

M.Sc.
PAKISTAN STUDIES

READER
4667

POLITICAL & CONSTITUTIONAL DEVELOPMENT IN PAKISTAN-1

EDITED BY:
DR. AMANULLAH MEMON



DEPARTMENT OF PAKISTAN STUDIES, FACULTY OF SOCIAL SCIENCES & HUMANITIES
ALLAMA IQBAL OPEN UNIVERSITY, ISLAMABAD

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Reader
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PREFACE

The AIOU has undertaken the task of selection and provision of reading material to help Students through their course work. Curriculum design on the latest teaching and learning theories, selection of expert course team and provision of supplementary reading material, all combine to work a course successful and productive.

We hope that this reader will help in your learning process and reinforce whatever information you have about the subject.

24th July, 1997

(Dr. Anwar H. Siddiqui)
Vice-Chancellor

INTRODUCTION

OVER VIEW OF THE COURSE

This is three credit hour course containing 9 Units. Its subject matter is to critically evaluate the issues and events related to the political and constitutional development in Pakistan 1947-1971. Since it is an issue oriented subject, hence the course has been divided into following two phases.

1. **The Constitutional stalemate & Political crisis: (1947-1958)**

This phase deals with the crucial issues related to the constitution making as well as political crisis faced by the nation during the first decade of independence.

2. **From Material Law to Material Law: (1958-1971)**

Begins with Ayub Khan's Martial Law (1958) and concludes with the end of Yahya Khan's Martial Law (1971). Under the first Martial Law the 1956 Constitution was abrogated while the second Martial Law did away with the 1962 constitution.

COURSE DESCRIPTION

This course will focus on analyzing the relationship between the socio-political milieu and the process of constitution making in Pakistan. It is both painful and interesting to note that in Pakistan, making and breaking of constitution has become the norm rather than an exception. Why does this happen? To understand this, one needs to know who participated in the process of constitution making and who does not

In this course an attempt has been made to examine the issues and events which caused the constitutional crisis in Pakistan. The political history of Pakistan reveals that soon after the partition Pakistani leadership circumstantially decided to run the administration and political system of a newly emerged state under "the highly centralized constitutional system"¹ of 1935 Act as an interim constitution of Pakistan.

Pakistan got independence under the Independence Act of 1947. Which was the amended form of Indian Act of 1935. Under the Independence Act, a Constituent Assembly was formed to perform a dual role :

- * to frame a new constitution of the country
- * to act as a federal legislature for an interim period

The first Constituent assembly failed to achieve its primary role of constitution making. What were the causes of that failure? In this course the learners will find the answers to such questions. The historical facts reveal that there are several causes of the failure of the first Constituent assembly of Pakistan, such as :

- * Poor representative character of the Assembly
- * Meagre attendance of the legislators
- * Lack of consensus among the provinces on the issue of distribution of powers between the centre and provinces.²

Notwithstanding the above issues, there were several other equally crucial issues which caused the failure of Constituent assembly in order to frame the constitution.

On 24 October 1954, the then Governor General (G.G) Ghulam Muhammad dissolved the Constituent Assembly. This situation caused severe constitutional crisis. Consequently, the Speaker of the constituent Assembly, Molvi

Tamizuddin challenged G.G's decision in Sindh Chief Court and S.C.C. issued a verdict in favour of Molvi Tamizuddin. Soon the Federal Government made an appeal against the S.C.C's decision in the Federal Court. The superior court in its decision invalidated the S.C.C's verdict.

Such judicial decisions/references paved the way for establishment of second constituent assembly which was formed on May 28, 1955. This Constituent Assembly framed the first constitution of Pakistan, which was implemented on March 23, 1956.

Unfortunately, the first constitution of the country could not last for more than two years and seven months. In October 1958 the first Martial Law was imposed on the country and the 1956 constitution was abrogated. Consequently, first phase of political and constitutional crisis (1947-1958) concluded while, the second phase From Martial Law to Martial Law (1958-1971) began. The first four units of this course are devoted to the crucial political issues witnessed during the first phase (1947-1958). In these Units the issues like : **language problem, regional tension, Ahmadis issue, one unit scheme** are discussed at length. Further these units shed light on the **salient features of 1958 constitution.**

Units 5-6 deal with issues like : **the first Martial Law (1958), the 1962 Constitution, Basic Democracies System (B.D.System), political crisis of post 1965 period, and the fall of Ayub Khan.**

Ayub Khan ruled the country first as a dictator and later he introduced a system of 'guided democracy'. It is often said that he intended to "create a cadre of new leaders who should provide the basis for a new political system"³ but the facts reveal that it was just a facade, infact, the real power was vested with the "military commanders turned civilian leaders, bureau-

cracy"⁴ and the Generals in uniform. This dilemma prevented the political institutions to get strength. Ayub Khan gave the nation its second constitution, commonly known as 1962 Constitution. This constitution introduced the system of indirect elections for the office of the President.

Discussing Ayub Khan's socio-political policies an attempt has been made to analyze his policies of **B.D. System**, and **Land Reforms**. There is no doubt that Ayub Khan's development strategies boosted the country's economy but in consequence of his economic policies the country's capital was controlled mainly by the so-called 22 families of the western wing of the country. This unequal distribution of resources caused the regional inequality among the two wings of the country in particular and created socio-economical disparity among the citizens of Pakistan in general.

Ayub Khan quit the power after a mass movement against him. Hence, he handed over the power to Commander-in-Chief General Yahya Khan instead of the Speaker of National Assembly which was the prerequisite of 1962 Constitution, ironically, negating the Constitution introduced by nobody but himself.

Having assumed the power Yahya Khan abrogated the 1962 Constitution and imposed country wide Martial Law. During his tenure Yahya Khan took the following important political and administrative decisions :

- * abolition of one unit scheme and reconstruction of the former four provinces of West Pakistan
- * merger of Princely states of Swat, Dir and Chitral to West Pakistan.
- * issuance of Legal Framework Order (L.F.O) which provided the

guide lines for General elections and future constitution of the country.

Yahya Khan assumed power with the commitment to hold free and fair elections. He kept his promise and the elections were held on December 1970. Consequently Pakistan People Party and Awami League emerged as two major parties in West Pakistan and East Pakistan respectively. Mujiburrehman of Awami League got the mandate of Bengalis on the commitment to frame future constitution according to the Six Point Formula. While Mr. Bhutto, considered the Six Point Formula against the spirit of united Pakistan, hence he refused to accept the Six Point Formula as the base for future constitution. The West Pakistani leadership tried to convince Mujiburrehman to accept some amendments in Six Point Formula but in vain⁵. This situation led the country into a severe political crisis which culminated into the dismemberment of the country.

Unit 9, deals with the issues and events that led to the tragic incident of the dismemberment of Pakistan. In this unit efforts have been made to critically evaluate causes of the failure of the emergence nation state based on the Union of the eastern and western wings of Pakistan.

NOTES AND REFERENCES

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3. Hassan-Askari Rizvi, *The Military & Politics in Pakistan : 1947-86*, (Lahore : Progressive Publishers, 1986), p. 105
4. *Ibid.*, p. 112
5. *Ibid.*, p. 83. On the authority of Z.A. Bhutto, *The Great Tragedy*, (People's Party Publication), Karachi : 1971, pp. 21-26.

Phase One (1947-1958)***The Constitutional Stalemate and Political Crisis*****UNIT ONE****Contents****1.1 ADMINISTRATIVE AND
POLITICAL PROBLEMS**

Reading 1. The Emergence of Pakistan
(Ch. Muhammad Ali)

1.2. LANGUAGE PROBLEM

Reading 2 Political Parties in Pakistan:
1947-1958
(M. Rafiq Afzal)

Reading 3 Pakistan:
Failure in National Integration.
(Rounaq Jahan)

**PROBLEM
OF
STATE
BUILDING**

In this reading an attempt has been made to discuss the problems and issues faced by the government of Pakistan in its early years of independence. Having achieved the independence, Pakistani leadership realised that the toughest task ahead was to build a stable government. In this regard they faced the following problems:

- * The administrative problem.
- * The problem of factionalism.
- * Indian hostility:
 - Kashmir problems
 - Refugees problems
 - Problem of Canal water

As far as the issues of the political stability and constitution making are concerned, the Pakistani Leadership was forced to address the above mentioned problems on priority basis while the equally important issue of constitution development was taken a back.

Hope, this reading passage will help you to critically assess the political conditions of early days of Pakistan's independence. (*Compiler*)

READING - 1

(Excerpt from the Emergence of Pakistan by Chaudhry Muhammad Ali Published by Research Society of Pakistan, Lahore, 1988, pp. 356-364, 366-371).

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PHASE ONE (1947-1958) THE CONSTITUTIONAL STALEMATE AND POLITICAL CRISIS

1. PROBLEM OF STATE BUILDING

1.1. ADMINISTRATIVE AND POLITICAL PROBLEMS OF THE NEW STATE

The Biggest administrative problem facing Pakistan was the shortage of competent and experienced personnel in the central and provincial governments. There were serious deficiencies in the cadres of general administrators as well as in the technical services. The administrative set-up inherited from pre-partition days consisted of a number of classes: Superior and Class I Services filled the higher appointments; Class II were the junior executives; Class III, ministerial clerks; and Class IV, messengers and orderlies. The Indian Civil Service was the "steel frame" which empowered its administrators to maintain law and order, collect land revenue in the districts, and shape the government policies in the central and provincial secretariats. This was general service par excellence. Other services, such as the Indian Police Service, the Indian Audit and Accounts Service, and the Indian Service of Engineers, had specialized functions.

In Pakistan, the main structure of the services was preserved in tact, together with the existing conditions of service, in keeping with the promise made at the time of partition to those who opted for the service of Pakistan. But significant modifications were made to suit conditions in Pakistan.

The Indian Civil Service was divided into a number of provincial cadres. Each officer was assigned to one province or the other where he spent all his service except for possible deputation to the central government for

limited periods. The provincial cadres consisted, for the most part, of British officers; and since they had a fundamental unity of outlook, their allegiance to separate provinces did not affect the unity of the administrative structure in British India. With more than 15 major languages in India, it was in fact impossible for any British officer to master them all and thus be able to serve in any province of India.

With the establishment of Pakistan, the position was basically altered. The Civil Service of Pakistan, which replaced the Indian Civil Service, would now consist only of Pakistanis, and if they were to serve only in their own province, provincial loyalties might in the long run prevail over a national outlook. On my recommendation (in my capacity as Secretary-General) the central government decided to amalgamate the various provincial cadres into a single cadre that would meet the needs of the provinces and of the nation as a whole. An academy for the training of young civil service officers was set up at my instance. This was an innovation, for there had been no such institution for civil service probationers in pre-partition India. Every officer was required to learn both Urdu and Bengali; his training was to be conducted in both East and West Pakistan; and he was to divide the first ten years of his service equally between East and West Pakistan. By these means, an understanding of social and economic conditions in both wings of the country would be gained, friendships would be formed between East and West Pakistanis, and when, at a later stage in their careers, these officers would move to the central government, they would know the administrative problems of the whole country and be equipped to handle them. National unity would thus be forged through administrative integration. Partly to broaden the base of the Civil Service of Pakistan and partly to overcome shortages, a number of military officers and provincial service officers were appointed to it. This was also a departure from the previous rule, according to which officers of the provincial civil service could be appointed to a

specified list of posts, but could never be promoted to become member of the Indian Civil Service.

..... The demands for administrators, from the provinces and the various ministries of the central government, were far greater than the available supply of officers with requisite experience. And as new and grave problems, like refugee rehabilitation and Kashmir and canal waters, continued to arise, the task of finding men to deal with them became harder and harder. An equitable distribution was the best that could be attempted, but this was far from easy when every ministry and department clung desperately to the few competent officers it had. An administrative collapse any where would have been disastrous. It was my responsibility as Secretary-General to keep every front supplied as well as I could and to maintain its morale. Notwithstanding these pressures, the easy and unreal solution of making unduly rapid promotions was avoided. Even when promotion to a higher grade was made, the full pay of the appointment was not given until the officer had completed a specified number of years of service. These and other measures for maintaining administrative standards were on the whole accepted in good spirit by the officers who at that time were filled with a patriotic fervour to build up Pakistan.

..... In the provinces, the severest shortages in personnel were to be found in East Bengal. East Pakistan had, at the time of independence, only one officer in the Indian Civil Service, a few in the Indian Police, and fewer in the other Superior Services. The rest of the Muslim officers came partly from West Pakistan and partly from Muslim minority provinces. Though Muslims from the minority provinces of India had an equal right to move to East or to West Pakistan, most of them settled in West Pakistan and were readily accepted as part of the general population. Throughout the ages, West Pakistan has been the gateway of the subcontinent. People from

outside have poured into it and been absorbed into this melting-pot of races and cultures. East Pakistan being at the far eastern and has been more sheltered and consequently more insular. East Pakistan thus looked upon everyone-official or businessman-who came from areas outside Bengal as a West Pakistani, Officers from West Pakistan and from the minority provinces of India were lumped together in a single category.

Fundamentally, the imbalance between East and West Pakistan in the public services stemmed from the discrimination exercised against Muslims in undivided Bengal in every sphere, including education. Calcutta University was a closely guarded preserve of the Hindus. Hindu teachers dominated schools and colleges. Discrimination against Bengali Muslims so handicapped them that they could not compete successfully in all-India examinations for the Superior Services.

This state of affairs had to be remedied as rapidly as practicable so that East Pakistan could play an equal and effective part in the administration of the country. In the first competitive examination held by the Pakistan Public Service Commission for recruitment to the Superior Services, forty-odd candidates qualified from East Pakistan. Although we did not need so many, I recommended to the Prime Minister that all of them, including those who had barely qualified, should be appointed so as to redress the balance as rapidly as possible. Thus, in the very first recruitment of civil services candidates in Pakistan the number of East Pakistani officers was several times greater than at any time before partition. For future recruitment, the cabinet approved a plan whereby 20 percent would be taken on merit from the whole Pakistan, and 40 percent each from East and West Pakistan. The West Pakistan quota was further subdivided between various provinces so that the educationally backward provinces could secure their due share of appointments. The system worked to the disadvantage of candidates from

the Punjab, but was in the best national interest. The effects of this policy can only make themselves felt over a period of time; it is impossible to redress the neglect of a century in a few years. All this was well recognized. Yet, voices of discontent soon began to be raised against the preponderance of West Pakistan in the central government, and the entire blame for the existing imbalance was laid at the door of the central government. This unjust accusation was repeated endlessly until it became an article of faith with many in East Pakistan.

Another set of grievances arose from the posting of officers from other provinces to East Pakistan. There was a serious shortage of experienced officers in every province and in the central government. The overriding necessity of the time was to get the administration going. Since East Pakistani officers were not available, others had to be sent there to take care of the provincial administration and services under the control of the central government, such as railways and customs. Many of them had never been to East Pakistan before and were not familiar with the language, manners, and susceptibilities of the people. To the normal failings of bureaucratic behaviour was added, in some cases at least, an attitude of supercilious superiority. With tact and sympathetic understanding the strains and stresses of establishing a new administration could have been eased. But not everyone is blessed with these virtues. Soon grievances multiplied and some people went so far as to suggest that the behaviour of West Pakistan officers was the main cause of estrangement between East and West Pakistan. Though this is an exaggerated view, it has an element of truth in it.

The geographical separation of East and West Pakistan produced not only administrative but social, economic, and political problems as well. Distance made communication fitful and expensive. Misunderstanding arose easily and were difficult to dispel. Since the capital was in West Pakistan,

East Pakistan felt neglected. The differences in language and background put obstacles in the way of national integration. Within West Pakistan there were a number of provinces and states, and four linguistic regions. The powerful binding forces of Islam—a common ideology, a common history as a single community in the Indo-Pakistan subcontinent, a common struggle for independence from British rule and Hindu domination, a common fear of Hindu designs, and the instinctive sense of a common destiny—had created a state of unique structure. The foreigner might feel entitled to doubt if these forces would successfully withstand the strains and stresses inherent in that structure. The nation in the first flush of independence won by unity, faith and discipline felt certain of enduring as a single entity.

In a broadcast talk to the people of Australia, on February 19, 1948, the Quaid-i-Azam said:

West Pakistan is separated from East Pakistan by about a thousand miles of the territory of India. The first question a student from abroad should ask himself is - how can this be? How can there be unity of government between areas so widely separated? I can answer this question in one word. It is "faith"; faith in Almighty God, in ourselves and in our destiny.¹

A month later, he made an impassioned appeal for national consolidation. In a public speech in Dacca, East Pakistan, on March 21, 1948, he said:

Let me warn you in the clearest terms of the dangers that still face Pakistan and your province in particular as I have done already. Having failed to prevent the establishment of Pakistan, thwarted and frustrated by their failure, the enemies of Pakistan have now turned their attention to disrupt the State by creating a split amongst the Muslims of Pakistan. These attempts have taken the shape principally of encouraging provincialism. As long as you do not throw off this poison in our body politic, you will never be able to weld yourself, mould yourself, galvanise yourself into a real true nation.... Islam has taught us this, and I think you will agree with me that whatever else you may be and whatever you are, you are Muslim.

You belong to a nation now; you have now carved out a territory, vast territory, it is all yours it does not belong to a Punjabi or a Sindhi, or a Pathan, or a Bengali; it is yours. You have got your central government where several units are represented. Therefore, if you want to build up yourself into a nation, for God's sake give up this provincialism.³

One sees clearly here the struggle between two forces; one making for unity, the other for disruption. It was the task of practical statesmanship to forge instruments of unity in every sphere of social and political action. The effort would, in the very nature of things, have to be a continuing one.

The background to the Quaid-i-Azam's warning against provincialism was provided by the language controversy that raised its head in East Bengal only a few months after the establishment of Pakistan. In spite of failing health, the Quaid-i-Azam undertook an arduous journey to East Pakistan in March, 1948, to still the controversy. During the Pakistan Movement it had been universally accepted that Urdu would be the national language of Pakistan, and declarations to this effect had often been made. Urdu was the *lingua franca* of the Muslims of the subcontinent and the symbol of their unity. Differences between Muslims and Hindus over the language question have been noted earlier. These differences played a large part in shaping the demand for Pakistan. Urdu was not the mother tongue of the people in any of the provinces and states of Pakistan, East or West, but it enjoyed everywhere a unique position as the national language of the Muslims. It was never suggested that Urdu should replace any provincial language, least of all Bengali, which is a highly developed language with a fine literature.

The agitation against Urdu as the sole national language was started by a small group of politicians in East Pakistan, mainly to embarrass the Nazimuddin ministry; but it was soon taken up the students. The powerful

forge instruments of unity in every sphere of social and political action. The

Hindu press of Calcutta fanned the flames of the controversy. In February, 1948, when the Pakistan Constituent Assembly was considering its rules of procedure, Dharendra Nath Dutta, a member of the Congress party, moved an amendment that the proceeding of the Assembly should be kept not merely in Urdu and English but also in Bengali, and suggested that the language spoken by the majority of people should become the State Language. In a speech at the Dacca University convocation of March 24, 1948, the Quaid-i-Azam said:

It is not significant that the very persons who in the past have betrayed the Muslims or fought against Pakistan, which is after all merely the embodiment of your fundamental right of self-determination, should now suddenly pose as the saviours of your "just rights" and incite you to defy the government on the question of language? I must warn you to beware of these fifth columnists. Let me restate my views on the question of State Language for Pakistan for official use in this province. The people of the province can choose any language they wish. This question will be decided solely in accordance with the wishes of the people of this province alone, as freely expressed through their accredited representatives, at the appropriate time and after full and dispassionate consideration. There can, however, be only one *lingua franca*, that is, the language for inter-communication between various provinces of the State, and that language should be Urdu and cannot be any other. The State language, therefore, must obviously be Urdu, a language that has been nurtured by a hundred million Muslims of this subcontinent, a language understood throughout the length and breadth of Pakistan and, above all, a language which, more than any other provincial language, embodies the best that is in Islamic culture and Muslim tradition and is nearest to the language used in other Islamic countries. It is not without significance that Urdu has been driven out of the Indian Union and that even the official use of the Urdu script has been disallowed.'

The tremendous weight of the Quaid-i-Azam's authority suppressed the agitation for the time being, but the issue remained alive. Some years later it assumed formidable proportions. Finally the controversy was settled when the 1956 constitution recognized both Urdu and Bengali as the na-

tional languages of Pakistan.

But, as the Quaid-i-Azam said in his farewell message to East Pakistan on March 28.

This language controversy is really one aspect of a bigger problem - that of provincialism. I am sure you must realize that in a newly-formed State like Pakistan, consisting moreover as it does of two widely separated parts, cohesion and solidarity amongst all its citizens, from whatever part they may come, is essential for its progress, nay for its very survival. Pakistan is the embodiment of the unity of the Muslim nation and so it must remain. That unity we, as true Muslims, must jealously guard and preserve. If we begin to think of ourselves as Bengalis, Punjabis, Sindhis, etc., first and Muslims and Pakistanis only incidentally, then Pakistan is bound to disintegrate. Do not think that this is some abstruse proposition; our enemies are fully alive to its possibilities which I must warn you they are already busy exploiting.⁴

Another disease infecting the political life of Pakistan was factionalism; and this was at its worst in the Punjab. In the months following partition, the Punjab was threatened with one mortal peril after another. The rivers of blood flowing in East Punjab, the flood of refugees, the war across its borders in Kashmir, the devastation resulting from the closure of canals by India - all of these followed in rapid succession. But in the midst of these perils, the Punjab cabinet, instead of working as a united team, presented a spectacle of petty squabbles, sordid intrigues, and all the other accompaniments of an internecine war between factions. The highly ambitious Finance Minister, Mumtaz Daultana, was ranged against the slow and easy going Chief Minister, the Khan of Mamdot. The Muslim League party in the legislature was split. High officials started taking sides. In April, 1948, the Quaid-i-Azam summoned Mamdot, Daultana, and Shaukat Hayat Khan, the Revenue Minister, to Karachi to sort out the ministerial tangle, but even he threw up his hands in disgust. Soon afterward, Daultana and Shaukat Hayat Khan resigned and Mamdot formed his second ministry. After the Quaid-i-

Azam's death, when there was a sense of national emergency, a move was made by the central government to bring about unity in the Punjab. Mamdot agreed to include Daultana and Feroze Khan Noon in the Cabinet, but before they could be sworn in, a fresh dispute broke out. The quarrel was intensified when, in November, Daultana was elected President of the West Punjab provincial Muslim League. Finally, in the beginning of 1949, the ministry was dismissed; the Punjab Legislative Assembly was dissolved; and Governor's rule was imposed under section 92-A of the adapted Government of India Act, 1935. The communique issued by the central government stated:

Public life has been demoralized by corruption and the discipline of the services destroyed by intrigue. The administration has been carried on for the benefit of the few and little or no heed has been paid to the hopes and needs of the people. Many causes have contributed to this state of affairs, but in the Governor-General's opinion the main cause is the failure of the Members of the Legislative Assembly elected in different circumstances to rise to the greater responsibility which independence brings.

This was the first occasion on which normal constitutional processes had to be suspended in Pakistan.

In the North-West Frontier Province, Chief Minister Abdul Qayyum Khan had to face a difficult situation because of the opposition of Abdul Ghaffar Khan and his die-hard Red Shirt followers. After the arrest of Abdul Ghaffar Khan, the provincial government received reports that the Red Shirt were planning a civil disobedience movement in August, 1948. A large number collected at Charsadda and there was a violent clash with the police in which some people were killed. Subsequently, however, peace was maintained. In the provincial Assembly, which had been elected in 1946, the Muslim League was in a minority, but public feeling in the province had since then undergone a profound change as was shown by the result of the

referendum on the Pakistan question in July, 1947. In response of the state of public opinion, a number of legislators who had been aligned with the Congress in the past joined the Muslim League, and it became the majority party in the assembly.

Abdul Qayyum Khan's real trouble, however, lay outside the assembly. His autocratic ways and intolerance of any opposition alienated a number of Muslim League leaders, in particular, the influential Pir of Manki, who had rendered outstanding services in the referendum for Pakistan. The result was that the Pir of Manki and others were driven out of the Muslim League. In April, 1948, the Quaid-i-Azam toured the North-West Frontier Province. In a public speech in Peshawar, on April 20, he warned the people of a grave national emergency that existed both internally and externally, and adjured them "to avoid domestic controversies and provincialism." He continued:

I know we have got men who are guilty of jobbery, bribery and nepotism. I do not say that the government is perfect. Believe me, we are wide awake: we are watching your government, your province, your ministry and your civil services. It is under our searchlight and there is no doubt we shall soon be able to x-ray it and throw out the poison from our body-politic. But you must have patience and give us a chance and a reasonable time.⁵

Before partition, Sind had been notorious for political instability produced by the shifting combinations of a number of groups. At the time of partition, a Muslim League ministry under Muhammad Ayub Khuhro was firmly in the saddle. The Chief Minister was not, however, on good terms with the Governor, Ghulam Hussain Hidayatullah. In the beginning of April 1948, a public controversy started between Khuhro and two of his Ministers, Pir Illahi Bakhsh and Mir Ghulam Ali Talpur. Charges and countercharges appeared in the press. The Governor reallocated portfolios in the hope that this would lead to a more harmonious working of the cabinet, but Khuhro regarded this as undue interference by the Governor. The matter was

reported to the Quaid-i-Azam. The Governor placed before him evidence of maladministration and corruption on the part of Khuhro. Under the direction of the Quaid-i-Azam, who was determined to root out such evils in Pakistan, the Governor dismissed the Chief Minister on April 26, 1948, although he had the support of a majority of the Sind assembly. This action was taken under section 51 of the adapted Government of India Act, 1935. This section provided that the Governor's Ministers "shall hold office during his pleasure," and that in the exercise of his functions under this section the Governor "shall be under the general control of, and comply with such particular directions, if any, as may from time to time be given to him by the Governor-General." The communique issued by the Governor stated that a *Prima Facie* case had been made out against Khuhro on charges of maladministration, gross misconduct in the discharge of his duty, and corruption. A judicial tribunal consisting of Justice Abdur Rashid, Chief Justice of the Lahore High Court, and Justice Shahabuddin of the Dacca High Court was constituted to try Khuhro on 62 charges. The tribunal found him guilty on a number of charges. But the curious position was that Khuhro was still the leader of the Muslim League party ruling in Sind and wielded great influence over the members of the Sind assembly. In December, 1948, while he was still being tried, he was formally elected President of the Sind Muslim League, although he decided to stand aside until the verdict of the tribunal was known. He had lost the responsibility of public office but not political power.

To deal with this anomalous situation, the Constituent Assembly passed, in 1949 the Public and Representative Office (Disqualification) Act, or PARODA. The Act provided that any person found guilty of misconduct in any matter relating to his office as Minister, Deputy Minister, or Parliamentary Secretary of the Federal or provincial government, or as a member of the central or provincial legislature, might be disqualified from holding any public office for a period not exceeding ten years by an order of

the Governor-General. "Misconduct" included bribery, corruption, nepotism, wilful maladministration, and similar other offences. The tribunal appointed to try cases under this Act was to consist of two or more High Court judges. The Governor-General was to exercise his powers under this Act not on the advice of the cabinet but in his personal judgment. Khuhro was disqualified under this Act for a period of two years by the Governor-General, Khawaja Nazimuddin, although the Governor of Sind, Sheikh Din Muhammad, had recommended disqualification for seven years.

Khuhro's successor was Pir Illahi Bakhsh. Within six months he was in serious trouble. Toward the end of October, 1948, the editors of five Karachi dailies simultaneously published an indictment against him headed "Pir Illahi Bakhsh must go." The charges were the familiar ones of jobbery and nepotism. To these was added the charge of protecting criminals, of which a specific instance was that of the Chief Minister's Hindu confidential assistant who was arrested on the point of escaping to India, allegedly with State documents. At a meeting in the Governor General's house attended by the Prime Minister, the Governor of Sind, and me, it was decided that the Governor should conduct an enquiry into these allegations. At the same time, there was a case against Pir Illahi Bakhsh before the Sind Election Tribunal, which led to his disqualification. Pir Illahi Bakhsh was followed by Yusuf Haroon. During these changes, Sind Politics reverted to the old pattern of strife among the Ministers and constantly sniping royalties among among the member of the assembly. Eventually, the central government had to impose Governor's rule in Sind under section 92-A of the adapted Government of India Act, 1935.

In East Bengal, the difficulties encountered by Chief Minister Khawaja Nazimuddin from the activities of a small but active Assembly group were considerably eased when at his request one of its prominent members was

sent out as ambassador. When Khawaja Nazimuddin became Governor-General, in Septemeber, 1948, Nurul Amin succeeded him. During both regimes, East Pakistan maintained political stability. There was, however, a growing volume of opposition which played upon the people's sentiments by charges of neglect and stepmotherly treatment by the central government. A number of active political workers, including Maulana Bhashani who, as the Presiden of the Assam Muslim League had campaigned vigorously for the success of the Sylhet referendum, joined the ranks of the opposition. Sensing a shift in people's attitude, the provincial government fought shy of holding by-elections. This betrayed weakness and an inability to put the government's case before the people. There was a wholly inadequate appreciation of the staggering difficulties the central and provincial governments had to overcome in order to establish an administration and to stabilize the economy. The expectations of the people for a sudden transformation in the conditions of life after attaining independence could not possibly be fulfilled, but the disappointment would have been less acute if a true appraisal of the situation had been frankly and repeatedly put before them by the government. It was primarily the failure to establish public relations which (though understandable in the midst of the pressures of administrative work) had far-reaching effects on the political future of the country.

Suhrawardy, who found India inhospitable after Gandhi's assassination, returned to Pakistan to organize an opposition. At first he could make little headway, but as dissensions within the ruling party grew he was able to gather support. He joined hands with the Khan of Mamdot and Mian Abdul Bari, both former Presidents of the Punjab Muslim League, with Pir Manki Sharif in the North-West Frontier Province, and with Maulana Bhashani in East Bengal. All of them had rendered notable services in the cause of Pakistan, yet within a few years of the achievement of Pakistan they felt compelled to leave the Muslim League. Thus, within the space of a few

years, the Muslim League was faced by an active opposition born from within itself.

These events threw into relief a structural weakness of the League. In the first thirty years of its life, the Muslim League had not been a mass organization. It voiced the aspirations of the Muslim intelligentsia, but was not actively at work among the masses. The pillars of society, the landlords, the well-to-do lawyers, the rich businessmen, and the titled gentry, were its main support. With some exceptions, they were not men noted for total commitment to any cause. Their willingness to sacrifice their personal interests or comfort for the sake of the nation was often in doubt, and not unjustly. They were, by and large, estimable men who served their country and their community within the limits dictated by direction.

When the Quaid-i-Azam took the organization in hand in the middle thirties and started transforming it, its Hindu opponents and Muslim critics continued for a number of years to look down upon it as incapable of effective political action. But within a short period the character of the League had changed.

The striking successes that the Muslim League gained in the decade before partition were brought about by the political sagacity of the Quaid-i-Azam and the enthusiastic response to his leadership among the Muslim intelligentsia, the students and the rising middle class, aided, of course, by the shortsighted folly and arrogance of Hindu leadership. Once the goal of Pakistan had been adopted by the Muslim league, it was not difficult for the middle classes to arouse the enthusiasm of the Muslim masses to whom the idea of an Islamic State with its just social order, its puritanical vigour, and its energy in looking after the interest of the common man has always had a profound appeal. The tradition of how the early Caliphs had nourished

orphans and widows and had dealt out even-handed justice to high and low, the stern simplicity of their lives, and their ceaseless vigil over the welfare of the masses had passed into the common lore that was the heritage of every Muslim child. Despite the oppression and tyranny of intervening centuries, that distant ideal had not lost its force. The Muslim masses had never fully grasped the meaning of political safeguards in a united India. But a homeland for the Muslims in which an Islamic State could function was a simple and striking idea; it could be readily understood by the most ignorant and by evoking memories heroic and just social order, could arouse mass enthusiasm as nothing else could. There was unison between the mass of the people, the middle classes who provided the bulk of the political workers, and the top leadership of the Quaid-i-Azam. For the first time in its history, the League was actively in touch with Muslim masses, voiced their innermost aspirations, and drew its strength from them.

As public support for the idea of Pakistan gathered strength, Muslim politicians, who were in training under the British in the art of contesting elections and in capturing such crumbs of power as the British allowed to fall, turned more and more toward the Muslim League. They were shrewd and hard-headed men, capable of being infected temporarily by mass enthusiasm but never forgetful of their own advantage. As the decisive elections of 1946 drew near, they were the people who, for the most part, knew the electoral game and were, so to speak, the obvious candidates for the election. The Quaid-i-Azam knew their quality, but he carried them along with him, and in that tide they were riding the wave of popular support. The masses also knew them for what they were, and looked to the Quaid-i-Azam to keep them disciplined. They, for their part, were mortally afraid of the Quaid-i-Azam, for they knew that their success in public life depended upon the trust he showed in them.

As long as Pakistan had not yet been established, the revolutionary

mass movement led by the Quaid-i-Azam under the banner of the Muslim League was all that mattered. When Pakistan was achieved, the Quaid-i-Azam's attention was devoted almost wholly to the establishment of the State and the solution of the host of problems that rose thick and fast; he did not have enough time and energy to devote to the discipline and control of those politicians who needed it. If the social and economic objectives of the Pakistan movement had been kept more prominently before the leadership and the masses, the situation might have been different. However, with the establishment of Pakistan, some of the politicians felt free to revert to their old habits of a naked struggle for power through factions and cliques.

At the time of independence, the All India Muslim League, which had won Pakistan under the leadership of the Quaid-i-Azam, enjoyed universal support. It was the only political party of Muslims in Pakistan. The Congress party was confined to Caste Hindus, and the Scheduled Caste Federation represented the Hindu Depressed Classes of East Pakistan. But Muslims, whether in East or West Pakistan, gave unstinted loyalty to the League. The small minorities of Christians, Buddhists, and Parsis also supported it.

On December 15, 1947, the All-India Muslim League meeting in Karachi resolved to split itself into two separate organizations, one for Pakistan and one for India. Although this decision came as a shock to the Muslims in India, who felt orphaned, it was an inevitable consequence of partition. The Pakistan Muslim League that came into existence was heir to the love and esteem in which the All-India Muslim League had been held. But from the very beginning it loosened its ties with the leadership that had made the All-India Muslim League so powerful and disciplined an organization. When the Council of the Pakistan Muslim League met in Karachi in February, 1948, to consider the constitution and rules of the League, an amendment to the draft constitution was moved and accepted, I was informed,

against the wishes of the Quaid-i-Azam. The amendment provided that no Minister or other office holder in the government could become an office-bearer of the Pakistan Muslim League. It was proposed that the Quaid-i-Azam be exempt from this rule, but he declined the offer. Choudhry Khaliquzzaman, who was entrusted with the task of organizing the Pakistan Muslim League and later became its first President, had neither the authority nor the prestige to keep feuding factions within the League disciplined. Since the League was the only political organization, control over it was the key to political power. The struggle for power within the League was pursued by all sorts of dubious means. False returns of members, denial of membership forms to the opposing faction, and rigged elections of Council members and office holders became common practices. The masses and the bulk of the intelligentsia began to lose interest in politics, which came to be regarded as a game pursued by professional politicians for self-interest. The failings of the politicians stood out all the more prominently against the prevailing atmosphere of Islamic zeal and patriotic fervour among the masses.

There was also another factor at work. Before partition, control was centralized in the All-India Muslim League organization. The provincial Leagues enjoyed limited power and had to obey the mandates of the central organization. The central organization drew its strength from the powerful personality of its President, the Quaid-i-Azam and the support of the hundred million Muslim of the subcontinent. When the Pakistan Muslim League was formed in February, 1948, it was constituted on the Federal pattern. Each province was allotted a fixed number of seats in the League Council. There were 180 for East Bengal, 150 for the Punjab, 50 for Sind, 40 for the North-West Frontier Province, 20 for Baluchistan, and 10 nominated by the President. The provincial League organizations were under the control of the provincial Chief Ministers, who also controlled the election of

developed during this period.¹ Various factors contributed to this feeling. This was reflected in the organizational structure and objectives of the new parties, and before the provincial elections (March 1954), resulted in the articulation of specific demands. Until 1953, there were two major political parties: the provincial branch of the Muslim League (supported by the Jami'at al-Ulama-i Islam and Jami'at-i Hizb Allah) and the East Pakistan Awami Muslim League. The former, though not remiss in voicing provincial grievances and rights, was associated with the central party leadership; and it was the latter party that came to be looked upon as the true champion of Bengali interests.

(i) The Language Controversy

One of the vital issues that discredited the Muslim League in East Pakistan and was responsible for much of the distrust between East and West Pakistan was that of language. Urdu, written in the Arabic script, had been viewed as the *lingua Franca* of Muslim India since the nineteenth century, and Hindi, written in the Devnagri script, of Hindu India. It is outside the scope of this study to investigate the gradual decline of Urdu in Muslim Bengal; but in 1888 a government inquiry indicated that a large number of Muslims, "even of the lower classes, preferred Urdu to Bengali as the medium of instruction for their children".² Even as late as 1935, an education advisory committee, appointed by the government of Bengal and including prominent Muslims like Fazl al-Haq, referred to Urdu as a "*lingua Franca* and important medium of national expression in Muslim India".³ Moreover, prominent Bengali Muslims were educated either at the Aligarh Muslim University at institution sharing similar sentiments about Urdu,⁴ But during the twentieth century, Bengali had imperceptibly gained considerable ground as a medium of instruction and a source of literary expression. In 1937, the issue of language did come up before the council of the All-India Muslim

League, but its resolution was deferred till after the achievement of freedom.⁵

After independence, a concerted effort to promote the cause of Urdu was made at the first Pakistan Educational Conference, convened by the Bengali minister of education, Fazl al-Rahman, in November 1947, to devise means "to reform education on the basis of Islamic ideology".⁶ The East Pakistani representatives to this conference belonging to the Tamaddun Majlis - an organization of professor and students of the Dacca University set up on September 1, 1947, to struggle for Bengali as one of the national languages⁷ - voiced their dissent from the general enthusiastic trend in favour of Urdu.⁸ On returning to Dacca, the Majlis members founded the Sangram Prasad (Jihad Committee) to conduct the struggle for Bengali. In the beginning, no political party was prepared to extend patronage to this movement;⁹ but the Sangram Prasad was lucky enough to enlist the support of a dissident faction of the Students League - the East Pakistan Muslim Students League founded (in January 1948) and led by Shaikh Mujib al-Rahman.¹⁰

The movement spread with the reported news that Bengali letters would not appear on currency notes, money orders and other forms.¹¹ The movement slowly gathered the sympathy and support of some Bengali government servants, of several members of the provincial legislature, including Muhammad Ali Bogra and Tafazzal Ali, and of even a group of provincial ministers led by Habib Allah Bahar.¹² Its activities were directed by a committee of action of the East Pakistan Muslim Students League. The climax came on March 11, 1948, when about fifty demonstrators were injured in a police lathi-charge and several others were arrested. These unexpected developments persuaded Chief Minister Nazim al-Din to withdraw his earlier allegation that the movement was Hindu-inspired; and he sat

not prepared to spare any suitable officers for it. With great difficulty I persuaded the railway authorities to release a senior mechanical engineer for the job. For designing the factory, the services of an ordnance expert, Newton Booth, were obtained from England through the good offices of Sir Archibald Rowlands, who was Financial Adviser to the Governor-General of Pakistan and had been permanent Under-Secretary of the Ministry of supply of the United Kingdom during the war. A scheme for the training of Pakistanis was started. When the Prime Minister of Hyderabad, Mir Laik Ali, escaped to Karachi after the occupation of Hyderabad, he was appointed Defence Adviser and was put in charge of the factory.

Apart from the Staff College at Quetta, which had an international reputation, Pakistan inherited no schools of instruction. A Military Academy was set up at Kakul, and a number of training institutions for the army, navy, an air force were established.

NOTES AND REFERENCES

1. Quaid-i-Azam Muhammad Ali Jinnah, *Speeches as Governor-General* (Karachi, Pakistan Publications, 1963), p. 58.
2. *Ibid.*, p. 84.
3. *Ibid.*, p. 90.
4. *Ibid.*, p. 104.
5. Quoted in the Karachi daily *Dawn*, April 21, 1948.

In this reading passage you are going to read about the genesis of the language issue in Pakistan. During the first decade of political history of Pakistan, language controversy played significant role in order to shape the course of the history in Pakistan. It is often said that language controversy had sowed the seeds of the separation of the Eastern Wing of our country. In this passage language issue has been addressed as an important social factor which was culminated into a political dilemma. This reading passage also intends to discuss Urdu -Bengali controversy which was one of the crucial obstacle in regard to resolve the political and constitutional crises in Pakistan. (Compiler)

READING - 2

(Excerpt from, Political Parties in Pakistan: 1947-1958, by M. Rafiq Afzal, published by National Commission on Historical and Cultural Research, Islamabad, 1976, pp. 106-113).

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1.2. LANGUAGE PROBLEM

Bengali Grievances and the Politics of the United Front

The way things had shaped up in East Pakistan by 1954 exercised a far-reaching impact on the subsequent history of Pakistan as a whole. Separated from the rest of the country by over one thousand miles and inhabited by more than half the population of Pakistan, a sense of being ignored and exploited by the central government, situated in West Pakistan,

encircle it strategically, and to strangle it economically.

In order to safeguard the independence and territorial integrity of Pakistan, it was essential to build up and equip the armed forces. Resources that were urgently needed for economic reconstruction and development were diverted to defence, which used up half and, at times, even more, of the central budget. The people bore these sacrifices willingly. Liaquat Ali Khan's remark, "we can afford to be hungry for a day but we cannot afford to be slaves even for a minute," reflect the will of the whole nation. The original plan for an army of 125,000 men was revised upward under the constant threat of aggression by India. Since India had withheld Pakistan's share of military stores, large sums had to be spent on defence equipment. In a broadcast to the nation on October 8, 1948, the Prime Minister said: "The defence of the State is our foremost consideration and has dominated all other governmental activities. We will not grudge any amount on the defence of our country."

Army, air, and naval headquarters had to be setup, the Indian air force and the Indian navy were not well developed. The number of Muslims serving in them was relatively small. The Pakistan navy and air force began in a modest way with headquarters in Karachi. The headquarters of the Northern Command in Rawalpindi became the general headquarters of the Pakistan army. Though Muslims had formed one-third of the strength of the Indian army, there were no homogeneous Muslim units. The fragments left after the departure of non-Muslims had to be reorganized and brought up to strength. Shortages in technical arms, such as artillery, and in engineers, were very great, and even in the infantry the number of senior officer with staff and command experience was limited. The Pakistan army was, in consequence, far more dependent upon British officers than the Indian army. Nationalization of the armed forces could be carried out only gradually. A

dept of gratitude is owed to the British officers who worked with zeal and devotion to build up the Pakistan army, navy, and air force.

For two centuries there had been a serious neglect of the military potential of Bengal. The result was that the Pakistan army, which was constituted out of the Indian army, had only a handful of men from East Pakistan. The importance of changing this state of affairs was realised from the very start. The false theory of "non-martial" races was discarded and opportunities for recruitment from East Pakistan were opened up. The East Bengal Regiment was formed in February, 1948. To provide army accommodation in East Pakistan, cantonments were built.

Pakistan did not have a single ordnance factory. All the sixteen ordnance factories of British India were located in the Indian Union. They had been modernized and expanded during the Second World War; and new factories, such as the Hindustan Aircraft Factory at Bangalore, had been built. The Indian leaders were stubbornly opposed to the transfer of any factory or, indeed, any piece of machinery to Pakistan. They even refused to part with the machinery for a Bren-gun factory, and a fuse-filling factory, which was lying packed and had not yet been installed.

In the face of this determined opposition, there was no means by which Pakistan could get its rightful share. The best that could be arranged was a financial settlement, and in the final agreement over the partition of assets, I negotiated a sum of Rs. 60 million in lieu of Pakistan's share of ordnance factories. With this money, the establishment of a new ordnance factory at Wah near Rawalpindi was taken in hand. I had sponsored the factory at Wah near Rawalpindi was taken in hand. I had sponsored the project and I had to look after it. Finance Minister Ghulam Muhammad opposed it on the ground that private enterprise could do the job. Strangely enough, army headquarters did not take much interest in the project and was

the Pakistan Muslim League Councillors from their provinces. In some cases, the election to the League Council was nominal - the Chief Minister virtually appointed his loyal supporters. Thus the Pakistan Muslim League, instead of drawing its support directly from the masses, become dependent upon the provincial leaders.

Throughout this period, the stability and strength of the central government were in striking contrast to the state of the provincial governments. In the composition of the central cabinet, regard has always been paid to regional representation, particularly between East and West Pakistan. Under proper leadership, this makes for unity and strength and not for weakness and division. Under the leadership of the Quaid-i-Azam and, after his death, of Liaquat Ali Khan, the central cabinet worked with a single will toward the solution of the grave problems facing the country. There were, it is true, differences of view which found vigorous expression but, in general, a consensus of opinion would emerge to which all gave willing consent. At times, as happens with every human group, misunderstandings would arise even over minor matters. On one occasion, a senior Minister threatened to resign because the Prime Minister, who was also Defence Minister, ignored his recommendation for the promotion of an army officer and thus, in his view, failed to do justice. However, wiser counsels prevailed and I was able to bring about a reconciliation. A more persistent discord was that which developed, after the Quaid-i-Azam's death, between the Finance Minister, Ghulam Muhammad, and the Commerce Minister, Fazlur Rahman. In temperament they were poles apart - the one as quick and sharp as a rapier and the other as blunt and heavy as a bludgeon. I begged the Prime Minister a number of times to do something about this running quarrel, which unnecessarily hampered business, but he took a philosophical view of the matter. It is possible that he considered this conflict between two strong personalities not entirely disadvantageous. Anyhow, the differences never

went beyond a certain limit, and remained more or less personal to the two Ministers.

The only serious jolt to the cabinet came from the defection of the Labour Minister, Jogendra Nath Mandal, to India in 1950. As the leader of the Scheduled Caste Hindus in Bengal he had stood loyally with the Quaid-i-Azam in the struggle for Pakistan. After the Quaid-i-Azam's death, a gradual change came over him, as the Caste Hindus in the Pakistan Constituent Assembly started wooing him and urging him to assume leadership over them as well. At the same time, links were being forged between him and Indian High Commission in Karachi. Liaquat Ali Khan was aware of these developments, and I was taking precautionary measures not to let top secret documents fall into Mandal's hands. It appears that Mandal came to know he was being watched, took fright, and bolted to India.

Relations with India have played a pivotal part in determining Pakistan's defence needs and foreign policy. The leaders of India accept partition in the hope of undoing it soon and establishing their hegemony over the whole sub-continent. "Most of the Congress leaders, and Nehru among them," wrote Brecher, "subscribed to the view that Pakistan was not a viable State - Politically, economically, geographically or militarily - and that sooner or later the areas which had seceded would be compelled by force of circumstances to return to the fold."⁶ Pakistan was, for them, a transient phase, a tactical retreat that did not affect their strategic aims.

The events described in the earlier pages bear eloquent testimony to India's persistent hostility towards Pakistan. The East Punjab massacres, the interference with canal water, the withholding of military stores and other assets, the military occupation of Junagadh and Kashmir, and the trade war in 1949, every effort was made by India to truncate Pakistan territorially, to

from the political scene. Muhammad 'Ali Bogra and Tafazzal Ali were given ambassadorial jobs.

18. When the Iqbal Academy Bill was passed by the Constituent Assembly, no provision was made for translating Iqbal's works into Bengali in spite of appeals from Bengali members. *CALD*, Vol. I, No. 16 (April 6, 1951), pp. 894-95.
19. *Proceedings of the Fifth Meeting of the Advisory Board of Education held at Bahawalpur on 4th and 5th March 1953*, Karachi, 1955, pp. 43-44. This experiment was, however, not unprecedented.

During the Fara'izi movement in the nineteenth century, an Islamicized version of Bengali, incorporating many Persian and Arabic words, was popularized, which was known as "Musalmani" or "dobhashi Bangla" (two-language Bengali). Many hagiographies were published in this dialect: frequently Arabic script was employed, particularly for books on religious topics. (Qazi Abdul Mannan, *The Emergence and Development of Dobhashi Literature upto 1855*, Dacca, 1966.) The success of this kind of Bengali was considerable. A British report on native printing presses indicates 24,600 publications in "Dobhashi Bangla" in 1857 alone. ("Returns Relating to Publications in the Bengali Language in 1857 ...", in *Selection from the Records of the Bengal Government*, Calcutta, 1859, p. xxxi.) Even in 1911, the Census reports some 290 titles in "dobhashi Bangla" published in the preceding decade.

20. Protesting against this attitude, a Bengali member (Asad Allah) observed: "Bengali is discarded... as if it is not a language of *sharafat* (general approbation): and if somebody supports Bengali, he is rather considered anti-Urdu... Here is no respect for Bengali, and it must be discarded with contempt", *CALD*, Vol. I, No. 15 (April 3, 1950), pp. 614-15
21. *Ibid.*, Vol. I, No. 7 (March 27, 1951), pp. 470-71. The most revealing incident of the opposite viewpoints occurred when, at a press conference, the Punjab Governor of East Pakistan, Firoz Khan Noon, opined that a Bengali villager would prefer to learn Bengali in the Arabic script. A provincial minister, Habib Allah Bahar, present at the conference, strongly contradicted such a possibility, and maintained that it would be much easier to learn Bengali through a simplified Bengali script. He said: "Do not spend in introducing (Arabic script into) Bengali, try to popularize Urdu". *Ibid.*, p. 460.

22. G.W. Choudhury, *Documents and Speeches on the Constitution of Pakistan*, Dacca, 1967, p. 54 (hereafter cited as *Documents*).
23. The effectiveness of the 'Awami League's pro-Bengali campaign was noted in the *Census Report* of 1951, which indicated that, during the collection of data in February 1951 "enumerators were urged not to record Urdu as a mother tongue or even as another language", and the possibility of some enumerators collaborating in this move was admitted, *Census of Pakistan, 1951, Report, Vol. 3, East Bengal*, Karachi, p. 112.
24. Dr. Muhammad Shahid Allah, a famous Bengali linguist and president of the East Pakistan Arabic Association, had been campaigning for Arabic as the national language since 1947. [*Muslim World*, Vol. XXXVIII, No. 1 (January 1948), p. 74], even as another language", and the possibility of some enumerators collaborating in *National Language of Pakistan*, Karachi, 1954.
25. *Dawn*, January 22, 1951. In September, the East Pakistan government decided that the education of Muslim children should start with the teaching of the Arabic script. *Ibid.*, September 21, 1951.
26. In his inaugural address to the conference, Nazim al-Din, the Governor General, observed that Urdu was the only common language, Sardar Nishtar, emphasizing "unity of language" as the "main foundation of a country", declared that only "Urdu, and not Arabic or any provincial language, could be the national language of Pakistan". *Ibid.*, April 14, 1950.
27. *Ibid.*, August 19, 1951.
28. The intensity of this campaign can be judged from the remarks of a Bengali religious leader - Maulana Ghulam Muhammad Taj al-Islam, chancellor of the Jami'a Islamiyya Rahmaniyya, Dacca - who described the efforts to replace the Brahmani (Devnagri) script of the Bengali language by the Arabic script "as a holy *Jihad* ". *Ibid.*, December 14, 1951.
29. *Ibid.*, August 14, 1951. During the 1954 election campaign, Fazl al-Rahman was denounced for attempting "to deBengalize" the Bengali Muslims by introducing the Arabic script. *CALD*, Vol. I, No. 11, (March 29, 1954), p. 902.
30. The scheme was disclosed by Fazl al-Rahman at a joint meetings of the advisory

NOTES AND REFERENCES

1. As early as February 24, 1948, an East Pakistani member of the Constituent Assembly, Begum Sha'ista Ikram Allah, observed, "A feeling is growing among East Pakistanis that Eastern Pakistan is being neglected and treated as a colony of Western Pakistan". *CAD*, Vol. II, No. 1 (February 24, 1948), p. 7. Such observations gained increasing frequency in the course of subsequent years.
2. *Report of the Moslem Education Advisory Committee*, Government of Bengal, Alipore, 1935, p. 33. In the late nineteenth century, the medium of expression of the only important Muslim association - the Muhammadan Literary Society of Calcutta -, actively engaged in promoting education and social reform amongst Bengali Muslims, was either Arabic, Persian or Urdu. (See Enamul Haq, *Nawab Bahadur Abdul Latif: His Writings and related Documents*, Dacca, 1968.) Sayyid Amir 'Ali's opinion on the language issue was that "Urdu should be to the Muhammadans what Bengali is to Hindus of Bengal, and Arabic and Persian should take the place of Sanskrit." India, *Education Commission Report by the Bengal Provincial Committee with Evidence taken before the Committee and Memorials Addressed to the Education Commission*, Calcutta, 1884, p. 222.
3. *Report of Moslem Advisory Committee*, p. 87.
4. An interesting point in this connection is that between 1882 and 1887, 72 percent of the graduates of the M.A.O. College, Aligarh, came from Calcutta. Though the proportion of students from Bengal did not remain strikingly high, the number of students from Bengal continued to be substantial. (Rafiq Zakaria, *Rise of Muslims in Indian Policies: An Analysis of Development from 1885 to 1906*, Bombay, 1971, p. 185.) For instance, Nazim al-Din told Sir Robert Reid, Governor of undivided Bengal, that in the palace of the Nawab of Dacca, Urdu was always spoken and that he himself learn Bengali when he entered politics. Sir Robert Reid, *Years of Change in Bengal and Assam*, London, 1966, p. 121.
5. See M. Rafiq Afzal, *Political Parties in Pakistan: 1947-1958*, Introduction, Footnote 117.
6. *CALD*, Vol. I, No. 10 (March 25, 1950), pp. 367-78.
7. The Tamaddun Majlis had issued a pamphlet on September 15 entitled *National*

Language of Pakistan is Bangla or Urdu under the names of Professor Qazi Mutahar Hussain, Abu'l Mansur Ahmad (editor, the daily *Ittihad*) and Professor Abu'l Qasim, in which it was advocated that Bengali had all the qualities of becoming the second national language. *Rashtra Bhasa Andolonar Ittihas* (History of the State Language Movement), issued by the Tamaddun Majlis. Quoted in 'Abd al-Haq, *Pakistan men Urdu ka Alamiyya*, Karachi, 1956, pp. 7-9.

8. Ibid.; *CALD*, Vol. I, No. 10 (1950), pp. 367-78.
9. Even the Communist Party of East Pakistan and its leader, Muzaffar Ahmad are reported to have refused to support the move 'Abd al-Haq, op.cit., pp. 12-13.
10. Ibid., p. 13.
11. During this period, a Bengali Congress member, Dhirendranath Datta, moving an ammendment to the Draft Rules of Procedure of the Constituent Assembly, seeking the addition of Bengali to the languages in which a member could address the Constituent Assembly, demanded that Bengali, being the language of the majority of the people, should be the *lingua franca*. The demand was strongly opposed by Liaqat 'Ali and Datta's amendment was defeated. *CAD*, Vol. II, No. 2, (February 25, 1948), pp. 16-18.
12. 'Abd al-Haq, op.cit., pp. 10, 12.
13. Ziring, pp. 124-25.
14. Ibid.
15. The change was most probably made under the pressure of pro-Urdu elements in the province. A deputation of the East Pakistan Jami'at al-'Ulama-i Islam was reported to have been sent to Karachi "to present before the Quaid-i Azam Jinnah and the Pakistan Government" a memorandum in support of Urdu "signed by over one lakh (1,00,000) teachers, *alims*, *pirs* and men of letters" from East Pakistan. Their, argument was that "Urdu was not greatest storehouse of Islamic literature after Arabic". *Dawn*, March 17, 1952.
16. *Quaid-i-Azam Mahomed Ali Jinnah: Speeches as Governor General of Pakistan, 1947-1948*, Karachi, n.d., p. 90.
17. Another method to weaken the movement was to remove its prominent leaders

strength of the demand, the government inaugurated the First All-Pakistan Urdu Conference, making it clear that such idealistic plans were unacceptable.²⁶ The movement for Arabic declined after that; but its effects on the cause of Urdu, as summed up by a Bengali supporter of Urdu, were not entirely inaccurate:

The *maulanas* started a thoughtless campaign, supported by half-educated office-bearers of the provincial (Muslim) League, in favour of Arabic and against Urdu without realizing the danger inherent in such an agitation; for once Urdu is abandoned, Bengali would continue to play the dominant role as before in effecting the denationalization of the East Pakistan Muslims.²⁷

Thwarted in their attempt to make Arabic the national language, the '*Ulama*' of East Pakistan launched a campaign for the introduction of *Pak Bangla*, a name given to Bengali written in the Arabic script.²⁸ The central government, embarrassed by the mounting criticism of this innovation, withdrew from direct involvement, but continued to back and aid an '*ulama*'-sponsored Anjuman-i -Huruf al-Qur'an, Mashriqi Pakistan, with the Pir of Sarsina as its president.²⁹ Such plans were bound to fail, and rendered no service to the cause of Urdu.

Nazim al-Din's prime ministership proved a turning point in the language conflict. Immediately after his assumption of office, the central government undertook a Six-Year National Education Plan, aiming at reforming the educational system on the basis of an "Islamic ideology" and "Urdu as the national language".³⁰ Probably in pursuance of this scheme, Nazim al-Din, addressing a public meeting at Dacca on January 27, 1952, stressed Qa'id's view on making Urdu the *lingua Franca* of Pakistan.³¹

The language issue had to be tackled; but the time chosen was inopportune and the method adopted unstatesmanlike. The strength the supporters of Bengali, particularly the EPAML, had gained by their constant

and patient propaganda, after Qa'id's visit in 1948, was grossly underestimated. The 'Awami League picked up the issue and sponsored an all-party state language committee of action on January 31, which decided to organize a province-wide strike on February 21. The demonstrations that followed were spearheaded by the students, and the tragic killing of several students during a police firing incident sealed the fate of Urdu in East Pakistan.³² After that, no political party desiring a base there could speak up for Urdu or Bengali written in the Arabic script.³³

To safeguard its position, the Provincial Muslim League rushed through a legislation in the provincial assembly, recommending Bengali as one of the national languages to the Constituent Assembly, and dispatched a thirty-member delegation to Karachi to canvass for the acceptance of this demand.³⁴ But allegation that the language movement was Communist and Hindu-inspired created doubts about the genuineness of the demand.³⁵ Besides, public opinion in West Pakistan had not yet grasped the intensity of the movement, and had remained relatively uninterested in the language issue.³⁶ Nevertheless, when a national status for Bengali became imminent, the provincialists in West Pakistan demanded a similar status a similar status for their respective languages as a matter of prestige.³⁷

The language controversy remained unresolved until the 1954 elections; and it constituted one of the major issues in the manifestos of opposition parties.³⁸

down to negotiate with the committee of action. A seven-point agreement was signed, which included unconditional release of those arrested and a promise of an unofficial resolution in the provincial assembly recommending Bengali as one of the national languages to the Constitution Assembly.¹³ The legislation agreed to was not taken up by the legislature, and the demonstrations were renewed, followed by a police lathi-charge and firing in the air.¹⁴

Nazim al-Din, now repeating the charge that the movement was engineered for "undermining the state", approached the Qa'id-i A'zam to put his weight against the movement.¹⁵ Qa'id-i A'zam, in his speech during this visit to Dacca, pointed out the forces working against the state. Conceding the right of Bengalis to choose any language they liked as the official language of the province, the Qa'id stressed that, for communication between the various provinces, only Urdu could and should be the language -

A language that has been nurtured by a hundred million Muslims of this sub-continent, a language understood throughout the length and breadth of Pakistan, and above all, a language which, more than any other provincial language, embodies the best that is in Islamic culture and Muslims tradition and is nearest to the language used in other Islamic countries.¹⁶

Qa'id-i A'zam's tour temporarily calmed down the language controversy; but during this period, Urdu also lost many of its Bengali supporters.¹⁷ The Muslim League leadership, central as well as provincial, failed to come up with any workable plan to resolve the issue, and virtually ignored opportunities that could have been used to promote the cause of Urdu in East Pakistan.¹⁸

The only scheme - and that a whimsical one - undertaken on the recommendation of an advisory board of education was the establishment of twenty-one experimental adult education centres to teach Bengali in the

Arabic script.¹⁹ Bengali, written in a variant of the Devnagri script, was not looked upon with approval by the Muslim League leadership. This attitude towards their language was resented by the Bengalis, who asserted that Bengali was as much a language of Muslims as Urdu.²⁰ They argued in defence of Bengali in Devnagri script that if writing Persian and Arabic in the same script for hundreds of years had not succeeded in bringing the Persians and Arabs closer a similar approach in Pakistan could hardly be expected to prosper.²¹

The next stage in language controversy came with the publication of the Interim Report of the Basic Principles Committee (1950), which stipulated that "Urdu should be the national language of the state".²² Irked by this, all the East Pakistan political and religious parties now became unanimous in their rejection of Urdu. The opposition of the East Pakistan 'Awami Muslim League was explicit.²³ The Provincial Muslim League's disavowal of Urdu, backed by religious parties like the East Pakistan Jami'at al-'Ulama-i Islam and the Jami'at-i Hizb Allah, was implicit in its reaction to the be the national language of Pakistan was its proximity to Islam, then surely Arabic, not Urdu, was this language. The movement for adopting Arabic as the national language had been a foot in East Pakistan for quite sometime;²⁴ and now the provincial Muslim League embraced the idea and discussed it in its council in January 1951. The councillors opposed to the move, led by Hamid al-Haq Choudhury, pleaded that a language could not be imposed on a people; it had to grow on its own. But the motion supporting Arabic as the national language was finally carried by forty-eight to thirty-six votes.²⁵ About three weeks later, no less a personality than the Agha Khan, after a visit to East Pakistan, in an address to the Mo'tamer-i 'Alam-i Islami at Karachi, advised the adoption of Arabic because, in his opinion, Urdu was "associated with the Muslim downfall". Concerned about the growing

Board of Education, the Inter-University Board and the Council of Technical Education, on December 4, 1951.

31. Soon after Nazim al-Din's speech, the Governor of the State Bank announced that cheques would be issued in Urdu. *CAD*, Vol. XI, No.3 (1952), pp. 25, 31-32.
32. The demonstrations and the circumstances leading to the police firing are discussed in detail by Ziring, pp. 129-39.
33. About a month and a half after these demonstrations, the East Pakistan Jami'at al-'Ulama-i-Islam also urged the adoption of Bengali. *Dawn*, April 5, 1952.
34. *Ibid.*, April 12, 1952.
35. Nazim al-Din alleged that, during the movement, slogans of "Jai Hind" and "United Bengal" were raised in the suburbs of Dacca. [*CALD*, Vol. I, No.5 (March 19, 1950), p. 263.] Another cabinet minister from East Pakistan, claiming that the movement for Bengali was genuine, asserted that the All-India Congress Committee had conspired to exploit the issue, and that, in a meeting at Delhi, it had been noted that "this was an opportunity which should not be allowed to slip away. If it goes away you will not get an opportunity within the next century". *Ibid.*, Vol. II, No. 11 (November 25, 1952), pp. 618-19.
36. The only organized attempt to deal with the language issue in West Pakistan was made by the Progressive Writers' Association at an all-Pakistan conference at Lahore in November 1949. But according to the *Khyber Mail* (Peshawar) of December 2, 1949, in this conference, Urdu was deliberately pushed into the background and the provincial language - Punjabi, Sindhi, Pushtu and Bengali - were advocated and even the two-nation theory was openly ridiculed.
37. The most vigorous campaign was launched by Sindhi students organizations, who were backed by the Sind 'Awami Mahaz. Their argument, like that of the Bengalis, was that Urdu was not the mother tongue of the people of West Pakistan. A committee of action appointed to struggle for Sindhi as one of the national languages observed a "Sindhi Day" in March 1954. (*Dawn*, February-March, 1954.) In the Punjab, considered the stronghold of Urdu, a Punjabi youth league also demanded that, if Bengali was made a national language, then Punjabi should be given the same status. *Ibid.*, February 24, April 28, 1954.

38. After the elections, a "Language Formula", evolved in May 1954, was adopted by the Muslim League parliamentary party, and later by the Constituent Assembly. This Formula showed the divisive impact language could have even on the West Pakistan situation. The Formula not only recognized Urdu and Bengali as official languages, but also empowered the Head of State to declare any provincial language of West Pakistan a national language simply on the recommendations of a provincial legislature. (*Documents*, p. 264.) The language issue was of course not settled by this Formula; and in the second Constituent Assembly, C.E. Gibbon, Deputy Speaker, disallowed a Bengali member (Muzaffar Ahmad) from speaking in Bengali. It was only when Suhrawardy and Fazl al-Haq threatened a walk-out of all the Bengali members that the ruling was withdrawn. (*Dawn*, September 22, 1955.) Later, the 1956 constitution recognized both Urdu and Bengali as the national languages.

We intend to recommend this passage to enforce the previous reading (reading-2). We hope having gone through this reading (alongwith the reading-2) you will be able to assess the role of language controversy in the political and constitutional development of Pakistan. (Compiler)

READING - 3

(Excerpt from Pakistan : Failure in National Integration by Rounaq Jahan
Published by Columbia University Press, 1972, pp. 12-14, 38-44).
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Language, Whereas East Pakistan "very closely approximates a linguistic unit," West Pakistan "presents a complex polyglot."¹

Table 1.1. Frequency of languages commonly spoken as mother tongue in Pakistan (percentage of population)

Language	East Pakistan		West Pakistan		Pakistan	
	1951	1961	1951	1961	1951	1961
<i>Bengali</i>	98.16	98.42	0.02	0.11	56.40	55.48
<i>Punjabi</i>	0.02	0.02	67.08	66.39	28.55	29.02
<i>Pushtu</i>	-	0.01	8.16	8.47	3.48	3.70
<i>Sindhi</i>	0.01	0.01	12.85	12.59	5.47	5.51
<i>Urdu</i>	0.64	0.61	7.05	7.57	3.37	3.65
<i>English</i>	0.01	0.01	0.03	0.04	0.02	0.02
<i>Baluchi</i>	-	-	3.04	2.49	1.29	1.09

Source : Adapted from Pakistan, Ministry of Home and Kashmir Affairs, Home Affairs Division. *Population Census of Pakistan, 1961*, Vol. 1, pt. iv, statement 5.3.

As Table 1.1 reveals, the linguistic differences between the two wings are very great, making the development of a lingua franca between the wings difficult indeed. None of the languages has general acceptance in both wings. Most of the tongues are regionally based. Bengali, though the language of the majority, is virtually unknown in West Pakistan. Of the principal spoken languages of West Pakistan - Urdu, Punjabi, Sindhi, Pushtu - all are similarly unfamiliar in East Pakistan (although a small elite know Urdu); and do not even have general applicability in West Pakistan. Differences in script add to the difficulty of learning a second language from the other wing. The linguistic traditions in the two wings also differ. Bengali claims the distinction of having been in the vanguard of the literary renaissance in modern India. The Bengali are intensely attached to and proud of their language and often reveal a sense of linguistic nationalism. But though the Bengali language develop under the patronage of Muslim rulers and was greatly influenced by Islamic thought, albeit in the form of Sufi mysticism,² its secular renaissance in the nineteenth and the twentieth centuries was very largely due to the contribution of Hindu authors. Arguing that Bengali was permeated with Hindu imagery, the Pakistani policy-makers initially rejected Bengali's claim for recognition as a national language and attempted to make Urdu - a minority language, but one closely associated with the Indian Muslim heritage and the Pakistan movement³ - the only national language. The attempt was abandoned in 1954 after strong Bengali opposition, and both Bengali and Urdu were recognized as national languages. But neither tongue gained a substantial acceptance in both wings. Though English is the official language, it still remains very much the language of the elite. Table 1.2 clearly reveals Pakistan's failure to develop a second language commonly understood in both wings. It is especially disturbing to note that the percentages for all the languages except Bengali and Sindhi have declined over the years. Given the increased rate of urbanization (see Table 1.1) in Pakistan, the number of "mobilized but

differentiated⁴ groups in the country has increased - a trend not conducive to national integration.

Table 1.2 Frequency of major languages spoken as additional tongues (percentage of population)

Language	East Pakistan		West Pakistan		Pakistan	
	1951	1961	1951	1961	1951	1961
<i>Bengali</i>	0.29	0.55	0.01	0.03	0.17	0.32
<i>Punjabi</i>	-	0.01	1.98	1.18	0.84	0.52
<i>Pushtu</i>	-	-	0.96	0.47	0.41	0.21
<i>Sindhi</i>	0.01	0.01	1.16	1.57	0.50	0.69
<i>Urdu</i>	0.46	0.72	8.85	7.28	4.03	3.59
<i>English</i>	1.31	0.83	2.63	2.07	1.87	1.38

Source : Adapted from Pakistan, Ministry of Home and Kashmir Affairs, Home Affairs Division, *Population Census of Pakistan*, 1961, Vol. 1, pt. iv, statement 5.3.

Society and culture. Pakistan was established on the premise that Indian Muslim needed a separate state, where "they could rule according to their own code of life and according to their own cultural growth, tradition, and Islamic laws."⁵ This argument presupposed the existence of one Indian Muslim society and culture and overlooked the very real regional variations in Indian Muslim society. It is true that society and culture in both East and West Pakistan are based on Islamic principles;⁶ and Islam, to its followers, is not a mere set of beliefs, but a way of life which colors every aspect of the believer's daily existence. Within this broad common context of Islam, however, there are certain basic disparities between the society and culture of East and West Pakistan - disparities which are of special significance from the viewpoint of nation - building....

The rise of a vernacular elite in East Pakistan

From the viewpoint of east-west integration, the most crucial development during the first decade was the rise of a vernacular elite in East Pakistan. Unlike the ruling elite at the center or in West Pakistan, which changed little over the years, the Bengali elite changed a great deal during this period. At the time of independence, the ruling elite in east Bengal, like the central ruling elite, was "national" and "non-vernacular," or bilingual. The Bengali Muslims entered the modern age at a relatively late stage. Before independence their leaders generally were landlords or Calcutta-based urban cosmopolitans who were either nonvernacular or bilingual. But in the years following independence, preexisting factional groups and new social forces gave rise to a Bengali counter-elite which was mostly "vernacular" and regional.⁷ During its struggle for supremacy (1947-54), the vernacular elite developed its own separate political party and platform and a distance linguistic nationalism. The election of 1954 marked the loss of power of the old ruling elite.⁸ The ascent of the vernacular elite to power within the relatively short period of seven years was due partly to preexisting factional opposition to the "national" elite and partly to the inept policies followed by that elite and its allies in the centre.

Origins of the vernacular elite. The vernacular elite drew its strength from various groups and organizations. At the initial stage, Muslim League factions opposed to the ruling faction played a key role. Prior to independence, the Muslim League was divided into three major factions: the Dacca, or Nazimuddin faction; the Fazlul Haq faction; and Suhrawardy faction. The Dacca faction, led by men like Khawaja Nazimuddin and Akram Khan, was an essentially traditional, conservative faction that represented the landed interests. Its leadership was nonvernacular and had little popular support in the countryside. The Suhrawardy faction was mostly modernist and urban-based, primarily in Calcutta. Many of the members, including Suhrawardy

himself, were nonvernacular. Their main strength lay in their organizational capability and in their hold over the mobilized urban literati groups, especially the students. The Fazlul Huq faction was vernacular and rural-based. It was organizationally weak but had mass support because it championed popular socioeconomic causes like the abolition of landlordism and the settlement of rural debt, as well as specifically Muslim causes.

Both the Huq and Suhrawardy factions fell out with the central Muslim League hierarchy, one of the reasons being their disagreement over the issue of Bengal's political autonomy.⁹ After partition, the Nazimuddin faction came to power in East Pakistan with the help of the central Muslim League hierarchy.¹⁰ Thus the early power elite in the east wing was essentially nonvernacular, organizationally weak, and opposed by the Huq and Suhrawardy factions. A few of the prominent supporters of these factions were accommodated by the ruling elite, but the majority, including Fazlul Huq and Suhrawardy themselves, remained outside the government. The inability of the ruling elite to incorporate these dissatisfied factions spurred the quick rise of the vernacular counter-elite. The opposition factions, coupled with Maulana Bhasani's group, which had its main strength in Assam and Sylhet, laid the foundation of a separate political party and platform.¹¹ Unlike the other leaders, Bhasani believed in non-constitutional methods and civil disobedience, and he was the only Pakistani leader who sought a rural base. His belief in socialism and anti-imperialism made him a catalyst for leftist forces in East Pakistan.

In addition to these Muslim League factions, the Congress and Communist parties helped shape the ideology and organization of the Bengali counter elite. At the time of partition, Congress was the only official opposition party in East Bengal and hence bore the main burden of criticizing the policies of the ruling elite. Congress, for example, undertook the

championship of the Bengali language and principles of secularism.¹² The Communists also had considerable impact.¹³ After independence, the Communists at first adopted the policy of working for an immediate revolution, and organized a peasant movement.¹⁴ The quick suppression of the revolutionary movement, and a change in the policy of Cominform, led the Communists to work in other, non-Communist front organizations. They worked in the Youth League,¹⁵ East Pakistan Students Union (EPSU),¹⁶ Ganatantri Dal,¹⁷ and the Awami League - organizations from which the vernacular elite drew substantial support. The Communists also aided the vernacular elite in the 1952 language movement and the election of 1954.

It was, however, the student organizations that proved to be the vernacular elite's major source of strength. Students continued their pre-independence tradition of political activism,¹⁸ and provided leadership and support for the various political movements undertaken by the vernacular elite. After independence, the enrollments of Muslim students increased steadily. The majority of them went to vernacular language schools, and they were an ever-expanding base of support for the vernacular elite.

Foundation of the Awami League (1949). The foundation of the Awami League, the first Muslim opposition party in East Bengal, brought many dissatisfied factions under one platform. Soon the Awami League became the chief spokesman of the budding vernacular elite. An examination of the Awami League's leadership reveals some of the characteristics of the Bengali counter elite. The party president, Maulana Abdul Hamid Khan Bhasani, was a peasant leader, a former president of the Assam Muslim League, a maulana (religious leader) with little formal education, who had a long record of political imprisonment.¹⁹ The three vice-president - Abdul Mansur Ahmad, Ataur Rahman Khan, and Abdus Salam Khan - were all small-town lawyers with little active political experience. The general secretary, Shamsul

Huq, was a young student leader who came to prominence during the 1948 language demonstrations. The assistant general secretary, Sheikh Mujibur Rahman, was another young student leader who came to light during the 1948 movement. Thus the Awami League's leadership was dominated by mofussil (small town) lawyers and students - vernacular professionals or potential professionals.

The Awami League provided a political organization for the rising vernacular elite, but they still lacked a coherent political platform. Early Awami League demands and demonstrations dealt with issues such as food shortages and the restoration of civil liberties. But the vernacular elite needed a political issue that would clearly set them apart from the ruling elite and would mobilize mass support behind them.

Anti-BPC Movement (1950) The anti-Basic Principles Committee Report (anti-BPC) movement supplied the vernacular elite with their major political dogma - full regional autonomy for East Bengal. The Basic Principles Committee Report, which was the first draft of the Pakistani constitution, drew sharp criticism from East Bengal. Bengalis feared that the BPC draft, if implemented, would reduce East Bengal's majority to a minority and would turn "East Bengal into a colony of Pakistan."²⁰

A committee of action formed at a mass convention of opposition political workers in Dacca was entrusted with drafting an alternative proposal for the constitution. The conveners of the committee of action, Aaur Rahman Khan and Kamruddin Ahmad, were both Awami Leaguers. The committee toured East Bengal and agitated mass opposition to the BPC Report. Finally, in February 1950, a "Grand National Convention" was held which adopted alternative constitutional proposals. These proposals, especially those dealing with East Bengal's autonomy, remained the sheet anchor

of all subsequent demands for autonomy in East Pakistan. The proposals assign only defense and foreign affairs to the central government; and even this jurisdiction was subject to the limitations that there would be two regional foreign offices and two regional defense forces, manned by the people of the regions.²¹ The federal government was entitled to levy taxes only on certain specified items and could add new items of taxation only with the consent of the region. The draft constitution also called for the establishment of "a sovereign socialist republic" and for the recognition of Bengali as a state language.

Language movement. While the anti-BPC movement gave the vernacular elite its political program, its mass appeal and group coherence was supplied by the language movement. The language movement was, in fact, crucial to the development of the vernacular elite. It helped foster a kind of linguistic nationalism in East Pakistan. It made the students a potent political force and set the pattern of student-literati-professional alliance which was used successfully in all subsequent movements. Above all, it supplied the vernacular elite with a universally popular issue, a cause under which all Bengalis could unite, a cause which helped bridge the elite-mass gap.²²

The language movement started soon after independence. The Congress members of the Constituent Assembly had demanded equal recognition of Bengali and Urdu as early as February 1948. In that month Dacca University students went on strike, demanding that Bengali be recognized as one of the state languages of Pakistan. Though the movement was short-lived, it showed for the first time the strength of the students, the main spokesmen for the vernacular elite. In 1952 a second language movement occurred which was by far the most remembered. The events of February 21, 1952, left a deep imprint on East Pakistan's political development. Massive student demonstrations in Dacca in deliberate violation of a government ban

on public meetings, the death of student demonstrators under police fire, the subsequent province-wide strike and protest, all changed the political complexion of East Pakistan.

The 1952 language movement created myths, symbols, and slogans that consolidated the vernacular elite. It gave them not only popular common cause but also their first martyrs. A whole new literary and cultural tradition grew out of the events of February 21.²³ The day is now celebrated every year as a memorial day when mass meetings are held with renewed pledges to support the vernacular elite's ideals and causes. In fact, the celebration of February 21 often serves as a political barometer of the vernacular elite's moods. The bigger the processions and mass meetings and the more violent the clashes with police, the more frustrated and dissatisfied the vernacular elite.

The main driving force of the 1952 movement was the students, working in close cooperation with political party members. The students took the crucial step of breaking section 144 on February 21, and in so doing they courted arrest and some of them died.²⁴ They organized not only the massive strike and demonstrations in Dacca but also the later province-wide strike, and thus demonstrated the coherence and effectiveness of student organizations.

The language movement drew widespread sympathy and support from the rural areas, in part because the large majority of Bengali students came from these areas.²⁵ Though the peasants did not actively participate in the movement, their tacit support became manifest in the election returns of 1954, when the Muslim League government in East Bengal was defeated by a massive rural vote. The student's campaign on the language issue had greatly influenced the vote. And the language issue was the first point in the

21-point Manifesto of the United Front.... Representative of the language movement's importance in the overthrow of the ruling elite was the defeat of the Muslim League chief minister by a young student leader of the language movement who had no past political experience.

NOTES AND REFERENCES

1. Donald N. Wilber, *Pakistan*, p. 71.
2. See Qazi Din Mohammad, *Bangla Sahityer Itihas* (History of Bengali literature), I, 170-79; II, 191-325; Dr. Mohammad Shahidullah, *Bangla Sahityer Katha* (History of Bengali literature), II; Mohammad Abdul Hai, *Sahitya o Sanskriti* (Literature and culture) pp. 1-114.
3. Urdu first developed as a lingua franca in North India after the Muslim conquest. With the Hindu revival of the early twentieth century, the Urdu-Hindi controversy started. Since the Muslim of Uttar Pradesh were most sensitive to this issue and since the leadership of the Muslim League generally came from their ranks, Urdu came to be closely associated with the Pakistan movement. Also, Urdu literary figures like Sibli Nomani and Iqbal did much to foster Muslim nationalism in India.
4. Deutsch, *Nationalism*, pp. 129-30.
5. M.A. Jinnah, quoted in Sharif al-Mujahid, "National Integration", in East Pakistan, Bureau of National Reconstruction, *Pakistani Nationhood*, p. 148.
6. See I. H. Qureshi, *The Pakistani Way of Life*; S.M. Ikram and P. Spear, eds., *The Cultural Heritage of Pakistan*.
7. The difference between the vernacular and the non vernacular elite is not merely in the languages they speak; it also lies in their socioeconomic backgrounds, socialization processes, and their philosophies and policy priorities. The vernacular elite generally come from poor or lower-middle-class families in rural areas or small towns; while the nonvernacular elite come from economically well-off urban families (though their income might come from rural zamindari sources) who could afford to send their children to English-language schools and universities.

After independence, with the introduction of universal adult franchise and the sudden increase in political participation, the vernacular elite found themselves in a position of strength because of their numerical superiority, and they successfully challenged the nonvernacular elite. For similar developments in other South Asian countries after independence, see Selig S. Harrison, *India*, Chap. III; Howard Wriggins, *Ceylon*, Chaps. VI and IX.

8. In the 1954 East Bengal provincial election the ruling Muslim League party could secure only 10 seats in a house of 309.
9. When Fazlul Huq broke with Jinnah on the question of membership in the Imperial Defense Council, he complained bitterly of Jinnah's interference in Bengal politics. See the Huq-Jinnah correspondence in S. Sharifuddin Pirzada, ed., *Qaid-e-Azam Jinnah's Correspondence*, pp. 55-84; and Fazlul Huq's letter of resignation, quoted in Ispahani, pp. 48-49. Similarly, one of the reasons for Suhrawardy's disagreement with the central Muslim League was his support of the cause of greater Bengal. For a detailed analysis of the shifting fortunes of the Suhrawardy and Nazimuddin factions, and the central Muslim League hierarchy's role in these fortunes, see Abdul Mansur Ahmad, *Rajintir Panachasa Bachara*, pp. 210-11; Kamruddin Ahmad, *East Pakistan*, pp. 86-96; Ispahani, pp. 114-17, 216-17.
10. Interestingly enough, top Bengali leaders, both Congress and Muslim League, often had open conflict with the central hierarchies of their parties. After partition the factions that came to power in both West and East Bengal were the ones backed by the central hierarchies. For a detailed analysis of this phenomenon, see Leonard Gordon, "Bengal and the Indian National Movement."
11. While in the more developed countries, where parties are well organized, factional disputes are usually settled within the party, in East Bengali politics, where party organization is weak, factional disputes often lead to party splits and the establishment of separate parties.
12. See Pakistan, Constituent Assembly, *Debates*, February 25, 1948 (Speeches by D. N. Dutta, Prem Hari Barma, B. K. Datt, Sris Chandra Chattopadhyaya).
13. On the role of the Communists in East Bengal politics, see Talukdar Maniruzzaman, "The Leftist Movement in East Pakistan - Leadership, Factionalism, Doctrinal and Tactical Dilemmas" (unpublished paper available from author).

14. Y. V. Gankovsky and L. R. Gordon Polonskaya, *A History of Pakistan*, pp. 143-45.
15. The Youth League was established in 1951. It was the first noncommunal student organization and aimed at mobilizing popular support on a program of secularism, anti-imperialism, antifeudalism, world peace, unfettered democracy, and employment opportunities for all people. The Youth leaguers provided leadership to the various political parties that were later established. Ten top-ranking leaders of different underground Communist party factions are former Youth Leaguers. See Maniruzzaman, "The Leftist Movement".
16. The East Pakistan Students Union was established in 1952, on the initiative of the leftists to be a noncommunal student organization with an antimperialist plank. Since 1952, the EPSU has become the major leftist student organization.
17. Ganatantri Dal was established in January 1953 by the Youth Leaguers and other leftists to facilitate the left's participation in the 1954 election as members of a separate party.
18. Like students in many other developing countries, East Pakistani students are highly politicized. According to one recent survey of university students, 77 percent can be classified as politicized and 80 percent appear to have medium to high political competence. See Talukdar Maniruzzaman, "Political Activism of the University Students in Pakistan" (unpublished)
19. As pointed out above, Maulana Bhasani is the only political leader in Pakistan who has attempted, though with limited success, to build a rural base of support.
20. Pakistan, Constituent Assembly, *Debates*, Sess. 8, November 21, 1950 (speech by Nur Ahmad)
21. For a full text of the proposed constitution see Kamurddin Ahmad, *East Pakistan*, Appendix C.
22. For an interesting analysis of the impact of the language movement in giving Bengali Muslims a sense of identity, see Badurddin Umar, "Mussalamnera Sawadesh Pratyabartana (The Muslim's return home)," in Badruddin Umar, *Sanskritik Sampradayikata* (Communalism in culture), pp. 8-11.
23. See Hasan Hafiqur Rahman, ed. *Ekushe February* (21 February), for a collection of writings commemorating the day.

24. On the eve of 21 February, when section 144 of the Criminal Procedure Code of Pakistan was imposed banning public meetings and processions, the All-Parties Action Committee favored obeying the government order. The students, however, favored confrontation by breaking section 144. Of the four persons known dead by police fire, three were students and one was a clerk of the East Bengal Secretariat.
25. Alex Inkeles' data on East Pakistani students, based on interviews with 357 students from **d**acca University and the Dacca Polytechnic Institute in the early sixties, show that the fathers of 55 percent of students are engaged in full or part-time agriculture, and nearly 73.8 percent of the students come from villages, small town , or small cities. Alex Inkeles, Mimograph, Center for International Affairs, Harvard University, Cambridge, Mass.

UNIT TWO

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In this reading the author has tried to trace the genesis of the constituent Assembly of Pakistan. Besides that he also critically viewed the working of the constitutional Assembly. We hope this information will help you to understand the causes leading to the constitutional crisis in Pakistan. (Complier)

READING - 1

(Excerpt from Pakistan: A political study by Keith Callard, published by Oxford University Press, PP. 77-100.)

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2. THE CONSTITUTIONAL PROBLEMS

2.1 FIRST CONSTITUENT ASSEMBLY

The Constituent Assembly Section I: Origin and Composition

The Constituent Assembly of Pakistan was born without the formal blessing of law. Its conception lay in the Cabinet Mission plan of May 1946 and the Viceroy's statement of June 3, 1947, which announced the agreement to partition the sub-continent. The 1946 Plan envisioned a single Constituent Assembly for undivided India. This was to be an assembly of representatives chosen by the elected members of the provincial legislative Assemblies with the addition of delegates from the princely states.

Election to the provincial legislatures had taken place in 1945-46 that is before either independence or partition had been conceded. The legislatures were not chosen therefore with a view to their future as electoral colleges for the Constituent Assemblies. However, they were dominated by the Indian National Congress and the Muslim League, each campaigning for independence after its own fashion. From the standpoint of Pakistan, it must not be forgotten that the results of these elections yielded a Unionist ministry in the Punjab (though the League overwhelmingly carried the Muslim seats), a pro-Congress regime in the Frontier province and a coalition in Bengal, which, although led by a Muslim, could not be counted on as an unshakeable supporter of the cause. Inevitably the fierce partisan played a more prominent role than the mature statesman.

The franchise for participation in provincial elections was narrow. The details varied from province to province, but the right to vote was based on education and property, and it is unlikely that anywhere more than 15 per cent of the total population was entitled to vote. A number of special constituencies existed for such categories as landowners, university voters, organized labour and women. More important were the provisions for communal separate electorates and reserved seats. Muslims (and in some cases Christians and others) were entered on separate rolls and voted for candidates of their own community. The Scheduled Castes, while not being placed on separate rolls, were provided with a number of seats reserved for members of that community. This allocation of seats by communities was arranged to over-emphasize the representation of communal minorities, but it gave no help to political minorities within a community. These factors worked heavily in favour of the Muslim League, which scored an immense victory, winning 446 of 495 Muslim seats in the provincial Assemblies.¹

The Constituent Assembly of undivided India came into being in

1946. Members were elected by communal groups in the provincial Assemblies, voting by proportional representation. The over-weighting of minority communities was corrected by allocating seats in the ratio of one seat for each one million persons of that community in the province. The Constituent Assembly began its deliberations on December 9, 1946, that is six months before the principle of partition was accepted. The Muslim League members, not being satisfied with the Congress interpretation of the 'grouping' provision of the Cabinet Mission plan, declined to take their seats. Thus the Assembly was almost entirely without Muslim representation.

In June 1947 the partition of the sub-continent was agreed, and in consequence it became necessary to constitute a separate Constituent Assembly for Pakistan. This was brought about under the agreement of June 3rd and the Indian Independence Act. The legislatures of Bengal and the Punjab met and voted for partition. Since the Constituent Assembly members had been chosen as a group to fill the quota for all the Muslims of those two provinces, it became necessary for West Punjab and East Bengal to select new representatives. It was thus that the members were chosen who met together in Karachi on August 10, 1947, for the first meeting of the Constituent Assembly of Pakistan.

The numerical ratio of one member to one million inhabitants had been designed to give a workable organization of about four hundred and fifty members for the entire sub-continent, including the princely states. In Pakistan, however, it yielded an Assembly with a maximum strength of less than eighty. For various reasons the effective working strength of the Assembly was always substantially less than this figure.

At the time of its inauguration the total authorized membership of the

Assembly was sixty-nine. However, this included a number of persons who, in the aftermath of partition, decided not to remain in Pakistan.² Several of these were non-Muslims whose constituents had also left the country in large numbers. The Assembly, by resolution, decided not to refill one General (Hindu) and two Sikh seats from the Punjab. (A later vacancy in a Punjab General seat was also left unfilled, leaving one non-Muslim member from that province, a seat held first by a Christian and then by a Parsi.)³

From time to time additions were made to the Assembly. To give representation to the vast numbers of refugees who had entered the country since partition, five extra Muslim seats were given to the Punjab and one to Sind. Additional places were created also for the princely states as they executed instruments of accession. In this manner one seat each was allotted to Bahawalpur, Khairpur, the Baluchistan States Union and the states of the North-West Frontier. At the end of its life the Assembly had a total of seventy-nine seats, although four non-Muslim seats had in fact been vacant for a period of years.

Had it been able to work at full strength, the Constituent Assembly would have been very small for its task. But at every sitting there were many empty places.

Table 2.1
Constituent Assembly : Session and Attendance⁴

Constituent Assembly				Constituent Assembly (Legislature)			
Year	Session	Days	Average Members Attending	Year	Session	Days	Average Members Attending
1947	I	4	55				
1948	II	3	42	1948	I	22	37
	III	3	39		II	10	40
	IV	5	39				
1949	V	5	40	1949	I	16	40
					II	15	43
1950	VI	4	45	1950	I	22	44
	VII	4	41		II	16	54
	VIII	8	48				
1951	IX	4	56	1951	I	22	52
	X	3	55		II	7	57
1952	XI	8	49	1952	I	27	48
	XII	4	53		II	11	48
1953	XIII	1	43	1953	I	22	45
	XIV	1	42		II	19	51
	XV	28	54				
1954	XVI	31	37	1954	I	35	46
			116				244

Average sessional attendance ranged from 37 to 56, and the maximum number of members recorded as voting at a division was 53.

There were many reasons for the empty places, one of which is revealed in the table 2.1 This was the habit of convening very short sittings. This meant that a member might be asked to make a round trip covering thousands of miles in order to spend a few hours in his seat in Karachi. It is true that members were paid daily and travelling allowances rather than a fixed salary, but this in no way lessened the inconvenience or the loss of alternative income.

Other members failed to attend for a variety of reasons. Khan Abdul Ghaffar Khan, the Red-shirt leader, spent six years in prison during the life of the Assembly, but as his detention was for political reasons his seat was not vacated. Mr. J. N. Mandal, who was the first Minister for Law and Labour, left Pakistan for India in 1950 without troubling to resign, and his name was still included in the list of members in October 1953. Other members accepted public offices which required their attendance elsewhere than Karachi.⁵ Dr. Omar Hayat Malik spent more than five years as ambassador to various foreign countries but retained his seat to the end. Many who took such offices resigned their seats, though after a period that was sometimes prolonged. Both Nazimuddin (who was later re-elected) and Ghulam Mohammad resigned after becoming Governor-General. Similarly Muhammad Ali, Ghazanfar Ali Khan and M. A. H. Ispahani resigned after accepting diplomatic appointments. Khwaja Shahabuddin resigned when he accepted a provincial Governorship, but Firoz Khan Noon, Sardar Abdur Rab Nishtar and the Khan of Mamdot did not. Casual vacancies in the membership of the Assembly also occurred through the more normal cause of death of the sitting member and the highly abnormal operations of PRODA⁶ which removed two members from the House.

When a casual vacancy occurred the provincial legislature concerned was usually called upon to provide a replacement drawn from the same

community as the former member. When the time came to fill the seat vacated by the death of Mr. Jinnah and the five seats for refugees in the Punjab, the provincial Legislative Assembly was no longer in existence. Rather than wait for the new provincial elections, the Constituent Assembly preceded to co-opt members who retained their seats until the provincial Assembly should re-convene.

The filling of a vacancy in the Constituent Assembly offered no opportunity for the expression of public opinion. Members did not represent territorial constituencies, and there could therefore be no question of direct popular election. Until 1954 the Muslim league controlled all the provincial legislatures and, for a Muslim seat, it was enough to secure the endorsement of the Central Parliamentary Board; election by the provincial Assembly was then virtually assured. Little or no attempt was made to secure the representation of groups in the country that had not previously obtained seats in proportion to their significance. The main purpose served by the occurrence of casual vacancies was to make it possible to obtain seats for new cabinet members. When Abdul Qayum Khan, after five years as Chief Minister of the North-West Frontier provinces, entered the federal cabinet, a seat was found for him from East Bengal. Thus even the desirability of provincial representation was subordinated to the dictates of political expediency. While election to the Constituent Assembly was directed to be held by proportional representation, the fact that vacancies were invariably notified singly prevented this system from accomplishing any result. Not a single Opposition Muslim was returned as a result of a casual vacancy by the provincial legislatures.⁷

Members of the Constituent Assembly had been chosen originally by the provincial legislatures at a time when the duration of the Assembly and the extent of its labours were not evident. Since there was no ban on

membership of two legislatures, the provincial members largely chose themselves to go to Karachi. As a consequence many MCAs had legislative duties to perform in two places. Furthermore many of them were called upon to fill positions in the provincial cabinets. Although provincial Chief Ministers were changed frequently, three out of four of them were usually to be found as members of the Assembly⁸ besides some lesser provincial ministers. Two other MCAs, the Jam Saheb of Las Bela and the Wali of Swat, were rulers during their tenure.

The Constituent Assembly found itself burdened with members who held offices (as ministers of provinces and states, Governors and ambassadors) not directly related to the work of the House. In addition, of course, the Assembly had to provide the members of the central ministry which involved some fourteen persons. Ministers were often required to be away from Karachi and the Foreign Minister in Particular spent much of his time abroad. Undoubtedly one of the reasons for the weakness of the Constituent Assembly was that so high a proportion of its members found themselves with public interests which took precedence over their loyalty to and attendance at the House.

In its seven years' life the first Constituent Assembly saw many changes in membership, and this was an additional cause of weakness. Its general confirmation, however, remained the same. The foremost group was composed of central and unit officeholders⁹. Behind them came the Muslim League back benchers. Successive Prime Ministers searched hard to find political or administrative talent among the Muslim League Parliamentary Party, and those who showed signs of promise were usually rewarded with an appointment either inside or outside the Assembly. The residue that had failed to secure office sat on the government back-benches. With one or two honourabel exceptions it cannot be maintained that the standard of

achievement of those members was high. After the coup of 1953 the character of the league non-official benches changed, but not in the direction of intelligent independent support of government measures. What should have been a constant source of informal but friendly criticism became a feverish attempt to back the winner in the office stakes.

The lack of vitality among private members of the League was the more serious in view of the weakness of the Opposition. On this side the principal group was the small and unhappy band of members of the Pakistan National Congress. Throughout most of its life the Assembly contained fifteen non-Muslim members, thirteen from East Bengal, and one each from Sind and the Punjab. The Punjab seat was designed (after 1949) to give representation to the non-Hindu minorities of West Pakistan¹⁰ and was occupied successively by a Christian and a Parsi chosen by the Constituent Assembly itself. Not all the non-Muslims regarded themselves as member of the Opposition. Mr. J. N. Mandal (Scheduled Castes), until he left the country, was a cabinet minister. Three other non-Muslim members were described as Muslim League Associates. Two of them, A. K. Das and Dhananjoy Roy (Scheduled Castes) staged a separate walkout after the Congress Party, in protest against the Islamic provisions of the proposed constitution. On this occasion the third Associate, Mr. Bhandara (Parsi) remained in his place.¹¹

The Congress Party in Pakistan was composed of Hindus and was therefore compelled to adopt the role of spokesman for a minority. It could never fulfil the true part of a parliamentary Opposition, that of offering an alternative government for the approval of the electors. The background of the party was Indian, and the past views of most of its members had been opposed to the idea of Pakistan. It had to be constantly on the alert to defend itself against allegations of disloyalty to the state and of sympathy with an

alien power. Moreover, its members had to contend with a substantial degree of suspicion and hatred toward the religion they professed. A true Opposition seeks to take the offensive against the government; the Pakistan National Congress had to concern itself with the defence of interests that it might yet lose.

Also in Opposition were various Muslim dissidents. Mr. H. S. Suhrawardy was disqualified in 1948 on grounds of non-residence,¹² and Khan Abdul Ghaffar Khan was in goal for the greater part of the duration of the Assembly. Mr. Fazlul Huq was a member but he did not move into open opposition until 1953 when he chose to carry on his activities in Bengal rather than Karachi. They only organized Muslim Opposition group in the Assembly was the Azad Pakistan Party, which attained a maximum strength of three, diminishing later to one.¹³ Finally there were a few members, such as Begum Ikramullah, one of the two women in the House, who, at least for some sessions, styled themselves as 'independents.' However, when it came to a vote such members normally agree with the government or abstained.

SECTION II. THE CONSTITUTIONAL PROPOSALS 1949-54

The principal task of the Constituent Assembly of Pakistan was to frame the constitution, but in addition, until that constitution went into effect it was empowered to act as the federal legislature under the Government of India Act. These two roles of the Assembly were fairly sharply distinguished. Its proceedings were published in two series under the heading of 'Constituent Assembly' and 'Constituent Assembly (Legislature)' respectively.¹⁴ The same members and the same officers served in both capacities, but there were separate sets of Rules of Procedure. The constitution-making body clearly regarded itself as superior, working on the assumption, which was later to be challenged, that it possessed sovereign authority capable of

abolishing or amending any other organ of state. It was summoned and prorogued, not by the Governor-General but by its own President. Its enactments were not presented to the Governor-General for his approval, but were declared to become law on being signed by the president and published under his authority in the *Gazette of Pakistan*.¹⁵ It was also claimed that the Assembly could be dissolved only by vote of its own members.¹⁶

It was always maintained, in theory at least, that the government and the Opposition did not exist for the purposes of constitution-making. The Assembly was to be a gathering of equals owing loyalty only to the people and themselves. In practice the presence of ministers in the Assembly was never forgotten. A cabinet member spoke with the same tone of authority whether the subject before the House was legislative or constitutional, and the Opposition and the back-benchers had the same sensation of relative inferiority. Mr. A. K. Brohi was not a member of the Assembly or of its Basic Principles Committee until after the 1953 coup. He then became Law Minister and acquired the responsibility of piloting the Basic Principles Committee Report through its final stages. He had this job because he was a minister, and he behaved as would any minister in charge of an intricate piece of legislation.

While the pretence was made that government did not exist in the constituent Assembly, no one attempted to conceal the presence of political parties. The league had an overwhelming majority, so that, when it had reached agreement, there was little possibility or purpose of an effective debate in the House. There was even less point in pushing matters to a vote since the League majority held firm and the largest 'Opposition' total at a division was fifteen.¹⁷

In practice, decisions on major constitutional matters were reached

through a familiar series of stages. First the central cabinet and the Chief Minister of the provinces would reach a decision. This would be submitted to the Muslim League Parliamentary Party, where discussion was often vigorous and prolonged, especially if complete agreement among the ministers had not been secured. Then the decision would be conveyed perfunctorily to the House, whose non-League member would already be aware through gossip and press reports that they were to be confronted with a *fait accompli*. There would be a brief discussion in which the small Opposition would raise a few half-hearted objections. The League members, having already debated the matter in the party, would confine themselves to a few observations on the desirability of national unity and the virtues of Islam as a political system. After a few hours' debate the matter would be carried either with or without the formality of a division.

This cavalier attitude toward Parliament by the leaders of the League is well illustrated by the method of dealing with two of the most controversial issues that confronted the Assembly- representation and the language question. A newspaper report¹⁸ describes how the Prime Minister interrupted a meeting of the Muslim League Parliamentary Party to call a press conference:

'Beaming with joy - his face flushed with excitement - Mr. Mohammed Ali said: "I am very glad to say that all the decisions have been arrived at unanimously without any opposition from a single member of the Party. "I am now in a position to announce to my countrymen that the deadlock which had so long held up the progress of constitution making has been broken."

The Prime Minister went on to discuss the outline of the 'Mohammed Ali formula' governing the distribution of seats.

The second example makes even more plain the inferior role assigned to the Constituent Assembly. There was no constitutional question that had

aroused more heated discussion than that of the national language or languages. This was how the Constituent Assembly arrived at its final decision:

April 20, 1954, Mr. A. K. Brohi (Minister of Law)

'There are some important matter which are under the active consideration of the Party and, therefore, it is requested that proceeding be not taken in hand and the House be adjourned for that reason.'

No objection was raised; the day's proceedings cover half a page.

April 22, 1954, Mr. Ghyasuddin Pathan (Minister of Parliamentary Affairs):

'Sir, you are well aware that due to the language controversy the atmosphere is not at all congenial for the consideration of any serious matter not speak of consideration of the Basic Principles on which the future constitution is to be based.'

The House was adjourned without objection; the day's proceedings cover half a page.

April 26, 1954, the next meeting of the Assembly, there being no quorum, no business could be transacted.

May 7, 1954, 10 a.m., Mr. Mohammad Ali (Prime Minister)

The Prime Minister asked for an adjournment for half an hour, explaining:

'It is for some urgent and important consultations concerning the business before the House.'

This motion was opposed, unsuccessfully, by the leader of the Opposition.

May 7, 1954 11 a.m. Mr. Ghyasuddin Pathan:

'I am very sorry that I have got to make a future request to you for adjournment for about half an hour more, Sir.'

May 7, 1954, 11.45 a.m. A short notice amendment was introduced by the Prime Minister containing the result of the compromise on the language issue. The motion was adopted before lunch without a division. Such was the true nature of the unanimity of the party and of the Assembly.

The reader of the *Debates* of the first Constituent Assembly will look in vain for a series of informed discussions of the principles and forms of modern constitutional development as applied to the unique circumstances of Pakistan. And yet a draft constitution was produced¹⁹ and very few issues of substance remained to be decided when the Assembly suffered its unexpected demise. The discussion and approval of the various clauses did not take place in detail on the floor of the House. The Muslim League may have taken the controversial decisions, but it was not responsible for the line by line writing of the documents. This task was performed almost entirely behind closed doors, the public and the majority of Assembly members being given occasional glimpses of what was being prepared for them.

The first main step in preparing the constitution was the Objectives Resolution, which was introduced by Liaquat Ali Khan and accepted by the Assembly in March 1949. It is written in Islamic terms, a feature which aroused the resentment of the Hindus who moved a series of amendments.²⁰ Among Muslim, the Objectives Resolution has been almost uniformly accepted as the corner-stone of the new constitution, and it represented the high-water mark of agreement on constitutional principles during the life of the first Assembly.

The Resolution begins :

In the name of Allah, the Beneficent, the Merciful!

'Whereas sovereignty over the entire Universe belongs to Allah 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';

The purpose of the Resolution was to provide a declaration of national objective but certain aspects of the form of the future state are outlined in its provisions. The state is to be democratic, with guarantees of fundamental rights and social justice to all. It is to give Muslims the opportunity of leading their lives in full accord with the teachings and requirements of their religion; but special protection is to be accorded to the religious, cultural and other legitimate interests of the minorities. Finally, the state is to be a federation of autonomous units.

The Constituent Assembly at this time had been in existence for nineteen months and was then in its fifth session. It was therefore desirable to begin work in earnest on the new constitution. Accordingly, on the day on which the Objectives Resolution was adopted the Assembly established the Basic Principles Committee. This body consisted of twenty-five members (or about one-third of the Assembly), and was empowered to co-opt not more than ten other persons who were not required to be members of the Assembly. There can be no doubt that it was intended to be a 'strong' committee. Its president was Tamizuddin Khan, the President of the Assembly, but the vice-president was Liaquat Ali Khan, the Prime Minister. In addition there were seven members of Liaquat's cabinet, three lesser minister and one other member who was to join the cabinet later that year. Two of the members were shortly to become provincial Governor and one was an ambassador. The 'official' side was further strengthened by the co-optation of the Chief Ministers of East Bengal, Sind,²¹ and the North-West Frontier Province,²² and Sir Abdur Rashid, the Chief Justice of Pakistan. Among those who did not hold office during the life of the committee were three non-Muslims and one anti-League Muslim. Attendance at meetings ranged

from eleven to twenty-three, and the average was eighteen, of whom some seven or eight were normally central minister.²³

Following the death of Liaquat Ali (October 1951), it was some months before the new Prime Minister established himself in personal control of the operations of constitution-making. The Basic Principles Committee met five times in May 1952 with no major changes in its composition. Then, at the meetings of August 1952, four months before the committee finished its work seven new names appear. These comprised the Prime Minister, three other central ministers, two provincial ministers and one back-bench MCA.

The Basic Principles Committee as a whole was too large to consider in full session all aspects of the constitution and most of its member were too busy elsewhere to give the time and attention that such a method would have demanded. Accordingly three main sub-committees were set up, namely, the Sub-Committee on Federal and Provincial Constitutions and Distribution of Powers, the Sub-Committee on Franchise and the Sub-Committee on the Judiciary. In addition it was decided to set up a Board of *Talimaat-e-Islamia*²⁴ to advise the various committees on the religious implications of their work.

The sub-committees were modelled after the composition of the main body. That on Federal and Provincial Constitutions was the largest, containing twenty members (nine central ministers), and the Judiciary Committee had eight members (four ministers). The Federal and Provincial Committee reported its conclusions in July 1950, and after these had been amended and approved by the main committee, an Interim Report was presented to the Constituent Assembly in September 1950. This marked the end of the second stage of drafting the constitution.

The presentation of the Interim Report was the first opportunity given to the public or to the majority of MCAs to examine the outline of the constitution that was taking shape.²⁵ It was a short document, covering thirty-four pages of the official *Debates*, and it made no attempt to cover all aspects of the constitutional structure. (Thus, since the Franchise Sub-Committee had not reported, no recommendation was made on the highly controversial issue of the distribution of seats in the lower House of the legislature.) But the main outline was visible, and it bore a marked resemblance to the Government of India Act of 1935. So much so that one member said in comment: 'So far as this constitution is concerned, if Mr. Ghurchill had been the Leader of this House (which God Forbid), he would have drawn up just such a constitution.'²⁶

Few of the provisions bore any clearly defined Islamic character, and this came as a disappointment to many who had been pleased by the Objectives Resolution. Furthermore, the representatives of East Bengal had two reasons for alarm. Firstly they inferred that the composition of the new legislature would transform Bengal's numerical majority of the population into a minority of seats. Secondly, the Report contained the flat announcement that Urdu was to be the national language. A Muslim League member expressed his fears on the floor of the House:

Unfortunately, with the publication of the Interim Report of the Basic Principles Committee, there has been a great agitation and very hostile comments even against the Leader of Pakistan, Sir, in some quarters these principles enunciated in the Report, have been ascribed [sic] as most undemocratic, un-Islamic and most reactionary.

Sir, in East Bengal there is a growing belief-I must say that it is a wrong impression-that there are principles in the Report which if adopted, will reduce the majority of East Bengal into a minority and it will turn East Bengal into a colony of Pakistan.²⁷

Mr. Liaquat Ali, who had been hoping to make rapid progress, bowed before the storm of criticism and announced that time would be allowed for member of the public to make suggestions to the Basic Principles Committee, which would give them serious consideration. The volume of suggestions was described by the committee itself as 'enormous'²⁸ and a special sub-committee with Sardar Abdur Rab Nishtar as chairman, was established to deal with these proposals and to suggest appropriate amendments. It was the normal type of constitutional committee with fourteen members, five central ministers and four provincial Chief Minister.

It is difficult to judge the representative character of the suggestions submitted. They came from individuals (including members of the Constituent Assembly) and organizations of various kinds, religious, political, educational example, three copies of the *Draft Constitution for Pakistan* by Maulana Abul Ala Maududi were sent. The general tenor of the suggestions was quite clear. It was plainly urged that the constitution should be made more patently Islamic. Thirteen contributors asked that a declaration be included to the effect that 'Pakistan will be an "Islamic Democratic State" based on Holy Quran and Sunnah.'³⁰ One individual demanded that 'The prayers in mosques should be made compulsory for all Muslims and those who fail to discharge this duty should be punished.'³¹ In particular many proposals called for the definition of the office of Head of the State (*Amir or Khalifa*) in classical Islamic terms with very substantial powers. Several persons wanted a clause ensuring that 'Only the most pious person is to be elected head of the State,'³² and one felt that 'School teachers, professors and social workers should be considered as the best candidates.'³³ There was also a strong body of opinion that the Head of the State should be answerable to the courts, and no fewer than thirty-two submissions suggested some form of impeachment.³⁴ One citizen went so far as to ask that 'Everyone will have a right to criticize both

his public and private life.' There was a substantial measure of agreement that the judiciary, especially the federal and provincial Chief Justices, should play a more prominent role in legislative and executive matters than that envisaged by the Interim Report.

Besides this principal theme of the suggestions there was a secondary though important group of issues. These were sub-missions from Bengal asking for far greater decentralization of executive and legislative power and for the recognition of Bengali as an official language side-by-side with Urdu.

The suggestions Sub-Committee, recognizing that most of the sub-missions before it sprang from orthodox Muslim opinion, decided that the appropriate method of procedure would be to discuss the contentious items with the Board of *Talimaat-e-Islamia*. Therefore it co-opted the Chairman of the Board, Maulana Syed Sulaiman Nadvi, as a full member of the committee and held a series of conference with the rest of the Board and its secretary,

This series of discussions, judged by the glimpses afforded by the minutes of the committee,³⁵ must have been of very great interest. On the one side was the majority of members of the committee, politicians by profession lawyers by training and accustomed to expressing their thought in terms of Western logic an precedent. On the other side were the members of the Board of *Talimaat-e-Islamia*, together with two '*mualanas*'³⁶ who were, as MCA's, already members of the committee. This did not mean that the lawyer-politicians were automatically opposed to the addition of Islamic features to the constitution; but it did mean considerable difficulty in establishing a meeting of minds.

One groups started from the Government of India Act, or something

much like , and tried to show that it was already, or could easily be brought, into conformity with the requirements of Islam . The other group began with the *Qur'an* and *Sunnah* and tried to extract from them the institutional necessities of an Islamic states.

In theory the committee was merely seeking the Board's advice, and it was known that the committee would meet later, without the ordinary member of the Board, in order to reach its final conclusion. But in practice it seems to have been an open debate with each side striving to make its meaning clear to the other, and to gain acceptance for its view. The politicians knew well that to have the majority of *Ulama* brand the constitution as 'un-Islamic' would prove a serious setback. It is plain that both sides wanted to reach agreement and , if the committee accepted certain major Islamic provisions, the Board made a prolonged effort to understand the other point of view.³⁷ Indeed, there seem to have been occasions on which the members of the Board allowed themselves to be persuaded that certain recommendations were in accordance with their wishers when, in fact, there existed a marked divergence between the two. Thus the proposal for the executive side of government advanced by the Board was as follows:

'The responsibility for the administration of the State shall primarily vest in the Head of the State, although he may delegate any part of his power to any individual or body. Governance by the head of the State shall not be autocratic but consultative (*Shura*), i.e. he will discharge his duties in consultation with persons holding responsible positions in the Government and with the elected representatives of the people.'³⁸

Somewhat disingenuously the committee decided that these proposals 'have already been incorporated in paragraph 7 of the Interim Report,' that is to say that they amount to cabinet government with the head of the State acting on the advice of a ministry which is responsible to the legislature. The Board apparently accepted this contention.³⁹ The Suggestions Sub-Committee

finished its report in July 1952 (twenty-one months after the presentation of the Interim Report). The full Basic Principles Committee, which had held only one meeting (to select the Suggestions Committee) between August 1950 and May 1952 had by this time received the reports of the Franchise and Judiciary Sub-Committees and could proceed towards its final report. A draft was completed and signed in August 1952. A further series of meeting was held in November in order to consider a lengthy memorandum from Sir Robert Drayton, the Assembly's Chief Draftsman, and also to discuss certain 'notes' on the report submitted by the Board of *Talimat-e-Islamia*. It was at this late stage that a number of important amendments was made. For example the provision for the restoration of legislative seats for women was removed from the report,⁴⁰ and the articles covering the procedure to avoid repugnancy of legislation to Islamic law were re-worded and substantially modified. One final meeting held in December 1952, and the Report, in the form in which it was to be presented to the Assembly, was signed.

For the second time the leader of the Assembly hoped that rapid progress might be made. Three days after the committee had signed, the Report was introduced in the House (December 22, 1952). On the first day of the new year the Assembly adjourned for three weeks to give members an opportunity to study the new proposals.

Unfortunately the final Report did not receive a much better welcome than its predecessor. Now it was not the absence of Islamic provisions but the awkwardness of their insertion into the constitution that aroused criticism. Of more consequence was the fact that the Bengal members continued to feel that they had not received their due, while the Punjabis held that too much had been conceded to the East Wing. (The language question, which the committee had left open, was a cause for mutual suspicion and hostility.) When the three weeks were over the Assembly adjourned once more and,

although it met twice in March, the Report was not on the order of business.

In April the political flood swept away the last hope of a completed constitution in 1953. The new Prime Minister, Mr. Muhammad Ali, had been absent from Pakistan during the whole of the preceding constitutional discussions. Beside his need to take over the reins of the administration, it was necessary for him to spend some months in measuring the difficulties in the path of constitution-making and trying to find some way around them.

The principal issue was stated by the Chief Minister of East Bengal:

Sir, it is within the knowledge of everybody that on account of this difference of opinion between East Bengal and West Pakistan in the matter of composition of the Houses, the work on constitution-making was stopped.... The deadlock ... is working as a dead-weight on the nation. The nation is going to lose confidence in the leaders, in those who are at the helm of the Administration.⁴¹

The Prime Minister's patient maneuvers were rewarded, and a compromise, known as the 'Muhammad Ali formula,'⁴² was reached. It was laid before the House with pride by the Prime Minister.

'The House will be pleased to learn that the formula has been unanimously accepted by my colleagues, by the Chief Ministers of East Bengal, the Punjab, Sind, the N.W.F.P and Bahawalpur and by all members of the Muslim League Parliamentary party. This unanimity of opinion is in itself a remarkable feature. It serves to underline the basic unity and cohesion of the country—a unity which transcends all provincial boundaries.'⁴³

This episode illustrates only too well the nature of the process by which important decisions were taken. As Mr. Nurul Amin had said it had been, 'within the knowledge of everybody,' that the deadlock involved a clash between the East and West Wings. And yet no clear public presentation was made of the issues involved, and certainly no public vote in the

Assembly was taken to demonstrate how the opposing forces stood. The general public, on a matter of the most vital importance for the future of the nations, was left to guess at what was going on, on the basis of unofficial accounts of party meetings and cryptically worded threats and warnings from some of the leading participants. The debate was behind closed doors, and the public and non-League members of the Assembly had to wait until the official ranks had been dragooned into line. Such unanimity was indeed 'a remarkable feature,' and it is not surprising that it bred bitter resentment and that its duration was precarious in the extreme.

The conclusion is unavoidable that, on major constitutional issues, the place of decision was transferred from the Assembly to the Muslim League Parliamentary Party. But issue became contentious 'precisely because the League was divided. Without doubt lengthy and at times heated discussion took place in the party, and certain issues were decided by free vote. But where East was aligned against West the matter was not so simple. Since the Bengalis normally had a majority, this meant that the West Pakistanis were not prepared to accept the consequences of being outvoted by a process of counting heads. And, running across this fundamental East-West cleavage, was a complex network of personal alliances and hostilities.

In such areas decision-making was therefore withdrawn from the parliamentary party.

'Yesterday the Muslim League parliamentary party was again unable to take up the consideration of the Constitution because the "leader" had made no progress in their attempt to resolve the controversy over representation.'⁴⁴

The same issue of the newspaper cited above reports the sixth in a series of meetings of central ministers and provincial Chief Ministers, a meeting which lasted until the small hours of the morning. There can be little doubt that some such body as this was the true location of final authority in constitutional as well as administrative matters.

This was the level of high and sometimes ruthless politics. Chief Minister could be dismissed by the Centre, cabinet ministers could be changed and it was to be remembered that an entire cabinet might be overthrown. Constitutional issues were intricately involved in the manoeuvring for political power, the maintenance of control of a province or of influence within the federal cabinet. Each decision was one of a series of hard-fought compromises. Each new issue and each fluctuation of real political power, altered the balance of the whole and open the way for fresh maneuvers. At no stage did the leaders of the League make up their minds to endorse an entire scheme of government, and to demand its acceptance or rejection as a whole. Each issue was resolved after hard bargaining, accepted 'unanimously' by the Muslim League Parliamentary party, and presented as a *fait accompli* to the assembly. Debate in the chamber was feeble, for the Hindus knew that they had no real power and little influence, and large sections of the Muslims were sitting in unhappy and embarrassed silence, aware of an unfortunate contradiction between their votes and their conscience.⁴⁵

In such fashion was the proposed constitution prepared. The Report of the Basic Principles Committee was discussed, amended and adopted by the Constituent Assembly on September 21, 1954. The Report of the Committee on Fundamental Rights of Citizens of Pakistan and on Matters Relating to Minorities was approved on September 7th. A drafting committee was established, and it prepared a Draft Constitution which was ready to be presented to the next meeting of the Assembly. The Prime Minister declared his hope and belief that the new constitution would be proclaimed on December 25th, the birthday of the *Quaid-i-Azam*.⁴⁶ But one month after the approval of the Basic Principles Report the Assembly had been dismissed, and General Mirza, the new Minister of the Interior, was talking of his desire to begin 'with a clean slate' in planning the new constitution.

It would have been unrealistic to the point of fantasy to expect that the writing of the constitution would have been uninfluenced by current politics. And the fact that the Constituent Assembly and the Federal Legislature were one and the same body, emphasized the political nature of the task. It is no cause for surprise, or even for condemnation, that each group of politicians wanted to shape the future state in such a way as to yield maximum benefit to itself and to the local and provincial interests which it represented.

If criticism is to be brought to bear, it must lie upon the shoulders of secure united action, and under Mr. Jinnah it was successful. In constitutional matters, effective leadership appears to have ceased from the time the Interim Report came under attack (late 1950). From that date it is impossible to say just what were the main principles of constitutional structure that successive Prime Ministers (Liaquat Ali, Nazimuddin, Muhammad Ali) wished and thought possible to see enacted. Constitution-making became little more than an attempt to gather support for any compromise that stood a chance of acceptance. In a country where radical divisions exist, compromise is essential if a constitution is to be made to work. But the result of these particular compromises was, as least in the opinion of the Governor-General and the Prime Minister, the breakdown of the constitution-making machinery.

The real criticism to be levelled is that the government tried too much to control and too little to lead. And this was because, either as individuals or as a group, the men who controlled the destinies of Pakistan never resolved their won minds as to what they wanted.

REFERENCE AND NOTES

1. Richard Symonds, *The making of Pakistan* (London, 3rd ed., 1951), p. 67.
2. *The Gazette of Pakistan*, March 26, 1948, reports eight resignations, six of whom were non-Muslim, including the leader of the Opposition, Kisan Sankar Roy. One of the two Muslim to resign was Maulana Abdul Kalam Azad who had joined the Indian cabinet.
3. *Ibid.*, January 11, 1952, election of Mr. P. D. Bhandara. See also Report of the Committee of Re-distribution of Seats, Constituent Assembly of Pakistan., *Debats*, Vol. IV, P. 21, January 3, 1949
4. The table is based largely upon the Constituent Assembly of Pakistan, *Summary of Work Done*, and Constituent Assembly (Legislature) *Summary of Work Done*, each issued irregularly. Several sessions began in one calendar year and continued into the next; in the table they have been treated as falling entirely into the year in which they began.

On some days the Assembly sat both as C.A.P and as C.A.(L); thus to add the number of days in each category would give a slight exaggeration of the total sittings of the assembly as a whole.

5. The provision of S.26 of the Government of India Act, 1935, relating to the disqualification of members of the Central Legislature holding offices of profit under the Crown was deleted by *The Pakistan Constitution order, 1947, GGO 22/1947*.
6. The members were M. A. Khuhro and Hamidul Huq Chowdhury.
7. Sardar Asadullah Jan Khan was elected from the Frontier province to replace Maulana Azad and in 1949 he was expelled from the Muslim League party and for a time joined the Azad Pakistan Party.
8. Thus, while holding the position of Chief Minister the following were member of the Assembly: Nazimuddin, Nurul Amin, Fazlul Huq (East Bengal); Khuhro, Pirzada (Sind); Mamdot, Daultana, Noon (Punjab); Kizilbash (Khairpur); Mahmud Hussan Bahawalpur.
9. *The Pakistan Civil List*, No. 10, January-March 1953 shows as MCAs, twenty

'honourables' (including the President of the Assembly), four 'His Excellencies' as well as two Chief Ministers of states.

10. Report of the Committee on Re-distribution of Seats, Constituent Assembly of Pakistan, *Debates*, Vol. IV, P. 21 January 3, 1949.
11. *Dawn*, November 3, 1953.
12. For Mr. Suhrawardy's protest against this ruling, see Constituent Assembly of Pakistan, *Debates*, Vol III, p.31, May 81, 1948.
13. All three members had been expelled from the League. Sardar Shaukat Hayat later rejoined that party, Sardar Asadullah Jan became an independent and Mian Iftikharddin remained as the champion of Azad Pakistan.
14. These debates are cited below as Constituent Assembly of Pakistan, *Debates*, and Constituent Assembly (Legislature), *Debates*, respectively.
15. Constituent Assembly, Rules of procedure (1954), Rule 62.
16. *Ibid.*, Rule 15.
17. Constituent Assembly of Pakistan, *Debates*, October 4, 1950. The issue was the right to suspend habeas corpus; three Muslims joined the Hindus against 37 votes for the League.
18. *Dawn*, October 6, 1953.
19. The Report of the Basic Principles Committee was finally adopted by the Constituent Assembly on September 21, 1954, and a Drafting Committee, with the assistance of Sir Ivor Jennings, had prepared a Draft Constitution for submission to the next session of the Assembly. This document was printed but never released to the public.
20. Only one of these amendments was carried to a division and was lost by 10 to 21, Constituent Assembly of Pakistan, *Debates*, Vol. V, p. 98, March 12, 1949.
21. Replaced by the Legal Remembrances at the time of Governor's rule in that province.
22. The Punjab had no Chief Minister at that time, but Nishatar soon became Governor, and Daultana, who was already a member of the committee, became Chief Minister

in 1951.

23. Basic principles Committee, *Minutes*, 1949-52.
24. Teachers of Islam. The decision to establish this Board was taken 'after a prolonged discussion' (*Minutes*, p. 3, April 1949).
25. The proceeding of the Basic Principles Committee and its sub-committees were classed as confidential, but occasional brief statements about current business were made to the press.
26. Constituent Assembly of Pakistan, *Debates*, Vol VIII, p. 181, October 6, 1950, Sardar Shaukat Hyat.
27. *Ibid.*, Vol. VIII, p. 183 November 21 Nur Ahmed.
28. Basic Principles Committee, *Report*, p. 1
29. *Consolidated Statement of Suggestions Received from the Public on the Basic principles Committee Report* (n.d., but undoubtedly 1951). This document contains only suggestions received up to January 31, 1953, relating to the Interim Report. Suggestions received later or relating to Fundamental Rights, judiciary of Franchise, were compiled separately.
30. *Ibid.*, p. 1
31. *Ibid.*, p. 5.
32. *Ibid.*, p. 13.
33. *Ibid.*, P. 15.
34. *Consolidated Statement of Suggestions Received from the Public on the Basic Principles Committee Report*, P. 34.
35. *Report of the Sub-Committee to Examine the Suggestions Received on the Interim Report of the Basic principles Committee* (1952), Appendix.
36. They were Maulana Abdullah-el Baqui and Maulana Muhammad Akram Khan.
37. Two typical extracts from the minutes will serve to indicate this aspect of the proceedings. 'With regard to this para., the relevant recommendations made in the Interim report were explained to the Board of *Talimaat-e-Islamia*, and they agreed

that they were sound and acceptable to them' (op. cit. p. 30). After hearing the above explanation, the Members of the Board were satisfied that the recommendations were according to Shariat' (Ibid., p. 35).

38. *Ibid.*, PP. 44-5
39. *Report of the Sub-Committee to Examine the Suggestions Received on the Interim Report of the Basic Principles Committee*, p. 30.
40. Basic principles Committee, *Minutes*, pp. 118-23, November 20 and 22 1952.
41. Constituent Assembly of Pakistan, *Debates*, Vol. XV, p. 183, October 14, 1953, Nurul Amin.
42. See reading 2, Block-2
43. Constituent Assembly of Pakistan, *Debates*, Vol. XV, p.14, October 7, 1953.
44. *Dawn*, October 2, 1953.
45. Thus in April 1952 a motion appeared in the name of Mr. Nur Ahmed (East Bengal, Muslim League) urging the adopting of Bengali as an official language. There had recently been riots in Bengal on this issue and the Chief Minister in person had introduced in the provincial legislature a motion urging the Centre to adopt Bengali. But in the Constituent Assembly the Bengal members sat silent. The mover proposed his motion but declined to speak to it. The case for Bengali had to be urged entirely by the Hindus. 'Sir,' said Mr. D. N. Dutta, 'it is most regrettable that silence has been imposed upon my friends who come from East Bengal' (Constituent Assembly of Pakistan, *Debates*, Vol. XI, p.37, April 10 1952). The League ultimately voted solidly for the postponement of a decision which resulted in uncertainty and suspicious for the next two years.
46. *Dawn*, September 23, 1954.

This reading passage deals with the study of constitutional development which is synonymous to study the political and ethnic dilemmas of Pakistan. The first constitution of Pakistan was framed and implemented after nine years' hectic efforts. Unfortunately that document could not survive more than two years. In this reading we are going to look into the causes of that constitutional dilemma, and the factors which resisted the process of constitution making. (Compiler)

READING - 2

(Excerpt from Constitutional Development in Pakistan by G. W. Choudhry, published by Longman pp. 67-83)

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2.2. CONSTITUTION-MAKING DILEMMAS (1947-54)

An equally complex problem lay in the controversy between East and West Pakistan regarding the federal structure of the constitution. The first issue in this controversy was the quantum of representation in the federal legislature. This problem, more than any other, delayed constitution-making in Pakistan. Pakistan consisted of two parts, East and West Pakistan, separated by a thousand miles of foreign (Indian) territory. East Pakistan comprised one-seventh of the total area, but its population exceeded the total of all other provinces and States now merged as West Pakistan. There were other complicating factors. Whereas East Pakistan consisted of the single

province of East Bengal. In the West the territory was divided into a number of provinces and States. Economically the eastern region is a compact area, but its economy is no organic part of that of the western region. The western part is industrially more advanced. The exponents of regional autonomy for East Pakistan claim that the economic problems of the eastern wing are different from those of the West but this is not entirely correct; both wings of the country are under-developed and need planning and capital for their development, even though East Pakistan is less developed and the standard of living is lower. There are many other countries whose component parts are not equally developed and this situation cannot be described as peculiar to Pakistan. Actually development will bring greater interdependence. The industry of West Pakistan, based on its cotton and wool, should tend to reduce the cost of living in the country. The mineral resources of West Pakistan, including steel which will soon be exploited, will be of value to East Pakistan, whose jute goods and paper are much-needed commodities in the western wing.

The cultural and linguistic differences are more significant. Geographical separation finds expression in other differences - those of racial complexion, language, habits of life, and culture. The people of the western region speak different languages - Punjabi, Pushtu, Sindhi, Baluchi; yet most of them look upon Urdu as their common heritage. In East Pakistan Bengali is the cherished language. West Pakistan is predominantly Muslim; East Pakistan has important non-Muslim minorities. These differences were exploited by a group of disgruntled politicians, in both East and West Pakistan, who encouraged provincialism and did considerable harm to feelings of national unity. They found in the delay in constitution-making an excellent opportunity for endeavours to disrupt the State.

Apart from the problems peculiar to Pakistan, the organization of a

federal State is usually complex. A federation comes into existence to overcome for union and the anxiety to safeguard the interests of the federating units. If a federation has homogeneity of population, its difficulties are lessened. In the case of Pakistan, there is not only lack of homogeneity between East and West Pakistan; but even in West Pakistan, there are differences among the different sectors of the population. The problem of federal organization therefore was more complicated in Pakistan. The formation of a federation is a recognition that certain governmental functions cannot be discharged adequately by the federating units individually but need handling on a broader basis. This makes it essential that the federal government should be able to act to meet the needs of the larger community. In particular, the federal legislature must provide an effective means of mediating in the conflicts of local interests and in formulating basic policies of federal competence. At the same time, in performing its own function, the federation must take due account of the interests of the various sections of the federal community and of the continuing responsibility of the member states in important fields of government. So far as possible, the federation should exercise its powers in such a way that it does not unnecessarily burden or impede the exercise by the provinces of the powers retained by them. Within certain limits the needs and interests of the federation must normally prevail over the individual interests of the component territories, but it must be ensured that local interests and problems will be adequately considered when the federation makes decisions for the exercise of its power.¹

The Objectives Resolution for the future Constitution of Pakistan which was passed in March 1949 laid down that 'territories now included in or in accession to Pakistan, and such other territories as may hereafter be included or acceded to Pakistan shall form a federation.'² The Constitution Assembly appointed the Basic Principles Committee to devise a federal

constitution. Soon after its formation, the committee had to face the basic issue of the structure of the federal legislature. It had to find a method of providing for the representation of the various units in the legislature in such a way that no single unit should be in a position to dominate others. To find the basis of a common legislature for a State the territories and population of which were so uniquely distributed was by no means easy. The framers of the Constitution grappled with this issue for several years (1949-53). The first report of the Basic Principles Committee was presented in 1950. In Part III Chapter 2, it dealt with the question of representation. It provided that there should be a central legislature consisting of two Houses :

1. the House of Units representing the legislatures of the units;
2. the House of the People elected by the people.

The report did not give a full picture of the composition and size of the House of the people as the sub-committee on franchise had not completed its work by that time (1950). But it was made clear that the existing provinces, including Baluchistan, should have equal representation in the House of Units.³ It further laid down that the two Houses of the federal legislature should have equal powers and in case of dispute on any question, a joint session of both Houses should be summoned for taking the final decision thereon. The power to convene a joint session was to be vested in the Head of the State and to be exercised in the following cases:

1. Conflict between the Houses of the legislature;
2. Election and removal of the Head of the State;
3. Consideration of the budget and other money Bills;
4. Consideration of a motion of no-confidence in the Cabinet

The Committee recommended that the Ministry should be responsible to both the Houses of the legislature.⁴ Thus the first draft provided for a bicameral system with equal representation of the two Houses. Of course, it

the popular House should have greater numbers, it would be in a stronger position, but this was not made clear, the strength of the two Houses being undefined. Most federations have adopted a legislature with two Houses. The lower House usually elected by direct popular vote, with seats allocated according to population, and is designed to give expression to the popular will. The upper House is more specifically federal in character; in a unitary State it usually serves the purpose of a revising Chamber, the centre of the legislative power in a unitary State is almost always the lower House. But in a federation the upper House has traditionally a more important role; in various forms it has been designed to reflect the interests or views of the constituent units either as regions or as political entities and its powers are intended to provide a means of protecting those States and their inhabitants against improper or injurious federal measures. Consequently the upper House should be considered as one device for bridging the gap between the member States and the Federation. It often serves the smaller units by giving them through representation in the upper House greater influence in federal affairs than their population alone would justify.

The provision for a bicameral system recommended by the first report of the Basic Principles Committee was in tune with the practice and tradition of other federal States.

As regards the relative roles of the two Houses, the first draft assigned to the upper House the same powers and functions as the lower House. Here the choice of other federal constitutions has not been uniform. In some cases such as in the United States and Switzerland, the upper House enjoys powers as great as those of the lower. In Canada and Australia, on the other hand, the lower House is more dominant while in Germany the upper House is subordinate for some purposes and equal for others. Moreover, the actual role of the upper House depends not only on its nominal authority but

also on whether the executive is responsible to the legislature or not. The fact that under the Cabinet system the executive is usually responsible to the more popular lower House has important consequences in this issue. The first draft of the Pakistan Constitution aimed to make the Cabinet responsible to both Houses. This would prove to be more complex. The experience of the French Cabinet system of the Third Republic where the Cabinet was responsible to the two Houses is rather discouraging. The system worked badly in France: it might have created similar difficulties in Pakistan. It is not easy to serve and be responsible to two masters simultaneously. This provision of the first draft was rightly criticised in East Pakistan; it proposed to treat the units on an equal footing in the matter of representation in the upper House.

The structure of the upper House in federal system has been shaped in response to two apprehensions:

- (a) the smaller states may fear that the larger and more populous States could use their majorities in the lower House to injure them;
- (b) both large and small States may entertain the suspicion that the Federation might encroach unduly on their interests and authority.

Efforts to remove both these fears have inevitably caused some of the most serious disputes in the formation of federal States. In the allocation of seats in the upper House, the smaller States have generally claimed a share larger than that due from the proportion of their population.

At the time of making the American Constitution, the persistence of the smaller States at the Philadelphia Convention threatened to disrupt the Convention until the problem was settled by allowing each State two votes

regardless of size or population. The smaller States, fearing that they would be overwhelmed by their larger neighbours, were reluctant to depend solely upon a written constitution for defence of their rights and insisted upon an equal voice in the enactment of federal legislation. In the framing of the Swiss Constitution of 1948, a similar dispute arose and compromise was reached in a similar way: each canton received two seats in the upper House and each half-canton one seat. In Australia also, the thinly populated agricultural States, concerned regarding possible domination by the larger commercial States, insisted on the American model with six Senators for each State. The makers of the first draft Pakistan Constitution might have justified their proposal of an upper House with equal representation for all units from the examples of these federal systems, but the situation in Pakistan was unique in the sense that one unit, East Bengal, had more than half of the total population of the country and to have treated that unit in like manner to Baluchistan, containing a small fraction of the total population, would have been unrealistic.

There are instances of federal systems where the principle of equality of representation was abandoned. In Canada and Germany, the allotment of seats varied among the States although the smaller ones receive representation in excess of their population. In Canada the allotment ranged from twenty-four Senators for Ontario and Quebec to six each for the western provinces and four for Prince Edward Island. But the regional balance between the western and the maritime provinces was provided by allotting a total of twenty-four Senators each. Under the Imperial and Weimar Constitution in Germany, Prussia and other large States received many more votes than the smaller, though fewer in proportion to their respective populations. Under the basic law of the Federal Republic, the number of delegates is also adjusted somewhat in respect to population, ranging from three delegates for the smallest to not more than five for the largest. In fact,

the actual distribution of seats had depend on practical factors and compromises rather than on any abstract theory. Where the disparity among the States is not too great, the tendency has been to grant them equal representation. But where the disparity is extreme, the allocation of seats has taken into account these differences, though the smaller States have still been assigned more seats than they could claim on the proportion of their populations.⁵

Judged by this criterion, the first Pakistan draft proposals were inadequate and unfair. It is not surprising that this first draft constitution should have worked a storm of protest in East Pakistan. It was opposed on the ground that it did not provide that province with an overall majority in the federal legislature on the basis of population and might even have given it a minority in a joint session of the two Houses. The provision of equality of powers for both Houses was also objected to, especially since all provinces would have equal representation in the upper House. In East Pakistan the opposition to the report assumed the dimensions of all full-scale agitation fostered by disgruntled politicians, and it seemed that a serious split between the Centre and that province had occurred. The Pakistan Observer, a Dacca English daily, sums up the reaction in East Bengal as follows:

'The citizens of Dacca, mostly East Bengalis, were rudely shocked when local dailies carried to them the full text of the Basic Principles Committee Report with regard to the future Constitution of Pakistan. It came from all walks of life, high officials, professors, teachers, lawyers, students, medical men, police personnel, etc. Their first reaction was that of bewilderment.'⁶

A provincial Convention was held in Dacca on 4 and 5 November 1950, and it promised an alternative constitution. It recommended a republican form of government, having two autonomous regional governments for the eastern and western units and one central parliament on the basis of population with powers to deal with foreign affairs, currency and defence only.

On the other hand, the East Bengal members of the Constituent Assembly, including Mr. A.K. Fazlul Haq, described the apprehension of the people of East Bengal as 'groundless' in a joint statement issued from Karachi on 13 October 1950.⁷ They did not share the anxiety that East Bengal's majority in the central legislature would be converted into a minority and that the powers of the provincial government would be seriously curtailed. Yet it cannot be denied that there was widespread agitation in East Pakistan. The East Pakistan Muslim League Working Committee in a meeting held on 29 October 1950 took note of 'widespread feelings among the people of this province on certain recommendations of the Basic Principles Committee,' and suggested 'drastic amendment of the report.' It particularly suggested that in setting up the federal structure of Pakistan the geographical position of East Bengal should be seriously considered. At the East Pakistan Muslim League Council meeting which was attended by Liaquat Ali Khan, some members described the report as 'terribly anti-Bengali'. The agitation in East Bengal led the Constitution Assembly to postpone its considerations. Liaquat Ali Khan announced in the Constituent Assembly on 21 November 1950 that postponement was desired for the purpose of enabling the Basic Principles Committee to examine and consider any concrete and definite suggestions that might be made by the people with regard to the basic principles of the Constitution.

The criticism against the first report falls into three categories: some of the objections were based on inadequate information given in the first report; secondly, some criticism was deliberately intended to mislead the people and create confusion; lastly, some of the suggestions and criticisms were made with a genuine desire to improve the proposals. The postponement of its consideration was in accordance with the wishes of the people, and Liaquat acted in a democratic way by recognizing the popular feeling. The Constituent Assembly then invited proposals and suggestions from the

public by January 1951 and a sub-committee was appointed to examine them. The sub-committee made its report to the basic Principles Committee in July 1952, and on the basis of its findings and investigations a second draft was presented to the Constituent Assembly by the then Prime Minister, Khawaja Nazimuddin, on 22 December 1952.

The proposed federal legislature under the second draft comprised two Houses of Parliament as in the first draft. The House of Units was to consist of one hundred and twenty members.⁸ The legislature of East Bengal was to elect sixty of these members according to the principle of proportional representation by means of single transferable vote. West Pakistan seats were allocated as follows:

Punjab.....	27	Baluchistan.....	2
Sind.....	8	Baluch States.....	2
North-West Frontier.....	6	Khairpur.....	2
Tribal province areas.....	5	Capital of Federation.....	4
Bahawalpur.....	4	60

The House of the People was to consist of four hundred members⁹ of whom two hundred were to be elected directly by the voters in East Bengal and two hundred were to be elected in like manner by voters in West Pakistan. The seats allotted to West Pakistan were divided as follows:

Punjab.....	90	Baluchistan.....	5
Sind.....	30	Baluch States.....	5
North-West Frontier.....	25	Khairpur.....	4
Tribal province areas.....	17	Capital of Federation.....	11
Bahawalpur.....	13	200

Under the second draft, the House of the People was to enjoy all real authority: the House of Units could only recommend revision in hasty legislation,¹⁰ the Council of Ministers was to be collectively responsible to the House of the People only.¹¹ All money Bills would originate in the House of the People. In case of any conflict between the Houses, joint sittings of both Houses were provided for, in which a simple majority would decide the issue.

The second draft brought the principle of parity between East and West Pakistan as its most important contribution towards solving the problem of representation, and it claimed to 'bring about a constitutional balance of power as well as responsibilities' between the two wings of Pakistan.¹² But the second draft had no less adverse a reception than the first. This time the reaction in the Punjab was extremely unfavourable. The critics saw no logic in treating a single unit, namely East Bengal, as of equal importance with all other units put together and regarded it as a violation of the federal principle under which all the units, large or small, should get equal representation in the upper House, as in the United States. The Press in the Punjab, with few exceptions, joined in a chorus of protest against the second draft. *Nawa-i-Waqt*, a leading Lahore daily, in its editorial of 28 December 1952, opposed the parity formula on the ground that it was likely to result in the permanent domination of one province (East Bengal) over all other provinces of Pakistan.¹³ A symposium was held at Lahore on 11 January 1953, under the auspices of the Local Government Institute. The speaker of the Punjab Legislative Assembly, the provincial Ministers, and other leaders took part in it. The Constitutional draft was subjected to adverse criticism, particularly the parity formula. It was pointed out that parity was an injustice in that East Pakistan was one province while West Pakistan had nine different units. But the critics seemed to overlook the fact that East Pakistan had a greater population than the total of the nine units of West Pakistan put together. The

composition and the lesser powers of the upper House were also attacked. The Punjab leaders demanded that representation in the lower House should be on the basis of population and in the upper House on the basis of the equality of the units, and that the two Houses should have equal powers. It may be recalled here that such provisions of the first draft had been attacked in East Bengal, and the Constitution framers had to modify those proposals to meet their demands. Although the new proposals, in their turn, were opposed in the Punjab, reaction to the second report was not unfavourable in the smaller units of West Pakistan. For instance, at a meeting held at Peshawar on 30 December 1952, the Chief Minister of North-West Frontier Province and other leaders expressed a favourable opinion on the second draft.¹⁴ The opposition to the second report in the Punjab forced the Constitution Assembly to postpone once more its deliberations for an indefinite period. The country seemed to face a constitutional deadlock of great magnitude. National unity was threatened: for a time it appeared that no compromise was possible which would be acceptable to the two wings of Pakistan.

An analysis of the second draft and the main criticisms to which it was subjected reveal that while some of the objections, as in the case of the first draft, were inspired by the deliberate intention of creating a constitutional deadlock, there were certain obvious defects in the new proposals. They may be summarized as follows:

1. the draft did not acknowledge in a democratic way the fact that East Bengal had a majority of the total population of the country;
2. nor did it pay due respect to the fact that West Pakistan had the major part of the country's territory;
3. by giving to the upper House a composition identical with that of the lower House it made the former a weak replica of the House of the People and reduced its utility;

4. a still more serious flaw was the lack of a constitutional provision in case the two Houses were unable to resolve a conflict in joint session.¹⁵

By this time (1953) the constitutional deadlock was further complicated by the growing menace of provincialism. As early as 1948, the founder of the state, Jinnah, had warned the nation against this menace. He said, 'If we begin to think of ourselves as Bengalis, Punjabis, Sindhis, etc. first, Muslims and Pakistanis only incidentally, then Pakistan is bound to disintegrate.' But since his death, provincialism has seemed to be increasing, particularly on the issue of constitution-making.

On his appointment, Prime Minister Mohammed Ali Bogra in 1953 considered it as one of his principal tasks to overcome the constitutional deadlock. He was soon successful in achieving a compromise on the issue of representation between East and West Pakistan in the federal legislature. His formula known as the 'Mohammad Ali Formula' was presented to the Constituent Assembly on 7 October 1953 and subsequently adopted by the Assembly before it was dissolved in October 1954. The Mohammad Ali Formula was as follows:

1. The federal legislature should be composed of two Houses - the House of Units and the House of the People. The total strength of the House of Units would be fifty, to be equally divided among the five units which were constituted in the following manner:
 - (A) East Bengal
 - (B) Punjab
 - (C) North-West Frontier Province, Frontier States, and tribal areas;
 - (D) Sind and Khairpur;
 - (E) Baluchistan, Baluchistan State Union, Capital of the Federation (Karachi) and the State of Bahawalpur.

The distribution of seats among the following 'units' which consisted of more than one province or State was to be as under:¹⁶

1.	North-West Frontier Province including Frontier States and tribal areas	10
2.	Sind and Khairpur	10
3.	Baluchistan including Baluchistan States Union	3
	Capital of Federation (Karachi)	3
	State of Bahawalpur	4

The House of Units would be elected indirectly by the legislatures of the units, and where there was no legislature the system of election was to be determined by an act of the federal legislature.

II. The House of the People was to have a strength of three hundred to be divided among the five units as follows:¹⁷

A.	East Bengal	165
B.	Punjab	75
C1.	North-West Frontier Province	13
C2.	Frontier States and tribal areas	11
D1.	Sind	19
D2.	State of Khairpur	1
E1.	Baluchistan	3
E2.	Baluchistan States Union	2
E3.	Capital of Federation	4
E4.	Bahawalpur State	7

III. Equal powers for both Houses. There was provision for a joint session the two Houses for the election of the Head of the State and for disposal of votes of confidence. Decisions were to be made by a simple majority, provided however that such a majority must include at least thirty per cent

of the members from each zone (i.e East, and West Pakistan).

IV. In case of a difference of opinion between the two Houses, a joint session of the two Houses would be called, and the measure might then be passed by a majority vote, provided that the majority included thirty percent of the members from each zone. If the difference could not be solved, the formula originally provided that the Head of the State could dissolve the legislature, but this clause was amended when the formula was adopted by the Constituent Assembly, seemingly producing a serious flaw in the formula. Similarly the provision that the Head of the State would be elected from a zone different from that to which the Prime Minister would belong was also amended, it being obvious that this provision might prove a serious handicap in the working of the Constitution. The formula, however, brought some improvement compared with the first and second drafts of the Basic Principles Committee; while it maintained the principle of parity between east and west-Pakistan, it made a substantial departure from the parity clause of the second draft. The distribution of seats in the upper House was made in accordance with the geographical facts of the country. As West Pakistan had the major part of the country's territory, it was given a clear majority in the House of Units. In the lower House, East Pakistan, having the majority of the country's population, got a clear majority of seats in accordance with the democratic principle.

But the distribution of seats in the two Houses combined was made in such a way as to ensure parity between East and West Pakistan. Each zone got 175 seats in the joint session of the two Houses and it was at the joint session that the more controversial issues were likely to be decided. By providing for a minimum vote of thirty per cent for each zone at the joint session, the formula sought to provide not only parity but interdependence of the two. This provision might prove a great hindrance in the smooth

working of the constitution, but it was a practical necessity to remove the fear of domination by either of the two zones. As explained by Mohammed Ali, no government could be formed or could continue in office at the Centre unless it had amongst its supporters at least thirty per cent of the members from each zone and no controversial measure might be passed unless it had at least thirty per cent of the members present and voting from each zone.¹⁸ Critics of the formula, however, pointed out that it made a concession to provincial feelings, by recognizing them in the constitution instead of trying to eradicate them. The grant of equal powers to the upper House which would be elected indirectly was also regarded by the critics as 'undemocratic'. While the formula could be subjected to some criticism, it can hardly be denied that it was a bold and sincere attempt to solve the constitutional deadlock. There was great enthusiasm when the formula was first published, and it seemed to gather wide support as compared with the first and second drafts. But the enthusiasm soon died down and constitutional differences once again raised their heads. It is, however, difficult to say that the new difficulties were due to any inherent defects in the formula; they seem rather to have originated in deliberate attempts on the part of a group of politicians to perpetuate the deadlock to further their own selfish objectives.

An analysis of the problem of representation which was faced by the constitution-makers in Pakistan reflects the current feeling of mutual distrust, fear, and suspicion between the people of East and West Pakistan. This feeling had its origin in a number of factors, political, economic, cultural, linguistic, psychological, etc. The Muslims of undivided India were united in a rather unique way under the leadership of Mohammed Ali Jinnah and fought for Pakistan without any sense of distinction as Bengalis, Punjabis, Sindhis and so on. But soon after the establishment of Pakistan, provincial regional feelings began to manifest themselves. East Pakistan felt that they did not have a fair and adequate share in the central government and

administration. They felt that they had been neglected and were dominated by the West. This gave birth to the feelings of regionalism in East Pakistan, while provincialism was making equal head way in West Pakistan. The consequence has been that in Pakistan politics, issues have often been judged on national considerations but on the basis of provincial interests. National unity and national feelings have been considerably damaged and there lies the root cause of the difficulty in finding a basis for representation in the legislature for the future constitution. Each unit feared the domination of the other, and consequently the framers of the constitution had to evolve the formula of a government based on regional parity. The difficulties involved in such an arrangement were felt, but it was regarded as a painful necessity.

The second issue in the controversy between East and West Pakistan was regarding the distribution of powers between the federal and the provincial governments. This problem was not peculiar to Pakistan; it has to be faced in framing any federal constitution. An indispensable quality of the federal state lies in a distribution of powers between the federal authority and the federating units. A federal constitution attempts to reconcile the apparently irreconcilable claims of national sovereignty and State sovereignty.

Geography and history alike demanded that Pakistan should have a federal government. While there was general agreement over the federal form of government, conflicts developed, however, between those who wanted maximum autonomy for the provinces with a weak centre and those who favoured a strong federal central government with provinces enjoying limited autonomy. The makers of the constitution were at great pains to steer a course midway between these two conflicting aims. Their problem might be compared with that of the makers of the American Constitution when they

had to effect a compromise by balancing ideas of those who desired a strong central government and of those who were afraid of strong government. The problem in Pakistan was further complicated by the lack of understanding and mutual trust between the people of the two wings. Leaders in the various provinces with political aspirations and vested interests had developed a narrow outlook which conflicted with the wider interests of the nation. Disgruntled politicians in both wings wanted not merely provincial autonomy but also a weak Centre. The school demanding greater authority for the provinces claimed that in view of the geographical and other factors prevailing in Pakistan, the powers of the Central should be strictly enumerated and that residuary powers should be vested in the provinces.

It is rather strange that demands for maximum autonomy came first from the largest unit, namely East Pakistan, which should not have had any fear of domination. But unfortunately this fear was already deep rooted in East Pakistan. The people of the region, as we have noted, felt themselves to be neglected by the central government, that they did not have a reasonable, fair and adequate share in the central government and administration. They feared any increase of the power of the Centre which inevitably would mean a corresponding decrease of their power and influence. The national convention which was held in Dacca on 4 and 5 November 1950, demanded that only three powers namely defence, foreign affairs, and currency, should be given to the Centre and the rest should be vested in the province.¹⁹ This demand for maximum autonomy in East Pakistan gained further impetus from a new political party, the United Front, which secured an overwhelming victory in the provincial election in March 1954. There was a considerable opinion in favour of giving more powers to the East Pakistan provincial government because it had been felt for some time, especially in view of experience over seven years, that the province could best be administered in many subjects by the legislature in Dacca rather than by the central legis-

lature in Karachi.²⁰

The school advocating greater authority for the Centre used similar arguments in support of a strong national government. Mr. A.K. Brohi, former Minister for Parliamentary Affairs in Pakistan, said that if there had been geographical contiguity between East and West Pakistan, then the principles of decentralization of power might have been the basis of the Pakistan Constitution. But in order to overcome this mutual difficulty in the way of unity of the people of Pakistan, of the distance that separates the two wings, there was no alternative but to provide for a strong central government.²¹

The demand for a strong national government was supported by the majority of the members of the first Constituent Assembly. It was felt that a strong central government was necessary to fight provincialism which had so nearly succeeded in tearing the nation apart; they held the only guarantee of a strong Pakistan to be a strong central government. But in framing a constitution they could not altogether ignore the demands for maximum autonomy and decentralization.

After prolonged discussion, the first Constituent Assembly arrived at a compromise relating to the distribution of powers somewhat different from two generally accepted methods of the distribution of powers in a federal state. The powers may be distributed in one of two ways: either the constitution may provide what powers the federal authority shall have and leave the remainder to the federating units (as in U.S.A.) or it may state what powers the federating units shall possess and leave the remainder to the federal authority (as in Canada). Neither of these two methods could be accepted in Pakistan. They adopted a third which was devised by the British experts when they distributed powers in the federal constitution for undivided India

under the Government of India Act, 1935. In undivided India during the course of the discussion which ultimately led to the promulgation of the Constitution Act of 1935, the Muslims demanded more powers for the provinces, because in some provinces at least there was a preponderant Muslim majority and they felt that they would be able to capture some power in the provincial government. The Hindus, on the other hand, demanded greater concentration of power in the Indian legislature. So the British constitutional experts devised a compromise, which was to enumerate in a two lists the subjects in respect of which the Federation and the provinces respectively would have exclusive legislative jurisdiction and to enumerate in a third list the subjects in respect of which they would have concurrent jurisdiction. Residual powers were vested neither in the Centre nor in the province; the Governor-General, acting at his discretion, was empowered to allocate to the central authority or to the provinces, as he might see fit, the right to legislate on such subjects.

The framers of the Pakistan Constitution found that the method devised by the British could be of great use in finding a compromise between those who demanded a strong Centre and their opponents. In the final draft of the constitution as adopted by the first Constituent Assembly on 16 September 1954, they followed the method of three lists of subjects, federal, provincial and concurrent. The central government was given wide powers controlling defence, foreign affairs, currency and banking, communications, foreign commerce, and scores of other subjects. In all, there were sixty-six items in the federal list.²² The provincial list included forty-eight items comprising such matters as law and order, public health, education, agriculture, trade and commerce and other subjects of local interest. The concurrent list was the smallest of the three lists and included relief and rehabilitation of refugees, broadcasting and television, criminal law, civil procedure, newspapers, welfare of labour, etc. Residuary power, following

the model of the 1935 Act, was vested in the Head of the State, who in consultation with the provincial governments might direct that any specified subjects not mentioned in any of the lists be classified as being a part of either the federal, the provincial, or the concurrent list. The federal legislature was given power to make laws for the whole or for any part of Pakistan for implementing any treaty, agreement, or convention with any other country or countries, or any decision made at an international conference, or by other international association or body (Section 151 of the proposed constitution). If it should appear to the legislature or legislatures of one or more units to be desirable that any of the matters, with respect to which the federal legislature had no power to make laws for the unit or units, should be regulated in such unit or units by the federal legislature by law, and if resolution to that effect were passed by the unit legislature, the federal legislature could pass laws for regulating such matters. Similar provision could be found in the Government of India Act, 1935.

An analysis of the distribution of powers as adopted by the first Constituent Assembly shows that they were influenced very much by the needs for a strong national government at the centre. While making concessions to natural and geographical factors in Pakistan, they made the central government sufficiently strong to meet any eventuality. With regard to subjects in the concurrent list predominance of the federal legislation was provided for in case of conflict of the Central Government in the proposed Constitution as adopted by the first Constituent Assembly was equally ensured in the administrative sphere.

The third issue in the controversy between East and West Pakistan was that of language. Pakistan is a multi-lingual State. There is a fundamental difference between East and West Pakistan in regard to language. The East speaks Bengali; in the West there are a number of languages such as Punjabi,

Sindhi, Pushto and Baluchi. Urdu is not the mother tongue of any area in West Pakistan, but it is accepted as the common language of the whole region. The controversy has been the question whether Pakistan should have a single State language; Urdu, or two, Urdu and Bengali.

Among the cultural characteristics of nationality, language is and always had been, pre-eminent.²³ The framers of the constitution could see the importance of the issue and engaged themselves for months together in seeking an acceptable solution; but the task proved to be complex and difficult. They presented in May 1954 the following formula, which was accepted by the Constituent Assembly:

1. the official languages of Pakistan Republic should be Urdu and Bengali and such other languages as might be declared to be such by the Head of the State on the recommendation of the provincial legislatures concerned;
2. Members of Parliament should have the right to speak in Urdu and Bengali in addition to English;
3. notwithstanding anything in the above Article, for a period of twenty years from the commencement of the constitution the English language should continue to be used for all official purposes of the Republic for which it was being used immediately before such commencement;
4. for examinations for the central services, all provincial languages should be placed on an equal footing;
5. provision should be made for the teaching of Arabic, Urdu, and Bengali in secondary schools to enable students to study one or two of these in addition to the language used as the medium of instruction;
6. the State should take all measures for the development and growth of a common national language;
7. a commission should be appointed ten years after the commencement of the constitution to make recommendations regarding the replace-

ment of English.

8. notwithstanding any thing in the foregoing Articles the federal legislature might by law provide for the use, after the expiration of the period of twenty years from the commencement of the constitution, of the English language for such purposes as might be specified in the law.²⁴

It was clear from the day of its adoption that the formula could satisfy none. While according equality of status to Urdu and Bengali as official languages and providing that the State should take all measures necessary for the development and growth of a common national language it gave no indication as to what the common language should be. In the meantime, it was provided that English should continue to be used as the official language of the State for a period of twenty years. The Prime Minister, Mohammed Ali explained that the formula attempted to reconcile the demands of all sections of the people.²⁵ It tried to accede to the demand of the Bengalis, and at the same time it sought to maintain linguistic unity. In fact the framers of the constitution obviously wanted to postpone the issue for twenty years when they expected a better environment for a solution of the problem.

From the abstract point of view, the multi-lingual State not desirable. It raises many problems. But nations are made up of human beings whose deep feelings on questions such as that of language are vitally important. No doubt, the adoption of one State language, if it were possible, would be preferable from the stand point of national unity. But it would be unrealistic and unwise to ignore the demand of the people of East Bengal. The East Pakistanis insist on having Bengali as one of the State languages and to impose uniformity of language under such circumstances might be detrimental to that national unity for which Jinnah wanted one State language. On the contrary, the adoption of Bengali would probably lead to stronger ties and

better understanding between the people of the two wings of Pakistan. The multi-lingual solution, it would seem, was a pragmatic approach in the existing circumstances.

Another matter of far-reaching importance viz., the relation between the executive and legislature had also to be decided by the makers of the constitution. The country began its political career under a parliamentary system basen on the British and Dominion model; yet doubts were expressed in certain quarters that in the absence of two strong, stable and responsible political parties, the parliamentary system would become a farce and stable Government would continue in the realm of desiderata. The comparable strength and weakness of the parliamentary and the presidential system were discussed in great detail in the Constituent Assemblies and outside.

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UNIT THREE

Contents

**POLITICAL
AND
CONSTITUTIONAL
CRISIS**

3.1 SECOND CONSTITUENT ASSEMBLY

Reading 1. Constitutional Development
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Reading 2 Pakistan a Political Study
(Keith Callard)

This reading passage reveals about the troublent political events which emerged in consequence of the dissolution of the first Constituent Assembly.

The termination of the first Constituent Assembly resulted into the legal and constitutional deadlock. We hope that this reading passage will give you adequate information about those legal and constitutional disputes. Besides that in this passage the author has also critically viewed the draft of the second Constituent Assembly. (Compiler)

READING-1

(Excerpt from Constitutional Development in Pakistan by G.W. Choudhry published by Longmen. PP.84-101)

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1. POLITICAL AND CONSTITUTIONAL CRISIS

3.1 SECOND CONSTITUENT ASSEMBLY

In less than a fortnight's time the Constituent Assembly will meet to complete the task of constitution-making. The Constitution Bill is reported to be ready and now remains but the formality of enacting it into law' - thus reported Dawn on 14 October 1954. Ten days later on 24 October the Governor-General of Pakistan, Ghulam Mohammed, issued the following proclamation:

'The Governor-General having considered the political crisis with which the country is faced, has with deep regret come to the conclusion that constitutional machinery has broken down. The Constituent Assembly as at present constitution has lost the confidence of the people and can no longer function.

The ultimate authority vests in the people who will decide all issues including constitutional issues through their representatives to be elected; fresh elections will be held as early as possible.'

The significant thing in the proclamation was that it did not say in clear and specific terms that the Constituent Assembly was dissolved it said only that the Constituent Assembly had 'lost the confidence of the people and can no longer function.' Another important omission was that it nowhere specified any provisions or sections of the Independence Act or Government of India Act, 1935 under which the proclamation was issued; normally whenever any order or proclamation is made the provision of law under which the power is exercised is indicated. The proclamation was the subject of lengthy legal disputes.... This dramatic development in Pakistan politics followed extraordinary political happenings in the preceding month of September when the first Constituent Assembly, after seven years of effort had succeeded in framing a draft constitution. The Constituent Assembly in the same sitting passed two important Bills which probably had some bearing on this sudden proclamation of the Governor-General. The Constituent Assembly repeated on 20 September 1954 the Public and Representative Offices (Disqualification) Act of 1949. This Act popularly known as 'PRODA' was passed while Liaquat Ali Khan was the Prime Minister and had been widely welcomed in the country as an effective and proper remedy against abuses of maladministration and corruption in Public life. By this Act complaints could be made to the Governor-General or to the

Governors of Provinces who, if satisfied with the substance of the allegations made, could order an inquiry to be conducted by judges of the High Court. If a persons were found guilty punishment would take the form of suspension from the right of holding public office for a specified number of years. The Act was applied on several occasions against Ministers, including provincial Chief Ministers, and in several cases the inquiry went against the Ministers. Its hasty repeal by the first Constituent Assembly in the estimation of the people. There was suggestion in some quarters that the repeal had been effected in order to favour some members of the Constituent Assembly.

The second enactment by the first Constituent Assembly which many people still think had immediate bearing on its dissolution was the amendment of sections 9, 10A, and 10B of the Government of India Act, 1935, as adapted for Pakistan. The net result of that amendment was to divest the Governor-General of his powers to dismiss his Ministers who would no longer hold office during his pleasure but would instead be individually and collectively responsible to the federal legislator. It is a safe assumption that the Constituent Assembly did this to prevent the repetition of such acts as the dismissal of the Nazimuddin Cabinet in April 1953. It could be described as an important step towards the growth of parliamentary democracy in Pakistan, but the amendment was made in such haste that.... it could be termed a 'constitutional coup.'

These two hasty enactments by the first Constituent Assembly led to a new series of political maneuvers and intrigues such as had characterised Pakistan politics since the death of Jinnah and Liaquat. Compromises and formulas which had been widely proclaimed as the best contrivable solutions to certain problem were now being assailed. New attempts were made to throw the country into chaos and confusion by reviving old rivalries and reopening old controversies in new and bitter forms. It is true that the first

Constituent Assembly had made undue delay in framing a constitution. It is equally true that the East Pakistan election of 1954 had demonstrated that it had lost confidence of the people to a great extent, yet it is hard to justify the Governor-general's action in abruptly dismissing the Constituent Assembly just at a time when it was about to finish its work. If it had been dissolved immediately after the election in East Pakistan, there might have been some justification, but its dissolution after its attempt to curb the undemocratic and arbitrary power of the Governor-General in dissolving the House was that the real motive of the Governor-General in dissolving the House was personal rather than from any regard for democratic principles or traditions. His subsequent attempt to give the country a constitution by decrees rather than by constituent Assembly seems also to substantiate that his motive was personal rather than from any concern for the people's representation or rights.

The Legal Disputes

The proclamation of the Governor-General dissolving the first Constituent Assembly raised legal niceties which bewildered many Pakistanis. The first challenge to the proclamation came from the President of the Constituent Assembly, the late Moulvi Tamizuddin Khan, who was a man of wide repute and of sincere conviction. He challenged the proclamation as 'unconstitutional, illegal *ultra vires*, without jurisdiction, inoperative and void'² and asked for a writ of *mandus* to restrain the Government from interfering with the exercise of his functions as President of the Assembly and for a writ of *quo warrant* with a view to determining the validity of certain appointments to the Governor-General's Council of Ministers. A 'full bench of the Chief Court of Sind decided unanimously in favour of Moulvi Tamizuddin Khan. It was stated that the Governor-General had no power of any kind to dissolve the constituent Assembly.' It was a sovereign body created for a special purpose and it was to function till that purpose was

completed, unless it were dissolved by a majority of two-third of its members. The right to dissolve the legislature had ceased to be a prerogative in England and it was difficult to hold that the prerogative which had ceased in England was revived in Pakistan after 1947.³ An appeal to the Federal Court against the decision of the Sind Court was made by the Government. The Federal Court by a majority of four to one decided on 21 March 1955 in favour of the Government and rejected Moulvi Tamizuddin Khan's petition challenging the proclamation of the Governor-General. The most significant point in the Federal Court's judgement was that it did not go into the question whether the Constituent Assembly was rightly dissolved by the Governor-General; it set the judgement of the Sind Court aside on a technical ground namely that section 233A of the Government of India Act as adapted in Pakistan, by virtue of which the Sind Court issued the writs in favour of Tamizuddin Khan, was 'not yet a law because it had not received the assent of the Governor-General. The Court held that the enactments of the Constituent Assembly, whether it functioned as the central legislature or as the constitution-making body, required the assent of the Governor-General and since section 233A of the Government of India Act had not received such assent it was not yet law and therefore the Sind Court had no power to issue that writs.

Regarding the basic question whether the Constituent Assembly was rightly dissolved, the Chief Justice, Mr Munir, was reported to have said 'we are purposely not going into it, whether the Constituent Assembly was legally dissolved or not.' The decision of the Federal Court removed the belief which was widely held in Pakistan about the status and powers of the Constituent Assembly: it was supposed to be a sovereign body and no limitation to its powers was recognized when it functioned as the constitution-making body. The principle of assent which is familiar in England and Commonwealth countries was regarded as not applicable to the Constituent

Assembly's enactment when it functioned as such. It may be added here that during the lifetime of Quaid-i-Azam who was the first President of the Constituent Assembly as well as the first Governor-General of Pakistan the following rule of procedure was adopted:

'When a Bill is passed by the Assembly, a copy thereof shall be signed by the President and it shall become law on being published in the official gazette of Pakistan under the authority of the President.'

Thus many constitutional Bill passed by the Constituent Assembly under this rule since 1948 were authenticated without the assent of the Governor-General and neither the first nor the second nor the third Governor-General, Ghulam Muhammad himself, raised the question that Act of the Constituent Assembly were invalid for want of assent. It was stated before the Court that even the superior courts in Pakistan in a number of cases had accepted the proposition that enactments of the Constituent Assembly required no assent. One may wonder how the entire legal and administrative system of the country was allowed to be based on such an illegal foundation for so many years. As many as forty-six Acts on the statute book stood invalid as a result of the Federal Court's ruling. The country was faced with a legal vacuum. Six days after the judgement of the Federal Court, the Governor-General promulgated the Emergency Powers Ordinance IX of 1955 and assumed powers to:

1. make provision for framing the Constitution of Pakistan;
2. make provisions to constitute the Province of West Pakistan;
3. validate laws which had been passed by the Constituent Assembly but had not received the assent of the Governor-General;
4. authenticate the Central Budget;
5. name East Bengal as East Pakistan.

A 'state of grave emergency' was declared in all Pakistan. Presumably this was done to prevent the breakdown of the constitutional machinery of the country. But the Governor-General's emergency powers soon came before the Federal Court. A full bench of the Federal Court presided over by the Chief Justice, Mr. Munir, declared on 13 April in another leading constitutional case of this period. *Usif Patel v. the Crown*, that power to make provisions as to the constitution of the country could not be exercised by the Governor-General by means of an ordinance. The Court therefore held section 2 of the ordinance promulgated by the Governor-General on 27 March (Ordinance No. IX of 1955) as *ultra vires*. Addressing the Advocate-General who was arguing for the Government, the Chief Justice was reported to have remarked. 'If you ride roughshod you will bring disaster to this country. You do not have a validating machinery nor do you intend to create one.' He further added 'I do not know whether the Constituent Assembly was dissolved legally or not but so far it does exist in law.'⁴ It may be assumed that the Chief Justice by this remark implied the continuing legal entity of the Constituent Assembly, irrespective of any changes in personnel that might take place. It was made clear by this latest judgement of the Federal Court that the power to make any provision as to the constitution of the country was not conferred by law on any body except the Constituent Assembly whose continuing legal entity was recognized.

The decision of the Federal Court presented the country with a constitutional crisis of a greater magnitude than that when the Governor-General dissolved the Constituent Assembly. The central Law Minister, Mr. H. S. Suhrawardy, frankly stated the position when commenting on the decision of the Federal Court; he said, 'The country is faced with a grave situation.'⁵ There was no federal legislature in existence competent to validate laws which were declared null and void by the Federal Court. Even the provincial legislatures were deemed to have been illegal since the laws

under which those bodies had been elected were illegal. In fact, the whole legal and administrative system was on the verge of ineffectiveness. The courts were continued uncertainty about legal proprieties was bad for the Government, for business and for the hole organized life of the country.

Important political developments followed the decision of the Federal Court rejecting the Governor-General's emergency powers. The Governor-General immediately summoned a 'Constituent Convention' to meet on 10 May. The Government also announced that it would request the Federal Court to detail what interim steps would be taken to validate the laws which by the Courts' ruling the Governor-General himself could not restore. Some steps were urgently needed to avoid a complete breakdown of the constitutional machinery. The Governor-General on 16 April assumed powers to validate thirty-five of these laws 'subject to any report from the Federal Court' and until such time as the Constituent Convention could consider them. Two days later the Federal Court restrained all other courts from interfering with this step pending its decision on matter referred to the Governor-General. The Court, however, suggested to the Governor-General that he could enlarge the terms of reference so as to include the basic question as to whether the first Constituent Assembly had been rightly dissolved. The Court pointed out that the new Constituent Convention's validating powers might themselves be challenged on the ground that the Convention itself was an illegal body. Unless it were decided whether the first Constituent Assembly had been legally dissolved and the new one rightly constituted, there might be 'litigation of every sort'. The Government accepted this suggestion and from 25 April the Court heard arguments on this enlarged reference.

The arguments before the Court and its judgement were almost an education in British and Commonwealth constitutional history, turning

inter alia on the powers of the Crown, represented by the Governor-General. As Sir Ivor Jennings pointed out, 'the litigation which followed the dissolution of the Constituent Assembly of Pakistan on 24 October 1954' dealt with the fundamental principles of constitutional laws of interest throughout the Commonwealth.⁶ The Federal Court by a majority opinion declared on 10 May (i) that the Governor-General had the legal authority to dissolve the Constituent Assembly under section 5 of the Indian Independence Act 1947; (ii) that the Constituent Assembly became in course of time wholly unrepresentative; (iii) that for practical purposes the Constituent Assembly assumed the form of a 'perpetual legislature' and (vi) that throughout the period of its existence the Constituent Assembly asserted that laws made by it were valid without the consent of the Governor-General.⁷ The Federal Court also declared that the proposed Constituent Convention was competent enough to exercise all the powers conferred on the Constituent Assembly under the Indian Independence Act, subject to certain conditions which were listed by the Court. They further held that in the situation as presented by the reference, the Governor-General had, during the interim period (i.e. until the new Assembly was convened), power under the common law of civil or State necessity of validating retrospectively the laws listed in the schedule to the Emergency Powers Ordinance of 1955.

The Federal Court's decision came as a great relief it put an end to the constitutional crisis and the uncertainty which the country had experienced since the proclamation of 24 October 1954. The way was now cleared for summoning the second Constituent Assembly.

The verdict of Federal Court in Usif Patel's case put an end to the efforts of Ghulam Mohammed and his so-called 'Cabinet of talents' to make a Constitution by executive decrees. The Federal Court unanimously declared that the task of framing a Constitution had to be performed by a constituent

Assembly. That decision was made on 13 April and two days after the verdict the Governor-General, Ghulam Mohammed, by proclamation summoned a sixty-member 'Constituent Convention' to meet on 10 May 1955. The Convention was to be elected from the existing provincial Assemblies and its function would be to replace the first Constituent Assembly 'which can no longer function.'

The Convention, unless dissolved earlier, would stand dissolved at the expiry of six months and would be presided over by a person appointed by the Governor-General till a new were elected. Out of its sixty members seven would be reserved for non-Muslims in East Pakistan. The number of the seats would be allotted as follows:

East Pakistan	30
Punjab	16
North-West Frontier province	3
Sind	4

The remaining seven would be nominated by the Governor-General on the basis of one each from Baluchistan, Frontier States, Khairpur States, Bahawalpur States and Karachi. The tribal areas would have two representatives.

This proclamation of the Governor-General was amended by subsequent order. Within fifteen days two new orders were issued. The first one related to the method of election to the Constituent Convention. It said that the procedure for election would be the same as had been adopted for the Constituent Assembly elected in 1947, i.e. by the method of proportional representation with single transferable vote. The Governor-General issued a second amendment order on 27 April. Under the new order the Convention

would have eighty members and would also function as the Federal Legislature. The new Constituent Convention would have all powers which under the provisions of section 8 of the Indian Independence Act were exercisable by the first Constituent Assembly. The Composition now stood as follows:

East Pakistan	40 (9 for non-Muslim)		
Punjab	21 (1 for non-Muslim)		
N.W.F.P.	4		
Sind	5 (1 for non-Muslim).		
The Governor-General would nominate ten members as follows:			
Baluchistan	1	Khairpur State	1
Baluchistan States Union ..	1	Bahawalpur State	2
Frontier States	1	Karachi	2
Tribal areas	3		

The composition of the Convention was based on the principle of parity of representation between East and West Pakistan. In East Pakistan, the leader of the United Front, Mr. A.K. Fazlul Haq, was threatening to boycott the Constituent Convention on the ground that it did not give East Pakistan the majority of the seats on a population basis. Subsequently as a result of a deal with the Prime Minister, Mohammad Ali, under which parliamentary institutions suspended since 1954 were restored in East Pakistan, the United Front agreed to accept parity of representation. The Awami League, under Law Minister Mr. Suhrawardy, had already accepted it.

In the meantime further steps to summon the Constituent Convention had to be postponed till the opinion of the Federal Court could be ascertained. The Federal Court declared on 10 May that the Governor-General had power to summon a new Assembly but listed the following conditions before it could be regarded as legally constituted:

1. The correct name of the Constituent Convention should be Constituent Assembly;
2. The Governor-General's right to dissolve the Assembly could be derived only from the Indian Independence Act;
3. The arrangement for representation of States and tribal areas could be made only by the Constituent Assembly and not by the Governor-General;
4. The Governor-General had no power to nominate any members of the proposed Convention (the Governor-General had planned to nominate 10 members).

The Court held that the duty of summoning a new Constituent Assembly must be performed in accordance with the basic principles which were expressly followed in the setting up of the first Constituent Assembly in 1947. These basic principles were stated in paragraph 18 of the British Cabinet Mission plan of 16 May, 1946.⁴

In pursuance of the advice given by the Federal Court it became necessary to supersede the early order setting up a Constituent Convention. The Governor-General's order No. 12 of 1955 was issued to set up a Constituent Assembly and the name 'Constituent Convention' was dropped. Now all the eighty members of the Constituent Assembly were to be elected and no provision for nomination of some members by the Governor-General was made. In fact, the effect of the latest order was to set up a Constituent Assembly which was similar in structure to its predecessor. As with the first Assembly, the members would be elected not directly but indirectly by the members of the provincial legislatures by the method of proportional representation with the single transferable vote. Special provision was made for election in Baluchistan and Karachi as there were no provincial legislatures

in those Units. With respect to States and tribal areas, the arrangements for representation were left to the Constituent Assembly itself when summoned. The only novel element in the structure of the new Assembly was the principle of parity of representation between East and West Pakistan. The Governor-General in his order asserted his power to summon, prorogue and dissolve the proposed Assembly by virtue of his powers under the Indian Independence Act 1947, the Act under which the new Assembly was supposed to have been set up. The Governor-General also retained the right to nominate a Chairman of the Assembly till the President of the Assembly was elected.

Party positions in the second Assembly were very different. In the first constituent Assembly the Muslim League had in absolute majority, it had captured almost all the Muslim seats. It was clear from the beginning that the Muslim League would not enjoy that position in the new Assembly. It was in East Pakistan that its position changed most radically. Out of 309 members in the East Pakistan provincial legislature the League had only ten members and it could get only one seat from that province. In fact it did not want to contest the election in East Pakistan but Prime Minister Mohammed Ali, who was also the president of the All-Pakistan Muslim League, persuaded it to give him a ticket from East Pakistan. The United Front and the Awami League shared between themselves the Muslim seats from East Pakistan. In West Pakistan the League captured all the Muslim seats from Sind and North-West Frontier provinces. In Punjab, however, internal divisions prevented it from having the monopoly. It lost three seats to the dissident group led by Malik Feroz Khan Noon; while Mian Iftekharuddin, the most vocal critic of the Government in the first Assembly retained his seat.

The Muslim League with twenty-five members in the house of eighty was still the largest single party in the new Assembly but it had neither an

absolute nor even a simple majority. The party position in the Assembly was as follows:

Muslim League	25	Scheduled Caste Federation	3
United Front	16	United Progressive Party	2
Awami League	12	Independent Muslim	1
Noon Group	3	Other	6
Pakistan Congress	4		

As no single party was in a position to command a majority, the various groups lost no time in seeking alliances. Seven out of fourteen members of Ghulam Mohammed's Cabinet either did not stand or failed to get elected in the new Assembly. A reshuffle of the cabinet was therefore inevitable. A coalition of the Muslim League and the United Front was ultimately formed with Choudhury Mohammed Ali, the former Finance Minister, as prime Minister, Mohammad Ali quietly resumed his old assignment as Ambassador in the United States.

Choudhary Mohammed Ali, as leader of the coalition party contributed largely to the success of the new Assembly in framing a Constitution. Other prominent members of the new Assembly were Mr. H.S. Suhrawardy, leader of the Opposition, who from the very beginning showed his talent as a great parliamentarian, and Mr. A. K. Fazlul Haq, the leader of the United Front who assisted the Prime Minister greatly in arriving at a compromise over constitutional problems.

There were no representatives of the academic profession in the new Assembly. Another vital criticism of its composition was in the disappearance of women from its membership; in the first Assembly there had been two women members and it was expected that the number would be increased.

Some figures who had dominated the first Assembly and who had taken leading parts in the movement for Pakistan, such as Khawaja Nazimuddin, Sardar Nishtar, Quyyam Khan and Maulana Akram Khan, were not in the new Assembly.

Like its predecessor, the Second Constituent Assembly was elected indirectly; no central legislature had been elected in Pakistan through a direct election. In most recent controversy over direct as compared with an indirect method of election, this fact is conveniently **forgotten** by old politicians who are now showing great concern in favour of direct election.

The inaugural session of the new Constituent Assembly took place on 7 July 1955 at Murree- a small summer resort in the foothills of the Himalayas. Mr. M. A. Gurmani, the Governor-General's nominee, presided over this inaugural session, lasting only a few days until adjourned to meet in Karachi.

The immediate tasks before the second constituent Assembly was to revalidate those statutes which had become null and void as a result of the legal disputes that followed the dissolution of its predecessor. The task was not too easy as it involved delicate discussion of the merits of those statutes, some of them having been subject to adverse criticism for a long time. The Government, however, was successful in revalidating the statutes and the country was finally rescued from a critical legal situation.

The Unification of West Pakistan

The first important and highly controversial task performed by the second Constituent Assembly was the unification of West Pakistan. On 30 September 1955 the Assembly passed a Bill merging 310,000 square miles

into a single province. West Pakistan had formerly comprised three Governor provinces, one Chief Commissioner's province, a number of States which had acceded to Pakistan and the tribal areas. Geographically they formed a homogeneous bloc with easy communications but with some linguistic and ethnic distinctions. The result of the new Bill was to unify these various units into one province to be known as 'West Pakistan.'

The Bill was hailed as a measure of administrative rationalization. It was claimed that the unification of West Pakistan would greatly simplify the federal structure of the proposed new constitution. Constitution-making would be easier: now the task would be to evolve a pattern in which the two provinces, East and West Pakistan, would be placed on a footing of equality. There was substance in this claim: we have examined how the problem of representation of the various units in the proposed federal legislature had been a big hurdle in the way of making a constitution. It was further claimed that the unification of West Pakistan would remove provincial rivalry and jealousy, in so far as it related to West Pakistan.

In itself the merging of the entire West Pakistan was big project. Some of the advantages claimed by its supporters are undeniable. But mere abolition of provincial boundaries by an administrative act and tabooing the names, Punjab, Sind, Pathan, Baluch and so forth could not automatically change a long established psychology. The greater need to curb provincialism is for a change in the outlook and politics of some politicians who promote such feeling to pursue their won narrow interests.

While the one-unit scheme in West Pakistan could be supported on various grounds, the way in which it was established was not free from serious criticisms. The original plan had been to introduce it by executive decrees. The decision of the Government to introduce the one-unit scheme

was first announced by the Prime Minister, Mohammed Ali on 22 November. This was followed by the Governor-General's order No. 8 of 1954 setting up a council for the administration of west Pakistan. Then in March 1955 the Governor-General assumed powers to constitute the new province of West Pakistan by an emergency ordinance. Even a Chief Minister was 'nominated for the new province. Why should a Chief Minister be nominated? It may be contended that a Chief Minister should be elected by the legislature. Further orders were made in March and April. This attempt to introduce the one-unit scheme by executive decrees was frustrated by the decision of the Federal Court in Usif Patel's case. It is also alleged that three provincial Ministries, the Noon Ministry in Punjab, the Rashid Ministry in N.W.F.P and the Pirzada Ministry in Sind, were dismissed by the Central Government on this issue.⁹

The controversy over a one-unit West Pakistan is not yet over. The West Pakistan legislature passed a bill in October 1957 recommending the dissolution of the one-unit. This led to the downfall of the Suhrawardy Cabinet. This issue was still alive in party politics, particularly in West Pakistan, at the time when Martial Law was declared in October 1958.

The Draft Constitution by the Second Constituent Assembly

The second Constituent Assembly produced results more quickly than its predecessor. Its inaugural session took place in July 1955 and on 8 January 1956 it presented a draft constitution to the country which, with certain changes and amendments, was finally adopted on 29 February 1956. Twenty-three days later Pakistan was declared an Islamic Republic amid scenes of great enthusiasm and national rejoicing. As one looks back and reviews the eight years of constitutional struggle, one cannot but be surprised by the miracle that happened in the early part of 1956. Anybody

familiar with Pakistan's internal power politics since 1951 and the role of some politicians must be surprised at this pleasant outcome. There were, however certain factors favourable for the second Constituent Assembly to produce quicker results. The first and most important one was the public's growing impatience; this provided the greatest spur. Eight years of frustration and disappointment over constitution-making were so great that the politicians could no longer afford to play their old game of delaying this task. There was a sense of realization of the grim alternatives that would confront the country if the second Constituent Assembly should fail to produce a constitution. The disadvantages of continuously indecisive deliberations were widely recognized. The vital need of a constitution for Pakistan's stability and integrity was recognized and the people were prepared to accept any constitution, good, bad or indifferent and were no longer keen to scrutinize this or that provision. The deep feeling that failure to produce a constitution had adversely affected Pakistan's prestige abroad made the people most anxious for early implementation: this growing public demand was too strong to be ignored. The spirit of accommodation and compromise which marked the transactions of the second Constituent Assembly was the outcome of this sense of realism.

The second Constituent Assembly had also the advantage of profiting from the deliberations and work of its predecessor. It successfully utilized the ground work of the first Constituent Assembly. It had no need to appoint various committees and sub-committees as had the first Constituent Assembly; reports of committees and subcommittees were ready for the work of the second Assembly. In fact most of the 245 Articles in the draft constitution reflected little changes from those which had been rejected in October 1954 as coming from an Assembly 'unrepresentative of the people'.

But the difficulties of the second Constituent Assembly should not be

ignored or minimised. Unlike the first Assembly, it had no party with an absolute majority. The ruling coalition party of the United Front and the Muslim League had within its fold several component groups holding diametrically opposite views on fundamental constitutional issues. The old issues of conflict such as the relation of State and religion; the strong or weak centre; whether the electoral system should be joint or separate, were renewed and the various groups within the ruling party were sharply divided on these problems. The Hindu Congress and the United Progressive party threatened to sit on the opposition benches if the joint electorate were not conceded while the Nizam-i-Islam and the Muslim League, two important groups of the coalition party, would have nothing to do with a joint electorate. Even as late as December 1955 there seemed to be little prospect of a compromise. During November and December, the Constituent Assembly was repeatedly adjourned because the coalition party could not resolve its differences; it seemed that the country had once again been brought to the verge of ruin. The different groups in the party resorted to pressure tactics to get their demands incorporated in the constitution. As a result of these internal conflicts, the constitution which finally emerged was a poor product, judged by any criteria, based on compromises and expediency rather than on sound principles.

The draft constitution published on 8 January 1956 was the product of four month's labour by a committee of the ruling coalition party. The draft consisted of thirteen parts, covering 245 articles. The Objectives Resolution which had been passed by the first Constituent Assembly in 1949 was included in its preamble with one new clause:

'Whereas the founder of Pakistan, Quaid-i-Azam Muhammad Ali Jinnah, declared that Pakistan would be a democratic state based on Islamic Principles of Social justice:

Part I of the draft defined the territories of Pakistan; Part II dealt with fundamental rights; Part III with directive principles of State policy; Part IV with Federal Government and Legislature; Part V with provinces and provincial governments; Part VI with relations between the Federation and provinces; part VII with property, contracts and suits; part VIII with elections; Part IX with the Judiciary; part X with the Services of Pakistan; Part XI with emergency provisions; Part XII with general provisions; Part XIII with temporary and transitional provisions. The draft was in many respects a replica of the draft Constitution made by the first Constituent Assembly. Pakistan was to be a federal republic consisting of East and West Pakistan and would be called 'Islamic Republic of Pakistan'. The draft was based on the British parliamentary system. Though it provided for a President and a Vice-President, the real power was vested in the Parliament and its Executive, the Cabinet ¹⁰ But under the new draft, the powers of the President were enlarged as compared with those proposed in the draft of the first Constituent Assembly and it had subsequently to be amended. The draft envisaged a Constitution much simpler in structure, with a single chamber equally representative of the two wings instead of a complicated two-tier legislature with representation based on two principles. The unicameral legislature, to be called the National Assembly would consist of three hundred members to be elected on the basis of Parity between East and West Pakistan.

The draft provided for a strong Centre; its framers were guided by the principle that maximum autonomy should be granted to the provinces, but this should be consistent with national integrity and solidarity. They recognized that a weak Centre would bring disaster to the country; that while it need not be all-embracing it must be sufficiently strong and effective to guide and control the provinces; the same principle had been the guiding factor with the first Constituent Assembly. The provincial list under the new draft was larger, including Industries and Railways; residuary powers however

were to be visited with the provinces, unlike in the previous draft....

The draft has been prepared within the same set-up of political groupings with their various and sometimes complicating commitments, and with the same play and interplay of personal, group and provincial ambitions; it was based on compromises. The drafters had adopted the device of setting up various commissions and councils such as an Economic Council, a National Finance Commission, an Islamic Research Organization: these were expected to find solutions which the framers of the constitution themselves were unable to discover. There was wisdom in this method of 'cutting the Gordian Knot' because thereby a deadlock was avoided and the framing of the constitution became possible. Though such make-shifts were not a permanent answer to some fundamental problems, the soundness of this method could only be recognized against the political background of the country; the supreme need was for an early constitution.

The Law Minister, Mr. Chundrigar, claimed that the draft envisaged the establishment of an independent sovereign State consisted with the ideology for which Pakistan came into being. It was a democratic and republican type, containing all that was necessary for a modern progressive State. The provisions in the draft would, he concluded, safeguard the unity, integrity and solidarity of the country. The most encouraging feature of the draft from the national point of view was its firm rejection of a weak Centre to which provinces might dictate if armed with complete regional autonomy. The leaders of the United Front had shown wisdom enough to realize the absurdity of a weak centre.

The publication of the new draft was widely welcomed. The Muslim League, the United Front, the Nizam-i-Islam, the Jamat-i-Islam and other political parties reacted favourably, though there was a demand for

amendment of several controversial articles of the draft. It was only the Awami League and some Hindu and Leftist Parties in East Pakistan that voiced an outright condemnation of the draft and demanded that it should be scrapped. The Awami League insisted that it could not accept any constitutional scheme which failed to incorporate the famous '21 point' programme made at the time of the East Pakistan provincial elections in 1954; this manifesto of the United Front and the Awami League was a fundamental to the United Front at that time. It conferred only three subjects on the Centre: defence, currency and foreign affairs. The practical difficulties of so restricting the powers of the Centre became immediately apparent and the United Front Party under its chief architect, Mr. A.K. Fazlul-Haq, agreed to modify this unrealistic demand and was prepared to confer much wider powers on the Centre. The Awami League, had it been in power would probably have come to the same realization; but its exclusion from power made it uncompromising and hence it continued to press for this stipulation. It organized a powerful campaign in East Pakistan against the draft. There were demonstrations, public meeting, a 'Resistance Day' strike and to crown all, the chief of the Awami League in East Pakistan, Mualana Bhashani, was reported to have threatened secession. At a public meeting held at Dacca on 15 January he said that if the Centre did not right the wrong East Pakistan would have to think in terms of secession.¹¹ Yet in 1956 when Mr. Shurawardy became the Prime Minister, he had no hesitation in describing the constitution as guaranteeing ninety-eight per cent provincial autonomy.

Another prominent Awami Leaguer, Mr. Abul Mansur declared in the Constituent Assembly that he did not find anything common between the two wings of the country except a common religion and the fact that they had achieved independence together from one platform. Apart from these, everything was different. He even spoke of the two wings as 'two countries' and 'two peoples'. In the Constituent Assembly the Awami League Chief,

Mr. Suhrawardy, however, condemned the talk of secession.

It is however necessary to go a little deeper in order to appreciate the demand and feelings of the people of East Pakistan. It was the Muslims of Bengal who had given the most solid and unflinching support to Quaid-i-Azam in the movement for Pakistan; of all the areas which today constitute Pakistan, Bengal had been the chief source of strength for the Muslim League in its struggle for Pakistan. Why had the Bengali Muslims now become reluctant to see a strong national Government and why had East Pakistan become a fertile ground for political agitation? The problem in East Pakistan is not merely political; it is largely economic. At the time of partition, Pakistan was poor and under-developed country, producing raw materials, having very little industry and not much control over commerce, and handicapped administratively and economically.¹² This was true of both East and West Pakistan; but East Pakistan was more drastically under-developed than West. It had been one of the worst-neglected areas of undivided India; densely populated, the main occupation of the people was agriculture, still in a most primitive condition. The peasants of Bengal were one of the poorest people in the world and they had been exploited by Hindu Landlords and businessmen even from the time of British rule. The Muslim peasants of Bengal had expected that after the achievement of Pakistan their economic condition would improve. The economic development of Pakistan their economic condition would improve. The economic development in Pakistan was taken up but it was greatly hampered by political instability. But the most unfortunate feature of the economic development was that East Pakistan still continued to be a relatively neglected area. The first Five-Year Plan of Pakistan, published by the central government in May 1956 admitted this fact in the statement 'East Pakistan has made appreciable progress since 1947... the rate of development, however, had not been as high as in West Pakistan.'¹³ This slow rate of progress was regarded in East Pakistan as due

to neglect by the central Government which failed to convince the people of East Pakistan that their economic problems had been properly and adequately tackled. There was deep conviction among them that the Province had not had a fair and adequate share in the central government and administration and hence its economic development had been much neglected.

The economic malady of East Pakistan was further worsened by the policies and action of the upper-class Hindus. They had dominated economic life before partition; when Pakistan came into being some of them left while some others who stayed followed a deliberate policy in ruining the economy of the Province; many of them, not yet reconciled to the creation of Pakistan, still looked upon India as their real homeland and sent their capital there by illegal methods.

The economic discontent in East Pakistan, reflected in repeated political agitation there, had important bearings on constitution-making in Pakistan. The consequent apprehensions and misgivings in the Eastern wing probably provide the basic explanation of East Pakistan's opposition to a strong national government.

When the draft containing 245 clauses came up for detailed consideration by the Constituent Assembly, notices of as many as 670 amendments were given, mostly proposed by the members of the opposition party, the Awami League. The members of the ruling coalition party also brought a number of amendments. Out of 245 clauses of the draft 179 were passed quickly; the remaining 66 clauses were regarded as being highly controversial, some of the being the subject of acute division within the ruling coalition party itself. Some of the important clauses held over related to: the powers of the President, particularly his right to dissolve the legislature at his discretion; the emergency powers: the President's assent to

Bills; the provision for a Vice-President; the relations between the Cabinet and the legislature; impeachment of the Head of the State; the principle of the electorate; provisions relating to the Holy Quran and Sunna; the appointment of National Economic and Finance Commissions; the Federal Capital; the State language, and the title of the constitution.

The coalition party arrived at comprises over all these controversial issues except the principle of the electorate which it left to the decision of the National Assembly in consultation with the provincial assemblies. Thus the second Constituent Assembly was finally successful in fulfilling its mission of given the country a constitution. Its success demonstrated the fact that the real and biggest obstacle to constitution-making in Pakistan was internal power politics which more than anything else were responsible for the failure of the first Constituent assembly. When the politicians realized that no further delay would be tolerated, they mended their ways and sought to Mirza had no regard for Islamic ideology or principle; perceiving to keep religion out of politics. As he said himself, 'We cannot run wild on Islam¹'; hence we notice a definite tendency to evade the Islamic provision after the implementation of the constitution. Thus the appointment of the Commission was delayed as long as possible and within two years hardly any move had been taken towards implementation of the Islamic provisions or in establishing the organization for Islamic Research and Instruction provided for under Article 197.

REFERENCE AND NOTES

1. See *Dacca Law Reports*, Supplementary Issue Vol. VII, Dacca, 1955, p. 121
2. Tamizuddin Khan. *Federation of Pakistan* (Chief Court of Sind).
3. *Ibid.*

4. *Dawn*, 14 April 1955.
5. *Dawn*, 15 April 1955.
6. Sir Ivor Jehhings, *Constitutional problems in Pakistan*, Cambridge, 1957, *preface*.
7. *Federal Court Report on Special Reference No. 1 of 1955*
8. G.W. Chaudhr, *Constitutional Development in Pakistan*, Chap. II
9. Herbert Feldman, *A Constitution for Pakistan*, Karachi, 1955, p. 64.
10. The speech of Law Minister, Mr. Chundrigar, introducing the draft in the Constituent Assembly, January 1956.
11. *The Round Table*, Oxford, March 1956.
12. See Prime Minister Muhammad Ali's Speech in the Constituent Assembly, February 1956.
13. *The First Five Plan 1955-60*, Karachi 1956, Vol. I, p. 8

In this reading Ahmadis, issue has been discussed. We hope that having gone through this passage you will get a clear idea about the issue.
(Compiler)

READING - 2

(Excerpt from *Pakistan: A political Study* 3rd impression, by Keith Callard published by Oxford University Press, 1968, pp. 204-209)

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3.2 AHMADIS ISSUE

The Ahmadis are believers in the teachings of Mirza Ghulam Ahmad (*d. 1908*), who claimed to be a prophet as well as to be the promised Messiah. This claim is regarded as heretical by orthodox Muslim who hold to the belief that Muhammad was the last of the Prophets. The Ahmadis are reputed to have about 200,000 members in Pakistan, and they include some distinguished and prominent men, the most widely known of whom is Sir Mohammad Zafrullah Khan, that time the Foreign Minister of Pakistan.

The agitation against the Ahmadis was led by religious leaders, many of whom had previously engaged in politics on the side of the opponents of Pakistan. The early stages of the movement were conducted by members of the Ahrar, a politico-religious group which before 1947 had been an ally of the Congress. Being discredited by partition, these men apparently hoped to

return to popular favour by leading a campaign of hatred against a distrusted minority. As the movement progressed it won the support of many of the more reputable *ulama*. The objects of the campaign were to have the Ahmadis declared a non-Muslim minority, the dismissal of Zafrullah Khan and the barring from high public office of all members of the Ahmadiya.¹ The methods employed were the holding of public meetings, especially in mosques, processions, and the passing of impassioned resolution. This led to the intimidation of numerous Ahmadis, and in a few cases to murder. The leaders of the movement, who included two members and the secretary of the government-sponsored Board of *Talimaat-e-Islamia*² attended a meeting in Karachi in January 1953, described as the All-Pakistan Muslim Parties Conventions. The following resolutions were among those passed:

- '(1) That since, in view of the attitude of Khawaja Nazimuddin, Prime Minister of Pakistan, there is no hope of the demands in respect of the Mirzais [Ahmadis] being accepted, the All Muslim Parties Convention comes to the conclusion that in the circumstances *rast iqdam* [direct action] has become inevitable to secure acceptance of the demands.
- '(3) That since that demand for the removal of Sir Zafrullah Khan, the Mirzai Foreign Minister, has not yet been conceded, the Convention demands the resignation of Khawaja Nazimuddin, so that the Muslim of Pakistan should be able to follow and preserve their religious beliefs and Islamic traditions.³

The Convention also appointed a Council of Action which was to make a last approach to the central government before resorting to other measures.

The governments at the centre and in the Punjab had made no serious

attempt to suppress the fast-growing campaign. On the contrary, there were substantial indications of government support or acceptance of the demands. Daultana, the Chief Minister of the Punjab, made it clear that he personally accepted the view that the Ahmadis were non-Muslim, but that this presented a problem for the Constituent Assembly and the central government.⁴ This was clever political move, since it enabled Mr. Daultana to show his sympathy for the basis of the demands while explaining that satisfaction could come only from Karachi. Various agencies and supporters of the Punjab government went much farther than the Chief Minister in their support for the anti-Ahmadiya movement. The Punjab Education Department spent more than Rs. 200,000 in two year in subsidies to newspapers. The papers concerned, says the Munir Report, were all actively engaged in this controversy, and went on fanning the agitation even during the days that they were receiving the payments.⁵ In 1951 the Punjab government established a department of Islamiat for purposes of religious education. A board of six *ulama* was set up, for of whose members played a prominent part in the movement and two of these were arrested. The department employed eighteen persons as lecturers, and of these eleven took a leading role in the agitation and seven were arrested.⁶ The Punjab Muslim League was also prominent in its support for the forces of disorder. The police prepared a list of 377 members of the League who were involved in the disturbances.

These gentlemen took part in procession, leading violent mobs, violating orders promulgated under section 144 and collecting funds with a view to financing the movement. Among the persons in this list are presidents, senior vice-presidents, secretaries, treasurers and other office-holders of the various Muslim League organizations in the province. Four of them were Councillors of the Provincial Muslim League, five were members of the Muslim National Guards, two were Advocates, and one the editor of an Urdu daily.⁷

The central government, even though its Foreign minister was under

personal attack, was little more resolute, its policy for several months was described as one of 'indecision, hesitancy and vacillation.'⁸ And it has already been noted that the Board of *Talimaat-e-Islamia*, paid out of central funds, was deeply involved in the agitation. It is easy to understand the nature of the government's difficulty. The public at large, the religious leaders and many politicians, were, agreed in regarding the doctrine of the Ahmadis as heretical and abhorrent. Nazimuddin was a man of deep religious conviction, and regarded the *ulama* with sincere respect. The Constituent Assembly had also decided that Pakistan was to be a state based upon Islam. It was an awkward moment for the government to declare that religious sentiment must be held in check so that the principles of cabinet government might be followed. The situation was allowed to drift until the agitators faced the government with the choice of abdication or resistance.

The Central Council of Action had couched their demands of January 1953 in the form of an ultimatum. This expired on February 22nd, and 'direct action' was planned to begin on the 27th of that month. In the Punjab more than 55,000 volunteers were enrolled for the campaign.⁹ On receipt of the latest alarming reports, the central cabinet met at 2 a.m. of the morning of the 27th. The Governor of Sind, the Governor and Chief Minister of the Frontier Province, the Deputy Chief of Staff and police officials were in attendance. It was decided to arrest the leaders of the agitation and to ban certain inflammatory newspapers.¹⁰ But by this time the mob was ready to go into action. Mass demonstrations against the police, the Ahmadis and the government soon interrupted normal life in Lahore and other towns in the Punjab. By March 4th areas of the walled city of Lahore had been taken over by the rioters, and the police had abandoned the pretence of having the situation under control. By midday on March 6th communications had been largely severed and the electricity supply had been partly cut. Civil government had virtually ceased to exist, and Daultana was prepared to capitulate.

He issued a statement in Urdu which he later described in the following words:

'On the 6th of this month, I appealed on behalf of my Ministry and myself, to the people of the Province to help in the maintenance of law and order. I assured them that my Government would be prepared to open immediate negotiations with the leaders of the Tahafuz-i-khatm-i-nubuwwat movement, and that my Ministers would place their demands before the Central Government with a recommendation that they should be accepted.'³

A few hours later, with the approval of Karachi, the local military commander proclaimed a state of martial law, and order was restored by the army in a matter of six hours. Eleven people were killed and at least forty-nine wounded by the military. Martial law remained in effect in Lahore until May 1953. By this time, as a result of a visit to Lahore by Nazimuddin, Daultana had resigned; and in mid-April Nazimuddin was dismissed by the Governor-General.

The Punjab disturbance and their political consequences illustrate the force and the danger of an upsurge of popular feeling that can be generated by the appropriate mixture of religion and politics. They cry of 'Islam in danger' was a powerful weapon in the struggle for Pakistan. Every contemporary politician is aware of the risk that a too adventurous policy may be greeted with the dangerous words, 'Islam betrayed.'

One major difficulty for the politician is that his Western education has set a barrier between him and the common man. And nowhere is this barrier stronger than in the field of mutual understanding of the significance of religion. The politician is true to Islam after his fashion, but it is not, and cannot be, the fashion of the peasant or the urban worker. It is therefore necessary for the political leader to convince the masses that Islam is

compatible with modern political forms and programmes.

In this attempt the politician has come up against the *ulama*. Pakistan is offered two widely different interpretations of Islam, each claimed to be the proper ideological basis for the state. At one extreme the Islam of some of the politicians and administrators comes very close to Western secularism; and the other extreme is represented by the narrow (but able) authoritarianism of Maulana Maududi.¹² Each of these interpretation is, in a own way, conservative or reactionary. The lawyer-administrator-politician looks back toward the firm administration of British rule, and wishes to make sure that religious enthusiasm does not serve to undermine law and order. The *Ulama* look back to classical Islam, and are determined that no institution shall survive that is not in accordance with Divine law.

Not unnaturally there has been some friction between the contending groups. Responsible political leaders have had to try to win religious support and, at the same time, to make clear to the non-Muslims and the outside world that they are not motivated by bigotry or intolerance. This has been a difficult path to tread, and the attitude of some religious leaders has been an embarrassment. Liaquat Ali, speaking on the Objectives Resolution deplored the activities of certain 'so-called Ulamas' who, in fact, misrepresented Islam.¹³ At a later stage Sardar Abdur Rab Nishtar found himself obliged to try to correct the impression spread by 'fanatics of the type who appeared before the Munir Commission.'¹⁴ It became fashionable to attack the 'Mullah element,' and slogans of 'Down with Mullaism' were painted on thousands of walls in Karachi. One distinguished man of religious training was moved to make a somewhat bitter reply.

'Yes it is always the fault of the mullahs. If there is water shortage in Karachi, it is the fault of the mullahs; if Muslims fight among themselves, it is again the mullahs who are to blame. In short, whatever goes wrong mullahs are responsible for it.'¹⁵

The proceedings of the Assembly are not the place to find a comprehensive discussion of the relationship of Islam and politics. Obviously political skill rather than religious insight has been the basis for selecting the members, and the rules of debate and the use of the English language combine to make sure that the Western-educated have the better of the argument. The exponents of religious orthodoxy often are unable or do not choose, use English and they cannot do justice to their case within the limits of a parliamentary agenda. Consequently the great debate that has been in progress on the meaning of Islam in the twentieth century has been conducted by groups of men who are largely unaware of what the other side is saying and, even when the words are known, unaware of their meaning. And yet this debate has been of great importance in the efforts to shape the political future of Pakistan.

REFERENCE AND NOTES

1. *Munir Report*, p.127.
2. *Ibid.*, p. 131
3. *Munir Report*, pp. 132
4. *Ibid.*, pp. 263, 264
5. *Ibid.*, p. 83
6. *Munir Report*, pp. 87, 88
7. *Ibid.*, pp. 266, 267
8. *Ibid.*, p. 283
9. *Ibid.*, p. 43 - 44
10. *Munir Report*, pp. 144, 145

11. *Ibid.*, p. 167
12. It should be made clear that Maududi is not in the normal sense an ally. He was not educated to be a professional man of religion, and his first job was as a journalist. In 1941 he founded the *Jamaat-i-Islami*, and he has become one of the most influential leaders of politico-religious thought in Pakistan. As such he may be regarded as the most vigorous opponent of those who toy with the ideas of Western secularism. see Leonard Binder, *Islamic Constitutional Theory and Politics in Pakistan* (Harvard University thesis, 1956), pp. 83 ff.
13. Constituent Assembly of Pakistan, *Debates*, Vol. pp. 94-5, March 12, 1949.
14. *Ibid.*, vol. XVI, p. 560, September 21, 1954.
15. *Ibid.*, Vol. XVI, p. 483, September 20, 1954 Maulana Mohammed Akram Khan.

UNIT FOUR

Contents

4.1 THE 1956 CONSTITUTION

Reading 1. Pakistan 1947-1958:
A Historical Review
(Zarina Salamat)

4.2. FAILURE OF THE CIVILIAN RULE

Reading 2 The Political System of Pakistan
(K.B. Sayeed)

**FIRST
CONSTITUTION
OF PAKISTAN**

In this reading you are going to study the salient features of the 1956 Constitution. Beside that the author has tried to give a comparative study of the 1956 Constitution and the 1935 Indian Act.

The constitutional experts often said that 1956 Constitution was the indigenouse form of the 1935 constitution. In this reading it has also been tried to establish that the first constitution of Pakistan was based mainly on the Government of India Act. 1935.

This reading passage deals with the issues like:

- Separate electorate
- Federal structure of 1956 Constitution
- Centre Vs provinces, under the 1956 Constitution

We hope that after having gone through this reading you would be able to critically analyse the working of 1956 Constitution. (Compiler)

READING - 1

(Excerpt from Pakistan 1947-1958: An historical Review by Zarian Salamat, published by National Institute of Historical and Cultural Research, Islamabad, 1992, pp. 58-62.

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4. FIRST CONSTITUTION OF PAKISTAN

4.1 THE 1956 CONSTITUTION

In framing a new constitution, the second Constituent Assembly had an advantage over the first. The previous eight years had brought about the growing realisation that a constitution, whether good or bad, was vital not only for the country's stability but for its prestige abroad as well. The realism injected a spirit of accommodation and compromise in the deliberations. The Assembly's task was also made easier by the work accomplished by its predecessor and by the reports prepared by various committees and sub-committees. In fact most of the articles in the Draft Constitution of the second Constituent Assembly reflected little change from those rejected in October 1954, as coming from an Assembly "unrepresentative of the people".¹

The second Constituent Assembly also faced certain disadvantages. Unlike the first Assembly, the monopoly of the Muslim League was broken and it was replaced by a coalition of the United Front and the Muslim League. The former consisted of several groups with diverse views on fundamental issues of the constitution. Whereas this contributed to a liberal political atmosphere, it also necessitated constant negotiations and compromises between the parties. Conciliation was necessary on old issues dividing the coalition party. Problems such as the role of religion in the state, strong or weak centre, joint or separate electorates, gave rise to heated discussions.

Finally, the constitution passed by the Constituent Assembly in February 1956, was promulgated on March 23 when Pakistan became an "Islamic Republic",² and the Constituent Assembly thereafter assumed the functions of its Interim Legislature, i.e. National Assembly. General elections were to be held as soon as the question of electorates was decided by

the National Assembly on the recommendations of the provincial legislature.

The Constitution was based mainly on the Government of India Act 1935. However, it did incorporate some significantly new provisions. The Act of 1935 was passed by the Parliament of the United Kingdom; but the Constitution of the Islamic Republic of Pakistan was approved by the representatives of the people of Pakistan. Their power was abridged only by the following limitations. In the first place, the Constitution declared that the source of sovereignty was *Allah* alone and the authority vested in the people was a sacred trust from Him, to be exercised within the limits prescribed by Him.³ The preamble consisted of the Objectives Resolution with the following added clause.

Whereas the founder of Pakistan, Quaid-e-Azam Muhammad Ali Jinnah declared that Pakistan would be a democratic state based on Islamic Principles of social justice.⁴

No law could be passed which was repugnant to the injunctions of the Quran and the Sunnah.⁵ Secondly, the Constitution had listed a set of Fundamental Rights which could not be contravened by any legislative or executive action.⁶ Thirdly, no provincial legislative or executive authority was empowered to pass restrictive measures against the flow of inter-provincial trade, nor was any such authority empowered to impose discriminatory taxes on provincial goods and produce.⁷

Another feature of the Constitution was a chapter on the Directive Principles of State Policy which embodied the aims and aspirations of the State. These principles were binding on all organs of government although they could not be enforced in any Court of Law.⁸

There were other significant differences between the two

Constitutions. The Dominion Constitution had vested the executive authority of the State in a Governor-General. The 1956 Constitution replaced the Governor-General by an indirectly elected President who enjoyed the Governor-General's Emergency Powers, and in addition could gain control over the national finances in an emergency.⁹ Whereas the Legislative powers were distributed under three lists, the residuary powers were given to the Provinces, enhancing the latter's powers. The two-tier Federal Legislature was replaced by a single chamber equally representative of the two wings. The Federal Court became the Supreme Court.

The 1956 Constitution authorised the establishment of unicameral legislatures,¹⁰ elected by citizens over 21 years of age.¹¹ All Ministers were required to be members of, and responsible to the Legislature.¹² A significant provision introduced by the new Constitution into the judicial system was that the ~~supreme Court and the High Courts were empowered to issue~~ prerogative writs.¹³

With regard to Islamic provisions, Article 198 laid down a special procedure to bring existing laws into conformity with the injunctions of the Quran and Sunah. The President was to appoint a commission within a year of the Constitution's inauguration to make recommendations to bring existing laws in conformity with Islamic injunctions. The Commission was to report within five years to the National Assembly. Personal law of non-Muslims was exempted from this clause.

The President of the Republic, a Muslim over 40 years of age, was to be elected for a five-year term by an electoral college consisting of members of the Central and Provincial Legislatures. He had wide powers. He was the supreme commander of the armed forces. He had the authority to convene, prorogue and dissolve the National Assembly on the advice of the Prime

Minister. He was to appoint the Prime Minister and his Cabinet from among the members of the National Assembly who, in his opinion, were "most likely to command" the confidence of the majority of the Assembly. The President exercised discretionary powers in appointing the Prime Minister, in case no party had a clear majority in the National Assembly.¹⁴

The President was to appoint the Election Commission and the Public Service Commission. He was vested with powers of withholding assent to bills. When a bill was adopted by the National Assembly, the President could within 90 days either give (a) assent to the bill, (b) withhold his assent; or (c), in case of a bill other than money bill, return it to the Assembly with the request that the bill, or any provision thereof, should be reconsidered and any amendment specified by him given due consideration. If in case of (b) and (c) the Assembly again passed the bill with or without amendment by a two-third majority of the members present and voting, the President was to give his assent.⁵

Under Article 69, the President was empowered to promulgate ordinances, except when the National Assembly was in session, if he was satisfied that circumstances existed which rendered immediate action necessary, and any such ordinance had the force of law similar to an act of parliament.

Separate Electorates

The Constitution of 1956 did not resolve the issue of electorates because of differences among the political groups. The concept of separate electorates had become identified with separate representation for religious communities, during the freedom movement, when separate electorates had guaranteed self expression to the Muslims. Until 1954, all elections in Pakistan had been held on the basis of separate electorates. During the

Provincial elections of East Pakistan in March 1954, the issue did not figure in the 21 point programme of the United Front. Consequently 72 non-Muslims were elected to the East Pakistan Assembly out of a total of 309 members. These non-Muslims legislators figured prominently as a political force in bitter political divisions within the Assembly in 1955-58. They had held the balance of power between the parties, which affected not only the Government's position in the province but also that at the centre. The issue of electorates assumed greater significance when political parties like the Ganatantari Dal and the Awami League opened their membership to non-Muslims and demanded joint electorates. The Governor-General's Order convening a Constituent Convention dated April 15, 1955,¹⁶ required each Legislative Assembly to elect its representatives to the Convention by way of a joint electorates with reservation of seats for the minorities. The same procedure was repeated in the Constituent Assembly Order of May 28, 1955.¹⁷ Consequently, elections held on June 21 for the second Constituent Assembly were the first in Pakistan to be held on the principle of joint electorates.

In West Pakistan, political parties favoured separate electorates, whereby the East Pakistan parties upheld joint electorates. A majority of the United Front, the East Pakistan Awami League and the Hindu community supported joint electorates. This system was opposed by the Muslim League, Jamaat-i-Islami, and the Nizam-e-Islam, one of the constituent parties of the United Front.

On September 18, 1956, the Republican Party declared its commitment to separate electorates in both Provincial and National elections and stated that it was willing to cooperate with the Muslim League against the Awami League (with which it had formed a coalition government), on the issue. A Cabinet crisis was averted by a compromise arrived at on October 9,

according to which the Government electorate bill provided for joint electorates in East Pakistan and separate electorate in West Pakistan, for both the National and Provincial Assemblies. The Republicans and the Awami League voted in favour, and the Muslim League and the United Front opposed the Bill, which was adopted on October 12.¹⁸

The Electorate Act was however amended in April 1957 by the National Assembly. The law now provided joint electorates for the whole country. But the issue remained alive until the abrogation of the Constitution 1958. From the Muslim League point of view, the adoption of joint electorates was a betrayal of the ideology of Pakistan. It was only through separate electorates, it argued, that the Muslims could maintain and fortify their identity in India.

After independence, the Muslim League contended that the Bengali majority in Pakistan was not genuine as it was based on Hindu-Bengali participation, the Hindu had always opposed the creation of Pakistan and could not be expected to favour separate electorates and their influence should not be allowed to jeopardise the Islamic basis of Pakistan.¹⁹

THE FEDERAL STRUCTURE OF THE 1956 CONSTITUTION

The constitutional impasse over the issue of national representation was finally resolved by the Second Constituent Assembly. The creation of West Pakistan into One Unit proved to be the answer to the over all representation issue. With One Unit in each Wing there remained no need for a bicameral legislature in the centre. The 1956 Constitution provided for a unicameral legislature consisting of 300 members elected on the basis of parity between the two wings.²⁰

The federal structure was not unlike that of the Government of India Act 1935. Like the latter the centrifugal trend remained predominant in the new constitution. The Federal Government was invested with sweeping powers to exercise control and to give direction to provinces even under normal circumstances. Under article 125, the Federal Government was to ensure that the provincial government was conducted according to constitutional provisions. Whereas maintenance of law and order was a provincial subject the ultimate responsibility of maintaining peace and security rested with the Centre.

No legislature was to be sovereign. Any laws repugnant to the constitutional provisions were liable to be declared void by the competent courts. The distribution of legislative powers between the Centre and the provinces are exhaustively enumerated in three lists; federal, provincial and concurrent. The extent of federal and provincial laws were defined under article 105. The power of the Parliament, subject to the constitutional provisions, extended to the whole or any part thereof including laws having extra-territorial operations; and the power of the provincial legislature extended to the whole of the province or any part thereof. The Federal list consisted of thirty items as against sixty-one under the Government of India Act 1935.²¹

The provincial list was most comprehensive. It included ninety-four items as against 55 under the Government of India Act 1935 emphasising a trend towards decentralization.²² Article 106 clearly emphasised the priority of Federal over provincial powers.

The third list of concurrent subjects was the shortest with nineteen items.²³ It was deliberately kept so, as few matters required attention by both the centre and the provinces. The precedence of Federal legislation was

guaranteed with regard to concurrent lists as well, similar to Article 106 in the Government of India Act 1935. However a provincial law in the concurrent list was to prevail if it had been reserved for, and received the President's assent.

The question of residuary powers had produced lengthy debates in the Constitutional Assemblies of Pakistan. Under the 1956 Constitution, residuary powers were vested with the provincial legislatures (Article 109) which had exclusive powers to make laws with respect to any matter not included in the three lists - federal, provincial or concurrent.

Article 108 authorised the Federal Government to make laws for implementing any treaty or agreement, convention or decision undertaken with an international body even if it dealt with a matter relating to the provincial list or even not enumerated in any list. However it was expressly laid down that no law would be enacted in the province to which the article applied without consulting the Governor.

With reference to disputes between the federal and provincial governments, or between the Province, the Chief Justice was to appoint a tribunal for the settlement of disputes. The Chief Justice would submit his report to the President, who would give necessary orders to the provinces for its implementation. Any act by the provincial legislature repugnant to the order was to be void.²⁴

Distribution of Resources:

With regard to distribution of resources the Government of India Act 1935 had favoured the centre, and the provinces faced an acute shortage of funds. In spite of East Pakistan's insistence in 1956 for allocation of major resources to the provincial sphere, the centre was again given the advantage.

The authority to impose taxes, duties and other levies were restricted by the three lists of subjects in the Fifth Schedule. The Centre could impose or collect taxes in respect of any matter mentioned in the Federal list.²⁵

The principal source of provincial revenue was taxes on agricultural income and on capital value of agriculture land, tax on land and building, taxes on mineral rights subject to federal list, excise on alcohol and drugs, taxes on electricity, vehicles, advertisements, professionals and luxuries.²⁶

Both the federation and the province had cognate authority to impose payments of fees in respect of any matter on the concurrent list. In order to provide the provinces with sufficient resources to meet their expenses the Constitution authorised the Parliament to make grants-in-aid to the revenue of the provinces. In case of emergency the federal Government was empowered to take over the control of provincial finances.²⁷

Emergency Powers:

The emergency powers were a salient feature of the Centre's relations with the provinces. The 1956 Constitution not only retained all the former emergency provisions but in some respects incorporated stronger measures in their exercise. Under such provisions the federal character of the Constitution was suspended and the country governed as a unitary state.²⁸

Under Article 191, the President was granted undefined powers to suspend the political process for an indefinite period not only in the province but also in the centre.²⁹ The proclamation of emergency was to be placed before the National Assembly "as soon as it is practicable" for the President to summon the Assembly. The President was thus 'on proclaiming' an emergency empowered to rule the country for an indefinite period without

the help of the National Assembly. Under Article 51 of the National Assembly was to meet twice a year with a gap not exceeding six months. There was no provision for Article 51 to operate during the proclamation of emergency.

Article 193 specifically provided for imposition of emergency in the event of the breakdown of constitutional machinery in a province. The President, on receipt of a report from the Governor of a province, if satisfied that a situation had arisen in which the Government of the province could not function in accordance with the provisions of the Constitution, he could by proclamation assume, on the governor's behalf, all or any of the functions or powers of the provincial government or any organ or body of the provincial government except the provincial legislature or judiciary. The National Assembly could be authorised to exercise the powers of the provincial legislature. The President was empowered to authorise expenditure from the provincial consolidated fund in anticipation of the approval of the National Assembly.

The Governor's powers however were not clearly or definitely assigned under Article 193. The President was to issue a proclamation on receipt of a report from the Governor of a province. It was not clear whether the Governors would report on ministerial advice, that would commit provincial government to authorise voluntarily to the Central Government to take over. Secondly, the Governor would become an agent of the President, if he assumed all or any functions of the government on behalf of the President. The incumbents in office under the 1956 constitution did not regard themselves merely as agents of the President, they often implicated themselves politically in government affairs. Fazlul Haq continue to head the Krishak Sramik Party as Governor of East Pakistan. In West Pakistan M.A. Gurmani was politically active while in office under both the Constituent Assemblies.

The third type of emergency provided under the 1956 Constitution as related to the financial stability or credit of Pakistan. Under Article 194 (1) the President, if satisfied that a situation had arisen whereby the financial stability or credit of Pakistan or any part thereof was threatened, "could after consultation with the Governor of the Province issue a proclamation of financial emergency". During the period of financial emergency the President was empowered to direct a province to observe such principles of financial propriety ' as were required for restoring financial stability and credit. This applied to a reduction in salaries and allowances of government servants; including those of the judges of the Supreme Court or High Court. A financial emergency was not extendable beyond six months.

It is clear from the above that during the period of either political or financial emergency the federal character of the Constitution could be suspended, and the country ruled as unitary state. Even under normal circumstances the Centre controlled and dominated provincial politics through its power of appointment and dismissal of Governors, and its predominance in financial and administrative relationship with the province. In the absence of well developed, broadly based parties the country continued to be governed by a highly centralised government. The President was not content to be a figure head in a parliamentary system of government. The idea of "controlled democracy" perpetuate intrigue and political manoeuvring. Ministerial changes were frequent and elections were hardly held. According to one observer. "The constitution was conceived in the belief that the political life of the country would always be tied to provincial moorings and never rise to a higher plane of nationalism in which party affiliations would cut across the physical barriers. The party was certain to foster parochial feelings equally in the region in whose favour it was to operate and in the region wherein its interests were adversely affected by it."³⁰

CENTRE VS. PROVINCES UNDER THE 1956 CONSTITUTION

Iskander Mirza was critical of devolution of power to the Provinces, and was a forceful advocate of a strong presidential form of government. On the contrary, Prime Minister Chaudhri Mohammad Ali firmly upheld the disposal of power in favour of the provinces. Subsequently a large number of legislative subjects were shifted from the Federal to the Provincial list.

During the period between 1956-1958 the Central and Provincial politics were closely linked. The President used the Governor as an instrument of central control of provincial affairs. He did not hesitate to proclaim emergency for suspending parliamentary government in either of the provinces whenever there was a threat to the Centre's interest.

East Pakistan: In August 1955, the Krishak Sramik Party of the United Front had taken office in East Pakistan, but between January 1956 to March 1957 the United Front was deserted by its component groups, the Ganatantari Dal, the Pakistan National Congress, the Scheduled caste Federation, and the United Progressive Party. The Krishak Sramik Party was left to run the government with the support of Nizam-e-Islam. The Provincial Assembly had met only for one day in August, 1955 since its election (in 1954), to elect the Speaker and the Deputy Speaker. When the Constitution came into operation, the Krishak Sramik ministry headed by Abu Hussain Sarkar was unwilling to summon the provincial legislature to determine the ministerial strength.

The Sarkar Ministry eventually had no alternative but to summon the Assembly for securing its consent to the provincial budget in May 1956. A crisis followed. On May 27, after a debate lasting seven hours the budget was thrown out by the Speaker. On the Centre's direction, the Governor prorogued the Assembly on the same day and the provincial ministry was able

to survive the opposition's attack. By imposing Governor's rule, the Central Government authenticated an interim budget on May 29 for three months. A week later the Sarkar Ministry was restored by the centre and the Governor's rule revoked. The Sarkar Ministry subsequently got another lease of life for three months.

On August 13, 1956 a few hours before it was to meet the Sarkar Ministry again asked the Governor to prorogue the provincial assembly. The Muslim League joined the Awami League in a protest against the move. A protest day was observed³¹ against the method employed by the United Front to maintain itself in power.

The provincial leaders including Suhrawardy were summoned to Karachi by the Centre, and after three days of negotiations it was agreed that the Sarkar ministry should either convene the provincial assembly or resign.

On August 29, the provincial government enacted a series of measures designed to embarrass any government in their application, and resigned the following day, rather than face the provincial legislature. The following day the President once again suspended the provincial constitution for the second time within three months and proclaimed President's rule. The Centre left with no other choice called upon the Awami League to form a ministry with in weak, the Governor's rule was revoked and the Awami League formed a six men coalition ministry under A.R. Khan.

The central government could not remain unaffected by the political crisis in both wings. Within ten days of Awami League's accession to power in East Pakistan, Suhrawardy was asked to take over as Prime Minister. By April 1957,³² the issue of provincial autonomy gained considerable strength in East Pakistan. The provincial legislature passed an unofficial resolution

demanding full autonomy, leaving the Centre with only currency, foreign affairs and defence.³³ Sheikh Mujibur Rahman explained that what the people of East Pakistan wanted was 'economic autonomy' and not 'political autonomy'. The motion was adopted without a division.

Suhrawardy endeavored to allay the fears of West Pakistan by calling the resolution "a political stunt."³⁴ The Prime Minister accused the East Pakistan legislature of sowing dissensions in the country and brought the matter before the central coalition, which authorised him to nominate a committee for assessing the quantum of autonomy possible for East Pakistan.³⁵ At the same time he sought to placate Awami League by an amendment of the Electorate Act of 1956 whereby joint electorate became operative throughout the country.³⁶

West Pakistan : The integration of One Unit remained the most contentious of issues between the Centre and West Pakistan during the last two years of the period. Within West Pakistan Assembly the stand taken on the issue by the political parties was both ambiguous and inconsistent. In September 1956 the Pakistan National Party was formed by six parties³⁷ for the express purpose of dismembering One Unit. Led by G.M. Syed of Sind it was ready to support any party willing to break up One Unit. The principle advocate of One Unit remained the Centre, which ensured its existence through official patronage.

The National Awami Party held the balance in the provincial assembly, and with its support, the opposition was enabled to defeat the party in power. A near crisis took place before the budget session began in the West Pakistan legislature, in March 1957. The Muslim League, in an agreement with National Awami Party, to undo One Unit withdrew its support from Khan Sahib's government. They were joined by thirty Republican members who

crossed the floor. Deprived of their majority the Republicans, led by Dr. Khan Sahib, appealed to the Governor to dissolve the Assembly. The ministry was saved by the patronage of the President, who proclaimed President's rule under section 193, on March 21 for two months.³⁸

For two months the Republicans and the Muslim League manoeuvred to capture power. The President's rule continued so long as Republican did not convince Suhrawardy that they would vacate office if and when defeated.³⁹ At the same time many Republican defectors rejoined the party when they found the Centre unwilling to hand over power to the Muslim League. The proclamation was finally revoked by the President, on the recommendation of the acting Prime Minister, during Suhrawardy's absence abroad. The Republican ministry was restored to power on July 27, 1957 under Sardar Abdur Rashid. The new chief minister had earlier lost his chief ministership of North West Frontier Province due to his opposition to the One Unit. He was now restored to power through the Centre's patronage.⁴⁰

Once entrenched in power, the Republicans sought the removal of the Governor M.A. Gurmani, as a precondition for continuing the coalition government in the Centre. It was believed that Suhrawardy and Gurmani had come to some understanding and Gurmani was accused of siding with the Muslim League. The Centre once again succumbed to the Republican demands and the Governor was removed on August 28.

Meanwhile the Pakistan National Party had broadened its base by joining Bhashani led Awami League.⁴¹ With the decline of Suhrawardy's support in East Pakistan, the Republicans entered into an agreement with the National Awami Party to dismember One Unit. An official resolution to this effect was adopted in the assembly by a majority of 170 to four votes. The Muslim League abstained.⁴² The matter was debated in the National As-

sembly where opinion was divided. A decision was, however, forestalled by a joint statement from the President and the Army chief declaring that "there should be no tampering with the constitution on such important issues at the present juncture."⁴³ The President successfully dissuaded the Republicans from implementing their agreement.⁴⁴

Suhrawardy undertook a tour of West Pakistan where he waxed eloquent in favour of One Unit. The Republicans considered this as a move against them. They withdrew their support in the Centre and Suhrawardy's coalition Government fell in October 1957. The President upheld his support for the Republicans. In fact the Republicans provided the President with a convenient tool to establish himself firmly in the central leadership.⁴⁵

Iskandar Mirza proved himself as much a Republican as Dr. Khan Sahib. He set up a new coalition of Republican-Muslim League in the Centre. The new Coalition government under Chundrigar (October 18 - December 11, 1957) was expected to have a steadying influence in the provincial politics of West Pakistan. But the coalition was at best tenacious and soon broke down. The Muslim League had just before coming to power committed itself in favour of One Unit.⁴⁶ In West Pakistan the National Awami League switched its allegiance to the Muslim League (in spite of its stand on One Unit) with the aim to defeat the Republicans during the general elections.

The Republican's next step was to replace their leader, Sardar Abdur Rashid, who had lost their confidence, by Nawab Muzaffar Ali Khan Qazilbash. Qazilbash took over as the Chief Minister on March 17, 1958 during the budget session of the Assembly. Despite minor skirmishes the Republicans got the budget passed by a majority of 163 votes to 137 votes. The Assembly did not meet again until after the military coup in October

1958.⁴⁷

East Pakistan: The President shifted his patronage to various parties in both wings to suit his needs. He removed Fazlul Haq, the Governor of East Pakistan, when the latter dismissed the Awami League Government. The Awami League was reinstated subsequently.

A fresh crisis broke out five weeks later. The Awami League Government was deserted in the provincial assembly on June 19, 1957 by members of the Congress and the National Awami Party.⁴⁸ Sarkar's Krishak Sramik Party was then sworn in (for the third time),⁴⁹ but it did not last long either. The National Awami Party decided once again to shift its support to Awami League. Iskander Mirza imposed President's rule to prevent the continuing state of instability. For the next two months the President maneuvered to form new alignments in East Pakistan. Finally the Awami League was once again inducted into office.

The Awami League government accused the central Government of encouraging economic deterioration of the Province and demanded a sum of rupees fifteen crore. Mujibur Rahman pointed out that "East Pakistan is worse than a colony out of the 710 million dollars received by Pakistan Government from the United States aid only 115 millions dollars were sanctioned for East Pakistan. This step-motherly treatment has completely shattered our economy."⁵⁰ The Chief Minister A.R. Khan, visited Karachi but found the central government "completely hostile".⁵¹

The legislative proceedings in Dacca on September 20, 1958 were marked by total disorder. The Centre's constant intervention in provincial politics made it impossible for any government to function. Party alliances were broken and the issue of allocation of portfolios between the two wings

led to the final abrogation of the Constitution a month later in October, 1958.

NOTES AND REFERENCES

1. G.W. Choudhury, *Democracy in Pakistan ...*, pp. 76-77.
2. The Awami League abstained from the official ceremonies declaring that it would continue its struggle to secure suitable amendments in the Constitution.
3. *Constitution of the Islamic Republic of Pakistan, 1956*, Preamble.
4. *Ibid.*
5. *Ibid.*, Article 198(4).
6. *Ibid.*, Article (4).
7. *Ibid.*, Article 119.
8. *Ibid.*, Chapter III. There was no provision to make Islam the State religion of Pakistan; however facilities for the Islamic way of life were to be provided and bonds between Muslim States were to be strengthened.
9. *Ibid.*, Article 32(1), 191-194.
10. *Ibid.*, Articles 43 and 76.
11. *Ibid.*, Article 143.
12. *Ibid.*, Articles 37 and 71.
13. *Ibid.*, Articles 22(2), 163 and 170.
14. *Ibid.*, Article 37(3).
15. *Ibid.*, Article 57.
16. *The Constitution Convention Order 1955 (Governor General Order No. 8/1955)*.

17. An Order of May 28, 1955, (*The Constituent Assembly Order No. 12/1955*).
18. According to one observation it was most ridiculous and dubious system that could ever have been thought of, and outcome of parties, alliances and grouping prevailing at the time. G.W. Choudhury, *Democracy in Pakistan, op.cit.*, p. 105.
19. The Hindus comprised an influential class, with close political and economical ties with West Bengal Muslims. Khalid bin Sayeed, *Political System of Pakistan*, p. 187.
20. The Constitution of the Islamic Republic of Pakistan (1956) Sec. 43. The exact number was left open to statutory revision but principle of parity was constitutionally fixed, Ten seats were reserved for women, equally divided between the two Units.
21. Fifth Schedule Federal list. The list was inclusive of foreign affairs, defence, currency, citizenship, foreign and inter-provincial trade and commerce, insurance and corporations set up by the Federal industries, post and all forms of communications, mineral oils and gas.
22. Fifth Schedule Provincial list. The subjects included were law and order, administration of justice, police, land, agriculture, local government, education, public health, industries and corporations. Subjects to federal list: factories, forests, electricity and other subjects of local interest. While Railway came under the provincial list it continued to be administered by the Centre.
23. Fifth Schedule Concurrent List.
24. Article 129.
25. Fifth Schedule Federal List items 16, 20, 26, 27.
26. *Ibid.*, provincial List items 12, 31, 46, 56, 71, 75, 80, 83, 86, 88.
27. The Constitution provided for a National Finance Commission for adequate distribution of net proceeds of some important taxes and income, sale and purchased and any other specified taxer. No such Commission was appointed.
28. The Emergency powers were defined in Part IX (Article 191-196) of the constitution.
29. The President could issue a proclamation of emergency if he was satisfied that a

grave emergency existed in which the security or economic life of Pakistan or any part thereof was threatened by war or external aggression or by internal disturbance beyond the power of the provincial government to control. Article 191(1).

30. Mushtaq Ahmed *Government and Politics in Pakistan*, Karachi, 1959, p. 59.
31. *Morning News*, August 16, 1956.
32. The Awami League demonstrated its strength in December, 1956 by winning five of the six bye-elections.
33. *Dawn*, April 4, 1957.
34. Chief Minister A.R. Khan and Mujibur Rahman reacted strongly saying that resolution was meant seriously and not for fun. *Morning News*, April 7, 1957.
35. *Dawn*, April 1, 1954.
36. By the measure Suhrawardy hoped to maintain the Awami League support in the National Assembly.
37. The former Red Shirts, Wrote Pukhtun, the Sind Awami Mahaz, the Sind Hari Committee, the Ustman Gal and the Azad Pakistan Party.
38. *Pakistan Time*, March 22, 1957. Later the National Assembly extended President's rule till September 30.
39. Rafiqe Afzal, *op.cit.*, p. 218.
40. Khan Sahib's election in March 1957 was declared null and void. In May 1958 he was assassinated by a malcontent person in Lahore.
41. Formed in July 1954 it favoured of the formation of zonal federation in West Pakistan and the demand for regional autonomy.
42. *Dawn*, September 18, 1957.
43. *Dawn*, September 18, 1957. The biography of general Mohammad Ayub has claimed that the statement was issued at the behest of the General Mohammad Ahmed, *op.cit.*, p. 96.
44. Hassan Mahmood, *op.cit.*, pp. 73-75.

45. Earlier on Pakistan Day, March 23, 1957, the President had declared himself in favour of Presidential system of government, with power concentrated in the head of the State.
46. The Muslim League Council met in Dacca on September 13 to adopt a resolution in support of One Unit.
47. Craig Baxter, *op.cit.*, p. 371.
48. The 'operations close door' led to a sharp reaction by the Hindu members of the Assembly.
49. The Krishak Sramik first assumed power in 1955-56, its second induction in office was in April, 1958 only for twelve hours.
50. *Morning News*, September 7, 1958.
51. *Ibid.*, September 9, 1958.

This reading passage reveals the crucial issues emerged from 1956-1958. On March 23, 1956 first constitution of Pakistan was implemented. Just after 2 years and seven months time this constitution was abrogated and in consequence first country wide Martial Law was imposed.

This reading passage has been recommended with clear objective that after having gone through this passage you must have a clear picture of the events and issues spread on the span of time from 1956-1958 and we hope you will be able to critically evaluate those issues and events.
(Compiler)

READING - 2

(Excerpt from the Political System of Pakistan by Khalid B. Syeed by Houghton Mifflin company Boston, pp. 82-93.

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4.2 FAILURE OF THE CIVILIAN RULE

Collapse of the Parliamentary System, 1956-58

Now that Pakistan had produced a constitution, one could see that the basic weakness of its political system was not the lack of a constitution but the absence of national political parties without which no democratic system

could function. The Muslim League as a national movement under the charismatic leadership of Jinnah and Islam as a utopian ideology united the physically and culturally separate areas of northwest and eastern India and was able to achieve Pakistan in slightly over seven years after the Pakistan Resolution was passed in March, 1940. The fact that Pakistan could be achieved in such a short time misled Pakistanis into believing that Islamic unity and slogans like faith, unity, and discipline could do the same trick in building a modern state on stable foundations. For nearly seven years after Pakistan was achieved, the Muslim Leaguers thought that by invoking the name of Islam and characterizing all opponents of the Muslim League as traitors, they could maintain their party domination. They were rudely shocked when the East Bengali voters turned against the Muslim League in the elections of 1954, reducing the League from its overwhelming majority in the provincial legislature to a group of 10 in a house of 309 members. Even before this debacle, there were rumblings in Sind, the Frontier, and West Punjab. But in West Pakistan, the traditions of bureaucracy and feudal despotism were such that resistance to the existing government could be held in check by devices ranging from imprisonment of popular leaders like Khan Abdul Ghaffar Khan to rigged elections. The best training ground for a politician or a political party is an election; but Pakistani leaders did not get many opportunities to learn how the political process worked in a democratic society, for Pakistan never had a general election. As a result, Pakistani leaders did not get an opportunity to create or construct a national party which could aggregate the various regional and cultural groups at the national level.

The Muslim League, having played the role of a nationalist movement during the pre-independence period, could have emerged as a political party representing a constellation of interests both in East and West Pakistan. But it failed to transform itself into a political party with grass-roots support

because of two factors. First of all, Muslim League leaders were not courageous enough to take a stand against the bureaucracy or the government of the day when some of their leaders were removed from office arbitrarily by the government. The image of the Muslim League in public eyes therefore was that of a party which rallied behind any leader that was foisted on a Provincial Assembly by the central government or on the National Assembly by the Governor-General or the President. The Muslim League, which at one time supported a Daultana in West Punjab or a Pirzada in Sind, was found to be equally loyal in supporting a Noon in Punjab or a Khuhro in Sind. Similarly, in the Centre, the Muslim League supported Nazimuddin and after his dismissal was loyal to the new Prime Minister, Muhammad Ali Bogra, a nominee of the Governor-General and at the time of his appointment, Pakistan's Ambassador to the United States. Secondly, the Muslim League was too much a prisoner of its past. Because it had been a principal advocate of separate electorates and had later supported Jinnah's two-nation theory, its leaders took the view that they would be betraying their principles if they were to accept joint electorates or a former Congressman as their leader. East Pakistani leaders were in favor of joint electorates because they thought that separate electorates would tend to divide the Bengali members of the National Assembly into Muslim and Hindu groups. In West Pakistan, after the integration of One Unit, it was felt that the best method of disarming opposition to the One Unit scheme in the North-West Frontier Province was to offer the chief ministership of West-Pakistan to Dr. Khan Sahib, a former Congressman. The Muslim League, by taking a stand against this policy, lost power both in West Pakistan and in the Center in 1956. Thus by not adopting a flexible policy in order to attract maximum support from every important section of the country, the Muslim League failed to become a truly national party. Indeed, when it refused to support Dr. Khan Sahib as the Chief Minister of West Pakistan, Khan Sahib, backed by the Governor of West Pakistan and by the President, Iskander Mirza, successfully enticed nearly

half of the Muslim League members in the Provincial Assembly into forming a new party called the Republican Party. The secretary-general of the new party revealed that its manifesto and constitution were written by Governor Gurmani of West Pakistan.

In Sind and the Frontier, the opposition to One Unit was deep and widespread. First of all, there was the traditional resentment of Sindhis and Pathans towards the Punjabis who controlled a major share of the West Pakistan administration. Indeed, their resentment was only reinforced by the inconveniences they experienced in travelling from their respective provinces to the distant capital of Lahore in order to obtain trade permits or redress for various injustices they might have suffered at the hands of the local administration. The Republican Party manifesto put out for the expected elections was a document of pure opportunism so far as the question of One Unit was concerned. It enabled Republicans to oppose One Unit in Sind and the Frontier and to fight for its maintenance in Punjab.¹

The Punjab group in the West Pakistan Assembly was hopelessly divided, and members from this group were leading both the Republican and Muslim League parties. In the Muslim League and in the Republican Party, it stood firmly in favor of retaining the existing integrated West Pakistan Province. The National Awami Party, led by G. M. Sayed of Sind and a few supporters of Khan Abdul Ghaffar Khan of the Frontier, were prepared to support any party which would agree to split the West Pakistan province into its former constituent parts. Since it held the balance in the Assembly, it could bring about the defeat of any government in the house by supporting the opposition. Both the Muslim Leaguers and the Republicans were thus forced to woo the support of this group in order to command majority support in the house. The Republican government lost majority support when the Muslim Leaguers agreed in March, 1957, to support the demand of

the National Awami Party that West Pakistan be broken up into its former constituent parts. It was saved, however, by the intervention of President Mirza, who imposed Governor's rule on the province. Later when the Republicans were restored to power, they, in their turn, were prepared to support the demand of the National Awami Party in order to save themselves from another defeat. The Assembly was thus reduced to a steady seesaw between the two rival groups, and Ministers were busier gathering support from members than in managing their departments. In order to get support, they had to bribe members with ministries or deputy ministerships, or resort to other corrupt practices, such as granting import licenses to members of the West Pakistan Assembly. A Chief Minister of West Pakistan admitted on the floor of the House that "now from top to bottom, there was hardly a person who was not corrupt."² Parliamentary government in West Pakistan was reduced to a farce, the administrative machinery paralyzed, and the Provincial Assembly was often in a state of pandemonium where it was difficult to determine on a particular day which party was in majority and where it stood on a particular issue.³

United as all Bengalis were in their bitterness against the Centre and West Pakistan, politically they were divided into rival groups led by Suhrawardy and Fazlul Huq. These two leaders had combined to form the United Front Party in order to defeat the Muslim League in the spring of 1954, but as soon as the party assumed office, it split on the matter of distribution of offices, and the old rivalry for power in pre-partition Bengal appeared in the form of the Awami League led by Suhrawardy and the Krishak Sramik (Peasants and Workers) Party (KSP) under Fazlul Huq. This was followed by Governor's rule in Bengal which lasted until August, 1955. After that, the Krishak Sramik Party was in office for a year.

The Awami League, when it was invited to form a government in

September, 1956, enjoyed the support of about 200 members in a house of 309.⁴ A great majority of the 72 Hindu members in the Assembly backed the League because of its support of joint electorates. In March, 1957, when Maulana Bhashani resigned as president of the Awami League because he disagreed with Suhrawardy's pro-Western foreign policy, a number of Awami League members in the Provincial Assembly also resigned in support of Maulana Bhashani's stand. Later, in July, 1957, these members joined the newly formed National Awami Party under Bhashani's leadership and their party strength in the Assembly was 28. The Krishak Sramik Party also enjoyed the support of the Nizam-i-Islam Party and the Muslim League. Their total strength hovered between 100 and 106.

The Awami League government soon ran into difficulties when it agreed with the central government to let the army seal the border districts to stop smuggling. It was well known that food, imported goods, and capital worth 800 million rupees were being drained away from East Pakistan's economy.⁵ In December, 1957, the army launched its famous "operation close door." A number of Hindu member of the Assembly reacted sharply against this policy as it meant that a number of Hindu families, who were engaged in sending their capital and valuables out of Pakistan, would be adversely affected.⁶ They threatened the Awami League with withdrawal of their support if the anti-smuggling drive by the army were not relaxed or abandoned altogether.

The tug-of-war between the Awami League and the KSP continued. On June 18, 1958, the Awami League was defeated because some of the Hindu members had withdrawn their support and also because the National Awami Party remained neutral when the ministry was faced with a division on the floor of the house. There was a KSP government for a few days, and the Awami League was back in power because the National Awami Party

decided to support the Awami League party when the latter had agreed to work for a neutral foreign policy and the disintegration of One Unit. This was sheer opportunism. In order to get back in power, the Awami League was prepared to agree to the proposal of neutral policy when its leader, H.S. Suhrawardy, was an ardent advocate of a pro-Western policy. However, Governor's rule was clamped on the province.

By the end of August, 1958, the Awami League government was again back in power when Governor's rule was lifted by the Center. On September 20, 1958, when the Assembly met, the Government moved a motion of no confidence in the Speaker mainly because the government suspected that the Speaker was supporting the opposition. Total disorder resulted when the Speaker was assaulted and government and opposition members exchanged below.⁷ On September 23, when the Deputy Speaker, who was a member of the Awami League, appeared to conduct the proceedings of the house, he was assaulted by the members of the opposition. The Inspector General of Police, on orders of the government, brought in policemen, and the members of the opposition were removed from the house. The government was thus able to have all its budget demands passed. A few days later the Deputy Speaker died as a result of the injuries received in the house. Parliamentary government had been reduced to a farce. East Pakistan at the time these tragic incidents took place was in the grip of acute food shortages, floods, and epidemics.

How does one explain the political fragmentation that had taken place in both parts of Pakistan? Politics in West Pakistan was by and large of a feudal nature. The West Pakistan Assembly was divided into two rival landlord factions. The Republican Party was supported by landowners like Qizilbash, Noons, Tiwanas, Gardezis, the Legharis, and the Gilanis from old Punjab. All of these families were sworn enemies of Daultana group. They

were also joined by Hasan Mahmood and the Lalekha family of Bahawalpur, Hoti from the Frontier, Talpur, Pirzada, and the supporters of the Pir of Pagaro from Sind. Daultana, who led the Muslim League, enjoyed support from landowners from Multan whence he came, Qureshis from Sargodha to whom he was related, and the Joya tribe, to which he belonged and which existed along both sides of the Sutlej River.⁸ Some of these landlords were involved in feuds with each other dating back several decades. These disputes had originated in cases involving cattle stealing and claims against each other's landed property. Under parliamentary politics, they were forced into cooperating with one another for the purpose of winning elections. Pacts like the Daultana Gilani Pact (1949) and the Gardezi-Gilani Pact (1949) were formed.⁹ In politics, however, they were not challenged by any group which threatened their interests as landowners. To them, politics with its competition for jobs and patronage became another outlet for pursuing their old feuds. Thus, the pacts failed to dissolve their age-old differences, and they started fighting their old battles in the provincial and central assemblies. It may also be noted that most of the civil servants and army officers in West Pakistan came from the landed gentry. The political groups that were formed were not organized against the government as such on the basis of an economic or social program. They were formed to win elections or topple a ministry, and they very often disintegrated after they had achieved their short-term objective. Landlords formed such groups or joined government-supported factions because they offered them protection against their enemies or rivals. If they did not join, they would lose their cattle, their lands might be raided, or irrigation water might be turned off their fields. The only group in West Pakistan which had a program was National Awami Party, which stood for the breakup of the One Unit, and enjoyed the support of some of the progressive and leftist elements.

Outwardly the situation in East Pakistan, particularly when some of

the members of the Assembly disgraced themselves by their disorderly conduct, was indistinguishable from that in West Pakistan on the eve of Martial Law. But many West Pakistanis conceded that East Pakistanis by and large were usually capable of displaying better political maturity and consciousness than their brethren in the West. It was true that the United Front, created at the time of the 1954 provincial elections, broke up into rival parties of the Awami League under Suhrawardy and the KSP under Fazlul Huq. However, there were clear signs in East Pakistan that the various factions would have crystallized into two major political groupings with the moderates and conservatives of the KSP and the Awami League and even the Nizam-i-Islam Party forming themselves as the majority party. The opposition would have been led by Bhashani's National Awami Party. The latter group consisted of socialists and other leftist elements who would have tried to build their movement on radical lines drawing support mainly from peasants and industrial workers. Unfortunately, such a realignment did not take place because of the Center's constant interference in East Pakistani politics, and above all, President Mirza's deliberate divisive tactics designed to dislodge the Awami League ministry and install another under the KSP.

President Iskander Mirza had one object in mind and that was to get himself elected as President after the next general election. Mirza had never outgrown the role of a Political Agent of the North-West Frontier. His training and experience had been such that he knew only one way of achieving his objects, namely, the old Frontier game of setting one tribe against another. There was nothing positive in the ends sought in this game, for by this policy one merely prevented the parties concerned from causing any damage to oneself and the government one represented. One of his colleagues, who had worked with him in the government of India, wrote that he "enjoyed getting the better of a man by a cunning trick, intercepting, for instance, a piece of intelligence that had been bought by the other side,

buying it back before it was delivered, and substituting something else that would deceive the enemy and if possible mislead him to some mistake that would turn the laugh on him." People on the Frontier still relate with some relish the story of the Congress procession which Mirza, as Deputy Commissioner, thought would cause trouble, but which he managed to disperse. The processionists were entertained by a party of sympathizers and someone had laced the tea heavily with croton oil, "the swiftest and most violent of vegetable purges."¹⁰ Mirza had great qualities for getting things done "by persuasion and finesse and bluff with just a hint of force in the background." This *hikmatamali* (judicious management) he demonstrated in abundant measures as Governor of East Bengal in 1954. But these qualities, derived from his innate drive and ambition, were out of tune with Pakistan's nationalism and particularly with the political aspirations of the urban classes.

Pakistani politicians were even more manageable tools than the Pathans for they lacked loyalty to the group or party to which they belonged. Having risen from the ranks of the civil service and played an influential role in improving the defense posture of Pakistan, Mirza had become fond of wielding enormous power. It was well known that a number of Republicans were "President's men," both in the Center and in West Pakistan; in East Pakistan, the President could depend upon several influential members of the KSP. The President would either bring about a change in the Center, and the new Prime Minister would try to place his supporting parties in the provinces, or the President would try to upset governments in the provinces with the result that this would disturb the coalition at the Center.

H.S. Suhrawardy, who became Prime Minister in September, 1956, formed a coalition cabinet consisting of the Awami League and Republican Party Ministers. Suhrawardy's prime ministership lasted for slightly more

than a year. By the beginning of October, 1957, it became clear that he had lost the support of some of the Republican Party members, particularly those from Sind and the Frontier. Matters came to a head over the question of One Unit when the Republicans in West Pakistan were trying to outdo the Muslim Leaguers in winning a majority in the Assembly by advocating the breakup of the One Unit. Suhrawardy, instead of depending upon the President to patch up his differences with the Republicans, decided to take a clear stand against the breakup of the One Unit and to campaign vigorously in West Pakistan for the preservation of the existing integrated West Pakistan province. He was taking certain calculated risks. He expected that Punjabi Republicans would stay with him and was prepared to lose the support of the Sindhi and Frontier Republicans. He also expected that even Muslim Leaguers like Daultana would support him on this issue. In October, 1957, however, faced with serious differences in the coalition with a number of Republicans withdrawing their support from his ministry, Suhrawardy advised the President to summon the National Assembly so that it might be known whether he enjoyed majority support in that body.¹¹ This aroused President Mirza's suspicions immediately. He agreed to Suhrawardy's request, it would have meant that the National Assembly, not the President, would have become the maker and unmaker of ministries. Secondly, Suhrawardy was trying to disrupt the Republican Party and this would have undermined the President's influence. Mirza asked Suhrawardy to resign at once or he would dismiss him. Suhrawardy resigned as Prime Minister on October 11, 1957.

When Firoz Khan Noon from Punjab became Prime Minister in December, 1957, the President found that his control over the Republicans was diminishing and that the new Prime Minister had come to an understanding with Suhrawardy. It was believed that Suhrawardy had assured Firoz Khan Noon that after the general elections, he would support Noon for the President's post. Suhrawardy also once disclosed that he had the names

of a couple of candidates for the presidency in his pocket. President Mirza, perhaps rightly, suspected that Suhrawardy was planning to build an alliance between major groups in East and West Pakistan. The outlines of Suhrawardy's strategy were broadly as follows: Using East Pakistan as its political base, the Awami League under his leadership would enter into an alliance mainly with Punjabi leaders who were in favor of preserving the province of West Pakistan as One Unit. Suhrawardy, by taking a firm stand over the issue of One Unit and thereby sacrificing his prime ministership, had won the support of Punjabi leaders. In addition to the support of Prime Minister Noon, it seemed that Suhrawardy could also expect support from Daultana.¹² Thus, Suhrawardy had embarked on a bold and brilliant plan of forging an alliance between Bengal and Punjab, something which had not been attempted before. Formerly, the Muslim League leaders from Bengal used to combine with Sind and the Frontier against Punjab. Suhrawardy, however, was shrewd enough to realize that political stability at the federal level was not possible without some kind of an understanding between the two major areas of Pakistan. It was also clear that such an alliance would help him to win a majority in the forthcoming elections and thus become the Prime Minister. The fatal flaw in Suhrawardy's plan was that the Punjabi leaders were hopelessly divided: it was difficult to foresee how Noon and Gurmani or Noon and Daultana could cooperate with each other.

President Mirza saw clearly that if Suhrawardy were to succeed in carrying out his plans, there was no possibility of his being re-elected as President. Mirza counteracted against Suhrawardy's strategy by first removing Governor Gurmani from office in West Pakistan and ensuring that his men were in power there. He then turned his attention to East Pakistan with a view to dislodging the Awami League ministry. The President's agents in East Pakistan were some of the leaders of the KSP. With the Awami Leaguers and KSP members coming to blows on the floor of the East Pakistan Assembly,

these political machinations and intrigues had injected so much disorder into the political system that no government could function. The central government was also paralyzed by political instability. On the day martial Law was declared, the President had sworn in two different Cabinets.¹³ A caricature of the role of the President was presented in a cartoon in the *Lail-o-Nahar*. The tragic fighting in the East Pakistan Assembly in September, 1958, was pictured as a puppet show with the President pulling the strings.¹⁴ The *New Statesman* correctly pointed out that it was true that most of the politicians deserved to be stoned, but it was not for President Mirza to cast the stones.¹⁵

Why did President Iskander Mirza proclaim martial law on October 7, 1958? It was clear to him that there was not much prospect of his getting re-elected as President. He thought that if elections were held under this state of affairs, there was not much hope of stable and responsible governments emerging in the provinces and in the Center. The Muslim League was becoming popular in West Pakistan. In East Pakistan, with Suhrawardy's Awami League hanging on to power, the chances of the Awami League emerging as a majority party in that part of the country were good. In spite of the differences that existed among politicians in Pakistan, most of those who enjoyed popular support were agreed about one thing: Iskander Mirza should not be elected as President. In addition to these factors influencing the President, there was the Commander-in-Chief of the Pakistan army, General Muhammad Ayub Khan, whose counsel weighed more heavily with the President than that of anyone else. Ever since his appointment in January 1951, the Commander-in-Chief had probably been in as close a contact with the political leaders as Iskander Mirza. Indeed, he was always in close touch with every Prime Minister, because the Prime Minister in Pakistan from the beginning was responsible for the Defense portfolio. In addition, the Commander-in-Chief could be regarded as one of the most important decision-makers in Pakistan since defense expenditure invariably constituted slightly

more than half of the nation budget. We have also seen how influential General Ayub was when Governor-General Ghulam Muhammad dissolved the constituent Assembly and brought about the integration of West Pakistan. By way of comparison, it may be noted that during the years 1950-58, Pakistan had seven Prime Ministers and one Commander-in-Chief; whereas India had one Prime Minister and several Commander-in-Chief. General Ayub had been Commander-in-Chief since January, 1951, and his tenure, which would have expired in January, 1959, had already been extended by President Mirza. Thus, it would not be fair to suggest that in seizing power, Ayub was motivated purely by personal considerations. We have seen that both the central and provincial governments had been rendered incapable of discharging their normal functions. Furthermore, there were signs that the younger officers might stage coup.¹⁶ Pressure was also being brought to bear upon Ayub by the senior generals that the time for drastic action had come. There is evidence to suggest that "a broad tactical outline" to impose Martial Law in the country was being prepared, and that it received the final approval of General Ayub Khan on the last day of September, 1958.¹⁷ Later, even when Iskander Mirza was still the president, General Ayub disclosed that it was at his initiative that the President imposed Martial Law. "I said to the President: 'Are you going to act or are you not going to act? It is your responsibility to bring about change and if you do not, which heaven forbid, we shall force a change.'¹⁸

Before Ayub could take action against what he considered the enemies of the country and tackle some of the basic problems, he thought he should first get rid of his friend, Iskander Mirza. Mirza was a serious political liability in the sense that in the eyes of the public he was responsible for most of the political intrigues. Ayub knew him as a man who believed in advancing his prospects by encouraging his rivals and foes to quarrel; indeed, now he was hearing reports that the President was determined to sow the seeds of

discord in the army and other services as well. The result was that President Mirza was forced to resign on October 27, 1958, and the mantle of the presidency descended on Ayub's shoulders.

NOTES AND REFERENCES

1. *The Pakistan Times*, October 1, 1958.
2. *Ibid.*, August 26, 1958.
3. Commenting on the trial of strength between the Republican Party and the Muslim League, a former Minister in the West Pakistan Government, wrote: "On May 31, the Budget was passed by a clear majority. At one stage of voting, when there was some confusion as to who had won, Mr. Daultana with some of his eminent colleagues staged a 'Bhangra' dance on the floor of the House, under the impression that his party had won. Ultimately it was established that they had lost." Syed Hassan Mahmud, *A Nation is Born* (Lahore: 1958), p. 57.
4. *Dawn*, September 18, 1956.
5. *Amrita Bazar Patrika*, September 9, 1958.
6. The total smuggling of Hindu capital was Rs. 400 million. A. Sadeq, *The Economic Emergence of Pakistan*, Part I (Dacca: East Bengal Government Press, 1954), pp. 23-24.
7. The author was present in the House when these events took place.
8. The author is not aware of any study of Pakistan which throws any light on this highly important aspect of Pakistan's politics, namely, the support that politicians derive from their tenants and tribes. Even Chaudhri Muhammad Ali, who was not a landlord, was campaigning for support before Martial Law in areas where his tribe, Arains, were concentrated, such as Lyallpur and Bahawalpur.
9. Photostatic copies of these pacts have been reproduced in Mahmud, pp. 20 and 21. These pacts were signed on a blank facing the title page of the Qur'an and the signatories declared that they would support each other as God-fearing Muslims.

10. Philip Woodruff, *The Men Who Ruled India, The Guardians*. (London: Jonathan Cape, 1954), p. 295.
11. Suhrawardy expected support from 14 Awami Leaguers, 10 Republicans (Punjabis), 10 Muslim Leaguers, 4 Congress, 1 Azad Pakistan Party, 1 Ganatantri Dal. This would have given him the support of 40 members of a House of 80. The lure of office would have enticed a few more and thus ensured a sure majority for Suhrawardy.
12. A photostatic copy of Daultana's written assurance to Suhrawardy that he would support him if the Republican Party were to withdraw their support has been reproduced in Mahmud, p. 75. For Daultana-Suhrawardy negotiations, see *the Times of Karachi*, October 5, 1957.
13. *The Gazette of Pakistan Extraordinary* (Karachi), October 7, 1958, pp. 1925-1928.
14. *Lail-o-Nahar* (Lahore), September 28, 1958.
15. *New Statesman* (London), September 18, 1958.
16. L. F. Rushbrook Williams, *The State of Pakistan* (London: Faber and Faber, 1962), pp. 182-183.
17. Major-General Fazal Muqeem Khan, *The Story of the Pakistan Army* (Dacca: Oxford University Press, 1963), p. 194.
18. *The Pakistan Times*, October 10, 1958.

Phase Two (1958-1971)

From Martial Law to Martial Law

UNIT FIVE

Contents

**MARTIAL
LAW
RULE
(1958-1962)**

- Reading 1. Military and Politics
in Pakistan (1947-1986)
(Hassan Askari Rizvi)

This reading reveals the nature and working of the Martial Law regime. Besides that, it also deals with the socio-political and economic reforms introduced by the Military Junta.

We hope that this text will give you an adequate sight of the issues related to the period of 1958-1962. (Compiler)

READING - 1

(Excerpt from *Military and Politics in Pakistan: 1947-1986* by Hasan-Askari Rizvi, published by Progressive Publishers, 1986, pp. 68-110.

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PHASE TWO (1958-1971) : FROM MARTIAL LAW TO MARTIAL LAW

4. MARTIAL LAW RULE (1958-1962)

THE MILITARY REGIME : 1958-62

The *coup d'etat* in Pakistan in 1958 was the most striking example of how an political military could slowly be drawn into the political field due how an a political military could slowly be drawn into the political field due The military which had the tradition of aloofness from politics, took no part in the attainment of independence, remained loyal to civil authority after independence and helped every government to maintain law and order,

slowly became an important actor in the decision-making process and ultimately displaced the civil authority. The *coup d'etat* did not modify the major objectives of the preceding governments. The goal of modernization, industrialization and democracy continued to be the objectives of the new regime; the approach to these goals was changed.

It was not until 1957 that the Army High-Command started thinking in terms of overthrowing the civil government in order to put an end to political malpractices. There were two instances which indicated that General Ayub Khan had realised that the Army might have to assume power in the country. He toured both East and West Pakistan extensively in 1957 and met the officers and men of the Army. Second, during Ayub's tour of East Pakistan, Major-General Umrao Khan (G.O.C., East Pakistan) arranged interviews with several political and local leaders to give him first hand information about the political situation. General Ayub Khan was reported to have said "if the people want me, I shall not shirk my duty."¹ The senior commanders realized that they did not want to be accused of premature overthrow of a civilian regime. They therefore watched the degeneration of politics and at times expressed their concern. In early 1958, few correspondents referred to political instability and asked General Ayub Khan how he proposed to defend Pakistan under such conditions if some hostile neighbour suddenly attacked. He replied, "Do not you worry about the defence of the country. That is my business. Attend to your leaders who are wrecking the country. Do not talk of external dangers. The real danger is within the country. Cannot you see it?"²

Political Crisis:

The final stage of the collapse of parliamentary system was set in East Pakistan in March 1958. Chief Minister Aatur Rehman Khan (Awami League) failed to get his budget passed in the East Pakistan Provincial

Assembly. The Chief Minister requested Governor Fazalul Haq, who belonged to Krishak Sramik Party, to prorogue the Assembly. The Governor did not accede to his request and dismissed his ministry on 31st March 1958. Abu Hussain Sarkar, leader of Krishak Sramik Party, was asked to form the ministry. Aatur Rehman approached Prime Minister Feroze Khan Noon and asked him to remove Governor Fazalul Haq. On 1st April, Governor Fazalul Haq was dismissed and a civil servant was appointed Acting Governor.³ The Acting Governor dismissed Abu Hussain Sarkar's ministry. Thus, within a period of two days, one Governor and two Chief Ministers had been dismissed. Aatur Rehman was reappointed Chief Minister but his ministry was defeated on the floor of the House because the National Awami Party decided to abstain from voting. Abu Hussain Sarkar was recalled to form government. A few days later his government was defeated on the floor of the House because the National Awami Party decided to support the Awami League and voted against the Sarkar ministry. By that time the budget was still to be passed. The President imposed the President's Rule in the province which lasted for two months. Once again Aatur Rehman took over as Chief Minister but political conditions were as chaotic as ever. When the Provincial Assembly met on 21st September 1958, the party in power moved a vote of No-confidence against the Speaker because they suspected him of supporting the opposition. Before the motion could be passed, scuffles broke out between the government-members and the members of the opposition parties in the Assembly chamber. The Speaker was assaulted. Two days later, the drama was repeated in the Provincial Assembly on a bigger scale. There was hand to hand fight and the members used furniture, microphone rods and whatever they could get, to throw at each other. Police were called to control the situation. The Deputy Speaker who was in the chair, and thirty members were injured. The Deputy Speaker later died in hospital.

Political conditions in West Pakistan were not so chaotic, but these

were not satisfactory either. Dr. Khan formed the Republican Party with the blessings of President Iskander Mirza. The new party was a tool in the hands of Iskander Mirza. Most members were the deserters of the Muslim League, who were offered ministries and other rewards by the founder of the Republican Party. However, in the first election of Speaker, the Republican Party was saved from defeat by the casting vote of the presiding officer. Thereafter, it could stay in power only by manipulating a majority by hook or crook. Elections were promised but were never held. Corruption and political bargaining had become the order of the day. In March 1958, Dr. Khan Saheb was assassinated in Lahore. One writer described Pakistan's political conditions in these words:-

Pakistan was very much like Hobbes' state of nature where every political or provincial group fought against every other group. It was a ceaseless and ruthless struggle for power. Most of the leaders thought of themselves, their families, or at best their provincial groups and did not give a second thought to Pakistan. Pakistan needed a desperate remedy for his malady.⁴

Pakistan was in the grip of the severe economic crisis in 1958. "The scarcity of consumer goods, the rising prices, the shortage of food, large scale deficit financing by the government and financial indiscipline, were all unmistakable indications of a declining economy."⁵ The government Treasury was empty and foreign exchange reserves were down to Rs. 240 million, of which about Rs. 140 million were not negotiable. The country was incurring foreign exchange liability to the extent of Rs. 30 million every month.⁶ Though uncertain weather conditions and crop failure played their part, the main reason was the widespread political confusion in the country. No government could give serious thought to the economy and evolve practical and lasting solutions of the economic problems of Pakistan. The First Five-Year Plan (1955-60) was not prepared until one year after the commencement of the Plan period and was published two years later, i.e. 1958. Smuggling, black-marketing and hoarding had penetrated deep into

the economic life of Pakistan. There was widespread industrial unrest and strikes became common.

The importance of the political leadership and general corruption in the society as compared with the well integrated and disciplined organization of the armed forces and their role in the maintenance of law and order, led to a perception amongst the higher military command that it was they who had to maintain law and order and keep the state intact. General Ayub Khan was under constant pressure from different circles in the Army to do something to check political turmoil in the country. He came to know that "a coup d'etat" of the kind which had brought General Kassim into control of Iraq, was being prepared.⁷ The danger at this stage was that if the senior commanders did not react to the worsening political situation, the younger officer might become impatient and attempt a coup or take sides with some politicians. The politicians were aware of the fact that the armed forces were the only institution free of intrigues of the type which characterized the political system. They had started establishing contacts with the officers and issuing statements to bring the armed forces into the political arena. The government issued an ordinance to deal with actions and statements tending to impair the discipline of the armed forces to check the attempts of the politicians to win support in the armed forces.⁸

The coups in Egypt (July 1952), Iraq (July 1958) and Burma (September 1958), which were passing through a period of political instability, and the political developments in France, had an impact on the minds of the Generals and the people of Pakistan who were perturbed by the degeneration of politics. There was a general feeling amongst the educated people that there was no possibility of the politicians changing or reforming their methods. The only way out of this turmoil, it was said (though in a low tone) was the replacement of the parliamentary system by an appropriate system

of government" which could ensure political stability and economic development. The people had started looking towards the Army to provide strong leadership. An impression of frustration and disillusion with the existing conditions could be gathered from the political commentaries appearing in various Pakistani and foreign weeklies and monthly magazines and daily newspapers. Some of the magazines and journals and the people had started talking about 'the Army take-over' to clean up the mess created by the politicians.

The Declaration of Martial Law.

It was after the death of the Deputy Speaker of the East Pakistan Assembly in the last week of September 1958 that the Army finally made up its mind to displace the civil government. The Chief of the General Staff was asked by the C-in-C to prepare a plan for the take-over of the civil administration. By 3rd October the plan was ready. The plan envisaged the take-over in the middle of October but the political conditions changed so rapidly that the C- in-C decided to advance the date.⁹

In the first week of October, the Muslim League threatened to launch a civil disobedience movement.¹⁰ Its National Guards had started parading the streets of many cities in defiance of the government ban on the maintenance of military and para-military organizations. On 6th October the Muslim League organized such a big demonstration in Karachi on the arrival of its President, that the police had to use tear gas to disperse the crowd. Another serious crisis developed when the former ruler of Kalat State, in view of the political confusion in the country, announced the secession of Kalat from Pakistan. He refused to visit Karachi on the invitation of the President to discuss the constitutional position of Kalat. He removed the Pakistan Flag from the Miri Fort (Kalat) and hoisted his old Kalat State Flag. The Army moved in swiftly and arrested the former ruler of Kalat.¹¹

The military take-over and the declaration of Martial Law was completed in two phases. The first phase began on the night of 7th October, 1958. President Iskander Mirza abrogated the Constitution, the central and provincial assemblies were dissolved, the central and provincial cabinets were dismissed, political parties were also banned and General Ayub Khan was appointed Supreme Commander of the Armed Forces and Martial Law was declared throughout Pakistan. In his proclamation, President Iskander Mirza explained the circumstances which forced him to take this step. He said that the pathetic political conditions and the growing corruption in the society and the inability of the politicians to change their ways had left him with no alternative but to take this step.¹² General Ayub Khan addressed the nation on 8th October, 1958, and explained that the Army entered politics "with great reluctance but with the fullest conviction that there was no alternative to it except the disintegration and complete ruination of the country."¹³ He asked the people to cooperate with the new government to put the things right. His statement concluded with a note of warning for the political leaders, smugglers and black-marketers and disruptionists :-

The soldiers and the people are sick of the sight of you. So it will be good for yourself to turn a new leaf and begin to behave, otherwise, retribution will be swift and sure.¹⁴

The whole affair was conducted with great caution and secrecy. Only the President, the Commanders-in-Chief of the three services and a few senior Generals knew about it. The Prime Minister and his cabinet did not know anything. A few hours earlier, the Prime Minister had redistributed portfolios and included new ministers in the cabinet. On the next morning the news about the declaration of Martial Law and the re-allocation of portfolios and new appointments could be seen in the newspapers. The decision to impose Martial Law was taken by the President on the initiative of General Ayub Khan.¹⁵ The Prime Minister was communicated the decision by a letter of the President to him on the same night. Other ministers and

political leaders came to know about it when they looked at the morning newspapers on 8th October, 1958. The troops which had been kept at the outskirts of Karachi to help the civil administration to maintain law and order in the city, moved in to take the control of the government buildings and key points in the city.

Twenty days later the second phase started when the Army Generals forced Iskander Mirza to resign the office of President. The nature of the relationship between the President and the Chief Martial Law Administrator during these days (7th to 27th October 1958) was difficult to determine. With the abrogation of the Constitution and the declaration of Martial Law, the real political power had slipped into the hands of the Army. The Army Commanders made it explicitly clear that the authority rested with them and not with the President.¹⁶ President Iskander Mirza himself realized that he could not continue as the head of the state for a long period of time as his post had become meaningless and he could not totally dissociate himself from the political turmoil of the past. General Ayub Khan and his Generals became convinced that Iskander Mirza had to go so that the new regime could delink itself from a person who was closely connected with the conditions which led to political confusion in the country. Three Generals went to see the President on behalf of General Ayub Khan on the night of 27th October 1958, and asked him to resign. Iskander Mirza silently obliged. He was moved to Quetta the next day. Later he was flown to London 'on his own request'. General Ayub Khan combined in himself the offices of the President and the Chief Martial Law Administrator. Thus he became the undisputed leader of the country. He relinquished the office of the C-in-C of the Army and appointed General Mohammad Musa as the C-in-C of the Army.

The Nature of the Military Regime.

The Military authorities did not face opposition in consolidating their

position. Not a single shot was fired and not a single person lost his life at the time of the military take-over. The people were worried about the future, but there were few who shed tears on the replacement of the parliamentary system by the military regime except those whose interests were directly threatened. In fact, there was a feeling of relief amongst the general public with the hope that the Army might succeed in providing clean and stable government. On the first day of Martial Law, life was normal in all the major cities of Pakistan. Educational institutions, government and semi-government offices were open. The Army moved in all the major cities and took control of the key points and the government buildings but tanks and armoured cars did not appear in the streets. It was due to the reason that the Army was "conspicuously efficient and conspicuously incorrupt. It was small army-no larger than eight divisions- and this had helped in maintaining its moral. It was tightly knit and well disciplined. It took pride in managing the traditions derived from the British Army. It was competent because it lived by a timetable, and nobody else in Pakistan dreamed of doing so".¹⁷ One writer commented:

The military leaders who seized the government enjoyed over the predecessors an increment in the capacity to coerce..... The rigorous discipline of the troops improved prospects implementation. Perhaps more important, the military leaders also enjoyed an increment in the capacity to persuade. The Armed Forces were genuinely popular. Their past record of protecting Muslim lives and property during the post-partition massacres and in Kashmir inspired confidence. In general, soldiers were exempted from the resentment which had crystalized against the deposed government. Their reputation for integrity was untainted. The Army, it was widely hoped, would be more responsive to popular aspirations and more effective in improving the standard of living.¹⁸

A glimpse of public re-action to the new regime can be observed from the comments of the editor of the Pakistan Observer, Dacca :

From the tone of the letters we are receiving daily, it would appear that the

common man is much more optimistic in airing his complaints and grievances now-a-days than he has been in the past. Previously they added in riders saying such things as, 'Of course, nothing will be done about it', or 'it is probably waste of time for me to bring this matter to the attention of the authorities through your columns' etc... It remained a fact, however, their pessimism was justified since, in almost every case, no action whatsoever, was taken to rectify them.¹⁹

The Army largely depended on the civil administration to run the country. It set up a unified command of the civil and military organization. The Secretary-General, Government of Pakistan, who was a civil servant, was appointed Deputy Chief Martial Law Administrator. The Chief Martial Law Administrator was assisted by an advisory council consisting of the Secretary-General, Government of Pakistan, and Central Secretaries of the Ministers of Defence, Interior, Finance, Industries, Commerce, Economic Affairs and Works, Irrigation and Power. The country was divided into three zones : Zone A consisted of Karachi Federal area; Zone B comprised the rest of West Pakistan and Zone C comprised East Pakistan. Zones B and C were further divided into sub-zones. The administration went so far as the civil districts. Each zone and sub-zone had a Martial Law Administrator and Sub-Martial Law Administrator respectively. There were a slight change in upper organizational structure on 28th October, 1958 after President Iskander Mirza had resigned. A Presidential cabinet was appointed and the Commanders-in chief of the three services were appointed Deputy Chief Martial Law Administrators (originally there were four Deputy Chief Martial Law Administrators). The lower organization remained unchanged. Table 5.1 lays out the chart of Martial Law Administration.

Table 5.1

Part A.

Martial Law Administration
(October 8-27, 1958)

1. President
2. Chief Martial Law Administrator
Deputy Chief Martial Law Administrator
(Secretary-General Government of Pakistan)

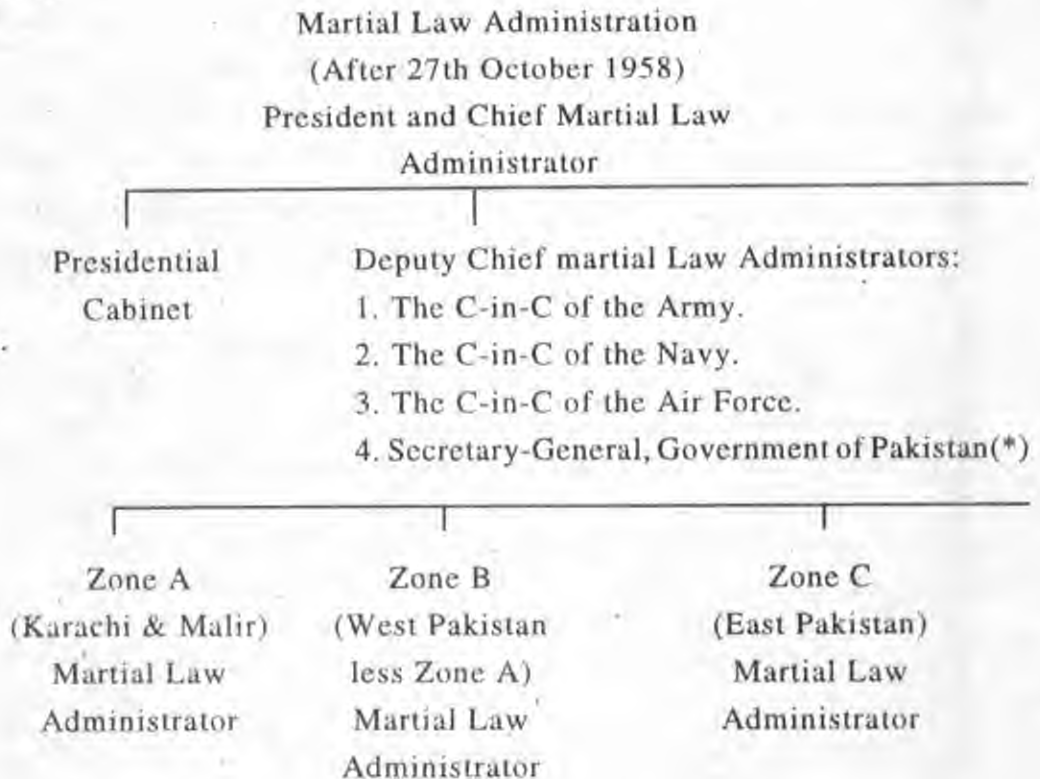
Advisory-Council

Chairman : Chief Martial Law Administrator.

Members : Secretary-General, Government of Pakistan ;
Secretaries of the Ministries of Defence,
Interior, Finance, Industries, Commerce,
Economic Affairs and Works, Irrigation and Power.

Zone A	Zone B	Zone C
(Karachi & Malir)	(West Pakistan less Zone A)	(East Pakistan)
Martial Law Administrator	Martial Law Administrator	Martial Law Administrator

Part B.



(*) He relinquished the post of October 30, 1958. After that only three Deputy Chief Martial Law Administrators were left.

Notes:- Martial Law Zone B and C were further divided into sub-Martial Law Zones with Sub-Martial Law Administrators. Each Sub-Martial Law Zone comprised one or two civil divisions.

The civil administration of the provinces was headed by two Provincial Governors (one for each province) directly responsible to the President and the Chief Martial Law Administrator.

The Chief Martial Law Administrator issued the Continuance in Force Order, 1958, which declared that till the promulgation of a new

constitution Pakistan would be governed as nearly as possible in accordance with the abrogated constitution. The Supreme Court, High Courts, and the lower courts were allowed to function but the fundamental rights were suspended and no order of Martial Law and no decision of the Military Courts could be challenged in any court of law. The regular courts also did not come in the way of the New Regime. On 27th October 1958, the Supreme Court of Pakistan put its stamp of approval on the military regime. In a judgement, the Chief Justice of Pakistan observed :-

If the attempt to break the Constitution fails, those who sponsor or organise it, are judged by the existing Constitution as guilty of the crime of treason. But if the revolution is victorious in the sense that the person assuming power under the change can successfully require the inhabitants of the country to conform to the New Regime, then the revolution itself becomes a law creating fact because thereafter its own legality is judged not by reference to the annulled Constitution but by reference to its own success... Thus a victorious revolution or a successful coup d'etat is an internationally recognized legal method of changing a Constitution.²⁰

The dependence of the Army on the civil administration to run the country was partly due to the limitation of the military to run the civil administration exclusive of the civil servants and partly due to the fact that the Army consolidated its position without any difficulty. The civil servants, who had in fact, run the country in the past, happily shifted their loyalties to the new leaders because they released them from the handicaps and inhibitions from which they were suffering in the past. It, as a matter of fact, simplified the line of command and provided them the cover of Martial Law. The composition of the President's Cabinet reflected a mixture of civil and military leadership. Excluding General (later Field Marshal) Ayub Khan, the Cabinet included three Lieutenant-Generals, two of whom were Sandhurst trained and one, who belonged to the medical corps, took his M.D. at St. Andrews University (the U.K.). Three members of his Cabinet were former public servants. The Cabinet also included a businessman, an educationist,

a former diplomat and two lawyers. One of the lawyers hailed from Lahore and the other belonged to Larkana (Sindh). One of the eight non-military members of the Cabinet, was related to a former President of the Muslim League. One of them was the member of the First Constituent Assembly and had been an active Muslim League for a number of years.

The operation of Martial Law through the civil machinery did not mean that the real power was in the hands of the civil service. The Army served as the brain and the civil servants as the hands of the new regime. The Army was conscious of the fact that it needed the help of the civil servants to run the administration. The civil servants knew that they could not continue in service if they worked against the wishes of the new leaders. The Martial Law authorities had dismissed and retired a good number of civil servants. The other civil servants knew that they could also be dismissed on the charges of mal-administration and treason. The compromise suited both. The Army authorities wanted their decisions to be implemented and the civil servants took the opportunity to exercise greater powers under the protection of Martial Law. Had the civil servants attempted to sabotage the plans of the Army authorities, the Army would have certainly reacted to control the situation.

Field Marshal Ayub Khan was convinced that Pakistan's problems could be solved if these were properly investigated, and the right decisions were made and enforced. This reflected his experience as the C-in-C of the Army. Whenever there was some serious problem concerning the re-organization of the Army, he appointed an expert committee to study the problem. After the receipt of the report, necessary orders were issued in the light of the recommendations. He adopted the same method to eradicate the evils of the political system of Pakistan. He appointed various commissions/committees to report on different matters. Their recommendations were

implemented through Martial Law Orders. The following Table includes the expert commissions appointed during 1958-62:-

Table 5.2
Inquiry Commissions and Committees set up by the
Martial Law Administration

Commission	Date of appointment	Date of submission of report	Chairman
Land Reform Commission.	30-10-1958	20-1-1959	Akhtar Hussain, Governor of West Pakistan.
Maritime Commission.	19-11-1958	8-4-1959	Admiral H.M.S. Choudhry, C-in-C of the Navy.
Administrative re-organization committee.	2-12-1958	25-4-1962	G. Ahmad, A senior civil servant.
National Education Commission.	30-12-1958	26-8-1959	S.M. Sharif, Secretary, Ministry of Education
Federal Capital Commission.	21-1-1959	12-6-1959	Major-General A.M. Yahya Khan, Chief of the General Staff.
Provincial Administration Commission.	6-2-1959	Not known	Akhtar Hussain. Governor of West Pakistan
Credit Inquiry Commission.	24-2-1959	10-9-1959	Abdul Qadir Governor, State Bank of Pakistan

Jute Inquiry Commission.	8-6-1959	24-12-1959	Zakir Hussain, Governor of East Pakistan.
Scientific Commission.	15-7-1959	8-9-1960	Abdul Kasim Khan, Minister of Industries.
Food & Agric. Commission.	8-7-1959	29-11-1960	Malik Amir Mohammad Khan, Governor of West Pakistan.
Pay & Services Commission.	31-8-1959	1-6-1962	Justice A.R. Cornelious Judge, Supreme Court.
Law Reform Commission.	23-11-1958	27-12-1961	Justice S.A. Rehman, Judge, Supreme Court.
Company Law Commission.	15-10-1959	27-12-1961	I.I.Chundrigar; later Sharif-ul-Din Pirzada,
Medical Reform Commission.	19-11-1959	16-4-1960	Not Known.
Committee on Sports, Youth Movement & Art	10-12-1959	6-8-1960	Habibur Rehman, Central Education Minister.
Police Commission.	2-1-1960	19-5-1961	Justice G.B. Constantine Judge, High Court of West Pakistan.
Constitution Commission	17-2-1960	6-5-1961	Justice Shahbuddin, Former Chief Justice of Supreme Court.
Commission on Price Structure.	18-2-1960	3-7-1960	I.I.Chundrigar, a former Prime Minister.
Film Fact Finding Committee.	10-3-1960	28-4-1961	N.M. Khan, Secretary and Director,

Surplus Manpower Commission	18-10-1960	7-7-1961	Project Division. Major-General Fazal Muqem Khan.
Commission on Eradication of social evils.	13-1-1961	18-6-1963	Maulvi Ghulam Mohyuddin Khan Kasuri later Prof. A.B.A. Haleem.
Power Commission.	12-5-1961	8-8-1962	Not Known
Finance Commission.	12-12-1961	15-1-1962	H.A. Majid, Secretary, Finance (Economic Division).

The following commissions were appointed before the Army took over the administration of the country but their reports were implemented by the New Regime.

Marriage and Family Laws Commission.	4-8-1954	1-6-1956	Justice Abdul Rashid, Judge, Supreme Court of Pakistan
Sugar Commission.	30-9-1957	4-8-1959	Mian Afzal Hussain, Vice Chancellor, Punjab University.
Press Commission	5-9-1958	4-5-1959	Justice H.B.Tyabji, former Chief Judge, Sindh Chief Court.

"Only in the first few weeks of the Martial Law the Army showed their strength to the people. The junior officers searched private houses for

hidden gold and extracted information about black marketers and hoarders with threats of arrest or fines. Some of the prominent politicians were arrested on the charges of corruption and misuse of office. Ayub Khan soon realized that an excessive display of force by the Army officers might cause the loss of the goodwill that existed between the armed forces and the public. In the second week of November 1958, the troops were withdrawn from all over Pakistan as the civil administration was "now functioning effectively".²¹

The military regime did not face a real challenge and no organized attempt was made to dislodge it from power. An isolated effort was planned by an ex-civil servant and eight others to create trouble on 14th August 1959 (12th Anniversary of Independence). The plan envisaged the distribution of anti government posters, which read: "Due to mounting tyranny and atrocities of the government, Miss Fatima Jinnah (Mader-i-Millat) has decided to leave the country... Let us pledge ourselves not to let Miss Jinnah to leave the country at any cost and that we will establish democratic administration based on republican constitution which was in accordance with the wishes of Mr. Jinnah." The plot was uncovered before it could be implemented. Seven person were sentenced to 10 years' hard labour and two received sentence of 7 years each by a military court. In February 1961, President Ayub Khan remitted their sentences and all of them were set free.²² Another challenge, though not a very serious one, came from the students of East Pakistan in the last five months of Martial Law. This was partly due to their grievances against the educational system and the report of the Education Commission and partly because of the fact that Pakistan was about to have a new Constitution. The political leaders of "East Pakistan, especially Awami League attempted to use the students to press the Martial Law Regime to make a constitution of their liking, guaranteeing 'full autonomy' to East Pakistan. There were wide spread disturbances in East Pakistan in February and March 1962. Ayub Khan accused the political leader of

exploiting the students. Some of the prominent Awami leaguers including H. S. Suhrawardy and Sheikh Mujibur Rehman were arrested. This spread student agitation to various cities including Dacca, Barisall, Khushtia, Chittagong, Sylhet, Khulna and Noakhail. The police and Army used force to disperse the student many times during these months. A large number of students were arrested and classes at Dacca University were suspended. The students demanded the release of students and political detainees, withdrawal of warrant of arrest still unexecuted and guarantee of civil liberties. The tense situation continued until a month before the withdrawal of Martial Law when all the arrested students were released and the pending cases against them were withdrawn.²³ The fear of reprisal, severe punishment, the general respect which the military commanded and the weak democratic traditions were the main factors responsible for the smooth running of the Martial Law Regime in Pakistan. Though it was a military regime the military leaders built up public support for the regime and gave the impression of civil government. The ministers toured both the wings of Pakistan extensively and explained the intentions and programme of the regime. Ayub Khan himself toured both the wings of Pakistan and tried to secure public support. His one week 'whistle stop' tour of West Pakistan in a train called "Pak Jamhuriat Special" in December 1959 and a similar tour of East Pakistan in January 1960 helped to build Ayub's image as a popular leader. Ayub Khan decided to hold a referendum through the Basic Democrats to obtain their confidence and authority to formulate a new constitution.²⁴ The referendum was held on 14th February 1960. The voters could express their opinion by marking 'Yes' or 'No' on the ballot papers. Out of 78720 votes cast, 75282 expressed their confidence in him. Three days later he was sworn in as the President of Pakistan. After the referendum he was often referred to as 'the first elected President of Pakistan'. Freedom of speech and press was curbed and political parties were banned but the government, unlike many military governments of other developing countries was generally tolerant of criticism.

The lawyers were particularly critical of the military regime. The establishment of the military courts had hit their income. On many occasions Ayub Khan expressed his indignation on the expensive and delayed justice and expressed the desire to simplify the system. The Bar Associations, on the other hand often criticised the Martial Law administration in carefully chosen words for suppressing liberties and fundamental rights. When, in 1960, the constitution commission was appointed, a dialogue started between the supporters of the parliamentary system and the Presidential system. Some of the former politicians availed of the opportunity to make their views known to the public. A few of them published their replies to the Constitution commission's questionnaire. The government disallowed public discussion of the issues under the consideration of the commission because the government feared that public debate may cause political controversy before the constitution commission could complete its work. Moreover, the regime also did not want the former politicians to mobilise support for their view point.

The Military Regime

After the assumption and consolidation of power, it is essential for the military rulers to justify their action. This is done by two methods. First the military rulers must convince the people that they were not interested in politics, but the conditions had deteriorated to such an extent that they could no longer sit and watch the ruination of the country as silent spectators. It was their ultimate responsibility to defend and protect the country from external enemies and such elements within the state who might threaten to disrupt social, political and economic order of the society. Second, they take certain steps to 'reform' the social and political structure and introduce measures to improve the living conditions of the common man. The military leaders of Pakistan found ample material available to justify their assumption of power. They successfully created the impression that they had assumed

power to eradicate the evils which had crept into the economic, social and political life of Pakistan during the last eleven years, and that they wanted to introduce a system of government which suited the peculiar conditions and circumstances of the country. If we carefully examine the statements made by Ayub Khan and his ministers, we can find three themes running throughout. First, the selfish and opportunist politicians had brought the country to the brink of a serious disaster. The lack of character amongst the politicians had encouraged dissension rather than unity in the country and the people were torn apart by provincial bickerings. Second, the 1956 Constitution was an unworkable document; parliamentary system of government did not suit the circumstances and conditions of the people. It gave free hand to the politicians who were responsible for the political crisis in Pakistan. The military regime intended to give a constitution which would provide guarantees against the repetition of the 1947-58 story, and ensure stability and continuity. Third, the various steps taken by the new regime were calculated to improve the lot of the people and would ultimately ensure economic development and political stability. They were determined to solve the problems facing the political system of Pakistan.

The military leaders of Pakistan introduced a number of measures, which can be described as follows:-

- (a) Steps to eradicate corruption, nepotism in civil service, black marketing, smuggling and similar evils in the society.
- (b) Measures to ensure economic development, industrialization and better standards of living to the people.
- (c) A political framework for the future.

Reforms in the Society

The Army authorities moved very quickly to check corruption, blackmarketing and hoarding. The Army and police raided suspected hoarders

and smugglers and recovered a large quantity of foodgrain. During the first few days after the declaration of Martial Law, contraband goods, other than foodstuff, bales of cloth and imported luxury goods to the value of Rs. 835,500 (£ 62,625) and imported cloth to the value of Rs. 529 lakhs (£ 3,967,500) were recovered from various parts of Pakistan.²⁵ Later, when the regulations were issued for the declaration of stocks of foodstuff, medicine, imported goods and cement etc., a spectacular amount was brought to the notice of the authorities. 36,79,767 maunds of foodgrain including wheat and rice were declared surplus by 31st October 1958.²⁶ Martial Law Regulations fixed the prices of a number of commodities which appeared in the daily budget of the common man.²⁷ Punishments ranging from 14 years' rigorous imprisonment to death could be awarded for violating any of the Martial Law Regulations dealing with hoarding, black marketing and adulteration or selling consumer goods at a rate higher than the fixed rate. This resulted in a downward trend in the prices of essential commodities. Prices of many goods including "Ghee" went down by 25 per cent. Various trade associations and manufacturers voluntarily reduced prices and advertised these in the newspapers for general information.²⁸ The streets of major cities were thronged with people, who, for the first time, could buy goods like crockery, cloth and other essential commodities at reasonable prices. To check the smuggling of goods to India and Afghanistan, security measures were tightened on the international borders. The effectiveness of these measures was obvious by the fact that the prices of various essential commodities in border district of East Punjab rose and Calcutta faced a serious shortage of fish.²⁹

The economic conditions of Pakistan were aggravated by the illegal possession of foreign exchange, the submission of false tax returns, the evasion of taxes and the sale and purchase of import permits. The Martial Law authorities issued stick orders to check these illegal practices. All of these were declared offences under Martial Law Regulations. The military

authorities ordered the surrender of foreign exchange and the payment of unpaid taxes within a prescribed time. The amount of foreign exchange voluntarily surrendered was quite substantial. Foreign exchange surrendered locally amounted in Rs. 40.6 million while unauthorised foreign exchange held abroad by Pakistani nationals was to the extent of Rs. 42 millions.³⁰ The government collected Rs. 240 million (£18,000,000) as tax on excess income and hidden wealth worth Rs. 1340 million (£100,500,000) was detected.³¹ The sale and purchase of import permits was declared illegal with a maximum punishment of 10 years' rigorous imprisonment.

The military authorities moved against the corrupt officials or those who had the reputation of being corrupt. A large number of screening committees were set up both in the centre and the provinces to look into the past conduct of the government servants. These committees were first constituted in January 1959 and were reconstituted in April 1959. The details as to how these committees conducted their business were not known, but one thing was quite clear that these committees completed their work very quickly. On the recommendation of these committees the central government took action against 1662 officials on the charges of misconduct, corruption, reputation of being corrupt, inefficiency and insubordination. The action against them ranged from dismissal and compulsory retirement to demotion. These civil servants included thirteen officers who belonged to the Civil Service of Pakistan, three to the Foreign Service and fifteen to the Police Service of Pakistan.³² Table 5.3 gives the details of the officials of the central government against whom punitive action was taken.

Table 5.3

The officials against whom punitive action was taken

Nature of action	Class I (Top Grade)	Class II (Intermediate grade)	Class III (Clerical grade)	Total
Dismissed	84	14	110]	
Compulsorily retired.		68	547]	823
Reduced in rank	-	31	163	194
Put on special Report	25	88	362	475
Increment stopped	1	5	-	6
Warnings issued	27	14	121	162
Government displeasure communicated to the Office	1	1	-	2
Total :	138	221	1303	1662

Ayub Khan wanted to eliminate the influence of the Politicians' from the body-politic because he considered them responsible for the past ills of the polity. To keep these politicians out of offices of responsibility, two orders, namely, Public Offices (Disqualification) Order (PODO) and The Elective Bodies (Disqualification) Order (EBDO) were promulgated in 1959. The terms of the former Order were not much different from the PRODA. It applied to all those who help public offices and were found guilty of misconduct and corruption. It was applied with retrospective effect from 14th August 1947. Anybody found guilty by a tribunal consisting of not less than two persons, one of whom had to be a serving or former Judge of the Supreme Court or the High Courts, could be disqualified from holding any

office of responsibility for a period not exceeding fifteen years. He could also be ordered to make good any loss to the public revenue or forfeit any gain to himself, arising from his misconduct. The main difference between the PRODA and the PODO was that under the latter Order, the members of public could apply for investigation against any former public servant without any cash deposit. The Elective Bodies (Disqualification) Order 1959 (EBDO) was an extension of the PODO. It was issued to simplify the procedure of inquiry under the PODO and to call to book those persons who never held a public office but were merely members of legislature. It was thought that the PODO was inadequate to deal with the cases of such persons. It authorised special tribunals to try the former politicians for 'Misconduct'. The term 'Misconduct' covered bribery, corruption, nepotism, favouritism and wilful mal-administration. The former ministers, deputy ministers, parliamentary secretaries and the members of the legislative bodies charged for 'Misconduct' had the option to retire from public life for a period of six years beginning from 1st January 1960 or to take the case to a special tribunal constituted under the EBDO. Three tribunals were constituted - one for the Centre and two for the two Provinces. The Central Tribunal was presided over by a Judge of the Supreme Court. It also included one former civil servant and a Lieutenant-Colonel. Each of the provincial tribunals was presided over by a former judge of the High Court of the province concerned. It also included one former civil servant and a Lieutenant-Colonel. If the tribunal found the charges true, the person was automatically debarred from public life till 31st December 1966 (Six Years). Except a few, H.S. Suharwardy, C.E. Gibbon and Makhdoom Hassan Mahmood, all of them decided to retire and did not take their cases to the tribunal. The exact number of the politicians including ministers, deputy ministers and parliamentary secretaries, who were served with the notices and later disqualified, was not known. Unofficial sources claimed that approximately 5000 to 6000 persons were excluded from public life.³⁵ These figures appear to be highly

inflated because the number of the members of the two Constituent Assemblies and all the Provincial Assemblies from 1947 to 1958 was not more than 1600. The government announced that it would publish a white paper about the "misdeeds" of the EBDOed politicians.³⁴ Since the white paper was never issued, one cannot help quoting the inflated figures.

Another reform which had far-reaching impact on the social set up was the imposition of the Family Laws Ordinance, 1961, to regulate the number of wives and the pattern of divorce. It was based on the report of the Marriage and Family Laws Commission, originally appointed on 4th August, 1954. The Commission submitted its report on 1st June 1956. It recommended that there should be compulsory registration of marriages and divorces, the second or subsequent marriages could not be contracted without permission from a court, and divorce could be effective through courts. The commission recommended a minimum marriageable age limit for males as well as females and the provision of maintenance allowance for the divorced women and their children. The then government did not implement any of the recommendations of the Marriage and Family Laws Commission. The Martial Law Regime gave a careful consideration to the report and issued the Family Laws Ordinance, 1961, and West Pakistan Conciliation Courts Ordinance, 1962. The Family Laws Ordinance provided that every marriage solemnized was to be registered with the Union Council/Union Committee (lowest tier of the Basic Democracies system) of the concerned locality on the payment of a nominal fee. The Union Councils/Union Committees were to appoint Nikah Registrars (Marriage Registrars). The Ordinance also provided that nobody was allowed to contract second or subsequent marriage without reference to Union Council/Union Committee. The Union Council/Union Committee could grant permission only under certain special circumstances-if permission has been obtained from the first wife, the applicant's financial conditions enabled him to support more than one wife, and the first

wife had no objection, the previous wife is dead or any other special reason, i.e. no issues etc. A person intending to divorce his wife must give notice to this effect to the Chairman of his Union Council/Union Committee with a copy to his wife. The Chairman constituted an Arbitration Council, consisting of three persons with himself as the head. Both husband and wife nominated one member each. The Arbitration Council tried to bring about a reconciliation. If the reconciliation was not achieved, divorce became effective after 90 days from the day notice was given. In case the husband did not provide maintenance to his wife, she could make a complaint to the Union Council/Union Committee of the area and she could also apply for a divorce. The minimum marriageable age for girls was raised from 14 to 16 years. All these measures were calculated to improve the status of women in society and to restrict the powers of males to contract marriage and give divorce under the traditional principles of Islam. The Family Laws Ordinance, 1961, also introduced an amendment in the Sunni Muslim Laws of inheritance. According to the Sunni Laws of inheritance, a grandson could not inherit the property of his grandfather, if grandson's father died in the lifetime of his father. Now grandsons were made eligible to inherit such property. The Ordinance did not face opposition at the time of its introduction but immediately after the restoration of constitutional life in 1962, a bill was introduced in the National Assembly to repeal the Ordinance.³⁵ Some of the orthodox Muslim organizations and religious leaders regarded it un-Islamic. The women organizations agitated against the bill and the Government expressed its determination to keep the Family Laws on the statute book. Thus the attempt to repeal the Family Laws Ordinance, 1961, failed. The opposition to the Ordinance by the Jamat-i-Islami and certain other orthodox groups continued.

The Martial Law Regime appointed Law Reforms Commission in December 1959 to suggest improvements in the legal system inherited from

the British. The terms of reference of the Commission included :-

"To suggest how justice may better and more speedily be done, and to that end to examine":

1. the hierarchy of the courts and their powers;
2. the making of judicial appointments;
3. the standard and content of legal education and qualifications for practice at the Bar;
4. the structure and discipline of the legal profession;
5. the law of Civil and Criminal Procedure and the law of Evidence;
6. the Jirga and the Panchayat system and their extension to suitable areas;
7. the cost of litigation, and any other relevant matter. ³⁶

The recommendations of the Commission covered a wide field and their implementation was only feasible over a number of years. The objective of the recommendations was to make available the speedy and less expensive justice. Ten Ordinances were issued during 1962-63 to streamline the administration of justice. Necessary amendments were made in the Civil Procedure Code. The practice of granting adjournments in the lower courts on flimsy grounds to suit the convenience of the lawyers and parties was to be discouraged. The method of investigation was to be made more scientific. Petty cases arising in local areas were to be tried by the Union Council/Union Committee. 'Jirga trial' was also introduced in parts of Pakistan. The government also set up Company Law Commission in 1959. On the basis of its recommendations, it was decided to re-enact the existing Company Law and to replace the present Companies Act.

The implementation of the recommendations of these two Commissions, no doubt had some healthy effects on the legal/judicial system of Pakistan, but the ideal of "speedy and less expensive justice" was

too high to be achieved through the steps taken by the military regime. The differing notions of an ideal legal system created political controversies about the law reforms. The trial by Jirga was greatly objected to by the legal circles. It was claimed that the Jirga Courts were harsh in their treatment and these were used by the police to dump a case where it could not marshal enough evidence. The introduction of the Family Laws Courts was a good sign, but local influence, bribery and corruption defeated its purpose. The persistent demand of the lawyers to bifurcate the Judiciary completely from the Executive, especially at the district level, was not implemented by the regime.

The beginning of Martial Law was marked by the imposition of ban on strikes and agitation in educational institutions, public utility works and installations. Any violation of this Order was liable for punishment of 10 year's rigorous imprisonment.³⁷ Later, the military regime expressed its desire to improve labour-management relations. A new labour policy was announced. It aimed at increased production and equitable distribution of wealth, better working conditions for the labour. It was based on the following major principles :

- (a) Sound relationship between the employers and employees as a prerequisite for increased productivity.
- (b) Labour-Management disputes should be resolved by joint consultation, voluntary arbitration, conciliation, mediation and adjudication.
- (c) All workers should be provided social amenities in the fields of health, education, recreation, housing, wages and other needs.
- (d) Efforts must be made to reduce unemployment. The government will continue to maintain a non-fee charging employment agencies and develop employment services.
- (e) The above mentioned objectives cannot be achieved without the

- growth of healthy trade-unionism.
- (f) Government will attach due importance to research and collection of information concerning working and living conditions of the workers.
 - (g) Private industries and organizations will also be encouraged to provide social welfare amenities in a co-operative manner; welfare cesses may be imposed on establishments for this purpose.
 - (h) Technical assistance in the field of labour will be welcomed from friendly countries.
 - (i) While framing the Labour Policy, the Government will keep in mind the ILO Conventions and other recommendations ratified by Pakistan.³⁸

Keeping in view these principles, the government enacted a number of laws, some of which were enacted after withdrawal of Martial Law in 1962.³⁹ The Industrial Dispute Ordinance, 1959, set up an entirely new machinery for the settlement of industrial disputes. The objective of the new set-up was to encourage peaceful settlement of disputes. It provided for the establishment of Works Committee at the factory level, representing both workers and management, to resolve petty disputes by mutual consultation. If the dispute could not be resolved through this method, recourse could be made to the Industrial Court, set up by the government. The West Pakistan Industrial and Commercial Employment (Standing Orders) Act, 1960, and the East Pakistan Employment of Labour (Standing Orders) Act, 1965, laid down the framework within which the terms of employment and conditions of work of the labour were to fall. The Trade Unions Acts 1962, was amended with view to enforcing compulsory recognition of trade unions and to impose penalties for "unfair" practices.

Eleven years had elapsed but the government had not been able to

solve the problem of rehabilitating the refugees. At the time of independence about nine million abandoned their ancestral homes and left for new surroundings.⁴⁰ The Muslim refugees outnumbered the Hindu refugees. The refugees constituted 10 per cent, population of Pakistan.⁴¹ The flow of refugees into Pakistan continued until the late 1950s. On many occasions there was heavy eviction of Indian Muslims from Assam and West Bengal and from the Indian part of Kashmir to Azad Kashmir and Pakistan. The Ministry of Refugees and Rehabilitation was created soon after independence but no substantial steps were taken for their systematic resettlement. A large number of them were living in miserable conditions in bamboo huts. Their conditions were particularly bad in the major cities, especially Karachi, where there was a heavy concentration of refugees. The refugees were used as a tool of political exploitation by the politicians to achieve their objective - to put the government in an embarrassing position or to demand its resignation. Malik Feroze Khan Noon, who later became Prime Minister in 1957, was reported to have said before assuming the office of Prime Minister: "The refugees are still knocking about the country like stray sheep, hungry and thirsty. If a man goes to provincial minister, he is told to go to the Centre and if he goes to the central minister, he is told to go back to the provincial minister."⁴²

The military regime appointed Lieutenant-General Mohammad Azam Khan as the Rehabilitation Minister.⁴³ He took up the problem in the spirit of a General cleaning up a poor state of affairs in a cantonment. The refugees whose claim for the immovable property left in India had been certified in the past or after the establishment of the military regime, were dealt with under the Displaced Persons (Compensation and Rehabilitation) Order, 1959. By the time Martial Law was withdrawn, out of a total amount of Rs. 1,950-million compensation payable to the claimants, Rs. 1,230 million had been adjusted against the price of the property transferred to the refugees

and Rs. 70 million had been paid as cash compensation.⁴⁴ Besides adjusting compensation, the military authorities launched a scheme of provision of low cost houses for the displaced persons. The construction of Korangi Township (Karachi) of 15,000 dwelling units was the most outstanding achievement in this connection. The foundation stone of the township was laid in December 1958. The first batch of two hundred refugee families moved into the colony in August 1959. It was very carefully planned with its own market, shopping centres, schools, health centres, mosques, community buildings and open spaces. The Karachi Development Authority also built about 18,000 quarters in New Karachi and 7,000 quarters were provided in the Malir Extension Scheme. Both Korangi Township Scheme and New Karachi Scheme catered to population of 500,000 and 35,000 respectively. In other parts of West Pakistan, the government planned to build 42 satellite schemes. The East Pakistan Government prepared 15 housing schemes to provide permanent shelter to the displaced persons; over 23,900 houses, 2000 flats and 809 shops were built at a cost of Rs. 201.24 million.⁴⁵ It must be pointed out here that a good number of these schemes were completed after the withdrawal of Martial Law and the restoration of constitutional life.

It would be pertinent to refer to the shifting of capital from Karachi to Islamabad. The Federal Capital Commission recommended that the new capital should be constructed on the Potwar plateau. This recommendation was accepted in June 1959 and the government departments started shifting to Rawalpindi which was made the provisional capital. In February 1960, the new capital was named ISLAMABAD by the Presidential Cabinet. A master plan for the new capital was prepared and approved in October 1960. The question of the location of capital had been agitating the mind of the previous governments. However, it was believed that the new capital, whenever built, would be near Karachi. Ayub Khan's decision to shift the capital to the Potwar plateau (Islamabad) was motivated by his desire to

keep a close contact with the G.H.Q., which was in Rawalpindi. It created misgivings as the site was close to his native town and it created new job opportunities for the people of the area. The owners of the land resumed by the Capital Development Authority received a handsome price which they would not have otherwise got. The commercial and industrial circles of Karachi were particularly unhappy because the shifting of capital caused them great inconvenience. There was a criticism on the ground that a poor country like Pakistan, where a large number of the people live below the level of subsistence, could not afford the cost of a new capital. The funds allocated for the construction of the capital should have been used in the agricultural or the industrial sector.

Pakistan inherited the British-Indian system of education based on Lord Macaulay's minutes written in 1835. Such a system of education could not suit the requirements of the independent State of Pakistan. Slight adjustments were made by the government but the instable governments were so pre-occupied with their problems that they hardly had time to overhaul the system of education. The need for expansion of educational facilities was also felt due to the tremendous urge among the people for education in the post-independence period. There was a need of extending the facilities for education, particularly in rural areas, and making sure that enough trained persons were available to guide and train the young minds.

The military government appointed a commission on National Education in December 1958 to review the existing system of education, methods of examination and suggest re-orientation of the educational system :-

- (a) "To develop among the people a sense of public duty, patriotism and national solidarity and to inculcate among them the habits of industry, integrity and devotion to service.

- (b) "To provide facilities for the development of talent and to produce men for character and ability required for the development of the country in different fields."
- (c) "To introduce modern methods of selection for determining intelligence and aptitude so as to obtain the diversion of students at appropriate levels of technical, agricultural and vocational institutions in accordance with the age, ability and aptitude of the children."
- (d) "The Commission shall examine the role of education in the community and suggest measures which may enable the universities, colleges and schools to fulfil this role effectively."⁴⁶

The report of the Commission, submitted in August 1959, recommended a re-orientation of the curricula at all levels, especially at the primary and secondary levels; free and compulsory education upto class V and, later on upto Class VIII; separation of Intermediate classes from colleges and their inclusion in Secondary education. It also recommended a three-year degree course; change of syllabi to raise the standard of education and promote character building; opening of technical colleges and emphasis on religious education. The Commission emphasized the need of gradually replacing English as the medium of instruction by national languages and the improvement of service conditions of teachers.⁴⁷

The military regime implemented most of the recommendations. The Bachelor Degree course was extended to three years and a system of monthly tests administered by the college concerned was also introduced. 25 per cent marks were allocated for these tests and class work in the annual examination at the degree level. Engineering and agricultural universities were opened and a number of Polytechnic institutes were set up in the major cities of Pakistan. It was decided to make primary and secondary education compulsory

in two phases. In the first phase compulsory education was to be introduced from Class I to Class V by 1970. The second phase would make it compulsory from Class VI to Class X by 1975. An ambitious scholarship programme was also planned to assist the intelligent but poor students.

These reforms met with disaster after the withdrawal of Martial Law. The student community generally did not welcome the introduction of three years Degree and Law courses and the system of monthly tests. These complaints coupled with several other grievances i.e. expensive textbooks, high tuition fees, lack of adequate facilities in the education institutions and a number of political demands which had nothing to do with academics resulted in widespread student agitation in September and October 1962. In order to pacify the students, the government withdrew the three year B.A./B.Sc. scheme. A large number of students who had passed B.A., Second Year Examination, became graduates overnight.⁴⁸ A Year, later, the Dacca students demonstrated and demanded that the Commission's report must be scrapped altogether.⁴⁹ The monthly test system was also not a success. The students were unhappy about it and there were reports of misuse of the marks granted on the basis of performance in the monthly tests and class-work. It was alleged that teachers awarded these marks on the basis of their likes and dislikes rather than the performance of the students. It was also observed that some of the students secured 90 to 96 per cent. marks in the monthly tests but failed to get through the examination conducted by the University. Therefore, the scheme of monthly tests was also withdrawn.

A Scientific Commission was appointed in 1959 to suggest methods to promote and integrate scientific research and make the career prospects attractive in scientific research. The report recommended far-reaching methods to encourage scientific research and education. A large number of its recommendations were implemented in the period after the withdrawal of

Martial Law. Some of the steps taken by the government included liberal grants to the universities for scientific research, the setting up of a separate division in the central government for scientific and technological research and a separate organization for defence related research. The Food and Agricultural Council was replaced by the Agriculture Research Council in November 1964. The Medical Research Council was reconstituted and Medical Research Institutes were set up in Lahore and Karachi. An institute of Nuclear Science and Technology was set up with the help of Canada. Later on, the first Atomic Reactor was installed. Pakistan National Scientific and Technical Documentation Centre (PANSDOC) established its branches in Lahore and Dacca and separate research councils were set up for works and housing, irrigation, drainage and flood control.⁵⁰ It must, however, be admitted here that but for assistance and financial help from the advanced countries, Pakistan would not have made these strides in the field of science and technology.

Economic Reforms:

The military regime took steps to improve the standard of living of the people and to ensure economic development and industrialization. These measures did not solve all the problems but these Policy-measures contributed positively toward their solution.

In order to boost export earnings, the government introduced a Bonus Voucher Scheme on 10th January 1959. The scheme covered all items except the primary exports viz., raw jute, raw cotton, raw wool, hides and skin, tea and some varieties of rice. According to the Scheme any person or business organization remitting foreign exchange or earning foreign exchange by exporting goods from Pakistan was given a voucher, equivalent to a fixed percentage of the amount of foreign exchange earned. This voucher could be used to import good from abroad or sold in the open market. These vouchers

were quoted on the Stock Exchange and commanded a high premium. The items which could be imported on Bonus were also fixed by the government. Initially the scheme was introduced for one year but later it was extended to the end of 2nd Five-Year Plan and continued till May, 1972, when the government of Z.A. Bhutto devalued Pakistani currency and withdrew the Bonus Voucher Scheme. This scheme strengthened Pakistan's economy by boosting exports, discouraged illegal transaction of foreign exchange and facilitated a smooth inflow of necessary and indispensable goods including heavy machinery and equipment and raw material. Its adverse effects were also conspicuous. It resulted in not less than three foreign exchange rates. The undue protection under the scheme resulted in inefficiency and the exporters did not bring down the cost because Bonus Voucher provided them extra earnings. It was alleged that the Scheme had resulted in the inflow of luxury goods. The goods imported on Bonus Voucher Scheme were so expensive that very few could afford them. The Bonus Voucher Scheme was, in fact a short term measure, but the government made it a permanent feature of their economic policy.

Since independence the need for land reforms was frequently emphasised but no step was taken to break the large holdings. As early as May 1949, an Agrarian Reforms Committee was appointed by the Punjab Government to submit its report within a period of three months. It suggested fairly radical reforms. The Committee recommended to prohibit "ownership of more than 150 acres of irrigated and 450 acres of non-irrigated land by landlords. All jagirs and 'inams' conferred by the British Government in return for services rendered to the cause of imperialism were to be expropriated, and occupancy tenants were to be made owners on the payment of a nominal price.⁵² The report also recommended the payment of compensation for the resumed land only as a 'gesture of goodwill'. The landlords were not allowed to eject their tenants without the permission of the relevant au-

thorities. It proposed that ultimately the 'batai system' should be replaced by cash rents paid in a definite proportion to the land revenue.⁵³ These recommendations were not implemented. The Punjab Tenancy (Amendment) Act, 1952, and the Abolition of Jagirs Act, 1953, did not solve the main problem – the unequal distribution of land. These Acts were merely face saving formulas. The story of other provinces of West Pakistan, specially the N.W.F. Province and Sind, was not very different. East Bengal (East Pakistan) was, of course, ahead of West Pakistan in the field of land reforms. A good number of Hindu Landlords slipped to India at the time of, and after the independence. In 1950, the East Bengal State Acquisition and Tenancy Act was passed which abolished all rent-receiving interests between the tenants and the State. The tenants were assured full occupancy rights with the right to transfer to *Bona fide* cultivators. In West Pakistan, as noted earlier, conditions were just the reverse. In the Punjab more than 50 per cent., in the N.W.F. Province a little less than 50 per cent. and in Sindh over 80 per cent. of the available land was in the possession of a few thousand landlords.⁵⁴

The military government appointed a land reforms commission in 1958 to "consider problems relating to the ownership and tenancy of agricultural land and to recommend measures for ensuring better production and social justice as well as security of tenure for those engaged in cultivation".⁵⁵ The Commission produced its report in a period of three months and within a week of its submission, Ayub Khan announced land reforms for West Pakistan. The reforms were moderate in nature. The main features of these reforms were as follows:-

1. No person would own or possess more than 500 acres of irrigated or 1,000 acres of unirrigated land. Present owners would retain land upto 150 acres as orchard and could also make gifts of a limited area to their heirs and relatives. In any case, a person could

- not retain more than 36,000 produce index units.
2. The land in excess to the prescribed limit would be resumed on the payment of 'fair' compensation in the form of interest-bearing bonds redeemable in 25 years.
 3. The resumed land would be offered to the existing tenants for sale. The land not purchased by them would be sold to others. The existing tenants could make the payment of the price of the land in installments.
 4. Occupancy tenants would become full owners.
 5. All Jigirdaris were abolished without compensation.
 6. A guarantee of security of tenure to the tenants.

The total area owned by those who possessed land more than the prescribed limit was $7 \frac{3}{4}$ million acres. Of this nearly $2 \frac{2}{5}$ million acres were resumed and distributed amongst the tenants.⁵⁶ The reforms were accompanied by a drive to introduce modern methods of farming, the use of the better seed, better credit facilities, improved market conditions and the measures to check water logging and salinity. The Commission had emphasized the need of consolidation of fragmented holdings because unnecessarily splintered holdings proved uneconomical. The West Pakistan Consolidation of Holdings Ordinance, 1960, was issued to effect compulsory consolidation of the fragmented pieces of land.

Pakistan made substantially progress in the field of development planning during the period of military rule. During 1947-58, political instability had hampered the systematic implementation of development plans and their efforts could not yield satisfactory results. In 1948, the government established a Development Board to co-ordinate development plans prepared by the provincial governments, recommended priorities, and oversaw the progress of various projects. The Development Board prepared

a six - year Development Plan (1951-57) in 1950. While this Plan was being implemented, the government decided to formulate a co-ordinated and integrated development plan. In pursuance of this objective, a Planning Board was set up in July 1953. The Planning Board, after facing a number of difficulties, formulated the first five-year plan (1955-60). It was finally ready after its first year had passed.... An over-optimistic approach of the planners, it failed to achieve most of its objectives.

The military leaders raised the Planning Board to the status of the Planning Commission and it was given the status of a Division in the President's Secretariat, with President as the Chairman. The Deputy Chairman was the operational head who was given the status of central minister. The Second Five-Year Plan (1960-65) prepared by this Planning Commission, aimed at the maximum mobilisation of resources for rapid economic growth, increase in national income and improvement of the conditions of the people. The target for the development outlay was Rs. 23 billions.⁵⁷ The major part of the Plan was implemented after the withdrawal of Martial Law. Unlike the First Five-Year Plan, it was a great success. All targets were achieved and, in certain cases these were exceeded.⁵⁸ The cardinal principle of economic planning was to provide "all possible incentives for the stimulation of private sector and to create those facilities which the private sector had neither the ability nor the willingness to develop."⁵⁹ The result was enormous growth of the private sector in Pakistan.

The Agricultural Development Corporation was set up in 1961 in both the wings of Pakistan to help the farmers and provide them technical knowledge in the field of agriculture. In 1962, the Pakistan Industrial Development Corporation (PIDC) was bifurcated into two corporations-one for each wing. In the same way the Water and Power Development Authority (WAPDA) was divided into two separate bodies, namely, the East Pakistan

WAPDA and the West Pakistan WAPDA, and transferred to the provinces. Two separate Railway Boards were created-one for East Pakistan and the other for West Pakistan.

The economy of East Pakistan which was almost stagnant in the past, showed some signs of growth during the martial law period. The military government was conscious of the widespread complaint of East Pakistanis that they were neglected in the past by the central government and that their economic grievances were not accommodated. The military government therefore decided to allocate more resources to East Pakistan. The annual rate of allocation of foreign assistance for East Pakistan during 1958-61 increased at least three times over that of 1957-58.⁶⁰

Political Framework for the Future:

The political and economic chaos which overtook Pakistan after the independence convinced the military leaders that the Westminster Model did not suit the conditions and circumstances of Pakistan. The military leaders declared : "The Revolution of October 7, 1958, was not aimed against the institution of democracy as such. No, it was only against the manner in which its institutions were being worked."⁶¹ The new leaders of Pakistan were of the opinion that any return to parliamentary system of government would encourage political chaos and bring back 'the discredited' politicians. "Pakistan needs an executive, declared Ayub Khan, "which is popularly elected-and re-elected at fixed periods-but which cannot be overturned constantly by changing party combinations in the legislature."⁶² In his Pakistan Day message to the Pakistani Missions abroad, he said:-

.....The Constitution which came into force this day (March 23) in 1956 did not work at all. It was an amorphous document without a hard core and solid base. It was centrifugal in spirit and dispersed authority in total disregard of national unity, homogeneity and solidarity. It was a confused

and unholy wedlock of the executive, legislative and judicial functions of the state in which the ultimate power for good government re-mained illusive, undefined and therefore, inoperative. The result was political, administrative and social chaos.

.....A situation like that was indeed inevitable when we tried to transplant other people's constitutional concepts and practices into the temperament, talent and environment of our own people. We are not going to make the mistake again. What we must have is a constitution which is sensible, workable and suits the genius of our people and the climate of our country.⁶³

Political stability and economic development are so much interlinked that one cannot exist without the other. Stable political conditions encourage economic development and prosperity, without which liberal democratic institutions cannot work. It has been amply shown by research that democracy is closely related to the state of economic development. The more well-to-do nations have rather chances of retaining democracy. A well known political sociologist observed, "a society divided between a large impoverished mass and a small favoured elite results either in Oligarchy (dictatorial rule of the small upper stratum) or in tyranny,"⁶⁴ Thus the developing nations are embarked on an uphill task of maintaining democracy and ensuring economic development. Ayub Khan recognized this dilemma:

In these countries (developing countries) the battle for democracy has to face enormous problems. While there is need for giving a measure of political liberty, there is an overriding need to maintain stability and discipline in order to be able to enter the scientific and technological age as fast as possible⁶⁵.

Ayub Khan believed that the developing nations need economic development, political stability and unity more than any other thing. Unless a nation has attained sufficient level of economic development; liberal democratic institutions should not be introduced because these tend to divide people and encourage disintegrative forces. These tendencies under-

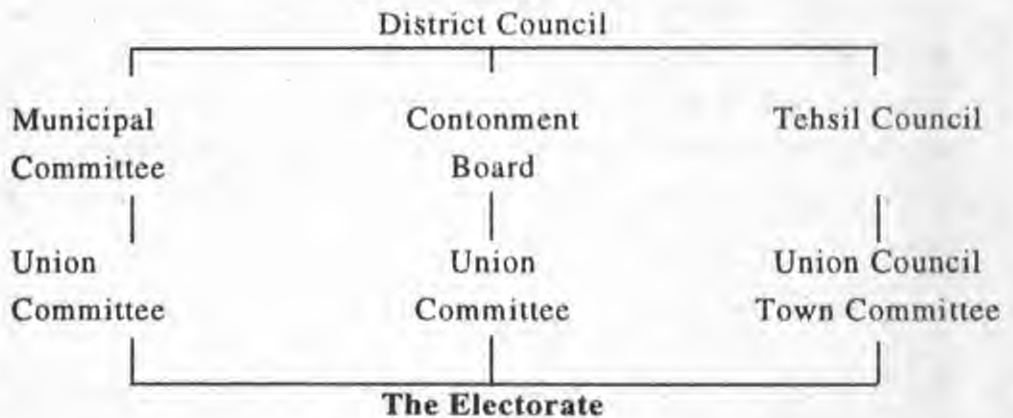
mine the 'output' of the government and slow down the pace of economic development. Therefore, he decided to put the economic house in order and introduced a sort of controlled democracy and claimed that his system was "of the type that people can understand and work".⁶⁶ This would, he thought, provide sufficient freedom of action to the executive to launch a strong offensive on the economic front. His views on this subject were formed as early as 1954. Ayub Khan, in his memorandum entitled 'A Short Appreciation of Present and Future Problems of Pakistan' declared that democracy in Pakistan should be "of a type that suits the genius of the people."⁶⁷

The experience during the Martial Law period convinced the military leaders that if the influence and power of the politicians was reduced to the minimum, stable government could be set up in the country which would facilitate economic development and industrialization. In order to achieve these objectives they adopted a two phased programme.

The first phase comprised the introduction of a new system of local government called the Basic Democracies (B.D. System) on the eve of the first anniversary of the military take-over. The B.D. system had four tiers.⁶⁸ It was said to have been designed keeping in view the peculiar conditions of the country, to make the administrative process meaningful and to introduce democracy at the grass roots. The role of Basic Democracies, as envisaged by Ayub Khan, was very ambitious. First these were to reflect representation of the people at the lowest level. Second, these would develop into the nerve centre of their area. All local problems of development and civic responsibilities would be studied there. Third, these would, in due course of time, replace the purely official agencies as the traditional "Mai Bap" of the people. Fourth, this process would generate "fresh vigour and enthusiasm and liberate the moral and intellectual forces." This would throw up "a patriotic, honest, realistic and dynamic leadership" in Pakistan.⁶⁹

The country was divided into eighty thousand single member constituencies⁷⁰ (known as the B.D. Wards) with a population of 1,000 to 1,200 people. About ten constituencies were grouped together to form the lowest rung of the B.D. system.

TABLE 5.4
THE B.D. SYSTEM
Divisional Council



The lowest level was known as Union Council in rural area, Town Committee in small towns, and Union Committee in cities and Cantonments. Besides the elected members, there were nominate official and unofficial members.⁷¹ The next level of local government was Tehsil Council in West Pakistan and Thana Council in East Pakistan. It included the Chairman of the Union Councils and Town Committees and official members. The official members included the representatives of nation-building departments at the sub-divisional level. The Council was headed by Tehsildar, Sub-Divisional Officer/Assistant Commissioner. The second level of local government for urban areas exceeding the population of 14,000, was the Municipal Committees instead of Tehsil Councils. The Municipal Committees were presided over by an official chairman. In Cantonments the second tier was

known as the Cantonment Board. The third level in all cases was the District Council. It consisted of official members (representatives of nation-building departments at the district level) and the elected members. All the Chairman of the Union Councils/Union Committees /Town Committees constituted electoral college to elect its members. The District Council was presided over by the Deputy Commissioner. The fourth tier of the B.D. System was the Divisional Council, which consisted of official and non-official members. The elected seats of the Divisional Councils were filled by the representatives of the Municipal Committees, Cantonment Board and the District Council who were elected by elected members of these bodies. Even those who were not Basic Democrats could also contest elections. The Commissioner presided over the meetings of the Divisional Council. The following table shows the number of various Councils under the B.D. system.

TABLE 5.5

Number of Councils and Committees under the B.D. System.

	East Pakistan	West Pakistan Regular areas	Special areas	Total
Rural Areas :				
Divisional councils	4	12	-	16
District Councils (Agency Council)	17	46	-	63
Thana/Tehsil Councils	-	-	9	9
Town Committees	396	202	-	598
Union Councils	37	215	6	258
	4,032	3,302	112	7,446

Urban Areas:

Municipal Committees	29	87	-	116
(including Cantonment Boards)				
Union Committees	216	809	-	1,025
Total	4,731	4,673	127	9,531

The Basic Democracies were entrusted with more powers and functions than the institutions of local self-government in the past and the government made liberal grants available to these institutions to enable them to perform their duties. The objective of the military authorities was that these institutions should bring forward a cadre of new leaders who should provide the basis for the new political system. These councils did a useful job in improving the conditions of villages, construction of roads, culverts and various other projects on the basis of the principle of self-help and produced impressive results with 'Grow More Food' campaign. But the B.D. system could not produce a class of new leaders, independent in their outlook. No doubt, in certain areas the traditional occupants of power-positions were defeated in the elections by men of lower or lower-middle class origin but generally power remained concentrated in the hands of those who already enjoyed it. They were subservient to the Ayub Regime because the Basic Democracies Order, 1959, had given enough powers to the bureaucracy to control these institutions.⁷² Moreover, due to fear of victimization and the desire to win favour, the members did not take steps to displease the bureaucrats associated with these institutions. The lack of experience to run the affairs of their councils increased their dependence on the Chairman, 70 per cent. of the Union Councillors admitted that the Circle Officers had helped them in framing their budgets.⁷³ It was also noticed that 83 per cent. of the items on the agenda of the Union Councils of East Pakistan originated from the correspondence and visits of the government officials.⁷⁴ Similar trends could be seen in West Pakistan. It happened rarely

that a proposal brought forward by the government officials was turned down. The participation of the bureaucrats in these institutions was very significant because the Basic Democrats formed the electoral college for the election of the President, the members of the National Assembly and the Provincial Assemblies. It created an impression that the government wanted to keep these institutions under her wings so that the Ayub regime could secure their votes in the elections. This identified the B.D. System with the Ayub regime.

The second phase started on 17th February 1960, when Ayub Khan, after having secured a vote of confidence of the Basic Democrats, set up a Constitution Commission. It was headed by Justice Shahabud Din, a former Chief Justice of Pakistan, and included representatives of Judiciary, commerce, industry, agriculture and the minorities. The principle of parity was maintained between the two wings of Pakistan by providing equal number of members from both the wings. The terms of reference were as follows:-

To examine the progressive failure of parliamentary government in Pakistan leading to the abrogation of the Constitution of 1956 and to determine the causes and the nature of the failure. To consider how best the said or like causes may be identified and their recurrence prevented

And, having further taken account of the genius of the people, the general standard of education and political judgment in the country, the present state of a sense of nationhood, the prime need for sustained development and the effect of the constitutional and administrative changes brought into being in recent months, to submit constitutional proposals in the form of a report advising how best the following ends may be secured:-

A democracy adapted to changing circumstances and based on the Islamic principles of justice, equality and tolerance, the consolidation of national

secured:-

A democracy adopted to changing circumstances and based on the Islamic principles of justice, equality and tolerance, the consolidation of national unity and a firm and stable system of Government.

After the inquiry had started, the Commission was given the following additional term of reference:

In the light of the social, economic, administrative and political reforms which are being carried out by the present regime, particularly the introduction of the Basic Democracies, what would be the most appropriate time-table for the implementation of the proposals to be made by the Constitution Commission.⁷⁵

The Constitution Commission held its meetings in several cities and also issued a questionnaire. In all 6,269 replies to the questionnaire were received and 565 persons were interviewed. This did not include several persons who had informal discussions with the Chairman of the Commission but hesitated to appear before the Commission.⁷⁶ The Commission's report, submitted to the President on 6th May 1961, recommended Presidential system, quasi-federal structure,⁷⁷ a Vice President, independent judiciary and direct elections on restricted franchise.

The President referred the report to five-men Cabinet sub-committee. The members of the sub-committee were :

1. Manzur Qadir, Minister of Foreign Affairs and Commonwealth Relations : (Chairman)
2. Mohammad Shoaib, Finance Minister.
3. Zulfikar Ali Bhutto, Minister for National Reconstruction, Fuel, Power and Natural Resources.

4. Mohammad Ibrahim, Law Minister.
5. Abdul Qasim Khan, Industries Minister.

The sub-committee examined the report of the Constitution Commission and finalised the draft of the Constitution, which was announced by Ayub Khan on 1st March, 1962. It was enforced on 8th June 1962, when Martial Law was lifted. Before the final draft of the Constitution was announced, it had become quite clear what type of Constitution Pakistan was going to have because Ayub Khan made no secret of his views. The Constitution, as finally announced, had the stamp of his political views and the experience gained during the Martial Law period and it included most of the features of the memorandum presented by him in 1954. He said "My own analysis had led me to the conclusion that Pakistan needed a strong government capable of taking decision which might not be popular but which were necessary for the safety, integrity and in particular development of the country. We could not afford the luxury of a system which would make the existence of the government subservient to the whims and operations of pressure groups. On this point, I was not prepared to make any compromise."⁷⁸ In his inaugural speech to the National Assembly on 8th June 1962, Ayub Khan said : "The Constitution that comes into force from today represents my political philosophy in its application to the existing conditions of Pakistan and it deserves a fair trial".⁷⁹

He further stated :-

What I have procured in this Constitution has come from my heart and soul and it is my belief that the country can run sensibly and can prosper under this system. It is based on my long association with the administration at all levels, detailed knowledge of the country and the people, wide study, deep and prolonged thought and a burning desire to help the people in building the country into a powerful and progressive state.⁸⁰

The most outstanding feature of the Constitution was the position of the President. He enjoyed extensive legislative and executive powers and could influence the National Assembly. It provided for a federal structure of government, but the position of the Provincial Governor and the Provincial Government was nothing more than an agent of the President. The National Assembly enjoyed restricted legislative and financial powers. The Constitution provided for indirect elections for the President, members of the National Assembly and the Provincial Assemblies....

The Nature of the Reforms introduced by the Military Regime.

The study of the period of the military rule in Pakistan shows that the military rulers avoided extreme methods and were generally lenient in their attitude towards the violators of Martial Law regulations. Ayub's words gave the impression that he was firm, strict and autocratic and would not compromise. But when came the time of action, he was considerate, sympathetic and avoided the use of repressive measures till he was convinced that there was no alternative. The last date for the declaration of the foreign exchange held abroad, filing of fresh income-tax returns, declaration of assets, etc. was extended more than once to enable more and more people to avail themselves of the opportunity. Martial Law regulations prescribed severe punishments including death sentence for various crimes. Nobody was actually executed except those involved in troubles in Baluchistan in support of the former Ruler of Kalat.⁸¹ The military courts awarded death sentences but the higher Martial Law authorities commuted these to life or 14 years' imprisonment. A good number of the people were sentenced for 14 years or more but none served the full period.

The reforms introduced by them clearly reflected that the military leaders adopted 'the middle of the road policies. The land reforms were moderate in their effects. Two different views were represented before the

Land Reforms Commission. One point of view urged the government not to break up the holdings. Such views were expressed by the big landlords for obvious reasons. On the other hand, the intelligentsia, a section of the press and the peasants demanded radical reforms. The Commission recommended the middle way, which was readily accepted by the government. Most of the senior officers of the Pakistan Army came from the upper and upper-middle class and landlord families. Had the Army authorities implemented radical reforms, they themselves would have been hit seriously. Ayub Khan did not want to antagonise them by adopting radical reforms. The maximum ceiling of 500 acres of irrigated or 1000 acres of un-irrigated land was quite high. The landlords could retain more than that by making gifts to their relatives and heirs. More radical measures were needed if the military leaders really wanted to bring down the influence of the landlords in the body-politic.

The treatment of the political leaders was another example of the way they wanted to solve the problems. The execution of political leaders by the military dictators is a common feature of coup d'état. In Pakistan the military leaders accused the political leaders of creating administrative, economic and political chaos but none was executed. However, they were debarred from taking part in active politics under the EBDO. When martial law was withdrawn in 1962, they engaged in politics from the background. A number of them helped to revive political parties and supported their favourite candidates in the national and provincial assemblies' elections (1964) and presidential elections (1965). After the expiry of the period of disqualification under the EBDO, one of the formerly disqualified politicians, Kazi Fazalullah (Sind) was appointed Home Minister in the West Pakistan Cabinet. Iskander Mirza who was forced by the Generals to resign the office of President, received pension as the ex-head of the state till his death in 1970.

Conclusions

The military take-over in Pakistan in 1958, often locally called 'the October Revolution', removed the political leaders and the so-called democratic institutions from the scene and gave a free hand to the civil service and the Army to run the country. The period of the military rule was not a military dictatorship of the type found in the Middle East and Latin America and, to some extent, in Africa. It was a benevolent authoritarian regime, determined to inculcate discipline which marked the organization of the Army. The case of Pakistan shows that a combination of civil and military leadership is capable of introducing certain reforms and accelerating the pace of economic development. But there is always a limit beyond which the military cannot change the existing social and economic order without damaging the interests of the regime itself. The military rulers of Pakistan did introduce certain measures to 'reform' the social and economic structure and accelerated the pace of economic development but they could not abolish the old system altogether and then introduce a new one.

The military regime is likely to build up public support if the democratic traditions are not strong, there is a lack of sympathy amongst the people for the previous regimes and there exist 'goodwill' between the Army and the people. Such a goodwill can vary from time to time. It is the product of several factors, i.e. the avoidance of repressive measures. Adoption of some concrete measures to improve the social and economic conditions of the people, and the prevalence of a belief that the military regime is capable and willing to 'solve the problems of the society. In this respect, a statement on the part of the military rulers that they have no political ambition and that they will soon return power to the elected representatives can also be helpful, at least in the initial stages.

The military rulers have to think about the political system for the

future. The sooner they solve this problem, the better. This creates dilemma in their mind especially when the Army has been brought up in the traditions of aloofness from politics and it is averse to the methods of the political leaders. The military leaders are torn apart by two opposing tendencies : They do not want to return to the previous system but they cannot permanently keep the country under military rule. Therefore, they endeavour to evolve a new political system or modify the existing one. Such a system reflects the peculiar conditions of the country as seen by the military leaders, their experience of running civil administration and their desire to see the country being run by an efficient and effective (not necessarily participatory) government.

REFERENCE AND NOTES

1. Khan, Fazal Muqeem, *The Story of Pakistan*, p. 190.
2. Ahmad, M., *My Chie*, (Lahore, 1960), pp. 102-3.
3. Prime Minister Feroze Khan Noon feared that if he did not do so, the Awami League might withdraw its support to him in the Centre.
4. Sayeed, K. B., "Collapse of Parliamentary Democracy in Pakistan." *The Middle East Journal*. Vol. XIII No. 4, Autumn, 1959.
5. *Years of Progress: 1958-61*: (Karachi, 1961), p. 2.
6. The figures about foreign exchange reserves and the liabilities have been taken from: Khan, M. Ayub, *op. cit.*, p. 56.
7. Williams, L.F.R., *The State of Pakistan*: (London, 1962), p. 182.
8. *Dawn*, 10th June, 1958.
9. Khan, Fazal Muqeem, *op. cit.*, p. 194.

10. *Dawn*, 5th October, 1958.
11. *The Pakistan Times* 5th and 7th October, 1958.

Kalat acceded to Pakistan on 31 March 1948. There was least interference of the Government of Pakistan in the internal affairs of the State. The Chief Minister was the head of the Government. He was appointed by the Khan of Kalat in consultation with the Government of Pakistan. There was a semi-representative legislature of the State. In 1952 Kalat alongwith Makran, Las Bela, and Kharan formed the Baluchistan States Union (B.S.U.) as federated unit of Pakistan. The administration of the B.S.U. was directed by a Chief Minister who was appointed by the Council of Rulers. But he could not be dismissed without the permission of the Government of Pakistan. According to the Instrument of accession the Ruler of the B.S.U. (The Khan of Kalat) ceded "his sovereignty and all his rights, authority and powers" to Pakistan. The rulers, their families and children were entitled to all personal privileges and titles enjoyed by them within or outside their states before this merger. The Government of Pakistan was to ensure the succession according to the law and custom of the state concerned. In 1955, the B.S.U. was absorbed in the integrated province of West Pakistan.

12. For the full text of the Proclamation, see, Appendix "B" Hasan Askari Rizvi, *The Military and Politic in Pakistan: 1947-86* (Lahore: Progressive publishers, 1976) p. 271-4
13. For the full text of his statement, see, Appendix "C", *Ibid.*
14. *Ibid.*
15. In an interview with Patrick Sergeant, General Ayub Khan, said, (President Iskander Mirza was also present there at the time of the interview). "We both came to the conclusion that the country was going to dogs and I said to the President, 'Are you going to act or are you not going to act? It is your responsibility to bring a change about. If you do not, we (the Army) will force a change' The plans been ready sometime but it was the President's decision when to put them into action." *Daily Mail*, 10th October, 1958.
16. In his interview referred to in the earlier footnote, General Ayub Khan said: "The Army has the ultimate responsibility. If the President does not react to a situation

or if his successor did not, I would act if something goes wrong-heaven forbids if he (President Iskander Mirza) does something useless - I will act and decision will be mine". President Iskander Mirza, who was also present there, agreed that having abrogated the Constitution, he had no right to be in office at all. He said, "My authority is the revolution." *Ibid.*

17. Wint, G., *The 1958 Revolution in Pakistan*; *St. Antony's Papers* No. 8, 1960
18. Von Vorys, K. *Political Development in Pakistan*; (Princeton : N.J. 1965), pp. 146-7.
19. *The Pakistan Observer*, 12th November, 1958.
20. *The State v. Dosso and another P.L.D. 1958, Supreme Court*, pp. 553-70.
In April 1972, the Supreme Court overruled this judgement in : *Asma Jillani v. The Government of the Punjab and others, P.L.D. 1972, Supreme Court*, pp. 139-270.
21. *Dawn*, 11th, 12th November, 1958.
22. Miss Fatima Jinnah was not associated with plot. Her name was used by those involved in the plot. For the details of the case see : *New York Times* 13th August, 25th October, 1959; *The Times*, 25th October, 1959, *Dawn*, 7th October, 1959, 26th February, 1961.
23. For the details of the important incidents see, *Dawn*, 10th, 12th, 13th February, 1962; 25th, 31st March, 1962 and 17th, 18th April 1962.
24. Presidential (Elections and Constitution) Order, 1960, *The Gazette of Pakistan*, 13th January, 1960.
25. Feldman, H., *Revolution in Pakistan* : (London, 1967), p. 7.
26. *The Pakistan Times*, 9th November, 1958.
27. See, for example, *Ibid.*, 13th October, 1958.
28. *Ibid.*, 12th October, 1958 and *Dawn*, 14th October, 1958.
29. *The Pakistan Times*, 30th October, 1958 and *The Times of India*, 2nd November, 1958.

30. *Pakistan Under the New Regime*; (Karachi, n. d.), p. 7.
 31. Feldman, H., *op. cit.*, p. 52.
 32. *Dawn*, 28th June, 1959 and *The Pakistan Times*, 3rd July 1959.
 33. *The Guardian*, dated 18th February, 1960, puts the figures as 5000. Kari Von Vorys claims that approximately 7000 persons were excluded from political life: See; Von Vorys K., *op. cit.*, p. 190.
 34. *Dawn*, 28th December, 1960.
 35. *Dawn*, 4th July, 1962.
- Another attempt to repeal the Family Laws Ordinance was made in 1972. A resolution to this effect was moved in the National Assembly. After a long discussion the National Assembly rejected the resolution. See : *The Sun*, 22nd September, 1972.
36. *Twenty Years of Pakistan* : (Karachi, 1967), p. 733.
 37. Martial Law Regulation No. 29.
 38. *Twenty Years of Pakistan* (Karachi, 1967), p. 488.
 39. Some of the major labour laws were : The Industrial Disputes Ordinance, 1959; The West Pakistan Industrial & Commercial Employment (Standing Orders) Ordinance, 1969 ; The Coal Mines (Fixation of Wages) Ordinance, 1963 ; The Road Transport Workers Ordinance, 1961; The Tea Plantations Labour Ordinance, 1962; The Apprenticeship Ordinance, 1962; The West Pakistan Employees Social Security Ordinance, 1965; The East Pakistan Factories Act, 1965; The East Pakistan in land transport (Regulation of impliment) Act, 1965; The East Pakistan Trade Unions Act, 1965; The East Pakistan Shops and Establishment Act, 1965; The East Pakistan Employment of Labour (Standing Orders) Act, 1965 and The Factories (West Pakistan) Amendment) Ordinance, 1966.
 40. Campbell-Johnson, A., *op. cit.*, pp. 355-56.
 41. Myrdal, G., *op. cit.*, Vol. 1, p. 241.
 42. Ahmad, M., *Government and Politics in Pakistan* : (Karachi, 1970), p. 201.

43. Later in April 1960, he became Governor of East Pakistan and his portfolio went to Interior Minister Lieut-General K. M. Sheikh.
44. *Pakistan 1962-63*; (Karachi, 1963), p. 91.
45. *Twenty Years of Pakistan*; (Karachi, 1967) p. 530.
46. *Report of the Commission on National Education, 1959*; Appendix I, p. 347.
47. *Twenty Years of Pakistan*. (Karachi, 1967), p. 247 & pp. 721-22.
48. *The Pakistan Times*, 1st October 1962.
49. *Dawn*, 18th September, 1963.
50. *Twenty Years of Pakistan*: (Karachi, 1967), pp. 432-33 and 727-29.
51. The Bonus Voucher Scheme was revised from time to time but there was no change in the basic features of the Scheme. The revision included the alternations in the list of goods importable on Bonus and the rates of Bonus. Prior to 1965, Bonus rates ranged from 10 per cent to 40 per cent. In June, 1964, the rates were reduced from 7 to 2. The new rates were 20 per cent and 30 per cent for manufactured goods and all other goods respectively. In November 1965 additional Bonus at the rate of 10 per cent was allowed on the export of cotton cloth (mill made), sports goods, surgical instruments and cutlery. 'Lighterage Work' was also entitled for Bonus at the rate of 20 percent, as a service industry. After the devaluation of British Pound in November 1967, Bonus rates were raised from 20 per cent to 30 per cent and from 30 per cent to 40 per cent. In July 1970, the rates were further raised from 30 per cent to 35 per cent and 40 per cent to 45 per cent.
52. Ahmad, M. *op. cit.*, p. 182.
53. *Ibid.*, p. 183.
54. Khan, M. Ayub, *op. cit.*, p. 87.
55. *Report of the Land Reforms Commission for West Pakistan* (Lahore: Government of West Pakistan: 1959); Introductory Note.
56. *Twenty Years of Pakistan*; (Karachi, 1967), p. 174.

Mushtaq Ahmad claims that 91, 59, 474 acres of land was owned by those whose holdings were larger than the prescribed limit. Of this 22, 25, 553 acres was resumed which was distributed among 1.5 lakh tenants.

See: Ahmad, M., *op. cit.*, p. 186.

The Economic Survey of Pakistan, 1963, points out on page 33 that 2,547,000 acres were surrendered by 902 land-owners.

57. When the plan period ended, it was found that total expenditure was Rs. 26.3 billion. The development outlay of the First Five Year Plan was Rs. 10.8 billion.
58. As the Second Five Year plan was completed in June, 1965, we are not dealing with its achievements in details. Just to give a general idea, following may be mentioned:-
- (a) The *per capita* income increased by 14.8 per cent, instead of the target of 12 per cent. After taking into account population growth of about 2.6 per cent.
 - (b) The Gross national income increased by 30.4 per cent, instead of the 24 per cent, planned.
 - (c) It planned to raise foodgrain production by 21 per cent, but the actual rise in production was 27 percent.
 - (d) Industrial Production registered 61.4 per cent, increase rather than 60 per cent, as planned.
 - (e) Foreign exchange earning rose at the rate of 7 per cent. The plan target was only 3 per cent.
59. Khan, M. Ayub, Pakistan's Economic Progress; *International Affairs*, Vol. 43, No. 1, January 1967.
60. *Years of Progress: 1958-62*; (Dacca, 1962), p. 3.
61. Khan, M. Ayub, Pakistan Perspective; *Foreign Affairs*, vol. 38, No. 4, July, 1960.
62. Interview with Guy Wint; *Observer*, 19th April 1959.

In his first public announcement about Basic Democracies, Field Marshal Ayub

Khan declared There were certain basic requirements of the western democratic structures which did not exist in our country. Western democracy presupposes a high degree of social and political awareness and mass literacy, so that the people know the value of their vote in terms of broad national policies and an advanced system of mass communication for speedy and accurate dissemination of information on wide variety of themes of individual and general interest". For the full text, see: *Dawn*, 3rd December, 1959. Similar views were expressed on many other occasions: see:

Ibid., 11th October 1958; 3rd December 1958; 21st March 1960 and 27th October 1963. See also his address at the Lahore Basic Democracies Convention in June 1960. Full text may be found in Jafari, R. A. (ed.), *Ayub Soldier and Statesman*: (Lahore, 1966), pp. 65-68.

63. Jafari, R. A. (ed.) *op. cit.*, 46.
64. *Lipset, S. M. Political Man*, (London, 1969, H.E.B., Paperback), p. 50.
65. Khan, M. Ayub, A New Experiment in Democracy in Pakistan; *The Annals of the American Academy of Political and Social Science*, Vol. 358, March, 1965.
66. Address to the nation on 8th October 1958; See Appendix C, Hasan 'Askri Rizvi; *Op. Cit.* pp-275-78. Addressing the Chairman and the members of the Union Councils of Haripur Tehsil, Ayub Khan declared that only strong Government backed by the people could set the country on road to progress and prosperity. *Dawn*, 21st March 1960.
67. For the text of the memorandum, see Appendix "A", Hasan Askri Razvi *op.cit.* p-265-70.
68. Originally there was a fifth tier also, namely, the Provincial Advisory Council - one each for both the Province. This was abolished after the elections of the Provincial Assemblies under the 1962 Constitution.
69. Field Marshal Ayub's address to the Nation: *Dawn* 3rd September, 1959.
70. The total strength of the Basic Democrats was raised from 80,000 to 1,20,000 for the 1969 B.D. Elections. The Constitution was duly amended but before elections could be held, Field Marshal Ayub resigned and the country reverted military rule. So no elections were held.

71. Later the system of nomination was abolished.
72. The text of the order and the rules enforced on the basis of the Order are published in : Choudhry, G.W. (Ed.), *Documents and speeches on the Constitution of Pakistan* (Dacca, 1967), pp. 500-58.

To illustrate the point, it may be mentioned here that according to the said order the controlling officer had the power to quash the proceedings, suspend the execution of any resolution passed or an order made by the local council, prohibit the doing of anything proposed to be done and require the local council to take such action as may be specified by him.

73. 'An Analysis of the Working of Basic Democracies in East Pakistan', p. 52, quoted from: Sayeed, K. B., *op. cit.*, p. 253.
74. Rehman, A. T. R. *Basic Democracies at Grass roots*; (Comila, 1962), p. 31.
75. *Report of Constitution Commission*, 1961; (Karachi, 1962), p. 1.
76. *Ibid.*, p. 2.
77. One of the members (Sardar Habibullah), in his note of dissent, favoured Unitary form of government, see; *Ibid.*

Personally Ayub Khan was also in favour of Unitary system of government. See *Dawn*, 11th October 1958 and 16th December, 1959.

78. Khan, M. Ayub, *Friends Not Masters* (London: 1967), p. 213.
79. For the full text of the address, see *Dawn*, 9th June, 1962.
80. *Dawn*, 9th June, 1962.
81. In 1959, a group of the Khan of Kalat's supporters demanded the release of the Khan of Kalat. They collected a huge lashkar in the mountains of Jhalawan and started trouble in the area. The troops were despatched to control them. After a few encounters between the Baluch lashker and the Army, in which some lives were lost, the ring-leaders were arrested by the Army. They were awarded death sentences by a Special Military Court.

UNIT SIX

Contents

**THE
SECOND
CONSTITUTION
OF PAKISTAN**

6.1 *CONSTITUTIONAL COMMISSION*

Reading 1. Political Development in Pakistan
(Karl Von Vorys)

6.2. *1962 CONSTITUTION :
THE PRESIDENTIAL FORM OF GOVERNMENT*

Reading 2 Constitutional Development
(G.W. Chaudhry)

In this reading passage we have tried to give you a clear picture of the efforts made by Ayub Khan in order to frame the 1960 constitution. In this regard he appointed a constitution commission headed by Justice Shahabuddin with the term of reference to prepare proposal for the second constitution of the country. This commission presented its report with the recommendation to introduce:

- the presidential form of government and
- direct suffrage limited to literate and property owners.

Ayub Khan appointed two committees, one headed by the Cabinet Secretary and the other headed by Foreign Minister of that time. These two Cabinet Committees were assigned the task to submit the detailed report about the the Shahabuddin Commission's recommendation. Besides other recommendations these committees advocated the Basic Democracies System instead of direct suffrage.

In fact, in the form of these three sets of recommendations, recommended by Shahabuddin Commission and two Cabinet Committees, Ayub Khan gathered variety of ideas which helped him to choose at his will the most suitable clauses for his constitution.

We hope, having gone through this reading you will be able to critically assess the modus operandi of Ayub Khan which he adopted in connection with formation of 1962 Constitution. (Compiler)

READING-1

(Excerpt from Political Development in Pakistan by Karl Van Vorys, Published by Princeton University Press, New Jersey, 1965 PP. 208-221).

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THE GENESIS OF A CONSTITUTION

President Ayub Khan was convinced that if he was to convert his personal hegemony into national and provincial institutions which would attract popular commitment, it was essential that he play a decisive role in the formulation of the new Constitution. His March 15, 1959, memorandum included this revealing passage:

"... the situation is not irremediable if tackled with resolution and courage, and that has to be provided by the top leadership-ME. I feel it is my moral and spiritual duty to guide thinking so that we have a constitution that will cover our weaknesses, will not allow political instability to arise, [and] will take care of local and regional prejudices...." Later, in his radio address introducing the Constitution, he referred to it as "my system"¹

The preamble of the document closes with the words: "NOW, THEREFORE, I, FIELD MARSHAL MOHAMMAD AYUB KHAN... do hereby enact this Constitution."² The country would be expected to recognize the preeminent role of the President. Yet the motivation here, so far as it can be ascertained, was not primarily personal vanity. More likely it was an effort to impress the population that the President and through him the armed forces were committed to the Constitution and would not permit trifling with it. "The people," explained the President at one point, "must be convinced that we are serious, otherwise any good we do would come to nothing."³

The President apparently was equally resolved to enlist as broad a support for the Constitution as possible.⁴ Ostensibly at least, the masses would be invited to participate. Hence the referendum by Basic Democrats to authorize him to proceed. In addition, prominent citizens, political groups, and the bureaucracy would be "involved." Few would be given the opportunity to complain that they had not been consulted. Accordingly, on

the day he was sworn in as President (February 17, 1960) he appointed a Constitution Commission. It was composed of eleven "constitutionalists," including two retired judges, a lawyer, and two prominent businessmen and was presided over by a retired Chief Justice of Pakistan, Mohammad Shahabuddin.⁵ Thus commenced the first stage of constitution-making.

The Constitution Commission

Chief Justice Shahabuddin is a man of great integrity. He is also a highly experienced administrator and jurist. One pitfall he was determined to avoid. He was not going to be a rubber stamp. Thus, while conceding that the task of giving a constitution rested with the President and that his own role was merely advisory, as a condition for his acceptance he insisted on a promise that along with the constitution the report of his commission would also be published. It should be added in all fairness that he received such a pledge from the President without delay or hesitation and that when the time came the pledge was in fact carried out.

The first meeting of the Commission was held in Lahore on March 19, 1960.⁶ The terms of reference included two major categories. The Commission was instructed to identify the causes for the failure in 1958 and to consider future remedies. Secondly, it was given the task of presenting constitutional proposals for democratic institutions that would be "adaptable to changing circumstances," were founded on Islamic principles, and would contribute to national unity and stable government. The Commission was also advised to take into account "the genius of the people, the general standard of education and of political judgement in the country, the present sense of nationhood, and the prime need for sustained development." In June 1960 an additional term of reference was added, requesting the Commission's opinion on the timetable for implementation of its proposals.⁷

A few words about procedure may be helpful. Early in its deliberations the Commission decided to use as the basis of its judgement the views of opinion leaders. This they proposed to ascertain by widely circulating a questionnaire and by inviting through the press "anyone interested" to complete the forms or to request an interview with the Commission. In total, 20,892 forms were sent out. Some 6,269 completed questionnaires were returned, and 565 persons were interviewed at length. There was, of course, an "official delegation" expressing the views of the government, or, more specifically, those of the President. A wide range of political leaders of the deposed regime, including Chaudhri Mohammad Ali, ex-Prime Minister of Pakistan, also responded. In general, those interviewed were literate and most articulate. They were also mostly "modernists". The traditional hierarchies were rarely heard from. Consequently, an almost inescapable bias was built into the sample, with the westernized segment represented many times its actual proportion in the country. As the interviews proceeded, they attracted considerable attention and excitement, so much so that the government felt compelled to issue a warning that martial law would intervene if "playing politics" with the questionnaire continued.⁸ When Chief Justice Shahabuddin protested, the President overruled the more aggressive members of his Cabinet⁹ and the warnings were toned down. After tabulating the results, the Commission held a number of meetings during which the recommendations were agreed upon. Chief Justice Shahabuddin wrote out the draft in longhand, which after approval by the majority was printed. One member, Sardar Habibullah Khan, strongly dissented and his opinion was appended at the end of the document. The work of the Commission was completed on April 29, 1961.

The *Report* is a rather extensive document. It contains ideological assertions, theoretical arguments, and a compilation of the opinions of those interviewed. It covers many aspects of Pakistani history and British legal

tradition. It also offers an abundance of recommendations. To catalogue them all is not our purpose. Instead we shall concentrate upon five key categories of proposals. There are, first of all, the recommendations on the distribution of power on the national level, involving as they do the legitimization of the powers and the tenure of the President. Secondly, in a country where the small-scale social and economic units predominate, the relationship between the national and local levels of government is no less important. Thirdly, the recommendations concerning the electorate and the extent of suffrage become significant in case of any effort designed to enlist public support through public participation. Closely related is the fourth category: the legality and the role of political parties that have a direct bearing upon the fundamental problem of evolving a national leadership structure with a capacity to mobilize the masses. Finally, the amendment procedure is noteworthy, as it regulates the rate of modification of the Constitution.

Let us first turn to the distribution of power on the national level. It was clear from the beginning that the President would insist on the presidential form.¹⁰ Inter-estingly, the Commission found its own sample to favor a similar course,¹¹ and after some discussion, of the weaknesses of the parliamentary system the Commission broadly endorsed the presidential system. When we turn to the details, the matter becomes somewhat more involved. The President, of course, would be granted the security of a fixed term and the control of the executive branch. Ministers would be appointed by the President and be responsible only to him. To exercise some minimal control, the legislature (upper house) would be required to confirm such appointments. It was also recommended that the Ministers attend legislative sessions as frequently as possible. To prevent too much interference, however, the legislature would not be granted the right to summon ministers. If, moreover, any member of the legislature should accept a position in the

Cabinet, he would first have to resign from the legislature.

The President would be given legislative powers. The Commission recommended a veto power and, in the single instance of appropriations, even the item veto. In case of emergencies he would also enjoy the power of issuing ordinance with effect until the legislature could assemble. A restraint, however, was added here. The President would not have the power to suspend the Constitution except in the emergency of a war.

Undoubtedly, the executive proposed by the Commission was a powerful one. It was balanced by a legislature which would also enjoy enhanced power. What it gave up in control of the executive, the legislature in turn would have gained in independence. The traditional power dissolving the legislature which the Viceroy had enjoyed and which hung over that body as a sword of Damocles was greatly weakened. To be sure, the President could still dissolve the legislature, but if he did so, he himself would have to stand for reelection. Hence the jeopardy was no longer one-sided. The legislature was to enjoy all the traditional powers including appropriations. To avoid frequent direct confrontations between the legislative and executive branches, a built-in restraint on the power was added. A second house was to be added composed of senior and successful members of society partially selected by an electoral college (lower house plus provincial legislatures) and partially appointed by the President.

The third branch of government was to be a powerful and independent judiciary. Their appointments were to be for life and they were to be guaranteed substantial remuneration. They would enjoy the power of judicial review over acts of the legislature. By including a bill of rights in the constitution the courts could also restrain the executive. In short, the relationship between the branches was, in general, to follow the American

pattern.

The second group of recommendations related to the question of unitary versus federal government. The Commission views here were split, and Sardar Habibullah Khan continued his support for a unitary government to the end. Actually even among the other members there appears to have been much sympathy for the unitary form, and only the concern for Bengali regionalism persuaded them to favor a federal system. The American pattern, however, was considered too weak and the Canadian and Indian examples were preferred. Political powers were to be divided according to three lists (federal, concurrent, provincial), but in an emergency the national legislature would be authorized to legislate in all matters. Government on the provincial level would be a facsimile of the national government except that the provincial legislature would be unicameral. One more relevant recommendation must be noted. The provincial governor was to be appointed by the President rather than elected by the province. The total effect of these recommendations was that the proposed government was federal more in name than in substance.

The third category of recommendations dealt with the electorate. It was here that the influence of the modernized segment of society on the Commission was most glaring. On this issue, moreover, the Commission defied the President. Even after the not too veiled hint in June 1960, when the terms of reference were amended and the existence of the Basic Democracies was specifically pointed out, the Commission continued to reject their use as an electoral college. Instead, it rigorously supported direct suffrage limited to literates and property owners. It was convinced, apparently, that those disenfranchised-and most people in the villages would be disenfranchised-would not resent this. During the previous elections, the Commission suggested rather cavalierly, many voluntarily stayed away

from the polls.¹² It argued further that the alternatives would be hazardous. Universal direct suffrage was unthinkable at the existing level of literacy and communication. The indirect method was equally unsuitable. The voter (presumably the educated voter), the Commission contended, would not be satisfied "with the right of selecting persons who are to select the representatives instead of himself making the selection."¹³

On the issue of political parties, the Report records the apprehensions of the "official delegation" about any national organization which might emerge in competition to the Government. People should not be prevented from associating with each other. There should be no objection against informal groups of "like-minded" persons. However, political parties that demand the loyalty of their members, the delegation argued, must be prohibited. The Commission was not convinced. It concluded that parties are a "necessity" and recommended that a favorable environment for their emergence should be encouraged. "The legislators hereafter will not be like their predecessors," assured the Constitution Commission in a burst of optimism, "coming into the political field solely [sic] to exploit their positions to their personal advantage."¹⁴

The final proposal to be mentioned here is the amendment process. The Commission recommended a two-thirds vote in the legislature plus presidential assent or a three-fourths vote without it. The provinces, theoretically partners in government, were to have no vote at all in the proceedings.

Presidential Committees

On May 1, 1961, the Constitution Commission formally presented its report to the President. During the interview Chief Justice Shahabuddin broadly hinted that he was prepared to be of further assistance. President Ayub Khan was friendly but did not avail himself of the implied offer.

Perhaps this reveals his opinion of the work. It is also possible that in line with his original intentions he planned to avoid overlap among the advisory bodies on the Constitution. In any case, the President initiated the second stage of constitution-making when he appointed two special committees and directed them to examine the Report in great detail and to make their recommendations to the Governors Conference. One committee, chaired by Cabinet Secretary N.A. Faruqi, reflected the vested interests of the bureaucracy.¹⁵ The other, over which Foreign Minister Manzur Qadir presided and which was composed of seven cabinet ministers,¹⁶ presumably claimed special expertise or more likely the special confidence of the President. Neither committee made any attempt to consult the population. The only non-member whose opinion was asked and who at times volunteered his views was President Ayub Khan. The emphasis clearly shifted from "what the people want" to "what is best for the people." A series of extended sessions marked the deliberations. Twice they were interrupted, first by the visit of President Ayub Khan to Washington and second by the heart attack of Finance Minister Mohammad Shoaib. There was general agreement on all issues in the Administrators' Committee. Not so in the Cabinet Committee. On several questions, including such critical ones as presidential versus parliamentary or federal versus unitary forms of government, the jurisdiction of the courts, political parties, the electorate and fundamental rights, there was spirited debate and vigorous dissent. The position taken by three members, Manzur Qadir, Zulfikar Bhutto and Mohammad Shoaib, ran consistently parallel with the President's views. In most instances they were opposed resolutely though less vocally by Mohammad Ibrahim, the Law Minister and a Bengali. Conflict became so sharp and irreconcilable that the latter refused to attend further meetings, left the capital, and withdrew to his home in Daeca.¹⁷ Mr. Ibrahim was generally supported by his Bengali colleagues Habibur Rahman and A.K. Khan. Several 4:3 votes indicate a genuine difference of views. Yet, significantly, on only one major issue—the

justiciability of fundamental rights - did the majority hold to a position which was in direct conflict with the views of President Ayub Khan.

While the Committees deliberated, the government kept the population informed of the progress and the expected target date. In late September the President launched a most singular trial balloon. In an address he informed the Karachi Bar Association that the broad features of the Constitution would be published in November and the public would be asked to comment on it. Only after such a public debate would the final draft be promulgated, in the spring of 1962.¹⁸ It makes interesting speculation just why such an announcement was made, in as-much-as it went contrary to the President's previous intentions of presenting the finished document as a take-it-or-leave-it proposition. There was no framework prepared for such a public discussion, as in the case of the questionnaires of the Constitution Commission. Above all, the work was too far advanced to introduce the new dimension of public opinion.

The Committees concluded their work in October. The results were presented in the form of comments on the Constitution Commission's recommendations. The document is concise and most revealing. There was general consensus that the presidential system was preferable.¹⁹ The Committees also agreed with the Constitution Commission on the power of the Courts. They all favor judicial review and the justiciability of civil rights. There was sharp differences, however, on the legislative branch. First, the Cabinet Committee recommended that for the sake of political stability and economic development the legislature should not be permitted to cut the budget below a certain minimum, and this minimum should be the level of appropriation in the current year. Second, the legislature should be restrained from introducing bills regarding the armed forces or preventive detention without the consent of the President. One disagreement between

the two Committees may be mentioned here marginally. The Cabinet Committee proposed a unicameral system on the national level, while the Administrators' Committee supported the Constitution Commission's recommendation for a senate.

On the issue of federalism there was little disagreement in the recommendations. The Administrators' Committee on the whole accepted the pattern of the Constitution Commission. The majority of the Cabinet group wanted to strengthen the national government further by eliminating any exclusive jurisdiction of the provincial government. There would be only two lists: one federal and the other concurrent. Behind the scenes, however, there was strong conflict over this issue. Within the Cabinet Committee a powerful minority pressed in the opposite direction. They demanded a short federal list and a statement that all other areas be under the exclusive jurisdiction of the provinces.

The issue of franchise united the Committees against the Commission. They supported indirect elections with the elected Basic Democrats forming an electoral college. Political parties remained a rather thorny question, as both groups were aware of the President's opposition to them. The majority of the Cabinet Committee suggested that during the first election parties should continue to remain prohibited, but that later a new determination could be made. The Administrators, however, were more emphatic. They contended that, for several reasons - including protection against parochialism, assistance in presidential elections, and a smoother relationship between the executive and legislative branches - political parties should not only be permitted, but also encouraged. On the final issue of constitutional amendments the committees were again united. They accepted in general the Commission's suggestion of two-third and three-fourths formulas. Yet they sought to fortify the President's position even further by authorizing him to

refer the question to the electoral college (Basic Democrats) in case of an adverse three-fourths vote.

REFERENCE AND NOTES

1. *The Constitution: The President Addresses the Nation* (Karachi: Inter Services Press, 1962), p. 11.
2. Government of Pakistan, *The Constitution of the Republic of Pakistan* (Karachi: Government of Pakistan Press, 1962), p. 2.
3. Dacca, *Morning News*, October 31, 1958, p. 1.
4. On August 4, 1959, at a special top-level meeting in Karachi the President for the first time spelled out his plans for the procedure by which the country would receive its new constitution.
5. Other members: Azizuddin Ahmad, D. N. Barori, Abu Sayeed Chowdhury, Aftabuddin Ahmed, Obeidur Rahman Nizam from East Pakistan, and Mohammad Sharif, Tufailali A. Rahman, Arbab Ahmad Ali Jan, Sardar Habibullah Khan and Mian Naseer A. Shaikh from West Pakistan.
6. Karachi, *Dawn*, March 20, 1960, p. 1.
7. Government of Pakistan, *Report of the Constitution commission* (Karachi: Government of Pakistan Press, 1961), p. 1.
8. Dacca, *Morning News*, July 3, 1960, p. 1.
9. Notably Lieutenant General Sheikh and Manzur Qadir.
10. On the day the Commission started its work, President Ayub Khan publicly stated that the presidential system was "essential" (Dacca, *Morning News*, March 20, 1960, p. 1).
11. Of the opinions expressed, 21.3 per cent supported a parliamentary form, 47.4 per cent favored a presidential system, 29.3 per cent preferred a mixed system, while 2 per cent recommended a dictatorship.

12. As contrary evidence, in the elections of Basic Democrats in 1960 conducted on the basis of universal suffrage some 60 per cent of the eligible voters exercised their privilege. This is about the average of American presidential elections and higher than the average in local elections.
13. Government of Pakistan, *Report of the Constitution Commission*, p. 68.
14. *Ibid.*, p. 80.
15. The Chief Secretary of East Pakistan, Kazi Anwarul Haque, and the Additional Chief Secretary of West Pakistan, Muzzafar Ahmed, were the other members.
16. In addition to its chairman, the Committee also included: Mohammad Ibrahim, Mohammad Shoaib, Abul Kasem Khan, Zulfikar Bhutto, Akhter Hussain, and Habibur Rahman.
17. Although the Law Minister no longer attended to his duties he nevertheless refused to resign his office. The President, anxious to avoid publicly demonstrating a severe split among his advisers, made several attempts to conciliate him. The situation remained unsettled until April 15, 1962, when, according to the official announcement, Mohammad Ibrahim was "allowed to relinquish his ministership." Health problems were given as the reason, whereupon the former Law Minister conspicuously attended public meetings to demonstrate his vigor.
18. Dacca, *Morning News*, September 26, 1961, p. 1.
19. There was only one dissent. Presumably Law Minister Ibrahim supported the parliamentary form.

This reading passage deals with the 1962 constitution of Pakistan. As you know, this constitution represented a presidential form of government. So, in this reading an attempt has been made to examine the 1962 constitution as a presidential form of government.

The unique feature of the reading is that it reveals comparative study of 1962 constitution of Pakistan and the presidential system of France and USA.

This reading passage also critically examines the powers of the president.

We hope, this reading will give you an adequate information about Pakistan's experience of presidential form of government. After studying this reading you will be able to evaluate the 1962 constitution as a presidential system of government. (Compiler)

READING-2

(Excerpt from Constitutional Development in Pakistan, II edition by G.W. Chaudhry, published by Longman, PP. 188-215)

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THE PRESIDENTIAL SYSTEM

As pointed out, the most novel feature of the new constitution is the presidential form of government. Although the system during the British period was by no means an unqualified form of parliamentary government, yet some form of rudimentary parliamentary institutions had been working in the sub-continent since 1919. When President Ayub came into power in 1958 it was quite evident that he would introduce some radical changes in the government structure. *The Times* remarked: 'It was hardly expected that President Ayub Khan having cast aside a democratic system betrayed through years of corruption and factional squabbling would try to model it on the old foundations.' Thus 'the Westminster mixture, matured over generations, had disappeared almost without trace from Pakistan's new constitution.'¹ The main force of the new constitution lies in a strong executive: its corner stone is the Presidency. Before we examine the exact nature of the presidential system under the new constitution, we may refer to the fundamentals of the system which have been stated as follows:

1. the President is elected independently of the legislature and has a direct mandate from the electors to perform the executive functions of the Government;
2. he holds office for a fixed term and cannot be removed from office by an adverse vote in the legislature against any of his policies, but only by a special process of impeachment;
3. the legislature is elected independently and holds for a fixed term;
4. the legislature functions independently of the executive and cannot be dissolved by the executive or the Head of the State as is the case

in the parliamentary system;

5. the legislature is the supreme law-making body of the country and no proposal can become law unless voted by this body;
6. the Judiciary is responsible for the interpretation of laws and executive orders in the light of the principles embodied in a written constitution.

As in Britain the parliamentary system originated and reached its perfection, so the United States of America furnishes a perfect and mature example of the presidential system. 'Chief of State, chief executive, Commander-in-Chief, chief diplomat, chief legislator-these functions make up strictly the constitutional burden of the American President'. 'A number of political and social forces in recent years have brought the American Presidency to a state of immense power and influence. Its powers are huge, but they are of no real effect unless exercised through constitutional forms and within constitutional limits. No great policy, domestic or foreign, can be maintained effectively by a President without the approval of Congress in the form of laws and money and there is no way under the American Constitution for a President to force Congress to pass a law or spend money against its will. If the members of the Congress cannot force the President to resign by a vote of no-confidence neither can he dissolve the Congress.

'The most reliable single limitation on the American Presidency is the independent extence of a proud, jealous, watchful co-ordinate branch.'¹²

A President limited by the will of Congress, says Laski, is always like a sailor on an unchartered sea.³

A new variety of presidential system or more accurately a synthesis of parliamentary and presidential systems is found in the French Constitution of the Fifth Republic. Since December 1958, France has had a largely presidential regime which is complicated by operating in the guise of a parliamentary democracy. In normal times, the President's powers under the Fifth Republic are meant to 'initiate a moral magistracy.' He 'incarnates the national will,' but in times of emergency he assumes 'the character of a constitutional dictator.' Once armed with emergency power the French President can do anything but amend the constitution or dissolve the Assembly. He alone judges when the emergency arises and what is to be done. The result is a 'Hanoverian monarch masquerading as a Republic President who is also a head of state, guardian of the ark of the covenant, one head of a two-headed executive, mediator within his cabinet and between the government and the parliament and in a great crisis constitutional dictator.'⁴

According to *The Times*, the presidential system under the new constitution has a superficial resemblance to the American system, but it is General De Gaulle's Fifth Republic that offers a closer parallel. The real situation is the political order in Pakistan is modelled on neither the American nor the French system. Its roots lie in the socio-economic conditions of the country. Its emphasis is, no doubt, as in France, on the strong executive.

We have noted the reasons given by the Constitution Commission in favour of the presidential system and the arguments put forward by the political leaders who all seem to have favoured the parliamentary system. The Cabinet Sub-Committee which examined the report of the Constitution Commission accepted the Commission's recommendation for the presidential system, but introduced certain radical changes. The Cabinet Sub-Committee seems not to have given any reason for those changes nor to have added any

submissions in favour of the presidential system. However, a Government booklet issued to explain the main features of the new constitution has added the following arguments:

1. the presidential system has special advantages to offer to a nation which has just emerged out of a colonial past whose major requirement is political unity and which is embarking on an ambitious programme of social reform and economic development;
2. the presidential system, by giving executive authority to one individual with a mandate from the entire nation, will facilitate the growth of unity in the country.⁵

President Ayub in introducing the new constitution stated:

'We have adopted the presidential system as it is simpler to work, more akin to our genius and history and less liable to lead to instability—a luxury that a developing country like ours cannot afford.'⁶ The political leaders, however, continued to press the demand for a parliamentary system. In a joint statement made by the political leaders of different shades of opinion in East Pakistan they reaffirmed their preference for the parliamentary system. The controversy perhaps will continue and will have its impact on the politics in Pakistan. We should now review in detail the presidential system as introduced under the new constitution.

The President

Article 9 of the Constitution provides that there shall be a President of Pakistan. The Constitution Commission recommended a Vice-President but the idea of a Vice-President was dropped at the Cabinet-level discussions of the constitutional proposals. There were, however, views that it was desirable to have a Vice-President and that the Vice-President should be

from the wing other than that from which the President comes. This was also the suggestion of the Constitution Commission and would perhaps be a healthy convention in a country like Pakistan where there is a strong sense of regionalism. But it would bring also danger of a clash of personalities such as characterised Pakistan politics before 1958. The political stability obtaining since 1958 might be affected.

The President, who must be a Muslim not less than 35 years of age and qualified for election as a member of the National Assembly, is to be elected indirectly by an Electoral College in accordance with provisions outlined in the constitution itself. The lower age-limit for the President under the late constitution was 40 as against 35 under the new constitution.

The system of election, whether the President should be elected directly or indirectly, was discussed and examined in great detail by the Constitution Commission as well as by the people in general. The Commission favoured direct election although on the basis of a restricted franchise. It has been argued by the government that the restriction of franchise on the basis of literary and property qualifications would not be desirable since "interests of the educated and propertied class do not always coincide with those of the general mass of the people".⁷ Ultimately the system of indirect election through local government institutions was adopted in the constitution. The President is to be elected by an electoral College formed by not less than 80,000 electors, equally distributed between the two provinces. Each province is to be divided into not less than 40,000 territorial units to be known as electoral units (Article 155); by a recent amendment of the constitution the number of electoral units is raised from 80,000 to 120,000. Any citizen who is not less than 21 years of age, who is not of unsound mind and who is a resident of, or is deemed by law to be a resident of, an electoral unit will have the right to be enrolled on the electoral roll. The persons enrolled for

an electoral unit shall elect from among themselves a person of not less than 25 years of age who will be known as elector for that unit. The electors thus elected in both provinces form the electoral college of Pakistan and this Electoral College elects the President, by a majority vote.

The Electoral College is to have such other functions as may be conferred upon them by law, particularly in relation to matters of local government. Thus the Electoral College is elected not simply for the election of the President and the legislature but also to act as the institutions of local government. The critics of the system point out that, apart from the disadvantages of indirect election, it would wreck local government institutions by involving them in party politics. The argument put forward by the government is that if the Electoral College is divorced from affairs of local government it becomes the political forum and there is no means, specially for an unsophisticated electorate, to judge the members of the Electoral College on the basis of their concern for the public interest.

The system of election provided under the constitution of 1962 roused great controversy in the country. The indirect method of election was criticised by the political leaders of the old regime. Both inside and outside the National Assembly, the electoral system was widely debated and discussed. Subsequently President Ayub set up a Franchise Commission to examine the whole question. The then Law Minister declared that the Commission would enjoy 'the fullest freedom in making a decision. The Franchise Commission was not unanimous in its recommendation. The majority report favoured direct election both of the President and the legislatures, central and provincial, though they recommended indirect election of the President as an interim measure for the next election-on the grounds that they 'are not unmindful of the conditions now prevailing in the country and practical difficulties likely to be faced by the candidates in

running their candidature in a direct system at the next presidential election'.⁸ But the minority report which was also supported by the chairman of commission supported the indirect method of election of the President and direct method for the legislature—both central and provincial.

Subsequently the report of the Franchise Commission was thoroughly examined by a sub-committee of the Ministry of Law. The Committee was assisted by experts in the fields of law, political science and administration. The report of this committee was published in January 1964 and strongly supported the indirect system of election as provided under the new constitution. It was pointed out that in western countries election today takes place on the assumption that every adult member of the state can read literature supplied to him at the time of election; that he has requisite sense and intelligence to understand problems peculiar to his country and broad world events. But no realistic and pragmatic approach to politics in an Asian country like Pakistan can afford to make such an assumption. It was pointed out that real situation in Pakistan, as in many other new democracies of Asia and Africa, is that Western political institutions were imposed upon the people from above. The forms and mechanism of democracy in the new countries of Asia must be different from those of the Western countries where socio-economic conditions are utterly different. The masses of new countries are confused by western democratic institutions and the danger is that this confusion during the development of a new constitution may result in political and economic instability such as that from which Pakistan suffered so badly in the 1950s. It was further pointed out that in the West the expansion of the franchise was accompanied by an expansion of education. No such thing took place in a country like Pakistan. The result was that when the franchise was extended from about 14 per cent to an adult franchise in 1950 and elections to the provincial assemblies were held on the basis of direct elections, they were described by the Electoral Reforms Commission

set up in 1955 as 'a farce, a mockery and fraud on the electorate.' It is argued that with the indirect method of election there is likely to be the pressure of inducement. But the real situation is that as long as the voters are not properly educated and do not realise the implications of the right of franchise, there will be scope for malpractices, whether the system is direct or indirect. According to the report of the Election Commission on the elections through an indirect system held in 1959-60, malpractices were very few as compared with previous elections. The total number of tendered and challenged votes in West Pakistan was 13,487 only, which means that in over 17,000 votes there was not more than one case of personation, one of the lowest figures of personation recorded at any election held in Pakistan. Similar conclusions were drawn in the report on the first general election⁹ held in the country in 1964-65.⁹

The system of election was subsequently elaborately discussed in the National Assembly which preferred to continue the system as provided under the constitution of 1962 i.e., the President as well as members of the legislatures both central and provincial were to be elected through the process of an electoral college. The electoral issue is still a live question in the Pakistan political scene. Arguments can be given on both sides but it has to be admitted that the system as provided under the new constitution has the merit of facing squarely the problem of introducing representative institutions in a country where many requisites of the western type of democracy are either not developed or not fully developed. The fact is that the vast majority of Pakistan's 110 million people living in villages seldom know of the national and international problems facing their country. Sir Ivor Jennings once pointed out if there were a popular poll in any country in Asia or Africa, most answers would be 'do not know'.¹⁰ It is among this type of people that the scheme of Basic Democracy seeks to obtain political participation. President Ayub's system of Basic Democracy has been described as 'an

adaptation of the western concept of universal suffrage to make it fit an eastern traditional society without most of the social pre-requisites for intelligent political participation-all products of education.¹¹

Lord Bryce¹² who gave some thought to the relation of democracy with the peasant considered it important that the peasant should be in a position to vote for someone he knows personally. This is impossible in a large area. But as he rightly observed 'in a small unit people can know one another, learn to address one another, reach a sound judgement on the affairs that directly concern them, fix responsibility and enforce it.' It is on these considerations that President Ayub has introduced the new method of election and for the first time since Pakistan attained independence there has been a general election of the central and provincial assemblies as well as of the President under the present system of elections. It is neither pretended nor claimed that the system is free from defect or criticism but this was the first opportunity for the voters in Pakistan to give a verdict as to whom they should choose as their representative or their President. A test of democracy lies in free and open preparations for replacement of a ruling Prime Minister or a President: judged by that criteria it may be observed that gigantic preparations were made in the winter of 1964 to replace President Ayub. The foreign correspondents who came to review the election in Pakistan were struck by the freedom of expression of views enjoyed by the opposition parties and leaders in the so-called 'constitutional autocracy' of Pakistan during the election campaign. The author, who has made extensive study of that election, can testify that while there could be discussion about the merits of the system of election, there was no doubt that the election was fair and impartial. This was also conceded to him by a member of the judiciary who was also a member of the Election Commission.

When the constitution was implemented in 1962, Field Marshal

Mohammad Ayub Khan was made the first President of Pakistan in accordance with the result of the referendum held in February 1960. His term of office was for three years under Article 226.

Screening of the Candidates for Election to the Office of President

1. If the number of candidates for election to the office of President exceeds three, the Speaker of the National Assembly is to convene a joint session of the members of the National and Provincial Assemblies to select three of the candidates for election, the remaining candidates then being not eligible.
2. This screening is not applicable to a person who is holding the office of the President i.e. if the sitting President is also a candidate the number of candidates will be four.
3. The term of the President has been fixed for five years. A person is not eligible for re-election if he has held this office for a continuous period of more than eight years except that with the approval of a joint sitting of the members of the National and Provincial Assemblies a person may be eligible for election for more than two terms. In fact, with the approval of the legislatures there seems to be no limit as to the number of terms for which a person may be eligible to be re-elected as President (Article 166).

Impeachment and Removal of the President

On a charge of violating the constitution or of gross misconduct the President may be impeached by the National Assembly in accordance with a procedure laid down in Article 13; by this, one-third of the total members of the National Assembly must give written notice to the Speaker for the removal of the President. The notice has not to set out particulars of the

charge and it is to be transmitted to the President by the Speaker. The resolution for removal of the President is not to be moved in the National Assembly earlier than fourteen days or later than thirty days after the notice of the resolution. The President shall have the right to appear or be represented before the National Assembly when it discusses the motion for impeachment. The President is to be removed from office if the resolution for impeachment is passed by votes of not less than three-fourths of the total members of the Assembly.

A significant feature of the impeachment procedure is that if the resolution for removal of the President fails to obtain one half of the total number of members of the National Assembly the movers of the resolution will cease to be members of the Assembly. A similar procedure has been provided under Article 14 for the removal of the President on the grounds of his physical or mental incapacity.

The President is not allowed to hold any office of profit in the service of Pakistan but is not prevented from holding or managing private property. Protection of the President from legal proceedings while he is in office is provided under Article 166. Similar protection was provided in the 1956 constitution.

Powers of the President

Under Article 31, the executive authority of the Republic is vested in the President to be exercised by him in accordance with the provisions of the constitution and the laws. He is responsible for regulating the allocation and transaction of the business of central government, for establishing divisions of the government and also has to specify the manner in which the orders and instruments made in pursuance of the authority vested in him shall be expressed and authenticated. The constitution has conferred on the President

adequate powers not only for the carrying out or administration of laws enacted by the legislature but also for the conduct of foreign affairs and of war, he has military and legislative powers and the limited judicial functions of granting pardons and reprieves, etc. He is the ceremonial Head of the State, chief of the executive and also retains substantial power in law-making.

It was stated in the Government booklet explaining the new constitution that if the President is to function effectively as chief administrator of the nation, he should have the following powers:

1. he must be able to determine the main lines of administrative policy and to co-ordinate the activities for which he is responsible;
2. he must have the power to appoint and remove the personal of administrative agencies;
3. he must be in a position to control finances and lay down the financial policy;
4. he should be able to give a lead in matters of legislation as, being the chief executive, he has to find solutions for the problems of the country.¹³

An analysis of the various provisions of the new constitution reveals that the President has been given ample powers to play the role envisaged above. He is to make a number of key appointments. Thus he has the right to appoint the central Ministers (provincial Ministers are to be appointed by the Governors, with his consent and approval.). He has also the power to appoint principal military officers, Governors of the provinces the Advocate-General, Comptroller and Auditor-General, the judges

of the Supreme Court and of the High Courts of the provinces, the Election Commissioner, the Central Public Service Commission, the Advisory Council on Islamic Ideology, the National Finance Commission, the National Economic Council and many other important officials.

The supreme command of the Defence Services is vested in the President, to be exercised by him subject to law. He has the power (a) to raise and maintain the Defence Services of Pakistan and the reserves of those services, and (b) to grant commission and to appoint Chief Commanders of those services and to determine their salaries and allowances. Under the American constitution, the military powers of the President have been described as the undefinable residuum of power of which the President can draw (Brogan). Another scholar of repute has observed, 'authority as Commander-in-Chief of the Armed forces has rendered our President a ruler more powerful than any monarch of a modern western country (Parker).'¹⁴

The list of the powers granted to the President under the 1956 constitution was also comprehensive, but that constitution provided for a parliamentary system in which the President was expected to exercise his extensive executive powers on the advice of his Prime Minister and the Cabinet who were responsible to the legislature. Under the new constitution, the President would exercise these powers independently. There will be, no doubt, a Council of Minister but their advice is not binding on him, nor are his Ministers responsible to the legislature. The President, like members of the legislature, is elected by the people and will perform his role after receiving the mandate from the people.

The President and His Cabinet

The President may appoint a Council of Ministers to assist him in the performance of his functions. The constitution does not elaborate the exact

relationship between the President and his Council of Ministers. He is not bound to accept the advice of his Ministers. In a presidential system the Cabinet lacks the significance and importance it enjoys in a parliamentary system. This is illustrated by the role and position of the Cabinet in the United States of America.

The American President Cabinet does not correspond to the classic idea of the cabinet to which representative government based on the British parliamentary system has accustomed us. The American Cabinet is a body of Advisers to the President. It is not a Council of colleagues with whom he has to work and upon whose approval he depend. ¹⁵ Issue of the gravest importance need not be, indeed are not, submitted to the Cabinet at all. Votes are seldom taken on propositions and if taken are of no significance beyond securing a mere expression of opinion. This is illustrated by an incident related about President Lincoln who closed a great debate in the Cabinet in which he found every member against him with the announcement 'seven days, one eye, the eyes have it.' As pointed out in a recent study of the American Presidential "Cabinet, 'the Cabinet has no stereotyped and immutable role to play in presidential decision making and the President's own desire for, receptivity to, and use of advice is a key variable in determining the role for any particular cabinet.'¹⁶

The Ministers under the new constitution are to hold office during the pleasure of the President and may be removed from office at any time by the President without any reason being assigned for the removal. The expression 'during the pleasure, has a definite connotation and meaning in the parliamentary system and thanks to the conventions and practices that have developed in the British parliamentary system the collective dismissal of a Cabinet has become obsolete. This meaning and connotation are not usually applicable to a presidential Cabinet and the language of Article 118 makes it

sufficiently clear: 'A Governor, a Minister or Parliamentary Secretary appointed by a President and the Attorney-General, shall hold office during the pleasure of the President and may be removed from office at any time by the President without any reason being assigned for his removal.'

The President is empowered not only to dismiss a Minister but also to disqualify him from public office for a period of five years on a charge of gross misconduct in relation to his duties. The Minister will have the option of agreeing to the disqualification or of having the matter referred to a Tribunal for inquiry. In the case of a central Minister the Tribunal shall consist of a Judge of the Supreme Court appointed by the President after consultation with the Chief Justice. The constitution provides that if a member of the National Assembly should be appointed as a member of the President's Council of Ministers he would lose his seat in the Assembly, but this provision was amended by the President in exercise of his powers to remove any difficulties in the working of the constitution within the first three months of the commencement of the constitution. The amendment would have greatly altered the character of the Council of Ministers. The Ministers as members of the legislature would have some followers in the legislature and as such would exercise an influence unusual in a Presidential Cabinet. The strong sentiment among the politicians in favour of some form of parliamentary system in Pakistan would also consolidate and strengthen their position. As the President has to depend on the support of the legislature it is not conceivable that a Minister with a powerful backing in the legislature would be treated as a mere adviser. The Presidential order enabling Ministers to retain their seats in legislatures was, however, declared *ultra vires* by the Supreme Court of Pakistan which upheld the earlier decision of the Dacca High Court in this matter. There is no provision for a Prime Minister although a particular Minister has been appointed as 'Leader of the House' and as such will probably enjoy superior status. Ministers have the right to

speak and take part in the proceedings of the National Assembly or any of its committees but are not entitled to vote (Article 25). In the United States the members of the American Presidential Cabinet cannot, under the constitution, be members of either House, and tradition, dating back to Jefferson's fear of the power of persuasion, prevents them from taking part in congressional debates. They may give information to the Congress and may appear before committees in defence of the measures they had recommended but, in general, American Cabinet Ministers are separated from the legislative organs of the country.¹⁷ Proposals were made on several occasions to secure the right for Ministers to speak though not to vote on the floor of the Congress, but the proposals never penetrated deeply into the popular mind. The tradition of the separation of powers in the American system has proved to be too strong for any such proposal to be entertained.

The Constitution Commission favoured the idea of the Ministers taking part in the proceedings of the National Assembly. The Cabinet Subcommittee also seems to have favoured the idea of the executive supplying information to the legislatures, but it did not perhaps favour any constitutional right to be given to the legislatures to summon a Minister or an officer, although the legislature could request the President to direct a particular Minister or an officer to appear before them. The position as it seems to have been established during the five years 1962-67 is that there will be a close relationship between the Council of Minister and the legislature although they will not be responsible to or removable by the legislature. There is much to be said in favour of keeping the executive organ in touch with the legislative body. The importance of close and harmonious relationships between the executive and the legislature in a presidential system can hardly be exaggerated. In the United States the party machinery plays a considerable role in producing a close relationship. When the American President wants some thing to be done by the legislature he can influence the

legislatur through his friends in the party. Similarly the President is kept informed of the trends and tendencies in the legislature through the party machinery. In Pakistan well-organised political parties are yet to emerge. Hence, the vacuum which is filled in the United States by the party machinery has to be filled through constitutional devices, such as the presence of Ministers in the Legislature, question-asking, adjournment motions, etc. The President is also given the power to appoint from amongst the members of the National Assembly parliamentary Secretaries who are to perform such functions as the President may direct. It is, however, too early to indicate or predict any specific relationship that may evolve between the President and his Council of Ministers. In any case, this will depend not merely on the actual wording of the constitution or provisions but rather on a number of factors, such as the personalities of the President and the Ministers and the party systems and political forces operating at a particular time and in various circumstances.

The President and the Legislature

The presidential system is based on the theory of the separation of powers between the legislature and the executive, the executive usually not being an integral part of the legislature though retaining considerable power and influence in the legislative organ. Under the parliamentary system the executive and the legislature are united and the Head of the State is an integral part of the parliament. This is in clear contrast with the presidential system which prevails in the United States where the President is not an integral part of the Congress. The expression 'King in Parliament' has a definite connotation and meaning in a parliamentary system. We find, however, the peculiarity that under the presidential system adopted in Pakistan the President is an integral part of the legislature. Article 19 of the new constitution lays down that the Central Legislature 'shall consist of the President and one House to be known as the National Assembly of Pakistan'.

This idea of the President forming a constituent and integral part of the legislature, seemingly out of tune with the separation of power between the legislature and the executive under a presidential system, is perhaps a legacy of the long tradition of closer association between the executive and legislature under the parliamentary system.

The President may summon the legislature and prorogue it (except when it has been summoned by the Speaker). The Speaker of the National Assembly can also summon the Assembly at the request of not less than one-third of the total number of members of the Assembly and when the Speaker has summoned the legislature it is he who will prorogue it and not the President (Article 22).

The President is also given power to dissolve the National Assembly at any time subject to the condition that in case of dissolution the President will also have to quit office and there will be a fresh election of both the President and the National Assembly. This is, no doubt, a healthy check against any arbitrary dissolution of the Assembly as the President himself will have to face the hazards of an election, and it is not likely that he will exercise the power frequently or in a light manner. The idea of summoning, proroguing and dissolving the legislature by the President seems again more in accord with a parliamentary than a presidential system. In the United States, the President can summon an extraordinary session of the Congress but he cannot summon an ordinary session nor can he dissolve the legislature. As a further safeguard, the President is not given power to dissolve the National Assembly when it is to consider a resolution of impeachment against him under Article 13 or 14.

In case of a difference of opinion between the President and the National Assembly, the President may call for a referendum on the matter to

be conducted among the members of the Electoral College. The matter to be referred to a referendum will be put in the form of a question that is capable of being answered either 'yes' or 'no'.

The President has the right to address the National Assembly and send messages to the Assembly. Under the American Constitution, the President has the right to address or send messages to the Congress. As noted earlier, the members of the President's Council of Ministers and the Attorney-General have the right to speak in and otherwise take part in the proceedings of the National Assembly or of any of its Committees, but are not entitled to vote.

There are certain categories of Bills which cannot be introduced or moved in the National Assembly without the previous consent of the President, e.g. a Bill relating to preventive detention.

The President has the right to veto Bills passed by the National Assembly. The American President has also veto power though not an absolute one, in that the Congress can override his veto if the Bill is re-passed by a two-third vote in both Houses. The Pakistan Constitution gives a more comprehensive and effective veto power. When a Bill has been passed by the National Assembly, the President may do one of the following:

1. assent to the Bill;
2. withhold assent from the Bill;
3. return the Bill to the National Assembly with a message requesting that the Bill or a particular provision of the Bill be reconsidered and that amendments suggested in his message be considered.

If the President does not take any of these three steps, the Bill will be

deemed to have received his assent after the expiry of thirty days.

If the President withholds assent from a Bill, the national Assembly may reconsider it and if the Bill is passed again by the votes of not less than two-thirds of the total number of members of the members of the Assembly, the Bill shall again be presented to the President for assent. If the President returns the Bill for reconsideration and if the Bill is again passed by the Assembly, without amendment or with amendment as suggested by the President in his message, by a simple majority vote, or if the Bill is passed by the Assembly with amendments not suggested by the President by votes of two-thirds of the total members of the Assembly, the Bill shall be presented to the President for assent.

Thus the Bill will be sent, for the second time, to the President for consideration and he can do either of the following:

1. assent to the Bill;
2. refer the Bill to a referendum under Article 24 in the form of a question whether the Bill should or should not receive assent.

If the Bill receives the majority votes of the total number of members of the Electoral College, the President shall be deemed to have assented to the Bill. So we find that the veto power of the President under the Constitution can be quite effective. If he withholds assent, it must receive an absolute majority vote of two-thirds of the Assembly's members; even then the President can persist in refusing his assent and refer the matter to a referendum. Thus the President veto can be overcome only by an absolute majority vote in the legislature and the majority votes of the Electoral College. This will certainly not be an easy process and the presidential veto power, therefore, can be quite effective.

The President, under the new Constitution, enjoys the power to frame his policies in accordance with the mandate he receives at the time of election. The legislature cannot frustrate this important and vital role, which is the essence of the new political order.

The Legislative Power of the President

While veto power can be regarded as the negative aspect of the President's legislative power, under Article 29 he has been given the positive power of legislation to make and promulgate ordinances which shall have the same force of law as Acts of the central Legislature. The President can promulgate an ordinance when the National Assembly stands dissolved or not in session and when he is satisfied that circumstances exist which necessitate immediate legislation. Such an ordinance, however, must be laid before the National Assembly as soon as practicable. If the ordinance is approved by the National Assembly it is deemed to have become an Act of the central Legislature. In case of disapproval by the Assembly, the ordinance ceases to have any effect after the expiry of the prescribed period. The power of the President to make laws by ordinance is restricted to those matters with respect to which the central legislature has competence. The power to legislate by ordinance was provided under both the interim and the 1956 constitutions.

Powers of the President in Financial Matters

Critics of the presidential system in Pakistan stressed again and again the possibilities of deadlock between the President and the legislature over the budget in the absence of democratic traditions and conventions like those which have grown in the United States of America. Nobody could deny or dismiss altogether the validity of this apprehension. The Constitution Commission examined this issue in great detail and... suggested a procedure by which the ultimate control of the public purse by the legislature was

retained by providing the President with a limited power of certification for a period not exceeding one year. But if the deadlock should continue for more than one year both President and the legislature would have to face election. When the proposals of the Constitution Commission were reviewed by the Cabinet Sub-Committee, the recommendation of the Commission in respect to budgetary matters was not accepted. The Cabinet Sub-Committee was supposed to have evolved a new formula under which no new taxation or increase in the existing taxation or in existing expenditure should take place unless the National Assembly approved. President Ayub Khan while introducing the new constitution stated that in order to reduce chances of conflict between the Assembly and the President, to prevent paralysis of the administration and to ensure continuance of on-going schemes, it had been provided under the constitution that a previously-passed budget should not be altered without the permission of the President and new taxation should not be levied without the consent of the National Assembly. This, according to President Ayub Khan, was based on the theory that the President is finally responsible to the country for administration and members of the National Assembly represent the feeling of the people who have to pay taxes.¹⁸

The Constitution makes a distinction between recurring expenditure and non-recurring expenditure. While the Assembly will have the power to discuss, debate and pass opinion on non-recurring expenditure it will have no power to reject this item of the budget. It is only with regard to new expenditure and new taxation that the legislature has been given unqualified power. Thus, as in De Gaulle's Constitution, President Ayub also specifies certain matters which are inherently executive in nature and defines a 'domain of the law' to which parliament is restricted.

Custody of the federal consolidated fund, including payment of money into and withdrawal of money from that fund, and all matters

connected with public money and public accounts are to be regulated by an Act of the central Legislature or, subject to any such Act, by rules made by the President. The President is to cause the budget the annual financial statement to be laid before the National Assembly. The financial statement is divided into two parts, one showing the expenditure charged upon the consolidated fund, the expenditure which the National Assembly may discuss but cannot vote upon (Article 41). Expenditures charged upon the consolidated fund include:

1. Remuneration of the President and other expenditures relating to his office.
2. Remuneration payable to:
 - (a) Speaker and Deputy Speaker or other members of the National Assembly;
 - (b) judges of the Supreme Court;
 - (c) members of the President's Council of Ministers;
 - (d) the Chief Election Commissioner;
 - (e) the Comptroller and Auditor-General;
 - (f) members of the Advisory Council of Islamic Ideology;
 - (g) Parliamentary Secretaries appointed by the President;
 - (h) members of the Central Public Service Commission.

If may be added here that under the 1956 constitution the salaries of Ministers were not included under this category of expenditures.
3. Administrative expenses of the National Assembly, Supreme Court, Comptroller and Auditor-General, Chief Election Commissioner, any Election Commission, Advisory Council of Islamic Ideology and the Central Public Service Commission.
4. Debt charges binding on the Federal Government.
5. Sums required to satisfy any judgement, decree or award against Pakistan by any Court or Tribunal.

6. Sums declared by the constitution or by an Act of the Central Legislature to be so charged.

The significant innovation of the financial procedure is the further sub-division of the expenditure into 'recurring expenditure' and 'non-recurring expenditure'. The new expenditure has been defined under Article 14 as follows:

1. Where the expenditure for any particular project approved by the National Assembly under Article 42 exceeds by more than 10 per cent the approved expenditure for that year.
2. Any other expenditure which is not recurring expenditure.
3. Any recurring expenditure for which no provision was made as recurring expenditure in the previous financial year.
4. Any excesses by more than 10 per cent of a recurring expenditure.

The 'recurring expenditure' has been defined as that kind of expenditure which is required from year to year. With respect to recurring expenditure the Assembly may discuss it but have no right to vote on it. It is only with respect to new expenditure as defined under the new constitution that the Assembly can vote.

As a further safeguard for constitution of the economic development projects it has been provided under Article 42 that the financial statement may specify in relation to a project the sum required not for the current year but also for the subsequent years of the project. Once the Assembly has approved the project the expenditures for the subsequent years may be placed before the Assembly but it will have no right to reject them. This particular provision regarding the development projects was suggested by the Administrative Committee which examined proposals before the constitution was finally drafted. The argument in favour of this restriction

on the powers of the legislature is that these projects are vital to the economic development of the country and as such they should not be left to the whims of the legislature. Once the Assembly has approved them, it should be bound to grant money for the subsequent years. It was pointed out that in the past development projects were often subjected to partisan or sectional considerations and consequently had been hampered. The new financial procedure was justified by the Government on the following grounds:

'If the passing of the entire budget is left to the discretion of the legislature- they are by: this given the power of bringing the administration to a stop should they desire, by simply refusing to pass the budget. To avoid such an eventuality that portion of the budget which concerns expenditure up to the level approved in the previous financial year will be discussed by the legislature but no item of this will be put to vote or amended, except with the consent of the President. This ensures that the current programme of the government is not brought to a standstill by the legislature, but at the same time it provides for the actions of the executive to be discussed and brought to public notice.'¹⁹

All these innovations of recurring, new expenditure and expenditure for projects extending over several years have no doubt limited the powers of the legislature. The Assembly thus has power to discuss, debate and express opinion on recurring expenditures but no power to reject them. Only with regard to new expenditure and taxes has it unqualified powers. It thus means that effective control of the legislature is limited to a small percentage of the total amount involved in the financial statement. Judged by the criteria of a western democratic constitution this is no doubt a deviation from the accepted principles of the unqualified powers of the legislature over the public purse. It has to be, however, pointed out that the decline of parliament

which has received explicit recognition in President Ayub's constitution can be seen in most of the new Asiatic democracies. There is talk of it even in India's much publicised 'one party democracy.' In an illuminating study of political systems in new countries Pierre Rondot said:

'...a quarter of a century ago, the East desired above all, parliaments. Today almost everywhere it is turning its back on parliaments. Once the national movements in the East considered the parliamentary regime as the most efficacious means of self-expression and the most desirable political achievement. Not so today. Most of these eastern nationalisms now show nothing but defines of parliamentarianism. While some requidiate it completely, others seek to limit or at least modify it. Far from considering it as the instrument and achievement of a policy of emancipation, many denounce it as an illusion, if not a fraud.'²⁹

In Pakistan itself, this trend was already visible before the emergence of the present regime. When Pakistan came into existence, its legislature was supposed to be a sovereign body entrusted not only with the task of sustaining the government, but also with the task of framing a constitution for the country. But the executive had a much older and stronger tradition than parliament which soon became subordinate to it. Steadily parliament declined in importance. Before being given a formal burial in October 1958 it had become a mere shadow.

President Ayub has expressed his willingness to increase the financial powers of the legislature if the leaders of the opposition groups in the National Assembly could make agreed recommendations to that effect; talks are still going on and it is expected that the financial powers of the legislature will be increased in course of time. At the time of writing this volume, the news papers were speculating regarding its possible discussion in the December 1967 session of the National Assembly to be held in Dacca.

After consideration of the annual budget estimate by the National

Assembly, the President has the responsibility of causing the schedule of authorised expenditures to be prepared showing (i) the sums to meet expenditures upon the central consolidated fund, (ii) sums granted or deemed to have been granted by the National Assembly under Article 41. No money is to be withdrawn from the central consolidated fund unless provided for in the schedule of authorised expenditures as authenticated by the President laid before the National Assembly for information.

Provisions for supplementary and excess budget estimate as well as provision for unexpected expenditures have been provided under Article 44 and 45 respectively. If for any reason the schedule of authorised expenditure for a financial year cannot be authenticated before the commencement of that year, the President may authorise withdrawal from the central consolidated fund of amounts to meet expenditure provided for in the annual budget estimates, but this is restricted to expenditure charged upon the central consolidated fund and recurring expenditure.

No proposal relating to Money Bills viz, no proposal for imposition of taxation or for the appropriation of public revenues or for borrowing of money and similar matters can be made except with the recommendation of the President. As regards taxation it has been provided under Article 48 that no tax may be levied except by or under the authority of an Act of the central Legislature.

Emergency Powers of the President

We have pointed out that the emergency of the Head of the State were elaborated under the Government of India Act 1935, and the post-independent constitutions of India and Pakistan retained these emergency provisions of the Government of India Act, 1935. The 1956 constitution provided ample emergency powers for the executive. We have also referred to the recom-

recommendations of the Constitution Commission which favoured liberalization of the emergency provisions under the 1956 constitution. Under Article 30 of the new constitution, if the President is satisfied that a great emergency exists in which Pakistan or any part of Pakistan is threatened by war or external aggression or in which the security or economic life of Pakistan is threatened by internal disturbances beyond the power of a provincial government to control, the President may issue a proclamation of emergency. The proclamation of emergency has to be laid before the National Assembly 'as soon as it is practicable, there being no fixed time-limit. The President can revoke a proclamation when satisfied that the grounds on which he issued it have ceased to exist.

During a time of emergency, the Presidents authorised to make and promulgate such ordinances as may appear to him to be necessary to meet the emergency. The President may exercise this extraordinary legislative power even when the National Assembly is in session. This seemingly, was suggested by the Cabinet Sub-Committee as also that the obligation to place an ordinance before the legislature for approval should be suspended for the duration of the proclamation. The legislature, however, according to the recommendations of the Cabinet Sub-Committee,²¹ would be free to pass a resolution disagreeing with any particular measure taken by the President although under Article 30 the National Assembly has no power to disapprove of the ordinance. An ordinance made in an emergency has to be laid before the National Assembly 'as soon as it is practicable', there being again no time-limit. With the revocation of the proclamation of emergency the ordinances made by the President cease to have effect unless they have been approved by the National Assembly. One significant aspect of the emergency powers of the President under the new constitution is that the President's power to make laws by ordinance is restricted within the legislative competence of the central Legislature. This was not the case under Article

191 of the 1956 constitution which specified three types of emergencies:

1. emergency arising out of war or internal disturbances;
2. emergency arising out of the failure of constitutional machinery in a province;
3. financial emergency.

Part XI of the 1956 constitution (Articles 191-6) contained elaborate provisions to deal with these different kinds of emergencies. Emergency power under the new constitution is covered under one Article (30). It does not specify the different types of emergency. The provision relating to the failure of constitutional machinery in a province does not arise under the new executive system as the President will have direct control over the provincial executive which is not responsible to the provincial legislature.

The propriety of emergency action, as pointed out by Professor Karl J. Friedrich, is universally recognised in modern constitutional states, particularly those which are federal in character. Federalism implies plurality of powers and authorities and its weakness may become apparent in time of war or any other crisis which requires unified and centralised, if not totalitarian powers and control. If democratic conventions and traditions are well established, emergency provisions need not lead to 'constitutional dictatorship,' but in their absence there is of course the risk of such powers giving rise to authoritarian tendencies. The French constitution of the Fifth Republic gives wide emergency powers to the President. Under Article 16 of the French constitution when the institutions of the republic, the independence of the nation, the integrity of its territory or the execution of international commitments are gravely and immediately threatened and the regular functioning of the constitutional public authorities is interrupted, the President of the Republic takes the measures required by the circumstances after consultation with the Prime Minister and the President of the

Assemblies as well as with the Constitutional Council. It has been pointed out that once emergency powers are evoked there are no effective legal safeguards against the authority of the French President.

When the emergency provisions of the late constitution were debated in the Constituent Assembly, critics pointed out the misuse of emergency provisions under the Interim Constitution (1947-1956). A proclamation of emergency under the 1956 constitution as well as under the new constitution is to be laid before the National Assembly 'as soon as practicable.' The phrase 'as soon as practicable' is vague and it was demanded that a definite time-limit should be prescribed. The Indian Constitution lays down that a proclamation of emergency shall cease to operate at the end of two months unless approved within that period by a resolution of both Houses of the Indian Parliament. It is, however, to be pointed out that though the new constitution does not prescribe any time-limit there is a safeguard under Article 109 which lays down that there shall be at least two sessions of an Assembly in a year and not more than 180 days shall intervene between the last sitting of an Assembly in one session and its sitting in the next session. As there is no provision that during an emergency the President will have any power to suspend any clause of the constitution, it is clear that the Assembly must be summoned within 180 days of its last session, and this gives indirectly a time-limit to the period during which President may rule without the aid of the National Assembly. It is no doubt an improvement that emergency power under the new constitution does not give the President power to suspend any clause or article of the constitution. The 1956 constitution had given him power to suspend some parts of the constitution. Thus under Articles 191 and 193 of the late constitution, the President could suspend the operation of any provision of the constitution relating to any body or authority in the province except the High Court. No such power is given under the new constitution.

The Central Legislature

The new constitution like the 1956 constitution provides for a unicameral system whereas most existing federal systems have a bicameral system. The draft constitution is made by the first Constitution Assembly of Pakistan provided for a second chamber. The Constitution Commission also recommended a bicameral system. It favoured the idea of giving some executive authority to the Upper House as is enjoyed by the American Senate in matters of making important appointments and treaty-making. The Cabinet Sub-Committee seems not to have favoured the bicameral system and the constitution accordingly provides that the central legislature of Pakistan shall consist of the President and one House to be known as the National Assembly of Pakistan. The National Assembly was to consist of 156 members on the basis of parity of representation between East and West Pakistan viz. half elected by constituencies in East and half by constituencies in West Pakistan. Six seats are reserved for women—three from East, three from West. Whereas under the late constitution the seats reserved for women were for a period of ten years, there is no such time-limit under the new constitution. Women can also contest other seats in the National Assembly. Thus female citizens in Pakistan enjoy a double franchise. The term of the National Assembly is fixed for five years unless it is earlier dissolved by the President. We have already examined his power to dissolve the Assembly.

The members of the National Assembly are to be elected under the same system as provided for election of the President i.e. indirectly by the members of the Electoral College. We have already examined the implications of the indirect method of election while discussing the election of the President.

A candidate for election to the National Assembly must be 25 years of age and his name must appear on the electoral roll for any electoral unit.

The constitution specifies the disqualifications which will prevent a person from being, elected as a member of the National Assembly. A person shall not, at the same time, be a candidate for election to more than one seat in any Assembly or to a seat in more than one Assembly. Under the late constitution a person could seek election from more than one constituency although he was not to be allowed to be a member for two or more constituencies. As under the 1956 constitution no person is allowed to be a member simultaneously of the National Assembly and a Provincial Assembly. Double membership was permitted under the interim constitution and it caused much inconvenience and many complications in politics.

The power of the President and the Speaker to summon, prorogue or dissolve the National Assembly have already been discussed. By Article 22(3), in the event of the offices of the President and of the Speaker and Deputy Speaker of the National Assembly being vacant, the Chief Justice of the Supreme Court may summon the National Assembly.

A member of the National Assembly will lose his seat if he remains absent for thirty consecutive sitting days. The relevant clause under the late constitution was for sixty consecutive sitting days.

The National Assembly chooses the Speaker and Deputy Speaker from among its own members. They may be removed by a resolution of the Assembly passed by a majority of the total members. When the National Assembly is dissolved, the Speaker or the Deputy Speakers retain their offices until the first meeting of the newly elected Assembly.

As pointed out earlier there are to be at least two sessions of the National Assembly in a year with not more than 180 days intervening between the last sitting of an Assembly in one session and its first in the next

session. The principle seat of the National Assembly is at Dacca. In this the new constitution goes further than that of 1956 under which it was provided that at least one session in a year should take place at Dacca. This has been done to satisfy the grievances of East Pakistan and to remove the sense of isolation which the East Pakistanis felt because of the distance between their province and the seat of the government. It has further been provided that Dacca should be a second capital of the Republic.

The National Assembly frames its rules of procedure and the validity of any proceedings in the National Assembly may not be questioned in any Court. The usual procedure in the National Assembly is for decision by a majority of votes of the members present but in some specific cases such as the impeachment of the President, overriding of the President's veto and amendment of the constitution, an absolute majority is required.

The usual techniques employed under the parliamentary system to control the executive by the legislature have been provided under the Rules of Procedure as framed by the National Assembly of Pakistan which in fact are little different from those of its predecessor and it seems that *May's Parliamentary Procedure* is still regarded as the main source of reference for the National Assembly. Familiar devices of the parliamentary system such as 'adjournment motion', 'cut motion', 'questions', etc., are provided under the new Rules of Procedure. A motion for an adjournment of the business of the Assembly for the purpose of discussing a definite matter of recent and urgent public importance may be made with the consent of the Speaker (Rule 47) and in the very first session of the National Assembly a number of adjournment motions were put forward. Similarly the first hour of every meeting of the National Assembly is to be available for the asking and answering of questions (Rule 30) - a procedure which is more in tune with the parliamentary than with the presidential system. A member may ask

five starred questions and five unstarred questions on any day on matters of public concern within the special cognisance of the Ministers of Parliamentary Secretaries.

Like the first and the second Central Legislatures in Pakistan, the present National Assembly has set up a number of Standing Committees assigned to each Ministry or Division of the central government including a Committee on Public Accounts. A standing Committee has power to call for an examine the records of the central and provincial governments and to summon and examine officials of the central and provincial governments concerned. The actual fate of these committees under the parliamentary system in Pakistan was rather disappointing; they seldom met or performed any useful function. It is too early to predict how they will fare under the new constitution.

No member of the Assembly is liable to any proceedings in any court in respect of anything said or any vote given by him in the National Assembly or any of its Committees. The privileges of the National Assembly, the Committees, the Members thereof and a person entitled to speak therein may be determined by law. Article 104 provides that if a member of the National Assembly is elected as President or appointed as a Governor or Minister or to any other office of profit in the services of Pakistan he shall cease to be a member of the Assembly.

There are two interesting and novel provisions under the constitution with regard to 'instruction in law-making' and 'conducts of members'. Article 112 provides that the Speaker of an Assembly shall make such arrangements as are necessary to ensure that the members of the Assembly understand the function of the Assembly as an organ of the State and of their responsibilities as members. Similarly, Article 113 provides that when the

Speaker of an Assembly is satisfied that a member of the Assembly has committed a breach of the rules framed by the Assembly relating to the conduct of the members in such a way as to have been guilty of gross misconduct he may refer the matter for inquiry to the Supreme Court (in case of the National Assembly) or to the High Court (in the case of a provincial Assembly) and if the Court is satisfied that the member has been guilty of gross misconduct, he ceases to be a member of the Assembly. Such stringent provisions regarding the instruction and discipline of members may seem to be a curious and anomalous phenomenon in any representative form of government. It is, however, to be pointed out that incidents in the Assembly under the previous constitution, leading to the death of a Deputy Speaker and the beating of a Speaker, probably influenced the framers of the present constitution to impose such stringent measures.

The Provincial Executives and Legislatures

The provincial legislatures and executives are smaller replicas of the national, subject to overriding control and supervision by the President over the provincial executives. The provincial executives under the new constitution are directly subordinate to the President inasmuch as the provincial Governor, the Head of the provincial executive, is appointed by and holds office during the pleasure of the President. Similar was the provision under the 1956 constitution, but it must be remembered that under the late constitution the real executive authority in the provinces was exercised by the provincial cabinets which were responsible to the provincial legislatures. Under the new constitution, the Governor is not merely a figurehead but the holder of the real executive authority in the province. The provincial cabinet is responsible to the Governor who, however, cannot appoint or remove a provincial Minister without the concurrence of the President. It is further provided that the Governor of a province shall in the performance of his functions be subject to the direction of the President

(Article 66)

Relations between the provincial cabinet and the Governor and the provincial executive and the legislature are more or less the same as in the central government. The procedure for the dissolution of a provincial Assembly is, however, different. In case conflict between the Governor and the provincial Assembly, the conflict may be referred to the National Assembly and if the National Assembly should decide in favour of the Governor and if the President concurs, the Governor may dissolve the provincial Assembly. Although it is not clearly provided what should happen if the National Assembly should decide the conflict in favour of the provincial Assembly, it seems obvious that in such a case the President would have to remove the Governor.

The financial procedure in the provincial legislature resembles that of the central legislature and the powers of the provincial legislature in respect of money matters are similarly curtailed.

A Revealing Draft Constitution

Although the presidential system is introduced for the first time under the 1962 constitution, there was an interesting constitutional draft prepared by Sir Ivor Jennings in 1955 with some sort of presidential form of government in view for Pakistan. Under this draft constitution, the Presidential and the Vice-President were to be elected by the National Assembly and they would hold office until their successors assumed office. The National Assembly was empowered to pass a resolution by a majority of the total number of members that the President or the Vice-President should be removed from office because (a) by reason of physical or mental disability he was incapable of adequately performing the duty of his office, (b) by reason of illegal or unconstitutional action or conduct unbecoming a President or a Vice-

President, as the case might be, he was unfit to hold the office. But the removal of the President and the Vice-President, would not be given effect until a full bench of five judges appointed by the Chief Justice of Pakistan should determine the allegation made in the resolution of the National Assembly. So the tenure of the President and the Vice-President were not dependent entirely on the will of the legislature and they were given a fixed tenure of office as in the presidential system. Provision was made for the President to appoint a Cabinet which would hold office during his pleasure. It was not made responsible to the legislature and the President could select the members of his Cabinet from or outside the legislature. It was provided that the executive authority of the central government should be exercised under the general direction and control of the Cabinet, but the President was given unqualified power to appoint and dismiss a member of the Cabinet. He has also power to dissolve the National Assembly and was given a number of special powers to be exercised by him without reference to the Cabinet. He could, for instance, make treatise, declare war and make peace, exercise his functions as Commander-in-Chief, and accept and act upon a recommendation of the Federal Public Service Commission or the Chief Justice of Pakistan. So, in fact, the real executive authority and power were to be exercised by the President who would be elected by the National Assembly, but once elected had more or less a fixed tenure.

An interesting comparison may be made between the financial procedure as suggested under the presidential system of this draft constitution of 1955 and that under the new constitution. As we have noted above, the powers of the central and the provincial legislatures in respect of money matters were curtailed under the new constitution, only a small fraction of the total budget coming to the legislature for approval. The 1955 draft provided that if the National Assembly should fail to pass an appropriation bill before the beginning of the financial year to which it would relate, the

President might by ordinance continue in operation for that financial year the appropriation act relating to the preceding financial year and the ordinance would have full force and effect as if it were an Act of Parliament. There was, however, a time-limit to the President's power of certification of the central budget by means of an ordinance. No ordinance relating to an appropriation bill could be promulgated for two consecutive financial years. It was further provided that if the National Assembly should refuse any demand for grant in respect of any financial year, notwithstanding that a demand for a grant in respect of the same service had been voted in the previous financial year, the President might, by ordinance, authorise expenditure from the federal consolidated fund for that service to an amount not exceeding the amount voted in respect of that service in the preceding financial year. The provision relating to 'recurring expenditure' under the new constitution can be compared with this provision of the 1955 draft constitution. A further restriction on the power of the National Assembly in respect of money matters was the provision that if the National Assembly in respect of any demand for a grant voted an amount less than the amount demanded, the President could, by ordinance, authorise expenditure to an amount not exceeding the difference between the amount voted and the amount voted for that service in the preceding financial year.

From the above analysis of the financial procedure under the draft constitution of 1955, it appears that long before the emergency of the martial law regime in Pakistan, the idea of curtailing the powers of the legislature was entertained and devised by the framers of the constitution. This was devised and planned by those who now talk loudly about 'restoration' of parliamentary democracy.

It is too early to predict how the presidential system provided under the new constitution will evolve or how far it will meet the particular

requirements and conditions of the country. Those who make constitutions are often greatly influenced by the errors of the past and to that extent sometimes misjudge the present and the future. When the Pakistan constitution was in the process of being reshaped, the framers of the new constitution were greatly influenced by the political instability and confusion from which the country had suffered under previous constitutions. No doubt, economic progress was greatly hampered by the ruthless scramble for power among the politicians. No patriotic elements could view with equanimity the threats and challenges to the country's progress and security from the constant struggle among the party factions and party leaders. Nor can anybody disagree with President Ayub Khan's diagnosis that 'our requirements are for development, progress and awakening.' As the *Round Table* points out an under-developed country like Pakistan with its agricultural economy and a disturbingly increasing population has to develop at a very rapid pace not only to provide a better standard of living for her masses but for her very survival. As such what she needs, above all, is a strong, stable and efficient administration.²³ The present constitution reflects the anxiety to ensure political stability and economic progress. There are, however, two inherent dangers in the relationship between the executive and the legislature:

1. political instability and interference by the legislature in the day-to-day administration of the country.
2. the possibility of arbitrary government.

While the present constitution has rightly taken steps against political and economic instability as experienced in Pakistan in the past, it may be necessary in the course of the working of the constitution to provide some additional safeguards against the danger of arbitrary government. With a sincere and well-meaning President there may not be any such risk. However, there is no guarantee against arbitrary government under an unscrupulous

pulous President. A constitution should not be identified with a person. A constitution may have to be worked out under different officials and in different circumstances and therefore should take note of possible eventualities.

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UNIT SEVEN

Contents

**EMERGENCE OF NEW
SOCIO-POLITICAL
AND ECONOMIC
FORCES**

**7.1 SOCIO-POLITICAL AND
ECONOMIC POLICIES
OF AYUB KHAN**

Reading 1. Political System of Pakistan
and public policy:
Essay in interpretation:
(Saeed Shafquat)

7.2. AMENDMENTS IN 1962 CONSTITUTION

Reading 2 From crisis to crisis
(Herbert Feldman)

In this reading passage an attempt has been made to analyse Ayub's policies which caused the transformation of trader-merchants class into financial-industrial groups. Consequently new socio-political forces emerged in Pakistan which played a vital role in power politics.

We hope this reading passage will help you to critically analyse Ayub's Khan's development politics. (Compiler)

READING - 1

(Excerpt from Political System of Pakistan and Public Policy: Essays in interrelation, by Saeed Shafiqat, published by Progressive publisher, Lahore; 1988. pp. 171-192.

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PUBLIC POLICY, FINANCIAL - INDUSTRIAL GROUPS AND DEVELOPMENT OF ECONOMIC INSTITUTIONS IN PAKISTAN The Experience of Sixties

This article will examine the relationship between policy making and development of financial-economic institutions in general and transformation of trader-merchant class into financial-industrial groups in particular under the regime of President Mohammad Ayub Khan. The purpose is to analyze the policies how they were formulated and which groups benefited from these. It will be argued that specific policies led to the consolidation of economic institutions and facilitated the development of financial-indus-

trial groups.'

The military regime under president Mohammad Ayub Khan (1958-69) created economic institution: Internally it fostered an alliance between the military bureaucratic elites and the financial industrial groups. Externally, the regime played the role of a bridge between the indigenous financial industrial groups and the international aid donor agencies, particularly the United States. By expanding these institutional linkages and by promoting informal contact among the military-bureaucratic elites and the business groups the regime was able to expand the base of industry and industrial groups. Despite Ayub's efforts in building institutional network the financial-industrial groups could not stand on their own. These groups could not develop an autonomous base. The regime's ability to sustain economic development (despite consolidation of financial- industrial groups) depended on its ability to insure the flow of economic aid to sustain military hegemony. It was instrumental in creating economic institutions and promoting a symbolic relationship with financial industrial groups. However with hindsight it appears as military hegemony weakened, economic aid declined, the regime drifted towards political instability.

So far Ayub regime's contribution in creating (as well as consolidating the existing) financial-economic institutions has not been given adequate attention. These institutions (i.e. Planning Commission, PIDC, PICIC etc.) were pivotal in facilitating the development of financial-industrial groups in Pakistan. This study would examine how these institutions led to the transformation of trader-merchant classes into financial-industrial groups. Under the civilian regime of Zulifkar Ali Bhutto (1971-77) these institutions were considerably weakened. The regime also pursued a policy of breaking channels of access between these institutions and financial-industrial groups. It restricted, suppressed and constrained the functioning of financial-

industrial groups. However under General Zia- ul-Haq's military regime, once again an effort was made to reactivate the above mentioned financial-economic institutions to stabilize and strengthen the financial-industrial groups, who had been shaken by Bhutto regime's policies.

The institutional collaboration between Ayub's regime and the financial-industrial groups did not develop immediately but evolved in phases. According to Stanely Kochanek it evolved through three distinct phases.¹ First phase lasted the initial months of martial law and was marked by hostility in which the military regime arrested some of the leading businessmen. Simultaneously it introduced centralization and control. This was manifested through policies of strict price control, harsh punishments for hoarding, smuggling and black marketing.²

Second phase coincided with the launching of the Second Five Year plan (1960- 65), which led to an alliance among military, bureaucracy and the financial-industrial groups. During this period the Government pursued policies of price decontrol, development of private sector, encouragement of foreign trade and foreign loan inflow into the country.³ Third phase began with the 1965 Presidential elections and led to complete identity of view and interest between president Ayub, his family , and some of the leading financial-industrial families (e.g. Dawood, Saigol, Sumar and Habibullah etc.). It merits attention that in the post-1960 period, in addition to institutional linkages between military bureaucratic elites and financial-industrial groups, informal channels were also strengthened. Business groups initiated inter-marriages with military bureaucratic elites and even did not hesitate to employ some of them after retirement from government service or their near relatives in industries. By late 1960s the association of some of these leading families was so close with Ayub regime that an attack on "Twenty Two" families came to be equated with an attack on the Ayub regime. With

decrease in foreign aid inflow, bad harvest, war with India and decline in industrial growth rates, the regime came under severe criticism from disaffected groups.⁴ Under politics of protest and agitation Ayub regime collapsed. However the financial-industrial group that it facilitated to emerge came to stay in Pakistan's political economy.

Trader Merchant Class and its Transformation into Financial-Industrial Groups

Governmental policy played a major role in transforming trader-merchant classes into financial-industrial groups. In the early phase of Pakistan's history, the trader-merchant class was associated with economic policy making institutions. It reflected Jinnah's belief that in an independent Pakistan, private enterprise and industrial development would be encouraged by the government.⁵

At the time of independence, Pakistan inherited a small but cohesive trader-merchant class. This was primarily comprised of the minority Muslim communities (like, the Bohras, the Khojas, and the Memons) and two trading families from Punjab (the Saigols and the Chinioti Sheikhs). Prior to independence this class of Muslims trader-merchants was widely dispersed in India. Its members were dynamic and skillful entrepreneurs who had emerged successful in undivided India.⁶ This dynamism was rooted in family as the principal means of acquiring entrepreneurial skills. Trading or business was a hereditary profession to them and did not require any formal schooling. This class was small, close knit, clan, caste-like communities.⁷ After independence, most members of this class established their headquarters in Karachi and Lahore (See Table 7.1). As is evident from Table 7.1, only two families the Chiniotis and the Hotis had headquarters of their business in areas that were to constitute Pakistan after 1947. Two factors contributed towards the transformation of trader-merchant classes into industrial

groups: (i) the policy of bureaucratic patronage and (ii) the Korean boom. The bureaucratic elites aimed to embark Pakistan on a path towards industrialization. After the Korean war in 1952, the environment for industrialization became more conducive. As Javed Masud has incisively observed:

Once the conditions for profitable industrialization had been created there was a scramble for industrial sanction by the trading community. The government's task was suddenly changed from encouraging new entrants of a selection from a large pool of intending potential industrialists. Thus the government assumed the role of actually converting a trader into an industrialist, merely through the process of issuing industrial licences.^{7*}

Recognizing the favourable disposition of the policy makers, the trade-merchant community was quick to seek bureaucratic patronage and soon came to dominate the commercial-industrial life in Pakistan.⁸

The institution that represented the interests of trader-merchants was the 600 - member Pakistan Chamber of Commerce. To encourage private enterprise, Jinnah extended recognition to the Chamber as a legitimate body representing the interests of the trader-merchant class, giving it the right to elect the management of major public and semi-public economic decision making institutions of the country.⁹ The Chamber had representation in such important bodies as the central Sales Tax Committee and the Import-Export Advisory council. The 1948-49 Year Book of Pakistan noted that the Chamber advises the government, "on the formulation of policy in regard to income tax rules, Estate Duty Bill, fixation of Annual Tariff Rules, import, trade policy and national standards organization."¹⁰ The Chamber was given representative and advisory role, but how effective it was in influencing the formulation and implementation of various policies is not clear.

During the (1947-58) period, the regimes in Pakistan continued to

encourage the participation of the trader- merchant class in the economic policy-making process. However, this class could not organize itself effectively because it operated through caste, sect, clan or community loyalties rather than shared economic interests and goals. Consequently its impact on economic policy making remained marginal. During this period business organizations proliferated. According to one estimate, in 1958 there were more than 250 business organization. Almost every major city had a Chamber of Commerce, but was no coordinataion among them.¹¹ "Formal interest organizations in business," Mumtaz Ahmad has pointed out, "could not emerge strongly because of the existence of business interests and building private empires".¹² The military found a large number of business organizations too cumbersome. Therefore, under the Central Ministry of commerce, an office of the Director of Trade organization was created in 1958. In 1961 a reorganization scheme was introduced that abolished all the competing organizations. The Director was given wide powers to form new organizations. He could inspect their records, attend their meetings, and even reject the formation of new organizations. He could modify and amend any resolution adopted by any business organization, including the Chamber.¹³ Previously the Chamber of Commerce had the right to elect the management of public or semi-public institutions. According to the new law, the Chamber could only nominate its members to these bodies. The director regulated the membership of the Chamber. This centralization established bureaucratic control of the commercial and economic policy arena. Instead of creating an atmosphere in which business could grow and expand through competition under free market principles, the military preferred to reinforce the patron-client relationship with the trader-merchant class-a policy that was initiated by the bureaucratic elites.¹⁴ The President of the Chamber of Commerce protested the measures, but without effect.¹⁵

In addition to the policy of bureaucratic patronage, another factor that

facilitated the transformation of the trader-merchant class into financial-industrial groups was the vacuum created by the migrating Hindu trader-merchant class. This opportunity was skillfully and effectively exploited by the Muslim trader-merchant class. Operating relatively small and cohesive family businesses, this class had an initial advantage of experience and skill compared to other classes in Pakistan.¹⁶ In addition, the areas that constituted Pakistan were strongholds of agrarian social structure and tradition; the indigenous trade-merchant class was almost nonexistent. By 1960-61, a small segment of the trader merchants dominated the trade and commerce in Pakistan. Industry was almost nonexistent in the new state, while the dominant rural classes were deeply entrenched in the rural structure and were involved in insuring their dominance. The peasantry was powerless and weakly organized and found it difficult to dislodge the feudals.¹⁷ Moreover, the bureaucracy, confronted with restoring law and order in the urban centers, was keen to preserve stability in the rural areas.

Thus, in the new state the areas of growth and expansion were commerce and industry. Since the effort was to create an infrastructure for a modern state without rocking the agrarian structure, the regimes during the first decade of Pakistan's history gave priority to the development of the industrial sector (large-scale manufacturing). A number of institutional measures were initiated during the 1950s to transform the trader-merchant class into financial-industrial groups. Agriculture was stagnant with no prospects of growth. Therefore, it was used as a source of transferring surplus capital (resources) to other sectors which had more potential for growth (e.g. large scale manufacturing, industry, services etc.) This was part of our growth strategy in the early phase of Ayub regime i.e. 1958-64. Since most of the trader-merchants had settled in West Pakistan (i.e. contemporary Pakistan) that area became the primary beneficiary of the industrialization.

Economic Institutions

In creating a role for itself in the economy, the Ayub regime was also instrumental in developing economic insitutions. The regime consolidated the financial-industrial groups and reshaped the economic institutions. According to a well informed observer of Pakistan's economic scene, Ayub "was deeply concerned with economic development and threw his weight on planning activities."¹⁸ The antecedents of Ayub's role in fostering economic institutions and planning activities can be traced to 1953-54. It was in 1954 that the U.S. Military and economic aid began to flow into Pakistan. By procuring aid, the military elites under Ayub enhanced their position in the country's politics, developed a strategic link with the U.S., and were able to obtain U.S. expertise for developing economic instsistutions.¹⁹ In the same year, two advisory groups, one military the United states Military Assistance group (U.S. MAAG), and the other economic, the Harvard Advisory Group (HAG), began operations. Here focus will be on the HAG, which played a key role in creating, promoting and expanding the planning and economic institutions in the country.

Planning Commission

One of the most important contributions of the military connection with the U.S. was the creation of the planning commission, an institution that became the pivot of economic planning, development and growth in Pakistan.

In February 1954, the government of Pakistan, the Ford Foundation, and Harvard University signed an agreement stating that the University, with funds from the Ford Foundation, "would recruit and guide a group of experts who would assist Pakistan's Planning Commission. . . to prepare the first comprehensive plan for long range economic and social development."²⁰ Under the agreement, the HAG was to assist the planning Commission in

three ways :

1. to organize and develop a long term development plan;
2. to recommend and analyze major economic policy questions;
3. to help train professionals in various sectors of national planning.

It also started a one year fellowship program to train the members of the Commission at Harvard.²¹ The HAG perided itself in providing the Commission, "with intellectual and administrative leadership".²² It is generally recognised that the HAG was instrumental in shaping the intellectual and ideological orientation of the commission.

Members of the HAG arrived in April 1954. A project that was expected to last 18 months ultimately lasted 16 years (1954-70). The Planning Commission was set up in 1953, but it attained prestige and power once Ayub came to power and "remained a cockpit of economic decision-making until 1972".²³ Under the military regime, the Commission developed into the primary economic policy institution in the country. It not only provided the guidelines for a capitalist road to development, but also served as a vital bridge between the military and business interests. Sabhia Iqbal noted:

The Planning Commission became an effective mechanism of policy and created a framework for business interests to prosper. The military dominated the political scene but operated in conjunction with the industrialists, landlords, and top-level civil servants. The industrialists benefited from the incentives used to catalyze the rush to industrialize and export.²⁴

The Three Five Year Plans of Pakistan were formulated under the guidance of the HAG. In the guise of import-substitution policy, the HAG established strong ties between the local industrialists and the international

donor agencies, thus, strengthening the hold of U.S. and others on Pakistan. The performance of the Commission was astounding. A Ford Foundation report published in 1965 could claim with satisfaction that the Commission had, "attained competence in its role as originally conceived - a technical body".²⁵ Further more, the report praised the efforts of the military regime in encouraging private enterprise:

Pakistan has evolved as an enterprise system combined with a government-formulated framework of policies and planning. Eighty percent of its output is privately produced while the government has protected, stimulated, financed and guided its agriculture and industry. It has relied heavily on private initiative in its economic growth.²⁶

There has been debate over the degree to which the HAG was able to influence the economic decision making in Pakistan. Asaf Hussain, has asserted that the HAG was an instrument of "U.S. imperialism", and he alludes that it contributed to promoting the economic disparity between the two wings of Pakistan and their eventual disintegration.²⁷ I concur with Laporte's view that the HAG had a decisive impact on the planning Commission and the economic policies that emanated from it.²⁸

Under the military regime, the Planning Commission was made part of the Presidential Secretariat. This further enhanced the power and prestige of the Commission. Under the regime, the Commission emerged as an important channel for institutionalizing the patron-client relationship between the military-bureaucratic elites and the financial- industrial groups. In addition, the regime was instrumental in fostering a linking between the financial industrial groups and international capital. In 1965, according to Mason,

foreign assistance from all sources accounted for 8 percent of Pakistan's gross national product, 40 percent of its total investment, and 55 percent of its total imports. The planning Commission occupied a central position in the negotiations for foreign assistance and in directing its use.²⁹

Besides the Planning Commission, Ayub also ventured to streamline the existing economic institutions. In 1959 a Credit Enquiry Commission was created to examine financial institutions. Upon its recommendations, most of the financial-economic institutions were renamed, reorganized, and merged to constitute new ones.³⁰ These institutions were given new priorities and goals (see Table 7.2). The underlying assumption was to centralize and effectively control the economic decision making process.

Economic Institutions and the Financial-Industrial Groups

In the following pages, the efforts shall be to analyze the role of three financial-economic institutions and their policies in facilitating the consolidation of the financial-industrial groups.

1. Pakistan Industrial Development Corporation (PIDC)
2. Industrial Development Bank of Pakistan (IDBP)
3. Pakistan Industrial Credit and Investment Corporation (PICIC)

PIDC

The PIDC was instrumental in transforming the trader-merchant class into financial industrial groups. The PIDC had been in operation since 1950; however, it reached its zenith in 1959-62. The corporation was bifurcated in January 1962 between East and West Pakistan. The move was made to pacify East Pakistanis who believed that the Corporation did not give adequate attention to the needs of East Pakistan. The industrial projects the Corporation initiated certainly reflected a bias toward the Western wing. However, the author's concern here is not to demonstrate the regional imbalance that may have resulted from the PIDC's industrial policies, but to underscore its role in consolidating the financial-industrial groups. The Corporation's declared objective was

.... to promote enterprises which private industrialists were unable or unwilling to undertake. Its policy is to supplement, not to displace private enterprise... Every effort is needed to attract private capital into PIDC'

projects, and where private enterprise is not forthcoming at the outset, to transfer the complete projects to private ownership when the conditions for such transfer are fulfilled.³¹

It is quite evident that the primary purpose and policy of the Corporation was to create a class of private entrepreneur under governmental patronage. The PIDC did succeed in performing that task. Between 1950 and 1962, the PIDC completed 55 industrial projects; of these, 33 were located in West Pakistan and 22 in East-Pakistan.³² In addition, during 1962-69, another 25 projects were built by the West Pakistan PIDC. It was primarily involved in building jute, textile, sugar, cement, fertilizer, paper board and ship-building repair industries. On completion, most of these industries were transferred to the financial-industrial groups. This was done through what PIDC called a policy of disinvestment. According to one study, 47% of the private industrialists in 1959 reported the occupation of their fathers as traders (see Table 7.3). It clearly suggest that those who were to become industrialists in sixties, their parents were trader merchants in forties and fifties. However, changes in governmental policy transformed some of these trader-merchant families into "Industrial houses". Amjad has pointed out that ten major "Industrial Houses " emerged as beneficiaries of the PIDC's disinvestment policy (Table 7.4). In addition, the financial - industrial groups had considerable influence in the policy making process. There was close collaboration between the PIDC and the "Industrial Houses". Members of these Houses were represented on the Board of Directors of the PIDC.³³ Interestingly, the PIDC not only transferred industries to the private sector, but also refrained from setting up in these enterprises in which the private sector was active. By 1960 Pakistan had achieved not only rapid industrialization and one of the highest growth rates in the world, but the pattern of ownership of industrial assets was also quite unusual. Two major industries, cotton textiles and jute, were dominated by a hand-full of these Houses. Amjad has estimated that five Houses controlled about 80 percent of the jute

industries and ten Houses controlled about 50 percent of the cotton textile production.³⁴

PICIC AND IDBP

In addition to the PIDC, two other financial institutions (PICIC and IDBP) acquired salience under the military regime. Both the PICIC and IDBP played a key role in promoting the expansion of the financial industrial groups in facilitating their linkage with international capital.³⁵ These two institutions not only provided an opportunity for these groups to procure loans for expanding their investments, but also established their hold in the banking structure of the country. The foreign aid that the military regime began to receive was funneled through the PICIC to the financial industrial groups.³⁶ The PICIC emerged as the primary money lending institution. For the installation of new industries it could lend up to 1.5 million rupees in West Pakistan and up to one million rupees in East Pakistan. There were no upper limits for the PICIC loans.³⁷ The breakdown of the PICIC loan size as shown in Table 7.5 indicates that almost 71 percent of the loans sanctioned were of the amounts above 2.5 million rupees. The primary beneficiaries of the PICIC loans were the financial - industrial groups. It appears that the policy making elites and the PICIC operated on the principle of credit worthiness of the loan receiving group. They did not take the risk of providing loans to new groups but relied on the tried, tested and apparently sound, financial-industrial houses. This way, the PICIC not only promoted class consolidation, but also helped to concentrate wealth in the hands of a few industrial house. In addition the Board of Directors of the PICIC was also dominated by the representatives of the financial industrial Houses like Dawood, Fancy, Adamjee, Amin, Crescent and Valika, the projects sanctioned by the PICIC not only rotated within class, but also within a limited number of the Houses. Amjad has noted that 70 per cent of the loans sanctioned by the PICIC went to only 11 Industrial Houses. (The names of the houses given

in Table 7.6). This led Amjad to conclude that there is a definite relationship between borrowed capital and industrial expansion in Pakistan. His data suggest, that out of 20 Houses, 12 were dependent on borrowed capital for more than one-third of their growth. This co-relationship between borrowed capital and industrial expansion clearly indicates that the PICIC served as a vital link between the financial-industrial groups and international capital.

To sum up it is evident that the PICIC was instrumental in (1) consolidating the financial-industrial groups, (2) promoting the linkage between the financial-industrial groups and international capital, (3) squeezing the small and medium size industrial enterprises, and (4) doing little in mobilizing and domestic savings.

The third important financial institution, the IDBP provided only 20 percent of its total loans to the financial industrial groups. Its primary purpose was to provide credit facilities to the medium and small industrial units in the private sector. Yet, the breakdown of loans (Table 7.7) suggests that a major portion of loans (almost 66%) were of over one million rupee and they went to a small portion (about 9.2%) of the total borrowers. Thus, Amjad concluded that the IDBP encouraged the formation of a small, indigenous-financial class in Pakistan.⁴⁰

Foreign Aid, the Military and the Financial Industrial Groups

Through these financial-economic institutions, the military regime under Ayub Khan was able to consolidate the financial industrial groups. The phenomenal economic growth, development of the economic institutions and concentration of economic wealth that occurred during the military regime was a function of its ability to procure foreign aid (see table 7.8). As the regime's ability to insure the flow of aid weakened, the rate of economic growth slowed. The fall in growth sharpened the gap between the beneficiaries

and the non-beneficiaries of these development policies.⁴¹ This resulted in the politicization of the urban middle classes and industrial labour. Since the regime had made little effort to develop political institutions that would give the urban middle classes and the urban proletariat a sense of political participation, the crisis of unequal economic growth and the resultant slowing down of economic development promoted a crisis of political participation.

Ayub Khan's ability to procure foreign aid weakened after 1963, when Pakistan began to pursue a more independent foreign policy (see Table 7.8). Since 1958, Pakistan had closely identified itself with the West and particularly with the United States. Pakistan remained a member of the Western Pacts, but began to cultivate relations with the Communist Block, particularly China, and vigorously participated on issues of Third World's concern. To what degree Ayub encouraged and guided such a shift continues to be debated. However, the issue did create two groups within the Ayub cabinet. The Foreign Ministry under Zulfikar Ali Bhutto asserted that Pakistan should pursue closer relations with China, identify itself with Third World causes in international politics, seek a settlement with India on Kashmir and tailor foreign aid negotiations according to guidelines provided by the Foreign Ministry.⁴² The Planning Commission, under the direction of Mohammad Shoaib, the Finance Minister, asserted that economic growth and development in Pakistan had occurred because the military regime was able to procure foreign aid by pursuing a pro-West foreign policy. Furthermore, he believed that Pakistan as a small country should insure the flow of foreign aid, abandon the desire of an independent foreign policy, and remain within the Western fold. The conflict between the Foreign Minister and the Planning Commission reached its peak during the September 1965 War between India and Pakistan. According to one observer, during the War, the channel of communication between the U.S. and Pakistan was not the

Foreign Ministry but the Planning Commission.⁴³ Later in the year, the United States terminated aid to Pakistan. Said Hasan, a former Deputy Chairman of the Planning Commission reported that President Ayub Khan was led to believe by the Foreign Minister that an independent foreign policy would not imply stoppage of the aid from the United States and that in such an eventuality, Pakistan would be able to secure aid from alternate sources.⁴⁴ The stoppage of aid from the United States in 1965, the War with India, and a bad harvest had adversely effected the economy. These exogenous factors slackened the growth rate and simultaneously politicized the urban middle classes, industrial labour and petty government employees. The regime had paid little attention to the absorption of these classes in the economy, and their political exclusion was sought through political control and centralization. Therefore, a decline in growth rate and consequent politicization adversely affected the regime's ability to coerce and sustain hegemony.⁴⁵ Although later in 1966 the U.S. restored aid to Pakistan, the damage was done. The economy was unable to recover, however the military did retain its hegemony.

The politics of protest reached a turning point in January 1968. President Ayub had a near fatal stroke, which shook the very foundations of the regime. It revealed that the regime had failed to develop any mechanism of succession of power. Ayub had not fully recovered from the stroke yet when, in April 1968, the Chief Economist of the regime revealed that 80 percent of Pakistan's economic wealth was concentrated in the hands of 20 families.⁴⁶ After this declaration the economic policies of the regime came under severe criticism from the politically excluded classes, political leaders and the political parties. By November, the protest against the regime developed into a mass movement. The financial-industrial groups that had benefited from the policies of Ayub regime were not forthcoming in supporting the regime. These beneficiaries could have helped Ayub by meeting

some of the demands (such as wage raise) of the protesting labour. Since the financial-industrial groups had not emerged and developed in a free competitive environment, but a protected market, they did not acquire the modern industrial/corporate attitudes and work ethics. For their advancement these groups were dependent on the regime but showed lack of will to rescue its political decay. Ayub was forced to resign, but the military hegemonic system that he built remained. The weakening and decline of the system brought about the collapse of the Pakistani state. The financial, industrial groups and economic institutions that Ayub created and consolidated were weakened with the collapse of "United Pakistan" but not destroyed.

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TABLE 7.1
BACKGROUND OF INDUSTRIAL FAMILIES

Industrial House	Community	Family Origin/Area	Settled	Business Hdqtrs pre - 1947
Adamjee	Memon	Kathiawar/ Jetpur.	Karachi	Calcutta
Dawood	Memon	Kathiawar/ Bantwa.	Karachi	Bombay
Saigol	Punjabi Sheikh	W. Punjab/ Chakwal.	Lahore	Calcutta
Valika	Dawood/Bhra	Bombay.	Karachi	Bombay
Colony	Punjabi Sheikh Chinioti	W. Punjab/ Chiniot.	Lahore	Lahore
Fancy	Khoja Ismaili	Kathiawar.	Karachi	E. Africa
Bawany	Memon	Kathiawar/ Jetpur.	Karachi	Rangoon
Crescent	Punjabi Sheikh/ Chinioti	W. Punjab/ Chiniot.	Lyallpur (Faisalabad)	Delhi
Beco	Punjabi	E. Punjab.	Lahore	Batala
Wazir Ali	None, Syeds	W. Punjab/ Lahore.	Lahore	Lahore
Amin	Punjabi Sheikh	W. Punjab.	Karachi	Calcutta
Nishat	Punjabi/ Chinioti	W. Punjab/ Chiniot.	Lyallpur (Faisalaba)	

Industrial House	Community	Family Origin/Area	Settled	Business Hdqtrs pre - 1947
Hori	Pathan/ Landlord	Charsadah.	Charsaddah	Charsaddah*
Fateh	Marwari	Gujrat.	Karachi	
Isphabani	None	Iranian.	Karachi	Calcutta
Karim	Bohras	Bombay.	Karachi	
Habib	Khoja Isnasheri	Bombay.	Karachi	Bombay
Hyesons	None	Madras.	Karachi	Madras
Nishat Jute Mills. Ltd.		Millions		

Source: Rashid Amjad, *Industrial concentration and Economic Power in Pakistan* (Lahore: South Asian Institute, Punjab University Press, 1974), p. 15; H. Papanek, "Pakistan's Big Businessmen," *Economic Development and Cultural Change*, 21 (October 1972), p. 21.

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* Most of the studies have erroneously put Charsaddah as a place of settlement and a Business headquarters of Horis, while they are settled in Mardan and their business leaders are located there.

TABLE 7.2
FINANCIAL/ECONOMIC INSTITUTIONS

Institution	Year Formed	Peak Years	Declared Objectives/Functions
PIDC ¹	1950 (Operational, 1952)	1959-69	To encourage industry where private enterse was shy.
PIFC ² Renamed IDBP	1949-61 1961		Long-term loans to medium and small-scale industries
PICIC ³	1959		Provide long-term loans, credit and foreign exchange to FGC's 40% of capital share held by U.S., U.K., Canada, Japan, W. Germany : 60% by Pakistani private investors.
ADFC & ADBP merged to ADBP ⁴	1952, 1957 1961		Provide credit cash for agriculture, cottage industry, livestock, fisheries, forestry, etc.

1. Pakistan Industrial Development Corporation.
2. Pakistan Industrial Finance Corporation and Industrial Development Bank of Pakistan.
3. Pakistan Industrial Credit and Investment Corporation.
4. Agricultural Development Finance Corporation, Agriculture Bank of Pakistan and Agricultural Development Bank of Pakistan.

TABLE 7.3
PRIOR OCCUPATIONS OF MUSLIMS WHO WERE PRIVATE
INDUSTRIALISTS IN 1959 (%)

S. No.	Antecedent Characteristics	previous Primary Occupation		Previous Secondary Occupation ^b		Father's Occupation
		Indus.	Indus./ invest. ^c	Indus.	Indus./ Invest.	Indus./ Invest.
1.	Indus. pre-1974	17	16	4	30	6
2.	Small Industry, handicrafts.	18	6	23	7	16
3.	Traders - internal, export.	17	41	30	25	11
4.	Traders - import, government contractors	28	22	39	24	36
5.	Employees (professional, other)	18	10	4	12	20
6.	Agriculture	3	6	negligible	1	11
Total		101	101	100	99	100

Note: Totals differ from 100 % because of rounding.

^aExcludes those who immigrated from the Near East in the last century.

^bPrimary and secondary are determined according to proportion of income received.

^cProportion of total industrial investment controlled by each category.

Source: Gustay F. Papanek, *Pakistan's Development--Social Goals and private incentives* (Cambridge: Harvard University Press, 1967), p. 85-86, 111-116

TABLE 7.4
P.I.D.C.'S TOTAL AMOUNT DIVISTED IN FAVOR OF
INDUSTRIAL HOUSES
(TO JUNE 1962)

S. No.	Group/Companies	Rupees million	%of Each Group	%of Total Disinvestment by PIDC
1.	Amin			
	Amin Jute Mills	<u>20.00</u>		
	Total	20.00	7.0	5.0
2.	Adamjee			
	DDT Factory, Nowshera	3.02		
	Adamjee Indus.	30.00		
	Adamjee Chem. Works			
	Adamjee High Grade Board Paper Mill, Nowshera	<u>75.00</u>		
	Total	108.02	37.9	27.2
3.	Bawany			
	Latif Bawany Jute Mills	<u>7.50</u>		
	Total	7.50	2.6	1.9
4.	Dawood			
	Karnaphully Paper Mills	<u>65.90</u>		
	Total	65.90	23.1	16.6
5.	Fancy			
	Karachi Gas Co.	15.00		
	Peoples Jute Mills, Ltd.	<u>20.00</u>		
	Total	35.00	12.3	8.8
6.	Isphani			
	Chittagong Jute Mfg.	<u>12.50</u>		
	Total	12.50	4.4	3.1

S. No.	Group/Companies	Rupees million	% of Each Group	% of Total Disinvestment by PIDC
7.	Nishat Nishat Jute Mills, Ltd.	<u>4.08</u>		
	Total	4.08	1.4	1.0
8.	Saigol Jauharabad Sugar Mill	<u>10.85</u>		
	Total	10.85	3.8	2.7
9.	Karim Karim Jute Mills	<u>7.50</u>		
	Total	7.50	2.6	1.9
10.	Hoti Charsaddah Sugar Mills	<u>13.80</u>		
	Total	13.80	4.8	3.5
GRAND TOTAL		285.15	100.00	71.7

Source : Rashid Amjad, *Industrial Concentration and Economic Power in Pakistan* (Lahore : South Asian Institute), 1974, p. 19.

TABLE 7.5
DISTRIBUTION OF PICIC LOANS BY SIZE*
 (To JULY 31, 1969)

Size of Loans	Amount	%
Under Rs. 0.5 million	597,111	3
Rs. 0.5 million - Rs. 1.0 million	101,224	6
Rs. 1.0 million - Rs. 2.5 million	359,198	20
Over Rs. 2.5 million	1,271,066	71
Total	1,791,199	100

* Rupees Million

TABLE 7.6
LOANS THROUGH PICIC

Industries	Industrial Houses
Adamjee Industries	(Adamjee)
Crescent Jute Products	(Crescent)
Ismail Cement	(Colony)
Packages	(Wazir Ali)
Pakistan Paper Corporation	(Hoti)
Steel Corporation of Pakistan	(Fancy)
Crescent Sugar Mills	(Crescent)
Hyesons Sugar Mills	(Hyesons)
Premir Sugar Mills	(Premier)
Shahtaj Sugar Mills	(Shahnawaz)
Karnaphully Rayon & Chemicals	(Dawood)

Source : Amjad Rashid, *Industrial Concentration and Economic Power in Pakistan* (Lahore " South Asian Institute, 1974), p.36.

TABLE 7.7
BREAKDOWN OF THE SIZE OF IDBP LOANS*
 (AUGUST 1, 1961 to JUNE 30, 1969)

Loan Size	<u>WEST PAKISTAN</u>		<u>EAST PAKISTAN</u>		<u>PAKISTAN</u>	
	No. of Cases	Amount	No. of Cases	Amount	No. of Cases	Amount
To 0.5	1359	145,739	1,658	215,245	3,107 (84)	360,984 (20)
0.5 - 1.0	158	109,545	189	139,093	347 (7)	248,638 (14)
1.0 +	156	604,700	186	589,868	342 (9.2)	1,194,568 (66.)
Total	1673	859,984	2,033	944,206	3,706	1,804,190

Source : Rashid Amjad, *Industrial Concentration and Economic Power in Pakistan* (Lahore: South Asian Institute, 1974), pp.3537.

* Rupees Millions

(The figures in parenthesis are percentages).

(The figures in parenthesis are percentages).

TABLE 7.8
U.S. GOVERNMENT GRANTS AND CREDITS TO
PAKISTAN

Year	Amount (U.S. Millions)
Pre - 1953	8
1953	99
1954	12
1955	67
1956	154
1957	100
1958	145
1959	142
1960	229
1961	218
1962	323
1963	380
1964	377
1965	349
1966	221
1967	331
1968	282
1969	209
1970	239
1971	216
Total :	4,101

Source: U.S. Department of Commerce, Statistical Abstract of the United States (Washington, D.C., 1972 and previous years). Pakistan ranks fourth among Asian nations (India, South Korea and South Vietnam have received more) and sixth among all nations in term of total U.S. grants and credits extended during the post-WW II period. On a per capita basis, Pakistan has received relatively more aid than India, although India's total figure is not quite double that of Pakistan's. In Robert La Porte, *Power and Privilege: Influence and Decision-Making in Pakistan* (Berkeley: University of California Press, 1975), p.145.

This reading passage deals with the amendments introduced in the constitution of 1962. Ayub Khan intended to get more powers in order to run his system of controlled democracy. In this regard he introduced such amendments. The important question is that whether Ayub Khan used these constitutional powers in the public interest or for his personal benefits? In this passage of reading the author has tried to answer such questions. (Compiler)

READING-2

(Excerpt from From Crisis to Crisis: Pakistan 1962-1969 by Herbert Feldman
Published by Oxford University Press, London, 1972, pp 213-225)
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CONSTITUTIONAL CHANGE AFTER SEPTEMBER 1965

As discussed in this... (reading), constitutional change means a great deal more than the four further amendments introduced by Ayub Khan between November 1965 and December 1967. It includes consideration of the ultimate fate of his constitutional structure and the reasons that led the nation to reject it with so much emphasis that Ayub Khan himself was obliged to propose its dismantling. Moreover, we have to consider the merits of the claim, so often made on his behalf, both in Pakistan and abroad, that whatever else might be said of his administration and the Constitution he had devised, he had, at any rate, succeeded in giving to the country a structure

that brought with it a sense of calm and stability that made other progress possible.

These four Amendments were facilitated by the fact that, as we know, the hostilities of September 1965 had enabled Ayub Khan to declare an emergency under Article 30 by which he was armed with very much more power, particularly with reference to the power of legislation by ordinance. Indeed as we shall see, some of the amendments themselves were the product of those restrictions imposed by Article 30 because, as time passed and as the state of emergency continued, people became more and more impatient of the restrictions and constitutional amendment proved to be the only solution.

The easiest way to deal with these Amendments is to assimilate them under the subjects with which they dealt, namely:

- (a) Terms and conditions of public service with special reference to the age of retirement and the power of the President to direct the retirement of individuals.
- (b) Other minor changes in terms of service¹ and changes of definition of certain categories of public servant.
- (c) Changes in the enforceability of fundamental rights as set out in the Constitution.
- (d) Changes in Article 30 with respect to the President's power of legislating by ordinance.
- (e) Increase in the number of seats in the National and Provincial Assemblies.

Of all these, the most important group, so far as concerned its practical effect and the power it gave to Ayub Khan to manipulate the public administration, belonged to the first category listed above. Ayub Khan's intention was to empower himself to get rid of public officials whom he did not like, and to retain those whom he did like for as long after the prescribed

age of retirement as he might wish.

It may be said that these were very necessary powers. It should and must be possible for any public administration to disembarass itself of incompetent or otherwise undesirable public servants. No one will contest these arguments, but there are one or two remarks to be made concerning them. The first is that, like **all other** public administrations, the Government of Pakistan has set up machinery for recruitment that is intended to ensure that persons taken into service are likely to possess the qualifications - ability and integrity - which the public service requires. The second is that at no time has it ever appeared that the administration in Pakistan lacked the power to get rid of public servants who did not measure up to the standards required although, admittedly, there may be legal difficulties, especially when misconduct is alleged. Moreover after prerogative writs were introduced in Pakistan, the Courts were flooded with petitions for them, the majority originating with government servants who considered themselves aggrieved, usually over matters of promotion, seniority, dismissal, and other such problems of service life. However, the important question in the present context is whether Ayub Khan exercised the powers which these amendments conferred on him solely in the public interest or, on occasion, in his own.

The answer to this question has two forms. The first - which will be discussed here - lies in the manner in which the Constitution was amended with respect to the subject. In short, was the method of amendment such as to lead to the conclusion that his motives were entirely pure?... The attempt to change the Constitution, in a material respect, within ninety-six hours of its coming into effect; the numerous amendments made in a brief period of five and a half years; the repression of criticism and the victimization of critics - all these are some of the circumstances which cast doubt upon the innocence of Ayub Khan's purposes.

Secondly, how were these powers used? Were the men retained by Ayub Khan of such loftiness of character, good reputation, and ability that their retention was in the national interest? As a corollary, it must be asked whether the continued presence of some of those he dismissed after the Constitution was amended would necessarily have been detrimental to the nation? It is by no means certain that the answers to these two questions are favourable to Ayub Khan.

We are here concerned with the Sixth Amendment, enacted on 21 March 1966, which was an elaboration of the Fourth Amendment, enacted on 11 August 1965, seven months earlier. The Fourth Amendment, it will be recalled, made it possible to direct the retirement of civil servants in the Central and provincial Governments at the age of fifty-five instead of at the age of sixty, as had been established by Ayub Khan from December 1962 onwards. The reasons for adopting a retirement age of sixty have been explained,² but thirty-four months after giving effect to this policy, Ayub Khan evidently concluded that fifty-five was the right age, after all. The Fourth Amendment gave effect to this conclusion, as we have seen, but the manner in which it did so apparently did not suffice and, seven months later, it was decided that this arrangement required elaboration so that the President (or a Governor) could not only direct retirement at the age of fifty-five, or after completion of twenty-five years of pension-qualifying service, but could also allow extensions of service beyond the official retirement age, at his discretion, on such terms as he might decide.

With respect to all this, a number of interesting questions arise. The advancement of the age of retirement to sixty was provided for by a simple Finance Ministry notification. Why could not the new arrangement for retirement at fifty-five with possible retention after that age have been made in precisely the same way? Why was it necessary to import the new

arrangements into the Constitution, when the previous arrangement in respect of a retirement age of sixty had been carried out by a simple administrative act? I do not pretend to know the answer to these questions, but it could well be that having decided on the new arrangements, Ayub Khan wanted to make them as unchallengeable as possible.

It may further be asked why the elaboration contained in the Sixth Amendment was thought necessary so soon after the Fourth Amendment was enacted. Why was the entire change-lowering of retirement age and the right to retain persons after reaching retirement age - not made in one amendment? Why two bites at the cherry? Two explanations are possible. Either, when preparing the Fourth Amendment, the clause authorizing retention after retirement age was not thought about, or it was thought about but it was also considered that the public - and more particularly the civil services - should not be asked to swallow too much at once. It must be remembered that these changes affected many men's lives, favourably or unfavourably as the dice might fall, and the reduction of the retirement age, so soon after its advancement to sixty, was far from being a universally popular measure.

In the absence of very clear evidence it is impossible to say which of the explanations suggested is the more probable. There are ample, collateral indications that Ayub Khan's advisers were often lackadaisical in their thinking and much half-baked advice was given. There are, however, equally cogent indications that Ayub Khan, in his various and successful efforts at manipulating the Constitution to serve his purposes, adopted devious and carefully planned methods to disguise his intentions. In the present case, it could well be that he decided at the outset that he would not only return to a retirement age of fifty-five, but retain power to keep any man over that age if he so chose. Having made this decision, he deemed it wiser to achieve these purposes in two stages. The brief period of seven months which

separated the Fourth and Sixth Amendments lends weight to either argument.

The outcome of all this was to blight many men's prospects and to throw the career of many others into the melting pot. The Sixth Amendment was mostly used to retain at pleasure those men who had proved, since 1958, to be Ayub Khan's most amenable creatures. It is not difficult to see how rules of this kind, by which a civil servant's retirement or retention becomes almost a matter for one man's discretion, can be used or abused to ensure the advancement of some men and to impede the advancement of others. It could be argued in favour of the reduction of the retirement age to fifty-five, that it had been shown by experience - thirty-four months' experience! - to be in the better public interest, and that the old administrators were right, after all. What could not be shown was that the public interest would be better served because some men might, purely as a matter of unregulated choice, be retained in the service after retirement age, for as long as any President might care to keep them.

Changes in the power of the individual to enforce the fundamental rights prescribed by and defined in the Constitution were the product of the Fifth Amendment dated 30 November 1965. This Amendment was enacted at a time when relations with India were still considerably heated and when a resumption of the September fighting seemed possible. For this reason Ayub Khan reinforced the operation of Article 30, which defined the power of the President to declare a state of emergency, and the consequences that flowed from such a declaration. The Amendment provided that after an emergency had been declared, the restriction, as provided elsewhere in the Constitution, on making laws or taking executive action in contravention of certain fundamental rights so affected comprised freedom of movement, of assembly, of association, of trade, freedom of speech and the right to hold

property. The Amendment also empowered the President, with respect to other fundamental rights provided by the Constitution, to declare that the right to enforce them in the Courts should remain suspended during the period of the emergency.

It can readily be conceded that the power of the Government to act in contravention of some of these fundamental rights was consistent with the necessities of a nation at war or with partially severed relations with another country. An obvious instance of the latter case is that in which a country, by reason of its obligations under the United Nations charter, finds itself compelled to make laws, within its own jurisdiction, restraining trade with another country on which sanctions have been imposed. With equal reason the Pakistan Government was entitled to deny its citizens the right to trade with India because certain relationships with that country had been broken and remained so for some time after actual hostilities came to an end. Denial of the right to hold property was consistent with the appointment of Custodians of Enemy Property when hostilities began in September 1965, and property which came into the hands of those officials was not restored afterwards.

Objection to and suspicion of constitutional changes such as the Fifth Amendment did not so much lie in their actual provisions but rather in the retention of the state of emergency for years after the hostilities which had given rise to it, were over, and it continued to be retained even after relations between India and Pakistan had taken clear shape. The root of the objection was not that the Amendment had withdrawn any fundamental rights, but that it had rendered them ineffectual and enabled the Government to contravene them as it chose, and without risk of challenge. Furthermore, this remained the position for more than three years.

It was this very continuance of the state of emergency, and the power

Assembly would become an act of the Central Legislature provided the amendments it had proposed received presidential assent. This extension of the assembly's authority was clearly minimal and did nothing to moderate or clip the powers which Ayub Khan exercised for so long after the emergency was first proclaimed. Nevertheless, a dutiful chorus hailed these changes as a great and important addition to the Assembly's powers.

The eighth and last of these Amendments, dated 19 December 1967...

It was this Amendment which changed the Constitution by increasing the number of seats in the National Assembly from 156 to 218 and in the case of Provincial Assemblies from 150 to 200. The number of seats reserved for women was increased by two in each instance and there was a reservation of seats for persons who had distinguished themselves in certain walks of life as defined by the Amendment.

Whatever else may be said of these Amendments, there was nothing in them to lead anyone to suppose that they or Ayub Khan had the intention for reducing or limiting the power that he had gathered into his hands.

Moreover, the nature of some of them indicated that he had no intention either of withdrawing the state of emergency, and so long as that continued such legislative powers as the National and Provincial Assemblies possessed were rendered null. Therefore dissatisfaction remained and this group of Amendments laid the foundation for fresh discontent. A number of senior

and, in some cases, very capable civil servants were compulsorily retired from the service and a number of others were rapidly advanced to high place in bureaucracy. Nor can it be said that all of these fortunate men, including those remaining on a contract basis after reaching retirement age, justified the confidence thus placed in them and some figured in the notorious list of 303 Class I officers suspended in December 1969 on various charges of misconduct including corruption.³ As for those who had been compulsorily

that it placed in Ayub Khan's hands, which created so much discontent, and in the years that followed he was frequently taxed with it. An attempt was made in the National Assembly to have the declaration of emergency withdrawn or, at any rate, its continuance condemned, but this was easily and successfully resisted. To all suggestions that the time had come for withdrawal, Ayub Khan's answer was invariably the same. It amounted to an assertion that there was an emergency. The country was threatened by external foes and by internal dissensions and the implication was that the best judge as to whether or not an emergency existed was Ayub Khan himself.

However, he could not totally ignore the growing opposition to the continued application of Article 30. It was therefore changed, in the Seventh Amendment dated 19 December 1965, so as to extend, very slightly, the power of the National Assembly to participate in legislation by ordinance which itself was part of the presidential prerogative. Thus this Amendment was principally concerned with Clause 6 of Article 30.

As originally drafted, Clause 6 provided that the National Assembly had no power to disapprove of any ordinance promulgated under Article 30 but that it could, by resolution, approve of it, in which case the Ordinance would be deemed to have become an Act of the National Assembly. If the Assembly did not confer its formal approval in this way, the Ordinance would cease to have effect if and when the state of emergency ended. This arrangement was changed by the Seventh Amendment which replaced the existing Clause 6 by Clause 6 and 6 (A). While disapproval of an ordinance promulgated under Article 30 would still remain outside the authority of the National Assembly, the Assembly could, by resolution, approve of the ordinance with, or without, amendment. The power to amend was thus introduced and under the new arrangement an ordinance approved by the

retired, it will cause no surprise to learn that some of them became active political opponents of Ayub Khan.

For all these reasons, therefore, the constitutional issue remained as important as ever. People concluded that Ayub Khan had no intention of meeting the objections and criticism that were being made of the constitutional structure and of the vast personal power that he wielded. It was true that Ayub Khan had delayed more than once that the Constitution could be changed and he went so far as to declare: 'Any change which is in the interest of the people and will help to maintain the unity and solidarity of the country will have my support.'⁴ This sounded all very well but whole was the best judgement of what was in the interest of the people and would help to maintain unity and solidarity? Moreover, he qualified these encouraging remarks by making it clear that he did not contemplate any change that would lead to a return to a parliamentary form of government for this would lead to a return to a floodgates of political instability which, as our experience has shown, will imperil not only our progress but also our security.⁵

The fact that eventually it fell to Ayub Khan to propose a return to the parliamentary system—which he had so often condemned—based on elections by direct, universal adult suffrage, is in some respects the greatest measure of his failure, and a measure, too, of his want of principle.

As we have seen, many people in Pakistan were, from the outset, suspicious of Ayub Khan's Constitution and they disliked the mechanics of its operation. The fact that these feelings persisted is significant and they could not be dismissed simply by saying that those who retained them were all wrong-headed, or selfish traitors bent on destroying Pakistan. On the other hand, not all of those who remained in opposition to Ayub Khan, and

sought the end of his administration and Constitution, were, to a man, noble, high-minded fellows engaged in a valiant crusade to overcome tyranny. When it came to a comparison of that sort, were anyone unwise enough to embark upon it, Ayub Khan had plenty of cards to play, as he well knew. It may appear to be an over-simplification but the truth seems to be that both Ayub Khan and his Constitution had to go because both had failed...

Thus, considered as an instrument of political stability, there is little to prove that the Constitution of 1962 was more effective than any which had preceded it, including the Government of India Act of 1935. The liberal application of Section 144, along with the frequent use of the Defence of Pakistan Rules and other security legislation, probably contributed as much to the maintenance of national unity as did Ayub Khan's Constitution, which he liked to regard as the expression of the 'genius and requirements of the people.'⁶

These remarks apply particularly to Section 144 which is very familiar both in Pakistan and India, as, for that matter, is its use. The product of British rule, this stroke of administrative genius was inherited by two grateful independent governments and seems likely to endure in utility, as well as in popularity with the civil administrators of each. Its main purpose is to come it possible for a District Magistrate in times of civil commotion or tension to prohibit the gathering of people and to enforce restrictions as prohibition on the carrying of arms and matters of that kind. However, the terms of the Section are so wide that it can be used for an infinite variety of purposes.

Interesting applications of this section in Pakistan include a prohibition on tenants from removing grain from the threshing-floor before the landlord had received his share;⁷ a prohibition on the use of firewood for brick-

burning;⁸ a prohibition on the export of wheat from a district affected by famine;⁹ a prohibition on the entry of non-students and others within a radius of twenty-five yards of intermediate examination centres;¹⁰ and a prohibition on 'all processions by members of a local Bar Association'.¹¹

According to the Section, such orders can be made for a maximum period of two months, but there is power to extend this. In Dacca, on 31 March 1968, Section 144 was imposed for 'an indefinite period' and 'shortly afterwards, in Chittagong also, as it appeared, indefinitely. Early in March 1968 it was accurately pointed out that Section 144, prohibiting meetings and assemblies, had been in almost continuous operation in Karachi for some three years, often for no reason more specific than that 'there exists a situation lately to disturb public peace and tranquility'.¹²

There is no doubt about the usefulness of the Section in placing restraints during time of public disorder and the effect of imposing it is to aggravate any offence against law and order. In this sense, imposition is akin to reading the Riot Act. Quite apart from problems of law and order, it is useful in preventing or abating nuisances, e. g. improper use of loud-speakers. However, if the Section has to be invoked continually, or is retained year after year, it can hardly be said that it is the constitutional structure which is providing the basis of order and constitutional structure which is providing the basis of order, and civic stability. If, in the circumstances mentioned, the life of Karachi appeared tranquil and undisturbed, it can scarcely be inferred from this that the people remained so by virtue of a Constitution so wisely conceived that they were content with the method of government and had nothing to complain about.

It would be false to suggest that the use of Section 144 prior to the advent of Ayub Khan's administration was rare; but it would be difficult to

find an instance comparable with Karachi's experience during the years that he was president. Further, it would not be correct to suggest that even in his time Section 144 was used, and used exclusively, to restrict political activity adverse to himself. With the onset of the mourning month of Mohaurram, for example, it has long been necessary, especially in some parts of West Pakistan, to impose Section 144 in order to prevent quarrels, and even bloodshed, between the Sunni and Shi'a sects.¹³ And, as has been seen from the instances cited, there were many other occasions when the Section was invoked that had little or nothing to do with muzzling public outcry against Ayub Khan.

Although before his administration Section 144 was employed as often as appeared necessary, during Ayub Khan's rule it was used for political purposes and for political repression more than at any previous time. Indeed, during his administration, its use had become habitual and the constant application of the Section, especially in urban areas, had the disastrous consequence of numbing the civil administration to any sense of failure or even disquiet. It never seemed to occur to Ayub Khan or to any of his administrators that repeated recourse to Section 144 did not merely prove that the public had an incurable, insatiable hunger for violence. The readiness of many sections of the people to create commotion and disturbance at the least provocation or excuse can easily be admitted. The misfortune was that at no time did it ever seem to have occurred to the administration that this readiness might be due, in some part, to the inability of the Government to remove the causes that led people to go out into the streets looking for trouble.

The use of the Defence of Pakistan Rules and existing security legislation speaks for itself and it is indisputable that Ayub Khan used these Rules and this legislation for political purpose. The case of Sheikh Mujibur

Rahman has already been mentioned. The Defence of Pakistan Rules were part of the immediate product of hostilities with India and it can readily be conceded that regulation of this sort are admissible when a country is at war even during the periods of armistice that usually follows a war. The argument against the Defence of Pakistan Rules did not lie in the fact of their introduction, or even of their retention during the months of stress and uncertainty that followed the cease-fire in September 1965. The objection was to their retention for years afterwards and to their utilization for purely political purposes.

The same was true with such statutes as the security acts and the security ordinance of the Central Government and the provincial Governments. These statutes, it is fair to explain, were by no means all the work of Ayub Khan's administration. Some had been enacted years before; the sections of the Pakistan Penal Code which dealt with sedition and were rather well favoured by Ayub Khan and his administration, were the product of British rule. One of the more serious dangers of legislation of this kind is the ease with which it becomes an instrument of repression and for limiting the freedom of the individual in his right to make a choice. Thus Mir Ghaus Baksh Bizenjo... was a Baluch who did not like the One Unit consolidation. He considered it had proved injurious to the people of Baluchistan and desired to see the end of it. The question here is not whether he was right in this opinion, but how, and in what way, this opinion and the propagation of this opinion could be deemed seditious? Yet it was on such a charge, founded upon such facts, that he was sentenced to a long term of imprisonment and a heavy fine. Indeed, during Ayub Khan's time, the utilization of Section 144 and the Defence of Pakistan Rules to limit political activity and to keep people in jail and the prosecution of others by appeal to security and sedition laws, became unrestrained. Officialdom lost all sense of balance and for this Ayub Khan had to answer.

The suggestion, therefore, that Ayub Khan introduced a Constitution which brought stability and a sense of ordered calm to the nation has very little foundation. If the political temperature seemed normal, if crowds and processions were rarely seen on the streets, if tumult and riot rarely irrupted upon the citizen's daily life, this had far less to do with the sagacious, far-sighted framing of a constitution, the principles and mechanics of which had evolved from the long-continued meditation of a profound mind, than with the plentiful use of rules authorizing detention, laws against sedition and, of course, the many-sided versatility of Section 144.

REFERENCE AND NOTES

1. Clause 2 of one the Articles affected by the Fourth Amendment was described as being 'not very complimentary to the higher judiciary of the country and not worth incorporation in the Constitution.' Munir, *op. cit.*, p. 439.
2. See pp. 31-2. of the prescribed book, Herbert Feldrom, (London: Oxford University Press; 1972). PP. 31-32
3. Known popularly as 'Operation 303'. (A great deal of sardonic humour turned on the coincidence between this number and the bore (0.303 inches) of the famous Lee-Enfield rifle with which the Armed Forces of the sub-continent had long been equipped). Some of the suspended officers were subsequently exonerated and they returned to their duties.
4. Speech at the Dacca Session of the National Assembly, 8 March 1966.
5. *Ibid.*
6. *Ibid.*
7. In Gujarat, May 1967.
8. In Dera Ismail Khan, May 1969.

9. In Sibi, August 1969.
10. In Gujranwala, August 1969.
11. In Sahiwal, November 1969. This order under the Section was, however, suspended by the High Court on the ground that it was a fraud upon the statute.
12. *Daily News*, Karachi, 6 March 1968.
13. During the first ten days of Mohurram, Muslims mourn the martyrdom of Hussain, son of Ali and grandson of the Prophet. Since the Shi'as attach special importance to Ali and consider he should have been raised to the Caliphate on the Prophet's death, they lay special stress on mourning for Ali's son, martyred at Karbela. The Sunnis take a different view concerning the succession and this difference between the two sects has widened into a considerable conflict of attitude on many important questions of doctrine and law. It is during such times as the first ten days of Mohurram that it even becomes necessary for the administration to restrain certain individual *moulvis* and *maulanas* (religious teachers) from proceeding to places where their presence is likely to arouse violent sentiments.

UNIT EIGHT

Contents

8.1 FALL OF AYUB KHAN

Reading 1. The military and politics
in Pakistan:
1947-1986
(Hassan Askari Rizvi)

**FALL OF
AYUB KHAN**

In this reading an attempt has been made to examine the issues and events which caused the downfall of Ayub Khan. During anti Ayub movement, first time in the history of Pakistan, students emerged as an agent of political change. In this reading passage author has tried to point his figure at the factors which pushed masses to launch a movement against Ayub Khan. In this regard he has tried to establish that, there were several economic, political and social factors which forced students, politicians and inteligentia to form a united front against Ayub Khan.

We hope this reading will help you to understand the causes, factors and agents which played a significant role in the anti Ayub movement. (Compiler)

READING-1

(Excerpt from the Military and Politics in Pakistan, by Hassan Askari Rizvi, Published by Progressive Publishers, Lahore, 1986, PP. 146-166)

THE CHANGE OF THE HORSEMAN

By 1968 it seemed that Ayub Khan had succeeded in evolving a viable political system for Pakistan. A guided democracy and the alliance of the bureaucracy and the military would ensure the stability needed for economic development and industrialization. But the events from October 1968 to March 1969 clearly showed that the political stability given by his regime

was personalized rather than institutionalized. What initially started as student demonstrations, culminated into a nation wide agitation against the political system introduced by Ayub Khan. Officials claimed that the discontent was generated by opposition, leaders, especially the former Foreign Minister Z. A. Bhutto, who were bent upon creating trouble in the country. In fairness, all the blame could not be laid at Bhutto's door. He criticised the Ayub regime just as other opposition parties had been doing ever since Ayub Khan came to power. The only difference was that he said things vehemently, fearlessly and, therefore, more effectively. The issues which led to political crisis in Pakistan in 1968-69 were many and complicated. They were constitutional, Political, religious, parochial, regional and even emotional. Some of these were older than the Ayub regime.

Factors Responsible for the Political Crisis in 1968-69:

Since the introduction of the 1962 Constitution, there was a section of public opinion (especially the former politicians) who resented the concentration of powers in the hands of the President, the system of indirect elections and the grant of limited financial powers to the National Assembly. The opposition leaders objected to Basic Democracies because they felt that an electoral college composed of 80,000 people could be relied on to vote Ayub Khan to power every time. They could be easily bribed and intimidated. The state of emergency declared in September, 1965, after the outbreak of the Indo-Pakistan War, gave him semi-dictatorial powers. There was a consensus in the opposition ranks on the need of democratization, of the political system introduced by Ayub Khan. But some of them pleaded the re-introduction of parliamentary system of government while other pleaded only for the introduction of direct elections and grant of more powers to the National Assembly.

After the completion of the period of ban on the 'EBDOed' politicians

on 31st December 1966, most of them entered politics and joined the anti-Ayub forces. Even before the completion of the period of the ban, they had been taking part in politics from the background. Now, they directly came into the field. With the passage of time, especially after the Tashkent Declaration, 1966, the opposition parties became increasingly hostile in their attacks on the government. In public meetings organized by the Pakistan Democratic Movement (the P.D.A) in various cities of East Pakistan, its leaders advocated the restoration of democracy and the withdrawal of the state of emergency and laws made thereunder. They denounced the government for the growing inter-wing disparity and concentration of wealth in a few hands, thereby increasing impoverishment of the peasants in East Pakistan.¹ The P.D.A leaders in West Pakistan were no less critical of the regime and demanded the restoration of parliamentary system of government.

The government reacted sharply to such demands of the opposition leaders. Ayub Khan warned the people about the opposition demand of direct election and parliamentary form of government, saying "God forbid if they succeed in their design, it would just lead the country to disaster,"² In another speech, he declared that a strong and prosperous Pakistan could be achieved only when the disruptive elements "who are unaware of their misdeeds are completely eliminated from public life."³ On various occasions the government had to rely on her regulative and coercive capability to check hostile propaganda and political agitation against the regime. This increased bitterness between the government and the political leaders and developed political alienation amongst the people.

In the meanwhile, a number of incidents damaged the image of the Ayub Regime and helped the opposition leaders to muster support. The Tashkent Declaration was not welcomed in West Pakistan. It encouraged

disenchantment with the Ayub regime in those parts of West Pakistan from which the bulk of the army was recruited. The Indo-Pakistan wars has ended in a stalemate, with Pakistan failing to liberate Kashmir and India failing to subdue Pakistan. But the general belief in Pakistan was that they had won the war. It was in this background that the Tashkent Declaration was interpreted as a near surrender. It provided for withdrawal of troops without outlining a solution of the Kashmir question.

There were strong anti-government demonstration in the major cities of West Pakistan. The government maintained that it had not changed her stand on Kashmir and the solution of the Kashmir dispute would soon emerge through the Tashkent Declaration. Ayub Khan declared, "the declaration has in no way detracted from or damaged our national view-point on Kashmir. The right to choose their future remains inviolate. I hope that this Declaration will open new avenues for the settlement of the Kashmir issue."⁴ Referring to the failure of the Tashkent Summit to arrive at a settlement of the Kashmir dispute, the then Foreign Minister Z. A. Bhutto said that the failure had not weakened "our resolve to seek a just settlement under this very declaration or even outside its frame-work,"⁵ No advance was made towards the solution of the Kashmir dispute during the post-Tashkent Declaration period. This was a major cause of disillusionment not only amongst the masses but also in the armed forces who had fought valiantly against the better equipped Indian troops.

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The Indo-Pakistan War, 1965, added a new dimension to the East Pakistan-West Pakistan relations. The political leaders of East Pakistan had always been bitter about what they considered the neglect of East Pakistan by the central government. The war provided another reason of bitterness. Though there was no war on the East Pakistan-India border, it was cut off from West Pakistan during that period. The East Pakistani leaders claimed

that in view of its meagre defence potential, East Pakistan could have been over-run by India.⁶ This sense of insecurity was articulated by the political leaders to reinforce the grievances against the central government. This promoted political alienation and regionalism in East Pakistan. Debates of the National Assembly during 1966-68 clearly indicated the growing dissatisfaction in East Pakistan. Most of the questions put in the National Assembly by the opposition members from East Pakistan related to the disparity between the two wings to the disadvantage of East Pakistan. It was in such an atmosphere that the Awami League presented its Six Point Formula to secure the "legitimate" rights and "maximum autonomy" for East Pakistan. Ayub Khan endeavoured to accommodate some of their demands but his efforts hardly satisfied the vocal elements in East Pakistan. Their campaign for autonomy and the constant criticism of the government policies towards East Pakistan made the Ayub regime unpopular there.

During the ten years of the Ayub regime, Pakistan experienced spectacular economic growth in quantitative terms. Pakistan's philosophy of economic development was based on the principle of maximum encouragement to private enterprise through state subsidies and other incentives without regard to the income distribution or other consideration of social justice. This accentuated economic inequality between the upper class on the one hand and a small middle class and the enormous lower class on the other hand. The upper stratum of the society rapidly moved into the higher income groups but the lower classes were denied the fruits of economic development. In 1968, Dr. Mahbub-ul-Haq, Chief Economist of the Planning Commission, disclosed that twenty families controlled 66 per cent of the entire industrial capital, 80 per cent, of the banking and 97 per cent, of insurance capital. The statistics quoted by the Chief Economist might be symbolic and the number of such families could be twenty-two, twenty-five, or fifty but the statement rightly identified the growing concentration of

wealth in fewer hands and the lack of sufficient attention to social justice. This widened economic disparities in Pakistan. The government propaganda machinery told the people how much better off they were now as compared with their conditions ten years ago. But the experience of the common man was contrary to that. Dissatisfaction was growing particularly in urban centres because very little was done of the embryonic urban proletariat. The number of the educated jobless was increasing and the prices of essential commodities were going up. In the summer of 1968, when the country was preparing to celebrate the Decade of Development, to mark the 10th anniversary of 'the October Revolution.' Karachi faced a serious shortage of drinking water and the country as a whole faced a big shortage of sugar. Sugar suddenly disappeared from the market and its price registered an exorbitant rise, beyond the means of a person earning less than a hundred rupees a month. The shortage became so acute that sugar had to be imported. In November, 1968 rationing system was introduced for sugar in all the major cities. All this made the common man sceptical of the economic development during the last ten years. The opposition leaders could point out that Ayub's economic planning had not improved the lot of the majority of the people, whose income had declined and the main burden of economic development was placed on those who could not afford it. The government recognized the inability of economic planning to produce an egalitarian society. The objectives of the Fourth Five-year Plan announced in January 1969 emphasized the need "to synthesize the claims of economic growth and social justice through the pursuit of pragmatic policies" and "to direct the forces of socio-economic change in the interests of all the people."⁷ But it was too late to realize this. The common man in Pakistan was not in a mood of waiting for another five or ten years to see the re-orientation of the pattern of economic development.

Ayub's image was further damaged by the money-making activities

of members of his family and by others who enjoyed his protection. Two of his sons secured their release from the army and decided to enter civil life. One of them, Gohar Ayub, and his father-in-law, General Habibullah entered business and industry. Gohar emerged as a powerful business magnet in a relatively short span of time. There was no evidence to suggest that Gohar Ayub secured all these positions and wealth with the express consent of Ayub Khan. But it could not be denied that the activities of Gohar Ayub were within the knowledge of Ayub Khan. He did allow, willingly or unwillingly, his son to use his name and make money. What added fuel to the fire were the efforts of Gohar Ayub to become the political over-lord of Karachi. His involvement in the disturbances in Karachi in January 1965, after the victory of Ayub Khan in the presidential elections, made him unpopular. He was appointed Chairman of the Co-ordination Committee for the Convection Muslim League in Karachi. A mistaken but widespread feeling grew that Ayub Khan was preparing Gohar for succession. The resentment against Gohar Ayub contributed to political discontentment in Pakistan.

While political discontent was simmering, Ayub Khan fell seriously ill in February, 1968. He was confined to bed for about a fortnight. For all political purpose, he did not function as the president of Pakistan during his illness.⁸ The Cabinet met him for the first time after his sickness on 28th February 1968. The meeting was short and he advise the minister: "do not postpone decisions and execute essential policies and plans".⁹ The Cabinet again met him on 10th March 1968, when he was in a much better shape.¹⁰ Thus, in a period of 36 days, the ministers saw the president only once; even that too for a few minutes. His illness had two major impact on the future course of politics in Pakistan: First, it brought the issue of successor to Ayub Khan into the lime-light. For the first time in ten years, people began asking themselves 'after Ayub, who?' 'after Ayub what?' Second, Ayub's reliance on the bureaucracy increased after his sickness. It appears that his health and

medical advice did not permit him to devote so much time to administration as was the case in the past. This widened the already widening gap between Ayub Khan and the common man. The senior advisors kept him in dark and gave the impression that his name would go down in history as the second Ataturk. A massive programme of publicity was launched under the caption 'the Decade of Development' to mark the 10th Anniversary of Ayub's assumption of power. Ayub Khan became conscious of serious dissatisfaction against him only in October November, 1968, when student riots became widespread. The other incident which confirmed the existence for dissatisfaction against his regime was an unsuccessful attempt on his life in Peshawar in November 1968.

The next General Elections were due in Pakistan in autumn, 1969, and winter, 1970. According to the plans, the elections of Basic Democracies were to be held in autumn, 1968. This was to be followed by the elections of the President, the members of the National Assembly and the two Provincial Assemblies. Political parties stepped up their activities to prepare themselves for the next elections. They played up what they considered the failure of the government to mobilise people for their viewpoint.

Ayub Khan's efforts to modernise society by adopting liberal and dynamic interpretation of the Islamic principles were not welcomed by the orthodox religious leaders. The Family Laws Ordinance invited the wrath of the orthodox section of population. His attempts to popularize the Family Planning Programme was declared un-Islamic by a large number of *Mulahs* who quoted the verses of the Quran to show that the use of contraceptives was prohibited in Islam. There were numerous reports of Family Planning Officers beaten up by villagers and their offices attacked in rural areas. This section of population turned against Ayub Khan for what they considered 'anti-Islamic' policies of his regime.

There were serious allegations that corruption, nepotism and bribery had become rampant in Pakistan. It was claimed that all the evils which existed in Pakistan before Ayub Khan took over in 1958, had again grown out of proportion and it was difficult for an ordinary person to have his work done in government offices without promising bribes.

The Collapse of the Ayub Regime:

Political movement that forced Ayub Khan to resign and hand over power to General Yahya Khan was unique in the sense that it was spontaneous, unplanned and lacked unified direction. The scope and intensity of the movement was without a parallel in Pakistan and left few institutions in the form of student agitation, no political commentator could visualize that Ayub Khan's regime would collapse and the country plunge into a serious political crisis.

Political movement against Ayub Khan passed through four major phases. The four phases do not imply that the movement could be divided into four water-tight compartments. The events of these months were so interlinked that on occasions this classification appeared arbitrary. These phases reflected for major turning points in the movement which facilitated the analysis of the dynamics of this mass movement for the restoration of liberal democratic institutions in Pakistan.

The First Phase:

While the government was making necessary arrangements to celebrate the 10th anniversary of Ayub Khan's assumption of power, the opposition parties were planning their strategy for the new elections. In November, 1967, Z. A. Bhutto launched a new political party-Pakistan People's Party. First convention of the Party was held in December 1967. Z. A. Bhutto had been associated with Ayub Khan from 1958 to 1966. He was

appointed Minister of Commerce in 1958. Changes in ministerial posts brought him to Foreign Ministry. It was in this ministry that he began to carve out his career which seemed to mark him as the apparent successor to Ayub Khan. His support for Ayub Khan's candidature in the 1965 elections was unqualified and so was his condemnation of the opposition. But in 1966, he had sharp differences with Ayub Khan on the Kashmir question and peace terms with India. This brought his break with Ayub Khan and the ruling Convention Muslim League where he held the key post of Secretary-General. After leaving Ayub Khan's Cabinet, his political future was uncertain for sometime. He was offered an ambassadorial assignment to France or any other place of his choice on "specially worked out terms."¹¹ He, however, decided to enter politics in opposition to Ayub Khan.

During the summer of 1968, Z. A. Bhutto embarked on an extensive tour of West Pakistan and addressed his party workers, supporters and public in Hyderabad, Kohat, Dera Ismail Khan, Lahore, Karachi, and a number of other places. He received a rousing welcome every where due to his popularity as the foreign minister during the 1965 Indo-Pakistan war, his opposition to the Tashkent Declaration and the impression in the public that he was forced to resign on account of his Pro-China orientations. Bhutto accused the government of not checking corruption, nepotism and mal-administration. He levelled hostile criticism against Ayub Khan, characterizing him as a dictator, whose regime was working against the interest of the common man.

When educational institutions re-opened after summer vacations in September, 1968, the political situation was tense. The government took note of Z. A. Bhutto's activities and the ministers issued rejoinders to his allegations. The Governor of West Pakistan (General Mohammad Musa) who until now avoided political controversies, publically denounced those

working against the government and accused the political leaders of "hatching conspiracies" to destroy Pakistan.¹² Such statements proved counter productive. Most other political leader also became very active and reopened all the constitutional issues. But none made as significant impact as did Z. A. Bhutto. His dramatic popularity in West Pakistan was mainly due to two reasons: first, his great appeal to the people particularly the younger generation; second, the vacuum in the opposition ranks. H. S. Subrawardy, I. I Chundrigar, Maulvi Fazal Haq were dead. All other political leaders except Chaudhri Mohammad Ali, were men of provincial stature. Neither Chaudhri Mohammad Ali was active in politics nor his party (Nizam-i-Islam) was well organized.

The incident which sparked country-wide student demonstration, took place in Rawalpindi on 7th November, 1968. A party of Rawalpindi students was returning from Landi Kotal, where foreign goods were freely sold and smuggled into the interior of Pakistan. The student were intercepted by the Custom authorities; their goods withheld and a case was registered against them. They took out a procession in Rawalpindi to voice their protest against the custom authorities. A large groups of them went to Hotel Intercontinental to see Z. A. Bhutto, where he was to stay. The police advised them to disperse but the students wanted to wait till Z. A. Bhutto arrived there. There was an argument between the student leaders and police authorities which worsened the situation. The students damaged the hotel property and the police used force to disperse them. This infuriated the students who burnt down buses and dragged public and private property. A large number of students gathered on Peshawar Road near the Coca Cola factory to welcome Z. A. Bhutto. The police resorted to force and opened fire. One student of the Polytechnic Institute received fatal injuries. The next day saw greater trouble. Troops were called out to restore law and order and curfew was imposed.

The majority of the political leaders must have welcomed the new challenge to the Ayub Regime, but Z. A. Bhutto was the only political leader who made no secret of his sympathy for the students. He attended the funeral of the student killed in Rawalpindi. The funeral procession provided another opportunity for a demonstration against the regime and protest against the use of force by the police.

The Rawalpindi students remained in a state of ferment, and the students in other towns soon followed. Besides condemning the Ayub regime, they demanded the withdrawal of the University Ordinance which empowered the government to withdraw degrees under certain circumstances.¹³ From time to time certain minor demands were also put forward by them, *i.e.*, reduction in bus fares, more seats in professional colleges and similar other demands. Education institutions remained closed for the major part of this period. Damage to public and private property, lathi charge, use of force by the police was quite widespread and frequent. The government unsuccessfully attempted to control the situation by imposing section 144, Cr. P. C., and curfew.

While the country was in the grip of student unrest, another incident took place which shook the government. On 10th November 1968, a young man fired two shots from a pistol in the meeting in which Ayub Khan was to address. Ayub Khan was sitting on the dais and the shots did not hit him. The young man was arrested and Ayub Khan later addressed the meeting. The incident came as a shock to Ayub who was given to understand by his advisers that the people, with the exception of a handful of political leaders, supported him.

The first phase of the movement reached its climax with the arrest of Z. A. Bhutto and Khan Abdul Wali Khan and eleven other political leaders.

They were accused of "acting in manner pre-judicial to security, public safety and interest of Pakistan."¹⁴ The action against the political leader was accompanied by a warning of serious action against those indulging in similar activities. The students were advised to be careful about these political leaders who intended to use them as their tool. They were also advised to limit their demands to their own problems which the government promised to solve.¹⁵ These arrests were used to clamp the lid back on the simmering cauldron of politics. But the impact boomeranged since these arrests provided further provocation to the students.

The Second Phase:

The second phase witnessed the entry of a number of retired military officers and the men of good repute in the political field. The political parties became more assertive which transformed the student agitation into a full-fledged political movement.

Air Marshal Asghar Khan (Rtd.) caused a sensation by announcing his decision to enter politics. He carried on the movement from where Bhutto had left and gained rapid popularity with his outspoken criticism of the regime, particularly the restrictions on political activity and the press. He accused that corruption and nepotism had reached their peak and were now up-rooting the basis of society. "Pakistan" he declared, "was ridden by repression, untruth, class distinction and serious disparity in the distribution of wealth."¹⁶ In another statement his attack on the Ayub regime was expressed in a stronger tone. He said:-

At present the whole structure stinks. It is not a healthy system. You have lot of people who are selected for no other quality except perhaps to agree with somebody's point of view. There is no criticism. The press is completely suppressed, there is no check on the Government. We are bordering on a police state.¹⁷

At the end of November 1968, S. M. Murshad, a former Chief justice of East Pakistan High Court entered politics in opposition to Ayub Khan. Not long ago he had resigned as Chief Justice and was considered to be one of the possible presidential candidates of the opposition parties. Lieutenant-General Azam Khan (Retd.) also decided to join the opposition ranks. These three personalities strengthened the hands of the opposition. Later on, a number of other senior retired military officers joined the opposition ranks.¹⁸

Air Marshal Asghar Khan and other opposition leaders talked of replacing the Ayub regime through peaceful and constitutional means but the movement was losing all restraints and getting out of control. The reason was that the political leaders were convinced that it would be difficult to bring about a change of administration under the existing Constitution. So, the agitation turned out to be for the change of the political system rather than the change of the ruling elite. All the institutions associated with the system were made the target of hatred. The political leaders played upon regional differences and grievances which engulfed the whole of Pakistan in a severe political crisis. The One Unit Scheme of West Pakistan was called into question and there started a strong agitation in the smaller provinces against the Scheme.

Ayub Khan went to Dacca in the first week of December 1968 for a short visit. His stay in Dacca was marred by strong anti-government agitation. Two persons were killed and four other were injured as a result of firing by the police and the East Pakistan Rifles in Dacca and 128 persons were arrested on the first day of his visit.¹⁹ This added fuel to the fire and in a couple of days the whole of East Pakistan was in the grip of student agitation, who were joined by political leader and other sections of population. The agitation in East Pakistan was very widespread and intense. The authority of the government receded very quickly. All those who had

supported the Ayub regime in the past, found themselves in trouble.

Maulana Bahashani declared that his faction of the National Awami Party would boycott the forthcoming elections. He demanded the introduction of adult franchise, full autonomy for East Pakistan. He was of the opinion that only Defence, Currency, and Foreign Affairs should remain with the Centre.²⁰ A week later, the National Executive of the Pakistan Democratic Movement (The P.D.M.) announced its decision to participate in the elections only if five conditions were fulfilled. These conditions were

1. Direct elections held under adult franchise.
2. Full powers to the directly elected parliament and provincial legislatures.
3. Immediate removal of the state of emergency and the repeal of all repressive laws.
4. Immediate restoration of full fundamental civic rights and freedom and their complete justiciability.
5. Immediate release of all political prisoners and detenus and withdrawal of cases and actions against them.²¹

Eight opposition parties formed a united front, known as Democratic Action Committee (D.A.C.) with object of establishing 'full and complete democracy' and 'restoring complete sovereignty to the people of Pakistan'. The political parties were: The Awami League (Six Points), the national Awami Party (Requisitionists), Jamiatul Ulama-i-Islam, the National Democratic Front, the Awami League (Nawabzada Nasurallah group), the Council Muslim League and Jamat-i-Islami. The last five political parties were also the components of the Pakistan Democratic Movement.

The D. A. C. decided not to participate in the elections and demanded:-

1. A federal parliamentary system of government.

2. Direct elections on the basis of universal adult franchise.
3. Immediate withdrawal of the State of Emergency.
4. Full restoration of civil liberties and the repeal of all black laws, in particular the repeal of laws providing for detention without trial, and the University Ordinance.
5. Release of all political detenus and prisoners, students workers, journalists, including Sheikh Mujibur Rehman, Khan Walik Khan and Z. A. Bhutto, and withdrawal of all political cases pending before courts and tribunals as well as the warrants of arrest issued against the political workers.
6. Withdrawal of all orders under Section 144, Cr. P.C.
7. Restoration of the right of labour to strike.
8. Withdrawal of all orders on the press including those on the grant of new declaration and the restoration of all presses, papers and periodicals which have been confiscated or where declarations have been canceled including the 'Chattan' and the restoration of Progressive Papers Ltd., to their original owners.²²

It may be pointed out here that there was no mention of dismemberment of the One Unit Scheme in the demands of the D.A.C. The Pakistan people's Party and the National Awami party (Bhashani Group) remained aloof from the D.A.C. In spite of their decision to oppose the Ayub regime from a common front, there were differences among these political parties due to their regional and provincial loyalties. As they had decided not to contest elections and had the common objective of overthrowing Ayub Khan, their difference did not appear on the surface.

The Third Phase:

By the end of January 1969, Ayub Khan realized that the continued use of force would not solve the problem. There was hardly any person who

believed that the opposition leaders were engaged in efforts to disintegrate Pakistan, as was claimed by the government spokesmen. People belonging to every walk of life, *i.e.* students, journalists, labourers, employees of semi-government bodies, lawyers and teachers were up against the regime. Ayub Khan decided to open a dialogue with the opposition leaders. The first indication of the change in the government policy was noticed in Governor of West Pakistan, General Mohammad Musa's speech on radio on January 27, 1969. He declared that the government was prepared to discuss any issue which was agitating the minds of the people.²³ On 5th February, 1969, Ayub Khan formally invited the leaders of the opposition parties for talks on 17th February. In the meantime, Z.A Bhutto's case came up for hearing before the High Court. He submitted an affidavit to the Court which recounted his association with Ayub Khan and his sufferings in confinement. This was mainly addressed to the younger generation rather than the Judges of the High Court and was a catalogue of charges against Ayub Khan.²⁴ Bhutto alleged that the government warned him not to enter politics after he had resigned the post of Foreign Minister in 1966.²⁵ In order to build more pressure against Ayub Khan, Z.A. Bhutto threatened to starve himself to death unless the State of Emergency was lifted.²⁷

The opposition leaders expressed their willingness to participate in the talks provided certain conditions were fulfilled. These were:-

- (a) The State of Emergency should be lifted and the Defence of Pakistan Rules should also be repealed.
- (b) All arrested students and political workers should be released.
- (c) Section 144 should be lifted.
- (d) Government proceeding under the Maintenance of Public Order Ordinance and the Press ordinance should be withdrawn.
- (e) The 'Lathi' charging of students by the Police must be stopped.

The government accepted most of these demands. The State of Emergency was withdrawn on 14th February, 1969. Z. A Bhutto, Khan Wali Khan and a number of other political leaders were released and it was after the withdrawal of the State of Emergency, a new crisis threatened the proposed talks. Z.A Bhutto and Maulana Bhashani decided to boycott the talks. The Awami league insisted that the Agartala Conspiracy Case should be withdrawn and if Sheikh Mujibur Rehman and 34 other detained in connection with this case were not released, it would not participate in the talks. The government was willing to release Mujibur Rehman on parole to enable him to participate in the talks, but the Awami League and Sheikh Mujibur Rehman did not agree to it and insisted on his unconditional release.

In order to facilitate the talks Ayub Khan declared in February that he would not seek reelection and that he was prepared to discuss amendments in the constitution to accommodate their demands. On 22nd February, the government also decided to withdraw the Agartala 'Conspiracy Case. Sheikh Mujibur Rehman and 34 other accused were set free. It removed the last impediment in the way of holding of talks between the government and the opposition leader. The talks, known as the Round Table Conference, started on 26th February 1969.²⁸ After a brief session. It was decided to summon it on 10th March 1969.

The second session of the talks began on 10th March in Rawalpindi. There were sharp differences on various political and constitutional issues amongst the political leaders participating in the talks. Only two demands were jointly presented by the components of the D.A.C.

1. Restoration of federal parliamentary system with regional autonomy.
2. Elections on direct adult franchise.

Different political leaders raised various issues individually. Khan Wali Khan insisted on the immediate dismemberment of One Unit. Mufti Mahmood objected to the Muslim Family Laws Ordinance and emphasized that the 22 points agreed to by Ulemas in 1951 should be implemented so that Pakistan could become a true Islamic State. Sheikh Mujibur Rehman's tone was very bitter and he emphasized his six points. He argued for the dismemberment of One Unit, full regional autonomy for the provinces, representation on the basis of population, two currencies, two federal banks and no taxation powers with the centre. Various political leaders demanded the withdrawal of warrants of arrest against all political workers and the repeal of the 'black' laws. A few of them were disturbed by the growing lawlessness in the country and asked the government to do something about it.

Ayub Khan was aware of the fact that the basis of unit amongst the opposition parties was fragile. He accepted their demand to re-introduce parliamentary system of government and direct elections for the members of National and Provincial Assemblies without disturbing the principle of parity between East and West Pakistan and the One Unit Scheme. The future of One Unit and the principle of parity, Ayub Khan maintained, must be decided by the new parliament "elected on the basis of direct adult franchise."²⁹ The acceptance of the two main demands of the D.A.C. removed the only basis of agreement among the component parties of the D.A.C. and their differences became very sharp. Sheikh Mujibur Rehman dissociated himself from the D.A.C. The political leaders, who for the first time in ten years, had succeeded in building anti-Ayub agitation in the country, did not want to miss this opportunity to bring down his regime. They now fanned regional and parochial feelings. Politics of Pakistan, once again became the manifestation of personal and regional grievances and desire on the part of the political leaders to win support by all possible means.

The Fourth Phase:

The movement entered the fourth phase before the beginning of the talks between the opposition leaders and Ayub Khan. There was an incident which gave a fillip to agitation in East Pakistan. One of the accused of the Agartala Conspiracy Case (Fight Sergeant Zahurul Huq) was shot dead while allegedly trying to escape from the military custody. Nobody in East Pakistan believed this story. A huge crowd, protesting against the incident, attacked, the house of two central ministers, destroyed fire-fighting machines and overturned police jeeps. Later, they burnt down the State Guest House and the offices of the Convention Muslim League. Troops were called out and a dusk to dawn curfew was imposed in Dacca.³⁰

With the passage of time, the situation deteriorated rapidly. The Awami League and Sheikh Mujibur Rehman fanned anti-West Pakistan feelings and held West Pakistan responsible for all the problem of East Pakistan. He clearly hinted Pakistan might break away. He said, "I will not go back on my word to the people. These are the people's demands. We have waited for 20 years. We want justice now."³¹ Maulana Bhashani openly preached violence.³² Speaking in Karachi, he advised the people to take up arms against the capitalists and imperialists. They could get arms, "if they raided the dens of these rich people."³³ In West Pakistan the movement to dismember the integrated province of West Pakistan and create four province became strong.

East Pakistan was in the grip of appalling lawlessness. The rival student factions were more powerful than the police. Conditions were precarious in rural areas where an unchecked reign of terror was spreading. Many villages were razed and thousand of East Pakistanis were left homeless. Police stations were attacked, officials were clubbed to death. They also turned on rent collectors and the Basic Democrats who formed the lowest

tier of Ayub Khan's political system. A large number of Basic Democrats were forced to resign and some of them were burnt alive. There were reports of setting up of 'people's courts' which lashed some people, crucified other and blinded a few. In the absence of executive authority and a police force, village turned against the village, old rivalries were settled with axe and one section of the people clashed with another section. As the anarchy spread, food trains and river ferries were looted and the vital movement of food supplies came to standstill.³⁴ The urban centres of both the wings witnessed a series of seizures of factories and "gheraos" (forcible lockins of managers-owners by their workers) and partial or total strikes. The regime found itself powerless to cope with such a situation. In certain areas the machinery of government had come to stand still while in other areas it hardly existed.

Transfer to Power to General Yahya Khan:

On the evening of 25th March 1969, Ayub Khan addressed the nation over the radio for the last time as president of Pakistan. He announced his decision to step down and hand over power to General Yahya Khan, C-in-C of the Army, Explaining the reasons of his resignation, he said:-

The situation in the country is fast deteriorating. The Administrative institutions are being paralysed. Self-aggrandisement is the order of the day. The mobs are resorting to gheraos at will, and get their demands accepted under duress. And no one has the courage to proclaim the accepted under duress. And no one has the courage to proclaim the truth. Every principle, restraint and way of civilised existence has been abandon. Every problem of the country is being decided in the streets. Except the Armed Forces, there is no constitutional and effective way to meet the situation.³⁵

A day earlier, he wrote a letter to General Yahya Khan, informing him of his intentions to hand over power to him. He wrote:-

It is with profound regret that I have come to the conclusion that all civil administration and constitutional authority in the country has become ineffective. If the situation continues to deteriorate at the present alarming rate, all economic life, indeed, civilized existence will become impossible.... I am left with no option but to step aside and leave it to the Defence Forces of Pakistan which today represent the only effective and legal instrument, to take over full control of the affairs of this country They alone can restore sanity and put the country back on the road to progress in a civil and constitutional manner.³⁶

General Yahya Khan abrogated the 1962 Constitution, banned all political activity (not political parties) dissolved the National and Provincial Assemblies, dismissed the central and provincial cabinets and declared Martial Law throughout the country. He assumed the Supreme Command of the armed forces and on 31st March 1969 proclaimed himself President of Pakistan. His address to the nation on 26th March 1969 reminded one of Ayub Khan's address to the nation on 8th October 1958. The objectives of the new regime, as declared by General Yahya Khan, were not different from the objectives outlined by Ayub Khan after the assumption of power in 1958, except that Yahya Khan declared that the new constitution would be framed by the representatives of the people. He claimed that the sole aim of his regime was to protect the life, liberty and property of the people, to pull the country back to sanity, and to put the administration back on the rails. He said:-

The Armed Forces could not remain idle spectators to this state of near anarchy (administrative laxity, strikes and violence). They have to do their duty and save the country from disaster... It is my firm belief that sound, clean and honest administration is a pre-requisite for sane and constructive political life and for a smooth transfer of power to representatives of the people elected freely and impartially on the basis of adult franchise.³⁷

The transfer of power from Ayub Khan to Yahya Khan, which took

place in one day, was quite mundane. It brought back Pakistan, once again, on the starting point. The succession was simple and swift and less complicated than constitutional transfer of power. All available evidence suggested that Ayub Khan was not forced to resign by his Generals at gun point. He resigned before such an eventuality arose. The political conditions were getting from bad to worse and the transfer of a few days or weeks. Had he stayed on, the possibility of his Generals forcing him to resign could not have been ruled out.

When, by the middle of March, the Civil Government found itself incapable of restoring law and order. Ayub Khan had three choices open to him:-

- (a) Resign and allow transfer of power in accordance with the 1962 Constitution.
- (b) Declare Martial Law in the country or those parts where situation was totally out of control of the civil administration but continue as President. After fresh elections on the basis of adult franchise, transfer power to the elected representatives.
- (c) Resign and hand over power to the Army.

The constitutional provision was that after the resignation of the President, the speaker of the National Assembly should act as President³⁸ and the election to the office of the President should be held within the period of ninety days.³⁹ In theoretical terms transfer of power was possible through this procedure but in practice such a transfer was impossible due to the serious political crisis and law and order situation in the country. The Constitution provided for the election of the president through an electoral college comprising the Basic Democrats. By March the Basic Democracies had been discredited and no body would have accepted the principle of indirect elections. Thus the Constitution had to be amended to waive the

condition of 90 days and to hold direct elections. But it was hardly possible, first to hold the National Assembly session due to the conditions discussed in the earlier section; second, to have a dispassionate study of the whole problem (provided sessions could be convened), and, third, to have direct elections of the President (Provided the National Assembly succeeded in amending the said provision). The transfer of power to the Speaker would have encouraged great violence and disturbances in the country mainly for two reasons. First, the powers of the Acting President were restricted as compared with an elected President. The situation was already out of control and the Acting president would have found it difficult to control it. The movement was not against Ayub Khan alone, it was against the total system introduced by him. Second, the Speaker of the National Assembly had close association with the Ayub regime and was a nominee of the Convention Muslim League. He would no have been accepted by the political leaders of East Pakistan.

The second choice, i.e. declaration of Martial Law to maintain law and order but continuing as the president would not have solved the problem facing the nation. The Ayub regime was already being accused of using repressive measures to curb a popular movement. The experience of the last few months had clearly demonstrated that the use of force would not bring the situation back to normal. A month earlier he had withdrawn the State of emergency in view of the demand of the opposition political leaders. Re-introduction of the State of Emergency or declaration of Martial Law would have convinced everybody that Ayub Khan wanted to maintain power at all cost. The military commanders were not willing to declare martial law under Ayub Khan. This would have identified the military with the discredited regime of Ayub Khan and tarnished their image in the minds of the people.

By the spring of 1969, Ayub Khan had lost the support of the military

commanders. The resentment against him in the military started with the Tashkent Declaration and it continued to grow. When the regime faced the serious political crisis of 1968-69, the military dissolated itself from Ayub Khan. The main indicator of the military's unhappiness with Ayub Khan was the emergence of Air Marshal Asghar Khan and few other retired Generals as active and vocal opponents of the Ayub Regime. Air Marshal Asghar Khan, being the first Pakistani C-in-C of the Pakistan Air Force, was still respected in the military circles. It was quite unlikely that he would have entered politics in opposition to Ayub Khan without some indication of resentment in the military against Ayub Khan. The military was also not happy with him due to his decision to withdraw the Agartala Conspiracy Case. The accused were in the custody of the military and most of the evidence of the case was collected by the military intelligence. Its withdrawal put the military in an embarrassing position. The announcement of Ayub Khan's decision not to seek re-election contributed to his loss of sympathy of the military and the bureaucracy. Now the military commanders were not willing to go out of the way to support him. Yahya Khan realized that the time was fast approaching when he could exercise supreme political power. By rendering unqualified support to Ayub Khan, he would have missed this opportunity.

General Yahya Khan informed Altaf Gauhar, Central Information Secretary, in early March 1969 that in his estimation the situation was entirely out of control of civil administration and Ayub Khan should leave it for him to put everything in order. Ayub Khan sent him a message that the situation was likely to improve and there would be no need of intervention by the Army. On this Yahya remarked: "If that was what the President wished, he himself should pack up and go to Peshawar leaving the country and the President to manage as best they can."⁴⁰ This clearly indicated that Ayub Khan had lost the support of the military and Yahya Khan had become

ambitious for political power.

Ayub Khan could no longer depend on the unified and solid support of the military. The civil administration was already ineffective and after Ayub Khan's decision not to seek re-election, it also did not render as much support to him as was done in the past. Ayub Khan had not ruled out the possibility of such a situation when he could not depend upon the military and the bureaucracy. He established the system of Basic Democracies to carry. But his efforts did not yield satisfactory results. The erosion of these sources of power was the major cause of his decision to step down from Presidency.

He made a final attempt to save the situation on 19th March 1969 by appointing Yusuf Haroon and Dr. N. M. Huda as Governors of West Pakistan and East Pakistan, with the hope that the new Governors might succeed in seeking the co-operation of different political parties to run the administration till the elections were held. Yusuf Haroon hurriedly met various political, labour and student leaders and appealed for calm. There was hardly anybody willing to pay heed to his advice. The government servants and the Police threatened to go on strike. In East Pakistan, Dr. N.M. Huda found the whole administrative machinery totally paralysed beyond the hope for recovery in the near future. After receiving communications from the two governors, Ayub made up his mind to hand over power to the Army Chief.

Conclusions:

The country-wide political agitation against the Ayub regime was a revolt against the injustices suffered by the people and the growing economic disparity, which encouraged frustration and political alienation. The Ayub decade showed that only economic growth could not sail an authoritarian regime to success. Economic growth must also be accompanied by economic

justice and social change.

The opposition political leader succeeded in forcing Ayub Khan out of office but failed to produce in a alternate leadership. The failure of the Round Table talks clearly demonstrated that the political leaders had not learnt any lesson from the events of 1947-58. They were not only fighting against the Ayub regime but they were also trying to outwit each other. Once again, conditions were created where, except the armed forces, the society was fragmented and all the political issues since 1947 were reopened. The armed forces demonstrated their ability to maintain a cohesive organization which facilitated the military take-over in 1969.

When General Yahya Khan realized that the Ayub regime was totally discredited and it relied on the military for its survival, and the political leaders were unable to put forward an alternate leadership, he considered himself as the "natural heir" to Ayub Khan.

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5. Z. A. Bhutto's statement issued from Larkana: *The Pakistan Times*, 17th January, 1966.
6. See also Hasan Askari Rizvi, *Military and politics in Pakistan: 1947 - 1986*, (Lahore: Progressive Publishers, 1986) Chapter 7.
7. *Objectives of the Fourth Five Year Plan, 1970-75* (Karachi, January, 1969).

8. Zafer, S. M. *Through the Crisis*: (Lahore, 1970), p. 128, S. M. Zafer was Law Minister in Ayub's Cabinet in 1968.
9. *Ibid.*, pp. 129-30
10. *Ibid.*, p. 130.
11. Bhutto, Z. A. *Commitment to History*: Text of affidavit submitted to the High Court of West Pakistan. (Lahore, 1969), p. 18. The full text of the affidavit may also be seen in *Dawn*, 6th February, 1968.
12. General Mohammad Musa's broadcast: *Dawn*, 18th October, 1968.
13. It may be pointed out here that this clause of the Ordinance was never invoked but the students resented to the inclusion of such a clause in the Ordinance.
14. Government Press Note: *Dawn*, 14th November 1968. Besides Z. A. Bhutto and Khan Wali Khan, following were arrested: Mumtaz Ali Bhutto, Ghulam Mustafa Khan, Arbab Sikandar Khan, Rasool Bakh Talpur, Dr. Mubashir Hassan, Ajmal Khattak, Malik Aslam Hayat, Arbab Mohammad Hayat of Sheerpoor, Shaukat Lodhi, Amanullah Khan and Ahmad Raza Khan.

On the next day, 10 more political leaders were arrested under the West Pakistan Maintenance of Public Order Ordinance: Mahmood-ul-Haq Usmani (Secretary-General of N.A.P.), Nawaz Buti, Altaf Azad, Amir Faisal Duran, Alla Bux Rind, Azizullah Hashmi, Zahid Ali, Azhar Abbas, Manzoor Hassan and Zain-ud-Din Khan. These men belonged either to P.P.P. or the N.A.P.

15. *Dawn*, 17th November, 1968.
16. Address to Rawalpindi Bar Association: *Ibid.*, 23rd Nov., 1968.
17. *The Times*, 26th November, 1968.
18. These included major-General Jilani, Major General Akbar Khan Major General Sarfraz and a few others.
19. *Dawn*, 8th December, 1968.
20. *Dawn*, 31st December, 1968.
21. *Ibid.*, 7th January, 1969.
22. *Dawn*, 9th January, 1969.
23. *Dawn*, 28th January, 1969.

Khan Abdul Sabur Khan, Central Minister, winding up debate on political situation in the National Assembly, declared that president Ayub Khan was prepared for

talks "if a reasonable proposal for meaningful talks came from the oppositions."
Ibid., 1st February, 1969.

24. Bhutto: Z. A., *op. cit.* pp. 20-21.
25. *Ibid.*
26. *Dawn*, 6th and 7th February, 1969.
27. *The Times*, 7th February, 1969.
28. Following political leaders took part in the R. T. C. on behalf of the opposition:-
 The D.A.C: Nawabzada Nasrullah Khan.
 Awami League (Pro, PDM Group): Abdus Salam Khan.
 Awami League (Six points): Sheikh Mujibur Rehman and Syed Nazruf Islam.
 The N.D.F: Nural Amin and Hamidul haq Choudhry.
 Council Muslim League: Main Mumtaz Daultana and Khawaja Khair-ud-Din.
 Nizam-i-Islam : Choudhri Mohammad Ali and Mauliv Farid Ahmad.
 Jamat-i-Islami: Maulana Abdul Ala Maudoodi and Prof. Ghulam Azam.
 Jamiatul Ulma Islam: Mufti Mahmood and Pir Mohasinud Din.

 The N.A.P. (Requisitionists): Khan Abdul Wali Khan and Prof. Muzaffar Ahmad
 Independent: Air Marshal Asghar Khan, Justice S. M. Mirshad and Lieut-General
 Azam Khan
29. *The Guardian*, 4th March, 1969.
30. *Ibid.*, 17th February, 1969.
31. *The Times*, 12th March, 1969.
32. He said in Dacca: "The time come to achieve democracy through violence. The days of constitutional struggle are over." : *The Times*, 12th March, 1969.
33. *Dawn*, 19th March, 1969.
34. The conditions in East Pakistan have been described on the basis of the reports of the following newspapers:
The Times, 16th 20th , 23rd March, 1969.
The Observer, 23rd, 25th March, 1969.
35. For the full text of the address, Hassan Askari Rizvi, *op. cit.*, Appendix E.

36. For the full text of the letter, see *Ibid.*, Appendix D.
37. For full text of the address, see *Ibid.*, Appendix F.
38. *The Constitution of the Islamic Republic of Pakistan* Article 16(1).
39. *Ibid.*, Article 165(4).
40. Altaf Gauhar's statement before a Division Bench of Sindh Baluchistan High Court, *The Sun*, 29th September, 1972.

UNIT NINE

Contents

9.1 *INTERRAGNUM (1969-1971)*

- Reading 1. Power and Privilege:
Influenc and Decision making
in Pakistan,
(Robert La Port, Jr.)

**INTERRAGNUM
(1969-1971)**

In this reading passage an effort has been made to discuss the political issues on the span of time spread from 1969-1971. During this period, tragic incident of dismemberment of Pakistan was witnessed. This reading reveals the facts of that crucial period of our history. We hope these facts will provide an adequate base to build up your own argument regarding the tragic amputation of eastern wing of the country. This period begins with the end of Ayub era.

In consequence of Ayub Khan's resignation General Yahya Khan assumed the power and ruled the country under the Martial Law.

Having studied this passage you will be able to critically evaluate the issues and events emerged in this period i.e. 1967-1971.

READING-1

(Excerpt from *Power and Privilege: Influence and Decision-Making in Pakistan* by Robert La Porte, Jr., published by University of California Press, 1975, pp. 75-97).

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YAHYA AND THE TRANSITORY PERIOD, 1969-1971: JUNTA POLITICS AND DECISION-MAKING

AYUB'S LEGACY AND THE POLITICS OF IMMEDIACY, 1969-1971

Succession by way of martial law is much less complicated than other forms of constitutional transfer of power. Theoretically, it permits the new executive a greater degree of discretion in keeping or discarding whatever he wants of the old regime. Given the actual circumstances of this succession, however, which will be discussed below, Yahya, having been selected by his predecessor, came to power saddled with commitments to the status quo. His discretion, therefore, was limited. As a preface to an elaboration of this situation, let us examine what Yahya inherited.

Reassessments will, of course, be made of Ayub's regime in the light of recent events, and it is clear that this era of Pakistani history was a dramatic one which will have an impact on future generations of Pakistanis. By working within the constraints imposed by capitalistic-type economic development theory and thereby avoiding the important issue of the inherent conflict between quantitative economic growth and social justice, Ayub was able to achieve impressive economic gains and to defer the problems of redistribution of these gains to his successor. Thus, having increased the gulf between rich and poor in Pakistan, he presented his successor with an explosive situation. Ayub's economic legacy, therefore, is mixed-impressive industrial growth and the beginnings of a "revolution" in agricultural production, both supported by an exploited rural and urban working class making increasing demands for greater, more equitable distribution of Pakistan's resources.

Ayub's social legacy must be viewed in the context of Pakistani economics. Social demands, too, would have to be dealt with by Ayub's

successors. Readjustments in the prevailing social relationships, if attempted, would affect the positions of powerful segments in Pakistan—in particular, the military, the civilian bureaucracy, the new industrialist class, and the traditional landlord class. These segments overlap, of course, with interconnections existing between the military and the landlords, the civilian bureaucracy and the industrialists class, and so forth. Except for the development of a new industrialist class through government subsidies, Ayub's regime did not tamper with the prevailing socio-political power distribution. Ayub, in fact, diversified the exploiting classes by adding the industrialists to the existing military, civilian bureaucracy, and large landlords. While there was a readjustment or a reshuffling of elite activities, no attempt was made to provide new avenues of social mobility for the middle and lower classes. As shown above, the "costs" of this elite modernization were borne by the middle and lower classes, those least able to afford it.

The political legacy has already been discussed at some length. Within the framework of a highly centralized, strong executive system, Ayub's garrison state formalized (and legalized, in a sense) the dominant roles exercised by nonrepresentative political actors (Lasswell's "specialists on violence" in particular, but also those, including large landlords and new entrepreneurs, who require violence-enforced stability to maintain their positions of power). In addition, Ayub's political legacy included his political support coalition—the military, the civilian bureaucracy, the new industrial/entrepreneurial class, and a segment of the traditional rural elite including large landlords in West Pakistan and, until the emergence of Bangladesh, upper- and middle-class Basic Democrat-types in East Pakistan.

With the downfall of Ayub,² the whole issue of regional economic disparities emerged to the forefront. This issue, however, was not the only one facing Pakistan. In fact, the broader one of developing a "suitable"

The general election for National Assembly seats took place as scheduled, and the electoral results sent shock waves through the nation: the Awami League captured all but two seats in the East (167 seats and about 72 percent of the vote), whereas the People's Party with 81 seats (out of 138 in the West) became the majority party in the West.⁹ Hence, by the end of 1970, Pakistan had completed, successfully, what some observers considered the critical first step in the restoration of electorally based civilian government.¹⁰ But the process of transfer was not effected with the electoral victories of Mujib and Bhutto. Indeed, the election resulted in a heightened continuation of tensions between civilian and military bureaucratic leaders as well as between the civilian leaders of both East and West.

Throughout January 1971, sporadic rioting occurred in both wings of the country. Reports from journalists and others in East Pakistan, however, reflected a general feeling of euphoria. The election results in the East had underscored the Awami League's demands for greater regional autonomy. It appears that certain members of the Awami League felt that West Pakistan (the generals and other influentials) would not intervene in force in view of the magnitude of electoral support that existed for the Awami League's demands.¹¹

From the elections in December 1970 to the military occupation of the East (and the accompanying action against the "miscreants") in the late March 1971, events accelerated and appeared to control the political actors in this tense drama. January and February saw riots and violence in Dacca, with a death toll from military-civilian clashes estimated at over 300. On February 13, 1971, Yahya announced the date for the National Assembly

governmental form to replace the bankrupt Ayub presidential scheme appeared to have more immediate visibility. These were not, of course, inseparable issues; East Bengali leaders such as Sheikh Mujibur Rahman of the Awami League maintained at the time of Yahya Khan's ascendancy to power that any new governmental form would have to accommodate the demands of autonomy³ for the eastern half of the country.

With General Agha Muhammad Yahya Khan's assumption of power through the Second Martial Law promulgation (March 25, 1969), citizens of Pakistan were told that the generals were not desirous of maintaining their power, that they were willing to permit a return to civilian rule—provided that Pakistan's "integrity" and sovereignty remained intact.⁴ What the junta appeared to be offering was the opportunity of greater civilian participation in government so long as no threatening moves were proposed that would essentially dilute the "character" of Pakistan as defined by the junta.⁵ Yahya agreed to consider the readoption of a federal parliamentary system similar to that of the pre-Ayub period; the "reform" nature of the Second Martial Law Period appeared to attempt to satisfy both the demands for more equitable income distribution and the demands of the East Pakistanis for greater economic autonomy within a one-nation framework.⁶

On November 28, 1969, General Yahya announced his political timetable: full political activity, subject to "certain guidelines," would be permitted after January 1, 1970.⁷

The National Assembly elected as a result of this first general election in Pakistan's history would have 120 days to draft a new constitution.⁸ As the election date approached, political activity intensified. The two political parties most active were the Awami League (led by Sheikh Mujib) and the People's Party of Pakistan (led by Zulfikar Ali Bhutto).

the Assembly meeting and appointed Lieutenant General Tikka Khan (later to become Chief of Staff of the Army under President Bhutto) as the Military Governor and Martial Law Administration for the East to replace the civilian Governor of the beleaguered province.¹² Wide-scale rioting and further conflicts between the authorities and the masses in East Pakistan greeted this move; only through the intervention of Awami League, "law and order" committees did the province maintain a semblance of civil order. On March 7, Sheikh Mujib responded to Yahya's moves with a set of demands for East Pakistani autonomy only somewhat short of a declaration of secession and independence,¹³ withstanding the immense pressure for such a step both within and outside his party. Further, Mujib threatened to boycott the National Assembly meeting rescheduled for March 25 unless Yahya terminated martial law.

On March 10, President Yahya Khan announced his intention to fly to Dacca to meeting with Mujib. Meanwhile, reports circulated that Sheikh Mujib had "ordered" the East Pakistani government to take direction from him and not the central authorities: government workers were instructed to stay away from their jobs, and a member of the East Pakistani judiciary refused to swear Lieutenant General Tikka Khan in as Military Governor of the province.¹⁴ From March 16 (the date of Yahya's arrival in Dacca) to March 21, discussions between Yahya, Mujib, and some minor West Pakistani politicians were held. During these discussions, in an attempt to meet one of Mujib's demands, Yahya agreed to establish a commission of inquiry to probe the army's activities during the civil disobedience campaign launched by the Awami League in response to the postponement of the National Assembly meeting in early March. But Mujib then declared that "the people

This ran counter to the Mujib position of a loose confederation providing maximum autonomy for the East with or without "full endorsement" of all Pakistani politicians. While these negotiations were taking place, the Awami League was organizing and consolidating its defacto control over the province.¹⁷

On March 21 Bhutto arrived in Dacca to take part in the Yahya-Mujib discussions. Bhutto was the last, and electorally the strongest, West Pakistani politician to come to Dacca to discuss the fate of the nation.¹⁸ Rumors of settlement, tentative agreement, and even permanent accord between Mujib, Yahya, and Bhutto circulated widely,¹⁹ but other reports also circulated to the effect that a troop build-up in East Pakistan was occurring; in fact, one news release of this period reports a clash between the military and civilians who attempted to impede the disembarkation of troops and the unloading of military supplies in the Chittagong harbor.²⁰ By March 26, 1971, both Yahya and Bhutto were back in West Pakistan.

THE POLITICS OF NATIONAL DISINTEGRATION, MARCH TO DECEMBER 1971

On the night of March 25, 1971, the army was ordered to move out of the cantonments in force to put down what President Yahya Khan described as an "armed rebellion" but what others have described as the legitimate attempt of Bengalis to assert their rights won in the December 1970 elections. Presidential action beyond the deployment of the military involved the outlawing of the Awami League and the banning of all political activity in both West and East Pakistan; Yahya's proclamation to the nation was simple: "I have ordered the armed forces to do their job and fully restore the authority of the Government."²¹

All Awami League leaders were either arrested or killed, or fled into exile. Sheikh Mujib was charged with treason,²² arrested at his Dacca residence, flown to Rawalpindi, and reportedly tried by a secret military tribunal. Hence, a second climax in the series of events following Ayub's ouster had been reached; the momentous decision had been made to use the army to force a recalcitrant, strongly regionalistic (or nationalistic) East Pakistan to remain within the one-nation framework.

Immediate disorder and confusion reigned in Dacca and other parts of East Pakistan. The East Pakistani Rifles, other Bengali regular soldiers, and the police were disarmed and incarcerated by the military. Other military personnel fled to India, later to form the core of the Mukhti Bahini, which operated as guerrilla units within the military-controlled areas of East Pakistan during the period from the crackdown to the Indian invasion. The bombardment of Dacca University and other civilian areas of the city led to charged of bloody, inexcusable repression of civilians-attributed largely to General Tikka Khan and other "hard-liners" in the Pakistan army.²³ By the end of April 1971, the army had secured the major cities of East Pakistan, including rebel strongholds along the border. Guerrilla units were formed in the less secure parts of East Pakistan and in India proper, and reports filtered in of active Indian support (materials and training) for the Mukhti Bahini. Also in April, President Yahya was forced to declare a six-month moratorium on external, bilateral debts-an indication of the shaky financial position of the Pakistani Government.

Internationally, India, as was expected, condemned the actions of Pakistan in suppressing the independence (autonomy) movement but did not officially recognize the Bangladesh government in exile (in India). China "warned" India to back away from armed confrontation with Pakistan and declared support for the Pakistani government. The U.S. did not officially

depart from its policy of support for Pakistani but urged a political settlement to be initiated by Pakistan. The Soviet Union condemned the Pakistani actions and warmly supported India. Rumors of war between India and Pakistan coincided with the growing flow of refugees from East Pakistan to India.

During the summer months, guerrilla activity increased, as did the refugees problem; as of June 11, 1971, an estimated 5.5 million refugees, of which approximately 90 percent were Hindu Bengalis, had reached India.²⁴

The period from March to November 1971 was one of Indian and Pakistani (as well as Soviet and Chinese) rhetorical thrust and counterthrust. Actions by the Mukhti Bahini continued on an increased scale, and of course the refugee flow maintained a high level. Pakistan, strategy seemed to be one of subduing East Pakistan physically and then, through the activities of so-called "peace committees," developing civilian support (or at least obedience) within the province for the government's program of suppression and control. Outside Pakistan much debate occurred over the religious nature of the West Pakistani actions. One well-known American scholar with long-term ties to East Pakistan explicitly charged the Pakistani government with religious persecution.²⁵ The attention of the world press, however, focused on the magnitude of the refugee problem and on the possibilities of another war between Indian and Pakistan. During this period, the U.S. Congress acted to terminate all military and economic assistance to Pakistan, relations between the Soviet Union and India culminated in the signing of a twenty-year "peace, friendship, and cooperation" treaty (August 9, 1971);²⁶ and the Indians were increasing their active support of Mukhti Bahini incursions into East Pakistan.

The Indian - position was critical. The immediate posture was rhetorical

condemnation of the Pakistani attempts to crush the autonomy movement; but, as the refugees continued to pour into India, this position hardened. To maintain that India used the refugee situation to justify its role in the dismemberment of Pakistan is, perhaps, too cynical and simple; this is probably a part of the truth, but certainly the absorption of an additional ten million people into an already over-burdened nation was an intolerable economic hardship. Indian support for the rebels gradually increased—the escalation of the Indian position is discernible from a careful reading both of official documents and of news reports of the period.²⁷

Politically, it appeared that in West Pakistan a measure of opposition, both public and private, was developing against Yahya and the military. In early September, Yahya replaced General Tikka Khan with a civilian, and on October 10, 1971, Yahya "lifted" the six-month ban on political activity but maintained "stringent curbs" on both politicians and parties.²⁸ The role of Bhutto appears to have been critical here. Prior to the October 10 action, Bhutto had traveled throughout West Pakistan, making what one reporter called "morale building speeches" but also insisting that Pakistan's political and economic problems could be solved only by civilian political leadership and not by the military.²⁹ This pressure no doubt helped produce Yahya's October 12 announcement of plans for a civilian government. Elections were planned for December 23 to fill the seats of the outlawed Awami League leaders; and on December 27, 1971, the National Assembly was to be "summoned" to "suggest amendments" to a new constitution that Yahya would prepare and publish on December 20.³⁰

The situation in the East continued to deteriorate. On November 17, Indian troops made their first major "incursion" into East Pakistan in support of Mukhti Bahini units.³¹ The following day, President Yahya declared a national emergency which would provide for even greater press censorship

and civilian mobilization. Several more Indian "defensive incursions"³² occurred. Internationally, it was reported that President Nixon sent personal messages to both Mrs. Gandhi and General Yahya Khan urging an end to hostilities. Yahya responded favorably, according to U.S. officials, but Mrs. Gandhi did not respond.

On December 3, 1971, a full-scale, two-front war broke out between the two countries. After the bombing of Indian airfields by the Pakistani air force, V.V. Giri, the Indian President, declared a state of national emergency, and the Indian Parliament passed the Defense of India Act giving emergency powers to the government; international airlines terminated all commercial flights to the subcontinent; India declared an air and naval blockade of both East and West Pakistan; and most observers awaited a replay of the 1965 war. During the early days of the fighting, even before India's formal recognition of Bangladesh and Pakistan's consequent break in diplomatic relations with India, the speculation widely voiced in Pakistan, was that India was intent upon dismembering Pakistan. When India successfully isolated the 70,000 Pakistani troops in East Pakistan, servicing Pakistani control over the East, the Pakistanis responded with an offensive in the West designed to secure a greater portion of the disputed Kashmir territory. The traumatic outcome of this third, undeclared war was the partition of Pakistan and the formation of a new nation, Bangladesh. Whatever the primary motivation for India's role in these events, the dismemberment of Pakistan was the achieved reality. As one observer noted: "The Pakistan we have known since 1947 is dead. [There is] no way Bengal can return to even edgy coexistence with West Pakistan."³³

Several years ago, Wayne Wilcox wrote a definitive study of the emergence of Pakistan as a modern state.³⁴ In this study, he concluded: "If Pakistan is to become one nation, it requires years of common history and experience under gifted leaders, who, while maintaining a consensus within

their own circles, recognize their obligations to the broader public."³⁵ After twenty-four years of political independence—marked by numerous governments, three wars with India, a civil war, and several major natural disasters—the East-West union known as the nation-state of Pakistan had been shattered and two distinct political entities had emerged. The West Wing retained the formal title of the Islamic Republic of Pakistan, while the former East Pakistan is now recognized as the People's Republic of Bangladesh. The "years of common history and experience under gifted leaders;" one might argue, never materialized. The triumph of the politics of regionalism over the politics of consolidation and integration long prophesied by the skeptics of such a geographically bifurcated political union was consummated in 1971.³⁶

ELITES AND DECISION-MAKING IN THE PRE-1972 PERIOD

In newly independent nations, institutional development depends on many variables, most of which are related to inherited power configurations and forces. The subcontinent as a geo-cultural area has not undergone radical change in twenty-five years. Neither India nor Pakistan was the result of any social political revolutionary process similar to the revolutions which brought about the People's Republic of China, the Republic of Algeria, the Democratic Republics of Viet Nam, Mexico, or Cuba.³⁷ Essentially, the fundamental relationship between the governed and the governors was not essentially altered as a result of the independence movement nor during the first twenty-five years of independence. The British "sahib" was replaced by the Pakistani "sahib." In general, those elites who emerged immediately after 1947 have maintained their positions of power over the twenty-five-year period. It is important, therefore, to conclude this chapter by examining the nature of elites and inter-elite activities in the period 1947-1972 in order to understand the evolution of economic and political forces in modern Pakistan.

INSTITUTIONAL AND TRADITIONAL BASES OF POWER

One scholar provides a simplified description of the institutional bases of power in Pakistan:

In Pakistan, political power has been concentrated on the bureaucratic-military elite who were the successors of the British raj. In the 1950's they functioned with a parliamentary facade of politicians and ministers drawn largely from landlord interests, but there was no genuine general election in Pakistan before 1970, and the government has been a military dictatorship since 1958. The main beneficiaries of independence have been (a) the bureaucracy and military themselves who have enjoyed lavish perquisites and have grown in number, (b) the new class of industrial capitalists, (c) professional people whose numbers have grown rapidly and (d) landlords in West Pakistan.³⁸

This interpretation, perhaps, indicates greater gains to the professionals (basically part of the small middle class) than were received, since it was from this source that opposition to Ayub developed in 1968 and it was the professionals that provided the basis of support and second-level leadership for both PPP and the Awami League.³⁹ Certainly, power did rest most visibly with the civilian and military bureaucracy.

In analyzing the institutional bases of power in pre-1972 Pakistan, one finds that while civilian and military bureaucrats dominated national (and provincial) decision-making after independence, landed wealth interconnected these two institutional bases. That is, few individuals⁴⁰ from non-landed families achieved prominence in government decision-making as either civilian or military bureaucrats; wealth in land, or some relation to wealth in land, appears to be a major, but not the only, requisite for political elite standing. The linkages between Pathan, Punjabi, Sindhi, and Bengali families have never been thoroughly established, although limited investigation has revealed links between some two hundred families. The implication

is that the political elite of Pakistan prior to the Bangladesh crisis was drawn from these two hundred families (an unpublished, anonymous source).

Wealth based on industrial holdings has not been a primary source of political elites. That is, the so-called "twenty families" (or thirty-seven families as some scholars have maintained)⁴¹ have not produced notable civilian or military bureaucrats or even politicians. (With regard to politicians, during the Ayub period several members of the "lucky thirty-seven" families stood for election in 1965. At present, however, it appears that the role of this class might be changing, since certain younger members of these families have been elected to provincial assembly seats in Punjab).

The interconnection between forms of wealth (principally between landed and industrial/commercial holdings) has not been documented. There are reasonable suspicions that such linkages do exist and that the newly established industrial class has sought to strengthen these linkages by securing agricultural land for various economic or symbolic (status) purposes.

NEWER SOURCES OF POWER

Although the new industrial class has not yet participated directly in political decision-making, this does not mean that they have not influenced these decisions. The separation of politics from economics is more analytical than real. The leading industrial families were a support base for Ayub, Yahya, and probably, also for Bhutto. Prior to the December 1970 elections, these industrialists tended to be concerned primarily with managing their newly acquired holdings and engaging in "political intrigue" to secure government favors for their family concerns. Familial prohibitions against direct political involvement ("the spouting whale gets the harpoon" notion) appear to have prevailed in many of the wealthy industrialist families, just as

similar prohibitions existed in civil service/land-owning families against going into business. This is not to say that some type of "joint venture" was not undertaken. Industrial wealth has been linked to the civilian and military bureaucracy (and indirectly to landed wealth) in the form of joint partnerships, which were promoted during the Ayub and Yahya regimes. These partnerships were formed principally between retired generals or central civil service personal and industrialists; the former provided the contracts and licenses required to do business, and the latter the capital and managerial talent required to make the business successful. The most prominent and successful (as well as the only Pathan in the "lucky twenty" group) was retired Lieutenant General M. Habibullah Khan Khattak, who for a time served as Ayub's Chief of Staff prior to 1958,⁴² Habibullah followed this pattern of joint partnership with a retired civil servant, a Karachi businessman and Ayub's son, Gohar Ayub, in launching his business career.

INTER-ELITE CONFLICT

Very little discussion has taken place concerning religion and religious elite leadership. Although religious leaders (pirs, mullah, and ulemas, for example) were important, their influence was confined primarily to rural areas. National decision-making was the area for the Westernized, secular elite and influentials for the most part. Conflict between Westernized, secular elites and religious elites did take place, but generally not over matters such as economic development, military and defense spending, export and import licensing, or other questions relating to allocation of national resources. Rather, the conflict centered on the "Islamification" or "Westernization" of Pakistani society—issues of importance in terms of social policies relating to family affairs (the Muslim Family Laws Ordinance promoted by Ayub is the best example) or to rural life of the masses in general. One even might speculate that since the *raison d'être* of Pakistan—a

homeland for Muslims in the subcontinent-has been severely questioned by the Bangladesh issue, the importance of religion in Pakistani society might progressively decrease.

The major and continuing conflict is among the secular elite and is rooted in issues of ideology and geography. In the Pakistan that remains, political elites divide along center-provincial lines. The interests of the Punjab (The richest Province as well as the most populated), which has controlled the central government, are opposed to the provincial interests of the Sindh (with the exception of Karachi), Northwest Frontier, and Baluchistan. Prior to the December 1971 war, one found the elites of East Pakistan (Bengal) aligned with those of the smaller regions or former provinces (at that time, all four western provinces were one unit). The accusations and demands of the Awami League during the 1960s related to the extent to which West Pakistan had "colonized" and was using East Pakistan as an earner of foreign exchange (through the export of jute) and as a captive market for the products of the industrializing West Wing. The foreign exchange earned by East Pakistan was being used to finance the industrialization of the Punjab and part of the Sindh (Karachi). This geographically-based elite conflict had cultural roots as well: the Urdu-Punjabi speakers claimed preeminence over the Bengali, Pakistan still must resolve the regional-provincial issues which dominate the attention and energies of the political elite...

Ideological cleavage also exists in Pakistan among the political elite but is more evident in Bangladesh. The disenfranchised elites of East Pakistan felt that once the Westerners were removed from Bengal, they could then rightfully assume the vacant positions in government and the economy. The more ideologically leftist elite in Bangladesh, however, has attempted to disabuse the Awami League moderates and conservatives of the notion of

merely assuming existing positions without first restructuring society along more collective lines. The potential for violence accompanying this conflict is great.

These geographical and cultural conflicts eventually led to the bifurcation of Pakistan. The decision to attempt a non-political solution to the set of complex political-economic problems in East Pakistan may be recorded as one of the greatest mistakes in the history of South Asia. To a great extent, this conflict stems from the politico-economic-cultural configuration which is rooted in the historical-colonial legacy of Islam and the British rule in India. Undoubtedly, ideological conflict will more and more characterize the efforts to find direction in Pakistan-conflict which has emerged more as a by-product of independence rather than from the subcontinent's efforts to gain independence from the British. Both types of conflict relate to power and position-control of decision-making apparatus and the coercive forces of society are the objectives of both kinds of conflict. In both cases, the non-elites, the masses for the most part, have played little if any role. It has been a case of inter-elite struggle and conflict, with the masses as non participants except when they strayed into the path of the army or the police. Decisions have been made in their name and, rhetorically, in their "best interests" but have not involved them or their representatives. Until December 1970, the average Pakistani was less involved in politics than his neighbor in India. Now this is changing, and the results of this change remain to be seen.

REFERENCE AND NOTES

1. Harold D. Lasswell, "The Garrison State and Specialists on Violence," in *The Analysis of Political Behavior* (London: Routledge & Kegan Paul, Ltd., 1948), pp. 146-157.
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merely assuming existing positions without first restructuring society along more collective lines. The potential for violence accompanying this conflict is great.

These geographical and cultural conflicts eventually led to the bifurcation of Pakistan. The decision to attempt a non-political solution to the set of complex political-economic problems in East Pakistan may be recorded as one of the greatest mistakes in the history of South Asia. To a great extent, this conflict stems from the politico-economic-cultural configuration which is rooted in the historical-colonial legacy of Islam and the British rule in India. Undoubtedly, ideological conflict will more and more characterize the efforts to find direction in Pakistan-conflict which has emerged more as a by-product of independence rather than from the subcontinent's efforts to gain independence from the British. Both types of conflict relate to power and position-control of decision-making apparatus and the coercive forces of society are the objectives of both kinds of conflict. In both cases, the non-elites, the masses for the most part, have played little if any role. It has been a case of inter-elite struggle and conflict, with the masses as non participants except when they strayed into the path of the army or the police. Decisions have been made in their name and, rhetorically, in their "best interests" but have not involved them or their representatives. Until December 1970, the average Pakistani was less involved in politics than his neighbor in India. Now this is changing, and the results of this change remain to be seen.

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19. One reporter optimistically observed: "One thing seems clear now in this tense and fluid situation - the army, a West Pakistani instrument, has apparently *decided not to try to use violence to find a solution.*" See "Yaha Delays Assembly Again as Talks Progress," *New York Times*, March 23, 1971 (my italics). Rumors of a general agreement were reported by several sources. See "Pakistani Agreement Reported," *Washington Post*, March 25, 1971; *New York Times* carried a similar story.

20. *Washington Post*, March 26, 1971.

21. Although, the broadcast proclamation is too long to include here in its entirety, excerpts from it are illustrative of at least the official, publicly announced perception of what Yahya believed had happened in the East which led to the decision to forcefully intervene:

"In East Pakistan, a non-cooperative and disobedience movement was launched by the Awami League Events were moving very fast and it became absolutely imperative that the situation (had to be) brought under control..... I went to Dacca..... The leader of the Awami League had asked for the withdrawal of Martial Law and the transfer of power prior to the meeting of the National Assembly..... I was prepared to agree in principle..... on one condition. The condition..... was..... unequivocal agreement of all political leaders. I found them unanimous..... that the proposed proclamation [to transfer powers] would have no legal sanction..... I entirely agreed with their view and requested them to tell Sheikh Mujibur Rahman to take a reasonable attitude on this issue.....

"On the evening of the 23rd of March the political leaders..... informed me that he (Mujib) was not agreeable to any changes in his scheme.....

"*Sheikh Mujibur Rahman's action of starting his non-cooperation movement is an act of treason.* He and his party have defined the lawful authority for over three weeks. They have insulted Pakistan's flag and defiled the photograph of the Father of the Nation. They have tried to run a parallel government. They have created turmoil, terror and insecurity. A number of murders have been committed..... Millions of our Bengali brethren and those who have settled in East Pakistan are living in a state of panic, and a very large number had to leave..... out of fear for their lives.

"The Armed Forces, located in East Pakistan, have been subjected to taunts and insults of all kinds.....

"I have already mentioned the efforts made..... in getting Sheikh Mujibur Rahman to see reason..... But he has failed to respond to any constructive manner..... he kept flouting the authority of the Government even during my presence in Dacca. The proclamation that he proposed was nothing but a trap..... His obstinacy, obduracy and absolute refusal to talk sense can lead to but one conclusion - the man and his party are enemies of Pakistan.

...This crime will not go unpunished. We will not allow some power hungry and unpatriotic people to destroy this country."

See "President's Broadcast," *Pakistan Affairs*, Special Issue, No. 18 (Washington, D.C.: Government of Pakistan, March 31, 1971). From this statement one receives the impression that Yahya felt Mujib had personally insulted both the country and the President: more important, he charged Mujib and the Awami League with calculated treason. For more details regarding the official Government of Pakistan interpretation of the events of this period, see the Background Report series issued by the Embassy of Pakistan (Washington, D.C.).

22. This was not the first time the Sheikh had been charged with treason. In August 1967, the Ayub regime "disclosed" what has been called the "Agartala Conspiracy Case." This "conspiracy" involved a group of retired naval officers (Bengalis) together with certain army officers (Bengalis) who were charged with conspiring with Indian agents. Mujib, along with other Awami League leaders, was implicated. The Sheikh chose to refer to the case as the "Islamabad case," since, according to him, "that is where this conspiracy was hatched!" For an anti-government version of this episode, see Tariq Ali, *Pakistan Military Rule or People's Power* (London: Jonathan Cape, 1970), pp. 182-183.
23. A consensus regarding the severity of the repression emerges from a reading of Western news sources. An example of this consensus can be seen in the following excerpt from the March 31 *New York Times* editorial: "Acting in the name of God and a united Pakistan, forces of the West Pakistan-dominated military government.... have dishonored both by their ruthless crackdown on the Bengali majority..... Any appearance of "unity" achieved by vicious military attacks on unarmed civilians..... cannot..... have real meaning or enduring effect. The brutality of Western troops toward their Moslem brothers in the East tends only to confirm the argument of the outright secessionists."
24. The composition of the refugees, as finally calculated at 10 million by Indian authorities, maintained this enormous proportion of Hindus to Muslims. This massive group (well over 10 percent of East Pakistan's total population of 75 million) also includes middle-class Muslim Biharis, who were the first refugees as a result of Bengali repression prior to March 25, 1971. See the *Washington Post*, June 11 and October 26, 1971. It should be pointed out that refugee figures were disputed by Pakistani authorities, who maintained that only 2.5 million refugees

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