindus supported Congress because many prominent leaders were in Congress, but many Muslims were not supporting Congress and even

against the policy of Congress also though Muslims and Hindus behave with love, friendship, solidarity, and respect for their religion.

As an educationist, Sir Syed opposed the Indian National Congress (INC). He was the contemporary of A.O. Hume, the British administrator, and also defended him on occasions, especially on the question of the foundation of a native volunteer's corps in India. Hume was the forerunner of the Indian National Congress. Still, he knew that Congress of those days was only a shock absorber about which A. O. Hume had himself said that it was 'a safety valve' for the escape of great and growing forces generated by our own action (AMU, *The Glowing Legend of Sir Syed*, 1998). The Muslims strongly rejected the Indian National Congress because the leaders of Congress were Hindu; the majority was Hindus and overwhelming the minority interest. The minority could not challenge the decision taken by the majority. And there would be no consideration for the minority. That is why Sir Syed feared that the Indian National Congress party's political interest would overwhelm the Indian Muslims (Lan Jiang, 2016).

Sir Syed was deeply disturbed to expect that a large number of young Muslims would gather for the forthcoming session, which was going to be organized in Madras; 'Badruddin Tayyabji' was the president of the session. In Lucknow's speech (1887), Sir Syed intentionally said that this speech was only for opposing the Congress. He also criticized the Badruddin Tayyabji for joining Congress and said that he made a mistake to take part in the National Congress. No Muhammadans from Madras and no 'Rais' from Bengal took part in the national Congress (Sir Sayyid Meerut). Badruddin Tayyabji wrote a letter to Sir Syed that if the Muslim delegates who would oppose Congress in any matter and the Congress would not take it up. Sir Syed replied because Congress is a political body, there was no political question which would be opposed to the interest of the Muslims. Here, Dr. Rajendra Prasad (First President of India), seeing the whole scenario of opposing Congress by Sir Syed, said that 'Mr. Beck had utterly succeeded in misguiding and converting Sir Syed (Prasad, 2010). In 1888, Sir Syed established the 'United Indian Patriotic Association' (UIPA), which had a large number of Muslims, noble Hindus, and even English members. Through this association, he started to counter the activities of Congress (Amir S. , 2000). It depicts the primary leadership of Sir Syed.

In the critic writings on Sir Syed Ahmad Khan, many times, it has been written that, Sir Syed merely care about the Indian Muslims and wanted to uplift them. The researcher has pondered that Sir Syed was not merely wanted to develop Muslims but also the other communities of India. After the downfall of the Mughal Empire in the mid of 19th century, India came under the rule of the British, so the conditions of Muslims became more deteriorate. It would be said that he was more focused the community, which was

more in miserable plights and also facing the challenges of economic crises. He used the word 'Qawm', which indicates to all the community of India, whether they are Sikh, Muslims, Hindu, or others. It also depicts the unification of Indians and also one 'Nation'. So, all Hindus, Muslims, Sikhs have one National Identity that is 'Indian National'.

He wrote many articles and books on social upliftment. And he also started a journal named 'Tehzeeb-ul- Akhlaq'; the motive of this monthly journal was to send the ethical and social reformer message of Sir Syed to the Muslim community. Through these works, Sir Syed conveyed the messages of social developments and modern education to the Indians. Even Sir Syed used said, 'India is like a Bride'.

The researcher also finds in his study that Sir Syed was also the 'epitome of communal Harmony'. He had many friends who were Hindu; the researcher has mentioned the name of several Hindu friends. He also worked in collaboration with Hindus and set the highest tradition of goodwill, and also worked with the several communities of India.

Sir Syed advised to the Muslims not to participate in politics. Muslims' conditions did not favor; Sir Syed knew that if they joined the political parties, they were in the minority, so the Muslims came into the system not and should not be part of politics. If the Muslims would not know about their rights, then how would they defend themselves? So, Muslims should have knowledge of modern science and technology. And Sir Syed know better that the, Education is the tool which makes strong in the system as well as in the country.

In the early period of Sir Syed Ahmad Khan, he did not have an idea about politics; he was just as a Munsif (Judge), but in the later period, he started to understand politics. When he saw the mutiny of 1857, he tried to write about politics, but he was neither involved in politics nor did he want Muslims to participate in politics. He devoted most of the part of his life, and he was merely worried about the underprivileged community of the Muslims in India because they were socially, politically and, economically backward. He tried to explain the 'meaning of rebellion, fighting against the establishment government, helping those who are enemies of the established authority, and explaining the laws and forces. He has not merely tried to explain to the government but also the rebellions. So, after that, he wrote several pamphlets and, through his writings, maintained peace in the country.

On the other hand, Sir Syed was much aware that the political decline of Mughal was also the decline of Muslims in India. The political ideas of Sir Syed directly related to forms of government based on circumstances. The people of any country must be live

with peace and harmony. Like, India has its composite culture and it has diversities in caste, culture, and religions also. Even Sir Syed also wanted the unity in Muslims should be through education. His prime motive was to empower the Muslims, whether in politics or in Modern education.

In the contemporary world, most minorities face the challenges of identity crises based on their nationality. As the minorities are compelled to show their love to the country, the word 'nationalism' is stereotyping, which depicts love for their own country. So, in all these plights, Sir Syed Ahmad Khan can icon for the young generations in the field of love, unity, education, and practitioner of religion. In the late 18th century, he was a mere person shows himself as a lover of their country and loyal to the British Mandate. In plights of British Mandate, nobody dares to write anything without the permission of the British Government; in such conditions, he wrote a book 'Asbab-eBaghawat-e-Hind' on the famous revolt of 1857, which was famous mutiny in Indian history. His dynamic personality is not specific for Indians but for the whole world to learn the lesson.

Conclusion

Sir Syed was a 'man of vision'; he did not like to live in the past. Therefore, he wanted to create awareness among the Muslims on the realities of the world. He approached to the Britishers to make good relations between British and Muslims, to achieve all the goals. He proved himself as a great nationalist; Sir Syed was a great nationalistic in a political sense. He wanted the Muslims as an identity of Indian Muslim. And Hindus and Muslims should be one identity of Nation "Qawm". He was the symbol of communal harmony; he wrote many articles and delivered his speeches to maintain the brotherhood and unity of the nation. It was the period India was under the British mandate, and many Muslim intellectuals and elites were attached to the Congress, but they were not doing anything to uplift the Muslim community; even the conditions of Muslims were deteriorating. Sir Syed initiated the Muslim community educationally strong because education was the only weapon to make the Muslims uplifted and simultaneously the nation progress and develop further. Many Muslims clergies opposed him for providing English, modern and advanced education for Muslims.

Week 3: Mohammad Allama Iqbal

Islamic Identity in Indian Subcontinent – The Case of Mohammad Iqbal

Iqbal's Metaphysical Moorings

"I therefore demand the formation of a consolidated Muslim State in the best interests of India and Islam. (...) Communalism in its higher aspect, then, is indispensable to the formation of a harmonious whole in a country like India (...) In conclusion I cannot but impress upon you that the present crisis in the history of India demands a complete organization and unity of will and purpose in the Muslim community, both in your interest as a community, and in the interest of India as a whole

Sir Iqbal was intellectually and spiritually moved by an array of philosophers, political theorists and religions across time and space. History has been unkind in its judgement of his eclecticism and depth of understanding. His brief stint in the west introduced him to Plato, Hegel, Kant, Nietzsche and Bergson. The latter made him disapprove of the Platonic claim on 'Being' and rather move towards Heraclitus' view on time as 'Becoming' However, in a departure from the strict dichotomy of Being and Becoming in the western philosophical parlance Iqbal synthesised the possibility of knowledge or God by emphasising on the eternal and yet ever changing universe. The Italian theorist Alessandro Bausani identified the divine inspiration as the source of the forces of nature in Iqbal's religio-philosophical system.

It is important to know that Iqbal did not advocate a single universal truth. His staticness in this regard is only limited to its essential nature and not the content. This is reflected in Iqbal's admiration for Shah Waliullah's historicism that interpretations of religion can be differing to space and time but the "essence of religion" i.e monotheism is universally applicable. Iqbal accommodated Kantian individualism with the eventuality of purposeful activity. And yet he agreed with Nietzsche in his critique of liberal rationalism. As Gordon-Polonskya mentions

As with Nietzsche, the man personality "ego" is at the center of Iqbal's philosophical conception, despite its religious nature. As with Nietzsche's superman, a characteristic of the ego striving towards constant action. ³ Thus indigenising western rationalism from religious vantage has been Iqbal's original contribution. Far from celebrating stagnant traditions, impressed by Hegelian dialectics he illustrated the dynamism in Islam by referring to Ibn-i-Muskawaih's theory of life as progressive and evolutionary while dismissing any attempts fixing the nature of this movement such as historical materialism, which was fashionable in the contemporary circles. In Asrar-i-Khudi and

Ramiz-i-Bekhudi Iqbal mentioned the imperative of combining the reformation of Islam with its ethical postulate of “the philosophy of man-activist.”⁴ Iqbal gave a static concept of truth while rationalising an a priori concept of God. By rejecting the determinism stemming from historical time, he struck a balance by giving eminence to the causal action and its creative interpretation (ijtihad). This surety and fundamental faith in knowledge led him to negate of speculative and dialectical Greek thought. Iqbal’s appreciation of pantheistic Sufism describes his avowed fascination with unity with God and mystic truth.

He blamed the Greek influence on Persia as the reason for later decay in the original Arabic Islamic thought. Greeks followed the precepts of “theoretical rationalism” in which the Sophistic argumentative tradition merits attention. Iqbal, on the other hand, praised the Koran for its “practical rationalism and knowledge through sense perception.”⁶ He was a critic of the decadent avatar of mysticism or tasawouf which led to endless philosophical meanderings in the quest for God. In his doctoral thesis *The Development of Metaphysics in Persia* he criticised this obstructionist and destructive philosophy as hindering Islam. He rationalised religion by imputing Nietzschean rationalist method in his assessment of the twelfth century philosopher Ghazali. This ‘Kant of Islam’ voiced for the limits of human reason while criticising Greek philosophy. The “reign of unbelief” meted out by rationalist and metaphysical assault on religion could be demolished by retrieving the original Islamic interpretations. In this vein, Iqbal dons the romanticist hat.

In a series of lectures *The Reconstruction of Religious Thought in Islam*, he has voiced the embodiment of justice, scientific temper in religion for the all round development of human personality. He borrowed from the Ash’arite school of atomistic theory to reconcile the eternal creative imagery of God with perpetual and ceaseless activity in the universe. He arrived at a dialectically creative metasystem of existence which is sustained by absolute and relative truths.

Iqbal’s Political Thought

The rationalist and praxis oriented approach of the holy text made him adopt a similar tactic in politics. He noted a “profound duality”⁷ in the political scene of colonial India. His role as a reformer of Islam made him visualise the revolutionary potential who Indian masses despite their utopian socialist aspirations were religiously conservatist. Recognising this peculiar ‘modernity of tradition’ Iqbal was thoroughly impressed by Sir Sayyid Ahmed Khan for accommodating this contradiction. The latter voiced “the anti-imperialist ideology of Muslim nationalists and the pro- British “communalist” ideology of the elite of the Muslim community”.

However Iqbal differed with Khan in latter's political somnolence with the British. His poems *Tasvir-i-Dard* and *Khuftaganj-i-Khak Say Istafar* (A Land Asleep) reflects the anguish of a young nationalist Iqbal. His association with Anjuman-i-Himayat-i-Islam disappointed in its support for British education and concerns of Muslim bourgeois classes. It is not remarkable that the secular and all embracing character of nationalism in Iqbal which is epitomised in *Naya Shivala* to pan Islamism advocated in *Shama Awar Shair* as would be seen later.

The 1857 revolt had placed Indian Muslims under suspicions of anti British activities. The former class of Persian and heavily Persianised Islamic nobility has suffered tremendously under the new regime. Khan's advocacy for "national self help" matched the call for evaluating self or *khudi* by Iqbal. The estrangement caused by dethronement of the Khalifa in Turkey and collapse of Ottoman empire had psychological impact on Muslim selfhood across the world. Allama Iqbal's theory of self or *khudi* beckoned introspection within Islam as it had acquired a self denying and deprecating character in assimilation with new cultures. The renaissance of Islam was nothing but a reevaluation of the sad decline, something which critics have found as checking the liberal and progressive elements among Islamic intellectuals.

However, reformation and change was inevitable to Iqbal in his appreciation of the October Revolution. His piece *Nava'i Mazdur* celebrated the proletarian revolutionary potential. He combined this simmering energy with the *nacharia* theory of nature by Sir Sayyid Ahmed Khan which has explicated the utilitarian use of knowledge of nature. Iqbal modified his theory to envision the creative possibilities for human action amidst the loss of consciousness in the modern world. Iqbal's works *Ramiz-i-Bekhudi* and *Asrar-i-Khudi* paint a Kafkaesque nightmare of loss of personality in an increasingly despondent society.

Iqbal found a cultural alternative to the British, somewhat similar to Gandhi's anti colonial stratagem to which Ashis Nandy refers to in *Intimate Enemy*. Like Iqbal's self doubts over Islamic heritage, the meaning of history in evolution of knowledge; Gandhi underscored the 'living past' in conjunction with the Karmic view of history. He had met Iqbal intellectually in simultaneously borrowing from the great and little traditions to create a totality of Indian civilisational values and battle the British with "power" and "activism". It is worthwhile to quote extensively

"He (Gandhi) rejected history and affirmed the primacy of myths over historical chronicles (... This) was the salience given by Indian culture to myth as a structures fantasy which, in its dynamic of the here-and-the-now, represents what in another culture would be called the dynamic of history. In other words, the diachronic

relationships of history are mirrored in the synchronic relationship of myths. (...) Public consciousness was not seen as a causal product of history but as related to history non-causally through memories and anti-memories. (...) Gandhi, however, was a product of society which conceptualised the past, as a possible means of reaffirming or altering the present. (..) While this position does not fully negate history and interpretations of myths as history, (...) the Gandhian position does make a subsidiary anti-historical assumption that, because they (myths) faithfully contain history, because they are contemporary and, unlike history, are amenable to intervention, myths are the essence of a culture, history being at best superfluous and at worst misleading.”

This is strangely reminiscent of idealism in Iqbal’s attempts at philosophising Islam and the need for its resurgence. He was influenced by Jamal-ud-din Afghani’s attempt to resist the west’s overbearing dominance through Islam. This was the genesis of pan Islamism in Iqbal’s political moorings. He was univocal in the need for modernism in Muslim states and had criticised the then Iranian state for vesting powers to ulama in political affairs. He rejected theocracy of any kind and maintained the call for equality of all men and need for solidarity to resist domination. He also questioned Kemal Ataturk’s position of a dominating state and subservient religion.

Iqbal’s analysis of several Islamic concepts like qawm, ummah, millat provide a fruitful analysis in his transition from a nationalist to supposed communalist. He has rejected the society-nation-religion dichotomy and yet maintained the independence of these social terms. Millat refers to the followers of the Prophet whereas qawm is a social group. There was space in Koranic interpretation to allow for alliance between followers and non believers for the cause of nationalism. Most importantly, Iqbal in his review of Koranic concepts refers to the possibility of a qawm (nation) having millat (religion) but not “quam of millat” or nation of sharia. This meant that the Koran called for Ummah or worldwide affiliation of believers. The universality of this Koranic injunction refers to the “spiritual brotherhood of Islam”.

The later historical development of proliferation of medieval Islamic states relegated qamiyat or nationalism to refer to believers. This evolved the concept of quam to denoting a nation with territory. Allama Iqbal transitions from this pan Islamist phase to concrete nationhood following the historical evolution of Islamic thought and political power. His transformation from abstract philosophical journeys to political realities does not reflect a break but rather a continuity in his thought system.

“The religious ideal of Islam, therefore, is organically related to the social order which it has created. (...)The unity of an Indian nation, therefore, must be sought, not in the negation but in the mutual harmony and cooperation of the many. (..) I entertain the

highest respect for the customs, laws, religions, and social institutions of other communities. (...)

He and Abul Kalam Azad were closely associated INC but he separated later in his quest for equality and self determination of Muslims. This stemmed from the elitist and bourgeois affiliations of INC which Subhas Chandra Bose was to criticise later also due to Muslim League's catchphrase for Pakistan.

Conclusion

He linked the social and political question together, unlike Gandhi who avoided pernicious aspects of caste and religion altogether. Why did Iqbal demand a Muslim state in India ? To him, the question of decadence in Islam, political subjugation of India, the plight of worker and peasants were linked in an intractable mass of system of dominance that stretched to the realms of knowledge production to actual social relations. The colonial reality had produced a series of confounding questions of self doubt within ancient traditions and a way to resolve the contradictions had to found by confronting . It is apt to sign off with his extracts of his legendary monologue:

“During the last five hundred years religious thought in Islam has been practically stationary. (...) With the reawakening of Islam, (...) it is necessary to examine; in an independent spirit. (...) Besides it is not possible to ignore the antireligious and especially anti-Islamic propaganda in Central Asia which has already crossed the Indian frontier. (...) The task before modern Muslim is, therefore, immense. He has to completely rethink the whole system of Islam without completely breaking with the past.

Given the current conundrum of identity in Islam and dilemmas of statehood and nationalism, Iqbal's prophetic diagnosis of the crisis in religions in the modern world can be reassessed. His separatist anguishes can be seen as unavoidable diatribes in an atmosphere of blatant elitism in social and political circles. As the spiritual and cultural founder of Pakistan and Bangladesh, Iqbal's fundamental dilemma has plagued one of the most volatile and yet culturally compatible geographical regions in the world.

Week 4: Iqbal and Jinnah

Allama Iqbal and Muhammad Ali Jinnah's Voyage from Indian Nationalism to Muslim Separatism

Introduction

Pakistan came into being as a sovereign Muslim state in August 1947 on the basis of an ideology called as 'Two-nation Theory'. Hindus and Muslims had been living together in Indian subcontinent since eighth century and India had been ruled, for most of the time, by the Muslim rulers who had promulgated justice and introduced religious tolerance towards other communities, thereby successfully ruling over a Hindu majority country. With the advent of British and failure of Indian War of Independence in 1857, all Indians (Hindus and Muslims) collectively triggered a political struggle to attain emancipation from the British rule. In the beginning, all political leaders, Muslims and Hindus struggled for United India but with the passage of time, and experiencing the Hindu facet, the prolific and accomplished political leaders, especially Sir Syed Ahmed Khan, Dr Allama Muhammad Iqbal and Quaid-i-Azam Muhammad Ali Jinnah transformed their political philosophy from Indian nationalism towards Muslim separatism. This voyage proved to be the decisive factor in the attainment of a separate homeland for the Muslims of Subcontinent and this did not take much time. In less than fifty years, between 1880 to 1930, three loftiest Muslim leaders; Sir Syed Ahmed Khan (1917-1898), Allama Dr Muhammad Iqbal (1877-1938) and Muhammad Ali Jinnah (1876-1948), starting their political career as staunch Indian nationalists ended up as the Muslim separatists, thereby paving a way towards the creation of Pakistan. In this study, the political philosophy of Allama Iqbal and Quaid-i-Azam Muhammad Ali Jinnah and its transformation from nationalist to separatist need to be analysed in the political milieu and annals of succeeding events / attitudes to determine it a vital factor towards the attainment of an independent state. For comprehensive, understanding all variables need to be elaborated in true perspective to truly understand the political ambience and derive desired deductions.

Nationalism

Nationalism is a psychological relationship reflecting unalterable love for one's country / land and even desire to sacrifice one's own life for its honour, dignity and defence. According to the Penguin Dictionary of Politics " Nationalism is the political belief that some group of people represents a natural community which should live under one political system, be independent of others, and, often, has the right to demand an equal standing in the world order with others".

Merriam-Webster dictionary defines the concept of nationalism as ‘a feeling that people have of being loyal to and proud of their country often with the belief that it is better and more important than other countries’.

Encyclopedia Britannica explains the concept as “a feeling that people have of being loyal to and proud of their country often with the belief that it is better and more important than other countries”. The concept of Indian nationalism was that people from all religions; Muslims, Hindus, Christians, Sikhs etc, all races, ethnic groups desire to live in United India peacefully without being divided in the name of religions, languages, races and ethnic groups. Muslims arrived in India in eighth century and then started living with Hindu majority peacefully. India had been ruled by the Muslims, for most of the time, and their philosophy of religious tolerance created harmony amongst Indians; all kept living in United India above their religious, ethnic and racist considerations. Dr Allama Muhammad Iqbal writes about this concept that “It seems to me that God is slowly bringing home to us the truth that Islam is neither nationalism nor imperialism but a League of Nations which recognizes artificial boundaries and racial distinctions for facility of reference only, and not for restricting the social horizon of its members”.

Seperatism

The concept of separatism is that a group of people do not want to be part of specific country anymore and want to formulate a separate country on the basis of religion, language, ethnicity, race or land. It can also be defined as “a desire by a large group of people (such as people who share the same culture, history, language, etc.) to form a separate and independent nation of their own”. Separatists in Subcontinent wanted not only independence from British but also from other majority i.e. Hindus and wanted their own separate homeland like Muslims of India were demanding for Pakistan. These separatist ideas were not based on narrow communalism but has a long history where they were forced to nourish the concept of a separate nation with own distinctive history, culture, language and civilization worthy to have a separate homeland. Minorities especially the Muslims had the fear that they would lose their identity in front of Hindu majority in the name of democracy.

Allama Dr Muhammad Iqbal (1877-1938)

The poet-philosopher of Islam and the thinker of Orient was born in Sialkot in 1877, qualified Masters in Philosophy from Government College Lahore and proceeded to Germany for his PhD in 1905, and after completing the degree came back from Europe in 1908. Like Sir Syed Ahmed Khan (1817-1898), Iqbal was an Indian nationalist in the

beginning; as Sir Syed hasd been a staunch supporter of Indian nationalism, always personified India as a beautiful bride and Muslims and Hindus as her lustrous eyes. It was only Urdu-Hindi Controversy of 1867 that Sir Syed changed his political philosophy from Indian nationalist to Muslim separatism; and mentioned it to his friend Shakespeare, the commissioner of Banaras. Likewise, Allama Iqbal also became convinced that concept of Indian nationalism is narrow in its spirit as it is based on ethnicity, culture, and land. Allama Iqbal chose poetry as a medium for the reflection of 'prevailing milieu, his people's hopes and fears, their ambitions and aspirations, their travails and dilemmas'. But unlike Sir Syed Khan and Quaid-i-Azam Muhammad Ali Jinnah, he passed through three distinct phases of his life, termed as 'nationalistic, pan-Islamic and Muslim-nationalism phases' . Talking about the first phase; Iqbal earned fame as an Indian nationalist in the beginning, as 27-year old lecturer of Government College Lahore and was enthralled in passionate love of India (Hindustan). He used to admire and eulogize the romance of India by describing its incredible rivers, wonderful mountains, ravishing beauty, glorious past and an enviable cultural heritage. This is the time once Iqbal, like other nationalist poet of Bengal; Rabindra Nath Tagore cherished the idea of United India. Once he was invited by a student Lala Har Dayal to preside over a function and instead of making some speech, Allama Iqbal recited Tarana-i-Hindi which was included in his book Baang-i-Dara:

(Better than the entire world, is our Hindustan, We are its nightingales, and it (is) our garden abode)

(Religion does not teach us to bear animosity among ourselves We are of Hind, our homeland is Hindustan)

This song undeniably reflects the attachment of Iqbal in an elegiac way, with the land of Hindustan while embracing its ethnic, religious, and cultural diversity. Iqbal here appreciates the pluralistic and composite Hindu-Muslim culture and admires their peaceful co- existence. Everywhere Iqbal admires his country and people along with the cultural diversity. Then Iqbal left for a three-year sojourn towards Europe where his philosophy is changed from Indian nationalist to a purely Islamic philosopher; a great visionary endeavoring to establish Islamic polity. This is the time once he carried out an extensive study of Islam and modern European society which helped him change his thoughts; but still avoided being Muslim separatist. On his return to India in 1908, a transformation can be seen in Iqbal. The political ambience at that time in Subcontinent was that Partition of Bengal was carried out in 1905 where Muslims took sigh of relief which could not be tolerated by the Hindus (in the name of Bengali nationalism) and they triggered a movement for its annulment Iqbal in a changed mind, in 1910, recited

following song Tarana-e-Milli (Anthem of the Religious Community) repudiating the earlier sentiments:

(Central Asia and Arabia are ours, Hindustan is ours We are Muslims; the whole world is our homeland)

Now in 1910, Iqbal's philosophy had been transformed and had become global; now Hindustan is not 'our homeland' but the 'whole world is our homeland'. Iqbal stated that Islam endeavoured to create new social set up millat or Ummah which must not be identified / amalgamated with a country; and since Muslims are different in their culture, history, ideology and civilization, therefore, cannot be assimilated in a Hindu-dominated political nationalism of India and instead advocated for cultural nationalism. Iqbal criticised the Muslims for becoming race-conscious, race-oriented and followers of narrow patriotism as well as false nationalism; motivated them to build up a single millat or ummah, and then raised a clarion call to forge unity amongst Muslims for unfilterable defence of House of Allah from the banks of the Nile to the frontiers of Kashgar.

In next two decades, Iqbal had very minutely observed the succeeding events in Indian politics along with their attitude, response and dealings with Indian Muslims; the events like termination of Khilafat Movement (1919-1921), Nehru Report (1928) and Hindu response towards Jinnah's Fourteen Points (1929) and was convinced that Hindu facet in India had become much pronounced. Hindus were no more tolerant towards Muslims; but were hell bent upon eliminating their identity from India. Nehru propagated that Muslims were afraid of democracy, besides having roots in religion but '80 million Muslims are looking a safeguard against the communal oligarchy of Hindus in the garb of democracy' 19 as the Hindus formed three fourth of the population. Once he observed that all possible attempts of reconciliation between these two conspicuously distinct nations had been exhausted, he then in 1930, supported a separate nation-state in Muslim majority areas of Indian Subcontinent and paved a way towards the creation of separate homeland (Pakistan). In the annual address of Muslim League at Allahabad, Iqbal unequivocally enunciated that:

"India is a continent of human groups belonging to different races, speaking different languages and professing different religions. Their behaviour is not at all determined by a common race consciousness. I, therefore, demand the formation of a consolidated Muslim state in the best interest of India and Islam."

This epoch making address contained the final destiny of the Muslims of Indian Subcontinent and the country was termed as "Pakistan as brainchild of Iqbal" as he

spoke that "I would like to see the Punjab, North-West Frontier Province, Sindh and Balochistan been combined into a single state" and finally announced that "The formation of a consolidated North-West Indian Muslim State appears to be the final destiny of the Muslims, at least of the North West India.

Allama Iqbal's demand of separate homeland for Muslims was not based on narrow concept of communalism; he clarified it by saying:

'A community which is inspired by a feeling of ill-will towards other communities is low and ignoble. I entertain the highest respect for the customs, laws, religions and social institutions of other communities.

Iqbal observed that nationalism in Europe nurtured in the land of secularism, which declared the religion as private affair and excluded the role of religion from social and political spheres of life. Consequently, it deprived European states of the common bond of religion in which they were connected. Consequently, territorial and racial nationalism replaced the religion. In his Allahabad address, Iqbal has traced back the evolutionary process of the rise of secularism and nationalism. The process started with the protest and revolt of Martin Luther against the authority and office of the pope in 16th century. Iqbal observes that Luther's challenge to the authority of Christian monastic order and church-organization resulted in complete displacement of "universal ethics of Jesus..by national systems of ethics and polity" ²⁵ He observes that 'the conclusion to which Europe is consequently driven is that religion is a private affair of the individual and has nothing to do with what is called man's temporal life'.

He says: It is, then, this mistaken separation of spiritual and temporal which has largely influenced European religious and political thought, and has resulted practically in the total exclusion of Christianity from the European states. The result is a set of mutually ill-adjusted States dominated by interests, not human but national.

Iqbal has expressed his concern that "the national idea is racializing the outlook of Muslims" and younger Muslims, inspired by European religious and political "ideas, are anxious to see them as living forces in their own countries, without any critical appreciation of the facts which have determined their evolution in Europe." He advised the Muslims:

(Judge not your nation on the criteria of Western nations; Special in composition is the Hashmi Prophet's nation) (Based on country and race is their organization; The force of religion stabilizes your organization)

Iqbal a true visionary for the Muslims of the region, raised voice for separate country before the demand of Muslim League in 1940 through a resolution 30 and this demand was the result of a process of evolution in his political philosophy / ideology from Indian nationalist to Muslim separatist in the period of just twenty-five years (from 1905 to 1930). This paradigm shift was extremely consequential and it enabled Iqbal to advocate for the amalgamation of Muslim majority provinces 'into a single state', in 1930, so that the Indian Muslims, a mere 'minority' in India might become a 'sovereign nation' in an independent country. This demand proved decisive factor in the subsequent demands of Muslims of Subcontinent who gathered themselves under the dynamic leadership of Quaid-i-Azam Muhammad Ali Jinnah and attained a separate homeland. Allama Iqbal was rather quick in transforming himself; he did not spend much time on the illusion of Indian nationalism. Sir Syed Ahmed Khan had already provided a basis of Muslim separatism; and philosopher and thinker like Iqbal would take no time in the appreciation of the situation of India and the nature of its masses. Then Iqbal, an avid and ferocious reader of books with a keen observation of world cultures / civilizations, did not believe on western narrow concept of nationalism. He introduced high ideals of life; endeavoured to recapture the glory of Islam in true spirits, reiterated on the Muslim renaissance, asked to follow the glorious path of Islam and, therefore, preached for a wider definition of nationalism. Iqbal not only strengthened the evolution of Sir Syed Ahmed Khan but also made the voyage of Jinnah very easy. If Iqbal were to remain as Indian nationalist, the dream to have a separate state would remain dream for Muslims of Subcontinent.

Quaid-i-Azam Muhammad Ali Jinnah (1876-1948)

Quaid-i-Azam Muhammad Ali Jinnah; the creator / founder of Pakistan, was a history-making leader / statesman 31 who possessed a visionary leadership, commitment to the cause having the capacity of political mobilization. He was a charismatic leader 32 and gave "separate identity and an undeniable recognition" 33 . He was born in Karachi in 1876, got his early education from Karachi and Bombay then went to England in 1894 to join Lincoln Inn to become barrister 34 .He entered politics by joining Indian National Congress 35 in 1906 and was elected to the Imperial Legislative Council in 1909 36 . Right from the outset, Jinnah was a 'thorough-going nationalist' 37 and so was his political philosophy. He came under the influence of nationalist as well as moderate personalities like Dadabhai Noruji and Gopal Krishna Gokhale 38 ; was even known as a 'Muslim Gokhale'. In this phase of Jinnah's life (1906-1910), he was staunch Indian nationalist and remained unconcerned with ethnic, religious and parochial divisions and considered territorial unity as supreme. He did not approve formation of Muslim League under Nawabs and Rajas and in 1910 defeated a Muslim candidate from Congress side

on a Muslim seat. Maulana Abul Kalam Azad, was an Indian nationalist 39 and like him, Jinnah considered the religious beliefs above the politics i.e. a personal matter. This was the time once he had nourished high sense of Indian nationhood, love for India and unity of all Indians (Muslims & Hindus) and envisaged the interests of Muslims in the context of Indian nationalism. He remained unaffected from the developments of that time; Bengal was partitioned in 1905 by Lord Curzon on administrative grounds and Muslims, by the stroke of good luck, were able to get majority in one province which could not be tolerated by Hindus. Therefore, Bengali Hindus, under the name of Bengali nationalism triggered a vigorous movement for the annulment of Partition of Bengal. Partition was actually annulled in 1911 and Muslims were dejected on the point that what was the loss of Hindus? Muslims had attained something, accidentally, without damaging or affecting the interests of Hindus; but it all could not be digested by prejudiced Hindus.

Jinnah joined Congress in 1906 as it had the manifestation of unity of India; and self-rule leading towards the emancipation from British colonialism. All India Muslim League was founded in 1906 but Jinnah remained aloof from it in its early seven years. It was only 1913 once he joined it on the assurance that it was as devoted as Congress to attain political independence of India; however, he did not leave Indian National Congress. Once Indian Home Rule League was founded with a manifestation to get independence of India, Jinnah became its chief organizer and President of its Bombay branch. Ian Wells describes the trajectory of Jinnah's early political career describing him as a 'liberal constitutionalist of sorts, a disciple of Morley in political philosophy and Gokhale in political strategy'. He was the 'idol of the youth' and 'uncrowned king of Bombay' at that time. He passionately believed in and assiduously worked for Hindu-Muslim unity. Gokhale, maintained about him:

'He has the true stuff in him and that freedom from all sectarian prejudice which will make him the best ambassador of Hindu-Muslim Unity: And, to be sure, he did become the architect of Hindu-Muslim Unity: he was responsible for the Congress-League Pact of 1916, known popularly as Lucknow Pact- the only pact ever signed between the two political organisations, the Congress and the All-India Muslim League, representing, as they did, the two major communities in the subcontinent.

'While being the joint member of Congress and Muslim League, Jinnah unleashed his relentless efforts to create political unity, bring both organizations closer to each other and forge unity among them to jointly fight against British and, therefore, rightly earned the title of 'Ambassador of Hindu-Muslim Unity' an epithet coined by Gokhale. Jinnah tirelessly worked on this unity and managed to have Congress and Muslim League hold their joint sessions of consultations; in 1915 they held meeting in Bombay and then in

1916 at Lucknow where an epoch making pact was signed named as Lucknow Pact. This pact was a wonderful epitome of give and take; but the Muslims attained the right of separate electorate, one-third representation in Central Assembly and protection of minority rights which subsequently proved very helpful in struggle movement.

In the first phase of his political career, from 1910 to 1930, Muhammad Ali Jinnah remained the ambassador of Hindu Muslim Unity; advocated for separate electorate and secured a crowning achievement in the form of Lucknow Pact (the only pact between Congress and the Muslim League). Meanwhile, a new political force in the person of Mohandas Karamchand Gandhi emerged at the political ambience and India appeared to be completely swayed under his undeniable / irresistible influence; resultantly creating an atmosphere of vitality, agitation, frenzy, and non-cooperation. Jinnah; a devoted constitutionalist renounced this approach, left Congress as well as Home Rule League in 1920 on issue of Swaraj (complete freedom). He also kept himself aloof from this political frenzy and non-cooperation movement of Khilafat Movement but still continued to be the believer of Hindu Muslim Unity. As a Muslim Leaguer now, he started working on converting league into an enlightened political body even at the time of the advent of Hindu revivalist movements (Sangathan, and Shuddhi) against Muslim entry in Congress in early 1920s and Jinnah remained working on rapprochement policy.

Then a decisive moment in the history of freedom movement came; Motilal Nehru (father of Jawaharlal Nehru) formulated a prejudiced report known as 'Nehru Report' in 1928 wherein even the right of separate electorate already conceded to the Muslims was confiscated. This report conspicuously revealed the true Hindu facet and their narrow-mindedness towards Muslims. How can a political organization could back out from the promise which it had already made, just few years after the concession when nothing wrong was done by that community? However, Jinnah under the same spirit of Hindu Muslim Unity and rapprochement offered reasonable amendments which were turned down by the Congress. A neutral mind would have stated that on looking at the amendments offered by Jinnah, the gulf between two nations was not a bigger one; but there was no desire to bridge it. Having been disappointed from the proposed amendments, Jinnah, resultantly in 1929, gave his Fourteen Points, which, for the sake of harmony with Congress, included recommendations of a federal form of government, separation of Sindh from Bombay, greater rights for minorities, reforms in NWFP, and one-third representation of Muslims in central legislature. These Fourteen Points were not accepted by Congress. This situation was beyond the comprehension of Jinnah. First of all, Congress could not accept his minor and reasonable amendments in Nehru Report (1928) of separate electorate and reservation of seats for Muslims in the legislatures and then did not give due weight-age to the Fourteen Points; he was

resultantly frustrated. He cried on this occasion and narrated it as 'parting of the ways'. Jinnah was in a strange position; many Muslims thought him too nationalist that interests of the Muslims were not safe in his hands, whereas Congress could not meet his modest and moderate demands halfway. Jinnah, in dismay went to London in 1930 and devoted himself to practice before Privy Council till 1935 once he was persuaded to come back to lead Muslims again.

Jinnah still tried to attain the objective of forging unity at the Round Table Conferences 48 in London (1930-32) and once elections under the Government of India Act of 1935 were announced, he was still thinking of co-operation between both organizations with coalition governments in the provinces. During the second phase of Jinnah's political career in 1930s, (which was certainly different from the first phase of 1906-1930) Jinnah aligned himself as the spokesman of Muslim minority but continued to search for opportunities to bring Muslims and Hindus together. But still he was an Indian nationalist as long as emancipation from British, Indian unity and Hindu-Muslim settlements were concerned; he was now talking about rights of Muslims without hinting at separation or partition. Jinnah described Muslims of India as a 'nation' in Legislative Assembly in February 1935 and stated that 'combination of religion, culture, race, arts, music and so forth make a minority a separate entity'. Then at Bombay, in March 1936, he asserted that 'Muslims could arrive at a settlement with Hindus as two nations'. In the following year (1937), he reiterated that there was a 'third party in India, the Muslims'.

Elections under Government of India Act (1935) were conducted in 1937 and proved fatal in the future relations between the two organizations; Congress secured an absolute majority in six provinces, and Muslim League did not perform well. Resultantly Congress ministries were formulated who unleashed discrimination 54 , and vendetta unto Muslims and adopted atrocious methods to annihilate them thereby convincing even Jinnah that both these nations were distinctively different from each other and their interests could not be common under any circumstances. Two and half years' rule by the Congress Ministries was truly an eye-opener for the Muslims of Subcontinent. Even the staunch supporter of Indian nationalism would turn its view point on the atrocities of Congress towards the Muslims. End of Congress Ministries in 1939 and Jinnah's decision to observe 'Day of Deliverance' marked the Jinnah's absolute transformation from Indian nationalist to Muslim separatist and he roared that the 'Muslims and Hindus are two nations'. This became evident and official in the demand for separate homeland in Lahore Resolution of Muslim League on 23 March 1940: We are a nation with our own distinctive culture and civilization, language and literature, names and nomenclature, sense of values and proportion, legal laws and moral code, custom and calendar, history and tradition, aptitudes and ambitions; in short, we have

our own distinctive outlook on life and of life. By all canons of international law, we are a nation.

This change in political philosophy, although not very simple, became a decisive factor in attainment of freedom as it infused new force /energy in the struggle movement; it rather triggered the movement in the most specific direction. Quaid-i-Azam Muhammad Ali Jinnah was once asked by a journalist that there was a time once he used to be a staunch supporter of Indian National Congress and the unity of Indians like the way he was now advocating the stance of Muslim League and cause of Muslims for separate homeland, he in an assertive way told that once he was a 'primary school student also'. Jinnah could never think of becoming a communalist or separatist. If the Congress and Hindus were on the constitutional ways safeguarding the rights of minorities, Jinnah would not change himself. If Hindus and Congress have shown flexibility on Jinnah's proposed amendments to the Nehru Report or have conceded to Jinnah's Fourteen Points, Jinnah would not change himself. Even if Congress had not unleashed a reign of terror during the Congress Ministries of 1937, Jinnah would not have changed. Jinnah's change was reactionary and was in response. Otherwise had no fears; no insecurities at all. It was a continuous display of Hindu narrow-mindedness, bigotry, prejudice, bias, rigidity, and perfidious designs that Jinnah was forced to transform himself from Indian nationalism to Muslim separatism.

Creation of Pakistan on 14 August 1947 was the ultimate result of this transformation and Muslims of India found a new life in the political struggle for independence. Muslims were then deemed a separate nation; other than the Hindus and a distinctive concept of Two-nation evolved. The ideological basis provided by Sir Syed Ahmed Khan and Allama Muhammad Iqbal were further strengthened by the political activism and charismatic leadership of Father of the Nation that all Muslims of Indian Subcontinent gathered under the banner of Muslim League to attain the coveted independence.

Conclusion

For a considerable period of time, Allama Iqbal and Quaid-i- Azam Muhammad Ali Jinnah remained staunch supporter of Indian nationalism; unity and love of India remained at the top of their philosophy rather than religious, racial, and ethnic considerations. It was the process of evolution and extensive study/contemplation/observation (in case of Iqbal) and Hindu facet, narrow-mindedness and bigotry attitude towards the interests / existence of Muslims (in case of Jinnah) in succeeding events from 1906 to 1939 (33 years) that both prolific leaders turned from Indian nationalism to Muslim separatism. This voyage is replete with sad incidents, sorry state of affairs, disappointments and disillusionments. Both leaders

eventually were convinced that the dignified survival of the Muslims of Subcontinent lies in the creation of two separate homelands before the departure of British; and this very conception became the supreme reason and a decisive factor in attaining the freedom.

Week 5: State and Society

The State and Its Elements

Definitions:

The state is the most universal and most powerful of all social institutions. The state is a natural institution. Aristotle said man is a social animal and by nature he is a political being. To him, to live in the state and to be a man were identical.

The modern term 'state' is derived from the word 'status'. It was Niccolo Machiavelli (1469-1527) who first used the term 'state' in his writings. His important work is titled as 'Prince'. The state is the highest form of human association. It is necessary because it comes into existence out of the basic needs of life. It continues to remain for the sake of good life.

The aims, desires and aspirations of human beings are translated into action through the state. Though the state is a necessary institution, no two writers agree on its definition.

To Woodrow Wilson, 'State is a people organized for law within a definite territory. Aristotle defined the state as a 'union of families and villages having for its end a perfect and self-sufficing life by which it meant a happy and honourable life'.

To Holland, the state is 'a numerous assemblage of human beings generally occupying a certain territory amongst whom the will of the majority or class is made to prevail against any of their number who oppose it.'

Burgess defines the state as a particular portion of mankind. According to Sidgwick, State is a combination or association of persons in the form of government and governed and united together into a politically organized people of a definite territory.

According to Garner, 'State is a community of people occupying a definite form of territory free of external control and possessing an organized government to which people show habitual obedience.

Prof. Laski defines 'state as a territorial society divided into government and subjects whose relationships are determined by the exercise of supreme coercive power.

Elements:

From the above definitions, it is clear that the following are the elements of the state

Physical bases of the State

- Population
- Territory

Political bases of the State

- Government
- Sovereignty

Population

It is the people who make the state. Population is essential for the state. Greek thinkers were of the view that the population should neither be too big nor too small.

Territory

There can be no state without a fixed territory. People need territory to live and organize themselves socially and politically. It may be remembered that the territory of the state includes land, water and air - space.

The modern states differ in their sizes. Territory is necessary for citizenship. As in the case of population, no definite size with regard to extent of area of the state can be fixed. There are small and big states.

In the words of Prof. Elliott 'territorial sovereignty or the Superiority of state overall within its boundaries and complete freedom from external control has been a fundamental principle of the modern state life'.

Government

Government is the third element of the state. There can be no state without government. Government is the working agency of the state. It is the political organization of the state.

Prof. Appadorai defined government as the agency through which the will of the State is formulated, expressed and realized.

According to C.F. Strong, in order to make and enforce laws the state must have supreme authority. This is called the government.

Sovereignty

The fourth essential element of the state is sovereignty. The word 'sovereignty' means supreme and final legal authority above and beyond which no legal power exists.

The concept of 'sovereignty' was developed in conjunction with the rise of the modern state. The term Sovereignty is derived from the Latin word *stion* with the rise of the supreme. The Tither of modern theory of sovereignty was Jean Bodin (1530-1597) a French political thinker.

Sovereignty has two aspects:

- Internal sovereignty
- External sovereignty

Internal sovereignty means that the State is supreme over all its citizens, and associations.

External sovereignty means that the state is independent and free from foreign or outside control.

According to Harold J. Laski, It is by possession of sovereignty that the state is distinguished from all other forms of human association.

State and Society:

The society consists of a large number of individuals, families, group and institutions. The early political thinkers considered both state and society as one. State is a part of society but is not a form of society.

Prof. Earnest Barker in his book entitled 'Principles of Social and Political Theory' clearly brings out the difference between state and society under three headings. They are,

- Purpose or function
- Organisation and structure

- Method

From the point of view of purpose the state is a legal association, which acts for the single purpose of making and enforcing a permanent system of law and order.

But society comprising of a plurality of associations, acts for a variety of purposes other than legal. These purposes are:

- Intellectual
- Moral
- Religious
- Economic
- Aesthetic and
- Recreational

The membership of the state and society are the same. But they differ as regards purpose. The state exists for one great but single, purpose; society exists for a number of purposes some great and some small, but all in their aggregate deep as well as broad.

From the point of view of organization the state is a single organization - legal, whereas society comprises within itself many organizations.

As regards method as pointed out before the state employs the method of coercion or compulsion, society employs method of voluntary action.

The purposes for which society exists makes the persuasive methods necessary and the multiplicity of its organization give ample opportunity to the members to relinquish one association and join another in case coercion is ever attempted.

State and Nation

The word 'nation' is derived from the Latin word 'natio' which means birth or race. The terms nation and state are used as synonym.

According to Leacock, a nation is a body of people united by common descent and language.

But the modern writers do not emphasize the racial aspects so much as the psychological and spiritual. It has acquired a political meaning in the recent times.

People who share common ideas and naturally linked to gather by some affinities and united are now called a nation. In the case of state feeling of oneness is not necessary as in the case of the four elements constituting the State.

State and Government

Government is often used with the 'state' as synonym. But both the government and the state are two different entities. There are differences between the state and government.

State

- State consists of population, territory, government and sovereignty.
- State possesses original powers.
- State is permanent and continues forever.
- State is abstract and invisible.

Government

- Government is part of the state.
- Powers of the government are derived from the state.
- Government is temporary. It may come and go.
- Government is concrete and is visible.

Branches of Government:

Executive

It is one of the three branches of government as given above.

State functions through the executive, the namely the government. It is the duty of the executive or enforce the laws passed by the legislature.

The executive who exercise real power is the real executive. The executive who has nominal power is the normal executive.

Powers and functions of executive are:

- Enforcing law
- Maintaining peace and order.

- Repelling aggression.
- Building friendly relations with other states
- When necessary to wage war to protect the country.
- Making appointments to higher posts.
- Raising money and spending them.
- Convening the sessions of the legislature and conducting business.
- Issues ordinances whenever the legislature is to in session.
- Implement schemes and projects to improve the social and economic conditions of the people.
- Power to grant pardon, reprieve or remission of punishment.

Legislature

The legislature is the law making branch. The legislature has an important role in the amendment of the constitution. The legislature is a deliberative body where matters of social economic and political concerns are discussed, debated and decided.

The British parliament is said to be 'the mother of parliaments'. It is the oldest legislature in the world.

According to Prof. Laski, law- making is not the only function of the legislature but its real function is to watch the process of administration to safeguard the liberties of private citizens. National Assembly as the Lower House. Senate as the Upper House.

The functions of legislature are

- Enact laws
- Oversee administration
- Pass the budget
- Hear public grievances
- Discuss subjects like
 - Development plans
 - National policies
 - International relations.

Judiciary:

Judiciary is the third important organ of the government machinery. Its main function is to interpret laws and administer justice.

Lord Bryce has said that there is no better test of excellence of government than the efficiency of its judicial system. The welfare of citizens depends to a larger extent upon the judiciary.

Judiciary is one of the pillars of democracy. Its interpretation ensures justice, equality and liberty to all its citizens. An independent and impartial judiciary is an essential feature of a democratic setup.

According to Justice Hughes, 'we are under a constitution, but the constitution is what the judges say it is'.

Functions of Judiciary:

- Administration of justice.
- To determine what is law and what is the scope and meaning of it. Interpretation of constitution and law
- To give advisory opinion on matters referred to it.
- To issue order or writs for the purpose of preventing violation of rights and law
- To act as a guardian of the constitution

Political System and State Structure of Pakistan

Within the first few years of its' birth, post-independence Pakistan faced a number of challenges. The first of two significant deaths, first in 1948 of its first head of state, Muhammad Ali Jinnah, and then the assassination in 1951 of its first Prime Minister, Liaquat Ali Khan, destabilized the new country, and may have been the cause of the emergence of conflicting visions of the ideological direction the country ought to pursue. It took almost eight years (till 1956) to agree to a final constitution, establishing Pakistan as a republic within the Commonwealth. Within two years, the new parliamentary system was facing challenges, and in 1958, General Ayub Khan launched Pakistan's first military coup, declaring martial law. In 1960 Khan became President, and by 1962, Pakistan saw its' second constitution, with politics placed in the firm grip of the military. At this point, the turmoil caused by the failure to win a second war with

India in 1965, mounting corruption and increasingly taxing relations with East Pakistan gradually undermined Khan's authority, finally forcing his resignation in 1969. The first election on a nationally democratic basis was conducted in 1970. The elections saw the primarily East-Pakistan based Awami League, lead by Shaikh Mujibur Rahman, gaining an overall majority. However, the results were not well-received in West Pakistan, and power was not transferred to elected leaders. This set the stage for a new constitutional crisis where, in the period following, relations between East and West Pakistan further polarised. In March 1971 Mujibur Rahman declared an independent People's Republic of Bangladesh, setting the stage for a nine month long civil war. In December 1971, India interceded in support of East Pakistan, and the ensuing Indo-Pak war resulted in a humiliating surrender by Pakistani forces. The surrender also marked the emergence of the former East Pakistan as an independent country, Bangladesh.

General Yahya Khan resigned the presidency in the aftermath of the war, and handed over leadership to Zulfiqar Ali Bhutto, Ayub Khan's former Foreign Minister, and the founder and leader of the Pakistan People's Party, which had won the majority of seats from West Pakistan in the elections of 1970. Bhutto became President and also the first civilian Chief Martial Law Administrator. The National Assembly approved the 1973 Constitution on April 10, 1973, and it came into effect on August 14. Bhutto took over as the Prime Minister of Pakistan from this date and Fazallahi Chaudhry was appointed as the President of Pakistan.

The 1973 Constitution declared Pakistan as a Federal Republic to be known as the Islamic Republic of Pakistan, recognizing Islam as the religion of the state. Pakistan was to be a Federation of four federating Units, Punjab, Sindh, the NWFP and Balochistan. The Constitution was parliamentary in nature, with a bicameral legislature at the Center consisting of two Houses, the National Assembly and the Senate. Although the 1973 Constitution has been held in abeyance during military rule in the late 1970s/early 1980s, and has to date, been amended 19 times, it is currently the constitution governing the state. The 18th Amendment to the Constitution, which was passed in April 2010, removed most of the constitutional changes introduced during military regimes, as well as formally changing the name of the North West Frontier Province to Khyber Pakhtunkhwa, and has granted provinces greater autonomy.

Executive

The 1973 Constitution lay down that the President was to be the Head of the State. The President was to act on the advice of the Prime Minister of Pakistan, and could be removed on the grounds of physical or mental incapacity or impeached on charges of

violating the Constitution or gross misconduct by a two-thirds vote of the members of the parliament.

The President

The President of Pakistan is chosen by a secret ballot through an Electoral College comprising the Members of the Senate, National Assembly and the Provincial Assemblies. A person who is a Muslim and not less than 45 years of age and is qualified to be elected as a Member of the National Assembly can contest the Presidential election. The President is elected for a term of 5 years and is authorized to appoint the Attorney General, Judges of Supreme Court and High Courts, and the Chief Election Commissioners. In the Provincial Government, each province was to have a Governor appointed by the President. He could be re-elected but could not hold office for more than two terms.

The Prime Minister

The Prime Minister is appointed by the President from among the members of the National Assembly, and has to demonstrate majority support in the House. The Prime Minister is assisted by the Federal Cabinet, a council of ministers whose members are appointed by the President on the advice of the Prime Minister. The Federal Cabinet comprises the ministers, ministers of state, and advisers.

Legislature

The bicameral federal legislature is the Majlis-i-Shoora (Council of Advisers), consisting of the Senate (upper house) and National Assembly (lower house). The National Assembly Members of the National Assembly are elected by universal adult suffrage (over eighteen years of age in Pakistan). The National Assembly has 342 seats, 272 of which are elected on a first-past-the-post basis.¹ The candidate who gains the major number of votes in a single constituency is nominated elected member of the National or Provincial Assembly. Of the 70 remainder seats, 60 are reserved for women and ten for non-Muslim minorities; they are allocated, on the basis of proportional representation, to parties that win more than 5% of the directly elected seats. Seats are allocated to each of the four provinces, the Federally Administered Tribal Areas, and Islamabad Capital Territory on the basis of population. National Assembly members serve for the parliamentary term, which is five years, unless they die or resign sooner, or unless the National Assembly is dissolved. Graph 1 shows the current distribution of seats in the National Assembly.

The Senate

The Senate is a permanent legislative body with equal representation from each of the four provinces, elected by the members of their respective provincial assemblies. The chairman of the Senate, under the constitution, is next in line to act as President should the office become vacant and until such time as a new President can be formally elected. The Federally Administered Tribal Areas (FATA) and Islamabad Capital Territory also have representatives presenting the Senate,² which has a total of 100 members, of whom 14 members are elected by each Provincial Assembly, 8 members are elected from Federally Administered Tribal Areas (FATAs) by the Members of National Assembly from these areas, 2 members, 1 woman and 1 Technocrat is elected from the Federal Capital by the Members of National Assembly, 4 women and 4 Technocrats are elected by the members of each Provincial Assembly. The term of the members of the Senate is 6 years. However, the term of the first group of the Senators, who shall retire after completion of first 3 years of the Senate, is determined by drawing of lots by the Chief Election Commissioner.

Both the Senate and the National Assembly can initiate and pass legislation except for money bills, where the National Assembly has an edge over the Senate, legislating exclusively on money matters. Only the National Assembly can approve the federal budget and all money bills. With exception to money matters, however, both the Houses work together to legislate. The Bills relating to the Federal Legislative List can originate in either House. If one House passes the Bill through majority vote, it is transmitted to the other House. If the other House passes it without amendment, it is presented to the President for assent. If the Bill, transmitted to the other House, is not passed within ninety days or is rejected, it is considered in a joint sitting of parliament, to be summoned by the President on the request of the House in which the Bill originated. If the Bill is passed in the joint sitting, with or without amendments, by the votes of majority of the members of the two Houses, it is presented to the President for assent. The President is required to assent to bills passed by both houses within ten days. However, in all bills except the Finance Bill, the President may return the Bill to the parliament with a message requesting that the Bill be reconsidered and that an amendment specified in the message be considered. The parliament is supposed to reconsider the Bill in a joint sitting. If the Bill is passed again, with or without amendment, by vote of the majority of the members present and voting, it is presented to the President and the President is required to give his assent within ten days; failing which such assent is deemed to have been given.

Under the Constitution, the Parliament may also legislate for two or more provinces by consent if a request is made by those provinces. If the Federal Government proclaims a

State of Emergency in any province, the power to legislate for that province is vested in the Parliament. But the bills passed by the Parliament during the State of Emergency, cease to be in force after the expiration of six months from the date the emergency is lifted. Nevertheless, the steps already taken under these Acts remain valid.

In exercises of its constitutional role, the Parliament also has other important duties to perform. The President, who is the Head of State, is elected by members of both Houses of the Parliament and by the Provincial Assemblies. The Prime Minister, who heads the Cabinet and is meant to aid and advise the President in his functions, belongs to the National Assembly. He enjoys the confidence of the majority of the members of the National Assembly.

There is a democratic procedure to remove the Prime Minister from his office if he loses the confidence of the majority of the members of the National Assembly. In such a situation, a resolution for a vote of no-confidence is moved by not less than 20% of the total membership of the National Assembly. If the resolution is passed by the majority of the total membership of the National Assembly, the Prime Minister immediately relinquishes powers.

Similarly, for the removal or impeachment of the President, not less than one-half of the total membership of either House may give in writing its intention to do so, to the Speaker of the National Assembly, or, as the case may be, to the Chairman Senate, for moving a resolution for the purpose. If, in a joint sitting of the two Houses, convened for the purpose, the resolution is passed by the votes of not less than two thirds of the total membership of the Parliament, the President ceases to hold office immediately.

In case an emergency is proclaimed, the Parliament holds the authority to extend the term of the National Assembly. Under the Constitution, the Parliament may also, on the request of the Federal Government, confer functions upon officers or authorities subordinate to the Federal Government.

Judiciary

The 1973 Constitution provided for a free and independent Judiciary. The Constitution guarantees a right to the citizens to be protected by law, and imposed two duties on them, loyalty to the Republic and obedience to the law. Any person who was found to abrogate or attempt or conspire to abrogate or subvert the Constitution was to be treated guilty of high treason. The Constitution conferred several kinds of fundamental rights to the people such as the right to life, liberty, equality and freedom of speech,

trade and association. The Constitution also declared any laws inconsistent with or derogatory to fundamental rights as null and void.

The judiciary includes the Supreme Court, provincial high courts, and other lesser courts exercising civil and criminal jurisdiction. The Supreme Court is the apex court in Pakistan's judicial hierarchy, the final arbiter of legal and constitutional disputes. The Supreme Court of Pakistan consists of a Chief Justice and not more than 16 other Judges appointed by the President. A person with 5 years experience as a Judge of a High Court or 15 years experience as an advocate of a High Court is eligible to be appointed as a Judge of the Supreme Court. The chief justice of the Supreme Court is appointed by the President; the other Supreme Court judges are appointed by the President after consultation with the chief justice. The chief justice and judges of the Supreme Court may remain in office until age sixty-five. The Supreme Court has original, appellate, and advisory jurisdiction. Judges of the provincial high courts are appointed by the President after consultation with the chief justice of the Supreme Court, as well as the governor of the province and the chief justice of the high court to which the appointment is being made. High courts have original and appellate jurisdiction.

In 2007, for the first time in Pakistan's history, the sitting Chief Justice was suspended by the government on charges of abuse of power. The Chief Justice was given the option to resign, but upon his refusal to comply with this "order," he was removed under a series of charges, including violating the norms of judicial propriety, corruption, seeking favours and misbehaving with senior lawyers. In response, the Chief Justice, Iftikhar Muhammad Chaudhry, decided to challenge his suspension in the Supreme Court of Pakistan. The Chief Justice's suspension was followed by widespread protests on the part of the legal community, civil society, and almost all political parties in the country. The protests centered around not only on the lack of validity of the allegations against the Chief Justice, but also on the question of whether the President had the power to suspend the Chief Justice under any circumstances. On 20 July 2007, Justice Chaudhry was reinstated to his position as Chief Justice in a ruling by the thirteen-member bench of the Supreme Court headed by Justice Khalilur Rehman Ramday. All thirteen of the sitting justices agreed that General Musharraf's action had been illegal, and ten of the thirteen ordered the reinstatement and ruled that he "shall be deemed to be holding the said office and shall always be deemed to have been so holding the same." After having been elected as President for second term by the Parliament, General Musharraf, in November 2007 pre-empted an impending court decision against his re-election, suspended the constitution, and declared a state of emergency. Justice Chaudhry convened a seven-member bench which issued an interim order against this action. He and other judges were again removed from their offices and put under house arrest along with his family members. Justice Chaudhry was reinstated only in 16 March

2009, seven months after the resignation of General Musharraf as President, and only after another protracted protest on the part of a number of groups. While the first phase of protests had focused on the unconstitutional action of General Musharraf, the post August 2008 protests were focused on the apparent reluctance of the then newly elected government to reinstate the Chief Justice.

The Federal Shariat Court constitutes another key pillar of the judiciary and consists of eight Muslim judges, including a chief justice appointed by the President. Three of the judges are ulema, that is, Islamic Scholars, and are supposed to be well versed in Islamic law. The Federal Shariat Court has original and appellate jurisdiction. This court decides whether any law is repugnant to the injunctions of Islam. When a law is deemed repugnant to Islam, the President, in the case of a federal law, or the governor, in the case of a provincial law, is charged with taking steps to bring the law into conformity with the injunctions of Islam. The court also hears appeals from decisions of criminal courts under laws relating to the enforcement of hudood laws that is, laws pertaining to such offenses as intoxication, theft, and sexual intercourse outside marriage.

In addition, there are special courts and tribunals to deal with specific kinds of cases, such as drug courts, commercial courts, labour courts, traffic courts, an insurance appellate tribunal, an income tax appellate tribunal, and special courts for bank offenses. There are also special courts to try terrorists. Appeals from special courts go to high courts, with the exception of labour and traffic courts, which have their own forums for appeal. Appeals from the tribunals go to the Supreme Court.

Within the constitution, the office of Wafaqi Mohtasibor Ombudsman is provided for, as established in many early Muslim states, to ensure that citizens had a forum on which to register complaints against public officials. Appointed by the President, the Mohtasib holds office for four years. The term cannot be extended or renewed. The Mohtasib's purpose is to institutionalize a system for enforcing administrative accountability, through investigating and rectifying any injustice done to a person through maladministration by a federal agency or a federal government official. The Mohtasib is empowered to award compensation to those who have suffered loss or damage as a result of maladministration. Excluded from jurisdiction, however, are personal grievances or service matters of a public servant as well as matters relating to foreign affairs, national defence, and the armed services. This institution is designed to bridge the gap between administrator and citizen, to improve administrative processes and procedures, and to help curb misuse of discretionary powers.

Military

The military in Pakistan has played an influential role in mainstream politics, having taken over from civilian governments on four occasions. Military governments were led by (in the 1960s) General Ayub Khan and General Yahya Khan, (in the late 1970s and 1980s) General Zia-ul-Haq, and (from 1999 to 2008), General Pervez Musharraf. In total, military or military backed civilian regimes have been in power for half of the years of the country's existence.

The influence of the military extends far beyond its constitutional role even in times of civilian rule. The military high command has on occasion acted as a mediator between the government and other state actors, and between political leaders. In addition it has exerted strong behind the scenes influence on foreign policy, particularly with regard to relations with India and Afghanistan. The military also has economic interests in Pakistan which it seeks to protect. According to one analyst, the growth of the military's business interests encourages the top echelons of the armed forces to support "policy making environments" that will "multiply their economic opportunities" and such actions are "both the cause and effect of a feudal, authoritarian, non-democratic political system" (Siddiq, 2007).

Elections

Pakistan's electoral history is characterised by the eternal tussle between the civilian and military regimes, with almost half of its existence being characterized by outright military, or military sponsored rule. Nevertheless, an analysis of election trends since 1970 showing that there are four clusters of voters in Pakistan, namely the PPP cluster, the Muslim League(s) cluster (i.e. the various factions of the party), the Religious Parties Cluster and the Regional Parties cluster (PILDAT 2008). It is estimated that roughly 60% to 75% of the votes are claimed by the first two clusters (PPP and MLs) while the remaining gets distributed among the other clusters as well as independents and miscellaneous. Frequently, no single party holds a majority, and therefore parties must form alliances during or after elections.

In terms of political stability, the past decade has been a tumultuous one for the country. The 1990s were characterised by coalition politics dominated by the Pakistan Peoples Party and Muslim League. India's nuclear test Pokhran-II triggered Pakistan to conduct two nuclear tests in Balochistan in May of 1998. The following year, the Kargil conflict was followed by a coup d'état by General Pervez Musharraf, ousting Prime Minister Nawaz Sharif. In 2001, Musharraf became the President and after the 2002 parliamentary elections, Musharraf transferred executive powers to the newly

elected Prime Minister Jamali, who was succeeded in the 2004 prime-ministerial election by Shaukat Aziz.

On 15 November 2007, the National Assembly, for the first time in Pakistan's history, completed its tenure and new elections were called. The exiled political leaders Benazir Bhutto and Nawaz Sharif were permitted to return to Pakistan. However, the 2008 Pakistani election was dealt a great shock on 27 December 2007 when Benazir Bhutto was assassinated while leaving a rally in Rawalpindi, leading to nationwide riots. The Pakistani Election Commission announced after a meeting in Islamabad that the election would take place on 18 February, after a five week delay. The PPP then decided to name Bhutto's son, Bilawal Bhutto Zardari, the new party leader with his father Asif Ali Zardari as co-chairman.

With 44% turnout, the 2008 election led to strong showings for the Pakistan Peoples Party (PPP) and the Pakistan Muslim League (Nawaz) (PML-N). Both parties initially formed a coalition to lead the government, and signed an accord, known as the Bhurban Accord, to lay out a course of action. Yousaf Raza Gillani was appointed as Prime Minister. On 18 August 2008, Pervez Musharraf resigned from the presidency when threatened with impeachment, and was replaced by Asif Ali Zardari in early September.

Local Government

Prior to 2001, the sub-provincial tier of government was composed of 26 divisions, with two further tiers (districts and tehsils) administered directly from the provincial level. Under the 2001 Local Government Ordinance (LGO), the divisions were abolished and a new three-tiered system of local government came into effect, comprising districts, tehsils and union councils, with an elected body at each tier.

At present, Pakistan is still a two-tiered federal state, not incorporating the local governments as a constitutionally recognised third level of government. The 17th Constitutional Amendment offered the local government system six years of protection (roughly from 2002 to 2009), during which the changes to the local government legislation could not be made by the provinces without the approval of the President (ADB et. al, 2004). The LGO, however, lapsed in the end of 2009, existing local governments ceased to hold office, and each provincial government is now supposed to finalize its own local government plan, and get appropriate legislation approved by its provincial assembly. This process is at various stages across the four provinces.

There are currently 113 districts in Pakistan-proper, each with several tehsils and union councils. The tribal areas comprise seven tribal agencies and six small frontier regions.

Regions

Pakistan is divided into 4 provinces, Sindh, Balochistan, Punjab and Khyber Pakhtunkhwa (formerly known as the North West Frontier Province). Additionally, Pakistan also has 3 territories, the Federal Capital (known as the Islamabad Capital Territory), the Federally Administered Tribal Areas (FATA) and the region of Gilgit-Baltistan.³ The disputed territory of Azad Jammu and Kashmir legally has its own government and constitution, although it is sometimes referred to in international bodies as Pakistan Administered Kashmir.

At the time of independence, the population count was 32.5 million (Pakistan Economic Survey, 2010-2011). The last official population census took place in 1998, although the 2011 census is in process. In 1998, the population was estimated at 132.35 million (Population Census Organisation, 1998).

In the inter-census period, the population for each year is estimated on the basis of demographic and fertility studies. According to this estimate, Pakistan's population in mid-2011 is estimated at 177.1 million, growing at an annual rate of 2.07% (Pakistan Economic Survey, 2010-2011). However, many estimate the population to be as much as 10 million more than the suggested figure. According to the United Nations Population Council, Pakistan will be one of the 9 countries in the world accounting for over half of the global population by 2050 (UN Press release, 2009), with an estimated population of 318 million, thereby ranking third after India and China.

Provincial Governments

Each province has a governor, a Council of Ministers headed by a chief minister appointed by the governor, and a provincial assembly. Members of the provincial assemblies are elected by universal adult suffrage. Provincial assemblies also have reserved seats for minorities. After the passage of the 18th Amendment to the Constitution, there is now a well-defined division of responsibilities between federal and provincial governments. Most of the services in areas such as health, education, agriculture, and roads, for example, are provided by the provincial governments.

Political parties

Pakistan Peoples Party Parliamentarians (PPPP) The Pakistan Peoples Party is a center-left political party, which originally campaigned on a socialist platform, but is now considered more centrist. The party was founded in 1967, by Zulfikar Ali Bhutto. The party gained much popularity and support prior to Pakistan's split with Bangladesh,

winning the bulk of seats in West Pakistan in the elections of 1971 with its pledge of providing “Roti, Kapra aur Makaan” (food, clothing and shelter) to the people. The Pakistan Peoples Party Parliamentarians (PPPP) is a party formed in 2002 by the PPP for the purpose of complying with electoral rules governing Pakistani parties, which did not allow the original PPP to contest elections. The Pakistan Peoples Party (PPPP) is a mainstream political party in Pakistan, which was led by Bhutto’s daughter Benazir until 2007 when she was assassinated. The Bhutto dynasty continues with Benazir’s son Bilawal ‘inheriting’ Chairmanship of the party, with his father Asif Ali Zardari as co-chairman and current President. The PPP has held government four times since its formation, and is the largest political party of Pakistan. Although its heart land is in rural Sindh, it also has considerable support in southern Punjab in parts of Khyber Pakhtunkhwa, and to a lesser extent, in Balochistan. It has consistently laid claim to being the only party which has support in all provinces and territories of Pakistan – a claim that has been borne out in most elections.

Pakistan Muslim League Nawaz (PML-N)

The Pakistan Muslim League is a center-right party which has also held power on two occasions. The party was founded in 1962 as a successor to the previously disbanded Muslim League,⁴ and gained the (Nawaz) or (N) label in 1993 for its leader, Nawaz Sharif. PML-N is the second biggest party in Parliament. Mian Nawaz Sharif the leader of the party, has been elected Prime Minister on two occasions, but on neither instance was the party able to complete its term. Although the bulk of its support has traditionally been in North and Central Punjab, it also retains support in Khyber Pakhtunkhwa, and in parts of Sindh.

Pakistan Muslim League (PML-Q)

PML-Q is another centrist political party, and was formed in 2001, when the Pakistan Muslim League split into several factions on the removal of the Nawaz Sharif government by General Musharraf. The party supported former President Pervez Musharraf and was in power, as the lead member of a coalition, from 2002 to 2007. It is the 3rd biggest party in parliament after the PPPP and PML(N).

Muttahida Qaumi Movement (MQM)

The MQM began life as a party formed for the Urdu speaking Mohajir community based in Karachi and Hyderabad. It was founded and is currently led by Altaf Hussain, who has lived in self-imposed exile in London since 1992. The party originated as an ethnic

student organization in 1978 from the University of Karachi. The organization maintains liberal, progressive and secular stances on many political and social issues. In 1997, the MQM officially removed the term Mohajir (or refugee, which denotes the party's roots of Urdu-speaking Muslims) from its name, and replaced it with Muttahida (meaning "United"), in an attempt to widen its appeal outside urban Sindh. MQM currently holds the fourth highest number of seats in the National Assembly. It is currently a member of the ruling coalition in the federal government as well as in the Sindh government.

Awami National Party (ANP)

The Awami National Party (ANP) is a leftist, secular political party, with a long history in Khyber Pakhtunkhwa under different names. The current leadership are descendants of Pakhtun leaders who were affiliated with the Congress Party in pre-partition India. The party has had a checkered history, marked by conflict with the federal government, but is currently part of the ruling coalition in the center as well as in Khyber Pakhtunkhwa.

Pakistan Tehreek-e-Insaf (PTI)

In 1997, former cricketer Imran Khan started a socio-political movement in Pakistan known as Movement for Justice (Urdu: Tehreek-e-Insaaf). As the fastest growing political party in Pakistan, PTI is establishing itself as one of the country's mainstream national parties, and is said to have made tremendous strides in gaining support in the last two to three years.

Other than the parties listed above, the religious parties, mainly the Jamaat-i-Islami and the Jamiat Ulema e Islam (Fazlur Rehman group) have been represented in parliament, although they have rarely garnered more than 5% of the vote. In the elections of 2002, however, an alliance of religious political parties, the Muttahida Majlis e Amal or MMA, came to power in the province of Khyber Pakhtunkhwa, and also had a respectable showing in the National Assembly.

Week 6:
Constitutional
Development

Constitutional Development in British India

Background

Now we are going to discuss the contents of different Acts which the British govt enforced in India from time to time. So that our discussion of the political development is within the backdrop and the background of the constitutional changes which the British made in India.

Following acts were introduced by the British government in India

- Indian Councils Act, 1861
- Indian Councils Act, 1892
- Government of India Act, 1909
- Government of India Act, 1919
- Government of India Act, 1935

When we look at these five Acts which we will be discussing very shortly, what we find is the practice of gradualism. The British introduced political and constitutional changes step by step and gradually. They gradually opened up the political process to Indians. While discussing all this we must keep in mind that all these major constitutional documents and other actions which the British adopted were basically for a colony, India was at that time a British colony and from the British point of view the interests of the empire was supreme. So while discussing all these Acts we have to keep in mind this reality that we are discussing the constitutional developments in a state which was under the colonial rule of British.

End of East India Company's Rule

We have to go back to 1858 to start discussion on constitutional development. On August 2, 1858 British Parliament passed a law for complete takeover of all rights of the East India Company over India. Previously, that is before this law was passed East India Company was running India although East India Company was set up under a British law and the British govt had influence in the affairs of the state but it was not the direct rule of the British Crown. So in August 1858 that law came in and they decided that under this law the Indian administration would be taken over by the British govt. Post of Secretary of State for India was created through the cabinet. The Secretary of State for India was empowered about government and revenues of India.

On November 1, 1858 the law that had been passed became operative and Queen Victoria issued a proclamation for the assumption all responsibilities and control of India by the British Crown and from that time to onward India was being run directly

by the British Crown and East India Company had been pushed to the periphery. And Queen Victoria also became the head of the state or emperor India and that was the change and this change that is the British Crown directly assuming of India then began to introduce constitutional changes for running this colony that is the Indian colony in an effective, systematic and organized manner of constitutional significance and in this connection the first legal framework of constitutional significance for the point of view of political development in India after 1857 was India Council Act of 1861. Lord Canning, Governor General of India was given the title of "Viceroy." He continued in office but not as the Company's title representative of British Crown. Moreover, armies of the company came under British Control.

Indian Council Act, 1861

This act was the first legislation by the British government in India. Before that, laws were promulgated by the East India Company. This Act was passed by the British parliament and in this Act the British govt outlined certain broad principles which they thought would be relevant and useful for running administration in India and therefore, this Act Indian Council Act of 1861 becomes important because for the next 30 years this Act was the main framework within which the British Indian govt was working although changes were made and some other laws were brought in but the basic document was this Act of 1861.

This Act provided for the expansion of the Executive Council that is the EC of the Viceroy because once the British took over the Indian administration Governor General also assumed the title of Viceroy. So, the Viceroy's EC was to be expanded. Viceroy or the Governor General could assign special tasks to any members of the Executive Council.

Important matters were to be discussed with the Governor General. Some important subjects were kept directly under the Viceroy, e. g., Foreign Department. Foreign in Indian content basically meant the dealing of the British Indian govt with the princely states. Different states that existed in different parts of India which were not technically under the British rule. Since it was an important field so it was being managed by the Viceroy.

Another important feature of this Act was that the non-official members were to be nominated to the Council and in this connection, Indians could also be appointed to the Executive Council.

Membership of the Council was raised: 6 to 12. Half of them were to be non-officials, nominated for two years.

The Council in its legislative capacity was given very limited legislative powers. It was just the beginning the British desire was not to create a really a legislative body, they

could not want to do that at that time. So, some powers were given to raise questions but those were very limited powers which were given under this act.

In this Act the most significant development was representation of Indians by nomination whose number was raised from 6 to 12. In Madras and Bombay Councils approval of the Governor General (GG) and Governor was needed. This act provided Indian representation by nomination. After the episode of the 1857 Sir Syed Ahmed Khan wrote a pamphlet *Risala-i-Asbab-e-Baghawat-i-Hind* in which he described one of the reasons of the mutiny that there was no communication between the ruler and the ruled because the Indians had no representation in any legislative body, therefore there was no way that the British govt could understand what are the reactions of the people to the policies and administrative decisions. In this way the Indians had no channel to communicate their concerns to the British govt and from Sir Syed's point of view that was projected from that pamphlet this was an important reason that most of the grievances developed and along with other causes contributed to what happened in 1857. So, he proposed that there has to be some method or some arrangement for communication between the ruler and the ruled and here in this Act we see that the British govt took an important decision that is Indians were to be brought into the governmental process but the system was through nomination, elected principle was introduced later on but at this stage it was through nomination which obviously means that the people who were acceptable to the British were to be nominated.

Nevertheless, it was a beginning that some Indians were sitting in such an important council and in this way communicate what the educated Indians were thinking at that time. So, this Act is important in this respect that the process of induction of Indians into the governmental system began here.

Indian Council Act of 1892

Introduction:

This Act was introduced after 31 years of the first legislation and during these 31 years there were certain administrative changes, certain laws were brought in but the formal changes were made in 1892.

Features:

Now let's take up the changes that were taking up in this Act of 1892

- The first significant change was that the size of Legislative Council increased.
- In Central Legislative Council the membership was increased: 10 to 16 members. Which means a little bit more people were inducted to the council

- At Provincial level representation was increased but the size varied from province to province. In Madras & Bombay 8 to 12, Bengal 12 to 20.
- So far as powers were concerned there was slight improvements from 1861. Limited powers were given to the legislatures. Questions could be asked and raise issues but ultimate powers lied with the Viceroy or the Governor General.
- Here in this Act some element of elective principle was also introduced. Nominal elections through special interests were allowed which they had identified not the individuals but special interests and one example was chambers of commerce and the university senate which ultimately became the electoral college. So here in this Act you had a very limited introduction of the elective principle but a very selective and only certain special interests could benefit from that facility. Moreover the ultimate powers were kept with the GG or the Viceroy and the British govt. It is that body who would go with these councils with the exception of certain limited collective elements but generally the British govt could because of this law determine who would be sitting there. GG and the British government made these appointments.

Analysis

But if you compare this with the Act of 1861 definitely you would find an improvement, a slight and marginal improvement but nevertheless the principle of gradual development goes on from 1861-1892

Government of India Act, 1909 (Minto-Morley Reforms)

This Act was the third important constitutional document. By the time the Indian Act of 1909 was enforced there had been significant changes in the political questions in the political domain of India. Congress party had been set up in 1885 and with the beginning of the 20th century it began to make more and more demands from the British govt. In 1906 the Congress was talking about self govt in India and that finally became its demand. In 1906 the ML was also set up in India and in the same year ML had presented its political demand to the Viceroy. So, by 1909 there were more political activities, there was ML and Congress and both were there were mands on the British system. And it is against the backdrop of these demands that the British govt introduced this law. This Act is also described as the MINTO-MORLEY REFORMS. What were its major features?

This act was another step towards giving Indians more representation in the Government.

This act provided

The first step was that the Legislative Councils whether at the centre or in the provinces their size was expanded

Central: the strength of additional members was raised up to 60 which was a very reasonable strength at that time if you compare it with the Act of 1892 however, the British govt maintained official majority that is non-officials some of which were nominated and some were elected they were in a minority.

Provincial: At the provincial level, the size varied in different provinces.

Bombay, Madras, Bengal, UP: 50

And at the provincial level the British govt decided to give majority to non-official. So, this was a significant change that at least at the provincial level if not at the centre the majority was non-official, however, All the Non-official members were not elected; some of them went there because the govt nominated them

Powers of the council were also increased. Now, Budget could be discussed but they could not really reject it altogether only discuss it. In addition to asking questions the Members were allowed to present Resolutions and issues of importance however, the resolutions passed by the councils whether at the central or the provincial level are never bindings, and that is the standard principle that only recommendations from legislation to the govt and it is up to the govt to implement or ignore those resolutions but the resolutions provide an opportunity which they did to Indians at that time after 1909 Act became effective, to raise issues of public importance, the issues which they thought the govt must take notice of, so they could raise issues either in the form of questions or in the form of resolutions. This was an opportunity to present their point of view but the British govt had enough powers to ignore what these people wanted at that time.

Another important feature of this Act was that the Executive Councils were formed for Bombay, Madras, Bengal, and as well as the provinces which had LT. Governors was provided for that these kinds of councils were set up at the provincial level.

In this Act, principle of election was expanded that is the electorate expanded, the People who could vote, their number increased but it was still limited. For example, the members were elected by those who were the members of the university senate, District Boards, Municipal Committees, Zamindars, and Chambers Commerce these are few examples of those who could vote at that time and that is under the govt of India Act 1909 and definitely the electorate expanded under this Act.

The last but no significant feature of this Act was the principle of Separate Electorate for the Muslims. Separate Electorate implied that the Muslim representatives whether at the central or at the provincial level would be elected by only Muslim voters. This was the demand which the Muslim delegation presented to the Viceroy Lord Minto in 1906 at Simla what is often described as the Simla Deputation. At that time the viceroy agreed on the principle and agreed to look into the matter sympathetically. Three years later when this Act was enforced in 1909, the principle of Separate Electorate was incorporated in this Act and since 1909 to 1947 when the British rule came to an end the principle of Separate Electorate existed in India and subsequently it was shifted to some other communities in India which initially was a Muslim demand. So, this principle of SE makes this Act a significant development for the Muslims.

Government of India Act, 1919 (Montagu-Chelmsford Reforms)

In order to understand this Act, we will have to give a brief introduction of the developments during the last decade before this Act was enforced in India. Previous Act came in 1909 and this Act came in 1919. During these 10 years political activities in India intensified. In 1913 the ML adopted self govt as its principle and there were reasons that why the 3 major communities in India perturbed for one reason or the other. In 1914, First World War started and the British joined the War and by virtue of the British joining the war India was also involved in the war. In 1916 the ML and the Congress signed the Lucknow Pact for constitutional reforms. Luck Pact was a set of proposals which both parties wanted. The British govt considered while making the law that ultimately came in 1919. This war period was a period of some turmoil in India and in view of this kind of situation the British wanted to seek the cooperation of the Indians in its war efforts. The British wanted to secure the cooperation of the Indians.

For that purpose, they made an announcement on August 20th 1917 and in this announcement the British govt talk about the gradual induction of Indians in all the branches of government. This was one of the demands which Indian leaders were making and here they were saying that gradually Indians would be inducted in all branches of government. Second part of this announcement was that gradually representative or responsible govt would be introduced in India. Another part of the

announcement was that the Indians would also be inducted to the commissioned ranks of the army. It may be pointed out here that until that date, 1917 Indians could not hold the ranks in the Indian army. Commission ranks means all those ranks starting from 2nd. Left to upward, what highest ranks they hold at that time was the Viceroy Commission ranks.

In the present-day context of Pakistan Viceroy Commission Officers could be compared with the Non-Commission Officers in the Pakistan army, so the Indians could not go beyond that but in 1917 on the insistence of the Indian leaders opened the commissioned ranks of the army for the Indians and that system was introduced in 1918. Since we are not discussing this so we will not pursue this point anymore.

Basically, there were two changes in the Act of 1919, gradual involvement of Indians in all govt departments and sections and induction of Indians on the commission ranks in army. After that the important development was that the secretary of state for India whose name was Montague came on a visit to India in November 1917 and he spent several months in India talking to leaders on political and constitutional issues. On the basis of these deliberations a report was released in 1918 called as Montague-Chelmsford Report of 1918. And this report became the basis of the Indian Act of 1919. This Act was approved by the British parliament and signed by the king and by December 1919 this became the basic constitutional document for India.

Salient Features:

Let's take up now some important features and attributes of this Act that is Govt of India Act 1919. The major provisions of this Act

This act provided a bicameral legislature at the Centre, which consisted of two houses. The Upper House and the Lower House.

The Upper House was the Council of State, with a membership of 60 out of which

34 were to be elected which means that the elected members were to have majority

and 26 nominated official & nonofficial members. The Council's tenure was fixed at 5 years.

The Lower House was Legislative Assembly which consisted of 145 members, out of whom 105 were elected and the rest would be nominated. So even here we see that the elected members dominate the lower house members.

Direct elections were introduced with limited franchise on the basis of property tax paying, previous experience of legislative councils, university senate, district councils, etc. It was not Universal adult franchise, there were certain condition described on the bases of which people could have right to vote. In other words, those who fulfill those qualifications were entitled to elect the members to the legislature.

Another feature was what was the continuation of the previous Act that is the principle of Separate Electorate for minorities. Muslims electing their own representatives to the central as well as to the provincial legislature.

If, we look at the powers of the assembly these were limited in scope. Nevertheless, slightly more than in the past. Limited law-making powers were assigned to the Legislature but for certain categories prior permission was required. It had no control over defense, foreign policy, budget etc. Legislature could refuse grants but GG could restore them. Most of the budget was not under their control, same was the case with the defense and foreign policy, although they could discuss all those things but they could not really reject it, if they reject a particular grant the GG could approve of it or sanction it even it has been turned down.

They could ask Questions, move Resolutions, and another important thing was Adjournment Motions were allowed for this assembly. In a way this assembly when it came into existence in 1921 and elections were held from time to time was a lively assembly which dealt with different issues and different kinds of problems.

When we move on to the provincial assembly, we find that assemblies were of different sizes and like the federal assembly their powers were limited

G.G. remained a powerful office with all the executive, legislative powers with a nominated Executive Council. In other words, GG had the wide ranging powers at the central level and at the provincial level more or less similar powers were enjoyed by the Governor within his own province. So, the Executive and the GG were very powerful.

So far as the division of powers is concerned this Act provided for a central list and a provincial list, two lists of subjects were given in the act, one was Central and the other was Provincial. Centre had overriding powers.

Diarchy System in the Provinces:

The act introduced DIARCHY system in the provinces which was the most significant feature of this Act. Principle of Diarchy meant that you distribute powers at the provincial level; certain important departments were given to members who were responsible to the GG and in this case the Governor. They were not answerable to the assembly in the provinces. According to the new arrangement subjects were divided into two categories i.e., reserved subjects and Transferred subjects. Reserved Subjects certain members performing the function but answerable to the Governor Reserved subjects included judiciary, canal, land revenue, Finance, press, power, etc.

Transferred Subjects were given to ministers who were answerable to the provincial legislature. So, in this way the powers at the provincial level were distributed. Transferred subjects included Local govt. education, public health. Transferred subjects were less important subjects given to others. In case of a dispute, if something belonged to reserved or transferred side, the Governor was entitled to make the final decision.

Limited Responsible Government at the provincial level was introduced. The system of Diarchy was complicated.

The continuous tussle between the elected and nominated members created fear of breakdown of administration. GG had Control on key departments. Elective elements became strong in the legislatures.

This division was creating lot of problems but the British didn't want to give so many powers to Indians, therefore they adopted this principle of Diarchy.

Government of India Act, 1935

It was the most important and most comprehensive legislation introduced by the British Government in India. It was the most significant document in India. It was gradually formulated starting with the Simon Commission, Round Table Conferences, White paper (1933) and J.S.C. it was a lengthy document passed by the parliament in July 1935 and got Royal assent in August 1935.

Salient Features

This Act introduced the system of federalism for the first time, although its seeds could be found in the govt of India Act of 1919 but here a federation was established with provinces and the princely states. It provided a Federal System with a centre, 11 Governor Provinces, 6 Chief Commissioner Provinces and the states willing to join it.

Powers were distributed into three lists of subjects which were given with a powerful centre. Federal list had Defense, Postal services, External affairs Coinage and Communication. Federal list had the more powers. Provincial list included education, police, Local self-government, justice, agriculture, public service, fisheries and forests. The concurrent list included criminal law, civil marriage, divorce, registration, bankruptcy, factories and succession.

Two houses of Central Legislature:

- Council of State comprised of 260 members, out of which 156 were from British provinces and 104 from Indian States.
- Method of election was indirect. Communal representation was also secured.
- ii. Federal Assembly was lower house consisted of 375 members. Out of which 250 represented British provinces and 125 from Indian States.
- They were elected by provincial legislatures on the principle of separate electorate.
- States were to nominate their members.
- Limited Powers were given to legislature:
- 80 percent of budget was above their vote.
- They could do law making for two lists but GG could turn down or refuse the bill keeping it for consideration of the British Government.
- This constitution provided a Powerful GG: Executive Chief having powers of Act on advice
- Independent Judgment
- Discretion
- Emergency powers
- Ordinances
- Power to rule provinces directly

Provincial Governments:

- Governors enjoy the powers like the GG in the Centre.
- Diarchy abolished in provinces.
- Responsible government was formed.
- Provincial legislatures not unicameral. Act provided for bicameral legislatures in six provinces and unicameral in five provinces.
- Franchise extended but still restricted on the basis of land revenue Rs. 5, Non-transferable property of Rs. 60, Education: Primary.
- Federal Court and High Courts were formed under the act
- Burma was separated from India.
- Sind was separated from Bombay.

Comments:

- Federal part of the act was not introduced.
- Provincial part introduced in 1937.
- Provincial autonomy was provided.
- Elected governments were formed in provinces
- A strong centre was maintained.
- This act expanded electorate.
- Indian government under this act had no control over defense.
- Indian legislature could not amend it.
- Federal legislature elected indirectly
- GG was given overriding powers, some powers in his discretion, some powers on his individual judgment and some powers on the advice. Similarly, in the provinces where principle of autonomy was introduced Governors have some special powers. The system of provincial autonomy was introduced which was the most important feature. This Act was introduced only at the provincial level, the central part was not introduced and in 1937 provincial part as provincial autonomy was introduced and it became operative from 1937 and lasted till 1947.

Constitutional Development - Rule under the British Crown (1857-1947)

This begins the 2nd phase of the Constitutional development under the British Crown.

Government of India Act of 1858

- Government of India Act of 1858 passed by British Parliament, brought an end to the rule of East India Company. The powers were transferred to the British Crown.
- The Secretary of State for India was given the powers and duties of the former Court of Directors. He Controlled the Indian Administration through the Viceroy of India.
- The Secretary of State for India was assisted by the Council of India. This Council had 15 members. The Council was an advisory body.
- Governor-General of India was made the Viceroy of India.
- Lord Canning was the 1st Viceroy of India.

Indian Council Act of 1861

- Indians were nominated as non-official members for the 1st time in the Legislative Council of Viceroy.
- Legislative Councils were established in Provinces and Centre.
- Legislative powers of the Provinces of Bombay and Madras were restored.
- Legislative Councils were started in the Provinces of Punjab, North-Western Frontier Province (NWFP), Bengal.

Indian Council Act of 1892

- The size of the Legislative Council was increased.
- The Legislative Council was given more power, they had the power to deliberate on the
- Budget and could pose questions to the Executive.
- Indirect elections were introduced for the 1st time.
- The Principle of Representation was introduced as per provisions given in the Indian Council Act of 1892.

Indian Councils Act, 1909 - Morley Minto Reforms

- Indian Councils Act of 1909 is commonly known as Morley Minto Reforms.
- For the 1st time, Direct elections were introduced for the Legislative Councils.
- The Central Legislative Council was renamed as the Imperial Legislative Council.
- The Communal representation system was introduced by giving separate electorate. It was a system where seats were reserved only for Muslims and only Muslims would be polled.
- For the first time, Indians were appointed to the Executive Council of Viceroy. Satyendra Sinha was the law member.

Government of India Act, 1919 - Montagu Chelmsford Reforms

- Government of India Act, 1919 was also known as the Montagu Chelmsford reforms.
- Bicameralism was introduced for the 1st time.
- Provincial and Central Subjects were separated.
- Dyarchy, a scheme of Dual Governance was introduced in the Provincial Subjects, it was divided into Reserved and Transferred. The transferred list included agriculture, health, education, and supervision of the local government. The Transferred list was given to the Government of Ministers answerable to Provincial Council. The reserved list included communications, foreign affairs, defense; this transferred list was under the control of Viceroy.
- Out of 6 members in Viceroy's Executive Council, 3 of them were Indians.
- The Act provided provisions for the establishment of the Public Service Commission in India for the first time.
- Communal Representation extended to Christians, Anglo-Indians, Sikhs.
- The franchise was given to a limited population which was based on people who had taxable income, had property and paid land revenue of Rs 3000.
- Montagu Chelmsford Reforms made provision for setting up a statutory commission at the end of 10 years to look into the working of the Government.

Government of India Act 1935

This was the longest and last constitutional measure introduced by British India. It was the result of multiple round table conferences and a report by the Simon Commission.

- Bicameralism was introduced in 6 Provinces (Bengal, Bombay, Madras, Assam, Bihar, United Provinces) out of 11 provinces.
- The Legislature in the provinces were enlarged.
- As per the Act, the powers were divided into Federal List, Provincial List and Concurrent List.
- Provincial autonomy was introduced in the Provinces by abolishing the Dyarchy.
- There was provision for the adoption of Dyarchy at the Centre.
- Provided provisions for establishing Federal Court, Reserve Bank of India (RBI).
- There was provision for the establishment of All India Federation consisting of Provinces and the Princely States as units.
- Due to the length of Government of India Act 1935, it was divided into 2 separate Acts.

Cripps Mission - 1942

In 1942 Cripps Mission was sent to India under the leadership of Sir Stafford Cripps. Some of the proposals given by the Cripps Mission are given below.

- Dominion status would be given to India, after the 2nd World War.
- Once the Second World War ends, an elected body would be set up in India for framing of Indian Constitution.
- The even the Indian States would participate in the Constitution-making body.
- Almost all the Parties and sections in India rejected the proposals given by the Cripps Mission.

Cabinet Mission - 1946

Some of the main proposals of the Cabinet Mission plan was

- The Indian States and British Provinces would combine to form Union of India
- A Constituent Assembly would be established consisting of 389 members.
- 14 members from Major political parties would form an interim government

- A representative body would be formed named as the Constituent Assembly.
- Until the Constitution was framed, the Constituent Assembly would act as the Dominion Legislature.
- Until the Constitution was framed, India would be administered as per the Government of India Act, 1935.

Mountbatten Plan - Indian Independence Act - 1947

- British India was partitioned into India and Pakistan with effect from 15th August 1947.
- Conferred complete legislative authority to the Constituent Assembly.
- Established Governments in both Provinces and States.

Week 7:

Constitutional Crisis

Constitutional Dilemma of Pakistan: 1947 -1956

Introduction

When Pakistan came into being, the interim constitution was enacted with the amalgamation of Indian Act of 1935 and the Indian Independence Act of 1947. The members of Central Legislative Assembly who won the election of 1945-46 from the areas of the newly independent state of Pakistan also took oath as members of the legislative assembly of the new country. The first and foremost task which was entrusted to the new constituent assembly of the country was to frame a new constitution of Pakistan. Unfortunately, the first constitution of Pakistan was carved in 1956 after the nine years of its creation till that date the country was run on an Adhoc basis for that period. Similarly, the early demise of Quaid-e-Azam Muhammad Ali Jinnah, the founder of Pakistan, in 1948 followed by the murder of Khan Liaqat Ali Khan the first Prime Minister of Pakistan created a leadership vacuum in the country. Along with other problems including immensity of coming refugee, lack of mutual trust between East and West Pakistan, misunderstanding about the role of Islam in the state affairs, the interference of bureaucracy became the main hurdle in the smooth functioning of the political system of Pakistan. In a span of about nine years, seven prime ministers were changed, and two Governor-General and two presidents were also changed. This time and again, frequent change in the governments and the polemics of politicians did not allow the system to work as envisaged by its forefathers.

Objectives Resolution

After sustained discussions, the Constituent Assembly of Pakistan passed a resolution on 12 March 1949 known as Objectives Resolution that provided a firm foundation for the upcoming constitutions. It is the first-ever document which decided that what type of system of governance will be introduced in Pakistan. After independence, it became inevitable that immediate steps should be taken in the direction of constitution-making of the newly born state. The then Prime Minister Mr Liaqat Ali Khan presented a resolution in the Constituent Assembly; the assembly adopted it on 12th March 1949. The passing of Objective Resolution is considered as the most important occasion in the life of this country, next in importance only to the achievement of independence. The resolution proved to be an integral part of all the constitutions that followed it by providing:

In the state of Pakistan, sovereignty belongs to Allah Almighty. It means that the Muslims believe in the oneness of Allah Almighty, or Tauheed. They also believe that He

(Allah) is all Sovereign and Omnipotent; there is none who can be called Allah. No one can interrupt in His Command as He is the one who created the entire universe. He ordered, and the things were completed as He wished or desired. Indeed, He is the only sovereign in the universe. Man is only the follower of His dictates and exercises only those powers which are delegated to him by Almighty Allah.

Islamic Democracy is the moving spirit of the resolution was the conviction that Islamic Democracy as stated and enunciated in Quran and Sunnah, if applied to current problems is the only means by which the salvation of mankind can be achieved.

The principles of freedom, social justice, tolerance and equality, a corner stone of the new state, as to be practised in this country as mentioned in the Holy Quran and Sunnah. All these principles are taught to the Muslims by the Divine Book, yet they will not compel other than Muslims to change their faith by treating them with honour and respect. Nobody will usurp the right of other even if he is powerful, in the eyes of Islam rich and poor enjoy the equal rights no distinctive treatment will be given to any on the basis of wealth or appointment. Only those are dear-ones to Allah who are pious, who do not indulge in vices.

Minority rights are well protected in Islam; it believes in the freedom of religion. Pakistan has also been achieved on the basis of the freedom of religious act. It was highlighted in the resolution that all the minorities living in Pakistan will be given full rights so that they also can contribute their best in the development and prosperity of the country.

The resolution clearly points out that Islam is for democracy. The basic human rights are well protected in Quran, and Holy Prophet also emphasized on rights of individuals irrespective of their casts, colour and creed. According to Objectives Resolution, fundamental rights for all citizens of Pakistan were also ensured in this resolution because of which the citizens of the country can take part effectively in public and private affairs of Pakistan. These rights provide life and infuse spirit to all activities in all spheres of life of the country.

During the course of resolution, it was also accepted that all federating units would form a federation of Pakistan which will uphold the provincial autonomy of the units. That was the reason the 1956 constitution devised a federal structure of government for the state of Pakistan, and even now we have the federal structure in the country where the provinces are also enjoying autonomous powers according to the constitution.

Independence of Judiciary was also one of the major salient features of the Objectives Resolution. It points out that if Judiciary is independent, then justice will be provided to all without any delay and without any interference. That is why Judiciary is to be an independent institution, having competent and qualified persons to administer Justice.

Importance of Resolution

In point of fact, the Objectives Resolution is the most imperative manuscript in the constitutional history of Pakistan that paved the way for the implementation of the Islamic way of life in a democratic manner. By reflecting the ultimate aim of achieving this newly independent state, it provided basic principles and guidelines on the basis of which future constitution to be framed. This resolution made it easy for the politicians to carve an agreed upon a constitution for the people of Pakistan, who had suffered being a minority during the colonial rule. It is admitted that the resolution provides an apparatus for the achievement of laid down objectives of the Muslims of India. Being a fundamental and main document of all the constitutions of Pakistan, it establishes a relationship between Islamic religious and political principles. Although it believes in Islamic democracy yet, it maintains the principle that politics cannot be separated from religion. The craft of the resolution reflects the state of mind of Muslim League leadership who could win Pakistan in the name of Islam, but still, they were not orthodox. They believed in a subtle blend of Islamic values and modern democratic and liberal laws. The resolution is a fundamental manuscript of all the constitutions of Pakistan that guaranteed basic human rights of the people of Pakistan without any discrimination of caste, colour and creed. As it favoured the ideology of Pakistan, it served as the preamble of all the upcoming constitutions of the ideological state of Pakistan.

In spite of criticism, the resolution provided the framework for the future constitutions as it entails those features and characteristics which were the aims of creation of Pakistan. By ensuring the establishment of a society in which every individual is free to practice his own religion according to his faith, it leads to an enlightened society. The civic life of a man is sum total of his behaviours and attitudes while living in society and maintaining the relationship with other individuals. It believes in establishing a nice framework blend in its temporal and spiritual aspects. Objectives Resolution is a document which creates the link of the man with social and political phenomenon to that of the religious.

Although the Objectives Resolution is a basic document and a constitutional landmark in the history of Pakistan, yet, it could not be a permanent constitution. It handed over the task of framing the constitution to the Basic Principles Committee. In the light of its

recommendations, the second Constituent Assembly addressed itself to the task of framing the constitution with diligence and speed. On 8 January 1956, the government introduced the constitution bill in the assembly which was finally adopted by it with amendments, on 23 Feb 1956. The constitution came into effect on Pakistan Day, i.e. 23 March 1956, marking a historical landmark. The Government of India Act of 1947 ceased to exist, and the new constitution of Pakistan was promulgated after a long wait.

Stumbling Blocks in Constitution Making

An important problem after the creation of Pakistan was the drafting of a constitution which should be according to the ideological basis and needs of the current circumstances. This task could not be accomplished as long as 1956 due to multi factors on which there was acute polarization in society. Besides, certain problems were unnecessarily exploited and made complicated. The causes of delay in the constitution-making are briefly explained below;

Federal Issue

Federal basis of the future constitution was agreed upon in the form of “Objectives Resolution”, but the pattern of division of powers between the central and provincial governments led to many controversies. Both the reports submitted by the Basic Principles Committees were contradictory; one offended the East Pakistan politicians, while the second was not acceptable to those of West Pakistan, especially Punjab. The Politicians from East Pakistan insisted upon securing maximum provincial autonomy, while the latter wanted a strong central government. This also involved the issue of parity of representation between the East and West wings of the country.

Selecting the Form of Government

Under the 1935 Act of India, Pakistan was to adopt a parliamentary system of governance. Although it is regarded as a difficult form of government at the same time, it was the most suited form of government for a society like Pakistan. This system demanded a healthy democratic political culture on the part of the people of Pakistan, and that could not be achieved. Political parties and political institutions lacked the required political training themselves and hence could not impart the same to the public in general. Hence suspicions were cast regarding the viability of this system to cope with the requirements of political stability. A great number of political think-tanks regarded a strong presidential system, like that of the United States was the suitable replacement. This confusion and lack of clarity of mind was one more reason for the delay in the timely constitution-making in Pakistan.

Linguistic Issue

At the time of independence, it was categorically announced by the founding fathers of Pakistan that the official language of the newly born country would be Urdu. They had enough far-sightedness to assess the importance of common language in the promotion of national integration. However, the linguistic riots in East Pakistan aggravated the political situation, and the Bengali population of East Pakistan demanded the adoption of Bengali as an official language. This matter was resolved by the adoption of both Urdu and Bengali as official languages during the latter stages of constitution-making.

Role of Politicians

The negative role of certain politicians and autocratic trend on the part of the government also caused a delay in constitution-making. Mr Ghulam Muhammad, the Governor-General, blamed the first Constituent Assembly of Pakistan that it could not draft the Constitution in time, dissolved the House on 24th October 1954. The palace intrigues also created problems to this effect. At every juncture, the politicians raised a number of issues, including language problem, selection of the parliamentary or federal system, passage to secular or theocracy as a system of governance and issues of provincialism/regionalism making the matters more complex took nine years to prepare the draft constitution for the country.

Differences on Islamic Way of Democracy

The Objectives Resolution had already resolved that the constitution would be based on Islamic teachings. But there appeared divergent point of views regarding the interpretation of Islamic ways and injunctions. The rightist religious elements had sharp differences with the modernist and secular elements who wanted a more modern state, following the prevailing contemporary trends. On the contrary, the religious-minded political leaders thought since the country had a religious-oriented ideology for its independence, so must be the ways of its governance. Thus, these differences that it took them all those years to come to a conclusion that, as a matter-of-fact Islam was to be a basic principle and guideline for regulating the outline of the political and legal system while the details were to be chalked out by the people according to their contemporary needs and environmental settings.

The Issue of Quantitative Representation

Pakistan was physically divided into two separate parts with a distance of approximately one thousand miles in between. An intricate problem involved was the quantitative representation between both the wings of the country. The need was to secure

representation to each unit according to its population and to secure proper safeguards at the same time for the protection of rights and interests of smaller provinces from the domination of big provinces. The method adopted in this connection in most of the federal systems lies in the introduction of a bicameral legislature in which the lower chamber is constituted on the basis of people's representation while the upper chamber represents the federating units on a parity basis. This was a difficult issue to be settled, but after the creation of One Unit of West Pakistan merger of all provinces, this problem was apparently resolved. Ultimately, parity of representation to East and West Pakistan was secured in the unicameral legislature.

Electoral Method

Introduction of separate electorates held a pivotal position in the package of demands of the Muslim League during the phase of the liberation struggle. Resultantly, it enjoyed the symbolic value as an institutional manifestation of the two-nation theory. It was mainly due to the acceptance of this demand that the Muslim League was able to establish its credibility of the representative party of the Muslims of the sub-continent. After the creation of Pakistan, certain secular elements demanded the joint electorate while the religious parties insisted upon the adoption of a separate electorate. This matter was resolved latter in the 1956 constitution, and joint electorate system was approved for the country. However, in 1978 again, this problem arose, and in view of the importance of this issue for the ideological polity, the separate electorate was reinforced.

A Momentary Consensus: 1956 Constitution

Being a pre-condition of a federation, the constitution of 1956 is a written document which consisted of 234 Articles, arranged in 13 parts and 6 schedules. It had a short preamble in the beginning, a window to the whole constitution or introduction to a legal document. Objectives Resolution was kept as a preamble of the constitution according to which sovereignty of the state of Pakistan would belong to Allah alone because He is the Creator of this world and the state of Pakistan. The principles of social justice, equality, freedom and democracy as pronounced by Islamic ideology will also be implemented as per the resolution.

The nature of the constitution of 1956 is partly rigid and partly flexible; it could be amended by 66 per cent, i.e., two-thirds of the members of the National Assembly. The procedure of the amendment was deliberately kept neither too rigid nor too flexible. After the approval of amendment from the parliament, the bill would be sent for the signatures of the president who was a titular head and after his signatures bill would

become law. In case of refusal of the President to sign the bill, the same would be sent to the national assembly for a second-time approval. On the second approval of the assembly, the bill would automatically become the law even without the assent of President.

The constitution of 1956 adopted parliamentary form government. A government in which parliament is considered to be a supreme institution over all the other institutions of the state. Parliament of Pakistan was named as National Assembly. There were long and extensive debates over the selection of the form of government. Prime Minister under the constitution would act as head of the government and President as head of state. President would remain as a nominal head and work on the advice of Prime Minister. In order to guarantee the rule of law, the supremacy of legislature was ensured.

Pakistan being a diverse-cultural and multi-ethnic society, having a tremendous heterogeneity. People of Pakistan spoke many languages, belonging to various ethnic and linguistic groups. There were sharp demographic inequalities in Pakistani society. The federal structure of government only could suit a country with such a huge amount of diversity. The unitary structure is only suitable in small and homogenous states such as Iran, United Kingdom etc. where there are no differences in caste colour, creed, language, religious sectarianism etc. In the said constitution, Pakistan was chosen to be a federal state that consisted of two provinces with different cultural and ethnic backgrounds. West Pakistan was converted into one province by merging all the four provinces so as to create parity between both wings of Pakistan. Division of power was done by creating three lists in the constitution; 1st list belonged to the powers of the federal government, 2nd list related to the power of provincial governments and the third list was concurrent list in which powers of both the government were mentioned. However, in case of a clash between the central and the provincial government, the supremacy of the central government would prevail, and the residuary powers were given to the federating units.

National Assembly was given the power to legislate on thirty issues contained in the federal list including financial affairs, defence, external matters, communication, citizenship, disputes between the provinces, industry, trade and commerce. The provincial list was extensive and consisted of ninety-four items. The provincial list included health, education, police, land agriculture, the judicial system, forestry, local government etc. The concurrent list included only nineteen matters and comparatively smaller to the other lists. The list dealt with such matters as civil and criminal law, economic planning, social planning, inter-provincial migration, trade unions and other matters of common interests between the central and provincial governments. The

1956 constitution contained in it all the essential and inherent elements of a federation. It aimed at strengthening the federation of Pakistan. It ensured the supremacy of parliament, independence of the judiciary, a comprehensive and equitable division of power between the center and federating units, provincial autonomy etc.

The constitution provided for the provision of a unicameral legislature. Generally, the bicameral legislature is adopted in federal forms of government in the world. Most, federations in the world consist of varying demographic structures that's why one House of parliament is represented on the basis of population and other on the basis of area. Here in the case of Pakistan although East Pakistan had slightly more population than that of West. However, it covered only one-seventh of the total area of the country. In order to create parity between both the provinces, the unicameral legislature was adopted, and equal representation was given to both the wings. Both East and West Pakistan sent their 150 representatives in the central legislative assembly. 10 seats were reserved for the women and minorities also divided on parity between both the wings. A citizen of Pakistan having an age of twenty-one year who has attained puberty and not declared mentally by a court was eligible to vote for the member of the national assembly on the basis of universal franchise. The national assembly was chosen for a period of five years. In turn, the national assembly chose its speaker for the same term and a leader of the house, which is called Prime Minister. Both Prime Minister and Speaker could be removed from their offices with a simple vote of no confidence. The President would summon the sessions or prorogue the sessions of the assembly on the advice of Prime Minister. The assembly could be dissolved by the President on the advice of Prime Minister. The term of President was rigidly fixed, and he cannot be removed from his office except for the process of impeachment. The constitution defines the role of president as, an elected President who would play the role of a titular head, all the executive authority vested in his being. He used all the executive powers on behalf of the Prime Minister.

Representing the colonial legacy, the office of Governor-General was abolished, and the office of the President was created who would be elected by the members of National and provincial assemblies. Provisions for National Economic Council (NEC) and the institution of the National Finance Commission (NFC) were made in the constitution. Both federal and provincial governments were given representation in these institutions. According to Article 199, the National Economic Council was headed by the Prime Minister, and there were ten other members. Out of its membership, four ministers were from the federal government and 3 ministers were from each provincial government. According to Article 118 of the constitution, National Finance Commission was headed by the federal Finance Minister, the provincial Finance Ministers and such members as may be appointed by the President after consultation with the governors

of provinces. Finance Commission was to decide how the to proceed of distributable taxes were to be distributed. Articles 197 and 198 laid down the Islamic Provisions reflecting the Objective Resolution criteria. According to which Pakistan was declared the Islamic Republic and the President of the country was to be a Muslim. An organization of Islamic Research was to be set up. No law repugnant to Quran and Sunnah would be passed, but this provision was not enforced in any court of law. However, language issue seemed unresolved as the 1956 constitution stated that the state languages of Pakistan would be Urdu and Bengali (Article 214).

The Fiasco of Constitution of 1956

A decade is too brief a span in the history of a nation to judge the success or failure of a system. Although the constitution of 1956 successfully resolved three important problems of constitution-making, the extent of provincial autonomy, the Islamic Provisions and the separation of power between Prime Minister and President. However, in the absence of well-articulated Political parties, the period following the promulgation of the constitution did not lead to political stability. Governments rose and fell in rapid succession. The longest period of the office being that of Prime Minister of Pakistan, Hussain Shaheed Suharwardy, was for just over one year. On 7 October 1958, less than three years of its promulgation, the abrogation of the constitution of 1956 proclaimed by the martial Law of President Iskandar Mirza. The proclamation stated that the constitution was unworkable. Following may be the main causes of its failures:

Undue Interference by President in Politics

1956 constitution established a parliamentary form of government. In the parliamentary system, the head of state enjoys nominal powers. But in Pakistan executive played a very active role in the making and unmaking of cabinets. He manipulated the election of Prime Minister and also backed the political parties of his own choice to undermine the role of head of government. Whereas as per the spirit of the parliamentary system, Queen in the United Kingdom plays the role of a titular head and acts only on the advice of Prime Minister.

Parity between East and West Pakistan

The question of parity arose because of the difference in the population of two wings. 54 per cent of East Pakistan's population against 46 per cent of West Pakistan's reflected a scenario with a clumsy situation. People of East Pakistan demanded representation in respect of population not as on parity and equality in. administration,

economic and financial affairs etc. The equal agreement distribution of seats in the central legislature appeased the East Pakistani and situation calmed down, but much more effort was required to satisfy the demand of parity in other fields.

Demand for Maximum Autonomy for Provinces

The representation problem was solved by giving equal representation to both the wings. As discussed earlier, East Pakistan demanded the autonomy of provinces rather than a strong central government. The main reason for this demand was due to the equitable composition of civil and military bureaucracy which was predominantly composed by West Pakistanis. The higher echelons of the government posts and military were occupied by the people from West Pakistan. Another cause of the demand for provincial autonomy was the distribution of financial resources. Federal budgetary expenditure was focused on the development of West Pakistan whereas East Pakistan provided for the most of foreign exchange.

Absence of Majority Party

Interestingly, in the Constituent Assembly which passed 1956 constitution, there was not a single party which had a clear-cut majority in the legislature and in a position to form the government independently without the support of other political parties. Provincialism and personal advantages had such a stronghold on the politicians that they forgot their duty to the country resultantly party groups continued to exist. It is believed that the parliamentary system in Pakistan failed because of the diminished role of the Muslim League, since it could not enjoy the confidence of the Assembly and was disintegrating into groups. Hence the Assembly had no party that enjoyed the majority in the house to take bold decisions that were required at that time.

Lack of Organization and Discipline

In the post-1956 scenario, there were hardly any comprehensive rules of conduct internally in the parties. All the parties were dominated by heavyweight personalities instead of democratic values. Members of the political parties were selfish. Members often crossed over from one side to the other in order to secure a ministerial position or some personal advantage. The membership of the cabinet was even given as a result of a political bargain. The politicians served only for their vested interests, and ruthlessly violated the national interest. Above all, the Muslim League had ceased to exist as an organization after the death of Liaqat Ali Khan. Above all, no direct elections of the National Legislature were held. The parties, especially the Muslim League, which was the largest political party of the country at that time, avoided elections because they

were not ready to face the masses. This situation created unbridgeable differences among the political stakeholder ended at the beginning of Martial Law in the country.

Conclusion

At the end of this discussion, we may conclude that the political conditions of Pakistan in postindependent ear reflected a constitutional lacuna where a number of political stakeholders tried to impose their desired ends and ideologies on the others. This situation was further deteriorated by the ruling elites who wanted to justify their illegal actions to derail the political process. These steps certainly created an environment of political instability, economic deprivation and social unrest. Discontinuation of political process invited criticism from certain quarters, especially from East Pakistan. The principle of parity caused a great deal of resentment there, a majority of East Pakistanis believed that their numerical strength had been debilitated by the parity proposal. The uncompromising political behaviours from the ruling elites tremendously hindered the progress of political culture in Pakistan. Unfortunately, constitutionalism at this stage did not support the stakeholder and a vacuum of high calibre leadership to handle this situation resulted in an unprecedented wave of political and constitutional decline in Pakistan.

Week 8: General Ayub Khan

An Analysis of the Constitutional Crisis in Pakistan (1958-1969)

An Account of Constitutional Crises

Iskandar Mirza had taken over as Acting Governor-General of Pakistan in August 1955 when Ghulam Muhammad became unwell. He was confirmed as fourth and last Governor-General of Pakistan on October 4, 1955 and then on the adoption of the Constitution 1956, he assumed the office of the first President of Pakistan on 23 March 1956. He had publicly voiced his conviction that religion and politics ought to be kept quite separate, and that some sort of 'controlled' democracy - an executive appointed for a fixed term and not dependent for its existence on a shifting and uncertain parliamentary majority was the best form of polity to aim at.

The struggle for Independence during the British period was almost synonymous with the struggle for responsible parliamentary institutions. On independence of Pakistan, a full-fledged parliamentary government started to work. Lawyers and most of the members of both the Constituent Assemblies of Pakistan were trained in parliamentary pattern of Government. The Constitution-makers of the country therefore framed the Constitution of 1956 on the basis of parliamentary system.

At the time of the enforcement of the Constitution of 1956, the country had great expectations from the trained administrators set at top positions and it was hoped that the influence of professional politicians would curtail and consequently the real needs of the people will be attended to by suppressing corruption, undertaking agrarian reforms, and promoting economic development. Unfortunately, Chaudhri Mohammad Ali, who successfully unified West Pakistan and induced the Assembly to accept and ratify the draft Constitution of the Islamic Republic of Pakistan, could not stand the political intrigues he was faced with.

Pre-requisites of Parliamentary System

A parliamentary system establishes a high degree of social and political awareness, universal education, and an advanced system of mass communication for speedy and accurate dissemination of information on a wide variety of themes of individual and general interests. In the absence of these pre-requisites, people cannot be expected to exercise their right of vote in the context of broad national policies.

Educated people with enlightened approaches are the first condition for the success of parliamentary system. An opposition of the same caliber must be there to watch the administration as well as to provide alternative government. There should be a vigilant press for the support of the Government on the merits of issues and to expose its weakness whenever desirable.

Unfortunately Pakistan lacked the requisites for a successful parliament. In this country we had a limited parliamentary experience. A strong executive authority persistently influenced the parliamentary system. The government and the Governor-General always held special powers. In a parliamentary set up the Legislature has to sustain and control the executive but Parliament in Pakistan was not allowed to function independently. It could never survive from its subservient position, and always felt that it was only an interim body. The story of the parliamentary era would have been different if the Legislature could attain its proper place in Pakistan.

Cabinets were frequently installed and removed with no regard to the Legislature. The choice of Liaquat Ali Khan as the first Prime Minister did not spring from the Constituent Assembly. The second cabinet (of Nazimuddin) was also not an option of the Legislature. In fact, it was the President who changed the cabinets.

Political parties in Pakistan were not developed on sound basis. The Muslim League, which led Pakistan Movement in the 1940's, declined rapidly after 1947. Formation of Opposition parties were deplored and discouraged by the persons in key positions of the Government. After assassination of Liaquat Ali Khan, there was no competent parliamentary leadership. This situation encouraged the politicians to indulge in intrigues and conspiracies while the economic affairs of the country were heading for the worst.

The Constitution of 1956 promulgated on 23rd March 1956 was said to be a document of despair - not a Constitution but a hotchpotch of alien concepts, which had already brought enough confusion and chaos to the country. The promulgation of this Constitution gave new inputs to the political leaders, parties, cliques and coteries. The Minister shall serve during the pleasure of the President – under the garb of this clause of the Constitution, the President Iskander Mirza dismissed Ministries after Ministries both at the Center and in the provinces at his sweet will. To keep himself in absolute position he used the Constitution to promote political intrigues and bargaining.

Hussain Shaheed Suhrawardy appointed as Prime Minister in 1958, was a powerful person. The country expected much from him, and he appropriately declared that, our problems are vast and intricate, and many of them need speedy solution. It can never

be attained unless we allow free play of democratic processes and uphold the Constitution in letter and in spirit, and ensure the rule of law...we must have a clean administration and clean politics. But, unfortunately he was soon asked to resign and was hence unable to implement his plans. Suhrawardy was in favor of the National Assembly taking democratic decisions by the vote. The President who rather forced Suhrawardy to resign did not accede to his democratic proposal. The difference between the earlier outright dismissal of Khwaja Nazimuddin in 1953 and effective elimination of Suhrawardy in 1958 was only one of the various methods. Thus Iskander Mirza made democracy and the Constitution itself the victims of his political ambition.

Under these circumstances, the Muslim League declined and over-night a new party the Republican Party emerged on the political platform. Party indiscipline and lack of solidarity within the parties became the order of the day. Members crossed the floor, changed their political affiliations so freely and frequently that no one knew who belonged to which party. "A Muslim Leaguer today Republican tomorrow; and yesterday's 'traitor' was tomorrow's Chief Minister".

The unconstitutional dismissal of Chief Minister and the Governor in East Pakistan developed an even more serious situation. By mid of 1958, the alarming economic conditions increased worries for the country. Graph of foreign exchange was very low while that of foreign exchange liabilities was on a big rise. The situation was indicative of collapse of monetary and banking system of the country.

In this disappointing situation, the government had promised to hold elections. The President however seemed inconsistent with this promise. Exploiting the deficiencies in the Constitution, and having engaged everyone in the political chaos, clearly indicated that he was awaiting a suitable opportunity to abrogate the Constitution. On the other hand, leaders like Khan Abdul Qayyum Khan were spoiling the situation further. The Working Committee of the Muslim League adopted a Resolution on 28th September that the Government would be dislodged, if need be, by extra-constitutional methods. The Khan of Kalat, taking advantage of the general confusion, started conspiring to secede from Pakistan. This state of affairs worsened the complications of the situation. To the worst, some politicians had started contacts with the armed forces. All these developments were instigating the army for involving in the power game, as there had arisen a question of maintaining law and order in the country.

President Iskandar Mirza, on 7th October 1958, issued a proclamation whereby the Constitution of 1956 was abrogated and the central and provincial governments were dismissed.⁴ The National and Provincial Assemblies were dissolved, all political parties were banned and Pakistan was brought under its first Martial Law. President Iskandar

Mirza while abrogating the Constitution said: “The constitution, which was brought into being on 23rd March, 1956 after so many tribulations, is unworkable. It is full of dangerous compromises that will soon disintegrate Pakistan internally if the inherent malaise is not removed. To rectify them the country must first be taken to sanity by a peaceful revolution, then it is my intention to collect a team of patriotic persons to examine our problems in the political field and devise a constitution more suitable to the genius of the Muslim people. When it is ready at appropriate time it will be submitted to the referendum of the people”.

Iskander Mirza and Ayub Khan though working together as duo had different views on changing issues. Ayub Khan knew that power was only with the Army and he was ready to assert himself, while Iskander Mirza wanted more powers as an administrator for himself. He realized the difficulty of sharing of power and soon entered into an intense powers struggle with General Ayub Khan. He appointed Ayub Khan as Prime Minister to maintain a balance in the power equation and hand picked a new cabinet. Ayub Khan who had more powers, as Chief Martial Law Administrator was not satisfied with this set up. Taking his colleagues and military Generals in to confidence he arrested Iskander Mirza on October 27, 1958 and sent him in exile to Britain and himself became sole authority in Pakistan.

On becoming President, Ayub Khan wanted to obtain maximum support for the Constitution. The masses were to be invited to participate in the process to be accomplished by the referendum of Basic Democrats on 14 February 1960. This process involved prominent citizens, political groups, and the bureaucracy leaving few people to complain of having not been consulted.⁶ To justify a presidential form of government, it was necessary for Ayub Khan to describe the 1956 Constitution as a failure and unworkable. This would pave the way for a new constitution. Ayub Khan wanted a prestigious and respected body of persons to arrive at this conclusion in a report formally to be submitted to him.

Ayub Khan's Basic Democracies

The imposition of Martial law in the first week of October 1958 had its roots in the violation of the Constitution. The consequence was chaos in the legal institution. To overcome this chaos, the Laws Order was introduced on October 10, 1958, which aimed at validating certain laws to support the martial law. This new Order restored powers (including issuance of writs of prohibition, quo warranto, habeas corpus, certiorari and mandamus) of all the High Courts and the Supreme Court, while the Government of Pakistan was advised to act in accordance with the late Constitution to the possible extent. The Chief Martial Law Administrator or anyone who exercised powers or

jurisdiction under the CMLA was provided immunity from such writs. In the light of the new Order, no court of law or person could question the military action and proclamation of October 1958, the military courts or the Governors of provinces. The Governor was to obey the directives of the President or the Chief Martial Law administrator or any person having authority of the Martial Law Administrator.⁷ In fact such parts of the 1956 Constitution were manipulated by the military regime to suit their power and for running the day –to-day administrative affairs. The validity of Laws (Continuance in Force) Order and imposition of martial law itself was soon challenged in the Supreme Court of Pakistan. The then Chief Justice Munir upheld the martial law and the Laws (Continuance in Force) Order.

The process earlier started for constitutional development was reversed due to the judgments in Dosso's and Tamizuddin Khan's cases. The Supreme Court legitimized the martial law in haste. The cases before it could have been decided without entering into the question of the validity of Laws (Continuance in Force) Order. The appeals before the Supreme Court had been pending since long before the imposition of martial law and the validity of the Order was unnecessarily dragged into the controversy. These appeals were heard on 13 and 14 October 1958 and decided on 27 October 1958, only a few days after the imposition of martial law. Why could the Supreme Court not wait until somebody had directly challenged the vires of Laws (Continuance in Force) Order or the validity of martial law? In their unholy haste to legitimize the martial law, the Supreme Court Judges not only undid the writ jurisdiction of the High Courts but stripped the citizens of their fundamental rights, only to appease the new masters of the country.

Besides, Chief Justice Munir had adopted the legal logic applicable to a popular revolution such as the French, Russian, or Iranian revolutions to justify a coup d'etat, which can by no stretch of the imagination be described as a 'revolution'. He used the term 'revolution' even in his later writings to defend his reasoning⁸ by posing a question: 'Could any court having discretion in the matter, issue an enforceable writ on the 8, 9, or 10th October against the government that had been brought into existence by the Proclamation of President Iskandar Mirza?⁹ This argument also justified his verdict in Tamizuddin Khan's case. It was not for him to see if the verdict would be accepted. His sole duty was to stand for what was right and to decide each case on that basis alone, regardless of the enforceability of writs. A wrong verdict is not given only because a correct one might not be enforced. Had he risen above these evidently irrelevant considerations, the constitutional history of Pakistan might have been very different. An appraisal of the various actions taken by President Ayub Khan after the 27th of October 1958 would leave no room for doubt that his object throughout this period was to weaken all elements which had a popular support and to perpetuate

himself as a Ruler. By the 1962 Constitution, which he was to enact in early 1962, he was successful in creating a puppet Parliament and a band of mercenaries in the form of members of the Electoral College to help him to continue to remain in power, indefinitely, as a dictator.

President Ayub Khan constituted a Constitution Commission headed by the Chief Justice of Pakistan, on February 17, 1960. Ten-member Commission comprised experts from fields of administration, law and civil service, which was asked to examine the causes and nature, which led to the abrogation of the Constitution of 1956 and to submit Constitutional proposals to give strength and stability to the government. According to Ayub Khan, the Commission was set up because: "It has been explained by the present President that he, as the Head of Army was on more than one occasion asked to take over by the then Heads of the State and still he desisted and when he did take over in 1958, he promised to restore Government after establishing the conditions in the country and the fact that this Commission was appointed indicates that he is going to carry out that promise." The Terms of Reference of this Commission included claim of failure of parliamentary government, need of constitutional and administrative changes; need of democracy based on Islamic principles of justice, equality and tolerance; consolidation of national unity; social and economic reforms etc. The Terms of Reference also asked the Commission for acquiring feedback on Basic Democracies performance. The Commission issued a Questionnaire, toured East and West Pakistan and after interviewing 565 persons, from different walks of life, and examining replies to the Questionnaire, submitted on April 29, 1961, an almost, unanimous report – only one of the members had shown his dissent.

The Commission, in its Report, recommended a Presidential form of Government. The structure of the Constitution was to be Federal a bicameral Legislature at the Center and unicameral Legislatures in the two Provinces of West and East Pakistan. The Upper House at the Center, to be known as the Senate, was to consist of 48 Members, 40 elected by an Electoral College consisting of the Lower House at the Center and the two Provincial Houses on the basis of parity, i.e., 20 from each Province and 8 to be nominated by the President from certain categories. The Lower House at the Center, to be known as the House of the People, was to consist of 200 Members to be elected on the principle of parity, each Province electing half the number. The term of the Senate was being six years and of the House of the People four years, like that of the President and the Vice-President. The Legislatures in the two Provinces were to consist of 310 Members, including 10 seats reserved for women. The term of the Provincial Legislatures was also to be four years. In West Pakistan, the seats, then allotted to the various areas were to continue for a period of 10 years.

The Commission, for the purpose of elections, suggested a restricted franchise instead of adult franchise, on the basis of property and literacy qualifications to be determined on the recommendations of a Franchise Committee to be set up after the new Constitution came into force. The Commission recommended that on the basis of restricted franchise, the President, the Vice-President and Members of the House of the People and the two Legislative Assemblies of East and West Pakistan should be directly elected. To avoid delay in the elections, the Commission recommended that the Provincial Assemblies should conduct elections of the House of the People and members of the Basic Democracies and that the first term of these newly elected Members should be only of three years. Having accepted the Basic Democrats as the electorate for election of the President only for the first term of 3 years, the Commission recommended that the then President should continue in office for that period without offering himself for election.

The report was submitted in April 1961, but the President being otherwise busy in strengthening his position kept it in cold storage and published it long after the 1962 Constitution had been framed. Some of the contents of the report, however, leaked out. People were becoming impatient and were clamoring (though not very openly because of Military Rule) for restoration of the democratic institutions and return of the Civilian Government.

It was in the winter of 1961, that the Judges of West Pakistan High Court requested the President for a meeting. This meeting was attended by almost, all the Judges of the High Court and from the President's side by him and his Foreign Minister. In the meeting, one of the Judges pointed out that it was time that the rule of law was re-established and that elections should be held as early as possible to restore democratic institutions. It was pointed out that in case of indirect election through the members of the Basic Democracies, fresh elections of Basic Democracies are held, so that the members elected should have a mandate from the electorate. Before the President could reply, the Foreign Minister intervened and said that they were committed to allow the present Basic Democrats their full term and, therefore they would form the Electoral College, in case the elections were held indirectly. The Commission also summarized the causes of failure of Parliamentary Government as follows:

- Lack of proper elections and defects in the late Constitution.

- Undue interference by the Heads of State with Ministries and political parties and by the Central Government with the functioning of the governments in the provinces.
- Lack of leadership resulting in lack of well ordered and disciplined parties, the general lack of character in the politicians and their undue interference in the administration.

In spite of all these arguments, there was a difference of opinion whether the 1956-Constitution, which was of Parliamentary pattern, was a success or failure. Some argued that it failed, but most of the old politicians were of the opinion that the system was not given a fair trial and not experimented with honesty and sincerity. The party-in-power at the Center was desperate to maintain its position instead of giving a fair trial to the parliamentary institutions. According to A.K. Brohi, the report was not implemented in its original shape and recommendations were modified during the cabinet meeting.¹³ He further said that, "President rejected all the recommendations made by the Constitutional Commission, accepted only one namely that the constitution should be Presidential in form".

Framing of the Constitution of 1962

The Constitution Commission submitted its report on May 6, 1961, which was not considered satisfactory by General Ayub Khan and it was re-drafted which was entirely different from the earlier report. It was promulgated on June 8, 1962 as a Constitution of Pakistan having 250 Articles 12 Parts and 3 Schedules proposing a Presidential system with absolute power for the President of Pakistan. He was to hold office for five years and could be re-elected. His important powers were appointment of Chiefs of Armed Forces. The country was to have unicameral legislature called the National Assembly having 156 members and 6 women. Seats for both wings of the country were equal and system of Basic Democracy and indirect elections were proposed. According to this the President was to be elected by 80000 basic democrats, which was increased to 120000 by a latter amendment to the constitution.

The executive was the part of legislature and the President could use his veto in the law making process and issue ordinances if the assembly was not in session, which he could also, dissolve during emergency. The government was to be federal in nature and federal list consisted of all-important powers on which the provinces had no authority. The governors in the provinces had the same powers as the President at the centre, the Islamic clauses were a part of the constitution but the state was named the Republic of Pakistan. Some changes were made in the nomenclature as well as the Islam and not Quran and Sunnah were used to express the spirit of the Constitution. The constitution also upheld the rights of the citizen but the Judiciary was not independent in the sense that all appointments in the Supreme and High Courts at the apex level were in the hands of the President. The President could also remove a Judge from his position on grounds of misbehavior or health. Urdu and Bengali were national languages while all official business was to be in English. The constitution retained its flexible nature and could be amended by two-third votes of the National Assembly with the approval of the

President. The Assembly amended the constitution eight times during its life of seven years.

Main Features of the 1962 Constitution

The following were the main features of the 1962 Constitution:

Preamble

The Constitution began with a preamble, which asserted in its first paragraph that the sovereignty over the entire universe belonged to Almighty God alone and that the authority exercisable by the people within the limits prescribed by God is a sacred trust. Quaid-i-Azam's declaration that Pakistan would be democratic state based on Islamic principles of social justice as wished by the people, as well as the principles of democracy, equality, tolerance and social justice as having been enunciated by Islam to which the Muslims of Pakistan, individually and collectively, should be able to order their lives in accordance with the teachings and requirements of Islam as set out in the Holy Quran and Sunnah. These parts of the preamble also included declarations regarding the safeguarding of the legitimate rights of non-Muslims, and the preservation of fundamental human rights.

Fundamental Rights

The 1962 Constitution granted certain fundamental rights to the citizens, which were non-justifiable. Later on, by the first amendment through the Constitution Act 1963 Fundamental Rights were made justifiable, as they were incorporated in the 1956 Constitution.

President and His powers

The 1962 Constitution provided Presidential form of government. The President was the Head of the Executive as well as of the State and enjoyed extensive powers. The Constitution provided that the President could be removed from his office before the expiry of his term on the grounds of gross misconduct and physical or mental inability. For that purpose a resolution was to be tabled by one-third (52) members of the Assembly and would not be carried out unless three-quarters (177) of the members voted in its favor. Further the Constitution provided that in case the resolution failed to obtain desirable majority of the half of the members; the originators of the resolution were to lose their seats in the National Assembly.

The Legislature The central legislature of Pakistan consisted of one House known as the National Assembly. There were one hundred and fifty members of the National Assembly, of whom one half were to be elected from the East other half from West Pakistan by the Electoral College. Six seats were reserved for women, 3 for each province who were elected by the members of the National Assembly of their respective provinces.¹⁸ The National Assembly was elected for a term of 5 years unless the Head of the State prematurely dissolved it. The Assembly was to meet twice in a year and one session had to be held in Dacca.

The President had powers to dissolve the National Assembly at any time but he could not to do so (a) when expired time of the life of National Assembly was less than 120 days (b) a notice for the impeachment of the President was given to the Speaker (c) a resolution of impeachment had been voted upon. When the offices of the President, the Speaker and the Deputy Speaker were vacant, the Chief Justice of the Supreme Court was to summon the Assembly. When the President had dissolved the Assembly he had to vacate the office thereupon. If a conflict arose between the President and the central legislature; the President was to refer the matter to the Electoral College for a referendum. When the National Assembly passed a bill, it was to be presented to the President for assent, and the President was to give his assent within 30 days of presentation. If the President did not assent for want of amendments in the bill, he was to refer the bill to the Assembly for reconsideration and if the bill was again passed by Assembly by the majority of not less than 2/3 of the total number of members, the President was to assent to the bill or refer the same to a referendum after which the bill would become a law.

Federal Judiciary

• The Supreme Court

The Constitution provided for a Supreme Court of Pakistan consisting of a Chief Justice and as many other Judges as were determined by law, and in the absence of such law, by the President.

The Chief Judge of the Supreme Court was to be appointed by the President and other judges by the President after consultation with the chief judge. A person could not be appointed as a Judge of the Supreme Court unless he was: (a) citizen of Pakistan (b) he had served as a Judge of High Court for a period of 5 years, and (c) he had experience of not less than 15 years as an advocate of a High Court in Pakistan.

The Supreme Court had appellate, advisory and original jurisdictions. Under appellate jurisdiction the Supreme Court could hear and determine appeals, judgments, decrees, orders or sentences of the High Courts. Under advisory jurisdiction it was to consider the question referred by the President and was to suggest solution to the President. Under original jurisdiction if there was dispute between Central and Provincial Government at both the sides the Court was to pronounce declaratory judgments.

Supreme Judicial Council

The concept of Supreme Judicial Council was a brainchild of the 1962 Constitution makers.²⁵ In case of complaint of incapacity to perform duties due to physical/mental problem on part of a judge of Supreme Court or High Court, the President was empowered to refer the matter to the Supreme Judicial Council for inquiry. And on recommendation of the Inquiry, he was empowered to remove that judge.

Provincial Structure

- Governor

Under the Constitution of 1962 there was a governor of each province (East and West wing) who was the executive head of the province. He was to be appointed by the President.²⁶ Each Governor had a Council of Ministers composed of members of the Provincial Assembly. The Governor and his Council of Ministers both were subjected to the directions of the President in the performance of their duties.

- Provincial Assembly

Each Provincial Assembly consisted of 155 members of whom the members of the Electoral College of the Province elected 150 and five seats were reserved for women who were elected by the members of their respective provincial assemblies.²⁷ The Speaker, the Deputy Speaker and members of the Assembly enjoyed all the privileges available to the members of the National Assembly. A Provincial Assembly was elected for a term of five years.²⁸ The Governor was empowered to dissolve the Provincial Assembly with the concurrence of the President. The Legislative powers were distributed between the Center and the Provinces. The Central legislature had the power to legislate matters specified in the Third Schedule and the Provincial legislature like all other matters.

Provincial Judiciary

The High Courts were regular courts of appeal and revision in the provinces. They also exercised writ jurisdiction. The Judges of the High Courts could hold offices until they attained the age of sixty years or until the time they were removed on the recommendation of the Supreme Judicial Council.

Islamic Provisions

With the adoption of the First amendment Act, 1963, the original name of the state as the "Islamic Republic of Pakistan" was restored. The Principles of Policy referred once more to enable Muslims individually and collectively to order their lives in accordance with Islamic Principles and concepts. According to Article-8 added to the Constitution, no law repugnant to the teachings and requirements of Islam was to be made and all existing laws were to be brought in conformity with the Islamic laws. Article 10 prescribed that the President of the state must be a Muslim.

Under Part-X of the Constitution, Islamic institutions like Advisory Council of Islamic Ideology and Islamic Research Institute were set up. The former was entrusted the duty of recommending ways and means by which Muslims of Pakistan were to order their lives in accordance with the principles and concept of Islam. The latter was assigned the task of research about the reconstruction of the Muslim society.

An analysis of the 1962 Constitution indicates that it created a hybrid of Presidential and parliamentary kind of franchise. It were these 80,000 electors in all, who became the Electoral College responsible for electing a President and the members of the Provincial and National Assemblies as well. Thus the elections of the President, the National Assembly and the Provincial Assemblies were indirect.²⁹ Further, the Electoral College was given powers of local self-government. In that capacity the electors were called Basic-Democrats responsible for the administration of the affairs of local self-government, at the Union Council, District Council and Provincial Council levels. Generous funds were placed at their disposal with the result that the Basic-Democrat began to misuse and misappropriate these funds. As long as they supported the nominees of the ruling party, they enjoyed immunity, but as they began to flex their muscles, they were threatened with criminal misappropriation of money. This was a case of the use of the stick and the carrot. The stick was used to punish them with prosecution and the carrot was offered to eat if they obliged the people in power. That is why the masses raised a great deal of hue and cry, and the 1962 constitution came under bitter criticism.

The constitution was not based on the theory of separation of powers i.e. the President, the Legislature and the Judiciary was not independent of one other. The constitution was not described as the Constitution of the Islamic Republic of Pakistan. Again the 1962 Constitution professedly provided a Federal structure, but in fact it had provided a unitary form of government. The government established under the 1962 Constitution was highly centralized and authoritarian. It provided one legislative list wherein the authority of the Central government was specified and residuary powers were left to the provinces.³⁰ The subjects given to the Center included Defense, External Affairs, Inter-provincial Trade and Commerce, National Economic Planning and National Economic Coordination, Currency, Foreign Exchange, Central Banking, Insurance, Nuclear Energy, Mineral Oil and Natural Gas, Industry Preventive Detention. Furthermore, the Central Government was empowered to step into any field outside that list. There was no provincial autonomy whatsoever because the Center repeatedly made inroads into Provincial and Residuary fields. G.W. Choudhry has rightly observed that, "The crux of the whole relationship between the Center and the provinces in Pakistan today lies in the financial sphere. Federalism implies an allocation not only of legislative power but also of financial power."

The popular dissatisfaction against the 1962 Constitution and authoritarian governance by Ayub Khan led to countrywide street agitation in the last quarter of 1968 while the Ayub regime was busy celebrating the decade of his rule as the Decade of Development. The major political parties demanded, inter alia, resignation of Ayub Khan, abrogation of the 1962 Constitution, and restoration of the parliamentary system of government. They also demanded the dismemberment of the 'One Unit' and restoration of four provinces in West Pakistan. From East Pakistan came the old demand for provincial autonomy and representation on population basis in the national legislature. Agitations created political chaos in the country and no compromise formula could be evolved to overcome the crisis. In view of the deteriorating law and order situation, Ayub Khan resigned from office and handed over power to the Army Chief, General Agha Muhammad Yahya Khan, who abrogated the constitution and declared martial law on 25 March 1969.

There was a sharp disagreement amongst the leaders over the shape of the future constitution. Twenty-two years after Independence, the country was again faced with a constitutional dilemma. The basic issues such as maximum provincial autonomy, disintegration of the 'One- Unit', and representation on the basis of population, were again revived. These were the major obstacles in constitution making during 1947 to 1956, and delayed the framing of the 1956 Constitution. When the Constitution was enforced in 1956, people thought that constitutional differences had been resolved forever. But now the leaders were up against the old problems again.

In a nutshell, introduction of the Constitution of 1962 became a strong base for resignation of Field Marshall Muhammad Ayub Khan from power.

Conclusion

The period between 1958 and 1969 is marked with the martial law rule. Hussain Shaheed Suhrawardy was a determined Prime Minister (1958) who wanted to see a strong democratic government in the country. A parliamentary system demands educated, and enlightened voters, which unfortunately this country lacked at that time and the same deficiency persists even today. Iskander Mirza asked Suhrawardy for resignation, and managed somehow to dismiss the latter from the office of Prime Minister. Constitution and democracy once again fell victim to the dictatorial attitude on part of the President and his political ambitions. The Muslim League once very popular at the time of independence of Pakistan had lost its popularity. Other politicians also did not enjoy trust of people. The nation was already deprived of Mr. Jinnah and Liaquat Ali Khan in 1948 and 1951, respectively. The political chaos gave chances for the non-political forces to establish strong. Moreover, there were unconstitutional dismissals of Chief Minister and Governor in East Pakistan. By mid of 1958, economic conditions including low foreign exchange were indicative of collapse of monetary and banking system in the country. However, the government took no remedial measures.

When martial law was promulgated in 1958, the Constitution of 1956 was abrogated. Later, Gen. Ayub Khan transformed this Constitution into Constitution of 1962 on the plea that the Constitution of 1956 had been a failure. However, the very spirit of the Constitution was changed. The parliamentary system of government provided in the 1956 was given the outlook of a presidential system where the President was handed immense powers over the parliament. The 'constitutional' powers gave control to the President and his executive over the legislature. The military rulers issued Orders to get immunity from any writs. No courts of law or person was allowed to question the military action, proclamation of martial law, the provincial Governors or the military courts. It is not difficult to understand the situation that the judiciary was going through. In order to prolong his rule, General Ayub Khan introduced Basic Democracies.

The President headed the state as well as the Government. He had the authority to appoint Provincial Governors, Federal Ministers, Advocate General, Auditor General and Chairmen and Members of various administrative commissions. As the Supreme Commander of the Armed Forces of Pakistan, the appointment of the chiefs of the forces was also within his powers. The President was also involved in the appointment of Chief Justice and other judges of the Supreme Court.

The authoritarian governance by Ayub Khan under the 1962 Constitution caused countrywide street agitation against Ayub Khan towards the end of 1968. Supported by this agitation, the major political parties demanded resignation of Ayub Khan, restoration of parliamentary system and restoration of four provinces in West Pakistan. The East Pakistan demanded provincial autonomy and representation in the national legislature on the basis of population. Eventually, the deteriorating law and order situation forced Ayub Khan to resign from office. He, however, handed the power to yet another military general Yahya Khan who abrogated the constitution and declared martial law on March 25, 1969.

Week 9: Zulfiqar Ali Bhutto

Constitution-Making and the 1973 Constitution

The Constitution of a country, as Woodrow Wilson said, 'is not a mere lawyers' document but is in fact the vehicle of a nation's life'. Pakistan's constitutional controversies indeed mirrored her numerous problems, and led to dismemberment. As a lawyer and politician, and a key adviser of Ayub Khan in framing the 1962 Constitution, ZAB fully appreciated the difficulties.

Pakistan has been a veritable laboratory for experiments in tackling constitutional problems, either existing or created, from which students of constitutional law could learn much. Issues of concern include the federal structure, the quantum of provincial autonomy, the question of religion and the State, national language, whether the franchise should be universal or limited, whether minority religious communities should have electorates separate from the Muslim majority, direct or indirect elections, a presidential or parliamentary form of government, the division of powers between the executive and the legislature, the nature of fundamental rights, particularly the right to property, and the position of the Judiciary. Even Martial Law, abrogating the basic law of the land, has, uniquely, been upheld by the Supreme Court.

A whole treatise is needed to cover this vast field, which is not possible here. However, to understand the problems facing constitution-makers in framing the 1973 Constitution, some background is essential on at least three aspects: the federal structure, Islam and the State, and the executive authority. It places in proper perspective the problems faced by ZAB Mujibur Rahman in 1971 and, later, by the PPP Government. It helps those with the requisite background knowledge to focus on the issues, and to others it is an indispensable guide.

Federal Structure

In Pakistan, a geographically divided country, the ordinary difficulties of a federal system were compounded by the fact that the majority of the population were in the physically smaller East Pakistan, while the West Wing had the industrial wealth and the military-bureaucratic base of the Punjab. The search for an acceptable formula for provincial representation and autonomy dominated constitution-making. Failure to find a formula led to the break-up of the country.

Pakistan inherited a quasi-federal system under the Indian Independence Act, 1947, with Section 8 providing that, until a constitution was framed, the country would be governed by the Government of India Act, 1935. The 1935 Act was the longest ever

passed by the British Parliament, consisting of 321 Sections and 10 Schedules, leaving a legacy of lengthy constitutional documents in the subcontinent. It was based on the 1930 Report of the Simon Commission, which stressed the 'unusual' significance of the 'change from a unitary to a federal system'. The Report stated that, 'it is only in a federal structure that sufficient elasticity can be obtained for the union of elements of diverse internal constitution and of communities at very different stages of development and culture...'

The search for appropriate provincial representation began when the first Constituent Assembly of Pakistan, on 12 March 1949, appointed a Basic Principles Committee. (BPC) with the Punjab and East Bengal as the main actors. In its Interim Report of 7 September 1950, the BPC stated that, 'there should be a Central Legislature consisting of two Houses: the House of Units, representing the legislatures of the Units; and the House of People elected by the people'. It did not determine the composition of each House and, in the BPC meetings that followed, leaders from the Punjab suggested that the two should be about the same size as they were to have equal powers under Clause 39 of the Interim Report. Finally, in late 1951, the Franchise Sub-Committee of the BPC proposed in Clause 30 of its Report that 'there should be parity as a whole between the two Wings of Pakistan'.

Later, in August 1952, the BPC proposed a formula for the composition of the two Houses under which the Punjab was the principal loser. Curiously, the representation of the Punjab was fixed in percentage terms of neither Pakistan nor of the West Wing. It provided for a form of parity reduction by which the Punjab, with a population of about 22 million compared to East Bengal's 50 million, was given 45% of East Bengal's representation, that is, 90 seats in a House of People consisting of 400 members compared to East Bengal's 200; and 27 seats compared to 60 of East Bengal in the House of Units. The other combined West Wing Provinces, with less than the Punjab population, would have received proportionately larger representation. This formula was set out in Clauses 38 and 43 of the BPC's Final Reports. It proved unacceptable to the Punjab, and no agreement was reached. Within months, on 17 April 1953, Prime Minister Khwaja Nazimuddin, a leading Bengali politician, was dismissed and replaced by Mohammad Ali Bogra, another Bengali, who was at the time serving as Ambassador to the USA. His appointment was the first occasion when overt American influence appeared to be exercised in the internal affairs of Pakistan.

Subsequently, in 1954, because East Bengal would have enjoyed a dominant role at the Centre, the Punjab argued that the powers of the Federal Government should be limited to foreign affairs, defence, communications between the two Wings, foreign trade, currency and foreign exchange. A 'Zonal Sub-Federation' was proposed for

amalgamating the West Wing Provinces into a single unit. However, on 21 September 1954, the Assembly approved the Reports of the BPC with only minor amendments, and adjourned till 27 October for the Constitution Bill to be drawn up for final debate. Three days before that, on 24 October, the Governor-General declared a State of Emergency and dissolved the Constituent Assembly as it could 'no longer function'.

The very next month, the Prime Minister announced that the Government had decided to merge the West Wing Provinces and ten Princely States into a unified Province of West Pakistan, and 'One Unit' came into formal existence the following year on 14 October. As a result, the country now comprised only two Provinces—East Pakistan, formerly East Bengal, with a population of 50 million, and West Pakistan with 40 million. It suited both sides. In the West Wing, particularly the Punjab, One Unit was viewed as an administrative convenience to save expenditure and permit concentration on development; while East Pakistan hoped to gain greater devolution of powers. This unique two-unit federation, artificially balancing the two Wings, eased the task of framing a Constitution in a divided country, but sowed the seeds of eventual separation.

With the establishment of the second Constituent Assembly, again elected indirectly through the Provincial Assemblies, a new Constitution was presented on 9 January 1956. It was hurriedly passed and came into effect on 23 March. In all, the Constitution took over eight years in the making, the longest ever in any country. Essentially based on the Indian Constitution and the arrangements already existing in the country, there was little justification for such delay. More important, no Constitution meant no elections for all those years.

The 1956 Constitution provided for a Westminster-style parliament, with equal representation from each Wing. It did not work smoothly; there were numerous changes in government, without either no-confidence votes or elections. In the seven years after the assassination of the first Prime Minister in October 1951 until the Constitution was abrogated on 7 October 1958 there were in all six Prime Ministers and three Governors-General. The consequences of such instability were soon to become apparent. Under the 1956 Constitution, general elections were scheduled for February 1959, but, instead, Martial Law was declared in October 1958.

Initially, President Ayub Khan as CMLA ran the country virtually as a unitary state, and issues relating to provincial autonomy were relegated to the background. He then introduced a system of 'Basic Democracy', which was a four-tiered arrangement with 80,000 primary units, half each from East and West Pakistan, to be elected at grass roots level. His nominated Cabinet resolved that a vote of confidence in the President be held among these 80,000 members by way of a referendum and, if the majority were in the

affirmative, 'he should also be deemed to have been elected President of Pakistan for the first term of office under the Constitution to be so made'. On 14 February 1960 Ayub Khan received 75,283 affirmative votes. As an 'elected' President he set up a Constitution Commission.

Making provision for provincial autonomy was not one of the special tasks assigned to this Commission. It was required to examine the 'progressive failure of parliamentary government in Pakistan' and to submit proposals for a democracy 'adaptable to changed circumstances and based on the Islamic principles of justice, equality and tolerance'. The Commission submitted its report in May 1961; Ayub Khan, however, had his own prescription. His 1962 Constitution provided for a presidential system and continued the two-unit arrangement, with each Wing having seventy-five representatives. The same 80,000 Basic Democrats, utilized as the electoral college for the President, were to elect the federal legislature. He described his proposals as a 'blending of democracy with discipline'. In reality, it was constitutional autocracy.

The 1962 Constitution appeared to give greater autonomy to each unit through a single list of federal subjects, with residual authority vesting in the provincial legislatures. However, Article 131(2) provided that if the national interest so required in relation to '(a) the security of Pakistan, including the economic and financial stability of Pakistan, (b) planning or coordination or, (c) the achievement of uniformity in respect of any matter in different parts of Pakistan', the central legislature would have power to make laws not enumerated in the federal list of subjects. Moreover, under Article 80, the executive authority of a Province was vested in the Governor, who was appointed by, and subject to, the directions of the President under Article 66, and could be removed at will by virtue of Article 118. Provincial autonomy was minimal. The President's powers were both wide and supreme.

This dispensation eventually led to an explosive situation because, under it, the West Wing prospered while East Pakistan suffered political and economic deprivation. Adding to this, the 1965 War with India witnessed the military separation of the two Wings. The earlier theory that the defence of East Pakistan lay in the strength of the West Wing was shattered. Clearly, only China prevented a possible invasion of East Pakistan, which India in any case did not then appear to seek. Sheikh Mujibur Rahman's Awami League made the most of the turmoil following the Tashkent Declaration to put forward, in March 1966, the Six Points proposal, which called for a complete change in Ayub Khan's semi-unitary constitutional system, and for economic emancipation. The failure of the Round Table Conference to settle these issues resulted in Ayub Khan maintaining that he was 'left with no option but to step aside and to leave it to the Defence Forces of Pakistan, which today represents the only effective and legal instrument, to take over

full control of the affairs of this country'. On 25 March 1969, General Yahya Khan, the C.-in-C. of the Pakistan Army, abrogated the 1962 Constitution, declared Martial Law, and took over as CMLA. Thus, both the 1956 and 1962 Constitutions ended with Martial Law.

Yahya Khan recognized the need for change to satisfy the feelings of deprivation and exploitation in East Pakistan. His Legal Framework Order, 1970, provided for greater provincial autonomy.²³⁰ East Pakistan was given full representation by holding general elections, for the first time, on the basis of oneman-one-vote to a unicameral federal legislature. By then, however, it was possibly already too late. The 1970 elections produced yet another unique situation in our constitutional history: the unit with the largest population and the party with an overwhelming majority in the federal legislature sought complete provincial autonomy and the emasculation of the Federal Government and National Assembly; the less populous West Wing called for a Centre with greater authority.

The Pakistan Resolution of 1940 made no mention of Islam. After Independence, Quaid-i-Azam Mohammad Ali Jinnah was quite clear: 'Make no mistake: Pakistan is not a theocracy or anything like it.' He promoted the concept of a nation state, without regard to the religion of its citizens. After his death, we saw the first reference to Islam in a 'constitutional' document, the 1949 Objectives Resolution:

Whereas sovereignty over the entire Universe belongs to God Almighty 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...

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 Quran and the Sunnah...

However, speaking on this Resolution, Prime Minister Liaquat Ali Khan held out against theocracy:

I just now said that the people are the real recipients of power. This naturally eliminates any danger of the establishment of a theocracy... One cannot over-emphasize the fact that such an idea is absolutely foreign to Islam... and, therefore, the question of a theocracy simply does not arise in Islam.

Nevertheless, from 1949 onwards, the move towards an 'Islamic Constitution' gained ground. The 1956 Constitution incorporated the Objectives Resolution in the preamble and the country was described as 'The Islamic Republic of Pakistan'. Islamic provisions were, however, largely set out in what were unenforceable Directive Principles of State Policy. While the President was obliged under Article 197 to establish a body for Islamic research and instruction, nothing was done in its furtherance. Although Article 198 provided for bringing the laws into conformity with Islamic injunctions, no supervising authority was established.

After Ayub Khan became President, he attempted to reverse the trend by omitting the term 'Islamic Republic' in the 1962 Constitution. Soon, however, it was reintroduced under the First Amendment. The remaining Islamic provisions of his Constitution were similar to those contained in the 1956 Constitution, and equally ineffective. Although they were not implemented, the subject itself remained contentious.

The Executive

The question of a presidential or parliamentary executive got entangled with the debate on the form of government Islam envisaged, and was further complicated by the wishes of military dictators.

In neighboring India, the matter was settled immediately on Independence when Pandit Jawaharlal Nehru became Prime Minister and Lord Mountbatten continued as Governor-General. The parliamentary system, with executive authority vesting in the Prime Minister, has since been in force. In Pakistan, however, the Quaid-i-Azam became the first Governor-General, with popular support. As the Founder of the Nation, all power lay with him. On his death, executive authority devolved on Liaquat Ali Khan, who continued as Prime Minister. Until his assassination in 1951, the source of executive authority was clear. After this a diarchy set in. Governor-General Ghulam Mohammad exercised certain 'inherent' powers in dismissing Prime Minister Nazimuddin and, later, dissolving the Constituent Assembly. Changes of government, either instigated or engineered, became a common phenomenon. The 1956 Constitution did not improve the situation as the President could, in his discretion under Article 37, appoint as Prime Minister the person who, in his opinion, was most likely to command the confidence of the majority in the National Assembly. The President retained an important role.

After October 1958, Ayub Khan ruled the country with dictatorial authority, to which the 1962 Constitution merely gave constitutional colour. The President's position was unassailable. His removal by impeachment under Article 13 required three-fourths of

the total membership of the Assembly and, if it received less than half the votes, those who gave the initial notice automatically ceased to be members. Unlike, for example, the President of the United States, he did not share with the legislature the power of important appointments. He could also dissolve the National Assembly at any time under Article 23. He enjoyed extensive veto power over legislation and could return a Bill which then required a two-thirds majority of the National Assembly; and even then he could withhold assent and refer the Bill for a referendum to the Electoral College of Basic Democrats under Article 27. Moreover, the authority of the legislature over national finances was restricted, by Articles 41 and 42, to new and not recurring expenditure.

The President's powers to declare an Emergency were overwhelming. Such concentration of authority in the President inevitably resulted in abuse and upheaval. It discredited the presidential system and confirmed the view that a Westminster-style parliament was the proper solution, particularly with the country separated into two Wings. This was advocated in the PPP Foundation Documents and in its Manifesto. In spite of the changed circumstances involved in the loss of East Pakistan, ZAB was fixed in this position when it came to framing a new constitution.

Constitution-making under ZAB.

When ZAB assumed power in the more homogeneous West Wing, or Pakistan as it became, the task of framing a constitution might have appeared less difficult. However, the earlier problems remained, even those concerning the federal structure. The Punjab now replaced East Pakistan as the Province with a population larger than the other Provinces combined.

Under the 1972 interim Constitution, discussed earlier in Chapter 5, there was a presidential system at the Centre, which suited ZAB, and a parliamentary system in the four Provinces. The permanent solution required greater discussion, compromise and ingenuity.

We have earlier seen that the 6 March Accord provided for a Constitution Committee of the National Assembly, which then met for the first time on 22 April 1972 under Law Minister Qasuri. There was agreement on generalities; difficulties on particular issues were considered in the second session commencing on 18 May. Statements and discussions in the Committee, without any draft document, proved pointless, and the Committee asked Qasuri to submit a draft by the end of June. In the absence of specific direction or basic agreement, no draft could be prepared. On 13 August, the Committee was allowed till the end of the year for the submission of a report to the Assembly.

Not only was there no agreement on specifics between the various parties represented in the Constitution Committee, but there were also differences among the PPP members. Sheikh Rashid was determined on a 'socialist' constitution, while Qasuri called for greater freedom under fundamental rights. There were also the major problems ;of the Islamic provisions and how to incorporate East Pakistan in the new Constitution since Bangladesh had not been recognized.

From the outset there were differences between Qasuri and ZAB, which increased with passing months. He had directed his Military Secretary to have me present at all meetings with Qasuri; all files from the Law Ministry were routed through me, placing me in an invidious position. Qasuri and I shared a good relationship and believed that a parliamentary system was unavoidable, particularly in the light of the PPP' s previous position. Over dinner with us, Daultana and Shaukat Hayat sought a via media by allowing ZAB to continue as President, while remaining answerable to the Assembly. We felt this was impractical. When Qasuri first resigned over not being 'adequately consulted, ZAB sent me to dissuade him; but on 5 October his second resignation was accepted.

By now ZAB felt irritated and worried by the lack of progress on a permanent constitution. He considered no one indispensable, least of all Qasuri. The new Law Minister, Hafeez Pirzada, and I discussed with the President the outstanding issues, pointing out that these could not be settled by the Committee. Accordingly, ZAB called a meeting of all parliamentary party leaders on 17 October. The next four days, in the month of Ramadhan, produced what is commonly known as the 20 October Constitutional Accord, which formed the basis of the 1973 Constitution. The PPP, ML(Q), NAP from both Frontier and Balochistan, JUL CML, JJP, JT, Tribal Areas and Independents were represented.

ZAB conducted the meetings with distinction, agreeing at the second session to a parliamentary form of government with certain safeguards for himself as Prime Minister; he conceded similar protection for the four Chief Ministers. That apart, the principal decisions concerned a bicameral federal legislature, federal and concurrent legislative lists with residuary powers vesting in the Provinces, a Council of Common Interests, provisions regarding hydro-electric generation and gas to meet the NAP demands for NWFP and Balochistan, and Islamic provisions. Some of these will be considered later in the context of the 1973 Constitution itself. The Accord was hurriedly dictated by me, with Mubashir Hasan filling in certain financial aspects, in order to confirm points of agreement in writing before any of the participants had second thoughts.

ZAB was delighted with the outcome. We appeared in group photographs as if nothing could again go wrong. The Accord was reached more smoothly than we had anticipated. In a brief public statement he said:

I am thankful to all my colleagues from all the parties who have participated in these discussions. They have all made a contribution and without their contribution, without their understanding, I don't think we could have brought about a satisfactory compromise. Each one of them has played a part and I am indeed thankful to them.

This was probably the first, and certainly the last, time he expressed such thanks to the Opposition.

The task of the Constitution Committee was considerably simplified by this Accord. Still, finalizing the draft was a painstaking undertaking, performed mainly by Law Secretary Justice M. Gui, Parliamentary Affairs Secretary Justice Saad Saood Jan, Hafeez Pirzada and myself, with the Attorney-General also contributing. The Report of the Committee was rushed through to meet the deadline of 30 December. It praised Pirzada's impartial and successful conduct of the proceedings as chairman, and thanked me for the 'original and constructive proposals.. . which contributed in large measure to the evolution of the Draft Constitution'.²³³ My work two years before in preparing constitutional proposals for discussion with the Awami League, which did not take place, had at last borne fruit.

Several Committee members appended notes of dissent to the Report, even on matters settled earlier by the 20 October Accord. Mainly, they were in respect of the Political Parties Act, fundamental rights in regard to property, the dissolution of Assemblies, separation of the Judiciary from the Executive, Islamic provisions, an independent Election Commission, greater say for the Senate, the removal of the Prime Minister, and provision for a caretaker government to hold elections. Despite this, we expected a reasonably smooth passage in the Assembly for the Constitution Bill, as it was based on the 20 October Accord. However, this was not to be.

In the Assembly, difficulties were exacerbated in February 1973 by the dismissal of the NAP-JUT Government in Balochistan, the change of NAP Governors in the two Provinces, and the resignation of the NAP-JUT Government in the Frontier. ZAB's attitude to the Opposition brought unity in their ranks and they jointly presented, on 17 March, a list of proposed amendments to the Constitution Bill. Relations deteriorated further following the bloody disruption of the Opposition public meeting at Liaquat Bagh, Rawalpindi, on 23 March. They had already boycotted the Assembly proceedings, and the following day published their eleven-point demand.²³⁴ An agreed Constitution

now appeared to be eluding ZAB and he held several high-level meetings of the PPP. By this time, the Central Committee seldom met, and the main participants in these strategy sessions with the President were Khar, Pirzada and myself, with Mustafa Jatoi and Yahya Bakhtiar also at times invited. Instead of replying formally to the Opposition's proposals, which might have resulted in a deadlock, it was decided to invite the leaders of all the parliamentary parties and groups to consider these eleven proposals at a meeting on 2 April. ZAB asked whether there were any additional points, and these were submitted two days later. There was some agreement on the first day, but major differences remained. Following the 2 April session, he asked me to prepare a suitable reply to the points raised by the Opposition. With the able assistance of Justice Gul and Justice Jan, a detailed aide memoire was completed and sent to the Opposition after the meeting of 4 April. It concluded with ZAB pointing out that 'concessions and important compromises' were made on the condition that the Opposition leaders fulfill their 'solemn obligation to the people' and return to the National Assembly on 7 April 'to stay there till the Constitution is framed'.

The Opposition parties, mainly represented by the United Democratic Front, did not end their boycott. Instead, on 9 April, they issued a blistering and detailed rejoinder: We want a parliamentary form of Government and not the Prime Minister's dictatorship. We want a Constitution in which provincial autonomy cannot be destroyed under the guise of any emergency and a Constitution which guarantees to the citizens the enjoyment of their Fundamental Rights except during hostilities...

It was published in the newspapers over two days.²³⁶ However, by the second day the text became redundant since we had unexpectedly reached a consensus on the Constitution. Mustafa Khar had used all his connections and persuasive powers in the Punjab to bring round some Opposition leaders, particularly from the Jamaat-i-Islami, while ZAB and his agencies were also hard at work. With a few minimal, almost cosmetic, amendments suggested by me, the boycott ended on 10 April, and the Assembly immediately adopted the Constitution Bill without dissent, though not unanimously as ZAB claimed.

The speed of developments left even those close to events wondering how and why the Opposition, after such strong objections, should settle so far short of their demands. ZAB felt he had out-manuevered them. While not detracting from his role and that of others, it would be more fair to conclude that the Opposition leaders realized the importance of the Constitution to the recently dismembered country. The NAP-JUT members, who particularly had reason to oppose him after the recent events in Baluchistan and the Frontier, showed magnanimity. The religious parties too, led by the Jamaat-i-Islami, displayed considerable accommodation in the national interest. The

entire country wanted a permanent Constitution and no one was prepared to disappoint the people. Two days later, on 12 April, the members signed the document and it was presented to President Bhutto for authentication. His aim of an agreed Constitution had been achieved.

Permanent Constitution of 1973

The 1973 Constitution came into effect on 14 August 1973 and has proved to be ZAB's most significant achievement. Many of its provisions were contained in the 1956 or 1962 Constitutions, but numerous innovations were made covering the federal structure, the Islamic content, the Executive, and Martial Law and the Armed Forces, which deserve comment.

As far as the federal structure was concerned, one early complication was how to provide for East Pakistan, as Bangladesh had not yet been recognized. The Opposition insisted on its inclusion. Instead of having a Constitution requiring major changes subsequently—we wanted a permanent arrangement—I proposed we draw on the Constitution of the Federal Republic of Germany, and so Article 1, clause (3), provided: The Constitution shall be appropriately amended so as to enable the people of the Province of East Pakistan, as and when foreign aggression in that Province and its effects are eliminated, to be represented in the affairs of the Federation.

Several new features figured in the federal arrangements. For the first time, there was a bicameral legislature: the National Assembly was to be elected by direct vote; the Senate under Article 59 provided equal representation to the Provinces and was to be indirectly elected by the Provincial Assemblies. The Senate, however, was allowed no say in money matters. Moreover, Bills within the exclusive jurisdiction of the Centre could only originate in the National Assembly and then, if rejected by the Senate, required an absolute majority of the Assembly to become law. When the Federal Parliament considered matters over which the Centre and the Provinces enjoyed concurrent jurisdiction, in the event of disagreement between the two Houses, they were to go before a joint session. My suggestion that the Senate should have the right to initiate all Bills and be given some role in financial matters, at least as in Australia to debate them, was not accepted by ZAB on the ground that the Punjab would not agree.

The division between the Federation and the Provinces over legislative subjects was settled by the 20 October Accord. The comparative table on the next page shows the extensive list of subjects over which the Centre continued to enjoy exclusive or concurrent jurisdiction.

The representatives of the smaller Provinces, particularly NAP, showed a surprising degree of accommodation in agreeing to such wide-ranging federal legislative powers in order to achieve consensus in October. ZAB indicated to them that the concurrent list of subjects could be reviewed in ten years time, but no one has attempted this in the past twenty-three years.

A major innovation was Part II of the Federal List, covering railways, oil and gas, the development of major industries, and water and power, which were subjects of inter-provincial concern. The Senate had equal powers and, on the administrative side, Article 153 established a Council of Common Interests to formulate and regulate policies for these matters. Composed of equal numbers from the Provinces and the Centre, with the four Provincial Chief Ministers and four Federal Ministers, including the Prime Minister, it was subject only to Parliament in joint sitting. It also enjoyed exclusive jurisdiction over complaints and disputes between Provinces over water supplies, of vital importance in Pakistan, which were previously referable only to the Supreme Court.

List of Subjects	1935 Act	1956 Constitution	1962 Constitution	1973 Constitution
Federal	61	30	94 (Only 1 list)	Part I – 59, Part II - 8
(Only 1 list) Part II - 8				
Provincial	55	94	-	-
Concurrent	-	19	-	47
Residuary Powers	With Provinces	Provinces (but with overriding proviso regarding national interest)	With Provinces	

Executive arrangements at the federal level were made applicable, mutatis mutandis, in the Provinces. The basic demands for provincial autonomy were met subject to Articles 232 and 234 relating to Emergency, whereby the Federal Government could assume powers in the Provinces. Such provisions are normal in a federation, and can be salutary if used properly. In Pakistan, they have throughout been weapons in the hands of the Federal Government to be used against the Provinces, especially those governed by opposition parties.

The Council of Common Interests was a new and potentially beneficial institution; unfortunately, only one formal meeting was held, at the end of 1976.²³⁸ Instead the Ministry for Provincial Coordination, which was established to iron out routine differences between the Provinces, functioned as a mini-Council, and the constitutional issues of concern to the Council were left largely unattended. Despite all four Provincial Governments being PPP-dominated and supporting the Federal Government, power remained centralized in ZAB and was not exercised through the Council. In the rush to reach the Accord of 20 October, the Council had been conceded wide powers, and he did not want these implemented.

Although a federation in name, Pakistan has in reality always been run by a highly centralized Government. The delicate constitutional and federal balance achieved by ZAB through considerable effort was slowly dissipated. Interference in the Provinces became the norm. True to tradition, he centralized power and circumvented the carefully designed federal arrangements.

On the Islamic content of the Constitution, we have noted how earlier debates yielded little result. The 1973 Constitution settled some long-standing issues. As the leader of a socialist party in an Islamic State, ZAB was conscious of the need not to appear too secular; nevertheless, we projected the social gospel and dynamic spirit of Islam, which in essence is a practical, ethical religion, rather than a static set of prohibitions and injunctions.

Sheikh Rashid and a few other PPP members had earlier insisted in the Constitution Committee on using the phrase 'Islamic Socialism', which was opposed by the religious parties. To avoid deadlock, I proposed that Article 3 should require the State to ensure the elimination of all forms of exploitation and the gradual fulfillment of the fundamental principle, 'from each according to his ability, to each according to his work'. The religious parties accepted this, not realizing that it was a basic socialist doctrine. I had assumed this solution would meet with the President's approval, but, when I reported it to him, he was not pleased.

We also wanted the Constitution to facilitate social change and ensure that property rights could not be exploited to hinder reform. The 1973 Constitution accepted the right to property, but Article 24, clause (4), laid down that compensation for compulsory acquisition could not be questioned in any court. Parliament was given the final say in determining the quantum of compensation, and dilatory litigation was prohibited. Also, Article 8, clause 3(b), specifically provided immunity for all economic reforms introduced by the PPP Government prior to the Constitution. Moreover, Parliament was given the power, under Article 253, to legislate on the maximum limits of property

holdings and to declare that any trade, business, industry or service could be nationalized by the Federal or Provincial Governments. These provisions regarding property rights were severely criticized from all sides, by Shaukat Hayat Khan of the Council Muslim League, by Ghafoor Ahmed, Maulana Shah Ahmad Noorani Siddiqui and Maulana Mufti Mahmood, representing the three main religious parties, as also by Amirzada Khan of the left-leaning NAP.

The three main religious parties, the Jamaat-i-Islami, the JUP and JUI, had played a positive role in the Assembly to help bring about consensus. While insisting on a time-frame for the reports of the Council of Islamic Ideology, which was inserted after last-minute discussions, they mainly rested their case on their earlier notes of dissent. They described the draft Constitution as 'disappointing from the points of view of Islamic Provisions'.

The 1973 Constitution concentrated executive authority in the Prime Minister, who was designated the 'Chief Executive'. ZAB directed me to ensure the complete end of the diarchy that had existed in the parliamentary system before 1958. The President was made a mere cypher who, according to one Opposition member, 'had less power than the Queen of England and none of her glory'. The most detailed provision concerning him related to impeachment, which gave rise to comments that the President had only one right, to be impeached.

The Prime Minister was to be elected by the National Assembly, and was to appoint the Federal Ministers. Previously this had been done by the President. Under Article 96, the Prime Minister could only be removed by a vote of no confidence which named his successor in the same motion. The Prime Minister's position was further fortified by discouraging floor-crossing in the Assembly. Earlier, the 20 October Accord had provided for the Prime Minister to be removed by a two-thirds majority. However, when this provision was subsequently strongly opposed, I suggested a compromise formula which, at the last minute, was accepted and incorporated in the Constitution. Under this, in the case of a vote of no confidence or on the budget, the vote of a member cast against the majority of his party would be disregarded. This provision would remain for a period of ten years or two general elections. But, although less objectionable than the two-thirds provision, it still ensured that in practice the Prime Minister was almost irremovable by the Assembly.

To forestall any possibility of the President acting independently, Article 48 required him to 'act on and in accordance with the advice of the Prime Minister and such advice shall be binding on him'. Moreover, the counter-signature of the Prime Minister was required for validating all the orders of the President. Some of these provisions followed

the Constitution of the Federal Republic of Germany, but cumulatively the concentration of power admitted no flexibility. This lack of flexibility contributed to the return of Martial Law after the 1977 elections.

No analysis of constitutional issues in Pakistan is complete without some reference to Martial Law. Although extra-constitutional, the Supreme Court has bestowed legitimacy on it by recourse to the 'doctrine of necessity'. The Dosso Case²⁴¹ is particularly noteworthy in this connection. However, following the fall of Yahya Khan in 1971, the Supreme Court reversed this position and decided in the Asma Jilani Case that: As soon as the first opportunity arises, when the coercive apparatus falls from the hands of the usurper, he should be tried for high treason and suitably punished. This alone will serve as a deterrent to would-be adventurers.²⁴² The constitution-makers in 1972 were determined to ensure that the military did not again play a political role. Armed with this latest Supreme Court decision, it was provided for the first time, in Article 6, that any attempt to abrogate or subvert the Constitution by force would be punishable as high treason. Also, Article 12(2) made specific exception to the principle of non-retrospectivity of offences and punishments in the case of such high treason from the time of the 1956 Constitution.

Finally, in order to keep the Armed Forces in check, the Federal Government was conferred 'control and command' over them under Articles 243 to 245, and they were required to act in aid of civil power as directed by the Government. All members of the services had to take oath to 'uphold the Constitution' and not engage 'in any political activity whatsoever'. However, when the time came, these fine phrases did not deter the military coup d'état of 5 July 1977. The Supreme Court subsequently modified its earlier decision in the Asma Jilani Case by holding the coup legal in the Begum Nusrat Bhutto Case.

Constitutional Amendments and Consequences

Seven Amendments were made in the Constitution between May 1974 and May 1977. Mainly, they undermined the rights of individuals and the Judiciary. Only the Second Amendment, which defined a Muslim in the context of declaring Qadianis non-Muslims, was supported, if not encouraged, by the Opposition.

The First Amendment, apart from removing the reference to East Pakistan, allowed the Federal Government to ban political parties formed or 'operating in a manner prejudicial to the sovereignty or integrity of Pakistan', subject to a final decision by the Supreme Court.²⁴⁴ Moreover, the writ jurisdiction of the High Courts, which could not previously be exercised in favour of a 'member of the Armed Forces', was extended to

exclude any person 'who is for the time being subject to any law relating to any of those Forces'.

The Third Amendment of February 1975²⁴⁶ affected safeguards against arrest and detention under Article 10, the provision on which the Constitution Committee had laid stress. The Amendment also facilitated the continuation of a Proclamation of Emergency under Article 232. Nine months later, the Fourth Amendment²⁴⁷ curtailed the writ powers of the High Courts under Article 199 in respect of preventive detention. Now, no order could be made prohibiting detention or granting bail to a person so detained.

Within ten months, the Fifth Amendment further restricted the Courts' powers under Article 199. More significantly, the term of office of the Chief Justices of the Superior Courts was to be determined not solely by age but, as an alternative, by a fixed period. ZAB's intention was to secure the extension in office of the Chief Justice of Pakistan and a premature end to the term of the Chief Justice at Lahore. Safdar Shah who was the Chief Justice of the Peshawar High Court became an incidental victim. The Executive was also empowered to transfer a Judge to any High Court for up to a year without his consent or even consultation with the Chief Justice concerned. Furthermore, in the past, a powerful Chief Justice of a High Court had at times refused to be appointed a puisne Judge of the Supreme Court; now, however, it was provided that, on failure to accept such appointment, he 'shall be deemed to have retired from his office'. In addition, the Executive could appoint 'any one of the Judges', and not the most senior, to act as Chief Justice. In other respects, however, as in new appointments to the Superior Courts, ZAB accepted good advice in nominating qualified Judges on merit and not, except for one or two cases in the later period, on political considerations.

By the time the Seventh Amendment was passed on 16 May 1977, ZAB's Government was in the throes of post-election turmoil. It provided for a referendum to avoid re-elections. At the time the military had been called in to aid civil power in pursuance of Article 245, a form of 'mini Martial Law' in certain areas, and, when this was challenged, the jurisdiction of the High Courts was taken away in respect of ensuing actions.

It has been a common practice in Pakistan, both before and after the PPP Government, to seek in constitutional amendments and special laws a panacea for the problems facing the administration.²⁴⁹ In doing so, the PPP sadly damaged its own creation, the 1973 Constitution. Such action was particularly unnecessary since the Government had sufficient authority under Emergency powers to cope with the aftermath of military rule and the debacle in East Pakistan. These Amendments in the mid-1970s contributed considerably to the general view that ZAB could tolerate no opposition, not even from

the Superior Courts, in his quest for dictatorial powers. The repeal of these Amendments became a principal issue in his last months in government. General Ziaul Haq later reversed a few of their provisions, which were inconvenient to him, but otherwise continued and even 'improved' upon them.

Despite some of these unnecessary and controversial changes, the PPP Government did indeed settle many problems that had long troubled constitution-makers in Pakistan. Nevertheless, the Constitution cannot tell the whole story, being only a legal form for a political system. In Pakistan, created from the diverse Muslim majority areas of India, constitution-making assumed overwhelming importance as a symbol of, almost a substitute for, national integration. A disproportionate amount of time and effort has been devoted to it, making it an end in itself rather than a means to an end—the right ordering of a nation's life. Pakistan's leaders and lawyers in government have throughout failed to look to the future, and the leaders have sought to constitutionalize their personal requirements.²⁵⁰ However, once the over-protective provisions for the Executive had ceased after ten years, the 1973 Constitution would have provided a reasonable framework for building a democratic and parliamentary form of government. The tragedy of Pakistan is reflected in the fact that no system has been allowed to work, let alone succeed.

In the final analysis the 1973 Constitution can be termed a triumph for the PPP. General Zia as CMLA and President from 1977 to 1988 might have mangled and mauled the text, but even he, as a military dictator, could not abrogate the Constitution which had been so painstakingly achieved by the PPP Government.

Week 10: General Zia-Ul-Haq

Dictatorship in Pakistan: A Study of the Zia Era (1977-88)

Introduction

In this age of democracy there are a large number of nations still struggling for their right of self-determination. Pakistan is one such country which, having lived half of its life under the direct military rule and the remainder under its shadow is not out of the woods yet. Following the death of Quaid-i-Azam Muhammad Ali Jinnah, the founder of Pakistan, and since the assassination of Liaquat Ali Khan, her first Prime Minister, there has been no stopping the military from acquiring power and all its trappings.¹ With every Martial Law, the military has extended its power base, monopolized decision-making and developed and expanded its corporate interests. Like historical events in general, every Martial Law in Pakistan has been informed by the previous ones and has differed more in form than in motivation. A baggage of colonial history, post-colonial failures of politicians, judiciary, the media, and the masses to stop encroachments on democracy and rule of law, have encouraged Bonapartist trends in the military mired in colonial traditions and intolerant of representative democracy. Ironically, there was no dearth of conservative hangers-on for the Raj and had never been since Independence for the praetors who disrupted with impunity the country's fragile democracy. Add to this, the unscrupulousness of the more resourceful and developed democracies, which, in hot pursuit of national interest, either watched or actively supported these disruptions thereby making a mockery of their so-called commitment to democracy and constitutionalism. Even some leading luminaries of the twentieth century Europe such as the philosopher of history Arnold Toynbee were inclined to perceive democracy as an anachronism in developing countries like Pakistan in the wake of Ayub's coup d'état in 1958. Such influential counsels in favour of authority, akin to those proffered by the colonial-orientalist critiques of the idea of responsible government in colonies or east in general, were to rationalize and strengthen incumbent or potential dictatorships among the nations that won their freedom or right of self-determination after much sacrifice under the colonial rulers. While condoning democratic disruptions or exculpating the dictators under the misinterpreted doctrine of necessity, these endorsements were the fulfilment of legality to the otherwise illegitimate rule in Pakistan by men like Ghulam Muhammad (1951-54), Generals Sikandar Mirza (1955-58), Ayub Khan (1958-1969), Yahya (1969-1971), Zia- ul-Haq (1977-1988) and last but not least General Musharraf (1999-2008). All of these backdoor entrants into power either avoided/manipulated elections or followed the referendum-route to consolidate it.

In contradistinction to the generally uncritical tone and tenors of contemporary writings on the military government of Zia-ul-Haq, the purpose of this paper is to delineate the idiosyncrasies of his rule, his support base, and the extent to which the junta undermined democracy in Pakistan. Accordingly, those of his policies and actions would be under focus which had a direct or indirect bearing on the future of representative democracy in the country.

At the outset, a few words by way of introduction about Zia's family background would help us understand his career better and so too the policies that he pursued after imposing the Martial Law in the country on 5 July 1977. Born in 1924, Zia hailed from a plebian Arain family from Jullundur, where his father Maulvi Akbar Ali served as a clerk in the Indian Railway. In spite of his humble means and religious orthodoxy, Akbar Ali subscribed to the prevalent popular dictum: knowledge is power, and sent his son to the prestigious St. Stephen's College of Delhi by the Cambridge Mission. The religious ambiance of St. Stephen's was to complement Zia's childhood grounding in Islamic faith and its ritual. For Akbar Ali to crave quality education and a military career for his son was in keeping with the prevailing trends among the Punjabi Muslims to seek a living through soldiering.² A King's commission, monopolized for a long time by the British and reluctantly opened to the Indians, was a sure passport to a financially secure service and social mobility. However, it was little unusual for an Arain to seek to enter army. In the social hierarchy of the Punjab, the Arains, almost all Muslims, were placed at the lower rung, and were categorized by the race-conscious Anglo-Indians as one of the "non-martial" races. Good cultivators although the Arains were, they found the doors of military careers virtually shut to them. Zia joined the army during the World War II, when the exigencies of the war and shortage of officers compelled the British to shed racial stereotypes and expand the recruitment to hitherto excluded/ marginalized groups. Short and plump, and sporting a moustache, Zia did not apparently inspire awe as he lacked the usual aura of a cavalry officer in uniform or in mufti. Nor was he known to follow esprit de corps, which was characteristic of the elitist cavalry officers, to whom clubbing and imbibing came so naturally. Conservative and generally out-of-place in somewhat exalted company of the Anglophile officers, Zia's only habit unbecoming of a man of his religious moorings, and generally odious to religious purists, was smoking. Otherwise, he was punctual and punctilious in prayers and other rituals of Islam.³ Following Partition, like most Muslims from the East Punjab, his family moved to Pakistan, where the shortage of civil and military officers created ample opportunities for the incoming refugee officers.

Zia's military career was steady but hardly outstanding. However, Zulfikar Ali Bhutto, the Prime Minister of Pakistan, promoted him over seven other generals in February 1976 against the advice of the retiring General Tikka Khan of East-Pakistan fame. Bhutto

bypassed more decorated recommendees of Tikka Khan and instead appointed Zia-ul-Haq, apparently touched by the latter's humility, sycophancy or by the receptions of officers' wives and children that Zia would arrange as Corps Commander Multan on the occasion of the Prime Minister's visits to the city. "Bhutto fell victim", says Sher Baz Khan Mazari, the former head of the National Democratic Party (NDP), "to his own penchant for flattery and sycophancy".⁴ Zia, who had earlier presided over the army tribunal that tried officers for the 1973 conspiracy to topple the Bhutto government, kept the Prime Minister posted about its progress and in so doing developed a direct link with him. Bhutto considered Zia, as Nawaz Shareef would later consider Musharraf, a pliant, unimaginative choice, but sixteen months later Zia overthrew him.⁵ It may well be that Zia, a religious reverse of Ayub and Yahya, was underestimated by Bhutto who considered him incapable of political 'mischief'. It is equally possible that Bhutto had heeded the Hamoodur Rehman Commission (1972) Report, which, having taken notice of the 'amoral' conduct of some senior army officers during the 1971 War, recommended that only practicing Muslims should be appointed in future as Commanders-in-Chief.⁶ Moreover, Bhutto might have considered, in his moment of triumph, the rampart of constitution, particularly Article 6 declaring Martial Law and its abetment as treasonable offence as sufficient deterrence against political adventurism by the Generals. Whatever might have been the real reason behind Zia's appointment, the politically shrewd Bhutto failed to prejudge his appointee properly.

For his part, Zia made all out efforts to keep the confidence of the Prime Minister and till the crucial moments of the PNA's (Pakistan National Alliance) anti- government agitation, following the controversial General Elections of 1977, he publicly reiterated loyalty to the elected government. Only hindsight would enable Bhutto and any number of critics of Zia that his (Zia's) pretensions of piety, probity or loyalty were simple window-dressing.⁷ Behind the scene, the army had been looking for an opportunity to strike and dislodge the government which had come into power at the corpse of Martial Law following the military's defeat in the 1971 War with India. The military had only grudgingly acquiesced to the civilian supremacy and remembered well how some of their seniors were summarily dismissed by Bhutto government after the war and how the fall of Dacca was televised nationwide in Pakistan. Unaccustomed to civilian control since the assassination of Liaquat Ali Khan, they made a speedy recovery from the traumatic drubbings of 1971 which had forced their hands momentarily. They very well craved power and perquisites and sardonically watched the diminishing authority of the populist Prime Minister. Conceding the prevalence of Bonapartist trends in Pakistan Army, Bhutto in his interview to Oriana Fallaci, the famed Italian journalist, had once claimed that at the moment "the fat and flabby generals are tired."⁸ Not a happy augury for Pakistan, democracy, and for Bhutto, that moment was now past. The army was now gearing for a political comeback. Steeped in colonial traditions, it favoured status quo

and abhorred progressive politics. The military shared with the wealthy and vocal groups of Pakistani society including the conservative landed aristocracy, the religious parties and ulema, the industrial bourgeoisie, business community, bureaucracy, and the conservative press⁹ a contempt for Bhutto's 'socialist' regime. They were equally aware of the steadily increasing and consequential unease in the western capitals, particularly in Washington, over Bhutto's socialist, pro-Arab, Pan-Islamic, and pro-Third World rhetoric and theatrical poses. They were not oblivious to the general western disdain for the popular, reformist, nationalist leaders such as Iran's Mosadeq, Chile's Allende, Ghana's Nkruma, Cambodia's Sihanouk, and Egypt's Jamal Nasir. They hoped, therefore, to galvanize these internal and external sources of opposition to the regime, as and when necessary, and were comforted by the fact that western media and governments had little sympathy for the Bhutto government and his "ambitious" nuclear programme. Later during the 1977 PNA's movement, Bhutto lambasted the Americans for conspiring to derail his government, triggering a warning from Cyrus Vance, the Secretary of State, that such statements would seriously damage Pak-US relations. The gulf between the Americans and Bhutto had never been so wide. While Bhutto branded the PNA's campaign as engineered and financed by the Americans, who wanted to punish him for refusing to wrap up Pakistan's nuclear programme and for lending support to the Palestinian cause, the army was inching close to take over. Zia had already looked into contingencies. He surrounded himself with like-minded officers, mostly fellow Jallundaris or mohajirs like himself. He appointed General Faiz Ali Chishti, a fellow Arain, as Commander 10 Corps, infamously known in the country as coup-maker. Having advanced the date of general elections by one year, the over-confident Bhutto failed to grasp the magnitude of opposition to his regime.

The military coup of 5 July 1977, argues Muhammad Waseem, was not "a reactive militarism" to correct the political situation or bring back order, and must be seen against the egalitarian reforms of Bhutto government "and the institutional stresses which military had to endure under the previous government and the way it was ensconced back into the seat of power with a mission to undo most of its predecessor's leftist policies".¹¹ Doubtless, the army takeover was an orchestrated move to restore the status quo ante and reverse Bhutto's egalitarian reforms and ensure the military's supremacy over all the institutions of the state. The generals sabotaged the near-successful parleys between the government and the opposition PNA and plunged the country into the longest and arguably the most gruesome Martial Law of its history.¹² The army sabotage was confirmed by Professor Ghafoor Ahmad of the Jamat-i- Islami and Maulana Kausar Niazi of the PPP, who were part of the negotiating teams.¹³ Zia's maiden speech and self- portrayal of a reluctant coup-maker who would hold the upcoming October 1977 elections and would not "dissipate powers of Martial Law Administrator on anything else"¹⁴ did not convince many. To most Pakistanis, it was a

political déjà vu and a replay of earlier military coups in the country. However, Zia faced a situation qualitatively and quantitatively different from the one Ayub faced in 1958. While Ayub had to deal with a disarrayed opposition, Zia encountered a monolithic PPP (Pakistan Peoples Party) under its charismatic leader, Bhutto. The junta soon realised that despite his diminishing popularity, Bhutto, on balance, was still the country's most popular leader. And doubts, if any, in this regard were cleared by the public welcome for Bhutto when released momentarily on bail by Justice K. M. Samdani of the Lahore High Court. According to Hamid Khan, a leading Pakistani jurist, the "belligerent and bellicose speech of Bhutto at Leghari House in Lahore on 13 September 1977 ... and his words intimidated and frightened the already scared members of the military junta who decided to get rid of him once and for all".¹⁵ The virtual 'reign of terror' that Zia let loose against the PPP must, therefore, be seen in this perspective.

Martial Law brought into power the most repressive regime with dire consequences for the civil society, constitution, judiciary and the future of democracy. Wary of possible retribution under Article 6, Zia did not abrogate the constitution but having put in abeyance those provisions which could obstruct his authority or having manipulated the Eighth Amendment in it, mutilated it beyond recognition. His words and actions revealed a total disregard for the sacrosanct law that he called "a piece of paper" he could tear apart at his own free will. Living to its reputation of appeasing the authority-in-prime, the Supreme Court of Pakistan did "the ultimate favour to the military regime by legitimizing it in the Nusrat Bhutto Case (1977) under a 'distorted' doctrine of necessity and even conferred on the CMLA (Chief Martial Law Administrator) the power to amend the constitution and without setting any date or deadline for holding the general elections.¹⁶ Defiant political parties and their leaders were placed under various forms of restraints. The right-wing Jamat-i-Islami and the Muslim League became his natural allies and recipient of favour. Zia was at home generally with the Sunni ulema but seldom with the Shiite Muslims.¹⁷ The Sunnite ulema, in particular Wahabis, considered Zia as godsent. Against the chasm of secularist regimes of Ayub and Bhutto, they perceived in him a variant of ulema-friendly medieval monarchs like Firuz Tughlaq or Auranzeb Alamgir. Pandering to them, Zia often vented his dislike for the secular parties and western democracy. He basically distrusted politicians.¹⁸ The "unelectable" ulema generally concurred with Zia's own brand of Islamic democracy "suited to the psyche of the people".¹⁹ Their contempt for the parliamentary democracy was echoed by the Ansari Commission Report, which defended presidential system, opposed political parties, and thus 'Islamized' Zia's political agenda. Impliedly, Zia and Ansari were challenging the *raison d'être* of Pakistan and the political acumen of its founding fathers, especially Jinnah, who himself headed a party, the Muslim League, and supported parliamentary form of government. With the military-mosque

alliance in place, the future of democracy was at stake.²⁰ Bereft of popular support, Zia was most relentless in attacking democracy and party politics.

Haunted by the PPP's electoral prospects, Zia and his cronies created every possible hurdle to block its way and when nothing else seemed to work, they masterminded Bhutto's 'judicial murder' and executed it with military precision.²¹ According to Bhutto's biographer, Stanley Wolpert, Zia detested Bhutto and had hatched a plot not only to remove Bhutto from power but also from this world. Zia simply wanted, insists Wolpert, "to savage the man, who while promoting him to head the army, had also enjoyed publicly demeaning and abusing him".²² Wolpert's views are seconded by Roedad Khan, Zia's Interior Secretary, who was informed by Zia that "it is either his (Bhutto's) neck or mine".²³ Unlike Wolpert and most writers, Lawrence Ziring would not consider Zia as a conspirator. Impressed by Zia, as by Ayub, he subscribed to the official view that they (generals) were "reluctant coup-makers".²⁴ The junta elevated some judges of the superior courts who were ignored by Bhutto government.²⁵ The reconstituted Lahore High Court and Supreme Court of Pakistan led by Maulvi Mushtaq Hussain²⁶ and Sheikh Anwar- ul-Haq respectively caved in to the official pressure. The Lahore High Court sentenced Bhutto to death for the murder of Nawab Muhammad Ahmed Khan Qasuri, father of the PPP renegade Ahmad Raza Qasuri.²⁷ The Supreme Court by a majority of four to three upheld the verdict. Contrary to the Pakistan Prison "Code" for hangings, Zia ordered Zulfikar Bhutto's "murder in the dead of night on 4 April 1979".²⁸ While Bhutto was under trial, a media campaign was launched to demonize him by the Ministry of Information led by Mehmood Azam Farooqi, the minister belonging to the Jamat- i-Islami. The Jamat-i-Islami celebrated Bhutto's trial and execution. Not content with Bhutto's execution, Maulana Maududi, founder of the Jamat, defended not only the regime's four volume White Paper against the PPP government and Bhutto's demonization, but went so far as to demand a ban on the PPP's participation in future elections to avert a situation like the separation of East Pakistan.²⁹ Thus the judges, generals and the Islamists co-shared responsibility for Bhutto's "dubious" trial and conviction on flimsy evidence. The recent assertion by Naseem Hasan Shah, the only surviving Apex Court judge from the Bench that upheld Bhutto's execution, that Bhutto was convicted because he antagonized the court leaves no doubt in anyone's mind that Bhutto was not given a fair trial.³⁰ Having used the superior courts as an instrument of authoritarian control, the military junta did not waste a moment to control its fallout.

Assuming they had removed the real hurdle to their power, they created every possible roadblock to democracy. Having crossed all the limits, Zia let loose all kinds of repression against the PPP workers and sympathizers of democracy. Dissenting journalists and former PPP ministers were publicly lashed and non-conforming university professors

were jailed or dismissed.³¹ Benazir and Nusrat Bhutto were imprisoned. The long ordeal of Bhutto and Bhutto family can be gauged from Bhutto's last testament, *If I am Assassinated*, which he penned from jail and also from Benazir's *Daughter of the East*. It was no wonder that (in 1982) the Amnesty International accused Pakistan of the worst human rights violations. Repression increased as and when Zia decided to postpone the elections, being unsure of "positive results". Evidently "the PPP's electoral potential dictated the President's policy to large extent".

Constitution to Islamize the laws in Pakistan and took a few steps (prohibition, Friday as weekly holiday, ban on gambling and betting on horse racing) into that direction. It was during the anti-Bhutto agitation by the PNA that religion was brought once again to the centre-stage of national politics. A political assortment of centralists, Islamists and secularists, the PNA rechristened its otherwise secular campaign against electoral malpractices as the *Nizam-i- Mustafa Movement*. Even the celebrated secularists in the PNA such as Nawabzada Nasrullah Khan, Wali Khan, and Asghar Khan countenanced this use of religion for political gain. The mill of Islamization was therefore around Zia's neck. And he used it with consummate craftiness for the sake of legitimacy and longevity of his rule. He repeatedly harped on the theme that Pakistan could not survive without Islam, and that an Islamic system was the *raison d'être* for the establishment of Pakistan. "There had been military coups before", so observed Roedad Khan, "but now for the first time, a *maulvi*, a deeply religious person was the Head of the State, the Head of Government and the Army Chief – a frightening combination".³⁹ In Roedad Khan's view, Zia was "determined to recreate the Islamic legal and social order which had originated in the tribal area more than a thousand years ago".⁴⁰ Unlike most westerners who thought Zia "wrapped himself in a cloak of religion",⁴¹ Roedad's impressions were shared by Lawrence Ziring who had no doubts about Zia's sincerity in this connection.

Zia introduced *zakat* and *ushr* applicable to all Muslims sans the Shiites who "buoyed by the pride of Iranian Revolution" refused to pay *zakat* and opposed Islamisation that the junta had set in motion in 1979, based on narrow Sunnite interpretation of Islamic theology and law.⁴² The government also set up a Federal Shariat Court, Sharia Faculty, and appointed a *Majlis-i-Shura* (consultative council). It issued *Haddood Ordinance*, although punishments awarded under it were set aside by the Shariat Court under public protests. In Zia's scheme of things, women's were the ornament of home and their evidence was half as good as that of a man under the Law of Evidence. Women Action Forum, a body of urban-educated women protested against these laws and generated worldwide concern. To avert any possibility of court intervention, he muzzled the courts further by promulgating the Provisional Constitutional Order (1980, 1981) and retired the recalcitrant Supreme Court judges like Justice Durab Patel and F.G.

Ibrahim. The junta also curtailed press freedom through censorship, selective distribution of government advertisements, print quota, and public lashing and imprisonment of defiant journalists.

Zia spent eleven years and state resources, backed with the military might, to depoliticize Pakistan. It is another matter that the policies he adopted contributed to greater political controversies and polarization.⁴³ He used education as a foil and as an instrument of state control. Diversity in curriculum was discouraged in Curzonian fashion with added emphasis on uniformity and Islamicity. National Curriculum Committee of the government was tasked to review and amend the work of Provincial Committees and standardize it in cahoots with the National Educational Policy. To inculcate national fervor and patriotism among the youth, a compulsory subject of Pakistan Studies was introduced for the Secondary, Collegiate and First Degree examinations. The syllabus of history courses was revised to begin with the Arab conquest of Sind in 712 and omitted the pre-Islamic period of Indian history. As in the post- revolution France, Soviet Union, and Iran, government-approved text-books became a vehicle of subjective history, official nationalism, and state biases. Democracy and pluralism received hardly any support from the obscurantist ulema and their patron, General Zia. Zia blamed the high figure of 80 percent illiteracy in Pakistan on the alien rule and colonial powers. To tackle the problem of illiteracy, nearly 12,000 mosque schools were opened in 1983-84 and obliged to adopt an expanded curriculum introducing modern scientific disciplines.⁴⁴ He threatened to remove a teacher like “a carbuncle” who would “poison our younger generation with an ideology that was secular or alien to the Pakistani ethos”.⁴⁵ Lacking intellectual profundity and ideological depth, Zia regime sought to “Islamize” education that would promote dogma, discourage free inquiry or dissent and block progress.⁴⁶ Apart from this, it banned students unions at colleges and the universities.⁴⁷ Progressive student organizations were either put under various restraints or left at the mercy of more organized IJT (Islami Jamiat-i-Tulba), the student wing of Jamat-i-Islami. In a replay of national politics, Zia fragmented student politics on grounds of sect, biraderi and ethnicity. Better than the Raj or his benefactor-become-foe Bhutto, Zia perfected the art of Machiavellian politics and left behind a society more confused and rant than it ever was. Despite these measures, Zia could not cope with the lingering question of legitimacy, as opposed to legality that the Apex Court had provided his rule. For the essentials of legitimacy, as emphasized by Mattei Dogan,⁴⁸ based on the freedom of speech, freedom of association, freedom to assembly, truly democratic elections, open competition among the political parties, and judicial independence, were conspicuous by their absence during his eleven years of absolute power.

The crisis of legitimacy pricked Zia as much as it had pricked Ayub Khan. Hence, he held a controversial presidential referendum in 1984. As expected, the polling wore a deserted look and the tired election staff stamped and stuffed the ballot papers. The question posed in the constitutionally deviant referendum was tricky: a yes vote to Islamization was to be translated a yes vote for Zia. Zia denied that he had asked for a vote on Islam but on his government's services for Islam.⁴⁹ The manner of referendum, low turnout (around ten to fifteen percent against the official tally of 62.15 percent), and exaggerated results tarnished the presidency and its incumbent. The referendum became a subject of comics and the humorous Pir Pagaro, Zia's political ally from Sind, attributed the supposedly high turnout to voting by 'angles'. Regardless, Zia received messages of congratulation from within and outside of Pakistan and persevered in the power game with a manufactured mandate. Earlier, he had nominated a 287 member Majlis-i-Shura as an Islamic substitute for parliament. Lacking power and comprising unelectable ulema, technocrats, retired military officers, members of the PNA and a few PPP turn-coats, Majlis-i-Shura could neither influence government policies nor did it lend legitimacy to its creator. However, it provided the regime the needed channel of networking with the country's influentials, who felt indebted to their benefactor. Below the Shura, Zia government, although reluctant to hold general elections, had already created elected local bodies (District Councils, Union Councils) to develop a new cadre of politicians, the ones who would be supportive of the Zia regime.⁵⁰ With the objective of creating alternative political elites at the local level, he assigned them generous development funds which they used and misused so freely. Generally perceived as the reincarnation of discredited Basic Democracy System, the system was defended nevertheless by Zia, as he found more than enough members of general public who were eager to accept and work the local bodies.⁵¹ With powers relating to law and order, police, treasury, jail, and certain matters pertaining to administration vested in the Deputy Commissioner, General Zia knew the art of creating vested interests, hence, these pseudo representative bodies, which cushioned the dictatorship and harvested its benefits.

Zia was candid enough to admit that "gaining power is easier than giving it up". That is why he attached utmost importance to his first and real constituency, the army. To maintain a grip on the army, he developed and patronized a Jullundur lobby in it.⁵³ In and outside the army barracks, he preached and encouraged venal propaganda against liberal or progressive politicians and blasted Western democracy calling it un-Islamic. He kept military contented with expansion and new weapons with greater opportunities for career advancement. He skillfully reduced potential challenges from politically ambitious senior commanders through reassignment and retirement.⁵⁴ He fixed a quota of 10 percent in the civil services for the released or retired officers in Grade 17 and 18, and 10 percent for Grade 19 and above.⁵⁵ He reserved seats in

universities and professional colleges for the soldiers' sons and daughters, and offered the officers agricultural state lands and residential plots. He persuaded the conservative Gulf countries to seek the services of Pakistan army officers to train their own armies. He introduced the culture of duty-free Mercedes and limousines for the President, Prime Ministers, Governors and Chief Ministers. As Chancellor of the Quaid-i-Azam University, Islamabad, a liberal graduate school, he abolished its Senate, curtailed academic membership of its Syndicate, and appointed two unqualified brigadiers as its professors. He disallowed the arrest and prosecution of army personnel by the civil police and courts. Although Zia was not the first one to have lavished state bounty on the army, his real constituency, for personal political gain, it broke new records under his rule.

Praetorianism, lacking popular support, tends to strengthen coercive arms of the State. Zia brought to the army the required modernization, courtesy of support from the conservative Gulf Cooperation Council. Indulging in blandishment of Saudi Arabia and declaring any attack on it as an attack on Pakistan, Zia won Saudi sympathy and finances to pay for the F-16 fighter jets. In 1981 and 1987, America promised Pakistan 3.2 billions and 4.2 billion dollars respectively as military and economic aid. The American money went a long way in strengthening the army and consolidating the Zia regime. Not all that money was judiciously used for the stipulated purpose. Behind his regular protestations of Islamic piety, he and his close companion, General Akhtar Abdur Rehman, a former ISI (Inter Services Intelligence) boss and CJCS (Chairman Joint Chief of Staff) managed to accumulate the most ill-gained wealth of all.⁵⁶ The stories of corruption by the higher military bureaucracy surfaced in the international media as The Times published the "World's Richest Generals" and "Leakage in the Arms Pipeline". Nonetheless, Zia had the longest tenure of office in Pakistan, which was due less to good governance than to subtle moves like ad-hocism, western support, exploitation of religion, misuse of army, para-military and police, persecution of the opposition, disunity and opportunism of the politicians, and the Afghan War.

As a President, Zia continued to extend his tenure as Army Chief and later appointed a Deputy Chief (General Mirza Aslam Beg) to oversee the routine matters. He had learnt from the fate of General Ayub Khan who, in his twilight, was abandoned by the Commander-in-Chief, Yahya Khan. Buying the American thesis that Pakistan had become a front-line State after the Soviet occupation of Afghanistan, he agreed to fight the proxy American War. The Americans were quite impressed with Zia's commitment to fight Afghan War to the end, and Brzezinski, who had been the National Security Advisor in Carter Administration, praised him for that, if for no other reason, in his posthumous essay on Zia.⁵⁷ He made Pakistan the arsenal of Afghan resistance, guerrilla training and a base of the largest CIA network. Seen in Washington and many

Western capitals as fighting the West's last battle against communism, America and the developed democracies put national interests before ideology while Carter and Regan administrations overlooked his worst human rights record. During the Afghan War sophisticated weapons and contrabands made their way into Pakistani bazaars, specifically into the troubled city of Karachi, the agonizing legacy of Zia. He went on augmenting and exploiting political polarization in the country. To his comfort, political parties, other than the PPP, were not genuinely interested in elections. Launched in February 1981, the MRD (Movement for the Restoration of Democracy) suffered since 1984, despite the initial upheavals it caused, from internal discord and the adverse impact of a plane hijacking by Al-Zulfiqar. Zia enjoyed the support of the civil bureaucracy and of the industrialist beneficiaries of denationalization. Other factors responsible for the longevity of his rule were industrial peace, increased levels of remittances and revival of the economy. In 1985, Zia decided to civilianize Martial Law with no intention of relinquishing power. Party-less elections were, therefore, held in that year with the twin objective of blocking the PPP's comeback and creating a king's party of political lightweights in the new National Assembly. The scripted plan was implemented with great care. Even the election date was timed to coincide with Benazir's maternity confinement. Zia chose to remain the uniformed President with enhanced presidential powers to make key appointments, dismiss the government, and dissolve the assemblies. Following the elections, he appointed the relatively unknown Muhammad Khan Junejo as the Prime Minister who then sired the official Muslim League. Having enjoyed absolute power and limelight for eight years, Zia was not ready for the oblivion due to the growing independence of the Prime Minister and the legislators. Junejo's maiden speech on the floor of the National Assembly was an eye opener for the Generals attending the ritual. "Democracy and Martial Law cannot coexist", so thundered Junejo, and continually urged the same until the Martial Law was lifted on 31 December 1985. Zia could not brook this 'betrayal' and the cynicism to which he and his military confidantes and colleagues were subjected following the deadly explosions in the army depot at Ojheri Camp in Rawalpindi in 1988. Visibly disturbed by the popular uproar and the demand for the trial of the Generals, he was looking for 'patrons' and not 'prosecutors'. Junejo, who had ordered an inquiry into the tragic incident, was rumored to have been contemplating (as defense minister) the removal of Zia as the Army Chief and of General Akhtar Abdur Rehman, former head of the ISI, as the Chairman Joint Chiefs of Staff. As if Ojheri incident was not enough, the Chor incident added fuel to the fury against the army, as some army officers and public were involved in brawls over bazaar eve-teasing of girls by the former. The angry public resorted to violence and arson. Military vehicles were attacked and the local Muslim Leaguer MPA joined the protest against the officers. Using presidential power, Zia

dismissed the Junejo government and dissolved the Assemblies in May 1987, restoring the status-quo ante as in 1985.

The dismissal of Junejo isolated Zia-ul-Haq. Little by little Junejo had earned public sympathy. His austerity measures, though symbolic, were well received in the public. For the first time extensive developmental works were undertaken in the rural areas by the revitalized local bodies. Junejo liberalized media and was generous towards the opposition. He declared all the political parties and their leaders as patriotic and invited them (including Benazir Bhutto) to a conference prior to signing the Geneva Accord, all against Zia's expressed will. Therefore, when Zia struck the Junejo government, there was hardly a word of sympathy expressed in the defense of presidential order. It is another matter that the incumbent Chief Ministers including Nawaz Sharif of Punjab, then a blue-eyed boy of the establishment, abandoned Junejo for Zia at whose behest they tried to "hijack" the Muslim League creating in the end a breakaway pro-Zia Muslim League (Fida). With Zia in twilight zone, the Supreme Court of Pakistan declared mandatory registration of political parties (under the Political Parties Act, 1962) with the Election Commission as unlawful. The Apex Court's decision pre-empted Zia's plan to hold party-based elections minus the PPP which had refused to seek registration with the Election Commission. Rather than showing any respect to the court's decision, Zia tried to evade it by announcing party-less elections once again.⁵⁸ That Zia had played his innings and was living on borrowed time was indicative of the Supreme Court's decision and its newfound independence. With the Cold War over, the Americans, unlike Zia, were no longer keen in the Afghan imbroglio. In fact, Washington had begun to consider him a liability, distrusting his talk of an Islamic Confederation and his unswerving support for the fundamentalists among the Afghan mujahideen.⁵⁹ Similarly, Zia was not on the same page with General Aslam Beg on important policy matters, particularly in relation to Afghanistan. And Zia's corps commanders, many years his juniors, were not so close to the aging chief who now received only "filtered" reports. Having lived in the safe sanctuary of the Army House till his death, Zia tried to give this impression that he was still part and parcel of army life, but these were sure signs of a growing sense of insecurity. After the Ojheri Camp disaster, Zia did not spend a night away from the Army House. His plane crash in August 1988, whether an act of sabotage or divine intervention, not only saved the isolated General from a possible retribution but also the nation from the hardened opponent of democracy. Zia's death raised fresh hopes for a return to representative democracy in Pakistan.

Conclusion

To conclude, from Jinnah to Zia, politics in Pakistan revolved around personalities. Informed by a self-serving and selective reading of Muslim history, colonial legacy, and

social conditions, a perennial quest in Pakistan for 'extraordinary men' left little room for the lesser leadership after the demise of Jinnah and assassination of Liaquat Ali Khan. Lesser politicians failed to deliver. They could neither inspire awe among the people nor stop political maneuverings by the more developed bureaucracy and military. Factors such as illiteracy, unemployment, poverty, disorganized party-politics, and political unrest facilitated praetorian disruptions. Politicians recovered some ground after the military defeat in 1971 but failed to utilize the reprieve to strengthen parties and democracy. The return of praetorianism could not be prevented for all times simply by rhetorical hyperbole or under the threat of punitive constitutional clauses. A sustained political culture of tolerance and accommodation was as necessary as was the political empowerment of the people, development of the media, the political parties, and the judiciary. Even Bhutto, arguably the country's most popular leader after Jinnah, could not put Pakistan on the path of democracy, as he disallowed dissent within the PPP, curbed the opposition and the press, and sought to manipulate judiciary. The partisans of Bhutto should have learnt the importance of organized politics and institutionalized power after the fall of his government and his sad ending. The military, no matter how disciplined or well-equipped, could never ride roughshod in Pakistani politics, if it were to face the phantom of organized opposition. Despite being a popular politician, Bhutto was unable, like his predecessors, to translate personal popularity into popular support for institutions.⁶⁰ By his own admission, he had no time for party organization.

The imposition of Zia's Martial Law must be seen, therefore, as the by-product of that lingering hiatus of institutional development in Pakistan which gave its better organized army an edge over the remaining sub-structures of the State and political forces. Its brutalities were in fact proportional to its own insecurities, the radicalization of national politics and the resilience of the PPP. Zia regime relied heavily on coercion, conservative elites, religio-political organizations, and its foreign friends. Courtesy of the military regime, religious leadership accepted backdoor entry into power and tasted temporal authority beyond its electoral potential. To legitimize itself and to protect status quo, it transported religion into politics and developed a nexus with the orthodox ulema whose knowledge and interpretation of Islam and general worldview was medieval and disharmonious to the views of Iqbal and Jinnah who perceived modern democracy and the parliament in perfect harmony with Islamic teachings, and were opposed to dictatorship, whatever its form.

Eleven years of Zia were the wasted years as far as democracy is concerned. Even his death did not remove obstacles to democracy. Four elected governments fell prematurely and in a row due to the anti-democratic constitutional innovations of Zia, i.e., the Eighth Amendment, which changed the country's parliamentary system into a

presidential one except in name. As elected governments would hold office during the pleasure of the indirectly elected president, it made mockery of democratic principles. In adversity, politicians and people learnt, however, to appreciate the merits of democracy and demerits of the army rule. Moreover, political repression during the Martial Law had a silver-lining to it. It galvanized support for democracy and even reconciled the bitter political rivals, the Pakistan Muslim League (N) and the PPP, the two largest political parties, which amended the Constitution twice, first during the second Nawaz Sharif government and secondly during the present PPP government, and thereby restored the parliamentary supremacy. Fortunately for Zia, his sudden death saved him from popular backlash and an ignominious end. But his military successor, General Musharraf, who played havoc with the Judiciary and the Constitution, had to quit after country-wide demonstrations of lawyers and the Civil Society. Declared by the Supreme Court as guilty of treason, he was allowed the safety of self-exile by the present PPP government. Neither Zia's Islamicity nor Musharraf's pseudo liberalism could earn them significant popular support. They complemented each other in seeking the death of democracy under the cloak of Islamic piety and pseudo liberalism.

Week 11: Benazir Bhutto and Nawaz Sharif

Revival of Democracy in Pakistan 1988-1999: An Analysis

Introduction

General Zia's sudden death in plane crash on 17 August 1988 changed the picture of the political scene. Commenting on this incident Benazir Bhutto said, "Zia's death has removed the shadow under which myself and all those dedicated to democracy have been living". (Mali Syed, 1992.) After his death, General Aslam Beg took over as the chief of the army staff. Ghulam Ishaq Khan became the president of Pakistan being the then chairman of the senate. He announced general elections in Pakistan. Elections were held on party basis. The main rival political parties were Pakistan People Party, led by Benazir Bhutto and the (IJI) Islami Jamhuri Ittehad, (Talbot, 1999) led by Nawaz Sharif. When elections were held in 1988, Benazir Bhutto became the Prime Minister of Pakistan. But her government was short lived as the President dissolved her government under the 8th amendment. In 1990 general elections were again held and Nawaz Sharif became the Prime Minister but his government was also dissolved by the same president Ghulam Ishaq Khan. Again in 1993 and 1996 both Benazir and Nawaz Sharif became the Prime Ministers respectively but they were unable to maintain cordial relations with the top military commanders. (Rizvi, 2008)

Democracy in Pakistan in Historical Perspective

Pakistan came into being on August 14, 1947 as an independent sovereign state. It was among the first of the new countries to be born after the World War II. Of the then independent Muslim states, it was the largest in population and destined to play a significant role in Islamic world as well as in the changing international order. (Ziring, 2007) Quaid-e-Azam Muhammad Ali Jinnah became the first Governor General of Pakistan by a decision of the Constituent Assembly taken even before the passage of the Indian independent Act. (Ahmad, 1988).

Most of post-Jinnah political leaders had regional and local stature and did not have a nationwide appeal which regionalized and localized politics. This made it difficult for the political parties and leaders to pursue a coherent approach towards the problems and issues of the early years. They were unable to develop consensus on the operational norms of the polity and took eight and half years to frame a constitution which did not enjoy the unqualified support of all the major parties, leaders and regions. By the time the constitution was introduced (March 23, 1956) a strong tradition of violation of

parliamentary norms was established, the political parties were divided and the assembly was unable to assert its primacy. The effective power had shifted to the Governor General/President. (Rizvi, 2008).

On October 7, 1958, Iskander Mirza abrogated the Constitution of 1956, the central and provincial Assemblies were dissolved, and the central and provincial cabinets were dismissed. This was the first phase of Martial law. (Rizvi, 2000). The chief justice of Pakistan, Muhammad Munir, was asked to prepare a new constitution more suited to "the genius of the Pakistani people". (Mirza, 2000). By the time of Ayub's coup two critical issues had been settled. First, parliamentary democracy would not be allowed to function in Pakistan. Second, a strong central executive would dominate the provinces. Pakistani politics have never recovered from these twin setbacks. (Nauman, 1988). General Yahya Khan assumed the power of chief Martial Law Administrator and president of Pakistan on March 25, 1969 without facing any opposition. He followed Ayub Khan's course very closely. (Rizvi, 2000) The 1962 constitution was abrogated and assumed control for the direction of the nation's life, the country, by any reckoning, presented a situation of great complexity and danger.(Yousaf, 1999).

Z.A. Bhutto asserted civilian primacy over the military during his rule (December 20, 1971 to July 5, 1977) against the backdrop of the serious damage to the military's reputation in the wake of the military debacle of 1971. Initially, he retired several senior officers and changed the military's command structure. However, his ability to assert his primacy over the military eroded when he began to cultivate the military's support to pursue his strident policy towards India and employed authoritarian methods to deal with the domestic opposition. When the opposition launched anti-Bhutto agitation on the pretext that the government had rigged the 1977 general elections, the military led General Zia-ul-Haq, Chief of the Army Staff, had no problem in dislodging Bhutto and assuming power on July 5, 1977. The opposition parties welcomed the military take over because it removed Bhutto from power. (Rizvi, 2008).

General Zia-ul-Haq's martial law from July 1977 to December 1985 was the longest period of direct military rule in Pakistan. These trends continued after he civilianized his military rule in 1985 by introducing far reaching changes in the 1973 Constitution and co-opting a section of the political elite to ensure his continued centrality to governance and political management. (Ibid).

Benazir's First Term

In the 1988 elections, PPP got majority seats and secured 92 of 205 seats. The IJI, on the other hand, won 54 seats, emerging as the second largest political group in the

Assembly. (Selochan, 1992) Ghulam Ishaq Khan on 2nd of December 1988 paid rich tributes to Benazir Bhutto by saying that, she is a young educated, decent and capable lady. She has immense love for the country and has the spirit of service to the masses. (Pakistan Times, 1988) On assumption of power Benazir Bhutto said our government would strive for building a progressive and democratic Pakistan, free from all kinds of exploitation. Her speech infused a new hope and spirit in people that democracy may be restored effectively. (Ibid) As far as provinces were concerned, PPP formed its government in Sindh with Syed Qaim Ali Shah as Chief Minister, coalition government in Baluchistan was formed with Mr. Zafar Ullah Khan Jamli as its Chief Minister Mr. Aftab Ahmad Khan was sworn as Chief Minister of N.W.F.P and Nawaz Sharif took over as Chief Minister of Punjab. PPP claimed that it stands for the cause of democracy and democratic traditions but unfortunately, a defeated man from Rawalpindi General Tikka Khan was appointed as the Governor of Punjab, obviously a man who did not command confidence of his own constituency how could he command the confidence of the whole province. Similarly another defeated candidate Mr. Yahya Bakhtiar was made the Attorney General and this showed PPP's love for the defeated persons. (Yaseen Rizvi, 1988) Another mistake of the PPP government was the dissolution of the Baluchistan Assembly just after three weeks of its setting up. In Baluchistan impartial caretaker government was installed by December 22, 1988. However the High Court declared the act of Chief Minister unconstitutional. Nawab Akbar Khan Bhugti became the new chief minister of Baluchistan. (Pakistan Times, 1988).

On December 12, 1988 Ghulam Ishaq Khan was elected as the President of Pakistan for a term of five year. Even after the appointment of Benazir Bhutto and his election, as President Ghulam Ishaq Khan never reconciled himself to be a neutral umpire in the country's unfolding political scenario. Ignoring the expected role he began to indulge in shady political deals with the opposition parties for the purpose of undermining the authority of the federal government. (Maluka, 1995).

Ghulam Ishaq Khan adopted the policy of divide and rule. He played a prominent role in center province relations in the country. The government of Benazir Bhutto became the target of conflicting and contradicting crises especially those related to the government of Nawaz Sharif in Punjab. Democracy cannot succeed unless the political leaders develop a tolerant attitude towards each other. In democratic government the opposition plays a key role. But the opposition leader Naas Sharif refused to accept the authority of the government. (Lamb, 1991). It was not easy for the federal government to run administration with a hostile opposition committed to create difficulties. Democracy has finally been restored and democratic institutions were functioning, but the return of democracy brought with it a remarkable campaign of blackmail, bribery and arrests. (Ibid) Opposition also accused Zardari family of taking commissions on

every business deal approved by the government. (Pakistan Times, 1988) Ms. Bhutto had announced general amnesty to all the prisoners. Hundreds of rapists, murderers and saboteurs were also set free through Prime Minister's executive order. (Jilani, 1991).

The province of Baluchistan which is the largest in area also had adjustment problems with the central government. The Chief Minister Nawab Akbar Khan Bhugti having his own grievances against PPP and boosted by Ghulam Ishaq Khan joined hands with over ambitious Nawaz Sharif in destabilizing the centre. (Sarwar, 1994) While responding to the opposition in her defense was the purchase of more F-16's from the United States. This statement presented government's hallmark in foreign policy, instead of concrete action programme on Kashmir issue, Afghanistan, Siachen or relations with Soviet Union. (The Nation, 1988) Pakistan people's party talked about the poor, it envisioned Pakistan as a social welfare state but none of its functions were held in places other than five star hotels. The reality is that PPP is just sticking to power, and evolved its policies in accordance with the circumstances. (Ibid).

In fact, she allowed herself to be distracted by two things. First, the desire to govern all the opposition parties. Two, she allowed her husband to use the political power and he possessed for personal financial gain. Keeping in view the circumstances Ghulam Ishaq Khan dissolved the government of Benazir Bhutto under the 8th amendment. Although, Benazir Bhutto's government elected Ghulam Ishaq Khan as the President for the next five years but after the dissolution of her Assembly in 1990, she admitted that this was her biggest political mistake. (MID ASIA, 1991) Ghulam Ishaq Khan formed interim government under Ghulam Mustafa Jatoi. The election dates were announced as 24 and 29 October for the National and Provincial Assemblies respectively. (Pakistan Times, 1988) The IJI decided to contest elections with the same symbols and alliance, on the other hand PPP decided to form an alliance consisting of four political parties by the name of PDA (People's Democratic Alliance). (Sarwar, 1994).

Nawaz Sharif as the Prime Minister

In 1990 general elections were held in Pakistan. The PPP's allies, however, were unable to win a single seat. The PPP won 46 seats while Islami jambooriitehad [Islamic democratic alliance] led by Nawaz Sharif won 105 seats in the national assembly. The performance of IJI in the provinces of Punjab was also remarkable, but it was able to form government in all the four provinces. (Yousaf, 1999) From the very first day Benazir Bhutto began to voice that the elections were rigged and the national Assembly was bogus, while later she also took the oath of member of national Assembly and became the leader of the opposition. (Dawn, 1990).

Nawaz Sharif was unanimously nominated as leader of the IJI parliamentary party and took the oath as Prime Minister of Pakistan on November 6, 1990. He enjoyed a clear parliamentary majority, his IJI either formed governments in all the provinces or was in partnership with allies he had the establishment's unreserved backing both of the President's and of the military. Nawaz Sharif in his first speech said I invite all to participate in fostering an era of understanding unity, cohesion and commitment to national cause. He pledged to accord the status and treatment to all in accordance with the provisions of the constitution and law. His government would not hesitate to frame new laws to effectively establish peace and protect life, honor and property of its citizens.

Being the country's first Prime Minister belonging to the business class, Nawaz Sharif declared his intention to push Pakistan towards a free market economy through a programme of deregulation and privatization. (Lodhi, 1994).

Nawaz Sharif claimed that the IJI government wanted to set long lasting, refined and positive democratic traditions both inside and outside the house. Unfortunately, these hopes have not yet materialized. The government frequently resorted to lawmaking by ordinance from 1990 to April 1993, a total of 78 ordinances were promulgated out of which 28 were not even referred by the government to the cabinet which is a statutory obligation. The heavy reliance on ordinance making authority in fact, demised parliament role, reducing the Assembly to a rubber stamp rather than a body to shape and reshape the laws. (News, 1991).

Most of the policies adopted by the IJI government lacked proper planning and formulation. Thus the steps taken by this government like the introduction of yellow cab taxi scheme, in which most of the people who possessed these cabs were not eligible for them as there was not official check on the proper distribution of these cars. In the absence of concrete plan the scheme was bound to fail. Similarly, the introduction of Bait-ul-Mal, vigorous drive against food adulteration and a campaign against the possession of prohibited and unlicensed weapons were all short lived and brought no change in the plight of the ordinary citizens because the plans were unorganized and haphazard. Similarly, quite a few pronouncements of the Nawaz Sharif government lacked contents. The Prime Minister announced a grant of Rs. 175.00 million for Sindh; it was above the normal share of the province. If it was not already budgeted the Prime Minister was supposed to consult his cabinet as well as the National Economic Council but his announcement was rendered meaningless because the budget for 1990-91 was approved by the Benazir Bhutto cabinet. Corruption seems to have acquired social respectability in our society. The Nawaz Sharif government was no exception to the same old blame of corruption. Hire and fire of provincial officers on the criterion of

loyalty and use of favored appointees for carrying out politically motivated functions remained as usual. Democracy is a success only if we respect its fundamental conditions which are essential for its survival. (Ibid).

The IJI era was also blamed for following the policy of favoritism and lack of rule of law. Favoritism was also given with regards to arrests who is to be arrested, who is to be spared, against whom an FIR has to be lodged, who is to be kept in police station without information to the concerned legal forums. The Government MPAs and MANs were hardly caught even if found guilty. There was housing societies established on questionably allocated state land and at questionable rates by the officers to develop schemes, making millions. Similarly, the cooperative Banks and Finance companies were a source of benefit for those who could get the blessings of the registrar. The difference of money was cleaned off in the book where these cooperatives were registered by the registrar and were later audited by the office. The government as usual on the 13th April 1991 set up a 12 member special committee to probe into the malpractices and frauds done by the cooperatives Finance Companies during the past suggest remedial measures to deal with the situation but nothing more positive was done a few checks were distributed to the affected on the Television and it was followed by a large number of blames and counter blames by both the government and the opposition for the large amount of money lost, which actually belonged to the people. Nothing concrete was done on the issue. (Maluka, 1995).

The economic policies of the IJI government were not as successful as inflation, budgetary deficit, unemployment remained very high. The economic conditions were not satisfactory despite large number of taxes; the government was unable to reduce budgetary deficits. The basic problem is that our economic elite do not pay their legitimate share to the government in the form of taxes. The government exempted industrialists from taxation and the Chief Minister declared that rural elite will not be put to inconvenience through the imposition of agricultural income tax. In these circumstances self-reliance became a far cry and reduction in budgetary deficit a dream and above all such exemptions could prove to create chronic budgetary problems in the long run because the country already suffered a great economic set back due to the Gulf war of 1992. The government also exempted the foreign exchange accounts from income tax and Zakat. Later the Shariat Bill was introduced which aimed at introducing interest free economy in Pakistan within three years, but there were entrepreneurs with whom IJI government promised not long ago that if they opened foreign exchange account in Pakistan they would be offered high interest rate than the one offered by foreign banks. The people of Pakistan were made to believe that self-reliance was round the corner provided the IJI government remained in power. (Ibid). Ghulam Ishaq Khan and Nawaz Sharif shared power under a diarchy. Now elected government seemed to

control the levers of the government. The troika (President, P.M. and Army Chief) was a legacy of military rule the unique power sharing arrangement between the executive, the head of state and the army chief. The diarchy worked as long as Nawaz Sharif refrained from challenging the establishment. The problem between the President and the Prime Minister began in January 1993, when the army Chief General Asif Nawaz died and question arose who would succeed the General. The President appointed his own choice, the new army chief general Abdul Waheed Khan. In February Nawaz Sharif openly announced that he intended to remove the eight constitutional amendments but politically Nawaz Sharif was isolated. He miscalculated the PPP by thinking that the opposition would help him in removing the 8th amendment despite a history of anti-pathy, acrimony and lack of trust. (Ibid).

PPP government on the other hand played a Machiavellian role in real politics for the dismissal of the Nawaz Sharif government. Benazir Bhutto who was fully involved in the dismissal of Nawaz Sharif government by the President of artfully manipulated the difference between Nawaz Sharif and Ghulam Ishaq Khan. Benazir Bhutto on one hand was withholding support for Nawaz Sharif's effort and on the other hand opened channels of communication with her adversary, the President, working on the maxim that my enemy's enemy is my friend. Another miscalculation of Nawaz Sharif was that he assumed that the President was a lame duck because he hopes to seek his re-election as the next President. The disintegration of the cabinet Minister who started clustering around the President made Nawaz Sharif weak, they ranged from Ghulam Mustafa Jatoi, Tariq Chaudhari and a group of Jonejo loyalist. The Political position of Nawaz Sharif began crumbling down. (Ibid).

Finally, Nawaz Sharif tried to make a final attempt to improve his position by nominating Ghulam Ishaq Khan as his Presidential candidate but now it was too late. In great disappointment Nawaz Sharif addressed the nation on television and radio on the 17th of April 1993 and openly criticized the President Nawaz Sharif disclosed that Aiwan- i-Sadar even patronized the intrigues to split the founding party of Pakistan i.e. the Muslim League to weaken government. He further said that the Governor of a province is also involved in conspiring against the mandated constitutional government while sitting in corridors of Aiwan-i-Sardar which can hardly be tolerated by the people of Pakistan. Every third cabinet minister was tipped for Prime Minister -Ship by the opponents of democracy and of system for revolting against his government.

Nawaz Sharif pledged that he would never submit to dictation from the President while asserting that he would neither resign nor dissolve the national Assembly on the desire of Ghulam Ishaq Khan and charged the President with intrigues and conspiracies against the federation in general and his government particular. It was the first incident in

history in which a Prime Minister challenged a strong head of state. No resignation, no dissolution, no dictation, Said Nawaz Sharif. He further said that I am fully prepared to face my opponents both inside and outside the national Assembly. (Dawn, 1993) On the 18th April 1993, in retaliation President Ghulam Ishaq Khan dismissed Prime Minister and cabinet and dissolved the National Assembly by a four page dissolution order.

Gohar Ayub, the speaker of national Assembly challenged the dissolution of national Assembly in Lahore High Court as malafide and a result of personal vendetta. Later Nawaz Sharif filed a constitutional petition in the Supreme Court challenging the dissolution. On 25th May 1993 the Supreme Court declared the presidential order of dissolution as illegal and unconstitutional and restored the National Assembly and Nawaz Sharif's government. Supreme Court strikes down Ghulam Ishaq Khan Order in 10:1 verdict, National Assembly, Prime Minister and cabinet restored. (Waseem, 1993).

The order of revival of the national assembly and the reinstatement of Nawaz Sharif government was rendered ineffective when on 18th July 1993; the prime minister was constrained to resign and to advise the president to dissolve the national assembly under article 58 of the constitution. The president promptly acted upon the said advice, but in the process he was also obliged to resign, which he did on the following day on 19th July 1993. Thus ended one bitterer chapter in the political and judicial history of Pakistan. A care taker government under Mr. Moeen Qureshi was formed. (Dawood, 1994) C. Benazir's Second Term

After the retirements of Ghulam Ishaq Khan, Waseem Sajjad, the Chairman of the senate, was sworn in as the acting President of Pakistan. The new President was basically assigned with the task of holding fair and free election in the country. The elections of National and Provincial Assemblies were held on the 6th and 8th of October 1993 respectively. Benazir Bhutto's PPP took a decisive lead in Pakistan National Assembly polls and won 86 seats, PML (N) got 72 and 15 were independent seats. MQM boycotted the elections. It was evident from the result that no party was able to get a clear cut majority. Pakistan people's party formed a coalition government with the assistance of PML (Jonejo Group) led by Hamid Nasir Chatta and others in centre. The PPP with its allies also formed governments in Punjab and Sindh. Main Manzoor Watto was elected as the leader of the house in Punjab. In NWFP Pir Muhammad Sabir Shah of PML (N) and NAP coalition was elected leader of the house. Although Nawaz Sharif's party led coalition had formed the government in NWFP, but Benazir Bhutto replaced it with her party coalition in April 1994. Resultantly, Aftab Ahmad Sherpaow became the Chief Minister while in Sindh Syed Abdullah Shah sworn in as Sindh Chief Minister. (Asian Survey, 1996).

Benazir Bhutto on assumption of power after being elected as leader of the house took oath of her office on 19th October 1993. She said the country is facing grave economic crisis and the confidence of the people had also been shaken in the present political system because of the attitude of politicians. They are waiting for change not mere change of faces but change in the system. (Sarwar, 1994).

Benazir Bhutto confronted some serious problems; her party lacked a majority of its own at the centre and in the Punjab where it formed a government in coalition with PML (J). The law and order situation in many urban areas of Pakistan during her regime was at its lowest ebb. One of the biggest problems was the deteriorating law and order situation in Karachi. Open violence between Sindhis and Muhajirs continues to leave corpses in the streets of Karachi. The continuous violence and continues unabated as religious confrontation, political terrorism, warring drug cartels, and continuing ethnic conflicts between Sindhis and Muhajirs rampage through the city. However, on November 21st 1995, Benazir Bhutto ordered the army authorities to continue with operation clean up in Sindh and to go for the big fish in Sindh involved in Kidnappings, dacoits and other major crimes. (Indurthy, 1996) In 1995 alone, almost 2,000 people were killed in Karachi. The PPP, with its own government in Sindh had the unique opportunity to heal the wounds of ethnic violence in Karachi. But the reconciliation efforts between MQM and PPP failed and the unrest in urban Sindh continued unabated. The level of political violence escalated in April 1994 when the MQM decided to launch a fresh agitation in support of its demands. Up till 1995 the problems of Sindh remained alarming but now in 1996 there seems to be a slight change in the situation. Unfortunately, a new problem has arisen is the large number of bomb blasts in Punjab a few examples. (Sarwar, 1994)

One of the achievements of these governments was the separation of judiciary from the executive when the national Assembly of Pakistan, at last on 15th April, passed the bill of separation of executive from the judiciary after a long marathon session. Benazir Bhutto at this historical moment said "We strengthened the institutions and have sacrificed party politics." The most disturbing issue in politics of Pakistan was the confrontation between the PPP and PML (N) led by Nawaz Sharif. This confrontation has defined politics and the broader issue of democratic transition in the country since 1988. The atmosphere of political intolerance, personalized politics and the issue of political power might explain the parties' self-destructive hostility toward each other. (Ibid)

On 5th November 1996, President Farooq Ahmad Khan Leghari dissolved the National Assembly and appointed Malik Meraj Khalid as the care taker Prime Minister and pledged to hold elections on 3rd February 1997. He charged the government of

flaunting Supreme Court judgments and ridiculing the judges. It is also alleged that Benazir Bhutto's government tapped the phones of Supreme Court judges, army officers and senior government officials. (Sarwar, 1994) Corruption was one of the charges that president Laghari leveled against Benazir Bhutto in dismissing her government in November 1996. The question to how president Laghari, the party loyalist for more than two decades, turned against the PPP government? And why did Justice Sajad Ali Shah, who was handpicked by Benazir Bhutto, sided with Laghari? The answer to these questions lies partly in the inability of Benazir Bhutto to maintain a working relationship with persons of stature who showed some degree of independence, and partly in the feudal tradition of intrigues, shifting alliances and the personalized nature of Pakistan political culture. (Mahmood, 2000)

Nawaz's Second Term

Farooq Ahmad Khan Leghari fulfilled his promise by holding election on 3 February 1997. The general elections were held on 3rd February, 1997. The result of the elections was a surprise for many including the analysts and organizers. PPP which had been well entrenched in the center, Punjab and NWFP for three years got a drubbing which it never expected. With its total of 136 seats in the National Assembly and its strong ally ANP having 10 seats, the PML's two third majority became a fait accompli. Never in the electoral history of Pakistan, had any party secured such a massive vote. The motto, he gave for taking on this scheme was Qarz Utaro Mulk Sanwaro (liquidate debts to save the country). The Prime Minister outlined a whole lot of pragmatic steps among them viz (1) guaranteed protection for foreign investment (2) allowing private detective agencies (3) ban on extravagant spending on marriages (4) no concessional plots (5) no more duty free cars for VIPs (6) Sunday to be a holiday (7) restriction of use of government transport (8) withdrawal of police guards (9) National Health Scheme for, the poor (10) no flag car except for VVIP (11) reduction of number of ministers in federal and provincial cabinets (12) submission of assets by government employees and confiscation of un declared wealth (13) reduction in government expenditure and (14) Accountability Committees all over the country. (The Nation, 1998)

The Muslim league government has used its parliamentary majority to make two fundamental changes in the post Zia political system. It introduced two significant amendments (thirteenth and fourteenth) in the constitution. The thirteen amendments restored the parliamentary character of the constitution by limiting the powers of the president to that of a nominal head of the state. According to this amendment the president became powerless to dissolve the National Assembly. The fourteen amendments related to the problem of floor crossing, this was a great source of political instability in Pakistan. (Mahmood, 2000)

Muhammad Rafiq Tarar, the new president was a close friend of the Sharif family while the Supreme Court, under a new chief justice, was content to tread with caution. On May 28, 1998, Pakistan responded to the Indian tests with five tests at Chagai. Muhammad Arshad a young man, who had designed the trigger mechanism and therefore had been selected for this job, pushed the button. Within thirty second, the black granite of the RasKoh Hills at Chagai turned white as a result of the tremendous heat of the explosion. Pakistan had matched the Indian five to five. "Today we have settled a score" declared Prime Minister Nawaz Sharif. (Nawaz, 2008)

The relation between the Prime Minister and the COAS General Pervez Musharraf became tense on Kargil issue. The Prime minister was in the search of new person who could give him safety. The movement Musharraf got into action his plane was to sack Musharraf and appoints Lt; General Khwaja Ziauddin Director General of ISI and a few Kashmiri immigrant as the new army chief Ziauddin was to be the immediate beneficiary of the conspiracy as well as its most central cog. While flying somewhere over the bay of Bengal Musharraf lost his job at approximately on October 12, 1999. The same afternoon Pakistan television announced this extremely significant change on a routine manner and showed the new COAS, General Ziauddin and his new badges of rank, While Musharraf was on official visit to Sari Lanka.(Abbas, 2005) Meanwhile Nawaz Sharif had instructed aviation authority to not allow the plane carrying to land at Karachi airport and divert it elsewhere, though the plane was dangerously low on fuel as the pilot, due to the confusing messages from Karachi control tower, was circling the city. Soon the army took over the control tower and the plane landed at Karachi airport. The Musharraf that come out of the plane was the man in charge of Pakistan. As the Musharraf-Sharif thriller unfolded throughout the evening of October 12, 1999, through the early hours of the next day the people of Pakistan awaited the final outcome with baited breath. When finally it transpired that Musharraf had landed had safely and triumphed, and Nawaz Sharif and his government had finally been overthrown, people were relived. Indeed, every change of government in Pakistan since the very beginning had accompanied by applause by a majority of population, which was both an expression of disenchantment with the outgoing administration as it was that of hope for what the future may bring. Sadly, this hope was never positive. (Ibid)

Conclusion

The era 1988-99 is known as the decade of democracy in Pakistan after a long interval of dictatorship but unfortunately democracy did not flourish considerably. The decade was the worst in many respects: the performance of elected governments was so poor that there were eleven governments over the period. The economy in this era was in a shabby condition and economic sanctions were imposed on Pakistan several times.

Highly presidential powers of the president in the shape of 8th amendment played a great role in the dissolution of various governments. Corruption was also one of the causes in the destabilization of democracy because various governments were dissolved on the basis of corruption. Relations between the civilian governments and the army were deteriorated and this rift was so tensed that the latter intervened in politics in 1999 hence democracy once again faced with crisis.

Week 12: General Musaharraf

The Role of General Musharraf in Pakistan's Political Structure: A Critical Review

Introduction

In Pakistan, the military has directly controlled the region for many years. Despite this, the Times have saved most civilians in the past few years. After the rise of Pakistan, it posed a solid threat to Pakistan. For many years in Pakistan; the military has directly ruled the area. Nevertheless, in the past few years, the Times have spared most civilians. After the rise of Pakistan, it posed a severe challenge to Pakistan. In 1954 and then in 1958, with the implementation of Martial Law, General Ayub Khan, chief of the armed forces, Forces became a formal collaborator in the corridor of power. In 1969, 1977 and 1999, the military takeover procedure was again revised (Ahmad, 2013: 113-121). The support of world powers, particularly the U.S.A., was another explanation for military intervention in political affairs (Dahl, 1973: 6). Although their argument of supporting democracy, the military rulers in Pakistan have always supported them, from General Ayub to General Pervez Musharraf (Rahman, 2017). The Army's role in political affairs was also triggered by poor civil institutions, inept, inexperienced, and corrupt political leadership. Until now, it is also clear (Khokhar, 2016: 230). Civil society and other components of popular mobilization, along with state institutions, have also remained poor because of a low literacy rate and a lack of political knowledge. In Pakistan, the military has developed its corporate interests. Consequently, it has become necessary for the military to maintain its involvement in political system for protection of its interests (Siddiq, 2007: 71). Keeping in mind above reasons of military's direct intervention and once got the military rule establish, no one can expect its complete separation from the system while giving it a civilian face. Consequently, the military must continue engaging in the political system in order to defend its interests (Siddiq, 2007: 71). Bearing in mind the above reasons for direct military involvement, no one would expect it to be totally removed from the system and give citizens a civilian face once military rules have been developed.

The military withdrawal from politics:

The army's withdrawal depends on multiple factors. Many situations in which military regimes can return or retain control with civilians have been caused by these factors (Finer, 2002). Therefore, the study of the policy of military withdrawal typically helps to understand the presence and degree of civilization through particular regimes (Maniruzzaman, 1987: 18). The principle components of military withdrawal legislative

issues are endogenous factors and exogenous factors. Endogenous factors are identified with the authoritative structure of the military, for example, its polished skill, aptitude, awareness of certain expectations and corporate nature (Huntington, 1957: 84). Exogenous factors are environmental factors that contribute to the removal of soldiers from the outside, influencing the military in this way. In national, regional or international climates, these factors occur (Danopoulos, 1984). Presume Civilian Law On 12 October 1999, with no brutal conflict, PM Nawaz Sharif's unexpected attempt to terminate the Army Chief in his absence allowed the military to assume control over the regular citizen government (Musharraf, 2006). This time, unlike previous interventions, it is a major cause of revolt. It is a conflict between Nawaz Sharif and the army, and a contest of political power between civilian and army leaders (Moskalenko, 2013: 370). General Musharraf placed emergency rule under PCO after taking over the control of Pakistan's Chief Executive, suspended the Constitution along with assemblies on 13 October 1999 (Mahmood, 2015: 247). On 17 October 1999, in his succinct address to the country, he announced a future programme for the restoration of democracy, the structure of a new government, good governance, economic growth, transparency, and the continuity of foreign policy. In addition, he said that for the saving of the country, the Constitution was temporarily suspended and the military had no intention of staying longer than the requisite need to pave the way for a true democracy. He outlined his seven-point agenda in his address, namely, restoring national confidence and morality. Federation strengthening; the end of inter-provincial instability and the restoration of national unity. Restoring the economy and restoring the confidence of investors. To uphold law and order and to have swift justice. Dismissing state institutions; exchanging power to the lower level; and ensuring rapid and detailed transparency (The Nation, October 18, 1999).

Plan for Decentralization

Under the presidency of General Tanveer Naqvi, General Musharraf set up a National Reconstruction Bureau (NRB) to decentralize the structure and divert powers. The NRB formulated a "Decentralization Plan" under which local governments were elected in a non-partisan manner from December 30, 2000 to July 5, 2001, and finally began operations on August 14, 2001 (Musharraf, 2006). Local authorities are interested, according to the 2001 Local Government Legislation. Tehsil District Government / Government of the Town and Government of the Union Council. In all regions, in the districts still heavily affected by the military, there is a model of neighborhood government. The agreement was not carried out by the Federally Administered Tribal Areas (FATA) (Shafqat, 2008: 262).

Accountability Process

Another move towards accountability and transparency has been taken by reorganizing the already functioning Ehtesab committee into the National Accountability Bureau (NAB). The NAB's mission is to investigate the corruption of officials, bureaucrats and businessmen under the auspices of General Amjad. However, after a while, General Amjad was asked to mitigate the fears of the Department of Finance, the Civil Service and other bodies. In October 2005, when General Amjad was not in compromise mode, he was replaced by General Shahid Aziz, who was advised to spare a few politicians before the next election. High-profile cases such as sugar prices, oil prices and their exchequer losses were once again taken up by NAB. Those cases were subsequently dropped under General Musharraf's direction. So, he had to give up on interference like that (Aziz S, 2012).

The 9/11 Case and its Consequences

As the events of 11 September 2001 changed the world's political scenario in the USA, it had a profound effect on Pakistan's and the region's policies. Pakistan immediately became an ally of the United States against terrorism, leaving the support of the Taliban regime (Ahmad, 2013: 313). Upon changing its policy, the US supported Pakistan's stability and strengthened Musharraf's position. The US also offered tremendous economic resources and neglected the nuclear programme of Pakistan (Talbot, 2012: 177). Pakistan has been without a legally legitimate government since then. The entire blame for the decision falls squarely on Musharraf. He thus lost his ability to challenge the Americans and acknowledged all their demands (Khan, 2009: 483). He then decided on the reversal of Afghanistan's stance, the exchange of intelligence, and the provision of logistical support as well as airbases for American military operations. On the other hand, these events provided an opportunity for Musharraf, with the financial and political help of the US government, to prolong his stay in power. His indefinite tenure, however, was at the cost of sovereignty and constitutional government. He will explain the next steps he took to understand society from this point of view (Mahmood, 2015: 248).

The Referendum

At the same time, a referendum to legalize his status and obtain a legitimate excuse for long-term residency was held on April 30, 2002. Critics and the government have estimated that the approval rate for Musharraf is between 5 percent and 97 percent. The Supreme Court has confirmed the referendum (Khan, 2009: 484). To some extent,

this effort to obtain legitimacy has created more problems. The 2002 referendum was the same in the Zia period as the manipulation in 1984. Musharraf apologized for the apparent intervention of his loyalists and officials after the findings were announced. A newspaper wrote: "The vote did indeed weaken the position of Musharraf" (The Dawn, May 2, 2002). The violations that occurred during the referendum also diminished the positive image that his reforms had created (Talbot, 2012: 183). Similarly, there was focus on certain public corruption. For instance, someone cast a lot of votes, employees were forced to vote, one person could vote at any polling station, and criticism was dismissed by the government and it was declared that the obvious legalization rules of Musharraf had been set (Ahmad, 2013: 319).

Legal Framework Order (LFO) 2002

It enacted the Legal Framework Order (LFO) of 2002 on August 21, 2002, which was approved by the Supreme Court with constitutional permission. The president, headed by the LFO, has the authority to dissolve parliament, appoint governors, commanders of the armed forces, and members of the National Security Council. Parliament's seats were raised to 342 and enabling Musharraf to proceed as President in uniform was the most relevant article of the LFO. On that point, in the 'Watan Party v. Chief Executive' case, the Supreme Court again disposed of the petition challenging LFO, stating that certain amendments should not be considered in the court in the coming parliament (Khan, 2009).

The 2002 General Elections

On October 10, 2002, the General Election was held. The elections and the 272 seats in the National Assembly of Pakistan were challenged by all political parties. The PML-Q emerged as the largest party winning 78 seats, which later rose to 118, including newcomers and reserved seats. The PPP won a total of 87 seats and the MMA won a total of 60 seats compared to the regular results of the last election, while the PML-N's performance remained weak. The average voter turnout was 40.69% (Khan, 2009: 490).

The Seventeenth Amendment Bill

The Seventeenth Amendment Bill was adopted by the National Assembly on 29 December 2003 and the Senate on 30 December, with some modifications to the LFO, and was eventually approved by the President on 31 December 2003, with the opposition boycotting each time. The amendment served the same purpose as an alternative to the 8th amendment. Its approval showed that civil institutions were still

weak and submissive to the military's control. Following the approval of the Seventeenth Amendment, on 1 January 2004, Musharraf went ahead with the legalisation of his position by a vote of confidence by Parliament and all Provincial Assemblies. As a result, he won 53 percent of the Electoral College votes (658 out of 1170 votes) (Khan, 2009). Opposition protests, on the other hand, were so widespread in parliament that when Pervez Musharraf addressed a joint sitting of parliament on January 17, 2004, protests by opposition parties erupted at tables (The Dawn, 18 January 2004). Afterwards National Security Council (NSC) Act was approved on 19th April 2004. The National Security Council (NSC) Act was subsequently approved on 19th April 2004. As normal, at the voting stage of the Bill, the opposition boycotted while MMA abstained from voting. Musharraf took the MMA response as a breach of pledge that was later used as an excuse to evade his engagement until December 2004 to leave the military post (Kronstadt, 2004: 13).

Elections by local authorities in 2005

Preparations for the election of local bodies started in August 2004. The government declared that the election would be held on a non-party basis similar to prior practise, but the official position of the non-party principle was not fully followed. It was noticed that during the election campaign, flags, banners and party symbols were used extensively. The particular identification of the party relations was obvious as the PML (Q) endorsed candidates used the common name of 'enlightened moderates' for themselves; the 'friend of the people' was the PPP candidate label; 'real' for MMA; and 'friend of the homeland' for the PML (N) candidates. The ministers and parliamentarians whose party affiliations were apparent during the campaign announced development schemes in order to gain mass favour for specific candidates. On August 18 and 25, 2005, the elections were held in two phases. Candidates supported by the PML (Q) won the leading spot, followed by the PPP. PML (N) and others had low results (Commonwealth, 2005: 09). In the aftermath of the popular outcome of the 2005 local elections, the government gained ample confidence to win the next parliamentary elections and to regain power for the next term. For the pro-Musharraf administration, everything would have been fair if it had not addressed the question of the presidential election. Given the opposition, the government agreed that the presidential election would be held according to the constitutional time frame by the current legislatures (Moskalenko & Nikolaevich, 2013). It is also noteworthy that during the Musharraf era where the judiciary was in power. As a supporter of the government, this was the first time he had disagreed with it military government's decision in Pakistan Steel Mill Corporation (PSMC) case (PLD, 2006: SC 697). Abuse, suicide bombings and sectarian clashes have been on the rise. Militants have begun attacks against high-profile targets.

They attempted more than once to kill Pervez Musharraf, and they even tried to assassinate the prime minister and top military officials. Many scandals, such as sugar hoarding, oil scandals and stock market crashes, also started to emerge one by one. An investigation against the prominent defendants could not be requested. In addition to these, there were other security-related concerns that began to gradually affect the pace of the process of civilianization (Ahmad, 2013).

Conclusion

In reality, however, institutions operated with the aid of military support rather than the support of people. All these civilian institutions were only permissible as long as they were submissive to the military dictator, and as long as they embraced the military government, all kinds of civilian participation were acceptable. Under his leadership, the process of civilianization was introduced in the form of a paradigm of power sharing at the detriment of real democratic institutions. On extensive analysis and deep insight into different measures taken in the direction of civilianization and changes implemented for good governance and open transparency, several other motivations appeared contradictory to his apparent high statements that were bundled in attractive phrases. Despite starting the civilianization process, it was not possible for civil institutions and the democratic process to achieve too much power to support it.

Week 13:
Constitutional
Development

Democratic Political Development: A Case Study of Pakistan 2008-2013

Introduction

Dynamic character of the political institutions, stakeholders, judiciary, media and public participation are elaborated through the explanatory approach. The study is divided into four sections. The first section includes the government of Pakistan Peoples' Party Parliamentary (PPPP) established the central government in 2008. Specific political activities of this period reveal political development. The second section comprises two subsections. The first subsection deals with political activities that occurred during Zardari Regime. The next concerns the positive performance of different institutions which helped political development. The third section deals with the initial period of Nawaz Sharif who established his government after the Elections 2013. The fourth and the last section indicate many democratic political norms that could not be adopted and were indexed as demerits of the government.

The 'Political Development' has not any common definition and it is a controversial concept among political scholars (Smith, 2013, p. 50). Similarly, political participation and consumption/ production of goods have also been considered as a standard to evaluate political development (Schnaiberg, 1997). Eventually, democratic development was set as a reliable standard for this concern since the 1980s (Carothers, 1993, p. 223). Civil or military dictators in third world countries have been interfering with political matters. So, Pakistan has no exception as being a member of this class (Shah, The Army and Democracy, 2014). Military dictators ruled over Pakistan for about 35 years out of 60 years till 2008. In turn, democratic political norms could not be promoted. Lower literacy rates and poor economic conditions hindered proper political participation. (Fair, 2005, pp. 101-132). So, democratic development in Pakistan is considered as the political development in this paper.

Initial Indicators of Democracy

Taking off military uniform by Musharraf was an initiative towards a new democratic political era which pleased the people of the country who hardly like a continuation of any specific regime for a long time (Bhasin, 2007, p. 368). Even they had welcomed military coups which ended elected governments as governments of Bhutto, Nawaz Sharif etc. The end of Musharraf Regime was also welcomed due to two reasons. The first was popular opinion against military rule and the second was the end of the long

political era. However, this juncture was also very important in the political and social history of Pakistan as it caused the initiation of the democratic political period once again.

The Elections 2008 had no serious allegation of rigging. So, the political parties were satisfied generally to the results contradicted to the previous routine of dissatisfaction (Naqvi, 2010). The previous governments had been usually blamed for election rigging as the elections held in Ayub, Bhutto, Zia and Nawaz regimes. It was an important event of democratic development that the ruling political party, Pakistan Muslim League Quaid-e-Azam (PMLQ) lost the elections despite military support. It achieved only 54 seats in the National Assembly out of 272 (Agency, 2010). It was also a bolster proof of fair elections that satisfied the people to a large extent. Pakistan Peoples' Party (PPP) participated in the election process in the name of Pakistan Peoples' Party Parliamentary (PPPP) and became the largest party after winning 119 out of 342 seats in the National Assembly.

Opposition parties had participated in the elections through the promulgation of the National Reconciliation Order (NRO) released by President Musharraf, the constitutional head of the state. Though, this order is being criticized still by politicians and media houses even after a long time of its promulgation (Malik, 2008, p. 158). Yet, it helped to initiate a new political era that consolidated democratic norms. It was NRO by which the opposition could participate in the elections and defeated PML (Q), the ruling party. Contrary to that the smooth elections couldn't be conducted. PML (Q)'s defeat was a serious challenge for Musharraf regime. It reveals the defeat of dictatorship and the development of the democratic process in the country.

The political situation became complex after the elections because no party had secured the required majority to establish the government. The PPPP though was the majority party but it could not establish the government solely (Bradnock, 2015, p. 117). However, the political parties, deeply excited to initiate a new democratic political era after nine years of a dictatorship allied to defeat undemocratic forces. It proved helpful to defeat military supported PML (Q) and to abolish the military rule. Yousef Raza Gilani, the PPPP leader was elected the Prime Minister by securing 264 votes with compare to only 42 votes in favor of his rival Pervez Elahi supported by Musharraf. This election against the will of the dictatorship regime was a positive change (USA, 2008, p. 13). It was for the first time in the political history of the country that the opposition parties defeated the dictatorship regime and established a coalition government. It had also positive effects on the future politics of the country.

General Musharraf who had already taken off military uniform resigned from the office of the President (Oldenburg, 2010).The Electoral College for the election of the head of the state, comprising of the National Assembly and the four Provincial Assemblies, elected Asif Ali Zardari as the President in 2008. It was the major change in the national political phenomenon. Musharraf's retirement and the election of Asif Ali Zardari were two important issues which strengthened democratic political development. These events ended the dictatorship regime on the one hand and caused the appointment of the civilian President on the other hand. Zardari's appointment as the President astonished the analysts as he had suspicious political records based on corruption allegations. He had also been imprisoned for several years and was known as Mr. 10% due to receiving a commission in government contracts during his wife Benazir's Government (James, 2011, p. 103; Dawn, 2013).The opposition accepted him as the President intending to develop democracy and to escape dictatorship. It also promoted political tolerance, a political alliance against the dictatorship regime and procedure for appointment of the President in a democratic way.

Activated State and Non-State Actors

The PPPP established a political alliance with other political parties to achieve a required majority for the establishment of the government as the Pakistani parliamentary system offers the majority party to establish the government, make laws and run the governmental institutions (Mahmood, 2001). The government depended on political coalition throughout the five years. However, different political parties joined this alliance on different occasions. It was for the first time in the political history of the country that about entire political parties performed as the government as well as opposition in central or some provincial government. It is rightly stated that the government always succeeded to achieve the political support of some party whenever it required. The political system well performed in this way which otherwise could hardly continue. Pakistan Muslim League Nawaz (PMLN), the largest opposition party supported the government during its initial period to strengthen democracy (Shah, 2014; Shah, 2016; Graf & Wurm, 2013). Different other major political parties as Muttahida Quami Movement (MQM), Awami National Party (ANP), and Pakistan Muslim League Quaid-e-Azam (PMLQ) also joined this coalition. It was the political insight of the government that it included almost all the entire major opposition parties into the government to run the system smoothly. It performed not only to establish and maintain the democratic government but also to continue parliamentary functions. Though these events were a revolt against the previous dictatorship regime yet also helped to promote democratic development.

Though functions of the parliament were not satisfactory in the initial period of this regime yet later its performance improved and it restored the original Constitution 1973, distorted by the previous dictatorship regimes of Zia and Musharraf, through amendments (Hasnat, 2011; Naqvi, 2010; Burki, 2011). The parliament made a record in law-making. The Prime Minister continuously joined sessions of the National Assembly as leader of the house which proved a positive impact on the democratic system of the country. It also granted extra powers to the provinces which ultimately strengthened national integrity. So, the minorities were more satisfied than that of the previous dictatorship regime. The dissatisfaction of the people of Balochistan and turmoil in this province, majorly raised due to the murder of Nawab Bugti during Musharraf regime, began to decrease (Hasnat, 2011, p. 112). So, the overall position of its work remained better. It became possible with the help of political allies (Gul, 2012). The governing party could hardly make laws solely due to the absence of the required majority for this purpose. The aligned political parties supported the government to continue democracy and to avoid dictatorship. Though these parties had their interests also but the government couldn't ignore them as it could not perform without their political support.

Independent judiciary is essential to maintain the rule of law and political development (Tremblay, 1997, pp. 137-148). But Montesquieu's concept of separation of powers could not be promulgated contradicted its popularity in the US. The judiciary was always interfered with by the executive of the country contradicted the spirit of the Constitution 1973 (Neudorf, 2017). On November 3, 2007 emergency was imposed by General Musharraf as head of the state (Streib, 2008). But it proved as the pole star in favor of the movement for judicial independence. The lawyer associations launched the movement for restoration of the judges and its restoration empowered the rule of law (Kennedy, 2012). The restoration of the sacked Judges enhanced its independence and it began to perform more independently (Neudorf, 2017; Jalalzai, 2012; Brass, 2010). Many judicial verdicts proved very effective to decrease the dictatorial behavior of various state institutions as bureaucracy and military.

The judiciary attempted to maintain the rule of law which had been ignored since the establishment of the country by the elite class and pressure groups. Many bureaucrats faced judicial verdicts that contradicted their interests (Bashir & Crews; Devji, 2012, p. 153). They were tried and punished through procedural law. On the other side, the judiciary restored many dismissed officers due to negating illegal orders of the government. Yousef Raza Gilani, the then Prime Minister, was disqualified by the apex judiciary due to contempt of court and he deprived his office of the back dates (Perumal, 2013). It reveals the independent status of the judiciary and an indicator of separation of powers. The judiciary also protected national assets by maintaining checks and

balances against the denationalization process for the public institutions. In this concern, many retired and in-service bureaucrats were called in questions. For instance, Federal Investigation Agency (FIA) arrested Tauqeer Sadiq, the former chairman of a national institution along with other high profile officers against allegations of illegal sale and purchase of medicines (Correspondent, 2016). The apex judiciary took many suo moto actions concerning national issues and fundamental rights (Neudorf, 2017). It forced the empowered institutions and elites to surrender in front of rule of law and maintained its writ as it is empowered to take action against violation of human rights (The Constitution, 1973). So, judicial activism brought about a great change in the political, economic and social concerns and it was appreciated by the civil society as it occurred for the first time in the political history of the country.

The role of private electronic media is also important to establish public opinion during this era. Previously, the people were informed by only two institutions, radio and television managed by the government (Hashmi, 2015). Press rules were also not so smooth and the newspapers were often threatened and restricted. In 2002, electronic media began to expand and many new media houses were established (PEMRA, 2002). It opened a new way of criticism which caused the establishment of healthy public opinion and political participation was improved (Britain & Foreign and Commonwealth Office, 2011). The politicians, ministers, opposition leaders, technocrats, analysts and social workers were invited to explore different issues of national importance. So, during the study era media became more independent and it attempted to form public opinion and the people realized that the king is not itself law but the law is king (Jethro, 2005, p. 436). The media was established and functionalized on such a large scale for the first time so it could not play a proper role. However, it severely criticized government performance, policies and, institutional functions.

Contradicted to the previous routine, the opposition played a changing role and cooperated with the government to maintain and develop a democratic political system. The political history of the country shows that the powerful governments of empowered rulers as General Ayub, Z.A. Bhutto, and General Musharraf faced powerful opposition. The politics of riots, violence, and long march had also been a tradition. But 2008-2013 saw the constructive role of opposition. The major opposition party PMLN performed a cooperative opposition during this era (Shah, 2014). Even it participated in the government as a coalition partner for a long time in the name of strengthening the democratic system. The major opposition was so deeply joined with the government that it was named as 'B' team of government by the parties which wished to abolish this coalition and to start political riots as usual. They also invited the military to dismiss it by the declaration of a state of emergency or military coup. So, the major opposition performed a positive role to improve political development and the parliament

completed five years of legal term successfully by two Prime Ministers (Grand, 2014). Completion of the constitutional term and the improved role of the opposition reveal a major change in the political system of Pakistan for the first time.

Bureaucratic political interference had been a deep-rooted tradition in Pakistan since British rule in India (Bano, 2012, pp. 42-65). It was challenged for the first time in this period. The Military performed as a professional institution contrary to the previous practice. The changing political and social phenomenon encouraged people to participate in political activities. The people started to consider their proper political role and realized their political importance to transform the political system and political participation was exhilarated.

Towards a Neo-Transformation

The certain indicators during Musharraf Regime (1999-2008) reveal the initiation of political development. For instance the establishment of private electronic media, stable condition of the economy, the extended graph of goods consumption, and political participation in the last year (Musharraf, 2008). But it cannot be considered as political development as it did for specific intention under the military influence. However, the real flow of political development initiated at the end of Musharraf regime and with the initiation of the PPPP democratic government in 2008 (Mahmood, 2001).

The procedure for the establishment of the caretaker government has revealed by the Constitution 1973. But, no elected government completed its five years constitutional term because they were dismissed before completion of this period. The first Legislative Assembly was dismissed in 1955 (Binder, 1963). The governments of Zulfikar Ali Bhutto and Muhammad Khan Jonejo were affected by this arbitrary routine also. Similarly, Benazir Government was dismissed in 1990 and 1996 and Nawaz Sharif Government was also dismissed two times in 1993 and 1999 (Waseem, 2012). All it did unexpectedly in the history of the country. But, the parliament elected in 2008 completed its term till 2013 and the provisional government was established to perform routine matters (Grand, 2014). It was for the first time that the opposition was granted the right to consult for the establishment of the caretaker government. The Parliamentary Committee included the government and the opposition members, and the Election Commission of Pakistan (ECP) played a great role for this purpose. Completion of constitutional term of five years for the first time of an elected parliament and the establishment of a caretaker government with the consultation of the opposition transparently and peacefully was an important change for political development (IBP, Inc, 2012). This procedure abolished arbitrary practice for dismissal of the government.

The Elections 2013 was criticized by the politicians due to rigging allegations but PPP, the then ruling party was seriously affected and it lost the election (Ullah, 2013). The defeat of the party was expected as the pre-election surveys had forecasted and PML (N) became the major party by winning 166 seats of the National Assembly out of 272. This number was increased to 189 with the inclusion of special seats (Bradnock, 2015; NA, 2017). The election results were not in favor of the ruling party as it could not maintain its number in the parliament. It reveals that the elections were not interfered with by the government and they were free, fair and transparent.

Transfer of powers after the Elections 2013 was a serious challenge because no party had secured a two-thirds majority in the National Assembly. PML (N) was the majority party by winning 189 seats out of 342. PPP, PTI, MQM, JUI (F), PML (F), and JI were other major parties respectively (NA, 2017). The major parties in the Provincial Assemblies were PML (N) in Punjab, PPP in Sind, PTI in Khaibar Pakhtoon Khawa (KPK), and National Party (Pakistan) in Baluchistan. The entire winning parties participated in the coalition governments in the provinces and the center. It was a good sign for political development and helped to establish stable governments. PTI established the government in KPK in coalition with National Party Pakistan (NPP) and turn NPP to establish the Baluchistan Government in coalition with PTI (Idrees, 2016, p. 270; Samad, 2015). It was expected that the small parties might disturb the major parties by establishing a political alliance against them. But they set a good trend in the national politics and negated to ignore their mandate.

Powers were transferred properly and peacefully to newly elected representatives and Nawaz Sharif became the Prime Minister (Hayes, 2014). In the beginning, no party objected to the election results. Whereas, the losing parties used to protest and hardly accepted the results in history. For instance, the losing parties protested against election results conducted during General Ayub, Zia and Bhutto regimes. It was based on protest against unsatisfactory election results that Bengal, the largest province of the country was parted from the country (Zaheer, 1997). However, some parties as PTI and PPP had reservations against election results but they also favored the government to strengthen the democratic system. Later, PTI launched an effective movement against the election results but it failed as the bench of the Supreme Court headed by the Chief Justice released verdict against it.

Conclusion

These facts reveal that transfer of powers was assured peaceful and various positive democratic norms were adopted during this era. Due to the continuation of the mentioned norms of democratic development, Pakistan became an important

democratic country as it is going to become the fifth major country in the world. Similarly, the opposition parties had been continuously forecasting for the dissolution of the parliament but they could not succeed. So, continuous failure of forecasts strengthened the political system. Conclusively, the above mentioned steps for democratic development proved the initiative to the positive change. The effects of this change were also felt during the following five years Nawaz regime in which judiciary had become independent, the political parties expressed mature behavior, the role of the military was professional and the Prime Minister faced trial under Panama leaks along with many others. Although, in the election of 2013, the opposition was unsatisfied with the results and alleged pre-poll rigging and engineered results in favor of PML (N). But it also favored the sustainability of the democratic system.

Week 14: The Future of Pakistan

Pakistan at 75: Learning from history to chart a better future

As it celebrates seventy-five years of independence, Pakistan today “requires a change in political thinking across the political class,” especially if the country is to chart a better future towards a hundred years of independence, says historian and author Dr. Ilhan Niaz. The alternative, he warns, may result in the “liquidation of the country” from which the elite political class draws their resources and identity.

Dr. Ilhan Niaz, chair of the history department at Quaid-i-Azam University and author of *The State During the British Raj: Imperial Governance in South Asia 1700-1947* has extensive experience studying the long history of South Asia and the legacy of the British Raj on the Indian subcontinent.

In this interview with Uzair Younus, Director of the South Asia Center’s Pakistan Initiative, Niaz discusses the role of the political class and Pakistan’s long historical trajectory into what he denotes a “decaying orbit.” He showcases that the crisis in Pakistan is fundamentally a crisis of identity—in terms of modernity versus Islam and democracy versus authoritarianism.

Here are some key takeaways from the interview:

The struggle between modernity and religion

According to Niaz, the struggle for Pakistan and the creation of a separate Muslim homeland is rooted in a modernist discourse that argued Muslims failed to keep up with the knowledge, science, military arts, and the ideological and political developments that had swept through the western world.

However, after independence, he notes, the struggle for “Muslim modernism” as an approach to governance and organizing society withered away at an intellectual, administrative, social, and economic level.

As such, Niaz argues that the history of Pakistan since 1947 is “an amalgam of a kind of regression towards primordial identities” that attempts to pack together elements of modernity in a religious discourse. Ultimately, “this crisis of our world view,” he notes, is the source of many of Pakistan’s problems since 1947.

Pakistan's great tragedy

Throughout Pakistan's history there have been many key inflection points that shaped its trajectory. According to Niaz, this led Pakistan to a situation where even though Pakistani leaders have been well advised by their advisors or civil servants, the short-term goals of the political class—which consists of politicians, judges, military officers, and bureaucrats—have led to “unwise decisions” that continue to overshadow and overpower decisions that would have been better for the country in the long-term.

Ultimately, he argues, this is “Pakistan's great tragedy.” The current trajectory was avoidable, especially considering that countries which started off in a worse position than Pakistan—and “inherited far worse from their colonial masters”—have done much better.

Military bureaucracy: A legacy of British colonial rule

The dominance of military elites in Pakistan did not start with colonial rule, but rather goes back to the Mughal empire and other smaller and less successful kingdoms. However, Pakistan did disproportionately inherit a large military class from the British.

This military class in Punjab and partly in Khyber Pakhtunkhwa, Niaz adds, remains a “very strong source of support not only for military rule, but also for other types of authoritarian tendencies and experiments” that civilian leaders have opted for from time to time. In this regard, he argues that while the “authoritarian constituency” as a social group was something Pakistan inherited from the British, authoritarian tendencies in the region go back hundreds of years.

The situation today is as grim as it seems

While elite Pakistanis would like to believe that the country's current situation is not as bad as it seems, that Pakistan has survived much worse, and that it will come out “alright” on the other side, Niaz showcases that this view is highly limited and flawed.

He argues that Pakistan survived Partition, the mass migration, and war with India over Kashmir because those crises were met with effective responses. The idea that Pakistan was “alright” after the 1971 crisis with East Pakistan is simply unimaginable. The impact of that loss left a chronic set of political, economic, and administrative problems that Pakistan continues to tackle to today.

Ultimately it is essential to realize that while there is no doubt Pakistan deserves credit for having staggered through seventy-five years, “Pakistan is running out of countries to fall behind,” says Niaz.

Jinnah’s vision for Pakistan’s governance structure

Muhammad Ali Jinnah, Pakistan’s founder and first governor-general, envisioned Pakistan as a parliamentary democracy with a relatively strong central government that would implement reforms necessary to modernize the country.

Pakistan, Niaz adds, has “paid an enormous price” for its continued attempts to tamper with the basic understanding of a parliamentary democracy. He argues that this debate surrounding Pakistan’s governance structure has produced a “very toxic political competition” where political elites spend the majority of their time with “unconstructive political conflicts” while the rest of the population, and their needs, remain neglected.

Silver linings and hope for the future

Looking back on the past seventy-five years, one source of pride and inspiration is Pakistan becoming a nuclear power. According to Niaz, the nuclear program gave Pakistan “a strategic weight” which continues to go well beyond what the country’s economic indicators otherwise merit.

Regarding hope for the future, he contends that it lies with the youth. Whether it is the athletes that succeed without any government support or students in universities, the youth of Pakistan is no longer waiting for the government’s support to make things better in the country. And, this desire of the people is perhaps why Pakistan continues to function and, to some extent, have any social and economic stability.

Pakistan: 75 Beleaguered Years (by Tahir Kamran)

Pakistan, in the words of its founding father Muhammad Ali Jinnah, would herald a modern, pluralist, Islamic nation-state. In this overarching post, Tahir Kamran argues that Jinnah's untimely death in 1948, soon after the birth of Pakistan, led to the country passing into the hands of interest groups whose ultimate actions have defeated the original 'idea' of Pakistan.

Pakistan was realised as a polity on 14/15 August 1947 as a nation-state, underpinned by an ideology embedded in pan-Islamism. The latter part of this assertion is redolent with contradiction; in fact, every concept or its subsequent realisation in Pakistan is characterised by contradictions.

Khalid bin Sayeed, in the opening sentence of his *Politics in Pakistan: The Nature and Direction of Change*, describes the creation of Pakistan as an 'aberration from the norm'. But that was Pakistan's uniqueness. Generally, nation-states exist in contradistinction to unilateralism drawn from universal ideologies like pan-Islamism. The Muslim leadership striving for Pakistan validated its claim for a separate state by foregrounding the category of 'Muslim' as universal. Thus, the conceptualisation of a nation-state such as 'Pakistan' drawing its *raison d'être* from religion with universal appeal turned it into a contradiction in terms.

Pakistan has two forefathers: (Allama) Muhammad Iqbal (1877–1938) and Quaid-i Azam Muhammad Ali Jinnah (1876–1948), the former ideological, the latter political. Iqbal propounded an ideology extracted from Islam, and Jinnah helped to transpire it into a nation-state. Apparently, this analysis seems to suggest Pakistan as too quixotic a political idea to be sustainable for long.

But I think quite the otherwise. Such a configuration (constituted of contradictions or, in Hegel's terms, 'unity of opposites') sets in motion a process of dialogue of ideas culminating in a new synthesis. Therefore, the evolution continues. Any socio-political formation like Pakistan containing contradictory currents (cultural, ethnic, sectarian or linguistic) is likely to be equipped with greater potential to evolve into a plural socio-cultural space with a powerful ethos. That socio-cultural synthesis can only be brought about by an effective leadership. That is what Jinnah said in his address to the Constituent Assembly in Karachi on 11 August 1947:

[I]n course of time all these angularities of the majority and minority communities, the Hindu community, and the Muslim community, because even as regards Muslims you have Pathans, Punjabis, Shias, Sunnis and so on, and among the Hindus you have Brahmins, Vaishnavas, Khattris, also Bengalis, Madrasis and so on, will vanish You are free; you are free to go to your temples, you are free to go to your mosques or to any other place or worship in this State of Pakistan. You may belong to any religion or caste or creed, that has nothing to do with the business of the State.

Jinnah wanted a social plurality to manifest in Pakistan by allowing the disparate sections and groups to forge a nation with a cosmopolitan outlook. However, his demise derailed the whole process that could have built Pakistan on inclusive and plural foundations. The reins of power fell into the military–bureaucratic oligarchy, with a palpable tilt towards the United States. The process of Constitution-making slowed down, and the erosion of democratic institutions stymied the state’s bid to acquire a representative character. Consequently, with a coterie of non-representative and self-serving individuals in control of a diverse country like Pakistan, any effective arbitration between disparate cultural, religious or sectarian groups became a virtually impossible proposition. Socio-political synthesis came to a halt, instead unleashing forces of exclusion. Despite catastrophic ramifications, the military–bureaucratic clique (nowadays referred to as the ‘establishment’) kept wielding overarching power, and the civilian/elected representatives were allowed increasingly limited spaces to function. The absence of any attempt by the state to be inclusive and representative meant that the customary options of mediation and negotiation to address socio-cultural differences were not adopted. Coercive (and exclusionary) mechanisms began to be used without giving any consideration to their consequences. As such, epithets like ghadar (traitor), kafir (infidel) and Fasiq-o Fajir (sinner and impious) began to be used commonly towards detractors or minority groups.

From 1949, the passage of Objectives Resolution and the establishment of the Majlis-i Tahaffuz-i Khatam-i Nabuwwat (MTKN; ‘Organisation to Defend the Finality of Prophethood’) initiated the process of exclusion that became a defining feature of Pakistani polity. An anti-Ahmadi movement launched by clerics associated with MTKN in 1953, calling for their exclusion from the fold of Islam. While these demands of MTKN were not acceded to, political instability wrought by this movement resulted in the fall of the government of Khwaja Nazim-ud Din as well as the provincial Punjab government led by Mumtaz Daultana.

That MTKN movement was temporarily suppressed but it re-emerged after almost 20 years. In 1974, the MTKN bounced back with such severity that Zulfikar Ali Bhutto's government eventually gave in, and Ahmadis were declared non-Muslims by the elected Parliament (via the Second Amendment) because Bhutto could not resolve the issue through dialogue. Despite his gift of the gab, the clerics triumphed. That opened the door for yet other exclusions, that of Shias, to which I will return below.

Exclusion was not confined to casting out religious minorities only. Cultural and lingual specificities of different groups and factions were called into question too, orchestrated by the military–bureaucratic oligarchs. The Language Movement in the former East Bengal (East Pakistan from 1947) in the early 1950s is a case in point. Political injustice and travesties done in the realms of culture and language paved the way for the separation of East Pakistan (as Bangladesh) in December 1971. Bengalis, despite their majority, were denied their proportion of representation and the principle of parity was introduced. Bengali was given the status of a national language but only after agitations which resulted in loss of life. Centralised control, particularly of General Ayub Khan, proved to be anathema, whose strong-armed tactics and obvious bias against Bengalis became the foremost cause for their demand for separation. His successor, General Yahya Khan, resorted to extreme violence to suppress dissidents in East Pakistan, and that proved disastrous. The eastern part of the country was severed as a result.

With democratic institutions denied an opportunity to strike firm roots and attain maturity in Pakistan, political issues were settled through suppression rather than negotiation. Pakistan, despite 75 years of its existence, has failed to evolve to the level whereby it can resolve issues through dialogue, which should be cause for concern.

During General Zia-ul Haq's eleven years of draconian rule (1977–88) coercion and exclusion were institutionalised as a policy. The Hudood Ordinance was promulgated to limit the freedom of women, and the Zakat and Ushr Ordinance was enforced that drove a wedge between Shias and Sunnis. Shias protested against this arbitrary legislation, which they thought was undue interference in their religious practice. General Zia responded with orchestrating the establishment of 'Sipah-i Sahaba Pakistan' ('Guardians of the Prophet's Companions'), an anti-Shia militant group; blasphemy laws were used as an instrument of repression against minorities.

The year 1979 was a very important year: the USSR invaded Afghanistan, the revolution gained momentum (and eventual success) in Iran which mobilised Pakistan's Shia community, and Zia launched his Islamisation process in Pakistan. These developments cumulatively strengthened puritanical tendencies which went on to accord legitimacy

to gender and religious exclusion, and exclusion became a standard practice during the Zia years.

Zia-ul Haq died on 17 August 1988, leading the way for the rule of the 'troika' (with American oversight). The political theorist Mohammad Waseem (in his recently published *Political Conflict in Pakistan*) calls this period (1988–99) the 'establishmentarian' democracy:

The establishment — shorthand for the military – bureaucracy nexus — is a permanent feature of the way political parties define their goals and means. Thus, Pakistan is an 'establishmentarian' democracy. The rise and fall of political parties must be analysed with reference to the establishment, which has been responsible for dominating the political system, manipulating political parties, engineering elections, shaping the media and controlling all other manifestations of a free democratic order, while the illiberal hybrid regime model has become the conventional wisdom about countries such as Pakistan.

During these years, Pakistan had 6 Prime Ministers (with Benazir Bhutto and Nawaz Sharif having two terms) and 4 Chiefs of Armed Forces. The Army Chief became the strongest member of the troika whereas the elected Prime Minister became the weakest and most vulnerable. Therefore, no government could complete its full term. Dissolution of the elected Assembly was a recurrent feature; Zia's legacy reigned supreme. Horse-trading, corruption and jobbery became common as never before. Both contenders for the slot of the Prime Minister competed in the realm of corruption. Surrey Place and Mayfair flats in London were purchased by them in those days. In October 1999, this musical chair ended when General Pervez Musharraf deposed Nawaz Sharif, who tried to sack the former when he was coming back from an official visit to Sri Lanka. The Army top brass reacted strongly, and Sharif was ousted unceremoniously.

General Pervez Musharraf's tenure (1999–2008) was punctuated by religious militancy and sectarian antagonism. Events like 9/11 (in the US) and 7/7 (in the UK) did great damage to Pakistan's reputation on the global stage. Musharraf acquiesced to US pressure in its bid to launch a war on terror against the Taliban government in Afghanistan; this hurried agreement by Musharraf (to a threat posed by David Armitage, a US official who called Musharraf) had enduring repercussions on Pakistan. Thus, 9/11 became yet another incident that not only polarized the Pakistani polity but strengthened religious fundamentalism with its perilous socio-political fallout.

Like his preceding military rulers, Musharraf suffered a legitimacy deficit. Therefore, he had to compromise and aligned his interests with politicians of dubious reputation like Chaudhary Shujaat Hussain and Chaudhry Pervaiz Elahi.

The incident at the Red Mosque (2007) proved to be a turning-point that led to the emergence of militant organisations like Tehrik-i Taliban Pakistan and Lashkar-i Taiba, who unleashed a reign of terror from 2007–2018. Such outfits contributed significantly to further ripping apart Pakistan's social fabric; the gory upshot of this religious militancy was the assassination of Benazir Bhutto in December 2007. Earlier, the Baloch leader Akbar Bugti was also killed, leading to political instability in Baluchistan as he had a stature of considerable significance. Like dictators before him, Musharraf wore the garb of a messiah and thus attempted political re-engineering, paving the way for corrupt politicians to stage a comeback to Pakistan. Nawaz Sharif and Benazir Bhutto, who had been in exile, came back through the National Reconciliation Ordinance (NRO), at American behest. After a very strong reaction from the lawyers' community because of Musharraf's ill-thought-out method to oust Iftikhar Chaudhary, the Chief Justice of the Supreme Court, his fall became inevitable (even the imposition of an Emergency could not rescue him).

Civilian rule returned for almost a quarter century thereafter. President Asif Zardari (2008–2013) with two prime ministers (Nawaz Sharif (2013–17) and Shahid Khaqan Abbasi (2017–18)), and Imran Khan (2018–2022) came and went, mostly because the 'establishment' did not want any one of them to complete their tenure. The average tenure of all the governments was 3+ years; in fact, no government has completed its tenure since 1985. The real power emanated from the army, and the Chief of the Army pulled all the strings — from foreign policy, political alliances, and the nuclear program to running banks, utility stores, the National Logistics Cell and Defence Housing Societies. The Army also held its sway on the judiciary; as such, despite violating the Constitution with impunity, none of the Army Chiefs had ever been prosecuted. Osama bin Laden was found by the Americans in a hideout in Abbottabad when General Ashfaq Pervaiz Kayani was the Army Chief but he could not be quizzed because he was the Chief of the Army.

Pakistan under President Zardari experienced the worst possible state of chaos, with incidents like that of Raymond Davis (who killed three people in Lahore), the Salala incident (where several Pakistani troops were killed by Americans), and the Memogate scandal (where Zardari sought American help against his deposition orchestrated by Pakistan's army). An unending spate of suicide-bombings, drone attacks causing substantial collateral damage, soaring corruption and the dismal state of the economy

coupled with bad governance were the legacy of the government of the Pakistan Peoples Party under Asif Ali Zardari.

Things stabilised a bit when Nawaz Sharif returned to power in 2013. His government was working quite smooth with his brother Shehbaz Sharif keeping a firm hold on the Punjab, the biggest and most resourceful province. In 2016, General Raheel Sharif completed his term as Chief of the Army and Nawaz Sharif picked General Qamar Javed Bajwa as the new Army Chief who, as the events unfolded, seemed more interested in politics than the affairs of the army. He proved to be a conspirator, and corrupt, as his family members accumulated billions of rupees primarily from real estate. Apart from Bajwa assuming the impregnable slot, things went awry for Sharif when the Panama Papers scandal hit the house of the Sharifs. It dealt a lethal blow to their politics. Nawaz Sharif lost power and the elections in 2018, a defeat that he and his cronies blamed on General Qamar Javed Bajwa and Inter-Services Intelligence (ISI) Chief General Faiz Hameed. Sharif's daughter Maryam was particularly vociferous in condemning Faiz Hameed for his alleged role in the ousting of the Sharif family from power. Cricketing icon and known philanthropist Imran Khan was the 22nd Prime Minister of Pakistan, who assumed the reins of power in August 2018 when Pakistan's economy was in dire straits. A locust attack, the Covid pandemic, indifference of the USA and animosity with Narendra Modi-led India were big challenges for Khan to surmount. Against a hostile media, loud-mouthed opposition, an Army Chief prone to play double games, governing Pakistan was not a bed of roses for Khan. His foreign policy tilt was towards China which ostensibly became the prime reason for the 'establishment' and the ISI to stage-manage his ouster from power on 9 April 2022.

Ever since, Khan's popularity has soared, and he has not only become a pain in the neck for the current government of the Pakistan Democratic Alliance (an alliance of 13 political parties) and the 'establishment'. Even an attempt on his life (allegedly orchestrated by the ISI's Internal Wing), and more than 140 legal cases on mostly frivolous grounds have been concocted. Pakistan's economy is just inches away from disaster. In these circumstances, the immediate future of Pakistan in its 75th year does not hold much promise.

Pakistan at 100 years: What do we need to do for a better future?

In this series, the authors provide a brief summary of key recommendations of the report.

Explore the articles in the series below:

Shaping a brighter future for Pakistan

By: Illango Patchamuthu, World Bank Country Director for Pakistan

"In 28 years, Pakistan will turn 100 years old. The children born this year will be adults then. I wonder what they will see when they look around. Will they see a country teeming with opportunity? Or will they be in a country that does not offer enough jobs and does not provide the needed skills to compete?

Some of them may well be new parents at 28. Will they be able to look at their own children, and see a brighter future for them?

Pakistan has some important decisions to make if it wants to give its children the future they deserve."

For a prosperous Pakistan in 2047

By: Tazeen Fasih and Yoon (Yoonyoung) Cho, World Bank staff

"My parents' gardener has six children — all aged eight or younger. While his wife is busy taking care of the youngest ones, barely 15 months and two months old, he brings the other kids along with him so they don't wander in the streets.

As I look at the supposedly eight-year-old girl with a dupatta wrapped around her head, looking tiny, probably stunted, suddenly I realise how pervasive all the statistics Yoon and I have been working are — right there, staring at us in our face.

The 38 per cent stunting rate for the population, the fertility rate of 3.6 births per woman, the 22.6 million children out of school, the dismal learning outcomes for students, these are all here manifested in this family and its future."

Sustaining growth: The Investment challenge

By: Adnan Ashraf and Muhammad Waheed, World Bank staff

"Pakistan is not investing enough and its share of investment to GDP is one of the lowest in the world at 15 per cent, almost half of the South Asian average at 30pc. This translates into inadequate infrastructure, lack of access to sufficient levels of energy and water, poor quality of schools and hospitals.

More worryingly, private investment as a share of GDP has been declining and stands at less than 10pc in FY18. This low investment trap and declining labour productivity have reduced Pakistan's growth potential."

Nothing changes without structural transformation

By: Siddharth Sharma, World Bank staff

"An average Pakistani firm lacks the capabilities to take advantage of these opportunities. It is poorly managed and not innovative. It does not grow: the average young firm (less than five years old) has just one employee, and the average 15-year-old firm still has just two to three employees.

This could be due to market failures that impede innovation, the acquisition of skills and access to credit. Another underlying issue is the misallocation of resources, with factors such as political connectedness sometimes mattering more than productivity in determining firms' access to resources."

Pakistan has highest gender wage gap in world

By: Uzma Quresh, World Bank staff

"Pakistan stands near the bottom of women's participation in the workforce. This lack of participation is at the root of many of the demographic and economic constraints that Pakistan faces. It is in that context that the World Bank, in its Pakistan@100 initiative, has identified inclusive growth as one of the key factors to the country's successful transition to an upper-middle income country by 2047.

Pakistan's inclusive growth targets require women's participation in the workforce to rise from current 26 per cent to 45pc."

Elite capture of policymaking hobbles governance

By: Syed Rizwan Mahboob, consultant, and Raymond Muhula, World Bank staff

"Pakistan must deal with capture of the state by patronage interests. Inefficient subsidies provided to industrial players and lack of enforcement in tax collection as well as inability of the state to shepherd difficult but necessary reforms is a product of state capture. Elites influence public policy choices with significant consequences. Elite capture of various segments of the economy undermines the country's ability to sustain welfare enhancing policy decisions, tackle the problem of tax evasion, rein in loss making state-owned enterprises and improve public sector performance.

Fixing these problems will no doubt be a difficult task. All these challenges require balancing the desire for political stability while increasing accountability. Pakistan will need to be both an accountable democracy — where democratic leaders are held to account for their performance, for delivery and for corruption — and a strong one, where democratic leaders can do their job without constantly being on the defensive."

Pakistan progresses on poverty reduction — but what about equity?

By: Silvia Redaelli, World Bank staff

"Inequalities in poverty levels and poverty reduction performance are compounded by substantial inequalities in access to and quality of basic services such as health, education, electricity, water, and sanitation. Being born in one of the country's lagging areas and/or in a poor family largely predetermines a child's chances of escaping deprivation and realising his or her full human capital potential in life.

Can Pakistan afford inequality of opportunities? The answer is no: not only in terms of social justice and social cohesion, but also — as shown by international evidence — because economic development that is not inclusive is not sustainable."

Towards a clean and green Pakistan

By: Marcelo Acerbi and Philippe Ambrosi, World Bank staff

"Environmental degradation is not only threatening environmental sustainability, but also Pakistan's ability to tackle poverty, as well as its ability to generate a substantial share of its growth and employment.

Similarly, while Pakistan needs to think for the long term with regard to environmental sustainability, many of the actions it could take to control and reverse environmental degradation and adapt to climate change would have immediate benefits and be particularly helpful to the poorest, who are most vulnerable."

A regional counter narrative

By: Moeed Yusuf, United States Institute of Policy; Fei Deng, World Bank Staff. Both have worked on the Regional Connectivity chapter of the World Bank's Pak @100 report.

Pakistan alone cannot achieve the suggested transformation. Other regional states are equally responsible for moving the connectivity agenda forward. The good news is that every South Asian country stands to gain tremendously from improved connectivity. And this reality hasn't escaped the region's policy circles.