

(Victoria Schofield (ed.), **Old Roads, New Highways: Fifty Years of Pakistan**, Karachi: Oxford University Press, 1997)

## **Ideology and the Struggle for Democratic Institutions**

**Ayesha Jalal**

A golden jubilee year can hardly lend a veneer of polish to the rusting ideational and structural bases of the nation-state which emerged in 1947. The embodiment of Muslim aspirations and the citadel of their political rights and distinctive cultural identity, Pakistan might pretend to approximate what the great philosopher of German Idealism G.W.F.Hegel described as a state resting on religion. Yet ever since its creation, the much vaunted homeland of India's Muslims has been desperately seeking to reconcile the values of Islam with ideas of statehood borrowed from departed colonial rulers. This disjunction between values and ideas has been the more profound since the discourse of nationhood, which inspired the All-India Muslim League's movement and was later adopted as its official ideology, defies the territorial limitations of modern statehood as well as the key structural features that have underpinned the exercise of sovereignty in post-colonial Pakistan.<sup>1</sup> Not only was the nation as imagined in the variegated narratives on Muslim identity inclusive of all Muslims in the subcontinent,<sup>2</sup> but the state envisaged as an emblem of Islamic values bore no resemblance to the ideas that had informed administrative practices under colonial conditions. In making the transition from colonialism, it proved easier to preserve the structures of the old state than to realign them with the dominant conceptions that had fired the Muslim nation's struggle for equality, solidarity and freedom.

The realization of these goals, according to Pakistan's great visionary Muhammad Iqbal, constituted the primary ends of the state from an Islamic point of view. Echoing Hegel's idealistic notion of the state as the highest manifestation of the absolute spirit, defined as the unity of divine and human will, Iqbal rejected any duality between spiritual and temporal affairs. It was the »attitude of mind« which determined the »nature of the act, however secular in its import«. On this view an act was temporal or profane if it was done in a »spirit of detachment from the infinite complexity of life« and »spiritual if it is inspired by that complexity«. The separation of state and civil society in modern Europe was a product of the historical conflict between temporal and spiritual authority. In the absence of any sort of church »such a thing could never happen in Islam« which was »from the very beginning a civil society, having received from the Quran a set of legal principles which...carried...great potentialities of expansion and development by interpretation«. Declaring the »secular« to be »sacred in the roots of its being«, Iqbal asserted that the state in Islam was »only an effort to realize the spiritual in human organization«. It was in »this sense alone that the State in Islam is a theocracy, not in the sense that it was headed by a representative of God on

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<sup>1</sup>See Ayesha Jalal, *The Sole Spokesman: Jinnah, the Muslim League and the demand for Pakistan*, Cambridge: Cambridge University Press, 1985 and 1994.

<sup>2</sup>Ayesha Jalal, *Self and Sovereignty: Individual and Community in South Asian Islam since 1850s*, London/New York: Routledge, 2000.

earth who can always screen his despotic will behind his supposed infallibility.<sup>3</sup>

Such a conception of the state, drawing upon Islamic rather than colonial ideals, has been dramatically at odds with the history of the post-colonial modern nation-state of Pakistan. Instead of translating their professed Islamic values into practice, or pave the way for mutual accommodations between state and civil society, the early managers of Pakistan concentrated on turning the inherited bureaucratic-authoritarian framework of governance into the central pillars of national sovereignty. In the initial years of independence, fears of reincorporation into India coupled with a sorely deficient economic resource base saw state formation proceeding under bureaucratic and military auspices and, consequently, clashing with the complex social dynamics underlining political processes in the different regions.<sup>4</sup> With the goals of equality and freedom thwarted by the increasing authoritarianism of the state, rhetorical uses of Islam, far from forging bonds of solidarity among a predominantly Muslim population accentuated tensions between the newly constructed centre and the constituent units. Further compounding pressures on the social fabric were inter- and intra-provincial divisions along class and ideological lines which ferreted out the religious elements from an array of purportedly «secular» political groupings. The first decade of independence set the pattern for future relations between an authoritarian state structure and a pulverized civil society. Since 1958 Pakistan has been ruled by military and quasi-military rulers wielding despotic power in the name of Islam with precious little regard for the principles of equality, solidarity or freedom. Five decades after independence, Iqbal's lofty equation of Islam and civil society not only remains unrealized but has been lost sight of in the litany of confusions surrounding conceptions of national identity and state sovereignty, religious and secular space as well as spiritual and temporal life.

The prolonged denial of the most elementary rights of citizenship in a post-colonial state proclaiming an Islamic identity demands a more nuanced appreciation of the contours and complexion of the arenas constituting «civil society». But if as Iqbal argued the very idea of civil society as it developed in Europe based on a separation of spiritual and temporal authority was alien to the Muslim mind, is it at all appropriate to deploy the notion in a country whose *raison d'être* is Islam? Yet for all the talk about its religious ideology and the absence of any formal separation between the state and civil society, Pakistan has scarcely managed to modify old colonial structures to achieve some of the key ideational principles of Islam. The disjunction

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<sup>3</sup>Muhammad Iqbal, *The Reconstruction of Religious Thought in Islam*, Lahore:Shaikh Muhammad Ashraf, 1960 (reprint), pp.154-155.

<sup>4</sup>For an elaboration of this point see Ayesha Jalal, *The State of Martial Rule: the Origins of Pakistan's Political Economy of Defence*, Cambridge, 1990, especially chapter 3.

between the ideological pretensions of the state and its colonial structures on the one hand, and the not so Islamic basis of civil society in Pakistan on the other, is frequently attributed to the inadequate application of the principal tenets of the faith. On this view, Islam is not only wholly compatible with democracy but its highest ethical manifestation. A thorough Islamization of state and civil society would automatically address the issue of democratic rights and remove all the moral ills afflicting the country.

It has been simpler, certainly less controversial, to reconcile Islamic values with democracy at the normative level than to fashion a political culture capable of translating ideals into reality. If the authoritarian bearing of the state has been a formidable obstacle, the nature of ›civil society‹ and its class and ideological composition has been an even greater impediment in the struggle to create democratic institutions. A purely statist approach to the problem of democratic institutions in Pakistan would concentrate attention on reforming the administrative machinery which, despite acute signs of wear and tear, has persisted with few modifications since the colonial period. But it is precisely the lingering colonial characteristics of ›civil society‹ in Pakistan that are posing some of the biggest stumbling blocks to instituting the ideational changes required to bring about a thorough democratization of existing institutional structures. The most striking of these is the lack of a well articulated conception of the difference between public good and private interest without which the individual and collective aspects of rights and responsibilities in a civil society must necessarily remain poorly defined. With the ›public‹ sphere seen to be the domain of the state in the main, a civil society owing its origins and character to a period of colonial rule has been reduced to an arena where individuals act in their private interests without let or hindrance, regardless of whether or not they care to invoke the notion of the collective good. The denial of the rights of citizenship during extended periods of authoritarian rule has greatly aggravated the problem stemming from the absence of any clear sense of the responsibilities of citizenship which can only flow from a well regulated ›public‹ which is part and parcel of civil society and not just that of the state. For all the recent hue and cry about public accountability, there are as yet no organized mechanisms within civil society capable of forcing the issue autonomously of state institutions. This more than any other aspect has severely constricted the space for the emergence of democratic institutions which can give expression to Islamic values, readily touted at the level of popular discourse, but as yet hopelessly unable to permit the citizenry, jointly and severally, to resist the ideational and structural moorings of an authoritarian post-colonial state or check the deepening polarization, crime and violence spawning ever larger segments of civil society.

### **Locating ›Civil Society‹ in Colonial India:**

Civil society, such as it exists in Pakistan, carries the legacy of over a hundred years of British colonial rule. The pact of dominance enforced by the alien rulers justified the subordination of colonial subjects by undertaking not to interfere in their religious and cultural life. This seeming concession to Indian autonomy in private and spiritual matters was matched by a conception of sovereignty that was temporal, monolithic, impersonalized and indivisible. While giving the colonial state a supposedly ›secular‹ orientation, the separation of temporal and

spiritual life in colonial India was more formal than real. The decision not to interfere with the religious and cultural lives of their subjects had less to do with the desire to keep religion out of the affairs of the state than a pragmatic response to the challenge of administering the affairs of an alien population. In other words, an apparently secular posture was not so much a conscious policy based on an ideological rejection of the role of religion in public life as a necessary screen which acknowledged the difference between rulers and ruled, allowing the British to legitimately exercise unfettered authority on an internally disparate and differentiated populace.

Raising the screen of difference was consistent with the decision not to ruffle Indian sentiments by overtly promoting the conversion activities of Christian missionaries. Taken as the substance of its 'secular' stance, this cannot be seen as signifying a willingness to relegate religion to a private sphere from which the colonial state was strictly excluded. So while pulling out all the stops in extending their sway over every aspect of what was discursively defined as the 'public' sphere in colonial India, the British reserved the right to selectively intervene in the 'private' domain of their subjects as and when the need arose. Separating the personal law of India's main religious communities from the purview of colonial law, civil as well as criminal, did not restrict the powers of British judges in redefining its scope and content through procedural innovations. With the introduction of the Civil Procedure Code of 1859 and the Indian Penal Code of 1860, the colonial state codified all branches of civil law except the 'personal'. While effectively denuding the Islamic *sharia* of any 'public' content - civil and criminal - which it enjoyed under the Mughals, this 'privatized' it along with Hindu personal law to apply only to marriage, divorce and inheritance issues. But with the elimination in 1864 of Muslim law offices like *qazis* and Hindu pandits, cases pertaining to the personal laws of both communities were heard in British law courts - one of the most important appendages of the 'public' sphere created by the colonial state. At the same time the British allowed customary practices to overrule Muslim and Hindu personal laws in regions like the Punjab. It was not until 1937 that attempts were made to displace aspects of custom with the Islamic *sharia*. Even then agricultural property was kept immune from the amendment of the clause in the Punjab Laws Act of 1872 which assigned greater weight to custom than Muslim personal law.

Shrinking the operational space of Islamic laws may have been the British idea of non-interference in religion. Yet by far the most decisive implication of this policy was to create a wholly artificial separation between a 'political' public and a 'religiously' and 'culturally' defined private sphere. The history of colonial interventions in the legal domain make plain that the theory of non-interference in religion did not preclude the British from adopting policies which directly, if not indirectly, affected the cultural lifestyles and religious practices of a subject population. Far from emptying politics from the realms of religion and culture, and vice versa, the colonial state did much in bringing these spheres closer together and reshaping them in the process. The decision to use religion as the basis for not only enumerating but also governing a complex society was a negation of the strategy of steering politics away from the domains of religion and culture. Census enumeration based on a privileging of the religious distinction militated against any neat separation between the temporal and spiritual domains. Demands for places in educational institutions, jobs in government and shares of elective representation all drew on statistics compiled by conscientious colonial census enumerators. Instead of being relegated to the private sphere where colonial intervention was strictly prohibited, the religiously

informed cultural identities of Britain's Indians subjects were orchestrated diligently and innovatively in the public arena by social groups competing for government patronage or attention.

The wholly false separation of the ›public‹ and the ›private‹ as well as secular and religious space had large consequences for relations between the state and civil society in colonial India. If a civil society existed at all in British India, its space was badly squeezed between a colonial ›public‹ which denied citizenship rights and a communitarian ›private‹ restricted to the personal laws of religion. Stripped of any organic connection with the public to make room for colonial civil and criminal laws, a now ›privatized‹ Islamic *sharia* was transformed from being a set of normative moral precepts meant to be loosely applied to fit changing circumstances into a rigid and static personal code for Muslims through a string of British judicial decisions. Under colonial conditions, the Islamic values enshrined in the *sharia* were deemed to apply only to the private, and not the public, affairs of the Muslim community.

While the *sharia* was far more elaborate on Islamic laws of marriage, divorce and inheritance rights, it had in the era of Muslim rule in India covered aspects of civil and criminal law even though both were supplemented by broad ranging imperial edicts. With the onset of British colonial rule, however, the *sharia* was not only ejected from the public realm but shorn of the status it had enjoyed under Muslim sovereigns who in administering a personalized form of justice as God's viceregents acknowledged no formal distinction between temporal and spiritual authority.<sup>5</sup> The shift from personalized to impersonalized sovereignty and the matching creation of a supposedly ›secular‹ public and a ›religious‹ private effected a theoretical separation between the temporal laws of colonial rulers and the spiritual values of colonial subjects. In the anti-colonial movement, Indian subjects of different religious denominations for the most part drew more readily on communitarian narratives of identity than on ideas of common citizenship to articulate a variegated discourse on the ›nation‹. This was especially true of the All-India Muslim League which in contesting the Indian National Congress's inclusionary nationalism emphasised the specifically Muslim aspects of its politics.

Making a play of the Islamic bond in a context where the distinction between the public and the private had come to imply the separation of secular and religious politics was not without its disadvantages. For one thing it exposed the All-India Muslim League led by Mohammed Ali Jinnah to the charge of ›communalism‹, the pejorative other of a ›secular‹ Indian nationalism. For another, it gave a welter of orthodox Muslims an incentive to try and hijack the Muslim League with a view to establishing an ›Islamic state‹ that was akin to the theocracy Muhammad Iqbal had specifically repudiated. Yet at the same time there was virulent opposition to the Muslim League by religiously oriented parties such as the Jamiat-ul-Ulema-i-Hind, the Majlis-e-Ahrar and the Jamat-i-Islami who openly questioned the commitment of its leadership to Islam. They had a point. The Muslim rejection of Congress's brand of nationalism which found expression in the League's demand for a Pakistan was not based on an aversion to a secular

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<sup>5</sup>See Muhammad Basheer Ahmed, *The Administration of Justice in Medieval India*, Aligarh: Historical Research Institute, 1941 and Wahed Husain, *Administration of Justice During the Muslim Rule in India*, Calcutta: Calcutta University Press, 1934.

politics as such, but a concerted challenge to what were perceived as veiled attempts to pass off the religiously informed narratives of the Hindu community as the discourse of the entire Indian nation. It was the sense of exclusion from the dominant discourse of Indian nationalism and not religious zeal devoid of all temporal considerations which explains the discordance between the Muslim League's and the Congress's politics in the final decade of the British raj in India.

Only the most superficial reading of the complex and contentious politics surrounding the League's demand for Pakistan and the Congress's claim to represent the whole of India can portray them in purely religious and secular colours. The decisive battle for the public space occupied by the colonial state was fought in a political mode in which religious communitarianism and a secular vision of the »nation« were thoroughly imbricated, whatever the rhetorical claims of the two contenders for power. This is underlined by the fact that the discourse of Muslims as a »nation« in late colonial India was no more able than that of the Congress on the Indian »nation« to rise above the morass of religiously informed communitarian narratives to encompass notions of civic as well as social and economic rights of citizenship. What was debated most vigorously by the Muslim League were the rights of the minority-community-turned-nation. As the most likely inheritor of the imperial mantle, Congress could project the ideal of an inclusionary »nation« that had yet to rise above its narrowly conceived communitarianisms in a language of citizenship rights without actually bothering to settle the modalities of accommodating the vital question of cultural differences. The situation was quite different for a party pitching a bid for a share of power on behalf of a numerical minority. And indeed, the rights and responsibilities of the individual subject as future citizen formed no part of the League's nationalist political agenda justified primarily in terms of Muslims constituting a separate and distinctive category and thus meriting equal rights and privileges as the Hindu majority.

### **Turning Colonial Subjects into Citizens of a Muslim State:**

In making the transition from colonial subjecthood to citizenship in a Muslim nation-state, Pakistanis have had to contend with a perplexing set of ideational and structural constraints. At the ideological level, Pakistan ever since its traumatic birth has had to confront the impossibility of reconciling the claims of Muslim nationhood with the actual winning of sovereign statehood. The claim that Indian Muslims constituted a distinctive and identifiable community was raised on behalf of the entire Muslim population of the subcontinent. This was consistent with the Islamic concept of nationality or *asabiyyat* which requires no unity of language, country or economic interest, only the subjective feeling of belonging to the world wide Muslim *ummah* structured by the religious ideal.<sup>6</sup> Yet the territorial contours of the newly

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<sup>6</sup>For a fuller explication of this concept of nationality see Muhammad Iqbal, *The Muslim Community - a Sociological Study*, edited by Muzaffar Abbas, Lahore (no date).

created homeland for India's Muslims ensured that there were as many Muslim non-citizens outside as there would be Muslim citizens within. The contradiction has never been fully addressed, far less resolved, and serves as the principal fault line underpinning Pakistan's quest for an identity which is Islamic as well as national. It could neither be wholly Islamic nor completely national since the imperatives of citizenship in a territorial nation-state cannot be squared with the supra-territorial notion of a Muslim *ummah*.

In order to be true to the Islamic conception of the polity, religious affiliations and not the boundaries of the nation-state had to be the main qualification distinguishing citizens from non-citizens. While proclaiming Islam as the sole basis of nationality, the architects of Pakistan had no qualms severing all ties with co-religionists in India whose geographical location denied them citizenship rights in a Muslim state created on the bedrock of a non-territorially defined Muslim nation or *ummah*. This despite the fact that these Muslim non-citizens are theoretically constitutive elements not only of the *ummah* but also of the pre-1947 'Muslim nation'. An unavoidable outcome of the establishment of a territorial nation-state, it has not been taken to its logical conclusion to extend equal rights of citizenship to non-Muslims in Pakistan. So a basic contractual principle of the modern nation-state, namely equal citizenship rights, is denied on the grounds that this is contrary to a purely Islamic conception of government.

A constitutional lawyer by training, the Quaid-e-Azam Mohammad Ali Jinnah had correctly gauged the difficulties of reconciling the conception of a religious state with the need to confer equal citizenship rights in a modern nation-state. This was the backdrop to his famous speech of 11 August 1947 at the first meeting of the Pakistan constituent assembly. The insight of the founding father was not one which the ideologues of an Islamic Pakistan were minded to take on board. For them lip service to Islam seemed a perfect recipe to conceal and contain the multiple class, regional, linguistic and sectarian fractures of the body politic. But appeals to Islam, however watered down in practice, provided political space to those ready and willing to deploy religion to gain access to state power.

Undeterred by the illogicalities, some inherent and others emerging, in their vision of Pakistan's identity, the managers of the state have never resiled from the idioms of an inclusionary nationalism based on Islam. Adopting an Islamic idiom to win the allegiance of territories constituting the newly created nation-state might have proven to be an ace if not for the denial of democratic rights of citizenship for the better part of Pakistan's history. The state's deployment of Islam has not mitigated the sense of relative deprivation, disillusionment and desperation among a growing number of people. Regional and linguistic diversities have provided the highest common denominator of the multifaceted grievances of the people of Pakistan, denied as most of them have been of basic, much less equal, rights of citizenship.

This is the crux of the problem. Pakistan is currently precariously poised in both structural and ideological terms. Structurally the institutions of the state are virtually paralysed. What in the colonial era was an impersonalized state structure, albeit one amenable to personalized manipulations, has in the post-colonial period been turned increasingly into an institutionalized framework to serve the private ends of alternating ruling configurations. Independence from alien rule loosened the curbs on the personalization of power as an inherently bureaucratic and authoritarian state turned to establishing a semblance of legitimacy by widening its networks of social support. A state structure, which even in the colonial era fell well short of

the ideal of exercising impersonalized sovereignty through rule bound institutions, was now more susceptible than ever to reflecting the dominant impulses of a civil society where ›public= concerns were shaped by a patriarchally defined private sphere.

In Pakistan, the process gathered momentum as a direct result of prolonged bouts of authoritarian rule. A weak political party system together with a bound and gagged press and a dependent judiciary have been unable to check the personalization of a formally impersonalized state structure. The growing inefficacy of state institutions to regulate public space, deemed by a disempowered citizenry as lying outside the realm of their civic responsibilities, has hugely exacerbated the difficulties flowing from the ongoing personalization of power and authority in Pakistan. An all but collapsed administrative structure and the emergence of a parallel arms and drugs economy - a product of the support lent by General Zia-ul-Haq's military regime to the Afghan resistance against the Soviets - has made a mockery of the nation-state's capacity to protect the life and property of its citizens. Amazingly well armed elements in civil society either make nonsense of the elementary rules of civic behaviour or sabotage them in more and more shocking fashion. Personal self-promotion at public risk has today become the norm as more and more are settling scores through arbitrary and violent means. Mirza Asadullah Khan Ghalib's poetic lament in the concluding years of Mughal rule in India seems strikingly apt: ›Badshahi ka jahan ye hal hoo...too phir; kuin na [Pakistan] main har aik cheez nawabi karai=. If this is the fate of sovereignty then why should each and everyone not ever to laud it over.

With individuals taking the law into their own hands in a civil society that has yet to decolonize itself to force a realignment of the ›public= and the ›private=, ideas of statehood based on monolithic, indivisible and impersonalized sovereignty borrowed from the west have acquired even more of a hollow ring than before. There is undoubtedly an urgent need to revamp the judiciary and the police in Pakistan to allow for the emergence of democratic institutions in civil society and the strengthening of those associated with the state, parliament for instance. But structural solutions alone cannot redress the problem which is a product of the ideological contradiction in the self-projections and self-perceptions of the Pakistani state. The declaration in the 1970s of one segment of the ›nation=, namely the Ahmedis, as a minority stands out as a watershed in the ideological evolution of the Pakistani state. It has served to create a precedent for exclusion, exposing the Pakistani state's claim of inclusionary nationalism. Defining a Muslim from a non-Muslim was a particularly explosive device in a context where the state's Islamic posturing was already at odds with the basic principles of a nation-state. At a time when elements in civil society have armed themselves to the teeth to give expression to their individual and collective exasperation with the poor quality of life, allowing vocal groups not only to target and attack vulnerable minorities but also to demand the exclusion of those who form part of the Muslim collectivity - the Shias for instance - is a suicidal course for the nation-state to have embarked upon. Exclusionary nationalism, even if ingeniously packaged, is no substitute for the inclusionary nationalism based on equal citizenship rights which is the nation-state's main claim to legitimacy.

The time has come for the old and utterly false dichotomy between a secular colonial ›public= and a religiously defined communitarian ›private= to be identified and discarded. What is needed is a conception of civil society released from the prison of a colonially defined domestic or private sphere to allow citizens, individually and collectively, to reclaim public space

relegated for all too long to an authoritarian state. If they are to make something of their Islamic values, Pakistanis will have to ensure that the ideas of statehood inherited from colonial masters no longer hamper their struggle for democratic institutions. They can do so effectively by taking a leaf from no less a person than Iqbal to enlarge and deepen their conception of Islam: »Khurd ney khey bhi diya La Illaha too kiya hasaal; dil-e-nigha Muslim nahin too kucch bhi nahin.«<sup>7</sup> Nothing is achieved even when wisdom declares there is no God but Allah unless the heart and eye is that of a Muslim. Only by rejecting the received wisdoms of erstwhile colonial rulers and the misrepresentations of self-appointed guardians of an Islamic moral order can they hope to reconstruct a religious world view that is compatible with their secular and democratic aspirations. This requires a view of Islam that is not restricted to personal law but inclusive of the entire field of the political, economic and social rights of citizenship.

Pakistanis have the 'state' if not quite the 'nation' of their collective imaginings, and there are ways of overcoming contradictions that cannot be resolved. Without sustained debate on citizenship rights, not just political but also social and economic, Pakistan cannot take the elementary steps towards forging a collective ethos as a nation-state. The challenge is a daunting one in a country where critical thinking has been banished for extended periods of time under military-bureaucratic rule. Yet it is one that will have to be grasped by the nettle if civil society in Pakistan is to reconfigure itself and lay the basis of future democratic institutions that can not only check the authoritarianism rooted in the state structure but, more importantly, prove itself worthy of being defined as a modern nation-state. There would seem to be no better occasion than the fiftieth anniversary of independent statehood to take honest stock of the sheer gravity of the situation and muster the courage and the conviction to begin rebuilding anew:

Wajood kiya hai? Faqat jauhar-e-khudi ki namood

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<sup>7</sup>Muhammad Iqbal, *Zarb-e-Kaleem*, in *Kulliyat-e-Iqbal*, Karachi (no date), p.38.

Kar apni fiqar ke jauhar hai bai-namood tera.<sup>8</sup>

(What is existence? Only self achievement made conspicuous.  
Worry for yourself as your achievement is inconspicuous.)

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<sup>8</sup>Ibid., p.37.